

AMENDED IN SENATE MAY 10, 2011

SENATE BILL

No. 740

Introduced by Senator Hancock

February 18, 2011

An act to amend, repeal, and add Sections 60603, 60604, 60605.6, 60640, 60642.5, 60643, and 60643.1 of, *and to add Section 60644 to*, the Education Code, relating to pupil assessment.

LEGISLATIVE COUNSEL'S DIGEST

SB 740, as amended, 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.

The bill would require the State Department of Education by July 1, 2014, to develop at least 3 assessments in language arts and mathematics for pupils in grade 2 for diagnostic use by classroom teachers. The bill would authorize the department to select those assessments instead of developing them if the department determines that suitable diagnostic assessments exist. The bill would require these provisions to be implemented from the savings realized from the elimination of the grade 2 standards-based achievement testing.

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

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

SECTION 1. The Legislature finds and declares as follows:

(a) Research shows that statewide standardized testing for young children under nine years of age is not age and developmentally appropriate and does not provide meaningful, valid, and reliable data.

(b) Testing of pupils in grade 2 is not federally mandated.

(c) The testing of nearly 465,000 pupils in grade 2 each year at a cost of approximately \$2.5 million annually does not significantly benefit the schools, pupils, parents, guardians, or teachers by providing reliable or instructionally useful data but rather creates harmful unintended consequences.

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

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

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

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

SEC. 2. Section 60603 of the Education Code is amended 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

1 of applied academic skills may not include assessments of personal
2 behavioral standards or skills, including, but not limited to, honesty,
3 sociability, ethics, or self-esteem.

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

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

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

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

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

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

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

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

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

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

39 (11) “Statewide pupil assessment program” means the systematic
40 achievement testing of pupils in grades 2 to 11, inclusive, pursuant

1 to the standardized testing and reporting program under Article 4
2 (commencing with Section 60640) and the assessment of basic
3 academic skills and applied academic skills, administered to pupils
4 in grade levels specified in subdivision (c) of Section 60605,
5 required by this chapter in all schools within each school district
6 by means of tests designated by the state board.

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

11 SEC. 3. Section 60603 is added to the Education Code, to read:
12 60603. (a) As used in this chapter:

13 (1) "Achievement test" means any standardized test that
14 measures the level of performance that a pupil has achieved in the
15 core curriculum areas.

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

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

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

34 (5) "Core curriculum areas" means the areas of reading, writing,
35 mathematics, history-social science, and science.

36 (6) "Diagnostic assessment" means interim assessments of the
37 current level of achievement of a pupil that serves both of the
38 following purposes:

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

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

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

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

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

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

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

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

29 SEC. 4. Section 60604 of the Education Code is amended to
30 read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 60604. (a) The Superintendent shall design and implement,
22 consistent with the timetable and plan required pursuant to
23 subdivision (b), a statewide pupil assessment program consistent
24 with the testing requirements of this article in accordance with the
25 objectives set forth in Section 60602. That program shall include
26 all of the following:

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

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

38 (3) Statewide academically rigorous content and performance
39 standards that reflect the knowledge and skills that pupils will need
40 in order to succeed in the information-based, global economy of

1 the 21st century. These skills shall not include personal behavioral
2 standards or skills, including, but not limited to, honesty,
3 sociability, ethics, or self-esteem.

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

8 (5) The alignment of assessment with the statewide academically
9 rigorous content and performance standards adopted by the state
10 board.

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

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

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

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

37 (d) The Superintendent and the state board shall consider
38 comments and recommendations from school districts and the
39 public in the development, adoption, and approval of assessment
40 instruments.

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

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

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

8 60605.6. Subject to the availability of funds appropriated in
9 the annual Budget Act for this purpose, the Superintendent, upon
10 approval of the state board, shall contract for the development and
11 distribution of workbooks, as follows:

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

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

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

35 SEC. 7. Section 60605.6 is added to the Education Code, to
36 read:

37 60605.6. Subject to the availability of funds appropriated in
38 the annual Budget Act for this purpose, the Superintendent, upon
39 approval of the state board, shall contract for the development and
40 distribution of workbooks, as follows:

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

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

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

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

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

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

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

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

(e) Pursuant to Section 1412(a)(17) of Title 20 of the United States Code, individuals with exceptional needs, as defined in

1 Section 56026, shall be included in the testing requirement of
2 subdivision (b) with appropriate accommodations in administration,
3 where necessary, and those individuals with exceptional needs
4 who are unable to participate in the testing, even with
5 accommodations, shall be given an alternate assessment.

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

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

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

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

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

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

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

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

15 (g) A pupil identified as limited English proficient pursuant to
16 the administration of a test made available pursuant to Section
17 60810 who is enrolled in any of grades 2 to 11, inclusive, and who
18 either receives instruction in his or her primary language or has
19 been enrolled in a school in the United States for less than 12
20 months shall be required to take a test in his or her primary
21 language if a test is available.

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

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

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

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

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

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

23 (1) The number of pupils enrolled in the school district in grades
24 2 to 11, inclusive.

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

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

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

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

(m) 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. 9. Section 60640 is added to the Education Code, to read:

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

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

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

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

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

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

(2) Notwithstanding any other law, the state board shall designate for use, as part of this program, a single primary language test in each language for which a test is available for grades 3 to 11, inclusive, pursuant to the process used for designation of the

1 assessment chosen in the 1997–98 fiscal year, as specified in
2 Section 60643, as applicable.

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

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

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

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

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

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

37 (g) A pupil identified as limited English proficient pursuant to
38 the administration of a test made available pursuant to Section
39 60810 who is enrolled in any of grades 3 to 11, inclusive, and who
40 either receives instruction in his or her primary language or has

1 been enrolled in a school in the United States for less than 12
2 months shall be required to take a test in his or her primary
3 language if a test is available.

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

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

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

29 (i) For purposes of making the computations required by Section
30 8 of Article XVI of the California Constitution, the appropriation
31 for the apportionments made pursuant to paragraph (1) of
32 subdivision (h), and the payments made to the publishers under
33 the contracts required pursuant to Section 60643 or subparagraph
34 (C) of paragraph (1) of subdivision (a) of Section 60605 between
35 the department and the contractor, are "General Fund revenues
36 appropriated for school districts," as defined in subdivision (c) of
37 Section 41202, for the applicable fiscal year, and included within
38 the "total allocations to school districts and community college
39 districts from General Fund proceeds of taxes appropriated pursuant

1 to Article XIII B,” as defined in subdivision (e) of Section 41202,
2 for that fiscal year.

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

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

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

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

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

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

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

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

26 60642.5. (a) The Superintendent, with approval of the state
27 board, shall provide for the development of an assessment
28 instrument, to be called the California Standards Tests, that
29 measures the degree to which pupils are achieving the academically
30 rigorous content standards and performance standards, to the extent
31 standards have been adopted by the state board. These
32 standards-based achievement tests shall contain the subject areas
33 specified in paragraph (3) of subdivision (a) of Section 60603 for
34 grades 2 to 8, inclusive, and shall include an assessment in
35 history/social science in at least one elementary or middle school
36 grade level selected by the state board and science in at least one
37 elementary or middle school grade level selected by the state board,
38 and the core curriculum areas specified in paragraph (5) of
39 subdivision (a) of Section 60603 for grades 9 to 11, inclusive,
40 except that history-social science shall not be included in the grade

1 9 assessment unless the state board adopts academic content
2 standards for a grade 9 history-social science course, and shall
3 include, at a minimum, a direct writing assessment once in
4 elementary school and once in middle or junior high school and
5 other items of applied academic skill if deemed valid and reliable
6 and if resources are made available for their use.

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

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

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

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

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

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

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

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

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

36 SEC. 11. Section 60642.5 is added to the Education Code, to
37 read:

38 60642.5. (a) The Superintendent, with approval of the state
39 board, shall provide for the development of an assessment
40 instrument, to be called the California Standards Tests, that

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

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

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

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

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

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

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

38 (6) The experience of the contractor in successfully conducting
39 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

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

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

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

19 (e) (1) A publisher shall not provide a test described in Section
20 60642.5 or 60650 or in subdivision (f) of Section 60640 for use
21 in California public schools, unless the publisher enters into a
22 written contract with the department as set forth in this subdivision.

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

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

33 (4) The contracts shall include provisions for progress payments
34 to the publisher for work performed or costs incurred in the
35 performance of the contract. Not less than 10 percent of the amount
36 budgeted for each separate and distinct component task provided
37 for in each contract shall be withheld pending final completion of
38 all component tasks by that publisher. The total amount withheld
39 pending final completion shall not exceed 10 percent of the total
40 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 (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.

10 SEC. 16. Section 60644 is added to the Education Code, to
11 read:

12 60644. (a) By July 1, 2014, the department shall develop at
13 least three assessments in language arts and mathematics that are
14 appropriate for pupils in grade 2 for diagnostic use by classroom
15 teachers. The purpose of these assessments shall be to aid teachers
16 and to gain information about the developing language arts and
17 computational skills of pupils in grade 2. If the department
18 determines that suitable diagnostic assessments exist, it may select
19 those assessments instead of developing its own assessments.

20 (b) The department shall make the assessments developed or
21 selected pursuant to this section available to school districts
22 maintaining grade 2.

23 (c) This section shall be implemented from the savings realized
24 from the elimination of the grade 2 standards-based achievement
25 testing pursuant to Section 60640. Savings realized in the initial
26 three years after the elimination of the grade 2 standards-based
27 achievement testing pursuant to Section 60640 shall be available
28 for appropriation to the department for the development or
29 selection of assessments. Savings realized in the subsequent years
30 shall be available for allocation to school districts for
31 administration of the assessments on a per pupil basis.