

AMENDED IN ASSEMBLY AUGUST 25, 2005

AMENDED IN ASSEMBLY JULY 11, 2005

AMENDED IN ASSEMBLY JUNE 23, 2005

AMENDED IN SENATE APRIL 18, 2005

AMENDED IN SENATE MARCH 29, 2005

SENATE BILL

No. 385

Introduced by Senator Ducheny
(Coauthors: Senators Escutia and Romero)

February 17, 2005

An act to amend ~~Section 60640~~ *Sections 60640 and 60850* of the Education Code, relating to pupil assessment.

LEGISLATIVE COUNSEL'S DIGEST

SB 385, as amended, Ducheny. Pupil assessment.

~~Existing~~

(1) *Existing* law, the Standardized Testing and Reporting (STAR) Program, requires each school district, charter school, and county office of education to administer to each of its pupils in grades 3 and 7 a designated achievement test and, until July 1, 2007, to each of its pupils in grades 2 to 11, inclusive, and after July 1, 2007, to each of its pupils in grades 3 to 11, inclusive, a standards-based achievement test.

Existing law requires, until July 1, 2007, a pupil of limited English proficiency who is enrolled in any of grades 2 to 11, inclusive, to take a test in his or her primary language if a test is available and fewer than 12 months have elapsed after the pupil's initial enrollment in a California public or nonpublic school.

Existing law, operative July 1, 2007, requires a pupil identified as limited English proficient who is enrolled in any of grades 3 to 11,

inclusive, and has not been reclassified as proficient in English, to take a test in his or her primary language if a test is available and if fewer than 12 months have elapsed after his or her initial enrollment in any public school in the state.

This bill would instead require a pupil to take that achievement test in his or her primary language, if the pupil is identified as limited English proficient, and is either literate in his or her primary language or receives instruction in his or her primary language. The bill would require a pupil who is limited English proficient, but for whom an achievement test in his or her primary language is not available, to instead take an achievement test in English that is modified in order to eliminate unnecessary linguistic complexity, to the extent possible. The bill would require a pupil identified as limited English proficient who has attended a school in the United States for at least 3 consecutive years to take an additional achievement test in English that is modified in order to eliminate unnecessary linguistic complexity, to the extent possible, except as specified. The bill would require the State Department of Education to develop a primary language assessment in the dominant primary language of limited-English-proficient pupils.

(2) Existing law requires the Superintendent of Public Instruction, with the approval of the State Board of Education, to develop a high school exit examination in English language arts and mathematics in accordance with state academic content standards. Existing law requires, commencing with the 2003-04 school year and each school year thereafter, each pupil completing grade 12 to successfully pass the exit examination as a condition of graduation from high school.

This bill would require the department, by January 1, 2007, to develop a modified version of the high school exit examination for English learner students that eliminates unnecessary linguistic complexity to the extent possible, with certain requirements.

~~This~~

(3) This bill would make other technical, nonsubstantive changes.

~~To~~

(4) To the extent that this bill would impose additional duties on school districts, this bill would create a state-mandated local program.

~~The~~

(5) 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. (a) The Legislature finds and declares all of the
- 2 following:
- 3 (1) Valid and reliable academic assessment data is critical to
- 4 the education accountability system.
- 5 (2) Approximately one of every four pupils enrolled in the
- 6 public schools is identified as a pupil with limited English
- 7 proficiency.
- 8 (3) Exclusive reliance on academic assessments designed for
- 9 native English speakers to gauge the academic progress of pupils
- 10 with limited English proficiency violates standards for
- 11 educational testing established by recognized national
- 12 educational institutions including the American Educational
- 13 Research Association, the American Psychological Association,
- 14 and the National Council on Measurement in Education.
- 15 (4) The federal No Child Left Behind Act of 2001 requires
- 16 states to test all pupils in a valid and reliable manner and
- 17 requires, to the extent practicable, that pupils with limited
- 18 English proficiency be tested in the language and form most
- 19 likely to yield accurate data on academic ability in academic
- 20 subject areas.
- 21 (5) The current academic assessment system does not allow
- 22 pupils with limited English proficiency to show academic ability
- 23 in academic subject areas.
- 24 (6) An accountability system that would yield more accurate
- 25 data on the academic ability of pupils with limited English
- 26 proficiency is feasible and practicable.
- 27 (7) A coalition of school districts, parents, and organizations
- 28 from throughout the state recently filed a legal challenge that
- 29 highlights the harm to pupils, parents, teachers, schools, and

1 communities that may be resulting from invalid testing of pupils
2 with limited English proficiency.

3 (b) It is the intent of the Legislature to bring the system of
4 assessing the academic progress of pupils with limited English
5 proficiency into alignment with requirements of the federal No
6 Child Left Behind Act of 2001.

7 SEC. 2. Section 60640 of the Education Code, as amended by
8 Section 15 of Chapter 233 of the Statutes of 2004, is amended to
9 read:

10 60640.(a) There is hereby established the Standardized
11 Testing and Reporting Program, to be known as the STAR
12 Program.

13 (b) Commencing in the 2004-05 fiscal year and each fiscal
14 year thereafter, and from the funds available for that purpose,
15 each school district, charter school, and county office of
16 education shall administer to each of its pupils in grades 3 and 7
17 the achievement test designated by the state board pursuant to
18 Section 60642, and shall administer to each of its pupils in grades
19 2 to 11, inclusive, the standards-based achievement test provided
20 for in Section 60642.5. *Pupils identified as*
21 *limited-English-proficient and who are administered the*
22 *assessments pursuant to subdivision (f) are exempt from taking*
23 *the tests designated pursuant to sections 60642 and 60642.5.* The
24 state board shall establish a testing period to provide that all
25 schools administer these tests to pupils at approximately the same
26 time during the instructional year, except as necessary to ensure
27 test security and to meet the final filing date.

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

32 (d) The governing board of the school district may administer
33 achievement tests in grades, or to pupils, other than those
34 required by subdivisions (b) and (f) as it deems appropriate.

35 (e) Pursuant to paragraph (17) of subsection (a) of Section
36 1412 of Title 20 of the United States Code, individuals with
37 exceptional needs, as defined in Section 56026, shall be included
38 in the testing requirement of subdivision (b) with appropriate
39 accommodations in administration, where necessary, and those
40 individuals with exceptional needs who are unable to participate

1 in the testing, even with accommodations, shall be given an
2 alternate assessment.

3 (f) (1) (A) A pupil identified as limited English proficient,
4 and who either is literate in his or her primary language or
5 receives instruction in his or her primary language, shall take ~~an~~
6 ~~achievement test required by subdivision (b) in his or her primary~~
7 ~~language. the achievement tests administered in order to comply~~
8 ~~with Section 60642.5 in his or her primary language as soon as~~
9 ~~those tests are developed.~~

10 (B) (i) A pupil identified as limited English proficient who
11 has attended a school in the United States, excluding the
12 Commonwealth of Puerto Rico, for three consecutive years or
13 ~~more, shall, in addition to those achievement tests required by~~
14 ~~subparagraph (A), take an achievement test in English that is~~
15 ~~aligned to state-adopted language arts content standards. more,~~
16 ~~shall, take the achievement tests in English that are modified~~
17 ~~pursuant to clause (ii) instead of the primary language~~
18 ~~achievement tests required by subparagraph (A), except as~~
19 ~~provided in clause (iii).~~

20 (ii) The department shall, by January 1, 2008, modify ~~an the~~
21 achievement test administered pursuant to ~~clause (i) Section~~
22 ~~60642.5~~ in order to eliminate unnecessary linguistic complexity
23 to the extent possible. The modifications shall be based upon
24 research designed to maintain the rigor of the test but enable a
25 pupil with limited English proficiency to better understand test
26 ~~directions and questions, questions, and answers.~~

27 (iii) Notwithstanding clause (i), a school district may, on a
28 case-by-case basis, administer an achievement test in the primary
29 language of a pupil if it finds that it is likely that a primary
30 language test would yield an assessment that is more accurate
31 and reliable. This authorization shall not exceed two consecutive
32 years for a particular pupil.

33 (C) A pupil identified as limited English proficient for whom
34 a test in his or her primary language is not available shall take an
35 achievement test required by subdivision (b) in English that is
36 modified pursuant to clause (ii) of subparagraph (B).

37 (D) An achievement test administered pursuant to this
38 subdivision shall yield assessment data that is more accurate than
39 that data that yields from an achievement test in English required
40 by subdivision (b). Results of an achievement test administered

1 pursuant to this subdivision may also be disaggregated by type of
2 program, duration in a program, and English proficiency. Results
3 of an achievement test administered pursuant to this subdivision
4 shall be used to determine adequate yearly progress pursuant to
5 the federal No Child Left Behind Act of 2001, and for purposes
6 of the Academic Performance Index.

7 (2) Notwithstanding any other law, the state board shall
8 designate for use, as part of this program, a single primary
9 language test in each language for which a test is available for
10 grades 2 to 11, inclusive, pursuant to the process used for
11 designation of the assessment chosen in the 1997-98 fiscal year,
12 as specified in Sections 60642 and 60643, as applicable.

13 (3) (A) The department shall use funds—~~made available~~
14 ~~pursuant to Title VI of the federal No Child Left Behind Act of~~
15 ~~2001 and appropriated by~~ *appropriated in* the annual Budget Act
16 for the purpose of developing and adopting primary language
17 versions of assessments required by subdivision (b) that are
18 aligned to the state academic content standards in the dominant
19 primary language of limited English proficient pupils no later
20 than July 1, 2008. *It is the intent of the Legislature that funds*
21 *made available pursuant to Title III or VI of the federal No Child*
22 *Left Behind Act of 2001 and any other federal funds shall be*
23 *made available for the purpose of developing and adopting*
24 *primary language assessments pursuant to this section.* The
25 dominant primary language shall be determined by the count in
26 the annual language census of the primary language of each
27 limited-English-proficient pupil enrolled in the California public
28 schools. The department shall, by January 1, 2007, conduct a
29 survey of public schools in order to identify and quantify
30 assessments in languages other than the dominant primary
31 language, and develop criteria to determine when assessments in
32 languages other than the dominant primary language should be
33 administered.

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

38 (C) In choosing a contractor to develop a primary language
39 assessment, the state board shall consider the criteria for
40 choosing a contractor or test publisher as specified by Sections

1 60642 and 60643, and as specified by Section 60642.5, as
2 applicable. *The contractor shall have expertise and experience in*
3 *developing test items that conform to the research on high stakes*
4 *test accommodations and that control the linguistic complexity in*
5 *order to increase the probability of second language learners*
6 *understanding the language of the test items.*

7 (D) Subject to the availability of funds, the *academic content*
8 *standards aligned primary language* assessments shall be
9 developed in grade order starting with the lowest grade subject to
10 the STAR Program.

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

18 (F) On or before January 1, 2007, the department shall submit
19 to the Legislature a report on the development and
20 implementation of the initial primary language assessments and
21 modified English language assessments and recommendations on
22 the development and implementation of future assessments and
23 funding requirements.

24 (g) (1) The Superintendent shall apportion funds to school
25 districts to enable school districts to meet the requirements of
26 subdivisions (b) and (f).

27 (2) The state board shall annually establish the amount of
28 funding to be apportioned to school districts for each test
29 administered and shall annually establish the amount that each
30 publisher shall be paid for each test administered under the
31 agreements required pursuant to Section 60643. The amounts to
32 be paid to the publishers shall be determined by considering the
33 cost estimates submitted by each publisher each September and
34 the amount included in the annual Budget Act, and by making
35 allowance for the estimated costs to school districts for
36 compliance with the requirements of subdivisions (b) and (f).

37 (3) An adjustment to the amount of funding to be apportioned
38 per test may not be valid without the approval of the Director of
39 Finance. A request for approval of an adjustment to the amount
40 of funding to be apportioned per test shall be submitted in writing

1 to the Director of Finance and the chairpersons of the fiscal
2 committees of both houses of the Legislature with accompanying
3 material justifying the proposed adjustment. The Director of
4 Finance is authorized to approve only those adjustments related
5 to activities required by statute. The Director of Finance shall
6 approve or disapprove the amount within 30 days of receipt of
7 the request and shall notify the chairpersons of the fiscal
8 committees of both houses of the Legislature of the decision.

9 (h) For the purposes of making the computations required by
10 Section 8 of Article XVI of the California Constitution, the
11 appropriation for the apportionments made pursuant to paragraph
12 (1) of subdivision (g), and the payments made to the publishers
13 under the contracts required pursuant to Section 60643 or
14 subparagraph (C) of paragraph (1) of subdivision (a) of Section
15 60605 between the department and the contractor, are “General
16 Fund revenues appropriated for school districts,” as defined in
17 subdivision (c) of Section 41202, for the applicable fiscal year,
18 and included within the “total allocations to school districts and
19 community college districts from General Fund proceeds of taxes
20 appropriated pursuant to Article XIII B,” as defined in
21 subdivision (e) of Section 41202, for that fiscal year.

22 (i) As a condition to receiving an apportionment pursuant to
23 subdivision (g), a school district shall report to the
24 Superintendent all of the following:

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

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

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

31 (j) *The Superintendent and the state board are authorized and*
32 *encouraged to assist postsecondary educational institutions to*
33 *use the assessment results of the California Standards Tests,*
34 *including, but not limited to, the augmented California Standards*
35 *Tests, for academic credit, placement, or admissions procedures.*

36 (k) *The Superintendent shall, with the approval of the state*
37 *board, annually release to the public at least 25 percent of test*
38 *items from the standards based achievement test provided for in*
39 *Section 60642.5 administered in the previous year.*

40 ~~(j)~~

1 (l) This section shall become inoperative on July 1, 2007, and
2 as of January 1, 2008, is repealed, unless a later enacted statute
3 that becomes operative on or before January 1, 2008, deletes or
4 extends the dates on which it becomes inoperative and is
5 repealed.

6 SEC. 3. Section 60640 of the Education Code, as added by
7 Section 16 of Chapter 233 of the Statutes of 2004, is amended to
8 read:

9 60640. (a) There is hereby established the Standardized
10 Testing and Reporting Program, to be known as the STAR
11 Program.

12 (b) Commencing in the 2007-08 fiscal year and each fiscal
13 year thereafter, and from the funds available for that purpose,
14 each school district, charter school, and county office of
15 education shall administer to each of its pupils in grades 3 and 7
16 the achievement test designated by the state board pursuant to
17 Section 60642, and shall administer to each of its pupils in grades
18 3 to 11, inclusive, the standards-based achievement test provided
19 for in Section 60642.5. *Pupils identified as*
20 *limited-English-proficient and who are administered the*
21 *assessments pursuant to subdivision (f) are exempt from taking*
22 *the tests designated pursuant to Sections 60642 and 60642.5.* The
23 state board shall establish a testing period to provide that all
24 schools administer these tests to pupils at approximately the same
25 time during the instructional year, except as necessary to ensure
26 test security and to meet the final filing date.

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

31 (d) The governing board of the school district may administer
32 achievement tests in grades, or to pupils, other than those
33 required by subdivisions (b) and (f) as it deems appropriate.

34 (e) Pursuant to paragraph (17) of subsection (a) of Section
35 1412 of Title 20 of the United States Code, individuals with
36 exceptional needs, as defined in Section 56026, shall be included
37 in the testing requirement of subdivision (b) with appropriate
38 accommodations in administration, where necessary, and those
39 individuals with exceptional needs who are unable to participate

1 in the testing, even with accommodations, shall be given an
2 alternate assessment.

3 (f) (1) A pupil identified as limited English proficient, and
4 who either is literate in his or her primary language or receives
5 instruction in his or her primary language, shall take ~~an~~
6 ~~achievement test required by subdivision (b) in his or her primary~~
7 ~~language. the achievement test required by Section 60642.5 in his~~
8 ~~or her primary language as soon as the primary language test is~~
9 ~~available.~~

10 (2) (A) A pupil identified as limited English proficient who
11 has attended a school in the United States, excluding the
12 Commonwealth of Puerto Rico, for three consecutive years or
13 ~~more, shall, in addition to those achievement tests required by~~
14 ~~paragraph (1), take an achievement test in English that is aligned~~
15 ~~to state-adopted language arts content standards. more, shall take~~
16 ~~the achievement tests in English that are modified pursuant to~~
17 ~~clause (ii) instead of the primary language achievement tests~~
18 ~~required by subparagraph (A), except as provided in clause (iii).~~

19 (B) The department shall, by January 1, 2008, modify ~~an~~ ~~the~~
20 ~~achievement test administered pursuant to subparagraph (A)~~
21 ~~Section 60642.5~~ in order to eliminate unnecessary linguistic
22 complexity to the extent possible. The modifications shall be
23 based upon research designed to maintain the rigor of the test but
24 enable a pupil with limited English proficiencies to better
25 understand test directions ~~and questions.~~, *questions, and answers.*

26 (C) Notwithstanding subparagraph (A), a school district may,
27 on a case-by-case basis, administer an achievement test in the
28 primary language of a pupil if it finds that it is likely that a
29 primary language test would yield an assessment that is more
30 accurate and more reliable. This authorization shall not exceed
31 two consecutive years for a particular pupil.

32 (3) A pupil identified as limited English proficient for whom a
33 test in his or her primary language is not available shall take an
34 achievement test required by subdivision (b) in English that is
35 modified pursuant to subparagraph (B) of paragraph (2).

36 (4) An achievement test administered pursuant to this
37 subdivision shall yield assessment data that is more accurate than
38 that data that yields from an achievement test in English required
39 by subdivision (b). Results of an achievement test administered
40 pursuant to this subdivision may also be disaggregated by type of

1 program, duration in a program, and English proficiency. Results
2 of an achievement test administered pursuant to this subdivision
3 shall be used to determine adequate yearly progress pursuant to
4 the federal No Child Left Behind Act of 2001, and for purposes
5 of the Academic Performance Index.

6 (5) Notwithstanding any other provision of law, the state board
7 shall designate for use, as part of this program, a single primary
8 language test in each language for which a test is available for
9 grades 3 to 11, inclusive, pursuant to the process used for
10 designation of the assessment chosen in the 1997-98 fiscal year,
11 as specified by Sections 60642 and 60643, and as specified by
12 Section 60642.5, as applicable.

13 (6) (A) The department shall use funds ~~made available~~
14 ~~pursuant to Title VI of the federal No Child Left Behind Act of~~
15 ~~2001 and appropriated by~~ *appropriated in* the annual Budget Act
16 for the purpose of developing and adopting primary language
17 versions of assessments required by subdivision (b) that are
18 aligned to the state academic content standards in the dominant
19 primary language of limited-English-proficient pupils no later
20 than July 1, 2008. *It is the intent of the legislature that funds*
21 *made available pursuant to Title III or VI of the federal No Child*
22 *Left Behind Act of 2001 and any other federal funds shall be*
23 *made available for the purpose of developing and adopting*
24 *primary language assessments pursuant to this section.* The
25 dominant primary language shall be determined by the count in
26 the annual language census of the primary language of each
27 limited-English-proficient pupil enrolled in the California public
28 schools. The department shall, by January 1, 2007, conduct a
29 survey of public schools in order to identify and quantify
30 assessments in languages other than the dominant primary
31 language, and develop criteria to determine when assessments in
32 languages other than the dominant primary language should be
33 administered.

34 (B) ~~Once a dominant~~ *an academic content standards aligned*
35 primary language assessment is available for use for a specific
36 grade level, it shall be administered in place of the assessment
37 designated pursuant to paragraph (1) for that grade level.

38 (C) In choosing a contractor to develop a primary language
39 assessment, the state board shall consider the criteria for
40 choosing a contractor or test publisher as specified by Sections

1 60642 and 60643, and as specified by Section 60642.5, as
2 applicable. *The contractor shall have expertise and experience in*
3 *developing test items that conform to the research on high stakes*
4 *test accommodations and that control the linguistic complexity in*
5 *order to increase the probability of second language learners*
6 *understanding the language of the test items.*

7 (D) Subject to the availability of funds, the *academic content*
8 *standards aligned* assessments shall be developed in grade order
9 starting with the lowest grade subject to the STAR Program.

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

17 (g) (1) The Superintendent of Public Instruction shall
18 apportion funds to school districts to enable school districts to
19 meet the requirements of subdivision (b), the alternative
20 assessment required by subdivision (e), and subdivision (f).

21 (2) The state board shall annually establish the amount of
22 funding to be apportioned to school districts for each test
23 administered and shall annually establish the amount that each
24 publisher shall be paid for each test administered under the
25 agreements required pursuant to Section 60643. The amounts to
26 be paid to the publishers shall be determined by considering the
27 cost estimates submitted by each publisher each September and
28 the amount included in the annual Budget Act, and by making
29 allowance for the estimated costs to school districts for
30 compliance with the requirements of subdivision (b), the
31 alternative assessment required by subdivision (e), and
32 subdivision (f).

33 (3) An adjustment to the amount of funding to be apportioned
34 per test may not be valid without the approval of the Director of
35 Finance. A request for approval of an adjustment to the amount
36 of funding to be apportioned per test shall be submitted in writing
37 to the Director of Finance and the chairpersons of the fiscal
38 committees of both houses of the Legislature with accompanying
39 material justifying the proposed adjustment. The Director of
40 Finance is authorized to approve only those adjustments related

1 to activities required by statute. The Director of Finance shall
2 approve or disapprove the amount within 30 days of receipt of
3 the request and shall notify the chairpersons of the fiscal
4 committees of both houses of the Legislature of the decision.

5 (h) For the purposes of making the computations required by
6 Section 8 of Article XVI of the California Constitution, the
7 appropriation for the apportionments made pursuant to paragraph
8 (1) of subdivision (g), and the payments made to the publishers
9 under the contracts required pursuant to Section 60643 or
10 subparagraph (C) of paragraph (1) of subdivision (a) of Section
11 60605 between the department and the contractor, are “General
12 Fund revenues appropriated for school districts,” as defined in
13 subdivision (c) of Section 41202, for the applicable fiscal year,
14 and included within the “total allocations to school districts and
15 community college districts from General Fund proceeds of taxes
16 appropriated pursuant to Article XIII B,” as defined in
17 subdivision (e) of Section 41202, for that fiscal year.

18 (i) As a condition to receiving an apportionment pursuant to
19 subdivision (g), a school district shall report to the
20 Superintendent all of the following:

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

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

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

27 (j) The Superintendent and the state board are authorized and
28 encouraged to assist postsecondary educational institutions to use
29 the California Standards Tests, *including but not limited to, the*
30 *augmented California Standards Tests*, for academic credit, ~~or~~
31 ~~placement, and admissions processes, or both purposes.~~
32 *placement, or admissions processes.*

33 (k) The Superintendent shall, with the approval of the state
34 board, annually release to the public at least 25 percent of test
35 items from the standards-based achievement test provided for in
36 Section 60642.5 from the test administered in the previous year.

37 (l) This section shall become operative July 1, 2007.

38 *SEC. 4. Section 60850 of the Education Code is amended to*
39 *read:*

1 60850. (a) The Superintendent of Public Instruction, with the
2 approval of the State Board of Education, shall develop a high
3 school exit examination in English language arts and
4 mathematics in accordance with the statewide academically
5 rigorous content standards adopted by the State Board of
6 Education pursuant to Section 60605. To facilitate the
7 development of the examination, the superintendent shall review
8 any existing high school subject matter examinations that are
9 linked to, or can be aligned with, the statewide academically
10 rigorous content standards for English language arts and
11 mathematics adopted by the State Board of Education. By
12 October 1, 2000, the State Board of Education shall adopt a high
13 school exit examination that is aligned with statewide
14 academically rigorous content standards. *The department shall,*
15 *by January 1, 2007, develop a modified version of the high*
16 *school exit examination for English learner students that*
17 *eliminates unnecessary linguistic complexity to the extent*
18 *possible. The modifications shall be based upon research*
19 *designed to maintain the rigor of the test but enable a pupil with*
20 *limited English proficiencies to better understand test directions,*
21 *questions, and answers.*

22 (b) The Superintendent of Public Instruction, with the
23 approval of the State Board of Education, shall establish a High
24 School Exit Examination Standards Panel to assist in the design
25 and composition of the exit examination and to ensure that the
26 examination is aligned with statewide academically rigorous
27 content standards. Members of the panel shall include, but are
28 not limited to, teachers, administrators, school board members,
29 parents, and the general public. Members of the panel shall serve
30 without compensation for a term of two years and shall be
31 representative of the state's ethnic and cultural diversity and
32 gender balance. The superintendent shall also make the best
33 effort to ensure representation of the state's diversity relative to
34 urban, suburban, and rural areas. The State Department of
35 Education shall provide staff to the panel.

36 (c) The Superintendent of Public Instruction shall require that
37 the examination be field tested before actual implementation to
38 ensure that the examination is free from bias and that its content
39 is valid and reliable.

1 (d) Before the State Board of Education adopts the exit
2 examination, the Superintendent of Public Instruction shall
3 submit the examination to the Statewide Pupil Assessment
4 Review Panel established pursuant to Section 60606. The panel
5 shall review all items or questions to ensure that the content of
6 the examination complies with the requirements of Section
7 60614.

8 (e) The exit examination prescribed in subdivision (a) shall
9 conform to the following standards or it shall not be required as a
10 condition of graduation:

11 (1) The examination may not be administered to a pupil who
12 did not receive adequate notice as provided for in paragraph (1)
13 of subdivision (f) regarding the test.

14 (2) The examination, regardless of federal financial
15 participation, shall comply with Title VI of the Civil Rights Act
16 (42 U.S.C. Sec. 2000d et seq.), its implementing regulations (34
17 C.F.R. Part 100), and the Equal Educational Opportunities Act of
18 1974 (20 U.S.C. Sec. 1701).

19 (3) The examination shall have instructional and curricular
20 validity.

21 (4) The examination shall be scored as a criterion referenced
22 examination.

23 (f) For purposes of this section, the following terms have the
24 following meanings:

25 (1) “Accommodations” means any variation in the assessment
26 environment or process that does not fundamentally alter what
27 the test measures or affect the comparability of scores.
28 “Accommodations” may include variations in scheduling,
29 setting, aids, equipment, and presentation format.

30 (2) “Adequate notice” means that the pupil and his or her
31 parent or guardian have received written notice, at the
32 commencement of the pupil’s 9th grade, and each year thereafter
33 through the annual notification process established pursuant to
34 Section 48980, or if a transfer pupil, at the time the pupil
35 transfers. A pupil who has taken the exit examination in the 10th
36 grade is deemed to have had “adequate notice” as defined in this
37 paragraph.

38 (3) “Curricular validity” means that the examination tests for
39 content found in the instructional textbooks. For the purposes of
40 this section, any textbook or other instructional material adopted

1 pursuant to this code and consistent with the state’s adopted
2 curriculum frameworks shall be deemed to satisfy this definition.

3 (4) “Instructional validity” means that the examination is
4 consistent with what is expected to be taught. For the purposes of
5 this section, instruction that is consistent with the state’s adopted
6 curriculum frameworks for the subjects tested shall be deemed to
7 satisfy this definition.

8 (5) “Modification” means any variation in the assessment
9 environment or process that fundamentally alters what the test
10 measures or affects the comparability of scores.

11 (g) The examination shall be offered to individuals with
12 exceptional needs, as defined in Section 56026, in accordance
13 with paragraph (17) of subsection (a) of Section 1412 of Title 20
14 of the United States Code and Section 794 and following of Title
15 29 of the United States Code. Individuals with exceptional needs
16 shall be administered the examination with appropriate
17 accommodations, where necessary. *The modified version of the*
18 *examination that eliminates linguistic complexity to the extent*
19 *possible pursuant to subdivision (a) shall be administered to*
20 *pupils identified as limited-English-proficient as soon as it is*
21 *available.*

22 (h) Nothing in this chapter shall prohibit a school district from
23 requiring pupils to pass additional exit examinations approved by
24 the governing board of the school district as a condition for
25 graduation.

26 ~~SEC. 4.~~

27 *SEC. 5.* If the Commission on State Mandates determines that
28 this act contains costs mandated by the state, reimbursement to
29 local agencies and school districts for those costs shall be made
30 pursuant to Part 7 (commencing with Section 17500) of Division
31 4 of Title 2 of the Government Code.