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**AB-2121 Pupil instruction: coursework and graduation requirements: migratory children and newly arrived immigrant pupils. (2017-2018)**

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**Assembly Bill No. 2121**

**CHAPTER 581**

An act to amend Sections 51225.1 and 51225.2 of the Education Code, relating to pupil instruction.

[ Approved by Governor September 20, 2018. Filed with Secretary of State September 20, 2018. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 2121, Caballero. Pupil instruction: coursework and graduation requirements: migratory children and newly arrived immigrant pupils.

(1) Existing law requires a school district to exempt a pupil in foster care, a pupil who is a homeless child or youth, a former juvenile court school pupil, or a pupil who is a child of a military family who transfers between schools any time after the completion of the pupil's 2nd year of high school from all coursework and other requirements adopted by the governing board of the school district that are in addition to certain statewide coursework requirements unless the school district makes a finding that the pupil is reasonably able to complete the school district's graduation requirements in time to graduate from high school by the end of the pupil's 4th year of high school. Existing law requires, among other things, the school district to take specified actions if it determines that the pupil is reasonably able to complete the school district's graduation requirements within the pupil's 5th year of high school.

This bill would extend these provisions to a pupil who is a migratory child, as defined, and a pupil participating in an English language proficiency program for newly arrived immigrant pupils and who is in his or her 3rd or 4th year of high school, and would require charter schools to comply with these exemption requirements applicable to school districts. By requiring school districts and charter schools to perform additional duties in complying with the exemption requirements, the bill would impose a state-mandated local program.

(2) Existing law requires a school district and county office of education to accept coursework satisfactorily completed by a pupil in foster care, a pupil who is a homeless child or youth, a former juvenile court school pupil, or a pupil who is a child of a military family, while attending another public school, a juvenile court school, or a nonpublic, nonsectarian school or agency even if the pupil did not complete the entire course and requires the school district and county office of education to issue that pupil full or partial credit for the coursework completed.

This bill would extend these provisions to a pupil who is a migratory child, as defined, and a pupil participating in an English language proficiency program for newly arrived immigrant pupils, and would require charter schools to comply with these requirements to accept coursework applicable to school districts and county offices of education. The bill would additionally require coursework satisfactorily completed in a school in a country other than the United States to be accepted under these provisions. By requiring school districts, charter schools, and county offices of education to perform additional duties in complying with the requirements to accept coursework, the bill would impose a state-mandated local program.

(3) 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.

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 the statutory provisions noted above.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

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

**SECTION 1.** Section 51225.1 of the Education Code is amended to read:

**51225.1.** (a) Notwithstanding any other law, a local educational agency, as defined in subdivision (n), shall exempt a pupil in foster care, as defined in Section 51225.2, a pupil who is a homeless child or youth, as defined in Section 11434a(2) of Title 42 of the United States Code, a former juvenile court school pupil, as defined in Section 51225.2, a pupil who is a child of a military family, as defined in Section 49701, or a pupil who is a migratory child, as defined in subdivision (a) of Section 54441, who transfers between schools any time after the completion of the pupil's second year of high school, or a pupil participating in a newcomer program, as defined in Section 51225.2, and who is in his or her third or fourth year of high school, from all coursework and other requirements adopted by the governing body that are in addition to the statewide coursework requirements specified in Section 51225.3, unless the local educational agency makes a finding that the pupil is reasonably able to complete the local educational agency's graduation requirements in time to graduate from high school by the end of the pupil's fourth year of high school.

(b) If the local educational agency determines that the pupil in foster care, the pupil who is a homeless child or youth, the former juvenile court school pupil, the pupil who is a child of a military family, the pupil who is a migratory child, or the pupil participating in a newcomer program is reasonably able to complete the local educational agency's graduation requirements within the pupil's fifth year of high school, the local educational agency shall do all of the following:

(1) Inform the pupil of his or her option to remain in school for a fifth year to complete the local educational agency's graduation requirements.

(2) Inform the pupil, and the person holding the right to make educational decisions for the pupil, about how remaining in school for a fifth year to complete the local educational agency's graduation requirements will affect the pupil's ability to gain admission to a postsecondary educational institution.

(3) Provide information to the pupil about transfer opportunities available through the California Community Colleges.

(4) Permit the pupil to stay in school for a fifth year to complete the local educational agency's graduation requirements upon agreement with the pupil, if the pupil is 18 years of age or older, or, if the pupil is under 18 years of age, upon agreement with the person holding the right to make educational decisions for the pupil.

(c) To determine whether a pupil in foster care, a pupil who is a homeless child or youth, a former juvenile court school pupil, a pupil who is a child of a military family, or a pupil who is a migratory child is in the third or fourth year of high school, either the number of credits the pupil has earned to the date of transfer or the length of the pupil's school enrollment may be used, whichever will qualify the pupil for the exemption. In the case of a pupil participating in a newcomer program, enrollment in grade 11 or 12 may be used to determine whether the pupil is in his or her third or fourth year of high school.

(d) (1) (A) Within 30 calendar days of the date that a pupil in foster care who may qualify for the exemption from local graduation requirements pursuant to this section transfers into a school, the local educational agency shall notify the pupil, the person holding the right to make educational decisions for the pupil, and the pupil's social worker or probation officer of the availability of the exemption and whether the pupil qualifies for an exemption.

(B) If the local educational agency fails to provide timely notice pursuant to subparagraph (A), the pupil described in subparagraph (A) shall be eligible for the exemption from local graduation requirements pursuant to this section once notified, even if that notification occurs after the termination of the court's jurisdiction over the pupil, if the pupil otherwise qualifies for the exemption pursuant to this section.

(2) (A) Within 30 calendar days of the date that a pupil who is a homeless child or youth who may qualify for the exemption from local graduation requirements pursuant to this section transfers into a school, the local educational agency shall notify the pupil, the person holding the right to make educational decisions for the pupil, and the local educational agency liaison for homeless children and youth designated pursuant to Section 11432(g)(1)(J)(ii) of Title 42 of the United States Code, of the availability of the exemption and whether the pupil qualifies for an exemption.

(B) If the local educational agency fails to provide timely notice pursuant to subparagraph (A), the pupil described in subparagraph (A) shall be eligible for the exemption from local graduation requirements pursuant to this section once notified, even if that notification occurs after the pupil is no longer a homeless child or youth, if the pupil otherwise qualifies for the exemption pursuant to this section.

(3) (A) Within 30 calendar days of the date that a former juvenile court school pupil who may qualify for the exemption from local graduation requirements pursuant to this section transfers into a school, the local educational agency shall notify the pupil, the person holding the right to make educational decisions for the pupil, and the pupil's social worker or probation officer of the availability of the exemption and whether the pupil qualifies for an exemption.

(B) If the local educational agency fails to provide timely notice pursuant to subparagraph (A), the pupil described in subparagraph (A) shall be eligible for the exemption from local graduation requirements pursuant to this section once notified, even if that notification occurs after termination of the court's jurisdiction over the pupil, if the pupil otherwise qualifies for the exemption pursuant to this section.

(4) (A) Within 30 calendar days of the date that a pupil who is a child of a military family who may qualify for the exemption from local graduation requirements pursuant to this section transfers into a school, the local educational agency shall notify the pupil and the pupil's parent or guardian of the availability of the exemption and whether the pupil qualifies for an exemption.

(B) If the local educational agency fails to provide timely notice pursuant to subparagraph (A), the pupil described in subparagraph (A) shall be eligible for the exemption from local graduation requirements pursuant to this section once notified, even if that notification occurs after the pupil no longer meets the definition of "children of military families" under Section 49701, if the pupil otherwise qualifies for the exemption pursuant to this section.

(5) (A) Within 30 calendar days of the date that a pupil who is a migratory child who may qualify for the exemption from local graduation requirements pursuant to this section transfers into a school, the local educational agency shall notify the pupil and the pupil's parent or guardian of the availability of the exemption and whether the pupil qualifies for an exemption.

(B) If the local educational agency fails to provide timely notice pursuant to subparagraph (A), the pupil described in subparagraph (A) shall be eligible for the exemption from local graduation requirements pursuant to this section once notified, even if that notification occurs after the pupil no longer meets the definition of "migratory child" if the pupil otherwise qualifies for the exemption pursuant to this section.

(6) (A) Within 30 calendar days of the date that a pupil participating in a newcomer program who may qualify for the exemption from local graduation requirements pursuant to this section commences participation in a newcomer program at a school, the local educational agency shall notify the pupil and the pupil's parent or guardian of the availability of the exemption and whether the pupil qualifies for an exemption.

(B) If the local educational agency fails to provide timely notice pursuant to subparagraph (A), the pupil described in subparagraph (A) shall be eligible for the exemption from local graduation requirements pursuant to this section once notified, even if that notification occurs after the pupil no longer meets the definition of a "pupil participating in a newcomer program" if the pupil otherwise qualifies for the exemption pursuant to this section.

(e) If a pupil in foster care, a pupil who is a homeless child or youth, a former juvenile court school pupil, a pupil who is a child of a military family, a pupil who is a migratory child, or a pupil participating in a newcomer program is exempted from local graduation requirements pursuant to this section and completes the statewide coursework requirements specified in Section 51225.3 before the end of his or her fourth year of high school and that pupil would otherwise be entitled to remain in attendance at the school, a school, including a charter school, or school district shall not require or request that the pupil graduate before the end of his or her fourth year of high school.

(f) If a pupil in foster care, a pupil who is a homeless child or youth, a former juvenile court school pupil, a pupil who is a child of a military family, a pupil who is a migratory child, or a pupil participating in a newcomer program is exempted from local graduation requirements pursuant to this section, the local educational agency shall notify the pupil and the person holding the right to make educational decisions for the pupil how any of the requirements that are waived will affect the pupil's ability to gain admission to a postsecondary educational institution and shall provide information about transfer opportunities available through the California Community Colleges.

(g) A pupil in foster care, a pupil who is a homeless child or youth, a former juvenile court school pupil, a pupil who is a child of a military family, a pupil who is a migratory child, or a pupil participating in a newcomer program who is eligible for the exemption from local graduation requirements pursuant to this section and would otherwise be entitled to remain in attendance at the school shall not be required to accept the exemption or be denied enrollment in, or the ability to complete, courses for which he or she is otherwise eligible, including courses necessary to attend an institution of higher education, regardless of whether those courses are required for statewide graduation requirements.

(h) If a pupil in foster care, a pupil who is a homeless child or youth, a former juvenile court school pupil, a pupil who is a child of a military family, a pupil who is a migratory child, or a pupil participating in a newcomer program is not exempted from local graduation requirements or has previously declined the exemption pursuant to this section, a local educational agency shall exempt the pupil at any time if an exemption is requested by the pupil and the pupil qualifies for the exemption.

(i) If a pupil in foster care, a pupil who is a homeless child or youth, a former juvenile court school pupil, a pupil who is a child of a military family, a pupil who is a migratory child, or a pupil participating in a newcomer program is exempted from local graduation requirements pursuant to this section, a local educational agency shall not revoke the exemption.

(j) (1) If a pupil in foster care is exempted from local graduation requirements pursuant to this section, the exemption shall continue to apply after the termination of the court's jurisdiction over the pupil while he or she is enrolled in school or if the pupil transfers to another school, including a charter school, or school district.

(2) If a pupil who is a homeless child or youth is exempted from local graduation requirements pursuant to this section, the exemption shall continue to apply after the pupil is no longer a homeless child or youth while he or she is enrolled in school or if the pupil transfers to another school, including a charter school, or school district.

(3) If a former juvenile court school pupil is exempted from local graduation requirements pursuant to this section, the exemption shall continue to apply after the termination of the court's jurisdiction over the pupil while he or she is enrolled in school or if the pupil transfers to another school, including a charter school, or school district.

(4) If a pupil who is a child of a military family is exempted from local graduation requirements pursuant to this section, the exemption shall continue to apply after the pupil no longer meets the definition of "children of military families" under Section 49701 while he or she is enrolled in school or if the pupil transfers to another school, including a charter school, or school district.

(5) If a pupil who is a migratory child is exempted from local graduation requirements pursuant to this section, the exemption shall continue to apply after the pupil no longer meets the definition of "migratory child" while he or she is enrolled in school or if the pupil transfers to another school, including a charter school, or school district.

(6) If a pupil participating in a newcomer program is exempted from local graduation requirements pursuant to this section, the exemption shall continue to apply after the pupil no longer meets the definition of a "pupil participating in a newcomer program" while he or she is enrolled in school or if the pupil transfers to another school, including a charter school, or school district.

(k) A local educational agency shall not require or request a pupil in foster care, a pupil who is a homeless child or youth, a former juvenile court school pupil, a pupil who is a child of a military family, or a pupil who is a migratory child to transfer schools in order to qualify the pupil for an exemption pursuant to this section.

(l) (1) A pupil in foster care, the person holding the right to make educational decisions for the pupil, the pupil's social worker, or the pupil's probation officer shall not request a transfer solely to qualify the pupil for an exemption pursuant to this section.

(2) A pupil who is a homeless child or youth, the person holding the right to make educational decisions for the pupil, or the local educational agency liaison for homeless children and youth designated pursuant to Section 11432(g)(1)(J)(ii) of Title 42 of the United States Code, shall not request a transfer solely to qualify the pupil for an exemption pursuant to this section.

(3) A former juvenile court school pupil, the person holding the right to make educational decisions for the pupil, the pupil's social worker, or the pupil's probation officer shall not request a transfer solely to qualify the pupil for an exemption pursuant to this section.

(4) A pupil who is a child of a military family, or the pupil's parent or guardian, shall not request a transfer solely to qualify the pupil for an exemption pursuant to this section.

(5) A pupil who is a migratory child, or the pupil's parent or guardian, shall not request a transfer solely to qualify the pupil for an exemption pursuant to this section.

(m) (1) A complaint of noncompliance with the requirements of this section may be filed with the local educational agency under the Uniform Complaint Procedures set forth in Chapter 5.1 (commencing with Section 4600) of Division 1 of Title 5 of the California Code of Regulations.

(2) A complainant not satisfied with the decision of a local educational agency may appeal the decision to the department pursuant to Chapter 5.1 (commencing with Section 4600) of Division 1 of Title 5 of the California Code of Regulations and shall receive a written decision regarding the appeal within 60 days of the department's receipt of the appeal.

(3) If a local educational agency finds merit in a complaint, or the Superintendent finds merit in an appeal, the local educational agency shall provide a remedy to the affected pupil.

(4) Information regarding the requirements of this section shall be included in the annual notification distributed to, among others, pupils, parents or guardians of pupils, employees, and other interested parties pursuant to Section 4622 of Title 5 of the California Code of Regulations.

(n) For purposes of this section, the following terms have the following meanings:

(1) "Governing body" means the governing board of a school district or the governing body of a charter school, as applicable.

(2) "Local educational agency" means a school district or charter school.

**SEC. 2.** Section 51225.2 of the Education Code is amended to read:

**51225.2.** (a) For purposes of this section, the following definitions apply:

(1) "Pupil in foster care" means a child who has been removed from his or her home pursuant to Section 309 of the Welfare and Institutions Code, is the subject of a petition filed under Section 300 or 602 of the Welfare and Institutions Code, or has been removed from his or her home and is the subject of a petition filed under Section 300 or 602 of the Welfare and Institutions Code.

(2) "Pupil who is a homeless child or youth" means a pupil who meets the definition of "homeless child or youth" in Section 11434a(2) of Title 42 of the United States Code.

(3) "Former juvenile court school pupil" means a pupil who, upon completion of the pupil's second year of high school, transfers to a school district or charter school, excluding a school district operated by the Division of Juvenile Justice of the Department of Corrections and Rehabilitation, from a juvenile court school.

(4) "Pupil who is a child of a military family" means a pupil who meets the definition of "children of military families" under Section 49701.

(5) "Pupil who is a migratory child" means a pupil who meets the definition of "currently migratory child" under subdivision (a) of Section 54441.

(6) "Pupil participating in a newcomer program" means a pupil who is participating in a program designed to meet the academic and transitional needs of newly arrived immigrant pupils that has as a primary objective the development of English language proficiency.

(7) "Local educational agency" means a school district, county office of education, or charter school.

(b) (1) Notwithstanding any other law, a local educational agency shall accept coursework satisfactorily completed by a pupil in foster care, a pupil who is a homeless child or youth, a former juvenile court school pupil, a pupil who is a child of a military family, a pupil who is a migratory child, or a pupil participating in a newcomer program while attending another public school, a juvenile court school, a charter school, a school in a country other than the United States, or a nonpublic, nonsectarian school or agency even if the pupil did not complete the entire course and shall issue that pupil full or partial credit for the coursework completed.

(2) For purposes of coursework completed by a pupil who is a child of a military family, "public school" includes schools operated by the United States Department of Defense.

(c) The credits accepted pursuant to subdivision (b) shall be applied to the same or equivalent course, if applicable, as the coursework completed in the prior public school, juvenile court school, charter school, school in a country other than the United States, or nonpublic, nonsectarian school or agency.

(d) A local educational agency shall not require a pupil in foster care, a pupil who is a homeless child or youth, a former juvenile court school pupil, a pupil who is a child of a military family, a pupil who is a migratory child, or a pupil participating in a newcomer program to retake a course if the pupil has satisfactorily completed the entire course in a public school, a juvenile court school, a charter school, a school in a country other than the United States, or a nonpublic, nonsectarian school or agency. If the pupil did not complete the entire course, the local educational agency shall not require the pupil to retake the portion of the course the pupil completed unless the local educational agency, in consultation with the holder of educational rights for the pupil, finds that the pupil is reasonably able to complete the requirements in time to graduate from high school. When partial credit is awarded in a particular course, the pupil in foster care, the pupil who is a homeless child or youth, the former juvenile court school pupil, the pupil who is a child of a military family, the pupil who is a migratory child, or the pupil participating in a newcomer program shall be enrolled in the same or equivalent course, if applicable, so that the pupil may continue and complete the entire course.

(e) A pupil in foster care, a pupil who is a homeless child or youth, a former juvenile court school pupil, a pupil who is a child of a military family, a pupil who is a migratory child, or a pupil participating in a newcomer program shall not be prevented from retaking or taking a course to meet the eligibility requirements for admission to the California State University or the University of California.

(f) (1) A complaint of noncompliance with the requirements of this section may be filed with the local educational agency under the Uniform Complaint Procedures set forth in Chapter 5.1 (commencing with Section 4600) of Division 1 of Title 5 of the California Code of Regulations.

(2) A complainant not satisfied with the decision of a local educational agency may appeal the decision to the department pursuant to Chapter 5.1 (commencing with Section 4600) of Division 1 of Title 5 of the California Code of Regulations and shall receive a written decision regarding the appeal within 60 days of the department's receipt of the appeal.

(3) If a local educational agency finds merit in a complaint, or the Superintendent finds merit in an appeal, the local educational agency shall provide a remedy to the affected pupil.

(4) Information regarding the requirements of this section shall be included in the annual notification distributed to, among others, pupils, parents or guardians of pupils, employees, and other interested parties pursuant to Section 4622 of Title 5 of the California Code of Regulations.

**SEC. 3.** 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.