# SENATE COMMITTEE ON EDUCATION

Senator Connie Leyva, Chair 2019 - 2020 Regular

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**Subject:** Pupil assessments: Pathways to College Act.

### **SUMMARY**

This bill requires the Superintendent of Public Instruction (SPI) to approve one or more nationally recognized high school assessments that a local education agency (LEA) may, at its own discretion, administer in lieu of the grade 11 Smarter Balanced Summative Assessment (SBAC), commencing with the 2021-22 school year.

### **BACKGROUND**

Existing law establishes the California Assessment of Student Performance and Progress, which consists of, among other exams, the SBAC, which assesses English language arts and mathematics, and requires the SBAC to be administered in grades 3 through 8, inclusive, and grade 11. (Education Code § 60640)

#### **ANALYSIS**

This bill requires the SPI to approve one or more nationally recognized high school assessments that an LEA may, at its own discretion, administer in lieu of the grade 11 SBAC, commencing with the 2021-22 school year. Specifically, this bill:

- 1) Requires the SPI, pursuant to authority granted to the state pursuant to the federal Elementary and Secondary Education Act, to approve, within 30 days after the SPI determines that a nationally recognized high school assessment satisfies specified requirements, one or more nationally recognized high school assessments that a LEA may administer at its own discretion, commencing with the 2020–21 school year, in lieu of the SBAC.
- 2) Requires a nationally recognized high school assessment approved by the SPI to meet all of the following requirements:
  - a) Align with the academic content standards adopted by the State Board of Education (SBE) and address the depth and breadth of those standards.
  - b) Be at least as rigorous as the consortium summative assessment in English language arts and mathematics for grade 11 that measures content standards adopted by the SBE, as required by the California Assessment of Student Performance and Progress.
  - c) Satisfy federal regulations to ensure appropriate accommodations for English learners and pupils with disabilities, including pupils identified

- pursuant to the federal Individuals with Disabilities Education Act, the federal Rehabilitation Act of 1973, and the federal Americans with Disabilities Act of 1990.
- d) Produce valid and reliable data on pupil academic achievement with respect to all high school pupils and each subgroup of high school pupils in the local educational agency (LEA).
- e) Produce disaggregated scores based on English proficiency status, gender, ethnicity, socioeconomic disadvantage, foster care status, and special education designation.
- f) Produce individual pupil scores that can be linked to scores from the California Assessment of Student Performance and Progress assessments.
- g) Ensure that the use of appropriate accommodations by a pupil with disabilities or an English learner does not deny the opportunity of any pupil to participate in the assessment or deny any pupil of any benefit from participating in the assessment that is afforded to pupils without disabilities or pupils who are not English learners.
- h) Satisfy the peer review requirements specified by federal law.
- Authorizes the Superintendent of Public Instruction (SPI) to require a publisher of a nationally recognized high school assessment that is being considered for approval to provide documentation that the assessment meets or exceeds the requirements of (2) above.
- 4) Requires the SPI, if he or she determines that a nationally recognized high school assessment being considered for approval does not meet the requirements of (2) above, to inform the publisher of the assessment in writing of the specific deficiencies and changes needed to meet those requirements.
- Requires the SPI, to the extent permitted by the U.S. Department of Education, to approve any nationally recognized high school assessment that has been approved for use by any state that has adopted the Common Core State Standards and that meets applicable federal requirements under the federal Elementary and Secondary Education Act.
- Authorizes a LEA to administer an approved assessment instead of the grade 11 Smarter Balanced Summative Assessment, only if the use of the alternative assessment has been approved by the LEA's governing board or body at a public meeting.
- 7) Requires the state board of education, before a LEA may administer the assessment, to amend the state plan required pursuant to federal law to account for the authorization, if required by federal law.

- 8) Requires a local education agency (LEA) that administers a nationally recognized high school assessment to do all of the following:
  - a) Notify the Superintendent of Public Instruction (SPI), and the parents and legal guardians of its pupils entering grade 11, at the beginning of each school year during which the assessment will be administered to those pupils, that it will be administering an assessment that is different from 11th grade Smarter Balanced Summative Assessment (SBAC).
  - b) Administer the assessment free of charge to all pupils in grade 11, except for those pupils who opt out, as authorized by law.
  - c) Administer the assessment to individuals with exceptional needs with appropriate accommodations, where necessary, and provide an alternate assessment to individuals with exceptional needs who are unable to participate in testing, even with accommodations.
  - d) Administer the assessment to English learner pupils with appropriate accommodations, where necessary. To the extent permissible under federal law, recently arrived English learner pupils shall be exempt from taking the alternative assessment in English language arts.
  - e) Report scores and pupil participation data to the California Department of Education (CDE) in a manner prescribed by the SPI.
- 9) Requires the SPI to apportion to a LEA that administers an approved nationally recognized high school assessment in lieu of the 11th grade SBAC, the lesser of the following:
  - a) The actual cost of administering the nationally recognized high school assessment, including, but not necessarily limited to, administering and scoring the assessment and reporting results of the assessment to the SPI.
  - b) The amount that would have been apportioned to the LEA if it had administered 11th grade SBAC.
- Authorizes a LEA to administer only one nationally recognized high school assessment in lieu of the grade 11 SBAC, but does not prohibit a LEA that does not administer such an assessment from administering one or more assessments in addition to the grade 11 SBAC.
- 11) Defines a "LEA" to mean a school district, county office of education, or charter school.
- 12) Requires the CDE to ensure that LEAs comply with each of the following requirements if they administer nationally recognized high school assessment, which are also applicable to the 11th grade SBAC:
  - a) That the test be administered to all pupils.

- b) That the individual results of each student be reported, in writing, to the parent or guardian of the pupil. The report is required to include a clear explanation of the purpose of the test, the score of the student, and the intended use by the local educational agency (LEA) of the test score.
- c) That state agencies and LEAs do not use a comparison resulting from the scores and results of the test and the assessment scores and results from assessments that measured previously adopted content standards (STAR Testing).
- d) That valid individual student results also be reported to the school and teachers of a student, and that LEA include the test results of a pupil in his or her student records.
- e) That the districtwide and school-level results of the test, but not the score or relative position of any individually ascertainable student, be reported to the governing board of the school district at a regularly scheduled meeting, and the countywide, school-level, and grade-level results for classes and programs under the jurisdiction of the county office of education shall be similarly reported to the county board of education at a regularly scheduled meeting.
- f) That the aggregated, disaggregated, or group scores or reports not be publicly reported to any party other than the school or LEA where the students were tested, if the aggregated, disaggregated, or group scores or reports are comprised of 10 or fewer individual student assessment results.
- g) That students in grade 11, or parents or legal guardians of those students, may request results from the test for the purpose of determining credit, placement, or readiness for college-level coursework be released to a postsecondary educational institution.
- Authorizes the governing board of an LEA that is part of a consortium of LEAs to enter into a cooperative contract with a publisher for the purposes of providing a nationally recognized high school assessment in lieu of the grade 11 Smarter Balanced Summative Assessment (SBAC).
- Authorizes an LEA to chooses to administer a nationally recognized high school assessment in lieu of the grade 11 SBAC to utilize the terms of a contract with a publisher that has been entered into with another district for purposes of providing the assessment.
- 15) Requires the Superintendent of Public Instruction (SPI) to prepare and submit, and subsequently post on the Internet Web site of the department, an annual report to the state board containing an analysis of the results and test scores of the test.
- Makes its provisions inoperative five years after the first school year in which a LEA is able to exercise the authority granted to it by the SPI, and requires the

Superintendent of Public Instruction to inform the Legislative Counsel within 30 days of when those conditions have been satisfied, and to post that determination on the department's Internet Web site.

### **STAFF COMMENTS**

- 1) **Need for the bill.** According to the author, "In an effort to increase collegeattendance rates, over 45 school districts, including Long Beach Unified School District (LBUSD), Fresno USD, Oakland USD, Sacramento City USD, and San Jose USD are administering an alternative assessment, such as the SAT or ACT, during the school day for free to 11th grade students, in addition to administering the Smarter Balanced Assessment (SBAC). This bill allows, for five years, local educational agencies (LEAs) to administer the SAT or ACT in lieu of the SBAC. The bill requires the Superintendent of Public Instruction (SPI) to approve one or more nationally recognized high school assessment that meets specified criteria, including that the assessment is consistent with our state standards, is a statistically reliable and a valid norm-referenced or criterion-referenced test, and will produce valid and reliable data on pupil academic achievement. LEAs that choose to administer an alternative assessment must first receive approval at a local governing board meeting, administer the assessment to all 11th grade students, offer the assessment for free, and ensure that students with disabilities and English learners have accommodations."
- 2) Grade 11 Smarter Balanced Assessment (SBAC). According to The Smarter Balanced Assessment Consortium, the SBAC "is a valid, fair, and reliable approach to student assessment that provides educators, students and parents meaningful results with actionable data to help students succeed." Its assessment system is aligned to the Common Core State Standards, which serve as the basis for California's academic content standards. The SBAC is a computer-assisted assessment in English and language arts and mathematics that is administered in grades 3 through 8, inclusive, and grade 11, and is untimed, with an average of 7.5 hours to complete the exam. All LEAs are required to administer the SBAC assessments to all students except those who opt out (as permitted by existing state law) and special education students who qualify for an alternative assessment.

The SBAC's summative assessments "determine students' progress toward college and career readiness in English language arts/literacy and math. These are given at the end of the school year and consist of two parts: a computer adaptive test and a performance task. The summative assessments:

- a) Accurately describe both student achievement (how much students know at the end of the year) and student growth (how much students have improved since the previous year) to inform program evaluation and school, district, and state accountability systems.
- b) Include writing at every grade and ask students to solve multi-step, real-world problems in mathematics.

- c) Capitalize on the strengths of computer adaptive testing: efficient and precise measurement with a quick turnaround of results.
- 3) **The Scholastic Aptitude Test (SAT).** The SAT is a commonly administered college admissions exams.

The SAT includes a Reading Test, Writing and Language Test, and a Math Test. There is also an option SAT Essay. According to the College Board, "In the Reading Test, students will encounter questions like those asked in a lively, thoughtful, evidence-based discussion." The Reading Test measures command of evidence, words in context, and analysis in History/Social Studies and in Science. The Writing and Language Test asks students "to be an editor and improve passages that were written especially for the test—and that include deliberate errors." The Writing and Language Test also measures command of evidence, words in context, and analysis in History/Social Studies and in Science. Finally, the Math Test "covers a range of math practices, with an emphasis on problem solving, modeling, using tools strategically, and using algebraic structure." The Math Test measures fluency, conceptual understanding, and applications. The redesigned SAT Essay "asks you to use your reading, analysis, and writing skills." The SAT is a timed, paper exam.

4) The American College Test (ACT). According to the ACT, The ACT Exam "test scores reflect what students have learned throughout high school and provide colleges and universities with excellent information for recruiting, advising, placement, and retention." The ACT contains four multiple-choice tests—English, mathematics, reading, and science—and an optional writing test. According to ACT, "these tests are designed to measure skills that are most important for success in postsecondary education and that are acquired in secondary education. The ACT English test measures understanding of the conventions of standard English, production of writing, and knowledge of language. The ACT mathematics test assesses the skills students typically acquire in courses taken through grade 11.

The ACT reading test measures reading comprehension. The ACT science test measures the interpretation, analysis, evaluation, reasoning, and problem-solving skills required in the natural sciences. The optional ACT writing test is an essay test that measures writing skills taught in high school English classes and entry level college composition courses." The ACT is a timed, paper exam.

submitted a letter to the president of the State Board of Education (SBE) on January 17, 2017, requesting a waiver to permit the district to administer the SAT instead of the grade 11 Smarter Balanced Summative Assessment for the 2016-17 school year. The district received a reply jointly signed by the Superintendent of Public Instruction and the State Board of Education (SBE) president stating that the statutory provisions requiring the administration of all (California Assessment of Student Performance and Progress) CAASPP assessments are not waivable. In their letter to Long Beach Unified School District (LBUSD), the Superintendent of Public Instruction (SPI) and SBE president identified the following concerns with the district's request:

- a) The SAT may not be aligned to the common core state standards.
- b) The SAT does not provide a reliable and valid measurement across the entire spectrum of pupil performance (for example it is not designed to measure performance at the low end of the spectrum well), which could leave the district open to lawsuits based on discrimination.
- c) The SAT does not offer disabled students the same set of supports and accommodations as the California Assessment of Student Performance and Progress (CAASPP) assessments.
- d) The SAT does not report results on the same scale as the CAASPP assessments.
- e) Not administering the CAASPP assessment could result in the loss of federal funds.
- f) The College Board, which publishes the SAT, has different requirements regarding data ownership and pupil privacy.

Long Beach Unified School District submitted another waiver request for the 2017-18 school year and was again denied.

- 6) Federal authorization for alternate assessment. Federal law, the Every Student Succeeds Act (ESSA), authorizes states to approve a nationally recognized high school assessment that local education agencies (LEAs) may administer in lieu of the existing state-wide assessment (which is the Smarter Balanced Assessment for California), provided the alternative assessment meets or exceeds strict requirements. Federal regulations define "nationally recognized high school assessment" to mean "an assessment of high school students' knowledge and skills that is administered in multiple States and is recognized by institutions of higher education in those or other States for the purposes of entrance or placement into courses in postsecondary education or training programs." ESSA gives states discretion in offering this flexibility, but requires states to first establish that the approved alternative assessment meets certain requirements, all of which are incorporated into this bill by reference and, in some cases, explicitly.
- SBAC scores are used as part of the state's accountability system, in particular the school dashboard, which uses SBAC scores along with other state and local performance measures to evaluate school and district performance. According to the California Department of Education, the Academic Indicator "is based on performance on the Smarter Balanced Summative Assessments for English Language Arts/Literacy (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, or the 'Distance from Standard' (DFS). To calculate the DFS, each student's score is first compared to the "Standard Met" threshold for that grade level on the Smarter Balanced Summative Assessments. Then, all distance results are averaged to produce a

school- and student-group-level average scale score (the DFS). The results will show the needed improvement to bring the average student score to "Standard Met" or the extent to which the average student score meets or exceeds 'Standard Met'. Using scale scores, rather than reporting on the percent of students who performed at or above the "Standard Met", provides a more comprehensive picture of how all students at the school are performing on the Smarter Balanced assessments.

It should be noted that the Superintendent of Public Instruction and the President of the State Board of Education, in their October 31, 2017 letter to Long Beach Unified School District (LBUSD) denying its waiver request for the 2016-17 school year, they stated that federal law "mandates that the Stated Educational Agency State Plan require all local educational agencies (LEAs) to administer the same academic assessment to measure student achievement for the purpose of accountability. Each LEA must assure that it will comply with the State Plan irrespective of Title I participation. LBUSD's intent to offer a different assessment, in lieu of the state's designated assessment, will put it out of compliance with federal law as it pertains to assessment and accountability. In addition, if an LEA does not give the grade eleven Smarter Balanced Summative Assessment (SBAC), it will negatively impact its College/Career Indicator in the California School Dashboard." However, this bill requires the State Board of Education to amend the state plan to account for the authorization for local educational agencies to use an alternate assessment pursuant to this section, if required by federal law, before a local educational agency may administer an assessment in lieu of the SBAC.

7) **Peer Review.** As noted above, one of the requirements to use an alternate assessment is that the assessment must go through a federally mandated peer review process to ensure that it satisfies all of the federal requirements identified above. As stated in a U.S. Department of Education (USDOE) letter to State Assessment Directors, dated May 15, 2017, "the state must establish the criteria and undertake its review of the nationally recognized high school assessment before it may offer the opportunity for an LEA to select that assessment... Prior to any LEA use of nationally recognized assessment in lieu of Statewide assessments, States must submit evidence to the Department demonstrating that any such assessment meets the peer review requirements under section 1111(a)(4) of the ESEA and receive feedback that the nationally recognize assessment meets or substantially meets the requirements in the state and regulations."

This bill explicitly requires the state to undertake the peer review process before the Superintendent approves one or more nationally recognized high school assessments

However, the bill does contain a provision that requires the state to substitute another state's peer review process for its own if the other state has approved a nationally recognized high school assessment, that the state has adopted the common core state standards, and it meets the federal requirements identified above, if the U.S. Department of Education allows the state to do so. However, as noted in a letter to State Assessment Directors from the USDOE dated May

15, 2017, the U.S. Department of Education stated that the "Department recognizes that it may have conducted a peer review of a nationally recognized high school test prior to a State selecting that test for this flexibility. In such a case, State may be able to leverage the prior peer review for submission of the nationally recognized high school test. However, a prior peer review of a particular nationally recognized national assessment that resulted in a determination that such assessment met or substantially met peer review requirements relative to a State's challenging academic standards may not mean that assessment would meet the requirements for another state. For example, if two states have different challenging academic standards, a single assessment may not adequately address both sets of standards."

According to the author, "other states, including Connecticut, Delaware, Illinois, Maine, Michigan, and Wisconsin have received approval from the U.S. Department of Education to administer the SAT or ACT for federal accountability purposes, in place of a state adopted assessment program. North Dakota received permission to give districts choice to administer the ACT." Of the states identified by the author, only North Dakota has not adopted common core. According to a survey conducted by *EdWeek*, 24 states, plus the District of Colombia, require students to take either the SAT or the ACT. It appears that approximately 17 of those states use only the SAT or the ACT.

The committee may wish to consider whether it would be appropriate, in light of California's unique characteristics, and more consistent with the intent of the flexibility afforded by federal law, to delete subdivision (e) of Section 60640.5 to ensure that the only circumstance in which a California local educational agency would be afforded the flexibility to administer a nationally recognized high school assessment instead of the statewide assessment is if that assessment has undergone a peer review assessment specific to California, despite the cost saving that this provision would afford the state.

8) Alignment between SAT/ACT and state standards. This bill requires that the nationally recognized high school assessment approved by the Superintendent to be aligned with the academic content standards adopted by the State Board of Education and to address the depth and breadth of those standards. As previously noted, California's English language arts and mathematics academic content standards are based on the Common Core State Standards (CCSS). As noted in the Assembly Education Committee's analysis, California is one of 15 states that administer the Smarter Balanced Summative Assessments (SBAC), although according to Education Week, only eight states administer the SBAC in grade 11. All of these states have adopted the CCSS, but all of these states have also modified those standards to meet local needs and priorities. However, the SBAC does not differ from state to state. This means there will always be some amount of "misalignment" between the SBAC and each state's content standards, and the areas of misalignment will vary from state to state. The same will hold true for an alternative test, which federal law requires to be a test that is offered in multiple states. However, the College Board, which publishes the SAT, indicates that studies have shown that the alignment between the SAT and the CCSS is comparable to the alignment between the SBAC and the CCSS.

Conversely, a March 2018 brief from Achieve states: "In 2017, Achieve conducted an independent alignment study of the ACT with the Common Core State Standards. Achieve used an evaluation approach adapted from a methodology based on the Council of Chief State School Officers' (CCSSO) Criteria for Procuring and Evaluating Large Scale Assessments, Overall, Achieve's review of the ACT found significant weaknesses across both English language arts (comprising the Reading, Writing, and Essay tests) and mathematics for both content and depth. In ELA, fewer than 50 percent of items reviewed were judged to be aligned to the claimed Common Core State Standards. For example, many items that claimed to measure writing standards did not ask students to produce writing, as indicated in the state's content standards. The ACT emphasized some aspects of reading text critically and language skills as well as real-world activities, but did not require students to demonstrate their abilities to write in different modes (argumentative, expository/nonfiction, and narrative), use text-based evidence in support of their writing, or focus on the vocabulary words most appropriate to high school. In mathematics, fewer than half of items on the assessment were judged to be aligned to the claimed Common Core mathematical content standards for high school. This finding, while low, may be less surprising given that ACT, in its technical documentation, indicates that 40-43 percent of mathematics items are designed to measure pre-8th grade mathematics content."

However, The Long Beach Unified School Districts (LBUSD) has been administering the SAT and the Smarter Balanced Summative Assessments (SBAC) to 11th graders for several years. According to information provided by the author's office, "The LBUSD found that pupil performance on the SAT correlates almost identically with the performance on the CAASPP assessment." Specifically, the same percentage (49 percent) of 11th graders met or exceeded benchmarks on both English language arts tests, while 28 percent of 11th graders met or exceeded benchmarks on the SBAC math, compared with 29 percent on the SAT math test. Additionally, A study by Policy Analysis for California Education (PACE) found that the SAT and SBAC are equally predictive of first- and second-year college grade point averages. This study compared the effectiveness of three assessments—high school grade point average (HSGPA), the SAT, and the SBAC—in predicting how well California State University students do in their first and second years of college. HSGPA is a better predictor than either the SAT or the SBAC in predicting first- and second-year college GPAs, and the SAT and SBAC are similar, "if not identical," predictors. This is an indication that the SAT and SBAC measure very similar academic achievement levels and abilities.

9) Shifting attitudes toward college admissions tests. The University of California (UC) has formed the Standardized Testing Task Force to evaluate "whether the University and its students are best served by our current testing practices, a modification of our current practices, another testing approach altogether, or perhaps even no testing at all. The goal of the Task Force is to develop recommendations for implementation in UC undergraduate admissions..." The Task Force has been asked to focus on the following questions:

- a) How well do the University of California (UC) current standardized testing practices assess entering high school students for UC readiness?
- b) How well do the UC current standardized practices predict student success in the context of our holistic, comprehensive review process?
- c) Should UC testing practices be improved, changed or eliminated?
- d) Do standardized testing assessments fairly promote diversity and opportunity for students applying to UC?
- e) Does UC's use of standardized tests enhance or detract from UC academic eligibility for high school students?

The scope of the Task Force is the full range of standardized tests used by UC for undergraduate admissions, but focus will likely be directed to SAT and ACT tests.

The committee may wish to consider the value of allowing local educational agencies to substitute the SAT or the ACT for the SBAC in the context of this evolving landscape. However, it should be noted that the bill includes 5-year sunset provision.

10) Related and previous legislation. ACR 64 (McCarty, 2019) resolves that the Trustees of the California State University and the Regents of the UC are requested to conduct a study on the usefulness, effectiveness, and need for the SAT and ACT to determine student admissions, and that the study should include recommendations and, if determined necessary, a plan for phasing out the use of the SAT and ACT as a basis for admission. ACR is pending referral in the Senate.

AB 1951 (O'Donnell, 2018) was identical to this bill and was vetoed by Governor Brown, who stated:

"This bill requires the Superintendent of Public Instruction to approve one or more nationally recognized high school assessments that a local school may administer in lieu of the state-administered high school summative assessment, commencing with the 2019-20 school year.

Since 2010, California has eliminated standardized testing in grades 9 and 10 and the high school exit exam. While I applaud the author's efforts to improve student access to college and reduce 'testing fatigue' in grade 11, I am not convinced that replacing the state's high school assessment with the Scholastic Aptitude Test or American College Test achieves that goal.

Our K-12 system and our public universities are now discussing the possible future use of California's grade 11

state assessment for college admission purposes. This is a better approach to improving access to college for under-represented students and reducing 'testing fatigue'."

AB 3233 (Kiley, 2018) would have authorized a local education agency (LEA) that administers a nationally recognized high school assessment that meets specified federal requirements to all students in grade 11 to report those assessments on the California School Dashboard as a local academic indicator. AB 3233 died in the Senate Appropriations Committee.

AB 1602 (O'Donnell, 2017) would have established the Alternative Grade 11 Assessment Pilot Program to allow participating districts to administer an assessment other than the grade 11 SBAC. AB 1602 died in the Assembly Appropriations Committee.

## **SUPPORT**

Association of California School Administrators (Co-Sponsor)

California School Boards Association (Co-Sponsor)

**AVID Center** 

California Association of Latino Superintendents and Administrators

California Association of Student Councils

Central Valley Education Coalition

Corona Norco Unified School District

Long Beach Unified School District

Oakland Unified School District

Norwalk-La Mirada Unified School District

Riverside County Superintendent of Schools

Palos Verdes Peninsula Unified School District

Sacramento City Unified School District

San Bernardino County District Advocates for Better Schools

San Diego Unified School District

San Francisco Unified School District

San Jose Unified School District

**Small School Districts Association** 

**Torrance Unified School District** 

#### **OPPOSITION**

Alliance for a Better Community
California Association for Bilingual Education
California for Justice
Californians Together
Public Advocates
Student Senate for California Community Colleges
The Education Trust – West
The Opportunity Institute
An individual