

ASSEMBLY BILL

No. 476

Introduced by Assembly Member Torlakson

February 24, 2009

An act to amend Sections 60603, 60604, 60640, 60642.5, 60643, 60643.1, 60643.5, 60648, and 60649 of, and to add Sections 60649.1 and 60649.2 to, the Education Code, relating to the Standardized Testing and Reporting Program.

LEGISLATIVE COUNSEL'S DIGEST

AB 476, as introduced, Torlakson. The Standardized Testing and Reporting Program.

Existing law establishes the Standardized Testing and Reporting Program (the STAR Program) pursuant to which school districts, charter schools, and county offices of education are required to administer achievement tests to each of its pupils, as specified. The tests are required to be administered to pupils in grades 2 to 11, inclusive, as specified.

This bill would eliminate the requirement that the tests be administered to pupils in grade 2.

The bill would, in addition, require the Superintendent of Public Instruction, on or before July 1, 2010, to contract with an independent evaluator for evaluation of the STAR Program, as specified. The bill would require the evaluator to complete a report containing the findings of his or her first evaluation, and to request those findings to the Superintendent, on or before October 1, 2010. The Superintendent would be required to present the findings contained in the report to the Legislature and the State Board of Education on or before January 1, 2011. The bill would also require the Superintendent to convene a panel

to advise the department on the evaluation of the STAR Program, including making recommendations regarding the selection of the independent evaluator and the evaluation parameters. The bill would make other conforming, technical, and clarifying changes.

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

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

1 SECTION 1. Section 60603 of the Education Code is amended
2 to read:
3 60603. (a) As used in this chapter:
4 (1) “Achievement test” means any standardized test that
5 measures the level of performance that a pupil has achieved in the
6 core curriculum areas.
7 (2) “Assessment of applied academic skills” means a form of
8 assessment that requires pupils to demonstrate their knowledge
9 of, and ability to apply, academic knowledge and skills in order
10 to solve problems and communicate. It may include, but is not
11 limited to, writing an essay response to a question, conducting an
12 experiment, or constructing a diagram or model. An assessment
13 of applied academic skills may not include assessments of personal
14 behavioral standards or skills, including, but not limited to, honesty,
15 sociability, ethics, or self-esteem.
16 (3) “Basic academic skills” means those skills in the subject
17 areas of reading, spelling, written expression, and mathematics
18 that provide the necessary foundation for mastery of more complex
19 intellectual abilities, including the synthesis and application of
20 knowledge.
21 (4) “Content standards” means the specific academic knowledge,
22 skills, and abilities that all public schools in this state are expected
23 to teach and all pupils expected to learn in each of the core
24 curriculum areas, at each grade level tested.
25 (5) “Core curriculum areas” means the areas of reading, writing,
26 mathematics, history-social science, and science.
27 (6) “Diagnostic assessment” means interim assessments of the
28 current level of achievement of a pupil that serves both of the
29 following purposes:
30 (A) The identification of particular academic standards or skills
31 a pupil has or has not yet achieved.

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

3 (7) “Direct writing assessment” means an assessment of applied
4 academic skills that requires pupils to use written expression to
5 demonstrate writing skills, including writing mechanics, grammar,
6 punctuation, and spelling.

7 (8) “End of course exam” means a comprehensive and
8 challenging assessment of pupil achievement in a particular subject
9 area or discipline.

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

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

20 (11) “Statewide pupil assessment program” means the systematic
21 achievement testing of pupils in grades—2 3 to 11, inclusive,
22 pursuant to the standardized testing and reporting program under
23 Article 4 (commencing with Section 60640) and the assessment
24 of basic academic skills and applied academic skills, ~~administered~~
25 ~~to pupils in grade levels specified in subdivision (c) of Section~~
26 ~~60605~~; required by this chapter in all schools within each school
27 district by means of tests designated by the state board.

28 (b) This section shall become inoperative on July 1, 2011.

29 SEC. 2. Section 60604 of the Education Code is amended to
30 read:

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

37 (1) A plan for producing valid, reliable, and comparable
38 individual pupil scores in grades—2 3 to 11, inclusive, and a
39 comprehensive analysis of these scores based on the results of the
40 achievement test designated by the state board that assesses a broad

1 range of basic academic skills pursuant to the Standardized Testing
2 and Reporting (STAR) Program established by Article 4
3 (commencing with Section 60640).

4 (2) A method of working with publishers to ensure valid,
5 reliable, and comparable individual, grade-level, school-level,
6 district-level, county-level, and statewide scores in grades 2 3 to
7 11, inclusive.

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

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

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

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

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

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

1 (c) The Superintendent shall provide each school district with
2 guidelines for professional development that are designed to assist
3 classroom teachers to use the results of the assessments
4 administered pursuant to this chapter to modify instruction for the
5 purpose of improving pupil learning. These guidelines shall be
6 developed in consultation with classroom teachers and approved
7 by the state board before dissemination.

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

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

16 (f) This section shall become inoperative on July 1, 2011.

17 SEC. 3. Section 60640 of the Education Code is amended to
18 read:

19 60640. (a) There is hereby established the Standardized Testing
20 and Reporting Program, to be known as the STAR Program.

21 (b) From the funds available for that purpose, each school
22 district, charter school, and county office of education shall
23 administer to each of its pupils in grades ~~2~~ 3 to 11, inclusive, the
24 standards-based achievement test provided for in Section 60642.5.
25 The state board shall establish a testing period to provide that all
26 schools administer these tests to pupils at approximately the same
27 time during the instructional year, except as necessary to ensure
28 test security and to meet the final filing date.

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

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

35 (e) Pursuant to Section ~~1412(a)(17)~~ 1412 (a) (16) of Title 20 of
36 the United States Code, individuals with exceptional needs, as
37 defined in Section 56026, shall be included in the testing
38 requirement of subdivision (b) with appropriate accommodations
39 in administration, where necessary, and those individuals with

1 exceptional needs who are unable to participate in the testing, even
2 with accommodations, shall be given an alternate assessment.

3 (f) (1) At the option of the school district, pupils with limited
4 English proficiency who are enrolled in any of grades ~~2~~ 3 to 11,
5 inclusive, may take a second achievement test in their primary
6 language. Primary language tests administered pursuant to this
7 subdivision and subdivision (g) shall be subject to the requirements
8 of subdivision (a) of Section 60641. These primary language tests
9 shall produce individual pupil scores that are valid and reliable.

10 (2) Notwithstanding any other law, the state board shall
11 designate for use, as part of this program, a single primary language
12 test in each language for which a test is available for grades ~~2~~ 3 to
13 11, inclusive, pursuant to the process used for designation of the
14 assessment chosen in the 1997–98 fiscal year, as specified in
15 Section 60643, as applicable.

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

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

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

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

39 (E) If the state board contracts for the development of primary
40 language assessments or test items to augment an existing

1 assessment, the state shall retain ownership rights to the assessment
2 and the test items. With the approval of the state board, the
3 department may license the test for use in other states subject to a
4 compensation agreement approved by the Department of Finance.

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

10 (g) A pupil identified as limited English proficient pursuant to
11 the administration of a test made available pursuant to Section
12 60810 who is enrolled in any of grades 2 3 to 11, inclusive, and
13 who either receives instruction in his or her primary language or
14 has been enrolled in a school in the United States for less than 12
15 months shall be required to take a test in his or her primary
16 language if a test is available.

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

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

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

1 request and shall notify the chairpersons of the fiscal committees
2 of both houses of the Legislature of the decision.

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

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

19 (1) The number of pupils enrolled in the school district in grades
20 2 3 to 11, inclusive.

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

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

25 (k) The Superintendent and the state board are authorized and
26 encouraged to assist postsecondary educational institutions to use
27 the assessment results of the California Standards Tests, including,
28 but not limited to, the augmented California Standards Tests, for
29 academic credit, placement, or admissions processes.

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

36 (m) This section shall become inoperative on July, 1, 2011.

37 SEC. 4. Section 60642.5 of the Education Code is amended to
38 read:

39 60642.5. (a) The Superintendent, with approval of the state
40 board, shall provide for the development of an assessment

1 instrument, to be called the California Standards Tests, that
2 measures the degree to which pupils are achieving the academically
3 rigorous content standards and performance standards, to the extent
4 standards have been adopted by the state board. These
5 standards-based achievement tests shall contain the subject areas
6 specified in paragraph (3) of subdivision (a) of Section 60603 for
7 grades 2 to 8, inclusive, and shall include an assessment in
8 history/social science in at least one elementary or middle school
9 grade level selected by the state board and science in at least one
10 elementary or middle school grade level selected by the state board,
11 and the core curriculum areas specified in paragraph (5) of
12 subdivision (a) of Section 60603 for grades 9 to 11, inclusive,
13 except that history-social science shall not be included in the grade
14 9 assessment unless the state board adopts academic content
15 standards for a grade 9 history-social science course, and shall
16 include, at a minimum, a direct writing assessment once in
17 elementary school and once in middle or junior high school and
18 other items of applied academic skill if deemed valid and reliable
19 and if resources are made available for their use.

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

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

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

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

33 (4) The per pupil cost estimates of developing and, if
34 appropriate, administering the proposed assessment with a system
35 to facilitate the determination of future per pupil cost
36 determinations.

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

39 (6) The experience of the contractor in successfully conducting
40 testing programs adopted and administered by other states. For

1 experience to be considered, the number of grades and pupils tested
2 shall be provided.

3 (c) The standards-based achievement tests may use items from
4 other tests.

5 SEC. 5. Section 60643 of the Education Code is amended to
6 read:

7 60643. (a) To be eligible for consideration under Section
8 60642.5 by the state board, test publishers shall agree in writing
9 each year to meet the following requirements, as applicable, if
10 selected:

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

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

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

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

19 (5) Provide valid and reliable aggregate scores to school districts
20 and county boards of education in all of the following forms and
21 formats:

22 (A) Grade level.

23 (B) School level.

24 (C) District level.

25 (D) Countywide.

26 (E) Statewide.

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

28 (6) Provide disaggregated scores, based on
29 limited-English-proficient status and nonlimited-English-proficient
30 status. For purposes of this section, pupils with
31 “nonlimited-English-proficient status” shall include the total of
32 those pupils who are English-only pupils, fluent-English-proficient
33 pupils, and redesignated fluent-English-proficient pupils. These
34 scores shall be provided to school districts and county boards of
35 education in the same forms and formats listed in paragraph (5).

36 (7) Provide disaggregated scores by pupil gender and ethnicity
37 and provide disaggregated scores based on whether pupils are
38 economically disadvantaged or not. These disaggregated scores
39 shall be in the same forms and formats as listed in paragraph (5).

40 In any one year, the disaggregation shall entail information already

1 being collected by school districts, county offices of education, or
2 charter schools.

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

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

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

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

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

35 (e) (1) A publisher shall not provide a test described in Section
36 60642.5 ~~or 60650~~ or in subdivision (f) of Section 60640 for use
37 in California public schools, unless the publisher enters into a
38 written contract with the department as set forth in this subdivision.

39 (2) The department shall develop, and the state board shall
40 approve, a contract to be entered into with a publisher pursuant to

1 paragraph (1). The department may develop the contract through
2 negotiations with the publisher.

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

9 (4) The contracts shall include provisions for progress payments
10 to the publisher for work performed or costs incurred in the
11 performance of the contract. Not less than 10 percent of the amount
12 budgeted for each separate and distinct component task provided
13 for in each contract shall be withheld pending final completion of
14 all component tasks by that publisher. The total amount withheld
15 pending final completion shall not exceed 10 percent of the total
16 contract price.

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

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

25 (7) The publishers shall submit, as part of the contract
26 negotiation process, a proposed budget and invoice schedule; that
27 includes a detailed listing of the costs for each component task
28 and the expected date of the invoice for each completed component
29 task.

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

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

34 (B) Test materials production or publication.

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

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

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

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

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

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

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

10 (11) School districts may negotiate a separate agreement with
11 the publisher for any additional materials or services not within
12 the contracts specified in this subdivision, including, but not limited
13 to, the administration of the tests to pupils in grade levels other
14 than grades 2 3 to 11, inclusive. Any separate agreement is not
15 within the scope of the contract specified in this subdivision.

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

23 (g) This section shall become inoperative on July 1, 2011.

24 SEC. 6. Section 60643.1 of the Education Code is amended to
25 read:

26 60643.1. (a) (1) The test publisher designated by the state
27 board pursuant to Section ~~60642~~ 60642.5 shall make available a
28 reading list on the Internet by June 1 of the applicable school year.
29 The reading list shall include an index that correlates ranges of
30 pupil reading scores on the English language arts portion of the
31 achievement test designated pursuant to Section ~~60642~~ 60642.5
32 to titles of materials that would be suitable for pupils in each of
33 grades 2 3 to 11, inclusive, to read in order to improve their reading
34 skills. This reading list shall include titles of books that allow a
35 pupil to practice reading at his or her current reading level and that
36 will assist the pupil in achieving a higher level of proficiency. To
37 the extent possible, the index also shall include information related
38 to the subject matter of each title. At a minimum, the reading list
39 also shall categorize titles by subject matter and identify
40 age-appropriate distinctions in the list.

1 (2) The test publisher, in each school year, shall make available
2 for purchase by school districts a report that provides a numerical
3 distribution of the reading scores of all pupils in California who
4 took the achievement test designated pursuant to Section ~~60642~~
5 *60642.5*.

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

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

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

19 (1) The process is educationally valid.

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

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

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

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

38 (d) By imposing the requirements of this section on publishers,
39 it is not the intent of the Legislature to unfairly disadvantage any
40 publisher who has otherwise met the requirements of this section

1 or of Article 3 (commencing with Section 60040) of Chapter 1 of
2 Part 33.

3 (e) This section shall become inoperative on July, 1, 2011.

4 SEC. 7. Section 60643.5 of the Education Code is amended to
5 read:

6 60643.5. (a) A school shall be reimbursed by the test publisher
7 selected pursuant to this article for any unexpected expenses
8 incurred due to scheduling changes that resulted from the late
9 delivery of testing materials in connection with the STAR Program.

10 (b) ~~The State Department of Education~~ *department* shall monitor
11 and report to the ~~State Board of Education~~ *state board* regarding
12 the publisher's production, processing, and delivery system to
13 ensure that a timely delivery of testing materials to all schools
14 occurs during the 1999–2000 testing cycle.

15 SEC. 8. Section 60648 of the Education Code is amended to
16 read:

17 60648. ~~The Superintendent of Public Instruction~~ shall
18 recommend, and the ~~State Board of Education~~ *state board* shall
19 adopt, levels of pupil performance on achievement tests
20 administered pursuant to this article in reading, English language
21 arts, and mathematics at each grade level. The performance levels
22 shall identify and establish the level of performance that is deemed
23 to be the minimum level required for satisfactory performance in
24 the next grade. These levels of performance shall only be adopted
25 after the standards-based achievement tests have been aligned,
26 pursuant to paragraph (2) of subdivision (a) of Section 60643, to
27 the content and performance standards adopted by the ~~State Board~~
28 ~~of Education~~ *state board* pursuant to subdivision (a) of Section
29 60605.

30 SEC. 9. Section 60649 of the Education Code is amended to
31 read:

32 60649. On or before March 1, 2001, the ~~Superintendent of~~
33 ~~Public Instruction~~ and the ~~State Board of Education~~ *state board*
34 shall report to the Legislature and the Governor on the status of
35 implementation of this chapter. The report shall include, but not
36 be limited to, the following:

37 (a) Description of the actions taken to ensure full coverage of
38 academic content standards in assessments developed pursuant to
39 this chapter.

1 (b) Identification of the types of test items designed to measure
2 applied academic skills, as defined in subdivision ~~(b)~~ (a) of Section
3 60603.

4 (c) The means by which the Superintendent of Public Instruction
5 and the ~~State Board of Education~~ *state board* determine
6 assessments are valid, reliable, and provide consistent year-to-year
7 comparisons of student progress, consistent with nationally
8 recognized and accepted test construction and implementation
9 methodologies, as applicable.

10 (d) Recommendations to improve the state’s assessment system,
11 identifying related costs or savings, and increases or decreases in
12 testing time.

13 SEC. 10. Section 60649.1 is added to the Education Code, to
14 read:

15 60649.1. (a) On or before July 1, 2010, the Superintendent
16 shall contract with an independent evaluator, who shall report to
17 him or her, for evaluation of the STAR Program. The evaluation
18 shall be based upon information gathered in field testing and annual
19 administrations of the STAR assessments, state and federal
20 requirements, and a review of research-based alternative assessment
21 models.

22 (b) The evaluation shall include, but shall not necessarily be
23 limited to, all of the following:

24 (1) An independent evaluation of alignment between the
25 assessment used to calculate adequate yearly progress (AYP) or
26 academic performance index (API) and the content standards on
27 which the assessment is based.

28 (2) An independent analysis of the alignment between the STAR
29 assessments and the full range of the content standards and a
30 determination of whether the STAR Program assesses pupil
31 knowledge in the same manner and at the same level of complexity
32 as expected in the content standards. An independent evaluation
33 of each assessment alignment shall be conducted at least every
34 five years.

35 (3) An independent analysis of pupil performance, broken down
36 by assessment, grade level, race or ethnicity, and end-of-course
37 assessments, including any trends that become apparent over time.

38 (4) An independent analysis of the degree to which the STAR
39 Program complies with professional testing standards and satisfies
40 state and federal requirements for assessments for each grade level.

1 (5) An independent analysis of the usefulness of the STAR
2 Program in terms of state and local program evaluations as well
3 as pupil-level information.

4 (6) An independent analysis of the usefulness of the STAR
5 Program in terms of providing a diagnostic assessment for
6 classroom use.

7 (7) An independent analysis of the feasibility and cost of the
8 development and administration of a diagnostic alternative test in
9 grade levels and content standard areas that are not required to
10 have an assessment under federal law.

11 (c) An evaluation separately shall consider test results for each
12 of the following pupil subgroups, provided that information
13 concerning individual pupils shall not be gathered or disclosed in
14 the process of preparing the evaluation:

15 (1) English learners and non-English learners.

16 (2) Individuals with exceptional needs and individuals without
17 exceptional needs.

18 (3) Pupils who qualify for free or reduced-price meals and are
19 enrolled in schools that qualify for assistance under Title 1 of the
20 federal Improving America's Schools Act of 1994 (P.L. 103-382)
21 and pupils who do not qualify for free or reduced-price meals and
22 are not enrolled in schools that qualify for assistance under Title
23 1 of the federal Improving America's Schools Act of 1994 (P.L.
24 103-382).

25 (4) Any group of pupils that has been determined by the
26 independent evaluator to be differentially affected by the STAR
27 Program assessments established pursuant to this article.

28 (d) The report by the independent evaluator containing the
29 findings of his or her evaluation shall include, but shall not
30 necessarily be limited to, all of the following:

31 (1) Recommendations to improve the quality, fairness, validity,
32 and reliability of the examinations.

33 (2) Recommendations for revisions in design, administration,
34 scoring, processing, or use of the examinations to ensure
35 compliance with state and federal requirements in an efficient
36 manner.

37 (3) Recommendations to improve the usefulness of the test to
38 the state, local educational agencies, schools, teachers, pupils, and
39 parents.

1 (4) Recommendations regarding revisions that would allow the
2 STAR Program to provide pupil-level diagnostic information and
3 to provide a diagnostic assessment for classroom use.

4 (5) Recommendations regarding alternative diagnostic
5 assessments that align with state academic content standards.

6 (e) A report by the independent evaluator containing the findings
7 of his or her first evaluation shall be completed and reported to
8 the Superintendent on or before October 1, 2010, in order to
9 provide the Legislature with adequate information to consider
10 reauthorization of the STAR Program.

11 (f) The Superintendent shall present the findings contained in
12 the independent evaluator’s first report to the Legislature and the
13 state board on or before January 1, 2011.

14 SEC. 11. Section 60649.2 is added to the Education Code, to
15 read:

16 60649.2. (a) The Superintendent shall convene a panel to
17 advise the department on an independent evaluation of the STAR
18 Program.

19 (b) The panel shall be composed of educators and other
20 individuals who have expertise with multiple forms of assessment.

21 (c) The panel shall reflect the demographic and geographic
22 diversity of California.

23 (d) The panel shall make recommendations regarding the
24 selection of the independent evaluator by the Superintendent
25 pursuant to subdivision (a) of Section 60649.1, and the evaluation
26 parameters.

27 (e) Members of the panel shall serve without compensation,
28 except for actual and necessary travel expenses.