

Introduced by Senator LiuFebruary 12, 2013

An act to amend Section 60601 of, to amend, repeal, and add Sections 60603, 60604, 60605.6, 60640, 60642.5, 60643, and 60643.1 of, and to add Section 60644 to, the Education Code, relating to pupil assessment.

LEGISLATIVE COUNSEL'S DIGEST

SB 247, as introduced, Liu. Pupil assessment: grade levels assessed.

(1) Existing law, the Leroy Greene California Assessment of Academic Achievement Act (hereafter the Greene Act), requires the Superintendent of Public Instruction to design and implement a statewide pupil assessment program, and requires school districts, charter schools, and county offices of education to administer to each of its pupils in grades 2 to 11, inclusive, certain achievement tests, including a standards-based achievement test pursuant to the Standardized Testing and Reporting (STAR) Program.

This bill, commencing July 1, 2014, would exclude pupils in grade 2 from the STAR Program.

The bill would require the State Department of Education, by November 1, 2014, to identify and make available to school districts information regarding existing assessments in language arts and mathematics for pupils in grade 2 for diagnostic use by classroom teachers. The bill would require these provisions to be implemented from the savings realized from the elimination of the grade 2 standards-based achievement testing.

(2) Existing law makes the Greene Act inoperative on July 1, 2014, and repeals it on January 1, 2015.

This bill would instead make the Greene Act inoperative on July 1, 2016, and would repeal it on January 1, 2017. By extending the operation of the Greene Act, this bill would impose a state-mandated local program.

(3) This bill would make conforming and nonsubstantive changes.

(4) 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 these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 60601 of the Education Code is amended
2 to read:

3 60601. This chapter shall become inoperative on July 1, ~~2014~~
4 2016, and as of January 1, ~~2015~~ 2017, is repealed, unless a later
5 enacted statute that is enacted before January 1, ~~2015~~ 2017, deletes
6 or extends the dates on which it becomes inoperative and is
7 repealed.

8 SEC. 2. Section 60603 of the Education Code is amended to
9 read:

10 60603. As used in this chapter:

11 (a) "Achievement test" means any standardized test that
12 measures the level of performance that a pupil has achieved in the
13 core curriculum areas.

14 (b) "Assessment of applied academic skills" means a form of
15 assessment that requires pupils to demonstrate their knowledge
16 of, and ability to apply, academic knowledge and skills in order
17 to solve problems and communicate. It may include, but is not
18 limited to, writing an essay response to a question, conducting an
19 experiment, or constructing a diagram or model. An assessment
20 of applied academic skills ~~may~~ shall not include assessments of
21 personal behavioral standards or skills, including, but not limited
22 to, honesty, sociability, ethics, or self-esteem.

1 (c) “Basic academic skills” means those skills in the subject
2 areas of reading, spelling, written expression, and mathematics
3 that provide the necessary foundation for mastery of more complex
4 intellectual abilities, including the synthesis and application of
5 knowledge.

6 (d) “Content standards” means the specific academic knowledge,
7 skills, and abilities that all public schools in this state are expected
8 to teach and all pupils expected to learn in each of the core
9 curriculum areas, at each grade level tested.

10 (e) “Core curriculum areas” means the areas of reading, writing,
11 mathematics, history-social science, and science.

12 (f) “Diagnostic assessment” means interim assessments of the
13 current level of achievement of a pupil that serves both of the
14 following purposes:

15 (1) The identification of particular academic standards or skills
16 a pupil has or has not yet achieved.

17 (2) The identification of possible reasons that a pupil has not
18 yet achieved particular academic standards or skills.

19 (g) “Direct writing assessment” means an assessment of applied
20 academic skills that requires pupils to use written expression to
21 demonstrate writing skills, including writing mechanics, grammar,
22 punctuation, and spelling.

23 (h) “End of course exam” means a comprehensive and
24 challenging assessment of pupil achievement in a particular subject
25 area or discipline.

26 (i) “Formative assessment” means assessment tools and
27 processes that are embedded in instruction and are used by teachers
28 and pupils to provide timely feedback for purposes of adjusting
29 instruction to improve learning.

30 (j) “High-quality assessment” means an assessment designed
31 to measure a pupil’s knowledge of, understanding of, and ability
32 to apply critical concepts through the use of a variety of item types
33 and formats, including, but not limited to, items that allow for
34 open-ended responses and items that require the completion of
35 performance-based tasks. A high-quality assessment should have
36 the following characteristics:

37 (1) Enable measurement of pupil achievement and pupil growth.

38 (2) Be of high technical quality by being valid, reliable, fair,
39 and aligned to standards.

40 (3) Incorporate technology where appropriate.

1 (4) Include the assessment of pupils with disabilities and English
2 learners.

3 (5) Use, to the extent feasible, universal design principles, as
4 defined in Section 3 of the federal Assistive Technology Act of
5 1998 (29 U.S.C. Sec. 3002) in its development and administration.

6 (k) “Interim assessment” means an assessment that is given at
7 regular and specified intervals throughout the school year, is
8 designed to evaluate a pupil’s knowledge and skills relative to a
9 specific set of academic standards, and produces results that can
10 be aggregated by course, grade level, school, or local educational
11 agency in order to inform teachers and administrators at the pupil,
12 classroom, school, and local educational agency levels.

13 (l) “Performance standards” are standards that define various
14 levels of competence at each grade level in each of the curriculum
15 areas for which content standards are established. Performance
16 standards gauge the degree to which a pupil has met the content
17 standards and the degree to which a school or school district has
18 met the content standards.

19 (m) “Publisher” means a commercial publisher or any other
20 public or private entity, other than the department, which is able
21 to provide tests or test items that meet the requirements of this
22 chapter.

23 (n) “Statewide pupil assessment program” means the systematic
24 achievement testing of pupils in grades 2 to 11, inclusive, pursuant
25 to the standardized testing and reporting program under Article 4
26 (commencing with Section 60640) ~~and the assessment of basic~~
27 ~~academic skills and applied academic skills, administered to pupils~~
28 ~~in grade levels specified in subdivision (c) of Section 60605,~~
29 ~~required by this chapter in all schools within each school district~~
30 ~~by means of tests designated by the state board.~~

31 (o) *This section shall become inoperative on July 1, 2014, and*
32 *as of January 1, 2015, is repealed, unless a later enacted statute*
33 *that is enacted before January 1, 2015, deletes or extends the dates*
34 *on which it becomes inoperative and is repealed.*

35 SEC. 3. Section 60603 is added to the Education Code, to read:
36 60603. As used in this chapter:

37 (a) “Achievement test” means any standardized test that
38 measures the level of performance that a pupil has achieved in the
39 core curriculum areas.

1 (b) “Assessment of applied academic skills” means a form of
2 assessment that requires pupils to demonstrate their knowledge
3 of, and ability to apply, academic knowledge and skills in order
4 to solve problems and communicate. It may include, but is not
5 limited to, writing an essay response to a question, conducting an
6 experiment, or constructing a diagram or model. An assessment
7 of applied academic skills shall not include assessments of personal
8 behavioral standards or skills, including, but not limited to, honesty,
9 sociability, ethics, or self-esteem.

10 (c) “Basic academic skills” means those skills in the subject
11 areas of reading, spelling, written expression, and mathematics
12 that provide the necessary foundation for mastery of more complex
13 intellectual abilities, including the synthesis and application of
14 knowledge.

15 (d) “Content standards” means the specific academic knowledge,
16 skills, and abilities that all public schools in this state are expected
17 to teach and all pupils expected to learn in each of the core
18 curriculum areas, at each grade level tested.

19 (e) “Core curriculum areas” means the areas of reading, writing,
20 mathematics, history-social science, and science.

21 (f) “Diagnostic assessment” means interim assessments of the
22 current level of achievement of a pupil that serves both of the
23 following purposes:

24 (1) The identification of particular academic standards or skills
25 a pupil has or has not yet achieved.

26 (2) The identification of possible reasons that a pupil has not
27 yet achieved particular academic standards or skills.

28 (g) “Direct writing assessment” means an assessment of applied
29 academic skills that requires pupils to use written expression to
30 demonstrate writing skills, including writing mechanics, grammar,
31 punctuation, and spelling.

32 (h) “End of course exam” means a comprehensive and
33 challenging assessment of pupil achievement in a particular subject
34 area or discipline.

35 (i) “Formative assessment” means assessment tools and
36 processes that are embedded in instruction and are used by teachers
37 and pupils to provide timely feedback for purposes of adjusting
38 instruction to improve learning.

39 (j) “High-quality assessment” means an assessment designed
40 to measure a pupil’s knowledge of, understanding of, and ability

1 to apply critical concepts through the use of a variety of item types
2 and formats, including, but not limited to, items that allow for
3 open-ended responses and items that require the completion of
4 performance-based tasks. A high-quality assessment should have
5 the following characteristics:

6 (1) Enable measurement of pupil achievement and pupil growth.
7 (2) Be of high technical quality by being valid, reliable, fair,
8 and aligned to standards.
9 (3) Incorporate technology where appropriate.

10 (4) Include the assessment of pupils with disabilities and English
11 learners.

12 (5) Use, to the extent feasible, universal design principles, as
13 defined in Section 3 of the federal Assistive Technology Act of
14 1998 (29 U.S.C. Sec. 3002) in its development and administration.

15 (k) “Interim assessment” means an assessment that is given at
16 regular and specified intervals throughout the school year, is
17 designed to evaluate a pupil’s knowledge and skills relative to a
18 specific set of academic standards, and produces results that can
19 be aggregated by course, grade level, school, or local educational
20 agency in order to inform teachers and administrators at the pupil,
21 classroom, school, and local educational agency levels.

22 (l) “Performance standards” are standards that define various
23 levels of competence at each grade level in each of the curriculum
24 areas for which content standards are established. Performance
25 standards gauge the degree to which a pupil has met the content
26 standards and the degree to which a school or school district has
27 met the content standards.

28 (m) “Publisher” means a commercial publisher or any other
29 public or private entity, other than the department, which is able
30 to provide tests or test items that meet the requirements of this
31 chapter.

32 (n) “Statewide pupil assessment program” means the systematic
33 achievement testing of pupils in grades 3 to 11, inclusive, pursuant
34 to the standardized testing and reporting program under Article 4
35 (commencing with Section 60640).

36 (o) This section shall become operative on July 1, 2014.

37 SEC. 4. Section 60604 of the Education Code is amended to
38 read:

39 60604. (a) The Superintendent shall design and implement,
40 consistent with the timetable and plan required pursuant to

1 subdivision (b), a statewide pupil assessment program consistent
2 with the testing requirements of this article in accordance with the
3 objectives set forth in Section 60602. That program shall include
4 all of the following:

5 (1) A plan for producing valid, reliable, and comparable
6 individual pupil scores in grades 2 to 11, inclusive, and a
7 comprehensive analysis of these scores based on the results of the
8 achievement test designated by the state board that assesses a broad
9 range of basic academic skills pursuant to the Standardized Testing
10 and Reporting (STAR) Program established by Article 4
11 (commencing with Section 60640).

12 (2) A method of working with publishers to ensure valid,
13 reliable, and comparable individual, grade-level, school-level,
14 *school* district-level, county-level, and statewide scores in grades
15 2 to 11, inclusive.

16 (3) Statewide academically rigorous content and performance
17 standards that reflect the knowledge and skills that pupils will need
18 in order to succeed in the information-based, global economy of
19 the 21st century. These skills shall not include personal behavioral
20 standards or skills, including, but not limited to, honesty,
21 sociability, ethics, or self-esteem.

22 (4) A statewide system that provides the results of testing in a
23 manner that reflects the degree to which pupils are achieving the
24 academically rigorous content and performance standards adopted
25 by the state board.

26 (5) The alignment of assessment with the statewide academically
27 rigorous content and performance standards adopted by the state
28 board.

29 (6) The active, ongoing involvement of parents, classroom
30 teachers, administrators, other educators, governing board members
31 of school districts, and the public in all phases of the design and
32 implementation of the statewide pupil assessment program.

33 (7) The development of a contract or contracts with a publisher
34 or publishers, after the approval of statewide academically rigorous
35 content standards by the state board, for the development of
36 performance standards and assessments of applied academic skills
37 designed to test pupils' knowledge of academic skills and abilities
38 to apply that knowledge and those skills in order to solve problems
39 and communicate.

1 (b) The Superintendent shall develop and annually update for
2 the Legislature a five-year cost projection, implementation plan,
3 and timetable for implementing the program described in
4 subdivision (a). The annual update shall be submitted on or before
5 March 1 of each year to the chairperson of the fiscal subcommittee
6 considering budget appropriations in each house. The update shall
7 explain any significant variations from the five-year cost projection
8 for the current year budget and the proposed budget.

9 (c) The Superintendent shall provide each school district with
10 guidelines for professional development that are designed to assist
11 classroom teachers to use the results of the assessments
12 administered pursuant to this chapter to modify instruction for the
13 purpose of improving pupil learning. These guidelines shall be
14 developed in consultation with classroom teachers and approved
15 by the state board before dissemination.

16 (d) The Superintendent and the state board shall consider
17 comments and recommendations from school districts and the
18 public in the development, adoption, and approval of assessment
19 instruments.

20 (e) The results of the achievement test administered pursuant
21 to Article 4 (commencing with Section 60640) shall be returned
22 to the school district within the period of time specified by the
23 state board.

24 (f) *This section shall become inoperative on July 1, 2014, and*
25 *as of January 1, 2015, is repealed, unless a later enacted statute*
26 *that is enacted before January 1, 2015, deletes or extends the dates*
27 *on which it becomes inoperative and is repealed.*

28 SEC. 5. Section 60604 is added to the Education Code, to read:

29 60604. (a) The Superintendent shall design and implement,
30 consistent with the timetable and plan required pursuant to
31 subdivision (b), a statewide pupil assessment program consistent
32 with the testing requirements of this article in accordance with the
33 objectives set forth in Section 60602. That program shall include
34 all of the following:

35 (1) A plan for producing valid, reliable, and comparable
36 individual pupil scores in grades 3 to 11, inclusive, and a
37 comprehensive analysis of these scores based on the results of the
38 achievement test designated by the state board that assesses a broad
39 range of basic academic skills pursuant to the Standardized Testing

1 and Reporting (STAR) Program established by Article 4
2 (commencing with Section 60640).

3 (2) A method of working with publishers to ensure valid,
4 reliable, and comparable individual, grade-level, school-level,
5 school district-level, county-level, and statewide scores in grades
6 3 to 11, inclusive.

7 (3) Statewide academically rigorous content and performance
8 standards that reflect the knowledge and skills that pupils will need
9 in order to succeed in the information-based, global economy of
10 the 21st century. These skills shall not include personal behavioral
11 standards or skills, including, but not limited to, honesty,
12 sociability, ethics, or self-esteem.

13 (4) A statewide system that provides the results of testing in a
14 manner that reflects the degree to which pupils are achieving the
15 academically rigorous content and performance standards adopted
16 by the state board.

17 (5) The alignment of assessment with the statewide academically
18 rigorous content and performance standards adopted by the state
19 board.

20 (6) The active, ongoing involvement of parents, classroom
21 teachers, administrators, other educators, governing board members
22 of school districts, and the public in all phases of the design and
23 implementation of the statewide pupil assessment program.

24 (7) The development of a contract or contracts with a publisher
25 or publishers, after the approval of statewide academically rigorous
26 content standards by the state board, for the development of
27 performance standards and assessments of applied academic skills
28 designed to test pupils' knowledge of academic skills and abilities
29 to apply that knowledge and those skills in order to solve problems
30 and communicate.

31 (b) The Superintendent shall develop and annually update for
32 the Legislature a five-year cost projection, implementation plan,
33 and timetable for implementing the program described in
34 subdivision (a). The annual update shall be submitted on or before
35 March 1 of each year to the chairperson of the fiscal subcommittee
36 considering budget appropriations in each house. The update shall
37 explain any significant variations from the five-year cost projection
38 for the current year budget and the proposed budget.

39 (c) The Superintendent shall provide each school district with
40 guidelines for professional development that are designed to assist

1 classroom teachers to use the results of the assessments
2 administered pursuant to this chapter to modify instruction for the
3 purpose of improving pupil learning. These guidelines shall be
4 developed in consultation with classroom teachers and approved
5 by the state board before dissemination.

6 (d) The Superintendent and the state board shall consider
7 comments and recommendations from school districts and the
8 public in the development, adoption, and approval of assessment
9 instruments.

10 (e) The results of the achievement test administered pursuant
11 to Article 4 (commencing with Section 60640) shall be returned
12 to the school district within the period of time specified by the
13 state board.

14 (f) This section shall become operative on July 1, 2014.

15 SEC. 6. Section 60605.6 of the Education Code is amended to
16 read:

17 60605.6. Subject to the availability of funds appropriated in
18 the annual Budget Act for this purpose, the Superintendent, upon
19 approval of the state board, shall contract for the development and
20 distribution of workbooks, as follows:

21 (a) One workbook to be distributed to all pupils in grade 10.
22 This workbook shall contain information on the proficiency levels
23 that must be demonstrated by pupils on the high school exit
24 examination described in Chapter 9 (commencing with Section
25 60850). The workbook also shall contain sample questions, with
26 explanations describing how these sample questions test pupil
27 knowledge of the language arts and mathematics content standards
28 adopted by the state board pursuant to Section 60605.

29 (b) Separate workbooks for each of grades 2 to 11, inclusive.
30 Each pupil in grades 2 to 11, inclusive, who is required to take the
31 achievement tests described in Section 60642.5 shall receive a
32 copy of the workbook designed for the same grade level in which
33 the pupil is enrolled. These workbooks shall contain material to
34 assist pupils and their parents with standards-based learning,
35 including the grade appropriate academic content standards adopted
36 by the state board pursuant to Section 60605 and sample questions
37 that require knowledge of these standards to answer. The
38 workbooks also shall describe how the sample questions test
39 knowledge of the state board adopted academic content standards.

1 (c) *This section shall become inoperative on July 1, 2014, and*
2 *as of January 1, 2015, is repealed, unless a later enacted statute*
3 *that is enacted before January 1, 2015, deletes or extends the dates*
4 *on which it becomes inoperative and is repealed.*

5 SEC. 7. Section 60605.6 is added to the Education Code, to
6 read:

7 60605.6. Subject to the availability of funds appropriated in
8 the annual Budget Act for this purpose, the Superintendent, upon
9 approval of the state board, shall contract for the development and
10 distribution of workbooks, as follows:

11 (a) One workbook to be distributed to all pupils in grade 10.
12 This workbook shall contain information on the proficiency levels
13 that must be demonstrated by pupils on the high school exit
14 examination described in Chapter 9 (commencing with Section
15 60850). The workbook also shall contain sample questions, with
16 explanations describing how these sample questions test pupil
17 knowledge of the language arts and mathematics content standards
18 adopted by the state board pursuant to Section 60605.

19 (b) Separate workbooks for each of grades 3 to 11, inclusive.
20 Each pupil in grades 3 to 11, inclusive, who is required to take the
21 achievement tests described in Section 60642.5 shall receive a
22 copy of the workbook designed for the same grade level in which
23 the pupil is enrolled. These workbooks shall contain material to
24 assist pupils and their parents with standards-based learning,
25 including the grade appropriate academic content standards adopted
26 by the state board pursuant to Section 60605 and sample questions
27 that require knowledge of these standards to answer. The
28 workbooks also shall describe how the sample questions test
29 knowledge of the state board adopted academic content standards.

30 (c) This section shall become operative on July 1, 2014.

31 SEC. 8. Section 60640 of the Education Code is amended to
32 read:

33 60640. (a) There is hereby established the Standardized Testing
34 and Reporting Program, to be known as the STAR Program.

35 (b) From the funds available for that purpose, each school
36 district, charter school, and county office of education shall
37 administer to each of its pupils in grades 2 to 11, inclusive, the
38 standards-based achievement test provided for in Section 60642.5.
39 The state board shall establish a testing period to provide that all
40 schools administer these tests to pupils at approximately the same

1 time during the instructional year, except as necessary to ensure
2 test security and to meet the final filing date.

3 (c) The publisher and the school district shall provide two
4 makeup days for the testing of previously absent pupils within the
5 testing period established by the state board in subdivision (b).

6 (d) The governing board of the school district may administer
7 achievement tests in grades other than those required by
8 subdivision (b) as it deems appropriate.

9 (e) Pursuant to Section ~~1412(a)(17)~~ 1412(a)(16) of Title 20 of
10 the United States Code, individuals with exceptional needs, as
11 defined in Section 56026, shall be included in the testing
12 requirement of subdivision (b) with appropriate accommodations
13 in administration, where necessary, and those individuals with
14 exceptional needs who are unable to participate in the testing, even
15 with accommodations, shall be given an alternate assessment.

16 (f) (1) At the option of the school district, pupils with limited
17 English proficiency who are enrolled in any of grades 2 to 11,
18 inclusive, may take a second achievement test in their primary
19 language. Primary language tests administered pursuant to this
20 subdivision and subdivision (g) shall be subject to the requirements
21 of subdivision (a) of Section 60641. These primary language tests
22 shall produce individual pupil scores that are valid and reliable.

23 (2) Notwithstanding any other law, the state board shall
24 designate for use, as part of this program, a single primary language
25 test in each language for which a test is available for grades 2 to
26 11, inclusive, pursuant to the process used for designation of the
27 assessment chosen in the 1997–98 fiscal year, as specified in
28 Section 60643, as applicable.

29 (3) (A) The department shall use funds made available pursuant
30 to Title VI of the federal No Child Left Behind Act of 2001 (20
31 U.S.C. Sec. 6301 et seq.) and appropriated by the annual Budget
32 Act for the purpose of developing and adopting primary language
33 assessments that are aligned to the state academic content
34 standards. Subject to the availability of funds, primary language
35 assessments shall be developed and adopted for ~~reading/language~~
36 *reading-language* arts and mathematics in the dominant primary
37 language of limited-English-proficient pupils. The dominant
38 primary language shall be determined by the count in the annual
39 language census of the primary language of each

1 limited-English-proficient pupil enrolled in the California public
2 schools.

3 (B) Once a dominant primary language assessment is available
4 for use for a specific grade level, it shall be administered in place
5 of the assessment designated pursuant to paragraph (1) for that
6 grade level.

7 (C) In choosing a contractor to develop a primary language
8 assessment the state board shall consider the criteria for choosing
9 a contractor or test publisher as specified by Section 60643, and
10 as specified by Section 60642.5, as applicable.

11 (D) Subject to the availability of funds, the assessments shall
12 be developed in grade order starting with the lowest grade subject
13 to the STAR Program.

14 (E) If the state board contracts for the development of primary
15 language assessments or test items to augment an existing
16 assessment, the state shall retain ownership rights to the assessment
17 and the test items. With the approval of the state board, the
18 department may license the test for use in other states subject to a
19 compensation agreement approved by the Department of Finance.

20 (F) On or before January 1, 2006, the department shall submit
21 to the Legislature a report on the development and implementation
22 of the initial primary language assessments and recommendations
23 on the development and implementation of future assessments and
24 funding requirements.

25 (g) A pupil identified as limited English proficient pursuant to
26 the administration of a test made available pursuant to Section
27 60810 who is enrolled in any of grades 2 to 11, inclusive, and who
28 either receives instruction in his or her primary language or has
29 been enrolled in a school in the United States for less than 12
30 months shall be required to take a test in his or her primary
31 language if a test is available.

32 (h) (1) The Superintendent shall apportion funds to school
33 districts to enable school districts to meet the requirements of
34 subdivisions (b), (e), (f), and (g).

35 (2) The state board annually shall establish the amount of
36 funding to be apportioned to school districts for each test
37 administered and annually shall establish the amount that each
38 publisher shall be paid for each test administered under the
39 agreements required pursuant to Section 60643. The amounts to
40 be paid to the publishers shall be determined by considering the

1 cost estimates submitted by each publisher each September and
2 the amount included in the annual Budget Act, and by making
3 allowance for the estimated costs to school districts for compliance
4 with the requirements of subdivisions (b), (e), (f), and (g).

5 (3) An adjustment to the amount of funding to be apportioned
6 per test shall not be valid without the approval of the Director of
7 Finance. A request for approval of an adjustment to the amount
8 of funding to be apportioned per test shall be submitted in writing
9 to the Director of Finance and the chairpersons of the fiscal
10 committees of both houses of the Legislature with accompanying
11 material justifying the proposed adjustment. The Director of
12 Finance is authorized to approve only those adjustments related
13 to activities required by statute. The Director of Finance shall
14 approve or disapprove the amount within 30 days of receipt of the
15 request and shall notify the chairpersons of the fiscal committees
16 of both houses of the Legislature of the decision.

17 (i) For purposes of making the computations required by Section
18 8 of Article XVI of the California Constitution, the appropriation
19 for the apportionments made pursuant to paragraph (1) of
20 subdivision (h), and the payments made to the publishers under
21 the contracts required pursuant to Section 60643 or subparagraph
22 (C) of paragraph (1) of subdivision (a) of Section 60605 between
23 the department and the contractor, are “General Fund revenues
24 appropriated for school districts,” as defined in subdivision (c) of
25 Section 41202, for the applicable fiscal year, and included within
26 the “total allocations to school districts and community college
27 districts from General Fund proceeds of taxes appropriated pursuant
28 to Article XIII B,” as defined in subdivision (e) of Section 41202,
29 for that fiscal year.

30 (j) As a condition to receiving an apportionment pursuant to
31 subdivision (h), a school district shall report to the Superintendent
32 all of the following:

33 (1) The number of pupils enrolled in the school district in grades
34 2 to 11, inclusive.

35 (2) The number of pupils to whom an achievement test was
36 administered in grades 2 to 11, inclusive, in the school district.

37 (3) The number of pupils in paragraph (1) who were exempted
38 from the test at the request of their parents or guardians.

39 (k) The Superintendent and the state board are authorized and
40 encouraged to assist postsecondary educational institutions to use

1 the assessment results of the California Standards Tests, including,
2 but not limited to, the augmented California Standards Tests, for
3 academic credit, placement, or admissions processes.

4 (l) The Superintendent, with the approval of the state board,
5 annually shall release to the public test items from the
6 standards-based achievement tests pursuant to Section 60642.5
7 administered in previous years. The minimum number of test items
8 released per year shall be equal to 25 percent of the total number
9 of test items on the test administered in the previous year.

10 (m) *This section shall become inoperative on July 1, 2014, and*
11 *as of January 1, 2015, is repealed, unless a later enacted statute*
12 *that is enacted before January 1, 2015, deletes or extends the dates*
13 *on which it becomes inoperative and is repealed.*

14 SEC. 9. Section 60640 is added to the Education Code, to read:
15 60640. (a) There is hereby established the Standardized Testing
16 and Reporting Program, to be known as the STAR Program.

17 (b) From the funds available for that purpose, each school
18 district, charter school, and county office of education shall
19 administer to each of its pupils in grades 3 to 11, inclusive, the
20 standards-based achievement test provided for in Section 60642.5.
21 The state board shall establish a testing period to provide that all
22 schools administer these tests to pupils at approximately the same
23 time during the instructional year, except as necessary to ensure
24 test security and to meet the final filing date.

25 (c) The publisher and the school district shall provide two
26 makeup days for the testing of previously absent pupils within the
27 testing period established by the state board in subdivision (b).

28 (d) The governing board of the school district may administer
29 achievement tests in grades other than those required by
30 subdivision (b) as it deems appropriate.

31 (e) Pursuant to Section 1412(a)(16) of Title 20 of the United
32 States Code, individuals with exceptional needs, as defined in
33 Section 56026, shall be included in the testing requirement of
34 subdivision (b) with appropriate accommodations in administration,
35 where necessary, and those individuals with exceptional needs
36 who are unable to participate in the testing, even with
37 accommodations, shall be given an alternate assessment.

38 (f) (1) At the option of the school district, pupils with limited
39 English proficiency who are enrolled in any of grades 3 to 11,
40 inclusive, may take a second achievement test in their primary

1 language. Primary language tests administered pursuant to this
2 subdivision and subdivision (g) shall be subject to the requirements
3 of subdivision (a) of Section 60641. These primary language tests
4 shall produce individual pupil scores that are valid and reliable.

5 (2) Notwithstanding any other law, the state board shall
6 designate for use, as part of this program, a single primary language
7 test in each language for which a test is available for grades 3 to
8 11, inclusive, pursuant to the process used for designation of the
9 assessment chosen in the 1997–98 fiscal year, as specified in
10 Section 60643, as applicable.

11 (3) (A) The department shall use funds made available pursuant
12 to Title VI of the federal No Child Left Behind Act of 2001 (20
13 U.S.C. Sec. 6301 et seq.) and appropriated by the annual Budget
14 Act for the purpose of developing and adopting primary language
15 assessments that are aligned to the state academic content
16 standards. Subject to the availability of funds, primary language
17 assessments shall be developed and adopted for reading-language
18 arts and mathematics in the dominant primary language of
19 limited-English-proficient pupils. The dominant primary language
20 shall be determined by the count in the annual language census of
21 the primary language of each limited-English-proficient pupil
22 enrolled in the California public schools.

23 (B) Once a dominant primary language assessment is available
24 for use for a specific grade level, it shall be administered in place
25 of the assessment designated pursuant to paragraph (1) for that
26 grade level.

27 (C) In choosing a contractor to develop a primary language
28 assessment the state board shall consider the criteria for choosing
29 a contractor or test publisher as specified by Section 60643, and
30 as specified by Section 60642.5, as applicable.

31 (D) Subject to the availability of funds, the assessments shall
32 be developed in grade order starting with the lowest grade subject
33 to the STAR Program.

34 (E) If the state board contracts for the development of primary
35 language assessments or test items to augment an existing
36 assessment, the state shall retain ownership rights to the assessment
37 and the test items. With the approval of the state board, the
38 department may license the test for use in other states subject to a
39 compensation agreement approved by the Department of Finance.

1 (F) On or before January 1, 2006, the department shall submit
2 to the Legislature a report on the development and implementation
3 of the initial primary language assessments and recommendations
4 on the development and implementation of future assessments and
5 funding requirements.

6 (g) A pupil identified as limited English proficient pursuant to
7 the administration of a test made available pursuant to Section
8 60810 who is enrolled in any of grades 3 to 11, inclusive, and who
9 either receives instruction in his or her primary language or has
10 been enrolled in a school in the United States for less than 12
11 months shall be required to take a test in his or her primary
12 language if a test is available.

13 (h) (1) The Superintendent shall apportion funds to school
14 districts to enable school districts to meet the requirements of
15 subdivisions (b), (e), (f), and (g).

16 (2) The state board annually shall establish the amount of
17 funding to be apportioned to school districts for each test
18 administered and annually shall establish the amount that each
19 publisher shall be paid for each test administered under the
20 agreements required pursuant to Section 60643. The amounts to
21 be paid to the publishers shall be determined by considering the
22 cost estimates submitted by each publisher each September and
23 the amount included in the annual Budget Act, and by making
24 allowance for the estimated costs to school districts for compliance
25 with the requirements of subdivisions (b), (e), (f), and (g).

26 (3) An adjustment to the amount of funding to be apportioned
27 per test shall not be valid without the approval of the Director of
28 Finance. A request for approval of an adjustment to the amount
29 of funding to be apportioned per test shall be submitted in writing
30 to the Director of Finance and the chairpersons of the fiscal
31 committees of both houses of the Legislature with accompanying
32 material justifying the proposed adjustment. The Director of
33 Finance is authorized to approve only those adjustments related
34 to activities required by statute. The Director of Finance shall
35 approve or disapprove the amount within 30 days of receipt of the
36 request and shall notify the chairpersons of the fiscal committees
37 of both houses of the Legislature of the decision.

38 (i) For purposes of making the computations required by Section
39 8 of Article XVI of the California Constitution, the appropriation
40 for the apportionments made pursuant to paragraph (1) of

1 subdivision (h), and the payments made to the publishers under
2 the contracts required pursuant to Section 60643 or subparagraph
3 (C) of paragraph (1) of subdivision (a) of Section 60605 between
4 the department and the contractor, are “General Fund revenues
5 appropriated for school districts,” as defined in subdivision (c) of
6 Section 41202, for the applicable fiscal year, and included within
7 the “total allocations to school districts and community college
8 districts from General Fund proceeds of taxes appropriated pursuant
9 to Article XIII B,” as defined in subdivision (e) of Section 41202,
10 for that fiscal year.

11 (j) As a condition to receiving an apportionment pursuant to
12 subdivision (h), a school district shall report to the Superintendent
13 all of the following:

14 (1) The number of pupils enrolled in the school district in grades
15 3 to 11, inclusive.

16 (2) The number of pupils to whom an achievement test was
17 administered in grades 3 to 11, inclusive, in the school district.

18 (3) The number of pupils in paragraph (1) who were exempted
19 from the test at the request of their parents or guardians.

20 (k) The Superintendent and the state board are authorized and
21 encouraged to assist postsecondary educational institutions to use
22 the assessment results of the California Standards Tests, including,
23 but not limited to, the augmented California Standards Tests, for
24 academic credit, placement, or admissions processes.

25 (l) The Superintendent, with the approval of the state board,
26 annually shall release to the public test items from the
27 standards-based achievement tests pursuant to Section 60642.5
28 administered in previous years. The minimum number of test items
29 released per year shall be equal to 25 percent of the total number
30 of test items on the test administered in the previous year.

31 (m) This section shall become operative on July 1, 2014.

32 SEC. 10. Section 60642.5 of the Education Code is amended
33 to read:

34 60642.5. (a) The Superintendent, with approval of the state
35 board, shall provide for the development of an assessment
36 instrument, to be called the California Standards Tests, that
37 measures the degree to which pupils are achieving the academically
38 rigorous content standards and performance standards, to the extent
39 standards have been adopted by the state board. These
40 standards-based achievement tests shall contain the subject areas

1 specified in ~~paragraph (3)~~ of subdivision ~~(a)~~ (c) of Section 60603
2 for grades 2 to 8, inclusive, and shall include an assessment in
3 ~~history/social~~ *history-social* science in at least one elementary or
4 middle school grade level selected by the state board and science
5 in at least one elementary or middle school grade level selected
6 by the state board, and the core curriculum areas specified in
7 ~~paragraph (5)~~ of subdivision ~~(a)~~ (e) of Section 60603 for grades 9
8 to 11, inclusive, except that history-social science shall not be
9 included in the grade 9 assessment unless the state board adopts
10 academic content standards for a grade 9 history-social science
11 course, and shall include, at a minimum, a direct writing assessment
12 once in elementary school and once in middle or junior high school
13 and other items of applied academic skill if deemed valid and
14 reliable and if resources are made available for their use.

15 (b) In approving a contract for the development or administration
16 of the California Standards Tests, the state board shall consider
17 each of the following criteria:

18 (1) The ability of the contractor to produce valid, reliable
19 individual pupil scores.

20 (2) The ability of the contractor to report results pursuant to
21 subdivision (a) of Section 60643 by August 8.

22 (3) The ability of the contractor to ensure alignment between
23 the standards-based achievement test and the academically rigorous
24 content and performance standards as those standards are adopted
25 by the state board. This criterion shall include the ability of the
26 contractor to implement a process to establish and maintain
27 alignment between the test items and the standards.

28 (4) The per pupil cost estimates of developing and, if
29 appropriate, administering the proposed assessment with a system
30 to facilitate the determination of future per pupil cost
31 determinations.

32 (5) The procedures of the contractor to ensure the security and
33 integrity of test questions and materials.

34 (6) The experience of the contractor in successfully conducting
35 testing programs adopted and administered by other states. For
36 experience to be considered, the number of grades and pupils tested
37 shall be provided.

38 (c) The standards-based achievement tests may use items from
39 other tests.

1 (d) *This section shall become inoperative on July 1, 2014, and*
2 *as of January 1, 2015, is repealed, unless a later enacted statute*
3 *that is enacted before January 1, 2015, deletes or extends the dates*
4 *on which it becomes inoperative and is repealed.*

5 SEC. 11. Section 60642.5 is added to the Education Code, to
6 read:

7 60642.5. (a) The Superintendent, with approval of the state
8 board, shall provide for the development of an assessment
9 instrument, to be called the California Standards Tests, that
10 measures the degree to which pupils are achieving the academically
11 rigorous content standards and performance standards, to the extent
12 standards have been adopted by the state board. These
13 standards-based achievement tests shall contain the subject areas
14 specified in subdivision (c) of Section 60603 for grades 3 to 8,
15 inclusive, and shall include an assessment in history-social science
16 in at least one elementary or middle school grade level selected
17 by the state board and science in at least one elementary or middle
18 school grade level selected by the state board, and the core
19 curriculum areas specified in subdivision (e) of Section 60603 for
20 grades 9 to 11, inclusive, except that history-social science shall
21 not be included in the grade 9 assessment unless the state board
22 adopts academic content standards for a grade 9 history-social
23 science course, and shall include, at a minimum, a direct writing
24 assessment once in elementary school and once in middle or junior
25 high school and other items of applied academic skill if deemed
26 valid and reliable and if resources are made available for their use.

27 (b) In approving a contract for the development or administration
28 of the California Standards Tests, the state board shall consider
29 each of the following criteria:

30 (1) The ability of the contractor to produce valid, reliable
31 individual pupil scores.

32 (2) The ability of the contractor to report results pursuant to
33 subdivision (a) of Section 60643 by August 8.

34 (3) The ability of the contractor to ensure alignment between
35 the standards-based achievement test and the academically rigorous
36 content and performance standards as those standards are adopted
37 by the state board. This criterion shall include the ability of the
38 contractor to implement a process to establish and maintain
39 alignment between the test items and the standards.

1 (4) The per pupil cost estimates of developing and, if
2 appropriate, administering the proposed assessment with a system
3 to facilitate the determination of future per pupil cost
4 determinations.

5 (5) The procedures of the contractor to ensure the security and
6 integrity of test questions and materials.

7 (6) The experience of the contractor in successfully conducting
8 testing programs adopted and administered by other states. For
9 experience to be considered, the number of grades and pupils tested
10 shall be provided.

11 (c) The standards-based achievement tests may use items from
12 other tests.

13 (d) This section shall become operative on July 1, 2014.

14 SEC. 12. Section 60643 of the Education Code is amended to
15 read:

16 60643. (a) To be eligible for consideration under Section
17 60642.5 by the state board, test publishers shall agree in writing
18 each year to meet the following requirements, as applicable, if
19 selected:

20 (1) Enter into an agreement, pursuant to subdivision (e) or (f),
21 with the department by October 15 of that year.

22 (2) Align the standards-based achievement test provided for in
23 Section 60642.5 to the academically rigorous content and
24 performance standards adopted by the state board.

25 (3) Comply with subdivisions (c) and (d) of Section 60645.

26 (4) Provide valid and reliable individual pupil scores to parents
27 or guardians, teachers, and school administrators.

28 (5) Provide valid and reliable aggregate scores to school districts
29 and county boards of education in all of the following forms and
30 formats:

31 (A) Grade level.

32 (B) School level.

33 (C) ~~District~~ *School district level*.

34 (D) Countywide.

35 (E) Statewide.

36 (F) Comparison of statewide scores relative to other states.

37 (6) Provide disaggregated scores, based on
38 limited-English-proficient status and nonlimited-English-proficient
39 status. For purposes of this section, pupils with
40 “nonlimited-English-proficient status” shall include the total of

1 those pupils who are English-only pupils, fluent-English-proficient
2 pupils, and redesignated fluent-English-proficient pupils. These
3 scores shall be provided to school districts and county boards of
4 education in the same forms and formats listed in paragraph (5).

5 (7) Provide disaggregated scores by pupil gender and ethnicity
6 and provide disaggregated scores based on whether pupils are
7 economically disadvantaged or not. These disaggregated scores
8 shall be in the same forms and formats as listed in paragraph (5).
9 In any one year, the disaggregation shall entail information already
10 being collected by school districts, county offices of education, or
11 charter schools.

12 (8) Provide disaggregated scores for pupils who have
13 individualized education programs and have enrolled in special
14 education, to the extent required by federal law. These scores shall
15 be provided in the same forms and formats listed in paragraph (5).
16 This section shall not be construed to exclude the scores of special
17 education pupils from any state or federal accountability system.

18 (9) Provide information listed in paragraphs (5), (6), (7), and
19 (8) to the department and the state board in the medium requested
20 by each entity, respectively.

21 (b) It is the intent of the Legislature that the publisher work with
22 the Superintendent and the state board in developing a methodology
23 to disaggregate statewide scores as required in paragraphs (6) and
24 (7) of subdivision (a), and in determining which variable indicated
25 on the STAR testing document shall serve as a proxy for
26 “economically disadvantaged” status pursuant to paragraph (7) of
27 subdivision (a).

28 (c) Access to information about individual pupils or their
29 families shall be granted to the publisher only for purposes of
30 correctly associating test results with the pupils who produced
31 those results or for reporting and disaggregating test results as
32 required by this section. School districts are prohibited from
33 excluding a pupil from the test if a parent or parents decline to
34 disclose income. This chapter does not abridge or deny rights to
35 confidentiality contained in the federal Family Educational Rights
36 and Privacy Act of 1974 (20 U.S.C. Sec. 1232g) or other applicable
37 state and federal law that ~~protect~~ *protects* the confidentiality of
38 information collected by educational institutions.

39 (d) Notwithstanding any other law, the publisher of the
40 standards-based achievement test provided for in Section 60642.5

1 or any contractor under subdivision (f) shall comply with all of
2 the conditions and requirements enumerated in subdivision (a), as
3 applicable, to the satisfaction of the state board.

4 (e) (1) A publisher shall not provide a test described in Section
5 60642.5 or ~~60650~~ or in subdivision (f) of Section 60640 for use
6 in California public schools, unless the publisher enters into a
7 written contract with the department as set forth in this subdivision.

8 (2) The department shall develop, and the state board shall
9 approve, a contract to be entered into with a publisher pursuant to
10 paragraph (1). The department may develop the contract through
11 negotiations with the publisher.

12 (3) For purposes of the contracts authorized pursuant to this
13 subdivision, the department is exempt from the requirements of
14 Part 2 (commencing with Section 10100) of Division 2 of the
15 Public Contract Code and from the requirements of Article 6
16 (commencing with Section 999) of Chapter 6 of Division 4 of the
17 Military and Veterans Code.

18 (4) The contracts shall include provisions for progress payments
19 to the publisher for work performed or costs incurred in the
20 performance of the contract. Not less than 10 percent of the amount
21 budgeted for each separate and distinct component task provided
22 for in each contract shall be withheld pending final completion of
23 all component tasks by that publisher. The total amount withheld
24 pending final completion shall not exceed 10 percent of the total
25 contract price.

26 (5) The contracts shall require liquidated damages to be paid
27 by the publisher in the amount of up to 10 percent of the total cost
28 of the contract for any component task that the publisher through
29 its own fault or that of its subcontractors fails to substantially
30 perform by the date specified in the agreement.

31 (6) The contracts shall establish the process and criteria by
32 which the successful completion of each component task shall be
33 recommended by the department and approved by the state board.

34 (7) The publishers shall submit, as part of the contract
35 negotiation process, a proposed budget and invoice schedule, that
36 includes a detailed listing of the costs for each component task
37 and the expected date of the invoice for each completed component
38 task.

39 (8) The contracts shall specify the following component tasks,
40 as applicable, that are separate and distinct:

- 1 (A) Development of new tests or test items as required by
2 paragraph (2) of subdivision (a).
- 3 (B) Test materials production or publication.
- 4 (C) Delivery of test materials to school districts.
- 5 (D) Test processing, scoring, and analyses.
- 6 (E) Reporting of test results to the school districts, including,
7 but not limited to, all reports specified in this section.
- 8 (F) Reporting of test results to the department, including, but
9 not limited to, the electronic files required pursuant to this section.
- 10 (G) All other analyses or reports required by the Superintendent
11 to meet the requirements of state and federal law and set forth in
12 the agreement.
- 13 (9) The contracts shall specify the specific reports and data files,
14 if any, that are to be provided to school districts by the publisher
15 and the number of copies of each report or file to be provided.
- 16 (10) The contracts shall specify the means by which any delivery
17 date for materials to each school district shall be verified by the
18 publisher and the school district.
- 19 (11) School districts may negotiate a separate agreement with
20 the publisher for any additional materials or services not within
21 the contracts specified in this subdivision, including, but not limited
22 to, the administration of the tests to pupils in grade levels other
23 than grades 2 to 11, inclusive. Any separate agreement is not within
24 the scope of the contract specified in this subdivision.
- 25 (f) The department, with approval of the state board, may enter
26 into a separate contract for the development or administration of
27 a test authorized pursuant to this part, including, but not limited
28 to, item development, coordination of tests, assemblage of tests
29 or test items, scoring, or reporting. The liquidated damages
30 provision set forth in paragraph (5) of subdivision (e) shall apply
31 to a contract entered into pursuant to this subdivision.
- 32 (g) *This section shall become inoperative on July 1, 2014, and*
33 *as of January 1, 2015, is repealed, unless a later enacted statute*
34 *that is enacted before January 1, 2015, deletes or extends the dates*
35 *on which it becomes inoperative and is repealed.*
- 36 SEC. 13. Section 60643 is added to the Education Code, to
37 read:
- 38 60643. (a) To be eligible for consideration under Section
39 60642.5 by the state board, test publishers shall agree in writing

1 each year to meet the following requirements, as applicable, if
2 selected:

3 (1) Enter into an agreement, pursuant to subdivision (e) or (f),
4 with the department by October 15 of that year.

5 (2) Align the standards-based achievement test provided for in
6 Section 60642.5 to the academically rigorous content and
7 performance standards adopted by the state board.

8 (3) Comply with subdivisions (c) and (d) of Section 60645.

9 (4) Provide valid and reliable individual pupil scores to parents
10 or guardians, teachers, and school administrators.

11 (5) Provide valid and reliable aggregate scores to school districts
12 and county boards of education in all of the following forms and
13 formats:

14 (A) Grade level.

15 (B) School level.

16 (C) School district level.

17 (D) Countywide.

18 (E) Statewide.

19 (F) Comparison of statewide scores relative to other states.

20 (6) Provide disaggregated scores, based on
21 limited-English-proficient status and nonlimited-English-proficient
22 status. For purposes of this section, pupils with
23 “nonlimited-English-proficient status” shall include the total of
24 those pupils who are English-only pupils, fluent-English-proficient
25 pupils, and redesignated fluent-English-proficient pupils. These
26 scores shall be provided to school districts and county boards of
27 education in the same forms and formats listed in paragraph (5).

28 (7) Provide disaggregated scores by pupil gender and ethnicity
29 and provide disaggregated scores based on whether pupils are
30 economically disadvantaged or not. These disaggregated scores
31 shall be in the same forms and formats as listed in paragraph (5).
32 In any one year, the disaggregation shall entail information already
33 being collected by school districts, county offices of education, or
34 charter schools.

35 (8) Provide disaggregated scores for pupils who have
36 individualized education programs and have enrolled in special
37 education, to the extent required by federal law. These scores shall
38 be provided in the same forms and formats listed in paragraph (5).
39 This section shall not be construed to exclude the scores of special
40 education pupils from any state or federal accountability system.

1 (9) Provide information listed in paragraphs (5), (6), (7), and
2 (8) to the department and the state board in the medium requested
3 by each entity, respectively.

4 (b) It is the intent of the Legislature that the publisher work with
5 the Superintendent and the state board in developing a methodology
6 to disaggregate statewide scores as required in paragraphs (6) and
7 (7) of subdivision (a), and in determining which variable indicated
8 on the STAR testing document shall serve as a proxy for
9 “economically disadvantaged” status pursuant to paragraph (7) of
10 subdivision (a).

11 (c) Access to information about individual pupils or their
12 families shall be granted to the publisher only for purposes of
13 correctly associating test results with the pupils who produced
14 those results or for reporting and disaggregating test results as
15 required by this section. School districts are prohibited from
16 excluding a pupil from the test if a parent or parents decline to
17 disclose income. This chapter does not abridge or deny rights to
18 confidentiality contained in the federal Family Educational Rights
19 and Privacy Act of 1974 (20 U.S.C. Sec. 1232g) or other applicable
20 state and federal law that protects the confidentiality of information
21 collected by educational institutions.

22 (d) Notwithstanding any other law, the publisher of the
23 standards-based achievement test provided for in Section 60642.5
24 or any contractor under subdivision (f) shall comply with all of
25 the conditions and requirements enumerated in subdivision (a), as
26 applicable, to the satisfaction of the state board.

27 (e) (1) A publisher shall not provide a test described in Section
28 60642.5 or subdivision (f) of Section 60640 for use in California
29 public schools, unless the publisher enters into a written contract
30 with the department as set forth in this subdivision.

31 (2) The department shall develop, and the state board shall
32 approve, a contract to be entered into with a publisher pursuant to
33 paragraph (1). The department may develop the contract through
34 negotiations with the publisher.

35 (3) For purposes of the contracts authorized pursuant to this
36 subdivision, the department is exempt from the requirements of
37 Part 2 (commencing with Section 10100) of Division 2 of the
38 Public Contract Code and from the requirements of Article 6
39 (commencing with Section 999) of Chapter 6 of Division 4 of the
40 Military and Veterans Code.

1 (4) The contracts shall include provisions for progress payments
2 to the publisher for work performed or costs incurred in the
3 performance of the contract. Not less than 10 percent of the amount
4 budgeted for each separate and distinct component task provided
5 for in each contract shall be withheld pending final completion of
6 all component tasks by that publisher. The total amount withheld
7 pending final completion shall not exceed 10 percent of the total
8 contract price.

9 (5) The contracts shall require liquidated damages to be paid
10 by the publisher in the amount of up to 10 percent of the total cost
11 of the contract for any component task that the publisher through
12 its own fault or that of its subcontractors fails to substantially
13 perform by the date specified in the agreement.

14 (6) The contracts shall establish the process and criteria by
15 which the successful completion of each component task shall be
16 recommended by the department and approved by the state board.

17 (7) The publishers shall submit, as part of the contract
18 negotiation process, a proposed budget and invoice schedule, that
19 includes a detailed listing of the costs for each component task
20 and the expected date of the invoice for each completed component
21 task.

22 (8) The contracts shall specify the following component tasks,
23 as applicable, that are separate and distinct:

24 (A) Development of new tests or test items as required by
25 paragraph (2) of subdivision (a).

26 (B) Test materials production or publication.

27 (C) Delivery of test materials to school districts.

28 (D) Test processing, scoring, and analyses.

29 (E) Reporting of test results to the school districts, including,
30 but not limited to, all reports specified in this section.

31 (F) Reporting of test results to the department, including, but
32 not limited to, the electronic files required pursuant to this section.

33 (G) All other analyses or reports required by the Superintendent
34 to meet the requirements of state and federal law and set forth in
35 the agreement.

36 (9) The contracts shall specify the specific reports and data files,
37 if any, that are to be provided to school districts by the publisher
38 and the number of copies of each report or file to be provided.

1 (10) The contracts shall specify the means by which any delivery
2 date for materials to each school district shall be verified by the
3 publisher and the school district.

4 (11) School districts may negotiate a separate agreement with
5 the publisher for any additional materials or services not within
6 the contracts specified in this subdivision, including, but not limited
7 to, the administration of the tests to pupils in grade levels other
8 than grades 3 to 11, inclusive. Any separate agreement is not within
9 the scope of the contract specified in this subdivision.

10 (f) The department, with approval of the state board, may enter
11 into a separate contract for the development or administration of
12 a test authorized pursuant to this part, including, but not limited
13 to, item development, coordination of tests, assemblage of tests
14 or test items, scoring, or reporting. The liquidated damages
15 provision set forth in paragraph (5) of subdivision (e) shall apply
16 to a contract entered into pursuant to this subdivision.

17 (g) This section shall become operative on July 1, 2014.

18 SEC. 14. Section 60643.1 of the Education Code is amended
19 to read:

20 60643.1. (a) (1) The test publisher designated by the state
21 board pursuant to Section ~~60642~~ 60642.5 shall make available a
22 reading list on the Internet by June 1 of the applicable school year.
23 The reading list shall include an index that correlates ranges of
24 pupil reading scores on the English language arts portion of the
25 achievement test designated pursuant to Section ~~60642~~ 60642.5
26 to titles of materials that would be suitable for pupils in each of
27 grades 2 to 11, inclusive, to read in order to improve their reading
28 skills. This reading list shall include titles of books that allow a
29 pupil to practice reading at his or her current reading level and that
30 will assist the pupil in achieving a higher level of proficiency. To
31 the extent possible, the index also shall include information related
32 to the subject matter of each title. At a minimum, the reading list
33 also shall categorize titles by subject matter and identify
34 age-appropriate distinctions in the list.

35 (2) The test publisher, in each school year, shall make available
36 for purchase by school districts a report that provides a numerical
37 distribution of the reading scores of all pupils in California who
38 took the achievement test designated pursuant to Section ~~60642~~
39 60642.5.

1 (3) The test publisher, in each school year, shall make available
2 for purchase by school districts reading lists that can be distributed
3 to pupils based on a pupil's age and the ranges of scores on the
4 English language arts portion of the achievement test designated
5 pursuant to Section ~~60642~~ 60642.5.

6 (4) The requirements of this subdivision shall become operative
7 only upon a determination by the Director of Finance that funds
8 are available to make an adjustment pursuant to subdivision (h)
9 of Section 60640.

10 (b) The state board and the Superintendent jointly shall certify
11 that the process used by the publisher to determine the reading
12 levels of the corresponding reading list pursuant to paragraph (1)
13 of subdivision (a) meets the following criteria:

14 (1) The process is educationally valid.

15 (2) The process results in a reading list for each reading span
16 that provides titles at the pupil's current reading level and the next
17 higher level for challenging practice.

18 (3) The process results in a selection from the universe of titles
19 from the list developed pursuant to subdivision (d) that matches
20 each reading level.

21 (4) The process is unbiased in the selection of publishers' titles
22 from the legal compliance list.

23 (c) The titles listed at each reading level range posted on the
24 Internet and the reading lists made available to school districts
25 pursuant to subdivision (a), at a minimum, shall include all relevant
26 literature materials approved as of September 1, 1999, as being
27 legally compliant pursuant to Article 3 (commencing with Section
28 60040) of Chapter 1 of Part 33, and the titles listed in all of the
29 content area reading and literature lists that are developed and
30 published by the department and that have been determined by the
31 department to meet the relevant reading level as certified pursuant
32 to subdivision (b).

33 (d) By imposing the requirements of this section on publishers,
34 it is not the intent of the Legislature to unfairly disadvantage any
35 publisher who has otherwise met the requirements of this section
36 or of Article 3 (commencing with Section 60040) of Chapter 1 of
37 Part 33.

38 (e) *This section shall become inoperative on July 1, 2014, and*
39 *as of January 1, 2015, is repealed, unless a later enacted statute*

1 *that is enacted before January 1, 2015, deletes or extends the dates*
2 *on which it becomes inoperative and is repealed.*

3 SEC. 15. Section 60643.1 is added to the Education Code, to
4 read:

5 60643.1. (a) (1) The test publisher designated by the state
6 board pursuant to Section 60642.5 shall make available a reading
7 list on the Internet by June 1 of the applicable school year. The
8 reading list shall include an index that correlates ranges of pupil
9 reading scores on the English language arts portion of the
10 achievement test designated pursuant to Section 60642.5 to titles
11 of materials that would be suitable for pupils in each of grades 3
12 to 11, inclusive, to read in order to improve their reading skills.
13 This reading list shall include titles of books that allow a pupil to
14 practice reading at his or her current reading level and that will
15 assist the pupil in achieving a higher level of proficiency. To the
16 extent possible, the index also shall include information related to
17 the subject matter of each title. At a minimum, the reading list also
18 shall categorize titles by subject matter and identify age-appropriate
19 distinctions in the list.

20 (2) The test publisher, in each school year, shall make available
21 for purchase by school districts a report that provides a numerical
22 distribution of the reading scores of all pupils in California who
23 took the achievement test designated pursuant to Section 60642.5.

24 (3) The test publisher, in each school year, shall make available
25 for purchase by school districts reading lists that can be distributed
26 to pupils based on a pupil's age and the ranges of scores on the
27 English language arts portion of the achievement test designated
28 pursuant to Section 60642.5.

29 (4) The requirements of this subdivision shall become operative
30 only upon a determination by the Director of Finance that funds
31 are available to make an adjustment pursuant to subdivision (h)
32 of Section 60640.

33 (b) The state board and the Superintendent jointly shall certify
34 that the process used by the publisher to determine the reading
35 levels of the corresponding reading list pursuant to paragraph (1)
36 of subdivision (a) meets the following criteria:

37 (1) The process is educationally valid.

38 (2) The process results in a reading list for each reading span
39 that provides titles at the pupil's current reading level and the next
40 higher level for challenging practice.

1 (3) The process results in a selection from the universe of titles
2 from the list developed pursuant to subdivision (d) that matches
3 each reading level.

4 (4) The process is unbiased in the selection of publishers' titles
5 from the legal compliance list.

6 (c) The titles listed at each reading level range posted on the
7 Internet and the reading lists made available to school districts
8 pursuant to subdivision (a), at a minimum, shall include all relevant
9 literature materials approved as of September 1, 1999, as being
10 legally compliant pursuant to Article 3 (commencing with Section
11 60040) of Chapter 1 of Part 33, and the titles listed in all of the
12 content area reading and literature lists that are developed and
13 published by the department and that have been determined by the
14 department to meet the relevant reading level as certified pursuant
15 to subdivision (b).

16 (d) By imposing the requirements of this section on publishers,
17 it is not the intent of the Legislature to unfairly disadvantage any
18 publisher who has otherwise met the requirements of this section
19 or of Article 3 (commencing with Section 60040) of Chapter 1 of
20 Part 33.

21 (e) This section shall become operative on July 1, 2014.

22 SEC. 16. Section 60644 is added to the Education Code, to
23 read:

24 60644. (a) By November 1, 2014, the department shall identify
25 and make available to school districts information regarding
26 existing assessments in language arts and mathematics that are
27 appropriate for pupils in grade 2 for diagnostic use by classroom
28 teachers. The purpose of these assessments shall be to aid teachers
29 and to gain information about the developing language arts and
30 computational skills of pupils in grade 2.

31 (b) This section shall be implemented from the savings realized
32 from the elimination of the grade 2 standards-based achievement
33 testing pursuant to the act that added this section.

34 SEC. 17. If the Commission on State Mandates determines
35 that this act contains costs mandated by the state, reimbursement
36 to local agencies and school districts for those costs shall be made
37 pursuant to Part 7 (commencing with Section 17500) of Division
38 4 of Title 2 of the Government Code.

O