

Introduced by Senator HancockFebruary 18, 2011

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

LEGISLATIVE COUNSEL'S DIGEST

SB 740, as introduced, Hancock. Pupil assessment.

Existing law, the Leroy Greene California Assessment of Academic Achievement Act, requires each school district, charter school, and county office of education to administer to each of its pupils in grades 2 to 11, inclusive, certain achievement tests.

This bill, commencing July 1, 2012, would exclude pupils in grade 2 from the standards-based achievement test requirement and make conforming 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. The Legislature finds and declares as follows:
- 2 (a) Research shows that statewide standardized testing for young
- 3 children under nine years of age is not age and developmentally
- 4 appropriate and does not provide meaningful, valid, and reliable
- 5 data.
- 6 (b) Testing of pupils in grade 2 is not federally mandated.
- 7 (c) The testing of nearly 465,000 pupils in grade 2 each year at
- 8 a cost of approximately \$2.5 million annually does not significantly
- 9 benefit the schools, pupils, parents, guardians, or teachers by

1 providing reliable or instructionally useful data but rather creates
2 harmful unintended consequences.

3 (d) Approximately 40 states do not require statewide
4 standardized testing in grade 2.

5 (e) Parents, educators, psychologists, and educational research
6 organizations, oppose high-stakes testing of young children under
7 nine years of age.

8 (f) The method of administering standards tests to pupils in
9 grades 3 to 11, inclusive, is in written form, and the grade 2
10 standards test is predominantly orally delivered. The accuracy test
11 results of pupils in grade 2 is eroded, and the resulting data used
12 for accountability purposes is less reliable for the pupils in grade
13 2.

14 (g) Eliminating the testing of pupils in grade 2 will not weaken
15 the assessment and accountability system of the state public
16 schools, but instead will make that system more accurate, effective,
17 and efficient.

18 SEC. 2. Section 60603 of the Education Code is amended to
19 read:

20 60603. (a) As used in this chapter:

21 (~~a~~)

22 (1) “Achievement test” means any standardized test that
23 measures the level of performance that a pupil has achieved in the
24 core curriculum areas.

25 (~~b~~)

26 (2) “Assessment of applied academic skills” means a form of
27 assessment that requires pupils to demonstrate their knowledge
28 of, and ability to apply, academic knowledge and skills in order
29 to solve problems and communicate. It may include, but is not
30 limited to, writing an essay response to a question, conducting an
31 experiment, or constructing a diagram or model. An assessment
32 of applied academic skills may not include assessments of personal
33 behavioral standards or skills, including, but not limited to, honesty,
34 sociability, ethics, or self-esteem.

35 (~~c~~)

36 (3) “Basic academic skills” means those skills in the subject
37 areas of reading, spelling, written expression, and mathematics
38 that provide the necessary foundation for mastery of more complex
39 intellectual abilities, including the synthesis and application of
40 knowledge.

~~(d)~~

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

~~(e)~~

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

~~(f)~~

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

~~(1)~~

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

~~(2)~~

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

~~(g)~~

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

~~(h)~~

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

~~(i)~~

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

~~(j)~~

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

~~(k)~~

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

(b) This section shall become inoperative on July 1, 2012, and, as of January 1, 2013, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2013, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 3. Section 60603 is added to the Education Code, to read: 60603. (a) As used in this chapter:

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (b) This section shall become operative on July 1, 2012.

31 SEC. 4. Section 60604 of the Education Code is amended to
32 read:

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

39 (1) A plan for producing valid, reliable, and comparable
40 individual pupil scores in grades 2 to 11, inclusive, and a

1 comprehensive analysis of these scores based on the results of the
2 achievement test designated by the state board that assesses a broad
3 range of basic academic skills pursuant to the Standardized Testing
4 and Reporting (STAR) Program established by Article 4
5 (commencing with Section 60640).

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

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

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

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

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

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

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

1 explain any significant variations from the five-year cost projection
2 for the current year budget and the proposed budget.

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

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

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

18 (f) *This section shall become inoperative on July 1, 2012, and,*
19 *as of January 1, 2013, is repealed, unless a later enacted statute,*
20 *that becomes operative on or before January 1, 2013, deletes or*
21 *extends the dates on which it becomes inoperative and is repealed.*

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

23 60604. (a) The Superintendent shall design and implement,
24 consistent with the timetable and plan required pursuant to
25 subdivision (b), a statewide pupil assessment program consistent
26 with the testing requirements of this article in accordance with the
27 objectives set forth in Section 60602. That program shall include
28 all of the following:

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

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

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

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

11 (5) The alignment of assessment with the statewide academically
12 rigorous content and performance standards adopted by the state
13 board.

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

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

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

33 (c) The Superintendent shall provide each school district with
34 guidelines for professional development that are designed to assist
35 classroom teachers to use the results of the assessments
36 administered pursuant to this chapter to modify instruction for the
37 purpose of improving pupil learning. These guidelines shall be
38 developed in consultation with classroom teachers and approved
39 by the state board before dissemination.

1 (d) The Superintendent and the state board shall consider
2 comments and recommendations from school districts and the
3 public in the development, adoption, and approval of assessment
4 instruments.

5 (e) The results of the achievement test administered pursuant
6 to Article 4 (commencing with Section 60640) shall be returned
7 to the school district within the period of time specified by the
8 state board.

9 (f) This section shall become operative on July 1, 2012.

10 SEC. 6. Section 60605.6 of the Education Code is amended to
11 read:

12 60605.6. Subject to the availability of funds appropriated in
13 the annual Budget Act for this purpose, the Superintendent, upon
14 approval of the state board, shall contract for the development and
15 distribution of workbooks, as follows:

16 (a) One workbook to be distributed to all pupils in grade 10.
17 This workbook shall contain information on the proficiency levels
18 that must be demonstrated by pupils on the high school exit
19 examination described in Chapter 9 (commencing with Section
20 60850). The workbook also shall contain sample questions, with
21 explanations describing how these sample questions test pupil
22 knowledge of the language arts and mathematics content standards
23 adopted by the state board pursuant to Section 60605.

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

35 (c) *This section shall become inoperative on July 1, 2012, and,*
36 *as of January 1, 2013, is repealed, unless a later enacted statute,*
37 *that becomes operative on or before January 1, 2013, deletes or*
38 *extends the dates on which it becomes inoperative and is repealed.*

39 SEC. 7. Section 60605.6 is added to the Education Code, to
40 read:

1 60605.6. Subject to the availability of funds appropriated in
2 the annual Budget Act for this purpose, the Superintendent, upon
3 approval of the state board, shall contract for the development and
4 distribution of workbooks, as follows:

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

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

24 (c) This section shall become operative on July 1, 2012.

25 SEC. 8. Section 60640 of the Education Code is amended to
26 read:

27 60640. (a) There is hereby established the Standardized Testing
28 and Reporting Program, to be known as the STAR Program.

29 (b) From the funds available for that purpose, each school
30 district, charter school, and county office of education shall
31 administer to each of its pupils in grades 2 to 11, inclusive, the
32 standards-based achievement test provided for in Section 60642.5.
33 The state board shall establish a testing period to provide that all
34 schools administer these tests to pupils at approximately the same
35 time during the instructional year, except as necessary to ensure
36 test security and to meet the final filing date.

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

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

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

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

18 (2) Notwithstanding any other law, the state board shall
19 designate for use, as part of this program, a single primary language
20 test in each language for which a test is available for grades 2 to
21 11, inclusive, pursuant to the process used for designation of the
22 assessment chosen in the 1997–98 fiscal year, as specified in
23 Section 60643, as applicable.

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

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

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

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

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

14 (F) On or before January 1, 2006, the department shall submit
15 to the Legislature a report on the development and implementation
16 of the initial primary language assessments and recommendations
17 on the development and implementation of future assessments and
18 funding requirements.

19 (g) A pupil identified as limited English proficient pursuant to
20 the administration of a test made available pursuant to Section
21 60810 who is enrolled in any of grades 2 to 11, inclusive, and who
22 either receives instruction in his or her primary language or has
23 been enrolled in a school in the United States for less than 12
24 months shall be required to take a test in his or her primary
25 language if a test is available.

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

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

39 (3) An adjustment to the amount of funding to be apportioned
40 per test shall not be valid without the approval of the Director of

1 Finance. A request for approval of an adjustment to the amount
2 of funding to be apportioned per test shall be submitted in writing
3 to the Director of Finance and the chairpersons of the fiscal
4 committees of both houses of the Legislature with accompanying
5 material justifying the proposed adjustment. The Director of
6 Finance is authorized to approve only those adjustments related
7 to activities required by statute. The Director of Finance shall
8 approve or disapprove the amount within 30 days of receipt of the
9 request and shall notify the chairpersons of the fiscal committees
10 of both houses of the Legislature of the decision.

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

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

27 (1) The number of pupils enrolled in the school district in grades
28 2 to 11, inclusive.

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

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

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

38 (l) The Superintendent, with the approval of the state board,
39 annually shall release to the public test items from the
40 standards-based achievement tests pursuant to Section 60642.5

1 administered in previous years. The minimum number of test items
2 released per year shall be equal to 25 percent of the total number
3 of test items on the test administered in the previous year.

4 *(m) This section shall become inoperative on July 1, 2012, and,*
5 *as of January 1, 2013, is repealed, unless a later enacted statute,*
6 *that becomes operative on or before January 1, 2013, deletes or*
7 *extends the dates on which it becomes inoperative and is repealed.*

8 SEC. 9. Section 60640 is added to the Education Code, to read:

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

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

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

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

25 (e) Pursuant to Section 1412(a)(17) of Title 20 of the United
26 States Code, individuals with exceptional needs, as defined in
27 Section 56026, shall be included in the testing requirement of
28 subdivision (b) with appropriate accommodations in administration,
29 where necessary, and those individuals with exceptional needs
30 who are unable to participate in the testing, even with
31 accommodations, shall be given an alternate assessment.

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

39 (2) Notwithstanding any other law, the state board shall
40 designate for use, as part of this program, a single primary language

1 test in each language for which a test is available for grades 3 to
2 11, inclusive, pursuant to the process used for designation of the
3 assessment chosen in the 1997–98 fiscal year, as specified in
4 Section 60643, as applicable.

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

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

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

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

28 (E) If the state board contracts for the development of primary
29 language assessments or test items to augment an existing
30 assessment, the state shall retain ownership rights to the assessment
31 and the test items. With the approval of the state board, the
32 department may license the test for use in other states subject to a
33 compensation agreement approved by the Department of Finance.

34 (F) On or before January 1, 2006, the department shall submit
35 to the Legislature a report on the development and implementation
36 of the initial primary language assessments and recommendations
37 on the development and implementation of future assessments and
38 funding requirements.

39 (g) A pupil identified as limited English proficient pursuant to
40 the administration of a test made available pursuant to Section

1 60810 who is enrolled in any of grades 3 to 11, inclusive, and who
2 either receives instruction in his or her primary language or has
3 been enrolled in a school in the United States for less than 12
4 months shall be required to take a test in his or her primary
5 language if a test is available.

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

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

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

31 (i) For purposes of making the computations required by Section
32 8 of Article XVI of the California Constitution, the appropriation
33 for the apportionments made pursuant to paragraph (1) of
34 subdivision (h), and the payments made to the publishers under
35 the contracts required pursuant to Section 60643 or subparagraph
36 (C) of paragraph (1) of subdivision (a) of Section 60605 between
37 the department and the contractor, are "General Fund revenues
38 appropriated for school districts," as defined in subdivision (c) of
39 Section 41202, for the applicable fiscal year, and included within
40 the "total allocations to school districts and community college

1 districts from General Fund proceeds of taxes appropriated pursuant
2 to Article XIII B,” as defined in subdivision (e) of Section 41202,
3 for that fiscal year.

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

7 (1) The number of pupils enrolled in the school district in grades
8 3 to 11, inclusive.

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

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

13 (k) The Superintendent and the state board are authorized and
14 encouraged to assist postsecondary educational institutions to use
15 the assessment results of the California Standards Tests, including,
16 but not limited to, the augmented California Standards Tests, for
17 academic credit, placement, or admissions processes.

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

24 (m) This section shall become operative on July 1, 2012.

25 SEC. 10. Section 60642.5 of the Education Code is amended
26 to read:

27 60642.5. (a) The Superintendent, with approval of the state
28 board, shall provide for the development of an assessment
29 instrument, to be called the California Standards Tests, that
30 measures the degree to which pupils are achieving the academically
31 rigorous content standards and performance standards, to the extent
32 standards have been adopted by the state board. These
33 standards-based achievement tests shall contain the subject areas
34 specified in paragraph (3) of subdivision (a) of Section 60603 for
35 grades 2 to 8, inclusive, and shall include an assessment in
36 history/social science in at least one elementary or middle school
37 grade level selected by the state board and science in at least one
38 elementary or middle school grade level selected by the state board,
39 and the core curriculum areas specified in paragraph (5) of
40 subdivision (a) of Section 60603 for grades 9 to 11, inclusive,

1 except that history-social science shall not be included in the grade
2 9 assessment unless the state board adopts academic content
3 standards for a grade 9 history-social science course, and shall
4 include, at a minimum, a direct writing assessment once in
5 elementary school and once in middle or junior high school and
6 other items of applied academic skill if deemed valid and reliable
7 and if resources are made available for their use.

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

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

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

15 (3) The ability of the contractor to ensure alignment between
16 the standards-based achievement test and the academically rigorous
17 content and performance standards as those standards are adopted
18 by the state board. This criterion shall include the ability of the
19 contractor to implement a process to establish and maintain
20 alignment between the test items and the standards.

21 (4) The per pupil cost estimates of developing and, if
22 appropriate, administering the proposed assessment with a system
23 to facilitate the determination of future per pupil cost
24 determinations.

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

27 (6) The experience of the contractor in successfully conducting
28 testing programs adopted and administered by other states. For
29 experience to be considered, the number of grades and pupils tested
30 shall be provided.

31 (c) The standards-based achievement tests may use items from
32 other tests.

33 *(d) This section shall become inoperative on July 1, 2012, and,*
34 *as of January 1, 2013, is repealed, unless a later enacted statute,*
35 *that becomes operative on or before January 1, 2013, deletes or*
36 *extends the dates on which it becomes inoperative and is repealed.*

37 SEC. 11. Section 60642.5 is added to the Education Code, 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 3 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 (d) This section shall become operative on July 1, 2012.

6 SEC. 12. Section 60643 of the Education Code is amended to
7 read:

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

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

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

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

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

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

23 (A) Grade level.

24 (B) School level.

25 (C) District level.

26 (D) Countywide.

27 (E) Statewide.

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

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

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

1 In any one year, the disaggregation shall entail information already
2 being collected by school districts, county offices of education, or
3 charter schools.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (B) Test materials production or publication.

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

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

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

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

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

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

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

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

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

25 (g) *This section shall become inoperative on July 1, 2012, and,*
26 *as of January 1, 2013, is repealed, unless a later enacted statute,*
27 *that becomes operative on or before January 1, 2013, deletes or*
28 *extends the dates on which it becomes inoperative and is repealed.*

29 SEC. 13. Section 60643 is added to the Education Code, to
30 read:

31 60643. (a) To be eligible for consideration under Section
32 60642.5 by the state board, test publishers shall agree in writing
33 each year to meet the following requirements, as applicable, if
34 selected:

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

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

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

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

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

6 (A) Grade level.

7 (B) School level.

8 (C) District level.

9 (D) Countywide.

10 (E) Statewide.

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

12 (6) Provide disaggregated scores, based on
13 limited-English-proficient status and nonlimited-English-proficient
14 status. For purposes of this section, pupils with
15 “nonlimited-English-proficient status” shall include the total of
16 those pupils who are English-only pupils, fluent-English-proficient
17 pupils, and redesignated fluent-English-proficient pupils. These
18 scores shall be provided to school districts and county boards of
19 education in the same forms and formats listed in paragraph (5).

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

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

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

36 (b) It is the intent of the Legislature that the publisher work with
37 the Superintendent and the state board in developing a methodology
38 to disaggregate statewide scores as required in paragraphs (6) and
39 (7) of subdivision (a), and in determining which variable indicated
40 on the STAR testing document shall serve as a proxy for

“economically disadvantaged” status pursuant to paragraph (7) of subdivision (a).

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

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

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

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

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

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

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

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

9 (7) The publishers shall submit, as part of the contract
10 negotiation process, a proposed budget and invoice schedule, that
11 includes a detailed listing of the costs for each component task
12 and the expected date of the invoice for each completed component
13 task.

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

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

18 (B) Test materials production or publication.

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

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

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

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

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

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

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

34 (11) School districts may negotiate a separate agreement with
35 the publisher for any additional materials or services not within
36 the contracts specified in this subdivision, including, but not limited
37 to, the administration of the tests to pupils in grade levels other
38 than grades 3 to 11, inclusive. Any separate agreement is not within
39 the scope of the contract specified in this subdivision.

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

(g) This section shall become operative on July 1, 2012.

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

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

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

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

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

(b) The state board and the Superintendent jointly shall certify that the process used by the publisher to determine the reading

1 levels of the corresponding reading list pursuant to paragraph (1)
2 of subdivision (a) meets the following criteria:

3 (1) The process is educationally valid.

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

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

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

12 (c) The titles listed at each reading level range posted on the
13 Internet and the reading lists made available to school districts
14 pursuant to subdivision (a), at a minimum, shall include all relevant
15 literature materials approved as of September 1, 1999, as being
16 legally compliant pursuant to Article 3 (commencing with Section
17 60040) of Chapter 1 of Part 33, and the titles listed in all of the
18 content area reading and literature lists that are developed and
19 published by the department and that have been determined by the
20 department to meet the relevant reading level as certified pursuant
21 to subdivision (b).

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

27 (e) *This section shall become inoperative on July 1, 2012, and,*
28 *as of January 1, 2013, is repealed, unless a later enacted statute,*
29 *that becomes operative on or before January 1, 2013, deletes or*
30 *extends the dates on which it becomes inoperative and is repealed.*

31 SEC. 15. Section 60643.1 is added to the Education Code, to
32 read:

33 60643.1. (a) (1) The test publisher designated by the state
34 board pursuant to Section 60642 shall make available a reading
35 list on the Internet by June 1 of the applicable school year. The
36 reading list shall include an index that correlates ranges of pupil
37 reading scores on the English language arts portion of the
38 achievement test designated pursuant to Section 60642 to titles of
39 materials that would be suitable for pupils in each of grades 3 to
40 11, inclusive, to read in order to improve their reading skills. This

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

8 (2) The test publisher, in each school year, shall make available
9 for purchase by school districts a report that provides a numerical
10 distribution of the reading scores of all pupils in California who
11 took the achievement test designated pursuant to Section 60642.

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

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

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

25 (1) The process is educationally valid.

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

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

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

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

1 published by the department and that have been determined by the
2 department to meet the relevant reading level as certified pursuant
3 to subdivision (b).

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

9 (e) This section shall become operative on July 1, 2012.