

Assembly Bill No. 1246

CHAPTER 668

An act to amend Sections 42605, 60119, 60200, 60203, and 60207 of, to add Sections 60209 and 60210 to, and to repeal Chapter 3.25 (commencing with Section 60420) of Part 33 of Division 4 of Title 2 of, the Education Code, relating to instructional materials.

[Approved by Governor September 27, 2012. Filed with
Secretary of State September 27, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1246, Brownley. Instructional materials.

(1) Existing law authorizes local educational agencies to use specified funds for any educational purpose, as provided, and requires instructional materials purchased by such a local educational agency to be materials adopted by the State Board of Education and be aligned with state standards, as specified.

This bill would instead provide that the instructional materials purchased by such a local educational agency be aligned with state standards, as specified.

(2) Existing law requires that, in order to be eligible for specified funds, a school district take steps to ensure that each pupil in each school in the school district has sufficient textbooks or instructional materials that are aligned to adopted content standards, as specified. Existing law establishes the Academic Content Standards Commission that is required to develop academic content standards in English language arts and mathematics.

This bill would require a school district, in order to be eligible for specified funds, to ensure that there are sufficient textbooks or instructional materials that are aligned to specified adopted content standards or the content standards that were developed by the Academic Content Standards Commission and adopted by the state board. The bill also would, for the purpose of transitioning to instructional materials that are aligned with the common core academic content standards, state the intent of the Legislature that textbooks, instructional materials, and supplemental instructional materials be deemed to be aligned with the content standards and be deemed consistent with the content and cycles of the curriculum framework adopted by the state board, as specified, if the textbooks, instructional materials, supplemental instructional materials, or a combination of any such materials are aligned to the content standards adopted pursuant to specified provisions of law.

(3) Existing law requires the state board to adopt basic instructional materials for use in kindergarten and grades 1 to 8, inclusive, for governing boards, as defined, subject to specified provisions, including criteria

established by the state board, as specified, provided that the criteria are approved by resolution at the time the resolution adopting the framework for the current adoption is approved, or at least 30 months before the date that the materials are to be approved for adoption. Existing law authorizes instructional materials to be submitted for adoption in certain subject areas according to 6- and 8-year submission cycles.

This bill would add additional requirements for the review and adoption of instructional materials, including, but not limited to, changing the submission cycles to 8 years for all subject areas and requiring the State Department of Education to assess a reasonable fee on a publisher or manufacturer if it submits instructional materials for review after the applicable timeframe, and would provide that the criteria established by the state board for reviewing and adopting instructional materials are required to be approved by resolution at the time the resolution adopting the framework for the current adoption is approved, or at least 12 months before the date that the materials are to be approved for adoption. The bill would delete a provision that requires the state board to authorize a school district governing board, under specified circumstances, to use its instructional materials allowances to purchase materials as specified by the state board, in accordance with standards and procedures established by the state board.

This bill would, among other things, require the department, before conducting an adoption of basic instructional materials for mathematics, to provide notice, as specified, to all publishers or manufacturers that each publisher or manufacturer is required to pay a fee, as specified, to offset the cost of conducting the adoption process. The bill would further authorize a local educational agency to use instructional materials that are aligned with academic content standards, as specified, including basic instructional materials that have not been adopted by the state board, and would require a majority of the participants of any review process conducted by the local educational agency to be classroom teachers who are assigned to the subject area or grade level of the materials.

(4) Existing law requires the state board to give the Instructional Quality Commission a public hearing before making any adoption of instructional materials for use in elementary schools.

This bill would require the state board to hold a public hearing before adopting instructional materials for use in elementary schools. The bill also would, upon review of the commission's recommendations for instructional materials, authorize the Superintendent of Public Instruction to make alternative recommendations for instructional materials, and would require the state board to consider the Superintendent's recommendations and comments from other advisory bodies and the public before making its decision to adopt instructional materials.

(5) Existing law requires the state board to adopt revised curriculum frameworks and evaluation criteria that are aligned to the content standards adopted, as specified, for mathematics and English language arts no later than May 30, 2013, and May 30, 2014, respectively.

This bill would instead require the state board to adopt a revised curriculum framework for mathematics no later than November 30, 2013. The bill would authorize the state board to adopt instructional materials for kindergarten and grades 1 to 8, inclusive, that are aligned to content standards adopted, as specified, for mathematics no later than March 30, 2014, and would authorize the state board to adopt evaluation criteria for mathematics no later than March 31, 2013, as specified. The bill also would require the instructional materials adopted pursuant to these provisions to remain adopted until the next statewide adoption of instructional materials for mathematics.

(6) Existing law establishes the Instructional Materials Funding Realignment Program to provide funding for instructional materials to school districts on the basis of an equal amount per pupil enrolled in public elementary and high schools, as specified.

This bill would repeal the provisions relating to the Instructional Materials Funding Realignment Program.

(7) This bill would provide that it would become operative only if AB 1719 of the 2011–12 Regular Session is also enacted and takes effect on or before January 1, 2013.

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

SECTION 1. (a) It is the intent of the Legislature, in enacting this act, to continue the implementation of the common core academic content standards by ensuring the adoption of instructional materials that are aligned to the common core academic content standards for mathematics and by providing local educational agencies flexibility in their use of instructional materials.

(b) It is further the intent of the Legislature to ensure that school districts have access to as many high-quality standards-aligned instructional material options as possible, so that educators may have as many rigorous options in choosing the best instructional materials that meet the needs of all pupils, including English learners and pupils with disabilities, and that ensure that their pupils are able to master the academic content standards adopted by the State Board of Education pursuant to Section 60605.8 of the Education Code.

SEC. 2. Section 42605 of the Education Code is amended to read:

42605. (a) (1) Unless otherwise prohibited under federal law or otherwise specified in subdivision (e), for the 2008–09 fiscal year to the 2014–15 fiscal year, inclusive, recipients of funds from the items listed in paragraph (2) may use funding received, pursuant to subdivision (b), from any of these items listed in paragraph (2) that are contained in Section 2.00 of the annual Budget Act, for any educational purpose.

(2) Items 6110-104-0001, 6110-105-0001, 6110-108-0001, 6110-122-0001, 6110-124-0001, 6110-137-0001, 6110-144-0001, 6110-150-0001, 6110-151-0001, 6110-156-0001, 6110-181-0001,

6110-188-0001, 6110-189-0001, 6110-190-0001, 6110-193-0001,
 6110-195-0001, 6110-198-0001, 6110-204-0001, 6110-208-0001,
 6110-209-0001, 6110-211-0001, 6110-227-0001, 6110-228-0001,
 6110-232-0001, 6110-240-0001, 6110-242-0001, 6110-243-0001,
 6110-244-0001, 6110-245-0001, 6110-246-0001, 6110-247-0001,
 6110-248-0001, 6110-260-0001, 6110-265-0001, 6110-266-0001,
 6110-267-0001, 6110-268-0001, and 6360-101-0001 of Section 2.00.

(b) (1) For the 2009–10 fiscal year to the 2014–15 fiscal year, inclusive, the Superintendent or other administering state agency, as appropriate, shall apportion from the amounts provided in the annual Budget Act for the items enumerated in paragraph (2) of subdivision (a) an amount to recipients based on the same relative proportion that the recipient received in the 2008–09 fiscal year for the programs funded through the items enumerated in paragraph (2) of subdivision (a).

(2) This section and Section 42 of Chapter 12 of the Third Extraordinary Session of the Statutes of 2009 do not authorize a school district that receives funding on behalf of a charter school pursuant to Sections 47634.1 and 47651 to redirect this funding for another purpose unless otherwise authorized in law or pursuant to an agreement between a charter school and its chartering authority. Notwithstanding paragraph (1), for the 2008–09 fiscal year to the 2014–15 fiscal year, inclusive, a school district that receives funding on behalf of a charter school pursuant to Sections 47634.1 and 47651 shall continue to distribute the funds to those charter schools based on the relative proportion that the school district distributed in the 2007–08 fiscal year, and shall adjust those amounts to reflect changes in charter school attendance in the district. The amounts allocated shall be adjusted for any greater or lesser amount appropriated for the items enumerated in paragraph (2) of subdivision (a). For a charter school that began operation in the 2008–09 fiscal year, if a school district received funding on behalf of that charter school pursuant to Sections 47634.1 and 47651, the school district shall continue to distribute the funds to that charter school based on the relative proportion that the school district distributed in the 2008–09 fiscal year and shall adjust the amount of those funds to reflect changes in charter school attendance in the district. The amounts allocated shall be adjusted for any greater or lesser amount appropriated for the items enumerated in paragraph (2) of subdivision (a).

(3) Notwithstanding paragraph (1), for the 2008–09 fiscal year to the 2014–15 fiscal year, inclusive, the Superintendent shall apportion from the amounts appropriated by Item 6110-211-0001 of Section 2.00 of the annual Budget Act an amount to a charter school in accordance with the per-pupil methodology prescribed in subdivision (c) of Section 47634.1.

(4) Notwithstanding paragraph (1), for the 2008–09 fiscal year to the 2014–15 fiscal year, inclusive, the Superintendent shall apportion from the amounts provided in the annual Budget Act an amount to a school district, charter school, and county office of education based on the same relative proportion that the local educational agency received in the 2007–08 fiscal year for the programs funded through the following items contained in

Section 2.00 of the annual Budget Act: 6110-104-0001, 6110-105-0001, 6110-156-0001, 6110-190-0001, Schedule (3) of 6110-193-0001, 6110-198-0001, 6110-232-0001, and Schedule (2) of 6110-240-0001.

(5) For purposes of paragraph (4), if a direct-funded charter school began operation in the 2008–09 fiscal year, the amount that the charter school was entitled to receive from the items enumerated in paragraph (4) for the 2008–09 fiscal year, as certified by the Superintendent in March 2009, is deemed to have been received in the 2007–08 fiscal year.

(c) (1) This section does not obligate the state to refund or repay reductions made pursuant to this section. A decision by a school district to reduce funding pursuant to this section for a state-mandated local program shall constitute a waiver of the subvention of funds that the school district is otherwise entitled to pursuant to Section 6 of Article XIII B of the California Constitution on the amount so reduced.

(2) (A) As a condition of receipt of funds, the governing board of the school district or governing board of the county office of education, as appropriate, at a regularly scheduled open public hearing shall take testimony from the public, discuss, approve or disapprove the proposed use of funding, and make explicit for each of the budget items in paragraph (2) of subdivision (a) the purposes for which the funds will be used.

(B) The regularly scheduled open public hearing held pursuant to subparagraph (A) shall be held before and independent of a meeting where the governing board of the school district or governing board of the county office of education adopts a budget. If the governing board intends to close a program funded by the items listed in paragraph (2) of subdivision (a), the governing board shall identify, in the notice of the agenda of the public hearing or at another public hearing, the program or programs proposed to be closed.

(3) Using the Standardized Account Code Structure reporting process, a local educational agency shall report expenditures of funds pursuant to the authority of this section by using the appropriate function codes to indicate the activities for which these funds are expended. The department shall collect and provide this information to the Department of Finance and the appropriate policy and budget committees of the Legislature by April 15, 2010, and annually thereafter on April 15 until, and including, April 15, 2016.

(d) For the 2008–09 fiscal year to the 2014–15 fiscal year, inclusive, local educational agencies that use the flexibility provision of this section shall be deemed to be in compliance with the program and funding requirements contained in statutory, regulatory, and provisional language, associated with the items enumerated in subdivision (a).

(e) Notwithstanding subdivision (d), the following requirements shall continue to apply:

(1) For Item 6110-105-0001 of Section 2.00 of the annual Budget Act, the amount authorized for flexibility shall exclude the funding provided to fund remedial educational services pursuant to Provision 4. For Item 6110-156-0001 of Section 2.00 of the annual Budget Act, the amount

authorized for flexibility shall exclude the funding provided for instruction of CalWORKs-eligible students pursuant to Schedules (2) and (3) and Provisions 2 and 4.

(2) (A) Any instructional materials purchased by a local educational agency for kindergarten and grades 1 to 8, inclusive, and for grades 9 to 12, inclusive, shall be aligned with the state standards adopted pursuant to Section 60605 or 60605.8, and shall also meet the reporting and sufficiency requirements contained in Section 60119.

(B) For purposes of this section, “sufficiency” means that each pupil has sufficient textbooks and instructional materials in the four core areas as defined by Section 60119 and that all pupils within the local educational agency who are enrolled in the same course shall have identical textbooks and instructional materials, as specified in Section 1240.3.

(3) For Item 6110-195-0001 of Section 2.00 of the annual Budget Act, the item shall exclude moneys that are required to fund awards for teachers that have previously met the requirements necessary to obtain these awards, until the award is paid in full.

(4) For Item 6110-266-0001 of Section 2.00 of the annual Budget Act, a county office of education shall conduct at least one site visit to each of the required schoolsites pursuant to Section 1240 and shall fulfill all of the duties set forth in Sections 1240 and 44258.9.

(5) For Item 6110-198-0001 of Section 2.00 of the annual Budget Act, a school district or county office of education that operates the child care component of the Cal-SAFE program shall comply with paragraphs (5) and (6) of subdivision (c) of Section 54746.

(f) This section does not invalidate any state law pertaining to teacher credentialing requirements or the functions that require credentials.

SEC. 3. Section 60119 of the Education Code is amended to read:

60119. (a) In order to be eligible to receive funds available for purposes of this article, the governing board of a school district shall take the following actions:

(1) (A) The governing board of a school district shall hold a public hearing or hearings at which the governing board shall encourage participation by parents, teachers, members of the community interested in the affairs of the school district, and bargaining unit leaders, and shall make a determination, through a resolution, as to whether each pupil in each school in the school district has sufficient textbooks or instructional materials, or both, that are aligned to the content standards adopted pursuant to Section 60605 or 60605.8 in each of the following subjects, as appropriate, that are consistent with the content and cycles of the curriculum framework adopted by the state board:

(i) Mathematics.

(ii) Science.

(iii) History-social science.

(iv) English language arts, including the English language development component of an adopted program.

(B) The public hearing shall take place on or before the end of the eighth week from the first day pupils attend school for that year. A school district that operates schools on a multitrack, year-round calendar shall hold the hearing on or before the end of the eighth week from the first day pupils attend school for that year on any tracks that begin a school year in August or September. For purposes of the 2004–05 fiscal year only, the governing board of a school district shall make a diligent effort to hold a public hearing pursuant to this section on or before December 1, 2004.

(C) As part of the hearing required pursuant to this section, the governing board of a school district also shall make a written determination as to whether each pupil enrolled in a foreign language or health course has sufficient textbooks or instructional materials that are consistent with the content and cycles of the curriculum frameworks adopted by the state board for those subjects. The governing board of a school district also shall determine the availability of laboratory science equipment as applicable to science laboratory courses offered in grades 9 to 12, inclusive. The provision of the textbooks, instructional materials, or science equipment specified in this subparagraph is not a condition of receipt of funds provided by this subdivision.

(2) (A) If the governing board of a school district determines that there are insufficient textbooks or instructional materials, or both, the governing board shall provide information to classroom teachers and to the public setting forth, in the resolution, for each school in which an insufficiency exists, the percentage of pupils who lack sufficient standards-aligned textbooks or instructional materials in each subject area and the reasons that each pupil does not have sufficient textbooks or instructional materials, or both, and take any action, except an action that would require reimbursement by the Commission on State Mandates, to ensure that each pupil has sufficient textbooks or instructional materials, or both, within two months of the beginning of the school year in which the determination is made.

(B) In carrying out subparagraph (A), the governing board of a school district may use moneys in any of the following funds:

(i) Any funds available for textbooks or instructional materials, or both, from categorical programs, including any funds allocated to school districts that have been appropriated in the annual Budget Act.

(ii) Any funds of the school district that are in excess of the amount available for each pupil during the prior fiscal year to purchase textbooks or instructional materials, or both.

(iii) Any other funds available to the school district for textbooks or instructional materials, or both.

(b) The governing board of a school district shall provide 10 days' notice of the public hearing or hearings set forth in subdivision (a). The notice shall contain the time, place, and purpose of the hearing and shall be posted in three public places in the school district. The hearing shall be held at a time that will encourage the attendance of teachers and parents and guardians of pupils who attend the schools in the school district and shall not take place during or immediately following school hours.

(c) (1) For purposes of this section, “sufficient textbooks or instructional materials” means that each pupil, including English learners, has a standards-aligned textbook or instructional materials, or both, to use in class and to take home. This paragraph does not require two sets of textbooks or instructional materials for each pupil. The materials may be in a digital format as long as each pupil, at a minimum, has and can access the same materials in the class and to take home, as all other pupils in the same class or course in the school district and has the ability to use and access them at home.

(2) Sufficient textbooks or instructional materials as defined in paragraph (1) do not include photocopied sheets from only a portion of a textbook or instructional materials copied to address a shortage.

(d) The governing board of a school district that receives funds for instructional materials from any state source is subject to the requirements of this section.

(e) For the purpose of transitioning to instructional materials that are aligned with the common core academic content standards, it is the intent of the Legislature that textbooks, instructional materials, and supplemental instructional materials be deemed to be aligned with the content standards pursuant to subdivisions (a) and (c), and be deemed consistent with the content and cycles of the curriculum framework adopted by the state board pursuant to subdivision (a) if the textbooks, instructional materials, supplemental instructional materials, or a combination of any such materials are aligned to the content standards adopted pursuant to Section 60605 or 60605.8.

SEC. 4. Section 60200 of the Education Code is amended to read:

60200. The state board shall adopt basic instructional materials for use in kindergarten and grades 1 to 8, inclusive, for governing boards, subject to the following provisions:

(a) The state board shall adopt at least five basic instructional materials for all applicable grade levels in each of the following subject areas:

(1) Language arts, including, but not limited to, spelling, reading, and English language development. The state board may not adopt basic instructional materials in this subject area or the subject area specified by paragraph (2) in the year succeeding the year in which the state board adopts basic instructional materials in this subject area for the same grade level.

(2) Mathematics. The state board may not adopt basic instructional materials in this subject area or the subject area specified by paragraph (1) in the year succeeding the year in which the state board adopts basic instructional materials in this subject area for the same grade level.

(3) Science.

(4) Social science.

(5) Bilingual or bicultural subjects.

(6) Any other subject, discipline, or interdisciplinary areas for which the state board determines the adoption of instructional materials to be necessary or desirable.

(b) The state board shall adopt procedures for the submission of basic instructional materials in order to comply with each of the following:

(1) Instructional materials may be submitted for adoption in any of the subject areas pursuant to paragraphs (1) to (6), inclusive, of subdivision (a) every eight years. The state board shall ensure that curriculum frameworks are reviewed and adopted in each subject area and that the criteria for evaluating instructional materials developed pursuant to subdivision (b) of Section 60204 are consistent with subdivision (c). The state board may prescribe reasonable conditions to restrict the resubmission of materials that have been previously rejected if those resubmitted materials have no substantive changes.

(2) If a publisher or manufacturer submits revisions to currently adopted instructional material for review after the timeframe specified by the state board, the department shall assess a fee on the submitting publisher or manufacturer in an amount that shall not exceed the reasonable costs to the department to conduct a review of the instructional material pursuant to this section.

(3) Submitted instructional materials shall be adopted or rejected within six months of the submission date of the materials pursuant to paragraph (1) unless the state board determines that a longer period of time, not to exceed an additional three months, is necessary due to the estimated volume or complexity of the materials for that subject in that year, or due to other circumstances beyond the reasonable control of the state board.

(4) The process for review of instructional materials shall involve review committees, which shall include, but not be limited to, volunteer content experts and instructional material reviewers, and shall be composed of a majority of classroom teachers from a wide variety of affected grade levels and subject areas.

(5) The rules and procedures for adoption of instructional materials shall be transparent and consistently applicable regardless of the format of the instructional materials, which may include, but not be limited to, print, digital, and open-source instructional materials.

(c) In reviewing and adopting or recommending for adoption submitted basic instructional materials, the state board shall use the following criteria, and ensure that, in its judgment, the submitted basic instructional materials meet all of the following criteria:

(1) Are consistent with the criteria and the standards of quality prescribed in the state board's adopted curriculum framework. In making this determination, the state board shall consider both the framework and the submitted instructional materials as a whole.

(2) Comply with the requirements of Sections 60040, 60041, 60042, 60043, 60044, 60048, 60200.5, and 60200.6, and the state board's guidelines for social content.

(3) Are factually accurate and incorporate principles of instruction reflective of current and confirmed research.

(4) Are aligned to the content standards adopted by the state board in the subject area and the grade level or levels for which they are submitted.

(5) Do not contain materials, including illustrations, that provide unnecessary exposure to a commercial brand name, product, or corporate or company logo. Materials, including illustrations, that contain a commercial brand name, product, or corporate or company logo may not be used unless the state board determines that the use of the commercial brand name, product, or corporate or company logo is appropriate based on one of the following specific findings:

(A) If text, the use of the commercial brand name, product, or corporate or company logo in the instructional materials is necessary for an educational purpose, as defined in the guidelines or frameworks adopted by the state board.

(B) If an illustration, the appearance of a commercial brand name, product, or corporate or company logo in an illustration in instructional materials is incidental to the general nature of the illustration.

(6) Meet other criteria as are established by the state board as being necessary to accomplish the intent of Section 7.5 of Article IX of the California Constitution and of Section 1 of Chapter 1181 of the Statutes of 1989, provided that the criteria are approved by resolution at the time the resolution adopting the framework for the current adoption is approved, or at least 12 months before the date that the materials are to be approved for adoption.

(d) If basic instructional materials are rejected, the state board shall provide a specific, written explanation of the reasons why the submitted materials were not adopted, based on one or more of the criteria established under subdivision (c). In providing this explanation, the state board may use, in whole or in part, materials written by the Superintendent or any other advisers to the state board.

(e) The state board may adopt fewer than five basic instructional materials in each subject area for each grade level if either of the following occurs:

(1) Fewer than five basic instructional materials are submitted.

(2) The state board specifically finds that fewer than five basic instructional materials meet the criteria prescribed by paragraphs (1) to (5), inclusive, of subdivision (c), or the materials fail to meet the state board's adopted curriculum framework. If the state board adopts fewer than five basic instructional materials in any subject for any grade level, the state board shall conduct a review of the degree to which the criteria and procedures used to evaluate the submitted materials for that adoption were consistent with the state board's adopted curriculum framework.

(f) This section does not limit the authority of the state board to adopt materials that are not basic instructional materials.

(g) Consistent with the quality criteria for the state board's adopted curriculum framework, the state board shall prescribe procedures to provide the most open and flexible materials submission system and ensure that the adopted materials in each subject, taken as a whole, provide for the educational needs of the diverse pupil populations in the public schools, provide collections of instructional materials that illustrate diverse points of view, represent cultural pluralism, and provide a broad spectrum of

knowledge, information, and technology-based materials to meet the goals of the program and the needs of pupils.

(h) Upon making an adoption, the state board shall make available to listed publishers and manufacturers and all school interests a listing of instructional materials, including the most current unit cost of those materials as computed pursuant to existing law. Items placed upon lists shall remain thereon, and be available for procurement through the state's systems of financing, from the date of the adoption of the item and until a date established by the state board. The date established by the state board for continuing items on that list shall be the date on which the state board adopts instructional materials based on a new or revised curriculum framework. Lists of adopted instructional materials shall be made available by subject and grade level to school districts and posted on the department's Internet Web site, and shall include information from the reports of findings from the review committees pursuant to paragraph (4) of subdivision (b). The lists shall terminate and shall no longer be effective on the date prescribed by the state board pursuant to this subdivision.

(i) The state board may approve multiple lists of instructional materials, without designating a grade or subject, and the state board may designate more than one grade or subject whenever it determines that a single subject designation or a single grade designation would not promote the maximum efficiency of pupil learning. Any materials so designated may be placed on single grade or single subject lists, or multigrade or interdisciplinary lists, or may be placed on separate lists including other materials with similar grade or subject designations.

(j) A composite listing in the format of an order form may be used to meet the requirements of this section.

(k) The lists maintained pursuant to this section shall not be deemed to control the use period by any school district.

(l) The state board shall give publishers the opportunity to modify instructional materials, in a manner provided for in regulations adopted by the state board, if the state board finds that the instructional materials do not comply with paragraph (5) of subdivision (c).

(m) This section does not prohibit the publisher of instructional materials from including whatever corporate name or logo on the instructional materials that is necessary to provide basic information about the publisher, to protect its copyright, or to identify third-party sources of content.

(n) The state board may adopt regulations that provide for other exceptions to this section, as determined by the state board.

(o) The Superintendent shall develop, and the state board shall adopt, guidelines to implement this section.

SEC. 5. Section 60203 of the Education Code is amended to read:

60203. (a) The state board shall hold a public hearing before adopting instructional materials for use in the elementary schools of the state.

(b) Upon review of the commission's recommendations for instructional materials, the Superintendent may make alternative recommendations for

instructional materials and the state board shall consider the Superintendent's recommendations before making its decision to adopt instructional materials.

(c) The state board shall consider comments from other advisory bodies and the public before making its decision to adopt instructional materials.

SEC. 6. Section 60207 of the Education Code is amended to read:

60207. (a) Notwithstanding Section 60200.7, the state board shall adopt both of the following:

(1) Revised curriculum frameworks and evaluation criteria that are aligned to the content standards adopted pursuant to Section 60605.8 for English language arts no later than May 30, 2014.

(2) Revised curriculum frameworks that are aligned to the content standards adopted pursuant to Section 60605.8 for mathematics no later than November 30, 2013.

(b) Notwithstanding Section 60200.7, the state board may adopt instructional materials for kindergarten and grades 1 to 8, inclusive, that are aligned to the content standards adopted pursuant to Section 60605.8 for mathematics no later than March 30, 2014.

(1) For purposes of adopting instructional materials for mathematics pursuant to this subdivision, the state board may adopt evaluation criteria for mathematics no later than March 31, 2013. The criteria may allow for the adoption of materials that have been reviewed and adopted by another state that has adopted the common core academic content standards.

(2) Instructional materials adopted pursuant to this subdivision shall remain adopted until the next statewide adoption of instructional materials for mathematics.

(c) State board policies shall ensure that the English language arts curriculum frameworks for kindergarten and grades 1 to 12, inclusive, and instructional materials for kindergarten and grades 1 to 8, inclusive, include the English language development standards as adopted by the state board in 1997 and revised thereafter, and English language development strategies in the core subjects of mathematics, science, and history-social science.

(d) State board policies shall ensure that curriculum frameworks for kindergarten and grades 1 to 12, inclusive, and instructional materials for kindergarten and grades 1 to 8, inclusive, include strategies to address the needs of pupils with disabilities in the four core subjects of mathematics, science, history-social science, and English language arts.

(e) Each curriculum framework that the state board adopts shall describe, to the extent the state board deems appropriate, the manner in which content can be delivered to intentionally build all of the following skills into and across each content area:

(1) Creativity and innovation, including, but not limited to, thinking creatively, working creatively with others, and implementing innovations.

(2) Critical thinking and problem solving, including, but not limited to, reasoning effectively, using systems thinking, making judgments and decisions, and solving problems.

(3) Collaboration, including, but not limited to, working effectively in diverse teams, adapting to change and being flexible, demonstrating initiative

and self-direction, working independently, demonstrating productivity and accountability, and demonstrating leadership and responsibility.

(4) Communication, including, but not limited to, communicating clearly and effectively through reading, writing, and speaking.

(5) Construction and exploration of new understandings of knowledge through the integration of content from one subject area to another to provide pupils with multiple modes for demonstrating innovative learning.

SEC. 7. Section 60209 is added to the Education Code, to read:

60209. For purposes of conducting an adoption of basic instructional materials for mathematics pursuant to Section 60207, all of the following shall apply:

(a) The department shall provide notice, pursuant to subdivision (b), to all publishers or manufacturers known to produce basic instructional materials in that subject, post an appropriate notice on the Internet Web site of the department, and take other reasonable measures to ensure that appropriate notice is widely circulated to potentially interested publishers and manufacturers.

(b) The notice shall specify that each publisher or manufacturer choosing to participate in the adoption shall be assessed a fee based on the number of programs the publisher or manufacturer indicates will be submitted for review and the number of grade levels proposed to be covered by each program.

(c) The fee assessed pursuant to subdivision (d) shall be in an amount that does not exceed the reasonable costs to the department in conducting the adoption process. The department shall take reasonable steps to limit costs of the adoption and to keep the fee modest.

(d) The department, before incurring substantial costs for the adoption, shall require that a publisher or manufacturer that wishes to participate in the adoption first declare the intent to submit one or more specific programs for adoption and specify the specific grade levels to be covered by each program.

(1) After a publisher or manufacturer has declared the intent to submit one or more programs and the grade levels to be covered by each program, the department shall assess a fee that shall be payable by the publisher or manufacturer even if the publisher or manufacturer subsequently chooses to withdraw a program or reduce the number of grade levels covered.

(2) A submission by a publisher or manufacturer shall not be reviewed for purposes of adoption until the fee assessed has been paid in full.

(e) (1) Upon the request of a small publisher or small manufacturer, the state board may reduce the fee for participation in the adoption.

(2) For purposes of this section, “small publisher” and “small manufacturer” mean an independently owned or operated publisher or manufacturer that is not dominant in its field of operation and that, together with its affiliates, has 100 or fewer employees, and has average annual gross receipts of ten million dollars (\$10,000,000) or less over the previous three years.

(f) If the department determines that there is little or no interest in participating in an adoption by publishers and manufacturers, the department shall recommend to the state board whether or not the adoption shall be conducted, and the state board may choose not to conduct the adoption.

(g) Revenue derived from fees assessed pursuant to subdivision (d) shall be budgeted as reimbursements and subject to review through the annual budget process, and may be used to pay for costs associated with any adoption and for any costs associated with the review of instructional materials, including reimbursement of substitute costs for teacher reviewers and may be used to cover stipends for content review experts.

SEC. 8. Section 60210 is added to the Education Code, to read:

60210. (a) Notwithstanding any other law, a local educational agency may use instructional materials that are aligned with the academic content standards adopted pursuant to Section 60605 or 60605.8, including instructional materials that have not been adopted by the state board pursuant to Section 60200.

(b) Instructional materials for mathematics that are aligned to common core academic content standards developed by the Common Core State Standards Initiative consortium pursuant to Section 60605.7 shall be deemed to be aligned to the content standards adopted pursuant to Section 60605 or 60605.8 for purposes of Section 60119.

(c) If a local educational agency chooses to use instructional materials that have not been adopted by the state board, the local educational agency shall ensure that a majority of the participants of any review process conducted by the local educational agency are classroom teachers who are assigned to the subject area or grade level of the materials.

SEC. 9. Chapter 3.25 (commencing with Section 60420) of Part 33 of Division 4 of Title 2 of the Education Code is repealed.

SEC. 10. This act shall become operative only if Assembly Bill 1719 of the 2011–12 Regular Session is also enacted and takes effect on or before January 1, 2013.