

SENATE THIRD READING
SB 86 (Committee on Budget and Fiscal Review)
As Amended March 1, 2021

SUMMARY:

This bill encompasses the three distinct components for the State’s “Safe Schools for All Plan,” intended to facilitate a safe and phased approach to reopening all public schools TK through 12th grade for in person instruction this year:

- 1) Public Health & School Status Data & Vaccines;
- 2) School Reopening Incentive Grants, and
- 3) Student Learning Recovery Grants.

The bill appropriates a total of \$6,557,443,000 in Proposition 98 General funds in local assistance for these purposes, and a total of \$30,000,000 in non-Proposition 98 General fund and Proposition 98 General funds for state administration.

This bill also authorizes the California Student Aid Commission to waive the requirement that homeschooled students submit standardized test scores in lieu of a Grade Point Average (GPA) for the 2021-22 academic year to qualify for the Cal Grant program. This waiver authority would only apply to students that certify they are unable to access a standardized test due to the impacts of the COVID-19 Pandemic.

This bill also clarifies the deadlines for local education agency Coronavirus Relief Fund expenditures and authorizes the department to recover unspent funds, and makes a technical change to AB 82 (Ting, 2021).

Major Provisions

COVID-19 Reporting and Public Health Requirements

This bill would:

- 1) Require local education agencies and private schools maintaining kindergarten or any of grades 1 to 12, inclusive, to report employee and student COVID-19 positive cases and other relevant data, no later than 24 hours after learning of the positive COVID-19 case, to the local health officer.
- 2) Make reporting under this Section not subject to disclosure under the state Public Records Act, and prohibit this information from being disclosed by the local health officer, except as provided.
- 3) Require local public health officers to take necessary steps to respond to the possible spread of COVID-19 cases, as reported on a school campus.

- 4) Require every school district, county office of education, charter school, and private school maintaining kindergarten or any of grades 1 to 12, inclusive, to notify the State Department of Public Health (CDPH) twice each month, as specified, of the following:
 - a) Number of enrolled pupils by school site and local education agency (LEA).
 - b) Number of pupils participating in 1) full-time in-person instruction, 2) full-time distance learning instruction, and 3) a hybrid of in-person and distance learning.
 - c) Number of employees working onsite, by school site and LEA.
 - d) Number of pupils served in-person, in cohorts, during school closures, and services pupils are receiving in-person.
 - e) Any additional information requested by the CDPH.
- 5) Require the CDPH to develop and provide forms and procedures for the above reporting requirements, and maintain a publicly available website for school site and statewide data, as reported.
- 6) Require local education agencies and private schools to post a completed COVID-19 safety plan, as specified, on its internet website home page, no later than five days prior to opening.
- 7) Requires schools that open in purple tier to submit their COVID-19 safety plan to the CDPH Safe Schools for All Team.
- 8) Appropriates \$25 million non-proposition 98 General Fund for CDPH Safe Schools for All Team technical assistance and enforcement capacity, with a JLBC-approved expenditure plan.

Reopening & In-person Instruction Funding

This bill would provide \$2 billion in one-time Proposition 98 funds for in person instruction grants to every LEA (except non-classroom based charters) to facilitate safe return to in-person instruction, with conditions of funding as follows:

- 1) By March 31st, LEAs shall offer in person instruction for vulnerable TK-12 student groups served in small cohorts (using existing CDPH small cohort guidance). This requires LEAs to provide in-person instruction to small cohorts of vulnerable TK-12 students by this date, regardless of what color tier the county is in. LEAs may determine priority and capacity of in person offerings. Vulnerable student groups include:
 - a) Students with Disabilities
 - b) Foster & Homeless Youth
 - c) Students at-risk of abuse or neglect
 - d) English Language Learners
 - e) Students Lacking Digital Access
 - f) Disengaged students.

- 2) By March 31st, if in county in “Purple Tier” for C-19 and allowed to open pursuant to the CDPH Blueprint for a Safer Economy (<25 cases per 100K population) LEAs shall reopen for in person instruction for TK-2 grade students and students with disabilities. LEAs that open for TK-2 students in Purple Tier are required to comply with CDPH staff and student testing cadences.
- 3) By March 31st, if in county in “Red Tier” for C-19, LEAs shall reopen for in person instruction for TK-6 grade students. LEAs are allowed to open sooner with COVID safety plan, pursuant to public health guidance.
- 4) By March 31st, if in county in “Red Tier” for C-19, LEAs shall reopen for in person instruction for at least one grade of 7-12 grade students. LEAs are allowed to open sooner with COVID safety plan, pursuant to public health guidance.
- 5) LEAs that choose to open earlier, or have already opened, or already adopted a reopening plan but have not yet reopened are allowed to access funds and continue to operate under their locally negotiated agreement adopted under the public health standards from date of adoption.
- 6) LEAs are required to have a C-19 school safety plan adopted prior to reopening.

Student Learning Recovery Grants:

- 1) This bill would provide \$4.56 billion in one-time Proposition 98 funds for Student Learning Recovery grants to every LEA to facilitate the launch of multi-year learning loss mitigation plans, as follows:
 - a) Provide a student learning recovery grant, based on the Local Control Funding Formula (LCFF), with specific additional amounts for homeless students per ADA, and a flat formula for the State Special Schools.
 - b) Provide in-person instruction, as defined, to access funds, but allow up to 15% of funds to provide services online.
 - c) Use funds for instructional and student supports including, but not limited to: summer school, extended year, extended instructional time, and other in-person services such as one-on-one tutoring.
 - d) Use these funds through August 2022, for a multi-year approach to student learning recovery.
- 2) This bill allows LEAs that forfeit In Person Instruction Funding to use no more than 10% of funding for reopening costs.
- 3) This bill establishes the following unique definitions for the purpose of the chapter, for learning recovery and in-person instruction grants:

- a) “Supplemental instruction” means instructional programs provided in addition to, and complementary to, the regular instructional program offered or provided by an LEA.
 - b) “Support” means interventions designed to meet the behavioral, social, emotional and integrated student services needs of students necessary to engage in and benefit from supplemental instruction as offered through the program.
 - c) “Disengaged student” means a student identified pursuant to the tiered re-engagement requirements established for 2020-21 academic year, pursuant to Section 43504.
 - d) “COVID-19 school safety plan” means the plans adopted by an LEA consistent with, and containing both, the written COVID-19 (C-19) prevention program required by CalOSHA, and the supplemental C-19 School Guidance Checklist approved by the CDPH.
- 4) Requires that LEAs receiving funding implement a tiered program of supplemental instruction and support that offers, at minimum:
- a) Supplemental instruction to pupils.
 - b) Support for pupils’ social and emotional wellbeing.
 - c) Meal and snacks, to the maximum extent permissible under federal guidelines.
- 5) Requires funds to be expended for any of the following:
- a) Extending instructional learning time beyond the LEA’s adopted academic calendar of instructional minutes, for summer or out-of-school time for instructional learning.
 - b) Tutoring or other one-on-one or small group instruction.
 - c) Learning recovery programs.
 - d) Educator training in accelerated learning, learning gap strategies, and trauma-informed and social-emotional practices.
 - e) Integrated pupil supports, including health, youth-development, counseling and mental health services.
 - f) Community learning hubs for pupil access to technology and other academic supports.
 - g) Supports for credit-deficient high school pupils, and to improve pupil college eligibility.
 - h) Additional academic services, including diagnostic assessments.
- 6) Strongly encourages LEAs to leverage Medi-Cal LEA Billing Option and Medi-Cal Administrative Activities programs for eligible students.
- 7) Establishes following groups of students as a minimum for support offerings under the program:
- a) Free or reduced-price meal eligible pupils.
 - b) English learners.
 - c) Pupils at risk of abuse or neglect.

- d) Foster youth.
 - e) Homeless youth.
 - f) Disengaged students.
 - g) Pupils below grade level, including children who did not enroll in kindergarten or are at risk of not meeting graduation requirements.
- 8) Require the California Department of Education (CDE) to develop a template for all LEA's supplemental instructional and support plan, and require that the plan template include a section requiring an explanation of how LEAs will coordinate these funds with federal Elementary and Secondary School Emergency Relief funds and how the planning process engages stakeholders and informs parent/guardians of pupil opportunities.
- 9) Requires, on or before June 1, 2021, for LEAs to adopt a plan describing how funds will be used pursuant to this section.
- 10) Requires that, by May 1, 2021, the California Collaborative on Educational Excellence (CCEE) provide technical assistance to LEAs to achieve the purposes of this funding. Appropriates \$5 million in Proposition 98 funding for this purpose, and requires a JLBC-approved expenditure plan.

COVID-19 Vaccines

- 1) Requires the state to prioritize all Tier IB eligible individuals equally.
- 2) Requires the state to create a 10% set-aside in the state 3rd party vaccine administration contract, for education sector workers in IB, working for a K-12 school or child care facility.

COMMENTS:

Learning Loss Pandemic. The first California data representing a large number of students and disaggregated by grade and subgroup, released this month by the Policy Analysis for California Education (PACE), shows significant learning loss, with the largest effect among low income and English learner students.

These data come from the CORE Data Collaborative, and represent the performance of over 50,000 students enrolled in 18 school districts, on the MAP and STAR assessments in English language arts (ELA) and mathematics administered in grades 4-10. Statewide assessment data is not available, due in part to the suspension of statewide assessments in ELA and mathematics in 2020. Researchers compared growth from 2019 to 2020, compared to typical growth, based on the prior three school years. The analysis found that:

- a) There has been significant learning loss in both ELA and math, with students in earlier grades most impacted.
- b) The equity impact is severe – certain student groups, especially low-income students and English Learners, are falling behind more compared to others.

PACE notes, “The average learning loss estimates mask the reality that some students in California are suffering during this time much more than others, and that without aggressive and bold actions, these students may never catch up. Any funding or support designed to mitigate learning loss must be targeted specifically to the students that need it most.”

PACE notes that in some grades, the impact is quite severe. For example, English learners in 5th graders taking the MAP ELA assessment grew 30% slower than in a typical year. And they note that in some grades SED students lost learning while higher income students’ learning actually accelerated.*

This bill specifically requires LEAs to serve students who have disengaged from school in the 2020-21 school year, for cohort services and learning recovery engagement. Current law requires LEAs to adopt written tiered procedures for the re-engagement of those students.

Available preliminary enrollment data reported by the CDE, as well as national estimates of the effect of the pandemic on enrollment, raises serious concerns about the number of students who were “lost” to the system in the current school year, and the long term effects of that absence on high school graduation and future success:

- a) According to the preliminary data reported by the CDE, as of December, 2020, public school enrollment had declined, year-over-year, by nearly 156,000 students. After accounting for expected natural decline in enrollment of approximately 0.5%, these data suggest a decline of nearly 130,000 students. Some of these students may have enrolled in private schools or are being homeschooled, and more families than anticipated may have moved out of the state, but evidence below suggests that some may simply not be attending school of any kind this year.*
- b) The Los Angeles Unified School District (LAUSD) reported in the fall of 2020 that enrollment in kindergarten had declined at a rate three times higher than in the two prior years (a 14% year-over-year decline). LAUSD reported that the highest declines were in the poorest neighborhoods, and suggested that this may be due to the inability of low income families to provide full-time support for distance learning, which is needed for young students.*
- c) McKinsey and Company, noting that students who miss more than ten days of school are 36 percent more likely to drop out, reports that in the wake of school closures following natural disasters (after Hurricane Katrina and Hurricane Maria, 14 to 20 percent of students never returned to school), estimates that an additional 2 to 9 percent of high-school students could drop out as a result of the pandemic and associated school closures.*

Many conditions possibility contributing to student disengagement were well known prior to the pandemic, and include:

- a) **Disparities in technology access undermine distance learning.** According to the Public Policy Institute of California (2021), in the spring of 2020 more than 25% of California students did not always have internet access available. The share was larger among children in low-income (43%), African American (39%), and Latino (33%) families. A third of all

households did not always have a device available for learning, including half of low-income households. In spite of efforts to improve access, “internet access remains a widespread problem. More than 30% of Latino students still lack reliable home internet, as do nearly 40% of low-income students—essentially unchanged from the spring.”*

- b) **“Essential,” low wage employment reduces parents’ ability to support distance learning, increases spread of virus.** The “essential” nature of employment among many low income parents has left them unable to supervise distance learning. Employment outside the home is also a factor in markedly higher disease rates in low income communities, which will likely also prolong the duration of distance learning in schools in these communities. A January 2021 Los Angeles Times article reported that test positivity rates among students in communities where the median income is \$37,000 was 32%, while in a community where the median income is \$73,000 the student test positivity rate was 4.3%.*
- c) **Parents face compounded crises of unemployment, housing insecurity, food insecurity, lack of child care.** The economic consequences of the pandemic are compounded for many low income families. Adding to higher disease and death rates and the closure of schools, many face unemployment, overcrowded housing or homelessness, the threat of eviction, food insecurity, lack of child care, all in the context of a national political climate.*
- d) ***Waivers for in-person instruction went disproportionately to private schools.*** CDPH guidance permitted schools in the most restrictive “Purple” Tier to open to serve students in-person in grades K-6 through a waiver process. According to a CalMatters analysis of CDPH data, as of September, 2020, more than 500 private school waivers had been approved, compared with roughly four dozen public school districts and charter schools, comprising little more than 120 campuses. These waivers represent at least 25% of private school K-6 enrollment, but just 1.6% of K-6 public school enrollment.*

Leverage Effective Summer & Expanded Learning Programs. This bill proposes the creation of a program to support summer and expanded learning opportunities in 2021, and encourages LEA to adopt a tiered approach to instruction and support which integrates a variety of engaging experiences in a positive school climate. This approach is supported by research on effective summer learning. A 2018 PACE research brief emphasized that effective summer programs provide engaging programs with both academic and enrichment offerings. Noting that consistent attendance is key to improving outcomes, they point to research indicating that districts that integrate academics and enrichment in a positive climate experience strong program attendance. The brief notes that remediation, credit recovery, and skill development goals can be achieved if programs focus on engaging and motivating students.*

The National Summer Learning Project, a research initiative conducted by the RAND Corporation, notes that several components are needed for successful summer programs, and based on this research recommend that schools:

- a) Plan early and well for both enrichment activities and academics

- b) Recruit and hire the district's most highly effective teachers and provide professional development
- c) Schedule the program to include at least 25 hours of math and 34 hours of language arts, operating the program for five to six weeks with three to four hours of academics per day
- d) Adopt student recruitment and attendance policies that aim for high attendance rates
- e) Provide teachers with high-quality curriculum materials and small class sizes
- f) Adopt intentional policies related to site climate, which drives student enjoyment and is correlated with attendance.*

*Citations attributable to research by the Assembly Education Committee.

According to the Author:

Arguments in Support:

Arguments in Opposition:

FISCAL COMMENTS:

The bill appropriates a total of \$6,557,443,000 in Proposition 98 General funds for local education agencies, to supplement local and federal resources for these purposes.

The bill also appropriates \$25 million general fund to the California Department of Public Health, and \$5 million Proposition 98 funding to the California Department of Education, for technical assistance and enforcement, pursuant to the grant requirements and public health guidance.

VOTES:

SENATE FLOOR: 25-1-13

YES: Allen, Archuleta, Atkins, Becker, Borgeas, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Hertzberg, Laird, Leyva, McGuire, Newman, Nielsen, Ochoa Bogh, Pan, Portantino, Roth, Rubio, Umberg, Wieckowski, Wiener

NO: Wilk

ABS, ABST OR NV: Bates, Dahle, Glazer, Gonzalez, Grove, Hueso, Hurtado, Jones, Limón, Melendez, Min, Skinner, Stern

UPDATED:

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