

AMENDED IN ASSEMBLY JUNE 1, 2009

AMENDED IN ASSEMBLY APRIL 14, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 476**

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**Introduced by Assembly Member Torlakson**

February 24, 2009

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

LEGISLATIVE COUNSEL'S DIGEST

AB 476, as amended, 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 their 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 April 1, 2010, to contract with an independent evaluator for evaluation of the STAR Program, as specified. The bill would require the independent evaluator to complete a report containing the findings of his or her evaluation. The Superintendent would be required to provide this evaluation to the Legislature, the Governor,~~

and the state board on or before November 1, 2010. The bill would require an existing advisory committee to advise the Superintendent on the independent evaluation of the STAR Program, including making recommendations regarding the selection of the independent evaluator and the evaluation parameters. The bill would require the Superintendent to appoint 4 additional members to the advisory committee for these purposes. The bill would require the State Department of Education to use *specified federal* funds, not exceeding the amount of \$150,000 made available by the elimination of STAR testing in grade 2, for the purpose of contracting for this evaluation. 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.

1     ~~(5) “Core curriculum areas” means the areas of reading, writing,~~  
2 ~~mathematics, history-social science, and science.~~

3     ~~(6) “Diagnostic assessment” means interim assessments of the~~  
4 ~~current level of achievement of a pupil that serves both of the~~  
5 ~~following purposes:~~

6     ~~(A) The identification of particular academic standards or skills~~  
7 ~~a pupil has or has not yet achieved.~~

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

10    ~~(7) “Direct writing assessment” means an assessment of applied~~  
11 ~~academic skills that requires pupils to use written expression to~~  
12 ~~demonstrate writing skills, including writing mechanics, grammar,~~  
13 ~~punctuation, and spelling.~~

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

17    ~~(9) “Performance standards” are standards that define various~~  
18 ~~levels of competence at each grade level in each of the curriculum~~  
19 ~~areas for which content standards are established. Performance~~  
20 ~~standards gauge the degree to which a pupil has met the content~~  
21 ~~standards and the degree to which a school or school district has~~  
22 ~~met the content standards.~~

23    ~~(10) “Publisher” means a commercial publisher or any other~~  
24 ~~public or private entity, other than the department, which is able~~  
25 ~~to provide tests or test items that meet the requirements of this~~  
26 ~~chapter.~~

27    ~~(11) “Statewide pupil assessment program” means the systematic~~  
28 ~~achievement testing of pupils in grades 3 to 11, inclusive, pursuant~~  
29 ~~to the standardized testing and reporting program under Article 4~~  
30 ~~(commencing with Section 60640) and the assessment of basic~~  
31 ~~academic skills and applied academic skills, required by this~~  
32 ~~chapter in all schools within each school district by means of tests~~  
33 ~~designated by the state board.~~

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

35    ~~SEC. 2. Section 60604 of the Education Code is amended to~~  
36 ~~read:~~

37    ~~60604. (a) The Superintendent shall design and implement,~~  
38 ~~consistent with the timetable and plan required pursuant to~~  
39 ~~subdivision (b), a statewide pupil assessment program consistent~~  
40 ~~with the testing requirements of this article in accordance with the~~

1 objectives set forth in Section 60602. That program shall include  
2 all of the following:

3 (1) A plan for producing valid, reliable, and comparable  
4 individual pupil scores in grades 3 to 11, inclusive, and a  
5 comprehensive analysis of these scores based on the results of the  
6 achievement test designated by the state board that assesses a broad  
7 range of basic academic skills pursuant to the Standardized Testing  
8 and Reporting (STAR) Program established by Article 4  
9 (commencing with Section 60640).

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

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

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

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

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

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

38 (b) The Superintendent shall develop and annually update for  
39 the Legislature a five-year cost projection, implementation plan,  
40 and timetable for implementing the program described in

1 subdivision (a). The annual update shall be submitted on or before  
2 March 1 of each year to the chairperson of the fiscal subcommittee  
3 considering budget appropriations in each house. The update shall  
4 explain any significant variations from the five-year cost projection  
5 for the current year budget and the proposed budget.

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

13 ~~(d) The Superintendent and the state board shall consider~~  
14 ~~comments and recommendations from school districts and the~~  
15 ~~public in the development, adoption, and approval of assessment~~  
16 ~~instruments.~~

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

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

22 ~~SEC. 3. Section 60640 of the Education Code is amended to~~  
23 ~~read:~~

24 ~~60640. (a) There is hereby established the Standardized Testing~~  
25 ~~and Reporting Program, to be known as the STAR Program.~~

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

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

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

1 ~~(e) Pursuant to Section 1412(a)(16) of Title 20 of the United~~  
2 ~~States Code, individuals with exceptional needs, as defined in~~  
3 ~~Section 56026, shall be included in the testing requirement of~~  
4 ~~subdivision (b) with appropriate accommodations in administration,~~  
5 ~~where necessary, and those individuals with exceptional needs~~  
6 ~~who are unable to participate in the testing, even with~~  
7 ~~accommodations, shall be given an alternate assessment.~~

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

15 ~~(2) Notwithstanding any other law, the state board shall~~  
16 ~~designate for use, as part of this program, a single primary language~~  
17 ~~test in each language for which a test is available for grades 3 to~~  
18 ~~11, inclusive, pursuant to the process used for designation of the~~  
19 ~~assessment chosen in the 1997-98 fiscal year, as specified in~~  
20 ~~Section 60643, as applicable.~~

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

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

37 ~~(C) In choosing a contractor to develop a primary language~~  
38 ~~assessment the state board shall consider the criteria for choosing~~  
39 ~~a contractor or test publisher as specified by Section 60643, and~~  
40 ~~as specified by Section 60642.5, as applicable.~~

1 ~~(D) Subject to the availability of funds, the assessments shall~~  
2 ~~be developed in grade order starting with the lowest grade subject~~  
3 ~~to the STAR Program.~~

4 ~~(E) If the state board contracts for the development of primary~~  
5 ~~language assessments or test items to augment an existing~~  
6 ~~assessment, the state shall retain ownership rights to the assessment~~  
7 ~~and the test items. With the approval of the state board, the~~  
8 ~~department may license the test for use in other states subject to a~~  
9 ~~compensation agreement approved by the Department of Finance.~~

10 ~~(F) On or before January 1, 2006, the department shall submit~~  
11 ~~to the Legislature a report on the development and implementation~~  
12 ~~of the initial primary language assessments and recommendations~~  
13 ~~on the development and implementation of future assessments and~~  
14 ~~funding requirements.~~

15 ~~(g) A pupil identified as limited English proficient pursuant to~~  
16 ~~the administration of a test made available pursuant to Section~~  
17 ~~60810 who is enrolled in any of grades 3 to 11, inclusive, and who~~  
18 ~~either receives instruction in his or her primary language or has~~  
19 ~~been enrolled in a school in the United States for less than 12~~  
20 ~~months shall be required to take a test in his or her primary~~  
21 ~~language if a test is available.~~

22 ~~(h) (1) The Superintendent shall apportion funds to school~~  
23 ~~districts to enable school districts to meet the requirements of~~  
24 ~~subdivisions (b), (c), (f), and (g).~~

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

35 ~~(3) An adjustment to the amount of funding to be apportioned~~  
36 ~~per test shall not be valid without the approval of the Director of~~  
37 ~~Finance. A request for approval of an adjustment to the amount~~  
38 ~~of funding to be apportioned per test shall be submitted in writing~~  
39 ~~to the Director of Finance and the chairpersons of the fiscal~~  
40 ~~committees of both houses of the Legislature with accompanying~~

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

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

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

23 (1) The number of pupils enrolled in the school district in grades  
24 3 to 11, inclusive.

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

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

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

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

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



1 SEC. 4. Section 60642.5 of the Education Code is amended to  
2 read:

3 ~~60642.5. (a) The Superintendent, with approval of the state  
4 board, shall provide for the development of an assessment  
5 instrument, to be called the California Standards Tests, that  
6 measures the degree to which pupils are achieving the academically  
7 rigorous content standards and performance standards, to the extent  
8 standards have been adopted by the state board. These  
9 standards-based achievement tests shall contain the subject areas  
10 specified in paragraph (3) of subdivision (a) of Section 60603 for  
11 grades 3 to 8, inclusive, and shall include an assessment in  
12 history/social science in at least one elementary or middle school  
13 grade level selected by the state board and science in at least one  
14 elementary or middle school grade level selected by the state board,  
15 and the core curriculum areas specified in paragraph (5) of  
16 subdivision (a) of Section 60603 for grades 9 to 11, inclusive,  
17 except that history-social science shall not be included in the grade  
18 9 assessment unless the state board adopts academic content  
19 standards for a grade 9 history-social science course, and shall  
20 include, at a minimum, a direct writing assessment once in  
21 elementary school and once in middle or junior high school and  
22 other items of applied academic skill if deemed valid and reliable  
23 and if resources are made available for their use.~~

24 ~~(b) In approving a contract for the development or administration  
25 of the California Standards Tests, the state board shall consider  
26 each of the following criteria:~~

27 ~~(1) The ability of the contractor to produce valid, reliable  
28 individual pupil scores.~~

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

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

37 ~~(4) The per pupil cost estimates of developing and, if  
38 appropriate, administering the proposed assessment with a system  
39 to facilitate the determination of future per pupil cost  
40 determinations.~~

1     ~~(5) The procedures of the contractor to ensure the security and~~  
2 ~~integrity of test questions and materials.~~  
3     ~~(6) The experience of the contractor in successfully conducting~~  
4 ~~testing programs adopted and administered by other states. For~~  
5 ~~experience to be considered, the number of grades and pupils tested~~  
6 ~~shall be provided.~~  
7     ~~(e) The standards-based achievement tests may use items from~~  
8 ~~other tests.~~  
9     ~~SEC. 5. Section 60643 of the Education Code is amended to~~  
10 ~~read:~~  
11     ~~60643. (a) To be eligible for consideration under Section~~  
12 ~~60642.5 by the state board, test publishers shall agree in writing~~  
13 ~~each year to meet the following requirements, as applicable, if~~  
14 ~~selected:~~  
15     ~~(1) Enter into an agreement, pursuant to subdivision (e) or (f),~~  
16 ~~with the department by October 15 of that year.~~  
17     ~~(2) Align the standards-based achievement test provided for in~~  
18 ~~Section 60642.5 to the academically rigorous content and~~  
19 ~~performance standards adopted by the state board.~~  
20     ~~(3) Comply with subdivisions (c) and (d) of Section 60645.~~  
21     ~~(4) Provide valid and reliable individual pupil scores to parents~~  
22 ~~or guardians, teachers, and school administrators.~~  
23     ~~(5) Provide valid and reliable aggregate scores to school districts~~  
24 ~~and county boards of education in all of the following forms and~~  
25 ~~formats:~~  
26     ~~(A) Grade level.~~  
27     ~~(B) School level.~~  
28     ~~(C) District level.~~  
29     ~~(D) Countywide.~~  
30     ~~(E) Statewide.~~  
31     ~~(F) Comparison of statewide scores relative to other states.~~  
32     ~~(6) Provide disaggregated scores, based on~~  
33 ~~limited-English-proficient status and nonlimited-English-proficient~~  
34 ~~status. For purposes of this section, pupils with~~  
35 ~~“nonlimited-English-proficient status” shall include the total of~~  
36 ~~those pupils who are English-only pupils, fluent-English-proficient~~  
37 ~~pupils, and redesignated fluent-English-proficient pupils. These~~  
38 ~~scores shall be provided to school districts and county boards of~~  
39 ~~education in the same forms and formats listed in paragraph (5).~~

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

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

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

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

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

35 ~~(d) Notwithstanding any other law, the publisher of the~~  
36 ~~standards-based achievement test provided for in Section 60642.5~~  
37 ~~or any contractor under subdivision (f) shall comply with all of~~  
38 ~~the conditions and requirements enumerated in subdivision (a), as~~  
39 ~~applicable, to the satisfaction of the state board.~~

1 ~~(e) (1) A publisher shall not provide a test described in Section~~  
2 ~~60642.5 or in subdivision (f) of Section 60640 for use in California~~  
3 ~~public schools, unless the publisher enters into a written contract~~  
4 ~~with the department as set forth in this subdivision.~~

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

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

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

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

28 ~~(6) The contracts shall establish the process and criteria by~~  
29 ~~which the successful completion of each component task shall be~~  
30 ~~recommended by the department and approved by the state board.~~

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

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

38 ~~(A) Development of new tests or test items as required by~~  
39 ~~paragraph (2) of subdivision (a).~~

40 ~~(B) Test materials production or publication.~~

1 ~~(C) Delivery of test materials to school districts.~~

2 ~~(D) Test processing, scoring, and analyses.~~

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

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

7 ~~(G) All other analyses or reports required by the Superintendent~~  
8 ~~to meet the requirements of state and federal law and set forth in~~  
9 ~~the agreement.~~

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

13 ~~(10) The contracts shall specify the means by which any delivery~~  
14 ~~date for materials to each school district shall be verified by the~~  
15 ~~publisher and the school district.~~

16 ~~(11) School districts may negotiate a separate agreement with~~  
17 ~~the publisher for any additional materials or services not within~~  
18 ~~the contracts specified in this subdivision, including, but not limited~~  
19 ~~to, the administration of the tests to pupils in grade levels other~~  
20 ~~than grades 3 to 11, inclusive. Any separate agreement is not within~~  
21 ~~the scope of the contract specified in this subdivision.~~

22 ~~(f) The department, with approval of the state board, may enter~~  
23 ~~into a separate contract for the development or administration of~~  
24 ~~a test authorized pursuant to this part, including, but not limited~~  
25 ~~to, item development, coordination of tests, assemblage of tests~~  
26 ~~or test items, scoring, or reporting. The liquidated damages~~  
27 ~~provision set forth in paragraph (5) of subdivision (c) shall apply~~  
28 ~~to a contract entered into pursuant to this subdivision.~~

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

30 ~~SEC. 6.— Section 60643.1 of the Education Code is amended to~~  
31 ~~read:~~

32 ~~60643.1.— (a) (1) The test publisher designated by the state~~  
33 ~~board pursuant to Section 60642.5 shall make available a reading~~  
34 ~~list on the Internet by June 1 of the applicable school year. The~~  
35 ~~reading list shall include an index that correlates ranges of pupil~~  
36 ~~reading scores on the English language arts portion of the~~  
37 ~~achievement test designated pursuant to Section 60642.5 to titles~~  
38 ~~of materials that would be suitable for pupils in each of grades 3~~  
39 ~~to 11, inclusive, to read in order to improve their reading skills.~~  
40 ~~This reading list shall include titles of books that allow a pupil to~~

1 practice reading at his or her current reading level and that will  
2 assist the pupil in achieving a higher level of proficiency. To the  
3 extent possible, the index also shall include information related to  
4 the subject matter of each title. At a minimum, the reading list also  
5 shall categorize titles by subject matter and identify age-appropriate  
6 distinctions in the list.

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

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

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

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

24 (1) The process is educationally valid.

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

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

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

33 (e) The titles listed at each reading level range posted on the  
34 Internet and the reading lists made available to school districts  
35 pursuant to subdivision (a), at a minimum, shall include all relevant  
36 literature materials approved as of September 1, 1999, as being  
37 legally compliant pursuant to Article 3 (commencing with Section  
38 60040) of Chapter 1, and the titles listed in all of the content area  
39 reading and literature lists that are developed and published by the  
40 department and that have been determined by the department to

1 meet the relevant reading level as certified pursuant to subdivision  
2 (b):

3 (d) ~~By imposing the requirements of this section on publishers,~~  
4 ~~it is not the intent of the Legislature to unfairly disadvantage any~~  
5 ~~publisher who has otherwise met the requirements of this section~~  
6 ~~or of Article 3 (commencing with Section 60040) of Chapter 1.~~

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

8 SEC. 7. ~~Section 60643.5 of the Education Code is amended to~~  
9 ~~read:~~

10 ~~60643.5. (a) A school shall be reimbursed by the test publisher~~  
11 ~~selected pursuant to this article for any unexpected expenses~~  
12 ~~incurred due to scheduling changes that resulted from the late~~  
13 ~~delivery of testing materials in connection with the STAR Program.~~

14 (b) ~~The department shall monitor and report to the state board~~  
15 ~~regarding the publisher's production, processing, and delivery~~  
16 ~~system to ensure that a timely delivery of testing materials to all~~  
17 ~~schools occurs during the 1999-2000 testing cycle.~~

18 SEC. 8. ~~Section 60648 of the Education Code is amended to~~  
19 ~~read:~~

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

32 SEC. 9. ~~Section 60649 of the Education Code is amended to~~  
33 ~~read:~~

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

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

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

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

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

12 ~~SEC. 10.~~

13 *SECTION 1.* Section 60649.1 is added to the Education Code,  
14 to read:

15 60649.1. (a) On or before April 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



1 or exceeds state and federal requirements for assessments for each  
2 grade level.

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

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

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

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

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

18 (2) Individuals with exceptional needs and individuals without  
19 exceptional needs.

20 (3) Pupils who qualify for free or reduced-price meals and are  
21 enrolled in schools that qualify for assistance under Title 1 of the  
22 federal Improving America's Schools Act of 1994 (P.L. 103-382)  
23 and pupils who do not qualify for free or reduced-price meals and  
24 are not enrolled in schools that qualify for assistance under Title  
25 1 of the federal Improving America's Schools Act of 1994 (P.L.  
26 103-382).

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

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

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

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

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

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

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

9 (e) In order to provide the Legislature with adequate information  
10 to consider reauthorization of the STAR Program, the  
11 Superintendent shall provide the evaluation to the Legislature, the  
12 Governor, and the state board on or before November 1, 2010.

13 (f) The advisory committee established pursuant to Section  
14 52052.5 shall advise the Superintendent on the independent  
15 evaluation by providing all of the following:

16 (1) Recommendations regarding the parameters of the  
17 evaluation.

18 (2) Recommendations regarding any request for proposals or  
19 request for applications used to solicit contract proposals.

20 (3) Recommendations regarding the selection of the contractor.

21 (4) A review of any reports submitted by the independent  
22 evaluator, including any mid-term reports as well as the final  
23 evaluation.

24 (g) The Superintendent shall appoint four additional members,  
25 who shall be educators or individuals having expertise in  
26 large-scale assessment and who shall serve only for the purposes  
27 of subdivision (f), to the advisory committee established pursuant  
28 to Section 52052.5.

29 (h) The department shall use ~~funds~~ *federal Flexibility and*  
30 *Accountability funds pursuant to the federal No Child Left Behind*  
31 *Act of 2001 (20 U.S.C. Sec. 6301)*, not to exceed one hundred fifty  
32 thousand dollars (\$150,000) ~~made available by the elimination of~~  
33 ~~STAR testing in grade 2~~, for the purpose of contracting for this  
34 evaluation.