

AMENDED IN SENATE MAY 24, 2013

**SENATE BILL**

**No. 247**

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**Introduced by Senator Liu**

February 12, 2013

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An act to amend Section 60601 of, 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 247, as amended, Liu. Pupil assessment: grade levels assessed.

~~(1) Existing~~

*Existing law, the Leroy Greene California Assessment of Academic Achievement Act (hereafter the Greene Act), requires the Superintendent of Public Instruction to design and implement a statewide pupil assessment program, and program that includes numerous elements, including, among other things, a plan for producing valid, reliable, and comparable individual pupil scores in grades 2 to 11, inclusive. The act also requires school districts, charter schools, and county offices of education to administer to each of its pupils in grades 2 to 11, inclusive, certain achievement tests, including a standards-based achievement test pursuant to the Standardized Testing and Reporting (STAR) Program. Existing law makes all provisions of the act inoperative on July 1, 2014.*

This bill, commencing July 1, 2014, would exclude pupils in grade 2 from the STAR Program.

The bill would require the State Department of Education, by November 1, 2014, to identify and make available to school districts information regarding existing assessments in language arts and mathematics *aligned to the adopted common core academic content*

*standards* for pupils in grade 2 for diagnostic use by classroom teachers. The bill would require ~~these provisions to be implemented from the savings realized from the elimination of the grade 2 standards-based achievement testing to be used by local educational agencies to administer the identified assessments.~~

~~(2) Existing law makes the Greene Act inoperative on July 1, 2014, and repeals it on January 1, 2015.~~

This bill would instead make the Greene Act inoperative on July 1, 2016, and would repeal it on January 1, 2017. By extending the operation of the Greene Act, this bill would impose a state-mandated local program:

~~(3) This bill would make conforming and nonsubstantive changes.~~

~~(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions:

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

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

1 SECTION 1. ~~Section 60601 of the Education Code is amended~~  
2 ~~to read:~~

3 ~~60601. This chapter shall become inoperative on July 1, 2016,~~  
4 ~~and as of January 1, 2017, is repealed, unless a later enacted statute~~  
5 ~~that is enacted before January 1, 2017, deletes or extends the dates~~  
6 ~~on which it becomes inoperative and is repealed.~~

7 ~~SEC. 2.~~

8 SECTION 1. Section 60603 of the Education Code is amended  
9 to read:

10 60603. As used in this chapter:

11 (a) "Achievement test" means ~~any~~ *a* standardized test that  
12 measures the level of performance that a pupil has achieved in the  
13 core curriculum areas.

14 (b) "Assessment of applied academic skills" means a form of  
15 assessment that requires pupils to demonstrate their knowledge  
16 of, and ability to apply, academic knowledge and skills in order

1 to solve problems and communicate. It may include, but is not  
2 limited to, writing an essay response to a question, conducting an  
3 experiment, or constructing a diagram or model. An assessment  
4 of applied academic skills shall not include assessments of personal  
5 behavioral standards or skills, including, but not limited to, honesty,  
6 sociability, ethics, or self-esteem.

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

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

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

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

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

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

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

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

32 (i) “Formative assessment” means assessment tools and  
33 processes that are embedded in instruction and are used by teachers  
34 and pupils to provide timely feedback for purposes of adjusting  
35 instruction to improve learning.

36 (j) “High-quality assessment” means an assessment designed  
37 to measure a pupil’s knowledge of, understanding of, and ability  
38 to apply critical concepts through the use of a variety of item types  
39 and formats, including, but not limited to, items that allow for  
40 open-ended responses and items that require the completion of

1 performance-based tasks. A high-quality assessment should have  
2 the following characteristics:

3 (1) Enable measurement of pupil achievement and pupil growth.

4 (2) Be of high technical quality by being valid, reliable, fair,  
5 and aligned to standards.

6 (3) Incorporate technology where appropriate.

7 (4) Include the assessment of pupils with disabilities and English  
8 learners.

9 (5) Use, to the extent feasible, universal design principles, as  
10 defined in Section 3 of the federal Assistive Technology Act of  
11 1998 (29 U.S.C. Sec. 3002) in its development and administration.

12 (k) “Interim assessment” means an assessment that is given at  
13 regular and specified intervals throughout the school year, is  
14 designed to evaluate a pupil’s knowledge and skills relative to a  
15 specific set of academic standards, and produces results that can  
16 be aggregated by course, grade level, school, or local educational  
17 agency in order to inform teachers and administrators at the pupil,  
18 classroom, school, and local educational agency levels.

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

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

29 (n) “Statewide pupil assessment program” means the systematic  
30 achievement testing of pupils in grades 2 to 11, inclusive, pursuant  
31 to the standardized testing and reporting program under Article 4  
32 (commencing with Section 60640).

33 (o) This section shall become inoperative on July 1, 2014, and  
34 as of January 1, 2015, is repealed, unless a later enacted statute  
35 that is enacted before January 1, 2015, deletes or extends the dates  
36 on which it becomes inoperative and is repealed.

37 ~~SEC. 3.~~

38 *SEC. 2.* Section 60603 is added to the Education Code, to read:  
39 60603. As used in this chapter:

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

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

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

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

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

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

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

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

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

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

38 (i) “Formative assessment” means assessment tools and  
39 processes that are embedded in instruction and are used by teachers

1 and pupils to provide timely feedback for purposes of adjusting  
2 instruction to improve learning.

3 (j) “High-quality assessment” means an assessment designed  
4 to measure a pupil’s knowledge of, understanding of, and ability  
5 to apply critical concepts through the use of a variety of item types  
6 and formats, including, but not limited to, items that allow for  
7 open-ended responses and items that require the completion of  
8 performance-based tasks. A high-quality assessment should have  
9 the following characteristics:

10 (1) Enable measurement of pupil achievement and pupil growth.

11 (2) Be of high technical quality by being valid, reliable, fair,  
12 and aligned to standards.

13 (3) Incorporate technology where appropriate.

14 (4) Include the assessment of pupils with disabilities and English  
15 learners.

16 (5) Use, to the extent feasible, universal design principles, as  
17 defined in Section 3 of the federal Assistive Technology Act of  
18 1998 (29 U.S.C. Sec. 3002) in its development and administration.

19 (k) “Interim assessment” means an assessment that is given at  
20 regular and specified intervals throughout the school year, is  
21 designed to evaluate a pupil’s knowledge and skills relative to a  
22 specific set of academic standards, and produces results that can  
23 be aggregated by course, grade level, school, or local educational  
24 agency in order to inform teachers and administrators at the pupil,  
25 classroom, school, and local educational agency levels.

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

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

36 (n) “Statewide pupil assessment program” means the systematic  
37 achievement testing of pupils in grades 3 to 11, inclusive, pursuant  
38 to the standardized testing and reporting program under Article 4  
39 (commencing with Section 60640).

40 (o) This section shall become operative on July 1, 2014.

1     ~~SEC. 4.~~

2     *SEC. 3.* Section 60604 of the Education Code is amended to  
3 read:

4     60604. (a) The Superintendent shall design and implement,  
5 consistent with the timetable and plan required pursuant to  
6 subdivision (b), a statewide pupil assessment program consistent  
7 with the testing requirements of this article in accordance with the  
8 objectives set forth in Section 60602. That program shall include  
9 all of the following:

10     (1) A plan for producing valid, reliable, and comparable  
11 individual pupil scores in grades 2 to 11, inclusive, and a  
12 comprehensive analysis of these scores based on the results of the  
13 achievement test designated by the state board that assesses a broad  
14 range of basic academic skills pursuant to the Standardized Testing  
15 and Reporting (STAR) Program established by Article 4  
16 (commencing with Section 60640).

17     (2) A method of working with publishers to ensure valid,  
18 reliable, and comparable individual, grade-level, school-level,  
19 school district-level, county-level, and statewide scores in grades  
20 2 to 11, inclusive.

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

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

31     (5) The alignment of assessment with the statewide academically  
32 rigorous content and performance standards adopted by the state  
33 board.

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

38     (7) The development of a contract or contracts with a publisher  
39 or publishers, after the approval of statewide academically rigorous  
40 content standards by the state board, for the development of

1 performance standards and assessments of applied academic skills  
2 designed to test pupils' knowledge of academic skills and abilities  
3 to apply that knowledge and those skills in order to solve problems  
4 and communicate.

5 (b) The Superintendent shall develop and annually update for  
6 the Legislature a five-year cost projection, implementation plan,  
7 and timetable for implementing the program described in  
8 subdivision (a). The annual update shall be submitted on or before  
9 March 1 of each year to the chairperson of the fiscal subcommittee  
10 considering budget appropriations in each house *of the Legislature*.  
11 The update shall explain any significant variations from the  
12 five-year cost projection for the current year budget and the  
13 proposed budget.

14 (c) The Superintendent shall provide each school district with  
15 guidelines for professional development that are designed to assist  
16 classroom teachers to use the results of the assessments  
17 administered pursuant to this chapter to modify instruction for ~~the~~  
18 ~~purpose~~ *purposes* of improving pupil learning. These guidelines  
19 shall be developed in consultation with classroom teachers and  
20 approved by the state board before dissemination.

21 (d) The Superintendent and the state board shall consider  
22 comments and recommendations from school districts and the  
23 public in the development, adoption, and approval of assessment  
24 instruments.

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

29 (f) This section shall become inoperative on July 1, 2014, and  
30 as of January 1, 2015, is repealed, unless a later enacted statute  
31 that is enacted before January 1, 2015, deletes or extends the dates  
32 on which it becomes inoperative and is repealed.

33 ~~SEC. 5.~~

34 *SEC. 4.* Section 60604 is added to the Education Code, to read:

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

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

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

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

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

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

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

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

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

1 considering budget appropriations in each house *of the Legislature*.  
2 The update shall explain any significant variations from the  
3 five-year cost projection for the current year budget and the  
4 proposed budget.

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

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

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

20 (f) This section shall become operative on July 1, 2014.

21 ~~SEC. 6.~~

22 *SEC. 5.* Section 60605.6 of the Education Code is amended to  
23 read:

24 60605.6. Subject to the availability of funds appropriated in  
25 the annual Budget Act for this purpose, the Superintendent, upon  
26 approval of the state board, shall contract for the development and  
27 distribution of workbooks, as follows:

28 (a) One workbook to be distributed to all pupils in grade 10.  
29 This workbook shall contain information on the proficiency levels  
30 that must be demonstrated by pupils on the high school exit  
31 examination described in Chapter 9 (commencing with Section  
32 60850). The workbook also shall contain sample questions, with  
33 explanations describing how these sample questions test pupil  
34 knowledge of the language arts and mathematics content standards  
35 adopted by the state board pursuant to Section 60605.

36 (b) Separate workbooks for each of grades 2 to 11, inclusive.  
37 Each pupil in grades 2 to 11, inclusive, who is required to take the  
38 achievement tests described in Section 60642.5 shall receive a  
39 copy of the workbook designed for the same grade level in which  
40 the pupil is enrolled. These workbooks shall contain material to

1 assist pupils and their parents with standards-based learning,  
2 including the grade appropriate academic content standards adopted  
3 by the state board pursuant to Section 60605 and sample questions  
4 that require knowledge of these standards to answer. The  
5 workbooks also shall describe how the sample questions test  
6 knowledge of the state board adopted academic content standards.

7 (c) This section shall become inoperative on July 1, 2014, and  
8 as of January 1, 2015, is repealed, unless a later enacted statute  
9 that is enacted before January 1, 2015, deletes or extends the dates  
10 on which it becomes inoperative and is repealed.

11 ~~SEC. 7.~~

12 *SEC. 6.* Section 60605.6 is added to the Education Code, to  
13 read:

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

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

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

37 (c) This section shall become operative on July 1, 2014.

38 ~~SEC. 8.~~

39 *SEC. 7.* Section 60640 of the Education Code is amended to  
40 read:

1 60640. (a) There is hereby established the Standardized Testing  
2 and Reporting Program, to be known as the STAR Program.

3 (b) From the funds available for ~~that purpose~~, *the STAR*  
4 *Program*, each school district, charter school, and county office  
5 of education shall administer to each of its pupils in grades 2 to  
6 11, inclusive, the standards-based achievement test provided for  
7 in Section 60642.5. The state board shall establish a testing period  
8 to provide that all schools administer these tests to pupils at  
9 approximately the same time during the instructional year, except  
10 as necessary to ensure test security and to meet the final filing  
11 date.

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

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

18 (e) Pursuant to Section 1412(a)(16) of Title 20 of the United  
19 States Code, individuals with exceptional needs, as defined in  
20 Section 56026, shall be included in the testing requirement of  
21 subdivision (b) with appropriate accommodations in administration,  
22 where necessary, and those individuals with exceptional needs  
23 who are unable to participate in the testing, even with  
24 accommodations, shall be given an alternate assessment.

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

32 (2) Notwithstanding any other law, the state board shall  
33 designate for use, as part of ~~this program~~, *the STAR Program*, a  
34 single primary language test in each language for which a test is  
35 available for grades 2 to 11, inclusive, pursuant to the process used  
36 for designation of the assessment chosen in the 1997–98 fiscal  
37 year, as specified in Section 60643, as applicable.

38 (3) (A) The department shall use funds made available pursuant  
39 to Title VI of the federal No Child Left Behind Act of 2001 (20  
40 U.S.C. Sec. 6301 et seq.) and appropriated by the annual Budget

1 Act for ~~the purpose~~ *purposes* of developing and adopting primary  
2 language assessments that are aligned to the state academic content  
3 standards. Subject to the availability of funds, primary language  
4 assessments shall be developed and adopted for reading-language  
5 arts and mathematics in the dominant primary language of  
6 limited-English-proficient pupils. The dominant primary language  
7 shall be determined by the count in the annual language census of  
8 the primary language of each limited-English-proficient pupil  
9 enrolled in the California public schools.

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

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

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

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

27 (F) On or before January 1, 2006, the department shall submit  
28 to the Legislature a report on the development and implementation  
29 of the initial primary language assessments and recommendations  
30 on the development and implementation of future assessments and  
31 funding requirements.

32 (g) A pupil identified as limited English proficient pursuant to  
33 the administration of a test made available pursuant to Section  
34 60810 who is enrolled in any of grades 2 to 11, inclusive, and who  
35 either receives instruction in his or her primary language or has  
36 been enrolled in a school in the United States for less than 12  
37 months shall be required to take a test in his or her primary  
38 language if a test is available.

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

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

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

26 (i) For purposes of making the computations required by Section  
27 8 of Article XVI of the California Constitution, the appropriation  
28 for the apportionments made pursuant to paragraph (1) of  
29 subdivision (h), and the payments made to the publishers under  
30 the contracts required pursuant to Section 60643 or subparagraph  
31 (C) of paragraph (1) of subdivision (a) of Section 60605 between  
32 the department and the contractor, are “General Fund revenues  
33 appropriated for school districts,” as defined in subdivision (c) of  
34 Section 41202, for the applicable fiscal year, and included within  
35 the “total allocations to school districts and community college  
36 districts from General Fund proceeds of taxes appropriated pursuant  
37 to Article XIII B,” as defined in subdivision (e) of Section 41202,  
38 for that fiscal year.

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

4 (1) The number of pupils enrolled in the school district in grades  
5 2 to 11, inclusive.

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

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

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

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

21 (m) This section shall become inoperative on July 1, 2014, and  
22 as of January 1, 2015, is repealed, unless a later enacted statute  
23 that is enacted before January 1, 2015, deletes or extends the dates  
24 on which it becomes inoperative and is repealed.

25 ~~SEC. 9.~~

26 *SEC. 8.* Section 60640 is added to the Education Code, to 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~~, *the STAR*  
30 *Program*, each school district, charter school, and county office  
31 of education shall administer to each of its pupils in grades 3 to  
32 11, inclusive, the standards-based achievement test provided for  
33 in Section 60642.5. The state board shall establish a testing period  
34 to provide that all schools administer these tests to pupils at  
35 approximately the same time during the instructional year, except  
36 as necessary to ensure test security and to meet the final filing  
37 date.

38 (c) The publisher and the school district shall provide two  
39 makeup days for the testing of previously absent pupils within the  
40 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)(16) 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 3 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~~, *the STAR Program*, a  
20 single primary language test in each language for which a test is  
21 available for grades 3 to 11, inclusive, pursuant to the process used  
22 for designation of the assessment chosen in the 1997–98 fiscal  
23 year, as specified in 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~~ *purposes* of developing and adopting primary  
28 language 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 3 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 3 to 11, inclusive.

29 (2) The number of pupils to whom an achievement test was  
30 administered in grades 3 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 operative on July 1, 2014.

5 ~~SEC. 10.~~

6 *SEC. 9.* Section 60642.5 of the Education Code is amended to  
7 read:

8 60642.5. (a) The Superintendent, with approval of the state  
9 board, shall provide for the development of an assessment  
10 instrument, to be called the California Standards Tests, that  
11 measures the degree to which pupils are achieving the academically  
12 rigorous content standards and performance standards, to the extent  
13 standards have been adopted by the state board. These  
14 standards-based achievement tests shall contain the subject areas  
15 specified in subdivision (c) of Section 60603 for grades 2 to 8,  
16 inclusive, and shall include an assessment in history-social science  
17 in at least one elementary or middle school grade level selected  
18 by the state board and science in at least one elementary or middle  
19 school grade level selected by the state board, and the core  
20 curriculum areas specified in subdivision (e) of Section 60603 for  
21 grades 9 to 11, inclusive, except that history-social science shall  
22 not be included in the grade 9 assessment unless the state board  
23 adopts academic content standards for a grade 9 history-social  
24 science course, and shall include, at a minimum, a direct writing  
25 assessment once in elementary school and once in middle or junior  
26 high school and other items of applied academic skill if deemed  
27 valid and reliable and if resources are made available for their use.

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

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

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

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

1 (4) The per pupil cost estimates of developing and, if  
2 appropriate, administering the proposed assessment with a system  
3 to facilitate the determination of future per pupil cost  
4 determinations.

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

7 (6) The experience of the contractor in successfully conducting  
8 testing programs adopted and administered by other states. For  
9 experience to be considered, the number of grades and pupils tested  
10 shall be provided.

11 (c) The standards-based achievement tests may use items from  
12 other tests.

13 (d) This section shall become inoperative on July 1, 2014, and  
14 as of January 1, 2015, is repealed, unless a later enacted statute  
15 that is enacted before January 1, 2015, deletes or extends the dates  
16 on which it becomes inoperative and is repealed.

17 ~~SEC. 11.~~

18 *SEC. 10.* Section 60642.5 is added to the Education Code, to  
19 read:

20 60642.5. (a) The Superintendent, with approval of the state  
21 board, shall provide for the development of an assessment  
22 instrument, to be called the California Standards Tests, that  
23 measures the degree to which pupils are achieving the academically  
24 rigorous content standards and performance standards, to the extent  
25 standards have been adopted by the state board. These  
26 standards-based achievement tests shall contain the subject areas  
27 specified in subdivision (c) of Section 60603 for grades 3 to 8,  
28 inclusive, and shall include an assessment in history-social science  
29 in at least one elementary or middle school grade level selected  
30 by the state board and science in at least one elementary or middle  
31 school grade level selected by the state board, and the core  
32 curriculum areas specified in subdivision (e) of Section 60603 for  
33 grades 9 to 11, inclusive, except that history-social science shall  
34 not be included in the grade 9 assessment unless the state board  
35 adopts academic content standards for a grade 9 history-social  
36 science course, and shall include, at a minimum, a direct writing  
37 assessment once in elementary school and once in middle or junior  
38 high school and other items of applied academic skill if deemed  
39 valid and reliable and if resources are made available for their use.

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

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

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

8 (3) The ability of the contractor to ensure alignment between  
9 the standards-based achievement test and the academically rigorous  
10 content and performance standards as those standards are adopted  
11 by the state board. This criterion shall include the ability of the  
12 contractor to implement a process to establish and maintain  
13 alignment between the test items and the standards.

14 (4) The per pupil cost estimates of developing and, if  
15 appropriate, administering the proposed assessment with a system  
16 to facilitate the determination of future per pupil cost  
17 determinations.

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

20 (6) The experience of the contractor in successfully conducting  
21 testing programs adopted and administered by other states. For  
22 experience to be considered, the number of grades and pupils tested  
23 shall be provided.

24 (c) The standards-based achievement tests may use items from  
25 other tests.

26 (d) This section shall become operative on July 1, 2014.

27 ~~SEC. 12.~~

28 *SEC. 11.* Section 60643 of the Education Code is amended to  
29 read:

30 60643. (a) To be eligible for consideration under Section  
31 60642.5 by the state board, test publishers shall agree in writing  
32 each year to meet the following requirements, as applicable, if  
33 selected:

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

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

39 (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) School 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)~~ (5) to (8), *inclusive*, to the department and the state board in  
35 the medium requested 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 protects 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 subdivision (f) of Section 60640 for use in California  
21 public schools, unless the publisher enters into a written contract  
22 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 2 to 11, inclusive. Any separate agreement is not within  
39 the scope of the contract specified in this subdivision.

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

8 (g) This section shall become inoperative on July 1, 2014, and  
9 as of January 1, 2015, is repealed, unless a later enacted statute  
10 that is enacted before January 1, 2015, deletes or extends the dates  
11 on which it becomes inoperative and is repealed.

12 ~~SEC. 13.~~

13 *SEC. 12.* Section 60643 is added to the Education Code, to  
14 read:

15 60643. (a) To be eligible for consideration under Section  
16 60642.5 by the state board, test publishers shall agree in writing  
17 each year to meet the following requirements, as applicable, if  
18 selected:

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

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

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

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

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

30 (A) Grade level.

31 (B) School level.

32 (C) School district level.

33 (D) Countywide.

34 (E) Statewide.

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

36 (6) Provide disaggregated scores, based on  
37 limited-English-proficient status and nonlimited-English-proficient  
38 status. For purposes of this section, pupils with  
39 “nonlimited-English-proficient status” shall include the total of  
40 those pupils who are English-only pupils, fluent-English-proficient

1 pupils, and redesignated fluent-English-proficient pupils. These  
2 scores shall be provided to school districts and county boards of  
3 education in the same forms and formats listed in paragraph (5).

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

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

17 (9) Provide information listed in paragraphs ~~(5), (6), (7), and~~  
18 ~~(8)~~ (5) to (8), *inclusive*, to the department and the state board in  
19 the medium requested by each entity, respectively.

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

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

38 (d) Notwithstanding any other law, the publisher of the  
39 standards-based achievement test provided for in Section 60642.5  
40 or any contractor under subdivision (f) shall comply with all of

1 the conditions and requirements enumerated in subdivision (a), as  
2 applicable, to the satisfaction of the state board.

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

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

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

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

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

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

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

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

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

3 (B) Test materials production or publication.

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

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

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

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

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

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

16 (10) The contracts shall specify the means by which ~~any~~ delivery  
17 ~~date~~ *dates* for materials to each school district shall be verified by  
18 the publisher and the school district.

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

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

32 (g) This section shall become operative on July 1, 2014.

33 ~~SEC. 14.~~

34 *SEC. 13.* Section 60643.1 of the Education Code is amended  
35 to read:

36 60643.1. (a) (1) The test publisher designated by the state  
37 board pursuant to Section 60642.5 shall make available a reading  
38 list on the Internet by June 1 of the applicable school year. The  
39 reading list shall include an index that correlates ranges of pupil  
40 reading scores on the English language arts portion of the

1 achievement test designated pursuant to Section 60642.5 to titles  
2 of materials that would be suitable for pupils in each of grades 2  
3 to 11, inclusive, to read in order to improve their reading skills.  
4 This reading list shall include titles of books that allow a pupil to  
5 practice reading at his or her current reading level and that will  
6 assist the pupil in achieving a higher level of proficiency. To the  
7 extent possible, the index also shall include information related to  
8 the subject matter of each title. At a minimum, the reading list also  
9 shall categorize titles by subject matter and identify age-appropriate  
10 distinctions in the list.

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

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

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

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

28 (1) The process is educationally valid.

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

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

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

37 (c) The titles listed at each reading level range posted on the  
38 Internet and the reading lists made available to school districts  
39 pursuant to subdivision (a), at a minimum, shall include all relevant  
40 literature materials approved as of September 1, 1999, as being

1 legally compliant pursuant to Article 3 (commencing with Section  
2 60040) of Chapter 1 of Part 33, and the titles listed in all of the  
3 content area reading and literature lists that are developed and  
4 published by the department and that have been determined by the  
5 department to meet the relevant reading level as certified pursuant  
6 to subdivision (b).

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

12 (e) This section shall become inoperative on July 1, 2014, and  
13 as of January 1, 2015, is repealed, unless a later enacted statute  
14 that is enacted before January 1, 2015, deletes or extends the dates  
15 on which it becomes inoperative and is repealed.

16 ~~SEC. 15.~~

17 *SEC. 14.* Section 60643.1 is added to the Education Code, to  
18 read:

19 60643.1. (a) (1) The test publisher designated by the state  
20 board pursuant to Section 60642.5 shall make available a reading  
21 list on the Internet by June 1 of the applicable school year. The  
22 reading list shall include an index that correlates ranges of pupil  
23 reading scores on the English language arts portion of the  
24 achievement test designated pursuant to Section 60642.5 to titles  
25 of materials that would be suitable for pupils in each of grades 3  
26 to 11, inclusive, to read in order to improve their reading skills.  
27 This reading list shall include titles of books that allow a pupil to  
28 practice reading at his or her current reading level and that will  
29 assist the pupil in achieving a higher level of proficiency. To the  
30 extent possible, the index also shall include information related to  
31 the subject matter of each title. At a minimum, the reading list also  
32 shall categorize titles by subject matter and identify age-appropriate  
33 distinctions in the list.

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

38 (3) The test publisher, in each school year, shall make available  
39 for purchase by school districts reading lists that can be distributed  
40 to pupils based on a pupil's age and the ranges of scores on the

1 English language arts portion of the achievement test designated  
2 pursuant to Section 60642.5.

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

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

11 (1) The process is educationally valid.

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

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

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

20 (c) The titles listed at each reading level range posted on the  
21 Internet and the reading lists made available to school districts  
22 pursuant to subdivision (a), at a minimum, shall include all relevant  
23 literature materials approved as of September 1, 1999, as being  
24 legally compliant pursuant to Article 3 (commencing with Section  
25 60040) of Chapter 1 of Part 33, and the titles listed in all of the  
26 content area reading and literature lists that are developed and  
27 published by the department and that have been determined by the  
28 department to meet the relevant reading level as certified pursuant  
29 to subdivision (b).

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

35 (e) This section shall become operative on July 1, 2014.

36 ~~SEC. 16.~~

37 *SEC. 15.* Section 60644 is added to the Education Code, to  
38 read:

39 60644. (a) By November 1, 2014, the department shall identify  
40 and make available to school districts information regarding

1 existing assessments in language arts and mathematics that are  
2 *aligned to the common core academic content standards adopted*  
3 *pursuant to Section 60605.8 and* appropriate for pupils in grade  
4 2 for diagnostic use by classroom teachers. The purpose of these  
5 assessments shall be to aid teachers and to gain information about  
6 the developing language arts and computational skills of pupils in  
7 grade 2.

8 ~~(b) This section shall be implemented from the~~ *The savings*  
9 realized from the elimination of the grade 2 standards-based  
10 achievement testing pursuant to the act that added this section *shall*  
11 *be used by local educational agencies to administer the*  
12 *assessments identified pursuant to subdivision (a).*

13 ~~SEC. 17. If the Commission on State Mandates determines~~  
14 ~~that this act contains costs mandated by the state, reimbursement~~  
15 ~~to local agencies and school districts for those costs shall be made~~  
16 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~  
17 ~~4 of Title 2 of the Government Code.~~