State of California **Department of Education**

LAST MINUTE MEMORANDUM

DATE: May 5, 2004

TO: MEMBERS, STATE BOARD OF EDUCATION

FROM: Sue Stickel, Deputy Superintendent
Curriculum and Instruction Branch

RE: Item No. 17

SUBJECT: *No Child Left Behind Act (NCLB) of 2001*: Approve Commencement of the Rulemaking Process for Amendments to the Title 5 Regulations for the No Child Left Behind Teacher Requirements

This Last Minute Memorandum is for the purpose of providing the Economic and Fiscal Impact Analysis of the proposed regulations.

The Office of Administrative Law requires that a state agency submitting proposed regulations prepare an analysis detailing any economic or fiscal impact the regulations may impose upon the State of California, private businesses, or the public. The California Department of Education's Fiscal and Administrative Services Division has conducted a comprehensive review of the proposed regulations and has made the following key determinations:

- ✓ Actions required by the proposed regulations are attributable to statute. Therefore, the proposed regulations do not impose a local cost mandate.
- ✓ The proposed regulations would not create a new program or higher level of service in an existing state program.
- ✓ The proposed regulations should have no impact on local business.
- ✓ The proposed regulations should have no impact on individuals.

Attachment 1: Economic and Fiscal Impact Analysis (5 pages)

Economic and Fiscal Impact Analysis
Proposed Amendment of Title 5, CCR, Regulations
Relating to the High Quality Teachers

The Fiscal Policy Office has reviewed for economic and fiscal impact the proposed (version 04/07/04) regulation adding Sections 6116 and 6126, and amending Sections 6100, 6115, and 6125, of Article 1, Subchapter 7, Chapter 6, Division 1, Title 5, of the California Code of Regulations, relating to Highly Qualified Teachers (HQT).

What would the proposed regulations do?
The proposed amended regulations identify the "rigorous state test" that federal law requires each new to the profession elementary teacher pass, and outlines the "high objective uniform state standard of evaluation" that can be used to qualify "not new to the profession teachers as "highly qualified." The proposed regulations also define several key phrases to assist school district in complying with the federal law.

Do the proposed regulations impose a local cost mandate?
The proposed amended regulations would not create a new program or higher level of service in an existing program. The mandates are required by a Federal mandate, contained in Public Law 107-110 "No Child Left Behind Act of 2001," the mandates are not reimbursable in accordance with Section 6, Article XIII B, of the California Constitution.

Do the proposed regulations impose costs upon the state?
The proposed regulations do not impose costs upon the state. The activities specified in the regulations are necessary in order to implement the federal statute; therefore, costs associated with the activities are attributable to the federal statute.

Do the proposed regulations impact local business?
The proposed regulations should have no impact on local business.

This analysis reflects the attached Economic and Fiscal Impact Statement.

Donald E. Killmer, Consultant
Fiscal and Administrative Services Division

04/16/04
Date

Gerald C. Shelton, Director
Fiscal and Administrative Services Division

4/22/04
Date

Note: The purpose of the Department's review of regulations for Economic or Fiscal Impact is in part to, determine prior to the Department's submission of the Notice of Proposed Rulemaking to the Office of Administrative Law (OAL), if the regulations impose a mandate upon the locals and if so if there is a cost or savings. Additionally, the review may make a determination of what the cost or savings "may" be and if there is precedence in the determination of the potential costs through previous claims reimbursable through the mandate process authorized in state statute and set forth by the CSM.

If the Department determines that a potential mandate and an additional cost exists, the Department is required to forward that information (via the STD. 399 and this analysis) to the Department of Finance (DOF) for their review. The review by DOF does not need to be completed prior to the Department's submission of the Notice of Proposed Rulemaking to OAL but must be completed prior to the closing of the "Rulemaking Record" and prior to OAL forwarding of the "Record" to the Secretary of State. The DOF review contains an approval or disapproval; typically regulations that impose or could potentially impose an additional cost upon the state are disapproved and the department is required to amend the regulation to eliminate the cost or pull the "Record".

STATE OF CALIFORNIA

ECONOMIC AND FISCAL IMPACT STATEMENT

(REGULATIONS AND ORDERS)

STD. 399 (Rev. 2-98)

See SAM Sections 6600 - 6680 for Instructions and Code Citations

DEPARTMENT NAME	CONTACT PERSON	TELEPHONE NUMBER
Education	Don Killmer	323-2591
DESCRIPTIVE TITLE FROM *NOTICE REGISTER* OR FORM 400		NOTICE FILE NUMBER
Highly Qualified Teachers (version 04/07/04)		Z

ECONOMIC IMPACT STATEMENT

A. ESTIMATED PRIVATE SECTOR COST IMPACTS *(Include calculations and assumptions in the rulemaking record.)*

1. Check the appropriate box(es) below to indicate whether this regulation:

- ☐ a. Impacts businesses and/or employees
- ☐ b. Impacts small businesses
- ☐ c. Impacts jobs or occupations
- ☐ d. Impacts California competitiveness
- ☐ e. Imposes reporting requirements
- ☐ f. Imposes prescriptive instead of performance standards
- ☐ g. Impacts individuals
- ☐ h. None of the above *(Explain below. Complete the Fiscal Impact Statement as appropriate.)*

h. *(cont.)*_____

(If any box in Items 1 a through g is checked, complete this Economic Impact Statement.)

2. Enter the total number of businesses impacted:_____ Describe the types of businesses *(Include nonprofits)*:_____

Enter the number or percentage of total businesses impacted that are small businesses:_____

3. Enter the number of businesses that will be created: _____ eliminated: _____

Explain:_____

4. Indicate the geographic extent of impacts: ☐ Statewide ☐ Local or regional *(list areas):* _____

5. Enter the number of jobs created:_____ or eliminated:_____ Describe the types of jobs or occupations impacted:_____

6. Will the regulation affect the ability of California businesses to compete with other states by making it more costly to produce goods or services here?

☐ Yes ☐ No If yes, explain briefly:_____

B. ESTIMATED COSTS *(Include calculations and assumptions in the rulemaking record.)*

1. What are the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime? $_____

a. Initial costs for a small business: $_____ Annual ongoing costs: $_____ Years: _____

b. Initial costs for a typical business: $_____ Annual ongoing costs: $_____ Years: _____

c. Initial costs for an individual: $_____ Annual ongoing costs: $_____ Years: _____

d. Describe other economic costs that may occur:_____

ECONOMIC AND FISCAL IMPACT STATEMENT *cont. (STD. 399, Rev. 2-98)*

2. If multiple industries are impacted, enter the share of total costs for each industry:_____

3. If the regulation imposes reporting requirements, enter the annual costs a typical business may incur to comply with these requirements. *(Include the dollar costs to do programming, record keeping, reporting, and other paperwork, whether or not the paperwork must be submitted.):* $_____

4. Will this regulation directly impact housing costs? ☐ Yes ☐ No If yes, enter the annual dollar cost per housing unit: $_____ and the number of units:_____

5. Are there comparable Federal regulations? ☐ Yes ☐ No Explain the need for State regulation given the existence or absence of Federal regulations: _____

Enter any additional costs to businesses and/or individuals that may be due to State - Federal differences: $_____

C. ESTIMATED BENEFITS *(Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.)*

1. Briefly summarize the benefits that may result from this regulation and who will benefit:_____

2. Are the benefits the result of: ☐ specific statutory requirements, or ☐ goals developed by the agency based on broad statutory authority?

Explain:_____

3. What are the total statewide benefits from this regulation over its lifetime? $_____

D. ALTERNATIVES TO THE REGULATION *(Include calculations and assumptions in the rulemaking record. Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.)*

1. List alternatives considered and describe them below. If no alternatives were considered, explain why not:_____

2. Summarize the total statewide costs and benefits from this regulation and each alternative considered:

Regulation:	Benefit: $_____	Cost: $_____
Alternative 1:	Benefit: $_____	Cost: $_____
Alternative 2:	Benefit: $_____	Cost: $_____

3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives:_____

4. Rulemaking law requires agencies to consider performance standards as an alternative, if a regulation mandates the use of specific technologies or equipment, or prescribes specific actions or procedures. Were performance standards considered to lower compliance costs? ☐ Yes ☐ No

Explain:_____

E. MAJOR REGULATIONS *(Include calculations and assumptions in the rulemaking record.)*
Cal/EPA boards, offices and departments are subject to the following additional requirements per Health and Safety Code section 57005.

ECONOMIC AND FISCAL IMPACT STATEMENT *cont. (STD. 399, Rev. 2-98)*

1. Will the estimated costs of this regulation to California business enterprises exceed $10 million ? ☐ Yes No *(If No, skip the rest of this section)*

2. Briefly describe each equally as effective alternative, or combination of alternatives, for which a cost-effectiveness analysis was performed:

   Alternative 1:_____

   Alternative 2:_____

3. For the regulation, and each alternative just described, enter the estimated total cost and overall cost-effectiveness ratio:

   Regulation: $_____ Cost-effectiveness ratio: _____

   Alternative 1: $_____ Cost-effectiveness ratio: _____

   Alternative 2: $_____ Cost-effectiveness ratio: _____

FISCAL IMPACT STATEMENT

A. FISCAL EFFECT ON LOCAL GOVERNMENT *(Indicate appropriate boxes 1 through 6 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years)*

☐ 1. Additional expenditures of approximately $_____in the current State Fiscal Year which are reimbursable by the State pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code. Funding for this reimbursement:

☐ a. is provided in (Item_____,Budget Act of_____) or (Chapter_____,Statutes of_____

☐ b. will be requested in the_____Governor's Budget for appropriation in Budget Act of TBA.
(FISCAL YEAR)

☑ 2. Additional expenditures of approximately $_____in the current State Fiscal Year which are not reimbursable by the State pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code because this regulation:

☑ a. implements the Federal mandate contained in Public Law 107-110 "No Child Left Behind Act of 2001"

*** See Attached Analysis ***

☐ b. implements the court mandate set forth by the_____

court in the case of_____vs._____

☐ c. implements a mandate of the people of this State expressed in their approval of Proposition No._____at the_____ election;
(DATE)

☐ d. is issued only in response to a specific request from the _____

_____, which is/are the only local entity(s) affected;

☐ e. will be fully financed from the _____authorized by Section
(FEES, REVENUE, ETC.)

_____of the_____Code;

☐ f. provides for savings to each affected unit of local government which will, at a minimum, offset any additional costs to each such unit.

☐ 3. Savings of approximately $_____annually.

☑ 4. No additional costs or savings because this regulation makes only technical, non-substantive or clarifying changes to current law and regulations.

*** See Attached Analysis ***

ECONOMIC AND FISCAL IMPACT STATEMENT *cont. (STD. 399, Rev. 2-98)*

☐ 5. No fiscal impact exists because this regulation does not affect any local entity or program.

☐ 6. Other.

B. FISCAL EFFECT ON STATE GOVERNMENT *(Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.)*

☐ 1. Additional expenditures of approximately $_____in the current State Fiscal Year. It is anticipated that State agencies will:

- ☐ a. be able to absorb these additional costs within their existing budgets and resources.
- ☐ b. request an increase in the currently authorized budget level for the _____fiscal year.

☐ 2. Savings of approximately $_____in the current State Fiscal Year.

☑ 3. No fiscal impact exists because this regulation does not affect any State agency or program.

☐ 4. Other.

C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS *(Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.)*

☐ 1. Additional expenditures of approximately $_____in the current State Fiscal Year.

☐ 2. Savings of approximately $_____in the current State Fiscal Year.

☑ 3. No fiscal impact exists because this regulation does not affect any federally funded State agency or program.

☐ 4. Other.

SIGNATURE ✍	04/16/04	TITLE Ed. Fiscal Services Consultant	
AGENCY SECRETARY [1] APPROVAL/CONCURRENCE	✍ Susie Lange PROGRAM BUDGET MANAGER	Deputy Superintendent	DATE 4/23/04
DEPARTMENT OF FINANCE [2] APPROVAL/CONCURRENCE	✍		DATE

1. *The signature attests that the agency has completed the STD. 399 according to the instructions in SAM sections 6600-6680, and understands the impacts of the proposed rulemaking. State boards, offices, or departments not under an Agency Secretary must have the form signed by the highest ranking official in the organization.*

2. *Finance approval and signature is required when SAM sections 6600-6670 require completion of the Fiscal Impact Statement in the STD. 399.*