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# 5B

## Information

### *Legislative Committee*

### Analyses of Bills

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**Executive Summary:** Staff will present a summary and brief analysis of the Every Student Succeeds Act, the recent reauthorization of the Elementary and Secondary Education Act of 1965.

**Recommended Action:** For information only

**Presenter:** Joshua Speaks, Legislative Representative, Office of Governmental Relations

#### Strategic Plan Goal

#### *III Communication and Engagement*

- e) Advise the Governor, Legislature, and other policy makers as appropriate regarding issues affecting the quality, preparation, certification, and discipline of the education workforce.

February 2016

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## **Bill Analysis**

### **S. 1177 (Alexander)**

## **Every Student Succeeds Act**

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The Every Student Succeeds Act (ESSA) is a comprehensive reauthorization of the 1965 Elementary and Secondary Education Act. This analysis will provide a general summary of major aspects of the legislation with a particular focus on those aspects that may impact the work of the Commission.

### **Background**

The 1965 Elementary and Secondary Education Act (ESEA) established the federal government's role in funding public education. It was introduced as part of President Johnson's "War on Poverty" and as such emphasized equal access to education for children of all incomes and the establishment of high standards and clear accountability. Traditionally, the Congress has reauthorized the act an average of every five years. This allows for changes in funding priorities, incorporation of new policy elements, and inclusion of innovative educational strategies.

The most recent reauthorization of the ESEA was the "No Child Left Behind Act" (NCLB) in 2001. NCLB required increased accountability from teachers and students by mandating annual standardized testing. The bill also required schools to publish annual report cards on their school's academic and demographic profile. Under Title II, the bill designated federal funds to educational agencies for the purpose of encouraging the professional development of highly qualified teachers and principals. Highly qualified teachers were defined as having a bachelor's degree, full state certification or licensure, and were required prove their subject matter competence in each subject area they are authorized to teach. The bill mandated that 100 percent of core subject classes be taught by highly qualified teachers by the close of the 2005–2006 academic year. States were required to create and to publish plans for achieving this goal. They were further required to track their progress and publish a report every year. NCLB also introduced the concept of Adequate Yearly Progress, by requiring that schools meet certain standards no later than 12 years from implementation of NCLB, and that their progress toward these goals be measured and reported by their state on an annual basis.

While these measures helped to highlight significant achievement gaps among traditionally underserved students, many objected that the oversight and accountability provisions of NCLB were rigid and burdensome, and significant opposition began to form. Initial attempts to reauthorize and reform the law were unsuccessful. In recognition of this fact, President Obama and his Secretary of Education implemented a voluntary waiver program that enabled states to gain flexibility from the law's specific mandates by creating local plans reviewed by the federal Department of Education. These plans were evaluated by requiring them to set high standards;

re-shape accountability systems to more appropriately reflect local contexts and reduce the amount of standardized testing; and support the evaluation and development of effective teachers and principals.

### **Analysis of Bill**

The ESSA represents a sea change in federal oversight of state education policy. While the original ESEA primarily operated as a compensatory funding model designed to channel federal education dollars to lower-income schools and districts, greater oversight requirements have been added over time. The 1988 reauthorization first suggested that continued federal money was contingent on demonstrating improvement among the most vulnerable students, and subsequent reauthorizations have continuously increased reporting and oversight to ensure this goal was being pursued properly. A shift away from increasing oversight began in 2011, when the federal Department of Education established a formal process allowing states to apply for waivers from certain provisions of NCLB. Forty-five (45) states applied and 43 were approved. California was not among the states approved for waivers. This legislation codifies that effort to reduce the overall level of federal oversight and grant greater autonomy and policy direction back to individual states.

The most significant departures from NCLB are:

- Elimination of federal goals for progress and adequate yearly progress requirements.
- No mandated interventions for low-performing schools.
- Minimal federal role in defining teacher effectiveness.
- State-level creation of accountability systems to measure student progress.
- Support for early childhood education.

The shift of responsibility back to states also means that there are significant uncertainties in how the law will be applied. In addition to the required federal rulemaking, delegating so much policy authority back to states will necessitate policy choices by California lawmakers, the State Board of Education, and the state Department of Education. This provides significant opportunity for aligning federal and state policy in ways that were impossible in the NCLB era. For example, ESSA requires intervention at the lowest level, beginning with schools, instead of a top-down approach. Under the Local Control Funding Formula (LCFF), local education agencies (LEAs) must already create and submit Local Control Accountability Plans (LCAPs) to their county superintendents. This process includes provisions for superintendents to provide technical assistance to districts that fail to perform adequately across a set of student subgroups similar to those that must be monitored under the ESSA. ESSA also envisions states including at least one non-academic measure of student performance, and provides funding for State Family Resource Centers and parent education. Under LCFF, parents of disadvantaged students are encouraged to participate in the development of LCAPs. As the state moves forward with implementation, continued focus should be directed to identifying such opportunities for alignment, and shaping state policies appropriately in response.

## Summary of ESSA Changes

### Timeline

While the ESSA became effective immediately upon signing, there is a multi-year transition from NCLB to ESSA. No changes at all go into effect during the 2015-16 school year. Any waivers to the provisions of NCLB issued to states by the federal Department of Education will remain in effect until August of 2016. The Adequate Yearly Progress requirements of NCLB also remain effective until August of 2016, at which time the states must develop and implement new accountability provisions. These provisions are to take effect at the beginning of the 2017-18 school year. Any schools or LEAs that were identified for improvement or other corrective action must continue to implement any interventions required under those prior provisions of law until either their state has an approved Title I plan or the accountability provisions of the legislation go into effect. ESSA also provides the Secretary of Education with authority to provide for an “orderly transition” to the new law by issuing guidance and adopting regulations.

### Regulations

The federal Department of Education is required to adopt regulations to implement the law, clarify ambiguities, and provide greater specificity. The Department of Education must issue all final regulations within one year of enactment.

### Teacher Preparation

The bill eliminates the federal definition of “Highly Qualified Teacher” in favor of allowing states to determine their own teacher qualifications. States will continue to be required to disclose the steps they’re taking to evaluate the equity of teacher distribution and the qualifications of their teachers and school administrators; particularly focusing on disparities between statewide teacher quality and schools with concentrations of low socioeconomic status students and students of color. These provisions are designed to provide states with a high degree of flexibility in determining how to improve the quality of their teachers and school leaders, while still providing appropriate transparency and accountability. The law contains a provision explicitly barring the Secretary of Education from prescribing the terms or conditions of any system adopted by a state for teacher evaluation.

The ESSA also approves \$2.3 billion to train and recruit educational professionals such as teachers and principals. Initially, 65 percent of this funding is to be directed toward training professionals who will serve students in lower socioeconomic settings. This percentage will gradually increase until, by 2020, 80 percent of this funding will be used for training educators to work with students of lower socioeconomic status.

The bill also authorizes states to use their Title II teacher preparation funds to sponsor public or other nonprofit teacher preparation “academies.” The Governor of a state that chooses to use funds for this purpose is empowered to designate a state entity to act as the “state authorizer” for any such academies. These academies can be either affiliated with an institution of higher education or be offered independently. The law bars states from requiring accreditation, mandating physical infrastructure, or calling for other traditional components of a graduate

institution when authorizing a teacher preparation academy. These deviations from traditional expectations for graduate institutes are intended to foster more innovative and diverse approaches to teacher training. States would be required to recognize graduates of these academies as academically equivalent to those who hold traditional masters degrees. However, it should be emphasized that states are not required to allow such academies. The law merely authorizes them to do so.

### Standards

Under ESSA, academic standards will not be required to change significantly. All states must continue to have challenging academic standards in English language arts, math and science. States must demonstrate that these standards are aligned to the postsecondary public higher education entrance requirements in the state in order to create a universally accessible college pipeline. The Department of Education must evaluate a state's adopted standards, and can reject them within 90 days of submission by presenting "substantial evidence" that "clearly demonstrates" the plan does not meet the criteria laid out in the ESSA. The standards must also be relevant for career and technical education. One reversal of current law is a statute barring federal officials from requiring, endorsing, or providing incentives for the adoption of any specific set of standards, including the Common Core standards.

### Testing

One of the most significant changes under ESSA is the devolution of authority over testing from the federal government back to state governments. States are still required to test at the same frequency and grade levels, but are empowered to set their own goals for reading and math achievement, and for graduation rates. In addition, the legislation also requires an audit of state assessments to reduce redundant, unaligned, or poor-quality tests. States will have the ability to avoid "double testing" of students in advanced level math by using that class's tests for accountability purposes. States may still administer a single cumulative test, as they do under current law, or offer smaller tests on individual components throughout the school year in order to provide more frequent information on student achievement and growth.

ESSA specifically authorizes the use of portfolios, projects, and performance tasks for student assessment. This allows states greater flexibility in developing high-quality, competency-based assessments. These provisions are intended as a pilot program and only 1 percent of a state's students can be assessed using such alternative measures.

### Accountability

Any accountability standards set by the states must include: graduation rates, proficiency in reading and math, English language proficiency, growth (for elementary and middle school students), and one other indicator of school quality such as safety or student engagement. When states create their evaluation system, the first four indicators must be given greater weight than any additional indicators. When assessing graduation rates, states will now be allowed to use a five or six-year window, rather than being limited to four years. The law includes prohibitions on federal officials prescribing weights of indicators or goals to be included in a state accountability system. The NCLB-era requirement that 95 percent of students participate in testing remains in

effect, but states can determine how participation is factored into their overall accountability scores.

States must also ensure educator equity by describing in their plans how they will ensure low-income and minority students are not in classrooms staffed by a disproportionate number of ineffective, out-of-field, or inexperienced teachers. While the law does not specify how to assess teacher effectiveness, it does require that states publish any methods or criteria used for this purpose.

### Low Performing Schools

The ESSA requires states to identify and intervene in the bottom 5 percent of their schools, as identified at least once every three years. It also requires interventions in any high school that fails to graduate more than 67 percent of its students. NCLB imposed very specific corrective actions upon schools that were not making adequate progress in student achievement. ESSA reverses this policy by prohibiting the federal government from requiring specific corrective actions. Interventions must instead take place at the lowest level possible. In practice, this means that initial interventions are at the district level, with state-required monitoring. If the district's strategy fails to succeed within four years (or less, as determined by the state) the state is required to intervene. Federal interventions are prohibited even in cases where both district and state level interventions have failed.

As part of a state's monitoring of school performance, it is required to establish a method for disaggregating significant subgroups of students and assess their performance independently of the overall student body. Student groups specifically identified for disaggregation and monitoring include: major racial and ethnic groups, socioeconomically disadvantaged students, student with disabilities, English learners, students by gender, students by migrant status, homeless students, students in foster care, and military-connected students. Schools in which any of these student subgroups are struggling must submit and implement a targeted support and improvement plan, to be monitored by the district. Districts and states are also authorized to intervene in schools where identified subgroups consistently underperform.

### Early Childhood Education

The ESSA authorizes \$250 million per year to help states align and coordinate early learning programs. This money will be provided via preschool development grants, a competitive grant program intended to assist states in implementing a plan that will foster collaboration among existing programs of early childhood care and education. These grants will be awarded jointly by the Secretaries of Education and Health and Human Services, and are to be used for: periodic statewide assessments, strategic plan development, maximizing parental choice and knowledge, sharing best practices, and improving the overall quality of programs within the state. While the federal government currently provides similar funding on a year-by-year basis, this will represent the first time early childhood education is funded on a permanent and ongoing basis.

**Impact on Work of the Commission**

One of the key components of NCLB was the designation of highly qualified teachers (HQT). In California, the State Board of Education (SBE) defined HQTs as those who hold a bachelor's degree, are credentialed in the content they are teaching, and have completed a minimum of 32 semester units in the content or passed an examination in the content they are teaching. California's definition of HQT for elementary teachers, those who hold a Multiple Subject teaching credential, included passage of the CSET: Multiple Subjects. Beginning in 2004, newly prepared teachers were no longer given the option of completing a Commission-approved Elementary Subject Matter program that had previously waived the requirement that a prospective teacher pass the CSET ([http://www.ctc.ca.gov/commission/agendas/2003-08/august\\_2003\\_GS-10.pdf](http://www.ctc.ca.gov/commission/agendas/2003-08/august_2003_GS-10.pdf)). The Commission needs to work with the SBE to determine if completion of a Commission-approved elementary subject matter program should be an option for prospective Multiple Subject teachers.

**Fiscal Impact**

None identified for the Commission. It should be noted that all dollar amounts specified in federal legislation such as the ESSA are merely recommendations. No funds are authorized for expenditure until they are appropriated via the budget process, and that process is not bound by the amounts specified in the ESSA.

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