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INTRODUCED BY Senators Torlakson, Polanco, and Karnette
(Coauthor: Assembly Member Koretz)

FEBRUARY 22, 2002

An act to amend Sections 33126, 33350, 51241, 52057, and 60800 of the Education Code, relating to public schools.

LEGISLATIVE COUNSEL'S DIGEST

SB 1868, Torlakson. Physical education.

(1) Under existing law, the State Department of Education is required to adopt rules and regulations that it deems necessary and proper to secure the establishment of courses in physical education in the elementary and secondary schools and to compile or cause to be compiled and printed a manual in physical education for distribution to teachers in the public schools of the state.

This bill would require the department to encourage school districts offering instruction in kindergarten and any of grades 1 to 12, inclusive, to the extent that resources are available, to provide quality physical education that develops the knowledge, attitudes, skills, behavior, and motivation needed to be physically active for life, as specified.

(2) Existing law authorizes the governing board of a school district or the county superintendent of schools to grant an exemption to a consenting pupil from courses in physical education for 2 years during grades 10 to 12, inclusive. Existing law requires the governing board of a school district maintaining any of grades 5, 7, and 9 to administer to each pupil a physical performance test designated by the State Board of Education.

This bill would permit the exemption only if the pupil has passed the designated physical performance test administered in the 9th grade.

This bill would require that pupils be provided with the individual results after completing the physical performance testing, thereby imposing a state-mandated local program.

This bill would authorize the governing board of a school district to also administer to pupils in grades 10 to 12, inclusive, the designated physical performance test required in 9th grade and would make a pupil who passes the test in any of grades 10 to 12, inclusive, eligible for an exemption from courses in physical

education, as specified.

(3) Existing law, the Classroom Instructional Improvement and Accountability Act, requires each school district that maintains an elementary or secondary school to develop and implement a School Accountability Report Card, as prescribed. The act prohibits any change except to further its purposes by a bill passed by a vote of 2/3 of the membership of both houses of the Legislature and signed by the Governor.

This bill would require the governing board to report the aggregate results of its physical performance testing in its annual school accountability report card, and would declare that this bill furthers the purposes of the act. By requiring this information to be included within the school accountability report card, this bill would impose a state-mandated local program.

(4) Existing law, the Public Schools Accountability Act of 1999, requires the Superintendent of Public Instruction, with the approval of the State Board of Education, to develop an Academic Performance Index (API) to measure the performance of schools. Based on the API, the Superintendent of Public Instruction is required to develop, and the State Board of Education to adopt, expected annual percentage growth targets for all schools based on their API baseline score. The act contains a High Achieving/Improving Schools Program to provide monetary and nonmonetary awards to schools that meet or exceed API growth targets, and allows, in addition to, or in substitution of monetary awards, the Superintendent of Public Instruction to establish nonmonetary awards that may include, but are not limited to, classification as a distinguished school, as specified.

This bill would also authorize the Superintendent of Public Instruction, in addition to any other criteria that are used to determine whether a school shall be classified as a distinguished school, for purposes of the High Achieving/Improving Schools Program, to consider a school's performance on the physical performance tests of its pupils, as specified.

(5) This bill would incorporate additional changes to Section 52057 of the Education Code, proposed by AB 741, to be operative only if this bill and AB 741 are both enacted and become effective on or before January 1, 2003, and this bill is enacted last.

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares the following:

(a) The State Department of Education has reported that a majority of this state's children are not physically fit and are not vigorously active on a regular basis.

(b) Exercise and fitness have been shown to do all of the following:

- (1) Lower the risk of heart disease.
- (2) Lower the risk of hypertension.
- (3) Lower the risk of diabetes.
- (4) Prevent bone loss.
- (5) Decrease the risk of some cancers.
- (6) Reduce stress.

(c) Exercise and fitness activities can increase self-esteem, boost energy, strengthen the heart and muscles, burn calories, and lower cholesterol levels.

(d) Fitness activities have been shown to sharpen mental ability in all people and retard the aging process.

(e) School districts are encouraged to help pupils improve their understanding of the need for good nutrition and physical fitness that together result in improved mental and physical health. School districts are encouraged to help all pupils improve their fitness in a holistic manner through instruction and daily schoolsite practices.

(f) Physical education should approach each pupil in a holistic manner, taking into account their diverse abilities and interests in order to capture the potential for each pupil to develop a life plan of healthy living.

(g) Physical education is an integral component of a balanced and comprehensive school program. Physical education provides curricula and instruction that helps pupils develop knowledge, attitudes, skills, behavior, and motivation needed to be physically active for life.

SEC. 2. Section 33126 of the Education Code is amended to read:

33126. (a) The School Accountability Report Card shall provide data by which parents can make meaningful comparisons between public schools enabling them to make informed decisions on which school to enroll their children.

(b) The School Accountability Report Card shall include, but is not limited to, assessment of the following school conditions:

(1) (A) Pupil achievement by grade level, as measured by the standardized testing and reporting programs pursuant to Article 4 (commencing with Section 60640) of Chapter 5 of Part 33.

(B) Pupil achievement in and progress toward meeting reading, writing, arithmetic, and other academic goals, including results by grade level from the assessment tool used by the school district using percentiles when available for the most recent three-year period.

(C) After the state develops a statewide assessment system pursuant to Chapter 5 (commencing with Section 60600) and Chapter 6 (commencing with Section 60800) of Part 33, pupil achievement by grade level, as measured by the results of the statewide assessment.

(D) Secondary schools with high school seniors shall list both the average verbal and math Scholastic Assessment Test scores to the extent provided to the school and the percentage of seniors taking that exam for the most recent three-year period.

(2) Progress toward reducing dropout rates, including the one-year dropout rate listed in the California Basic Education Data System or any successor data system for the schoolsite over the most recent three-year period, and the graduation rate, as defined by the State Board of Education, over the most recent three-year period when available pursuant to Section 52052.

(3) Estimated expenditures per pupil and types of services funded.

(4) Progress toward reducing class sizes and teaching loads, including the distribution of class sizes at the schoolsite by grade

level, the average class size, and, if applicable, the percentage of pupils in kindergarten and grades 1 to 3, inclusive, participating in the Class Size Reduction Program established pursuant to Chapter 6.10 (commencing with Section 52120) of Part 28, using California Basic Education Data System or any successor data system information for the most recent three-year period.

(5) The total number of the school's fully credentialed teachers, the number of teachers relying upon emergency credentials, the number of teachers working without credentials, and any assignment of teachers outside their subject areas of competence for the most recent three-year period.

(6) Quality and currency of textbooks and other instructional materials, including whether textbooks and other materials meet state standards and have been adopted by the State Board of Education for kindergarten and grades 1 to 8, inclusive, and adopted by the governing boards of school districts for grades 9 to 12, inclusive, and the ratio of textbooks per pupil and the year the textbooks were adopted.

(7) The availability of qualified personnel to provide counseling and other pupil support services, including the ratio of academic counselors per pupil.

(8) Availability of qualified substitute teachers.

(9) Safety, cleanliness, and adequacy of school facilities.

(10) Adequacy of teacher evaluations and opportunities for professional improvement, including the annual number of schooldays dedicated to staff development for the most recent three-year period.

(11) Classroom discipline and climate for learning, including suspension and expulsion rates for the most recent three-year period.

(12) Teacher and staff training, and curriculum improvement programs.

(13) Quality of school instruction and leadership.

(14) The degree to which pupils are prepared to enter the workforce.

(15) The total number of instructional minutes offered in the school year, separately stated for each grade level, as compared to the total number of the instructional minutes per school year required by state law, separately stated for each grade level.

(16) The total number of minimum days, as specified in Sections 46112, 46113, 46117, and 46141, in the school year.

(17) The number of advanced placement courses offered, by subject.

(18) The Academic Performance Index, including the disaggregation of subgroups as set forth in Section 52052 and the decile rankings and a comparison of schools.

(19) Whether a school qualified for the Immediate Intervention Underperforming Schools Program pursuant to Section 52053 and whether the school applied for, and received a grant pursuant to, that program.

(20) Whether the school qualifies for the Governor's Performance Award Program.

(21) When available, the percentage of pupils, including the disaggregation of subgroups as set forth in Section 52052, completing grade 12 who successfully complete the high school exit examination, as set forth in Sections 60850 and 60851, as compared to the percentage of pupils in the district and statewide completing grade 12 who successfully complete the examination.

(22) Contact information pertaining to any organized opportunities for parental involvement.

(23) For secondary schools, the percentage of graduates who have passed course requirements for entrance to the University of California and the California State University pursuant to Section 51225.3 and the percentage of pupils enrolled in those courses, as reported by the California Basic Education Data System or any successor data system.

(24) Whether the school has a college admission test preparation course program.

(25) The aggregate results of the physical performance testing administered pursuant to Section 60800.

(c) It is the intent of the Legislature that schools make a concerted effort to notify parents of the purpose of the school accountability report cards, as described in this section, and ensure that all parents receive a copy of the report card; to ensure that the report cards are easy to read and understandable by parents; to ensure that local educational agencies with access to the Internet make available current copies of the report cards through the Internet; and to ensure that administrators and teachers are available to answer any questions regarding the report cards.

SEC. 3. Section 33350 of the Education Code is amended to read:

33350. The State Department of Education shall do all of the following:

(a) Adopt rules and regulations that it deems necessary and proper to secure the establishment of courses in physical education in the elementary and secondary schools.

(b) Compile or cause to be compiled and printed a manual in physical education for distribution to teachers in the public schools of the state.

(c) Encourage school districts offering instruction in kindergarten and any of grades 1 to 12, inclusive, to the extent that resources are available, to provide quality physical education that develops the knowledge, attitudes, skills, behavior, and motivation needed to be physically active for life; to provide daily recess periods for elementary school pupils, featuring time for unstructured but supervised play; to provide extracurricular physical activity programs and physical activity clubs; and to encourage the use of school facilities for physical activity programs offered by the school or community-based organizations outside of school hours.

SEC. 4. Section 51241 of the Education Code is amended to read:

51241. (a) The governing board of any school district or the office of the county superintendent of schools of any county may grant temporary exemption to a pupil from courses in physical education, if the pupil is one of the following:

(1) Ill or injured and a modified program to meet the needs of the pupil cannot be provided.

(2) Enrolled for one-half, or less, of the work normally required of full-time pupils.

(b) The governing board of any school district or the office of the county superintendent of schools of any county may, with the consent of a pupil, if the pupil has passed the physical performance test administered in the 9th grade pursuant to Section 60800, grant the pupil exemption from courses in physical education for two years any time during grades 10 to 12, inclusive.

(c) The governing board of any school district or the office of the county superintendent of any county may grant permanent exemption from courses in physical education if the pupil complies with any one of the following:

(1) Is 16 years of age or older and has been enrolled in the 10th grade for one academic year or longer.

(2) Is enrolled as a postgraduate pupil.

(3) Is enrolled in a juvenile home, ranch, camp, or forestry camp school where pupils are scheduled for recreation and exercise pursuant to the requirements of Section 4346 of Title XV of the California Administrative Code.

(d) No pupil exempted under subdivision (b) or paragraph (1) of subdivision (c) shall be permitted to attend fewer total hours of courses and classes if he or she elects not to enroll in a physical education course than he or she would have attended if he or she had elected to enroll in a physical education course.

(e) Notwithstanding any other provision of law, the governing board of a school district may also administer to pupils in grades 10 to 12, inclusive, the physical performance test required in 9th grade pursuant to Section 60800. A pupil who passes this physical performance test in any of grades 10 to 12, inclusive, is eligible for an exemption pursuant to subdivision (b).

SEC. 5. Section 52057 of the Education Code is amended to read:

52057. (a) The State Board of Education shall establish a Governor's Performance Award Program to provide monetary and nonmonetary awards to schools that meet or exceed API performance growth targets established pursuant to Section 52052, and demonstrate comparable improvement in academic achievement by all numerically significant ethnic and socioeconomically disadvantaged subgroups within schools. Monetary awards shall be awarded only to schools whose API scores meet or exceed their API growth target as established pursuant to Section 52052 or increase by five points, whichever is greater, and in which all numerically significant subgroups' scores meet or exceed 80 percent of the school's API growth target as established pursuant to Section 52052 or increase by four points, whichever is greater. For purposes of this section, an ethnic or socioeconomically disadvantaged subgroup of at least 100 pupils constitutes a numerically significant subgroup, even if the subgroup does not constitute 15 percent of the total enrollment at a school.

(b) All schools, including schools participating in the Immediate Intervention/Underperforming Schools Program are eligible to participate in the Governor's Performance Award Program. The manner and form in which the monetary and nonmonetary awards are given shall be established by the Superintendent of Public Instruction and approved by the State Board of Education. The monetary awards shall be made available on either a per pupil or per school basis, not to exceed one hundred fifty dollars (\$150) per pupil who received a score on the assessments described in subdivision (b) of Section 60640 and subject to funds appropriated in the annual Budget Act. A school that continues to show improvement in successive years is eligible to receive annual bonuses.

(c) In addition to or in substitution of monetary awards, the Superintendent of Public Instruction may establish, upon approval by the State Board of Education, nonmonetary awards that may include, but are not limited to, classification as a distinguished school, listing on a published public school honor roll, and public commendations by the Governor and the Legislature. In addition to any other criteria that are used to determine whether a school shall be classified as a distinguished school, the Superintendent of Public Instruction may consider the performance of a school on the physical performance tests administered pursuant to Section 60800.

(d) A governing board of a school district or a county board of education with one or more schools under its jurisdiction that are eligible to receive an award from the Governor's Performance Award Program may request on behalf of those schools that the State Board of Education waive all or any part of any provision of this code, or

any regulation adopted by the State Board of Education, controlling any of the programs listed in clause (i) of subparagraph (B) of paragraph (1) of subdivision (a) of Section 54761 and Section 64000. The board may grant the request if the waiver does not result in a decrease in the instructional time otherwise required by law or regulation or an increase in state costs and is determined to be consistent with subdivision (a) of Section 46300. The waiver shall be granted for no more than three consecutive fiscal years. A governing board of a school district or a county board of education may request a renewal for schools under their jurisdiction that still meet the eligibility criteria.

(e) The waiver granted pursuant to subdivision (d) of Section 52057 may also provide the governing board of a school district or a county board of education with maximum flexibility, on the part of eligible schools within the districts, in the expenditure of any new or existing categorical funds not otherwise prohibited under state or federal law to enable the school to continue improvement in pupil performance.

SEC. 5.5. Section 52057 of the Education Code is amended to read:

52057. (a) The State Board of Education shall establish a Governor's Performance Award Program to provide monetary and nonmonetary awards to schools that meet or exceed API performance growth targets established pursuant to Section 52052, and demonstrate comparable improvement in academic achievement by all numerically significant English learner, ethnic, and socioeconomically disadvantaged subgroups within schools. Monetary awards shall be awarded only to schools whose API scores meet or exceed their API growth target as established pursuant to Section 52052 or increase by five points, whichever is greater, and in which all numerically significant subgroups' scores meet or exceed 80 percent of the school's API growth target as established pursuant to Section 52052 or increase by four points, whichever is greater. For purposes of this section, an English learner, ethnic, or socioeconomically disadvantaged subgroup of at least 100 pupils constitutes a numerically significant subgroup, even if the subgroup does not constitute 15 percent of the total enrollment at a school.

(b) All schools, including schools participating in the Immediate Intervention/Underperforming Schools Program are eligible to participate in the Governor's Performance Award Program. The manner and form in which the monetary and nonmonetary awards are given shall be established by the Superintendent of Public Instruction and approved by the State Board of Education. The monetary awards shall be made available on either a per pupil or per school basis, not to exceed one hundred fifty dollars (\$150) per pupil who received a score on the assessments described in subdivision (b) of Section 60640 and subject to funds appropriated in the annual Budget Act. A school that continues to show improvement in successive years is eligible to receive annual bonuses.

(c) In addition to or in substitution of monetary awards, the Superintendent of Public Instruction may establish, upon approval by the State Board of Education, nonmonetary awards that may include, but are not limited to, classification as a distinguished school, listing on a published public school honor roll, and public commendations by the Governor and the Legislature. In addition to any other criteria that are used to determine whether a school shall be classified as a distinguished school, the Superintendent of Public Instruction may consider the performance of a school on the physical performance tests administered pursuant to Section 60800.

(d) A governing board of a school district or a county board of

education with one or more schools under its jurisdiction that are eligible to receive an award from the Governor's Performance Award Program may request on behalf of those schools that the State Board of Education waive all or any part of any provision of this code, or any regulation adopted by the State Board of Education, controlling any of the programs listed in clause (i) of subparagraph (B) of paragraph (1) of subdivision (a) of Section 54761 and Section 64000. The board may grant the request if the waiver does not result in a decrease in the instructional time otherwise required by law or regulation or an increase in state costs and is determined to be consistent with subdivision (a) of Section 46300. The waiver shall be granted for no more than three consecutive fiscal years. A governing board of a school district or a county board of education may request a renewal for schools under their jurisdiction that still meet the eligibility criteria.

(e) The waiver granted pursuant to subdivision (d) of Section 52057 may also provide the governing board of a school district or a county board of education with maximum flexibility, on the part of eligible schools within the districts, in the expenditure of any new or existing categorical funds not otherwise prohibited under state or federal law to enable the school to continue improvement in pupil performance.

SEC. 6. Section 60800 of the Education Code is amended to read:

60800. (a) During the month of February, March, April, or May, the governing board of each school district maintaining any of grades 5, 7, and 9 shall administer to each pupil in those grades the physical performance test designated by the State Board of Education.

Each physically handicapped pupil and each pupil who is physically unable to take all of the physical performance test shall be given as much of the test as his or her condition will permit.

(b) Upon request of the State Department of Education, a school district shall submit to the department, at least once every two years, the results of its physical performance testing.

(c) The State Department of Education shall compile the results of the physical performance test and submit a report every two years, by December 31, to the Legislature and Governor that standardizes the data, tracks the development of high-quality fitness programs, and compares the performance of California's pupils with national performance, to the extent that funding is available.

(d) Pupils shall be provided with their individual results after completing the physical performance testing.

(e) The governing board of a school district shall report the aggregate results of its physical performance testing administered pursuant to this section in their annual school accountability report card required by Sections 33126 and 35256.

SEC. 7. The Legislature finds and declares that this act furthers the purposes of the Classroom Instructional Improvement and Accountability Act.

SEC. 8. Section 5.5 of this bill incorporates amendments to Section 52057 of the Education Code proposed by both this bill and AB 741. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2003, (2) each bill amends Section 52057 of the Education Code, and (3) this bill is enacted after AB 741, in which case Section 5 of this bill shall not become operative.

SEC. 9. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the

Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.