

**ITEM 3**  
**TEST CLAIM**  
**FINAL STAFF ANALYSIS**  
**AND**  
**PROPOSED STATEMENT OF DECISION**

Education Code Sections 60601, 60602, 60603, 60604, 60605, 60605.6, 60606, 60607, 60611, 60615, 60630, 60640, 60641, 60642.5 as added or amended by Statutes 1995, Chapter 975; Statutes 1997, Chapter 828; Statutes 1999, Chapter 735; Statutes 2000, Chapter 576; Statutes 2001, Chapter 20; Statutes 2001, Chapter 722; Statutes 2002, Chapter 1168; Statutes 2003, Chapter 773; Statutes 2004, Chapter 183; Statutes 2004, Chapter 233; Statutes 2005, Chapter 676; Statutes 2007, Chapter 174; Statutes 2007, Chapter 730; Statutes, 2008, Chapter 473; Statutes 2008, Chapter 757

California Code of Regulations, Title 5, Sections 850, 851, 852, 853, 855, 857, 858, 859, 861, 862, 863, 864.5, 865, 866, 867, 867.5, and 868, as added or amended by Register 2005, No. 34 (Sept. 21, 2005), Register 2006, No. 45 (Dec. 8, 2006)<sup>1</sup>

*Standardized Testing and Reporting (STAR) II and III*  
05-TC-02, 05-TC-03, and 08-TC-06

San Diego Unified School District, Grant Joint Union High School District,  
Twin Rivers Unified School District, Claimants

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Commission on State Mandates, <i>STAR</i> Statement of Decision, 97-TC-23, adopted August 24, 2000.	

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<sup>1</sup> Test Claim 08-TC-06 refers to regulations effective February 2007, but there were no test claim regulations effective on that date.

Commission on State Mandates, *STAR* Reconsideration Statement of Decision, 04-RL-9723-01, adopted July 28, 2005.

Assembly Floor, Third Reading Analysis of SB 1448 (2003-2004 Reg. Sess.) as amended July 28, 2004.

Assembly Floor, Analysis of AB 2856 (2003-2004 Reg. Ses.) as amended August 17, 2004.

CDE, "Assessment Apportionments for STAR, CELDT and CAHSEE" last modified August 13, 2012.

CDE, CBEDs Administrative Manual, October 2013.

CDE, "Final Statement of Reasons, Standardized Testing and Reporting (STAR) Program Regulations," September 8, 2004.

CDE, "Initial Statement of Reasons, Standardized Testing and Reporting (STAR) Program," revised June 23, 2004.

CDE, Information Memorandum to the SBE, January 29, 2004.

CDE, "Last Minute Memorandum, Standardized Testing and Reporting (STAR) Program: Adopt Amendments to Title 5 Regulations," September 8, 2004.

CDE memorandum, "State Board of Education-Adopted CAPA Performance Level," February 2009.

CDE, "Notice of Proposed Rulemaking, Amendment to Title 5, California Code of Regulations, Regarding Standardized Testing and Reporting Program," May 19, 2006.

CDE, "Notice of Proposed Rulemaking, Standardized Testing and Reporting (STAR) Program," rev. June 23, 2004.

CDE, "Standardized Testing and Reporting Program: Annual Report to the Legislature" July 2012.

CDE, STAR District and Test Site Coordinator Manual, Version 2-2005.

CDE, 2013-14 STAR Test Security Affidavit.

CDE, 2013-14 STAR Test Security Agreement.

CDE, "2011 Standardized Testing and Reporting Program Apportionment Information," May 6, 2011.

County of Sacramento, Analysis of Measure B, June 19, 2007.

National Center on Educational Outcomes, "Reporting Out-of-Level Test Scores: Are These Students Included in Accountability Programs," October 2003.

SBE, "Standardized Testing and Reporting (STAR) Program; Approve Commencement of the Rulemaking Process for the Proposed Amendments to Title 5 Code of Regulations" Agenda Item #8, Notice of Proposed Rulemaking, July 2004.

SBE, "Standardized Testing and Reporting (STAR) Program; Adopt Amendments to Title 5 Regulations" Agenda Item #6, September 2004.

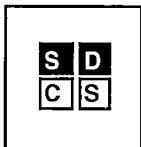
Senate Rules Committee, Office of Senate Floor Analyses, Third Reading Analysis of AB 1485 (2003-2004 Reg. Sess.), as amended September 8, 2003.

Senate Rules Committee, Office of Senate Floor Analyses, Third Reading Analysis of SB 1448 (2003-2004 Reg. Sess.), as amended July 28, 2004.

Senate Rules Committee, Office of Senate Floor Analyses, Third Reading Analysis of SB 946 (2007-2008 Reg. Sess.) as amended Aug. 14, 2008.

Senate Committee on Education, Analysis of SB 755 (2005-2006 Reg. Sess.) as amended February 22, 2005.

Senate Committee on Education, Analysis of SB 1448 (2003-2004 Reg. Sess.) as amended April 15, 2004.

**SAN DIEGO CITY SCHOOLS**

EUGENE BRUCKER EDUCATION CENTER  
4100 Normal Street, San Diego, CA 92103-8363

(619) 725-7785  
Fax (619) 725-7564

OFFICE OF RESOURCE DEVELOPMENT  
[apalkowitz@sandi.net](mailto:apalkowitz@sandi.net)

August 12, 2005



**Paula Higashi, Executive Director**  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, California 95814

Subject: ***Standardized Testing and Reporting II  
Test Claim***

Dear Ms. Higashi:

Please find enclosed the original and seven copies of the test claim for Standardized Testing and Reporting II (STAR).

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to be "A. Palkowitz".

Arthur M. Palkowitz

AMP/tr

*"The mission of San Diego City Schools is to improve student achievement by supporting teaching and learning in the classroom."*

1. TEST CLAIM TITLE

STAR II

2. CLAIMANT INFORMATION

San Diego Unified School District

Name of Local Agency or School District

Art Palkowitz, Esq.

Claimant Contact

Manager, Office of Resource Development

Title

4100 Normal Street, Room 3209

Street Address

San Diego, CA 92103

City, State, Zip

619-725-7785

Telephone Number

619-725-7564

Fax Number

apalkowitz@sandi.net

E-Mail Address

3. CLAIMANT REPRESENTATIVE INFORMATION

Claimant designates the following person to act as its sole representative in this test claim. All correspondence and communications regarding this claim shall be forwarded to this representative. Any change in representation must be authorized by the claimant in writing, and sent to the Commission on State Mandates.

Art Palkowitz, Esq.

Claimant Representative Name

Manager, Office of Resource Development

Title

San Diego Unified School District

Organization

4100 Normal Street, Room 3209

Street Address

San Diego, CA 92103

City, State, Zip

619-725-7785

Telephone Number

619-725-7564

Fax Number

apalkowitz@sandi.net

E-Mail Address

Filing Date: **RECEIVED**  
**AUG 15 2005**  
**COMMISSION ON STATE MANDATES**

Test Claim #: **05-TC-02**

4. TEST CLAIM STATUTES OR EXECUTIVE ORDERS CITED

Please identify all code sections, statutes, bill numbers, regulations, and/or executive orders that impose the alleged mandate (e.g., Penal Code Section 2045, Statutes 2004, Chapter 54 [AB 290]). When alleging regulations or executive orders, please include the effective date of each one.

Chapter 233, Statutes of 2004

Sections 60601, 60602, 60603, 60604, 60605, 60605.6, 60606, 60607, 60611, 60640 and 60641 of the Education Code, relating to Pupil Assessment.

Effective August 16, 2004

Copies of all statutes and executive orders cited are attached.

Sections 5, 6, and 7 are attached as follows:

- 5. Written Narrative: pages 1 to 16.
- 6. Declarations: pages 17 to 21.
- 7. Documentation: pages 22 to 53.

BEFORE THE  
COMMISSION ON STATE MANDATES  
STATE OF CALIFORNIA

Test Claim of:	)	No. _____
	)	
San Diego Unified School	)	Chapter 233, Statutes of 2004
District (Claimant)	)	Education Code sections 60601, 60602, 60603,
	)	60604, 60605, 60605.6, 60606, 60607, 60611,
	)	60640 and 60641
	)	
	)	<u><i>STAR II</i></u>
	)	

**FIVE. WRITTEN NARRATIVE**

SB 1448 amended Section 60602 of the Education Code to read: It is the intent of the Legislature in enacting this chapter to provide a system of individual assessment of pupils that has the primary purpose of assisting teachers, administrators, pupils, and their parents, to improve teaching and learning. In order to accomplish these goals, the Legislature finds and declares that California should adopt a coordinated and consolidated testing program to do all of the following:

(1) First and foremost, provide information on the academic status and progress of individual pupils to those pupils, their parents, and their teachers. This information should be designed to assist in the improvement of teaching and learning in California public classrooms. The Legislature recognizes that, in addition to statewide assessments that will occur as specified in this chapter, school districts will conduct additional ongoing pupil diagnostic assessment and provide information regarding pupil performance based on those assessments on a regular basis

(2) Develop and adopt a set of statewide academically rigorous content standards and performance standards in all major subject areas to serve as the basis for assessing the academic achievement of individual pupils, as well as for schools, school districts, and for the California education system as a whole. The performance standards shall be designed to lead to specific grade level benchmarks of academic achievement for each subject area tested within each grade level and shall be based on the knowledge and skills that pupils will need in order to succeed in the information-based, global economy of the 21st century.

(3) Ensure that all assessment procedures, items, instruments, and scoring systems are independently reviewed to ensure that they meet high standards of statistical reliability and validity and that they do not use procedures, items, instruments, or scoring practices that are racially, culturally, or gender biased.

(4) Provide information to pupils, parents or guardians, teachers, schools, and school districts on a timely basis so that the information can be used to further the development of the pupil and to improve the educational program.

(5) Develop assessments that are comparable to the National Assessment of Educational Progress and other national and international assessment efforts, so that California's local and state test results are reported in a manner that corresponds to the national test results. Test results should be reported in terms describing a pupil's academic performance in relation to the statewide academically rigorous content and performance standards adopted by the State Board of Education and in terms of employment skills possessed by the pupil, in addition to being reported as numerical or percentile scores.

(6) Assess pupils for a broad range of academic skills and knowledge including both basic academic skills and the ability of pupils to apply those skills.

(7) Include an appropriate balance of types of assessment instruments, including, but not limited to, multiple choice questions, short answer questions, and assessments of applied academic skills.

The estimated costs from implementing the additions / amendments of SB 1448, Chapter 233 will exceed \$1,000.

A: **A detailed description of the new activities and costs that arise from the mandate.**

Chapter 233 results in school districts incurring costs mandated by the state, as defined in Government Code section 17514, by creating new state-mandated duties related to the uniquely governmental function of providing public education to children. Chapter 233 applies only to schools and does not apply generally to all residents and entities in the state.

School districts have incurred or will incur costs:

(a) To review the requirements in Chapter 233 and any regulations, DOE memoranda and test administration instructions relating to the Academic Skill Assessment Program and the STAR Program.

(b) To train administrators, teachers and other school district personnel on the requirements in Chapter 233 and any regulations, DOE memoranda and test administration instructions relating to the Academic Skill Assessment Program and the STAR Program including, without limitation, test administration and reporting requirements.

(c) To administer the tests for the Academic Skill Assessment Program and the STAR Program, including, without limitation, determining school district and test site test and test materials needs; purchasing testing materials; conducting an inventory of test materials received from the test publisher; resolving any discrepancies in the quantity of test materials



received from the test publisher; distributing test materials to the appropriate test sites; conducting an inventory at each test site of the quantity of test materials received from the district central distribution point; resolving any discrepancies in the quantity of test materials received from the district; coordinating testing dates and make-up testing dates; collating and distributing tests, pre-identified answer sheets, and other test materials at test sites to appropriate teachers or other school district personnel who administer the tests; preparing, executing, and collecting STAR Test Security Agreements from every person who has access to tests and other test materials; maintaining security over test material and test data; collecting, collating and submitting pupil demographic information; staff time of teachers, classroom aides, exam proctors and other school district personnel in administering the tests to pupils; collecting test materials following test administration; conducting an inventory of test materials collected at each test site; returning test materials and test data from test sites to a central school district collection point; conducting an inventory of test materials received at the school district central collection point from test sites; and returning test materials and test data to the test publisher.

(d) To maintain individual records of the tests in pupil records.

(e) To report the individual results of the STAR Program tests to the pupils' parents or guardians, to the pupils' schools, and the pupils' teachers, including preparation and mailing of reports.

(f) To report the results of the Academic Skill Assessment Program tests and the STAR Program tests to the school district governing board on a districtwide and school-by-school basis.

(g) To collect, collate and submit to the DOE the information on the STAR Program apportionment information report.

(h) To process requests for exemption from testing filed by parents and guardians.

(i) To review the IEPs of children with disabilities to determine if the IEPs contain an express exemption from testing.

(j) To determine the appropriate grade level test for special education pupils and to provide appropriate testing adaptations and accommodations for these pupils.

(k) To enter into and administer the contract with the test publisher for the STAR Program.

(l) To develop and implement procedures for items (a) through (k) above.

The release of the record of accomplishment and the results of achievement tests to a postsecondary educational institution for specified purposes, upon the request of a pupil, or his or her parent or guardian. The bill further permits the release of individual results of the California Standards Tests to a postsecondary educational institution for the purposes of credit, placement, or admission. It is required that the State Department of Education ensure that a specified assessment that is administered for the purpose of determining credit, placement, or admission of a pupil in a postsecondary educational institution informs a pupil in grade 11 that he or she may request that the results of that assessment be released to a postsecondary educational institution.

The achievement test and the standards-based achievement test are scheduled to be administered to all pupils during the period prescribed in subdivision (b) of Section 60640.

The individual results of each pupil test administered shall be reported, in writing, to the pupil's parent or guardian. The written report shall include a clear explanation of the purpose of the test, the pupil's score, and its intended use by the school district. This subdivision does not require teachers or other school district personnel to prepare individualized explanations of each

pupil's test score.

The individual results of each pupil test administered pursuant to Section 60640 shall also be reported to the pupil's school and teachers. The school district shall include the pupil's test results in his or her pupil records. However, except as provided in this section, individual pupil test results may only be released with the permission of either the pupil's parent or guardian if the pupil is a minor, or the pupil if the pupil has reached the age of majority or is emancipated. . . .

The districtwide, school-level, and grade-level results of the STAR Program in each of the grades designated pursuant to Section 60640, but not the score or relative position of any individually ascertainable pupil, shall be reported to the governing board of the school district at a regularly scheduled meeting, and the countywide, school-level, and grade-level results for classes and programs under the jurisdiction of the county office of education shall be similarly reported to the county board of education at a regularly scheduled meeting.

SB 1448 extends the repeal date of the act to January 1, 2011, thereby imposing a state-mandated local program. Commencing July 1, 2007, pupils in grade 2 are excluded from the standards-based achievement test requirement, with conforming changes. (Education Code section 60601, subdivision (c)(2).)

SB 1448 permits the release of the record of accomplishment and the results of achievement tests to a postsecondary educational institution for specified purposes, upon the request of a pupil, or his or her parent or guardian. The bill further permits the release of individual results of the California Standards Tests to a postsecondary educational institution for the purposes of credit, placement, or admission. (Education Code section 60607, subdivision (c)(2)(A) & (B).) The bill requires the State Department of Education to ensure that a specified assessment that is administered for the purpose of determining credit, placement, or admission of

a pupil in a postsecondary educational institution informs a pupil in grade 11 that he or she may request that the results of that assessment be released to a postsecondary educational institution. (Education Code section 60641, subdivision (d).)

SB 1448 requires the State Department of Education to develop and adopt primary language assessments that are aligned to the state academic content standards to supplant the primary language test, as specified. (Education Code section 60640, subdivision (f)(3)(A).)

Section 60601 of the Education Code was amended to read:

“This chapter shall remain in effect only until January 1, 2011, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2011, deletes or extends that date.”

Section 60611 of the Education Code was amended to read:

“(a) A city, county, city and county, district superintendent of schools, or principal or teacher of any elementary or secondary school, including a charter school shall carry on any program of specific preparation of pupils for the statewide pupil assessment program or a particular test used therein. . . .”

Section 15 was amended to read:

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

“(b) Commencing in the 2004-05 fiscal year and each fiscal year thereafter, and 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 and 7 the achievement test designated by the State Board of Education pursuant to Section 60642 and 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). . . .

“(e) Pursuant to paragraph (17) of subsection (a) of Section 1412 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. . . .

“(g) A pupil identified as limited English proficient pursuant to the administration of a test provided by Section 60810, who is enrolled in any of grades 3 to 11, inclusive, and has not been reclassified as proficient in English pursuant to reclassification procedures required to be developed by Section 313, shall be required to take a test in his or her primary language if a test is available and if fewer than 12 months have elapsed after his or her initial enrollment in any public school in the state. . . .

“(j) As a condition to receiving an apportionment pursuant to subdivision (h), a school district shall report to the superintendent all of the following:

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

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

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

“(k) The superintendent and the state board are authorized and encouraged to assist postsecondary educational institutions to use the California Standards Tests for academic credit, or placement, and admissions processes, or both purposes.

“(l) The superintendent shall, with the approval of the state board, annually release to the public at least 25 percent of test items from the standards-based achievement test provided for in Section 60642.5 from the test administered in the previous year.

“(m) This section shall become operative July 1, 2007.”

Section 16 of the Education Code was added, to read:

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

“(b) Commencing in the 2007-08 fiscal year and each fiscal year thereafter, and 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 and 7 the achievement test designated by the State Board of Education pursuant to Section 60642 and 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 paragraph (17) of subsection (a) of Section 1412 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) At the option of the school district, a pupil with limited English proficiency who is enrolled in any of grades 3 to 11, inclusive, may take a second achievement test in his or her 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. 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 assessment chosen in the 1997-98 fiscal year, as specified by Sections 60642 and 60643, and as specified by Section 60642.5, as applicable.

“(g) A pupil identified as limited English proficient pursuant to the administration of a test provided by Section 60810, who is enrolled in any of grades 3 to 11, inclusive, and has not been reclassified as proficient in English pursuant to reclassification procedures required to be developed by Section 313, shall be required to take a test in his or her primary language if a test is available and if fewer than 12 months have elapsed after his or her initial enrollment in any public school in the state.

“(h) (1) The Superintendent of Public Instruction shall apportion funds to school districts to enable school districts to meet the requirements of subdivision (b), the alternative assessment required by subdivision (e), and subdivisions (f) and (g).

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

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

“(i) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation for the apportionments made pursuant to paragraph (1) of subdivision (h), and the payments made to the publishers under the contracts required



pursuant to Section 60643 or subparagraph (C) of paragraph (1) of subdivision (a) of Section 60605 between the department and the contractor, are "General Fund revenues appropriated for school districts," as defined in subdivision (c) of Section 41202, for the applicable fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202, for that fiscal year.

“(j) As a condition to receiving an apportionment pursuant to subdivision (h), a school district shall report to the superintendent all of the following:

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

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

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

“(k) The superintendent and the state board are authorized and encouraged to assist postsecondary educational institutions to use the California Standards Tests for academic credit, or placement, and admissions processes, or both purposes.

“(l) The superintendent shall, with the approval of the state board, annually release to the public at least 25 percent of test items from the standards-based achievement test provided for in Section 60642.5 from the test administered in the previous year.

“(m) This section shall become operative July 1, 2007.”

Section 17 of the Education Code was amended to read:

“60641. (a) The department shall ensure that school districts comply with each of the following requirements:

“(1) The achievement test designated pursuant to Section 60642 and the standards-based achievement test provided for in Section 60642.5 are scheduled to be administered to all pupils during the period prescribed in subdivision (b) of Section 60640.

“(2) The individual results of each pupil test administered pursuant to Section 60640 shall be reported, in writing, to the pupil's parent or guardian. The written report shall include a clear explanation of the purpose of the test, the pupil's score, and its intended use by the school district. This subdivision does not require teachers or other school district personnel to prepare individualized explanations of each pupil's test score.

“(3) (A) The individual results of each pupil test administered pursuant to Section 60640 shall also be reported to the pupil's school and teachers. The school district shall include the pupil's test results in his or her pupil records. However, except as provided in this section, individual pupil test results may only be released with the permission of either the pupil's parent or guardian if the pupil is a minor, or the pupil if the pupil has reached the age of majority or is emancipated. . . .

“(4) The districtwide, school-level, and grade-level results of the STAR Program in each of the grades designated pursuant to Section 60640, but not the score or relative position of any individually ascertainable pupil, shall be reported to the governing board of the school district at a regularly scheduled meeting, and the countywide, school-level, and grade-level results for classes and programs under the jurisdiction of the county office of education shall be similarly reported to the county board of education at a regularly scheduled meeting. . . .”

**B: A detailed description of existing activities and costs that are modified by the mandate.**

No city, county, city and county, or district superintendent of schools, or principal or

teacher of any elementary or secondary school, shall carry on any program of specific preparation of the pupils for the statewide pupil assessment program or a particular test used therein.

Existing law required a pupil to have an individual record of accomplishment that included the results of achievement tests, end-of-course exams, and whatever vocational education certification exams the pupil chose to take, and prohibited the record of accomplishment from being released to any person other than the parent or guardian of the pupil, or a teacher, counselor, or administrator, directly involved with the pupil, without the express written consent of the parent or guardian of the pupil if the pupil was a minor, or the pupil, if the pupil had reached the age of majority or was emancipated. Existing law also prohibited individual results of achievement tests from being released without the permission of the parent or guardian of the pupil.

Existing law required the State Board of Education to designate an achievement test, to be administered to pupils in grades 3 and 8. SB 1448 provides instead that that test is administered in grades 3 and 7. (Education Code section 64211.)

Existing law prohibited a city, county, city and county, or district superintendent of schools or principal or teacher of any elementary or secondary school from carrying on any program of specific preparation of the pupils for the statewide pupil assessment program or a particular test used in the statewide pupil assessment program.

Existing law authorized a pupil of limited English proficiency enrolled in any of grades 2 to 11, inclusive, to take a second achievement test in his or her primary language at the option of the school district.

**C: The actual increased costs incurred by the claimant during the fiscal year for which the claim was filed to implement the alleged mandate.**

In implementing this legislation, San Diego Unified School District incurred actual increased costs of approximately \$550,000 (2004-2005).

**D: The actual or estimated annual costs that will be incurred by the claimant to implement the alleged mandate during the fiscal year immediately following the fiscal year for which the claim was filed.**

In implementing this legislation, San Diego Unified School District estimates additional annual expenses of \$550,000 per year for 2005/2006 and beyond.

**E: A statewide cost estimate of increased costs that all local agencies or school districts will incur to implement the alleged mandate during the fiscal year immediately following the fiscal year for which the claim was filed.**

Per our Budget Department, total San Diego Unified expenses account for approximately 2.95% of statewide K-12 expenditures. In this regard, projected additional statewide K-12 expenses incurred by this implementing this legislation would be \$18,300,000 per year (\$540,000/2.95%).

**F: Identification of all the following funding sources available for this program:**

- (i) Dedicated state funds: STAR Funding (approximately \$9,000,000 statewide)
- (ii) Dedicated federal funds: Title VI
- (iii) Other non-local agency funds: none
- (iv) The local agency's general purpose fund: none
- (v) Fee authority to offset costs: none

**G: Identification of prior mandate determinations made by the Board of Control or the Commission on State Mandates that may be related to the alleged mandate.**

- a) Reconsideration of Test Claim 04-RL-9723-01, Statement of Decision (issued July 28, 2005)
- b) Test Claim 97-TL-23 (submitted March 23, 1998)

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**6. Declaration**

I, Robert Raines, make the following declaration and statement:

- 1) I am the Program Manager of the Testing Unit, Planning, Assessment, Accountability and Development Division for the San Diego Unified School District (the "District"). Among my responsibilities as Program Manager, I have been named as the District Coordinator for the Standardized Testing and Reporting ("STAR") program and will coordinate the academic skills assessments developed by the State Department of Education.
- 2) I am familiar with the provisions and requirements of Chapter 828, Statutes of 1997, Education Code sections 60605, 60607, 60609, 60615, 60630, 60640, 60641 and 60643, and Title 5, California Code of Regulations sections 850-874, all relating to the STAR program and the academic skill assessment program.

**A: Declare actual or estimated increased costs that will be incurred by the claimant to implement the alleged mandate:**

In implementing this legislation, San Diego Unified School District incurred actual increased costs of approximately \$550,000.00 (2004/2005).

**B. Identification of all the following funding sources available for this program:**

- (i) Dedicated state funds: STAR Funding ( 9 million statewide)

- (ii) Dedicated federal funds: none
- (iii) Other non-local agency funds: none
- (iv) The local agency's general purpose fund: none
- (v) Fee authority to offset costs: none

**C: Describe new activities performed to implement specified provisions of the new statute or executive order alleged to impose a reimbursable state-mandated program (specific references shall be made to chapters, articles, sections or page numbers alleged to impose a reimbursable state-mandated program);**

Commencing in the 2004-05 fiscal year and each fiscal year thereafter, and 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 and 7 the achievement test designated by the State Board of Education and shall administer to each of its pupils in grades 3 to 11, inclusive, the standards-based achievement test.

The release of the record of accomplishment and the results of achievement tests to a postsecondary educational institution for specified purposes, upon the request of a pupil, or his or her parent or guardian. The bill further permits the release of individual results of the California Standards Tests to a postsecondary educational institution for the purposes of credit, placement, or admission. It is required that the State Department of Education ensure that a specified assessment that is administered for the purpose of determining credit, placement, or admission of a pupil in a postsecondary educational institution informs a pupil in grade 11 that he or she may request that the results of that assessment be released to a postsecondary educational institution.



The achievement test and the standards-based achievement test are scheduled to be administered to all pupils during the period prescribed in subdivision (b) of Section 60640.

The individual results of each pupil test administered shall be reported, in writing, to the pupil's parent or guardian. The written report shall include a clear explanation of the purpose of the test, the pupil's score, and its intended use by the school district. This subdivision does not require teachers or other school district personnel to prepare individualized explanations of each pupil's test score.

The individual results of each pupil test administered pursuant to Section 60640 shall also be reported to the pupil's school and teachers. The school district shall include the pupil's test results in his or her pupil records. However, except as provided in this section, individual pupil test results may only be released with the permission of either the pupil's parent or guardian if the pupil is a minor, or the pupil if the pupil has reached the age of majority or is emancipated. . . .

The districtwide, school-level, and grade-level results of the STAR Program in each of the grades designated pursuant to Section 60640, but not the score or relative position of any individually ascertainable pupil, shall be reported to the governing board of the school district at a regularly scheduled meeting, and the countywide, school-level, and grade-level results for classes and programs under the jurisdiction of the county office of education shall be similarly reported to the county board of education at a regularly scheduled meeting.

D. I declare that the above declaration is signed under penalty of perjury, based on the my personal knowledge, information or belief, and I am authorized and competent to do so.

Date: August 12, 2005

SAN DIEGO UNIFIED SCHOOL DISTRICT

By:  \_\_\_\_\_

Robert Raines, Program Manager  
Testing Unit, Planning, Assessment,  
Accountability and Development Division

**DOCUMENTATION**

**A.**

BILL NUMBER: SB 1448    CHAPTERED    08/16/04

CHAPTER    233  
FILED WITH SECRETARY OF STATE    AUGUST 16, 2004  
APPROVED BY GOVERNOR    AUGUST 16, 2004  
PASSED THE SENATE    JULY 29, 2004  
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AMENDED IN ASSEMBLY    JULY 28, 2004  
AMENDED IN ASSEMBLY    JULY 23, 2004  
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AMENDED IN SENATE    MAY 12, 2004  
AMENDED IN SENATE    MAY 5, 2004  
AMENDED IN SENATE    APRIL 15, 2004

INTRODUCED BY    Senator Alpert  
                  (Coauthor:    Senator Scott)

FEBRUARY 19, 2004

An act to amend Sections 60601, 60602, 60607, 60611, 60641, and 60644 of, to amend and repeal Section 60642 of, and to amend, repeal, and add Sections 60603, 60604, 60605, 60605.6, 60606, 60640, 60643, and 60643.1 of, the Education Code, relating to pupil assessment.

LEGISLATIVE COUNSEL'S DIGEST

SB 1448, Alpert.    Pupil assessment.

(1) 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. Existing law repeals the act on January 1, 2005.

This bill would extend the repeal date of the act to January 1, 2011, thereby imposing a state-mandated local program. The bill would, commencing July 1, 2007, exclude pupils in grade 2 from the standards-based achievement test requirement and make conforming changes.

(2) Existing law requires a pupil to have an individual record of accomplishment that includes the results of achievement tests, end-of-course exams, and whatever vocational education certification exams the pupil chose to take, and prohibits the record of accomplishment from being released to any person other than the parent or guardian of the pupil, or a teacher, counselor, or administrator, directly involved with the pupil, without the express written consent of the parent or guardian of the pupil if the pupil is a minor, or the pupil, if the pupil has reached the age of majority or is emancipated. Existing law also prohibits individual results of achievement tests from being released without the

permission of the parent or guardian of the pupil.

This bill would, upon the request of a pupil, or his or her parent or guardian, permit the release of the record of accomplishment and the results of achievement tests to a postsecondary educational institution for specified purposes. The bill would permit the release of individual results of the California Standards Tests to a postsecondary educational institution for the purposes of credit, placement, or admission. The bill would require the State Department of Education to ensure that a specified assessment that is administered for the purpose of determining credit, placement, or admission of a pupil in a postsecondary educational institution informs a pupil in grade 11 that he or she may request that the results of that assessment be released to a postsecondary educational institution.

(3) Existing law prohibits a city, county, city and county, or district superintendent of schools or principal or teacher of any elementary or secondary school from carrying on any program of specific preparation of the pupils for the statewide pupil assessment program or a particular test used in the statewide pupil assessment program.

This bill would, in addition, place that prohibition on a charter school, but would exempt from that prohibition instructional materials provided by the State Department of Education if those instructional materials are embedded in an instructional program that is intended to improve pupil learning.

(4) Existing law, the Standardized Testing and Reporting (STAR) Program requires each school district, charter school, and county office of education to administer to each of its pupils in grades 2 to 11, inclusive, a standards-based achievement test. Existing law authorizes a pupil of limited English proficiency who is enrolled in any of grades 2 to 11, inclusive, to take a second achievement test in his or her primary language at the option of the school district.

This bill would require the department to develop and adopt primary language assessments that are aligned to the state academic content standards to supplant the primary language test, as specified.

(5) Existing law requires that individual results of achievement tests be reported to the parent or guardian of a pupil, including a clear explanation of the purpose of the test, the pupil's score, and the intended use of the test. Existing law specifies that those provisions do not require teachers to prepare individualized explanations of each pupil's test score.

This bill would, in addition, specify that those provisions do not require other district personnel to prepare individualized explanations of each pupil's test score.

(6) Existing law requires the State Board of Education to designate an achievement test, to be administered to pupils in grades 3 and 8.

This bill would, instead, provide that that test is administered in grades 3 and 7.

(7) 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, including the creation of a State Mandates Claims Fund

to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

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.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

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

60601. This chapter shall remain in effect only until January 1, 2011, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2011, deletes or extends that date.

SEC. 2. Section 60602 of the Education Code is amended to read:

60602. (a) It is the intent of the Legislature in enacting this chapter to provide a system of individual assessment of pupils that has the primary purpose of assisting teachers, administrators, pupils, and their parents, to improve teaching and learning. In order to accomplish these goals, the Legislature finds and declares that California should adopt a coordinated and consolidated testing program to do all of the following:

(1) First and foremost, provide information on the academic status and progress of individual pupils to those pupils, their parents, and their teachers. This information should be designed to assist in the improvement of teaching and learning in California public classrooms. The Legislature recognizes that, in addition to statewide assessments that will occur as specified in this chapter, school districts will conduct additional ongoing pupil diagnostic assessment and provide information regarding pupil performance based on those assessments on a regular basis to parents or guardians and schools. The Legislature further recognizes that local diagnostic assessment is a primary mechanism through which academic strengths and weaknesses are identified.

(2) Develop and adopt a set of statewide academically rigorous content standards and performance standards in all major subject areas to serve as the basis for assessing the academic achievement of individual pupils, as well as for schools, school districts, and for the California education system as a whole. The performance standards shall be designed to lead to specific grade level benchmarks of academic achievement for each subject area tested within each grade level and shall be based on the knowledge and skills that pupils will need in order to succeed in the information-based, global economy of the 21st century.

(3) Ensure that all assessment procedures, items, instruments, and scoring systems are independently reviewed to ensure that they meet high standards of statistical reliability and validity and that they do not use procedures, items, instruments, or scoring practices that are racially, culturally, or gender biased.

(4) Provide information to pupils, parents or guardians, teachers, schools, and school districts on a timely basis so that the

information can be used to further the development of the pupil and to improve the educational program.

(5) Develop assessments that are comparable to the National Assessment of Educational Progress and other national and international assessment efforts, so that California's local and state test results are reported in a manner that corresponds to the national test results. Test results should be reported in terms describing a pupil's academic performance in relation to the statewide academically rigorous content and performance standards adopted by the State Board of Education and in terms of employment skills possessed by the pupil, in addition to being reported as numerical or percentile scores.

(6) Assess pupils for a broad range of academic skills and knowledge including both basic academic skills and the ability of pupils to apply those skills.

(7) Include an appropriate balance of types of assessment instruments, including, but not limited to, multiple choice questions, short answer questions, and assessments of applied academic skills.

(8) Minimize the amount of instructional time devoted to assessments administered pursuant to this chapter.

(b) It is the intent of the Legislature, pursuant to this article, to begin a planning and implementation process to enable the Superintendent of Public Instruction to accomplish the goals set forth in this section as soon as feasible.

(c) It is the intent of the Legislature that parents, classroom teachers, other educators, governing board members of school districts, and the public be involved, in an active and ongoing basis, in the design and implementation of the statewide pupil assessment program and the development of assessment instruments.

(d) It is the intent of the Legislature, insofar as is practically feasible and following the completion of annual testing, that the content, test structure, and test items in the assessments that are part of the Standardized Testing and Reporting Program become open and transparent to teachers, parents, and pupils, to assist all the stakeholders in working together to demonstrate improvement in pupil academic achievement. A planned change in annual test content, format, or design, should be made available to educators and the public well before the beginning of the school year in which the change will be implemented.

(e) It is the intent of the Legislature that the results of the California Standards Tests be available for use, after appropriate validation, academic credit, or placement and admissions processes, or both, at postsecondary educational institutions.

SEC. 3. 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 of applied academic

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

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

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

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

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

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

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

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

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

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

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

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

(b) This section shall become inoperative on July 1, 2007, and, as of January 1, 2008, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2008, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 4. Section 60603 is added to the Education Code, to read:

60603. (a) As used in this chapter:

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

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

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

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

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

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

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

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

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

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

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

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

(11) "Statewide pupil assessment program" means the systematic achievement testing of pupils in grades 3 to 11, inclusive, pursuant to the standardized testing and reporting program under Article 4 (commencing with Section 60640) and the assessment of basic academic skills and applied academic skills, administered to pupils in grade levels specified in subdivision (c) of Section 60605, required by this chapter in all schools within each school district by means of tests designated by the State Board of Education.

(b) This section shall become operative on July 1, 2007.

SEC. 5. Section 60604 of the Education Code is amended to read:

60604. (a) The Superintendent of Public Instruction shall design



and implement, consistent with the timetable and plan required pursuant to subdivision (b), a statewide pupil assessment program consistent with the testing requirements of this article in accordance with the objectives set forth in Section 60602. That program shall include all of the following:

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

(2) A method of working with publishers to ensure valid, reliable, and comparable individual, grade-level, school-level, district-level, county-level, and statewide scores in grades 2 to 11, inclusive, that is based on the achievement test designated pursuant to subdivision (b) of Section 60605.

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

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

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

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

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

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

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

before dissemination.

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

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

(f) This section shall become inoperative on July 1, 2007, and, as of January 1, 2008, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2008, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 6. Section 60604 is added to the Education Code, to read:

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

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

(2) A method of working with publishers to ensure valid, reliable, and comparable individual, grade-level, school-level, district-level, county-level, and statewide scores in grades 3 to 11, inclusive, that is based on the achievement test designated pursuant to subdivision (b) of Section 60605.

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

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

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

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

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

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

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

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

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

(f) This section shall become operative July 1, 2007.

SEC. 7. Section 60605 of the Education Code is amended to read:

60605. (a) (1) (A) Not later than January 1, 1998, the State Board of Education shall adopt statewide academically rigorous content standards, pursuant to the recommendations of the Commission for the Establishment of Academic Content and Performance Standards, in the core curriculum areas of reading, writing, and mathematics to serve as the basis for assessing the academic achievement of individual pupils and of schools, school districts, and the California education system. Not later than November 1, 1998, the state board shall adopt these standards in the core curriculum areas of history/social science and science.

(B) The state board shall adopt statewide performance standards in the core curriculum areas of reading, writing, mathematics, history/social science, and science based on the recommendations made by the Superintendent of Public Instruction and a contractor or contractors.

(C) The state board shall require the contractor or contractors to submit performance standards to the superintendent and the state board not later than a specified date that allows sufficient opportunity for the superintendent to make a recommendation to the state board and for the state board to conduct regional hearings prior to the adoption of the performance standards.

(2) (A) The state board may modify any proposed content standards or performance standards prior to adoption and may adopt content and performance standards in individual core curriculum areas as those standards are submitted to the board. The state performance standards shall be established against specific grade level benchmarks of academic achievement for each subject area tested and shall be based on the knowledge and skills that pupils will need in order to succeed in the information-based, global economy of the 21st century. These skills shall not include personal behavioral standards or skills, including, but not limited to, honesty,

sociability, ethics, or self-esteem. The standards adopted pursuant to this section shall be for the purpose of guiding state decisions regarding the development, adoption, and approval of assessment instruments pursuant to this chapter and does not mandate any actions or activities by school districts.

(B) Because these standards are models, the adoption of these standards is not subject to the Administrative Procedure Act. This subparagraph is declaratory of existing law.

(3) Before adopting academic content and performance standards, the state board shall hold regional hearings for the purpose of giving parents and other members of the public the opportunity to comment on the proposed standards.

(b) (1) The state board shall require the department to notify publishers of the opportunity to submit, for consideration by the state board pursuant to Section 60642, tests of achievement that include all of the basic academic skills identified in subdivision (c) of Section 60603 in grades 2 to 8, inclusive, and the core curriculum areas of English and language arts, mathematics, and science in grades 9 to 11, inclusive.

(2) The superintendent shall recommend to the state board which achievement test to adopt pursuant to subdivision (b) of Section 60642.

(c) (1) The state board shall ensure that the statewide assessment system adopted pursuant to this chapter yields valid, reliable individual pupil scores and, where applicable, aggregate school scores, school district scores, and statewide scores of pupils and assesses basic academic skills and content standards, including the use of a direct writing assessment or other applied academic skills if deemed valid and reliable and if resources are made available for their use.

(2) This subdivision does not prevent the state board from developing or adopting an assessment instrument that also contains assessments of basic academic skills.

(d) To the extent feasible and as otherwise required, the state board shall ensure that assessments developed, or contracted for pursuant to Section 60642.5, by the state are aligned with the statewide content and performance standards adopted pursuant to subdivision (a). The department, with the approval of the state board, shall periodically contract for a review of the achievement test for conformance with these standards.

(e) After adopting statewide content and performance standards, the state board shall review the existing curriculum frameworks for conformity with the new statewide standards and shall modify the curriculum frameworks where appropriate to bring them into alignment with the standards.

(f) The state board shall adopt regulations for the conduct and administration of the testing and assessment program.

(g) The state board shall adopt a regulation for minimum security procedures that test and assessment publishers and school districts must follow to ensure the security and integrity of test and assessment questions and materials.

(h) This section shall become inoperative on July 1, 2007, and, as of January 1, 2008, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2008, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 8. Section 60605 is added to the Education Code, to read:

60605. (a) (1) (A) Not later than January 1, 1998, the State Board of Education shall adopt statewide academically rigorous content standards, pursuant to the recommendations of the Commission for the Establishment of Academic Content and Performance Standards, in the core curriculum areas of reading, writing, and mathematics to serve as the basis for assessing the academic achievement of individual pupils and of schools, school districts, and the California education system. Not later than November 1, 1998, the state board shall adopt these standards in the core curriculum areas of history/social science and science.

(B) The state board shall adopt statewide performance standards in the core curriculum areas of reading, writing, mathematics, history/social science, and science based on the recommendations made by the superintendent and a contractor or contractors.

(C) The state board shall require the contractor or contractors to submit performance standards to the superintendent and the state board not later than a specified date that allows sufficient opportunity for the superintendent to make a recommendation to the state board and for the state board to conduct regional hearings prior to the adoption of the performance standards.

(2) (A) The state board may modify any proposed content standards or performance standards prior to adoption and may adopt content and performance standards in individual core curriculum areas as those standards are submitted to the state board. The performance standards shall be established against specific grade level benchmarks of academic achievement for each subject area tested and shall be based on the knowledge and skills that pupils will need in order to succeed in the information-based, global economy of the 21st century. These skills shall not include personal behavioral standards or skills, including, but not limited to, honesty, sociability, ethics, or self-esteem. The standards adopted pursuant to this section shall be for the purpose of guiding state decisions regarding the development, adoption, and approval of assessment instruments pursuant to this chapter and shall not be construed to mandate any actions or activities by school districts.

(B) Because these standards are models, the adoption of these standards is not subject to the Administrative Procedure Act. This subparagraph is declaratory of existing law.

(3) Before adopting academic content and performance standards, the state board shall hold regional hearings for the purpose of giving parents and other members of the public the opportunity to comment on the proposed standards.

(b) (1) The state board shall require the department to notify publishers of the opportunity to submit, for consideration by the state board pursuant to Section 60642, tests of achievement that include all of the basic academic skills identified in subdivision (c) of Section 60603 in grades 3 to 8, inclusive, and the core curriculum areas of English and language arts, mathematics, and science in grades 9 to 11, inclusive.

(2) The superintendent shall recommend to the state board which achievement test to adopt pursuant to subdivision (b) of Section 60642.

(c) (1) The state board shall ensure that the statewide assessment

system adopted pursuant to this chapter yields valid, reliable individual pupil scores and, where applicable, aggregate school scores, school district scores, and statewide scores of pupils and assesses basic academic skills and content standards, including the use of a direct writing assessment or other applied academic skills if deemed valid and reliable and if resources are made available for their use.

(2) This subdivision does not prevent the state board from developing or adopting an assessment instrument that also contains assessments of basic academic skills.

(d) To the extent feasible and as otherwise required, the state board shall ensure that assessments developed, or contracted for pursuant to Section 60642.5, by the state are aligned with the statewide content and performance standards adopted pursuant to subdivision (a). The department, with the approval of the state board, shall periodically contract for a review of the achievement test for conformance with these standards.

(e) After adopting statewide content and performance standards, the state board shall review the existing curriculum frameworks for conformity with the new statewide standards and shall modify the curriculum frameworks where appropriate to bring them into alignment with the standards.

(f) The state board shall adopt regulations for the conduct and administration of the testing and assessment program.

(g) The state board shall adopt a regulation for minimum security procedures that test and assessment publishers and school districts must follow to ensure the security and integrity of test and assessment questions and materials.

(h) This section shall become operative July 1, 2007.

SEC. 9. Section 60605.6 of the Education Code is amended to read:

60605.6. Subject to the availability of funds in the annual Budget Act for this purpose, the Superintendent of Public Instruction, upon approval of the State Board of Education, shall contract for the development and distribution of workbooks, as follows:

(a) One workbook to be distributed to all pupils in the 10th grade. 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 2 to 11, inclusive. Each pupil in grades 2 to 11, inclusive, who is required to take the achievement tests described in Section 60642 or 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 inoperative on July 1, 2007, and, as of January 1, 2008, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2008, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 10. Section 60605.6 is added to the Education Code, to read:

60605.6. Subject to the availability of funds in the annual Budget Act for this purpose, the Superintendent of Public Instruction, upon approval of the State Board of Education, shall contract for the development and distribution of workbooks, as follows:

(a) One workbook to be distributed to all pupils in the 10th grade. 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 or 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 July 1, 2007.

SEC. 11. Section 60606 of the Education Code is amended to read:

60606. (a) After designating a test of academic achievement for use in grades 2 to 11, inclusive, pursuant to Section 60642, or adopting an assessment of applied academic skills for use in grades 4, 5, 8, and 10 pursuant to Section 60605, the State Board of Education shall submit each of those two instruments when designated or adopted to the Statewide Pupil Assessment Review Panel, which is hereby established, for review by the panel.

(b) The panel shall consist of six members. Three members shall be appointed by the Governor, one member shall be appointed by the Senate Committee on Rules, one member shall be appointed by the Speaker of the Assembly, and one member shall be appointed by the superintendent. A majority of the panel shall consist of parents whose children attend public schools in the state in kindergarten and grades 1 to 12, inclusive.

(c) Panel members shall serve two-year terms, without compensation. No panel member shall serve more than two consecutive terms.

(d) The panel shall review the two instruments specified in subdivision (a) in order to ensure that the content of the instruments complies with the requirements of Section 60614. Notwithstanding any other provision of law, the panel may meet in closed session with a publisher for the purpose of addressing questions and clarifying issues that relate to ensuring that the

content of the publisher's test or assessment, as the case may be, comply with the requirements of Section 60614.

(e) The panel shall report its findings and recommendations to the state board within 10 days of its receipt of each instrument. If the panel fails to report within the required 10 days, the test or assessment shall be deemed acceptable to the panel.

(f) This section shall become inoperative on July 1, 2007, and, as of January 1, 2008, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2008, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 12. Section 60606 is added to the Education Code, to read:

60606. (a) After designating a test of academic achievement for use in grades 3 to 11, inclusive, pursuant to Section 60642, or adopting an assessment of applied academic skills for use in grades 4, 5, 8, and 10 pursuant to Section 60605, the State Board of Education shall submit each of those two instruments when designated or adopted to the Statewide Pupil Assessment Review Panel, which is hereby established, for review by the panel.

(b) The panel shall consist of six members. Three members shall be appointed by the Governor, one member shall be appointed by the Senate Committee on Rules, one member shall be appointed by the Speaker of the Assembly, and one member shall be appointed by the Superintendent of Public Instruction. A majority of the panel shall consist of parents whose children attend public schools in the state in kindergarten and grades 1 to 12, inclusive.

(c) Panel members shall serve two-year terms, without compensation. No panel member shall serve more than two consecutive terms.

(d) The panel shall review the two instruments specified in subdivision (a) in order to ensure that the content of the instruments complies with the requirements of Section 60614. Notwithstanding any other provision of law, the panel may meet in closed session with a publisher for the purpose of addressing questions and clarifying issues that relate to ensuring that the content of the publisher's test or assessment, as the case may be, comply with the requirements of Section 60614.

(e) The panel shall report its findings and recommendations to the state board within 10 days of its receipt of each instrument. If the panel fails to report within the required 10 days, the test or assessment shall be deemed acceptable to the panel.

(f) This section shall become operative July 1, 2007.

SEC. 13. Section 60607 of the Education Code is amended to read:

60607. (a) Each pupil shall have an individual record of accomplishment by the end of grade 12 that includes the results of the achievement test required and administered annually as part of the Standardized Testing and Reporting (STAR) Program established pursuant to Article 4 (commencing with Section 60640), results of end-of-course exams he or she has taken, and the vocational education certification exams he or she chose to take.

(b) It is the intent of the Legislature that school districts and schools use the results of the academic achievement tests administered annually as part of the statewide pupil assessment program to provide support to pupils and parents or guardians in order to assist pupils in strengthening their development as learners, and thereby to improve their academic achievement and



performance in subsequent assessments.

(c) (1) Any pupil results or a record of accomplishment shall be private, and may not be released to any person, other than the pupil's parent or guardian and a teacher, counselor, or administrator directly involved with the pupil, without the express written consent of either the parent or guardian of the pupil if the pupil is a minor, or the pupil if the pupil has reached the age of majority or is emancipated.

(2) (A) Notwithstanding paragraph (1), a pupil or his or her parent or guardian may authorize the release of pupil results or a record of accomplishment to a postsecondary educational institution for the purposes of credit, placement, or admission.

(B) Notwithstanding paragraph (1), the results of an individual pupil on the California Standards Test may be released to a postsecondary educational institution for the purposes of credit, placement, or admission.

SEC. 14. Section 60611 of the Education Code is amended to read:

60611. (a) A city, county, city and county, district superintendent of schools, or principal or teacher of any elementary or secondary school, including a charter school shall carry on any program of specific preparation of pupils for the statewide pupil assessment program or a particular test used therein.

(b) City, county, city and county, district superintendent of schools, principal, teacher of an elementary and secondary school, including a charter school, may use instructional materials provided by the department or its agents in the academic preparation of pupils for the statewide pupil assessment if those instructional materials are embedded in an instructional program that is intended to improve pupil learning.

SEC. 15. Section 60640 of the Education Code, as added by Chapter 773 of the Statutes of 2003, is amended to read:

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

(b) Commencing in the 2004-05 fiscal year and each fiscal year thereafter, and 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 and 7 the achievement test designated by the State Board of Education pursuant to Section 60642 and 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 paragraph (17) of subsection (a) of Section 1412 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 2 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 2 to 11, inclusive, pursuant to the process used for designation of the assessment chosen in the 1997-98 fiscal year, as specified in Sections 60642 and 60643, as applicable.

(3) (A) The department shall use funds made available pursuant to Title VI of the federal No Child Left Behind Act of 2001 and appropriated by the annual Budget Act for the purpose of developing and adopting primary language assessments that are aligned to the state academic content standards. Subject to the availability of funds, primary language assessments shall be developed and adopted for reading/language arts and mathematics in the dominant primary language of limited-English-proficient pupils. The dominant primary language shall be determined by the count in the annual language census of the primary language of each limited-English-proficient pupil enrolled in the California public schools.

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

(C) In choosing a contractor to develop a primary language assessment the State Board of Education shall consider the criteria for choosing a contractor or test publisher as specified by Sections 60642 and 60643, and as specified by Section 60642.5, as applicable.

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

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

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

(g) A pupil of limited English proficiency who is enrolled in any of grades 2 to 11, inclusive, shall be required to take a test in his or her primary language if a test is available, and if fewer than 12 months have elapsed after his or her initial enrollment in any public or nonpublic school in the state.

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

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

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

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

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

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

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

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

(k) This section shall become inoperative on July 1, 2007, and as of January 1, 2008, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2008, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 16. 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) Commencing in the 2007-08 fiscal year and each fiscal year

thereafter, and 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 and 7 the achievement test designated by the State Board of Education pursuant to Section 60642 and 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 paragraph (17) of subsection (a) of Section 1412 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) At the option of the school district, a pupil with limited English proficiency who is enrolled in any of grades 3 to 11, inclusive, may take a second achievement test in his or her 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. 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 assessment chosen in the 1997-98 fiscal year, as specified by Sections 60642 and 60643, and as specified by Section 60642.5, as applicable.

(g) A pupil identified as limited English proficient pursuant to the administration of a test provided by Section 60810, who is enrolled in any of grades 3 to 11, inclusive, and has not been reclassified as proficient in English pursuant to reclassification procedures required to be developed by Section 313, shall be required to take a test in his or her primary language if a test is available and if fewer than 12 months have elapsed after his or her initial enrollment in any public school in the state.

(h) (1) The Superintendent of Public Instruction shall apportion funds to school districts to enable school districts to meet the requirements of subdivision (b), the alternative assessment required by subdivision (e), and subdivisions (f) and (g).

(2) The state board shall annually establish the amount of funding to be apportioned to school districts for each test administered and shall annually establish the amount that each publisher shall be paid for each test administered under the agreements required pursuant to Section 60643. The amounts to be paid to the publishers shall be determined by considering the cost estimates submitted by

each publisher each September and the amount included in the annual Budget Act, and by making allowance for the estimated costs to school districts for compliance with the requirements of subdivision (b), the alternative assessment required by subdivision (e), and subdivisions (f) and (g).

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

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

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

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

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

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

(k) The superintendent and the state board are authorized and encouraged to assist postsecondary educational institutions to use the California Standards Tests for academic credit, or placement, and admissions processes, or both purposes.

(1) The superintendent shall, with the approval of the state board, annually release to the public at least 25 percent of test items from the standards-based achievement test provided for in Section 60642.5 from the test administered in the previous year.

(m) This section shall become operative July 1, 2007.

SEC. 17. Section 60641 of the Education Code is amended to read:

60641. (a) The department shall ensure that school districts comply with each of the following requirements:

(1) The achievement test designated pursuant to Section 60642 and the standards-based achievement test provided for in Section 60642.5 are scheduled to be administered to all pupils during the period prescribed in subdivision (b) of Section 60640.

(2) The individual results of each pupil test administered pursuant to Section 60640 shall be reported, in writing, to the pupil's parent or guardian. The written report shall include a clear explanation of the purpose of the test, the pupil's score, and its intended use by the school district. This subdivision does not require teachers or other school district personnel to prepare individualized explanations of each pupil's test score.

(3) (A) The individual results of each pupil test administered pursuant to Section 60640 shall also be reported to the pupil's school and teachers. The school district shall include the pupil's test results in his or her pupil records. However, except as provided in this section, individual pupil test results may only be released with the permission of either the pupil's parent or guardian if the pupil is a minor, or the pupil if the pupil has reached the age of majority or is emancipated.

(B) Notwithstanding subparagraph (A), a pupil or his or her parent or guardian may authorize the release of individual pupil results to a postsecondary educational institution for the purpose of credit, placement, or admission.

(4) The districtwide, school-level, and grade-level results of the STAR Program in each of the grades designated pursuant to Section 60640, but not the score or relative position of any individually ascertainable pupil, shall be reported to the governing board of the school district at a regularly scheduled meeting, and the countywide, school-level, and grade-level results for classes and programs under the jurisdiction of the county office of education shall be similarly reported to the county board of education at a regularly scheduled meeting.

(b) The publisher designated pursuant to Section 60642 and the publisher of the standards-based achievement tests provided for in Section 60642.5 shall make the individual pupil, grade, school, school district, and state results available to the department pursuant to paragraph (9) of subdivision (a) of Section 60643 by August 8 of each year in which the achievement test is administered for those schools for which the last day of test administration, including makeup days, is on or before June 25. The department shall make the grade, school, school district, and state results available on the Internet by August 15 of each year in which the achievement test is administered for those schools for which the last day of test administration, including makeup days, is on or before June 25.

(c) The department shall take all reasonable steps to ensure that the results of the test for all pupils who take the test by June 25 are made available on the Internet by August 15, as set forth in subdivision (b).

(d) The department shall ensure that a California Standards Test that is augmented for the purpose of determining credit, placement, or admission of a pupil in a postsecondary educational institution inform a pupil in grade 11 that he or she may request that the results from that assessment be released to a postsecondary educational institution.

SEC. 18. Section 60642 of the Education Code, as added by Chapter 773 of the Statutes of 2003, is amended to read:

60642. (a) The Superintendent of Public Instruction and the State Board of Education may consider any evaluations of independent experts who have not been employed by a test publisher in the

preceding 12 months regarding the suitability of the achievement tests submitted by publishers as required by subdivision (b) of Section 60605 for use as part of the STAR Program established by this article.

(b) Based upon a review of the achievement tests submitted and the recommendation made by the superintendent pursuant to subdivision (b) of Section 60605, the state board, in its sole discretion, based on the considerations set forth in Section 60644, shall designate for use as part of the STAR Program a single test in grades 3 and 7.

(c) The state board shall ensure that the achievement test designated pursuant to subdivision (b) contains the subject areas specified in subdivision (c) of Section 60603 for grades 3 and 7.

(d) The state board is hereby authorized to designate the achievement test to be administered pursuant to this article for more than one academic year subject to the availability of funds.

(e) The state board shall minimize, to the extent it deems feasible, the amount of testing time required by the assessment in subdivision (b) for those content areas for which there also exists a standards-based examination as provided for pursuant to Section 60642.5.

(f) This section shall become inoperative on July 1, 2007, and, as of January 1, 2008, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2008, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 19. Section 60643 of the Education Code is amended to read:

60643. (a) To be eligible for consideration under Section 60642 or 60642.5 by the State Board of Education, test publishers shall agree in writing each year to meet the following requirements, as applicable, if selected:

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

(2) With respect to selection under Section 60642.5, align the standards-based achievement test provided for in Section 60642.5 to the academically rigorous content and performance standards adopted by the State Board of Education.

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

(4) Provide valid and reliable individual pupil scores only in the content areas specified in subdivision (c) of Section 60642 to parents or guardians, teachers, and school administrators.

(5) Provide valid and reliable aggregate scores only in the content areas specified in subdivision (c) of Section 60642 to school districts and county boards of education in all of the following forms and formats:

(A) Grade level.

(B) School level.

(C) District level.

(D) Countywide.

(E) Statewide.

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

(6) Provide disaggregated scores, based on limited-English-proficient status and nonlimited-English-proficient status. For purposes of this section, pupils with "nonlimited-English-proficient status" shall include the total of those pupils who are English-only pupils, fluent-English-proficient pupils, and redesignated fluent-English-proficient pupils. These

scores shall be provided to school districts and county boards of education in the same forms and formats listed in paragraph (5).

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

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

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

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

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

(d) Notwithstanding any other provision of law, the publisher of the achievement test designated pursuant to Section 60642, the publisher of the standards-based achievement test provided for in Section 60642.5, or any contractor under subdivision (f) shall comply with all of the conditions and requirements enumerated in subdivision (a), as applicable, to the satisfaction of the state board.

(e) (1) A publisher may not provide a test described in Section 60642, 60642.5, or 60650 or in subdivision (f) of Section 60640 for use in California public schools, unless the publisher enters into a written contract with the department as set forth in this subdivision.

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

(3) For purposes of the contracts authorized pursuant to this subdivision, the department is exempt from the requirements of Part 2 (commencing with Section 10100) of Division 2 of the Public Contract



Code and from the requirements of Article 6 (commencing with Section 999) of Chapter 6 of Division 4 of the Military and Veterans Code.

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

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

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

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

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

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

(B) Test materials production or publication.

(C) Delivery of test materials to school districts.

(D) Test processing, scoring, and analyses.

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

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

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

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

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

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

(g) This section shall become inoperative on July 1, 2007, and, as of January 1, 2008, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2008, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 20. Section 60643 is added to the Education Code, to read:

60643. (a) To be eligible for consideration under Section 60642 or 60642.5 by the State Board of Education, test publishers shall agree in writing each year to meet the following requirements, as applicable, if selected:

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

(2) With respect to selection under Section 60642.5, align the standards-based achievement test provided for in Section 60642.5 to the academically rigorous content and performance standards adopted by the state board.

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

(4) Provide valid and reliable individual pupil scores only in the content areas specified in subdivision (c) of Section 60642 to parents or guardians, teachers, and school administrators.

(5) Provide valid and reliable aggregate scores only in the content areas specified in subdivision (c) of Section 60642 to school districts and county boards of education in all of the following forms and formats:

(A) Grade level.

(B) School level.

(C) District level.

(D) Countywide.

(E) Statewide.

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

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

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

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

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

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

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

(d) Notwithstanding any other provision of law, the publisher of the achievement test designated pursuant to Section 60642, the publisher of the standards-based achievement test provided for in Section 60642.5, or any contractor under subdivision (f) shall comply with all of the conditions and requirements enumerated in subdivision (a), as applicable, to the satisfaction of the state board.

(e) (1) A publisher may not provide a test described in Section 60642, 60642.5, or 60650 or in subdivision (f) of Section 60640 for use in California public schools unless the publisher enters into a written contract with the department as set forth in this subdivision.

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

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

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

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

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

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

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

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

(B) Test materials production or publication.

(C) Delivery of test materials to school districts.

(D) Test processing, scoring, and analyses.

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

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

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

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

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

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

(g) This section shall become operative July 1, 2007.

SEC. 21. Section 60643.1 of the Education Code is amended to read:

60643.1. (a) (1) Commencing in the 1999-2000 school year, and each school year thereafter, the test publisher designated by the State Board of Education pursuant to Section 60642 shall make available a reading list on the Internet by June 1 of that 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 shall also include information related to

the subject matter of each title. At a minimum, the reading list shall also categorize titles by subject matter and identify age-appropriate distinctions in the list.

(2) Commencing in the 1999-2000 school year, and each school year thereafter, the test publisher 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) Commencing in the 1999-2000 school year, and each school year thereafter, the test publisher 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 only become operative 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 of Public Instruction shall jointly certify that the process used by the publisher to determine the reading levels of the corresponding reading list pursuant to paragraph (1) of subdivision (a) meets the following criteria:

(1) The process is educationally valid.

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

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

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

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

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

(e) This section shall become inoperative on July 1, 2007, and, as of January 1, 2008, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2008, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 22. Section 60643.1 is added to the Education Code, to read:

60643.1. (a) (1) Commencing in the 1999-2000 school year, and

each school year thereafter, the test publisher designated by the State Board of Education pursuant to Section 60642 shall make available a reading list on the Internet by June 1 of that 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 3 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 shall also include information related to the subject matter of each title. At a minimum, the reading list shall also categorize titles by subject matter and identify age-appropriate distinctions in the list.

(2) Commencing in the 1999-2000 school year, and each school year thereafter, the test publisher 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) Commencing in the 1999-2000 school year, and each school year thereafter, the test publisher 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 only become operative 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 of Public Instruction shall jointly certify that the process used by the publisher to determine the reading levels of the corresponding reading list pursuant to paragraph (1) of subdivision (a) meets the following criteria:

(1) The process is educationally valid.

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

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

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

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

(d) By imposing the requirements of this section on publishers, it

is not the intent of the Legislature to unfairly disadvantage any publisher who has otherwise met the requirements of this section or of Article 3 (commencing with Section 60040) of Chapter 1 of Part 33.

(e) This section shall become operative July 1, 2007.

SEC. 23. Section 60644 of the Education Code is amended to read:

60644. In designating an achievement test pursuant to Section 60642, the state board shall adopt only a nationally normed test that meets nationally recognized criteria for validity and reliability and shall consider each of the following criteria:

(a) Ability of the publisher to produce valid, reliable individual pupil scores.

(b) Quality and age of empirical data supporting national norm referenced data analysis of the proposed assessment.

(c) Ability to report results pursuant to the provisions of paragraphs (4) to (7), inclusive, of subdivision (a) of Section 60643 by August 8.

(d) Ability to report results that permit comparability between data from school districts' previous administration of standardized achievement tests, if feasible.

(e) Per-pupil cost estimates of administering the proposed assessment.

(f) The publisher's procedure for ensuring the security and integrity of test questions and materials.

(g) Experience in the successful conduct of testing programs adopted and administered by other states. For experience to be considered, the number of grades and pupils tested shall be provided.

SEC. 24. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

## DOCUMENTATION

### B.

#### COMPLETE BILL HISTORY

BILL NUMBER : S.B. No. 1448  
AUTHOR : Alpert  
TOPIC : Pupil assessment.

#### TYPE OF BILL :

Inactive  
Non-Urgency  
Non-Appropriations  
Majority Vote Required  
State-Mandated Local Program  
Fiscal  
Non-Tax Levy

#### BILL HISTORY

2004

Aug. 16 Chaptered by Secretary of State. Chapter 233, Statutes of 2004.  
Aug. 16 Approved by Governor.  
Aug. 2 Enrolled. To Governor at 11 a.m.  
July 29 In Senate. Senate concurs in Assembly amendments. (Ayes 39. Noes 0. Page 4751.) To enrollment.  
July 28 From committee: Do pass as amended. (Ayes 14. Noes 3.) Read second time. Amended. To third reading. Read third time. Passed. (Ayes 68. Noes 6. Page 6878.) To Senate.  
July 23 From committee with author's amendments. Read second time. Amended. Re-referred to committee.  
June 30 Read second time. Amended. Re-referred to Com. on APPR.  
June 29 From committee: Do pass as amended, but first amend, and re-refer to Com. on APPR. (Ayes 8. Noes 1.)  
June 23 Set, second hearing. Failed passage in committee. Reconsideration granted.  
June 16 Set, first hearing. Hearing canceled at the request of author.  
June 7 To Com. on ED.  
May 26 In Assembly. Read first time. Held at Desk.  
May 26 Read third time. Passed. (Ayes 37. Noes 0. Page 3927.) To Assembly.  
May 24 To Special Consent Calendar.  
May 20 From committee: Do pass. (Ayes 12. Noes 0. Page 3850.) Read second time. To third reading.  
May 17 Placed on APPR. suspense file. Set for hearing May 20.  
May 12 From committee with author's amendments. Read second time. Amended. Re-referred to committee.  
May 10 Set for hearing May 17.  
May 5 Read second time. Amended. Re-referred to Com. on APPR.  
May 4 From committee: Do pass as amended, but first amend, and re-refer to Com. on APPR. (Ayes 10. Noes 0. Page 3419.)  
Apr. 15 From committee with author's amendments. Read second time. Amended. Re-referred to committee.  
Apr. 12 Set for hearing April 21.  
Mar. 4 To Com. on ED.  
Feb. 20 From print. May be acted upon on or after March 21.  
Feb. 19 Introduced. Read first time. To Com. on RLS. for assignment. To print.



## DOCUMENTATION

### C.

**17519.** "School district" means any school district, community college district, or county superintendent of schools.

**17551.** (a) The commission, pursuant to the provisions of this chapter, shall hear and decide upon a claim by a local agency or school district that the local agency or school district is entitled to be reimbursed by the state for costs mandated by the state as required by Section 6 of Article XIII B of the California Constitution.

(b) Commission review of claims may be had pursuant to subdivision (a) only if the test claim is filed within the time limits specified in this section.

(c) Local agency and school district test claims shall be filed not later than 12 months following the effective date of a statute or executive order, or within 12 months of incurring increased costs as a result of a statute or executive order, whichever is later.

(d) The commission, pursuant to the provisions of this chapter, shall hear and decide upon a claim by a local agency or school district filed on or after January 1, 1985, that the Controller has incorrectly reduced payments to the local agency or school district pursuant to paragraph (2) of subdivision (d) of Section 17561.

**17556.** The commission shall not find costs mandated by the state, as defined in Section 17514, in any claim submitted by a local agency or school district, if, after a hearing, the commission finds that:

(a) The claim is submitted by a local agency or school district that requested legislative authority for that local agency or school district to implement the program specified in the statute, and that statute imposes costs upon that local agency or school district requesting the legislative authority. A resolution from the governing body or a letter from a delegated representative of the governing body of a local agency or school district that requests authorization for that local agency or school district to implement a given program shall constitute a request within the meaning of this paragraph.

(b) The statute or executive order affirmed for the state a mandate that had been declared existing law or regulation by action of the courts.

(c) The statute or executive order imposes a requirement that is mandated by a federal law or regulation and results in costs mandated by the federal government, unless the statute or executive order mandates costs that exceed the mandate in that federal law or regulation. This subdivision applies regardless of whether the federal law or regulation was enacted or adopted prior to or after the date on which the state statute or executive order was enacted or issued.

Test Claim: \_\_\_\_\_

(d) The local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or increased level of service.

(e) The statute, executive order, or an appropriation in a Budget Act or other bill provides for offsetting savings to local agencies or school districts that result in no net costs to the local agencies or school districts, or includes additional revenue that was specifically intended to fund the costs of the state mandate in an amount sufficient to fund the cost of the state mandate.

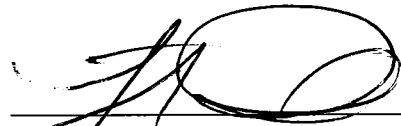
(f) The statute or executive order imposes duties that are necessary to implement, reasonably within the scope of, or expressly included in a ballot measure approved by the voters in a statewide or local election. This subdivision applies regardless of whether the statute or executive order was enacted or adopted before or after the date on which the ballot measure was approved by the voters.

(g) The statute created a new crime or infraction, eliminated a crime or infraction, or changed the penalty for a crime or infraction, but only for that portion of the statute relating directly to the enforcement of the crime or infraction.

CERTIFICATION

This test claim alleges the existence of a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. I hereby declare, under penalty of perjury under the laws of the State of California, that the information in this test claim submission is true and complete to the best of my own knowledge or information or belief.

Executed on August 12, 2005, at San Diego, California, by:



---

Arthur Palkowitz  
San Diego Unified School District

**PROOF OF SERVICE**

RE: *Standardized Testing and Reporting II*, Test Claim

I am employed in the County of San Diego, State of California. I am over 18 years of age and not a party to the within entitled action; my business address is 4100 Normal Street, Room 3209, San Diego, California 92103.

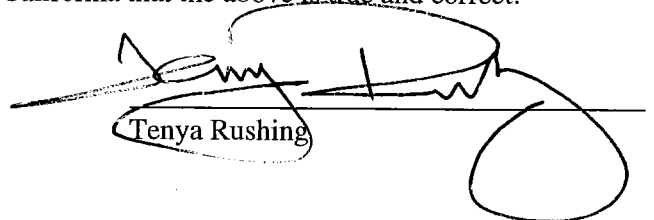
On August 12, 2005, I served the foregoing document(s) described as: **Test Claim**

On the person/parties in this action by faxing and placing a true and correct copy thereof enclosed in a sealed envelope(s) with postage thereon fully prepaid in the United States Mail at San Diego, California, with first-class postage thereon fully prepaid.

Paula Higashi, Executive Director  
Commission on State Mandates  
980 Ninth Street, Suite #300  
Sacramento, CA 95814

I declare, under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on August 12, 2005 in San Diego, California.



Tenya Rushing

**COMMISSION ON STATE MANDATES  
TEST CLAIM FORM**

Authorized by Government Code section 17553  
(Revised 1/2005)

**GENERAL INSTRUCTIONS**

- Local agency and school district test claims shall be filed not later than 12 months following the effective date of a statute or executive order, or within 12 months of incurring increased costs as a result of a statute or executive order, whichever is later.
- Type all responses.
- Complete sections 1 through 8, as indicated. Failure to complete any of these sections will result in this test claim being returned as incomplete.
- Original test claim submissions shall be unbound, single-sided, and without tabs. Copies may be double-sided, but unbound and without tabs.
- Mail, or hand-deliver, one original and seven copies of your test claim submission to:

**Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814**

*Within ten (10) days of receipt of a test claim, or its amendment, Commission staff will notify the claimant or claimant representative whether the submission is complete or incomplete. Test claims will be considered incomplete if any of the required sections are not included or are illegible. If a completed test claim is not received within thirty (30) calendar days from the date the incomplete test claim was returned, the executive director may disallow the original test claim filing date. A new test claim may be accepted on the same statute or executive order alleged to impose a mandate.*

You may download this form from our website! If you have any questions, please contact us:

Web Site: [www.csm.ca.gov](http://www.csm.ca.gov)  
Telephone: (916) 323-3562  
Fax: (916) 445-0278  
E-Mail: [csminfo@csm.ca.gov](mailto:csminfo@csm.ca.gov)

**1. TEST CLAIM TITLE**

Standardized Testing and Reporting II (STAR II)

**2. CLAIMANT INFORMATION**

Grant Joint Union High School District  
Name of Local Agency or School District

Robert Roach  
Claimant Contact

Mandated Cost Analyst  
Title

1333 Grand Avenue  
Street Address

Sacramento, CA 95838  
City, State, Zip

916-286-4849  
Telephone Number

916-263-6205  
Fax Number

robroach@grant.k12.ca.us  
E-Mail Address

**3. CLAIMANT REPRESENTATIVE INFORMATION**

Claimant designates the following person to act as its sole representative in this test claim. All correspondence and communications regarding this claim shall be forwarded to this representative. Any change in representation must be authorized by the claimant in writing, and sent to the Commission on State Mandates.

David E. Scribner  
Claimant Representative Name

President  
Title

Scribner Consulting Group, Inc.  
Organization

3840 Rosin Court, Suite 190  
Street Address

Sacramento, CA 95834  
City, State, Zip

916-922-2636  
Telephone Number

916-922-2719  
Fax Number

dscribner@scginc.org  
E-Mail Address

<i>For CSM Use Only</i>	
Filing Date:	<b>RECEIVED</b> SEP 21 2005 COMMISSION ON STATE MANDATES
Test Claim #:	05-TC-03

**4. TEST CLAIM STATUTES OR EXECUTIVE ORDERS CITED**

*Please identify all code sections, statutes, bill numbers, regulations, and/or executive orders that impose the alleged mandate (e.g., Penal Code Section 2045, Statutes 2004, Chapter 54 [AB 290]). When alleging regulations or executive orders, please include the effective date of each one.*

Education Code Sections 60640, 60641, 60642.5, Statutes 2003, Chapter 773 (A.B. 1485)

California Code of Regulations, Title 5, Sections 850 (eff. 9/21/05), 851 (eff. 9/21/05), 852 (eff. 9/21/05), 853 (eff. 9/21/05), 855 (eff. 9/21/05), 857 (eff. 9/21/05), 858 (eff. 9/21/05), 859 (eff. 9/21/05), 861 (eff. 9/21/05), 862 (eff. 9/21/05), 863 (eff. 9/21/05), 864.5 (eff. 9/21/05), 865 (eff. 9/21/05), 866 (eff. 9/21/05), 867 (eff. 9/21/05), 867.5 (eff. 9/21/05), 868 (eff. 9/21/05).

Copies of all statutes and executive orders cited are attached.

Sections 5, 6, and 7 are attached as follows:  
5. Written Narrative: pages 1 to 19 .  
6. Declarations: pages 20 to 28 .  
7. Documentation: pages 29 to 51 .

Sections 5, 6, and 7 should be answered on separate sheets of plain 8-1/2 x 11 paper. Each sheet should include the test claim name, the claimant, the section number, and heading at the top of each page.

## 5. WRITTEN NARRATIVE

Under the heading "5. Written Narrative," please identify the specific sections of statutes or executive orders alleged to contain a mandate.

Include a statement that actual and/or estimated costs resulting from the alleged mandate exceeds one thousand dollars (\$1,000), and include all of the following elements for each statute or executive order alleged:

- (A) A detailed description of the new activities and costs that arise from the mandate.
- (B) A detailed description of existing activities and costs that are modified by the mandate.
- (C) The actual increased costs incurred by the claimant during the fiscal year for which the claim was filed to implement the alleged mandate.
- (D) The actual or estimated annual costs that will be incurred by the claimant to implement the alleged mandate during the fiscal year immediately following the fiscal year for which the claim was filed.
- (E) A statewide cost estimate of increased costs that all local agencies or school districts will incur to implement the alleged mandate during the fiscal year immediately following the fiscal year for which the claim was filed.
- (F) Identification of all of the following funding sources available for this program:
  - (i) Dedicated state funds
  - (ii) Dedicated federal funds
  - (iii) Other nonlocal agency funds
  - (iv) The local agency's general purpose funds
  - (v) Fee authority to offset costs
- (G) Identification of prior mandate determinations made by the Board of Control or the Commission on State Mandates that may be related to the alleged mandate.

## 6. DECLARATIONS

Under the heading "6. Declarations," support the written narrative with declarations that:

- (A) declare actual or estimated increased costs that will be incurred by the claimant to implement the alleged mandate;
- (B) identify all local, state, or federal funds, and fee authority that may be used to offset the increased costs that will be incurred by the claimant to implement the alleged mandate, including direct and indirect costs;
- (C) describe new activities performed to implement specified provisions of the new statute or executive order alleged to impose a reimbursable state-mandated program (specific references shall be made to chapters, articles, sections, or page numbers alleged to impose a reimbursable state-mandated program); and
- (D) are signed under penalty of perjury, based on the declarant's personal knowledge, information or belief, by persons who are authorized and competent to do so.

## 7. DOCUMENTATION

Under the heading "7. Documentation," support the written narrative with copies of all of the following:

- (A) the test claim statute that includes the bill number alleged to impose or impact a mandate; and/or
- (B) the executive order, identified by its effective date, alleged to impose or impact a mandate; and
- (C) relevant portions of state constitutional provisions, federal statutes, and executive orders that may impact the alleged mandate; and
- (D) administrative decisions and court decisions cited in the narrative. Published court decisions arising from a state mandate determination by the Board of Control or the Commission are exempt from this requirement.

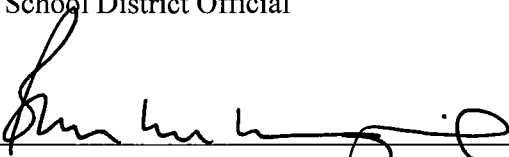
**8. CLAIM CERTIFICATION**

*Read, sign, and date this section and insert at the end of the test claim submission.\**

This test claim alleges the existence of a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. I hereby declare, under penalty of perjury under the laws of the State of California, that the information in this test claim submission is true and complete to the best of my own knowledge or information or belief.

Bruce Mangerich

Print or Type Name of Authorized Local Agency  
or School District Official



Signature of Authorized Local Agency or  
School District Official

Deputy Superintendent

Print or Type Title

September 15, 2005

Date

*\* If the declarant for this Claim Certification is different from the Claimant contact identified in section 2 of the test claim form, please provide the declarant's address, telephone number, fax number, and e-mail address below.*

\* Uve Dahmen/Coordinator Testing & Assessment  
1333 Grand Avenue  
Sacramento, CA 95838  
Ph: (916) 286-4977  
Fax: (916) 263-6213  
uvedahmen@grant.k12.ca.us





BEFORE THE COMMISSION ON STATE MANDATES

Test Claim Filed By:  Grant Joint Union High School District,  Claimant	Test Claim No. _____  Statutes of 2003, Chapter 773 (AB 1485)  Education Code Sections 60640, 60641, and 60642.5  California Code of Regulations, Title 5, Sections 850, 851, 852, 853, 855, 857, 858, 859, 861, 862, 863, 864.5, 865, 866, 867, 867.5, and 868  <i>Standardized Testing and Reporting II</i> <i>(STAR II)</i>
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**5. Written Narrative**

On October 11, 2003, chapter 773, statutes of 2003 (the test claim legislation) was enacted and became operative January 1, 2004. The test claim legislation added and amended Education Code section 60640 relating the Standardized Testing and Reporting Program. As added and amended by the test claim legislation, section 60640 provides:

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

(b) Commencing in the 2004–05 fiscal year and each fiscal year thereafter, and 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 and 8 the achievement test designated by the State Board of Education pursuant to Section 60642 and 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 of Education 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 of Education 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 paragraph (17) of subsection (a) of Section 1412 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) At the option of the school district, a pupil with limited English proficiency who are enrolled in any of grades 2 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. Notwithstanding any other law, the State Board of Education 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 2 to 11, inclusive, pursuant to the process used for designation of the assessment chosen in the 1997–98 fiscal year, as specified in Sections 60642 and 60643, as applicable.

(g) A pupil of limited English proficiency who is enrolled in any of grades 2 to 11, inclusive, shall be required to take a test in their primary language if a test is available, if fewer than 12 months have elapsed after their initial enrollment in any public school in the state.

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

(2) The State Board of Education shall annually establish the amount of funding to be apportioned to school districts for each test administered and shall annually establish the amount that each publisher shall be paid for each test administered under the agreements required pursuant to Section 60643. The amounts to be paid to the publishers shall be determined by considering the cost estimates submitted by each publisher each September and the amount included in the annual Budget Act, and by making allowance for the estimated costs to school districts for compliance with the requirements of subdivisions (b), (f), and (g).

(3) An adjustment to the amount of funding to be apportioned per test may not be valid without the approval of the Director of Finance. A request for approval of an adjustment to the amount of funding to be apportioned per test shall be submitted in writing to the Director of Finance and the chairpersons of the fiscal committees of both houses of the Legislature with accompanying material justifying the proposed adjustment. The Director of Finance is authorized to approve only those

adjustments related to activities required by statute. The Director of Finance shall approve or disapprove the amount within 30 days of receipt of the request and shall notify the chairpersons of the fiscal committees of both houses of the Legislature of the decision.

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

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

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

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

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

(k) This section shall become operative July 1, 2004."

The 2004 Standardized Testing and Reporting (STAR) Program included four components:

- California Standards Tests (CST)
- California Alternate Performance Assessment (CAPA)
- California Achievement Tests, Sixth Edition Survey (CAT/6 Survey)
- Spanish Assessment of Basic Education, Second Edition (SABE/2)

#### *California Standards Tests (CSTs)*

The California Standards Tests in English-language arts, mathematics, science, and history-social science are administered only to students in California public schools. Except for a writing component that is administered as part of the grade four and seven English-language arts tests, all questions are multiple choice. These tests were developed specifically to assess

students' knowledge of the California content standards. The State Board of Education adopted these standards that specify what all California children are expected to know and be able to do in each grade or course. The 2004 CSTs were required for students who were enrolled in the following grades/courses at the time of testing or who had completed a course during the 2003-04 school year, including 2003 summer school.

All Students in Grades 2 - 11	English-Language Arts
All Students in Grades 2 - 9	Mathematics
All Students in Grade 5	Science
Grade 8 - 11 students who completed	Algebra I, Geometry, Algebra II, or Integrated Mathematics 1, 2, or 3
Grade 8 and 9 students who did not complete one of the above math courses during the school year	General Mathematics
Grade 9 and 10 students who completed Algebra II or Integrated Mathematics 3 during the previous grade and grade 11 students who completed Algebra II or Integrated Mathematics 3 anytime before 2004 testing began, including students taking higher mathematics courses or no mathematics course	Summative High School Mathematics
All Students in Grades 8, 10, and 11	History-Social Science
Grade 9 - 11 students who completed	Earth Science, Biology, Chemistry, Physics, or Integrated/Coordinated Science Courses

English-Language Arts

The grade two and three California English-Language Arts Standards Tests each have 65 multiple-choice questions. The tests for grades five, six, and eight through eleven each have 75 multiple-choice questions. During 2004, the grade four and seven California English Language Arts Standards Tests included 75 multiple-choice questions plus a writing sample. For the writing component, students were required to write an essay for an assigned topic. Grade four

students read an informational article and wrote summaries of the article. Grade seven students wrote persuasive essays for a topic they were assigned. The types of writing used for the writing component of the test change from year to year and are based on the California Writing Application Content Standards. Grade four students may be required to write a narrative, a summary of information, or a response to literature. Grade seven students may be required to write a fictional or autobiographical narrative, a response to literature, a persuasive essay, or a summary of information. Two readers independently score each student's paper using a four-point scoring guide. The two readers' scores are added to the 75 multiple-choice questions, resulting in a maximum score of 83 points possible for the English-language arts test at these two grades.

### Mathematics

The California Mathematics Standards Tests are grade specific for grades two through seven. Each of these tests has 65 multiple-choice questions. The California Mathematics Standards Tests for grades eight through eleven also have 65 multiple-choice questions.

- All students in grades eight and nine who had not yet completed or were not enrolled in discipline specific, standards-based math courses or who were enrolled in the first year of a multi-year Algebra I course were required to take the General Mathematics CST. This test assesses the California Mathematics Standards for grades six and seven.
- Students in grades eight through eleven who had completed or were enrolled in discipline specific, standards-based math courses took California Mathematics Standards Tests in Algebra I, Geometry, Algebra II, or Integrated Mathematics 1, 2, or 3.
- Students in grades nine and ten who had completed Algebra II or Integrated Mathematics 3 during a previous school year and grade eleven students who completed one of these two courses anytime prior to the beginning of testing were required to take the Summative High School Mathematics CST. This included students who were taking higher mathematics courses or no mathematics course.

## History-Social Science

Students in grades eight, ten, and eleven took California History-Social Science Standards Tests. The grade eight test had 75 multiple-choice questions, and the grade ten and eleven tests each had 60 multiple-choice questions. These tests assess:

- Grade 8-a cumulative test of the grade 6 (Ancient Civilizations) and grade 7 (Medieval and Early Modern Times) world history standards, as well as grade 8 United States History and Geography: Growth and Conflict
- Grade 10-World History, Culture, and Geography: The Modern World
- Grade 11-United States History and Geography: Continuity and Change in the Twentieth Century

## Science

The Grade Five California Science Standards Test was administered for the first time to all students enrolled in fifth grade. This test assesses students' knowledge of the California Grade Four and Five Science Content Standards.

The science tests for grades nine through eleven were based on course-specific standards. Only grade nine through eleven students who were enrolled in or completed a standards-based science course took a test. Tests were administered for the following standards-based courses:

- Earth Science
- Biology/Life Science
- Chemistry
- Physics
- Integrated/Coordinated Science 1, 2, 3 and 4 (four test forms, each assessing specific standards for biology/life science, chemistry, earth science, and physics)

Teachers of integrated/coordinated science courses were to use the test blueprints and select the Integrated/Coordinated Science Test that most closely matched their course content. During the 2002-03 school year, teachers of integrated/coordinated science courses were asked to begin aligning their course content with one or more of the test blueprints as appropriate.

CST scores are reported as one of five performance levels from advanced to far below basic. The scores are used for calculating each school’s Academic Performance Index (API). The CST results comprise 80% of the weight for grade two through eight API calculations and 73% of the weight for grade nine through eleven API calculations. Only the results of the California English-Language Arts and Mathematics Standards Tests are used to determine the progress elementary and middle schools are making toward meeting the federal No Child Left Behind adequate yearly progress requirement of having all students score at proficient or above on the these tests.

*California Alternate Performance Assessment (CAPA)*

Students with significant cognitive disabilities who are unable to take the CSTs and CAT/6 Survey participate in the STAR Program by taking the CAPA. Alternate assessments are required by two federal laws, the Individuals with Disabilities Education Act (IDEA) and the No Child Left Behind (NCLB) Act. The CAPA is an individually administered performance assessment with all tasks linked to the California English-Language Arts and Mathematics Content Standards. Special educators in California identified subsets of standards on which it is appropriate to assess students with moderate to severe disabilities.

The CAPA is organized into five levels, representing specific grade spans. Most students eligible for the CAPA take the level corresponding to their grade placement. These students are expected to move through the CAPA levels as they progress in age. Some students with complex, profound disabilities may be eligible for Level I. These students remain in Level I and are not expected to move through the other CAPA levels.

• Level I	Students in grades 2-11 (those with the most complex, profound disabilities)
• Level II	Students in grades 2 and 3



• Level III	Students in grades 4 and 5
• Level IV	Students in grades 6 – 8
• Level V	Students in grades 9 – 11

Students taking the CAPA were given eight (8) tasks to complete for each of the two content areas. A trained certificated or licensed examiner (usually the student’s teacher) individually administered the assessment. The examiner scored the assessment by observing the student’s response and recording the student’s score using a specific scoring guide. If needed, the examiner could adapt the assessment tasks to make them accessible for students with a wide range of disabilities. Adaptations might have included signing the directions for a student with a hearing impairment or providing tactile materials for a student with a visual impairment.

CAPA scores are reported as one of five performance levels from advanced to far below basic. While the CAPA performance levels have the same labels as those used for the CSTs, they are defined differently and are based on a different scaled score range.

*California Achievement Tests, Sixth Edition Survey (CAT/6 Survey)*

In April 2002, the State Board of Education designated the CAT/6 Survey, published by CTB/McGraw-Hill, to replace the Stanford Achievement Test, Ninth Edition (Stanford 9) as the national norm-referenced test for the STAR Program. The Stanford 9 was used from 1998 through 2002. Like the Stanford 9, the questions on the CAT/6 Survey are unchanged from year to year. The CAT/6 Survey is a shortened version of the test. The survey version is used to minimize the testing time required for the norm-referenced component of the STAR Program.

Students in grades 2 through 11 were tested in reading, language, and mathematics. Students in grades 2 through 8 were also tested in spelling. Students in grades 9 through 11 were tested in science. The purpose of administering the CAT/6 Survey is to determine how well each

California student is achieving academically compared to a national sample of students tested in the same grade at the same time of the school year.

Reviewers should make no direct comparisons between the Stanford 9 and CAT/6 Survey results because the test series are published by two different companies, were developed at different times, and use different national groups of students as the comparison groups.

Effective July 1, 2005, the Commission on State Mandates determined that the CAT/6 portion of the STAR testing program imposes reimbursable state-mandated activities upon school districts. As such, the claimant does not reassert the CAT/6 portion of the STAR program in this test claim. However, the claimant shall assert any and all activities related to the CAT/6 portion of the STAR program to the extent the existing STAR parameters and guidelines fail to identify activities consistent with this test claim.

*Spanish Assessment of Basic Education, Second Edition (SABE/2)*

The SABE/2, published by CTB/McGraw-Hill, is a national norm-referenced achievement test in Spanish. The test battery includes tests of Spanish reading, language, and spelling, as well as mathematics tests in Spanish. Spanish-speaking English learners (limited-English proficient students) who had been enrolled in California public schools less than 12 months when testing began were required to take the SABE/2 in addition to taking the CSTs and CAT/6 Survey. Districts had the option of administering the SABE/2 to Spanish-speaking English learners who had been in California public schools 12 months or more.

Effective July 1, 2005, the Commission on State Mandates determined that the SABE/2 portion of the STAR testing program did not impose reimbursable state-mandated activities upon school district. Therefore, the claimant does not reassert those portions of the SABE/2 subject to the Commission's decision. However, to the extent the statute and regulations claimed in this

test claim are in excess of those reviewed by the Commission in its STAR Reconsideration, the claimant asserts these activities.

**A. New Activities and Costs That Arise From the Mandate.**

While Education Code sections 60640 and 60642.5 serve as the basic authorization and mandate related to the STAR testing program, the California Code of Regulations sections claimed in this test claim impose the majority of reimbursable state-mandated activities upon school districts. Because of the STAR testing program legislation and implementing regulations, the claimant alleges the following activities represent reimbursable state-mandated activities:

1. Administration of the designated achievement test and standards-based achievement tests to each eligible pupil enrolled in any of grades 2 to 11, inclusive, in a school district on the date testing begins in the pupil's school. (Cal. Code Regs., tit. 5, § 851.)
  - a. The designated achievement test shall be administered and returned by school districts in accordance with the manuals or other instructions provided by the contractor for administering and returning the tests unless specifically provided otherwise in this subchapter including instructions for administering the test with variations, accommodations, and modifications. The procedures shall include, but are not limited to, those designed to insure the uniform and standard administration of the tests to pupils, the security and integrity of the test content and test items, and the timely provision of all required student and school level information. (Id. at § 853.)
  - b. The standards-based achievement tests and the CAPA shall be administered and returned by school districts in accordance with the manuals and other instructions provided by the contractor, and in accordance with testing variations, accommodations, and modifications specified in section 853.5. The procedures shall include, but are not limited to, those designed to insure the uniform and standard administration of the tests to pupils, the security and integrity of the test content and test items, and the timely provision of all required student and school level information. The procedures shall not include criteria for who should be assessed by the CAPA. (Ibid.)
2. Administration of the CAPA, as set forth in the pupil's IEP, to each eligible pupil in any of grades 2 to 11, inclusive, in a school district during the period specified by the test contractor. Pupils in ungraded special education classes shall be tested, if they are 7 to 16 years of age. (Id. at § 851)

3. Making whatever arrangements are necessary to test all eligible pupils in alternative education programs or programs conducted off campus, including, but not limited to, continuation schools, independent study, community day schools, or county community schools. (Ibid.)
4. Accepting waivers filed by a parent or guardian to excuse his or her child from any or all parts of any test provided pursuant to Education Code section 60640. However, the school district and its employees shall not solicit or encourage any written exemption request on behalf of any child or group of children. (Id. at § 852.)
5. Administration of the designated achievement test and the standards-based achievement tests, except for the STAR writing assessment as specified in subdivision § 855(c), shall be administered to each pupil during a testing window of twenty-one (21) instructional days that includes ten (10) instructional days before and after completion of 85% of the school's, track's, or program's instructional days. Testing for all pupils, including makeup testing, is to be completed within this twenty-one (21) instructional day window unless all or part of the twenty-one (21) instructional day period falls after any statutorily specified deadline. (Id. at § 855.)
6. Each school district shall provide for at least two (2) makeup days of testing for pupils who were absent during the period in which any school administered the designated achievement test and the standards-based achievement tests. All makeup testing shall occur within five (5) instructional days of the last date that the school district administered the tests but not later than the end of the twenty-one (21) instructional day period established in §855(a). (Ibid.)
7. On or before September 30 of each school year, the superintendent of each school district shall designate from among the employees of the school district a district STAR coordinator. The district STAR coordinator, or the school district superintendent or his or her designee, shall be available through August 15 of the following year to complete school district testing. The school district shall notify the contractor of the identity and contact information, including electronic mail address, if available in the school district, for the district STAR coordinator and for the superintendent and his or her designee, if any. The district STAR coordinator shall serve as the school district representative and the liaison between the school district and the contractor and the school district and the Department for all matters related to the STAR program. (Id. at § 857.)
8. The district STAR coordinator's responsibilities shall include, but not be limited to, all of the following duties:
  - a. Responding to correspondence and inquiries from the contractor and from the Department in a timely manner and as provided in the contractor's instructions and these regulations.
  - b. Determining school district and individual school test and test material needs in conjunction with schools within the district and the contractor,

using current enrollment data and communicating school district test material needs to the contractor on or before December 1.

- c. Ensuring delivery of tests and test materials to the test sites no more than ten (10) or fewer than five (5) working days before the first day of testing designated by the district.
  - d. Coordinating the testing and makeup testing days for the school district and for those pupils of the district who are enrolled in nonpublic schools within any required time periods with the school test site coordinators. Overseeing the collection of all pupil data as required to comply with section 861.
  - e. Maintaining security over the designated achievement test, the standards-based achievement tests, the CAPA and test data using the procedure set forth in section 859. The district STAR coordinator shall sign the security agreement set forth in section 859 and submit it to the contractor prior to receipt of the test materials from the contractor.
  - f. Overseeing the administration of the designated achievement test, the standards-based achievement tests, and the CAPA to eligible pupils.
  - g. Overseeing the collection and return of all test materials and test data to the contractor within any required time periods.
  - h. Assisting the contractor and the Department in the resolution of any discrepancies in the test information and materials, including but not limited to, pre-identification files and all pupil level data required to comply with sections 861 and 862.
  - i. Immediately notifying the Department of any security breaches or testing irregularities in the district before, during, or after the test administration.
  - j. Ensuring that an answer document is submitted for scoring for each eligible pupil enrolled in the district on the first day of testing.
  - k. After receiving summary reports and files from the contractor, the district STAR coordinator shall review the files and reports for completeness and accuracy, and shall notify the contractor and the Department of any errors, discrepancies, or incomplete information.
  - l. Training test site coordinators to oversee the test administration at each school. (Ibid.)
9. At each test site, including but not limited to, each elementary, middle, and high school or other grade-span designated school, each charter school, each court-school, each school or program operated by a school district, and all other public programs serving pupils in any of the grades 2 to 11, inclusive, the superintendent of the school district or the district STAR coordinator shall designate a STAR test site coordinator from among the employees of the school district. The STAR test site coordinator, or the site principal or his or her designee, shall be available to the district STAR coordinator by telephone through August 15 for purposes of resolving discrepancies or inconsistencies in materials or errors in reports.

10. The STAR test site coordinator's responsibilities shall include, but are not limited to, all of the following duties:
  - a. Determining site test and test material needs and communicating the site needs to the district STAR coordinator.
  - b. Overseeing the acquisition and distribution of tests and test materials at the test site, including but not limited to, distributing test materials to test examiners on each day of testing in accordance with the contractor's directions.
  - c. Cooperating with the district STAR coordinator to provide the testing and makeup testing days for the site within any required time periods.
  - d. Maintaining security over the designated achievement test, the standards-based achievement tests, the CAPA and test data. The STAR test site coordinator shall sign the security agreement set forth in section 859 and submit it to the district STAR coordinator prior to the receipt of the test materials.
  - e. Arranging for and overseeing the administration of the designated achievement test, the standards-based achievement tests, and the CAPA to eligible pupils at the test site.
  - f. Overseeing the collection and return of all testing materials to the district STAR coordinator.
  - g. Assisting the district STAR coordinator, the contractor, and the Department in the resolution of any discrepancies in the test information and materials.
  - h. Overseeing the collection of all pupil level and other data required to comply with sections 861 and 862.
  - i. Ensuring that an answer document is submitted for scoring for each eligible pupil enrolled in the school on the first day of testing.
  - j. Ensuring that for each pupil tested only one scannable answer document is submitted for scoring, except that for each pupil tested at grades for which the contractor has designated the use of more than one answer document. An answer document for the STAR writing assessment administered pursuant to section 855(c) shall be submitted in addition to the answer document for the multiple choice items.
  - k. Immediately notifying the district STAR coordinator of any security breaches or testing irregularities that occur in the administration of the designated achievement test, the standards-based achievement tests, or the CAPA that violate the terms of the STAR Security Affidavit in section 859.
  - l. Training all test examiners, proctors, and scribes for administering the tests. (Id. at § 858.)

11. All STAR district and test site coordinators (coordinators) shall sign the STAR Test Security Agreement set forth in §859(b) before receiving any STAR program tests or test materials. (Id. at § 859.)
12. All test examiners, proctors, scribes, and any other persons having access to the designated achievement test and test materials, the standards-based achievement tests and test materials, and the CAPA materials shall acknowledge the limited purpose of their access to the tests by signing the STAR Test Security Affidavit set forth in §859(d). (Ibid.)
13. To maintain the security of the program, all district STAR coordinators and test site coordinators are responsible for inventory control and shall use appropriate inventory control forms to monitor and track test inventory. (Ibid.)
14. Each school district shall provide the contractor for the designated achievement test and standards-based achievement tests or CAPA, the following information for each pupil enrolled on the first day the tests are administered for purposes of the reporting required by the Academic Performance Index of the Public Schools Accountability Act (chapter 6.1, commencing with section 52050), section 60630, and chapter 5 (commencing with section 60640) of the Education Code:
  - a. Pupil's full name.
  - b. Date of birth.
  - c. Grade level.
  - d. Gender.
  - e. English proficiency and primary language.
  - f. Date of English proficiency reclassification.
  - g. If R-FEP pupil scored proficient or above on the California English-language arts test three (3) times since reclassification.
  - h. Program participation.
  - i. Use of accommodations or modifications.
  - j. California School Information Services (CSIS) Student Number once assigned.
  - k. Parent education level.
  - l. Amount of time in the school and school district.
  - m. For English learners, length of time in California public schools and in school in the United States.
  - n. Participation in the National School Lunch Program.
  - o. Ethnicity.
  - p. Primary disability.
  - q. County and District of residence for pupils with IEPs.

- r. Special testing conditions and/or reasons for not being tested. (Id. at § 861.)
15. School districts shall provide the same information for each eligible pupil enrolled in an alternative or off campus program or for pupils placed in nonpublic schools as is provided for all other eligible pupils in grades 2 to 11, inclusive. (Ibid.)
16. Receipt and review of an apportionment information report with the following information for the designated achievement test, the standards-based achievement tests, and the CAPA by grade level for each of grades 2 to 11, inclusive:
  - a. The number of pupils enrolled in each school and in the school district on the first day of testing as indicated by the number of answer documents submitted to the test contractor for scoring.
  - b. The number of pupils with significant cognitive disabilities in each school and in the school district tested with the California Alternate Performance Assessment (CAPA).
  - c. The number of pupils in each school and in the school district exempted from testing at the request of their parents or guardians pursuant to Education Code section 60615.
  - d. The number of pupils who were administered any portion of the designated achievement test and standards-based achievement tests.
  - e. The number of pupils with demographic information only who were not tested for any reason other than a parent/guardian exemption. (Id. at § 862.)
17. The school district shall forward the STAR Student Report provided by the contractor to each pupil's test to the pupil's parent or guardian, within no more than twenty (20) working days from receipt of the report from the contractor. (Id. at § 863.)
18. If the school district receives the reports for the designated achievement test and standards-based tests or CAPA from the contractor after the last day of instruction for the school year, the school district shall send the pupil results to the parent or guardian by U.S. mail at the parent's or guardian's last known address. If the report is non-deliverable, the school district shall make the report available to the parent or guardian during the next school year. (Ibid.)
19. Schools are responsible for affixing cumulative record labels reporting each pupil's scores to the pupil's permanent school records or for entering the scores into electronic pupil records, and for forwarding the results to schools to which pupils matriculate or transfer. Schools may annotate the scores when the scores may not accurately reflect pupils' achievement due to illness or testing irregularities. (Ibid.)
20. The school district shall provide to the contractor, no later than December 1 of the year immediately prior to the year of test administration, the following data for each test site of the school district, by grade level:



- a. Number of pupils to be tested.
  - b. Valid county district school (CDS) codes.
  - c. Number of tests without adaptation.
  - d. Numbers of special version tests with adaptations by type of adaptation including, but not limited to, Braille and large print.
  - e. Number of directions for administration needed, by grade level.
  - f. First date of testing in the school district, including the dates for each test administration period, if applicable. (Id. at § 864.5.)
21. Upon arrival of the test materials at a single location designated by each school district, the school district's district STAR coordinator shall provide the contractor with a signed receipt certifying that all cartons were received. (Id. at § 865.)
  22. The security of the test materials that have been duly delivered to the school district is the sole responsibility of the school district until all test materials have been inventoried, accounted for, and delivered to the common or private carrier designated by the contractor for return to the contractor. (Ibid.)
  23. Secure transportation within a school district is the responsibility of the school district once materials have been duly delivered to the school district. The school district is responsible for secure delivery of test materials to non-public schools to which district pupils with disabilities are assigned. (Ibid.)
  24. No school district shall receive its multiple-choice test materials more than twenty (20) or fewer than ten (10) working days prior to the first day of testing in the school district. A school district that has not received multiple-choice test materials from the test contractor at least ten (10) working days before the first date of testing in the school district shall notify the contractor and the Department on the tenth working day before testing is scheduled to begin that the school district has not received its materials. Deliveries of multiple-choice test materials to single school districts shall use the schedule in section 867. (Id. at § 866.)
  25. A school district and the contractor shall establish a periodic delivery schedule to accommodate test administration periods within the school district. Any schedule established must conform to sections 866(a) and (b) for each test administration period. (Ibid.)
  26. The school district shall ensure that multiple-choice testing materials are inventoried, packaged, and labeled in accordance with instructions from the contractor, and returned to a single school district location for pickup by the contractor within five (5) working days following completion of testing in the school district and in no event later than five (5) working days after each test administration period. All school districts must have their multiple-choice testing materials returned to the contractor no later than five (5) working days after any statutory deadline. (Id. at § 867.5.)

27. School districts shall return all writing tests and test materials to the contractor no more than two (2) working days after the makeup day specified for the writing test. (Id. at § 867.5.)
28. School districts shall process discrepancies determined by the contractor upon receipt of returned tests and test materials pursuant to § 868. (Id. at § 868.)
29. The district STAR coordinator shall report any discrepancy in the total amount of the shipment from the contractor within two (2) working days of the receipt of the shipment. If the contractor does not remedy the discrepancy within two (2) working days of the school district report, the school district shall notify the Department within 24 hours. (Ibid.)
30. Any discrepancy in a shipment of designated achievement tests or test materials, standards-based achievement tests or test materials, or CAPA materials received by a test site from the district STAR coordinator shall be reported to the district STAR coordinator immediately but no later than two (2) working days of the receipt of the shipment at the testing site. The district STAR coordinator shall remedy the discrepancy within two (2) working days. (Ibid.)
31. The district STAR coordinator shall report to the contractor any discrepancy reported by a STAR test site coordinator within three (3) working days of receipt of materials at the test site. If the district STAR coordinator does not have a sufficient supply of tests or test materials to remedy any shortage, the contractor shall remedy the shortage by providing sufficient materials directly to the test site within two (2) working days of the notification by the district STAR coordinator. (Ibid.)
32. The notices required by §868 shall be made by telephone with simultaneous confirmation in writing and by electronic mail. (Ibid.)

In order for the test claim legislation and regulations to be subject to article XIII B, section 6 of the California Constitution, the legislation must constitute a “program.” The California Supreme Court, in the case of *County of Los Angeles v. State of California*, defined the word “program” within the meaning of article XIII B, section 6 as a program that carries out the governmental function of providing a service to the public, or laws which, to implement a state policy, impose unique requirements on local governments and do not apply generally to all residents and entities in the state. Only one of these findings is necessary to trigger the applicability of article XIII B, section 6.

The test claim activities outlined above represent the uniquely governmental function of providing public education and only apply to educational agencies and do not apply generally to all state residents and legal entities. Therefore, the test claim legislation and regulations imposed upon educational agencies represent a “program” within the meaning of Article XIII B, section 6 of the California Constitution.

**B. Detailed Description of Existing Activities and Costs That are Modified by the Mandate.**

Before the enactment of the test claim legislation, educational agencies were under no obligation to administer the STAR testing program beyond the 2003-04 school year. The test claim legislation reauthorized and amended the Education Code to require educational agencies to administer the STAR testing program beginning in the 2004-05 school year. In addition, educational agencies, in response to the test claim legislation, must administer the STAR testing program each year thereafter and incur the increased activities and costs associated with the activities listed above.

**C. Actual Increased Costs Incurred by the Claimant During the Fiscal Year for Which the Claim was Filed.**

To perform the mandated activities listed above, the claimant will incur approximately \$110,000 in costs.

**D. Actual or Estimated Costs that Will be Incurred by the Claimant During the Fiscal Year Immediately Following the Fiscal Year in Which the Claim was Filed.**

The claimant estimates it will incur \$125,000 to perform the mandated activities listed above for the 2005-06 school year.

**E. Statewide Cost Estimate That all Educational Agencies Will Incur to Implement the Mandate During the Fiscal Year Immediately Following the Fiscal Year for Which the Claim was Filed.**

The claimant estimates the Statewide Cost Estimate will be \$54,272,743. See the following table:

<b>Fiscal/Year</b>	<b>Filed Claim Total</b>	<b># Students Tested</b>	<b># Students Tested Statewide</b>
1997/1998 Claim/Figures	\$51,776.00	8,326	4,129,310
1998/1999 Claim/Figures	\$93,067.00	8,863	4,263,033
1999/2000 Claim/Figures	\$150,193.00	8,712	4,348,402
2000/2001 Claim/Figures	\$103,589.00	9,740	4,541,412
2001/2002 Claim/Figures	\$114,238.00	9,538	4,615,552
2002/2003 Claim/Figures	\$169,224.00	9,772	4,730,936
2003/2004 Claim/Figures	\$107,951.00	10,436	4,814,302
<b>Totals</b>	<b>\$790,038.00</b>	<b>65,387</b>	<b>31,442,947</b>
<b>Average Totals</b>	<b>\$112,862.57</b>	<b>9,341</b>	<b>4,491,850</b>
<b>Annual Cost per Student</b>	<b>\$12.08</b>	<b>\$12.08 x 4,491,850 = SCE</b>	
<b>State-Wide Costs (est.)</b>			<b>\$54,261,548.00</b>

**F. Identification of Funding Sources.**

1. Dedicated state funds: Approximately \$9,000,000 statewide
2. Dedicated federal funds: Title VI (per Commission on State Mandates decision in the STAR Reconsideration Statement of Decision)
3. Other non-local agency funds: None
4. Claimant's general purpose fund: None

5. Fee authority to offset costs: None

**G. Identification of Prior Board of Control or Commission on State Mandates Decisions.**

Two prior actions are relevant to the determination of whether the claimed activities impose a state mandate upon educational agencies:

1. STAR Reconsideration: 04-RL-9723-01 (SOD issued July 28, 2005); and
2. Original Test Clam: 97-TC-23 (submitted March 23, 1998)

## 6. Declarations

### BEFORE THE COMMISSION ON STATE MANDATES

Test Claim Filed By:  Grant Joint Union High School District,  Claimant  <b>DECLARATION OF UVE DAHMEN</b>	Test Claim No. _____  Statutes of 2003, Chapter 773 (AB 1485)  Education Code Sections 60640, 60641, and 60642.5  California Code of Regulations, Title 5, Sections 850, 851, 852, 853, 855, 857, 858, 859, 861, 862, 863, 864.5, 865, 866, 867, 867.5, and 868  <i>Standardized Testing and Reporting II</i> <i>(STAR II)</i>
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I, Uve Dahmen make the following declaration and statement. As Testing Coordinator, I have knowledge of Grant Joint Union High School District's Standardized Testing and Reporting program. I am familiar with the provisions and requirements of Statutes of 2003, Chapter 733 and California Code of Regulations, Title 5, sections 850, 851, 852, 853, 855, 857, 858, 859, 861, 862, 863, 864.5, 865, 866, 867, 867.5, and 868, which require educational agencies to perform the following activities:

1. Administration of the designated achievement test and standards-based achievement tests to each eligible pupil enrolled in any of grades 2 to 11, inclusive, in a school district on the date testing begins in the pupil's school. (Cal. Code Regs., tit. 5, § 851.)
  - a. The designated achievement test shall be administered and returned by school districts in accordance with the manuals or other instructions provided by the contractor for administering and returning the tests unless specifically provided otherwise in this subchapter including instructions for administering the test with variations, accommodations, and modifications. The procedures shall include, but are not limited to, those designed to insure the uniform and standard administration of the tests to

pupils, the security and integrity of the test content and test items, and the timely provision of all required student and school level information. (*Id.* at § 853.)

- b. The standards-based achievement tests and the CAPA shall be administered and returned by school districts in accordance with the manuals and other instructions provided by the contractor, and in accordance with testing variations, accommodations, and modifications specified in section 853.5. The procedures shall include, but are not limited to, those designed to insure the uniform and standard administration of the tests to pupils, the security and integrity of the test content and test items, and the timely provision of all required student and school level information. The procedures shall not include criteria for who should be assessed by the CAPA. (*Ibid.*)
2. Administration of the CAPA, as set forth in the pupil's IEP, to each eligible pupil in any of grades 2 to 11, inclusive, in a school district during the period specified by the test contractor. Pupils in ungraded special education classes shall be tested, if they are 7 to 16 years of age. (*Id.* at § 851)
3. Making whatever arrangements are necessary to test all eligible pupils in alternative education programs or programs conducted off campus, including, but not limited to, continuation schools, independent study, community day schools, or county community schools. (*Id.* at § 851)
4. Accepting waivers filed by a parent or guardian to excuse his or her child from any or all parts of any test provided pursuant to Education Code section 60640. However, the school district and its employees shall not solicit or encourage any written exemption request on behalf of any child or group of children. (*Id.* at § 852.) Administration of the designated achievement test and the standards-based achievement tests, except for the STAR writing assessment as specified in subdivision § 855(c), shall be administered to each pupil during a testing window of twenty-one (21) instructional days that includes ten (10) instructional days before and after completion of 85% of the school's, track's, or program's instructional days. Testing for all pupils, including makeup testing, is to be completed within this twenty-one (21) instructional day window unless all or part of the twenty-one (21) instructional day period falls after any statutorily specified deadline. (*Id.* at § 855.) Each school district shall provide for at least two (2) makeup days of testing for pupils who were absent during the period in which any school administered the designated achievement test and the standards-based achievement tests. All makeup testing shall occur within five (5) instructional days of the last date that the school district administered the tests but not later than the end of the twenty-one (21) instructional day period established in §855(a). (*Id.* at § 855.) On or before September 30 of each school year, the superintendent of each school district shall designate from among the employees of the school district a district STAR coordinator. The district STAR coordinator, or the school district superintendent or his or her designee, shall be available through August 15 of the following year to complete school district testing. The school district shall notify the contractor of the identity and contact information,

including electronic mail address, if available in the school district, for the district STAR coordinator and for the superintendent and his or her designee, if any. The district STAR coordinator shall serve as the school district representative and the liaison between the school district and the contractor and the school district and the Department for all matters related to the STAR program. (*Id.* at § 857.) The district STAR coordinator's responsibilities shall include, but not be limited to, all of the following duties:

- a. Responding to correspondence and inquiries from the contractor and from the Department in a timely manner and as provided in the contractor's instructions and these regulations.
- b. Determining school district and individual school test and test material needs in conjunction with schools within the district and the contractor, using current enrollment data and communicating school district test material needs to the contractor on or before December 1.
- c. Ensuring delivery of tests and test materials to the test sites no more than ten (10) or fewer than five (5) working days before the first day of testing designated by the district.
- d. Coordinating the testing and makeup testing days for the school district and for those pupils of the district who are enrolled in nonpublic schools within any required time periods with the school test site coordinators. Overseeing the collection of all pupil data as required to comply with section 861.
- e. Maintaining security over the designated achievement test, the standards-based achievement tests, the CAPA and test data using the procedure set forth in section 859. The district STAR coordinator shall sign the security agreement set forth in section 859 and submit it to the contractor prior to receipt of the test materials from the contractor.
- f. Overseeing the administration of the designated achievement test, the standards-based achievement tests, and the CAPA to eligible pupils.
- g. Overseeing the collection and return of all test materials and test data to the contractor within any required time periods.
- h. Assisting the contractor and the Department in the resolution of any discrepancies in the test information and materials, including but not limited to, pre-identification files and all pupil level data required to comply with sections 861 and 862.
- i. Immediately notifying the Department of any security breaches or testing irregularities in the district before, during, or after the test administration.
- j. Ensuring that an answer document is submitted for scoring for each eligible pupil enrolled in the district on the first day of testing.
- k. After receiving summary reports and files from the contractor, the district STAR coordinator shall review the files and reports for completeness and



accuracy, and shall notify the contractor and the Department of any errors, discrepancies, or incomplete information.

1. Training test site coordinators to oversee the test administration at each school. (*Id.* at § 857.) At each test site, including but not limited to, each elementary, middle, and high school or other grade-span designated school, each charter school, each court-school, each school or program operated by a school district, and all other public programs serving pupils in any of the grades 2 to 11, inclusive, the superintendent of the school district or the district STAR coordinator shall designate a STAR test site coordinator from among the employees of the school district. The STAR test site coordinator, or the site principal or his or her designee, shall be available to the district STAR coordinator by telephone through August 15 for purposes of resolving discrepancies or inconsistencies in materials or errors in reports.
10. The STAR test site coordinator's responsibilities shall include, but are not limited to, all of the following duties:
- a. Determining site test and test material needs and communicating the site needs to the district STAR coordinator.
  - b. Overseeing the acquisition and distribution of tests and test materials at the test site, including but not limited to, distributing test materials to test examiners on each day of testing in accordance with the contractor's directions.
  - c. Cooperating with the district STAR coordinator to provide the testing and makeup testing days for the site within any required time periods.
  - d. Maintaining security over the designated achievement test, the standards-based achievement tests, the CAPA and test data. The STAR test site coordinator shall sign the security agreement set forth in section 859 and submit it to the district STAR coordinator prior to the receipt of the test materials.
  - e. Arranging for and overseeing the administration of the designated achievement test, the standards-based achievement tests, and the CAPA to eligible pupils at the test site.
  - f. Overseeing the collection and return of all testing materials to the district STAR coordinator.
  - g. Assisting the district STAR coordinator, the contractor, and the Department in the resolution of any discrepancies in the test information and materials.
  - h. Overseeing the collection of all pupil level and other data required to comply with sections 861 and 862.
  - i. Ensuring that an answer document is submitted for scoring for each eligible pupil enrolled in the school on the first day of testing.

- j. Ensuring that for each pupil tested only one scannable answer document is submitted for scoring, except that for each pupil tested at grades for which the contractor has designated the use of more than one answer document. An answer document for the STAR writing assessment administered pursuant to section 855(c) shall be submitted in addition to the answer document for the multiple choice items.
  - k. Immediately notifying the district STAR coordinator of any security breaches or testing irregularities that occur in the administration of the designated achievement test, the standards-based achievement tests, or the CAPA that violate the terms of the STAR Security Affidavit in section 859.
  - l. Training all test examiners, proctors, and scribes for administering the tests. (*Id.* at § 858.)
11. All STAR district and test site coordinators (coordinators) shall sign the STAR Test Security Agreement set forth in §859(b) before receiving any STAR program tests or test materials. (*Id.* at § 859.)
  12. All test examiners, proctors, scribes, and any other persons having access to the designated achievement test and test materials, the standards-based achievement tests and test materials, and the CAPA materials shall acknowledge the limited purpose of their access to the tests by signing the STAR Test Security Affidavit set forth in §859(d). (*Id.* at § 859.)
  13. To maintain the security of the program, all district STAR coordinators and test site coordinators are responsible for inventory control and shall use appropriate inventory control forms to monitor and track test inventory. (*Id.* at § 859.)
  14. Each school district shall provide the contractor for the designated achievement test and standards-based achievement tests or CAPA, the following information for each pupil enrolled on the first day the tests are administered for purposes of the reporting required by the Academic Performance Index of the Public Schools Accountability Act (chapter 6.1, commencing with section 52050), section 60630, and chapter 5 (commencing with section 60640) of the Education Code:
    - a. Pupil's full name.
    - b. Date of birth.
    - c. Grade level.
    - d. Gender.
    - e. English proficiency and primary language.
    - f. Date of English proficiency reclassification.
    - g. If R-FEP pupil scored proficient or above on the California English-language arts test three (3) times since reclassification.
    - h. Program participation.
    - i. Use of accommodations or modifications.

- j. California School Information Services (CSIS) Student Number once assigned.
  - k. Parent education level.
  - l. Amount of time in the school and school district.
  - m. For English learners, length of time in California public schools and in school in the United States. Participation in the National School Lunch Program. Ethnicity. Primary disability. County and District of residence for pupils with IEPs. Special testing conditions and/or reasons for not being tested. (*Id.* at § 861.) School districts shall provide the same information for each eligible pupil enrolled in an alternative or off campus program or for pupils placed in nonpublic schools as is provided for all other eligible pupils in grades 2 to 11, inclusive. (*Id.* at § 861.)
16. Receipt and review of an apportionment information report with the following information for the designated achievement test, the standards-based achievement tests, and the CAPA by grade level for each of grades 2 to 11, inclusive:
    - a. The number of pupils enrolled in each school and in the school district on the first day of testing as indicated by the number of answer documents submitted to the test contractor for scoring.
    - b. The number of pupils with significant cognitive disabilities in each school and in the school district tested with the California Alternate Performance Assessment (CAPA).
    - c. The number of pupils in each school and in the school district exempted from testing at the request of their parents or guardians pursuant to Education Code section 60615.
    - d. The number of pupils who were administered any portion of the designated achievement test and standards-based achievement tests.
    - e. The number of pupils with demographic information only who were not tested for any reason other than a parent/guardian exemption. (*Id.* at § 862.)
  17. The school district shall forward the STAR Student Report provided by the contractor to each pupil's test to the pupil's parent or guardian, within no more than twenty (20) working days from receipt of the report from the contractor. (*Id.* at § 863.)
  18. If the school district receives the reports for the designated achievement test and standards-based tests or CAPA from the contractor after the last day of instruction for the school year, the school district shall send the pupil results to the parent or guardian by U.S. mail at the parent's or guardian's last known address. If the report is non-deliverable, the school district shall make the report available to the parent or guardian during the next school year. (*Id.* at § 863.)
  19. Schools are responsible for affixing cumulative record labels reporting each pupil's scores to the pupil's permanent school records or for entering the scores

into electronic pupil records, and for forwarding the results to schools to which pupils matriculate or transfer. Schools may annotate the scores when the scores may not accurately reflect pupils' achievement due to illness or testing irregularities. (*Id.* at § 863.)

20. The school district shall provide to the contractor, no later than December 1 of the year immediately prior to the year of test administration, the following data for each test site of the school district, by grade level:
  - a. Number of pupils to be tested.
  - b. Valid county district school (CDS) codes.
  - c. Number of tests without adaptation.
  - d. Numbers of special version tests with adaptations by type of adaptation including, but not limited to, Braille and large print.
  - e. Number of directions for administration needed, by grade level.
  - f. First date of testing in the school district, including the dates for each test administration period, if applicable. (*Id.* at § 864.5.)
21. Upon arrival of the test materials at a single location designated by each school district, the school district's district STAR coordinator shall provide the contractor with a signed receipt certifying that all cartons were received. (*Id.* at § 865.)
22. The security of the test materials that have been duly delivered to the school district is the sole responsibility of the school district until all test materials have been inventoried, accounted for, and delivered to the common or private carrier designated by the contractor for return to the contractor. (*Id.* at § 865.)
23. Secure transportation within a school district is the responsibility of the school district once materials have been duly delivered to the school district. The school district is responsible for secure delivery of test materials to non-public schools to which district pupils with disabilities are assigned. (*Id.* at § 865.)
24. No school district shall receive its multiple-choice test materials more than twenty (20) or fewer than ten (10) working days prior to the first day of testing in the school district. A school district that has not received multiple-choice test materials from the test contractor at least ten (10) working days before the first date of testing in the school district shall notify the contractor and the Department on the tenth working day before testing is scheduled to begin that the school district has not received its materials. Deliveries of multiple-choice test materials to single school districts shall use the schedule in section 867. (*Id.* at § 866.)
25. A school district and the contractor shall establish a periodic delivery schedule to accommodate test administration periods within the school district. Any schedule established must conform to sections 866(a) and (b) for each test administration period. (*Id.* at § 866.)
26. The school district shall ensure that multiple-choice testing materials are inventoried, packaged, and labeled in accordance with instructions from the

contractor, and returned to a single school district location for pickup by the contractor within five (5) working days following completion of testing in the school district and in no event later than five (5) working days after each test administration period. All school districts must have their multiple-choice testing materials returned to the contractor no later than five (5) working days after any statutory deadline. (*Id.* at § 867.5.)

27. School districts shall return all writing tests and test materials to the contractor no more than two (2) working days after the makeup day specified for the writing test. (*Id.* at § 867.5.)
28. School districts shall process discrepancies determined by the contractor upon receipt of returned tests and test materials pursuant to § 868. (*Id.* at § 868.)
29. The district STAR coordinator shall report any discrepancy in the total amount of the shipment from the contractor within two (2) working days of the receipt of the shipment. If the contractor does not remedy the discrepancy within two (2) working days of the school district report, the school district shall notify the Department within 24 hours. (*Id.* at § 868.)
30. Any discrepancy in a shipment of designated achievement tests or test materials, standards-based achievement tests or test materials, or CAPA materials received by a test site from the district STAR coordinator shall be reported to the district STAR coordinator immediately but no later than two (2) working days of the receipt of the shipment at the testing site. The district STAR coordinator shall remedy the discrepancy within two (2) working days. (*Id.* at § 868.)
31. The district STAR coordinator shall report to the contractor any discrepancy reported by a STAR test site coordinator within three (3) working days of receipt of materials at the test site. If the district STAR coordinator does not have a sufficient supply of tests or test materials to remedy any shortage, the contractor shall remedy the shortage by providing sufficient materials directly to the test site within two (2) working days of the notification by the district STAR coordinator. (*Id.* at § 868.)
32. The notices required by §868 shall be made by telephone with simultaneous confirmation in writing and by electronic mail. (*Id.* at § 868.)

I am informed and believe that before the test claim legislation educational agencies were under no obligation to administer the STAR testing program for the 2004-05 school year. The claimant will/has incurred significantly more than \$1,000 to implement these new activities mandated by the state for which the claimant has not been sufficiently reimbursed by any federal, state, or local agency, and for which it cannot otherwise obtain reimbursement. For the 2004-05

test administration, the claimant shall incur approximately \$110,000 in costs to meet the mandated activities.

Further, this test claim is being filed not later than 12 months of incurring costs as a result of the test claim statute as the Grant Joint Union High School District first incurred costs to administer the 2004-05 STAR Program as mandated by Statutes of 2003, Chapter 773 on October 4, 2004.

I know the foregoing facts personally and if so required, I could testify to the statements made herein. I hereby declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct except where stated upon information and belief and where so stated I declare that I believe them to be true.

Executed on September 15, 2005 in Sacramento, California.



Uve Dahmen  
Coordinator  
Testing & Assessment

## 7. Documentation

### Assembly Bill No. 1485 CHAPTER 773

An act to amend Section 51700 of, to amend, repeal, and add Sections 60640 and 60642 of, and to add Sections 51701 and 51701.5 to, the Education Code, relating to schools.

[Approved by Governor October 10, 2003. Filed  
with Secretary of State October 11, 2003.]  
LEGISLATIVE COUNSEL'S DIGEST

AB 1485, Firebaugh. English learners: academic assessment.

(1) Existing law establishes the Reading First Plan to provide federally funded reading instruction to pupils in kindergarten and grades 1 to 3, inclusive, and to special education pupils in any grade of elementary or secondary school. Existing law requires the Reading First Plan submitted to the federal Secretary of Education, among other things, to authorize a local educational agency that meets specified federal requirements to be eligible for federal funding if certain pupils are provided by a prescribed deadline with standards-aligned textbooks or basic instructional materials aligned with the state-adopted reading/language arts content standards.

This bill would prohibit the State Department of Education and the State Board of Education from developing or implementing requirements or criteria that make a local educational agency ineligible for funding because the local educational agency provides primary language instruction and comprehensive English language development instruction to English learners in classrooms where English learners are not educated through sheltered or structured English immersion. The bill would authorize the use of primary language materials in specified cases for purposes of participation in a program funded with Reading First funds. The bill would require the State Department of Education to amend California's Reading First Plan to authorize local educational agencies operating programs in which English learners are not educated through sheltered or structural English immersion to apply for funding under the federal No Child Left Behind Act. The bill would additionally require the revised plan to specify that priority to specified federal funds be given to programs meeting certain criteria. The bill would prohibit the allocation of a specified appropriation made in the Budget Act of 2003 until the State Board of Education amends the Reading First Plan according to this act and submits it to Ch. 773 federal authorities and the federal Secretary of Education approves the plan.

(2) Existing law establishes, until January 1, 2005, the Leroy F. Greene California Assessment of Academic Achievement Act to provide a system of individual assessment of pupils. The existing act establishes, among other things, the Standardized Testing and Reporting (STAR) Program and requires each school district, charter school, and county office of education to administer to each of its pupils in grades 2 to 11, inclusive, an achievement test and a standards-based achievement test.

This bill would require, commencing on July 1, 2004, the achievement test to be administered to pupils in grades 3 and 8, and the standards-aligned achievement test to be administered to pupils in grades 2 to 11, inclusive.

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

SECTION 1. Section 51700 of the Education Code is amended to read:

51700. (a) There is hereby established the Reading First Plan to provide reading instruction to pupils in kindergarten and grades 1 to 3, inclusive, and to special education pupils in kindergarten and grades 1 to 12, inclusive.

(b) The plan shall be administered by the State Department of Education and shall be funded from moneys allocated pursuant to Title I of the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.).

(c) The Reading First Plan submitted to the Secretary of Education pursuant to Title I of the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.) shall do all of the following:

(1) (A) Authorize a local educational agency that meets all the requirements of Section 6362(c)(6) of Title 20 of the United States Code to be eligible for Reading First funding if pupils enrolled in kindergarten or any of grades 1 to 3, inclusive, and special education pupils enrolled in kindergarten or any of grades 1 to 12, inclusive, are provided with standards-aligned textbooks or basic instructional materials aligned with the reading/language arts content standards pursuant to Section 60605 by the beginning of the first school term that commences no later than 24 months after those materials are adopted by the State Board of Education.

(B) Notwithstanding subparagraph (A), a class operating pursuant to Section 310 may use primary language materials in alternate formats adopted by the State Board of Education for purposes of participating in a program funded pursuant to this article.

(2) Authorize a local educational agency to use scientifically based reading research supplemental instructional materials for pupils enrolled in kindergarten or any of grades 1 to 3, inclusive, and special education pupils enrolled in kindergarten or any of grades 1 to 12, inclusive, that are aligned with the reading/language arts content standards adopted pursuant to Section 60605. The local educational agency shall provide an explanation in its application of how its use of these supplemental instructional materials support the reading/language arts instructional materials adopted by the State Board of Education for pupils enrolled in kindergarten or any of grades 1 to 3, inclusive, and special education pupils enrolled in kindergarten or any of grades 1 to 12, inclusive.

(3) Authorize an eligible local educational agency to receive a grant in the amount of up to six thousand five hundred dollars (\$6,500) per teacher in kindergarten or in any of grades 1 to 3, inclusive, unless otherwise required pursuant to Section 6362(c)(2)(A) of Title 20 of the United States Code. In addition, to the extent that a local educational agency needs additional funding consistent with the maximum amount allowable under the federal No Child Left Behind Act (20 U.S.C. Sec. 6301 et. seq.), authorize the local educational agency to submit a plan justifying that need to the State Department of Education and the Department of Finance for their joint approval. A grant awarded pursuant to this paragraph shall be used to enhance reading instruction, including, but not limited to, the following purposes:

(A) Purchasing and implementing scientifically based reading research instructional and supplemental materials in reading language arts, pursuant to requirements specified in the Reading First Plan and paragraph (2).

(B) Participating in professional development in reading and language arts, pursuant to requirements specified in the Reading First Plan. A Reading First funded agency may not claim funding for teachers of kindergarten or any of grades 1 to 3, inclusive, or teachers of special education pupils for the Mathematics and Reading Professional Development Program established pursuant to Article 3 (commencing with Section 99230) of Chapter 5 of Part 65.

(C) Hiring reading coaches or reading content experts, or both.



(D) Purchasing reading and language arts assessments.

(E) Other purposes, as specified in Section 6362(c)(7) of Title 20 of the United States Code.

(d) The State Department of Education and the State Board of Education may not develop or implement requirements or criteria that make a local educational agency ineligible for funding pursuant to this section because the local educational agency provides primary language instruction and comprehensive English language development instruction to English learners in alternative classrooms, as authorized pursuant to Sections 310 and 311.

(e) A local educational agency shall submit an expenditure plan as part of its Reading First application that includes details about how it is going to use its funding.

SEC. 2. Section 51701 is added to the Education Code, to read:

51701. The State Board of Education shall amend California's Reading First Plan to do all of the following:

(a) Authorize a local educational agency operating a program pursuant to Section 310 to apply for funding under Title 1 of the federal No Child Left Behind Act of 2001 (U.S.C. Sec. 6301 et seq.).

(b) Specify that first priority for the allocation of increased Reading First funds available during the 2003–04 fiscal year be given to classrooms that meet all of the following criteria:

(1) Have not received funding under the Reading First Plan.

(2) Operate programs pursuant to Section 310.

(3) Are located in previously approved Reading First local educational agencies.

(c) Specify that second priority for the allocation of increased Reading First funds available during the 2003–04 fiscal year be given to local educational agencies that operate programs pursuant to Section 310 and that meet other program requirements, as detailed in the revised Reading First Plan.

(d) Provide a process whereby professional development providers that have expertise in addressing the needs of classrooms operating pursuant to Section 310 and using alternate formats adopted by the State Board of Education will be approved as Reading First providers.

SEC. 3. Section 51701.5 is added to the Education Code, to read:

51701.5. The State Board of Education shall determine if a demand exists for scientifically based instructional materials that are aligned with the reading/language arts content standards pursuant to Section 60605 for languages other than Spanish and English in classrooms operating pursuant to Section 310 that apply for Reading First funds. If a demand exists, the State Board of Education shall explore ways to meet that demand, including, but not limited to, alternate format adoptions.

SEC. 4. 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) Each fiscal year, from the funds available for this 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 achievement test designated by the State Board of Education pursuant to Section 60642 and the standards-based achievement test provided for in Section 60642.5. The State Board of Education 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 of Education in subdivision (b).

(d) The governing board of the school district may administer achievement tests in kindergarten and grade 1 or 12, or both, as it deems appropriate.

(e) Pursuant to paragraph (17) of subsection (a) of Section 1412 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) At the school district's option, pupils of limited English proficiency who are enrolled in any of grades 2 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. Notwithstanding any other law, the State Board of Education 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 2 to 11, inclusive, no later than November 14, 1998, pursuant to the process used for designation of the assessment chosen in the 1997-98 fiscal year, as specified in Sections 60642 and 60643, as applicable.

(g) Pupils of limited English proficiency who are enrolled in any of grades 2 to 11, inclusive, shall be required to take a test in their primary language if a test is available, if fewer than 12 months have elapsed after their initial enrollment in any public school in the state.

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

(2) The State Board of Education shall annually establish the amount of funding to be apportioned to school districts for each test administered and shall annually establish the amount that each publisher shall be paid for each test administered under the agreements required pursuant to Section 60643. The amounts to be paid to the publishers shall be determined by considering the cost estimates submitted by each publisher each September and the amount included in the Budget Act and by making allowance for the estimated costs to school districts for compliance with the requirements of subdivisions (b), (f), and (g).

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

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

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

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

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

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

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

(k) This section shall remain in effect only until June 30, 2004, and as of that date is repealed, unless a later enacted statute, that is enacted before June 30, 2004, deletes or extends that date.

SEC. 5. 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) Commencing in the 2004–05 fiscal year and each fiscal year thereafter, and 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 and 8 the achievement test designated by the State Board of Education pursuant to Section 60642 and 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 of Education 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 of Education 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 paragraph (17) of subsection (a) of Section 1412 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) At the option of the school district, a pupil with limited English proficiency who are enrolled in any of grades 2 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. Notwithstanding any other law, the State Board of Education 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 2 to 11, inclusive, pursuant to the process used for designation of the assessment chosen in the 1997–98 fiscal year, as specified in Sections 60642 and 60643, as applicable.

(g) A pupil of limited English proficiency who is enrolled in any of grades 2 to 11, inclusive, shall be required to take a test in their primary language if a test is available, if fewer than 12 months have elapsed after their initial enrollment in any public school in the state.

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

(2) The State Board of Education shall annually establish the amount of funding to be apportioned to school districts for each test administered and shall annually establish the amount that each publisher shall be paid for each test administered under the agreements required pursuant to Section 60643. The amounts to be paid to the publishers shall be determined by considering the cost estimates submitted by each publisher each September and the amount included in the annual Budget Act, and by making allowance for the estimated costs to school districts for compliance with the requirements of subdivisions (b), (f), and (g).

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

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

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

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

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

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

(k) This section shall become operative July 1, 2004.

SEC. 6. Section 60642 of the Education Code is amended to read:

60642. (a) The Superintendent of Public Instruction and the State Board of Education may consider any evaluations of independent experts who have not been employed by a test publisher in the preceding 12 months regarding the suitability of the achievement tests submitted by publishers as required by subdivision (b) of Section 60605 for use as part of the STAR Program established by this article.

(b) Based upon a review of the achievement tests submitted and the recommendation made by the Superintendent of Public Instruction pursuant to subdivision (b) of Section 60605, the State Board of Education, in its sole discretion, based on the considerations set forth in Section 60644, shall designate for use as part of the STAR Program a single test in grades 2 to 11, inclusive.

(c) The State Board of Education shall ensure that the achievement test designated pursuant to subdivision (b) contains the subject areas specified in subdivision (c) of Section 60603 for grades 2 to 8, inclusive, and the core curriculum areas of English and language arts, mathematics, and science for grades 9 to 11, inclusive.

(d) The State Board of Education is hereby authorized to designate the achievement test to be administered pursuant to this article for more than one academic year subject to the availability of funds.

(e) The board shall minimize, to the extent it deems feasible, the amount of testing time required by the assessment in subdivision (b) for those content areas for which there also exists a standards-based examination as provided for pursuant to Section 60642.5.

(f) This section shall remain in effect only until June 30, 2004, and as of that date is repealed, unless a later enacted statute, that is enacted before June 30, 2004, deletes or extends that date.

SEC. 7. Section 60642 is added to the Education Code, to read:

60642. (a) The Superintendent of Public Instruction and the State Board of Education may consider any evaluations of independent experts who have not been employed by a test publisher in the preceding 12 months regarding the suitability of the achievement tests submitted by publishers as required by subdivision (b) of Section 60605 for use as part of the STAR Program established by this article.

(b) Based upon a review of the achievement tests submitted and the recommendation made by the Superintendent of Public Instruction pursuant to subdivision (b) of Section 60605, the State Board of Education, in its sole discretion, based on the considerations set forth in Section 60644, shall designate for use as part of the STAR Program a single test in grades 3 and 8.

(c) The State Board of Education shall ensure that the achievement test designated pursuant to subdivision (b) contains the subject areas specified in subdivision (c) of Section 60603 for grades 3 and 8.

(d) The State Board of Education is hereby authorized to designate the achievement test to be administered pursuant to this article for more than one academic year subject to the availability of funds.

(e) The board shall minimize, to the extent it deems feasible, the amount of testing time required by the assessment in subdivision (b) for those content areas for which there also exists a standards-based examination as provided for pursuant to Section 60642.5.

(f) This section shall become operative on July 1, 2004.

SEC. 8. The funds appropriated pursuant to Provision 2 of Item 6110-126-0890 of Section 2.00 of the Budget Act of 2003 may not be allocated unless the State Board of Education amends the Reading First Plan pursuant to Section 2 of this act and submits the plan to federal authorities by February 1, 2004, and the federal Secretary of Education approves the plan.

## California Code of Regulations, Title 5

### §850. Definitions.

For the purposes of the Standardized Testing and Reporting (STAR) program, the following terms shall have the following meanings unless the context indicates otherwise:

(a) “Designated achievement test” is the achievement test required by Education Code section 60640(b). The designated achievement test includes test booklets, test answer documents, administration manuals, and administrative materials.

(b) “Primary language test” includes any test administered pursuant to Education Code section 60640(f) or a test administered pursuant to the requirement of Education Code section 60640(g), as applicable, and includes the test booklets, test answer documents, administration manuals, administrative materials and practice tests.

(c) “School districts” includes elementary, high school, and unified school districts; county offices of education; and any charter school that for assessment purposes does not elect to be part of the school district or county office of education that granted the charter; and any charter school chartered by the State Board of Education.

(d) “Eligible pupil” is any pupil in grades 2 to 11, inclusive, who is not otherwise exempted.

(1) For the designated achievement test and the standards-based achievement tests, an eligible pupil is any pupil in grades 2 through 11, inclusive, including those pupils placed in a non-public school through the Individualized Education Program (IEP) process pursuant to Education Code section 56365 who is not exempted by parent/guardian request or eligible to take the California Alternate Performance Assessment (CAPA).

(2) For the CAPA, an eligible pupil is any pupil with a significant cognitive disability in grades 2 through 11, and ages 7 through 16 in ungraded programs, whose IEP states that the pupil is to take the CAPA.

(3) For the primary language test, an eligible pupil is an English learner with a primary language for which a test is required or optional.

(4) For purposes of the writing assessment, an eligible pupil is an eligible pupil for the purpose of taking the standards-based achievement tests for a grade at which the writing test will be administered.

(e) “Department” means the California Department of Education.

(f)(1) “Standards-based achievement tests” are those tests that measure the degree to which pupils are achieving the content standards and performance standards adopted by the State Board of Education as provided in Education Code section 60642.5. The standards-based achievement tests include test booklets, test answer documents, administration manuals, administrative materials, practice tests and other materials developed and provided by the contractor of the tests.

(2) The term “standards-based achievement test” may refer to one or more of the individual achievement tests in the subject or core curriculum areas required by Education Code section 60642.5, or all of the standards-based achievement tests collectively.

(g) "Administration Period" means one of multiple test administration periods by school districts with schools or programs on non-traditional calendars that begin and complete the school year at various times and have staggered vacation periods, in order to ensure that all pupils are tested at approximately the same point in the instructional year.

(h) "CAPA" is an individually administered performance assessment developed to assess pupils' achievement on a subset of California's Academic Content Standards. The CAPA includes administration manuals, administrative materials, and documents on which the examiner records the pupils' responses.

(i) "Untimed administration" means that pupils may receive as much time as needed within a single sitting to complete a test or test part.

(j) "Below-grade-level testing" means administering a test that is below the grade level of the pupil being tested.

(k) "Test examiner" is an employee of a school district or an employee of a non-public school who has been trained to administer the tests and has signed a STAR Test Security Affidavit. For the CAPA, the test examiner must be a certificated or licensed school staff member.

(l) "Test proctor" is an employee of a school district, or a person assigned by a nonpublic school to implement a pupil's IEP, who has received training designed to prepare him or her to assist the test examiner in the administration of tests within the STAR Program.

(m) "Scribe" is an employee of the school district, or a person assigned by a nonpublic school to implement a pupil's IEP, and is required to transcribe a pupil's responses to the format required by the test. A student's parent or guardian is not eligible to be a scribe.

(n) "Accommodations" means any variation in the assessment environment or process that does not fundamentally alter what the test measures or affect the comparability of scores. Accommodations may include variations in scheduling, setting, aids, equipment, and presentation format.

(o) "Modification" means any variation in the assessment environment or process that fundamentally alters what the test measures or affects the comparability of scores.

(p) "Variation" is a change in the manner in which a test is presented or administered, or in how a test taker is allowed to respond, and includes, but is not limited to, accommodations and modifications.

(q) "Grade" means the grade assigned to the pupil by the school district at the time of testing.

(r) A "significant medical emergency" is a significant accident, trauma, or illness (mental or physical) that precludes a pupil in grades two through eleven from taking the California Standards Tests (CSTs), the California Alternate Performance Assessment (CAPA), and/or the California Achievement Tests, Sixth Edition Survey (CAT/6 Survey). An accident, trauma or illness is significant if the pupil has been determined by a licensed physician to be unable to participate in the tests.

**§851. Pupil Testing.**

(a) School districts shall administer the designated achievement test and standards-based achievement tests to each eligible pupil enrolled in any of grades 2 to 11, inclusive, in a school district on the date testing begins in the pupil's school.

(b) School districts shall administer the CAPA, as set forth in the pupil's IEP, to each eligible pupil in any of grades 2 to 11, inclusive, in a school district during the period specified by the test contractor. Pupils in ungraded special education classes shall be tested, if they are 7 to 16 years of age.

(c) School districts shall make whatever arrangements are necessary to test all eligible pupils in alternative education programs or programs conducted off campus, including, but not limited to, continuation schools, independent study, community day schools, or county community schools.

(d) School districts may administer the designated achievement test to pupils enrolled in kindergarten or grade 1 or 12, but those pupils shall not be counted for the apportionment pursuant to Education Code section 60640(h).

(e) No test may be administered in a home or hospital except by a test examiner. No test shall be administered to a pupil by the parent or guardian of that pupil. This subdivision does not prevent classroom aides from assisting in the administration of the test under the supervision of a credentialed school district employee provided that the classroom aide does not assist his or her own child and that the classroom aide signs a security affidavit.

**§852. Pupil Exemptions.** A parent or guardian may submit to the school a written request to excuse his or her child from any or all parts of any test provided pursuant to Education Code section 60640. A school district and its employees may discuss the Standardized Testing and Reporting program with parents and may inform parents of the availability of exemptions under Education Code section 60615. However, the school district and its employees shall not solicit or encourage any written exemption request on behalf of any child or group of children.

**§853. Administration.**

(a) The designated achievement test shall be administered and returned by school districts in accordance with the manuals or other instructions provided by the contractor for administering and returning the tests unless specifically provided otherwise in this subchapter including instructions for administering the test with variations, accommodations, and modifications. The procedures shall include, but are not limited to, those designed to insure the uniform and standard administration of the tests to pupils, the security and integrity of the test content and test items, and the timely provision of all required student and school level information.

(b) The standards-based achievement tests and the CAPA shall be administered and returned by school districts in accordance with the manuals and other instructions provided by the contractor, and in accordance with testing variations, accommodations, and modifications specified in section 853.5. The procedures shall include, but are not limited to, those designed to insure the uniform and standard administration of the tests to pupils, the security and integrity of the test content and test items, and the timely provision of all required student and school level information. The procedures shall not include criteria for who should be assessed by the CAPA.

(c) For the 2004-05 school year, pupils with IEPs specifying below-grade-level testing in grades 4 through 11 may be tested one or two grades below their enrollment grade. Pupils with IEPs specifying below-grade-level testing in grade three may be tested one grade level below their



enrollment grade. The test level must be specified in the pupil's IEP. Below-grade-level testing shall be used only if the pupil is not receiving grade-level curriculum as specified by the California academic content standards, and is so indicated on the IEP. Pupils tested below-grade-level must complete all tests required for the grade at which they are tested and shall be administered the tests for only one grade level.

**§855. Testing Period.**

(a) The designated achievement test and the standards-based achievement tests, except for the STAR writing assessment as specified in subdivision (c), shall be administered to each pupil during a testing window of twenty-one (21) instructional days that includes ten (10) instructional days before and after completion of 85% of the school's, track's, or program's instructional days. Testing for all pupils, including makeup testing, is to be completed within this twenty-one (21) instructional day window unless all or part of the twenty-one (21) instructional day period falls after any statutorily specified deadline.

(b) Each school district shall provide for at least two (2) makeup days of testing for pupils who were absent during the period in which any school administered the designated achievement test and the standards-based achievement tests. All makeup testing shall occur within five (5) instructional days of the last date that the school district administered the tests but not later than the end of the twenty-one (21) instructional day period established in subdivision (a). (c) The STAR writing assessment shall be administered to each eligible pupil only on the day(s) specified annually by the State Superintendent of Public Instruction.

**§857. District STAR Coordinator.** (a) On or before September 30 of each school year, the superintendent of each school district shall designate from among the employees of the school district a district STAR coordinator. The district STAR coordinator, or the school district superintendent or his or her designee, shall be available through August 15 of the following year to complete school district testing. The school district shall notify the contractor of the identity and contact information, including electronic mail address, if available in the school district, for the district STAR coordinator and for the superintendent and his or her designee, if any. The district STAR coordinator shall serve as the school district representative and the liaison between the school district and the contractor and the school district and the Department for all matters related to the STAR program.

(b) The district STAR coordinator's responsibilities shall include, but not be limited to, all of the following duties:

- (1) Responding to correspondence and inquiries from the contractor and from the Department in a timely manner and as provided in the contractor's instructions and these regulations.
- (2) Determining school district and individual school test and test material needs in conjunction with schools within the district and the contractor, using current enrollment data and communicating school district test material needs to the contractor on or before December 1.
- (3) Ensuring delivery of tests and test materials to the test sites no more than ten (10) or fewer than five (5) working days before the first day of testing designated by the district.

- (4) Coordinating the testing and makeup testing days for the school district and for those pupils of the district who are enrolled in nonpublic schools within any required time periods with the school test site coordinators. Overseeing the collection of all pupil data as required to comply with section 861.
- (5) Maintaining security over the designated achievement test, the standards-based achievement tests, the CAPA and test data using the procedure set forth in section 859. The district STAR coordinator shall sign the security agreement set forth in section 859 and submit it to the contractor prior to receipt of the test materials from the contractor.
- (6) Overseeing the administration of the designated achievement test, the standards-based achievement tests, and the CAPA to eligible pupils.
- (7) Overseeing the collection and return of all test materials and test data to the contractor within any required time periods.
- (8) Assisting the contractor and the Department in the resolution of any discrepancies in the test information and materials, including but not limited to, pre-identification files and all pupil level data required to comply with sections 861 and 862
- (9) Immediately notifying the Department of any security breaches or testing irregularities in the district before, during, or after the test administration.
- (10) Ensuring that an answer document is submitted for scoring for each eligible pupil enrolled in the district on the first day of testing.
- (11) After receiving summary reports and files from the contractor, the district STAR coordinator shall review the files and reports for completeness and accuracy, and shall notify the contractor and the Department of any errors, discrepancies, or incomplete information.
- (12) Training test site coordinators to oversee the test administration at each school.

**§858. STAR Test Site Coordinator.**

(a) At each test site, including but not limited to, each elementary, middle, and high school or other grade-span designated school, each charter school, each court-school, each school or program operated by a school district, and all other public programs serving pupils in any of the grades 2 to 11, inclusive, the superintendent of the school district or the district STAR coordinator shall designate a STAR test site coordinator from among the employees of the school district. The STAR test site coordinator, or the site principal or his or her designee, shall be available to the district STAR coordinator by telephone through August 15 for purposes of resolving discrepancies or inconsistencies in materials or errors in reports.

(b) The STAR test site coordinator's responsibilities shall include, but are not limited to, all of the following duties:

- (1) Determining site test and test material needs and communicating the site needs to the district STAR coordinator.
- (2) Overseeing the acquisition and distribution of tests and test materials at the test site, including but not limited to, distributing test materials to test examiners on each day of testing in accordance with the contractor's directions.

- (3) Cooperating with the district STAR coordinator to provide the testing and makeup testing days for the site within any required time periods.
- (4) Maintaining security over the designated achievement test, the standards-based achievement tests, the CAPA and test data. The STAR test site coordinator shall sign the security agreement set forth in section 859 and submit it to the district STAR coordinator prior to the receipt of the test materials.
- (5) Arranging for and overseeing the administration of the designated achievement test, the standards-based achievement tests, and the CAPA to eligible pupils at the test site.
- (6) Overseeing the collection and return of all testing materials to the district STAR coordinator.
- (7) Assisting the district STAR coordinator, the contractor, and the Department in the resolution of any discrepancies in the test information and materials.
- (8) Overseeing the collection of all pupil level and other data required to comply with sections 861 and 862.
- (9) Ensuring that an answer document is submitted for scoring for each eligible pupil enrolled in the school on the first day of testing.
- (10) Ensuring that for each pupil tested only one scannable answer document is submitted for scoring, except that for each pupil tested at grades for which the contractor has designated the use of more than one answer document. An answer document for the STAR writing assessment administered pursuant to section 855(c) shall be submitted in addition to the answer document for the multiple choice items.
- (11) Immediately notifying the district STAR coordinator of any security breaches or testing irregularities that occur in the administration of the designated achievement test, the standards-based achievement tests, or the CAPA that violate the terms of the STAR Security Affidavit in section 859.
- (12) Training all test examiners, proctors, and scribes for administering the tests.

**§859. STAR Test Security Agreement and Test Security Affidavit.**

(a) All STAR district and test site coordinators (coordinators) shall sign the STAR Test Security Agreement set forth in subdivision (b) before receiving any STAR program tests or test materials.

(b) The STAR Test Security Agreement shall be as follows:

STAR TEST SECURITY AGREEMENT I acknowledge by my signature on this form that the designated achievement test, the standards-based achievement tests, and the CAPA are secure tests and agree to each of the following conditions to ensure test security: (1) I will take all necessary precautions to safeguard all tests and test materials by limiting access to persons within the school district with a responsible, professional interest in the tests' security. (2) I will keep on file the names of all persons having access to tests and test materials. All persons having access to the materials shall be required by the coordinator to sign the STAR Test Security Affidavit that will be kept on file in the school district office. (3) I will keep the designated achievement test and the standards-

based achievement tests and test materials in a secure, locked location and will deliver tests and test materials only to those persons who have executed STAR Test Security Affidavits, on actual testing dates as provided in California Code of Regulations, Title 5, division 1, chapter 2, subchapter 3.75.(4) I will keep the CAPA materials in a secure locked location when not being used by examiners to prepare for and to administer the assessment. I will adhere to the contractor's directions for the distribution of the assessment materials to examiners.(5) I will not copy any part of the tests or test materials without written permission from the Department to do so.(6) I will not disclose, or allow to be disclosed, the contents of, or the test instrument. I will not review any test questions, passages, or other test items with any other person before, during, or after the test administration.(7) I will not review test questions, develop any scoring keys or review or score any pupil responses except as required by the contractor's manuals.By signing my name to this document, I am assuring that I will abide by the above conditions.

By: Title: School District:  
Date:

(c) All test examiners, proctors, scribes, and any other persons having access to the designated achievement test and test materials, the standards-based achievement tests and test materials, and the CAPA materials shall acknowledge the limited purpose of their access to the tests by signing the STAR Test Security Affidavit set forth in subdivision (d).

(d) The STAR Test Security Affidavit shall be as follows:

#### STAR TEST SECURITY AFFIDAVIT

I acknowledge that I will have access to the designated achievement test and to the standards-based achievement tests and the CAPA for the purpose of administering the test(s). I understand that these materials are highly secure, and it is my professional responsibility to protect their security as follows:

- (1) I will not divulge the contents of the tests to any other person through verbal, written, or any other means of communication.
- (2) I will not copy any part of the test(s) or test materials.
- (3) I will keep the test(s) secure until the test(s) are actually distributed to pupils.
- (4) I will limit access to the test(s) and test materials by test examinees to the actual testing periods when they are taking the test(s).
- (5) I will collect and account for all materials following each period of testing and will not permit pupils to remove test materials from the room where testing takes place.
- (6) I will not review any test questions, passages, or other test items with pupils or any other person before, during, or following testing.
- (7) I will not develop scoring keys or review or score any pupil responses except as required by the contractor's administration manual(s) to prepare answer documents for machine or other scoring.
- (8) I will return all test materials to the designated STAR test site coordinator daily upon completion of testing.
- (9) I will administer the test(s) in accordance with the directions for test administration set forth in the contractor's manual for test administration.
- (10) I have been trained to administer the tests.

Signed:

Print Name:

Position:  
School:  
School District:  
Date:

(e) To maintain the security of the program, all district STAR coordinators and test site coordinators are responsible for inventory control and shall use appropriate inventory control forms to monitor and track test inventory.

**§861. School-By-School Analysis.**

(a) Each school district shall provide the contractor for the designated achievement test and standards-based achievement tests or CAPA, the following information for each pupil enrolled on the first day the tests are administered for purposes of the reporting required by the Academic Performance Index of the Public Schools Accountability Act (chapter 6.1, commencing with section 52050), section 60630, and chapter 5 (commencing with section 60640) of the Education Code:

- (1) Pupil's full name.
  - (2) Date of birth.
  - (3) Grade level.
  - (4) Gender.
  - (5) English proficiency and primary language.
  - (6) Date of English proficiency reclassification.
  - (7) If R-FEP pupil scored proficient or above on the California English-language arts test three (3) times since reclassification.
  - (8) Program participation.
  - (9) Use of accommodations or modifications.
  - (10) California School Information Services (CSIS) Student Number once assigned.
  - (11) Parent education level.
  - (12) Amount of time in the school and school district.
  - (13) For English learners, length of time in California public schools and in school in the United States.
  - (14) Participation in the National School Lunch Program.
  - (15) Ethnicity.
  - (16) Primary disability.
  - (17) County and District of residence for pupils with IEPs.
  - (18) Special testing conditions and/or reasons for not being tested.
- (b) In addition to the demographic data required to be reported in section 861(a), school districts may report if a pupil in grades 2 through 11 is not tested due to a significant medical emergency.
- (c) The information is for the purposes of aggregate analyses only and shall be provided and collected as part of the testing materials for the designated achievement test, the standards-based achievement tests, and the CAPA.
- (d) School districts shall provide the same information for each eligible pupil enrolled in an alternative or off campus program or for pupils placed in nonpublic schools as is provided for all other eligible pupils in grades 2 to 11, inclusive.
- (e) If the information

required by section 861(a) is incorrect, the school district may enter into a separate agreement with the contractor to have the district's student data file corrected. The district STAR coordinator shall provide the correct information to the contractor within the contractor's timeline. Any costs for correcting the student data shall be the district's responsibility. §862.

**Apportionment Information Report.**

(a) Annually, each school district shall receive an apportionment information report with the following information for the designated achievement test, the standards-based achievement tests, and the CAPA by grade level for each of grades 2 to 11, inclusive:

- (1) The number of pupils enrolled in each school and in the school district on the first day of testing as indicated by the number of answer documents submitted to the test contractor for scoring.
- (2) The number of pupils with significant cognitive disabilities in each school and in the school district tested with the California Alternate Performance Assessment (CAPA).
- (3) The number of pupils in each school and in the school district exempted from testing at the request of their parents or guardians pursuant to Education Code section 60615.
- (4) The number of pupils who were administered any portion of the designated achievement test and standards-based achievement tests.
- (5) The number of pupils with demographic information only who were not tested for any reason other than a parent/guardian exemption.

(b) The department shall distribute the reports to districts no later than November 15 following each testing cycle.

(c) To be eligible for apportionment payment school districts must meet the following conditions:

- (1) The school district has returned all secure test materials, and
- (2) the superintendent of each school district has certified the accuracy of the apportionment information report for examinations administered during the calendar year (January 1 through December 31), which is either;
  - (A) postmarked by December 31, or
  - (B) if postmarked after December 31, the apportionment information report must be accompanied by a waiver request as provided by Education Code section 33050. For those apportionment information reports postmarked after December 31, apportionment payment is contingent upon the availability of an appropriation for this purpose in the fiscal year in which the testing window began.

**863. STAR Student Reports and Cumulative Record Labels**

(a) The school district shall forward the STAR Student Report provided by the contractor to each pupil's test to the pupil's parent or guardian, within no more than twenty (20) working days from receipt of the report from the contractor.

(b) If the school district receives the reports for the designated achievement test and standards-based tests or CAPA from the contractor after the last day of instruction for the school year, the school district shall send the pupil results to the parent or guardian by U.S. mail at the parent's or

guardian's last known address. If the report is non-deliverable, the school district shall make the report available to the parent or guardian during the next school year.

(c) Schools are responsible for affixing cumulative record labels reporting each pupil's scores to the pupil's permanent school records or for entering the scores into electronic pupil records, and for forwarding the results to schools to which pupils matriculate or transfer. Schools may annotate the scores when the scores may not accurately reflect pupils' achievement due to illness or testing irregularities.

**§864.5. Test Order Information.**

(a) The school district shall provide to the contractor, no later than December 1 of the year immediately prior to the year of test administration, the following data for each test site of the school district, by grade level:

- (1) Number of pupils to be tested
- (2) Valid county district school (CDS) codes
- (3) Number of tests without adaptation
- (4) Numbers of special version tests with adaptations by type of adaptation including, but not limited to, Braille and large print.
- (5) Number of directions for administration needed, by grade level
- (6) First date of testing in the school district, including the dates for each test administration period, if applicable.

(b) Each school district that elects pre-identification of answer documents shall submit an electronic file that includes all of the information required in section 861. The file must be submitted in accordance with the timeline, format, and instructions provided by the contractor.

(c) If the testing materials are lost or destroyed while in the possession of the school district, and the contractor provides the school district with replacement materials, the school district is responsible for the cost of all replacement materials.

(d) If the school district places an order for tests for any school that is excessive, the school district is responsible for the cost of materials for the difference between the sum of the number of pupil tests submitted for scoring including tests for non-tested pupils and 90 percent of the tests ordered. In no event shall the cost to the school district for replacement or excessive materials exceed the amount per test booklet and accompanying material that is paid to the contractor by the Department as part of the contract for the current year.

**§865. Transportation.**

(a) Upon arrival of the test materials at a single location designated by each school district, the school district's district STAR coordinator shall provide the contractor with a signed receipt certifying that all cartons were received.

(b) The security of the test materials that have been duly delivered to the school district is the sole responsibility of the school district until all test materials have been inventoried, accounted

for, and delivered to the common or private carrier designated by the contractor for return to the contractor.

(c) Secure transportation within a school district is the responsibility of the school district once materials have been duly delivered to the school district. The school district is responsible for secure delivery of test materials to non-public schools to which district pupils with disabilities are assigned.

**§866. School District Delivery.**

(a) No school district shall receive its multiple-choice test materials more than twenty (20) or fewer than ten (10) working days prior to the first day of testing in the school district. A school district that has not received multiple-choice test materials from the test contractor at least ten (10) working days before the first date of testing in the school district shall notify the contractor and the Department on the tenth working day before testing is scheduled to begin that the school district has not received its materials. Deliveries of multiple-choice test materials to single school districts shall use the schedule in section 867.

(b) A school district and the contractor shall establish a periodic delivery schedule to accommodate test administration periods within the school district. Any schedule established must conform to sections 866(a) and (b) for each test administration period.

(c) No school district shall receive its writing test materials more than ten (10) or fewer than five (5) working days before the day on which the writing tests are to be administered

**§867. Test Site Delivery and Return.**(a) No school or other test site shall receive any multiple-choice test or related test materials more than ten (10) or fewer than five (5) working days prior to the first day of testing scheduled at the school or test site.(b) All multiple-choice testing materials shall be returned to the school district location designated by the district STAR coordinator no more than two (2) working days after testing is completed for each test administration period.(c) No school or other test site shall receive any writing test materials more than six (6) or fewer than two (2) working days before the test administration date.(d) Writing test materials shall be returned to the district STAR coordinator no more than one day after the day scheduled for makeup testing.

**§867.5. Retrieval of Materials by Contractor.**

(a) The school district shall ensure that multiple-choice testing materials are inventoried, packaged, and labeled in accordance with instructions from the contractor, and returned to a single school district location for pickup by the contractor within five (5) working days following completion of testing in the school district and in no event later than five (5) working days after each test administration period. All school districts must have their multiple-choice testing materials returned to the contractor no later than five (5) working days after any statutory deadline.

(b) School districts shall return all writing tests and test materials to the contractor no more than two (2) working days after the makeup day specified for the writing test.



**§868. Discrepancy Resolution for Designated Achievement Test, Standards-Based Achievement Tests, and CAPA.**

(a) School districts shall process discrepancies determined by the contractor upon receipt of returned tests and test materials pursuant to this subdivision:

(1) Receipt of a discrepancy notice in writing, via telephone, or via electronic mail by the district STAR coordinator for one or more of the following shall require a response from the district STAR coordinator to the contractor within 24 hours.

(A) A discrepancy between the quantity of tests and test materials shipped to the school district and the number of tests and test materials returned to the contractor from the school district.

(B) Information on scannable documents or test support materials that is inconsistent, incomplete, or missing, according to criteria established with the Department.

(2) The district STAR coordinator shall acknowledge the discrepancy notice via electronic mail, if available in the school district, to the contractor and to the Department within twenty-four (24) hours of its receipt via electronic mail.

(b) The district STAR coordinator shall report any discrepancy in the total amount of the shipment from the contractor within two (2) working days of the receipt of the shipment. If the contractor does not remedy the discrepancy within two (2) working days of the school district report, the school district shall notify the Department within 24 hours.

(c) Any discrepancy in a shipment of designated achievement tests or test materials, standards-based achievement tests or test materials, or CAPA materials received by a test site from the district STAR coordinator shall be reported to the district STAR coordinator immediately but no later than two (2) working days of the receipt of the shipment at the testing site. The district STAR coordinator shall remedy the discrepancy within two (2) working days.

(d) The district STAR coordinator shall report to the contractor any discrepancy reported by a STAR test site coordinator within three (3) working days of receipt of materials at the test site. If the district STAR coordinator does not have a sufficient supply of tests or test materials to remedy any shortage, the contractor shall remedy the shortage by providing sufficient materials directly to the test site within two (2) working days of the notification by the district STAR coordinator.

(e) The notices required by this section shall be made by telephone with simultaneous confirmation in writing and by electronic mail.

**§870. Apportionment to School Districts.**

(a) The amount of funding to be apportioned to the school district for the costs of administering the designated achievement test, the standards-based achievement tests, and the CAPA shall be the amount established by the State Board of Education to enable school districts to meet the requirements of administering the designated achievement test, the standards-based achievement tests, and the CAPA per the number of tests administered to eligible pupils in grades 2 to 11, inclusive, and the number of answer documents returned with only demographic information for pupils enrolled on the first day of testing who were not tested in the school district. The number of tests administered and the number of demographic answer documents shall be determined by

the certification of the school district superintendent pursuant to section 862. For purposes of this portion of the apportionment, administration of the designated achievement test, the standards-based achievement tests, and the CAPA includes the following items:

- (1) All staffing costs, including the district STAR coordinator and the STAR test site coordinators, staff training and other staff expenses related to testing.
- (2) All expenses incurred at the school district and test site level related to testing.
- (3) All transportation costs of delivering and retrieving tests and test materials within the school district.
- (4) All costs associated with mailing the STAR Student Reports to parents/guardians.
- (5) All costs associated with pre-identification of answer sheets and consumable test booklets, and other activities intended to provide the complete and accurate data required in section 861 of these regulations.

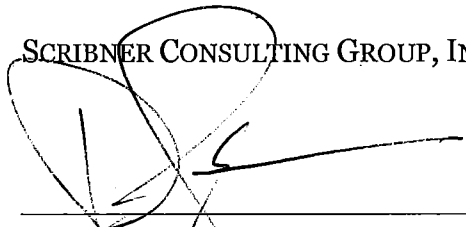
(b) This amount does not include any funding for the purposes of reimbursing the costs incurred by any school district pursuant to section 864.5(d) placing an order that is excessive, or for replacement costs for test materials lost or destroyed while in possession of the school district as stated in section 864.5(c). These costs are outside the scope of the mandates of the STAR program.

(c) If at the time a school district's scannable documents are processed by the contractor a student data record is missing any of the data elements required in section 861 of these regulations, the school district shall provide the missing data elements within the time required by the contractor to process the documents and meet the contractor's schedule of deliverables under its contract with the Department. The additional costs incurred by the school district to have the contractor reprocess the student information to acquire the data required by section 861 of these regulations shall be withheld from the school district's apportionment.

**CLAIM CERTIFICATION**

I certify under penalty of perjury by my signature below that the statements made in this document are true and correct of my knowledge, and as to all other matters, I believe them to be true and correct based on information or belief.

Executed on September 20, 2005 at Sacramento, California, by:

SCRIBNER CONSULTING GROUP, INC.  
  
\_\_\_\_\_  
DAVID E. SCRIBNER, ESQ.  
Authorized Representative of Grant Joint Union  
High School District

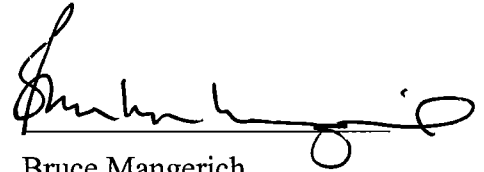
AUTHORIZATION TO ACT AS REPRESENTATIVE  
FOR GRANT JOINT UNION HIGH SCHOOL DISTRICT'S TEST CLAIM

**STANDARDIZED TESTING AND REPORTING II (STAR II)**

I, Bruce Mangerich, hereby authorize David E. Scribner (or designee) of Scribner Consulting Group, Inc. to act as the representative and sole contact of Grant Joint Union High School District in this Test Claim. All correspondence and communications regarding this Test Claim should be forwarded to:

David E. Scribner, Esq.  
SCRIBNER CONSULTING GROUP, INC.  
3840 Rosin Court, Suite 190  
Sacramento, California 95834  
Telephone: (916) 922-2636  
Facsimile: (916) 922-2719

Dated: September 15, 2005

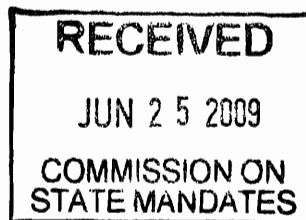


Bruce Mangerich  
Deputy Superintendent



June 24, 2009

Ms. Paula Higashi, Executive Director  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, California 95815



RE: **Standardized Testing and Reporting III  
New Test Claim Filing – Twin Rivers USD**

Dear Paula:

The Twin Rivers Unified School District hereby files its Standardized Testing and Reporting III test claim. Enclosed you will find an original and seven (7) copies of the test claim filing. Upon your office's review and acceptance of this claim, Twin Rivers will withdraw the STAR III claim filed by Grant Joint Union High School District.

If you have any questions, please feel free to contact me.

Sincerely,

David E. Scribner, Esq., CEO  
MAX8550

## 1. TEST CLAIM TITLE

Standardized Testing and Reporting III

## 2. CLAIMANT INFORMATION

TWIN RIVERS UNIFIED SCHOOL DISTRICT

Name of Local Agency or School District

MR. ROBERT ROACH

Claimant Contact

MANDATED COST ANALYST

Title

5115 DUDLEY BOULEVARD

Street Address

MCCLELLAN, CA 95652

City, State, Zip

916-566-1600 EXT. 1478

Telephone Number

Fax Number

ROB.ROACH@TWINRIVERSUSD.ORG

E-Mail Address

## 3. CLAIMANT REPRESENTATIVE INFORMATION

Claimant designates the following person to act as its sole representative in this test claim. All correspondence and communications regarding this claim shall be forwarded to this representative. Any change in representation must be authorized by the claimant in writing, and sent to the Commission on State Mandates.

DAVID E. SCRIBNER

Claimant Representative Name

CEO

Title

MAX8550

Organization

2200 SUNRISE BOULEVARD, SUITE 220

Street Address

GOLD RIVER, CA 95670

City, State, Zip

916-852-8970

Telephone Number

916-852-8978

Fax Number

DSCRIBNER@MAX8550.COM

E-Mail Address

<i>For CSM Use Only</i>	
Filing Date:	<b>RECEIVED</b> <b>JUN 25 2009</b> <b>COMMISSION ON STATE MANDATES</b>
Test Claim #:	08-TC-06

## 4. TEST CLAIM STATUTES OR EXECUTIVE ORDERS CITED

Please identify all code sections, statutes, bill numbers, regulations, and/or executive orders that impose the alleged mandate (e.g., Penal Code Section 2045, Statutes 2004, Chapter 54 [AB 290]). When alleging regulations or executive orders, please include the effective date of each one.

Ed. Code §60640 as added and amended by:  
Ch. 773/03, §5 (AB 1485); Ch. 183/04, §79 (AB 3082); Ch. 233/04, §15 (SB 1448); Ch. 676/05, §4 eff. 10/7/05 (SB 755); Ch. 174/07, §22 eff. 8/24/07 (SB 80); Ch. 730/07, §39 (SB 132); Ch. 757/08, §16 eff. 9/30/08 (AB 519)

Ed. Code §60641 as added and amended by:  
Ch. 828/97, §11 eff. 10/10/97 (SB 376); Ch. 735/99, §4 eff. 10/10/99 (SB 366); Ch. 576/00, §4 (AB 2812); Ch. 20/01, §3 eff. 6/15/01 (SB 245); Ch. 722/01, §9 (SB 233); Ch. 233/04, §17 (SB 1448); Ch. 473/08, §1 (SB 946); Ch. 757/08, §17 eff. 9/30/08 (AB 519)

Ed. Code §60642.5 as added and amended by:  
Ch. 576/00, §5 (AB 2812); Ch. 722/01, §11 (SB 233); Ch. 1168/02, §70 eff. 09/30/02 (AB 1818); Ch. 757/08, §19 eff. 9/30/08 (AB 519)

Ed. Code §60607 as added and amended by:  
Ch. 975/95, §1 (AB 265); Ch. 828/97, §6 eff. 10/10/97 (SB 376); Ch. 722/01, §5 (SB 233); Ch. 233/04, §13 (SB 1448)

Ed. Code §60615 as added by: Ch. 975/95, §1 (AB 265)

Ed. Code §60630 as added and amended by:  
Ch. 975/95, §1 (AB 265); Ch. 828/97, §9 eff. 10/10/97 (SB 376); Ch. 722/01, §7 (SB 233); Ch. 757/08, §15 eff. 9/30/08 (AB 519)

California Code of Regulations, Title 5, Sections 850, 851, 852, 853, 855, 857, 858, 859, 861, 862, 863, 864.5, 865, 866, 867, 867.5, and 868 eff. 2005 and 02/2007

Copies of all statutes and executive orders cited are attached.

Sections 5, 6, and 7 are attached as follows:

**5. Written Narrative:** pages 1 to 23.

**6. Declarations:** pages 24 to 35.

**7. Documentation:** pages 35 to 35.

**8. CLAIM CERTIFICATION**

*Read, sign, and date this section and insert at the end of the test claim submission.\**

This test claim alleges the existence of a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514. I hereby declare, under penalty of perjury under the laws of the State of California, that the information in this test claim submission is true and complete to the best of my own knowledge or information or belief.

MR. ROB BALL  
Print or Type Name of Authorized Local Agency  
or School District Official

X   
Signature of Authorized Local Agency or  
School District Official

ASSOCIATE SUPERINTENDENT  
Print or Type Title

X 6-24-09  
Date

*\* If the declarant for this Claim Certification is different from the Claimant contact identified in section 2 of the test claim form, please provide the declarant's address, telephone number, fax number, and e-mail address below.*

BEFORE THE COMMISSION ON STATE MANDATES

Test Claim Filed By:

Twin Rivers Unified School District,  
  
Claimant

Test Claim No. 08-TC-06

Ed. Code §60640 as added and amended by:  
Ch. 773/03, §5 (AB 1485); Ch. 183/04, §79 (AB 3082); Ch. 233/04, §15 (SB 1448); Ch. 676/05, §4 eff. 10/7/05 (SB 755); Ch. 174/07, §22 eff. 8/24/07 (SB 80); Ch. 730/07, §39 (SB 132); Ch. 757/08, §16 eff. 9/30/08 (AB 519)

Ed. Code §60641 as added and amended by:  
Ch. 828/97, §11 eff. 10/10/97 (SB 376); Ch. 735/99, §4 eff. 10/10/99 (SB 366); Ch. 576/00, §4 (AB 2812); Ch. 20/01, §3 eff. 6/15/01 (SB 245); Ch. 722/01, §9 (SB 233); Ch. 233/04, §17 (SB 1448); Ch. 473/08, §1 (SB 946); Ch. 757/08, §17 eff. 9/30/08 (AB 519)

Ed. Code §60642.5 as added and amended by:  
Ch. 576/00, §5 (AB 2812); Ch. 722/01, §11 (SB 233); Ch. 1168/02, §70 eff. 09/30/02 (AB 1818); Ch. 757/08, §19 eff. 9/30/08 (AB 519)

Ed. Code §60607 as added and amended by:  
Ch. 975/95, §1 (AB 265); Ch. 828/97, §6 eff. 10/10/97 (SB 376); Ch. 722/01, §5 (SB 233); Ch. 233/04, §13 (SB 1448)

Ed. Code §60615 as added by: Ch. 975/95, §1 (AB 265)

Ed. Code §60630 as added and amended by:  
Ch. 975/95, §1 (AB 265); Ch. 828/97, §9 eff. 10/10/97 (SB 376); Ch. 722/01, §7 (SB 233); Ch. 757/08, §15 eff. 9/30/08 (AB 519)

California Code of Regulations, Title 5,  
Sections 850, 851, 852, 853, 855, 857, 858,  
859, 861, 862, 863, 864.5, 865, 866, 867,  
867.5, and 868

***Standardized Testing and Reporting III  
(STAR III)***



## 5. Written Narrative

On October 11, 2003, chapter 773, statutes of 2003 (the test claim legislation) was enacted and became operative January 1, 2004. The test claim legislation added and amended Education Code section 60640 relating the Standardized Testing and Reporting Program. As added and amended by the test claim legislation, section 60640 provides:

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

(b) Commencing in the 2004–05 fiscal year and each fiscal year thereafter, and 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 and 8 the achievement test designated by the State Board of Education pursuant to Section 60642 and 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 of Education 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 of Education 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 paragraph (17) of subsection (a) of Section 1412 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) At the option of the school district, a pupil with limited English proficiency who are enrolled in any of grades 2 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. Notwithstanding any other law, the State Board of Education 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 2 to 11, inclusive, pursuant to the process used for designation of the assessment chosen in the 1997–98 fiscal year, as specified in Sections 60642 and 60643, as applicable.

(g) A pupil of limited English proficiency who is enrolled in any of grades 2 to 11, inclusive, shall be required to take a test in their primary language if a test is available, if fewer than 12 months have elapsed after their initial enrollment in any public school in the state.

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

(2) The State Board of Education shall annually establish the amount of funding to be apportioned to school districts for each test administered and shall annually establish the amount that each publisher shall be paid for each test administered under the agreements required pursuant to Section 60643. The amounts to be paid to the publishers shall be determined by considering the cost estimates submitted by each publisher each September and the amount included in the annual Budget Act, and by making allowance for the estimated costs to school districts for compliance with the requirements of subdivisions (b), (f), and (g).

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

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

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

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

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

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

(k) This section shall become operative July 1, 2004.”<sup>1</sup>

The 2004 Standardized Testing and Reporting (STAR) Program included four components:

- California Standards Tests (CST)
- California Alternate Performance Assessment (CAPA)
- California Achievement Tests, Sixth Edition Survey (CAT/6 Survey)
- Spanish Assessment of Basic Education, Second Edition (SABE/2)

#### *California Standards Tests (CSTs)*

The California Standards Tests in English-language arts, mathematics, science, and history-social science are administered only to students in California public schools. Except for a writing component that is administered as part of the grade four and seven English-language arts tests, all questions are multiple choice. These tests were developed specifically to assess students’ knowledge of the California content standards. The State Board of Education adopted these standards that specify what all California children are expected to know and be able to do in each grade or course. The 2004 CSTs were required for students who were enrolled in the following grades/courses at the time of testing or who had completed a course during the 2003-04 school year, including 2003 summer school.

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<sup>1</sup> This test claim includes all activities that stem from the addition and subsequent amendments to Education Code section 60640 as outlined on page one.

All Students in Grades 2 - 11	English-Language Arts
All Students in Grades 2 - 9	Mathematics
All Students in Grade 5	Science
Grade 8 - 11 students who completed	Algebra I, Geometry, Algebra II, or Integrated Mathematics 1, 2, or 3
Grade 8 and 9 students who did not complete one of the above math courses during the school year	General Mathematics
Grade 9 and 10 students who completed Algebra II or Integrated Mathematics 3 during the previous grade and grade 11 students who completed Algebra II or Integrated Mathematics 3 anytime before 2004 testing began, including students taking higher mathematics courses or no mathematics course	Summative High School Mathematics
All Students in Grades 8, 10, and 11	History-Social Science
Grade 9 - 11 students who completed	Earth Science, Biology, Chemistry, Physics, or Integrated/Coordinated Science Courses

### English-Language Arts

The grade two and three California English-Language Arts Standards Tests each have 65 multiple-choice questions. The tests for grades five, six, and eight through eleven each have 75 multiple-choice questions. During 2004, the grade four and seven California English Language Arts Standards Tests included 75 multiple-choice questions plus a writing sample. For the writing component, students were required to write an essay for an assigned topic. Grade four students read an informational article and wrote summaries of the article. Grade seven students wrote persuasive essays for a topic they were assigned. The types of writing used for the writing component of the test change from year to year and are based on the California Writing Application Content Standards. Grade four students may be required to write a

narrative, a summary of information, or a response to literature. Grade seven students may be required to write a fictional or autobiographical narrative, a response to literature, a persuasive essay, or a summary of information. Two readers independently score each student's paper using a four-point scoring guide. The two readers' scores are added to the 75 multiple-choice questions, resulting in a maximum score of 83 points possible for the English-language arts test at these two grades.

### Mathematics

The California Mathematics Standards Tests are grade specific for grades two through seven. Each of these tests has 65 multiple-choice questions. The California Mathematics Standards Tests for grades eight through eleven also have 65 multiple-choice questions.

- All students in grades eight and nine who had not yet completed or were not enrolled in discipline specific, standards-based math courses or who were enrolled in the first year of a multi-year Algebra I course were required to take the General Mathematics CST. This test assesses the California Mathematics Standards for grades six and seven.
- Students in grades eight through eleven who had completed or were enrolled in discipline specific, standards-based math courses took California Mathematics Standards Tests in Algebra I, Geometry, Algebra II, or Integrated Mathematics 1, 2, or 3.
- Students in grades nine and ten who had completed Algebra II or Integrated Mathematics 3 during a previous school year and grade eleven students who completed one of these two courses anytime prior to the beginning of testing were required to take the Summative High School Mathematics CST. This included students who were taking higher mathematics courses or no mathematics course.

### History-Social Science

Students in grades eight, ten, and eleven took California History-Social Science Standards Tests. The grade eight test had 75 multiple-choice questions, and the grade ten and eleven tests each had 60 multiple-choice questions. These tests assess:

- Grade 8-a cumulative test of the grade 6 (Ancient Civilizations) and grade 7 (Medieval and Early Modern Times) world history standards, as well as grade 8 United States History and Geography: Growth and Conflict
- Grade 10-World History, Culture, and Geography: The Modern World
- Grade 11-United States History and Geography: Continuity and Change in the Twentieth Century

## Science

The Grade Five California Science Standards Test was administered for the first time to all students enrolled in fifth grade. This test assesses students' knowledge of the California Grade Four and Five Science Content Standards.

The science tests for grades nine through eleven were based on course-specific standards. Only grade nine through eleven students who were enrolled in or completed a standards-based science course took a test. Tests were administered for the following standards-based courses:

- Earth Science
- Biology/Life Science
- Chemistry
- Physics
- Integrated/Coordinated Science 1, 2, 3 and 4 (four test forms, each assessing specific standards for biology/life science, chemistry, earth science, and physics)

Teachers of integrated/coordinated science courses were to use the test blueprints and select the Integrated/Coordinated Science Test that most closely matched their course content. During the 2002-03 school year, teachers of integrated/coordinated science courses were asked to begin aligning their course content with one or more of the test blueprints as appropriate.

CST scores are reported as one of five performance levels from advanced to far below basic. The scores are used for calculating each school's Academic Performance Index (API). The CST results comprise 80% of the weight for grade two through eight API calculations and 73% of

the weight for grade nine through eleven API calculations. Only the results of the California English-Language Arts and Mathematics Standards Tests are used to determine the progress elementary and middle schools are making toward meeting the federal No Child Left Behind adequate yearly progress requirement of having all students score at proficient or above on the these tests.

*California Alternate Performance Assessment (CAPA)*

Students with significant cognitive disabilities who are unable to take the CSTs and CAT/6 Survey participate in the STAR Program by taking the CAPA. Alternate assessments are required by two federal laws, the Individuals with Disabilities Education Act (IDEA) and the No Child Left Behind (NCLB) Act. The CAPA is an individually administered performance assessment with all tasks linked to the California English-Language Arts and Mathematics Content Standards. Special educators in California identified subsets of standards on which it is appropriate to assess students with moderate to severe disabilities.

The CAPA is organized into five levels, representing specific grade spans. Most students eligible for the CAPA take the level corresponding to their grade placement. These students are expected to move through the CAPA levels as they progress in age. Some students with complex, profound disabilities may be eligible for Level I. These students remain in Level I and are not expected to move through the other CAPA levels.

• Level I	Students in grades 2-11 (those with the most complex, profound disabilities)
• Level II	Students in grades 2 and 3
• Level III	Students in grades 4 and 5
• Level IV	Students in grades 6 – 8

<ul style="list-style-type: none"> <li>• Level V</li> </ul>	Students in grades 9 – 11
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Students taking the CAPA were given eight (8) tasks to complete for each of the two content areas. A trained certificated or licensed examiner (usually the student’s teacher) individually administered the assessment. The examiner scored the assessment by observing the student’s response and recording the student’s score using a specific scoring guide. If needed, the examiner could adapt the assessment tasks to make them accessible for students with a wide range of disabilities. Adaptations might have included signing the directions for a student with a hearing impairment or providing tactile materials for a student with a visual impairment.

CAPA scores are reported as one of five performance levels from advanced to far below basic. While the CAPA performance levels have the same labels as those used for the CSTs, they are defined differently and are based on a different scaled score range.

*Spanish Assessment of Basic Education, Second Edition (SABE/2)*

The SABE/2, published by CTB/McGraw-Hill, is a national norm-referenced achievement test in Spanish. The test battery includes tests of Spanish reading, language, and spelling, as well as mathematics tests in Spanish. Spanish-speaking English learners (limited-English proficient students) who had been enrolled in California public schools less than 12 months when testing began were required to take the SABE/2 in addition to taking the CSTs and CAT/6 Survey. Districts had the option of administering the SABE/2 to Spanish-speaking English learners who had been in California public schools 12 months or more.

Effective July 1, 2005, the Commission on State Mandates determined that the SABE/2 portion of the STAR testing program did not impose reimbursable state-mandated activities



upon school district. Therefore, the claimant does not reassert those portions of the SABE/2 subject to the Commission's decision. However, to the extent the statute and regulations claimed in this test claim are in excess of those reviewed by the Commission in its STAR Reconsideration, the claimant asserts these activities.

**A. New Activities and Costs That Arise From the Mandate.**

While Education Code sections 60640 and 60642.5 serve as the basic authorization and mandate related to the STAR testing program, the California Code of Regulations sections claimed in this test claim impose the majority of reimbursable state-mandated activities upon school districts. Because of the STAR testing program legislation and implementing regulations, the claimant alleges the following activities represent reimbursable state-mandated activities:

1. Administration of the designated achievement test and standards-based achievement tests to each eligible pupil enrolled in any of grades 2 to 11, inclusive, in a school district on the date testing begins in the pupil's school. (Cal. Code Regs., tit. 5, § 851.)
  - a. The designated achievement test shall be administered and returned by school districts in accordance with the manuals or other instructions provided by the contractor for administering and returning the tests unless specifically provided otherwise in this subchapter including instructions for administering the test with variations, accommodations, and modifications. The procedures shall include, but are not limited to, those designed to insure the uniform and standard administration of the tests to pupils, the security and integrity of the test content and test items, and the timely provision of all required student and school level information. (Id. at § 853.)
  - b. The standards-based achievement tests and the CAPA shall be administered and returned by school districts in accordance with the manuals and other instructions provided by the contractor, and in accordance with testing variations, accommodations, and modifications specified in section 853.5. The procedures shall include, but are not limited to, those designed to insure the uniform and standard administration of the tests to pupils, the security and integrity of the test content and test items, and the timely provision of all required student

and school level information. The procedures shall not include criteria for who should be assessed by the CAPA. (Ibid.)

2. Administration of the CAPA, as set forth in the pupil's IEP, to each eligible pupil in any of grades 2 to 11, inclusive, in a school district during the period specified by the test contractor. Pupils in ungraded special education classes shall be tested, if they are 7 to 16 years of age. (Id. at § 851)
3. Making whatever arrangements are necessary to test all eligible pupils in alternative education programs or programs conducted off campus, including, but not limited to, continuation schools, independent study, community day schools, or county community schools. (Ibid.)
4. Accepting waivers filed by a parent or guardian to excuse his or her child from any or all parts of any test provided pursuant to Education Code section 60640. However, the school district and its employees shall not solicit or encourage any written exemption request on behalf of any child or group of children. All waivers from any or all parts of the assessments administered shall be granted. (Id. at § 852; Ed. Code §60615.)
5. Administration of the designated achievement test and the standards-based achievement tests, except for the STAR writing assessment as specified in subdivision § 855(c), shall be administered to each pupil during a testing window of twenty-one (21) instructional days that includes ten (10) instructional days before and after completion of 85% of the school's, track's, or program's instructional days. Testing for all pupils, including makeup testing, is to be completed within this twenty-one (21) instructional day window unless all or part of the twenty-one (21) instructional day period falls after any statutorily specified deadline. School districts shall schedule testing dates pursuant to this section. (Id. at § 855.)
6. Each school district shall provide for at least two (2) makeup days of testing for pupils who were absent during the period in which any school administered the designated achievement test and the standards-based achievement tests. All makeup testing shall occur within five (5) instructional days of the last date that the school district administered the tests but not later than the end of the twenty-one (21) instructional day period established in §855(a). (Ibid.)
7. On or before September 30 of each school year, the superintendent of each school district shall designate from among the employees of the school district a district STAR coordinator. The district STAR coordinator, or the school district superintendent or his or her designee, shall be available through August 15 of the following year to complete school district testing. The school district shall notify the contractor of the identity and contact information, including electronic mail address, if available in the school district, for the district STAR coordinator and for the superintendent and his or her designee, if any. The district STAR coordinator shall serve as the school district representative and the liaison

between the school district and the contractor and the school district and the Department for all matters related to the STAR program. (Id. at § 857.)

8. The district STAR coordinator's responsibilities shall include, but not be limited to, all of the following duties:
  - a. Responding to correspondence and inquiries from the contractor and from the Department in a timely manner and as provided in the contractor's instructions and these regulations.
  - b. Determining school district and individual school test and test material needs in conjunction with schools within the district and the contractor, using current enrollment data and communicating school district test material needs to the contractor on or before December 1.
  - c. Ensuring delivery of tests and test materials to the test sites no more than ten (10) or fewer than five (5) working days before the first day of testing designated by the district.
  - d. Coordinating the testing and makeup testing days for the school district and for those pupils of the district who are enrolled in nonpublic schools within any required time periods with the school test site coordinators. Overseeing the collection of all pupil data as required to comply with section 861.
  - e. Maintaining security over the designated achievement test, the standards-based achievement tests, the CAPA and test data using the procedure set forth in section 859. The district STAR coordinator shall sign the security agreement set forth in section 859 and submit it to the contractor prior to receipt of the test materials from the contractor.
  - f. Overseeing the administration of the designated achievement test, the standards-based achievement tests, and the designated primary language test to eligible pupils.
  - g. Overseeing the collection and return of all test materials and test data to the contractor within any required time periods.
  - h. Assisting the contractor and the Department in the resolution of any discrepancies in the test information and materials, including but not limited to, pre-identification files and all pupil level data required to comply with sections 861 and 862.
  - i. Immediately notifying the Department of any security breaches or testing irregularities in the district before, during, or after the test administration.
  - j. Ensuring that an answer document is submitted for scoring for each eligible pupil enrolled in the district on the first day of testing.

- k. After receiving summary reports and files from the contractor, the district STAR coordinator shall review the files and reports for completeness and accuracy, and shall notify the contractor and the Department of any errors, discrepancies, or incomplete information.
  - l. Training test site coordinators to oversee the test administration at each school. (Ibid.)
9. At each test site, including but not limited to, each elementary, middle, and high school or other grade-span designated school, each charter school, each court-school, each school or program operated by a school district, and all other public programs serving pupils in any of the grades 2 to 11, inclusive, the superintendent of the school district or the district STAR coordinator shall designate a STAR test site coordinator from among the employees of the school district. The STAR test site coordinator, or the site principal or his or her designee, shall be available to the district STAR coordinator by telephone through August 15 for purposes of resolving discrepancies or inconsistencies in materials or errors in reports.
10. The STAR test site coordinator's responsibilities shall include, but are not limited to, all of the following duties:
- a. Determining site test and test material needs and communicating the site needs to the district STAR coordinator.
  - b. Overseeing the acquisition and distribution of tests and test materials at the test site, including but not limited to, distributing test materials to test examiners on each day of testing in accordance with the contractor's directions.
  - c. Cooperating with the district STAR coordinator to provide the testing and makeup testing days for the site within any required time periods.
  - d. Maintaining security over the designated achievement test, the standards-based achievement tests, and the designated primary language test and test data. The STAR test site coordinator shall sign the security agreement set forth in section 859 and submit it to the district STAR coordinator prior to the receipt of the test materials.
  - e. Arranging for and overseeing the administration of the designated achievement test, the standards-based achievement tests, and the designated primary language test to eligible pupils at the test site.
  - f. Overseeing the collection and return of all testing materials to the district STAR coordinator.
  - g. Assisting the district STAR coordinator, the contractor, and the Department in the resolution of any discrepancies in the test information and materials.

- h. Overseeing the collection of all pupil level and other data required to comply with sections 861 and 862.
  - i. Ensuring that an answer document is submitted for scoring for each eligible pupil enrolled in the school on the first day of testing for the designated achievement test or the standards-based achievement tests.
  - j. Ensuring that for each pupil tested only one scannable answer document is submitted for scoring, except that for each pupil tested at grades for which the contractor has designated the use of more than one answer document. An answer document for the STAR writing assessment administered pursuant to section 855(c) shall be submitted in addition to the answer document for the multiple choice items.
  - k. Immediately notifying the district STAR coordinator of any security breaches or testing irregularities that occur in the administration of the designated achievement test, the standards-based achievement tests, or the designated primary language test that violate the terms of the STAR Security Affidavit in section 859.
  - l. Training all test examiners, proctors, and scribes for administering the tests. (Id. at § 858.)
11. All STAR district and test site coordinators (coordinators) shall sign the STAR Test Security Agreement set forth in §859(b) before receiving any STAR program tests or test materials. (Id. at § 859.)
12. All test examiners, proctors, scribes, and any other persons having access to the designated achievement test and test materials, the standards-based achievement tests and test materials, and the designated primary language test and test materials shall acknowledge the limited purpose of their access to the tests by signing the STAR Test Security Affidavit set forth in subdivision (d). (Ibid.)
13. To maintain the security of the program, all district STAR coordinators and test site coordinators are responsible for inventory control and shall use appropriate inventory control forms to monitor and track test inventory. (Ibid.)
14. Each school district shall provide the contractor for the designated achievement test and standards-based achievement tests, the following information for each pupil enrolled on the first day the tests are administered for purposes of the reporting required by the Academic Performance Index of the Public Schools Accountability Act (chapter 6.1, commencing with section 52050), section 60630, and chapter 5 (commencing with section 60640) of the Education Code:
- a. Pupil's full name.
  - b. Date of birth.
  - c. Grade level.

- d. Gender.
  - e. English proficiency and primary language.
  - f. Date of English proficiency reclassification.
  - g. If R-FEP pupil scored proficient or above on the California English-Language Arts Standards Test three times since reclassification.
  - h. Program participation.
  - i. Use of accommodations or modifications.
  - j. Statewide Student Identifier.
  - k. Parent education level.
  - l. School and district California Basic Educational Data System (CBEDS) enrollment.
  - m. Grade last enrolled in school where being tested.
  - n. For English learners, date first enrolled in school in the United States and the length of time in U.S. schools.
  - o. Participation in the National School Lunch Program.
  - p. Ethnicity.
  - q. Primary disability code.
  - r. County and District of residence for pupils with IEPs.
  - s. Special testing conditions and/or reasons for not being tested.
  - t. Student enrolled in NPS by district based on IEP.
  - u. NPS school code. (Id. at § 861.)
15. Each school district shall provide the contractor for the designated primary language test the information specified in subdivision (a) for each pupil assessed with the designated primary language test pursuant to Education Code section 60640. (Id. at §861.)
  16. School districts shall provide the same information for each eligible pupil enrolled in an alternative or off campus program or for pupils placed in nonpublic schools as is provided for all other eligible pupils in grades 2 to 11, inclusive. (Ibid.)
  17. Annually, each school district shall receive an apportionment information report with the following information for the designated achievement test and the standards-based achievement tests by grade level for each of grades 2 to 11, inclusive:

- a. The number of pupils enrolled in each school and in the school district on the first day of testing as indicated by the number of answer documents submitted to the test contractor for scoring.
  - b. The number of pupils in each school and in the school district tested with the alternate assessment
  - c. The number of pupils in each school and in the school district exempted from testing at the request of their parents or guardians pursuant to Education Code section 60615.
  - d. The number of pupils who were administered any portion of the designated achievement test and standards-based achievement tests.
  - e. The number of pupils with demographic information only who were not tested for any reason other than a parent/guardian exemption. (Id. at § 862.)
18. The school district shall forward the STAR Student Report for the designated achievement test and standards-based achievement tests and the designated primary language test provided by the contractor(s) to each pupil's parent or guardian, within no more than 20 working days from receipt of the report from the contractor. (Id. at § 863.)
  19. If the school district receives the reports for the designated achievement test and standards-based tests, or the designated primary language test from the contractor after the last day of instruction for the school year, the school district shall send the pupil results to the parent or guardian by U.S. mail at the parent's or guardian's last known address. If the report is non-deliverable, the school district shall make the report available to the parent or guardian during the next school year. (Ibid.)
  20. Schools are responsible for affixing cumulative record labels reporting each pupil's scores to the pupil's permanent school records or for entering the scores into electronic pupil records, and for forwarding the results to schools to which pupils matriculate or transfer. Schools may annotate the scores when the scores may not accurately reflect pupils' achievement due to illness or testing irregularities. (Ibid.)
  21. The school district shall provide to the contractor(s), for the designated achievement test and the standards-based achievement tests no later than December 1 of the year immediately prior to the year of test administration, the following data for each test site of the school district, by grade level:
    - a. Valid county district school (CDS) codes.
    - b. Number of tests.
    - c. Numbers of special version tests including, but not limited to, Braille and large print.

- d. Number of Directions for Administration needed, by grade level.
  - e. Number of pupils to be tested with the alternate assessment.
  - f. Number of test examiners for the alternate assessment.
  - g. The first and last date of instruction and all non-instructional days during the school year for each school in the district and all non-working days for the school district. (Id. at § 864.5.)
22. Upon arrival of the test materials at a single location designated by each school district, the school district's district STAR coordinator shall provide the contractor with a signed receipt certifying that all cartons were received. (Id. at § 865.)
23. The security of the test materials that have been duly delivered to the school district is the sole responsibility of the school district until all test materials have been inventoried, accounted for, and delivered to the common or private carrier designated by the contractor for return to the contractor. (Ibid.)
24. Secure transportation within a school district is the responsibility of the school district once materials have been duly delivered to the school district. The school district is responsible for secure delivery of test materials to non-public schools to which district pupils with disabilities are assigned. (Ibid.)
25. No school district shall receive its designated achievement test, standards-based achievement test, or designated primary language test materials more than twenty or fewer than ten working days prior to the first day of testing in the school district. A school district that has not received test materials from the contractor at least ten working days before the first date of testing in the school district shall notify the contractor and the CDE on the tenth working day before testing is scheduled to begin that the school district has not received its materials. Deliveries of test materials to single school districts shall use the schedule in section 867. (Id. at § 866.)
26. A school district and the contractor shall establish a periodic delivery schedule to accommodate test administration periods within the school district. Any schedule established must conform to sections 866(a) and (b) for each test administration period. (Ibid.)
27. All testing materials shall be returned to the school district location designated by the district STAR coordinator no more than two working days after testing is completed for each test administration period. (Id. at § 867.)
28. Writing test materials shall be returned to the district STAR coordinator no more than one day after the day scheduled for makeup testing. (Ibid.)
29. The school district shall ensure that designated achievement test, standards-based tests, or designated primary language testing materials are inventoried,



packaged, and labeled in accordance with instructions from the contractor, and returned to a single school district location for pickup by the contractor within five working days following completion of testing in the school district and in no event later than five working days after each test administration period. (Id. at § 867.5.)

30. School districts shall return all writing tests and test materials to the contractor no more than two (2) working days after the makeup day specified for the writing test. (Id. at § 867.5.)
31. School districts shall process discrepancies determined by the contractor upon receipt of returned tests and test materials pursuant to § 868.
  - a. Receipt of a discrepancy notice in writing, via telephone, or via electronic mail by the district STAR coordinator for one or more of the following shall require a response from the district STAR coordinator to the contractor within 24 hours.
    - (1) A discrepancy between the quantity of tests and test materials shipped to the school district and the number of tests and test materials returned to the contractor from the school district.
    - (2) Information on scannable documents or test support materials that is inconsistent, incomplete, or missing, according to criteria established with the CDE.
  - b. The district STAR coordinator shall acknowledge the discrepancy notice via electronic mail, if available in the school district, to the contractor and to the CDE within 24 hours of its receipt via electronic mail. (Id. at § 868.)
32. The district STAR coordinator shall report any discrepancy in the total amount of the shipment from the contractor within two (2) working days of the receipt of the shipment. If the contractor does not remedy the discrepancy within two (2) working days of the school district report, the school district shall notify the CDE within 24 hours. (Ibid.)
33. Any discrepancy in a shipment of designated achievement tests or test materials, standards-based achievement tests or test materials, or CAPA materials received by a test site from the district STAR coordinator shall be reported to the district STAR coordinator immediately but no later than two (2) working days of the receipt of the shipment at the testing site. The district STAR coordinator shall remedy the discrepancy within two (2) working days. (Ibid.)
34. The district STAR coordinator shall report to the contractor any discrepancy reported by a STAR test site coordinator within three (3) working days of receipt of materials at the test site. If the district STAR coordinator does not have a sufficient supply of tests or test materials to remedy any shortage, the contractor shall remedy the shortage by providing sufficient materials directly to

the test site within two (2) working days of the notification by the district STAR coordinator. (Ibid.)

35. The notices required by §868 shall be made by telephone with simultaneous confirmation in writing and by electronic mail. (Ibid.)
36. School districts shall submit to the CDE whatever information the CDE deems necessary. (Ed. Code § 60630.)
37. School districts shall include in each pupil's individual record of accomplishment the results of the achievement test required and administered annually as part of the STAR program. (Ed. Code § 60607.)
38. The individual results of each pupil test administered pursuant to Section 60640 shall be reported, in writing, to the parent or guardian of the pupil. The written report shall include a clear explanation of the purpose of the test, the score of the pupil, and the intended use by the school district of the test score. This subdivision does not require teachers or other school district personnel to prepare individualized explanations of the test score of each pupil. (Ed. Code § 60641.)
39. The individual results of each pupil test administered pursuant to Section 60640 also shall be reported to the school and teachers of a pupil. The school district shall include the test results of a pupil in his or her pupil records. However, except as provided in this section, individual pupil test results only may be released with the permission of either the pupil's parent or guardian if the pupil is a minor, or the pupil if the pupil has reached the age of majority or is emancipated. (Ibid.)
40. A pupil or his or her parent or guardian may authorize the release of individual pupil results to a postsecondary educational institution for the purpose of credit, placement, or admission. (Ibid.)
41. The districtwide, school-level, and grade-level results of the STAR Program in each of the grades designated pursuant to Section 60640, but not the score or relative position of any individually ascertainable pupil, shall be reported to the governing board of the school district at a regularly scheduled meeting, and the countywide, school-level, and grade-level results for classes and programs under the jurisdiction of the county office of education shall be similarly reported to the county board of education at a regularly scheduled meeting. (Ibid.)

In order for the test claim legislation and regulations to be subject to article XIII B, section 6 of the California Constitution, the legislation must constitute a "program." The California Supreme Court, in the case of *County of Los Angeles v. State of California*, defined the word "program" within the meaning of article XIII B, section 6 as a program that carries out the

governmental function of providing a service to the public, or laws which, to implement a state policy, impose unique requirements on local governments and do not apply generally to all residents and entities in the state. Only one of these findings is necessary to trigger the applicability of article XIII B, section 6.

The test claim activities outlined above represent the uniquely governmental function of providing public education and only apply to educational agencies and do not apply generally to all state residents and legal entities. Therefore, the test claim legislation and regulations imposed upon educational agencies represent a “program” within the meaning of Article XIII B, section 6 of the California Constitution.

**B. Detailed Description of Existing Activities and Costs That are Modified by the Mandate.**

Before the enactment of the test claim legislation, educational agencies were under no obligation to administer the STAR testing program beyond the 2003-04 school year. The test claim legislation reauthorized and amended the Education Code to require educational agencies to administer the STAR testing program beginning in the 2004-05 school year. In addition, educational agencies, in response to the test claim legislation, must administer the STAR testing program each year thereafter and incur the increased activities and costs associated with the activities listed above.

This test claim is filed under Government Code section 17551(c), which provides “[S]chool district test claims shall be filed not later than 12 months following the effective date of a statute or executive order, or within 12 months of incurring increased costs as a result of a statute or executive order, whichever is later.” The claimant was established as a new entity in

the state on July 1, 2008. As outlined in the attached Declaration of Mr. Uve Dahmen, the claimant first incurred increased costs of the statutes and regulations pled in this test claim on July 28, 2008. The statutes and regulations pled in this test claim properly fall under Government Code section 17551(c) as Twin Rivers first incurred costs associated with the activities outlined above within the past 12 months.

**C. Actual Increased Costs Incurred by the Claimant During the Fiscal Year for Which the Claim was Filed.**

To perform the mandated activities listed above, the claimant will incur approximately \$300,000 in costs.

**D. Actual or Estimated Costs that Will be Incurred by the Claimant During the Fiscal Year Immediately Following the Fiscal Year in Which the Claim was Filed.**

The claimant estimates it will incur \$325,000 to perform the mandated activities listed above for the 2009/10 school year.

**E. Statewide Cost Estimate That all Educational Agencies Will Incur to Implement the Mandate During the Fiscal Year Immediately Following the Fiscal Year for Which the Claim was Filed.**

The claimant estimates the Statewide Cost Estimate will be \$54,272,743. See the following table:

<b>Fiscal/Year</b>	<b>Filed Claim Total</b>	<b># Students Tested</b>	<b># Students Tested Statewide</b>
1997/1998 Claim/Figures	\$51,776.00	8,326	4,129,310
1998/1999 Claim/Figures	\$93,067.00	8,863	4,263,033
1999/2000 Claim/Figures	\$150,193.00	8,712	4,348,402
2000/2001 Claim/Figures	\$103,589.00	9,740	4,541,412
2001/2002 Claim/Figures	\$114,238.00	9,538	4,615,552
2002/2003 Claim/Figures	\$169,224.00	9,772	4,730,936
2003/2004 Claim/Figures	\$107,951.00	10,436	4,814,302
<b>Totals</b>	<b>\$790,038.00</b>	<b>65,387</b>	<b>31,442,947</b>
<b>Average Totals</b>	<b>\$112,862.57</b>	<b>9,341</b>	<b>4,491,850</b>
<b>Annual Cost per Student</b>	<b>\$12.08</b>	<b>\$12.08 x 4,491,850 = SCE</b>	
<b>State-Wide Costs (est.)</b>			<b>\$54,261,548.00</b>

**F. Identification of Funding Sources.**

1. Dedicated state funds: Approximately \$10,000,000 statewide
2. Dedicated federal funds: Title VI (per Commission on State Mandates decision in the STAR Reconsideration Statement of Decision)
3. Other non-local agency funds: None
4. Claimant's general purpose fund: None
5. Fee authority to offset costs: None

**G. Identification of Prior Board of Control or Commission on State Mandates Decisions.**

Two prior actions are relevant to the determination of whether the claimed activities impose a state mandate upon educational agencies:

1. STAR Reconsideration: 04-RL-9723-01 (SOD issued July 28, 2005); and
2. Original Test Clam: 97-TC-23 (submitted March 23, 1998)

## 6. Declarations

### BEFORE THE COMMISSION ON STATE MANDATES

Test Claim Filed By:

Twin Rivers Unified School District,

Claimant

#### DECLARATION OF UVE DAHMEN

Test Claim No. \_\_\_\_\_

Ed. Code §60640 as added and amended by:  
Ch. 773/03, §5 (AB 1485); Ch. 183/04, §79 (AB 3082); Ch. 233/04, §15 (SB 1448); Ch. 676/05, §4 eff. 10/7/05 (SB 755); Ch. 174/07, §22 eff. 8/24/07 (SB 80); Ch. 730/07, §39 (SB 132); Ch. 757/08, §16 eff. 9/30/08 (AB 519)

Ed. Code §60641 as added and amended by:  
Ch. 828/97, §11 eff. 10/10/97 (SB 376); Ch. 735/99, §4 eff. 10/10/99 (SB 366); Ch. 576/00, §4 (AB 2812); Ch. 20/01, §3 eff. 6/15/01 (SB 245); Ch. 722/01, §9 (SB 233); Ch. 233/04, §17 (SB 1448); Ch. 473/08, §1 (SB 946); Ch. 757/08, §17 eff. 9/30/08 (AB 519)

Ed. Code §60642.5 as added and amended by:  
Ch. 576/00, §5 (AB 2812); Ch. 722/01, §11 (SB 233); Ch. 1168/02, §70 eff. 09/30/02 (AB 1818); Ch. 757/08, §19 eff. 9/30/08 (AB 519)

Ed. Code §60607 as added and amended by:  
Ch. 975/95, §1 (AB 265); Ch. 828/97, §6 eff. 10/10/97 (SB 376); Ch. 722/01, §5 (SB 233); Ch. 233/04, §13 (SB 1448)

Ed. Code §60615 as added by: Ch. 975/95, §1 (AB 265)

Ed. Code §60630 as added and amended by:  
Ch. 975/95, §1 (AB 265); Ch. 828/97, §9 eff. 10/10/97 (SB 376); Ch. 722/01, §7 (SB 233); Ch. 757/08, §15 eff. 9/30/08 (AB 519)

California Code of Regulations, Title 5,  
Sections 850, 851, 852, 853, 855, 857, 858,  
859, 861, 862, 863, 864.5, 865, 866, 867,  
867.5, and 868

***Standardized Testing and Reporting III  
(STAR III)***

I, Uve Dahmen make the following declaration and statement. As Director of Research & Evaluation, I have knowledge of Twin Rivers Unified School District's Standardized Testing and Reporting program. I am familiar with the provisions and requirements of the chapters and code sections listed above as well as all applicable regulations, which require educational agencies to perform the following activities:

1. Administration of the designated achievement test and standards-based achievement tests to each eligible pupil enrolled in any of grades 2 to 11, inclusive, in a school district on the date testing begins in the pupil's school. (Cal. Code Regs., tit. 5, § 851.)
  - a. The designated achievement test shall be administered and returned by school districts in accordance with the manuals or other instructions provided by the contractor for administering and returning the tests unless specifically provided otherwise in this subchapter including instructions for administering the test with variations, accommodations, and modifications. The procedures shall include, but are not limited to, those designed to insure the uniform and standard administration of the tests to pupils, the security and integrity of the test content and test items, and the timely provision of all required student and school level information. (Id. at § 853.)
  - b. The standards-based achievement tests and the CAPA shall be administered and returned by school districts in accordance with the manuals and other instructions provided by the contractor, and in accordance with testing variations, accommodations, and modifications specified in section 853.5. The procedures shall include, but are not limited to, those designed to insure the uniform and standard administration of the tests to pupils, the security and integrity of the test content and test items, and the timely provision of all required student and school level information. The procedures shall not include criteria for who should be assessed by the CAPA. (Ibid.)
2. Administration of the CAPA, as set forth in the pupil's IEP, to each eligible pupil in any of grades 2 to 11, inclusive, in a school district during the period specified by the test contractor. Pupils in ungraded special education classes shall be tested, if they are 7 to 16 years of age. (Id. at § 851)
3. Making whatever arrangements are necessary to test all eligible pupils in alternative education programs or programs conducted off campus, including,



but not limited to, continuation schools, independent study, community day schools, or county community schools. (Ibid.)

4. Accepting waivers filed by a parent or guardian to excuse his or her child from any or all parts of any test provided pursuant to Education Code section 60640. However, the school district and its employees shall not solicit or encourage any written exemption request on behalf of any child or group of children. All waivers from any or all parts of the assessments administered shall be granted. (Id. at § 852; Ed. Code §60615.)
5. Administration of the designated achievement test and the standards-based achievement tests, except for the STAR writing assessment as specified in subdivision § 855(c), shall be administered to each pupil during a testing window of twenty-one (21) instructional days that includes ten (10) instructional days before and after completion of 85% of the school's, track's, or program's instructional days. Testing for all pupils, including makeup testing, is to be completed within this twenty-one (21) instructional day window unless all or part of the twenty-one (21) instructional day period falls after any statutorily specified deadline. School districts shall schedule testing dates pursuant to this section. (Id. at § 855.)
6. Each school district shall provide for at least two (2) makeup days of testing for pupils who were absent during the period in which any school administered the designated achievement test and the standards-based achievement tests. All makeup testing shall occur within five (5) instructional days of the last date that the school district administered the tests but not later than the end of the twenty-one (21) instructional day period established in §855(a). (Ibid.)
7. On or before September 30 of each school year, the superintendent of each school district shall designate from among the employees of the school district a district STAR coordinator. The district STAR coordinator, or the school district superintendent or his or her designee, shall be available through August 15 of the following year to complete school district testing. The school district shall notify the contractor of the identity and contact information, including electronic mail address, if available in the school district, for the district STAR coordinator and for the superintendent and his or her designee, if any. The district STAR coordinator shall serve as the school district representative and the liaison between the school district and the contractor and the school district and the Department for all matters related to the STAR program. (Id. at § 857.)
8. The district STAR coordinator's responsibilities shall include, but not be limited to, all of the following duties:
  - a. Responding to correspondence and inquiries from the contractor and from the Department in a timely manner and as provided in the contractor's instructions and these regulations.

- b. Determining school district and individual school test and test material needs in conjunction with schools within the district and the contractor, using current enrollment data and communicating school district test material needs to the contractor on or before December 1.
  - c. Ensuring delivery of tests and test materials to the test sites no more than ten (10) or fewer than five (5) working days before the first day of testing designated by the district.
  - d. Coordinating the testing and makeup testing days for the school district and for those pupils of the district who are enrolled in nonpublic schools within any required time periods with the school test site coordinators. Overseeing the collection of all pupil data as required to comply with section 861.
  - e. Maintaining security over the designated achievement test, the standards-based achievement tests, the CAPA and test data using the procedure set forth in section 859. The district STAR coordinator shall sign the security agreement set forth in section 859 and submit it to the contractor prior to receipt of the test materials from the contractor.
  - f. Overseeing the administration of the designated achievement test, the standards-based achievement tests, and the designated primary language test to eligible pupils.
  - g. Overseeing the collection and return of all test materials and test data to the contractor within any required time periods.
  - h. Assisting the contractor and the Department in the resolution of any discrepancies in the test information and materials, including but not limited to, pre-identification files and all pupil level data required to comply with sections 861 and 862.
  - i. Immediately notifying the Department of any security breaches or testing irregularities in the district before, during, or after the test administration.
  - j. Ensuring that an answer document is submitted for scoring for each eligible pupil enrolled in the district on the first day of testing.
  - k. After receiving summary reports and files from the contractor, the district STAR coordinator shall review the files and reports for completeness and accuracy, and shall notify the contractor and the Department of any errors, discrepancies, or incomplete information.
  - l. Training test site coordinators to oversee the test administration at each school. (Ibid.)
9. At each test site, including but not limited to, each elementary, middle, and high school or other grade-span designated school, each charter school, each court-

school, each school or program operated by a school district, and all other public programs serving pupils in any of the grades 2 to 11, inclusive, the superintendent of the school district or the district STAR coordinator shall designate a STAR test site coordinator from among the employees of the school district. The STAR test site coordinator, or the site principal or his or her designee, shall be available to the district STAR coordinator by telephone through August 15 for purposes of resolving discrepancies or inconsistencies in materials or errors in reports. (Id. at § 858.)

10. The STAR test site coordinator's responsibilities shall include, but are not limited to, all of the following duties:
  - a. Determining site test and test material needs and communicating the site needs to the district STAR coordinator.
  - b. Overseeing the acquisition and distribution of tests and test materials at the test site, including but not limited to, distributing test materials to test examiners on each day of testing in accordance with the contractor's directions.
  - c. Cooperating with the district STAR coordinator to provide the testing and makeup testing days for the site within any required time periods.
  - d. Maintaining security over the designated achievement test, the standards-based achievement tests, and the designated primary language test and test data. The STAR test site coordinator shall sign the security agreement set forth in section 859 and submit it to the district STAR coordinator prior to the receipt of the test materials.
  - e. Arranging for and overseeing the administration of the designated achievement test, the standards-based achievement tests, and the designated primary language test to eligible pupils at the test site.
  - f. Overseeing the collection and return of all testing materials to the district STAR coordinator.
  - g. Assisting the district STAR coordinator, the contractor, and the Department in the resolution of any discrepancies in the test information and materials.
  - h. Overseeing the collection of all pupil level and other data required to comply with sections 861 and 862.
  - i. Ensuring that an answer document is submitted for scoring for each eligible pupil enrolled in the school on the first day of testing for the designated achievement test or the standards-based achievement tests.
  - j. Ensuring that for each pupil tested only one scannable answer document is submitted for scoring, except that for each pupil tested at grades for which the contractor has designated the use of more than one answer

document. An answer document for the STAR writing assessment administered pursuant to section 855(c) shall be submitted in addition to the answer document for the multiple choice items.

- k. Immediately notifying the district STAR coordinator of any security breaches or testing irregularities that occur in the administration of the designated achievement test, the standards-based achievement tests, or the designated primary language test that violate the terms of the STAR Security Affidavit in section 859.
  - l. Training all test examiners, proctors, and scribes for administering the tests. (Ibid.)
- 11. All STAR district and test site coordinators (coordinators) shall sign the STAR Test Security Agreement set forth in §859(b) before receiving any STAR program tests or test materials. (Id. at § 859.)
  - 12. All test examiners, proctors, scribes, and any other persons having access to the designated achievement test and test materials, the standards-based achievement tests and test materials, and the designated primary language test and test materials shall acknowledge the limited purpose of their access to the tests by signing the STAR Test Security Affidavit set forth in subdivision (d). (Ibid.)
  - 13. To maintain the security of the program, all district STAR coordinators and test site coordinators are responsible for inventory control and shall use appropriate inventory control forms to monitor and track test inventory. (Ibid.)
  - 14. Each school district shall provide the contractor for the designated achievement test and standards-based achievement tests, the following information for each pupil enrolled on the first day the tests are administered for purposes of the reporting required by the Academic Performance Index of the Public Schools Accountability Act (chapter 6.1, commencing with section 52050), section 60630, and chapter 5 (commencing with section 60640) of the Education Code:
    - a. Pupil's full name.
    - b. Date of birth.
    - c. Grade level.
    - d. Gender.
    - e. English proficiency and primary language.
    - f. Date of English proficiency reclassification.
    - g. If R-FEP pupil scored proficient or above on the California English-Language Arts Standards Test three times since reclassification.
    - h. Program participation.
    - i. Use of accommodations or modifications.

- j. Statewide Student Identifier.
  - k. Parent education level.
  - l. School and district California Basic Educational Data System (CBEDS) enrollment.
  - m. Grade last enrolled in school where being tested.
  - n. For English learners, date first enrolled in school in the United States and the length of time in U.S. schools.
  - o. Participation in the National School Lunch Program.
  - p. Ethnicity.
  - q. Primary disability code.
  - r. County and District of residence for pupils with IEPs.
  - s. Special testing conditions and/or reasons for not being tested.
  - t. Student enrolled in NPS by district based on IEP.
  - u. NPS school code. (Id. at § 861.)
15. Each school district shall provide the contractor for the designated primary language test the information specified in subdivision (a) for each pupil assessed with the designated primary language test pursuant to Education Code section 60640. (Id. at §861.)
16. School districts shall provide the same information for each eligible pupil enrolled in an alternative or off campus program or for pupils placed in nonpublic schools as is provided for all other eligible pupils in grades 2 to 11, inclusive. (Ibid.)
17. Annually, each school district shall receive an apportionment information report with the following information for the designated achievement test and the standards-based achievement tests by grade level for each of grades 2 to 11, inclusive:
- a. The number of pupils enrolled in each school and in the school district on the first day of testing as indicated by the number of answer documents submitted to the test contractor for scoring.
  - b. The number of pupils in each school and in the school district tested with the alternate assessment
  - c. The number of pupils in each school and in the school district exempted from testing at the request of their parents or guardians pursuant to Education Code section 60615.
  - d. The number of pupils who were administered any portion of the designated achievement test and standards-based achievement tests.

- e. The number of pupils with demographic information only who were not tested for any reason other than a parent/guardian exemption. (Id. at § 862.)
18. The school district shall forward the STAR Student Report for the designated achievement test and standards-based achievement tests and the designated primary language test provided by the contractor(s) to each pupil's parent or guardian, within no more than 20 working days from receipt of the report from the contractor. (Id. at § 863.)
19. If the school district receives the reports for the designated achievement test and standards-based tests, or the designated primary language test from the contractor after the last day of instruction for the school year, the school district shall send the pupil results to the parent or guardian by U.S. mail at the parent's or guardian's last known address. If the report is non-deliverable, the school district shall make the report available to the parent or guardian during the next school year. (Ibid.)
20. Schools are responsible for affixing cumulative record labels reporting each pupil's scores to the pupil's permanent school records or for entering the scores into electronic pupil records, and for forwarding the results to schools to which pupils matriculate or transfer. Schools may annotate the scores when the scores may not accurately reflect pupils' achievement due to illness or testing irregularities. (Ibid.)
21. The school district shall provide to the contractor(s), for the designated achievement test and the standards-based achievement tests no later than December 1 of the year immediately prior to the year of test administration, the following data for each test site of the school district, by grade level:
  - a. Valid county district school (CDS) codes.
  - b. Number of tests.
  - c. Numbers of special version tests including, but not limited to, Braille and large print.
  - d. Number of Directions for Administration needed, by grade level.
  - e. Number of pupils to be tested with the alternate assessment.
  - f. Number of test examiners for the alternate assessment.
  - g. The first and last date of instruction and all non-instructional days during the school year for each school in the district and all non-working days for the school district. (Id. at § 864.5.)
22. Upon arrival of the test materials at a single location designated by each school district, the school district's district STAR coordinator shall provide the

- contractor with a signed receipt certifying that all cartons were received. (Id. at § 865.)
23. The security of the test materials that have been duly delivered to the school district is the sole responsibility of the school district until all test materials have been inventoried, accounted for, and delivered to the common or private carrier designated by the contractor for return to the contractor. (Ibid.)
  24. Secure transportation within a school district is the responsibility of the school district once materials have been duly delivered to the school district. The school district is responsible for secure delivery of test materials to non-public schools to which district pupils with disabilities are assigned. (Ibid.)
  25. No school district shall receive its designated achievement test, standards-based achievement test, or designated primary language test materials more than twenty or fewer than ten working days prior to the first day of testing in the school district. A school district that has not received test materials from the contractor at least ten working days before the first date of testing in the school district shall notify the contractor and the CDE on the tenth working day before testing is scheduled to begin that the school district has not received its materials. Deliveries of test materials to single school districts shall use the schedule in section 867. (Id. at § 866.)
  26. A school district and the contractor shall establish a periodic delivery schedule to accommodate test administration periods within the school district. Any schedule established must conform to sections 866(a) and (b) for each test administration period. (Ibid.)
  27. All testing materials shall be returned to the school district location designated by the district STAR coordinator no more than two working days after testing is completed for each test administration period. (Id. at § 867.)
  28. Writing test materials shall be returned to the district STAR coordinator no more than one day after the day scheduled for makeup testing. (Ibid.)
  29. The school district shall ensure that designated achievement test, standards-based tests, or designated primary language testing materials are inventoried, packaged, and labeled in accordance with instructions from the contractor, and returned to a single school district location for pickup by the contractor within five working days following completion of testing in the school district and in no event later than five working days after each test administration period. (Id. at § 867.5.)
  30. School districts shall return all writing tests and test materials to the contractor no more than two (2) working days after the makeup day specified for the writing test. (Id. at § 867.5.)
  31. School districts shall process discrepancies determined by the contractor upon receipt of returned tests and test materials pursuant to § 868.

- a. Receipt of a discrepancy notice in writing, via telephone, or via electronic mail by the district STAR coordinator for one or more of the following shall require a response from the district STAR coordinator to the contractor within 24 hours.
  - (1) A discrepancy between the quantity of tests and test materials shipped to the school district and the number of tests and test materials returned to the contractor from the school district.
  - (2) Information on scannable documents or test support materials that is inconsistent, incomplete, or missing, according to criteria established with the CDE.
- b. The district STAR coordinator shall acknowledge the discrepancy notice via electronic mail, if available in the school district, to the contractor and to the CDE within 24 hours of its receipt via electronic mail. (Id. at § 868.)
32. The district STAR coordinator shall report any discrepancy in the total amount of the shipment from the contractor within two (2) working days of the receipt of the shipment. If the contractor does not remedy the discrepancy within two (2) working days of the school district report, the school district shall notify the CDE within 24 hours. (Ibid.)
33. Any discrepancy in a shipment of designated achievement tests or test materials, standards-based achievement tests or test materials, or CAPA materials received by a test site from the district STAR coordinator shall be reported to the district STAR coordinator immediately but no later than two (2) working days of the receipt of the shipment at the testing site. The district STAR coordinator shall remedy the discrepancy within two (2) working days. (Ibid.)
34. The district STAR coordinator shall report to the contractor any discrepancy reported by a STAR test site coordinator within three (3) working days of receipt of materials at the test site. If the district STAR coordinator does not have a sufficient supply of tests or test materials to remedy any shortage, the contractor shall remedy the shortage by providing sufficient materials directly to the test site within two (2) working days of the notification by the district STAR coordinator. (Ibid.)
35. The notices required by §868 shall be made by telephone with simultaneous confirmation in writing and by electronic mail. (Ibid.)
36. School districts shall submit to the CDE whatever information the CDE deems necessary. (Ed. Code § 60630.)
37. School districts shall include in each pupil's individual record of accomplishment the results of the achievement test required and administered annually as part of the STAR program. (Ed. Code § 60607.)
38. The individual results of each pupil test administered pursuant to Section 60640 shall be reported, in writing, to the parent or guardian of the pupil. The written



report shall include a clear explanation of the purpose of the test, the score of the pupil, and the intended use by the school district of the test score. This subdivision does not require teachers or other school district personnel to prepare individualized explanations of the test score of each pupil. (Ed. Code § 60641.)

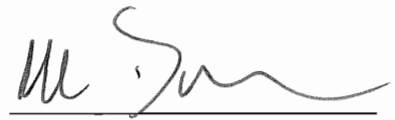
39. The individual results of each pupil test administered pursuant to Section 60640 also shall be reported to the school and teachers of a pupil. The school district shall include the test results of a pupil in his or her pupil records. However, except as provided in this section, individual pupil test results only may be released with the permission of either the pupil's parent or guardian if the pupil is a minor, or the pupil if the pupil has reached the age of majority or is emancipated. (Ibid.)
40. A pupil or his or her parent or guardian may authorize the release of individual pupil results to a postsecondary educational institution for the purpose of credit, placement, or admission. (Ibid.)
41. The districtwide, school-level, and grade-level results of the STAR Program in each of the grades designated pursuant to Section 60640, but not the score or relative position of any individually ascertainable pupil, shall be reported to the governing board of the school district at a regularly scheduled meeting, and the countywide, school-level, and grade-level results for classes and programs under the jurisdiction of the county office of education shall be similarly reported to the county board of education at a regularly scheduled meeting. (Ibid.)

I am informed and believe that before the test claim legislation educational agencies were under no obligation to administer the STAR testing program for the 2004/05 school year. Furthermore, I am informed and believe that Twin Rivers Unified School District did not incur costs associated with the Education Code sections and Regulations listed above until July 28, 2008. The claimant will/has incurred significantly more than \$1,000 to implement these new activities mandated by the state for which the claimant has not been sufficiently reimbursed by any federal, state, or local agency, and for which it cannot otherwise obtain reimbursement. For the 2008/09 test administration, the claimant shall incur approximately \$300,000 in costs to meet the mandated activities.

Further, this test claim is being filed not later than 12 months of incurring costs as a result of the test claim statute as the Twin Rivers Unified School District first incurred costs to administer the 2008/09 STAR Program on July 28, 2008.

I know the foregoing facts personally and if so required, I could testify to the statements made herein. I hereby declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct except where stated upon information and belief and where so stated I declare that I believe them to be true.

Executed on June 24, 2009 in McClellan, California.



Uve Dahmen  
Director  
Research & Evaluation

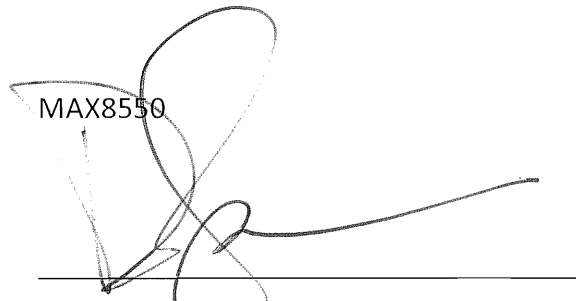
## 7. Documentation

SEE ATTACHED

**CLAIM CERTIFICATION**

I certify under penalty of perjury by my signature below that the statements made in this document are true and correct of my knowledge, and as to all other matters, I believe them to be true and correct based on information or belief.

Executed on June 24, 2009 at Gold River, California, by:



DAVID E. SCRIBNER, ESQ.  
Authorized Representative of Twin Rivers Unified  
School District

AUTHORIZATION TO ACT AS REPRESENTATIVE  
FOR TWIN RIVERS UNIFIED SCHOOL DISTRICT'S TEST CLAIM

**STANDARDIZED TESTING AND REPORTING III (STAR III)**

I, Rob Ball, hereby authorize David E. Scribner (or designee) of MAX8550 to act as the representative and sole contact of Twin Rivers Unified School District in this Test Claim. All correspondence and communications regarding this Test Claim should be forwarded to:

David E. Scribner, Esq.  
MAX8550  
2200 Sunrise Boulevard, Suite 220  
Gold River, California 95670  
Telephone: (916) 852-8970  
Facsimile: (916) 852-8978

Dated: X 6-24-07

X 

Rob Ball

Associate Superintendent

BILL NUMBER: AB 1485      CHAPTERED 10/11/03

CHAPTER 773

FILED WITH SECRETARY OF STATE OCTOBER 11, 2003

APPROVED BY GOVERNOR OCTOBER 10, 2003

PASSED THE ASSEMBLY SEPTEMBER 11, 2003

PASSED THE SENATE SEPTEMBER 9, 2003

AMENDED IN SENATE SEPTEMBER 8, 2003

AMENDED IN SENATE AUGUST 29, 2003

AMENDED IN SENATE AUGUST 19, 2003

AMENDED IN SENATE JULY 16, 2003

AMENDED IN ASSEMBLY JUNE 3, 2003

AMENDED IN ASSEMBLY MAY 6, 2003

AMENDED IN ASSEMBLY APRIL 22, 2003

INTRODUCED BY Assembly Member Firebaugh  
(Principal coauthors: Assembly Members Goldberg and Yee)

FEBRUARY 21, 2003

An act to amend Section 51700 of, to amend, repeal, and add Sections 60640 and 60642 of, and to add Sections 51701 and 51701.5 to, the Education Code, relating to schools.

LEGISLATIVE COUNSEL'S DIGEST

AB 1485, Firebaugh. English learners: academic assessment.

(1) Existing law establishes the Reading First Plan to provide federally funded reading instruction to pupils in kindergarten and grades 1 to 3, inclusive, and to special education pupils in any grade of elementary or secondary school. Existing law requires the Reading First Plan submitted to the federal Secretary of Education, among other things, to authorize a local educational agency that meets specified federal requirements to be eligible for federal funding if certain pupils are provided by a prescribed deadline with standards-aligned textbooks or basic instructional materials aligned with the state-adopted reading/language arts content standards.

This bill would prohibit the State Department of Education and the State Board of Education from developing or implementing requirements or criteria that make a local educational agency ineligible for funding because the local educational agency provides primary language instruction and comprehensive English language development instruction to English learners in classrooms where English learners are not educated through sheltered or structured English immersion. The bill would authorize the use of primary language materials in specified cases for purposes of participation in a program funded with Reading First funds. The bill would require the State Department of Education to amend California's Reading First Plan to authorize local educational agencies operating programs in which English learners are not educated through sheltered or structural English immersion to apply for funding under the federal No Child Left Behind Act. The bill would additionally require the revised plan to specify that priority to specified federal funds be given to programs meeting certain criteria.

The bill would prohibit the allocation of a specified appropriation made in the Budget Act of 2003 until the State Board of Education amends the Reading First Plan according to this act and submits it to federal authorities and the federal Secretary of

Education approves the plan.

(2) Existing law establishes, until January 1, 2005, the Leroy F. Greene California Assessment of Academic Achievement Act to provide a system of individual assessment of pupils. The existing act establishes, among other things, the Standardized Testing and Reporting (STAR) Program and requires each school district, charter school, and county office of education to administer to each of its pupils in grades 2 to 11, inclusive, an achievement test and a standards-based achievement test.

This bill would require, commencing on July 1, 2004, the achievement test to be administered to pupils in grades 3 and 8, and the standards-aligned achievement test to be administered to pupils in grades 2 to 11, inclusive.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 51700 of the Education Code is amended to read:

51700. (a) There is hereby established the Reading First Plan to provide reading instruction to pupils in kindergarten and grades 1 to 3, inclusive, and to special education pupils in kindergarten and grades 1 to 12, inclusive.

(b) The plan shall be administered by the State Department of Education and shall be funded from moneys allocated pursuant to Title I of the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.).

(c) The Reading First Plan submitted to the Secretary of Education pursuant to Title I of the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.) shall do all of the following:

(1) (A) Authorize a local educational agency that meets all the requirements of Section 6362(c)(6) of Title 20 of the United States Code to be eligible for Reading First funding if pupils enrolled in kindergarten or any of grades 1 to 3, inclusive, and special education pupils enrolled in kindergarten or any of grades 1 to 12, inclusive, are provided with standards-aligned textbooks or basic instructional materials aligned with the reading/language arts content standards pursuant to Section 60605 by the beginning of the first school term that commences no later than 24 months after those materials are adopted by the State Board of Education.

(B) Notwithstanding subparagraph (A), a class operating pursuant to Section 310 may use primary language materials in alternate formats adopted by the State Board of Education for purposes of participating in a program funded pursuant to this article.

(2) Authorize a local educational agency to use scientifically based reading research supplemental instructional materials for pupils enrolled in kindergarten or any of grades 1 to 3, inclusive, and special education pupils enrolled in kindergarten or any of grades 1 to 12, inclusive, that are aligned with the reading/language arts content standards adopted pursuant to Section 60605. The local educational agency shall provide an explanation in its application of how its use of these supplemental instructional materials support the reading/language arts instructional materials adopted by the State Board of Education for pupils enrolled in kindergarten or any of grades 1 to 3, inclusive, and special education pupils enrolled in kindergarten or any of grades 1 to 12, inclusive.

(3) Authorize an eligible local educational agency to receive a grant in the amount of up to six thousand five hundred dollars (\$6,500) per teacher in kindergarten or in any of grades 1 to 3,

inclusive, unless otherwise required pursuant to Section 6362(c)(2)(A) of Title 20 of the United States Code. In addition, to the extent that a local educational agency needs additional funding consistent with the maximum amount allowable under the federal No Child Left Behind Act (20 U.S.C. Sec. 6301 et. seq.), authorize the local educational agency to submit a plan justifying that need to the State Department of Education and the Department of Finance for their joint approval. A grant awarded pursuant to this paragraph shall be used to enhance reading instruction, including, but not limited to, the following purposes:

(A) Purchasing and implementing scientifically based reading research instructional and supplemental materials in reading language arts, pursuant to requirements specified in the Reading First Plan and paragraph (2).

(B) Participating in professional development in reading and language arts, pursuant to requirements specified in the Reading First Plan. A Reading First funded agency may not claim funding for teachers of kindergarten or any of grades 1 to 3, inclusive, or teachers of special education pupils for the Mathematics and Reading Professional Development Program established pursuant to Article 3 (commencing with Section 99230) of Chapter 5 of Part 65.

(C) Hiring reading coaches or reading content experts, or both.

(D) Purchasing reading and language arts assessments.

(E) Other purposes, as specified in Section 6362(c)(7) of Title 20 of the United States Code.

(d) The State Department of Education and the State Board of Education may not develop or implement requirements or criteria that make a local educational agency ineligible for funding pursuant to this section because the local educational agency provides primary language instruction and comprehensive English language development instruction to English learners in alternative classrooms, as authorized pursuant to Sections 310 and 311.

(e) A local educational agency shall submit an expenditure plan as part of its Reading First application that includes details about how it is going to use its funding.

SEC. 2. Section 51701 is added to the Education Code, to read:

51701. The State Board of Education shall amend California's Reading First Plan to do all of the following:

(a) Authorize a local educational agency operating a program pursuant to Section 310 to apply for funding under Title 1 of the federal No Child Left Behind Act of 2001 (U.S.C. Sec. 6301 et seq.).

(b) Specify that first priority for the allocation of increased Reading First funds available during the **2003-04** fiscal year be given to classrooms that meet all of the following criteria:

(1) Have not received funding under the Reading First Plan.

(2) Operate programs pursuant to Section 310.

(3) Are located in previously approved Reading First local educational agencies.

(c) Specify that second priority for the allocation of increased Reading First funds available during the **2003-04** fiscal year be given to local educational agencies that operate programs pursuant to Section 310 and that meet other program requirements, as detailed in the revised Reading First Plan.

(d) Provide a process whereby professional development providers that have expertise in addressing the needs of classrooms operating pursuant to Section 310 and using alternate formats adopted by the State Board of Education will be approved as Reading First providers.

SEC. 3. Section 51701.5 is added to the Education Code, to read:



51701.5. The State Board of Education shall determine if a demand exists for scientifically based instructional materials that are aligned with the reading/language arts content standards pursuant to Section 60605 for languages other than Spanish and English in classrooms operating pursuant to Section 310 that apply for Reading First funds. If a demand exists, the State Board of Education shall explore ways to meet that demand, including, but not limited to, alternate format adoptions.

SEC. 4. 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) Each fiscal year, from the funds available for this 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 achievement test designated by the State Board of Education pursuant to Section 60642 and the standards-based achievement test provided for in Section 60642.5. The State Board of Education 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 of Education in subdivision (b).

(d) The governing board of the school district may administer achievement tests in kindergarten and grade 1 or 12, or both, as it deems appropriate.

(e) Pursuant to paragraph (17) of subsection (a) of Section 1412 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) At the school district's option, pupils of limited English proficiency who are enrolled in any of grades 2 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. Notwithstanding any other law, the State Board of Education 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 2 to 11, inclusive, no later than November 14, 1998, pursuant to the process used for designation of the assessment chosen in the 1997-98 fiscal year, as specified in Sections 60642 and 60643, as applicable.

(g) Pupils of limited English proficiency who are enrolled in any of grades 2 to 11, inclusive, shall be required to take a test in their primary language if a test is available, if fewer than 12 months have elapsed after their initial enrollment in any public school in the state.

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

(2) The State Board of Education shall annually establish the amount of funding to be apportioned to school districts for each test administered and shall annually establish the amount that each publisher shall be paid for each test administered under the

agreements required pursuant to Section 60643. The amounts to be paid to the publishers shall be determined by considering the cost estimates submitted by each publisher each September and the amount included in the Budget Act and by making allowance for the estimated costs to school districts for compliance with the requirements of subdivisions (b), (f), and (g).

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

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

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

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

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

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

(k) This section shall remain in effect only until June 30, 2004, and as of that date is repealed, unless a later enacted statute, that is enacted before June 30, 2004, deletes or extends that date.

SEC. 5. 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) Commencing in the 2004-05 fiscal year and each fiscal year thereafter, and 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 and 8 the achievement test designated by the State Board of Education pursuant to Section 60642 and 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 of Education 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 of Education 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 paragraph (17) of subsection (a) of Section 1412 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) At the option of the school district, a pupil with limited English proficiency who are enrolled in any of grades 2 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. Notwithstanding any other law, the State Board of Education 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 2 to 11, inclusive, pursuant to the process used for designation of the assessment chosen in the 1997-98 fiscal year, as specified in Sections 60642 and 60643, as applicable.

(g) A pupil of limited English proficiency who is enrolled in any of grades 2 to 11, inclusive, shall be required to take a test in their primary language if a test is available, if fewer than 12 months have elapsed after their initial enrollment in any public school in the state.

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

(2) The State Board of Education shall annually establish the amount of funding to be apportioned to school districts for each test administered and shall annually establish the amount that each publisher shall be paid for each test administered under the agreements required pursuant to Section 60643. The amounts to be paid to the publishers shall be determined by considering the cost estimates submitted by each publisher each September and the amount included in the annual Budget Act, and by making allowance for the estimated costs to school districts for compliance with the requirements of subdivisions (b), (f), and (g).

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

(i) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation for the apportionments made pursuant to paragraph (1) of subdivision (h), and the payments made to the publishers under the contracts required pursuant to Section 60643 or subparagraph (C) of

paragraph (1) of subdivision (a) of Section 60605 between the department and the contractor, are "General Fund revenues appropriated for school districts," as defined in subdivision (c) of Section 41202, for the applicable fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202, for that fiscal year.

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

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

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

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

(k) This section shall become operative July 1, 2004.

SEC. 6. Section 60642 of the Education Code is amended to read:

60642. (a) The Superintendent of Public Instruction and the State Board of Education may consider any evaluations of independent experts who have not been employed by a test publisher in the preceding 12 months regarding the suitability of the achievement tests submitted by publishers as required by subdivision (b) of Section 60605 for use as part of the STAR Program established by this article.

(b) Based upon a review of the achievement tests submitted and the recommendation made by the Superintendent of Public Instruction pursuant to subdivision (b) of Section 60605, the State Board of Education, in its sole discretion, based on the considerations set forth in Section 60644, shall designate for use as part of the STAR Program a single test in grades 2 to 11, inclusive.

(c) The State Board of Education shall ensure that the achievement test designated pursuant to subdivision (b) contains the subject areas specified in subdivision (c) of Section 60603 for grades 2 to 8, inclusive, and the core curriculum areas of English and language arts, mathematics, and science for grades 9 to 11, inclusive.

(d) The State Board of Education is hereby authorized to designate the achievement test to be administered pursuant to this article for more than one academic year subject to the availability of funds.

(e) The board shall minimize, to the extent it deems feasible, the amount of testing time required by the assessment in subdivision (b) for those content areas for which there also exists a standards-based examination as provided for pursuant to Section 60642.5.

(f) This section shall remain in effect only until June 30, 2004, and as of that date is repealed, unless a later enacted statute, that is enacted before June 30, 2004, deletes or extends that date.

SEC. 7. Section 60642 is added to the Education Code, to read:

60642. (a) The Superintendent of Public Instruction and the State Board of Education may consider any evaluations of independent experts who have not been employed by a test publisher in the preceding 12 months regarding the suitability of the achievement tests submitted by publishers as required by subdivision (b) of Section 60605 for use as part of the STAR Program established by this article.

(b) Based upon a review of the achievement tests submitted and the recommendation made by the Superintendent of Public Instruction pursuant to subdivision (b) of Section 60605, the State Board of Education, in its sole discretion, based on the considerations set

forth in Section 60644, shall designate for use as part of the STAR Program a single test in grades 3 and 8.

(c) The State Board of Education shall ensure that the achievement test designated pursuant to subdivision (b) contains the subject areas specified in subdivision (c) of Section 60603 for grades 3 and 8.

(d) The State Board of Education is hereby authorized to designate the achievement test to be administered pursuant to this article for more than one academic year subject to the availability of funds.

(e) The board shall minimize, to the extent it deems feasible, the amount of testing time required by the assessment in subdivision (b) for those content areas for which there also exists a standards-based examination as provided for pursuant to Section 60642.5.

(f) This section shall become operative on July 1, 2004.

SEC. 8. The funds appropriated pursuant to Provision 2 of Item 6110-126-0890 of Section 2.00 of the Budget Act of **2003** may not be allocated unless the State Board of Education amends the Reading First Plan pursuant to Section 2 of this act and submits the plan to federal authorities by February 1, 2004, and the federal Secretary of Education approves the plan.

BILL NUMBER: AB 1818      CHAPTERED 09/30/02

CHAPTER 1168  
 FILED WITH SECRETARY OF STATE SEPTEMBER 30, 2002  
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 AMENDED IN ASSEMBLY APRIL 15, 2002  
 AMENDED IN ASSEMBLY APRIL 1, 2002

INTRODUCED BY Committee on Education (Strom-Martin (Chair), Leach (Vice Chair), Alquist, Calderon, Correa, Goldberg, Liu, Maddox, Pavley, Reyes, Salinas, Vargas, and Washington)

JANUARY 17, 2002

An act to amend Sections 2557.5, 2558, 17150, 33126, 33126.1, 33128, 35120, 38133, 41023, 41031, 41032, 41033, 41035, 41038, 41303, 41372, 41403, 41404, 42127, 42127.1, 42129, 42238.12, 42241.7, 42850, 44049, 46200, 46200.5, 46202, 52054, 52055.610, 52055.640, 52055.656, 52291, 52310.5, 52314, 54743, 54745, 54746, 54747, 56001, 56100, 56129, 56130, 56200, 56205, 56345, 56361, 56392, 56441.1, 56473, 56836.155, 56836.23, 59201, 59203, 59204.5, 59210, 60451, 60453, and 60642.5 of, to amend the heading of Article 3 (commencing with Section 41030) of Chapter 1 of Part 24 of, to amend and repeal Section 49553 of, to repeal and add Section 59220 of, to amend and renumber Section 42238.146 of, to add Sections 14002.3, 35735.3, and 41407 to, and to repeal Sections 41405, 56393, 59204, 59211, and 59223 of, and to repeal Article 3.7 (commencing with Section 32230) of Chapter 2 of Part 19 of, the Education Code, to amend Section 3540.2 of, and to amend the heading of Chapter 26.5 (commencing with Section 7570) of, the Government Code, to amend Section 62 of Chapter 78 of the Statutes of 1999, and to amend Section 12.40 of Chapter 106 of the Statutes of 2001, relating to education, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1818, Committee on Education. Education.

(1) Existing law authorizes an adjustment in the revenue limit of any county superintendent of schools by an amount sufficient to provide additional revenue equal to the expenditure estimated to be incurred by the county superintendent of schools in complying with certain unemployment insurance laws.

This bill would exclude expenditures for employees of charter schools funded by the Charter School Block Grant.

(2) Existing law requires the county superintendent of schools to adjust the total revenue limit by the amount of increased or decreased employer contributions to the Public Employees' Retirement System, excluding from the calculation certain positions.

This bill also would exclude employer contributions for employees of charter schools funded by the Charter School Block Grant.

(3) Existing law requires the school accountability report card to provide data by which parents can make meaningful comparisons

between public schools enabling them to make informed decisions on which school to enroll their children and requires certain information regarding school conditions to be included in this report card.

This bill would require the report card to include the rate of pupils who earn Governor's scholarship awards. The bill would require the Scholarshare Investment Board to provide these rates to the State Department of Education which would be required to post that information on the Internet. The bill would impose a state-mandated local program by requiring schools to post on the Internet the rates that pertain to them. The bill would state that the Legislature finds and declares that the bill furthers the purposes of the Classroom Instructional Improvement and Accountability Act.

(4) Existing law limits the amount of compensation a member of the governing board of a school district may receive for his or her services, but permits the governing board to increase the compensation of individual board members beyond those limits. Existing law specifies that voters in a district may vote in a referendum to reject an increase authorized by the governing board.

This bill would delete this provision.

(5) Existing law requires the Superintendent of Public Instruction to certify to the Controller the amount of money needed to fund the revenue limits of school districts, county superintendents of schools, and charter schools.

This bill would, commencing in the 2004-05 fiscal year, delete the certification requirement regarding charter school revenue limits.

(6) Existing law repealed, on January 1, 2000, the School Violence Reduction Program, a statewide grant program, but made certain provisions of that program operative in fiscal years in which the Superintendent of Public Instruction certifies that over \$2,000,000 are available for purposes of the program.

This bill would delete all of the provisions governing the School Violence Reduction Program.

(7) Existing law, inoperative on July 1, 2003, prohibits the state board from adopting standards and criteria for a budget reserve for economic uncertainties in excess of 1% of a school district's total expenditures, transfers out, and other uses of the school district for a school district with an average daily attendance greater than 125,000.

This bill, instead, would make these provisions inoperative on July 1, 2004.

(8) Existing law requires the computation of the base revenue limit per unit of average daily attendance.

This bill would require the recomputation of the base revenue limit per unit of average daily attendance of a high school district that receives 7th and 8th grade pupils transferring from an elementary school district.

(9) Existing law requires a school district that receives bequests or gifts of money not required for the immediate necessities of the district to place that money in a district special fund designated as the Foundation Trust Fund and authorizes the district to invest that money.

This bill would rename the Foundation Trust Fund the Foundation Fund.

(10) Existing law requires the Superintendent of Public Instruction to report annually to the Controller, on or before September 25, the total average daily attendance during the preceding fiscal year.

This bill would change the reporting date to October 20.

(11) Existing law permits, upon receipt from the governing board of a school district of an application for exemption from the requirement regarding minimum expenditures for salaries of classroom teachers, the county superintendent of schools to recommend to the Superintendent of Public Instruction that the district be granted an exemption, if the amount is \$1,000 or greater.

This bill, instead, would permit the county superintendent of schools to grant an exemption.

(12) Existing law requires the Superintendent of Public Instruction to determine the portion of the average salaries paid administrative employees of a school district attributable to state support.

This bill instead would require the Superintendent of Public Instruction to determine the reduction in state support resulting from excess administrative employees.

(13) Existing law requires school districts to submit reports to the Superintendent of Public Instruction regarding the ratio of teaching to nonteaching certificated employees to the extent necessary for effective performance of the superintendent's responsibilities in that regard.

This bill would delete this requirement.

(14) Existing law requires school districts to provide for an annual audit.

This bill would specifically include in this audit provisions governing the maximum ratios of administrative employees to each 100 teachers.

(15) Existing law requires the governing board of each school district to adopt an annual budget and requires the county superintendent of schools to approve or disapprove the adopted budget for a school district by August 15 of the preceding fiscal year. If the budget is disapproved, the county superintendent is required to call for the formation of a budget review committee. Existing law requires the school district budget to be made in the format prescribed by the Superintendent of Public Instruction.

This bill would require the budgets to be adopted to be prepared in accordance with the format prescribed by the Superintendent of Public Instruction and would authorize the governing board of a school district whose budget is disapproved and the county superintendent of schools to agree to waive the requirement that a budget review committee be formed.

(16) Existing law authorizes adjustments in the revenue limit of any elementary, high, or unified school district for purposes of the employer contribution to the Public Employees Retirement System and for purposes of complying with certain unemployment insurance laws.

This bill would exclude from those adjustments charter schools funded by the Charter School Block Grant.

(17) Existing law requires that a school district or county office of education offer 180 days of instruction in order to obtain an additional apportionment based on average daily attendance, or if it is a year-round school that it maintain its school for 5 more days than maintained in the previous fiscal year not to exceed 180 days.

This bill would make a multitrack year-round school that offers a minimum of 163 days of instruction eligible for this apportionment.

(18) Existing law requires the Superintendent of Public Instruction, if the governing board of a school district offers less instructional time than the amount required, to withhold a school district's revenue limit for the average daily attendance of each affected grade level, the sum of the apportionment multiplied by the percentage of instructional minutes that the district failed to offer.



This bill would instead require, for the 2001 fiscal year or a prior fiscal year, the Superintendent of Public Instruction to reduce the school district's apportionment by the average percentage increase in the base revenue limit for districts of similar type and size multiplied by the district's units of average daily attendance.

(19) Existing law specifies the components of a nutritionally adequate meal for purposes of providing meals for needy pupils and allows a cup of unsweetened yogurt as an option for pregnant or lactating pupils.

This bill would instead allow a cup of yogurt as an option for pregnant or lactating pupils.

(20) Existing law requires the state to establish a partnership with the National Academy Foundation to create up to 100 Information Technology Career Academies in public high schools throughout the state and requires the Superintendent of Public Instruction to award grants to high schools selected by the partnership.

This bill would delete the specification that the partnership select the grant recipients.

(21) Existing law requires a regional occupational program or center to be maintained by, and subject to the authority and control of, its governing board. Existing law provides that the governing board of a regional occupational program or center maintained by a county superintendent of schools is the county board of education and that the governing board of a regional occupational program or center maintained by a single school district is the governing board of the school district.

This bill would provide that the governing board of a regional occupational center or program maintained by either a county or a single school district is not entitled to an additional stipend merely to carry out governance of the operations of the regional occupational center or program.

(22) Existing law makes a pupil eligible to be admitted to a regional occupational center or program if the pupil is referred to the center or program and the referral is reviewed and approved by the principal and director of the regional occupational center or program, among other things.

This bill would require the principal's and director's review and approval to be in writing and would authorize a designated administrator to complete that review and approval.

(23) Existing law defines certain terms for purposes of the California School Age Families Education program.

This bill would define "expectant parent" as a female who is pregnant or a male who voluntarily identifies himself as the parent of an unborn child, and who meets the eligibility criteria.

(24) Existing law requires a special education local plan area to submit a local plan meeting specified criteria to the Superintendent of Public Instruction. Existing law requires the State Board of Education to adopt criteria and procedures for the review and approval by the board of local plans and authorizes the approval of local plans for up to 4 years.

This bill would delete the authority to approve a local plan for up to 4 years.

(25) Existing law requires the Superintendent of Public Instruction to maintain the state special schools so that their services are coordinated with the services of a school district, special education local plan area, or county office of education.

The bill would also require the Superintendent of Public Instruction to maintain the diagnostic school so that their services are similarly coordinated.

(26) Existing law requires the Superintendent of Public Instruction to develop an annual program evaluation plan and report of special education programs for submission to the board.

This bill, instead, would require the Superintendent of Public Instruction to develop a biennial performance report for submission to the board.

(27) Existing law requires a special education local plan area's annual budget plan to be adopted at a public hearing held by the district, special education local plan area, or county office, as appropriate.

This bill would authorize the governance body of the special education local plan area to designate a local educational agency board, a county office board, or the responsible local agency board to hold the hearing at which the budget plan is adopted.

(28) Existing law requires the Advisory Commission on Special Education, on or before July 1, 2000, to study and report on the practice of awarding certificates or documents of educational achievement or completion and diplomas to individuals with exceptional needs.

This bill would delete this requirement.

(29) Existing law provides that diagnostic centers diagnose disabled children, determine the treatment and educational program for those children and provide temporary residence for disabled children who need educational diagnostic services not available in regular public school.

This bill would delete this provision.

(30) Existing law requires the Superintendent of Public Instruction, in relation to the diagnostic centers, to fix the compensation of teachers, determine the length of and time for vacations of teachers, and contract with the University of California for the establishment and maintenance of diagnostic service and treatment centers for disabled children.

This bill would delete this requirement.

(31) Existing law requires the Superintendent of Public Instruction, in connection with diagnostic centers, to make diagnostic assessments of individuals referred for that service, to provide instructional planning services for individuals assessed, to provide counseling services for parents, guardians, and families of disabled children, and to maintain a model assessment service and demonstration classrooms to assist local school districts.

This bill would delete this requirement.

(32) Existing law permits the Superintendent of Public Instruction to authorize diagnostic centers to establish and maintain teacher training courses designed to prepare teachers to instruct disabled children. Existing law also permits the diagnostic centers to enter into one or more agreements with accredited universities or colleges as a teacher training educational institution.

This bill would delete this provision.

(33) Existing law entitles residents of California who are less than 21 years of age and who are determined by diagnostic centers to be of suitable age and capacity, to free services at diagnostic centers. Existing law permits disabled children who are not residents of California to be admitted to a diagnostic center upon paying the actual support cost.

This bill would delete the provision relating to nonresidents of California and would specify that residents of California are to be accepted by a diagnostic center pursuant to criteria adopted by the Superintendent of Public Instruction.

(34) Existing law requires the Superintendent of Public Instruction to give diagnostic centers not more than \$389 per fiscal

year per unit of average daily attendance and requires administrators of the centers to arrange for transportation of the pupils.

This bill would delete this requirement.

(35) Existing law requires publishers of instructional materials to submit standards maps to local districts prior to purchase for the purpose of allowing districts to determine the extent to which instructional materials are aligned to the content standards and requires the maps to be filled out using a standard form created and approved by the State Board of Education.

This bill would require the standards maps to be grade level content standards maps and would require the publisher to distribute the maps free of charge. The bill would require the State Department of Education to develop the standards maps used by the publishers and would require the State Board of Education to approve the standards maps developed by the department by July 1, 2003.

(36) Existing law makes the Schiff-Bustamante Standards-Based Instructional Materials Programs inoperative on June 30, 2002, and repeals the programs on January 1, 2003.

This bill would extend the inoperative and repeal dates one year.

(37) Existing law requires the Superintendent of Public Instruction, with approval of the State Board of Education, to provide for the development of an assessment instrument, to be called the California Standards Tests, to measure the degree to which pupils are achieving the academically rigorous content standards and performance standards, to the extent standards have been adopted by the State Board of Education. This standards-based achievement test is required to contain the areas of reading, writing, mathematics, history-social science, and science for grades 9 to 11, inclusive.

This bill would exclude history-social science from being included in the grade 9 assessment unless the State Board of Education adopts academic content standards for a grade 9 history-social science course.

(38) Existing law requires a county office of education that has a qualified or negative certification of its ability to meet its financial obligations to allow the Superintendent of Public Instruction at least 6 working days to review and comment on any proposed agreement between the exclusive representative and the public school employer.

This bill would make this provision applicable to a school district for which the county board of education serves as the governing board.

(39) The bill would update cross-references and make conforming and other technical changes.

(40) 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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

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.

(41) The bill would declare that it is to take effect immediately as an urgency statute.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 2557.5 of the Education Code is amended to read:

2557.5. (a) For the 1987-88 fiscal year, and each fiscal year thereafter, the revenue limit of any county superintendent of schools authorized pursuant to Section 2551 may be increased by an amount sufficient to provide additional revenue equal to the expenditure estimated to be incurred by the county superintendent of schools in the budget year in complying with the following provisions of the Unemployment Insurance Code: Sections 605 and 803, Article 6 (commencing with Section 821) of Chapter 3 of Part 1 of Division 1, or Article 3 (commencing with Section 976) of Chapter 4 of Part 1 of Division 1, less the actual expenditures incurred by the county superintendent of schools in the 1975-76 fiscal year in complying with the following provisions of the Unemployment Insurance Code: Article 6 (commencing with Section 821) of Chapter 3 of Part 1 of Division 1 and former Section 605.2.

(b) The increase in revenue limit provided in subdivision (a) shall be adjusted annually, including plus or minus adjustments for under- or over-estimating expenditures used in determining the increase in revenue limit provided by subdivision (a) in the previous fiscal year.

(c) For the 1994-95 fiscal year and each fiscal year thereafter, the amount of the increase computed pursuant to this section shall not be adjusted by the deficit factor applied to the revenue limit of each county superintendent of schools pursuant to Section 2558.45.

(d) Expenditures for employees of charter schools funded pursuant to Article 2 (commencing with Section 47633) of Chapter 6 of Part 26.8 are excluded from the calculations set forth in this section.

SEC. 2. Section 2558 of the Education Code is amended to read:

2558. Notwithstanding any other provision of law, for the 1979-80 fiscal year and each fiscal year thereafter, the Superintendent of Public Instruction shall apportion state aid to county superintendents of schools pursuant to the provisions of this section.

(a) The Superintendent of Public Instruction shall total the amounts computed for the fiscal year pursuant to Sections 2550, 2551, 2551.3, 2554, 2555, and 2557. For the 1979-80 fiscal year and for purposes of calculating the 1979-80 fiscal year base amounts in succeeding fiscal years, the amounts in Sections 2550, 2551, 2552, 2554, 2555, and 2557, as they read in the 1979-80 fiscal year, shall be multiplied by a factor of 0.994. For the 1981-82 fiscal year and for purposes of calculating the 1981-82 fiscal year base amounts in succeeding fiscal years, the amount in this subdivision shall be multiplied by a factor of 0.97.

(b) For the 1995-96 fiscal year and each fiscal year thereafter, the county superintendent of schools shall adjust the total revenue limit computed pursuant to this section by the amount of increased or decreased employer contributions to the Public Employees' Retirement System resulting from the enactment of Chapter 330 of the Statutes of 1982, adjusted for any changes in those contributions resulting from subsequent changes in employer contribution rates, excluding rate changes due to the direct transfer of the state-mandated portion of the employer contributions to the Public Employees' Retirement System through the current fiscal year. The adjustment shall be calculated for each county superintendent of schools as follows:

(1) Determine the amount of employer contributions that would have been made in the current fiscal year if the applicable Public Employees' Retirement System employee contribution rate in effect

immediately prior to the enactment of Chapter 330 of the Statutes of 1982 were in effect during the current fiscal year.

(2) Determine the actual amount of employer contributions made to the Public Employees' Retirement System in the current fiscal year.

(3) If the amount determined in paragraph (1) is greater than the amount determined in paragraph (2), the total revenue limit computed pursuant to this part for that county superintendent of schools shall be decreased by the amount of the difference between those paragraphs; or if the amount determined in paragraph (1) is less than the amount determined in paragraph (2), the total revenue limit for that county superintendent of schools shall be increased by the amount of the difference between those paragraphs.

(4) For the purposes of this subdivision, employer contributions to the Public Employees' Retirement System for any of the following positions shall be excluded from the calculation specified above:

(A) Positions or portions of positions supported by federal funds that are subject to supplanting restrictions.

(B) Positions supported by funds received pursuant to paragraph (1) of subdivision (a) of Section 54203.

(C) Positions supported, to the extent of employers' contributions not exceeding twenty-five thousand dollars (\$25,000) by any single educational agency, from a non-General Fund revenue source determined to be properly excludable from this subdivision by the Superintendent of Public Instruction with the approval of the Director of Finance. Commencing in the 2002-03 fiscal year, only positions supported from a non-General Fund revenue source determined to be properly excludable as identified for a particular local education agency or pursuant to a blanket waiver by the Superintendent of Public Instruction and the Director of Finance, prior to the 2002-03 fiscal year, may be excluded pursuant to this paragraph.

(5) For accounting purposes, any reduction to county office of education revenue limits made by this subdivision may be reflected as an expenditure from appropriate sources of revenue as directed by the Superintendent of Public Instruction.

(6) The amount of the increase or decrease to the revenue limits of county superintendents of schools made by this subdivision for the 1995-96 fiscal year or any fiscal year thereafter shall not be adjusted by the deficit factor applied to the revenue limit of each county superintendent of schools pursuant to Section 2558.45.

(c) The Superintendent of Public Instruction shall also subtract from the amount determined in subdivision (a) the sum of: (1) local property tax revenues received pursuant to Section 2573 in the then current fiscal year, and tax revenues received pursuant to Section 2556 in the then current fiscal year, (2) state and federal categorical aid for the fiscal year, (3) district contributions pursuant to Section 52321 for the fiscal year, and other applicable local contributions and revenues, (4) any amounts that the county superintendent of schools was required to maintain as restricted and not available for expenditure in the 1978-79 fiscal year as specified in the second paragraph of subdivision (c) of Section 6 of Chapter 292 of the Statutes of 1978, as amended by Chapter 51 of the Statutes of 1979, and (5) the amount received pursuant to subparagraph (C) of paragraph (3) of subdivision (a) of Section 33607.5 of the Health and Safety Code that is considered property taxes pursuant to that section.

(d) The remainder computed in subdivision (c) shall be distributed in the same manner as state aid to school districts from funds appropriated to Section A of the State School Fund.

(e) If the remainder determined pursuant to subdivision (c) is a

negative amount, no state aid shall be distributed to that county superintendent of schools pursuant to subdivision (d), and an amount of funds of that county superintendent equal to that negative amount shall be deemed restricted and not available for expenditure during the current fiscal year. In the next fiscal year, that amount shall be considered local property tax revenue for purposes of the operation of paragraph (1) of subdivision (c) of this section.

(f) The calculations set forth in paragraphs (1) to (3), inclusive, of subdivision (b) exclude employer contributions for employees of charter schools funded pursuant to Article 2 (commencing with Section 47633) of Chapter 6 of Part 26.8.

SEC. 3. Section 14002.3 of the Education Code is added to read:

14002.3. Notwithstanding any other provision of law, for purposes of Sections 14002, 14004, and 41301, for the 2000-01 fiscal year and each fiscal year thereafter, the Superintendent of Public Instruction shall certify to the Controller amounts that do not exceed the amounts needed to fund the revenue limits of school districts, as determined pursuant to Section 42238, and the revenue limits of county superintendents of schools, as determined pursuant to Section 2558.

(b) This section shall become operative on July 1, 2004.

SEC. 4. Section 17150 of the Education Code is amended to read:

17150. (a) Upon the approval by the governing board of the school district to proceed with the issuance of certificates of participation or revenue bonds or to enter into any agreement for financing school construction pursuant to Chapter 18 (commencing with Section 17170), the school district shall notify the county superintendent of schools and the county auditor. The superintendent of the school district shall provide the repayment schedules for that debt obligation, and evidence of the ability of the school district to repay that obligation, to the county auditor, the county superintendent, the governing board, and the public. Within 15 days of the receipt of the information, the county superintendent of schools and the county auditor may comment publicly to the governing board of the school district regarding the capability of the school district to repay that debt obligation.

(b) Upon the approval by the county board of education to proceed with the issuance of certificates of participation or revenue bonds or to enter into any agreement for financing pursuant to Chapter 18 (commencing with Section 17170), the county superintendent of schools or superintendent of a school district for which the county board serves as governing board shall notify the Superintendent of Public Instruction. The county superintendent of schools or the superintendent of a school district for which the county board serves as the governing board shall provide the repayment schedules for that debt obligation and evidence of the ability of the county office of education or school district to repay that obligation, to the Superintendent of Public Instruction, the governing board, and the public. Within 15 days of the receipt of the information the Superintendent of Public Instruction may comment publicly to the county board of education regarding the capability of the county office of education or school district to repay that debt obligation.

(c) Prior to delivery of the notice required by subdivision (a) neither the county nor any of its officers shall have any responsibility for the administration of the school district's indebtedness. Failure to comply with the requirements of this section will not affect the validity of the indebtedness.

SEC. 4.5. Article 3.7 (commencing with Section 32230) of Chapter 2 of Part 19 of the Education Code is repealed.

SEC. 5. Section 33126 of the Education Code is amended to read:

33126. (a) The school accountability report card shall provide data by which parents can make meaningful comparisons between public schools enabling them to make informed decisions on which school to enroll their children.

(b) The school accountability report card shall include, but is not limited to, assessment of the following school conditions:

(1) (A) Pupil achievement by grade level, as measured by the standardized testing and reporting programs pursuant to Article 4 (commencing with Section 60640) of Chapter 5 of Part 33.

(B) Pupil achievement in and progress toward meeting reading, writing, arithmetic, and other academic goals, including results by grade level from the assessment tool used by the school district using percentiles when available for the most recent three-year period.

(C) After the state develops a statewide assessment system pursuant to Chapter 5 (commencing with Section 60600) and Chapter 6 (commencing with Section 60800) of Part 33, pupil achievement by grade level, as measured by the results of the statewide assessment.

(D) Secondary schools with high school seniors shall list both the average verbal and math Scholastic Assessment Test scores to the extent provided to the school and the percentage of seniors taking that exam for the most recent three-year period.

(2) Progress toward reducing dropout rates, including the one-year dropout rate listed in the California Basic Education Data System or any successor data system for the schoolsite over the most recent three-year period, and the graduation rate, as defined by the State Board of Education, over the most recent three-year period when available pursuant to Section 52052.

(3) Estimated expenditures per pupil and types of services funded.

(4) Progress toward reducing class sizes and teaching loads, including the distribution of class sizes at the schoolsite by grade level, the average class size, and, if applicable, the percentage of pupils in kindergarten and grades 1 to 3, inclusive, participating in the Class Size Reduction Program established pursuant to Chapter 6.10 (commencing with Section 52120) of Part 28, using California Basic Education Data System or any successor data system information for the most recent three-year period.

(5) The total number of the school's fully credentialed teachers, the number of teachers relying upon emergency credentials, the number of teachers working without credentials, and any assignment of teachers outside their subject areas of competence for the most recent three-year period.

(6) Quality and currency of textbooks and other instructional materials, including whether textbooks and other materials meet state standards and have been adopted by the State Board of Education for kindergarten and grades 1 to 8, inclusive, and adopted by the governing boards of school districts for grades 9 to 12, inclusive, and the ratio of textbooks per pupil and the year the textbooks were adopted.

(7) The availability of qualified personnel to provide counseling and other pupil support services, including the ratio of academic counselors per pupil.

(8) Availability of qualified substitute teachers.

(9) Safety, cleanliness, and adequacy of school facilities.

(10) Adequacy of teacher evaluations and opportunities for professional improvement, including the annual number of schooldays dedicated to staff development for the most recent three-year period.

(11) Classroom discipline and climate for learning, including suspension and expulsion rates for the most recent three-year period.

(12) Teacher and staff training, and curriculum improvement programs.

(13) Quality of school instruction and leadership.

(14) The degree to which pupils are prepared to enter the workforce.

(15) The total number of instructional minutes offered in the school year, separately stated for each grade level, as compared to the total number of the instructional minutes per school year required by state law, separately stated for each grade level.

(16) The total number of minimum days, as specified in Sections 46112, 46113, 46117, and 46141, in the school year.

(17) The number of advanced placement courses offered, by subject.

(18) The Academic Performance Index, including the disaggregation of subgroups as set forth in Section 52052 and the decile rankings and a comparison of schools.

(19) Whether a school qualified for the Immediate Intervention Underperforming Schools Program pursuant to Section 52053 and whether the school applied for, and received a grant pursuant to, that program.

(20) Whether the school qualifies for the Governor's Performance Award Program.

(21) When available, the percentage of pupils, including the disaggregation of subgroups as set forth in Section 52052, completing grade 12 who successfully complete the high school exit examination, as set forth in Sections 60850 and 60851, as compared to the percentage of pupils in the district and statewide completing grade 12 who successfully complete the examination.

(22) Contact information pertaining to any organized opportunities for parental involvement.

(23) For secondary schools, the percentage of graduates who have passed course requirements for entrance to the University of California and the California State University pursuant to Section 51225.3 and the percentage of pupils enrolled in those courses, as reported by the California Basic Education Data System or any successor data system.

(24) Whether the school has a college admission test preparation course program.

(26) When available from the State Department of Education, the claiming rate of pupils who earned a Governor's scholarship award pursuant to subdivision (a) of Section 69997 for the most recent two year period. This paragraph applies only to schools that enroll pupils in grades nine, ten or eleven.

(c) It is the intent of the Legislature that schools make a concerted effort to notify parents of the purpose of the school accountability report cards, as described in this section, and ensure that all parents receive a copy of the report card; to ensure that the report cards are easy to read and understandable by parents; to ensure that local educational agencies with access to the Internet make available current copies of the report cards through the Internet; and to ensure that administrators and teachers are available to answer any questions regarding the report cards.

SEC. 6. Section 33126.1 of the Education Code is amended to read:

33126.1. (a) The State Department of Education shall develop and recommend for adoption by the State Board of Education a standardized



template intended to simplify the process for completing the school accountability report card and make the school accountability report card more meaningful to the public.

(b) The standardized template shall include fields for the insertion of data and information by the State Department of Education and by local educational agencies. When the template for a school is completed, it should enable parents and guardians to compare how local schools compare to other schools within that district as well as other schools in the state.

(c) In conjunction with the development of the standardized template, the State Department of Education shall furnish standard definitions for school conditions included in the school accountability report card. The standard definitions shall comply with the following:

(1) Definitions shall be consistent with the definitions already in place or under the development at the state level pursuant to existing law.

(2) Definitions shall enable schools to furnish contextual or comparative information to assist the public in understanding the information in relation to the performance of other schools.

(3) Definitions shall specify the data for which the State Department of Education will be responsible for providing and the data and information for which the local educational agencies will be responsible.

(d) By December 1, 2000, the State Department of Education shall report to the State Board of Education on the school conditions for which it already has standard definitions in place or under development. The report shall include a survey of the conditions for which the State Department of Education has valid and reliable data at the state, district, or school level. The report shall provide a timetable for the inclusion of conditions for which standard definitions or valid and reliable data do not yet exist through the State Department of Education.

(e) By December 1, 2000, the Superintendent of Public Instruction shall recommend and the State Board of Education shall appoint 13 members to serve on a broad-based advisory committee of local administrators, educators, parents, and other knowledgeable parties to develop definitions for the school conditions for which standard definitions do not yet exist. The State Board of Education may designate outside experts in performance measurements in support of activities of the advisory board.

(f) By January 1, 2001, the State Board of Education shall approve available definitions for inclusion in the template as well as a timetable for the further development of definitions and data collection procedures. By July 1, 2001, and each year thereafter, the State Board of Education shall adopt the template for the current year's school accountability report card. Definitions for all school conditions shall be included in the template by July 1, **2002**.

(g) The State Department of Education shall annually post the completed and viewable template on the Internet. The template shall be designed to allow schools or districts to download the template from the Internet. The template shall further be designed to allow local educational agencies, including individual schools, to enter data into the school accountability report card electronically, individualize the report card, and further describe the data elements. The State Department of Education shall establish model guidelines and safeguards that may be used by school districts secured access only for those school officials authorized to make modifications.

(h) The State Department of Education shall annually post, on the Internet, each eligible school's claiming rate of pupils who earned an award for either of the programs established by subdivision (a) of Section 69997. The Scholarshare Investment Board shall provide the claiming rates, for the most recent two-year period, for each eligible school to the State Department of Education by June 30 of each year. Schools shall post their claiming rate, required in paragraph (26) of subdivision (b) of Section 33216, from the State Department of Education Internet site.

(i) The State Department of Education shall maintain current Internet links with the Web sites of local educational agencies to provide parents and the public with easy access to the school accountability report cards maintained on the Internet. In order to ensure the currency of these Internet links, local educational agencies that provide access to school accountability report cards through the Internet shall furnish current Uniform Resource Locators for their Web sites to the State Department of Education.

(j) A school or school district that chooses not to utilize the standardized template adopted pursuant to this section shall report the data for its school accountability report card in a manner that is consistent with the definitions adopted pursuant to subdivision (c) of this section.

(k) The State Department of Education shall provide recommendations for changes to the California Basic Education Data System, or any successor data system, and other data collection mechanisms to ensure that the information will be preserved and available in the future.

(l) Local educational agencies shall make these school accountability report cards available through the Internet or through paper copies.

(m) The State Department of Education shall monitor the compliance of local educational agencies with the requirements to prepare and to distribute school accountability report cards.

SEC. 6.5. Section 33128 of the Education Code, as amended by Section 1 of Chapter 784 of the Statutes of 1998, is amended to read:

33128. (a) The standards and criteria to be adopted by the State Board of Education pursuant to Section 33127 shall include, but not be limited to, comparisons and reviews of the following:

- (1) Average daily attendance.
- (2) Revenues and expenditures.
- (3) Reserves and fund balance.
- (4) Multiyear commitments.

(b) Notwithstanding paragraph (3), the State Board of Education shall not adopt standards and criteria for a budget reserve for economic uncertainties in excess of 1 percent of a school district's total expenditures, transfers out, and other uses of the school district for a school district that has an average daily attendance greater than 125,000 and where the school district has, by an affirmative vote of its governing board, agreed to a budget reserve of 1 percent. For the purposes of this paragraph, "transfers out" and "other uses" of the school district shall have the same meaning as set forth in the California School Accounting Manual.

(c) This section shall become inoperative on July 1, 2004, and, as of January 1, 2005, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2005, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 6.7. Section 33128 of the Education Code, as added by Section 2 of Chapter 784 of the Statutes of 1998, is amended to read:

33128. (a) The standards and criteria to be adopted by the State

Board of Education pursuant to Section 33127 shall include, but not be limited to, comparisons and reviews of the following:

- (1) Average daily attendance.
- (2) Revenues and expenditures.
- (3) Reserves and fund balance.
- (4) Multiyear commitments.

(b) This section shall become operative on July 1, 2004.

SEC. 7. Section 35120 of the Education Code is amended to read:

35120. (a) (1) In any school district in which the average daily attendance for the prior school year exceeded 400,000, each member of the city board of education or the governing board of the district who actually attends all meetings held may receive as compensation for his or her services a sum not to exceed two thousand dollars (\$2,000) per month.

(2) In any school district that is not located in a city and county, and in which the average daily attendance for the prior school year exceeded 60,000, the governing board may prescribe, as compensation for the services of each member of the board who actually attends all meetings held, a sum not to exceed one thousand five hundred dollars (\$1,500) in any month.

(3) In any school district in which the average daily attendance for the prior school year was 60,000, or less, but more than 25,000, each member of the city board of education or the governing board of the district who actually attends all meetings held may receive as compensation for his or her services a sum not to exceed seven hundred fifty dollars (\$750) in any month.

(4) In any school district in which the average daily attendance for the prior school year was 25,000, or less, but more than 10,000, each member of the city board of education or the governing board of the district who actually attends all meetings held may receive as compensation for his or her services a sum not to exceed four hundred dollars (\$400) in any month.

(5) In any school district in which the average daily attendance for the prior school year was 10,000 or less but more than 1,000, each member of the city board of education or the governing board of the district who actually attends all meetings held may receive as compensation for his or her services a sum not to exceed two hundred forty dollars (\$240) in any month.

(6) In any school district in which the average daily attendance for the prior school year was 1,000 or less but more than 150, each member of the city board of education or the governing board of the district who actually attends all meetings held may receive as compensation for his or her services a sum not to exceed one hundred twenty dollars (\$120) in any month.

(7) In any school district in which the average daily attendance for the prior school year was less than 150, each member of the city board of education or the governing board of the district who actually attends all meetings held may receive as compensation for his or her services a sum not to exceed sixty dollars (\$60) per month.

(8) Any member who does not attend all meetings held in any month may receive, as compensation for his or her services, an amount not greater than the maximum amount allowed by this subdivision divided by the number of meetings held and multiplied by the number of meetings actually attended.

(9) For the purposes of providing compensation pursuant to paragraphs (1) to (7), inclusive, average daily attendance for the prior school year may be increased by a school district's percentage of excused absences reported for the 1996-97 fiscal year.

(b) The compensation of members of the governing board of a school district newly organized or reorganized shall be governed by subdivision (a). For this purpose, the total average daily attendance in all of the schools of the district in the school year in which the organization or reorganization became effective pursuant to Section 4062 shall be deemed to be the average daily attendance in the district for the prior school year.

(c) A member may be paid for any meeting when absent if the board by resolution duly adopted and included in its minutes finds that at the time of the meeting he or she is performing services outside the meeting for the school district or districts, he or she was ill or on jury duty, or the absence was due to a hardship deemed acceptable by the board.

(d) The compensation shall be a charge against the funds of the school district. If the city board of education or the governing board of the district is the governing board of more than one school district, the compensation shall be charged against and paid by the respective school districts in the same proportion as the salary of the city superintendent of schools is charged against them. Compensation shall be reduced by an amount equal to any salary or compensation paid to the members of the city board of education from any funds of the city.

(e) On an annual basis, the governing board may increase the compensation of individual board members beyond the limits delineated in this section, in an amount not to exceed 5 percent based on the present monthly rate of compensation. Any increase made pursuant to this section shall be effective upon approval by the governing board.

SEC. 8. Section 35735.3 is added to the Education Code, to read:

35735.3. The transfer of seventh and eighth grade pupils between an elementary school district and a high school district triggers the recomputation, pursuant to Section 35735.1, of the base revenue limit per unit of average daily attendance of the district receiving the 7th and 8th grade pupils, except that the computations described in paragraphs (2) and (3) of subdivision (a) of Section 35735.1 shall not apply to a recomputation performed pursuant to this section.

SEC. 9. Section 38133 of the Education Code is amended to read:

38133. The management, direction, and control of school facilities under this article are vested in the governing board of the school district which shall promulgate all rules and regulations necessary to provide, at a minimum, for the following:

(a) Aid, assistance, and encouragement to any of the activities authorized in Sections 38131 and 38132.

(b) Preservation of order in school facilities and on school grounds, and protection of school facilities and school grounds, including, if the governing board deems necessary, appointment of a person who shall have charge of the school facilities and grounds for purposes of their preservation and protection.

(c) That the use of school facilities or grounds is not inconsistent with the use of the school facilities or grounds for school purposes or interferes with the regular conduct of schoolwork.

SEC. 10. Section 41023 of the Education Code is amended to read:

41023. (a) Any agency organized pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, the parties of which consist solely of school districts and county offices of education, shall be subject to the same restrictions as are applicable to school districts and county offices of education, under that chapter, including the preparation of budget and financial statements required by Article 1 (commencing

with Section 42100) and this article; the certifications required by Article 3 (commencing with Section 42130) of Chapter 6 of Part 24; the accounting and auditing requirements prescribed by Article 1 (commencing with Section 42100) and this article; and the expenditure and appropriation controls prescribed by Chapter 9 (commencing with Section 42600) of Part 24. This section does not apply to joint powers agreements that are for the performance of the powers described in Section 17567.

(b) Each agency described in subdivision (a) shall annually report to their participating school districts and county superintendents of schools on forms prescribed by the Superintendent of Public Instruction.

SEC. 11. The heading of Article 3 (commencing with Section 41030) of Chapter 1 of Part 24 of the Education Code is amended to read:

#### Article 3. Foundation Fund

SEC. 12. Section 41031 of the Education Code is amended to read:

41031. Any gift or bequest of money which is to be invested pursuant to this article shall be placed in a district special fund in the county treasury, to be designated as a Foundation Fund. If the gift or bequest of money is required to be used for specific purposes according to the terms of the gift or bequest, the governing board shall place the money in a separate account in the Foundation Fund, and may by resolution designate the separate account by the name that it shall be known, including in its name the term "Foundation Account."

SEC. 13. Section 41032 of the Education Code is amended to read:

41032. (a) The governing board of any school district may accept on behalf of, and in the name of, the district, gifts, donations, bequests, and devises that are made to the district or to or for the benefit of any school or college administered by the district. The gifts, donations, bequests, and devises may be made subject to conditions or restrictions that the governing board may prescribe.

(b) The money deposited in a separate account in the Foundation Fund shall be invested pursuant to this article or expended only for the purposes of the gift or bequest.

(c) If a gift of land has been accepted by the governing board of a school district upon condition or agreement that it be devoted to school purposes of the district, whether that condition or agreement is written or oral and whether the terms thereof are recited or referred to in any instrument executed in connection with the conveyance of the gift, and the board subsequently determines that the land cannot feasibly be utilized for any school purpose of the district, the board may cause it to be reconveyed to the donor without consideration to the district; provided that failure to do so shall not affect the rights of any bona fide purchaser or encumbrancer of the land.

SEC. 14. Section 41033 of the Education Code is amended to read:

41033. The governing board of a school district which has placed funds in the Foundation Fund is hereby authorized to invest all or any part of those funds as it deems wise and expedient as follows:

(a) In the securities, warrants, or instruments of indebtedness specified by Section 53601 of the Government Code.

(b) In corporate securities other than corporate shares, provided that the amount of investment under this subdivision shall not exceed 50 percent of the amount invested under subdivision (a).

Any security, warrant, or instrument of indebtedness purchased pursuant to this section may be sold and the proceeds reinvested in similar securities, warrants, or instruments, or placed in the

Foundation Fund.

SEC. 15. Section 41035 of the Education Code is amended to read:

41035. The governing board of a school district that invests money of the Foundation Fund pursuant to this article shall appoint an advisory committee equal in number to the number of members of the governing board. The committee shall be composed of qualified electors of the district and may include members of the governing board. Members of the committee shall serve without compensation.

SEC. 16. Section 41038 of the Education Code is amended to read:

41038. Except as may be otherwise provided in this article, other provisions of this chapter shall be applicable to the money placed in the Foundation Fund pursuant to this article.

SEC. 17. Section 41303 of the Education Code is amended to read:

41303. The Superintendent of Public Instruction shall report to the Controller, on or before the 20th day of October of each year, the total average daily attendance during the preceding fiscal year credited to all kindergarten, elementary, high school, and adult schools in the state and to county school tuition funds.

SEC. 18. Section 41372 of the Education Code is amended to read:

41372. For purposes of this section:

(a) "Salaries of classroom teachers" and "teacher" shall have the same meanings as prescribed by Section 41011 provided, however, that the cost of all health and welfare benefits provided to the teachers by the school district shall be included within the meaning of salaries of classroom teachers.

(b) "Current expense of education" means the gross total expended (not reduced by estimated income or estimated federal and state apportionments) for the purposes classified in the final budget of a school district (except one which, during the preceding fiscal year, had less than 101 units of average daily attendance) submitted to and approved by the county superintendent of schools pursuant to Section 42127 for certificated salaries other than certificated salaries for pupil transportation, food services, and community services; classified salaries other than classified salaries for pupil transportation, food services, and community services; employee benefits other than employee benefits for pupil transportation personnel, food services personnel, and community services personnel; books, supplies, and equipment replacement other than for pupil transportation and food services; and community services, contracted services, and other operating expenses other than for pupil transportation, food services, and community services. "Current expense of education," for purposes of this section shall not include those expenditures classified as sites, buildings, books, and media and new equipment (object of expenditure 6000 of the California School Accounting Manual), the amount expended from categorical aid received from the federal or state government which funds were granted for expenditures in a program not incurring any teacher salary expenditures or requiring disbursement of the funds without regard to the requirements of this section, or expenditures for facility acquisition and construction; and shall not include the amount expended pursuant to any lease agreement for plant and equipment or the amount expended from funds received from the federal government pursuant to the "Economic Opportunity Act of 1964" or any extension of this act of Congress.

There shall be expended during each fiscal year for payment of salaries of classroom teachers:

(1) By an elementary school district, 60 percent of the district's current expense of education.

(2) By a high school district, 50 percent of the district's current expense of education.

(3) By a unified school district, 55 percent of the district's current expense of education.

If the county superintendent of schools having jurisdiction over the district determines, on the basis of an audit conducted pursuant to Section 41020, that a school district has not expended the applicable percentage of current expense of education for the payment of salaries of classroom teachers during the preceding fiscal year, the county superintendent of schools shall, in apportionments made to the school district from the State School Fund after April 15 of the current fiscal year, designate an amount of this apportionment or apportionments equal to the apparent deficiency in district expenditures. Any amount designated by the county superintendent of schools shall be deposited in the county treasury to the credit of the school district, but shall be unavailable for expenditure by the district pending the determination to be made by the county superintendent of schools on any application for exemption which may be submitted to the county superintendent of schools. If it appears to the governing board of a school district that the application of the preceding paragraphs of this section during a fiscal year results in serious hardship to the district, or in the payment of salaries of classroom teachers in excess of the salaries of classroom teachers paid by other districts of comparable type and functioning under comparable conditions, the board may apply to the county superintendent of schools in writing not later than September 15th of the succeeding fiscal year for exemption from the requirements of the preceding paragraphs of this section for the fiscal year on account of which the application is made. Upon receipt of this application, the county superintendent of schools shall grant the district exemption for any amount that is less than one thousand dollars (\$1,000). If the amount is one thousand dollars (\$1,000) or greater, the county superintendent of schools may grant an exemption from the requirements for the fiscal year on account of which the application is made. If the exemption is granted by the county superintendent of schools, the designated moneys shall be immediately available for expenditure by the school district governing board. If no application for exemption is made or exemption is denied, the county superintendent of schools shall order the designated amount or amount not exempted to be added to the amounts to be expended for salaries of classroom teachers during the next fiscal year.

The county superintendent of schools shall enforce the requirements prescribed by this section, and may adopt necessary rules and regulations to that end.

SEC. 19. Section 41403 of the Education Code is amended to read:

41403. The Superintendent of Public Instruction shall determine, for each current fiscal year, for each school district in the state, to two decimal points, the following:

(a) The total number of administrative employees, except those serving in positions that are supported by categorical grants from any source and are in programs that require specific teacher/administrator ratios, or that are supported by federal funds.

As to those serving in positions that are not supported completely by these categorical grants from any source or completely by federal funds, the number of employees reported shall include the full-time equivalent of all fractional time attributable to that time not supported by categorical grants or federal funds.

(b) The total number of teachers except those serving in positions that are supported by federal funds or by categorical grants from any source and are in programs that require specific teacher/administrator ratios. As to those serving in positions that are not supported completely by these categorical grants from any

source or completely by federal funds, the number of employees reported shall include the full-time equivalent of all fractional time attributable to that time not supported by categorical grants or federal funds. Substitute teachers may be counted as teachers only if the employee for whom they are substituting is not counted. In no event shall the number of full-time equivalent teachers reported be greater than the number of full-time equivalent teaching positions in the district.

(c) The total maximum number of administrative employees that should be employed by the district based upon the application of the appropriate ratio prescribed by Section 41402 to the number of teachers determined pursuant to subdivision (b).

(d) The number of administrative employees in excess of the number allowable without penalty as determined by subtracting the number determined pursuant to subdivision (c) from the number determined pursuant to subdivision (a).

The number of employees reported pursuant to subdivisions (a), (b), (c), and (d) shall include the full-time equivalent of all fractional time of those employees.

For purposes of determining the allowable ratio of administrative employees to teachers for the San Diego City School District, the number of employees and the full-time equivalent of all of the fractional time of employees serving the district in positions mandated as the result of the district's court-ordered integration plan is excluded from the numbers identified pursuant to subdivisions (a), (b), (c), and (d).

No individual may be counted as more than one full-time equivalent employee unless the individual is employed on a part-time basis in adult education, driver education, or vocational education, or any part-time or additional teaching assignment, in addition to his or her regular full-time assignment.

SEC. 20. Section 41404 of the Education Code is amended to read:

41404. The Superintendent of Public Instruction shall determine the reduction in state support resulting from excess administrative employees identified in subdivision (d) of Section 41403 as follows:

(a) Compute the ratio which total state support to the district general fund bears to the total general fund income of the district.

(b) Multiply the ratio determined pursuant to subdivision (a) by the average salary of administrative employees.

(c) Multiply the product of subdivision (b) by the number of administrative employees converted to the nearest whole number in excess of the maximum number specified in Section 41402.

The amount of the second principal apportionment made to the district for the current fiscal year pursuant to Section 41335 shall be reduced by the product so produced. However, no reduction shall reduce the final apportionment below the amount specified in Section 6 of Article IX of the California Constitution.

SEC. 20.5. Section 41405 of the Education Code is repealed.

SEC. 21. Section 41407 is added to the Education Code, to read:

41407. Notwithstanding any other provision of law, a school district is subject, with regard to Section 41402, to audits conducted pursuant to Section 41020.

SEC. 22. Section 42127 of the Education Code is amended to read:

42127. (a) On or before July 1 of each year, the governing board of each school district shall accomplish the following:

(1) Hold a public hearing on the budget to be adopted for the subsequent fiscal year. The budget to be adopted shall be prepared in accordance with Section 42126. The agenda for that hearing shall



be posted at least 72 hours prior to the public hearing and shall include the location where the budget will be available for public inspection.

(2) Adopt a budget. Not later than five days after that adoption or by July 1, whichever occurs first, the governing board shall file that budget with the county superintendent of schools. That budget, and supporting data, shall be maintained and made available for public review. If the governing board of the district does not want all or a portion of the property tax requirement levied for the purpose of making payments for the interest and redemption charges on indebtedness as described in paragraph (1) or (2) of subdivision (b) of Section 1 of Article XIII A of the California Constitution, the budget shall include a statement of the amount or portion for which a levy shall not be made.

(b) The county superintendent of schools may accept changes in any statement included in the budget, pursuant to subdivision (a), of the amount or portion for which a property tax levy shall not be made. The county superintendent or the county auditor shall compute the actual amounts to be levied on the property tax rolls of the district for purposes that exceed apportionments to the district pursuant to Sections 95 to 100, inclusive, of the Revenue and Taxation Code. Each school district shall provide all data needed by the county superintendent or the county auditor to compute the amounts. On or before August 15, the county superintendent shall transmit the amounts so computed to the county auditor who shall compute the tax rates necessary to produce the amounts. On or before September 1, the county auditor shall submit the rate so computed to the board of supervisors for adoption.

(c) The county superintendent of schools shall do all of the following:

(1) Examine the adopted budget to determine whether it complies with the standards and criteria adopted by the State Board of Education pursuant to Section 33127 for application to final local educational agency budgets. The superintendent shall identify, if necessary, any technical corrections that must be made to bring the budget into compliance with those standards and criteria.

(2) Determine whether the adopted budget will allow the district to meet its financial obligations during the fiscal year and is consistent with a financial plan that will enable the district to satisfy its multiyear financial commitments.

(d) On or before August 15, the county superintendent of schools shall approve or disapprove the adopted budget for each school district. If, pursuant to the review conducted pursuant to subdivision (c), the superintendent determines that the adopted budget for a school district does not satisfy paragraph (1) or (2) of that subdivision, he or she shall disapprove the budget and, not later than August 15, transmit to the governing board of the school district, in writing, his or her recommendations regarding revision of the budget and the reasons for those recommendations. The county superintendent of schools may assign a fiscal adviser to assist the district to develop a budget in compliance with those revisions. In addition, the county superintendent of schools may appoint a committee to examine and comment on the superintendent's review and recommendations, subject to the requirement that the committee report its findings to the superintendent no later than August 20.

(e) On or before September 8, the governing board of the school district shall revise the adopted budget to reflect changes in projected income or expenditures subsequent to July 1, and to include any response to the recommendations of the county superintendent of schools, shall adopt the revised budget, and shall file the revised

budget with the county superintendent of schools. Prior to revising the budget, the governing board shall hold a public hearing regarding the proposed revisions, to be conducted in accordance with Section 42103. The revised budget, and supporting data, shall be maintained and made available for public review.

(f) On or before September 22, the county superintendent of schools shall provide a list to the Superintendent of Public Instruction identifying all school districts for which budgets may be disapproved.

(g) The county superintendent of schools shall examine the revised budget to determine whether it (1) complies with the standards and criteria adopted by the State Board of Education pursuant to Section 33127 for application to final local educational agency budgets, (2) allows the district to meet its financial obligations during the fiscal year, and (3) is consistent with a financial plan that will enable the district to satisfy its multiyear financial commitments, and, not later than October 8, shall approve or disapprove the revised budget. If the county superintendent of schools disapproves the budget, he or she shall call for the formation of a budget review committee pursuant to Section 42127.1 unless the governing board of the school district and the county superintendent of schools agree to waive the requirement that a budget review committee be formed, and the State Department of Education approves the waiver after determining that a budget review committee is not necessary. Based on the waiver, the county superintendent immediately has the authority and responsibility provided in Section 42127.3.

(h) Not later than October 8, the county superintendent of schools shall submit a report to the Superintendent of Public Instruction identifying all school districts for which budgets have been disapproved or budget review committees waived. The report shall include a copy of the written response transmitted to each of those districts pursuant to subdivision (d).

(i) Notwithstanding any other provision of this section, the budget review for a school district shall be governed by paragraphs (1), (2), and (3) of this subdivision, rather than by subdivisions (e) and (g), if the governing board of the school district so elects, and notifies the county superintendent in writing of that decision, not later than October 31 of the immediately preceding calendar year.

On or before July 1, the governing board of a school district for which the budget review is governed by this subdivision, rather than by subdivisions (e) and (g), shall conduct a public hearing regarding its proposed budget in accordance with Section 42103.

(1) If the adopted budget of a school district is disapproved pursuant to subdivision (d), on or before September 8, the governing board of the school district, in conjunction with the county superintendent of schools, shall review the superintendent's recommendations at a regular meeting of the governing board and respond to those recommendations. The response shall include any revisions to the adopted budget and other proposed actions to be taken, if any, as a result of those recommendations.

(2) On or before September 22, the county superintendent of schools will provide a list to the Superintendent of Public Instruction identifying all school districts for which a budget may be tentatively disapproved.

(3) Not later than October 8, after receiving the response required under paragraph (1), the county superintendent of schools shall review that response and either approve or disapprove the budget. If the county superintendent of schools disapproves the budget, he or she shall call for the formation of a budget review committee pursuant to Section 42127.1 unless the governing board of

the school district and the county superintendent of schools agree to waive the requirement that a budget review committee be formed, and the State Department of Education approves the waiver after determining that a budget review committee is not necessary. Based on the waiver, the county superintendent immediately has the authority and responsibility provided in Section 42127.3.

(4) Not later than 45 days after the Governor signs the annual Budget Act, the school district shall make available for public review any revisions in revenues and expenditures that it has made to its budget to reflect the funding made available by that Budget Act.

(j) Any school district for which the county board of education serves as the governing board is not subject to subdivisions (c) to (h), inclusive, but is governed instead by the budget procedures set forth in Section 1622.

SEC. 23. Section 42127.1 of the Education Code is amended to read:

42127.1. (a) Pursuant to subdivision (g) or (i) of Section 42127, upon the disapproval of a school district budget by the county superintendent, the county superintendent shall call for the formation of a budget review committee unless the governing board of the school district and the county superintendent of schools agree to waive the requirement that a budget review committee be formed, and the State Department of Education approves the waiver after determining that a budget review committee is not necessary. Based on the waiver, the county superintendent immediately has the authority and responsibility provided in Section 42127.3.

(b) The budget review committee shall be composed of three persons selected by the governing board of the school district from a list of candidates provided to the governing board by the Superintendent of Public Instruction. The list of candidates shall be composed of persons who have expertise in the management of a school district or county office of education. Their experience shall include, but not be limited to, the fiscal and educational aspects of local educational agency management.

(c) Notwithstanding subdivision (b) or any other provision of this article, with the approval of the Superintendent of Public Instruction and the governing board of the school district, the county superintendent of schools may select and convene a regional review committee, consisting of persons having the expertise described in that subdivision. The regional review committee shall operate in place of the budget review committee, in accordance with the provisions of this article governing budget review committees.

(d) Members of the committee shall be reimbursed by the State Department of Education for their services and associated expenses while on official business at rates established by the State Board of Education.

SEC. 24. Section 42129 of the Education Code is amended to read:

42129. School districts and county offices of education shall transmit to the State Department of Education, on a timely basis, all budget reports, prior year expenditure reports, qualified and negative financial status reports, program cost accounting reports, certifications, and audit reports as prescribed by subdivision (j) of Section 1240, subdivision (g) of Section 35035, Sections 1621, 1623, 41020, 42127, 42131, and Chapter 7.2 (commencing with Section 56836) of Part 30, and those reports used to calculate the first, second, and annual principal apportionments and special purpose apportionments for school districts and county offices of education. If the reports are not submitted to the Superintendent of Public Instruction within 14 days after the submission date prescribed in

the statute or specified by the Superintendent of Public Instruction, the Superintendent of Public Instruction may direct the county auditor to withhold payment of any stipend, expenses, or salaries to the district superintendent, county superintendent, or members of the governing boards, as appropriate. The withholding shall continue only until the delinquent reports have been submitted to the State Department of Education. If the county superintendent performs the functions of the county auditor, the Superintendent of Public Instruction may direct the county superintendent to withhold the payments specified in this section.

SEC. 25. Section 42238.12 of the Education Code is amended to read:

42238.12. (a) For the 1995-96 fiscal year and each fiscal year thereafter, the county superintendent of schools shall adjust the total revenue limit for each school district in the jurisdiction of the county superintendent of schools by the amount of increased or decreased employer contributions to the Public Employees' Retirement System resulting from the enactment of Chapter 330 of the Statutes of 1982, adjusted for any changes in those contributions resulting from subsequent changes in employer contribution rates, excluding rate changes due to the direct transfer of the state-mandated portion of the employer contributions to the Public Employees' Retirement System, through the current fiscal year. The adjustment shall be calculated for each school district, as follows:

(1) (A) Determine the amount of employer contributions that would have been made in the current fiscal year if the applicable Public Employees' Retirement System employer contribution rate in effect immediately prior to the enactment of Chapter 330 of the Statutes of 1982 were in effect during the current fiscal year.

(B) For the purposes of this calculation, no school district shall have a contribution rate higher than 13.020 percent.

(2) Determine the actual amount of employer contributions made to the Public Employees' Retirement System in the current fiscal year.

(3) If the amount determined in paragraph (1) for a school district is greater than the amount determined in paragraph (2), the total revenue limit computed for that school district shall be decreased by the amount of the difference between those paragraphs; or, if the amount determined in paragraph (1) for a school district is less than the amount determined in paragraph (2), the total revenue limit for that school district shall be increased by the amount of the difference between those paragraphs.

(4) For the purpose of this section, employer contributions to the Public Employees' Retirement System for any of the following positions shall be excluded from the calculation specified above:

(A) Positions or portions of positions supported by federal funds that are subject to supplanting restrictions.

(B) Positions supported by funds received pursuant to paragraph (1) of subdivision (a) of Section 54203.

(C) Positions supported, to the extent of employers' contributions not exceeding twenty-five thousand dollars (\$25,000) by any single educational agency, from a non-General Fund revenue source determined to be properly excludable from this section by the Superintendent of Public Instruction with the approval of the Director of Finance. Commencing in the 2002-03 fiscal year, only positions supported from a non-General Fund revenue source determined to be properly excludable as identified for a particular local education agency or pursuant to a blanket waiver by the Superintendent of Public Instruction and the Director of Finance, prior to the 2002-03 fiscal year, may be excluded pursuant to this paragraph.

(5) For accounting purposes, any reduction to district revenue

limits made by this provision may be reflected as an expenditure from appropriate sources of revenue as directed by the Superintendent of Public Instruction.

(6) The amount of the increase or decrease to the revenue limits of school districts computed pursuant to paragraph (3) for the 1995-96 fiscal year or any fiscal year thereafter shall not be adjusted by the deficit factor applied to the revenue limit of each school district pursuant to Section 42238.145.

(b) The calculations set forth in paragraphs (1), (2), and (3), inclusive, of subdivision (a) exclude employer contributions for employees of charter schools funded pursuant to Article 2 (commencing with Section 47633) of Chapter 6 of Part 26.8.

(c) Funding appropriated through the Budget Act of 2001 or legislation amending the Budget Act of 2001 for the purpose of limiting the reductions to revenue limits calculated pursuant to this section and to Section 2558 for the 2001-02 fiscal year shall be allocated on a one-time basis in the following manner:

(1) Each school district and county office of education subject to a reduced apportionment pursuant to this section or to Section 2558 shall receive a share of the amount described in paragraph (3) that is proportionate to the reduction in their apportionment pursuant to this section or to Section 2558 for the 2001-02 fiscal year as compared to the statewide total reduction that would occur absent this paragraph.

(2) For the 2001-02 fiscal year, in lieu of the alternative calculation authorized by paragraph (1), San Francisco Unified School District shall receive an amount equal to five dollars and 57 cents (\$5.57) multiplied by its second principal apportionment average daily attendance for the 2001-02 fiscal year.

(3) Notwithstanding any other provision of law, total allocations pursuant to this subdivision shall not exceed thirty-five million dollars (\$35,000,000).

(d) Thirty-five million dollars (\$35,000,000) is hereby appropriated from the General Fund for transfer to Section A of the State School Fund for local assistance for the purpose of limiting the reductions to revenue limits calculated pursuant to this section and to Section 2558 for the 2003-04 fiscal year. Funding from this appropriation shall be allocated in the following manner:

(1) Each school district and county office of education subject to a reduced apportionment pursuant to this section or to Section 2558 shall receive a share of the amount appropriated in this subdivision that is proportionate to the reduction in their apportionment pursuant to this section or to Section 2558 for the 2003-04 fiscal year as compared to the statewide total reduction that would occur absent this paragraph.

(2) For the 2003-04 fiscal year, in lieu of the alternative calculation authorized by paragraph (1), the San Francisco Unified School District shall receive an amount equal to five dollars and 57 cents (\$5.57) multiplied by its second principal apportionment average daily attendance for the 2003-04 fiscal year.

(3) Notwithstanding any other provision of law, total allocations pursuant to this subdivision shall not exceed thirty-five million dollars (\$35,000,000) for the 2003-04 fiscal year.

(4) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by this section shall be deemed to be "General Fund revenues appropriated for school districts," as defined in subdivision (c) of Section 41202 of the Education Code, for the 2003-04 fiscal year and included within the "total allocations to school districts and community college districts from General Fund

proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202 of the Education Code, for the 2003-04 fiscal year.

(e) For the 2004-05 fiscal year, and each fiscal year thereafter, apportionment reductions pursuant to this section and to Section 2558 shall be limited as follows:

(1) Each school district and county office of education subject to a reduced apportionment pursuant to this section or to Section 2558 shall receive a share of the amount described in paragraph (3) that is proportionate to the reduction in their apportionment pursuant to this section or to Section 2558 for the 2004-05 fiscal year as compared to the statewide total reduction as would occur absent this paragraph.

(2) In lieu of the alternative calculation authorized by paragraph (1), the San Francisco Unified School District shall receive funding equal to the amount of funding per unit of average daily attendance specified in paragraph (2) of subdivision (c) as increased annually by cost-of-living adjustments specified in Section 42238.1, multiplied by its second principal apportionment average daily attendance for that fiscal year.

(3) Notwithstanding any other provision of law, total limitations pursuant to this subdivision shall not annually exceed the amount described in paragraph (3) of subdivision (c) as annually increased by the cost-of-living adjustments specified in Section 42238.1, multiplied by the annual statewide percentage growth in total average daily attendance, measured at the second principal apportionment.

SEC. 26. Section 42238.146 of the Education Code is amended and renumbered to read:

14002.3. Notwithstanding any other provision of law, for purposes of Sections 14002, 14004, and 41301, for the 2000-01 fiscal year and each fiscal year thereafter, the Superintendent of Public Instruction shall certify to the Controller amounts that do not exceed the amounts needed to fund the revenue limits of school districts, as determined pursuant to Section 42238, the revenue limits of county superintendents of schools, as determined pursuant to Section 2558, and the revenue limit portion of charter school operational funding, as determined pursuant to Section 47633.

(b) This section shall become inoperative on July 1, 2004, and, as of January 1, 2005, is repealed, unless a later enacted statute, that is enacted before January 1, 2005, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 27. Section 42241.7 of the Education Code is amended to read:

42241.7. (a) For the 1978-79 fiscal year, and each fiscal year thereafter, the revenue limit of any elementary, high, or unified school district authorized pursuant to Sections 42237 and 42238 may be increased by an amount sufficient to provide additional revenue equal to the expenditures estimated to be incurred by the district in the budget year in complying with the following provisions of the Unemployment Insurance Code: Sections 605 and 803, Article 6 (commencing with Section 821) of Chapter 3 of Part 1 of Division 1, or Article 3 (commencing with Section 976) of Chapter 4 of Part 1 of Division 1, less the actual expenditures incurred by the district in the 1975-76 fiscal year in complying with the following provisions of the Unemployment Insurance Code: Section 605.2 and Article 6 (commencing with Section 821) of Chapter 3 of Part 1 of Division 1.

(b) If, at the end of any fiscal year, the actual expenditures of the district specified in subdivision (a) are less than the revenue derived from the increase in revenue limit provided in subdivision (a) for that fiscal year, the difference shall be used in the

following fiscal year exclusively for expenditures required pursuant to the Unemployment Insurance Code provisions specified in subdivision (a).

(c) If, at the end of any fiscal year, the actual expenditures of the district specified in subdivision (a) exceed the revenue derived from the increase in revenue limit provided in subdivision (a) for that fiscal year, the difference may be added to the increase in revenue limit, authorized pursuant to this section, in the following fiscal year.

(d) Commencing with the 1994-95 fiscal year and each fiscal year thereafter, the adjustment computed pursuant to this section shall not be adjusted by the deficit factor applied to the revenue limit of each school district pursuant to Section 42238.145.

(e) Expenditures for employees of charter schools funded pursuant to Article 2 (commencing with Section 47633) of Chapter 6 of Part 26.8 are excluded from the calculations set forth in this section.

SEC. 28. Section 42850 of the Education Code is amended to read:

42850. The governing board of any school district may establish a fund for pension and other employee benefits to accumulate restricted moneys from salary reduction agreements, other contributions for employee retirement benefit payments, or both. Moneys may be transferred to the fund from other funds by periodic expense charges, in amounts based on existing and future obligation requirements. Payments from the pension plan and other employee benefits fund for insurance, annuities, administrative costs, or any other authorized purpose shall be made in accordance with all warrant approval requirements applicable under this code.

SEC. 29. Section 44049 of the Education Code is amended to read:

44049. (a) Except as provided in subdivision (c), any principal or person designated by the principal who, in his or her professional capacity or within the scope of his or her employment, has knowledge of or observes a pupil whom he or she knows, or reasonably suspects as evidenced by the pupil's apparent intoxication, has consumed an alcoholic beverage or abused a controlled substance, as listed in Chapter 2 (commencing with Section 11053) of the Health and Safety Code, may report the known or suspected instance of alcohol or controlled substance abuse to the parent or parents, or other person having legal custody, of the student.

(b) No principal or his or her designee who reports a known or suspected instance of alcohol or controlled substance abuse by a pupil to the parent or parents, or other person having legal custody, of the pupil shall be civilly or criminally liable, for any report or as a result of any report, unless it can be proven that a false report was made and the principal or his or her designee knew that the report was false or was made with reckless disregard for the truth or falsity of the report. Any principal or his or her designee who makes a report known to be false or with reckless disregard of the truth or falsity of the report is liable for any damages caused.

(c) No principal or person designated by the principal shall report a known or suspected instance of alcohol or controlled substance abuse by a pupil to the parent or parents, or other person having legal custody, of the pupil if the report would require the disclosure of confidential information in violation of Section 49602 or 72621.

SEC. 30. Section 46200 of the Education Code is amended to read:

46200. (a) In the 1984-85 fiscal year, for each school district that certifies to the Superintendent of Public Instruction that it offers 180 days or more of instruction per school year, the Superintendent of Public Instruction shall apportion thirty-five

dollars (\$35) per unit of average daily attendance, exclusive of adult average daily attendance, the average daily attendance of pupils while participating in regional occupation centers or programs, and average daily attendance for pupils attending summer school. A multitrack year-round school shall be deemed to be in compliance with the 180-day requirement if it certifies to the Superintendent of Public Instruction that it is a multitrack year-round school and maintains its school for a minimum of 163 schooldays. Each school district that received an apportionment pursuant to this subdivision in the 1984-85 fiscal year shall add thirty-five dollars (\$35) to the district's base revenue limit per unit of average daily attendance for the 1985-86 fiscal year.

(b) For any school district that received an apportionment pursuant to subdivision (a) and that offered less than 180 days, or offered less than the number of days required in subdivision (a) for multitrack year-round schools, of instruction in the 1985-86 fiscal year to the 2000-01 fiscal year, inclusive, and that does not provide the minimum number of instructional minutes specified in subdivision (a) of Section 46201 for that fiscal year, the Superintendent of Public Instruction shall reduce the base revenue limit per unit of average daily attendance for that fiscal year or years by an amount attributable to the increase received pursuant to subdivision (a), as adjusted in fiscal years subsequent to the 1984-85 fiscal year.

(c) For any school district that received an apportionment pursuant to subdivision (a) and that offers less than 180 days of instruction or, in multitrack year-round schools, fewer than the number of days required in subdivision (a) for multitrack year-round schools, in the 2001-02 fiscal year, or any fiscal year thereafter, the Superintendent of Public Instruction shall withhold from the district's revenue limit apportionment for the average daily attendance of each affected grade level the sum of 0.0056 multiplied by that apportionment, for each day less than 180, or, in multitrack year-round schools, for each day less than the number of days required in subdivision (a) for year-round schools that the district offered.

(d) For any school district that received an apportionment pursuant to subdivision (a) and that offered less than 180 days of instruction as required in subdivision (a) in the 1985-86 fiscal year, to either the end of the final year of the teacher bargaining unit contract in force in that district on January 1, **2002**, inclusive, or, if no teacher bargaining unit contract was in force in that district on January 1, **2002**, to the end of the 2001-02 fiscal year, inclusive, and that provided the minimum number of instructional minutes in subdivision (a) of Section 46201 during all of the period applicable to the district pursuant to this subdivision, subdivision (c) shall not apply until the first fiscal year following the end of the applicable period of years.

SEC. 31. Section 46200.5 of the Education Code is amended to read:

46200.5. (a) In the 1985-86 fiscal year, for each county office of education that certifies to the Superintendent of Public Instruction that it offers 180 days or more of instruction per school year of special day classes pursuant to Section 56364 or Section 56364.2, as applicable, the Superintendent of Public Instruction shall determine an amount equal to seventy dollars (\$70) per unit of current year second principal apportionment average daily attendance for special day classes. This computation shall be included in computations made by the superintendent pursuant to Chapter 7.2 (commencing with Section 56836) of Part 30.

(b) For any county office of education that received an



apportionment pursuant to subdivision (a) and that offered less than 180 days of instruction in the 1986-87 fiscal year, to the 2000-01 fiscal year, inclusive, and that does not provide the minimum number of instructional minutes specified in subdivision (a) of Section 46201 for that fiscal year, the Superintendent of Public Instruction shall reduce the special education apportionment per unit of average daily attendance for that fiscal year by an amount attributable to the increase received pursuant to subdivision (a), as adjusted in fiscal years subsequent to the 1985-86 fiscal year.

(c) For any county office of education that receives an apportionment pursuant to subdivision (a) and that offers less than 180 days of instruction or in multitrack year-round schools a minimum of 163 days, in the 2001-02 fiscal year, or any fiscal year thereafter, the Superintendent of Public Instruction shall withhold from the county office of education's revenue limit apportionment for the average daily attendance of each affected grade level the sum of 0.0056 multiplied by that apportionment, for each day less than 180 or, in multitrack year-round schools, for each day less than 163, that the county office of education offered.

(d) For any county office of education that received an apportionment pursuant to subdivision (a) and that offered less than 180 days of instruction as required in subdivision (a) in the 1986-87 fiscal year, to either the end of the final year of the teacher bargaining unit contract in force in that county office on January 1, 2002, inclusive, or, if no teacher bargaining unit contract was in force in that county office on January 1, 2002, to the end of the 2001-02 fiscal year, inclusive, and that provided the minimum number of instructional minutes in subdivision (a) of Section 46201.5 during all of the period applicable to the county office pursuant to this subdivision, subdivision (c) does not apply until the first fiscal year following the end of the applicable period of years.

SEC. 32. Section 46202 of the Education Code is amended to read:

46202. (a) Except as otherwise provided in this section, in fiscal year 2000-01 and prior, if the governing board of a school district offers less instructional time than the amount of instructional time fixed for the 1982-83 fiscal year, the Superintendent of Public Instruction shall, in that fiscal year, reduce that district's apportionment by the average percentage increase in the base revenue limit for districts of similar type and size multiplied by the district's units of average daily attendance.

(b) Except as otherwise provided in this section, in fiscal year 2001-02 and any fiscal year thereafter, if the governing board of a school district offers less instructional time than the amount of instructional time fixed for the 1982-83 fiscal year, the Superintendent of Public Instruction shall withhold for that fiscal year, from the district's revenue limit apportionment for the average daily attendance of each affected grade level, the sum of that apportionment multiplied by the percentage of instructional minutes fixed in the 1982-83 school year, at that grade level, that the district failed to offer.

(c)

The Glendora Unified School District shall reinstate the sixth period, which shall be equivalent to at least 50 minutes of instruction, effective the start of the second semester of the 1983-84 fiscal year.

SEC. 33. Section 49553 of the Education Code, as amended by Chapter 825 of the Statutes of 1997, is repealed.

SEC. 34. Section 49553 of the Education Code, as amended by Chapter 1078 of the Statutes of 1998, is amended to read:

49553. (a) A nutritionally adequate meal, for the purposes of this article, is a breakfast or lunch as defined in Section 49531 that qualifies for reimbursement under the federal child nutrition program regulations.

(b) (1) (A) For the purposes of special school nutrition supplements provided to pregnant or lactating pupils under Section 49559, protein and grain meal components for any given day shall, together, offer a total of five ounces of protein, one ounce of which shall be cheese or eight ounces of milk and three servings from the grain group, preferably whole and nutritious grains. This may be accomplished by adding one ounce of protein and one serving from the grain group at breakfast or serving these as a snack, and by adding one or two ounces of protein, one ounce of which shall be cheese or eight ounces of milk, to lunch, or by offering a morning supplement consisting of two or three ounces of protein, one ounce of which must be cheese, or eight ounces of milk, and one or two servings from the grain group.

(B) Meal components where only breakfast is served shall be increased to a total including one ounce of protein and two servings from the grain group, preferably whole and nutritious grains.

(C) Where both breakfast and lunch are provided, they shall, together, provide a total of five ounces of protein foods, one ounce of which shall be cheese, three servings from the grain group, preferably whole and nutritious grains, one and one-fourth cups from the fruit and vegetable group, and one pint from the milk group.

(2) The following options shall be allowed:

(A) One cup of fruit in place of one serving of the grain group, once a week.

(B) One cup of yogurt, made with pasteurized milk, in place of eight ounces of milk or one ounce of cheese, up to two times per week.

SEC. 35. Section 52054 of the Education Code is amended to read:

52054. (a) Commencing in the 2001-02 fiscal year, by November 15 of the year that the school is selected to participate, the governing board of a school district having jurisdiction over a school selected for participation in the program shall do one of the following:

(1) Contract with an external evaluator from the list of external evaluators and shall appoint a broad-based schoolsite and community team, consisting of a majority of nonschoolsite personnel. In a school that has a limited-English-proficient pupil population that constitutes at least 40 percent of the total pupil population, an external evaluator shall have demonstrated experience in working with a limited-English-proficient pupil population. Not less than 20 percent of the members of the team shall be parents or legal guardians of pupils in the school.

(2) Contract with an entity that has proven, successful expertise specific to the challenges inherent in low-performing schools. These entities may include, but are not limited to, the following:

(A) Institutions of higher education.

(B) County offices of education.

(C) School district personnel.

(b) The selected external evaluator or entity shall solicit input from the parents and legal guardians of the pupils of the school. At a minimum, the evaluator or entity shall do all of the following:

(1) Inform the parents and legal guardians, in writing, that the school has been selected to participate in the Immediate Intervention/Underperforming Schools Program due to its below average performance.

(2) Hold a public meeting at the school, in cooperation with the

principal, to which all parents and legal guardians of pupils in the school receive a written invitation. The invitation to the meeting may be combined with the written notice required by paragraph (1).

(3) Solicit, at the public meeting, the recommendations and opinions of the participating parents and legal guardians of pupils in the school regarding actions that should be taken to improve the performance of the school. These opinions and recommendations shall be considered by the external evaluator or entity and the community team in the development or modification of the action plan pursuant to this section or Section 52054.3.

(4) Provide technical assistance to the schoolsite.

(5) Notify all parents and legal guardians of pupils in the school of their opportunity to provide written recommendations of actions that should be taken to improve the performance of the school which shall be considered by the external evaluator or entity and the community team in the development or modification of the action plan pursuant to this section or Section 52054.3. Notice required by this subdivision may be combined with the written notice required by paragraph (1).

(c) By February 15 of the school year in which the school is selected to participate, the selected external evaluator or entity, in collaboration with the broad-based schoolsite and community team selected pursuant to subdivision (a), shall complete a review of the school that identifies weaknesses that contribute to the school's below average performance, make recommendations for improvement, and begin to develop an action plan to improve the academic performance of the pupils enrolled at the school. The action plan shall include percentage growth targets at least as high as the annual growth targets adopted by the State Board of Education pursuant to Section 52052. The action plan shall include an expenditure plan and shall be of a scope that does not require expenditure of funds in excess of those provided pursuant to this article or otherwise available to the school. The action plan may not be of a scope that requires reimbursement by the Commission on State Mandates for its implementation.

(d) At a minimum, the action plan shall do all of the following:

(1) Review and include the school and district conditions identified in the school accountability report card pursuant to Section 33126.

(2) Identify the current barriers at the school and district toward improvements in pupil achievement.

(3) Identify schoolwide and districtwide strategies to remove these barriers.

(4) Review and include school and school district crime statistics, in accordance with Section 628.5 of the Penal Code.

(5) Examine and consider disaggregated data regarding pupil achievement and other indicators to consider whether all groups and types of pupils make adequate progress toward short-term growth targets and long-term performance goals. The disaggregated data to be included and considered by the plan shall, at a minimum, provide information regarding the achievement of English language learners, pupils with exceptional needs, pupils who qualify for free and reduced price meals, and pupils in numerically significant subgroups.

(6) Set short-term academic objectives pursuant to Section 52052 for a two-year period that will allow the school to make adequate progress toward the growth targets established for each participating school for pupil achievement as measured by all of the following to the extent that the data is available for the school:

(A) The achievement test administered pursuant to Section 60640.

(B) Graduation rates for grades 7 to 12, inclusive.

(C) Attendance rates for pupils and school personnel for elementary, middle, and secondary schools.

(D) Any other indicators approved by the State Board of Education.

(e) The school action plan shall focus on improving pupil academic performance, improving the involvement of parents and guardians, improving the effective and efficient allocation of resources and management of the school, and identifying and developing solutions that take into account the underlying causes for low performance by pupils.

(f) The team, in the development of the action plan, shall consult with the exclusive representatives of employee organizations, where they exist.

(g) The school action plan may propose to increase the number of instructional days offered at the schoolsite and also may propose to increase up to a full 12 months the amount of time for which certificated employees are contracted, if all of the following conditions are met:

(1) Provisions of the plan proposed pursuant to this subdivision shall not violate current applicable collective bargaining agreements.

(2) An agreement is reached with the exclusive representative concerning staffing specifically to accommodate the extended school year or 12-month contract.

(h) The team, in the development of the action plan, shall consult with the exclusive representatives of employee organizations, where they exist.

(i) Upon its completion, the action plan shall be submitted to the governing board of the school districts for its approval at a regularly scheduled public meeting. After the plan is approved, but no later than May 15 of the year that follows the year the school is selected to participate, the plan shall be submitted to the Superintendent of Public Instruction with a request for funding in the form prescribed by the Superintendent of Public Instruction, who shall review the school action plan and recommend approval or disapproval of the school's request for funding to the State Board of Education.

(j) Not later than July 15 of the year next following the year in which a school is selected for participation, the State Board of Education shall review and approve or disapprove the school's request for funding, based on the recommendation of the Superintendent of Public Instruction. Within 30 days of the State Board of Education's review, the Superintendent of Public Instruction shall notify the affected school districts of the state of the board's action regarding the request for funding. In conjunction with its approval of a request for funding to implement a school's action plan, the State Board of Education may, at the request of the governing board of the school district or the county board of education for a school under its jurisdiction, waive all or any part of any provision of this code, or any regulation adopted by the State Board of Education, controlling any of the programs listed in clause (i) of subparagraph (B) of paragraph (1) of subdivision (a) of Section 54761 and Section 64000 if the waiver does not result in a decrease in the instructional time otherwise required by law or regulation or an increase in state costs and is determined to be consistent with subdivision (a) of Section 46300.

SEC. 36. Section 52055.610 of the Education Code is amended to read:

52055.610. (a) Fourteen days after the effective date of the act

adding this section, the Superintendent of Public Instruction shall establish a procedure that is consistent with this article for the approval of applications and school action plans.

(b) Notwithstanding the existing application process established pursuant to Article 3 (commencing with Section 52053), in developing an action plan to be submitted with the application for funding pursuant to this article, a school may choose from the following options:

(1) A school district on behalf of an eligible school under its jurisdiction may elect to receive fifty thousand dollars (\$50,000) as a planning grant from funds appropriated for purposes of this article. These planning grant funds shall be used for technical assistance in the development of the school action plan. Technical assistance includes assistance provided by school district personnel, county offices of education, universities, a state approved external evaluator, or any other entity that has proven successful expertise specific to the challenges inherent in low-performing schools. If the school action plan is approved, the Superintendent of Public Instruction shall provide funding for its implementation. Planning grant funds, as well as other funds available to school districts pursuant to this article, may be used for on-going technical assistance throughout the implementation of the action plan and continued participation in the program established pursuant to Article 3 (commencing with Section 52053) and the program established pursuant to this article.

(2) A school district, on behalf of an eligible school under its jurisdiction, may elect to forego the fifty thousand dollars (\$50,000) planning grant and immediately submit its application and school action plan. If a school chooses this option, the Superintendent of Public Instruction shall take one of the following actions:

(A) Recommend approval of the application by the State Board of Education and action plan and provide funding for implementation of the school action plan.

(B) Request additional clarification and technical changes, after which the school and district shall resubmit the application and school action plan with the clarifications and changes for approval. If the application and school action plan is approved, the Superintendent of Public Instruction shall provide funding for implementation of the school action plan.

(C) Disapprove the plan in which case a school district on behalf of an eligible school under its jurisdiction shall receive a fifty thousand dollar (\$50,000) planning grant that shall be used for technical assistance in the redevelopment of the school action plan according to the department's recommendations. Technical assistance includes assistance provided by school district personnel, county offices of education, universities, a state approved external evaluator, or any other entity that has proven expertise specific to the challenges inherent in low-performing schools.

(c) The following deadlines apply for the 2001-02 fiscal year:

(1) A school district on behalf of an eligible school under its jurisdiction shall submit the application and school action plan to the Superintendent of Public Instruction for review and approval by May 15, 2002.

(2) The Superintendent of Public Instruction shall make a recommendation to the State Board of Education regarding approval or disapproval of applications and school action plans by June 15, 2002.

The State Board of Education shall approve or disapprove the application and action plan by June 30, 2002. Upon approval by the State Board of Education, the State Department of Education shall

allocate funding to schools for the implementation of the action plan. If the State Board of Education fails to approve or disapprove the application and school action plan by June 30, 2002, the recommendation of the Superintendent of Public Instruction shall be deemed to be adopted and funding for implementation of the action plan shall be allocated.

(3) If the Superintendent of Public Instruction takes the action specified in subparagraph (B) of paragraph (2) of subdivision (b), the school and school district shall resubmit the application and school action plan with the clarifications and changes for approval by August 1, 2002, and the Superintendent of Public Instruction shall make a recommendation to the State Board of Education regarding approval or disapproval by September 1, 2002. The State Board of Education shall approve or disapprove the application and action plan by September 30, 2002. If the action plan is approved, the department shall allocate funding to the school district on behalf of an eligible school under its jurisdiction for implementation of the action plan. If the State Board of Education fails to approve or disapprove the application and school action plan by September 30, 2002, the recommendation of the Superintendent of Public Instruction shall be deemed to be adopted and funding for implementation of the action plan is to be allocated.

(4) A school district may request that the State Board of Education waive the deadlines set forth in this subdivision. The State Board of Education may grant a waiver request made pursuant to this paragraph.

(d) If a school receives implementation funding during the same fiscal year it receives a fifty thousand dollar (\$50,000) planning grant, the planning grant shall be deducted from the amount of implementation funding provided to the school pursuant to subdivision (b) of Section 52055.600.

SEC. 37. Section 52055.640 of the Education Code is amended to read:

52055.640. (a) As a condition of the receipt of funds and to ensure that the school is progressing towards meeting the goals of each of the essential components of its school action plan, each year the school district shall submit a report to the Superintendent of Public Instruction that includes the following:

(1) The academic improvement of pupils within the participating school as measured by the tests under Section 60640 and the progress made towards achieving English language proficiency as measured by the English language development test administered pursuant to Section 60810.

(2) The improvement of distribution of experienced teachers holding a valid California teaching credential across the district.

(3) The availability of instructional materials in core content areas that are aligned with the academic content and performance standards, including textbooks, for each pupil, including English language learners.

(4) The number of parents and guardians presently involved at each participating schoolsite as compared to the number participating at the beginning of the program.

(5) The number of pupils attending afterschool, tutoring, or homework assistance programs.

(6) For participating secondary schools, the number of pupils who are enrolled in and successfully completing advanced placement courses, by type, and requirements for admission to the University of California or the California State University, including courses in algebra, biology, and United States or world history.

(b) The report on the pupil literacy and achievement component

shall be disaggregated by numerically significant subgroups, as defined in Section 52052, and English language learners and have a focus on improved scores in reading and mathematics as measured by the following:

(1) The Academic Performance Index, including the data collected pursuant to tests that are part of the Standardized Testing and Reporting Program and the writing sample that is part of that program.

(2) The results of the primary language test pursuant to Section 60640.

(3) Graduation rates, when the methodology for collecting this data has been confirmed to be valid and reliable.

(4) In addition, a school may use locally developed assessments to assist it in determining the pupil progress in academic literacy and achievement.

(c) The report on the quality of staff component shall include, but not be limited to, the following information:

(1) The number of teachers at the schoolsite holding a valid California teaching credential or district or university intern certificate or credential compared to those teachers at the same schoolsite holding a preintern certificate, emergency permit, or waiver.

(2) The number and ratio of teachers across the district holding a valid California teaching credential or district or university intern certificate or credential compared to those holding a preintern certificate, emergency permit, or waiver.

(3) The number of principals having completed training pursuant to Article 4.6 (commencing with Section 44510) of Chapter 3 of Part 25.

(4) The number of principals by credential type or years of experience and length of time at the schoolsite by years.

(d) The report on the parental involvement component shall include explicit involvement strategies being implemented at the schoolsite that are directly linked to activities supporting pupil academic achievement and verification that the schoolsite has developed a school-parent compact as required by Section 51101.

(e) All comparisons made in the reports required pursuant to this section shall be based on baseline data provided by the district and schoolsite in the action plan that is certified and submitted with the initial application.

(f) To the extent that data is already reported to the Superintendent of Public Instruction, a school district need not include the data in the reports submitted pursuant to this section.

(g) Before submitting the reports required pursuant to this section, the school district shall, at a regularly scheduled public meeting of the governing board, review a participating school's progress towards achieving those goals.

SEC. 38. Section 52055.656 of the Education Code, as added by Section 11 of Chapter 42 of the Statutes of 2002, is amended to read:

52055.656. (a) Each school district with schools participating in the High Priority Schools Grant Program for Low Performing Schools established pursuant to Section 52055.600 shall submit to the Superintendent of Public Instruction an evaluation of the impact, costs, and benefits of the program as it relates to the school district and the schools under its jurisdiction that are participating in the program and whether or not the schools met their growth targets, with an analysis of the reasons why the schools have or have not met those growth targets. Costs to develop and submit the evaluation shall be funded with resources provided pursuant to

Article 3 (commencing with Section 52053). The evaluation shall be submitted by November 30, subsequent to the first full year of action plan implementation by participating schools, and on November 30, of each year thereafter.

(b) By January 15, 2003, the Superintendent of Public Instruction shall develop, and the State Board of Education shall approve, the guidelines for a request for proposal for an independent evaluator as described in this subdivision. By June 30, 2003, the Superintendent of Public Instruction shall contract with an independent evaluator to prepare a multiyear comprehensive evaluation of the implementation, impact, costs, and benefits of the High Priority Schools Grant Program for Low Performing Schools. The preliminary results of the multiyear evaluation shall be disseminated to the Legislature, the Governor and interested parties no later than June 30, 2004. An interim report shall be disseminated to the Legislature, the Governor, and interested parties no later than June 30, 2005. The final comprehensive evaluation shall be disseminated to the Legislature, the Governor, and interested parties no later than June 30, 2006. The final report shall include recommendations for necessary or desirable modifications to the programs established pursuant to this chapter.

(c) The evaluations shall consider all of the following:

(1) Pupil performance data, including, but not limited to, results of assessments used to determine whether or not schools have made significant progress towards meeting their growth targets.

(2) Program implementation data, including, but not limited to, a review of startup activities, community support, parental participation, staff development activities associated with implementation of the program, percentage of fully credentialed teachers, percentage of teachers who hold emergency credentials, percentage of teachers assigned outside their subject area of competence, the accreditation status of the school if appropriate, average size per grade level, and the number of pupils in a multitrack year-round educational program.

(3) (A) Pupil performance data, and its impact on the API, for each of the following subgroups:

(i) English language learners.

(ii) Pupils with exceptional needs.

(iii) Pupils that qualify for free or reduced price meals and are enrolled in schools that receive funds under Chapter 1 of the federal Elementary and Secondary Education Act of 1965, as amended by the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (P.L. 100-290).

(B) Information concerning individual pupils may not be disclosed in the process of preparing pupil performance data pursuant to this subdivision.

SEC. 39. Section 52291 of the Education Code is amended to read:

52291. (a) Pursuant to funds appropriated for these purposes in the Budget Act or other enactment the Superintendent of Public Instruction shall select up to 100 high schools from applicants that meet the eligibility criteria set forth in Section 52292. The National Academy Foundation and the Superintendent of Public Instruction shall develop a memorandum of understanding with regard to application approval and program implementation. The Superintendent of Public Instruction shall award grants to the high schools for the purpose of establishing and maintaining an Information Technology Career Academy.

(b) Grants in the amount of fifty thousand dollars (\$50,000) shall be distributed to high schools selected to receive the award and that demonstrate an ability to meet or exceed the criteria set forth



in Section 52292.

(c) For the 2001-02 fiscal year, grant recipients shall be selected through a competitive process with the grants awarded to those applicants that best meet the criteria specified under Section 52292.

(d) When selecting the high schools eligible to receive grants pursuant to this chapter, the Superintendent of Public Instruction shall give first priority to applicants aimed at establishing the academies in high schools ranked in the bottom half of the Academic Performance Index pursuant to Section 52056. Second priority shall be given to applicants that demonstrate the ability to create a highly integrated system involving multiple funding sources. Additionally, the Superintendent of Public Instruction shall, to the best of his or her ability, select high schools so that grants are equitably distributed among urban, rural, and suburban areas.

(e) Grants shall be awarded only to school districts, county offices of education, and charter schools that maintain grades 9 to 12, inclusive. However, a school district, county office of education, or charter school that maintains grades 9 to 12, inclusive may contract with a nonprofit organization for the purposes of administering the academy.

SEC. 40. Section 52310.5 of the Education Code is amended to read:

52310.5. (a) Each regional occupational program or center shall be maintained by, and subject to the authority and control of, its governing board.

(b) The governing board of a regional occupational program or center maintained by a single school district is the governing board of the school district.

(c) The governing board of a regional occupational program or center maintained by a county superintendent of schools is the county board of education.

(d) The governing board of a regional occupational program or center established by two or more school districts pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, shall consist of at least one member of the governing board of each of the school districts cooperating in the regional occupational program or center, the member to be selected by the governing board of the district represented by that member.

(e) Any other cooperative agreement established after 1965 to establish a regional occupational program or center pursuant to Section 52301 shall have a governing board which shall consist of at least one member of the governing board of each of the school districts cooperating in the regional occupational program or center.

Each member is to be selected by the governing board of the district represented by that member.

(f) The governing board of a regional occupational center maintained by either a single school district or a county is not entitled to an additional stipend merely to carry out governance of the operations of the regional occupational center or program.

SEC. 41. Section 52314 of the Education Code is amended to read:

52314. (a) Except as provided in subdivision (b), any pupil eligible to attend a high school or adult school in a school district subject to the jurisdiction of a county superintendent of schools operating a regional occupational center or regional occupational program, and who resides in a school district which by itself or in cooperation with other school districts, has not established a regional occupational center, or regional occupational program, is

eligible to attend a regional occupational center or regional occupational program maintained by the county superintendent of schools. Any school district which in cooperation with other school districts maintains a regional occupational center, or regional occupational program, or any cooperating school districts may admit to the center, or program, any pupil, otherwise eligible, who resides in the district or in any of the cooperating districts. Any school district which by itself maintains a regional occupational center, or regional occupational program, may admit to the center, or program, any pupil, otherwise eligible, who resides in the district. No pupil, including adults under Section 52610 shall be admitted to a regional occupational center, or regional occupational program, unless the county superintendent of schools or governing board of the district or districts maintaining the center, or program, as the case may be, determines that the pupil will benefit therefrom and approves of his or her admission to the regional occupational center or regional occupational program.

A pupil may be admitted on a full-time or part-time basis, as determined by the county superintendent of schools or governing board of the school district or districts maintaining the center, or program, as the case may be.

(b) No pupil shall be eligible to be admitted to a regional occupational center or program, nor may his or her attendance be credited to a regional occupational center or program, until he or she has attained the age of 16 years, unless the pupil meets one or more of the following conditions:

(1) The pupil is enrolled in grade 11 or a higher grade.

(2) The pupil received a referral and all of the following conditions are met:

(A) The pupil is referred to a regional occupational center or program by a school counselor, school administrator, or classroom teacher. The referral shall include a written statement of the reasons why the pupil's educational needs cannot be met without the pupil being enrolled in a regional occupational center or program.

Pupils under 16 years of age eligible for enrollment in regional occupational centers and programs under this paragraph include, but are not necessarily limited to, pupils for whom there is a high probability that they will leave school prior to graduation.

(B) The referral is reviewed and approved by the principal or designated administrator of the school in which the pupil is enrolled.

(C) The referral is reviewed and approved by the director or designated administrator of the regional occupational center or program to which the pupil has been referred.

(D) The pupil is enrolled in a high school, which, for purposes of this requirement, means a school that maintains any of grades 9 to 12, inclusive.

(3) The pupil's individualized education program adopted pursuant to the requirements of Chapter 2 (commencing with Section 56300) of Part 30 prescribes occupational training for which his or her enrollment in a regional occupational center or program is deemed appropriate.

(c) Each school district, county superintendent of schools, or joint powers agency which maintains a regional occupational center or regional occupational program shall submit to the State Department of Education, at the time and in the manner prescribed by the Superintendent of Public Instruction, the enrollment and average daily attendance for each grade level and the enrollment and average daily attendance for each exemption set forth in subdivision (b).

The State Department of Education shall submit this information to

the Legislature and to the Director of Finance by April 1 of each year for the preceding school year.

SEC. 42. Section 54743 of the Education Code is amended to read:

54743. For the purposes of this chapter, the following definitions shall apply:

(a) "Case management" means a process that ensures that the pupil and child receive identified needed services in an efficient, supportive, and cost effective manner. The process is interactive, pupil-centered, culturally appropriate, and goal-oriented.

(b) "Child care and development program" means developmentally appropriate learning activities for the children of enrolled teen parents that are provided when the child's teen parent is, or parents are, participating in a school-approved activity both during and outside the schoolday.

(c) "Intake process" means the interactive process upon entry into the Cal-SAFE program through which academic and service needs are inventoried and demographic data are collected.

(d) "Interventions" means services needed to correct or ameliorate a pupil's health, psychosocial, educational, vocational, daily living, or economic problems, which may impede the pupil from achieving the program goals.

(e) "Local education agency" means a school district or county office of education.

(f) "Support services" means services, as referenced in subdivision (b) of Section 54746, that will enhance the academic ability of the enrolled pupil in order for her or him to earn a high school diploma or its equivalent and for healthy development of their children.

(g) "Title IX of the Education Amendments of 1972 Regulations" refers to federal Public Law 92-318 and the regulations set forth in Section 106.1 and following of Title 34 of the Code of Federal Regulations, which prohibit discrimination against pupils, among other things, because of their pregnant or parenting status.

(h) "Expectant parent" means a female who is pregnant or a male who voluntarily identifies himself as the parent of an unborn child, and who meets eligibility criteria specified in Section 54747.

SEC. 43. Section 54745 of the Education Code is amended to read:

54745. (a) In the administration of the Cal-SAFE program, the following provisions shall apply:

(1) Participation by a school district or county superintendent of schools in the Cal-SAFE program is voluntary.

(2) The governing board of a school district or county superintendent of schools may submit an application to the State Department of Education in the manner, form, and date specified by the department to establish and maintain a Cal-SAFE program.

(3) A school district or county superintendent of schools approved to implement the Cal-SAFE program shall be funded as one program to be operated at one or multiple sites depending upon the need within the service area.

(4) Notwithstanding any other provision of law, a school district or county superintendent of schools operating, by October 1, 1999, a School Age Parent and Infant Development Program pursuant to Article 17 (commencing with Section 8390) of Chapter 2 of Part 6, a Pregnant Minors Program pursuant to Chapter 6 (commencing with Section 8900) of Part 6 and Section 2551.3, or a Pregnant and Lactating Students Program pursuant to Sections 49553 and 49559, as those provisions existed prior to the operative date of the act that adds this article, or any combination thereof, that chooses to participate in the Cal-SAFE program shall have priority for Cal-SAFE program funding for an amount up to the dollar amount provided to each school

district or county superintendent of schools under those provisions in the fiscal year prior to participation in the Cal-SAFE program, provided that an application is submitted and approved.

(5) If a school district or county superintendent of schools operating a School Age Parent and Infant Development Program, a Pregnant Minors Program, or a Pregnant and Lactating Students Program, or any combination thereof, chooses not to participate in the Cal-SAFE program, it is the intent of the Legislature that the funding it would have received for the operation of those programs shall be redirected to the Cal-SAFE program and the school district or county superintendent of schools may apply in a subsequent school year to operate a Cal-SAFE program.

(6) A school district or county superintendent of schools that terminates its Cal-SAFE program may reapply to establish a Cal-SAFE program.

(7) In order to continue implementation of the Cal-SAFE program beyond the initial three years of funding, each funded agency shall be reviewed by the department to determine progress towards achieving the goals set forth in Section 54742. Thereafter, funded agencies shall be reviewed and reauthorized every five years based upon a process determined by the department to continue implementation of a Cal-SAFE program.

(b) All of the following requirements shall apply to an application for the Cal-SAFE program:

(1) The governing board of a participating local education agency shall adopt a policy or resolution declaring its commitment to provide a comprehensive, continuous, community-linked program for expectant and parenting pupils and their children that reflects the cultural and linguistic diversity of the community.

(2) The local education agency shall provide assurance for participation in the development of the County Service Coordination Plan as described in Section 54744.

(3) A school district or county superintendent of schools shall agree to participate in the data collection and evaluation of the Cal-SAFE program.

(c) To implement a Cal-SAFE program, the funded school district, or county superintendent of schools shall meet all of the following criteria:

(1) Be in compliance with Title IX of the Education Amendments of 1972 Regulations.

(2) Ensure that enrolled pupils retain their right to participate in any comprehensive school or educational alternative programs in which they could otherwise enroll. School placement and instructional strategies shall be based upon the needs and styles of learning of the individual pupils. The classroom setting shall be the preferred instructional strategy unless an alternative is necessary to meet the needs of the individual parent, child, or both.

(3) Enroll pupils into the Cal-SAFE program on an open entry and open exit basis.

(4) Provide a quality education program to pupils in a supportive and accommodating learning environment with appropriate classroom strategies to ensure school access and academic credit for all work completed.

(5) Provide parenting education and life skills instruction to enrolled pupils.

(6) Make maximum utilization of available programs and facilities to serve expectant and parenting pupils and their children.

(7) Provide a quality child care and development program for the children of enrolled teen parents located on or near the schoolsite.

(8) Make maximum utilization of its local school food service program.

(9) Provide special school nutrition supplements, as defined by subdivision (b) of Section 49553, to pregnant and lactating pupils.

(10) Enter into formal partnership agreements, as necessary, with community-based organizations and other governmental agencies to assist pupils in accessing support services.

(11) Provide staff development and community outreach in order to establish a positive learning environment and school policies supportive of expectant and parenting pupils' academic achievement and to promote the healthy development of their children.

(12) Maintain an annual program budget and expenditure report to document that funds are expended pursuant to Section 54749.

(13) Assess no fees to enrolled pupils or their families for services provided through the Cal-SAFE program.

(14) Establish and maintain a database in the manner and form prescribed by the State Department of Education for purposes of program evaluation.

(15) Coordinate to the maximum extent possible with Cal-Learn program case managers provided pursuant to Section 11332.5 of the Welfare and Institutions Code and Adolescent Family Life Program case managers provided pursuant to Article 1 (commencing with Section 124175) of Chapter 4 of Part 2 of Division 106 of the Health and Safety Code.

SEC. 44. Section 54746 of the Education Code is amended to read:

54746. (a) In meeting the goals of the program and responding to the individual needs and differences of pupils and their children to be served, the funded agency shall complete an intake procedure regarding each pupil and child upon entry into the program and periodically as needed thereafter.

(b) Based upon the information provided during the intake procedure pursuant to subdivision (a), the funded agency shall determine appropriate levels and types of services to be provided. These services may not duplicate services currently provided to the pupil by a local Adolescent Family Life Program or Cal-Learn program.

In addition to an academic program that meets district standards, necessary support services for pupils shall be funded by the calculation pursuant to paragraph (1) of subdivision (a) of Section 54749. Allowable expenditures for support services are as follows:

(1) Parenting education and life skills instruction.

(2) Perinatal education and care, including childbirth preparation.

(3) Safe home-to-school transportation.

(4) Case management services.

(5) Comprehensive health education, including reproductive health care.

(6) Nutrition education, counseling, and meal supplements.

(7) School safety and violence prevention strategies targeted to expectant and parenting teens and their children.

(8) Academic support and youth development services, such as tutoring, mentoring, and community service internships.

(9) Career counseling, preemployment skills, and job training.

(10) Substance abuse prevention education, counseling, and treatment services.

(11) Mental health assessment, interventions, and referrals.

(12) Crisis intervention counseling services, including suicide prevention.

(13) Peer support groups and counseling.

(14) Family support and development services, including individual

and family counseling.

(15) Child and domestic abuse prevention education, counseling, and services.

(16) Enrichment and recreational activities, as appropriate.

(17) Services that facilitate transition to postsecondary education, training, or employment.

(18) Support services for grandparents, siblings, and fathers of babies who are not enrolled in the Cal-SAFE program.

(19) Outreach activities to identify eligible pupils and to educate the community about the realities of teen pregnancy and parenting.

(c) The funded agency shall provide child care and development program services located on or near the schoolsite for the children of teen parents enrolled in the Cal-SAFE program. Program services shall be funded by the revenue generated pursuant to paragraph (4) of subdivision (a) of Section 54749.

(1) Participation in the child care and development component of the Cal-SAFE program shall be voluntary.

(2) There is no minimum age for enrollment, but the child shall be eligible for enrollment in the child care and development component until the age of five years or the child is enrolled in kindergarten, whichever occurs first, as long as the teen parent is enrolled in the Cal-SAFE program.

(3) Each child shall have a health evaluation form signed by a physician, or his or her designee, before the child is allowed on the school campus or is enrolled in the child care and development program. Health screening and immunizations shall not be required when the custodial parent annually files a written request as provided for in Section 49451 and Section 120365 of the Health and Safety Code.

(4) A developmental profile shall be maintained for each infant, toddler, and child. This development profile shall be utilized by the program staff to design a program that meets the infant's, toddler's, or child's developmental needs.

(5) The arrangement of the child care site environment shall be safe, healthy, and comfortable for children and staff, easily maintained, and appropriate for meeting the developmental needs of the individual child. Child care sites shall meet the health and safety requirements specified in Chapter 1 (commencing with Section 101151) of, and Subchapter 2 (commencing with Section 101351) of, Division 12 of Title 22 of the California Code of Regulations.

(6) The child care and development component of the Cal-SAFE program shall operate pursuant to applicable sections of Chapter 2 (commencing with Section 8200) of Part 6. In addition to meeting the requirements of Section 8360, teachers shall have at least three semester units, or the equivalent number of quarter units, of coursework related to the care of infants and toddlers.

(7) The child care site shall be available as a laboratory for parenting or related courses that are offered by the funded agency with priority given to pupils enrolled in the Cal-SAFE program.

(d) In-service training for school staff on teen pregnancy and parenting-related issues may be funded from revenue generated pursuant to paragraphs (1) and (4) of subdivision (a) of Section 54749. However, use of these funds for this purpose shall supplement and, not supplant, existing resources in these areas.

(e) The database required pursuant to paragraph (14) of subdivision (c) of Section 54745 may be funded from revenue appropriated for purposes of subdivision (a) of Section 54749.

SEC. 45. Section 54747 of the Education Code is amended to read:

54747. (a) A male or female pupil, 18 years of age or younger,

may enroll in the Cal-SAFE program and be eligible for all services afforded to pupils enrolled if he or she is an expectant parent, the custodial parent, or the noncustodial parent taking an active role in the care and supervision of the child, and has not earned a high school diploma or its equivalent.

(b) A pupil who is an expectant parent, custodial parent, or noncustodial parent taking an active role in the care and supervision of his or her child, has not earned a high school diploma or its equivalent, and has an active special education Individualized Education Plan (IEP) shall be eligible as long as she or he has an active IEP and meets the eligibility criteria as specified in paragraph (4) of subdivision (c) of Section 56026, and shall continue to receive services identified in the IEP while enrolled in the Cal-SAFE program.

(c) Pupils shall be eligible for enrollment on a voluntary basis for as long as they meet eligibility criteria specified in subdivisions (a) and (b) until they earn a high school diploma or its equivalent.

(d) A pupil may not be denied initial or continuous enrollment in the Cal-SAFE program for any of the following reasons:

(1) The pupil has had multiple pregnancies.

(2) The pupil has more than one child.

(3) The pupil's eligibility status changed from expectant to parenting.

(e) If an enrolled 18-year-old pupil reaches age 19 without earning a high school diploma or its equivalent, the pupil may be enrolled for one additional semester if the pupil has been continuously enrolled in the Cal-SAFE program since before his or her 19th birthday.

(f) Pupils receiving services under Article 3.5 (commencing with Section 11331) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code are eligible for services under this chapter. Child care provided under this article shall be the primary source of child care for these recipients when participating in a Cal-SAFE program operated by school districts or county superintendents of schools.

SEC. 46. Section 56001 of the Education Code is amended to read:

56001. It is the intent of the Legislature that special education programs provide all of the following:

(a) Each individual with exceptional needs is assured an education appropriate to his or her needs in publicly supported programs through completion of his or her prescribed course of study or until the time that he or she has met proficiency standards prescribed.

(b) By June 30, 1991, early educational opportunities shall be available to all children between the ages of three and five years who require special education and services.

(c) Early educational opportunities shall be made available to children younger than three years of age pursuant to Chapter 4.4 (commencing with Section 56425), appropriate sections of this part, and the California Early Intervention Service Act, Title 14 (commencing with Section 95000) of the Government Code.

(d) Any child younger than three years, potentially eligible for special education, shall be afforded the protections provided pursuant to the California Early Intervention Services Act, Title 14 (commencing with Section 95000) of the Government Code and Section 1439 of Title 20 of the United States Code and implementing regulations.

(e) Each individual with exceptional needs shall have his or her educational goals, objectives, and special education and related services specified in a written individualized education program.

(f) Education programs are provided under an approved local plan for special education that sets forth the elements of the programs in accordance with this part. This plan for special education shall be developed cooperatively with input from the community advisory committee and appropriate representation from special and regular teachers and administrators selected by the groups they represent to ensure effective participation and communication.

(g) Individuals with exceptional needs are offered special assistance programs that promote maximum interaction with the general school population in a manner that is appropriate to the needs of both, taking into consideration, for hard-of-hearing or deaf children, the individual's needs for a sufficient number of age and language mode peers and for special education teachers who are proficient in the individual's primary language mode.

(h) Pupils are transferred out of special education programs when special education services are no longer needed.

(i) The unnecessary use of labels is avoided in providing special education and related services for individuals with exceptional needs.

(j) Procedures and materials for assessment and placement of individuals with exceptional needs shall be selected and administered so as not to be racially, culturally, or sexually discriminatory. No single assessment instrument shall be the sole criterion for determining placement of a pupil. The procedures and materials for assessment and placement shall be in the individual's mode of communication. Procedures and materials for use with pupils of limited English proficiency, as defined in subdivision (m) of Section 52163, shall be in the individual's primary language. All assessment materials and procedures shall be selected and administered pursuant to Section 56320.

(k) Educational programs are coordinated with other public and private agencies, including preschools, child development programs, nonpublic nonsectarian schools, regional occupational centers and programs, and postsecondary and adult programs for individuals with exceptional needs.

(l) Psychological and health services for individuals with exceptional needs shall be available to each schoolsite.

(m) Continuous evaluation of the effectiveness of these special education programs by the school district, special education local plan area, or county office shall be made to ensure the highest quality educational offerings.

(n) Appropriate qualified staff are employed, consistent with credentialing requirements, to fulfill the responsibilities of the local plan and positive efforts are made to employ qualified disabled individuals.

(o) Regular and special education personnel are adequately prepared to provide educational instruction and services to individuals with exceptional needs.

SEC. 47. Section 56100 of the Education Code is amended to read:

56100. The State Board of Education shall do all of the following:

(a) Adopt rules and regulations necessary for the efficient administration of this part.

(b) Adopt criteria and procedures for the review and approval by the board of local plans.

(c) Adopt size and scope standards for determining the efficacy of local plans submitted by special education local plan areas, pursuant to subdivision (a) of Section 56195.1.

(d) Provide review, upon petition, to any district, special education local plan area, or county office that appeals a decision



made by the department that affects its providing services under this part except a decision made pursuant to Chapter 5 (commencing with Section 56500).

(e) Review and approve a program evaluation plan for special education programs provided by this part in accordance with Chapter 6 (commencing with Section 56600). This plan may be approved for up to three years.

(f) Recommend to the Commission on Teacher Credentialing the adoption of standards for the certification of professional personnel for special education programs conducted pursuant to this part.

(g) Adopt regulations to provide specific procedural criteria and guidelines for the identification of pupils as individuals with exceptional needs.

(h) Adopt guidelines of reasonable pupil progress and achievement for individuals with exceptional needs. The guidelines shall be developed to aid teachers and parents or guardians in assessing an individual pupil's education program and the appropriateness of the special education services.

(i) In accordance with the requirements of federal law, adopt regulations for all educational programs for individuals with exceptional needs, including programs administered by other state or local agencies.

(j) Adopt uniform rules and regulations relating to parental due process rights in the area of special education.

(k) Adopt rules and regulations regarding the ownership and transfer of materials and equipment, including facilities, related to transfer of programs, reorganization, or restructuring of special education local plan areas.

SEC. 48. Section 56129 of the Education Code is amended to read:

56129. The superintendent shall maintain the state special schools and diagnostic centers in accordance with Part 32 (commencing with Section 59000) so that the services of those schools and centers are coordinated with the services of the district, special education local plan area, or the county office.

SEC. 49. Section 56130 of the Education Code is amended to read:

56130. The superintendent shall develop in accordance with Section 56602, a biennial performance report of special education programs authorized under this part for submission to the board.

SEC. 50. Section 56200 of the Education Code is amended to read:

56200. Each local plan submitted to the superintendent under this part shall contain all the following:

(a) Compliance assurances, including general compliance with the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Sec. 794), and this part.

(b) A description of services to be provided by each district and county office. This description shall demonstrate that all individuals with exceptional needs shall have access to services and instruction appropriate to meet their needs as specified in their individualized education programs.

(c) (1) A description of the governance and administration of the plan, including the role of county office and district governing board members.

(2) Multidistrict plans, submitted pursuant to subdivision (b) or (c) of Section 56195.1, shall specify the responsibilities of each participating county office and district governing board in the policymaking process, the responsibilities of the superintendents of each participating district and county in the implementation of the plan, and the responsibilities of district and county administrators of special education in coordinating the administration of the local

plan.

(d) Copies of joint powers agreements or contractual agreements, as appropriate, for districts and counties that elect to enter into those agreements pursuant to subdivision (b) or (c) of Section 56195.1.

(e) An annual budget plan to allocate state and federal funds in support of special education programs, services, and transportation services directly to entities operating those services and to allocate regionalized services funds to the county office, responsible local agency, or other alternative administrative structure. The annual budget plan shall be adopted at a public hearing held by the special education local plan area under the direction of the special education local plan area governance body. The special education local plan area governance body may designate a local educational agency board, a county office board, or the responsible local agency board to hold the hearing. Notice of this hearing shall be posted in each school in the local plan area at least 15 days prior to the hearing. The annual budget plan may be revised during the fiscal year, and these revisions may be submitted to the superintendent as amendments to the allocations set forth in the plan. However, the revisions shall, prior to submission to the superintendent, be approved according to the policymaking process, established pursuant to paragraph (2) of subdivision (c).

(f) Verification that the plan has been reviewed by the community advisory committee and that the committee had at least 30 days to conduct this review prior to submission of the plan to the superintendent.

(g) A description of the identification, referral, assessment, instructional planning, implementation, and review in compliance with Chapter 4 (commencing with Section 56300).

(h) A description of the process being utilized to meet the requirements of Section 56303.

(i) A description of the process being utilized to meet the requirements of the California Early Intervention Services Act, Title 14 (commencing with Section 95000) of the Government Code.

(j) A description of the process being utilized to oversee and evaluate placements in nonpublic, nonsectarian schools and the method for ensuring that all requirements of each pupil's individualized education program are being met. This description shall include a method for evaluating whether the pupil is making appropriate educational progress.

SEC. 51. Section 56205 of the Education Code is amended to read:

56205. (a) Each special education local plan area submitting a local plan to the superintendent under this part shall assure, in conformity with subsection (a) of Section 1412 of, and paragraph (1) of subsection (a) of Section 1413 of, Title 20 of the United States Code, that it has in effect policies, procedures, and programs that are consistent with state laws, regulations, and policies governing the following:

- (1) Free appropriate public education.
- (2) Full educational opportunity.
- (3) Child find and referral.
- (4) Individualized education programs, including development, implementation, review, and revision.
- (5) Least restrictive environment.
- (6) Procedural safeguards.
- (7) Annual and triennial assessments.
- (8) Confidentiality.
- (9) Transition from Subchapter III (commencing with Section 1431) of Title 20 of the United States Code to the preschool program.

(10) Children in private schools.

(11) Compliance assurances, including general compliance with the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Sec. 794), the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), federal regulations relating thereto, and this part.

(12) (A) A description of the governance and administration of the plan, including identification of the governing body of a multidistrict plan or the individual responsible for administration in a single district plan, and of the elected officials to whom the governing body or individual is responsible.

(B) A description of the regionalized operations and services listed in Section 56836.23 and the direct instructional support provided by program specialists in accordance with Section 56368 to be provided through the plan.

(C) Verification that a community advisory committee has been established pursuant to Section 56190.

(D) Multidistrict plans, submitted pursuant to subdivision (b) or (c) of Section 56195.1, shall do the following:

(i) Specify the responsibilities of each participating county office and district governing board in the policymaking process, the responsibilities of the superintendents of each participating district and county in the implementation of the plan, and the responsibilities of district and county administrators of special education in coordinating the administration of the local plan.

(ii) Identify the respective roles of the administrative unit and the administrator of the special education local plan area and the individual local education agencies within the special education local plan area in relation to the following:

(I) The hiring, supervision, evaluation, and discipline of the administrator of the special education local plan area and staff employed by the administrative unit in support of the local plan.

(II) The allocation from the state of federal and state funds to the special education local plan area administrative unit or to local education agencies within the special education local plan area.

(III) The operation of special education programs.

(IV) Monitoring the appropriate use of federal, state, and local funds allocated for special education programs.

(V) The preparation of program and fiscal reports required of the special education local plan area by the state.

(iii) Include copies of joint powers agreements or contractual agreements, as appropriate, for districts and counties that elect to enter into those agreements pursuant to subdivision (b) or (c) of Section 56195.1.

(E) The description of the governance and administration of the plan, and the policymaking process, shall be consistent with subdivision (f) of Section 56001, subdivision (a) of Section 56195.3, and Section 56195.9, and shall reflect a schedule of regular consultations regarding policy and budget development with representatives of special education and regular education teachers and administrators selected by the groups they represent and parent members of the community advisory committee established pursuant to Article 7 (commencing with Section 56190) of Chapter 2.

(13) Comprehensive system of personnel development.

(14) Personnel standards, including standards for training and supervision of paraprofessionals.

(15) Performance goals and indicators.

(16) Participation in state and districtwide assessments, and reports relating to assessments.

(17) Supplementation of state, local, and other federal funds, including nonsupplantation of funds.

(18) Maintenance of financial effort.

(19) Opportunities for public participation prior to adoption of policies and procedures.

(20) Suspension and expulsion rates.

(b) Each local plan submitted to the superintendent under this part shall also contain all the following:

(1) An annual budget plan that shall be adopted at a public hearing held by the special education local plan area. Notice of this hearing shall be posted in each school in the local plan area at least 15 days prior to the hearing. The annual budget plan may be revised during any fiscal year according to the policymaking process established pursuant to subparagraph (D) and (E) of paragraph (12) of subdivision (a) and consistent with subdivision (f) of Section 56001 and Section 56195.9. The annual budget plan shall identify expected expenditures for all items required by this part which shall include, but not be limited to, the following:

(A) Funds received in accordance with Chapter 7.2 (commencing with Section 56836).

(B) Administrative costs of the plan.

(C) Special education services to pupils with severe disabilities and low incidence disabilities.

(D) Special education services to pupils with nonsevere disabilities.

(E) Supplemental aids and services to meet the individual needs of pupils placed in regular education classrooms and environments.

(F) Regionalized operations and services, and direct instructional support by program specialists in accordance with Article 6 (commencing with Section 56836.23) of Chapter 7.2.

(G) The use of property taxes allocated to the special education local plan area pursuant to Section 2572.

(2) An annual service plan shall be adopted at a public hearing held by the special education local plan area. Notice of this hearing shall be posted in each school district in the special education local plan area at least 15 days prior to the hearing. The annual service plan may be revised during any fiscal year according to the policymaking process established pursuant to subparagraphs (D) and (E) of paragraph (12) of subdivision (a) and consistent with subdivision (f) of Section 56001 and with Section 56195.9. The annual service plan shall include a description of services to be provided by each district and county office, including the nature of the services and the physical location at which the services will be provided, including alternative schools, charter schools, opportunity schools and classes, community day schools operated by school districts, community schools operated by county offices of education, and juvenile court schools, regardless of whether the district or county office of education is participating in the local plan. This description shall demonstrate that all individuals with exceptional needs shall have access to services and instruction appropriate to meet their needs as specified in their individualized education programs.

(3) A description of programs for early childhood special education from birth through five years of age.

(4) A description of the method by which members of the public, including parents or guardians of individuals with exceptional needs who are receiving services under the plan, may address questions or concerns to the governing body or individual identified in subparagraph (A) of paragraph (12) of subdivision (a).

(5) A description of a dispute resolution process, including

mediation and final and binding arbitration to resolve disputes over the distribution of funding, the responsibility for service provision, and the other governance activities specified within the plan.

(6) Verification that the plan has been reviewed by the community advisory committee and that the committee had at least 30 days to conduct this review prior to submission of the plan to the superintendent.

(7) A description of the process being utilized to meet the requirements of Section 56303.

(c) A description of the process being utilized to oversee and evaluate placements in nonpublic, nonsectarian schools and the method of ensuring that all requirements of each pupil's individualized education program are being met. The description shall include a method for evaluating whether the pupil is making appropriate educational progress.

(d) The local plan, budget plan, and annual service plan shall be written in language that is understandable to the general public.

SEC. 52. Section 56345 of the Education Code is amended to read:

56345. (a) The individualized education program is a written statement determined in a meeting of the individualized education program team and shall include, but not be limited to, all of the following:

(1) The present levels of the pupil's educational performance, including the following:

(A) For a schoolage child, how the pupil's disability affects the pupil's involvement and progress in the general curriculum.

(B) For a preschoolage child, as appropriate, how the disability affects the child's participation in appropriate activities.

(2) The measurable annual goals, including benchmarks or short-term objectives related to the following:

(A) Meeting the pupil's needs that result from the pupil's disability to enable the pupil to be involved in and progress in the general curriculum.

(B) Meeting each of the pupil's other educational needs that result from the pupil's disability.

(3) The specific special educational instruction and related services and supplementary aids and services to be provided to the pupil, or on behalf of the pupil, and a statement of the program modifications or supports for school personnel that will be provided for the pupil in order to do the following:

(A) To advance appropriately toward attaining the annual goals.

(B) To be involved and progress in the general curriculum in accordance with subparagraph (A) of paragraph (1) and to participate in extracurricular and other nonacademic activities.

(C) To be educated and participate with other pupils with disabilities and nondisabled pupils in the activities described in this section.

(4) An explanation of the extent, if any, to which the pupil will not participate with nondisabled pupils in regular classes and in the activities described in paragraph (3).

(5) The individual modifications in the administration of state or districtwide assessments of pupil achievement that are needed in order for the pupil to participate in the assessment. If the individualized education program team determines that the pupil will not participate in a particular state or districtwide assessment of pupil achievement (or part of an assessment), a statement of the following:

(A) Why that assessment is not appropriate for the pupil.

(B) How the pupil will be assessed.

(6) The projected date for the beginning of the services and modifications described in paragraph (3), and the anticipated frequency, location, and duration of those services and modifications included in the individualized education program.

(7) Appropriate objective criteria, evaluation procedures, and schedules for determining, on at least an annual basis, whether the annual goals are being achieved.

(8) Beginning at least one year before the pupil reaches the age of 18, a statement shall be included in the individualized education program that the pupil has been informed of his or her rights under this part, if any, that will transfer to the pupil upon reaching the age of 18 pursuant to Section 56041.5.

(9) A statement of how the pupil's progress toward the annual goals described in paragraph (2) will be measured.

(10) A statement of how the pupil's parents or guardians will be regularly informed, at least as often as parents or guardians are informed of their nondisabled pupil's progress in the following:

(A) The pupil's progress toward the annual goals described in paragraph (2).

(B) The extent to which that progress is sufficient to enable the pupil to achieve the goals by the end of the year.

(b) When appropriate, the individualized education program shall also include, but not be limited to, all of the following:

(1) For pupils in grades 7 to 12, inclusive, any alternative means and modes necessary for the pupil to complete the district's prescribed course of study and to meet or exceed proficiency standards for graduation.

(2) For individuals whose primary language is other than English, linguistically appropriate goals, objectives, programs and services.

(3) Extended school year services when needed, as determined by the individualized education program team.

(4) Provision for the transition into the regular class program if the pupil is to be transferred from a special class or nonpublic, nonsectarian school into a regular class in a public school for any part of the schoolday, including the following:

(A) A description of activities provided to integrate the pupil into the regular education program. The description shall indicate the nature of each activity, and the time spent on the activity each day or week.

(B) A description of the activities provided to support the transition of pupils from the special education program into the regular education program.

(5) For pupils with low-incidence disabilities, specialized services, materials, and equipment, consistent with guidelines established pursuant to Section 56136.

(c) It is the intent of the Legislature in requiring individualized education programs that the district, special education local plan area, or county office is responsible for providing the services delineated in the individualized education program. However, the Legislature recognizes that some pupils may not meet or exceed the growth projected in the annual goals and objectives of the pupil's individualized education program.

(d) Consistent with Section 56000.5 and clause (iv) of subparagraph (B) of paragraph (3) of subsection (d) of Section 1414 of Title 20 of the United States Code, it is the intent of the Legislature that, in making a determination of what constitutes an appropriate education to meet the unique needs of a deaf or hard-of-hearing pupil in the least restrictive environment, the individualized education program team shall consider the related

services and program options that provide the pupil with an equal opportunity for communication access. The individualized education program team shall specifically discuss the communication needs of the pupil, consistent with the guidelines adopted pursuant to Section 56136 and Page 49274 of Volume 57 of the Federal Register, including all of the following:

- (1) The pupil's primary language mode and language, which may include the use of spoken language with or without visual cues, or the use of sign language, or a combination of both.
- (2) The availability of a sufficient number of age, cognitive, and language peers of similar abilities which may be met by consolidating services into a local plan areawide program or providing placement pursuant to Section 56361.
- (3) Appropriate, direct, and ongoing language access to special education teachers and other specialists who are proficient in the pupil's primary language mode and language consistent with existing law regarding teacher training requirements.

(4) Services necessary to ensure communication-accessible academic instructions, school services, and extracurricular activities consistent with the Vocational Rehabilitation Act of 1973 as set forth in Section 794 of Title 29 of the United States Code and the Americans with Disabilities Act of 1990 as set forth in Section 12000, and following, of Title 42 of the United States Code.

(e) No General Fund money made available to school districts or local agencies may be used for any additional responsibilities and services associated with paragraphs (1) and (2) of subdivision (e), including the training of special education teachers and other specialists, even if those additional responsibilities or services are required pursuant to a judicial or state agency determination. Those responsibilities and services shall only be funded by a local educational agency as follows:

- (1) The costs of those activities shall be funded from existing programs and funding sources.
- (2) Those activities shall be supported by the resources otherwise made available to those programs.
- (3) Those activities shall be consistent with the provisions of Sections 56240 to 56243, inclusive.

(f) It is the intent of the Legislature that the communication skills of teachers who work with hard-of-hearing and deaf children be improved; however, nothing in this section shall be construed to remove the local educational agency's discretionary authority in regard to in-service activities.

SEC. 53. Section 56361 of the Education Code is amended to read:

56361. The continuum of program options shall include, but not necessarily be limited to, all of the following or any combination of the following:

(a) Regular education programs consistent with subparagraph (A) of paragraph (5) of subsection (a) of Section 1412 of Title 20 of the United States Code and implementing regulations.

(b) A resource specialist program pursuant to Section 56362.

(c) Designated instruction and services pursuant to Section 56363.

(d) Special classes pursuant to Section 56364 or Section 56364.2, as applicable.

(e) Nonpublic, nonsectarian school services pursuant to Section 56365.

(f) State special schools pursuant to Section 56367.

(g) Instruction in settings other than classrooms where specially designed instruction may occur.

(h) Itinerant instruction in classrooms, resource rooms, and

settings other than classrooms where specially designed instruction may occur to the extent required by federal law or regulation.

(i) Instruction using telecommunication, and instruction in the home, in hospitals, and in other institutions to the extent required by federal law or regulation.

SEC. 54. Section 56392 of the Education Code is amended to read:

56392. It is not the intent of the Legislature by enacting this chapter to eliminate the opportunity for an individual with exceptional needs to earn a standard diploma issued by a local or state educational agency when the pupil has completed the prescribed course of study and has passed the proficiency requirements with or without differential standards.

SEC. 55. Section 56393 of the Education Code is repealed.

SEC. 56. Section 56441.1 of the Education Code is amended to read:

56441.1. (a) Services rendered by state and local agencies serving preschool children with exceptional needs and their families shall be provided in coordination with other state and local agencies. Educational agencies offering similar educational services shall coordinate and not duplicate these services. The Superintendent of Public Instruction shall identify similar services by other state and local agencies.

(b) As the preschool child approaches the age to enter an elementary school environment, the child's preparation shall be geared toward a readiness for kindergarten and later school success.

SEC. 57. Section 56473 of the Education Code is amended to read:

56473. Project workability shall be funded pursuant to Item 6100-161-0001 and Item 6100-161-0890 of Section 2.00 of the annual Budget Act.

SEC. 58. Section 56836.155 of the Education Code is amended to read:

56836.155. (a) On or before November 2, 1998, the department, in conjunction with the Office of the Legislative Analyst, shall do the following:

(1) Calculate an "incidence multiplier" for each special education local plan area using the definition, methodology, and data provided in the final report submitted by the American Institutes for Research pursuant to Section 67 of Chapter 854 of the Statutes of 1997.

(2) Submit the incidence multiplier for each special education local plan area and supporting data to the Department of Finance.

(b) The Department of Finance shall review the incidence multiplier for each special education local plan area and the supporting data, and report any errors to the department and the Office of the Legislative Analyst for correction.

(c) The Department of Finance shall approve the final incidence multiplier for each special education local plan area by November 23, 1998.

(d) For the 1998-99 fiscal year and each fiscal year thereafter to and including the 2002-03 fiscal year, the superintendent shall perform the following calculation to determine each special education local plan area's adjusted entitlement for the incidence of disabilities:

(1) The incidence multiplier for the special education local plan area shall be multiplied by the statewide target amount per unit of average daily attendance for special education local plan areas determined pursuant to Section 56836.11 for the fiscal year in which the computation is made.



(2) The amount determined pursuant to paragraph (1) shall be added to the statewide target amount per unit of average daily attendance for special education local plan area determined pursuant to Section 56836.11 for the fiscal year in which the computation is made.

(3) Subtract the amount of funding for the special education local plan area determined pursuant to paragraph (1) of subdivision (a) or paragraph (1) of subdivision (b) of Section 56836.08, as appropriate for the fiscal year in which the computation is made, or the statewide target amount per unit of average daily attendance for special education local plan areas determined pursuant to Section 56836.11 for the fiscal year in which the computation is made, whichever is greater, from the amount determined pursuant to paragraph (2). For the purposes of this paragraph for the 2001-02 and **2002-03** fiscal years, the amount, if any, received pursuant to Section 56836.159 shall be excluded from the funding level per unit of average daily attendance for a special education local plan area. If the result is less than zero, then the special education local plan area shall not receive an adjusted entitlement for the incidence of disabilities.

(4) Multiply the amount determined in paragraph (3) by either the average daily attendance reported for the special education local plan area for the fiscal year in which the computation is made, as adjusted pursuant to subdivision (a) of Section 56836.15, or the average daily attendance reported for the special education local plan area for the prior fiscal year, as adjusted pursuant to subdivision (a) of Section 56826.15, whichever is less.

(5) If there are insufficient funds appropriated in the fiscal year for which the computation is made for the purposes of this section, the amount received by each special education local plan area shall be prorated.

(e) For the 1997-98 fiscal year, the superintendent shall perform the calculation in paragraphs (1) to (3), inclusive, of paragraph (d) only for the purposes of making the computation in paragraph (1) of subdivision (d) of Section 56836.08, but the special education local plan area shall not receive an adjusted entitlement for the incidence of disabilities pursuant to this section for the 1997-98 fiscal year.

(f) On or before March 1, 2003, the Office of the Legislative Analyst, in conjunction with the Department of Finance and the department, shall submit to the Legislature a new study of the incidence multiplier, with recommendations as to the necessity of continuing to adjust the funding formula contained in this chapter for the purposes of this section to the extent that funding is provided for this purpose. The Office of the Legislative Analyst may contract for this study. It is the intent of the Legislature to provide funding for this study in the Budget Act of **2002**.

SEC. 59. Section 56836.23 of the Education Code is amended to read:

56836.23. Funds for regionalized operations and services and the direct instructional support of program specialists shall be apportioned to the special education local plan areas. As a condition to receiving those funds, the special education local plan area shall ensure that all functions listed below are performed in accordance with the description set forth in its local plan adopted pursuant to Section 56205:

(a) Coordination of the special education local plan area and the implementation of the local plan.

(b) Coordinated system of identification and assessment.

(c) Coordinated system of procedural safeguards.

(d) Coordinated system of staff development and parent and

guardian education.

(e) Coordinated system of curriculum development and alignment with the core curriculum.

(f) Coordinated system of internal program review, evaluation of the effectiveness of the local plan, and implementation of a local plan accountability mechanism.

(g) Coordinated system of data collection and management.

(h) Coordination of interagency agreements.

(i) Coordination of services to medical facilities.

(j) Coordination of services to licensed children's institutions and foster family homes.

(k) Preparation and transmission of required special education local plan area reports.

(l) Fiscal and logistical support of the community advisory committee.

(m) Coordination of transportation services for individuals with exceptional needs.

(n) Coordination of career and vocational education and transition services.

(o) Assurance of full educational opportunity.

(p) Fiscal administration and the allocation of state and federal funds pursuant to Section 56836.01.

(q) Direct instructional program support that may be provided by program specialists in accordance with Section 56368.

SEC. 60. Section 59201 of the Education Code is amended to read:

59201. The diagnostic centers are a part of the public school system of the state, except that they derive no revenue from the State School Fund. The diagnostic centers provide services, including pupil assessment, consultation, technical assistance, and training, to school districts, county offices of education, and special education local plan areas.

SEC. 61. Section 59203 of the Education Code is amended to read:

59203. The Superintendent of Public Instruction, in relation to the diagnostic centers, shall do all of the following:

(a) Prescribe rules for the government of the centers.

(b) Appoint the directors of the centers and other officers and employees.

(c) Remove for cause any officer, teacher, or employee.

SEC. 62. Section 59204 of the Education Code is repealed.

SEC. 63. Section 59204.5 of the Education Code is amended to read:

59204.5. The Superintendent of Public Instruction, in connection with the diagnostic centers and in cooperation with public and private agencies, may:

(a) Conduct projects designed to meet needs of those categories of disabled children selected by the Superintendent of Public Instruction.

(b) Serve as a demonstration program to promote personnel development through in-service education, internships, and professional observations for education personnel, in cooperation with institutions of higher education and local education agencies.

SEC. 64. Section 59210 of the Education Code is amended to read:

59210. The powers and duties of the directors of the diagnostic centers are such as are assigned by the Superintendent of Public Instruction.

SEC. 65. Section 59211 of the Education Code is repealed.

SEC. 66. Section 59220 of the Education Code is repealed.

SEC. 67. Section 59220 is added to the Education Code, to read:

59220. Pupils residing within California shall be accepted by a

diagnostic center pursuant to criteria adopted by the Superintendent of Public Instruction.

SEC. 68. Section 59223 of the Education Code is repealed.

SEC. 69. Section 60451 of the Education Code is amended to read:

60451. Each school district shall expend funds received pursuant to this chapter for the sole purpose of purchasing instructional materials in the core curriculum that are aligned to content standards for pupils in kindergarten and grades 1 to 12, inclusive, that meet all of the following requirements:

(a) The instructional materials are aligned with content standards adopted by the State Board of Education in 1997 or 1998.

(b) The instructional materials for pupils in kindergarten and grades 1 to 8, inclusive, have been adopted by the State Board of Education pursuant to Chapter 2 (commencing with Section 60200) of Part 33, using criteria aligned to the adopted content standards.

(c) The instructional materials for pupils in grades 9 to 12, inclusive, are basic instructional materials, as defined in subdivision (a) of Section 60010, that have been reviewed and approved, through a resolution adopted by the local governing board, as being aligned with the content standards adopted by the State Board of Education in 1997 or 1998.

(d) Prior to purchase, publishers shall be required to submit grade level content standards maps to local districts so that the districts can determine the extent to which instructional materials or combination of instructional materials for pupils in grades 9 to 12, inclusive, are aligned to the content standards adopted by the State Board of Education. The standards maps shall be filled out and distributed free of charge by the publisher using standards maps developed by the State Department of Education and approved by the State Board of Education by July 1, 2003.

SEC. 70. Section 60642.5 of the Education Code is amended to read:

60642.5. (a) The Superintendent of Public Instruction, with approval of the State Board of Education, shall provide for the development of an assessment instrument, to be called the California Standards Tests, that measures the degree to which pupils are achieving the academically rigorous content standards and performance standards, to the extent standards have been adopted by the State Board of Education. This standards-based achievement test shall contain the subject areas specified in subdivision (c) of Section 60603 for grades 2 to 8, inclusive, and shall include an assessment in history/social science in at least one elementary or middle school grade level selected by the State Board of Education and science in at least one elementary or middle school grade level selected by the State Board of Education, and the core curriculum areas specified in subdivision (e) of Section 60603 for grades 9 to 11, inclusive, except that history-social science shall not be included in the grade 9 assessment unless the State Board of Education adopts academic content standards for a grade 9 history-social science course, and shall include, at a minimum, a direct writing assessment once in elementary school and once in middle or junior high school and other items of applied academic skill if deemed valid and reliable and if resources are made available for their use.

(b) In approving a contract for the development or administration of the California Standards Tests, the State Board of Education shall consider each of the following criteria:

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

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

(3) The ability of the contractor to ensure alignment between the standards-based achievement test and the academically rigorous content and performance standards as those standards are adopted by the State Board of Education. This criterion shall include the ability of the contractor to implement a process to establish and maintain alignment between the test items and the standards.

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

(5) The contractor's procedures to ensuring the security and integrity of test questions and materials.

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

(c) The standards-based achievement tests may use items from other tests including items from the achievement test designated pursuant to Section 60642.

SEC. 71. Section 60453 of the Education Code is amended to read:

60453. Because funds appropriated in the 2001-02 fiscal year for purposes of this chapter remain available for expenditure through the **2002-03** fiscal year pursuant to subdivision (f) of Section 60450.1, this chapter shall become inoperative on June 30, 2003, and as of January 1, 2004, is repealed, unless a later enacted statute, which is enacted before January 1, 2004, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 72. Section 3540.2 of the Government Code is amended to read:

3540.2. (a) A school district that has a qualified or negative certification pursuant to Section 42131 of the Education Code shall allow the county office of education in which the school district is located at least six working days to review and comment on any proposed agreement made between the exclusive representative and the public school employer, or designated representatives of the employer, pursuant to this chapter. The school district shall provide the county superintendent of schools with all information relevant to yield an understanding of the financial impact of that agreement.

(b) The Superintendent of Public Instruction shall develop a format for use by the appropriate parties in generating the financial information required pursuant to subdivision (a).

(c) The county superintendent of schools shall notify the school district publicly within those six days if, in his or her opinion, the agreement reviewed pursuant to subdivision (a) would endanger the fiscal well-being of the school district.

(d) A school district shall provide the county superintendent of schools, upon request, with all information relevant to provide an understanding of the financial impact of any final collective bargaining agreement reached pursuant to Section 3543.2.

(e) A county office of education, or a school district for which the county board of education serves as the governing board, that has a qualified or negative certification pursuant to Section 1240 of the Education Code shall allow the Superintendent of Public Instruction at least six working days to review and comment on any proposed agreement made between the exclusive representative and the public school employer, or designated representatives of the employer, pursuant to this chapter. The county superintendent of schools shall provide the Superintendent of Public Instruction with all information relevant to yield an understanding of the financial

impact of that agreement. The Superintendent of Public Instruction shall notify the county superintendent of schools publicly within those six days if, in his or her opinion, the proposed agreement would endanger the fiscal well-being of the county office.

SEC. 73. The heading of Chapter 26.5 (commencing with Section 7570) of the Government Code is amended to read:

CHAPTER 26.5. INTERAGENCY RESPONSIBILITIES FOR PROVIDING SERVICES TO CHILDREN WITH DISABILITIES

SEC. 74. Section 12.40 of Chapter 106 of the Statutes of 2001 is amended to read:

Sec. 12.40. (a) Notwithstanding any other provision of law, not more than 20 percent of the amount apportioned to any school district, county office of education, or other educational agency under the programs funded in this act that were funded in Item 6110-230-0001 of Section 2.00 of SB 160 of the 1999-2000 Regular Session, as introduced on January 8, 1999, may be expended by that recipient for the purposes of any other program for which the recipient is eligible for funding under those items, except that the total amount of funding allocated to the recipient under this item that is expended by the recipient for the purposes of any of those programs shall not exceed 125 percent of the amount of state funding allocated pursuant to the appropriations to that recipient for those programs in this act for the 2001-02 fiscal year. Notwithstanding any other provision of law, for the 2001-02 fiscal year, local education agencies may also use this authority to provide the funds necessary to initiate a conflict resolution program pursuant to Chapter 2.5 (commencing with Section 32260) of Part 19 of the Education Code, and to continue to support following the three-to-five year state grant period, or to expand, a Healthy Start program pursuant to Chapter 5 (commencing with Section 8800) of Part 6 of the Education Code.

(b) The education programs that are eligible for the flexibility provided in subdivision (a) include the following items: Items 6110-108-0001, 6110-111-0001, 6110-132-0001, 6110-116-0001, 6110-119-0001, 6110-120-0001, 6110-122-0001, 6110-124-0001, 6110-126-0001, 6110-127-0001, 6110-128-0001, 6110-131-0001, 6110-146-0001, 6110-151-0001, 6110-163-0001, 6110-167-0001, 6110-180-0001, 6110-181-0001, 6110-193-0001, 6110-197-0001, 6110-203-0001, 6110-224-0001, and 6110-209-0001, of this act.

(c) As a condition of receiving the funds provided for the programs identified in subdivision (b), local education agencies shall report to the State Department of Education by October 15, 2002, on any amounts shifted between these programs pursuant to the flexibility provided in subdivision (a).

SEC. 75. Section 62 of Chapter 78 of the Statutes of 1999, as amended by Chapter 76 of the Statutes of 2000, is amended to read:

Sec. 62. Notwithstanding any other provision of law, for the purposes of Sections 14002, 14004, and 41301 of the Education Code for the 2000-01 fiscal year, the Superintendent of Public Instruction shall certify to the Controller amounts that do not exceed the amounts needed to fund the revenue limits of school districts, as determined pursuant to Section 42238 of the Education Code, and the revenue limits of county superintendents of schools as determined pursuant to Section 2558 of the Education Code, and the revenue limit portion of charter school operational funding as determined pursuant to Section 47633 of the Education Code.

SEC. 76. The Legislature finds and declares that this act furthers the purposes of the Classroom Instructional Improvement and

Accountability Act.

SEC. 77. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

SEC. 78. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that the educational programs affected by this act are properly implemented, pursuant to the clarifying, technical, and other changes made by this act, it is necessary that this act take effect immediately.

BILL NUMBER: AB 265      CHAPTERED 10/16/95

CHAPTER      **975**  
 FILED WITH SECRETARY OF STATE      OCTOBER 16, **1995**  
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 AMENDED IN ASSEMBLY      MAY 26, **1995**  
 AMENDED IN ASSEMBLY      APRIL 26, **1995**  
 AMENDED IN ASSEMBLY      MARCH 23, **1995**

INTRODUCED BY      Assembly Member Alpert  
 (Coauthors:      Assembly Members Caldera, Davis, Kuehl, Lee, and  
 Mazzoni)  
 (Coauthor:      Senator Watson)

FEBRUARY 6, **1995**

An act to add Chapter 6 (commencing with Section 60800) to, and to add and repeal Chapter 5 (commencing with Section 60600) of, Part 33 of the Education Code, and to amend Section 11126 of the Government Code, relating to pupil testing, and making an appropriation therefor.

#### LEGISLATIVE COUNSEL'S DIGEST

AB 265, Alpert.      California Assessment Academic Achievement Act.

(1) Under existing law, there is no statewide pupil assessment program for public schools.

This bill would enact the California Assessment of Academic Achievement Act, which would be repealed on January 1, 2000. The bill would make a statement of legislative intent and of legislative findings and declarations regarding that assessment act.

This bill would require the Superintendent of Public Instruction to design and implement a statewide pupil assessment program, defined as the systematic achievement testing of pupils in kindergarten and grades 1 to 12, inclusive, pursuant to a pupil testing incentive program established pursuant to the act, and a system of assessments of applied academic skills administered to pupils in grades 4, 5, 8, and 10. The program would be required, beginning in the 1995-96 school year, to contain certain elements, including the review and approval of achievement tests for use as part of the program and the contracting with a publisher for the development of assessments of applied academic skills. The program would be required to include the involvement of parents, classroom teachers, other educators, and the public in all phases of the design and implementation, including the development of assessment instruments.

This bill would require the Superintendent of Public Instruction to immediately begin reviewing achievement tests for school district use to determine their acceptability for use in the pupil testing incentive program and, based upon that review, to recommend that the State Board of Education approve any test for use by school districts that meets specified criteria.

This bill would require the State Board of Education to do, among other things, all of the following: (1) not later than January 1, 1998, adopt statewide academically rigorous content standards and performance standards pursuant to specified recommendations in core curriculum areas; (2) require the State Department of Education to submit and recommend to the State Board of Education for approval available tests of achievement that include identified basic academic skills in kindergarten and grades 1 to 12, inclusive; (3) award contracts to develop instruments, and adopt tests, that yield valid, reliable estimates of school performance, school district performance, and statewide pupil performance that assess basic academic skills, and incorporate direct writing assessment and other assessments of applied academic skills; and (4) require that each district administer a statewide test to all pupils in grades 4, 5, 8, and 10.

This bill would establish the Statewide Pupil Assessment Panel, consisting of 6 members to be appointed as specified, to review tests or assessments for a specified purpose and to report its findings and recommendations to the State Board of Education within a specific timeframe.

This bill would authorize pupils or their parents or guardians to request and receive individual pupil assessment results from the assessments of applied academic skills, as specified. It would also require districtwide and school-level results of performance-based assessments to be reported to the governing board of the district at least once a year.

Under the provisions of the bill pertaining to the pupil testing incentive program, commencing with the 1995-96 fiscal year, school districts that certify to the Superintendent of Public Instruction that they will administer achievement tests to all of their pupils in grades 2 to 10, inclusive, or in as many of those grades served by the school districts, would be apportioned a specified amount per pupil tested in grades 2 to 10, inclusive. In addition, in order to receive this amount per pupil, the school districts would be required to certify that they will comply with specified conditions.

The bill would require school officials to grant a parent's or guardian's written request that the parent's or guardian's child be excused from any assessment administered pursuant to this act.

This bill would require each school district maintaining any of grades 5, 7, and 9 to administer a physical performance test, as specified.

(2) Under existing law, there does not exist a panel or commission to set statewide academic performance standards.

This bill would establish the Commission for the Establishment of Academic Content and Performance Standards, which would consist of 21 members, as specified. The commission would be required to develop academically rigorous content standards and performance standards, after public hearings, to be used in public schools maintaining kindergarten and grades 1 to 12, inclusive. On or before July 1, 1997, the commission would be required to have developed and submitted the academically rigorous content standards and performance standards for all core curriculum areas and for all grade levels to the State Board of Education for approval by the board. The provisions relating to the commission would be repealed on January 1, 1998.

(3) Existing law requires that all meetings of a state body to be open and public, except as specified.

This bill would specify that existing law does not prevent the State Board of Education or any committee advising the State Board of Education from holding closed sessions when it reviews and discusses



the actual test content of assessment instruments. The bill would also authorize the governing board of a school district to meet in closed session to review the actual contents of any approved or adopted assessment, as specified, and would authorize any Member of the Legislature and any member of the governing board of a school district to review any assessment approved or adopted by the State Board of Education, as specified.

(4) The bill would require the State Board of Education to hold a regional public hearing throughout the state for the purpose of determining the degree of rigorous, academic focus within each curriculum area.

(5) This bill would appropriate \$11,000,000 from the General Fund to the Superintendent of Public Instruction for the 1995-96 fiscal year for allocation as follows: (a) \$4,500,000 to school districts for purposes of the pupil testing incentive program established by this act and (b) \$6,500,000 to local education agencies for the purposes of implementing the statewide pupil assessment system established by this act, as specified.

This bill would provide that any funds appropriated by this provision, but not expended during the 1995-96 fiscal year, be available for expenditure in the 1996-97 fiscal year and would state the intent of the Legislature that the Budget Act of 1996 be adjusted to reflect the existence of carry-over funds.

(6) The bill would state that the Legislature finds and declares that \$15,000,000 appropriated by Section 53 of Chapter 308 of the Statutes of 1995 shall also be available for the purpose of funding the incentive program established by this act for the 1995-96 fiscal year pursuant to the provisions of that section.

(7) Because this bill would impose new duties on school districts, it would constitute a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory statewide costs exceed \$1,000,000.

This bill would provide that no reimbursement shall be made from the State Mandates Claims Fund for costs mandated by the state pursuant to this act, but would recognize that local agencies and school districts may pursue any available remedies to seek reimbursement for these costs.

Appropriation: yes.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Chapter 5 (commencing with Section 60600) is added to Part 33 of the Education Code, to read:

CHAPTER 5. CALIFORNIA ASSESSMENT OF ACADEMIC ACHIEVEMENT  
Article 1. General Provisions

60600. This chapter shall be known and may be cited as the Leroy Greene California Assessment of Academic Achievement Act.

60601. This chapter shall remain in effect only until January 1, 2000, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2000, deletes or extends that date.

60602. (a) It is the intent of the Legislature in enacting this chapter to provide a system of individual assessment of pupils that has, as its primary purpose, assisting pupils, their parents, and teachers to identify individual academic strengths and weaknesses, in

order to improve teaching and learning. It is further the intent of the Legislature in enacting this chapter to determine the effectiveness of school districts and schools, as measured by the extent to which pupils demonstrate knowledge of the fundamental academic skills, as well as the ability to apply those skills. In order to accomplish these goals, the Legislature finds and declares that California should adopt a coordinated and consolidated testing program to do all of the following:

(1) First and foremost, provide information on the academic status and progress of individual pupils to those pupils, their parents, and their teachers. This information should be designed to assist in the improvement of teaching and learning in California public classrooms. The Legislature recognizes that, in addition to statewide assessments that will occur as specified in this chapter, school districts will conduct additional ongoing pupil assessment and provide information regarding pupil performance based on those assessments on a regular basis to parents or guardians and schools.

(2) Develop and adopt a set of statewide academically rigorous content standards and performance standards in all major subject areas to serve as the basis for assessing the academic achievement of individual pupils, as well as for schools, school districts, and for the California education system as a whole. The performance standards shall be designed to lead to specific grade level benchmarks of academic achievement for each subject area tested within each grade level and shall be based on the knowledge and skills that pupils will need in order to succeed in the information-based, global economy of the 21st century.

(3) Ensure that all assessment procedures, items, instruments, and scoring systems are independently reviewed to ensure that they meet high standards of statistical reliability and validity and that they do not use procedures, items, instruments, or scoring practices that are racially, culturally, or gender biased.

(4) Provide information to pupils, parents or guardians, teachers, schools, and school districts on a timely basis so that the information can be used to further the development of the pupil and to improve the educational program.

(5) Develop assessments that are comparable to the National Assessment of Educational Progress and other national and international assessment efforts, so that California's local and state test results are reported in a manner that corresponds to the national test results. Test results should be reported in terms describing a pupil's academic performance in relation to the statewide academically rigorous content and performance standards adopted by the State Board of Education and in terms of employment skills possessed by the pupil, in addition to being reported as numerical or percentile scores.

(6) Assess pupils for a broad range of academic skills and knowledge including both basic academic skills and the ability of pupils to apply those skills.

(7) Include an appropriate balance of types of assessment instruments, including, but not limited to, multiple choice questions, short answer questions, and assessments of applied academic skills.

(8) Minimize the amount of instructional time devoted to assessments administered pursuant to this chapter.

(b) It is the intent of the Legislature, pursuant to this article, to begin a planning and implementation process to enable the Superintendent of Public Instruction to accomplish the goals set forth in this section as soon as feasible.

(c) It is further the intent of the Legislature that parents,

classroom teachers, other educators, governing board members of school districts, and the public be involved, in an active and ongoing basis, in the design and implementation of the statewide pupil assessment program and the development of assessment instruments.

60603. As used in this chapter:

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

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

(c) "Basic academic skills" means those skills in subject areas, including, but not limited to, reading, spelling, written expression, and mathematics that provide the necessary foundation for mastery of more complex intellectual abilities, including the synthesis and application of knowledge.

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

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

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

(g) "End of course exam" means a comprehensive and challenging assessment of pupil achievement in a particular subject area or discipline such as the Golden State Exams.

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

(i) "Publisher" means a commercial publisher or any other public or private entity, other than the State Department of Education, which is able to provide tests or test items that meet the requirements of this chapter.

(j) "Statewide pupil assessment program" means the systematic achievement testing of pupils in kindergarten and grades 1 to 12, inclusive, pursuant to the pupil testing incentive program under Article 4 and the system of assessments of basic academic skills and applied academic skills, administered to pupils in grade levels specified in subdivision (c) of Section 60605, required by this chapter in all schools within each school district by means of tests designated by the State Board of Education.

## Article 2. Program Provisions

60604. (a) The Superintendent of Public Instruction shall design and implement, consistent with the timetable and plan required pursuant to subdivision (b), a statewide pupil assessment program to

implement the testing requirements of this article in accordance with the objectives set forth in Section 60602. That program shall include all of the following:

(1) A method of producing valid, reliable, and comparable individual pupil scores in kindergarten and grades 1 to 12, inclusive, based on district-selected achievement tests that assess a broad range of basic academic skills pursuant to the pupil testing incentive program established by Article 4.

(2) A method of ensuring valid, reliable, and comparable school-level and district-level scores in kindergarten and grades 1 to 12, inclusive, that is based on achievement tests approved pursuant to subdivision (b) of Section 60605 and that, in the grade levels and subject areas specified in subdivision (c) of Section 60605, ensures valid, reliable and comparable school-level and district-level scores in the assessments administered pursuant to subdivision (c) of Section 60605.

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

(4) A statewide system that provides the results of both local and state testing in a manner that reflects the degree to which pupils are achieving the statewide academically rigorous content and performance standards adopted by the State Board of Education.

(5) The alignment of assessment with the knowledge and skills called for under the curriculum frameworks and with the statewide academically rigorous content and performance standards adopted by the State Board of Education.

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

(b) The superintendent shall develop and annually update for the Legislature a five-year cost projection, implementation plan, and timetable for implementing the program described in subdivision (a).

(c) The elements to be included in the program described in subdivision (a) shall include, beginning in the 1995-96 school year, all of the following:

(1) The review and approval of achievement tests for use as part of the statewide pupil assessment program.

(2) The development of a methodology for reporting scores on approved tests according to a single, common scale that reflects statewide academically rigorous content and performance standards.

(3) Contracting with a publisher or publishers, for the development of assessments of applied academic skills designed to test pupils' knowledge of academic skills and abilities to apply that knowledge and those skills in order to solve problems and communicate, limited to the grade levels and subject areas specified in subdivision (c) of Section 60605.

(d) The Superintendent of Public Instruction shall immediately begin reviewing achievement tests for school district use, in order to determine their acceptability for use as part of the pupil testing incentive program established by Article 4. Based upon this review, the superintendent shall recommend that the State Board of Education approve for use by school districts as part of the statewide pupil assessment program any test that meets all of the following criteria:

(1) Is capable of producing valid, reliable individual pupil scores.

(2) Uses a reporting scale that permits measurement of changes in individual academic achievement from year to year and that allows comparison with other schools and school districts, including those that use other achievement tests approved by the State Board of Education. To the extent feasible, and to the extent it does not diminish the ability to make comparisons between California schools and school districts, the Superintendent of Public Instruction and the State Board of Education shall also consider the degree to which the reporting scale allows comparisons with other states and comparisons with national norms established within a reasonable period of time.

(3) Is aligned with the academically rigorous content and performance standards adopted by the State Board of Education.

Until the State Board of Education adopts academically rigorous content and performance standards, the Superintendent of Public Instruction shall recommend that the board conditionally approve for use as part of the statewide pupil assessment program any available achievement test that meets criteria (1) and (2) and is reasonably aligned with the state curriculum frameworks.

Nothing in this subdivision shall be construed as preventing the approval of any achievement test that contains assessments of applied academic skills, but that otherwise meets the criteria specified above.

(e) The Superintendent of Public Instruction shall provide each school district with guidelines for professional development that is designed to assist classroom teachers to use the results of the assessments administered pursuant to this chapter to modify instruction for the purpose of improving pupil learning. These guidelines shall be developed in consultation with classroom teachers.

(f) Development and implementation of a system for providing valid, reliable, and comparable individual pupil results in grades 2 to 10, inclusive, pursuant to the incentive program established in Article 4 (commencing with Section 60640) shall begin during the **1995-96** fiscal year.

(g) The Superintendent of Public Instruction shall make available prototype and sample versions of the statewide pupil assessment tests to each school district and to the public prior to administration of the tests. The superintendent and the State Board of Education shall consider comments and recommendations from school districts and the public in the development, adoption, and approval of subsequent assessment instruments.

(h) The results of the assessments administered pursuant to Article 4 (commencing with Section 60640) shall be returned to the school district in the same academic year in which the assessments were administered.

60605. (a) No later than January 1, 1998, the State Board of Education shall adopt statewide academically rigorous content and performance standards, pursuant to the recommendations of the Commission for the Establishment of Academic Content and Performance Standards, in all core curriculum areas to serve as the basis for assessing the academic achievement of individual pupils and of schools, school districts, and the California education system. The board may modify any proposed content standards or performance standards prior to adoption and may adopt content and performance standards in individual core curriculum areas as those standards are submitted to the board by the commission. The performance standards

shall be established against specific grade level benchmarks of academic achievement for each subject area tested and shall be based on the knowledge and skills that pupils will need in order to succeed in the information-based, global economy of the 21st century. These skills shall not include personal behavioral standards or skills, including, but not limited to, honesty, sociability, ethics, or self esteem. The standards adopted pursuant to this section shall be for the purpose of guiding state decisions regarding the development, adoption, and approval of assessment instruments pursuant to this chapter and shall not be construed to mandate any actions or activities by school districts. Prior to the adoption of academic content and performance standards, the board shall hold regional hearings for the purpose of giving parents and other members of the public the opportunity to comment on the proposed standards.

(b) The State Board of Education shall require the State Department of Education to submit and recommend to the State Board of Education for approval available tests of achievement that include all of the basic academic skills identified in subdivision (c) of Section 60603 in kindergarten and grades 1 to 12, inclusive.

(c) (1) The State Board of Education shall adopt tests that meet the objectives of Section 60602 and that yield valid, reliable estimates of school performance, school district performance, and statewide performance of pupils that, in grades 4, 5, 8, and 10, assess basic academic skills and incorporate the use of direct writing assessment and other assessments of applied academic skills.

(2) The State Board of Education shall annually require that each school district administer statewide tests pursuant to this subdivision to all pupils in grades 4, 5, 8, and 10. The core curriculum areas shall be addressed by those tests. Notwithstanding any other provision of law, the testing provided for under this subdivision shall address, in grade 4, only reading, written expression, and mathematics, and, in grade 5, only history/social science and science. Pupils in a given school shall be administered a portion of all subjects of the test that will be representative of all the test objectives, goals, and categories of items on the entire test in a manner that will produce results that are valid and reliable at the school and school district level. The State Department of Education may provide assistance to school districts in the implementation of the tests established pursuant to this subdivision.

(3) Nothing in this subdivision shall be construed to prevent the State Board of Education from developing or adopting tests that also contain assessments of basic academic skills.

(d) The State Board of Education shall adopt assessments pursuant to subdivision (c) that are aligned with the statewide content and performance standards adopted pursuant to subdivision (a). The State Board of Education shall not adopt an assessment pursuant to subdivision (c) for any core curriculum area until the statewide content and performance standards for that core curriculum area have been adopted by the board pursuant to subdivision (a). Nothing in this subdivision shall be construed to prevent the State Board of Education from awarding contracts pursuant to subdivision (g) for the development and field testing of assessment instruments prior to adoption of statewide content and performance standards.

(e) After the adoption of the statewide content and performance standards, the State Board of Education shall review all tests approved or adopted pursuant to subdivision (b) for conformance with these statewide standards.

(f) The State Board of Education shall adopt regulations for the

conduct and administration of the testing program.

(g) Following consideration of recommendations of the Superintendent of Public Instruction, the State Board of Education shall award contracts to develop instruments to be used for the purposes of subdivision (c), according to competitive bidding procedures.

(1) As part of this process, the board may convene an advisory panel composed of nationally recognized experts in pupil assessment. This panel, if convened, shall assist the board in the preparation of the request for proposals to develop instruments for use as assessments of applied academic skills and in the review and rating of proposals that are submitted. The panel shall also assist the board in determining methods of assuring that tests approved pursuant to subdivision (b) comply with paragraph (2) of subdivision (d) of Section 60604.

(2) Any contractor to whom a contract is awarded pursuant to this subdivision shall assure that parents, classroom teachers, administrators, school district governing board members, and the general public are actively involved in the development of any assessment instruments.

60606. (a) Prior to approving any available tests of academic achievement for use in kindergarten and grades 1 to 12, inclusive, or adopting any assessments of applied academic skills for use in grades 4, 5, 8, and 10 pursuant to Section 60605, the State Board of Education shall submit those tests or assessments to the Statewide Pupil Assessment Review Panel, which is hereby established, for review by the panel.

(b) The panel shall consist of six members. Three members shall be appointed by the Governor, one member shall be appointed by the Senate Committee on Rules, one member shall be appointed by the Speaker of the Assembly, and one member shall be appointed by the Superintendent of Public Instruction. A majority of the panel shall consist of parents whose children attend public schools in the state in kindergarten and grades 1 to 12, inclusive.

(c) Panel members shall serve two-year terms, without compensation. No panel member shall serve more than two consecutive terms.

(d) The panel shall review the tests or assessments specified in subdivision (a) in order to ensure that the content of the tests or assessments complies with the requirements of Section 60614.

(e) The panel shall report its findings and recommendations to the State Board of Education within 60 days of its receipt of each test or assessment. If the panel fails to report within the required 60 days, the test or assessment shall be deemed acceptable to the panel.

60607. (a) Each pupil shall have an individual record of accomplishment by the end of the 12th grade that includes the results of academic achievement tests approved pursuant to subdivision (b) of Section 60605 and administered annually as part of the statewide pupil assessment program, results of end-of-course exams he or she has taken, and whatever vocational education certification exams he or she chose to take.

(b) It is the intent of the Legislature that school districts and schools use the results of the academic achievement tests administered annually as part of the statewide pupil assessment program to provide support to pupils and parents or guardians in order to assist pupils in strengthening their development as learners, and thereby to improve their academic achievement and performance in subsequent assessments.

(c) Any pupil, or his or her parent or guardian, may request and

receive individual pupil assessment results from the assessments of applied academic skills administered pursuant to subdivision (c) of Section 60605 to the extent individual results are available. Notwithstanding subdivision (a), these results shall not be included as part of a pupil's record.

(d) Any pupil results or record of achievement shall be private, and may not be released to any person, other than a teacher, counselor, or administrator directly involved with the pupil, without the express written consent of the parent or guardian of the pupil if the pupil is a minor or the pupil if the pupil has reached the age of majority or is emancipated.

60608. The governing board of each district shall, in accordance with the rules and regulations of the State Board of Education, conduct a testing program pursuant to this chapter and may also administer other tests.

60609. The districtwide and school-level results of the assessments of applied academic skills administered pursuant to subdivision (c) of Section 60605, but not the score or relative position of individual pupils, shall be reported to the governing board of the district at least once a year at a regularly scheduled meeting.

60610. At the request of the State Board of Education, and in accordance with rules and regulations that the board may adopt, each county superintendent of schools shall cooperate with and assist school districts under his or her jurisdiction in carrying out the testing programs of those districts and other duties imposed on school districts by this chapter.

60611. No city, county, city and county, or district superintendent of schools or principal or teacher of any elementary or secondary school shall carry on any program of specific preparation of the pupils for the statewide pupil assessment program or a particular test used therein.

60612. Upon adoption or approval of assessments pursuant to this chapter, the Superintendent of Public Instruction shall prepare and make available to parents, teachers, pupils, administrators, school board members, and the public easily understood materials describing the nature and purposes of the assessments, the systems of scoring, and the uses to which the assessments will be put.

60613. A school district is an agent of the State Department of Education for the purpose of administering assessments required pursuant to this article. No action may be brought or maintained against any school district or its officers or employees acting in accordance with the instructions of the Superintendent of Public Instruction.

60614. Notwithstanding Section 51513, no test, examination, or assessment given as part of the statewide pupil assessment program shall contain any questions or items that solicit or invite disclosure of a pupil's, or his or her parents' or guardians', personal beliefs or practices in sex, family life, morality, or religion nor shall it contain any question designed to evaluate personal behavioral characteristics, including, but not limited to, honesty, integrity, sociability, or self esteem.

60615. Notwithstanding any other provision of law, a parent's or guardian's written request to school officials to excuse his or her child from any or all parts of the assessments administered pursuant to this chapter shall be granted.

60616. Any assessment approved or adopted by the State Board of Education pursuant to this chapter may be reviewed by any Member of the Legislature or any member of the governing board of a school district, if the member agrees in writing prior to the review to



maintain the confidentiality of the assessment.

60617. The governing board of any school district may meet in closed session only to review the actual contents of any approved or adopted assessment, provided the governing board agrees by resolution to accept any terms or conditions for that review that are established by rules and regulations of the State Board of Education.

The purpose of this provision is to maintain the confidentiality of the assessments under review.

### Article 3. Program Evaluation and Analysis

60630. (a) The Superintendent of Public Instruction shall prepare and submit an annual report to the Legislature, the State Board of Education, and each school district in the state containing an analysis, on a school-by-school basis, of the results and test scores of the state testing program. The report shall include an analysis of the operational factors that appear to have a

significant relationship to, or bearing on, the results. The analysis may include, but need not be limited to, the following factors:

(1) Financial characteristics, including specially-funded programs.

(2) Pupil and parent characteristics.

(3) Staff characteristics.

(4) Instructional methodologies and materials.

(b) School districts that elect to participate in the incentive program established pursuant to Article 4 (commencing with Section 60640), shall submit to the State Department of Education whatever information the department deems necessary to carry out this section.

### Article 4. Pupil Testing Incentive Program

60640. (a) Commencing in the 1995-96 fiscal year, and from the funds available for that purpose, for each school district that certifies to the Superintendent of Public Instruction that it administers to all of its pupils in the grades designated by paragraph (1) of subdivision (b), an achievement test selected from among those approved by the State Board of Education pursuant to subdivision (b) of Section 60605, the Superintendent of Public Instruction shall apportion five dollars (\$5) per pupil tested in the grades specified in paragraph (1) of subdivision (b).

(b) (1) In order to be eligible for the incentive funding identified pursuant to subdivision (a), a school district shall administer the assessments approved by the State Board of Education for this purpose in grades 2 to 10, inclusive, or in as many of those grades as are operated by the school district.

(2) In addition, the governing board of the school district may administer these assessments in other grades as it deems appropriate.

60641. As a condition of receiving the incentive funding specified in Section 60640, a school district shall certify to the Superintendent of Public Instruction that it shall comply with all of the following conditions:

(a) The achievement test shall be administered at a time of year specified by the Superintendent of Public Instruction.

(b) The individual results of each pupil assessment administered pursuant to Section 60640 shall be reported, in writing, to the pupil's parent or guardian. The written report shall include a clear explanation of the purpose of the test, the pupil's score, and its

intended use by the school district. Nothing in this subdivision shall be construed to require teachers to prepare individualized explanations of each pupil's test score.

(c) The individual results of each pupil assessment administered pursuant to Section 60640 shall also be reported to the pupil's school and teachers. The school district shall include the pupil's assessment results in his or her pupil records. However, except as provided in this subdivision, individual pupil assessment results may only be released with the permission of the pupil's parent or guardian.

(d) The districtwide and school-level results of the testing program in the grades designated pursuant to subdivision (b) of Section 60640, but not the score or relative position of individual pupils, shall be reported to the governing board of the district at a regularly scheduled meeting, at the same time that the results of the assessments of applied academic skills are reported pursuant to Section 60609.

#### Article 5. Golden State Examination Program

60650. There is hereby established the Golden State Examination Program for the purpose of administering the Golden State Examination to pupils enrolled in public high schools. The Golden State Examination shall measure pupil achievement under statewide standards of competency in academic subjects, and shall adopt a special honors designation and insignia on a high school diploma for qualifying pupils. Participation in the Golden State Examination Program shall be voluntary on the part of each school district maintaining a high school. The governing board of each participating school district shall determine the extent to which pupils of the district shall be required to participate in the Golden State Examination.

60651. The Superintendent of Public Instruction shall prepare an annual report comparing examination results among all participating school districts including the average scores achieved on the academic subject matter examination, the number of pupils taking each examination, and the number of pupils qualifying for honors.

60652. It is the intent of the Legislature that school districts encourage local representatives of business and industry to recognize pupils who receive an honors designation based on the Golden State Examinations.

SEC. 2. Chapter 6 (commencing with Section 60800) is added to Part 33 of the Education Code, to read:

#### CHAPTER 6. PHYSICAL FITNESS TESTING

60800. (a) During the month of March, April, or May, the governing board of each school district maintaining any of grades 5, 7, and 9 shall administer to each pupil in those grades the physical performance test designated by the State Board of Education. Each physically handicapped pupil and each pupil who is physically unable to take all of the physical performance test shall be given as much of the test as his or her condition will permit.

(b) Upon request of the State Department of Education, a school district shall submit to the department, at least once every two years, the results of its physical performance testing.

SEC. 3. Section 11126 of the Government Code is amended to read:

11126. (a) Nothing in this article shall be construed to prevent a state body from holding closed sessions during a regular or special meeting to consider the appointment, employment, or dismissal of a public employee or to hear complaints or charges brought against that

employee by another person or employee unless the employee requests a public hearing. As a condition to holding a closed session on the complaints or charges to consider disciplinary action or to consider dismissal, the employee shall be given written notice of his or her right to have a public hearing, rather than a closed session, which notice shall be delivered to the employee personally or by mail at least 24 hours before the time for holding a regular or special meeting. If notice is not given, any disciplinary or other action taken against any employee at the closed session shall be null and void. The state body also may exclude from any public or closed session, during the examination of a witness, any or all other witnesses in the matter being investigated by the state body. Following the public hearing or closed session, the body may deliberate on the decision to be reached in a closed session.

For the purposes of this section, "employee" shall not include any person who is elected to, or appointed to a public office by, any state body. However, officers of the California State University who receive compensation for their services, other than per diem and ordinary and necessary expenses, shall, when engaged in that capacity, be considered employees. Furthermore, for purposes of this section, the term employee shall include a person exempt from civil service pursuant to subdivision (e) of Section 4 of Article VII of the California Constitution.

(b) Nothing in this article shall be construed to prevent state bodies which administer the licensing of persons engaging in businesses or professions from holding closed sessions to prepare, approve, grade, or administer examinations.

(c) Nothing in this article shall be construed to prevent an advisory body of a state body which administers the licensing of persons engaged in businesses or professions from conducting a closed session to discuss matters which the advisory body has found would constitute an unwarranted invasion of the privacy of an individual licensee or applicant if discussed in an open meeting, provided the advisory body does not include a quorum of the members of the state body it advises. Those matters may include review of an applicant's qualifications for licensure and an inquiry specifically related to the state body's enforcement program concerning an individual licensee or applicant where the inquiry occurs prior to the filing of a civil, criminal, or administrative disciplinary action against the licensee or applicant by the state body.

(d) Nothing in this article shall be construed to prohibit a state body from holding a closed session to deliberate on a decision to be reached in a proceeding required to be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 or similar provisions of law.

(e) Nothing in this article shall be construed to prevent any state body from holding a closed session to consider matters affecting the national security.

(f) Nothing in this article shall be construed to grant a right to enter any correctional institution or the grounds of a correctional institution where that right is not otherwise granted by law, nor shall anything in this article be construed to prevent a state body from holding a closed session when considering and acting upon the determination of a term, parole, or release of any individual or other disposition of an individual case, or if public disclosure of the subjects under discussion or consideration is expressly prohibited by statute.

(g) Nothing in this article shall be construed to prevent any closed session to consider the conferring of honorary degrees, or gifts, donations, and bequests which the donor or proposed donor has

requested in writing to be kept confidential.

(h) Nothing in this article shall be construed to prevent the Alcoholic Beverage Control Appeals Board from holding a closed session for the purpose of holding a deliberative conference as provided in Section 11125.

(i) Nothing in this article shall be construed to prevent a state body from holding closed sessions with its negotiator prior to the purchase, sale, exchange, or lease of real property by or for the state body to give instructions to its negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease.

However, prior to the closed session, the state body shall hold an open and public session in which it identifies the real property or real properties which the negotiations may concern and the person or persons with whom its negotiator may negotiate.

For purposes of this subdivision, the negotiator may be a member of the state body.

For purposes of this subdivision, "lease" includes renewal or renegotiation of a lease.

Nothing in this subdivision shall preclude a state body from holding a closed session for discussions regarding eminent domain proceedings pursuant to subdivision (q).

(j) (1) Nothing in this article shall be construed to prevent the California Postsecondary Education Commission from holding closed sessions to consider matters pertaining to the appointment or termination of the Director of the California Postsecondary Education Commission.

(2) Nothing in this article shall be construed to prevent the Council for Private Postsecondary and Vocational Education from holding closed sessions to consider matters pertaining to the appointment or termination of the Executive Director of the Council for Private Postsecondary and Vocational Education.

(k) Nothing in this article shall be construed to prevent the Franchise Tax Board from holding closed sessions for the purpose of discussion of confidential tax returns or data the public disclosure of which is prohibited by law, or from considering matters pertaining to the appointment or removal of the Executive Officer of the Franchise Tax Board.

(l) Nothing in this article shall be construed to prevent the Board of Corrections from holding closed sessions when considering reports of crime conditions under Section 6027 of the Penal Code.

(m) Nothing in this article shall be construed to prevent the State Air Resources Board from holding closed sessions when considering the proprietary specifications and performance data of manufacturers.

(n) Nothing in this article shall be construed to prevent a state body that invests retirement, pension, or endowment funds from holding closed sessions when considering investment decisions. For purposes of consideration of shareholder voting on corporate stocks held by the state body, closed sessions for the purposes of voting may be held only with respect to election of corporate directors, election of independent auditors, and other financial issues that could have a material effect on the net income of the corporation. For the purpose of real property investment decisions that may be considered in a closed session pursuant to this subdivision, a state body shall also be exempt from the provision of subdivision (i) relating to the identification of real properties prior to the closed session.

(o) Nothing in this article shall be construed to prevent a state body, or boards, commissions, administrative officers, or other representatives that may properly be designated by law or by a state

body, from holding closed sessions with its representatives in discharging its responsibilities under Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 as the sessions relate to salaries, salary schedules, or compensation paid in the form of fringe benefits. For the purposes enumerated in the preceding sentence, a state body may also meet with a state conciliator who has intervened in the proceedings.

(p) Notwithstanding any other provision of law, any meeting of the Public Utilities Commission at which the rates of entities under the commission's jurisdiction are changed shall be open and public.

Nothing in this article shall be construed to prevent the Public Utilities Commission from holding closed sessions to deliberate on the institution of proceedings, or disciplinary actions against regulated utilities.

(q) Nothing in this article shall be construed to prevent a state body, based on the advice of its legal counsel, from holding a closed session to confer with, or receive advice from, its legal counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the state body in the litigation.

For purposes of this article, all expressions of the lawyer-client privilege other than those provided in this subdivision are hereby abrogated. This subdivision is the exclusive expression of the lawyer-client privilege for purposes of conducting closed-session meetings pursuant to this article. For purposes of this subdivision, litigation shall be considered pending when any of the following circumstances exist:

(1) An adjudicatory proceeding before a court, an administrative body exercising its adjudicatory authority, a hearing officer, or an arbitrator, to which the state body is a party, has been initiated formally.

(2) (A) A point has been reached where, in the opinion of the state body on the advice of its legal counsel, based on existing facts and circumstances, there is a significant exposure to litigation against the state body; or

(B) Based on existing facts and circumstances, the state body is meeting only to decide whether a closed session is authorized pursuant to subparagraph (A).

(3) Based on existing facts and circumstances, the state body has decided to initiate or is deciding whether to initiate litigation.

The legal counsel of the state body shall prepare and submit to it a memorandum stating the specific reasons and legal authority for the closed session. If the closed session is pursuant to paragraph (1), the memorandum shall include the title of the litigation. If the closed session is pursuant to paragraph (2) or (3), the memorandum shall include the existing facts and circumstances on which it is based. The legal counsel shall submit the memorandum to the state body prior to the closed session, if feasible, and in any case no later than one week after the closed session. The memorandum shall be exempt from disclosure pursuant to Section 6254.25.

For purposes of this subdivision, "litigation" includes any adjudicatory proceeding, including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator.

Disclosure of a memorandum required under this subdivision shall not be deemed as a waiver of the lawyer-client privilege, as provided for under Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code.

(r) Nothing in this article shall be construed to prevent a state body operating under a joint powers agreement for insurance pooling

from holding a closed session to discuss a claim for the payment of tort liability or public liability losses incurred by the state body or any member agency under the joint powers agreement.

(s) Nothing in this article shall be construed to prevent the examining committee established by the State Board of Forestry, pursuant to Section 763 of the Public Resources Code, from conducting a closed session to consider disciplinary action against an individual professional forester prior to the filing of an accusation against the forester pursuant to Section 11503.

(t) Nothing in this article shall be construed to prevent an administrative committee established by the State Board of Accountancy pursuant to Section 5020 or 5020.3 of the Business and Professions Code from conducting a closed session to consider disciplinary action against an individual accountant prior to the filing of an accusation against the accountant pursuant to Section 11503. Nothing in this article shall be construed to prevent an examining committee established by the Board of Accountancy pursuant to Section 5023 of the Business and Professions Code from conducting a closed hearing to interview an individual applicant or accountant regarding the applicant's qualifications.

(u) Nothing in this article shall be construed to prevent a state body, as defined in Section 11121.2, from conducting a closed session to consider any matter that properly could be considered in closed session by the state body whose authority it exercises.

(v) Nothing in this article shall be construed to prevent a state body, as defined in Section 11121.7, from conducting a closed session to consider any matter that properly could be considered in a closed session by the body defined as a state body pursuant to Section 11121, 11121.2, or 11121.5.

(w) Nothing in this article shall be construed to prevent a state body, as defined in Section 11121.8, from conducting a closed session to consider any matter that properly could be considered in a closed session by the state body it advises.

(x) Nothing in this article shall be construed to prevent the State Board of Equalization from holding closed sessions for either of the following:

(1) When considering matters pertaining to the appointment or removal of the executive secretary of the State Board of Equalization.

(2) For the purpose of hearing confidential taxpayer appeals or data, the public disclosure of which is prohibited by law.

(y) Nothing in this article shall be construed to prevent the California Earthquake Prediction Evaluation Council, or other body appointed to advise the Director of the Office of Emergency Services or the Governor pursuant to Section 8590 concerning matters relating to volcanic or earthquake predictions, from holding closed sessions when considering the evaluation of possible predictions.

(z) This article shall not prevent the Teachers' Retirement Board or the Board of Administration of the Public Employees' Retirement System from holding closed sessions when considering matters pertaining to the recruitment, appointment, employment, or removal of the chief executive officer or when considering matters pertaining to the recruitment or removal of the Chief Investment Officer of the State Teachers' Retirement System or the Public Employees' Retirement System.

(aa) This article shall not prevent the Commission on Teacher Credentialing from holding closed sessions when considering matters relating to the recruitment, appointment, or removal of its executive director.

(bb) Nothing in the article shall be construed to prevent the

State Board of Education, or any committee advising the State Board of Education, from holding closed sessions on those portions of its review of assessment instruments pursuant to Chapter 5 (commencing with Section 60600) of Part 33 of the Education Code during which actual test content is reviewed and discussed. The purpose of this provision is to maintain the confidentiality of the assessments under review.

SEC. 4. (a) There is hereby established in state government the Commission for the Establishment of Academic Content and Performance Standards, to consist of 21 members.

(1) The members of the commission shall be as follows:

(A) Eleven members appointed by the Governor.

(B) The Superintendent of Public Instruction, or his or her designee.

(C) Six members appointed by the Superintendent of Public Instruction.

(D) One member appointed by the Senate Committee on Rules.

(E) One member appointed by the Speaker of the Assembly.

(F) One member jointly appointed by the Governor and the Superintendent of Public Instruction, who shall be the chair of the commission.

(2) Members of the commission shall serve at the pleasure of the appointing authority.

(3) It is the intent of the Legislature that the membership of the commission include, but not necessarily be limited to, parents, classroom teachers, representatives of the business community, and individuals with expertise in pupil assessment or expertise in the subject matter areas included in the statewide pupil assessment program.

(b) The commission shall develop academically rigorous content standards and performance standards to be used in public schools maintaining kindergarten and grades 1 to 12, inclusive. The commission shall consider any benchmarks developed by the Education Benchmarks Commission when developing the standards required by this section. Those academically rigorous content standards and performance standards shall comply with all of the following requirements:

(1) Be measurable and objective.

(2) Be aligned with the knowledge and skills called for under the curriculum frameworks adopted by the State Board of Education.

(3) Reflect the knowledge and skills necessary for California's work force to be competitive in the global, information-based economy of the 21st century.

(4) Be comparable in rigor to academic content and performance standards used in the school systems of America's global economic competitors.

(5) Provide the basis for assessments for kindergarten and grades 1 to 12, inclusive, in the following groupings:

(A) Early elementary grades consisting of kindergarten and grades 1 to 3, inclusive.

(B) Upper elementary grades consisting of grades 4 to 6, inclusive.

(C) Early departmentalized grades consisting of grades 7 and 8.

(D) Secondary grades consisting of grades 9 to 12, inclusive.

(c) The commission shall first develop content standards and performance standards in reading, writing, and mathematics prior to developing content standards and performance standards in other core curriculum areas. The commission shall submit content standards and performance standards in each of the core curriculum areas to the State Board of Education for its consideration and adoption as they

are completed by the commission.

(d) In developing the academically rigorous content standards and performance standards pursuant to subdivision (b), the commission shall hold at least six public hearings throughout the state to solicit public input.

(e) On or before July 1, 1997, the commission shall have developed and submitted the academically rigorous content standards and performance standards for all core curriculum areas for all grade levels to the State Board of Education for approval by the board.

(f) It is the intent of the Legislature that the Commission for the Establishment of Academic Content and Performance Standards and the Education Benchmarks Commission work cooperatively to achieve the purposes of each commission.

(g) This section shall remain in effect only until January 1, 1998, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1998, deletes or extends that date.

SEC. 5. The State Board of Education shall hold regional public hearings throughout the state on the current curriculum frameworks for the purpose of determining the degree of rigorous, academic focus within each curriculum area. The board shall provide the results of these hearings to the Commission for the Establishment of Academic Content and Performance Standards for the commission to consider in the development of academically rigorous content standards and performance standards. The commission shall make available to the public the information derived from the framework hearings and shall hold regional, public hearings throughout the state to provide the opportunity for public comment on that information as it relates to the establishment of rigorous, academic standards.

SEC. 6. (a) The sum of eleven million dollars (\$11,000,000) is hereby appropriated from the General Fund to the Superintendent of Public Instruction for the 1995-96 fiscal year for allocation as follows:

(1) To school districts for purposes of the incentive funding provided pursuant to Article 4 (commencing with Section 60640) of the Education Code for the 1995-96 fiscal year, four million five hundred thousand dollars (\$4,500,000).

(2) To local education agencies for the purpose of implementing the statewide pupil assessment system pursuant to Chapter 5 (commencing with Section 60600) of the Education Code for the 1995-96 fiscal year, to be allocated pursuant to the implementation plan required pursuant to subdivision (b) of Section 60604 of the Education Code, six million five hundred thousand dollars (\$6,500,000).

(b) Any funds appropriated pursuant to this section, but not expended during the 1995-96 fiscal year, shall be available for expenditure for the same purposes in the 1996-97 fiscal year. It is the intent of the Legislature that appropriations in the Budget Act of 1996 for the purposes of the statewide pupil assessment program shall be adjusted to reflect the existence of any carry-over funds made available by the operation of this subdivision.

SEC. 7. The Legislature finds and declares that, in addition to the funds appropriated pursuant to Section 6 of this act, Section 53 of Chapter 308 of the Statutes of 1995 appropriated fifteen million dollars (\$15,000,000), that shall also be available, pursuant to the provisions of that section, for the purpose of funding the incentive program established pursuant to Article 4 (commencing with Section 60640) of Chapter 5 of Part 33 of the Education Code for the 1995-96 fiscal year.



SEC. 8. No reimbursement shall be made from the State Mandates Claims Fund pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for costs mandated by the state pursuant to this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17500) and any other provisions of law.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

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CHAPTER      **576**  
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INTRODUCED BY      Assembly Member Mazzoni

FEBRUARY 28, 2000

An act to amend Sections 60604, 60605, 60640, 60641, 60643, 60643.1, 60644, 60645, and 60648 of, and to add Sections 60642.5 and 60649 to, the Education Code, relating to achievement tests.

LEGISLATIVE COUNSEL'S DIGEST

AB 2812, Mazzoni. California Assessment of Academic Achievement.

Existing law requires the Superintendent of Public Instruction to design and implement, and requires the governing board of a school district to conduct, a testing program based on a statewide pupil assessment program consisting of (1) systematic achievement testing of pupils in grades 2 to 11, inclusive, pursuant to the Standardized Testing and Reporting (STAR) Program and (2) an assessment of basic academic skills and applied academic skills of all pupils in grades 4, 5, 8, and 10. Existing law states the intent of the Legislature that the achievement test used in grades 2 to 11, inclusive, be augmented with items that assess the specific grade-level content standards and produce valid and reliable scores for pupil achievement for each of the performance standards adopted by the board.

This bill would delete the intent of the Legislature regarding the augmentation of the achievement test and instead would require the Superintendent of Public Instruction, with approval of the State Board of Education, to provide for the development of an assessment instrument that measures the degree to which pupils are achieving the academically rigorous content standards and performance standards, to the extent standards have been adopted by the State Board of Education. The bill would require this standards-based achievement test to include, at a minimum, a direct writing assessment once in elementary school and once in middle or junior high school and other items of applied academic skills if deemed valid and reliable and if resources are made available for their use. The bill would require the State Board of Education, in approving a contract for the development or administration related duties of the standards-based achievement test, to consider prescribed criteria.

The bill would delete the requirements regarding the assessment of basic academic skills and applied academic skills of all pupils in grades 4, 5, 8, and 10 from the statewide pupil assessment program.

Existing law requires the State Board of Education to ensure that the statewide assessment system yields valid, reliable estimates of individual pupil performance, school performance, school district performance, and statewide performance of pupils that assesses basic

academic skills and incorporates the use of direct writing assessment and other assessments of applied academic skills if deemed valid, reliable, and cost effective.

This bill would instead require the State Board of Education to ensure that the statewide assessment system yields valid, reliable individual pupil scores and, where applicable, aggregate school scores, school district scores, and statewide scores of pupils and assesses basic academic skills and the extent to which pupils are meeting content standards, including the use of a direct writing assessment or other applied academic skills if deemed valid and reliable and if resources are made available for their use.

Existing law requires the State Board of Education, following consideration of recommendations of the Superintendent of Public Instruction, to award a contract or contracts to develop performance standards according to competitive bidding procedures.

This bill would delete this requirement.

Existing law required the State Board of Education to consider certain criteria when designating the nationally normed achievement test. Among those criteria is the ability of the test publisher to report results, as specified, by July 8.

This bill would extend the reporting deadline to August 8.

The bill would require the Superintendent of Public Instruction and the State Board of Education, on or before March 1, 2001, to report on the status of implementing the statewide pupil assessment program as specified.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 60604 of the Education Code is amended to read:

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

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

(2) A method of working with publishers to ensure valid, reliable, and comparable individual, grade-level, school-level, district-level, county-level, and statewide scores in grades 2 to 11, inclusive, that is based on the achievement test designated pursuant to subdivision (b) of Section 60605.

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

(4) A statewide system that provides the results of testing in a manner that reflects the degree to which pupils are achieving the academically rigorous content and performance standards adopted by the State Board of Education.

(5) The alignment of assessment with the statewide academically rigorous content and performance standards adopted by the State Board of Education.

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

(7) The development of a contract or contracts with a publisher or publishers, after the approval of statewide academically rigorous content standards by the State Board of Education, for the development of performance standards and assessments of applied academic skills designed to test pupils' knowledge of academic skills and abilities to apply that knowledge and those skills in order to solve problems and communicate.

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

(c) The Superintendent of Public Instruction shall provide each school district with guidelines for professional development that are designed to assist classroom teachers to use the results of the assessments administered pursuant to this chapter to modify instruction for the purpose of improving pupil learning. These guidelines shall be developed in consultation with classroom teachers and approved by the State Board of Education before dissemination.

(d) The Superintendent of Public Instruction and the State Board of Education shall consider comments and recommendations from school districts and the public in the development, adoption, and approval of assessment instruments.

(e) The results of the achievement test administered pursuant to Article 4 (commencing with Section 60640) shall be returned to the school district in the same academic year in which the test was administered and no later than July 30 of the calendar year in which the test was administered.

SEC. 2. Section 60605 of the Education Code is amended to read:

60605. (a) (1) (A) Not later than January 1, 1998, the State Board of Education shall adopt statewide academically rigorous content standards, pursuant to the recommendations of the Commission for the Establishment of Academic Content and Performance Standards, in the core curriculum areas of reading, writing, and mathematics to serve as the basis for assessing the academic achievement of individual pupils and of schools, school districts, and the California education system. Not later than November 1, 1998, the State Board of Education shall adopt these standards in the core curriculum areas of history/social science and science.

(B) The board shall adopt statewide performance standards in the core curriculum areas of reading, writing, mathematics, history-social science, and science based on the recommendations made by a contractor or contractors.

(C) The State Board of Education shall require the contractor or contractors to submit performance standards to the board not later than a specified date that allows sufficient opportunity for the board to conduct regional hearings prior to the adoption of the performance standards by the dates specified in subparagraph (B).

(2) (A) The State Board of Education may modify any proposed content standards or performance standards prior to adoption and may

adopt content and performance standards in individual core curriculum areas as those standards are submitted to the board by the commission or the contractor. The performance standards shall be established against specific grade level benchmarks of academic achievement for each subject area tested and shall be based on the knowledge and skills that pupils will need in order to succeed in the information-based, global economy of the 21st century. These skills shall not include personal behavioral standards or skills, including, but not limited to, honesty, sociability, ethics, or self-esteem. The standards adopted pursuant to this section shall be for the purpose of guiding state decisions regarding the development, adoption, and approval of assessment instruments pursuant to this chapter and shall not be construed to mandate any actions or activities by school districts.

(B) Because these standards are models, the adoption of these standards is not subject to the Administrative Procedure Act. This subparagraph is declaratory of existing law.

(3) Before adopting academic content and performance standards, the board shall hold regional hearings for the purpose of giving parents and other members of the public the opportunity to comment on the proposed standards.

(b) (1) The State Board of Education shall require the State Department of Education to notify publishers of the opportunity to submit, for consideration by the State Board of Education pursuant to Section 60642, tests of achievement that include all of the basic academic skills identified in subdivision (c) of Section 60603 in grades 2 to 8, inclusive, and the core curriculum areas identified in subdivision (e) of Section 60603 in grades 9 to 11, inclusive.

(2) On or before October 31, 1997, the Superintendent of Public Instruction shall recommend to the State Board of Education which achievement test to adopt pursuant to subdivision (b) of Section 60642.

(c) (1) The State Board of Education shall ensure that the statewide assessment system adopted pursuant to this chapter yields valid, reliable individual pupil scores and, where applicable, aggregate school scores, school district scores, and statewide scores of pupils and assesses basic academic skills and content standards, including the use of a direct writing assessment or other applied academic skills if deemed valid and reliable and if resources are made available for their use.

(2) Nothing in this subdivision shall be construed to prevent the State Board of Education from developing or adopting an assessment instrument that also contains assessments of basic academic skills.

(d) To the extent feasible and as otherwise required, the State Board of Education shall ensure that assessments developed, or contracted for, by the state are aligned with the statewide content and performance standards adopted pursuant to subdivision (a).

(e) After adopting statewide content standards, the State Board of Education shall review the achievement test designated pursuant to Section 60642 for conformance with these statewide standards.

(f) After adopting statewide content and performance standards, the State Board of Education shall review the existing curriculum frameworks for conformity with the new statewide standards and shall modify the curriculum frameworks where appropriate to bring them into alignment with the standards.

(g) The State Board of Education shall adopt regulations for the conduct and administration of the testing and assessment program.

(h) The State Board of Education shall adopt a regulation for minimum security procedures that test and assessment publishers and school districts must follow to ensure the security and integrity of

test and assessment questions and materials.

SEC. 3. 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) Commencing in the 1997-98 fiscal year and each fiscal year thereafter, and 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, before June 15, the achievement test designated by the State Board of Education pursuant to Section 60642 and the standards-based achievement test provided for in Section 60642.5. The State Board of Education 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 no later than June 25.

(d) The governing board of the school district may administer achievement tests in kindergarten, and grade 1 or 12, or both, as it deems appropriate.

(e) Individuals with exceptional needs who have an explicit provision in their individualized education program that exempts them from the testing requirement of subdivision (b) shall be so exempt.

(f) At the school district's option, pupils of limited English proficiency who are enrolled in any of grades 2 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 subdivisions (b), (c), (d), and (e) of Section 60641. These primary language tests shall produce individual pupil scores that are valid and reliable. Notwithstanding any other provision of law, the State Board of Education shall designate for use, as part of this program, a single primary language test in each language for which such a test is available for grades 2 to 11, inclusive, no later than November 14, 1998, pursuant to the process used for designation of the assessment chosen in the 1997-98 fiscal year, as specified in Sections 60642 and 60643, as applicable.

(g) Pupils of limited English proficiency who are enrolled in any of grades 2 to 11, inclusive, shall be required to take a test in their primary language if such a test is available, if fewer than 12 months have elapsed after their initial enrollment in any public school in the state.

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

(2) The State Board of Education shall annually establish the amount of funding to be apportioned to school districts for each test administered and shall annually establish the amount that each publisher shall be paid for each test administered under the agreements required pursuant to Section 60643. The amounts to be paid to the publishers shall be determined by considering the cost estimates submitted by each publisher each September and the amount included in the Budget Act and by making allowance for the estimated costs to school districts for compliance with the requirements of subdivisions (b), (f), and (g).

(3) An adjustment to the amount of funding to be apportioned per test may not be valid without the approval of the Director of Finance. A request for approval of an adjustment to the amount of

funding to be apportioned per test shall be submitted in writing to the Director of Finance and the chairpersons of the fiscal committees of both houses of the Legislature with accompanying material justifying the proposed adjustment. The Director of Finance is authorized to approve only those adjustments related to activities required by statute. The Director of Finance shall approve or disapprove the amount within 30 days of receipt of the request and shall notify the chairpersons of the fiscal committees of both houses of the Legislature of the decision.

(i) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation for the apportionments made pursuant to paragraph (1) of subdivision (h), and the payments made to the publishers under the contracts required pursuant to Section 60643 or subparagraph (C) of paragraph (1) of subdivision (a) of Section 60605 between the State Department of Education and the contractor, shall be deemed to be "General Fund revenues appropriated for school districts," as defined in subdivision (c) of Section 41202 of the Education Code, for the applicable fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202 of the Education Code, for that fiscal year.

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

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

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

(3) The number of pupils in paragraph (1) who were exempted from the test pursuant to subdivision (e) of Section 60640.

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

SEC. 4. Section 60641 of the Education Code is amended to read:

60641. The State Department of Education shall ensure that school districts comply with each of the following requirements:

(a) The achievement test designated pursuant to Section 60642 and the standards-based achievement test provided for in Section 60642.5 are scheduled to be administered to all pupils during the period prescribed in subdivision (b) of Section 60640.

(b) The individual results of each pupil test administered pursuant to Section 60640 shall be reported, in writing, to the pupil's parent or guardian. The written report shall include a clear explanation of the purpose of the test, the pupil's score, and its intended use by the school district. Nothing in this subdivision shall be construed to require teachers to prepare individualized explanations of each pupil's test score.

(c) The individual results of each pupil test administered pursuant to Section 60640 shall also be reported to the pupil's school and teachers. The school district shall include the pupil's test results in his or her pupil records. However, except as provided in this section, individual pupil test results may only be released with the permission of the pupil's parent or guardian.

(d) The districtwide, school-level, and grade-level results of the STAR Program in each of the grades designated pursuant to Section 60640, but not the score or relative position of any individually ascertainable pupil, shall be reported to the governing board of the school district at a regularly scheduled meeting, and the countywide, school-level, and grade-level results for classes and programs under

the jurisdiction of the county office of education shall be similarly reported to the county board of education at a regularly scheduled meeting. These results shall be reported at the same meeting at which the results of the assessments of applied academic skills are reported pursuant to Section 60609, when those assessments are implemented.

(e) The publisher designated pursuant to Section 60642 and the publisher of the standards-based achievement tests provided for in Section 60642.5 shall make the individual pupil, grade, school, school district, and state results available to the State Department of Education pursuant to paragraph (8) of subdivision (a) of Section 60643 by August 8 of each year in which the achievement test is administered. The State Department of Education shall make the grade, school, school district, and state results available on the Internet by August 15 of each year in which the achievement test is administered.

SEC. 5. Section 60642.5 is added to the Education Code, to read:

60642.5. (a) The Superintendent of Public Instruction, with approval of the State Board of Education, shall provide for the development of an assessment instrument that measures the degree to which pupils are achieving the academically rigorous content standards and performance standards, to the extent standards have been adopted by the State Board of Education. This standards-based achievement test shall contain the subject areas specified in subdivision (c) of Section 60603 for grades 2 to 8, inclusive, and the core curriculum areas specified in subdivision (e) of Section 60603 for grades 9 to 11, inclusive, and shall include, at a minimum, a direct writing assessment once in elementary school and once in middle or junior high school and other items of applied academic skill if deemed valid and reliable and if resources are made available for their use.

(b) In approving a contract for the development or administration of the standards-based achievement test, the State Board of Education shall consider each of the following criteria:

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

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

(3) The ability of the contractor to ensure alignment between the standards-based achievement test and the academically rigorous content and performance standards as those standards are adopted by the State Board of Education. This criterion shall include the ability of the contractor to implement a process to establish and maintain alignment between the test items and the standards.

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

(5) The contractor's procedures to ensuring the security and integrity of test questions and materials.

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

(c) The standards-based achievement tests may use items from other tests including items from the achievement test designated pursuant to Section 60642.

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

60643. (a) To be eligible for consideration under Section 60642 or 60642.5 by the State Board of Education, test publishers shall



agree in writing each year to meet the following requirements, if selected:

(1) Enter into an agreement, pursuant to subdivision (e), with the State Department of Education by November 15, for the 1999-2000 school year, or by October 15, for any school year thereafter.

(2) With respect to selection under Section 60642.5, align the standards-based achievement test provided for in Section 60642.5 to the academically rigorous content and performance standards adopted by the State Board of Education.

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

(4) Provide valid and reliable individual pupil scores only in the content areas specified in subdivision (c) of Section 60642 to parents or guardians, teachers, and school administrators.

(5) Provide valid and reliable aggregate scores only in the content areas specified in subdivision (c) of Section 60642 to school districts and county boards of education in all of the following forms and formats:

(A) Grade level.

(B) School level.

(C) District level.

(D) Countywide.

(E) Statewide.

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

(6) Provide disaggregated scores, based on limited-English-proficient status and non-limited-English-proficient status. For purposes of this section, pupils with "non-limited-English-proficient status" shall include the total of those pupils who are English-only pupils, fluent-English-proficient pupils, and redesignated fluent-English-proficient pupils. These scores shall be provided to school districts and county boards of education in the same form and formats listed in paragraph (5).

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

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

(9) Provide information listed in paragraphs (5), (6), (7), and (8) to the State Board of Education and the State Department of Education in the medium requested by each entity, respectively, by the date set forth in subdivision (e) of Section 60641.

(b) It is the intent of the Legislature that the publisher work with the Superintendent of Public Instruction and the State Board of Education in developing a methodology to disaggregate statewide scores as required in paragraphs (6) and (7) of subdivision (a), and in determining which variable indicated on the STAR testing document shall serve as a proxy for "economically disadvantaged" status pursuant to paragraph (7).

(c) Access to any information about individual pupils or their families shall be granted to the publisher only for purposes of correctly associating test results with the pupils who produced those results or for reporting and disaggregating test results as required by this section. School districts are prohibited from excluding a

pupil from the test if a parent or parents decline to disclose income. Nothing in this chapter shall be construed to abridge or deny rights to confidentiality contained in the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Sec. 1232g) or other applicable provisions of state and federal law that protect the confidentiality of information collected by educational institutions.

(d) Notwithstanding any other provision of law, the publisher of the achievement test designated pursuant to Section 60642 and the publisher of the standards-based achievement test provided for in Section 60642.5 shall comply with all of the conditions and requirements enumerated in subdivision (a) to the satisfaction of the State Board of Education.

(e) (1) Commencing January 1, 2000, a publisher may not provide a test described in Section 60642 or 60642.5 or in subdivision (f) of Section 60640 for use in California public schools unless the publisher enters into a written contract with the State Department of Education as set forth in this subdivision.

(2) The State Department of Education shall develop, and the State Board of Education shall approve, a contract to be entered into with a publisher pursuant to paragraph (1). The department may develop the contract through negotiations with the publisher.

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

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

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

(6) The contract shall establish the process and criteria by which the successful completion of each component task shall be recommended by the State Department of Education and approved by the State Board of Education.

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

(8) The costs associated with item development shall be provided as a separate amount and shall not be amortized across the number of tests to be administered.

(9) The contract shall specify the following component tasks that are separate and distinct:

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

(B) Test materials production or publication.

(C) Delivery of test materials to school districts.

(D) Test processing, scoring, and analyses.

(E) Reporting of test results to the school districts, including,

but not limited to, all reports specified in this section.

(F) Reporting of test results to the State Department of Education, including, but not limited to, the electronic files required pursuant to this section.

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

(10) The contract shall specify the specific reports and data files that are to be provided to school districts by the publisher and the number of copies of each report or file to be provided.

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

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

SEC. 7. Section 60643.1 of the Education Code is amended to read:

60643.1. (a) (1) Commencing in the 1999-**2000** school year, and each school year thereafter, the test publisher designated by the State Board of Education pursuant to Section 60642 shall make available a reading list on the Internet by June 1. 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 shall also include information related to the subject matter of each title. At a minimum, the reading list shall also categorize titles by subject matter and identify age-appropriate distinctions in the list.

(2) Commencing in the 1999-**2000** school year, and each school year thereafter, the test publisher 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) Commencing in the 1999-**2000** school year, and each school year thereafter, the test publisher 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 only become operative 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 of Education and the Superintendent of Public Instruction shall jointly certify that the process used by the publisher to determine the reading levels of the corresponding reading list pursuant to paragraph (1) of subdivision (a) meets the following criteria:

(1) The process is educationally valid.

(2) The process results in a reading list for each reading span that provides titles at the pupil's current reading level and the

next higher level for challenging practice.

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

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

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

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

SEC. 8. Section 60644 of the Education Code is amended to read:

60644. In designating an achievement test pursuant to Section 60642, the State Board of Education shall adopt only a nationally normed test and shall consider each of the following criteria:

(a) Ability of the publisher to produce valid, reliable individual pupil scores.

(b) Quality and age of empirical data supporting national norm referenced data analysis of the proposed assessment.

(c) Ability to report results pursuant to the provisions of paragraphs (4) to (7), inclusive, of subdivision (a) of Section 60643 by August 8.

(d) Ability to report results that permit comparability between data from school districts' previous administration of standardized achievement tests, if feasible.

(e) Per-pupil cost estimates of administering the proposed assessment.

(f) The publisher's procedure for ensuring the security and integrity of test questions and materials.

(g) Experience in the successful conduct of testing programs adopted and administered by other states. For experience to be considered, the number of grades and pupils tested shall be provided.

SEC. 9. Section 60645 of the Education Code is amended to read:

60645. (a) The panel established pursuant to Section 60606 shall review the achievement test designated by the State Board of Education pursuant to Section 60642, the standards-based achievement test provided for in Section 60642.5, and items identified in subdivision (d) for compliance with Section 60614.

(b) Any test questions or test content identified by the panel to be out of compliance with Section 60614 shall be recommended for deletion or replacement pursuant to subdivision (e) of Section 60606.

(c) The State Board of Education shall ensure that any question or content not in compliance with Section 60614 is deleted from assessments designated pursuant to Section 60642 and the standards-based achievement test provided for in Section 60642.5.

(d) If necessary to maintain the requirements of Section 60642.5, the publisher shall replace deleted test content with revisions that comply with Section 60614 as required by the State Board of Education

pursuant to subdivision (c).

SEC. 10. Section 60648 of the Education Code is amended to read:

60648. The Superintendent of Public Instruction shall recommend, and the State Board of Education shall adopt, levels of pupil performance on achievement tests administered pursuant to this article in reading, English language arts, and mathematics at each grade level. The performance levels shall identify and establish the level of performance that is deemed to be the minimum level required for satisfactory performance in the next grade. These levels of performance shall only be adopted after the standards-based achievement tests have been aligned, pursuant to paragraph (2) of subdivision (a) of Section 60643, to the content and performance standards adopted by the State Board of Education pursuant to subdivision (a) of Section 60605.

SEC. 11. Section 60649 is added to the Education Code, to read:

60649. On or before March 1, 2001, the Superintendent of Public Instruction and the State Board of Education shall report to the Legislature and the Governor on the status of implementation of this chapter. The report shall include, but not be limited to, the following:

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

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

(c) The means by which the Superintendent of Public Instruction and the State Board of Education determine assessments are valid, reliable, and provide consistent year-to-year comparisons of student progress, consistent with nationally recognized and accepted test construction and implementation methodologies, as applicable.

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

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CHAPTER 183

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INTRODUCED BY Committee on Judiciary (Corbett (Chair), Harman (Vice Chair), Bates, Hancock, Jackson, Laird, Lieber, Longville, Montanez, Pacheco, and Steinberg)

MARCH 11, 2004

An act to amend Sections 511.3, 853, 2241.5, 2260, 3651, 4052, 4311, 4409, 4980.90, 7026.1, 7028, 12107.1, 13570, 17529.1, 17538.45, 17550.30, 17593, 18824, 18897.73, 22575, and 25503.4 of the Business and Professions Code, to amend Sections 51.10, 56.26, 800.100, 1102.16, 1103, 1542, 1785.30, 1786.24, 1789.21, 1798.83, 1798.85, 1799.1b, 1812.701, 1865, 2945.3, 2982, 2985.8, and 2988.9 of, and to amend and renumber Sections 1747.8 and 1747.9 of, the Civil Code, to amend Sections 715.010, 995.640, 1021.8, 1563, 1822.60, and 2023 of the Code of Civil Procedure, to amend Sections 2207, 13401.5, and 14010 of, and to amend and renumber Section 17655 of, the Corporations Code, to amend Sections 8266.1, 8813, 8825, 17077.45, 17334, 17360, 22852, 22854, 27403, 32265, 42238.41, 44279.2, 44328, 44735, 44830.3, 47634, 48200.7, 49414.5, 49452.6, 52015, 52054, 52055.615, 52055.625, 52055.655, 52128, 60061.8, 60640, 64201, 66271.8, 67359.13, 88033, 89539.2, 94779, 94901, 94944, 94990, and 99235 of the Education Code, to amend Sections 11105, 14310, and 18541 of the Elections Code, to amend Sections 917 and 956.5 of the Evidence Code, to amend Sections 4962 and 17600 of the Family Code, to amend Sections 216.3, 258, 645, 690, 777.5, 867, 1753, 1807, 1908, 3804, 14401, and 50122 of the Financial Code, to amend Sections 206, 1570, 1572, 1613, 7149.2, 7361, 7362, and 12011 of the Fish and Game Code, to amend Sections 6047.4, 6047.82, 27680, 27681, 27686, 27690, 30801, 52489, 65520, 66572, 66663, 74028, 78302, and 78690 of the Food and Agricultural Code, to amend Sections 912.8, 1091.4, 6254, 6254.17, 7072, 8220, 8592.4, 8869.84, 8880.325, 10205.1, 12012.30, 12080.3, 12598, 13995.20, 13995.40, 13995.42, 13995.58, 13995.65, 13995.74, 13997.1, 14055.2, 18215, 19063.1, 19582.1, 19826, 20035.2, 20035.3, 20035.4, 20035.10, 20235, 22013.97, 22825.12, 25358, 29550, 30061, 31520.5, 31755, 31762, 31776.3, 50061, 53088.2, 53895.5, 54222, 63049.4, 65919, 68085.5, 68086, 69927, 71806, 71828, 77202, and 95000 of, and to amend and renumber Sections 6215 and 20035.5 of, the Government Code, to amend Sections 138.6, 444.20, 1255, 1367.04, 1375.7, 1569.30, 1569.70, 1596.816, 1794.04, 11758, 13108.5, 17037.5, 17921.9, 17991, 25117.4.1, 25121.3, 25160.6, 25184.1, 25201.1, 25210.6, 25360.6, 25501, 32111, 33320.8, 33492.40, 39011.5, 39614, 39661, 40500.5, 40724.6, 41514.1, 41855.6, 50517.9, 51615, 53533, 101625, 104558, 106010, 115005, 121010, 127670, 127671, 127760, and 128401 of, to amend the heading of Chapter 8 (commencing with Section 127670) of Part 2 of Division 107 of, and to amend and renumber Sections 35987, 35988, 35989, 35990, and 35991 of, the Health and Safety Code, to amend Sections 881, 1063.53, 1067.08, 1104.9, 1280.7, 1776, 1861.025, 10113.2, 10133.56, 10133.8, 10178.4, 10764, 12144, 12671, 12693.55, 12975.7, 12975.8 of, and to amend and renumber Section 10089.45 of, the Insurance Code, to amend Sections 98.2, 141, 143.2, 2140.5, 2160.1, 2190, 2190.2, 2200, 2210, 3099, 3600.1, and 7304 of, and to amend and renumber Section 4610 of, the

Labor Code, to amend Sections 186.8, 330b, 330.7, 597b, 597c, 1372, 1463.010, 6245, 11171, 11502, 12021, and 13864 of the Penal Code, to amend Sections 858, 6242, 19403, 20114.5, and 21320 of the Probate Code, to amend Sections 6106.5 and 10295.3 of the Public Contract Code, to amend Sections 2755, 2802, 3305, 3324, 5079.50, 14509.3, 14552.5, 14581, 30610.3, 36725, 40000, 41732, 42330, 42463, 42475.2, 45000, 45010, 50000, and 71210 of, and to amend the headings of Article 1 (commencing with Section 32630), Article 2 (commencing with Section 32633), Article 3 (commencing with Section 32639), Article 4 (commencing with Section 32657), and Article 5 (commencing with Section 32661) of Division 22.9 of, the Public Resources Code, to amend Sections 280.5, 353.2, 372, 374, 377.2, 379.6, 396, 399.12, 1701.3, and 21670.1 of the Public Utilities Code, to amend Sections 97.313, 155.20, 3691.6, 6077, 6361.1, 9405, 17132.6, 18407, 19164, 19179, 19777, 23036, 23736.1, 46622, and 55337 of the Revenue and Taxation Code, to amend Sections 104.7, 3114.5, 5101, 8833, 10100.2, and 31071 of the Streets and Highways Code, to amend Sections 2610, 3305, and 10200 of the Unemployment Insurance Code, to amend Sections 2813.5, 3072, 9250.13, 9400.1, 9400.3, 9951, 11515.2, 12509, 22100, 25803, 31032.1, 34620, and 35401.7 of the Vehicle Code, to amend Sections 1552, 13269, 13368, 13387, 13610, 13611, 13611.5, 36153, 72303, 78688, 79532, and 79561.5 of, and to amend and renumber Section 12749.95 of the Water Code, to amend Sections 779, 1000.7, 1703, 5657, 7200.06, 10063, 11025, 11052.5, 11373, 11468.6, 14016.5, 14043.75, 14087.6, 14105.981, 14123.25, 14132.22, 14133.3, 14148.91, 14408, 15657, 15657.03, 16121.05, 16501.6, and 18358 of the Welfare and Institutions Code, and to amend Section 1 of Chapter 68 of, and Section 13 of Chapter 673 of, the Statutes of 2003, relating to the maintenance of the codes.

#### LEGISLATIVE COUNSEL'S DIGEST

AB 3082, Committee on Judiciary. Maintenance of the codes.

Existing law directs the Legislative Counsel to advise the Legislature from time to time as to legislation necessary to maintain the codes.

This bill would make technical, nonsubstantive changes in various provisions of law to effectuate the recommendations made by the Legislative Counsel to the Legislature.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 511.3 of the Business and Professions Code is amended to read:

511.3. (a) When a contracting agent sells, leases, or transfers a health provider's contract to a payor, the rights and obligations of the provider shall be governed by the underlying contract between the health care provider and the contracting agent.

(b) For purposes of this section, the following terms shall have the following meanings:

(1) "Contracting agent" has the meaning set forth in paragraph (2) of subdivision (d) of Section 511.1.

(2) "Payor" has the meaning set forth in paragraph (3) of subdivision (d) of Section 511.1.

SEC. 2. Section 853 of the Business and Professions Code is

amended to read:

853. (a) The Licensed Physicians and Dentists from Mexico Pilot Program is hereby created. This program shall allow up to 30 licensed physicians specializing in family practice, internal medicine, pediatrics, and obstetrics and gynecology, and up to 30 licensed dentists from Mexico to practice medicine or dentistry in California for a period not to exceed three years. The program shall also maintain an alternate list of program participants.

(b) The Medical Board of California shall issue three-year nonrenewable licenses to practice medicine to licensed Mexican physicians and the Dental Board of California shall issue three-year nonrenewable permits to practice dentistry to licensed Mexican dentists.

(c) Physicians from Mexico eligible to participate in this program shall comply with the following:

(1) Be licensed, certified or recertified, and in good standing in their medical specialty in Mexico. This certification or recertification shall be performed, as appropriate, by the Consejo Mexicano de Ginecologia y Obstetricia, A.C., the Consejo Mexicano de Certificacion en Medicina Familiar, A.C., the Consejo Mexicano de Medicina Interna, A.C., or the Consejo Mexicano de Certificacion en Pediatria, A.C.

(2) Prior to leaving Mexico, each physician shall have completed the following requirements:

(A) Passed the board review course with a score equivalent to that registered by United States applicants when passing a board review course for the United States certification examination in each of his or her specialty areas and passed an interview examination developed by the National Autonomous University of Mexico (UNAM) for each specialty area. Family practitioners who shall include obstetrics and gynecology in their practice shall also be required to have appropriately documented, as specified by United States standards, 50 live births. Mexican obstetricians and gynecologists shall be fellows in good standing of the American College of Obstetricians and Gynecologists.

(B) (i) Satisfactorily completed a six-month orientation program that addressed medical protocol, community clinic history and operations, medical administration, hospital operations and protocol, medical ethics, the California medical delivery system, health maintenance organizations and managed care practices, and pharmacology differences. This orientation program shall be approved by the Medical Board of California to ensure that it contains the requisite subject matter and meets appropriate California law and medical standards where applicable.

(ii) Additionally, Mexican physicians participating in the program shall be required to be enrolled in adult English as a Second Language (ESL) classes that focus on both verbal and written subject matter. Each physician participating in the program shall have transcripts sent to the Medical Board of California from the appropriate Mexican university showing enrollment and satisfactory completion of these classes.

(C) Representatives from UNAM in Mexico and a medical school in good standing or a facility conducting an approved medical residency training program in California shall confer to develop a mutually agreed-upon distant learning program for the six-month orientation program required pursuant to subparagraph (B).

(3) Upon satisfactory completion of the requirements in paragraphs (1) and (2), and after having received their three-year nonrenewable medical license, the Mexican physicians shall be required to obtain continuing education pursuant to Section 2190. Each physician shall



obtain an average of 25 continuing education units per year for a total of 75 units for a full three years of program participation.

(4) Upon satisfactory completion of the requirements in paragraphs (1) and (2), the applicant shall receive a three-year nonrenewable license to work in nonprofit community health centers and shall also be required to participate in a six-month externship at his or her place of employment. This externship shall be undertaken after the participant has received a license and is able to practice medicine. The externship shall ensure that the participant is complying with the established standards for quality assurance of nonprofit community health centers and medical practices. The externship shall be affiliated with a medical school in good standing in California. Complaints against program participants shall follow the same procedures contained in the Medical Practice Act (Chapter 5 (commencing with Section 2000)).

(5) After arriving in California, Mexican physicians participating in the program shall be required to be enrolled in adult ESL classes at institutions approved by the Bureau of Private Post Secondary and Vocational Education or accredited by the Western Association of Schools and Colleges. These classes shall focus on verbal and written subject matter to assist a physician in obtaining a level of proficiency in English that is commensurate with the level of English spoken at community clinics where he or she will practice. The community clinic employing a physician shall submit documentation confirming approval of an ESL program to the Medical Board of California for verification. Transcripts of satisfactory completion of the ESL classes shall be submitted to the board as proof of compliance with this provision.

(6) (A) Nonprofit community health centers employing Mexican physicians in the program shall be required to have medical quality assurance protocols and either be accredited by the Joint Commission on Accreditation of Health Care Organizations or have protocols similar to those required by the Joint Commission on Accreditation of Health Care Organizations. These protocols shall be submitted to the Medical Board of California prior to the hiring of Mexican physicians.

(B) In addition, after the program participant successfully completes the six-month externship program, a freestanding health care organization that has authority to provide medical quality certification, including, but not limited to, health plans, hospitals, and the Integrated Physician Association, is responsible for ensuring and overseeing the compliance of nonprofit community health centers medical quality assurance protocols, conducting site visits when necessary, and developing any additional protocols, surveys, or assessment tools to ensure that quality of care standards through quality assurance protocols are being appropriately followed by physicians participating in the program.

(7) Participating hospitals shall have the authority to establish criteria necessary to allow individuals participating in this three-year pilot program to be granted hospital privileges in their facilities.

(8) The Medical Board of California shall provide oversight review of both the implementation of this program and the evaluation required pursuant to subdivision (j). The board shall consult with the medical schools applying for funding to implement and evaluate this program, executive and medical directors of nonprofit community health centers wanting to employ program participants, and hospital administrators who will have these participants practicing in their hospital, as it conducts its oversight responsibilities of this program and evaluation. Any funding necessary for the implementation

of this program, including the evaluation and oversight functions, shall be secured from nonprofit philanthropic entities. Implementation of this program may not proceed unless appropriate funding is secured from nonprofit philanthropic entities. The board shall report to the Legislature every January during which the program is operational regarding the status of the program and the ability of the program to secure the funding necessary to carry out its required provisions. Notwithstanding Section 11005 of the Government Code, the board may accept funds from nonprofit philanthropic entities. The board shall, upon appropriation in the annual Budget Act, expend funds received from nonprofit philanthropic entities for this program.

(d) (1) Dentists from Mexico eligible to participate in this program shall comply with the following requirements or the requirements contained in paragraph (2):

(A) Be graduates from the National Autonomous University of Mexico School of Faculty Dentistry (Facultad de Odontologia).

(B) Meet all criteria required for licensure in Mexico that is required and being applied by the National Autonomous University of Mexico School of Faculty Dentistry (Facultad de Odontologia), including, but not limited to:

(i) A minimum grade point average.

(ii) A specified English language comprehension and conversational level.

(iii) Passage of a general examination.

(iv) Passage of an oral interview.

(C) Enroll and complete an orientation program that focuses on the following:

(i) Practical issues in pharmacology that shall be taught by an instructor who is affiliated with a California dental school approved by the Dental Board of California.

(ii) Practical issues and diagnosis in oral pathology that shall be taught by an instructor who is affiliated with a California dental school approved by the Dental Board of California.

(iii) Clinical applications that shall be taught by an instructor who is affiliated with a California dental school approved by the Dental Board of California.

(iv) Biomedical sciences that shall be taught by an instructor who is affiliated with a California dental school approved by the Dental Board of California.

(v) Clinical history management that shall be taught by an instructor who is affiliated with a California dental school approved by the Dental Board of California.

(vi) Special patient care that shall be taught by an instructor who is affiliated with a California dental school approved by the Dental Board of California.

(vii) Sedation techniques that shall be taught by an instructor who is affiliated with a California dental school approved by the Dental Board of California.

(viii) Infection control guidelines which shall be taught by an instructor who is affiliated with a California dental school approved by the Dental Board of California.

(ix) Introduction to health care systems in California.

(x) Introduction to community clinic operations.

(2) (A) Graduate within the three-year period prior to enrollment in the program, from a foreign dental school that has received provisional approval or certification by November of 2003 from the Dental Board of California under the Foreign Dental School Approval Program.

(B) Enroll and satisfactorily complete an orientation program that

focuses on the health care system and community clinic operations in California.

(C) Enroll and satisfactorily complete a course taught by an approved foreign dental school on the infection control guidelines adopted by the Dental Board of California.

(3) Upon satisfactory completion to a competency level of the requirements in paragraph (1) or (2), dentists participating in the program shall be eligible to obtain employment in a nonprofit community health center pursuant to subdivision (f) within the structure of an extramural dental program for a period not to exceed three years.

(4) Dentists participating in the program shall be required to complete the necessary continuing education units required by the Dental Practice Act (Chapter 4 (commencing with Section 1600)).

(5) The program shall accept 30 participating dentists. The program shall also maintain an alternate list of program applicants. If an active program participant leaves the program for any reason, a participating dentist from the alternate list shall be chosen to fill the vacancy. Only active program participants shall be required to complete the orientation program specified in subparagraph (C) of paragraph (1).

(6) (A) Additionally, an extramural dental facility may be identified, qualified, and approved by the board as an adjunct to, and an extension of, the clinical and laboratory departments of an approved dental school.

(B) As used in this subdivision, "extramural dental facility" includes, but is not limited to, any clinical facility linked to an approved dental school for the purposes of monitoring or overseeing the work of a dentist licensed in Mexico participating in this program and that is employed by an approved dental school for instruction in dentistry that exists outside or beyond the walls, boundaries, or precincts of the primary campus of the approved dental school, and in which dental services are rendered. These facilities shall include nonprofit community health centers.

(C) Dental services provided to the public in these facilities shall constitute a part of the dental education program.

(D) Approved dental schools shall register extramural dental facilities with the board. This registration shall be accompanied by information supplied by the dental school pertaining to faculty supervision, scope of treatment to be rendered, arrangements for postoperative care, the name and location of the facility, the date operations shall commence at the facility, and a description of the equipment and facilities available. This information shall be supplemented with a copy of the agreement between the approved dental school and the affiliated institution establishing the contractual relationship. Any change in the information initially provided to the board shall be communicated to the board.

(7) The program shall also include issues dealing with program operations, and shall be developed in consultation by representatives of community clinics, approved dental schools, and the National Autonomous University of Mexico School of Faculty Dentistry (Facultad de Odontologia).

(8) The Dental Board of California shall provide oversight review of the implementation of this program and the evaluation required pursuant to subdivision (j). The board shall consult with dental schools in California that have applied for funding to implement and evaluate this program and executive and dental directors of nonprofit community health centers wanting to employ program participants, as it conducts its oversight responsibilities of this program and evaluation. Implementation of this program may not proceed unless

appropriate funding is secured from nonprofit philanthropic entities.

The board shall report to the Legislature every January during which the program is operational regarding the status of the program and the ability of the program to secure the funding necessary to carry out its required provisions. Notwithstanding Section 11005 of the Government Code, the board may accept funds from nonprofit philanthropic entities.

(e) Nonprofit community health centers that employ participants shall be responsible for ensuring that participants are enrolled in local English-language instruction programs and that the participants attain English-language fluency at a level that would allow the participants to serve the English-speaking patient population when necessary and have the literacy level to communicate with appropriate hospital staff when necessary.

(f) Physicians and dentists from Mexico having met the applicable requirements set forth in subdivisions (c) and (d) shall be placed in a pool of candidates who are eligible to be recruited for employment by nonprofit community health centers in California, including, but not limited to, those located in the Counties of Ventura, Los Angeles, San Bernardino, Imperial, Monterey, San Benito, Sacramento, San Joaquin, Santa Cruz, Yuba, Orange, Colusa, Glenn, Sutter, Kern, Tulare, Fresno, Stanislaus, San Luis Obispo, and San Diego. The Medical Board of California shall ensure that all Mexican physicians participating in this program have satisfactorily met the requirements set forth in subdivision (c) prior to placement at a nonprofit community health center.

(g) Nonprofit community health centers in the counties listed in subdivision (f) shall apply to the Medical Board of California and the Dental Board of California to hire eligible applicants who shall then be required to complete a six-month externship that includes working in the nonprofit community health center and a corresponding hospital. Once enrolled in this externship, and upon payment of the required fees, the Medical Board of California shall issue a three-year nonrenewable license to practice medicine and the Dental Board of California shall issue a three-year nonrenewable dental special permit to practice dentistry. For purposes of this program, the fee for a three-year nonrenewable license to practice medicine shall be nine hundred dollars (\$900) and the fee for a three-year nonrenewable dental permit shall be five hundred forty-eight dollars (\$548). A licensee or permit holder shall practice only in the nonprofit community health center that offered him or her employment and the corresponding hospital. This three-year nonrenewable license or permit shall be deemed to be a license or permit in good standing pursuant to the provisions of this chapter for the purpose of participation and reimbursement in all federal, state, and local health programs, including managed care organizations and health maintenance organizations.

(h) The three-year nonrenewable license or permit shall terminate upon notice by certified mail, return receipt requested, to the licensee's or permit holder's address of record, if, in the Medical Board of California or Dental Board of California's sole discretion, it has determined that either:

(1) The license or permit was issued by mistake.

(2) A complaint has been received by either board against the licensee or permit holder that warrants terminating the license or permit pending an investigation and resolution of the complaint.

(i) All applicable employment benefits, salary, and policies provided by nonprofit community health centers to their current employees shall be provided to medical and dental practitioners from Mexico participating in this pilot program. This shall include

nonprofit community health centers providing malpractice insurance coverage.

(j) Beginning 12 months after this pilot program has commenced, an evaluation of the program shall be undertaken with funds provided from philanthropic foundations. The evaluation shall be conducted jointly by one medical school and one dental school in California and UNAM in consultation with the Medical Board of California and the Dental Board of California. If the evaluation required pursuant to this section does not begin within 15 months after the pilot project has commenced, the evaluation may be performed by an independent consultant selected by the Director of the Department of Consumer Affairs. This evaluation shall include, but not be limited to, the following issues and concerns:

(1) Quality of care provided by doctors and dentists licensed under this pilot program.

(2) Adaptability of these licensed practitioners to California medical and dental standards.

(3) Impact on working and administrative environment in nonprofit community health centers and impact on interpersonal relations with medical licensed counterparts in health centers.

(4) Response and approval by patients.

(5) Impact on cultural and linguistic services.

(6) Increases in medical encounters provided by participating practitioners to limited-English-speaking patient populations and increases in the number of limited-English-speaking patients seeking health care services from nonprofit community health centers.

(7) Recommendations on whether the program should be continued, expanded, altered, or terminated.

(8) Progress reports on available data listed shall be provided to the Legislature on achievable time intervals beginning the second year of implementation of this pilot program. An interim final report shall be issued three months before termination of this pilot program. A final report shall be submitted to the Legislature at the time of termination of this pilot program on all of the above data. The final report shall reflect and include how other initiatives concerning the development of culturally and linguistically competent medical and dental providers within California and the United States are impacting communities in need of these health care providers.

(k) Costs for administering this pilot program shall be secured from philanthropic entities.

(l) Program applicants shall be responsible for working with the governments of Mexico and the United States in order to obtain the necessary three-year visa required for program participation.

SEC. 3. Section 2241.5 of the Business and Professions Code is amended to read:

2241.5. (a) Notwithstanding any other provision of law, a physician and surgeon may prescribe or administer controlled substances to a person in the course of the physician and surgeon's treatment of that person for a diagnosed condition causing intractable pain.

(b) "Intractable pain," as used in this section, means a pain state in which the cause of the pain cannot be removed or otherwise treated and which in the generally accepted course of medical practice no relief or cure of the cause of the pain is possible or none has been found after reasonable efforts, including, but not limited to, evaluation by the attending physician and surgeon and one or more physicians and surgeons specializing in the treatment of the area, system, or organ of the body perceived as the source of the pain.

(c) No physician and surgeon shall be subject to disciplinary

action by the board for prescribing or administering controlled substances in the course of treatment of a person for intractable pain.

(d) This section shall not apply to those persons being treated by the physician and surgeon for chemical dependency because of their use of drugs or controlled substances.

(e) This section shall not authorize a physician and surgeon to prescribe or administer controlled substances to a person the physician and surgeon knows to be using drugs or substances for nontherapeutic purposes.

(f) This section shall not affect the power of the board to deny, revoke, or suspend the license of any physician and surgeon who does any of the following:

(1) Prescribes or administers a controlled substance or treatment that is nontherapeutic in nature or nontherapeutic in the manner the controlled substance or treatment is administered or prescribed or is for a nontherapeutic purpose in a nontherapeutic manner.

(2) Fails to keep complete and accurate records of purchases and disposals of substances listed in the California Controlled Substances Act, or of controlled substances scheduled in, or pursuant to, the federal Comprehensive Drug Abuse Prevention and Control Act of 1970. A physician and surgeon shall keep records of his or her purchases and disposals of these drugs, including the date of purchase, the date and records of the sale or disposal of the drugs by the physician and surgeon, the name and address of the person receiving the drugs, and the reason for the disposal of or the dispensing of the drugs to the person and shall otherwise comply with all state recordkeeping requirements for controlled substances.

(3) Writes false or fictitious prescriptions for controlled substances listed in the California Controlled Substances Act or scheduled in the federal Comprehensive Drug Abuse Prevention and Control Act of 1970.

(4) Prescribes, administers, or dispenses in a manner not consistent with public health and welfare controlled substances listed in the California Controlled Substances Act or scheduled in the federal Comprehensive Drug Abuse Prevention and Control Act of 1970.

(5) Prescribes, administers, or dispenses in violation of either Chapter 4 (commencing with Section 11150) or Chapter 5 (commencing with Section 11210) of Division 10 of the Health and Safety Code or this chapter.

(g) Nothing in this section shall be construed to prohibit the governing body of a hospital from taking disciplinary actions against a physician and surgeon, as authorized pursuant to Sections 809.05, 809.4, and 809.5.

SEC. 4. Section 2260 of the Business and Professions Code is amended to read:

2260. (a) A physician and surgeon who removes sperm or ova from a patient shall, before the sperm or ova are used for a purpose other than reimplantation in the same patient or implantation in the spouse of the patient, obtain the written consent of the patient as provided in subdivision (b).

(b) The consent required by subdivision (a) shall conform to all of the following requirements:

(1) The consent shall be in writing and shall contain the following statement: I (name of donor) do hereby donate (type and number, if applicable, of sperm or ova), to (name of clinic or other donee) for (specify purpose).

(2) The consent shall contain a statement by the donor that specifies the disposition of any unused donated material.

(3) The consent shall be signed by the patient and by the physician and surgeon who removes the sperm or ova.

(4) The physician and surgeon shall retain the original consent in the medical record of the patient and give a copy of the consent to the patient.

(5) The consent shall contain a notification to the patient that the written consent is an important document that should be retained with other vital records.

(6) If the procedure to remove the sperm or ova is performed in a hospital, the physician and surgeon shall provide a copy of the consent to the hospital.

(c) Nothing in this section shall affect the obligation of a physician and surgeon under current law to obtain the informed consent of a patient before performing a medical procedure on the patient that may significantly affect the patient's reproductive health or ability to conceive, or both.

(d) A violation of this section constitutes unprofessional conduct. Section 2314 shall not apply to this section.

(e) A physician and surgeon who fails, for the second time, to obtain any consent required in subdivision (a) or (b) before transferring sperm or ova from a provider of sperm or ova to a recipient, shall be assessed a civil penalty in an amount not less than one thousand dollars (\$1,000) and not more than five thousand dollars (\$5,000) plus court costs, as determined by the court, which penalty and costs shall be paid to the individual whose required consent was not obtained. A separate penalty shall be assessed for each individual from whom the consent was not obtained. The penalties in this section shall be available in addition to any other remedies that may be available under other provisions of law.

SEC. 5. Section 3651 of the Business and Professions Code is amended to read:

3651. In order to be certified for the specialty practice of naturopathic childbirth attendance, a naturopathic doctor shall obtain a passing grade on the American College of Nurse Midwives Written Examination, or a substantially equivalent examination approved by the bureau, and shall establish, to the bureau's satisfaction, compliance with one of the following requirements:

(a) Successful completion of a certificate of midwifery or naturopathic obstetrics specialty from an approved naturopathic medical education program consisting of not less than 84 semester units or 126 quarter units that substantially complies with the following educational standards and requirements:

(1) The curriculum is presented in semester or quarter units under the following formula:

(A) One hour of instruction in theory each week throughout a semester or quarter equals one unit.

(B) Three hours of clinical practice each week throughout a semester or quarter equals one unit.

(2) The program provides both academic and clinical preparation that is substantially equivalent to that provided in a program accredited by the American College of Nurse Midwives. The program includes, but is not limited to, preparation in all of the following areas:

(A) The art and science of midwifery, one-half of which shall be in theory and one-half of which shall be in clinical practice. Theory and clinical practice shall be concurrent in the areas of maternal and child health, including, but not limited to, labor and delivery, neonatal well care, and postpartum care.

(B) Communications skills that include the principles of oral, written, and group communications.

(C) Anatomy and physiology, genetics, obstetrics and gynecology, embryology and fetal development, neonatology, applied microbiology, chemistry, child growth and development, pharmacology, nutrition, laboratory diagnostic tests and procedures, and physical assessment.

(D) Concepts in psychosocial, emotional, and cultural aspects of maternal and child care, human sexuality, counseling and teaching, maternal and infant and family bonding process, breast feeding, family planning, principles of preventive health, and community health.

(E) Aspects of the normal pregnancy, labor and delivery, postpartum period, newborn care, family planning, or routine gynecological care in alternative birth centers, homes, and hospitals.

(3) The program integrates the following subjects throughout its entire curriculum:

(A) Midwifery process.

(B) Basic intervention skills in preventive, remedial, and supportive midwifery.

(C) The knowledge and skills required to develop collegial relationships with health care providers from other disciplines.

(D) Related behavioral and social sciences with emphasis on societal and cultural patterns, human development, and behavior related to maternal and child health, illness, and wellness.

(4) Instruction in personal hygiene, client abuse, cultural diversity, and the legal, social, and ethical aspects of midwifery.

(5) Instruction in the midwifery management process which shall include all of the following:

(A) Obtaining or updating a defined and relevant database for assessment of the health status of the client.

(B) Identifying problems based upon correct interpretation of the database.

(C) Preparing a defined needs or problem list, or both, with corroboration from the client.

(D) Consulting, collaborating with, and referring to, appropriate members of the health care team.

(E) Providing information to enable clients to make appropriate decisions and to assume appropriate responsibility for their own health.

(F) Assuming direct responsibility for the development of comprehensive, supportive care for the client and with the client.

(G) Assuming direct responsibility for implementing the plan of care.

(H) Initiating appropriate measures for obstetrical and neonatal emergencies.

(I) Evaluating, with corroboration from the client, the achievement of health care goals and modifying the plan of care appropriately.

(b) Successful completion of an educational program that the bureau has determined satisfies the criteria of subdivision (a) and current licensure as a midwife by a state with licensing standards that have been found by the bureau to be substantially equivalent to those adopted by the bureau pursuant to this article.

SEC. 6. Section 4052 of the Business and Professions Code is amended to read:

4052. (a) Notwithstanding any other provision of law, a pharmacist may do any of the following:

(1) Furnish a reasonable quantity of compounded medication to a prescriber for office use by the prescriber.

(2) Transmit a valid prescription to another pharmacist.



(3) Administer, orally or topically, drugs and biologicals pursuant to a prescriber's order.

(4) Perform the following procedures or functions in a licensed health care facility in accordance with policies, procedures, or protocols developed by health professionals, including physicians, pharmacists, and registered nurses, with the concurrence of the facility administrator:

(A) Ordering or performing routine drug therapy-related patient assessment procedures including temperature, pulse, and respiration.

(B) Ordering drug therapy-related laboratory tests.

(C) Administering drugs and biologicals by injection pursuant to a prescriber's order (the administration of immunizations under the supervision of a prescriber may also be performed outside of a licensed health care facility).

(D) Initiating or adjusting the drug regimen of a patient pursuant to an order or authorization made by the patient's prescriber and in accordance with the policies, procedures, or protocols of the licensed health care facility.

(5) (A) Perform the following procedures or functions as part of the care provided by a health care facility, a licensed home health agency, a licensed clinic in which there is a physician oversight, a provider who contracts with a licensed health care service plan with regard to the care or services provided to the enrollees of that health care service plan, or a physician, in accordance, as applicable, with policies, procedures, or protocols of that facility, the home health agency, the licensed clinic, the health care service plan, or that physician, in accordance with subparagraph (C):

(i) Ordering or performing routine drug therapy-related patient assessment procedures, including temperature, pulse, and respiration.

(ii) Ordering drug therapy-related laboratory tests.

(iii) Administering drugs and biologicals by injection pursuant to a prescriber's order (the administration of immunizations under the supervision of a prescriber may also be performed outside of a licensed health care facility).

(iv) Initiating or adjusting the drug regimen of a patient pursuant to a specific written order or authorization made by the patient's prescriber for the individual patient, and in accordance with the policies, procedures, or protocols of the health care facility, home health agency, licensed clinic, health care service plan, or physician. Adjusting the drug regimen does not include substituting or selecting a different drug, except as authorized by the protocol. The pharmacist shall provide written notification to the patient's prescriber, or enter the appropriate information in an electronic patient record system shared by the prescriber, of any drug regimen initiated pursuant to this clause within 24 hours.

(B) A patient's prescriber may prohibit, by written instruction, any adjustment or change in the patient's drug regimen by the pharmacist.

(C) The policies, procedures, or protocols referred to in this paragraph shall be developed by health care professionals, including physicians, pharmacists, and registered nurses, and, at a minimum, meet all of the following requirements:

(i) Require that the pharmacist function as part of a multidisciplinary group that includes physicians and direct care registered nurses. The multidisciplinary group shall determine the appropriate participation of the pharmacist and the direct care registered nurse.

(ii) Require that the medical records of the patient be available

to both the patient's prescriber and the pharmacist.

(iii) Require that the procedures to be performed by the pharmacist relate to a condition for which the patient has first been seen by a physician.

(iv) Except for procedures or functions provided by a health care facility, a licensed clinic in which there is physician oversight, or a provider who contracts with a licensed health care plan with regard to the care or services provided to the enrollees of that health care service plan, require the procedures to be performed in accordance with a written, patient-specific protocol approved by the treating or supervising physician. Any change, adjustment, or modification of an approved preexisting treatment or drug therapy shall be provided in writing to the treating or supervising physician within 24 hours.

(6) Manufacture, measure, fit to the patient, or sell and repair dangerous devices or furnish instructions to the patient or the patient's representative concerning the use of those devices.

(7) Provide consultation to patients and professional information, including clinical or pharmacological information, advice, or consultation to other health care professionals.

(8) (A) Furnish emergency contraception drug therapy in accordance with either of the following:

(i) Standardized procedures or protocols developed by the pharmacist and an authorized prescriber who is acting within his or her scope of practice.

(ii) Standardized procedures or protocols developed and approved by both the board and the Medical Board of California in consultation with the American College of Obstetricians and Gynecologists, the California Pharmacists Association, and other appropriate entities. Both the board and the Medical Board of California shall have authority to ensure compliance with this clause, and both boards are specifically charged with the enforcement of this provision with respect to their respective licensees. Nothing in this clause shall be construed to expand the authority of a pharmacist to prescribe any prescription medication.

(B) Prior to performing a procedure authorized under this paragraph, a pharmacist shall complete a training program on emergency contraception that consists of at least one hour of approved continuing education on emergency contraception drug therapy.

(C) A pharmacist, pharmacist's employer, or pharmacist's agent may not directly charge a patient a separate consultation fee for emergency contraception drug therapy services initiated pursuant to this paragraph, but may charge an administrative fee not to exceed ten dollars (\$10) above the retail cost of the drug. Upon an oral, telephonic, electronic, or written request from a patient or customer, a pharmacist or pharmacist's employee shall disclose the total retail price that a consumer would pay for emergency contraception drug therapy. As used in this subparagraph, total retail price includes providing the consumer with specific information regarding the price of the emergency contraception drugs and the price of the administrative fee charged. This limitation is not intended to interfere with other contractually agreed-upon terms between a pharmacist, a pharmacist's employer, or a pharmacist's agent and a health care service plan or insurer. Patients who are insured or covered and receive a pharmacy benefit that covers the cost of emergency contraception shall not be required to pay an administrative fee. These patients shall be required to pay copayments pursuant to the terms and conditions of their coverage. The provisions of this subparagraph shall cease to be operative for

dedicated emergency contraception drugs when these drugs are reclassified as over-the-counter products by the federal Food and Drug Administration.

(D) A pharmacist may not require a patient to provide individually identifiable medical information that is not specified in Section 1707.1 of Title 16 of the California Code of Regulations before initiating emergency contraception drug therapy pursuant to this paragraph.

(b) (1) Prior to performing any procedure authorized by paragraph (4) of subdivision (a), a pharmacist shall have received appropriate training as prescribed in the policies and procedures of the licensed health care facility.

(2) Prior to performing any procedure authorized by paragraph (5) of subdivision (a), a pharmacist shall have either (A) successfully completed clinical residency training or (B) demonstrated clinical experience in direct patient care delivery.

(3) For each emergency contraception drug therapy initiated pursuant to paragraph (8) of subdivision (a), the pharmacist shall provide the recipient of the emergency contraception drugs with a standardized factsheet that includes, but is not limited to, the indications for use of the drug, the appropriate method for using the drug, the need for medical followup, and other appropriate information. The board shall develop this form in consultation with the State Department of Health Services, the American College of Obstetricians and Gynecologists, the California Pharmacists Association, and other health care organizations. The provisions of this section do not preclude the use of existing publications developed by nationally recognized medical organizations.

(c) Nothing in this section shall affect the requirements of existing law relating to maintaining the confidentiality of medical records.

(d) Nothing in this section shall affect the requirements of existing law relating to the licensing of a health care facility.

SEC. 7. Section 4311 of the Business and Professions Code is amended to read:

4311. (a) Any license issued by the board, or the holder thereof, shall be suspended automatically during any time that the person is incarcerated after conviction of a felony, regardless of whether the conviction has been appealed. The board, immediately upon receipt of a certified copy of a record of a criminal conviction, shall determine whether the person has been automatically suspended by virtue of incarceration pursuant to a felony conviction and, if so, the duration of that suspension. The board shall notify the person so suspended of the suspension and that the person has a right to request a hearing, solely as to whether he or she is incarcerated pursuant to a felony conviction, in writing at that person's address of record with the board and at the facility in which the person is incarcerated.

(b) In addition to any suspension under subdivision (a), the board shall summarily suspend any license issued by the board where a conviction of the holder of the license meets the requirements of paragraphs (1) and (2).

(1) A felony that was either of the following:

(A) Committed in the course of a business or practice for which the board issues a license.

(B) Committed in a manner that a client, customer, or patient of the licensee was a victim.

(2) Where an element of the offense involves either of the following:

(A) The specific intent to deceive, defraud, steal, or make a

false statement.

(B) The illegal sale or possession for sale of or trafficking in any controlled substance.

(3) The suspension shall continue until the time for appeal has elapsed, if no appeal is taken, or until the judgment of conviction has been affirmed on appeal or has otherwise become final, and until further order of the board.

(4) The board shall immediately send notice in writing of the suspension to the licensee, or the holder of any other board-issued license, at his or her address of record and, if incarcerated at the time, at the facility in which the person is incarcerated. The notice shall include notification of that person's right to elect to have the issue of penalty heard as provided in paragraph (2) of subdivision (d), and of the right to request a hearing to contest the summary suspension. Any request for a hearing under this paragraph must be received by the board within 15 days following receipt of the notice provided for by this paragraph.

(5) The hearing shall be before an administrative law judge, a committee of the board sitting with an administrative law judge, or the board sitting with an administrative law judge, at the board's discretion, and shall be subject to review by the board, at its discretion. The hearing shall be limited to (A) whether there has been a felony conviction as stated in the board's notice, and (B) whether the conviction meets the criteria of this subdivision, except where the licensee chooses to proceed as provided by paragraph (2) of subdivision (d), or where the board has also filed and served an accusation as provided in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code and given notice of the hearing as required by that chapter; provided that if an accusation under Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code is also to be heard, only an administrative law judge sitting alone or the board, sitting with an administrative law judge, may hear the case.

(c) In addition to any suspension under subdivision (a), the board shall also suspend any license issued by the board, or the holder thereof, if the board determines that the felony conviction of the holder of the license is substantially related to the qualifications, functions, or duties of the licensee.

(1) Notice of the board's determination shall be sent to the licensee, or the holder thereof, at that person's address of record with the board and, if the person is incarcerated at the time, the facility in which the person is incarcerated. The notice shall advise the person that the license shall be suspended without hearing unless, within 15 days following receipt of the notice, a written request for hearing is delivered to the board.

(2) Upon receipt of a timely request for hearing, a notice of hearing shall be sent to the person at least 10 days before the date scheduled for the hearing. The notice of hearing shall include notification of that person's right to elect to have the issue of penalty heard as provided in paragraph (2) of subdivision (d).

(3) The hearing to determine whether a felony conviction is substantially related for purposes of an interim suspension under this subdivision shall be separate from any hearing on an accusation under the Administrative Procedure Act, except where the licensee elects to proceed under paragraph (2) of subdivision (d), or where the board has filed and served an accusation as provided by Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code and given notice of hearing as required by that chapter. The hearing on whether the felony conviction is substantially related shall be heard either by an administrative law

judge sitting alone, by a committee of the board sitting with an administrative law judge, or by the board sitting with an administrative law judge, at the board's discretion, and shall be subject to review by the board, at its discretion. However, if an accusation under Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code is also to be heard, only an administrative law judge sitting alone or the board, sitting with an administrative law judge, may hear the case. Except where a person proceeds under paragraph (2) of subdivision (d), or the board proceeds with an accusation at the same time, any suspension imposed under this subdivision shall continue until an accusation is filed under Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code and a final decision is rendered by the board.

(4) A conviction of any crime referred to in Section 4301, or for violation of Section 187, 261, or 288 of the Penal Code, shall be conclusively presumed to be substantially related to the qualifications, functions, or duties of a licensee of the board. Upon its own motion or for good cause shown the board may decline to impose a suspension under this subdivision or may set aside a suspension previously imposed when it appears to be in the interest of justice to do so, with due regard to maintaining the integrity of and confidence in the practice of pharmacy and the handling of dangerous drugs and devices.

(d) (1) Discipline may be ordered in accordance with Section 4300 or an application denied when the time for appeal has elapsed, the judgment of conviction has been affirmed on appeal, or an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, setting aside the verdict of guilty, or dismissing the accusation, complaint, information, or indictment.

(2) The issue of penalty shall be heard by an administrative law judge sitting alone or with a committee of the board or with the board itself, at the board's discretion, and any decision shall be subject to review by the board, at its discretion. The hearing shall not be held until the judgment of conviction has become final or, irrespective of a subsequent order under Section 1203.4 of the Penal Code, an order granting probation has been made suspending the imposition of sentence, provided that a licensee may, at his or her option, elect to have the issue of penalty decided before those time periods have elapsed. Where the licensee so elects, the issue of penalty shall be heard in the manner described in this section at the hearing to determine whether the conviction was substantially related to the qualifications, functions, or duties of the licensee. If the conviction of a licensee who has made this election is overturned on appeal, any discipline ordered pursuant to this section shall automatically cease. Nothing in this subdivision shall prohibit the board from pursuing disciplinary action based on any cause, including the facts underlying the conviction, other than the overturned conviction.

(3) The record of the proceedings resulting in the criminal conviction, including a transcript of any testimony taken in connection with the proceeding, may be received in evidence in any administrative proceeding to the extent the testimony would otherwise be admissible under Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. A certified copy of the criminal conviction shall be conclusive proof of the fact of the conviction.

(e) Other provisions of this chapter setting forth procedures for

the suspension or revocation of a license issued by the board shall not apply to proceedings conducted pursuant to this section, except as specifically provided in this section.

(f) For purposes of this section, a crime is a felony if it is specifically declared to be so or is made a felony by subdivision (a) of Section 17 of the Penal Code, unless it is charged as a misdemeanor pursuant to paragraph (4) or (5) of subdivision (b) of Section 17 of the Penal Code, irrespective of whether in a particular case the crime may be considered a misdemeanor as a result of postconviction proceedings. For purposes of this section, a felony also includes a conviction under federal law, or the law of any other state of the United States, of the District of Columbia, or of any territory or possession of the United States. A conviction includes a plea or verdict of guilty or a conviction following a plea of nolo contendere.

(g) The board may delegate the authority to issue a suspension under subdivision (a) or (b) or a notice of suspension under subdivision (c) to the executive officer of the board.

SEC. 8. Section 4409 of the Business and Professions Code is amended to read:

4409. At the time a pharmacy license is renewed pursuant to subdivision (a) of Section 4110 or a pharmacist license is renewed pursuant to Section 4401, the pharmacy or pharmacist may make a twenty-five dollar (\$25) contribution, to be submitted to the board, for the sole purpose of funding the California Pharmacist Scholarship and Loan Repayment Program established pursuant to Article 2 (commencing with Section 128198) of Chapter 3 of Part 3 of Division 107 of the Health and Safety Code. The contribution submitted pursuant to this section shall be paid into the State Treasury and credited to the California Pharmacist Scholarship and Loan Repayment Program Fund established pursuant to Section 128198.5 of the Health and Safety Code.

SEC. 9. Section 4980.90 of the Business and Professions Code is amended to read:

4980.90. (a) Experience gained outside of California shall be accepted toward the licensure requirements if it is substantially equivalent to that required by this chapter and if the applicant has gained a minimum of 250 hours of supervised experience in direct counseling within California while registered as an intern with the board.

(b) Education gained outside of California shall be accepted toward the licensure requirements if it is substantially equivalent to the education requirements of this chapter, and if the applicant has completed all of the following:

(1) A two semester- or three quarter-unit course in California law and professional ethics for marriage, family, and child counselors that shall include areas of study as specified in Section 4980.41.

(2) A minimum of seven contact hours of training or coursework in child abuse assessment and reporting as specified in Section 28 and any regulations promulgated thereunder.

(3) A minimum of 10 contact hours of training or coursework in sexuality as specified in Section 25 and any regulations promulgated thereunder.

(4) A minimum of 15 contact hours of training or coursework in alcoholism and other chemical substance dependency as specified by regulation.

(5) (A) Instruction in spousal or partner abuse assessment, detection, and intervention. This instruction may be taken either in fulfillment of other educational requirements for licensure or in a separate course.

(B) On and after January 1, 2004, a minimum of 15 contact hours of coursework or training in spousal or partner abuse assessment, detection, and intervention strategies.

(6) On and after January 1, 2003, a minimum of a two semester- or three quarter-unit survey course in psychological testing. This course may be taken either in fulfillment of other requirements for licensure or in a separate course.

(7) On and after January 1, 2003, a minimum of a two semester- or three quarter-unit survey course in psychopharmacology. This course may be taken either in fulfillment of other requirements for licensure or in a separate course.

(8) With respect to human sexuality, alcoholism and other chemical substance dependency, spousal or partner abuse assessment, detection, and intervention, psychological testing, and psychopharmacology, the board may accept training or coursework acquired out of state.

(c) For purposes of this section, the board may, in its discretion, accept education as substantially equivalent if the applicant has been granted a degree in a single integrated program primarily designed to train marriage, family, and child counselors and if the applicant's education meets the requirements of Sections 4980.37 and 4980.40. The degree title and number of units in the degree program need not be identical to those required by subdivision (a) of Section 4980.40. If the applicant's degree does not contain the number of units required by subdivision (a) of Section 4980.40, the board may, in its discretion, accept the applicant's education as substantially equivalent if the applicant's degree otherwise complies with this section and the applicant completes the units required by subdivision (a) of Section 4980.40.

SEC. 10. Section 7026.1 of the Business and Professions Code is amended to read:

7026.1. The term "contractor" includes all of the following:

(a) Any person not exempt under Section 7053 who maintains or services air-conditioning, heating, or refrigeration equipment that is a fixed part of the structure to which it is attached.

(b) Any person, consultant to an owner-builder, firm, association, organization, partnership, business trust, corporation, or company, who or which undertakes, offers to undertake, purports to have the capacity to undertake, or submits a bid, to construct any building or home improvement project, or part thereof.

(c) A temporary labor service agency that, as the employer, provides employees for the performance of work covered by this chapter. The provisions of this subdivision shall not apply if there is a properly licensed contractor who exercises supervision in accordance with Section 7068.1 and who is directly responsible for the final results of the work. Nothing in this subdivision shall require a qualifying individual, as provided in Section 7068, to be present during the supervision of work covered by this chapter. A contractor requesting the services of a temporary labor service agency shall provide his or her license number to that temporary labor service agency.

(d) Any person not otherwise exempt by this chapter, who performs tree removal, tree pruning, stump removal, or engages in tree or limb cabling or guying. The term contractor does not include a person performing the activities of a nurseryperson who in the normal course of routine work performs incidental pruning of trees, or guying of planted trees and their limbs. The term contractor does not include a gardener who in the normal course of routine work performs incidental pruning of trees measuring less than 15 feet in height after planting.

(e) Any person engaged in the business of drilling, digging, boring, or otherwise constructing, deepening, repairing, re-perforating, or abandoning any water well, cathodic protection well, or monitoring well.

SEC. 11. Section 7028 of the Business and Professions Code is amended to read:

7028. (a) It is a misdemeanor for any person to engage in the business or act in the capacity of a contractor within this state without having a license therefor, unless the person is particularly exempted from the provisions of this chapter.

(b) If a person has been previously convicted of the offense described in this section, the court shall impose a fine of 20 percent of the price of the contract under which the unlicensed person performed contracting work, or four thousand five hundred dollars (\$4,500), whichever is greater, and the person shall be confined in a county jail for not less than 90 days, except in an unusual case where the interests of justice would be served by imposition of a lesser sentence or a fine. If the court imposes only a fine or a jail sentence of less than 90 days for second or subsequent convictions under this section, the court shall state the reasons for its sentencing choice on the record.

(c) In the event the person performing the contracting work has agreed to furnish materials and labor on an hourly basis, "the price of the contract" for the purposes of this section means the aggregate sum of the cost of materials and labor furnished and the cost of completing the work to be performed.

(d) Notwithstanding any other provision of law to the contrary, an indictment for any violation of this section by the unlicensed contractor shall be found or an information or complaint filed within four years from the date of the contract proposal, contract, completion, or abandonment of the work, whichever occurs last.

SEC. 12. Section 12107.1 of the Business and Professions Code is amended to read:

12107.1. The director, by regulation, may establish a standard or standards of net weight or net measure, or net count of any commodity, except any manufactured commodity consisting of four or more staple ingredients. These standards, whenever applicable, shall be based upon published, official federal or state specifications and requirements or, in the absence of any such published official specifications, upon established and accepted common usage. Any regulation shall be adopted, amended, or repealed in conformity with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

Whenever a standard, net weight, net measure, or net count has been established for any commodity, it is unlawful to sell the commodity by, at, or for a quantity greater or less than the standard.

SEC. 13. Section 13570 of the Business and Professions Code is amended to read:

13570. (a) A manufacturer, blender, agent, jobber, consignment agent, or distributor who distributes motor fuel products that contain at least 1 percent alcohol by volume, shall state on an invoice, bill of lading, shipping paper, or other documentation used in normal and customary business practices, the percentage of alcohol, the type of alcohol, and, except in documentation certifying the octane rating of gasoline as required by federal law, the minimum antiknock index number, as defined in Section 13403, of the products distributed.

(b) If a motor vehicle fuel product contains less than 10 percent alcohol, a statement in the documentation that the product "contains



up to 10% ethanol" meets the requirement of subdivision (a) that it state the percentage of alcohol.

(c) This section, as it relates to certification of the minimum antiknock index number, applies to all motor vehicle gasoline distributed.

SEC. 14. Section 17529.1 of the Business and Professions Code is amended to read:

17529.1. For the purpose of this article, the following definitions apply:

(a) "Advertiser" means a person or entity that advertises through the use of commercial e-mail advertisements.

(b) "California electronic mail address" or "California e-mail address" means any of the following:

(1) An e-mail address furnished by an electronic mail service provider that sends bills for furnishing and maintaining that e-mail address to a mailing address in this state.

(2) An e-mail address ordinarily accessed from a computer located in this state.

(3) An e-mail address furnished to a resident of this state.

(c) "Commercial e-mail advertisement" means any electronic mail message initiated for the purpose of advertising or promoting the lease, sale, rental, gift offer, or other disposition of any property, goods, services, or extension of credit.

(d) "Direct consent" means that the recipient has expressly consented to receive e-mail advertisements from the advertiser, either in response to a clear and conspicuous request for the consent or at the recipient's own initiative.

(e) "Domain name" means any alphanumeric designation that is registered with or assigned by any domain name registrar as part of an electronic address on the Internet.

(f) "Electronic mail" or "e-mail" means an electronic message that is sent to an e-mail address and transmitted between two or more telecommunications devices, computers, or electronic devices capable of receiving electronic messages, whether or not the message is converted to hard copy format after receipt, viewed upon transmission, or stored for later retrieval. "Electronic mail" or "e-mail" includes electronic messages that are transmitted through a local, regional, or global computer network.

(g) "Electronic mail address" or "e-mail address" means a destination, commonly expressed as a string of characters, to which electronic mail can be sent or delivered. An "electronic mail address" or "e-mail address" consists of a user name or mailbox and a reference to an Internet domain.

(h) "Electronic mail service provider" means any person, including an Internet service provider, that is an intermediary in sending or receiving electronic mail or that provides to end users of the electronic mail service the ability to send or receive electronic mail.

(i) "Initiate" means to transmit or cause to be transmitted a commercial e-mail advertisement or assist in the transmission of a commercial e-mail advertisement by providing electronic mail addresses where the advertisement may be sent, but does not include the routine transmission of the advertisement through the network or system of a telecommunications utility or an electronic mail service provider through its network or system.

(j) "Incident" means a single transmission or delivery to a single recipient or to multiple recipients of an unsolicited commercial e-mail advertisement containing substantially similar content.

(k) "Internet" has the meaning set forth in paragraph (6) of subdivision (e) of Section 17538.

(1) "Preexisting or current business relationship," as used in connection with the sending of a commercial e-mail advertisement, means that the recipient has made an inquiry and has provided his or her e-mail address, or has made an application, purchase, or transaction, with or without consideration, regarding products or services offered by the advertiser.

Commercial e-mail advertisements sent pursuant to the exemption provided for a preexisting or current business relationship shall provide the recipient of the commercial e-mail advertisement with the ability to "opt-out" from receiving further commercial e-mail advertisements by calling a toll-free telephone number or by sending an "unsubscribe" e-mail to the advertiser offering the products or services in the commercial e-mail advertisement. This opt-out provision does not apply to recipients who are receiving free e-mail service with regard to commercial e-mail advertisements sent by the provider of the e-mail service.

(m) "Recipient" means the addressee of an unsolicited commercial e-mail advertisement. If an addressee of an unsolicited commercial e-mail advertisement has one or more e-mail addresses to which an unsolicited commercial e-mail advertisement is sent, the addressee shall be deemed to be a separate recipient for each e-mail address to which the e-mail advertisement is sent.

(n) "Routine transmission" means the transmission, routing, relaying, handling, or storing of an electronic mail message through an automatic technical process. "Routine transmission" shall not include the sending, or the knowing participation in the sending, of unsolicited commercial e-mail advertisements.

(o) "Unsolicited commercial e-mail advertisement" means a commercial e-mail advertisement sent to a recipient who meets both of the following criteria:

(1) The recipient has not provided direct consent to receive advertisements from the advertiser.

(2) The recipient does not have a preexisting or current business relationship, as defined in subdivision (1), with the advertiser promoting the lease, sale, rental, gift offer, or other disposition of any property, goods, services, or extension of credit.

SEC. 15. Section 17538.45 of the Business and Professions Code is amended to read:

17538.45. (a) For purposes of this section, the following words have the following meanings:

(1) "Electronic mail advertisement" means any electronic mail message, the principal purpose of which is to promote, directly or indirectly, the sale or other distribution of goods or services to the recipient.

(2) "Unsolicited electronic mail advertisement" means any electronic mail advertisement that meets both of the following requirements:

(A) It is addressed to a recipient with whom the initiator does not have an existing business or personal relationship.

(B) It is not sent at the request of or with the express consent of the recipient.

(3) "Electronic mail service provider" means any business or organization qualified to do business in California that provides registered users the ability to send or receive electronic mail through equipment located in this state and that is an intermediary in sending or receiving electronic mail.

(4) "Initiation" of an unsolicited electronic mail advertisement refers to the action by the initial sender of the electronic mail advertisement. It does not refer to the actions of any intervening electronic mail service provider that may handle or retransmit the

electronic message.

(5) "Registered user" means any individual, corporation, or other entity that maintains an electronic mail address with an electronic mail service provider.

(b) No registered user of an electronic mail service provider shall use or cause to be used that electronic mail service provider's equipment located in this state in violation of that electronic mail service provider's policy prohibiting or restricting the use of its service or equipment for the initiation of unsolicited electronic mail advertisements.

(c) No individual, corporation, or other entity shall use or cause to be used, by initiating an unsolicited electronic mail advertisement, an electronic mail service provider's equipment located in this state in violation of that electronic mail service provider's policy prohibiting or restricting the use of its equipment to deliver unsolicited electronic mail advertisements to its registered users.

(d) An electronic mail service provider shall not be required to create a policy prohibiting or restricting the use of its equipment for the initiation or delivery of unsolicited electronic mail advertisements.

(e) Nothing in this section shall be construed to limit or restrict the rights of an electronic mail service provider under Section 230(c)(1) of Title 47 of the United States Code, any decision of an electronic mail service provider to permit or to restrict access to or use of its system, or any exercise of its editorial function.

(f) (1) In addition to any other action available under law, any electronic mail service provider whose policy on unsolicited electronic mail advertisements is violated as provided in this section may bring a civil action to recover the actual monetary loss suffered by that provider by reason of that violation, or liquidated damages of fifty dollars (\$50) for each electronic mail message initiated or delivered in violation of this section, up to a maximum of twenty-five thousand dollars (\$25,000) per day, whichever amount is greater.

(2) In any action brought pursuant to paragraph (1), the court may award reasonable attorney's fees to a prevailing party.

(3) (A) In any action brought pursuant to paragraph (1), the electronic mail service provider shall be required to establish as an element of its cause of action that prior to the alleged violation, the defendant had actual notice of both of the following:

(i) The electronic mail service provider's policy on unsolicited electronic mail advertising.

(ii) The fact that the defendant's unsolicited electronic mail advertisements would use or cause to be used the electronic mail service provider's equipment located in this state.

(B) In this regard, the Legislature finds that with rapid advances in Internet technology, and electronic mail technology in particular, Internet service providers are already experimenting with embedding policy statements directly into the software running on the computers used to provide electronic mail services in a manner that displays the policy statements every time an electronic mail delivery is requested. While the state of the technology does not support this finding at present, the Legislature believes that, in a given case at some future date, a showing that notice was supplied via electronic means between the sending and receiving computers could be held to constitute actual notice to the sender for purposes of this paragraph.

(4) (A) An electronic mail service provider who has brought an

action against a party for a violation under Section 17529.8 shall not bring an action against that party under this section for the same unsolicited commercial electronic mail advertisement.

(B) An electronic mail service provider who has brought an action against a party for a violation of this section shall not bring an action against that party under Section 17529.8 for the same unsolicited commercial electronic mail advertisement.

SEC. 16. Section 17550.30 of the Business and Professions Code is amended to read:

17550.30. (a) The Travel Seller Fund is hereby created in the State Treasury. All fines, penalties, and fees, including late fees, collected pursuant to this article, and any moneys collected for a violation of this article or Article 2.7 (commencing with Section 17550.35), shall be deposited in the fund, and the moneys in the fund may be expended only for the purposes specified in this article.

(b) All moneys paid into the State Treasury and credited to the Travel Seller Fund shall be used by the Department of Justice in carrying out and enforcing the provisions of this article, including, but not limited to, the payment of salaries of Department of Justice personnel, contractors, or consultants, and the dissemination of information, including consumer education regarding this article and Article 2.7 (commencing with Section 17550.35).

(c) The sum of three hundred ninety-five thousand dollars (\$395,000) is hereby appropriated from the Travel Seller Fund to the Department of Justice for purposes of the Sellers of Travel Program established pursuant to Article 2.6 (commencing with Section 17550).

SEC. 17. Section 17593 of the Business and Professions Code is amended to read:

17593. (a) The Attorney General, a district attorney, or a city attorney may bring a civil action in any court of competent jurisdiction against a telephone solicitor to enforce the article and to obtain any one or more of the following remedies:

(1) An order to enjoin the violation.

(2) A civil penalty of up to the penalty amount that the Federal Trade Commission may seek pursuant to subparagraph (A) of paragraph (1) of subsection (m) of Section 45 of Title 15 of the United States Code as specified in Section 1.98 of Title 16 of the Code of Federal Regulations.

(3) Any other relief that the court deems proper.

(b) Any person who has received a telephone solicitation that is prohibited by Section 17592, or whose telephone number was used in violation of Section 17591, may bring a civil action in small claims court for an injunction or order to prevent further violations. If a person obtains an injunction or order under this subdivision and service of the injunction or order is properly effected, a person who thereafter receives further solicitations in violation of the injunction or order within 30 days after service of the initial injunction or order, may file a subsequent action in small claims court seeking enforcement of the injunction or order and a civil penalty to be awarded to the person in an amount up to one thousand dollars (\$1,000). For purposes of this subdivision, a person's claims may not be aggregated to establish jurisdiction in a court other than small claims court. For purposes of this subdivision, a defendant is not required to personally appear, but may appear by affidavit or by written instrument.

(c) The rights, remedies, and penalties established by this article are in addition to the rights, remedies, or penalties established under other laws.

(d) It shall be an affirmative defense to any action brought under

this article that the violation was accidental and in violation of the telephone solicitor's policies and procedures and telemarketer instruction and training.

SEC. 18. Section 18824 of the Business and Professions Code, as amended by Section 2 of Chapter 515 of the Statutes of 2003, is amended to read:

18824. (a) Except as provided in Sections 18646 and 18832, every person who conducts a contest or wrestling exhibition shall, within 72 hours after the determination of every contest or wrestling exhibition for which admission is charged and received, furnish to the commission a written report executed under penalty of perjury by one of the officers, showing the amount of the gross receipts, not to exceed two million dollars (\$2,000,000), and the gross price for the contest or wrestling exhibition charged directly or indirectly and no matter by whom received, for the sale, lease, or other exploitation of broadcasting and television rights of the contest or wrestling exhibition, and without any deductions, except for expenses incurred for one broadcast announcer, telephone line connection, and transmission mobile equipment facility, which may be deducted from the gross taxable base when those expenses are approved by the commission. The person shall also, within the same time, pay to the commission a fee of 5 percent, exclusive of any federal taxes paid thereon, of the amount paid for admission to the contest or wrestling exhibition, except that for any one boxing contest, the fee shall not exceed the amount of one hundred thousand dollars (\$100,000), and a fee of up to 5 percent of the gross price as described above for the sale, lease, or other exploitation of broadcasting or television rights thereof, except that in no case shall the fee be less than one thousand dollars (\$1,000). The minimum fee for an amateur contest or exhibition shall not be less than five hundred dollars (\$500). The amount of the gross receipts upon which the fee provided for in this section is calculated shall not include any assessments levied by the commission under Section 18711.

The fee on admission shall apply to the amount actually paid for admission and not to the regular established price.

No fee is due in the case of a person admitted free of charge. However, if the total number of persons admitted free of charge to a boxing, kickboxing, or martial arts contest or wrestling exhibition exceeds 25 percent of the total number of spectators, then a fee of one dollar (\$1) per complimentary ticket or pass used to gain admission to the contest shall be paid to the commission for each complimentary ticket or pass that exceeds the numerical total of 25 percent of the total number of spectators.

(b) If the fee on admissions for any one boxing contest exceeds seventy thousand dollars (\$70,000), the amount in excess of seventy thousand dollars (\$70,000) shall be paid one-half to the commission and one-half to the Boxers' Pension Fund.

(c) As used in this section, "person" includes a promoter, club, individual, corporation, partnership, association, or other organization, and "wrestling exhibition" means a performance of wrestling skills and techniques by two or more individuals, to which admission is charged or which is broadcast or televised, in which the participating individuals are not required to use their best efforts in order to win, and for which the winner may have been selected before the performance commences.

(d) This section shall remain in effect only until January 1, 2006, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2006, deletes or extends that date.

SEC. 19. Section 18824 of the Business and Professions Code, as

added by Section 3 of Chapter 515 of the Statutes of 2003, is amended to read:

18824. (a) Except as provided in Sections 18646 and 18832, every person who conducts a contest or wrestling exhibition shall, within 72 hours after the determination of every contest or wrestling exhibition for which admission is charged and received, furnish to the commission a written report executed under penalty of perjury by one of the officers, showing the amount of the gross receipts for the contest or wrestling exhibition, and the gross price charged directly or indirectly and no matter by whom received, for the sale, lease, or other exploitation of broadcasting and television rights of the contest or wrestling exhibition, and without any deductions, except for expenses incurred for one broadcast announcer, telephone line connection, and transmission mobile equipment facility, which may be deducted from the gross taxable base when those expenses are approved by the commission. The person shall also, within the same time pay to the commission a 5-percent fee, exclusive of any federal taxes paid thereon, of the amount paid for admission to the contest or wrestling exhibition, and up to 5 percent of the gross price as described above for the sale, lease, or other exploitation of broadcasting or television rights thereof, except that in no case shall the fee be less than one thousand dollars (\$1,000).

(b) The minimum fee for an amateur contest or exhibition shall not be less than five hundred dollars (\$500). The amount of the gross receipts upon which the fee provided for in this section is calculated shall not include any assessments levied by the commission under Section 18711.

The fee on admission shall apply to the amount actually paid for admission and not to the regular established price.

No fee is due in the case of a person admitted free of charge, except if the total number of persons admitted free of charge to a boxing, kickboxing, or martial arts contest or wrestling exhibition exceeds 25 percent of the total number of spectators, then a fee of one dollar (\$1) per complimentary ticket or pass used to gain admission to the contest shall be paid to the commission for each complimentary ticket or pass that exceeds the numerical total of 25 percent of the total number of spectators.

(c) As used in this section, "person" includes a promoter, club, individual, corporation, partnership, association, or other organization, and "wrestling exhibition" means a performance of wrestling skills and techniques by two or more individuals, to which admission is charged or which is broadcast or televised, in which the participating individuals are not required to use their best efforts in order to win, and for which the winner may have been selected before the performance commences.

(d) This section shall become operative on January 1, 2006.

SEC. 20. Section 18897.73 of the Business and Professions Code is amended to read:

18897.73. Every agent contract, endorsement contract, or professional sports services contract entered into by a student athlete shall contain, in close proximity to the signature of the student athlete, a notice in at least 10-point boldface type stating:

"WARNING TO THE STUDENT ATHLETE: WHEN YOU SIGN THIS CONTRACT, YOU LIKELY WILL IMMEDIATELY AND PERMANENTLY LOSE YOUR ELIGIBILITY TO COMPETE IN INTERSCHOLASTIC OR INTERCOLLEGIATE SPORTS. YOU MUST GIVE THE PRINCIPAL, PRESIDENT, OR OTHER CHIEF ADMINISTRATOR OF YOUR EDUCATIONAL INSTITUTION WRITTEN NOTICE THAT YOU HAVE ENTERED INTO THIS CONTRACT WITHIN 72 HOURS, OR BEFORE YOU PRACTICE FOR OR

PARTICIPATE IN ANY INTERSCHOLASTIC OR INTERCOLLEGIATE SPORTS EVENT, WHICHEVER OCCURS FIRST. DO NOT SIGN THIS CONTRACT UNTIL YOU HAVE READ IT AND FILLED IN ANY BLANK SPACES. YOU MAY CANCEL THIS CONTRACT BY NOTIFYING THE ATHLETE AGENT, OR OTHER PARTY TO THIS CONTRACT, IN WRITING OF YOUR DESIRE TO CANCEL NOT LATER THAN THE 15TH DAY AFTER THE DATE YOU SIGN THIS CONTRACT. HOWEVER, EVEN IF YOU CANCEL THIS CONTRACT, THE FEDERATION OR ASSOCIATION TO WHICH YOUR EDUCATIONAL INSTITUTION BELONGS MAY NOT RESTORE YOUR ELIGIBILITY."

SEC. 21. Section 22575 of the Business and Professions Code is amended to read:

22575. (a) An operator of a commercial Web site or online service that collects personally identifiable information through the Internet about individual consumers residing in California who use or visit its commercial Web site or online service shall conspicuously post its privacy policy on its Web site, or in the case of an operator of an online service, make that policy available in accordance with paragraph (5) of subdivision (b) of Section 22577. An operator shall be in violation of this subdivision only if the operator fails to post its policy within 30 days after being notified of noncompliance.

(b) The privacy policy required by subdivision (a) shall do all of the following:

(1) Identify the categories of personally identifiable information that the operator collects through the Web site or online service about individual consumers who use or visit its commercial Web site or online service and the categories of third-party persons or entities with whom the operator may share that personally identifiable information.

(2) If the operator maintains a process for an individual consumer who uses or visits its commercial Web site or online service to review and request changes to any of his or her personally identifiable information that is collected through the Web site or online service, provide a description of that process.

(3) Describe the process by which the operator notifies consumers who use or visit its commercial Web site or online service of material changes to the operator's privacy policy for that Web site or online service.

(4) Identify its effective date.

SEC. 22. Section 25503.4 of the Business and Professions Code is amended to read:

25503.4. (a) Notwithstanding any other provision of this division, a winegrower, California winegrower's agent, wine importer, or any director, partner, officer, agent, or representative of that person, may conduct or participate in, and serve wine at, an instructional event for consumers held at a retailer's premises featuring wines produced by or for the winegrower or, imported by the wine importer, subject to the following conditions:

(1) No premium, gift, free goods, or other thing of value may be given away in connection with the instructional event by the winegrower, California winegrower's agent, wine importer, or retailer, except as authorized by this division.

(2) No alcoholic beverages may be given away in connection with the instructional event except that wine, taken from barrels or from tanks, may be sampled at the instructional event. For the purposes of this section, minimal amounts of the samples provided for tasting at the instructional event in addition to the wines being featured do not constitute a thing of value.

(3) No alcoholic beverages may be sold at the instructional event, except that orders for the sale of wine may be accepted by the

winegrower if the sales transaction is completed at the winegrower's premises.

(b) Notwithstanding any other provision of this division, a winegrower, California winegrower's agent, or wine importer, in advance of an instructional event for consumers being held at a retailer's premises, may list in an advertisement the name and address of the retailer, the names of the wines being featured at the instructional event, and the time, date, and location of, and other information about, the instructional event, provided:

(1) The advertisement does not also contain the retail price of the wines.

(2) The listing of the retailer's name and address is the only reference to the retailer in the advertisement and is relatively inconspicuous in relation to the advertisement as a whole. Pictures or illustrations of the retailer's premises and laudatory references to the retailer in these advertisements are not hereby authorized.

(c) Notwithstanding any other provision of this division, the name and address of a winegrower, wine importer, or winegrower's agent licensee, the brand names of wine being featured, and the time, date, location, and other identifying information of a wine promotional lecture at retail premises may be listed in advance of the event in an advertisement of the off-sale or on-sale retail licensee.

(d) Nothing in this section authorizes a winegrower, wine importer, or winegrower's agent licensee to share in the costs, if any, of the retailer licensee's advertisement.

(e) Nothing in this section authorizes any person to consume any alcoholic beverage on any premises licensed with an off-sale retail license.

SEC. 23. Section 51.10 of the Civil Code is amended to read:

51.10. (a) Section 51 shall be construed to prohibit a business establishment from discriminating in the sale or rental of housing based upon age. A business establishment may establish and preserve housing for senior citizens, pursuant to Section 51.11, except housing as to which Section 51.11 is preempted by the prohibition in the federal Fair Housing Amendments Act of 1988 (P.L. 100-430) and implementing regulations against discrimination on the basis of familial status.

(b) This section is intended to clarify the holdings in *Marina Point, Ltd. v. Wolfson* (1982) 30 Cal.3d 721, and *O'Connor v. Village Green Owners Association* (1983) 33 Cal.3d 790.

(c) This section shall only apply to the County of Riverside.

SEC. 24. Section 56.26 of the Civil Code is amended to read:

56.26. (a) No person or entity engaged in the business of furnishing administrative services to programs that provide payment for health care services shall knowingly use, disclose, or permit its employees or agents to use or disclose medical information possessed in connection with performing administrative functions for a program, except as reasonably necessary in connection with the administration or maintenance of the program, or as required by law, or with an authorization.

(b) An authorization required by this section shall be in the same form as described in Section 56.21, except that "third party administrator" shall be substituted for "employer" wherever it appears in Section 56.21.

(c) This section shall not apply to any person or entity that is subject to the Insurance Information Privacy Act or to Chapter 2 (commencing with Section 56.10) or Chapter 3 (commencing with Section 56.20).

SEC. 25. Section 800.100 of the Civil Code is amended to read:

800.100. (a) When the owner of a floating home marina enters into



a written listing agreement with a licensed real estate broker, as defined in Article 1 (commencing with Section 10130) of Chapter 2 of Part 1 of Division 4 of the Business and Professions Code, for the sale of the marina or offers to sell the marina to any party, the owner shall provide written notice by first-class mail or by personal delivery to the president, secretary, and treasurer of the resident organization, not less than 30 days but no more than one year prior to entering into any written listing agreement for the sale of the marina, or making any offer to sell the marina to any party. An offer to sell a marina shall not be construed as an offer under this subdivision unless it is initiated by the marina owner or his or her agent.

(b) An owner of a floating home marina is not required to comply with subdivision (a) unless the following conditions are met:

(1) The resident organization has first furnished the marina owner or marina manager a written notice of the name and address of the president, secretary, and treasurer of the resident organization to whom the notice of sale shall be given.

(2) The resident organization has first notified the marina owner or manager in writing that the marina residents are interested in purchasing the marina. The initial notice by the resident organization shall be made prior to a written listing or offer to sell the marina by the marina owner, and the resident organization shall give subsequent notice once each year thereafter that the marina residents are interested in purchasing the marina.

(3) The resident organization has furnished the marina owner or marina manager a written notice, within five days, of any change in the name or address of the officers of the resident organization to whom the notice of sale shall be given.

(c) Nothing in this section affects the validity of title to real property transferred in violation of this section, although a violation shall subject the seller to civil action pursuant to Article 9 (commencing with Section 800.200) by homeowner residents of the marina or by the resident organization.

(d) Nothing in this section affects the ability of a licensed real estate broker to collect a commission pursuant to an executed contract between the broker and the floating home marina owner.

(e) This section does not apply to any of the following:

(1) Any sale or other transfer by a marina owner who is a natural person to any relation specified in Section 6401 or 6402 of the Probate Code.

(2) Any transfer by gift, devise, or operation of law.

(3) Any transfer by a corporation to an affiliate. As used in this paragraph, "affiliate" means any shareholder of the transferring corporation, any corporation or entity owned or controlled, directly or indirectly, by the transferring corporation, or any other corporation or entity controlled, directly or indirectly, by any shareholder of the transferring corporation.

(4) Any transfer by a partnership to any of its partners.

(5) Any conveyance resulting from the judicial or nonjudicial foreclosure of a mortgage or deed of trust encumbering a floating home marina or any deed given in lieu of such a foreclosure.

(6) Any sale or transfer between or among joint tenants or tenants in common owning a floating home marina.

(7) The purchase of a floating home marina by a governmental entity under its powers of eminent domain.

SEC. 26. Section 1102.16 of the Civil Code is amended to read:

1102.16. The disclosure of the existence of any window security bars and any safety release mechanism on those window security bars shall be made pursuant to Section 1102.6 or 1102.6a of the Civil

Code.

SEC. 27. Section 1103 of the Civil Code is amended to read:

1103. (a) Except as provided in Section 1103.1, this article applies to the transfer by sale, exchange, installment land sale contract, as defined in Section 2985, lease with an option to purchase, any other option to purchase, or ground lease coupled with improvements, of any real property described in subdivision (c), or residential stock cooperative, improved with or consisting of not less than one nor more than four dwelling units.

(b) Except as provided in Section 1103.1, this article shall apply to a resale transaction entered into on or after January 1, 2000, for a manufactured home, as defined in Section 18007 of the Health and Safety Code, that is classified as personal property intended for use as a residence, or a mobilehome, as defined in Section 18008 of the Health and Safety Code, that is classified as personal property intended for use as a residence, if the real property on which the manufactured home or mobilehome is located is real property described in subdivision (c).

(c) This article shall apply to the transactions described in subdivisions (a) and (b), only if the transferor or his or her agent is required by one or more of the following to disclose the property's location within a hazard zone:

(1) A person who is acting as an agent for a transferor of real property that is located within a special flood hazard area (any type Zone "A" or "V") designated by the Federal Emergency Management Agency, or the transferor if he or she is acting without an agent, shall disclose to any prospective transferee the fact that the property is located within a special flood hazard area if either:

(A) The transferor, or the transferor's agent, has actual knowledge that the property is within a special flood hazard area.

(B) The local jurisdiction has compiled a list, by parcel, of properties that are within the special flood hazard area and a notice has been posted at the offices of the county recorder, county assessor, and county planning agency that identifies the location of the parcel list.

(2) A person who is acting as an agent for a transferor of real property that is located within an area of potential flooding designated pursuant to Section 8589.5 of the Government Code, or the transferor if he or she is acting without an agent, shall disclose to any prospective transferee the fact that the property is located within an area of potential flooding if either:

(A) The transferor, or the transferor's agent, has actual knowledge that the property is within an inundation area.

(B) The local jurisdiction has compiled a list, by parcel, of properties that are within the inundation area and a notice has been posted at the offices of the county recorder, county assessor, and county planning agency that identifies the location of the parcel list.

(3) A transferor of real property that is located within a very high fire hazard severity zone, designated pursuant to Section 51178 of the Government Code, shall disclose to any prospective transferee the fact that the property is located within a very high fire hazard severity zone and is subject to the requirements of Section 51182 of the Government Code if either:

(A) The transferor, or the transferor's agent, has actual knowledge that the property is within a very high fire hazard severity zone.

(B) A map that includes the property has been provided to the local agency pursuant to Section 51178 of the Government Code and a notice has been posted at the offices of the county recorder, county

assessor, and county planning agency that identifies the location of the map and any information regarding changes to the map received by the local agency.

(4) A person who is acting as an agent for a transferor of real property that is located within an earthquake fault zone, designated pursuant to Section 2622 of the Public Resources Code, or the transferor if he or she is acting without an agent, shall disclose to any prospective transferee the fact that the property is located within a delineated earthquake fault zone if either:

(A) The transferor, or the transferor's agent, has actual knowledge that the property is within a delineated earthquake fault zone.

(B) A map that includes the property has been provided to the city or county pursuant to Section 2622 of the Public Resources Code and a notice has been posted at the offices of the county recorder, county assessor, and county planning agency that identifies the location of the map and any information regarding changes to the map received by the county.

(5) A person who is acting as an agent for a transferor of real property that is located within a seismic hazard zone, designated pursuant to Section 2696 of the Public Resources Code, or the transferor if he or she is acting without an agent, shall disclose to any prospective transferee the fact that the property is located within a seismic hazard zone if either:

(A) The transferor, or the transferor's agent, has actual knowledge that the property is within a seismic hazard zone.

(B) A map that includes the property has been provided to the city or county pursuant to Section 2696 of the Public Resources Code and a notice has been posted at the offices of the county recorder, county assessor, and county planning agency that identifies the location of the map and any information regarding changes to the map received by the county.

(6) A transferor of real property that is located within a state responsibility area determined by the board, pursuant to Section 4125 of the Public Resources Code, shall disclose to any prospective transferee the fact that the property is located within a wildland area that may contain substantial forest fire risks and hazards and is subject to the requirements of Section 4291 if either:

(A) The transferor, or the transferor's agent, has actual knowledge that the property is within a wildland fire zone.

(B) A map that includes the property has been provided to the city or county pursuant to Section 4125 of the Public Resources Code and a notice has been posted at the offices of the county recorder, county assessor, and county planning agency that identifies the location of the map and any information regarding changes to the map received by the county.

(d) Any waiver of the requirements of this article is void as against public policy.

SEC. 28. Section 1542 of the Civil Code is amended to read:

1542. A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

SEC. 29. Section 1747.8 of the Civil Code is amended and renumbered to read:

1747.08. (a) Except as provided in subdivision (c), no person, firm, partnership, association, or corporation which accepts credit cards for the transaction of business shall do either of the following:

(1) Request, or require as a condition to accepting the credit

card as payment in full or in part for goods or services, the cardholder to write any personal identification information upon the credit card transaction form or otherwise.

(2) Request, or require as a condition to accepting the credit card as payment in full or in part for goods or services, the cardholder to provide personal identification information, which the person, firm, partnership, association, or corporation accepting the credit card writes, causes to be written, or otherwise records upon the credit card transaction form or otherwise.

(3) Utilize, in any credit card transaction, a credit card form which contains preprinted spaces specifically designated for filling in any personal identification information of the cardholder.

(b) For purposes of this section "personal identification information," means information concerning the cardholder, other than information set forth on the credit card, and including, but not limited to, the cardholder's address and telephone number.

(c) Subdivision (a) does not apply in the following instances:

(1) If the credit card is being used as a deposit to secure payment in the event of default, loss, damage, or other similar occurrence.

(2) Cash advance transactions.

(3) If the person, firm, partnership, association, or corporation accepting the credit card is contractually obligated to provide personal identification information in order to complete the credit card transaction or is obligated to collect and record the personal identification information by federal law or regulation.

(4) If personal identification information is required for a special purpose incidental but related to the individual credit card transaction, including, but not limited to, information relating to shipping, delivery, servicing, or installation of the purchased merchandise, or for special orders.

(d) This section does not prohibit any person, firm, partnership, association, or corporation from requiring the cardholder, as a condition to accepting the credit card as payment in full or in part for goods or services, to provide reasonable forms of positive identification, which may include a driver's license or a California state identification card, or where one of these is not available, another form of photo identification, provided that none of the information contained thereon is written or recorded on the credit card transaction form or otherwise. If the cardholder pays for the transaction with a credit card number and does not make the credit card available upon request to verify the number, the cardholder's driver's license number or identification card number may be recorded on the credit card transaction form or otherwise.

(e) Any person who violates this section shall be subject to a civil penalty not to exceed two hundred fifty dollars (\$250) for the first violation and one thousand dollars (\$1,000) for each subsequent violation, to be assessed and collected in a civil action brought by the person paying with a credit card, by the Attorney General, or by the district attorney or city attorney of the county or city in which the violation occurred. However, no civil penalty shall be assessed for a violation of this section if the defendant shows by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error made notwithstanding the defendant's maintenance of procedures reasonably adopted to avoid that error. When collected, the civil penalty shall be payable, as appropriate, to the person paying with a credit card who brought the action, or to the general fund of whichever governmental entity brought the action to assess the civil penalty.

(f) The Attorney General, or any district attorney or city

attorney within his or her respective jurisdiction, may bring an action in the superior court in the name of the people of the State of California to enjoin violation of subdivision (a) and, upon notice to the defendant of not less than five days, to temporarily restrain and enjoin the violation. If it appears to the satisfaction of the court that the defendant has, in fact, violated subdivision (a), the court may issue an injunction restraining further violations, without requiring proof that any person has been damaged by the violation. In these proceedings, if the court finds that the defendant has violated subdivision (a), the court may direct the defendant to pay any or all costs incurred by the Attorney General, district attorney, or city attorney in seeking or obtaining injunctive relief pursuant to this subdivision.

(g) Actions for collection of civil penalties under subdivision (e) and for injunctive relief under subdivision (f) may be consolidated.

(h) The changes made to this section by Assembly Bill 1316 of the 1995-96 Regular Session of the Legislature apply only to credit card transactions entered into on and after January 1, 1996. Nothing in those changes shall be construed to affect any civil action which was filed before January 1, 1996.

SEC. 30. Section 1747.9 of the Civil Code is amended and renumbered to read:

1747.09. (a) Except as provided in this section, no person, firm, partnership, association, corporation, or limited liability company that accepts credit cards for the transaction of business shall print more than the last five digits of the credit card account number or the expiration date upon any receipt provided to the cardholder.

(b) This section shall apply only to receipts that are electronically printed and shall not apply to transactions in which the sole means of recording the person's credit card number is by handwriting or by an imprint or copy of the credit card.

(c) This section shall become operative on January 1, 2004, with respect to any cash register or other machine or device that electronically prints receipts for credit card transactions that is in use before January 1, 2001.

(d) This section shall become operative on January 1, 2001, with respect to any cash register or other machine or device that electronically prints receipts for credit card transactions that is first put into use on or after January 1, 2001.

SEC. 31. Section 1785.30 of the Civil Code is amended to read:

1785.30. Upon notification of the results of a consumer credit reporting agency's reinvestigation pursuant to Section 1785.16, a consumer may make a written demand on any person furnishing information to the consumer credit reporting agency to correct any information that the consumer believes to be inaccurate. The person upon whom the written demand is made shall acknowledge the demand within 30 days. The consumer may require the consumer credit reporting agency to indicate on any subsequent reports issued during the dispute that the item or items of information are in dispute. If upon investigation the information is found to be inaccurate or incorrect, the consumer may require the consumer credit reporting agency to delete or correct the item or items of information within a reasonable time. If within 90 days the consumer credit reporting agency does not receive any information from the person requested to furnish the same or any communication relative to this information from this person, the consumer credit reporting agency shall delete the information from the report.

SEC. 32. Section 1786.24 of the Civil Code is amended to read:

1786.24. (a) If the completeness or accuracy of any item of information contained in his or her file is disputed by a consumer, and the dispute is conveyed directly to the investigative consumer reporting agency by the consumer, the investigative consumer reporting agency shall, without charge, reinvestigate and record the current status of the disputed information or delete the item from the file in accordance with subdivision (c), before the end of the 30-day period beginning on the date on which the agency receives the notice of the dispute from the consumer.

(b) The agency shall notify any person who provided information in dispute at the address and in the manner specified by that person. The notice shall include all relevant information regarding the dispute that the investigative consumer reporting agency has received from the consumer. The agency shall also promptly provide to the person who provided the information in dispute all relevant information regarding the dispute that is received by the agency from the consumer during the reinvestigation.

(c) In conducting a reinvestigation, the investigative consumer reporting agency shall review and consider all relevant information submitted by the consumer with respect to the disputed item of information.

(d) Notwithstanding subdivision (a), an investigative consumer reporting agency may terminate a reinvestigation of information disputed by a consumer if the investigative consumer reporting agency reasonably determines that the dispute is frivolous or irrelevant, including by reason of a failure by a consumer to provide sufficient information to investigate the disputed information. Upon making a determination that a dispute is frivolous or irrelevant, the investigative consumer reporting agency shall notify the consumer, by mail or, if authorized by the consumer for that purpose, by any other means available to the agency. In this notification, the investigative consumer reporting agency shall state the specific reasons why it has determined that the consumer's dispute is frivolous or irrelevant and provide a description of any information required to investigate the disputed information, that may consist of a standardized form describing the general nature of the required information.

(e) If a reinvestigation is made and, after reinvestigation, the disputed item of information is found to be inaccurate, incomplete, or cannot be verified by the evidence submitted, the investigative consumer reporting agency shall promptly delete that information from the consumer's file or modify the information, as appropriate, based on the results of the reinvestigation, and shall notify the consumer that the information has been deleted or modified. The consumer reporting agency shall also notify any and all sources from which the disputed information was obtained and inform them in writing of the reasons and results of the reinvestigation, and send a copy of this notification to the consumer. In accordance with subdivision (b) of Section 1786.10, the copy of the notification sent to the consumer need not reveal the identity of the source of information, unless otherwise required by law.

(f) No information may be reinserted in the file of a consumer after having been deleted pursuant to this section, unless the person who furnished the information verifies that the information is complete and accurate. If any information deleted from the file of a consumer is reinserted in the file, the investigative consumer reporting agency shall promptly notify the consumer of the reinsertion in writing or, if authorized by the consumer for that purpose, by any other means available to the agency. As part of, or in addition to, this notice, the investigative consumer reporting

agency shall provide to the consumer in writing (1) a statement that the disputed information has been reinserted, (2) the name, address, and telephone number of any furnisher of information contacted or that contacted the investigative consumer reporting agency in connection with the reinsertion, and the telephone number of the furnisher, if reasonably available, and (3) a notice that the consumer has the right to a reinvestigation of the information reinserted by the investigative consumer reporting agency and to add a statement to his or her file disputing the accuracy or completeness of the information.

(g) An investigative consumer reporting agency shall provide notice to the consumer of the results of any reinvestigation under this section by mail or, if authorized by the consumer for that purpose, by other means available to the agency. The notice shall include (1) a statement that the reinvestigation is completed, (2) an investigative consumer report that is based on the consumer's file as that file is revised as a result of the reinvestigation, (3) a description or indication of any changes made in the investigative consumer report as a result of those revisions to the consumer's file, (4) a notice that, if requested by the consumer, a description of the procedure used to determine the accuracy and completeness of the information shall be provided to the consumer by the investigative consumer reporting agency, including the name, business address, and telephone number of any furnisher of information contacted in connection with that information, (5) a notice that the consumer has the right to add a statement to the consumer's file disputing the accuracy or completeness of the information, and (6) a notice that the consumer has the right to request that the investigative consumer reporting agency furnish notifications under subdivision (k).

(h) The presence of information in the consumer's file that contradicts the contention of the consumer shall not, in and of itself, constitute reasonable grounds for believing the dispute is frivolous or irrelevant.

(i) If the investigative consumer reporting agency determines that the dispute is frivolous or irrelevant, or if the reinvestigation does not resolve the dispute, or if the information is reinserted into the file of a consumer pursuant to subdivision (f), the consumer may file a brief statement setting forth the nature of the dispute. The investigative consumer reporting agency may limit these statements to not more than 500 words if it provides the consumer with assistance in writing a clear summary of the dispute.

(j) If a statement of dispute is filed, the investigative consumer reporting agency shall, in any subsequent investigative consumer report containing the information in question, clearly note that the information is disputed by the consumer and shall include in the report either the statement of the consumer or a clear and accurate summary thereof.

(k) Following the deletion of information from the file of a consumer pursuant to this section, or following the filing of a dispute pursuant to subdivision (i), the investigative consumer reporting agency shall, at the request of the consumer, furnish notification that the item of information has been deleted or that the item of information is disputed. In the case of disputed information, the notification shall include the statement or summary of the dispute filed pursuant to subdivision (i). This notification shall be furnished to any person who has, within two years prior to the deletion or the filing of the dispute, received an investigative consumer report concerning the consumer for employment purposes, or who has, within one year of the deletion or the filing of the

dispute, received an investigative consumer report concerning the consumer for any other purpose, if these investigative consumer reports contained the deleted or disputed information, unless the consumer specifically requests in writing that this notification not be given to all persons or to any specified persons. The investigative consumer reporting agency shall clearly and conspicuously disclose to the consumer his or her rights to make a request that this notification not be made.

(l) An investigative consumer reporting agency shall maintain reasonable procedures designed to prevent the reappearance in the file of a consumer and in investigative consumer reports information that has been deleted pursuant to this section and not reinserted pursuant to subdivision (f).

(m) If the dispute of a consumer is resolved by deletion of the disputed information within three business days, beginning with the day the investigative consumer reporting agency receives notice of the dispute in accordance with subdivision (a), the investigative consumer reporting agency is exempt from requirements for further action under subdivisions (g), (i), and (j), if the agency: (1) provides prompt notice of the deletion to the consumer by telephone, (2) provides written confirmation of the deletion and a copy of an investigative consumer report of the consumer that is based on the file of a consumer after the deletion, and (3) includes, in the telephone notice or in a written notice that accompanies the confirmation and report, a statement of the consumer's right to request under subdivision (k) that the agency not furnish notifications under that subdivision.

(n) Any investigative consumer reporting agency that compiles and maintains files on consumers on a nationwide basis, as defined in the federal Fair Credit Reporting Act, as amended (15 U.S.C. Sec. 1681 et seq.), shall implement an automated system through which furnishers of information to that agency may report the results of a reinvestigation that finds incomplete or inaccurate information in the file of a consumer to other investigative consumer reporting agencies.

(o) All actions to be taken by an investigative consumer reporting agency under this section are governed by the applicable time periods specified in Section 611 of the federal Fair Credit Reporting Act, as amended (15 U.S.C. Sec. 1681i).

SEC. 33. Section 1789.21 of the Civil Code is amended to read:

1789.21. (a) Any buyer injured by a violation of this title or by the credit services organization's breach of a contract subject to this title may bring any action for recovery of damages, or for injunctive relief, or both. Judgment shall be entered for actual damages, but in no case less than the amount paid by the buyer to the credit services organization, plus reasonable attorney's fees and costs. An award, if the trial court deems it proper, may be entered for punitive damages.

(b) Any person, including, but not limited to, a consumer credit reporting agency, as defined in subdivision (d) of Section 1785.3, and any consumer of, or user of, a consumer credit report under the Consumer Credit Reporting Agencies Act (Title 1.6 (commencing with Section 1785.1)), and any furnisher of credit information under the Consumer Credit Reporting Agencies Act, may bring an action for the recovery of damages or for injunctive relief, or both, for a violation of this title. Any person bringing such an action who prevails in the action shall be entitled to reasonable attorney's fees and costs.

SEC. 34. Section 1798.83 of the Civil Code is amended to read:

1798.83. (a) Except as otherwise provided in subdivision (d), if



a business has an established business relationship with a customer and has within the immediately preceding calendar year disclosed personal information that corresponds to any of the categories of personal information set forth in paragraph (6) of subdivision (e) to third parties, and if the business knows or reasonably should know that the third parties used the personal information for the third parties' direct marketing purposes, that business shall, after the receipt of a written or electronic mail request, or, if the business chooses to receive requests by toll-free telephone or facsimile numbers, a telephone or facsimile request from the customer, provide all of the following information to the customer free of charge:

(1) In writing or by electronic mail, a list of the categories set forth in paragraph (6) of subdivision (e) that correspond to the personal information disclosed by the business to third parties for the third parties' direct marketing purposes during the immediately preceding calendar year.

(2) In writing or by electronic mail, the names and addresses of all of the third parties that received personal information from the business for the third parties' direct marketing purposes during the preceding calendar year and, if the nature of the third parties' business cannot reasonably be determined from the third parties' name, examples of the products or services marketed, if known to the business, sufficient to give the customer a reasonable indication of the nature of the third parties' business.

(b) (1) A business required to comply with this section shall designate a mailing address, electronic mail address, or, if the business chooses to receive requests by telephone or facsimile, a toll-free telephone or facsimile number, to which customers may deliver requests pursuant to subdivision (a). A business required to comply with this section shall, at its election, do at least one of the following:

(A) Notify all agents and managers who directly supervise employees who regularly have contact with customers of the designated addresses or numbers or the means to obtain those addresses or numbers and instruct those employees that customers who inquire about the business' privacy practices or the business' compliance with this section shall be informed of the designated addresses or numbers or the means to obtain the addresses or numbers.

(B) Add to the home page of its Web site, a link either to a page titled "Your Privacy Rights" or to add the words "Your Privacy Rights," to the home page's link to the business' privacy policy. If the business elects to add the words "Your Privacy Rights" to the link to the business' privacy policy, the words "Your Privacy Rights" shall be in the same style and size of the link to the business' privacy policy. If the business does not display a link to its privacy policy on the home page of its Web site, or does not have a privacy policy, the words "Your Privacy Rights" shall be written in larger type than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same size, or set off from the surrounding text of the same size by symbols or other marks that call attention to the language. The first page of the link shall describe a customer's rights pursuant to this section and shall provide the designated mailing address, e-mail address, as required, or toll-free telephone number or facsimile number, as appropriate. If the business elects to add the words "Your California Privacy Rights" to the home page's link to the business' privacy policy in a manner that complies with this subdivision, and the first page of the link describes a customer's rights pursuant to this section, and provides the designated mailing address, electronic mailing address, as required, or toll-free telephone or facsimile number, as

appropriate, the business need not respond to requests that are not received at one of the designated addresses or numbers.

(C) Make the designated addresses or numbers, or means to obtain the designated addresses or numbers, readily available upon request of a customer at every place of business in California where the business or its agents regularly have contact with customers.

The response to a request pursuant to this section received at one of the designated addresses or numbers shall be provided within 30 days. Requests received by the business at other than one of the designated addresses or numbers shall be provided within a reasonable period, in light of the circumstances related to how the request was received, but not to exceed 150 days from the date received.

(2) A business that is required to comply with this section and Section 6803 of Title 15 of the United States Code may comply with this section by providing the customer the disclosure required by Section 6803 of Title 15 of the United States Code, but only if the disclosure also complies with this section.

(3) A business that is required to comply with this section is not obligated to provide information associated with specific individuals and may provide the information required by this section in standardized format.

(c) (1) A business that is required to comply with this section is not obligated to do so in response to a request from a customer more than once during the course of any calendar year. A business with fewer than 20 full-time or part-time employees is exempt from the requirements of this section.

(2) If a business that is required to comply with this section adopts and discloses to the public, in its privacy policy, a policy of not disclosing personal information of customers to third parties for the third parties' direct marketing purposes unless the customer first affirmatively agrees to that disclosure, or of not disclosing the personal information of customers to third parties for the third parties' direct marketing purposes if the customer has exercised an option that prevents that information from being disclosed to third parties for those purposes, as long as the business maintains and discloses the policies, the business may comply with subdivision (a) by notifying the customer of his or her right to prevent disclosure of personal information, and providing the customer with a cost-free means to exercise that right.

(d) The following are among the disclosures not deemed to be disclosures of personal information by a business for a third parties' direct marketing purposes for purposes of this section:

(1) Disclosures between a business and a third party pursuant to contracts or arrangements pertaining to any of the following:

(A) The processing, storage, management, or organization of personal information, or the performance of services on behalf of the business during which personal information is disclosed, if the third party that processes, stores, manages, or organizes the personal information does not use the information for a third party's direct marketing purposes and does not disclose the information to additional third parties for their direct marketing purposes.

(B) Marketing products or services to customers with whom the business has an established business relationship where, as a part of the marketing, the business does not disclose personal information to third parties for the third parties' direct marketing purposes.

(C) Maintaining or servicing accounts, including credit accounts and disclosures pertaining to the denial of applications for credit or the status of applications for credit and processing bills or insurance claims for payment.

(D) Public record information relating to the right, title, or

interest in real property or information relating to property characteristics, as defined in Section 408.3 of the Revenue and Taxation Code, obtained from a governmental agency or entity or from a multiple listing service, as defined in Section 1087, and not provided directly by the customer to a business in the course of an established business relationship.

(E) Jointly offering a product or service pursuant to a written agreement with the third party that receives the personal information, provided that all of the following requirements are met:

(i) The product or service offered is a product or service of, and is provided by, at least one of the businesses that is a party to the written agreement.

(ii) The product or service is jointly offered, endorsed, or sponsored by, and clearly and conspicuously identifies for the customer, the businesses that disclose and receive the disclosed personal information.

(iii) The written agreement provides that the third party that receives the personal information is required to maintain the confidentiality of the information and is prohibited from disclosing or using the information other than to carry out the joint offering or servicing of a product or service that is the subject of the written agreement.

(2) Disclosures to or from a consumer reporting agency of a customer's payment history or other information pertaining to transactions or experiences between the business and a customer if that information is to be reported in, or used to generate, a consumer report as defined in subdivision (d) of Section 1681a of Title 15 of the United States Code, and use of that information is limited by the federal Fair Credit Reporting Act (15 U.S.C. Sec. 1681 et seq.).

(3) Disclosures of personal information by a business to a third party financial institution solely for the purpose of the business obtaining payment for a transaction in which the customer paid the business for goods or services with a check, credit card, charge card, or debit card, if the customer seeks the information required by subdivision (a) from the business obtaining payment, whether or not the business obtaining payment knows or reasonably should know that the third party financial institution has used the personal information for its direct marketing purposes.

(4) Disclosures of personal information between a licensed agent and its principal, if the personal information disclosed is necessary to complete, effectuate, administer, or enforce transactions between the principal and the agent, whether or not the licensed agent or principal also uses the personal information for direct marketing purposes, if that personal information is used by each of them solely to market products and services directly to customers with whom both have established business relationships as a result of the principal and agent relationship.

(5) Disclosures of personal information between a financial institution and a business that has a private label credit card, affinity card, retail installment contract, or cobranded card program with the financial institution, if the personal information disclosed is necessary for the financial institution to maintain or service accounts on behalf of the business with which it has a private label credit card, affinity card, retail installment contract, or branded card program, or to complete, effectuate, administer, or enforce customer transactions or transactions between the institution and the business, whether or not the institution or the business also uses the personal information for direct marketing

purposes, if that personal information is used solely to market products and services directly to customers with whom both the business and the financial institution have established business relationships as a result of the private label credit card, affinity card, retail installment contract, or cobranded card program.

(e) For purposes of this section:

(1) "Customer" means an individual who is a resident of California who provides personal information to a business during the creation of, or throughout the duration of, an established business relationship if the business relationship is primarily for personal, family, or household purposes.

(2) "Direct marketing purposes" means the use of personal information to solicit or induce a purchase, rental, lease, or exchange of products, goods, property, or services directly to individuals by means of the mail, telephone, or electronic mail for their personal, family, or household purposes. The sale, rental, exchange, or lease of personal information for consideration to businesses is a direct marketing purpose of the business that sells, rents, exchanges, or obtains consideration for the personal information. "Direct marketing purposes" does not include the use of personal information (A) by bona fide tax exempt charitable or religious organizations to solicit charitable contributions, (B) to raise funds from and communicate with individuals regarding politics and government, (C) by a third party when the third party receives personal information solely as a consequence of having obtained for consideration permanent ownership of accounts that might contain personal information, or (D) by a third party when the third party receives personal information solely as a consequence of a single transaction where, as a part of the transaction, personal information had to be disclosed in order to effectuate the transaction.

(3) "Disclose" means to disclose, release, transfer, disseminate, or otherwise communicate orally, in writing, or by electronic or any other means to any third party.

(4) "Employees who regularly have contact with customers" means employees whose contact with customers is not incidental to their primary employment duties, and whose duties do not predominantly involve ensuring the safety or health of the businesses customers. It includes, but is not limited to, employees whose primary employment duties are as cashier, clerk, customer service, sales, or promotion. It does not, by way of example, include employees whose primary employment duties consist of food or beverage preparation or service, maintenance and repair of the business' facilities or equipment, direct involvement in the operation of a motor vehicle, aircraft, watercraft, amusement ride, heavy machinery or similar equipment, security, or participation in a theatrical, literary, musical, artistic, or athletic performance or contest.

(5) "Established business relationship" means a relationship formed by a voluntary, two-way communication between a business and a customer, with or without an exchange of consideration, for the purpose of purchasing, renting, or leasing real or personal property, or any interest therein, or obtaining a product or service from the business, if the relationship is ongoing and has not been expressly terminated by the business or the customer, or if the relationship is not ongoing, but is solely established by the purchase, rental, or lease of real or personal property from a business, or the purchase of a product or service, no more than 18 months have elapsed from the date of the purchase, rental, or lease.

(6) (A) The categories of personal information required to be disclosed pursuant to paragraph (1) of subdivision (a) are all of the

following:

- (i) Name and address.
  - (ii) Electronic mail address.
  - (iii) Age or date of birth.
  - (iv) Names of children.
  - (v) Electronic mail or other addresses of children.
  - (vi) Number of children.
  - (vii) The age or gender of children.
  - (viii) Height.
  - (ix) Weight.
  - (x) Race.
  - (xi) Religion.
  - (xii) Occupation.
  - (xiii) Telephone number.
  - (xiv) Education.
  - (xv) Political party affiliation.
  - (xvi) Medical condition.
  - (xvii) Drugs, therapies, or medical products or equipment used.
  - (xviii) The kind of product the customer purchased, leased, or rented.
  - (xix) Real property purchased, leased, or rented.
  - (xx) The kind of service provided.
  - (xxi) Social security number.
  - (xxii) Bank account number.
  - (xxiii) Credit card number.
  - (xxiv) Debit card number.
  - (xxv) Bank or investment account, debit card, or credit card balance.
  - (xxvi) Payment history.
  - (xxvii) Information pertaining to the customer's creditworthiness, assets, income, or liabilities.
- (B) If a list, description, or grouping of customer names or addresses is derived using any of these categories, and is disclosed to a third party for direct marketing purposes in a manner that permits the third party to identify, determine, or extrapolate any other personal information from which the list was derived, and that personal information when it was disclosed identified, described, or was associated with an individual, the categories set forth in this subdivision that correspond to the personal information used to derive the list, description, or grouping shall be considered personal information for purposes of this section.
- (7) "Personal information" as used in this section means any information that when it was disclosed identified, described, or was able to be associated with an individual and includes all of the following:
- (A) An individual's name and address.
  - (B) Electronic mail address.
  - (C) Age or date of birth.
  - (D) Names of children.
  - (E) Electronic mail or other addresses of children.
  - (F) Number of children.
  - (G) The age or gender of children.
  - (H) Height.
  - (I) Weight.
  - (J) Race.
  - (K) Religion.
  - (L) Occupation.
  - (M) Telephone number.
  - (N) Education.
  - (O) Political party affiliation.

- (P) Medical condition.
- (Q) Drugs, therapies, or medical products or equipment used.
- (R) The kind of product the customer purchased, leased, or rented.

- (S) Real property purchased, leased, or rented.
- (T) The kind of service provided.
- (U) Social security number.
- (V) Bank account number.
- (W) Credit card number.
- (X) Debit card number.
- (Y) Bank or investment account, debit card, or credit card

balance.

- (Z) Payment history.

(AA) Information pertaining to creditworthiness, assets, income, or liabilities.

(8) "Third party" or "third parties" means one or more of the following:

(A) A business that is a separate legal entity from the business that has an established business relationship with a customer.

(B) A business that has access to a database that is shared among businesses, if the business is authorized to use the database for direct marketing purposes, unless the use of the database is exempt from being considered a disclosure for direct marketing purposes pursuant to subdivision (d).

(C) A business not affiliated by a common ownership or common corporate control with the business required to comply with subdivision (a).

(f) (1) Disclosures of personal information for direct marketing purposes between affiliated third parties that share the same brand name are exempt from the requirements of paragraph (1) of subdivision (a) unless the personal information disclosed corresponds to one of the following categories, in which case the customer shall be informed of those categories listed in this subdivision that correspond to the categories of personal information disclosed for direct marketing purposes and the third party recipients of personal information disclosed for direct marketing purposes pursuant to paragraph (2) of subdivision (a):

- (A) Number of children.
- (B) The age or gender of children.
- (C) Electronic mail or other addresses of children.
- (D) Height.
- (E) Weight.
- (F) Race.
- (G) Religion.
- (H) Telephone number.
- (I) Medical condition.
- (J) Drugs, therapies, or medical products or equipment used.
- (K) Social security number.
- (L) Bank account number.
- (M) Credit card number.
- (N) Debit card number.
- (O) Bank or investment account, debit card, or credit card

balance.

(2) If a list, description, or grouping of customer names or addresses is derived using any of these categories, and is disclosed to a third party or third parties sharing the same brand name for direct marketing purposes in a manner that permits the third party to identify, determine, or extrapolate the personal information from which the list was derived, and that personal information when it was disclosed identified, described, or was associated with an

individual, any other personal information that corresponds to the categories set forth in this subdivision used to derive the list, description, or grouping shall be considered personal information for purposes of this section.

(3) If a business discloses personal information for direct marketing purposes to affiliated third parties that share the same brand name, the business that discloses personal information for direct marketing purposes between affiliated third parties that share the same brand name may comply with the requirements of paragraph (2) of subdivision (a) by providing the overall number of affiliated companies that share the same brand name.

(g) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

(h) This section does not apply to a financial institution that is subject to the California Financial Information Privacy Act (Division 1.2 (commencing with Section 4050) of the Financial Code) if the financial institution is in compliance with Sections 4052, 4052.5, 4053, 4053.5 and 4054.6 of the Financial Code, as those sections read when they were chaptered on August 28, 2003, and as subsequently amended by the Legislature or by initiative.

(i) This section shall become operative on January 1, 2005.

SEC. 35. Section 1798.85 of the Civil Code is amended to read:

1798.85. (a) Except as provided in subdivisions (b), (h), and (i), a person or entity may not do any of the following:

(1) Publicly post or publicly display in any manner an individual's social security number. "Publicly post" or "publicly display" means to intentionally communicate or otherwise make available to the general public.

(2) Print an individual's social security number on any card required for the individual to access products or services provided by the person or entity.

(3) Require an individual to transmit his or her social security number over the Internet, unless the connection is secure or the social security number is encrypted.

(4) Require an individual to use his or her social security number to access an Internet Web site, unless a password or unique personal identification number or other authentication device is also required to access the Internet Web site.

(5) Print an individual's social security number on any materials that are mailed to the individual, unless state or federal law requires the social security number to be on the document to be mailed. Notwithstanding this paragraph, social security numbers may be included in applications and forms sent by mail, including documents sent as part of an application or enrollment process, or to establish, amend, or terminate an account, contract, or policy, or to confirm the accuracy of the social security number. A social security number that is permitted to be mailed under this section may not be printed, in whole or in part, on a postcard or other mailer not requiring an envelope, or visible on the envelope or without the envelope having been opened.

(b) Except as provided in subdivision (e), a person or entity that has used, prior to July 1, 2002, an individual's social security number in a manner inconsistent with subdivision (a), may continue using that individual's social security number in that manner on or after July 1, 2002, and a state or local agency that has used, prior to January 1, 2004, an individual's social security number in a manner inconsistent with subdivision (a), may continue using that individual's social security number in that manner on or after

January 1, **2004**, if all of the following conditions are met:

(1) The use of the social security number is continuous. If the use is stopped for any reason, subdivision (a) shall apply.

(2) The individual is provided an annual disclosure, that informs the individual that he or she has the right to stop the use of his or her social security number in a manner prohibited by subdivision (a).

(3) A written request by an individual to stop the use of his or her social security number in a manner prohibited by subdivision (a) is implemented within 30 days of the receipt of the request. There may not be a fee or charge for implementing the request.

(4) The person or entity does not deny services to an individual because the individual makes a written request pursuant to this subdivision.

(c) This section does not prevent the collection, use, or release of a social security number as required by state or federal law or the use of a social security number for internal verification or administrative purposes.

(d) This section does not apply to documents that are recorded or required to be open to the public pursuant to Chapter 3.5 (commencing with Section 6250), Chapter 14 (commencing with Section 7150), or Chapter 14.5 (commencing with Section 7220) of Division 7 of Title 1 of, Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of, or Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of, the Government Code. This section does not apply to records that are required by statute, case law, or California Rule of Court, to be made available to the public by entities provided for in Article VI of the California Constitution.

(e) (1) In the case of a health care service plan, a provider of health care, an insurer or a pharmacy benefits manager, a contractor as defined in Section 56.05, or the provision by any person or entity of administrative or other services relative to health care or insurance products or services, including third-party administration or administrative services only, this section shall become operative in the following manner:

(A) On or before January 1, 2003, the entities listed in paragraph (1) of subdivision (e) shall comply with paragraphs (1), (3), (4), and (5) of subdivision (a) as these requirements pertain to individual policyholders or individual contractholders.

(B) On or before January 1, **2004**, the entities listed in paragraph (1) shall comply with paragraphs (1) to (5), inclusive, of subdivision (a) as these requirements pertain to new individual policyholders or new individual contractholders and new groups, including new groups administered or issued on or after January 1, **2004**.

(C) On or before July 1, **2004**, the entities listed in paragraph (1) shall comply with paragraphs (1) to (5), inclusive, of subdivision (a) for all individual policyholders and individual contractholders, for all groups, and for all enrollees of the Healthy Families and Medi-Cal programs, except that for individual policyholders, individual contractholders, and groups in existence prior to January 1, **2004**, the entities listed in paragraph (1) shall comply upon the renewal date of the policy, contract, or group on or after July 1, **2004**, but no later than July 1, 2005.

(2) A health care service plan, a provider of health care, an insurer or a pharmacy benefits manager, a contractor, or another person or entity as described in paragraph (1) shall make reasonable efforts to cooperate, through systems testing and other means, to ensure that the requirements of this article are implemented on or



before the dates specified in this section.

(3) Notwithstanding paragraph (2), the Director of the Department of Managed Health Care, pursuant to the authority granted under Section 1346 of the Health and Safety Code, or the Insurance Commissioner, pursuant to the authority granted under Section 12921 of the Insurance Code, and upon a determination of good cause, may grant extensions not to exceed six months for compliance by health care service plans and insurers with the requirements of this section when requested by the health care service plan or insurer. Any extension granted shall apply to the health care service plan or insurer's affected providers, pharmacy benefits manager, and contractors.

(f) If a federal law takes effect requiring the United States Department of Health and Human Services to establish a national unique patient health identifier program, a provider of health care, a health care service plan, a licensed health care professional, or a contractor, as those terms are defined in Section 56.05, that complies with the federal law shall be deemed in compliance with this section.

(g) A person or entity may not encode or embed a social security number in or on a card or document, including, but not limited to, using a bar code, chip, magnetic strip, or other technology, in place of removing the social security number, as required by this section.

(h) This section shall become operative, with respect to the University of California, in the following manner:

(1) On or before January 1, 2004, the University of California shall comply with paragraphs (1), (2), and (3) of subdivision (a).

(2) On or before January 1, 2005, the University of California shall comply with paragraphs (4) and (5) of subdivision (a).

(i) This section shall become operative with respect to the Franchise Tax Board on January 1, 2007.

(j) This section shall become operative with respect to the California Community College districts on January 1, 2007.

(k) This section shall become operative with respect to the California State University system on July 1, 2005.

(l) This section shall become operative, with respect to the California Student Aid Commission and its auxiliary organization, in the following manner:

(1) On or before January 1, 2004, the commission and its auxiliary organization shall comply with paragraphs (1), (2), and (3) of subdivision (a).

(2) On or before January 1, 2005, the commission and its auxiliary organization shall comply with paragraphs (4) and (5) of subdivision (a).

SEC. 36. Section 1799.1b of the Civil Code is amended to read:

1799.1b. (a) Any credit card issuer that receives a change of address request, other than for a correction of a typographical error, from a cardholder who orders a replacement credit card within 60 days before or after that request is received shall send to that cardholder a change of address notification that is addressed to the cardholder at the cardholder's previous address of record. If the replacement credit card is requested prior to the effective date of the change of address, the notification shall be sent within 30 days of the change of address request. If the replacement credit card is requested after the effective date of the change of address, the notification shall be sent within 30 days of the request for the replacement credit card.

(b) Any business entity that provides telephone accounts that receives a change of address request, other than for a correction of

a typographical error, from an accountholder who orders new service, shall send to that accountholder a change of address notification that is addressed to the accountholder at the accountholder's previous address of record. The notification shall be sent within 30 days of the request for new service.

(c) The notice required pursuant to subdivision (a) or (b) may be given by telephone or e-mail communication if the credit card issuer or business entity that provides telephone accounts reasonably believes that it has the current telephone number or e-mail address for the accountholder or cardholder who has requested a change of address. If the notification is in writing it may not contain the consumer's account number, social security number, or other personal identifying information, but may contain the consumer's name, previous address, and new address of record. For business entities described in subdivision (b), the notification may also contain the accountholder's telephone number.

(d) A credit card issuer or a business entity that provides telephone accounts is not required to send a change of address notification when a change of address request is made in person by a consumer who has presented valid identification, or is made by telephone and the requester has provided a unique alpha-numeric password.

(e) The following definitions shall apply to this section:

(1) "Credit account" has the same meaning as "credit card," as defined in subdivision (a) of Section 1747.02.

(2) "Telephone account" means an account with a telephone corporation, as defined in Section 234 of the Public Utilities Code.

SEC. 37. Section 1812.701 of the Civil Code is amended to read:

1812.701. (a) The notice required in this title may be changed only as necessary to reflect changes under the federal Fair Debt Collection Practices Act (15 U.S.C. Sec. 1692 et seq.) that would otherwise make the disclosure inaccurate.

(b) The type-size used in the disclosure shall be at least the same type-size as that used to inform the debtor of his or her specific debt, but is not required to be larger than 12-point type.

SEC. 38. Section 1865 of the Civil Code is amended to read:

1865. (a) For purposes of this section, "hotel" means any hotel, motel, bed and breakfast inn, or other similar transient lodging establishment, but it shall not include any residential hotel as defined in Section 50519 of the Health and Safety Code. "Innkeeper" means the owner or operator of a hotel, or the duly authorized agent or employee of the owner or operator.

(b) For purposes of this section, "guest" means, and is specifically limited to, an occupant of a hotel whose occupancy is exempt, pursuant to subdivision (b) of Section 1940, from Chapter 2 (commencing with Section 1940) of Title 5 of Part 4 of Division 3.

(c) In addition to, and not in derogation of, any other provision of law, every innkeeper shall have the right to evict a guest in the manner specified in this subdivision if the guest refuses or otherwise fails to fully depart the guest room at or before the innkeeper's posted checkout time on the date agreed to by the guest, but only if both of the following conditions are met:

(1) If the guest is provided written notice, at the time that he or she was received and provided accommodations by the innkeeper, that the innkeeper needs that guest's room to accommodate an arriving person with a contractual right thereto, and that if the guest fails to fully depart at the time agreed to the innkeeper may enter the guest's guest room, take possession of the guest's property, re-key

the door to the guest room, and make the guest room available to a new guest. The written notice shall be signed by the guest.

(2) At the time that the innkeeper actually undertakes to evict the guest as specified in this subdivision, the innkeeper in fact has a contractual obligation to provide the guest room to an arriving person.

In the above cases, the innkeeper may enter the guest's guest room, take possession of the guest's property, re-key the door to the guest room, and make the guest room available to a new guest. The evicted guest shall be entitled to immediate possession of his or her property upon request therefor, subject to the rights of the innkeeper pursuant to Sections 1861 to 1861.28, inclusive.

(d) As pertains to a minor, the rights of an innkeeper include, but are not limited to, the following:

(1) Where a minor unaccompanied by an adult seeks accommodations, the innkeeper may require a parent or guardian of the minor, or another responsible adult, to assume, in writing, full liability for any and all proper charges and other obligations incurred by the minor for accommodations, food and beverages, and other services provided by or through the innkeeper, as well as for any and all injuries or damage caused by the minor to any person or property.

(2) Where a minor is accompanied by an adult, the innkeeper may require the adult to agree, in writing, not to leave any minor 12 years of age or younger unattended on the innkeeper's premises at any time during their stay, and to control the minor's behavior during their stay so as to preserve the peace and quiet of the innkeeper's other guests and to prevent any injury to any person and damage to any property.

SEC. 39. Section 2945.3 of the Civil Code is amended to read:

2945.3. (a) Every contract shall be in writing and shall fully disclose the exact nature of the foreclosure consultant's services and the total amount and terms of compensation.

(b) The following notice, printed in at least 14-point boldface type and completed with the name of the foreclosure consultant, shall be printed immediately above the statement required by subdivision (c):

"NOTICE REQUIRED BY CALIFORNIA LAW

\_\_\_\_\_ or anyone working  
(Name)

for him or her CANNOT:

(1) Take any money from you or ask you for money until \_\_\_\_\_ has  
(Name)

completely finished doing everything he or she said he or she would do; and

(2) Ask you to sign or have you sign any lien, deed of trust, or deed."

(c) The contract shall be written in the same language as principally used by the foreclosure consultant to describe his or her services or to negotiate the contract; shall be dated and signed by the owner; and shall contain in immediate proximity to the space reserved for the owner's signature a conspicuous statement in a size equal to at least 10-point boldface type, as follows: "You, the owner, may cancel this transaction at any time prior to midnight of the third business day after the date of this transaction. See the attached notice of cancellation form for an explanation of this

right."

(d) The contract shall contain on the first page, in a type size no smaller than that generally used in the body of the document, each of the following:

(1) The name and address of the foreclosure consultant to which the notice of cancellation is to be mailed.

(2) The date the owner signed the contract.

(e) The contract shall be accompanied by a completed form in duplicate, captioned "notice of cancellation," which shall be attached to the contract, shall be easily detachable, and shall contain in type of at least 10-point the following statement written in the same language as used in the contract:

"NOTICE OF CANCELLATION

\_\_\_\_\_  
(Enter date of transaction) (Date)

You may cancel this transaction, without any penalty or obligation, within three business days from the above date.

To cancel this transaction, mail or deliver a signed and dated copy of this cancellation notice, or any other written notice, or send a telegram

to \_\_\_\_\_  
(Name of foreclosure consultant)

at \_\_\_\_\_  
(Address of foreclosure consultant's place of business)

NOT LATER THAN MIDNIGHT OF \_\_\_\_\_  
(Date)

I hereby cancel this transaction \_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Owner's signature)

(f) The foreclosure consultant shall provide the owner with a copy of the contract and the attached notice of cancellation.

(g) Until the foreclosure consultant has complied with this section, the owner may cancel the contract.

SEC. 40. Section 2982 of the Civil Code is amended to read:

2982. Every conditional sale contract subject to this chapter shall contain the disclosures required by Regulation Z, whether or not Regulation Z applies to the transaction. In addition, to the extent applicable, the contract shall contain the other disclosures and notices required by, and shall satisfy the requirements and limitations of, this section. The disclosures required by subdivision (a) may be itemized or subtotaled to a greater extent than as required by that subdivision and shall be made together and in the sequence set forth in that subdivision. All other disclosures and notices may appear in the contract in any location or sequence and may be combined or interspersed with other provisions of the contract.

(a) The contract shall contain the following disclosures, as applicable, which shall be labeled "itemization of the amount financed":

(1) (A) The cash price, exclusive of document preparation fees, taxes imposed on the sale, pollution control certification fees, prior credit or lease balance on property being traded in, and the amount charged for a service contract.

(B) The

fee to be retained by the seller for document preparation.

(C) The fee charged by the seller for certifying that the motor vehicle complies with applicable pollution control requirements.

(D) Taxes imposed on the sale.

(E) The amount of any optional business partnership automation fee to register or transfer the vehicle, which shall be labeled "Optional DMV Electronic Filing Fee."

(F) The amount charged for a service contract.

(G) The prior credit or lease balance remaining on property being traded in, as required by paragraph (6). The disclosure required by this subparagraph shall be labeled "prior credit or lease balance (see downpayment and trade-in calculation)."

(H) Any charge for an optional debt cancellation agreement.

(I) The total cash price, which is the sum of subparagraphs (A) to (H), inclusive.

(2) Amounts paid to public officials for the following:

(A) Vehicle license fees.

(B) Registration, transfer, and titling fees.

(C) California tire fees imposed pursuant to Section 42885 of the Public Resources Code.

(3) The aggregate amount of premiums agreed, upon execution of the contract, to be paid for policies of insurance included in the contract, excluding the amount of any insurance premium included in the finance charge.

(4) The amount of the state fee for issuance of a certificate of compliance, noncompliance, exemption, or waiver pursuant to any applicable pollution control statute.

(5) A subtotal representing the sum of the foregoing items.

(6) The amount of the buyer's downpayment itemized to show the following:

(A) The agreed value of the property being traded in.

(B) The prior credit or lease balance, if any, owing on the property being traded in.

(C) The net agreed value of the property being traded in, which is the difference between the amounts disclosed in subparagraphs (A) and (B). If the prior credit or lease balance of the property being traded in exceeds the agreed value of the property, a negative number shall be stated.

(D) The amount of any portion of the downpayment to be deferred until not later than the due date of the second regularly scheduled installment under the contract and which is not subject to a finance charge.

(E) The amount of any manufacturer's rebate applied or to be applied to the downpayment.

(F) The remaining amount paid or to be paid by the buyer as a downpayment.

(G) The total downpayment. If the sum of subparagraphs (C) to (F), inclusive, is zero or more, that sum shall be stated as the total downpayment and no amount shall be stated as the prior credit or lease balance under subparagraph (G) of paragraph (1). If the sum of subparagraphs (C) to (F), inclusive, is less than zero, then that sum, expressed as a positive number, shall be stated as the prior credit or lease balance under subparagraph (G) of paragraph (1), and zero shall be stated as the total downpayment. The disclosure required by this subparagraph shall be labeled "total downpayment" and shall contain a descriptor indicating that if the total downpayment is a negative number, a zero shall be disclosed as the total downpayment and a reference made that the remainder shall be included in the disclosure required pursuant to subparagraph (G) of paragraph (1).

(7) The amount of any administrative finance charge, labeled "prepaid finance charge."

(8) The difference between item (5) and the sum of items (6) and (7), labeled "amount financed."

(b) No particular terminology is required to disclose the items set forth in subdivision (a) except as expressly provided in that subdivision.

(c) If payment of all or a portion of the downpayment is to be deferred, the deferred payment shall be reflected in the payment schedule disclosed pursuant to Regulation Z.

(d) If the downpayment includes property being traded in, the contract shall contain a brief description of that property.

(e) The contract shall contain the names and addresses of all persons to whom the notice required under Section 2983.2 and permitted under Sections 2983.5 and 2984 is to be sent.

(f) (1) If the contract includes a finance charge determined on the precomputed basis, the contract shall identify the method of computing the unearned portion of the finance charge in the event of prepayment in full of the buyer's obligation and contain a statement of the amount or method of computation of any charge that may be deducted from the amount of any unearned finance charge in computing the amount that will be credited to the obligation or refunded to the buyer. The method of computing the unearned portion of the finance charge shall be sufficiently identified with a reference to the actuarial method if the computation will be under that method. The method of computing the unearned portion of the finance charge shall be sufficiently identified with a reference to the Rule of 78's, the sum of the digits, or the sum of the periodic time balances method in all other cases, and those references shall be deemed to be equivalent for disclosure purposes.

(2) If the contract includes a finance charge which is determined on the simple-interest basis but provides for a minimum finance charge in the event of prepayment in full, the contract shall contain a statement of that fact and the amount of the minimum finance charge or its method of calculation.

(g) (1) If the contract includes a finance charge which is determined on the precomputed basis and provides that the unearned portion of the finance charge to be refunded upon full prepayment of the contract is to be determined by a method other than actuarial, the contract shall contain a notice, in at least 10-point boldface type if the contract is printed, reading as follows: "Notice to buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time and obtain a partial refund of the finance charge if it is \$1 or more. Because of the way the amount of this refund will be figured, the time when you prepay could increase the ultimate cost of credit under this agreement. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement."

(2) If the contract includes a finance charge which is determined on the precomputed basis and provides for the actuarial method for computing the unearned portion of the finance charge upon prepayment in full, the contract shall contain a notice, in at least 10-point boldface type if the contract is printed, reading as follows: "Notice to buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) You

can prepay the full amount due under this agreement at any time and obtain a partial refund of the finance charge if it is \$1 or more.

(4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement."

(3) If the contract includes a finance charge which is determined on the simple-interest basis, the contract shall contain a notice, in at least 10-point boldface type if the contract is printed, reading as follows: "Notice to buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement.

(3) You can prepay the full amount due under this agreement at any time. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement."

(h) The contract shall contain a notice in at least 8-point boldface type, acknowledged by the buyer, that reads as follows:

"If you have a complaint concerning this sale, you should try to resolve it with the seller.

Complaints concerning unfair or deceptive practices or methods by the seller may be referred to the city attorney, the district attorney, or an investigator for the Department of Motor Vehicles, or any combination thereof.

After this contract is signed, the seller may not change the financing or payment terms unless you agree in writing to the change.

You do not have to agree to any change, and it is an unfair or deceptive practice for the seller to make a unilateral change.

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Buyer's Signature"

(i) (1) The contract shall contain an itemization of any insurance included as part of the amount financed disclosed pursuant to paragraph (3) of subdivision (a) and of any insurance included as part of the finance charge. The itemization shall identify the type of insurance coverage and the premium charged therefor, and, if the insurance expires before the date of the last scheduled installment included in the repayment schedule, the term of the insurance shall be stated.

(2) If any charge for insurance, other than for credit life or disability, is included in the contract balance and disbursement of any part thereof is to be made more than one year after the date of the conditional sale contract, any finance charge on the amount to be disbursed after one year shall be computed from the month the disbursement is to be made to the due date of the last installment under the conditional sale contract.

(j) (1) Except for contracts in which the finance charge or portion thereof is determined by the simple-interest basis and the amount financed disclosed pursuant to paragraph (8) of subdivision (a) is more than two thousand five hundred dollars (\$2,500), the dollar amount of the disclosed finance charge may not exceed the greater of:

(A) (i) One and one-half percent on so much of the unpaid balance as does not exceed two hundred twenty-five dollars (\$225), 11/6 percent on so much of the unpaid balance in excess of two hundred twenty-five dollars (\$225) as does not exceed nine hundred dollars

(\$900) and five-sixths of 1 percent on so much of the unpaid balance in excess of nine hundred dollars (\$900) as does not exceed two thousand five hundred dollars (\$2,500); or

(ii) One percent of the entire unpaid balance; multiplied in either case by the number of months (computed on the basis of a full month for any fractional month period in excess of 15 days) elapsing between the date of the contract and the due date of the last installment; or

(B) If the finance charge is determined by the precomputed basis, twenty-five dollars (\$25); or

(C) If the finance charge or a portion thereof is determined by the simple-interest basis:

(i) Twenty-five dollars (\$25) if the unpaid balance does not exceed one thousand dollars (\$1,000).

(ii) Fifty dollars (\$50) if the unpaid balance exceeds one thousand dollars (\$1,000) but does not exceed two thousand dollars (\$2,000).

(iii) Seventy-five dollars (\$75) if the unpaid balance exceeds two thousand dollars (\$2,000).

(2) The holder of the contract may not charge, collect, or receive a finance charge which exceeds the disclosed finance charge, except to the extent (A) caused by the holder's receipt of one or more payments under a contract which provides for determination of the finance charge or a portion thereof on the 365-day basis at a time or times other than as originally scheduled whether or not the parties enter into an agreement pursuant to Section 2982.3, (B) permitted by paragraph (2), (3), or (4) of subdivision (c) of Section 226.17 of Regulation Z, or (C) permitted by subdivisions (a) and (c) of Section 2982.8.

(3) If the finance charge or a portion thereof is determined by the simple-interest basis and the amount of the unpaid balance exceeds five thousand dollars (\$5,000), the holder of the contract may, in lieu of its right to a minimum finance charge under subparagraph (C) of paragraph (1), charge, receive, or collect on the date of the contract an administrative finance charge not to exceed seventy-five dollars (\$75), provided that the sum of the administrative finance charge and the portion of the finance charge determined by the simple-interest basis shall not exceed the maximum total finance charge permitted by subparagraph (A) of paragraph (1). Any administrative finance charge that is charged, received, or collected by a holder shall be deemed a finance charge earned on the date of the contract.

(4) If a contract provides for unequal or irregular payments, or payments on other than a monthly basis, the maximum finance charge shall be at the effective rate provided for in paragraph (1), having due regard for the schedule of installments.

(k) The contract may provide that for each installment in default for a period of not less than 10 days the buyer shall pay a delinquency charge in an amount not to exceed in the aggregate 5 percent of the delinquent installment, which amount may be collected only once on any installment regardless of the period during which it remains in default. Payments timely received by the seller under an extension or deferral agreement may not be subject to a delinquency charge unless the charge is permitted by Section 2982.3. The contract may provide for reasonable collection costs and fees in the event of delinquency.

(l) Notwithstanding any provision of a contract to the contrary, the buyer may pay at any time before maturity the entire indebtedness evidenced by the contract without penalty. In the event of prepayment in full:



(1) If the finance charge was determined on the precomputed basis, the amount required to prepay the contract shall be the outstanding contract balance as of that date, provided, however, that the buyer shall be entitled to a refund credit in the amount of the unearned portion of the finance charge, except as provided in paragraphs (3) and (4). The amount of the unearned portion of the finance charge shall be at least as great a proportion of the finance charge, including any additional finance charge imposed pursuant to Section 2982.8 or other additional charge imposed because the contract has been extended, deferred, or refinanced, as the sum of the periodic monthly time balances payable more than 15 days after the date of prepayment bears to the sum of all the periodic monthly time balances under the schedule of installments in the contract or, if the contract has been extended, deferred, or refinanced, as so extended, deferred, or refinanced. If the amount of the refund credit is less than one dollar (\$1), no refund credit need be made by the holder. Any refund credit may be made in cash or credited to the outstanding obligations of the buyer under the contract.

(2) If the finance charge or a portion thereof was determined on the simple-interest basis, the amount required to prepay the contract shall be the outstanding contract balance as of that date, including any earned finance charges which are unpaid as of that date and, if applicable, the amount provided in paragraph (3), and provided further that in cases where a finance charge is determined on the 360-day basis, the payments theretofore received will be assumed to have been received on their respective due dates regardless of the actual dates on which the payments were received.

(3) Where the minimum finance charge provided by subparagraph (B) or subparagraph (C) of paragraph (1) of subdivision (j), if either is applicable, is greater than the earned finance charge as of the date of prepayment, the holder shall be additionally entitled to the difference.

(4) The provisions of this subdivision may not impair the right of the seller or the seller's assignee to receive delinquency charges on delinquent installments and reasonable costs and fees as provided in subdivision (k) or extension or deferral agreement charges as provided in Section 2982.3.

(5) Notwithstanding any provision of a contract to the contrary, whenever the indebtedness created by any contract is satisfied prior to its maturity through surrender of the motor vehicle, repossession of the motor vehicle, redemption of the motor vehicle after repossession, or any judgment, the outstanding obligation of the buyer shall be determined as provided in paragraph (1) or (2). Notwithstanding, the buyer's outstanding obligation shall be computed by the holder as of the date the holder recovers the value of the motor vehicle through disposition thereof or judgment is entered or, if the holder elects to keep the motor vehicle in satisfaction of the buyer's indebtedness, as of the date the holder takes possession of the motor vehicle.

(m) Notwithstanding any other provision of this chapter to the contrary, any information required to be disclosed in a conditional sale contract under this chapter may be disclosed in any manner, method, or terminology required or permitted under Regulation Z, as in effect at the time that disclosure is made, except that permitted by paragraph (2) of subdivision (c) of Section 226.18 of Regulation Z, provided that all of the requirements and limitations set forth in subdivision (a) of this section are satisfied. This chapter does not prohibit the disclosure in that contract of additional information required or permitted under Regulation Z, as in effect at the time that disclosure is made.

(n) If the seller imposes a fee for document preparation, the contract shall contain a disclosure that the fee is not a governmental fee.

(o) A seller may not impose an application fee for a transaction governed by this chapter.

(p) The seller or holder may charge and collect a fee not to exceed fifteen dollars (\$15) for the return by a depository institution of a dishonored check, negotiated order of withdrawal, or share draft issued in connection with the contract, if the contract so provides or if the contract contains a generalized statement that the buyer may be liable for collection costs incurred in connection with the contract.

(q) The contract shall disclose on its face, by printing the word "new" or "used" within a box outlined in red, that is not smaller than one-half inch high and one-half inch wide, whether the vehicle is sold as a new vehicle, as defined in Section 430 of the Vehicle Code, or a used vehicle, as defined in Section 665 of the Vehicle Code.

(r) The contract shall contain a notice with a heading in at least 12-point bold type and the text in at least 10-point bold type, circumscribed by a line, immediately above the contract signature line, that reads as follows:

```

:
:           THERE IS NO COOLING OFF PERIOD
:
:   California law does not provide for a "cooling off" or
:   other cancellation period for vehicle sales. Therefore, you
:   cannot later cancel this contract simply because you change
:   your mind, decide the vehicle costs too much, or wish you had
:   acquired a different vehicle. After you sign below, you may
:   only cancel this contract with the agreement of the seller
:   or for legal cause, such as fraud.
:
:-----

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SEC. 41. Section 2985.8 of the Civil Code is amended to read:

2985.8. (a) Every lease contract shall be in writing and the print portion of the contract shall be printed in at least 8-point type and shall contain in a single document all of the agreements of the lessor and lessee with respect to the obligations of each party.

(b) At the top of the lease contract, a title which contains the words "LEASE CONTRACT" or "LEASE AGREEMENT" shall appear in at least 12-point boldface type.

(c) Every lease contract shall disclose all of the following:

(1) All of the information prescribed by Regulation M set forth in the manner required or permitted by Regulation M, whether or not Regulation M applies to the transaction.

(2) A separate statement labeled "Itemization of Gross Capitalized Cost" that shall appear immediately following or directly adjacent to the disclosures required to be segregated by Regulation M. The Itemization of Gross Capitalized Cost shall include all of the following and shall be circumscribed by a line:

(A) The agreed-upon value of the vehicle as equipped at the time of signing the lease.

(B) The agreed-upon value and a description of each accessory and item of optional equipment the lessor agrees to add to the vehicle

after signing the lease.

- (C) The premium for each policy of insurance.
- (D) The amount charged for each service contract.
- (E) Any charge for an optional debt cancellation agreement.
- (F) Any outstanding prior credit or lease balance.

(G) An itemization by type and agreed-upon value of each good or service included in the gross capitalized cost other than those items included in the disclosures required in subparagraphs (A) to (F), inclusive.

(3) The vehicle identification number of the leased vehicle.

(4) A brief description of each vehicle or other property being traded in and the agreed-upon value thereof if the amount due at the time of signing the lease or upon delivery is paid in whole or in part with a net trade-in allowance or the "Itemization of Gross Capitalized Cost" includes any portion of the outstanding prior credit or lease balance from the trade-in property.

(5) The fee, if any, to be retained by the lessor for document preparation, which fee may not exceed forty-five dollars (\$45) and may not be represented as a governmental fee.

(6) The amount of any optional business partnership automation program fee to register or transfer the vehicle, which shall be labeled "Optional DMV Electronic Filing Fee."

(d) Every lease contract shall contain, in at least 8-point boldface type, above the space provided for the lessee's signature and circumscribed by a line, the following notice: "(1) Do not sign this lease before you read it or if it contains any blank spaces to be filled in; (2) You are entitled to a completely filled in copy of this lease; (3) Warning--Unless a charge is included in this lease for public liability or property damage insurance, payment for that coverage is not provided by this lease."

(e) Every lease contract shall contain, in at least 8-point boldface type, on the first page of the contract and circumscribed by a line, the following notice:

"THERE IS NO COOLING OFF PERIOD

California law does not provide for a "cooling off" or other cancellation period for vehicle leases. Therefore, you cannot later cancel this lease simply because you change your mind, decided the vehicle costs too much, or wish you had acquired a different vehicle. You may cancel this lease only with the agreement of the lessor or for legal cause, such as fraud."

(f) Every lease contract shall contain, in at least 8-point boldface type, the following notice: "You have the right to return the vehicle, and receive a refund of any payments made if the credit application is not approved, unless nonapproval results from an incomplete application or from incorrect information provided by you."

(g) The lease contract shall be signed by the lessor and lessee, or their authorized representatives, and an exact copy of the fully executed lease contract shall be provided to the lessee at the time of signing.

(h) No motor vehicle shall be delivered under a lease contract subject to this chapter until the lessor provides to the lessee a fully executed copy of the lease contract.

(i) The lessor may not obtain the signature of the lessee to a contract when it contains blank spaces to be filled in after it has been signed.

(j) If the lease contract contains a provision that holds the lessee liable for the difference between (1) the adjusted capitalized

cost disclosed in the lease contract reduced by the amounts described in subparagraph (A) of paragraph (5) of subdivision (b) of Section 2987 and (2) the settlement proceeds of the lessee's required insurance and deductible in the event of theft or damage to the vehicle that results in a total loss, the lease contract shall contain the following notice in at least 8-point boldface type on the first page of the contract:

"GAP LIABILITY NOTICE

In the event of theft or damage to the vehicle that results in a total loss, there may be a GAP between the amount due upon early termination and the proceeds of your insurance settlement and deductible. THIS LEASE PROVIDES THAT YOU ARE LIABLE FOR THE GAP AMOUNT. Optional coverage for the GAP amount may be offered for an additional price."

SEC. 42. Section 2988.9 of the Civil Code is amended to read:

2988.9. Reasonable attorney's fees and costs shall be awarded to the prevailing party in any action on a lease contract subject to the provisions of this chapter regardless of whether the action is instituted by the lessor, assignee, or lessee. Where the defendant alleges in his or her answer that he or she tendered to the plaintiff the full amount to which he or she was entitled, and thereupon deposits in court, for the plaintiff, the amount so tendered, and the allegation is found to be true, then the defendant is deemed to be the prevailing party within the meaning of this section.

SEC. 43. Section 715.010 of the Code of Civil Procedure is amended to read:

715.010. (a) A judgment for possession of real property may be enforced by a writ of possession of real property issued pursuant to Section 712.010. The application for the writ shall provide a place to indicate that the writ applies to all tenants, subtenants, if any, name of claimants, if any, and any other occupants of the premises.

(b) In addition to the information required by Section 712.020, the writ of possession of real property shall contain the following:

(1) A description of the real property, possession of which is to be delivered to the judgment creditor in satisfaction of the judgment.

(2) A statement that if the real property is not vacated within five days from the date of service of a copy of the writ on the occupant or, if the copy of the writ is posted, within five days from the date a copy of the writ is served on the judgment debtor, the levying officer will remove the occupants from the real property and place the judgment creditor in possession.

(3) A statement that any personal property, except a mobilehome, remaining on the real property after the judgment creditor has been placed in possession will be sold or otherwise disposed of in accordance with Section 1174 unless the judgment debtor or other owner pays the judgment creditor the reasonable cost of storage and takes possession of the personal property not later than 15 days after the time the judgment creditor takes possession of the real property.

(4) The date the complaint was filed in the action that resulted in the judgment of possession.

(5) The date or dates on which the court will hear objections to enforcement of a judgment of possession that are filed pursuant to Section 1174.3, unless a summons, complaint, and prejudgment claim of

right to possession were served upon the occupants in accordance with Section 415.46.

(6) The daily rental value of the property as of the date the complaint for unlawful detainer was filed unless a summons, complaint, and prejudgment claim of right of possession were served upon the occupants in accordance with Section 415.46.

(7) If a summons, complaint, and prejudgment claim of right to possession were served upon the occupants in accordance with Section 415.46, a statement that the writ applies to all tenants, subtenants, if any, named claimants, if any, and any other occupants of the premises.

(c) At the time the writ of possession is served or posted, the levying officer shall also serve or post a copy of the form for a claim of right to possession, unless a summons, complaint, and prejudgment claim of right to possession were served upon the occupants in accordance with Section 415.46.

SEC. 44. Section 995.640 of the Code of Civil Procedure is amended to read:

995.640. The county clerk of any county shall, upon request of any person, do any of the following:

(a) Issue a certificate stating whether the certificate of authority of an admitted surety insurer issued by the Insurance Commissioner authorizing the insurer to transact surety insurance, has been surrendered, revoked, canceled, annulled, or suspended, and in the event that it has, whether renewed authority has been granted.

The county clerk in issuing the certificate shall rely solely upon the information furnished by the Insurance Commissioner pursuant to Article 2 (commencing with Section 12070) of Chapter 1 of Part 4 of Division 2 of the Insurance Code.

(b) Issue a certificate stating whether a copy of the transcript or record of the unrevoked appointment, power of attorney, bylaws, or other instrument, duly certified by the proper authority and attested by the seal of an admitted surety insurer entitling or authorizing the person who executed a bond to do so for and in behalf of the insurer, is filed in the office of the clerk.

SEC. 45. Section 1021.8 of the Code of Civil Procedure is amended to read:

1021.8. (a) Whenever the Attorney General prevails in a civil action to enforce Section 22445, 22446.5, 22958, or 22962 of the Business and Professions Code, Section 52, 52.1, or 55 of the Civil Code, Section 1603.1, 2014, or 5650.1 of the Fish and Game Code, Section 4458, 12598, 12606, 12607, 12989.3, 66640, 66641, or 66641.7 of the Government Code, Section 13009, 13009.1, 19958.5, 25299, or 118950 of the Health and Safety Code, Section 308.1 or 308.3 of the Penal Code, Section 30820, 30821.6, or 30822 of the Public Resources Code, or Section 275, 1052, 1845, 13350, or 13385 of the Water Code, the court shall award to the Attorney General all costs of investigating and prosecuting the action, including expert fees, reasonable attorney's fees, and costs. Awards u

BILL NUMBER: AB 519      CHAPTERED 09/30/08

CHAPTER 757

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AMENDED IN SENATE AUGUST 22, 2008

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AMENDED IN SENATE SEPTEMBER 7, 2007

AMENDED IN ASSEMBLY APRIL 24, 2007

INTRODUCED BY      Committee on Budget

FEBRUARY 21, 2007

An act to amend Sections 2558.46, 41203.1, 42238.146, 52052, 52055.57, 52059, 56836.155, 60604, 60605, 60605.6, 60606, 60616, 60630, 60640, 60641, 60642.5, 60643, 60645, 60647, 69521.3, 69521.4, 69521.5, 69521.10, 69521.11, 69522, 69561, and 76300 of, to add Sections 12143 and 52055.59 to, and to repeal Sections 60642 and 60644 of, the Education Code, relating to education finance, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 519, Committee on Budget. Education finance.

(1) Existing law requires a revenue limit to be calculated for each county superintendent of schools, adjusted for various factors, and reduced, as specified.

This bill would reduce the revenue limit for each county superintendent of schools for the 2008-09 fiscal year by a deficit factor of 4.396%.

(2) Existing law requires the State Department of Education, in cooperation with the Department of Finance, to prepare a comprehensive state plan, to be submitted to the Legislature by January 1 of each year, detailing the prospective expenditure, allocation, and apportionment of federal funds to be appropriated for the next fiscal year to all educational agencies in the state. The department, in cooperation with the Department of Finance, also is required to submit a comprehensive report, to be submitted to the Legislature by January 1 of each year, that sets forth in detail the manner in which all federal funds were allocated and apportioned to, and expended by, educational agencies in this state in the prior fiscal year.

This bill would require the department to submit, to the Legislature, the Legislative Analyst's Office, and the Governor, 2 annual reports on federal funds for education in kindergarten and grades 1 to 12, inclusive. One report, to be submitted no later than February 15 of each year, would provide a 3-year tracking of federal funds for each federally funded program that includes detail by type of funded activity and state budget category and the actual expenditures for the prior year, a revised estimate of current-year expenditures, and the budget-year appropriation. The other report, to be submitted no later than November 1 of each year, would identify available federal carryover funds, identifying those funds, by fiscal

year and potential reversion date, for each federally funded program by type of funded activity and state budget category.

(3) Existing law requires, for the 1990-91 fiscal year and each fiscal year thereafter, that moneys to be applied by the state for the support of school districts, community college districts, and direct elementary and secondary level instructional services provided by the state be distributed in accordance with certain calculations governing the proration of those moneys among the 3 segments of public education. Existing law makes that provision inapplicable to the fiscal years between the 1992-93 and 2007-08 fiscal years, inclusive.

This bill, in addition, would make that provision inapplicable to the **2008-09** fiscal year.

(4) Existing law requires the county superintendent of schools to determine a revenue limit for each school district in the county and requires the amount of the revenue limit to be adjusted for various factors.

This bill would reduce the revenue limit for each school district by a 4.713% deficit factor for the **2008-09** fiscal year.

(5) Existing law requires the State Department of Education to identify local educational agencies that are in danger of being identified within 2 years as program improvement local educational agencies under the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.), and requires those local educational agencies identified to comply with certain requirements.

This bill, if funding is not provided in the annual Budget Act or other statute, would delete the requirement that program improvement local educational agencies comply with certain of those requirements.

Under existing law, a local educational agency that is identified for corrective action under the federal No Child Left Behind Act of 2001 is subject to one or more sanctions recommended by the Superintendent and approved by the State Board of Education, including a requirement to contract with a district assistance and intervention team to aid the local educational agency.

This bill would require the department to develop, and the state board to approve at a public meeting, objective criteria by which a local educational agency identified for corrective action and subject to a sanction would be evaluated for the purpose of determining the pervasiveness and severity of performance problems of the local educational agency and the sanction to be imposed. The bill would authorize a one-year, nonrenewable grant of federal improvement funding to assist in the improvement process of a local educational agency. The amount of the grant would vary depending on the pervasiveness and severity of performance problems of the local educational agency.

The bill would prohibit a local educational agency that receives funding under this program, or that receives other federal funds for school improvement, from using those funds to compensate a receiver or trustee assigned by the state board to administer the affairs of the local educational agency in place of the county superintendent of schools and the governing board.

The bill, subject to an appropriation in the annual Budget Act or another statute, would require the Superintendent to contract with an independent evaluator to complete a comprehensive 3-year evaluation of the program established for local educational agencies that are identified for corrective action. The evaluation would be required to examine the implementation, impact, costs, and effectiveness of the corrective actions and reform strategies and to determine the effectiveness of the technical assistance provided by the district

intervention and assistance. The Superintendent would be required to submit 2 interim reports and a final report to the Governor, the Department of Finance, the Legislature, and the Legislative Analyst's Office.

(6) Existing law requires the department, for purposes of complying with the federal No Child Left Behind Act of 2001, to establish a statewide system of school support to provide a statewide system of intensive and sustained support and technical assistance for school districts, county offices of education, and schools in need of improvement. The system consists of regional consortia, which may include county offices of education and school districts, that work collaboratively with school districts and county offices of education to meet the needs of school districts and schools in need of improvement.

This bill would add district assistance and intervention teams and other technical assistance providers to the system and would require the teams and other technical assistance providers to conduct a needs assessment and complete a report on their findings, including recommendations for improvement and the redirection of resources to ensure the implementation of the recommendations.

(7) Existing law adjusts funding for individuals with exceptional needs based on an incidence multiplier, as defined, for each special education local plan area.

This bill would continue the current special education incidence factor formula through the 2008-09 fiscal year.

(8) The Leroy Greene California Assessment of Academic Achievement Act requires the Superintendent to design and implement a statewide pupil assessment program, known as the Standardized Testing and Reporting (STAR) Program. The State Board of Education, in its sole discretion, is required to designate for use as part of the STAR Program a single test in grades 3 and 7 and to ensure that the achievement test contains specified subject areas for grades 3 and 7.

This bill would repeal this component of the STAR Program and make conforming changes.

(9) Existing law authorizes the Director of Finance to act as agent for the state in the sale of the student loan guarantee portfolio and certain related assets and liabilities of the student loan guarantee program not retained by the Student Aid Commission to an entity approved by the United States Secretary of Education to act as a state student loan guarantee agency for the Federal Family Education Loan Program, and selected by the Director of Finance, in consultation with the Treasurer, pursuant to a prescribed procedure. Existing law requires the Director of Finance, in consultation with the Treasurer, to select a firm or individual to provide advisory services. Existing law requires the Director of Finance to send a Notice of Request for Qualifications to specified entities as part of the sale process. Existing law also requires the notice to be published in the State Contracts Register pursuant to specified statutory provisions. Existing law requires the Director of Finance to cease the activities he or she is authorized to undertake with regard to the sale upon the 30th day following written notice by the director to the Chairperson of the Joint Legislative Budget Committee or January 10, 2009, whichever occurs earlier.

This bill would require the Director of Finance to provide a copy of the Notice of Request for Qualifications to the Joint Legislative Budget Committee within 7 days of transmittal to state student loan guarantee agencies and within 7 days of publication in the State Contracts Register. The bill would require the Director of Finance to notify the Joint Legislative Budget Committee in writing within 7



days of entering into a contract with an individual or firm for advisory services. The bill would extend the alternate date upon which the Director of Finance is required to cease the activities he or she is authorized to undertake with regard to the sale from January 10, 2009, to January 10, 2011.

(10) Existing law authorizes the Student Aid Commission to establish an auxiliary organization to provide operational and administrative services for the commission's participation in the Federal Family Education Loan Program or for other activities approved by the commission and determined by the commission to meet specified criteria. Existing law prohibits the commission from including loan origination or loan capitalization activities as approved activities, but states that the prohibition does not preclude the commission or the auxiliary organization from undertaking other permitted activities related to student financial aid in partnership with institutions that conduct loan origination or loan capitalization activities.

This bill, in addition, would state that the prohibition on including loan origination or loan capitalization activities as approved activities does not preclude the commission or the auxiliary organization from undertaking loan origination or capitalization activities authorized pursuant to an agreement with the United States Secretary of Education for the lender-of-last-resort program.

(11) Existing law requires the Student Aid Commission to administer the Student Opportunity and Access Program, under which the commission is authorized to apportion funds for the support of projects designed to increase the accessibility of postsecondary educational opportunities for certain elementary and secondary school pupils, including those from low-income families, those who would be the first in their families to attend college, and those who are from schools or geographic regions with documented low-eligibility or college participation rates. Projects are required to primarily increase the availability of information for these pupils on the existence of postsecondary schooling and work opportunities and to raise the achievement levels of these pupils.

This bill would authorize projects to be implemented under the program that provide assistance to low-income middle and high school pupils and their parents in order to implement outreach efforts designed to use the future availability of financial assistance as a means of motivating pupils to stay in school by promoting career technical education public awareness. These projects would be required to promote the value of career technical education, available career programs in public school and postsecondary segments with sequenced courses beginning in high school and continuing into postsecondary institutions, and the resulting career opportunities.

(12) Existing law requires the governing board of each community college district to charge each student a fee per unit per semester and requires this fee to be waived for specified students who demonstrate eligibility for the fee waiver. The Board of Governors of the California Community Colleges is required to allocate to community college districts 2% of the fees waived. The board of governors also is required to allocate to community college districts \$0.91 per credit unit waived for determination of financial need and delivery of student financial aid services. These allocations are required to be made from funds provided in the annual Budget Act.

This bill would state the intent of the Legislature that the funds described above be used to support the determination of financial need and delivery of student financial aid services and that the funds directly offset any mandated costs claimed by community college districts pursuant to specified Commission on State Mandates test

claims.

(13) This bill would appropriate \$12,500,000 from the Public Interest Research, Development, and Demonstration Fund to the Chancellor of the California Community Colleges. Of that appropriated amount, the bill would require the Chancellor of the California Community Colleges to transfer \$12,000,000 to the State Department of Education for expenditure in one-time funds for local grants to be allocated pursuant to specified statutory provisions regarding partnership academies over 3 years as specified in the Budget Act of 2008. The bill would require grantees to create partnership academies that focus on clean technology and energy businesses and provide skilled workforces for the products and services for energy or water conservation, or both, renewable energy, pollution reduction, or other technologies that improve the environment in furtherance of state environmental laws. The bill would require the Chancellor of the California Community Colleges to transfer the remaining \$500,000 to the State Department of Education to pay for the expenses of administering the local grants.

(14) This bill would appropriate \$39,780,000 from the General Fund to the Board of Governors of the California Community Colleges, in augmentation of an amount appropriated pursuant to a specified item in Budget Act of 2008, for the purpose of providing a 0.68% cost-of-living adjustment to apportionments to community college districts, for expenditure during the 2008-09 fiscal year. The bill would provide that, for purposes of satisfying the minimum annual funding obligation for community college districts required by the California Constitution, those funds are General Fund revenues appropriated for community college districts for the 2008-09 fiscal year.

(15) This bill would appropriate \$388,283,000 from the General Fund to the State Department of Education for 10 specified programs according to a specified schedule, and would require the department to encumber these funds by July 1, 2009. The bill would provide that, for purposes of satisfying the minimum annual funding obligation for school districts required by the California Constitution, the appropriated funds are General Fund revenues appropriated for school districts and community college districts for the 2009-10 fiscal year.

(16) This bill would appropriate \$200,000,000 from the General Fund to the Board of Governors of the California Community Colleges for expenditure during the 2009-10 fiscal year according to a specified item in the Budget Act of 2008. The bill would provide that, for purposes of satisfying the minimum annual funding obligation for community college districts required by the California Constitution, those funds are General Fund revenues appropriated for community college districts for the 2009-10 fiscal year.

(17) Existing law annually appropriates \$150,000,000 from the General Fund to the Controller for allocation by the Controller to school districts and community colleges for the purpose of discharging in full the outstanding balance of the minimum funding obligation to school districts and community college districts pursuant to Section 8 of Article XVI of the California Constitution as determined by specified state officials.

This bill would provide that there shall be no annual appropriation in the 2008-09 fiscal year for this purpose.

(18) This bill would set the cost-of-living adjustment for specified items in the Budget Act of 2007 and for specified items in the Budget Act of 2008 for the 2008-09 fiscal year at 0% notwithstanding the cost-of-living adjustment specified in existing statutes.

(19) This bill would require funds appropriated pursuant to specified items in the Budget Act of **2008** to be encumbered by July 31, 2009.

(20) This bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 2558.46 of the Education Code is amended to read:

2558.46. (a) (1) For the 2003-04 fiscal year, the revenue limit for each county superintendent of schools determined pursuant to this article shall be reduced by a 1.195 percent deficit factor.

(2) For the 2004-05 fiscal year, the revenue limit for each county superintendent of schools determined pursuant to this article shall be reduced by a 0.323 percent deficit factor.

(3) For the 2003-04 and 2004-05 fiscal years, the revenue limit for each county superintendent of schools determined pursuant to this article shall be reduced further by a 1.826 percent deficit factor.

(4) For the 2005-06 fiscal year, the revenue limit for each county superintendent of schools determined pursuant to this article shall be reduced further by a 0.898 percent deficit factor.

(5) For the **2008**-09 fiscal year, the revenue limit for each county superintendent of schools determined pursuant to this article shall be reduced by a 4.396 percent deficit factor.

(b) In computing the revenue limit for each county superintendent of schools for the 2006-07 fiscal year pursuant to this article, the revenue limit shall be determined as if the revenue limit for that county superintendent of schools had been determined for the 2003-04, 2004-05, and 2005-06 fiscal years without being reduced by the deficit factors specified in this section.

(c) In computing the revenue limit for each county superintendent of schools for the 2009-10 fiscal year pursuant to this article, the revenue limit shall be determined as if the revenue limit for that county superintendent of schools had been determined for the **2008**-09 fiscal year without being reduced by the deficit factors specified in this section.

SEC. 2. Section 12143 is added to the Education Code, to read:

12143. The department shall submit to the Legislature, the Legislative Analyst's Office, and the Governor the following two annual reports on federal funds for education in kindergarten and grades 1 to 12, inclusive:

(a) One report, to be submitted no later than February 15 of each year, shall provide a three-year tracking of federal funds. For each federally funded program, the report shall include detail by type of funded activity (state administration, state-level activity, local assistance, and capital outlay) and state budget category (state operations, local assistance, and capital outlay). For each program, by type of funded activity and state budget category, the report shall include all of the following:

(1) Actual expenditures for the prior year.

(2) A revised estimate of current year expenditures.

(3) The budget-year appropriation.

(b) The other report, to be submitted no later than November 1 of each year, shall identify available federal carryover funds. Specifically, this report shall identify carryover funds, by fiscal year and potential reversion date, for each federally funded program by type of funded activity (state administration, state-level

activity, local assistance, and capital outlay) and state budget category (state operations, local assistance, and capital outlay).

SEC. 3. Section 41203.1 of the Education Code is amended to read:

41203.1. (a) For the 1990-91 fiscal year and each fiscal year thereafter, allocations calculated pursuant to Section 41203 shall be distributed in accordance with calculations provided in this section. Notwithstanding Section 41203, and for the purposes of this section, school districts, community college districts, and direct elementary and secondary level instructional services provided by the State of California shall be regarded as separate segments of public education, and each of these three segments of public education shall be entitled to receive respective shares of the amount calculated pursuant to Section 41203 as though the calculation made pursuant to subdivision (b) of Section 8 of Article XVI of the California Constitution were to be applied separately to each segment and the base year for the purposes of this calculation under paragraph (1) of subdivision (b) of Section 8 of Article XVI of the California Constitution were based on the 1989-90 fiscal year. Calculations made pursuant to this subdivision shall be made so that each segment of public education is entitled to the greater of the amounts calculated for that segment pursuant to paragraph (1) or (2) of subdivision (b) of Section 8 of Article XVI of the California Constitution.

(b) If the single calculation made pursuant to Section 41203 yields a guaranteed amount of funding that is less than the sum of the amounts calculated pursuant to subdivision (a), the amount calculated pursuant to Section 41203 shall be prorated for the three segments of public education.

(c) Notwithstanding any other law, this section does not apply to the 1992-93 to 2008-09 fiscal years, inclusive.

SEC. 4. Section 42238.146 of the Education Code is amended to read:

42238.146. (a) (1) For the 2003-04 fiscal year, the revenue limit for each school district determined pursuant to this article shall be reduced by a 1.198 percent deficit factor.

(2) For the 2004-05 fiscal year, the revenue limit for each school district determined pursuant to this article shall be reduced by a 0.323 percent deficit factor.

(3) For the 2003-04 and 2004-05 fiscal years, the revenue limit for each school district determined pursuant to this article shall be further reduced by a 1.826 percent deficit factor.

(4) For the 2005-06 fiscal year, the revenue limit for each school district determined pursuant to this article shall be reduced by a 0.892 percent deficit factor.

(5) For the 2008-09 fiscal year, the revenue limit for each school district determined pursuant to this article shall be reduced by a 4.713 percent deficit factor.

(b) In computing the revenue limit for each school district for the 2006-07 fiscal year pursuant to this article, the revenue limit shall be determined as if the revenue limit for that school district had been determined for the 2003-04, 2004-05, and 2005-06 fiscal years without being reduced by the deficit factors specified in this section.

(c) In computing the revenue limit for each school district for the 2009-10 fiscal year pursuant to this article, the revenue limit shall be determined as if the revenue limit for that school district had been determined for the 2008-09 fiscal year without being reduced by the deficit factors specified in this section.

SEC. 5. Section 52052 of the Education Code is amended to read:

52052. (a) (1) The Superintendent, with approval of the state

board, shall develop an Academic Performance Index (API), to measure the performance of schools, especially the academic performance of pupils.

(2) A school shall demonstrate comparable improvement in academic achievement as measured by the API by all numerically significant pupil subgroups at the school, including:

- (A) Ethnic subgroups.
- (B) Socioeconomically disadvantaged pupils.
- (C) English language learners.
- (D) Pupils with disabilities.

(3) (A) For purposes of this section, a numerically significant pupil subgroup is one that meets both of the following criteria:

(i) The subgroup consists of at least 50 pupils each of whom has a valid test score.

(ii) The subgroup constitutes at least 15 percent of the total population of pupils at a school who have valid test scores.

(B) If a subgroup does not constitute 15 percent of the total population of pupils at a school who have valid test scores, the subgroup may constitute a numerically significant pupil subgroup if it has at least 100 valid test scores.

(C) For a school with an API score that is based on no fewer than 11 and no more than 99 pupils with valid test scores, numerically significant subgroups shall be defined by the Superintendent, with approval by the state board.

(4) The API shall consist of a variety of indicators currently reported to the department, including, but not limited to, the results of the achievement test administered pursuant to Section 60640, attendance rates for pupils in elementary schools, middle schools, and secondary schools, and the graduation rates for pupils in secondary schools.

(A) Graduation rates for pupils in secondary schools shall be calculated for the API as follows:

(i) The number of pupils who graduated on time for the current school year, which is considered to be three school years after the pupils entered grade 9 for the first time, divided by the total calculated in clause (ii).

(ii) The number of pupils entering grade 9 for the first time in the school year three school years prior to the current school year, plus the number of pupils who transferred into the class graduating at the end of the current school year between the school year that was three school years prior to the current school year and the date of graduation, less the number of pupils who transferred out of the school between the school year that was three school years prior to the current school year and the date of graduation who were members of the class that is graduating at the end of the current school year.

(B) The pupil data collected for the API that comes from the achievement test administered pursuant to Section 60640 and the high school exit examination administered pursuant to Section 60851, when fully implemented, shall be disaggregated by special education status, English language learners, socioeconomic status, gender, and ethnic group. Only the test scores of pupils who were counted as part of the enrollment in the annual data collection of the California Basic Educational Data System for the current fiscal year and who were continuously enrolled during that year may be included in the test result reports in the API score of the school. Results of the achievement test and other tests specified in subdivision (b) shall constitute at least 60 percent of the value of the index.

(C) Before including high school graduation rates and attendance rates in the API, the Superintendent shall determine the extent to

which the data currently are reported to the state and the accuracy of the data. Notwithstanding any other provision of law, graduation rates for pupils in dropout recovery high schools shall not be included in the API. For purposes of this subparagraph, "dropout recovery high school" means a high school in which 50 percent or more of its pupils have been designated as dropouts pursuant to the exit/withdrawal codes developed by the department.

(D) The Superintendent shall provide an annual report to the Legislature on the graduation and dropout rates in California and shall make the same report available to the public. The report shall be accompanied by the release of publicly accessible data for each school district and school in a manner that provides for disaggregation based upon socioeconomically disadvantaged pupils and numerically significant subgroups scoring below average on statewide standards-aligned assessments. In addition, the data shall be made available in a manner that provides for comparisons of a minimum of three years of data.

(b) Pupil scores from the following tests, when available and when found to be valid and reliable for this purpose, shall be incorporated into the API:

(1) The standards-based achievement tests provided for in Section 60642.5.

(2) The high school exit examination.

(c) Based on the API, the Superintendent shall develop, and the state board shall adopt, expected annual percentage growth targets for all schools based on their API baseline score from the previous year. Schools are expected to meet these growth targets through effective allocation of available resources. For schools below the statewide API performance target adopted by the state board pursuant to subdivision (d), the minimum annual percentage growth target shall be 5 percent of the difference between the actual API score of a school and the statewide API performance target, or one API point, whichever is greater. Schools at or above the statewide API performance target shall have, as their growth target, maintenance of their API score above the statewide API performance target. However, the state board may set differential growth targets based on grade level of instruction and may set higher growth targets for the lowest performing schools because they have the greatest room for improvement. To meet its growth target, a school shall demonstrate that the annual growth in its API is equal to or more than its schoolwide annual percentage growth target and that all numerically significant pupil subgroups, as defined in subdivision (a), are making comparable improvement.

(d) Upon adoption of state performance standards by the state board, the Superintendent shall recommend, and the state board shall adopt, a statewide API performance target that includes consideration of performance standards and represents the proficiency level required to meet the state performance target. When the API is fully developed, schools, at a minimum, shall meet their annual API growth targets to be eligible for the Governor's Performance Award Program as set forth in Section 52057. The state board may establish additional criteria that schools must meet to be eligible for the Governor's Performance Award Program.

(e) The API shall be used for both of the following:

(1) Measuring the progress of schools selected for participation in the Immediate Intervention/Underperforming Schools Program pursuant to Section 52053.

(2) Ranking all public schools in the state for the purpose of the High Achieving/Improving Schools Program pursuant to Section 52056.

(f) (1) A school with 11 to 99 pupils with valid test scores shall

receive an API score with an asterisk that indicates less statistical certainty than API scores based on 100 or more test scores.

(2) A school annually shall receive an API score, unless the Superintendent determines that an API score would be an invalid measure of the performance of the school for one or more of the following reasons:

(A) Irregularities in testing procedures occurred.

(B) The data used to calculate the API score of the school are not representative of the pupil population at the school.

(C) Significant demographic changes in the pupil population render year-to-year comparisons of pupil performance invalid.

(D) The department discovers or receives information indicating that the integrity of the API score has been compromised.

(E) Insufficient pupil participation in the assessments included in the API.

(3) If a school has fewer than 100 pupils with valid test scores, the calculation of the API or adequate yearly progress pursuant to the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.) and federal regulations may be calculated over more than one annual administration of the tests administered pursuant to Section 60640 and the high school exit examination administered pursuant to Section 60851, consistent with regulations adopted by the state board.

(g) Only schools with 100 or more test scores contributing to the API may be included in the API rankings.

(h) The Superintendent, with the approval of the state board, shall develop an alternative accountability system for schools under the jurisdiction of a county board of education or a county superintendent of schools, community day schools, nonpublic, nonsectarian schools pursuant to Section 56366, and alternative schools serving high-risk pupils, including continuation high schools and opportunity schools. Schools in the alternative accountability system may receive an API score, but shall not be included in the API rankings.

SEC. 6. Section 52055.57 of the Education Code is amended to read:

52055.57. (a) (1) Provisions that are applicable to local educational agencies under this section are for the purpose of implementing federal requirements under the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.). The satisfaction of these criteria by local educational agencies that choose to participate under this article shall be a condition of receiving funds pursuant to this section.

(2) The department shall identify local educational agencies that are in danger of being identified within two years as program improvement local educational agencies under the federal No Child Left Behind Act of 2001, and shall notify those local educational agencies, in writing, of this status and provide those local educational agencies with research-based criteria to conduct a voluntary self-assessment.

(3) The self-assessment shall identify deficiencies within the operations of the local educational agency, and the programs and services of the local educational agency.

(4) A local educational agency identified pursuant to paragraph (2) is encouraged to revise its local educational agency plan based on the results of the self-assessment.

(5) The program described in this subdivision shall be referred to as the "Early Warning Program."

(b) (1) A local educational agency identified as a program

improvement local educational agency under the federal No Child Left Behind Act of 2001 shall do all of the following:

(A) Conduct a self-assessment using materials and criteria based on current research and provided by the department.

(B) No later than 90 days after a local educational agency is identified for program improvement, contract with a county office of education or another external entity after working with the county superintendent of schools, for both of the following purposes:

(i) Verifying the fundamental teaching and learning needs in the schools of that local educational agency as determined by the local educational agency self-analysis, and identifying the specific academic problems of low-achieving pupils, including a determination of why the prior plan of the local educational agency failed to bring about increased pupil academic achievement.

(ii) Ensuring that the local educational agency receives intensive support and expertise to implement local educational agency reform initiatives in the revised local educational agency plan as required by the federal No Child Left Behind Act of 2001.

(C) Revise and expeditiously implement the local educational agency plan to reflect the findings of the verified self-assessment.

(D) After working with the county superintendent of schools or an external verifier, contract with an external provider to provide support and implement recommendations to assist the local educational agency in resolving shortcomings identified in the verified self-assessment.

(2) (A) Subject to the availability of funds in the annual Budget Act for this purpose, a local educational agency described in paragraph (1) annually may receive fifty thousand dollars (\$50,000), plus ten thousand dollars (\$10,000) for each school that is supported by federal funds pursuant to Title I of the federal No Child Left Behind Act of 2001 within the local educational agency, for the purpose of fulfilling the requirements of this subdivision. If funding is not provided in the annual Budget Act or other statute, local educational agencies shall not be subject to the requirements of subparagraphs (B) and (D) of paragraph (1).

(B) Subject to the availability of funds appropriated in the annual Budget Act for this purpose, a local educational agency identified as a program improvement local educational agency during the 2005-06 fiscal year, shall receive priority for funding based upon the performance of the socioeconomically disadvantaged subgroup of the local educational agency on the Academic Performance Index. Priority for funding shall be provided to the lowest performing local educational agencies that are identified as program improvement local educational agencies. It is the intent of the Legislature that funds apportioned pursuant to this paragraph be used to support activities identified in paragraph (1).

(C) It is the intent of the Legislature that a local educational agency identified as a program improvement local educational agency receive no more than two years of funding pursuant to this paragraph.

(c) A local educational agency that has been identified for corrective action under the federal No Child Left Behind Act of 2001 shall be subject to one or more of the following sanctions as recommended by the Superintendent and approved by the state board:

(1) Replacing local educational agency personnel who are relevant to the failure to make adequate yearly progress.

(2) Removing schools from the jurisdiction of the local educational agency and establishing alternative arrangements for the governance and supervision of those schools.

(3) Appointing, by the state board, a receiver or trustee, to



administer the affairs of the local educational agency in place of the county superintendent of schools and the governing board.

(4) Abolishing or restructuring the local educational agency.

(5) Authorizing pupils to transfer from a school operated by the local educational agency to a higher performing school operated by another local educational agency, and providing those pupils with transportation to those schools, in conjunction with carrying out not less than one additional action described under this paragraph.

(6) Instituting and fully implementing a new curriculum that is based on state academic content and achievement standards, including providing appropriate professional development based on scientifically based research for all relevant staff, that offers substantial promise of improving educational achievement for high-priority pupils.

(7) Deferring programmatic funds or reducing administrative funds.

(d) (1) The department shall develop, and the state board shall approve at a public meeting, objective criteria by which a local educational agency identified for corrective action and subject to a sanction listed under subdivision (c) shall be evaluated to determine the pervasiveness and severity of its performance problems and the sanction to be imposed.

(2) A local educational agency identified for corrective action and subject to a sanction listed under subdivision (c) may apply for a one-year, nonrenewable grant of federal improvement funding to assist in its improvement process and may expend that grant funding over the time period allowable under federal law. It is the intent of the Legislature to integrate federal funding that is available for this purpose, including, but not limited to, funding for program improvement and school improvement grants pursuant to Section 6303 of Title 20 of the United States Code.

(3) The amount of a grant for a local educational agency with extensive and severe performance problems shall be one hundred fifty thousand dollars (\$150,000) per school identified for program improvement pursuant to federal law. The amount of a grant for a local educational agency with moderate performance problems shall be one hundred thousand dollars (\$100,000) per school identified for program improvement pursuant to federal law. The amount of a grant for a local educational agency with minor or isolated performance problems shall be fifty thousand dollars (\$50,000) per school identified for program improvement pursuant to federal law.

(4) A local educational agency that receives funding under this subdivision shall use the funds in accordance with Section 6316(b) and (c) of Title 20 of the United States Code. Pursuant to the technical assistance requirements under the federal No Child Left Behind Act of 2001 outlined in Section 6312(b) and (c) and Section 6317 of Title 20 of the United States Code, the Superintendent may recommend, and the state board may approve, that a local educational agency contract with a district assistance and intervention team or other technical assistance provider to receive guidance, support, and technical assistance. A district intervention and assistance team or other technical provider with which a local educational agency is required to contract shall perform the duties specified in subdivision (e) of Section 52059.

(5) Notwithstanding any other law, a local educational agency that receives funding under this subdivision or that receives other federal funds for school improvement shall not use those funds to compensate a receiver or trustee assigned by the state board pursuant to paragraph (3) of subdivision (c).

(e) A local educational agency that has received a sanction under

subdivision (c) and has not exited program improvement under the federal No Child Left Behind Act of 2001 shall appear before the state board within three years to review the progress of the local educational agency. Upon hearing testimony and reviewing written data from the local educational agency, the district assistance and intervention team, or county superintendent of schools, the Superintendent shall recommend, and the state board may approve, an alternative sanction under subdivision (c), or may take any appropriate action.

(f) Subject to the availability of funds in the annual Budget Act for this purpose, a local educational agency that is not identified as a program improvement local educational agency under the federal No Child Left Behind Act of 2001 may annually receive up to fifteen thousand dollars (\$15,000) per school identified as a program improvement school for the purposes of supporting schools identified as program improvement schools in the local educational agency and determining barriers to improved pupil academic achievement. That local educational agency shall receive no less than forty thousand dollars (\$40,000) and no more than one million five hundred thousand dollars (\$1,500,000) for those purposes. The Superintendent shall compile a list that ranks each local educational agency based on the number of, and percentage of, schools identified as program improvement schools and shall provide this funding to local educational agencies equally from each list until all funds appropriated for this purpose are depleted. These funds shall be provided for no more than three years.

(g) For purposes of this article, "local educational agency" means a school district, county office of education, or charter school that elects to receive its funding directly pursuant to Section 47651, and that provides public educational services to pupils in kindergarten or any of grades 1 to 12, inclusive.

SEC. 7. Section 52055.59 is added to the Education Code, to read:

52055.59. (a) Subject to an appropriation in the annual Budget Act or other statute, the Superintendent shall contract with an independent evaluator

to complete a comprehensive three-year evaluation of the program established pursuant to subdivision (d) of Section 52055.57. It is the intent of the Legislature that a total of one million dollars (\$1,000,000) be provided for the independent evaluation, with three hundred thirty-four thousand dollars (\$334,000) provided for the **2008-09** fiscal year, three hundred thirty-three thousand dollars (\$333,000) provided for the 2009-10 fiscal year, and three hundred thirty-three thousand dollars (\$333,000) provided for the 2010-11 fiscal year. The evaluation shall focus on local educational agencies that are identified for corrective action beginning with the 2007-08 fiscal year, and in the **2008-09**, 2009-10, and 2010-11 fiscal years, and shall include data compiled for those local educational agencies for those years.

(b) The evaluation shall examine the implementation, impact, costs, and effectiveness of the corrective actions and reform strategies undertaken by local educational agencies that are identified for corrective action, as specified in subdivision (a). The evaluation also shall determine the effectiveness of the technical assistance provided by the district assistance and intervention teams and other technical assistance providers pursuant to Section 52059.

(c) The Superintendent shall ensure that the evaluation includes, at a minimum, all of the following factors:

(1) Program implementation data, including, but not limited to, a review of startup activities, the quality of the academic program,

local governance and leadership, the allocation of fiscal resources, the allocation of personnel, management practices, community support, parental participation, the use of pupil data to inform instructional practice, and staff development.

(2) Pupil performance data, including, but not limited to, results of assessments used to determine whether local educational agencies have made significant progress towards meeting their state and federal academic growth targets and data for each of the following subgroups:

(A) English learners.

(B) Pupils with exceptional needs.

(C) Pupils who are eligible for funds under Title I of the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.).

(3) Data on the percentage of fully credentialed teachers, the percentage of teachers who hold emergency credentials, the percentage of teachers assigned outside their subject area of competence, the accreditation status of the school if appropriate, average class size per grade level, and the number of pupils in multitrack, year-round schools. These data shall be compiled for the 2008-09, 2009-10, and 2010-11 school years.

(d) The evaluation shall include a rigorous qualitative and quantitative assessment of how program implementation affected pupil achievement and teacher quality using the information required pursuant to subdivision (c).

(e) The Superintendent shall submit two interim reports and a final report to the Governor, the Department of Finance, the Legislature, and the Legislative Analyst's Office. The reports shall be submitted to these agencies no later than November 1, 2009, November 1, 2010, and November 1, 2011, respectively.

SEC. 8. Section 52059 of the Education Code is amended to read:

52059. (a) For purposes of complying with the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.), a statewide system of school support shall be established by the department to provide a statewide system of intensive and sustained support and technical assistance for school districts, county offices of education, and schools in need of improvement. The system shall consist of regional consortia as well as district assistance and intervention teams and other technical assistance providers.

(b) The regional consortia shall work collaboratively with, and provide technical assistance to, school districts and schools in need of improvement by doing the following:

(1) Reviewing and analyzing all facets of the operation of a local educational agency or school, including the following:

(A) The design and operation of the instructional program offered by the local educational agency or school.

(B) The recruitment, hiring, and retention of principals, teachers, and other staff, including vacancy issues. The regional consortia may request the assistance of the Fiscal Crisis and Management Assistance Team to review school district or school recruitment, hiring, and retention practices.

(C) The roles and responsibilities of district and school management personnel.

(2) Assisting the local educational agency or school in developing recommendations for improving pupil performance and school operations.

(3) Assisting the local educational agency or school in efforts to eliminate misassignments of certificated personnel.

(c) For purposes of performing the functions specified in subdivision (b), funds for the regional consortia shall be distributed based on the number of Title I schools, the pupil

enrollment in those schools, and the number of school districts in each region that have been identified as being in need of improvement pursuant to Section 6316 of Title 20 of the United States Code.

(d) The regional consortia shall ensure that support is provided in the following order of priority:

(1) To school districts or county offices of education with schools that are subject to corrective action under Section 6316(b) (7) of Title 20 of the United States Code.

(2) To school districts or county offices of education with schools that are identified as being in need of improvement pursuant to Section 6316(b) of Title 20 of the United States Code.

(3) To provide support and assistance to school districts and county offices of education with schools participating under the federal No Child Left Behind Act of 2001 that need support and assistance to achieve the purposes of that act.

(4) To provide support and assistance to other school districts and county offices of education with schools participating in a program carried out under this chapter.

(e) In accordance with paragraph (4) of subdivision (d) of Section 52055.57, the Superintendent may recommend, and the state board may approve, that a local educational agency that has been identified for corrective action under the federal No Child Left Behind Act of 2001 contract with a district assistance and intervention team or other technical assistance provider to receive technical assistance, including, but not limited to, a needs assessment of the local educational agency.

(1) The Superintendent shall develop, and the state board shall approve, standards and criteria to be applied by a district assistance and intervention team or other technical assistance provider in carrying out its duties. The standards and criteria that a district assistance and intervention team or other technical assistance provider shall use in assessing a local educational agency shall address, at a minimum, all of the following areas:

(A) Governance.

(B) Alignment of curriculum, instruction, and assessments to state standards.

(C) Fiscal operations.

(D) Parent and community involvement.

(E) Human resources.

(F) Data systems and achievement monitoring.

(G) Professional development.

(2) Not later than 120 days after the assignment of a district assistance and intervention team or other technical assistance provider, or the next regularly scheduled meeting of the state board following the expiration of the 120 days, the team shall complete a report based on the findings from the needs assessment performed pursuant to paragraph (1). The report shall include, at a minimum, recommendations for improving the areas specified in paragraph (1) that are found to need improvement. The report also shall address the manner in which existing resources should be redirected to ensure that the recommendations can be implemented.

(3) Not later than 30 days after completion of the report specified in paragraph (2), the governing board of the local educational agency may submit an appeal to the Superintendent to be exempted from implementing one or more of the recommendations made in the report. The Superintendent, with approval of the state board, may exempt the local educational agency from complying with one or more of the recommendations made in the report.

(4) Not later than 60 days after completion of the report, the governing board of the local educational agency shall adopt the

report recommendations described in paragraph (2), as modified by any exemptions granted by the Superintendent under paragraph (3), at a regularly scheduled meeting of the governing board.

(f) A local educational agency that is required to contract with a district assistance and intervention team or other technical assistance provider pursuant to this section shall reserve funding provided under subdivision (d) of Section 52055.57 to cover the entire cost of the team or other technical assistance provider before using that funding for other reform activities.

(g) Upon an evidence-based finding that a district assistance and intervention team or other technical assistance provider has not fulfilled its legal obligations pursuant to this section, the Superintendent, with the approval of the state board, may remove the district assistance and intervention team or other technical assistance provider from the state list of eligible providers.

(h) The provisions of this section are declarative of technical assistance requirements under the federal No Child Left Behind Act of 2001 outlined in Section 6316(b) and (c) and Section 6317(a) of Title 20 of the United States Code.

(i) For purposes of this article, all references to schools shall include charter schools.

SEC. 9. Section 56836.155 of the Education Code is amended to read:

56836.155. (a) On or before November 2, 1998, the department, in conjunction with the Legislative Analyst's Office, shall do the following:

(1) Calculate an "incidence multiplier" for each special education local plan area using the definition, methodology, and data provided in the final report submitted by the American Institutes for Research pursuant to Section 67 of Chapter 854 of the Statutes of 1997.

(2) Submit the incidence multiplier for each special education local plan area and supporting data to the Department of Finance.

(b) The Department of Finance shall review the incidence multiplier for each special education local plan area and the supporting data, and report any errors to the department and the Legislative Analyst's Office for correction.

(c) The Department of Finance shall approve the final incidence multiplier for each special education local plan area by November 23, 1998.

(d) For the 1998-99 fiscal year and each fiscal year thereafter to and including the **2008-09** fiscal year, the Superintendent shall perform the following calculation to determine the adjusted entitlement of each special education local plan area for the incidence of disabilities:

(1) The incidence multiplier for the special education local plan area shall be multiplied by the statewide target amount per unit of average daily attendance for special education local plan areas determined pursuant to Section 56836.11 for the fiscal year in which the computation is made.

(2) The amount determined pursuant to paragraph (1) shall be added to the statewide target amount per unit of average daily attendance for special education local plan area determined pursuant to Section 56836.11 for the fiscal year in which the computation is made.

(3) Subtract the amount of funding for the special education local plan area determined pursuant to paragraph (1) of subdivision (a) or paragraph (1) of subdivision (b) of Section 56836.08, as appropriate for the fiscal year in which the computation is made, or the statewide target amount per unit of average daily attendance for special education local plan areas determined pursuant to Section

56836.11 for the fiscal year in which the computation is made, whichever is greater, from the amount determined pursuant to paragraph (2). For the purposes of this paragraph for the 2002-03, 2003-04, 2004-05, 2005-06, 2006-07, 2007-08, and 2008-09 fiscal years, the amount, if any, received pursuant to Section 56836.159 shall be excluded from the funding level per unit of average daily attendance for a special education local plan area. If the result is less than zero, the special education local plan area shall not receive an adjusted entitlement for the incidence of disabilities.

(4) Multiply the amount determined in paragraph (3) by either the average daily attendance reported for the special education local plan area for the fiscal year in which the computation is made, as adjusted pursuant to subdivision (a) of Section 56836.15, or the average daily attendance reported for the special education local plan area for the prior fiscal year, as adjusted pursuant to subdivision (a) of Section 56826.15, whichever is less.

(5) If there are insufficient funds appropriated in the fiscal year for which the computation is made for the purposes of this section, the amount received by each special education local plan area shall be prorated.

(e) For the 1997-98 fiscal year, the Superintendent shall perform the calculation in paragraphs (1) to (3), inclusive, of paragraph (d) only for the purposes of making the computation in paragraph (1) of subdivision (d) of Section 56836.08, but the special education local plan area shall not receive an adjusted entitlement for the incidence of disabilities pursuant to this section for the 1997-98 fiscal year.

SEC. 10. Section 60604 of the Education Code is amended to read:

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

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

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

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

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

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

(6) The active, ongoing involvement of parents, classroom teachers, administrators, other educators, governing board members of

school districts, and the public in all phases of the design and implementation of the statewide pupil assessment program.

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

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

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

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

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

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

SEC. 11. Section 60605 of the Education Code is amended to read:

60605. (a) (1) (A) Not later than January 1, 1998, the state board shall adopt statewide academically rigorous content standards, pursuant to the recommendations of the Commission for the Establishment of Academic Content and Performance Standards, in the core curriculum areas of reading, writing, and mathematics to serve as the basis for assessing the academic achievement of individual pupils and of schools, school districts, and the California educational system. Not later than November 1, 1998, the state board shall adopt these standards in the core curriculum areas of history/social science and science.

(B) The state board shall adopt statewide performance standards in the core curriculum areas of reading, writing, mathematics, history/social science, and science based on the recommendations made by the Superintendent of a contractor or contractors.

(C) The state board shall require the contractor or contractors to submit performance standards to the Superintendent and the state board not later than a specified date that allows sufficient opportunity for the Superintendent to make a recommendation to the state board and for the state board to conduct regional hearings prior to the adoption of the performance standards.

(2) (A) The state board may modify any proposed content standards or performance standards prior to adoption and may adopt content and performance standards in individual core curriculum areas as those standards are submitted to the state board. The state performance standards shall be established against specific grade level benchmarks of academic achievement for each subject area tested and shall be based on the knowledge and skills that pupils will need in

order to succeed in the information-based, global economy of the 21st century. These skills shall not include personal behavioral standards or skills, including, but not limited to, honesty, sociability, ethics, or self-esteem. The standards adopted pursuant to this section shall be for the purpose of guiding state decisions regarding the development, adoption, and approval of assessment instruments pursuant to this chapter and does not mandate any actions or activities by school districts.

(B) Because these standards are models, the adoption of these standards is not subject to the Administrative Procedure Act. This subparagraph is declaratory of existing law.

(3) Before adopting academic content and performance standards, the state board shall hold regional hearings for the purpose of giving parents and other members of the public the opportunity to comment on the proposed standards.

(b) (1) The state board shall ensure that the statewide assessment system adopted pursuant to this chapter yields valid, reliable individual pupil scores and, where applicable, aggregate school scores, school district scores, and statewide scores of pupils and assesses basic academic skills and content standards, including the use of a direct writing assessment or other applied academic skills if deemed valid and reliable and if resources are made available for their use.

(2) This subdivision does not prevent the state board from developing or adopting an assessment instrument that also contains assessments of basic academic skills.

(c) To the extent feasible and as otherwise required, the state board shall ensure that assessments developed, or contracted for pursuant to Section 60642.5, by the state are aligned with the statewide content and performance standards adopted pursuant to subdivision (a). The department, with the approval of the state board, periodically shall contract for a review of the achievement test for conformance with these standards.

(d) After adopting statewide content and performance standards, the state board shall review the existing curriculum frameworks for conformity with the new statewide standards and shall modify the curriculum frameworks where appropriate to bring them into alignment with the standards.

(e) The state board shall adopt regulations for the conduct and administration of the testing and assessment program.

(f) The state board shall adopt a regulation for minimum security procedures that test and assessment publishers and school districts must follow to ensure the security and integrity of test and assessment questions and materials.

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

SEC. 12. Section 60605.6 of the Education Code is amended to read:

60605.6. Subject to the availability of funds in the annual Budget Act for this purpose, the Superintendent, upon approval of the state board, shall contract for the development and 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 2 to 11, inclusive. Each



pupil in grades 2 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 inoperative on July 1, 2011.

SEC. 13. Section 60606 of the Education Code is amended to read:

60606. (a) After adopting an assessment of applied academic skills for use in grades 4, 5, 8, and 10 pursuant to Section 60605, the state board shall submit the instrument, once designated or adopted, for review by the Statewide Pupil Assessment Review Panel, which is hereby established.

(b) The panel shall consist of six members. Three members shall be appointed by the Governor, one member shall be appointed by the Senate Committee on Rules, one member shall be appointed by the Speaker of the Assembly, and one member shall be appointed by the Superintendent. A majority of the panel shall consist of parents whose children attend public schools in the state in kindergarten and grades 1 to 12, inclusive.

(c) Panel members shall serve two-year terms, without compensation. No panel member shall serve more than two consecutive terms.

(d) The panel shall review the instrument specified in subdivision (a) in order to ensure that the content of the instrument complies with the requirements of Section 60614. Notwithstanding any other provision of law, the panel may meet in closed session with a publisher for the purpose of addressing questions and clarifying issues that relate to ensuring that the content of the publisher's test or assessment, as the case may be, complies with the requirements of Section 60614.

(e) The panel shall report its findings and recommendations to the state board within 10 days of its receipt of the instrument. If the panel fails to report within the required 10 days, the test or assessment shall be deemed acceptable to the panel.

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

SEC. 14. Section 60616 of the Education Code is amended to read:

60616. Any achievement test adopted by the state board pursuant to this chapter may be reviewed by any Member of the Legislature or any member of the governing board of a school district, if the member agrees in writing prior to the review to maintain the confidentiality of the test.

SEC. 15. Section 60630 of the Education Code is amended to read:

60630. (a) The Superintendent shall prepare and submit an annual report to the Legislature and the state board containing an analysis of the results and test scores of the assessment of applied academic skills adopted pursuant to subdivision (b) of Section 60605. The report simultaneously shall be made available in an electronic medium on the Internet. The analysis may include, but need not be limited to, the following factors:

(1) Financial characteristics, including specially funded programs.

(2) Pupil and parent characteristics.

(3) Staff characteristics.

(4) Instructional methodologies and materials.

(b) School districts shall submit to the department whatever

information the department deems necessary to carry out this section.

SEC. 16. 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 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 2 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 2 to 11, inclusive, pursuant to the process used for designation of the assessment chosen in the 1997-98 fiscal year, as specified in Section 60643, as applicable.

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

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

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

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

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

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

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

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

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

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

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

(j) As a condition to receiving an apportionment pursuant to subdivision (h), a school district shall report to the Superintendent

all of the following:

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

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

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

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

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

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

SEC. 17. Section 60641 of the Education Code is amended to read:

60641. (a) The department shall ensure that school districts comply with each of the following requirements:

(1) The standards-based achievement test provided for in Section 60642.5 is scheduled to be administered to all pupils during the period prescribed in subdivision (b) of Section 60640.

(2) The individual results of each pupil test administered pursuant to Section 60640 shall be reported, in writing, to the parent or guardian of the pupil. The written report shall include a clear explanation of the purpose of the test, the score of the pupil, and the intended use by the school district of the test score. This subdivision does not require teachers or other school district personnel to prepare individualized explanations of the test score of each pupil.

(3) (A) The individual results of each pupil test administered pursuant to Section 60640 also shall be reported to the school and teachers of a pupil. The school district shall include the test results of a pupil in his or her pupil records. However, except as provided in this section, individual pupil test results only may be released with the permission of either the pupil's parent or guardian if the pupil is a minor, or the pupil if the pupil has reached the age of majority or is emancipated.

(B) Notwithstanding subparagraph (A), a pupil or his or her parent or guardian may authorize the release of individual pupil results to a postsecondary educational institution for the purpose of credit, placement, or admission.

(4) The districtwide, school-level, and grade-level results of the STAR Program in each of the grades designated pursuant to Section 60640, but not the score or relative position of any individually ascertainable pupil, shall be reported to the governing board of the school district at a regularly scheduled meeting, and the countywide, school-level, and grade-level results for classes and programs under the jurisdiction of the county office of education shall be similarly reported to the county board of education at a regularly scheduled meeting.

(b) The publisher of the standards-based achievement tests provided for in Section 60642.5 shall make the individual pupil, grade, school, school district, and state results available to the department pursuant to paragraph (9) of subdivision (a) of Section 60643 by August 8 of each year in which the achievement test is administered for those schools for which the last day of test

administration, including makeup days, is on or before June 25. The department shall make the grade, school, school district, and state results available on the Internet by August 15 of each year in which the achievement test is administered for those schools for which the last day of test administration, including makeup days, is on or before June 25.

(c) The department shall take all reasonable steps to ensure that the results of the test for all pupils who take the test by June 25 are made available on the Internet by August 15, as set forth in subdivision (b).

(d) The department shall ensure that a California Standards Test that is augmented for the purpose of determining credit, placement, or admission of a pupil in a postsecondary educational institution inform a pupil in grade 11 that he or she may request that the results from that assessment be released to a postsecondary educational institution.

SEC. 18. Section 60642 of the Education Code is repealed.

SEC. 19. Section 60642.5 of the Education Code is amended to read:

60642.5. (a) The Superintendent, with approval of the state board, shall provide for the development of an assessment instrument, to be called the California Standards Tests, that measures the degree to which pupils are achieving the academically rigorous content standards and performance standards, to the extent standards have been adopted by the state board. These standards-based achievement tests shall contain the subject areas specified in paragraph (3) of subdivision (a) of Section 60603 for grades 2 to 8, inclusive, and shall include an assessment in history/social science in at least one elementary or middle school grade level selected by the state board and science in at least one elementary or middle school grade level selected by the state board, and the core curriculum areas specified in paragraph (5) of subdivision (a) of Section 60603 for grades 9 to 11, inclusive, except that history-social science shall not be included in the grade 9 assessment unless the state board adopts academic content standards for a grade 9 history-social science course, and shall include, at a minimum, a direct writing assessment once in elementary school and once in middle or junior high school and other items of applied academic skill if deemed valid and reliable and if resources are made available for their use.

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

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

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

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

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

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

(6) The experience of the contractor in successfully conducting

testing programs adopted and administered by other states. For experience to be considered, the number of grades and pupils tested shall be provided.

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

SEC. 20. Section 60643 of the Education Code is amended to read:

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

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

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

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

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

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

(A) Grade level.

(B) School level.

(C) District level.

(D) Countywide.

(E) Statewide.

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

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

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

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

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

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

(c) Access to information about individual pupils or their families shall be granted to the publisher only for purposes of correctly associating test results with the pupils who produced those

results or for reporting and disaggregating test results as required by this section. School districts are prohibited from excluding a pupil from the test if a parent or parents decline to disclose income. This chapter does not abridge or deny rights to confidentiality contained in the federal Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Sec. 1232g) or other applicable state and federal law that protect the confidentiality of information collected by educational institutions.

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

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

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

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

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

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

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

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

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

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

(B) Test materials production or publication.

(C) Delivery of test materials to school districts.

(D) Test processing, scoring, and analyses.

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

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

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

the agreement.

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

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

(11) School districts may negotiate a separate agreement with the publisher for any additional materials or services not within the contracts specified in this subdivision, including, but not limited to, the administration of the tests to pupils in grade levels other than grades 2 to 11, inclusive. Any separate agreement is not within 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 inoperative on July, 1, 2011.

SEC. 21. Section 60644 of the Education Code is repealed.

SEC. 22. Section 60645 of the Education Code is amended to read:

60645. (a) The panel established pursuant to Section 60606 shall review the standards-based achievement test provided for in Section 60642.5 and items identified in subdivision (d) for compliance with Section 60614.

(b) Test questions or test content identified by the panel to be out of compliance with Section 60614 shall be recommended for deletion or replacement pursuant to subdivision (e) of Section 60606.

(c) The state board shall ensure that any question or content not in compliance with Section 60614 is deleted from the standards-based achievement test provided for in Section 60642.5.

(d) If necessary to maintain the requirements of Section 60642.5, the publisher shall replace deleted test content with revisions that comply with Section 60614 as required by the state board pursuant to subdivision (c).

SEC. 23. Section 60647 of the Education Code is amended to read:

60647. An action to challenge a provision of this article or a determination made by the state board under this article, shall be filed and adjudicated pursuant to Sections 860 to 870, inclusive, of the Code of Civil Procedure. No exercise of discretion by the state board in its administration of this article or exercise of its discretion pursuant to Section 60605 shall be overturned absent a finding that the state board acted in an arbitrary and capricious manner.

SEC. 24. Section 69521.3 of the Education Code is amended to read:

69521.3. (a) The Director of Finance is hereby authorized to act as agent for the state and, in that capacity, to sell the state student loan guarantee program assets and liabilities not retained by the Student Aid Commission to an entity that the director, in consultation with the Treasurer, determines will provide the best combination of each of the following:

(1) The highest price for those state student loan guarantee program assets and liabilities.

(2) The greatest security for the payment of the purchase price.

(3) Demonstrated competence and professional qualifications



necessary for the continued satisfactory performance of student loan guarantee services.

(4) The approval of the Secretary of Education.

(5) The quality of student services offered, including, but not necessarily limited to, borrower training in budgeting and financial management, including debt management and other forms of financial literacy.

(6) Borrower transparency or disclosure policies for products or services, or both, offered to students outside of the federal student loan programs.

(b) Notwithstanding any other provision of law, the sale process shall include the steps the director, in consultation with the Treasurer, deems necessary or convenient to achieve the ends set forth in this section. The process shall include, but not necessarily be limited to, all of the following:

(1) The satisfaction of criteria established by the director, in consultation with the Treasurer, consistent with achieving a combination of the best price for those state student loan guarantee program assets and liabilities and the continued operation of student loan guarantee services for California under the Federal Family Education Loan Program. These criteria shall include any pertinent requirements of the Secretary of Education.

(2) A Notice of Request for Qualifications sent by the Director of Finance to each firm currently acting as a state student loan guarantee agency under the Federal Family Education Loan Program and any entity proposed by the Secretary of Education, and advertised in the State Contracts Register pursuant to Sections 14827.1 and 14827.2 of the Government Code. This notice shall include a description of the state student loan guarantee program, a summary description of the state student loan guarantee program assets and liabilities offered for sale, and a description of the due diligence review process to provide potential purchasers with further information regarding the state student loan guarantee program assets and liabilities offered for sale, the selection criteria on which the transaction will be based, the submission requirements and deadlines, and a Department of Finance contact name and telephone number for more information. A copy of the Notice of Request for Qualifications shall be provided to the Joint Legislative Budget Committee within seven days of transmittal to state student loan guarantee agencies.

(3) The evaluation by the director, in consultation with the Treasurer, of all statements timely submitted in response to the Notice of Request for Qualifications sent pursuant to paragraph (2), using the criteria contained in the notice, and, based on those statements, the establishment of a qualified purchasers list.

SEC. 25. Section 69521.4 of the Education Code is amended to read:

69521.4. (a) If, after seeking the advice of, and in active participation with, the Treasurer, the Director of Finance determines that an alternative arrangement to the sale of the state student loan guarantee program assets and liabilities may be financially beneficial to the state, the Director of Finance is also hereby authorized to enter into an arrangement other than that authorized in Section 69521.3, for the purpose of maximizing the value of the state student loan guarantee program assets and liabilities. This arrangement may take any form the director, in consultation with the Treasurer, deems advisable to provide the best combination of each of the following:

(1) The greatest value to the General Fund.

(2) The greatest financial security for achieving value to the

General Fund.

(3) The continued satisfactory performance of student loan guarantee services.

(4) The approval of the United States Secretary of Education, to the extent required by Public Law 94-482, or subsequent federal regulations.

(5) The quality of student services offered, including, but not necessarily limited to, borrower training in budgeting and financial management, including debt management and other forms of financial literacy.

(6) Borrower transparency or disclosure policies for products or services, or both, offered to students outside of the federal student loan programs.

(b) Notwithstanding any other provision of law, this process shall include the steps the Director of Finance, in consultation with the Treasurer, deems necessary or convenient to achieve the ends set forth in this section. The process shall include, but not necessarily be limited to, all of the following:

(1) The satisfaction of the established criteria consistent with achieving a combination of the greatest value to the General Fund and the continued operation of student loan guarantee services for California under the Federal Family Education Loan Program. The criteria shall include any pertinent requirements of the Secretary of Education.

(2) A Notice of Request for Qualifications sent by the director to each nonprofit entity currently acting as a state student loan guaranty agency under the Federal Family Education Loan Program, any entity known to the director to be acting as a servicing agent for a state student loan guaranty agency, and any nonprofit entity proposed by the Secretary of Education, and advertised in the State Contracts Register pursuant to Sections 14827.1 and 14827.2 of the Government Code. The notice shall include a description of the state student loan guarantee program, a summary description of the state student loan guarantee program assets and liabilities, and a description of the due diligence review process to provide further information regarding the state student loan guarantee program assets and liabilities, the selection criteria on which the transaction will be based, submission requirements and date, and a Department of Finance contact name and phone number for more information. A copy of the Notice of Request for Qualifications shall be provided to the Joint Legislative Budget Committee within seven days of transmittal to state student loan guarantee agencies.

(3) The evaluation by the director, in consultation with the Treasurer, of all statements timely submitted in response to the Notice of Request for Qualifications, using the criteria contained in the notice, and, based on the statements, the establishment of a qualified purchasers list.

SEC. 26. Section 69521.5 of the Education Code is amended to read:

69521.5. (a) The Director of Finance is authorized to take all actions that he or she deems to be necessary or convenient to accomplish any of the following:

(1) To preserve the state student loan guarantee program assets, pending consummation of their sale or the consummation of any other transaction, to maximize the value of the state student loan guarantee program to the state, including, without limitation, as authorized in Sections 69522, 69526, and 69766.

(2) To engage in negotiations with, and provide sufficient information regarding the state student loan guarantee assets and liabilities to, potential purchasers or any potential transferee

guaranty program operator.

(3) To either consummate the sale of, and transfer, the state student loan guarantee program assets and liabilities not retained to the Student Aid Commission to the transferee guarantee agency, or to consummate the agreement with the transferee guaranty program operator.

(4) To seek and negotiate with the United States Secretary of Education the designation of any alternative state student loan guarantee agency for California under the Federal Family Education Loan Program or the approval of the Secretary of Education of any transferee guaranty program operator to the extent required by Public Law 94-82, or subsequent federal regulations.

(5) To transfer the Federal Student Loan Reserve Fund to any transferee guaranty agency in a manner that is consistent with the intentions of the United States Secretary of Education.

(6) To transfer any of the state student loan guarantee program assets in the form of cash or investments not transferred to any transferee guaranty agency or transferee guarantee program operator directly to the General Fund.

(7) To retain any state student loan guarantee program assets determined by the director to be necessary or appropriate for the purposes of the Student Aid Commission.

(b) In order to accomplish the purposes of this article, the Director of Finance shall do all of the following:

(1) Notify the Chairperson of the Joint Legislative Budget Committee and the chairpersons of the Senate and Assembly Budget Committees of the determination of the Director of Finance to proceed with a transaction other than the sale of the state student loan guarantee program assets and liabilities pursuant to Section 69521.3, providing that notice no later than 30 days prior to the consummation of the transaction with the transferee guarantee program operator.

(2) Upon the consummation of the sale of the state student loan guarantee program assets to a transferee guaranty agency, the Director of Finance shall notify the Secretary of State and the Chairperson of the Joint Legislative Budget Committee.

(3) Upon the consummation of a transaction authorized by this article with a transferee guarantee program operator, the Director of Finance shall notify the Secretary of State and the Chairperson of the Joint Legislative Budget Committee.

(c) In order to accomplish the purposes of this article:

(1) The Student Aid Commission shall cooperate fully with the Director of Finance and, in particular, take all steps to preserve the state student loan guarantee program assets deemed necessary or convenient by the Director of Finance, including, without limitation, as set forth in Sections 69522, 69526, and 69766.

(2) The Student Aid Commission shall direct the auxiliary organization to cooperate fully with the director.

(3) Until the consummation of the sale or other transaction to maximize the value of the state student loan guarantee program to the state, all of the actions, approvals, and directions of the Student Aid Commission affecting the state student loan guarantee program shall be effective only upon the approval of the Director of Finance.

(4) Notwithstanding any provision of the Nonprofit Public Benefit Corporation Law (Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code), the auxiliary organization shall, as directed by the Student Aid Commission under paragraph (2), cooperate fully with the Director of Finance.

SEC. 27. Section 69521.10 of the Education Code is amended to

read:

69521.10. (a) The Director of Finance, in consultation with the Treasurer, shall select a firm or individual to provide advisory services based on demonstrated competence and professional qualifications necessary for the satisfactory performance of the services required, in the manner described in this section.

(b) The Director of Finance and the Treasurer shall establish selection criteria for selecting an advisor. The criteria may include, but are not necessarily limited to, factors such as professional excellence, demonstrated competence, specialized experience in performing similar services, education and experience of key personnel to be assigned, staff capability, ability to meet schedules, nature and quality of similar completed work of the firm or individual, reliability and continuity of the firm or individual, and other considerations deemed by the director and the Treasurer to be relevant and necessary to the performance of advisory services.

(c) The Director of Finance, for the purposes of obtaining services under this section, shall send a Notice of Request for Qualifications to firms and individuals in the underwriter and financial advisor pools of the Treasurer. The director shall publish this notice in the State Contracts Register pursuant to Sections 14827.1 and 14827.2 of the Government Code. The notice shall include a description of the advisory services required, the selection criteria based on which the contract award will be made, submission requirements and deadlines, and a Department of Finance contact name and telephone number for more information. A copy of the Notice of Request for Qualifications shall be provided to the Joint Legislative Budget Committee within seven days of publication in the State Contracts Register.

(d) (1) After the final response date stated in the Notice of Request for Qualifications, the Director of Finance and the Treasurer shall review the responses submitted, and shall evaluate them using the criteria contained in the notice. The director and the Treasurer shall rank, in order of preference based on the criteria contained in the notice, the firm or individuals determined to be qualified to perform the required services.

(2) The Director of Finance and the Treasurer, or their designees, may interview any of the qualified firms or individuals regarding the experience and qualifications of those firms or individuals, as well as anticipated concepts and the benefits of alternative methods of furnishing the required services.

(e) (1) Following the interviews, if any, held pursuant to subdivision (d), the Director of Finance and the Treasurer shall adjust the ranking of the qualified individuals or firms to reflect those firms or individuals deemed to be the most highly qualified to perform the required services.

(2) The Director of Finance, in consultation with the Treasurer, shall enter into negotiations with the firm or individual most highly ranked pursuant to paragraph (1). If negotiations are concluded successfully, the director shall enter into a contract. If the director, in his or her sole discretion, concludes that the negotiations are unsuccessful, the director shall terminate the negotiations, and begin new negotiations, in consultation with the Treasurer, with the other firms or individuals ranked pursuant to paragraph (1) in order of their ranking, and either contract with or terminate negotiations with each next most highly ranked firm or individual.

(3) If, after pursuing the negotiation process set forth in paragraph (2), the Director of Finance has been unable to negotiate a satisfactory contract at fair and reasonable compensation, the

director may reinstitute the selection process prescribed in this section, commencing with the issuance of a new Notice of Request for Qualifications.

(4) The Director of Finance shall notify the Joint Legislative Budget Committee in writing within seven days of entering into a contract with an individual or firm pursuant to paragraph (2).

SEC. 28. Section 69521.11 of the Education Code is amended to read:

69521.11. (a) The Director of Finance shall notify the Joint Legislative Budget Committee in writing upon his or her determination that neither the sale nor any other transaction authorized by this article is anticipated to achieve the purposes of this article.

(b) The Director of Finance shall cease those activities he or she is authorized or directed to undertake pursuant to this article and Sections 69522, 69526, and 69766 upon the earlier of:

(1) The 30th day following written notice by the director to the Chairperson of the Joint Legislative Budget Committee pursuant to subdivision (a).

(2) January 10, 2011.

SEC. 29. Section 69522 of the Education Code is amended to read:

69522. (a) (1) The commission may establish an auxiliary organization for the purpose of providing operational and administrative services for the participation by the commission in the Federal Family Education Loan Program, or for other activities approved by the commission and determined by the commission to be all of the following:

(A) Related to student financial aid.

(B) Consistent with the general mission of the commission.

(C) Consistent with the purposes of the federal Higher Education Act of 1965 (Public Law 89-329) and amendments to that act.

(2) The activities approved by the commission under this subdivision shall not include either of the following:

(A) The issuance of bonds.

(B) Loan origination or loan capitalization activities. This paragraph shall not preclude the commission or the auxiliary organization from undertaking either of the following:

(i) Other permitted activities that are related to student financial aid in partnership with institutions that conduct loan origination or loan capitalization activities.

(ii) Loan origination or capitalization activities authorized pursuant to an agreement with the United States Secretary of Education for the lender-of-last-resort program.

(b) The auxiliary organization shall be established and maintained as a nonprofit public benefit corporation subject to the Nonprofit Public Benefit Corporation Law in Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code, except that, if there is a conflict between this article and the Nonprofit Public Benefit Corporation Law, this article shall prevail.

(c) (1) The commission shall maintain its responsibility for financial aid program administration, policy leadership program evaluation, and information development and coordination. The auxiliary organization shall provide operational and support services essential to the administration of the Federal Family Education Loan Program and other permitted activities that are related to student financial aid, if those services are determined by the commission to be consistent with the overall mission of the commission.

(2) On or after the operative date of Article 2.4 (commencing with Section 69521), the commission shall not authorize the auxiliary organization to perform any new or additional services except those deemed by the Director of Finance to be necessary or convenient

either for the operation of the state student loan guarantee program, as defined in Section 69521.2, or to accomplish the goal of maximizing the value of the state student loan guarantee program assets and liabilities pursuant to Article 2.4 (commencing with Section 69521).

(3) The implementation and effectuation of the auxiliary organization shall be carried out so as to enhance the administration and delivery of commission programs and services. The commission shall conduct regular performance evaluations of the operation of auxiliary organizations in furtherance of its fiscal and fiduciary responsibilities for approved programs.

(d) (1) (A) The operations of the auxiliary organization shall be conducted in conformity with an operating agreement approved annually by the commission. On and after January 1, 2002, the commission may approve an operating agreement for a period not to exceed five years. Prior to approval, the commission shall provide a copy of the proposed operating agreement to the Department of Finance and the Joint Legislative Budget Committee for their review and comment. The operations of the auxiliary organization shall be limited to services prescribed in that agreement.

(B) On or after the operative date of Article 2.4 (commencing with Section 69521), the commission shall not approve any operating agreement that permits the auxiliary organization to perform any new or additional services, except those deemed by the Director of Finance to be necessary or convenient either for the operation of the state student loan guarantee program, as defined in Section 69521.2, or to accomplish the goal of maximizing the value of the state student loan guarantee program assets and liabilities pursuant to Article 2.4 (commencing with Section 69521).

(2) Prior to approval of any amendment to an existing operating agreement or any new operating agreement with an auxiliary organization or subsidiary auxiliary organization for the purpose of delineating new services or activities authorized pursuant to subdivision (a), the commission shall provide the Director of Finance and the Joint Legislative Budget Committee with at least 45 days advance notice in writing that includes a description of the proposed operating agreement. If the Director of Finance or the Joint Legislative Budget Committee notifies the commission regarding issues of concern with the proposed operating agreement, the commission shall convene a meeting of appropriate representatives from the commission, the Department of Finance, and the Legislature to resolve those issues.

(e) The commission shall oversee the development and operations of the auxiliary organization in a manner that ensures broad public input and consultation with representatives of the financial aid community, colleges and universities, and state agencies.

SEC. 30. Section 69561 of the Education Code is amended to read:

69561. (a) The Student Opportunity and Access Program is administered by the Student Aid Commission.

(b) The Student Aid Commission may apportion funds on a progress payment schedule for the support of projects designed to increase the accessibility of postsecondary educational opportunities for any of the following elementary and secondary school pupils:

(1) Pupils who are from low-income families.

(2) Pupils who would be the first in their families to attend college.

(3) Pupils who are from schools or geographic regions with documented low-eligibility or college participation rates.

(c) These projects shall primarily do all of the following:

(1) Increase the availability of information for these pupils on

the existence of postsecondary schooling and work opportunities.

(2) Raise the achievement levels of these pupils so as to increase the number of high school graduates eligible to pursue postsecondary learning opportunities.

(d) Projects may assist community college students in transferring to four-year institutions, to the extent that project resources are available.

(e) Projects may provide assistance to low-income fifth and sixth grade pupils and their parents in order to implement outreach efforts designed to use the future availability of financial assistance as a means of motivating pupils to stay in school and complete college preparatory courses.

(f) Projects may provide assistance to low-income middle and high school pupils and their parents in order to implement outreach efforts designed to use the future availability of financial assistance as a means of motivating pupils to stay in school by promoting career technical education public awareness. Projects shall promote the value of career technical education, available career programs in public schools and postsecondary segments with sequenced courses beginning in high school and continuing into postsecondary education, and the resulting career opportunities.

(g) Each project shall be proposed and operated through a consortium that involves at least one secondary school district office, at least one four-year college or university, at least one community college, and at least one of the following agencies:

(1) A nonprofit educational, counseling, or community agency.

(2) A private vocational or technical school accredited by a national, state, or regional accrediting association recognized by the United States Department of Education.

(h) The commission, in awarding initial project grants, shall give priority to proposals developed by more than three eligible agencies. Projects shall be located throughout the state in order to provide access to program services in rural, urban, and suburban areas.

(i) The governing board of each project, comprising at least one representative from each entity in the consortium, shall establish management policy, provide direction to the project director, set priorities for budgetary decisions that reflect the specific needs of the project, and assume responsibility for maintaining the required level of matching funds, including solicitations from the private sector and corporate sources.

(j) Prior to receiving a project grant, each consortium shall conduct a planning process and submit a comprehensive project proposal to include, but not be limited to, the following information:

(1) The agencies participating in the project.

(2) The pupils to be served by the project.

(3) The ways in which the project will reduce duplication and related costs.

(4) The methods for assessing the project's impact.

(k) Each project shall include the direct involvement of secondary school staff in the daily operations of the project, with preference in funding to those projects that effectively integrate the objectives of the Student Opportunity and Access Program with those of the school district in providing services that are essential to preparing pupils for postsecondary education.

(l) Each project shall maintain within the project headquarters a comprehensive pupil-specific information system on pupils receiving services through the program in grades 11 and 12 at secondary schools within the participating districts. This information shall be

maintained in a manner consistent with the law relating to pupil records.

(m) At least 30 percent or the equivalent of each project grant shall be allocated for stipends to peer advisers and tutors who meet all of the following criteria:

(1) Work with secondary school pupils.

(2) Are currently enrolled in a college or other postsecondary school as an undergraduate or graduate student.

(3) Have demonstrated financial need for the stipend.

(n) Each project should work cooperatively with other projects in the program and with the commission to establish viable student services and sound administrative procedures and to ensure coordination of the activities of the project with existing educational opportunity programs. The Student Aid Commission may develop additional regulations regarding the awarding of project grants and criteria for evaluating the effectiveness of the individual projects.

SEC. 31. Section 76300 of the Education Code is amended to read:

76300. (a) The governing board of each community college district shall charge each student a fee pursuant to this section.

(b) (1) The fee prescribed by this section shall be twenty dollars (\$20) per unit per semester, effective with the spring term of the 2006-07 academic year.

(2) The board of governors shall proportionately adjust the amount of the fee for term lengths based upon a quarter system, and also shall proportionately adjust the amount of the fee for summer sessions, intersessions, and other short-term courses. In making these adjustments, the board of governors may round the per unit fee and the per term or per session fee to the nearest dollar.

(c) For the purposes of computing apportionments to community college districts pursuant to Section 84750, the board of governors shall subtract, from the total revenue owed to each district, 98 percent of the revenues received by districts from charging a fee pursuant to this section.

(d) The board of governors shall reduce apportionments by up to 10 percent to any district that does not collect the fees prescribed by this section.

(e) The fee requirement does not apply to any of the following:

(1) Students enrolled in the noncredit courses designated by Section 84757.

(2) California State University or University of California students enrolled in remedial classes provided by a community college district on a campus of the University of California or a campus of the California State University, for whom the district claims an attendance apportionment pursuant to an agreement between the district and the California State University or the University of California.

(3) Students enrolled in credit contract education courses pursuant to Section 78021, if the entire cost of the course, including administrative costs, is paid by the public or private agency, corporation, or association with which the district is contracting and if these students are not included in the calculation of the full-time equivalent students (FTES) of that district.

(f) The governing board of a community college district may exempt special part-time students admitted pursuant to Section 76001 from the fee requirement.

(g) (1) The fee requirements of this section shall be waived for any student who, at the time of enrollment, is a recipient of benefits under the Temporary Assistance to Needy Families program, the Supplemental Security Income/State Supplementary Program, or a



general assistance program or has demonstrated financial need in accordance with the methodology set forth in federal law or regulation for determining the expected family contribution of students seeking financial aid.

(2) The governing board of a community college district also shall waive the fee requirements of this section for any student who demonstrates eligibility according to income standards established by regulations of the board of governors.

(3) Paragraphs (1) and (2) may be applied to a student enrolled in the 2005-06 academic year if the student is exempted from nonresident tuition under paragraph (3) of subdivision (a) of Section 76140.

(h) The fee requirements of this section shall be waived for any student who, at the time of enrollment, is a dependent, or surviving spouse who has not remarried, of any member of the California National Guard who, in the line of duty and while in the active service of the state, was killed, died of a disability resulting from an event that occurred while in the active service of the state, or is permanently disabled as a result of an event that occurred while in the active service of the state. "Active service of the state," for the purposes of this subdivision, refers to a member of the California National Guard activated pursuant to Section 146 of the Military and Veterans Code.

(i) The fee requirements of this section shall be waived for any student who is the surviving spouse or the child, natural or adopted, of a deceased person who met all of the requirements of Section 68120.

(j) The fee requirements of this section shall be waived for any student in an undergraduate program, including a student who has previously graduated from another undergraduate or graduate program, who is the dependent of any individual killed in the September 11, 2001, terrorist attacks on the World Trade Center and the Pentagon or the crash of United Airlines Flight 93 in southwestern Pennsylvania, if that dependent meets the financial need requirements set forth in Section 69432.7 for the Cal Grant A Program and either of the following applies:

(1) The dependent was a resident of California on September 11, 2001.

(2) The individual killed in the attacks was a resident of California on September 11, 2001.

(k) A determination of whether a person is a resident of California on September 11, 2001, for purposes of subdivision (j) shall be based on the criteria set forth in Chapter 1 (commencing with Section 68000) of Part 41 for determining nonresident and resident tuition.

(1) "Dependent," for purposes of subdivision (j), is a person who, because of his or her relationship to an individual killed as a result of injuries sustained during the terrorist attacks of September 11, 2001, qualifies for compensation under the federal September 11th Victim Compensation Fund of 2001 (Title IV (commencing with Section 401) of Public Law 107-42).

(2) A dependent who is the surviving spouse of an individual killed in the terrorist attacks of September 11, 2001, is entitled to the waivers provided in this section until January 1, 2013.

(3) A dependent who is the surviving child, natural or adopted, of an individual killed in the terrorist attacks of September 11, 2001, is entitled to the waivers under subdivision (j) until that person attains the age of 30 years.

(4) A dependent of an individual killed in the terrorist attacks of September 11, 2001, who is determined to be eligible by the

California Victim Compensation and Government Claims Board, is also entitled to the waivers provided in this section until January 1, 2013.

(m) (1) It is the intent of the Legislature that sufficient funds be provided to support the provision of a fee waiver for every student who demonstrates eligibility pursuant to subdivisions (g) to (j), inclusive.

(2) From funds provided in the annual Budget Act, the board of governors shall allocate to community college districts, pursuant to this subdivision, an amount equal to 2 percent of the fees waived pursuant to subdivisions (g) to (j), inclusive. From funds provided in the annual Budget Act, the board of governors shall allocate to community college districts, pursuant to this subdivision, an amount equal to ninety-one cents (\$0.91) per credit unit waived pursuant to subdivisions (g) to (j), inclusive. It is the intent of the Legislature that funds provided pursuant to this subdivision be used to support the determination of financial need and delivery of student financial aid services, on the basis of the number of students for whom fees are waived. It also is the intent of the Legislature that the funds provided pursuant to this subdivision directly offset mandated costs claimed by community college districts pursuant to Commission on State Mandates consolidated Test Claims 99-TC-13 (Enrollment Fee Collection) and 00-TC-15 (Enrollment Fee Waivers). Funds allocated to a community college district for determination of financial need and delivery of student financial aid services shall supplement, and shall not supplant, the level of funds allocated for the administration of student financial aid programs during the 1992-93 fiscal year.

(n) The board of governors shall adopt regulations implementing this section.

SEC. 32. Notwithstanding any other law, the sum of twelve million five hundred thousand dollars (\$12,500,000) is hereby appropriated from the Public Interest Research, Development, and Demonstration Fund to the Chancellor of the California Community Colleges.

(a) Of the amount appropriated in this section, the Chancellor of the California Community Colleges shall transfer twelve million dollars (\$12,000,000) to the State Department of Education for expenditure in one-time funds for local grants to be allocated pursuant to Article 5 (commencing with Section 54690) of Chapter 9 of Part 29 of Division 4 of Title 2 of the Education Code over three years as specified in the Budget Act of **2008**. In addition to the statutory program requirements, grantees shall create partnership academies that focus on clean technology and energy businesses and provide skilled workforces for the products and services for energy or water conservation, or both, renewable energy, pollution reduction, or other technologies that improve the environment in furtherance of state environmental laws. Priority for grants pursuant to this subdivision shall be assigned to school districts that do not currently participate in the partnership academies program pursuant to Article 5 (commencing with Section 54690) of Chapter 9 of Part 29 of Division 4 of Title 2 of the Education Code. Existing grantees may apply subject to the availability of funds.

(b) Of the amount appropriated in this section, the Chancellor of the California Community Colleges shall transfer five hundred thousand dollars (\$500,000) to the State Department of Education to pay for the expenses of administering the local grants pursuant to this section. Funding for purposes of this section shall be provided pursuant to an interagency agreement between the Chancellor of the California Community Colleges and the State Department of Education.

SEC. 33. (a) The sum of thirty nine million seven hundred eighty

thousand dollars (\$39,780,000) is hereby appropriated from the General Fund to the Board of Governors of the California Community Colleges, in augmentation of Schedule (1) of Item 6870-101-0001 of Section 2.00 of the Budget Act of **2008**, for the purpose of providing a 0.68 percent cost-of-living adjustment to apportionments to community college districts, for expenditure during the **2008-09** fiscal year.

(b) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by subdivision (a) shall be deemed to be "General Fund revenues appropriated for community college districts," as defined in subdivision (d) of Section 41202 of the Education Code, for the **2008-09** fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202 of the Education Code, for the **2008-09** fiscal year.

SEC. 34. (a) The sum of three hundred eighty-eight million two hundred eighty-three thousand dollars (\$388,283,000) is hereby appropriated from the General Fund to the State Department of Education. This appropriation reflects the portion of the June 2009 principal apportionment that is to be deferred until July 2009 and attributed to the 2009-10 fiscal year. Notwithstanding any other law, the department shall encumber the funds appropriated in this section by July 31, 2009. It is the intent of the Legislature that, by extending the encumbrance authority for the funds appropriated in this section to July 31, 2009, the funds will be treated in a manner consistent with Section 1.80 of the Budget Act of **2008**. The appropriation is made in accordance with the following schedule:

(1) Six million two hundred twenty-seven thousand dollars (\$6,227,000) for apprenticeship programs to be expended consistent with the requirements specified in Item 6110-103-0001 of Section 2.00 of the Budget Act of **2008**.

(2) Ninety million one hundred seventeen thousand dollars (\$90,117,000) for supplemental instruction to be expended consistent with the requirements specified in Item 6110-104-0001 of Section 2.00 of the Budget Act of **2008**. Of the amount appropriated by this paragraph, fifty-one million sixty-one thousand dollars (\$51,061,000) shall be expended consistent with Schedule (1) of Item 6110-104-0001 of Section 2.00 of the Budget Act of **2008**, twelve million three hundred thirty thousand dollars (\$12,330,000) shall be expended consistent with Schedule (2) of that item, four million six hundred ninety thousand dollars (\$4,690,000) shall be expended consistent with Schedule (3) of that item, and twenty-two million thirty-six thousand dollars (\$22,036,000) shall be expended consistent with Schedule (4) of that item.

(3) Thirty-nine million six hundred thirty thousand dollars (\$39,630,000) for regional occupational centers and programs to be expended consistent with the requirements specified in Schedule (1) of Item 6110-105-0001 of Section 2.00 of the Budget Act of **2008**.

(4) Fifty-two million five hundred eighty-three thousand dollars (\$52,583,000) for home-to-school transportation to be expended consistent with the requirements specified in Schedule (1) of Item 6110-111-0001 of Section 2.00 of the Budget Act of **2008**.

(5) Four million two hundred ninety-four thousand dollars (\$4,294,000) for the Gifted and Talented Pupil Program to be expended consistent with the requirements specified in Item 6110-124-0001 of Section 2.00 of the Budget Act of **2008**.

(6) Forty-five million eight hundred ninety-six thousand dollars (\$45,896,000) for adult education to be expended consistent with the

requirements specified in Schedule (1) of Item 6110-156-0001 of Section 2.00 of the Budget Act of **2008**.

(7) Four million seven hundred fifty-one thousand dollars (\$4,751,000) for community day schools to be expended consistent with the requirements specified in Item 6110-190-0001 of Section 2.00 of the Budget Act of **2008**.

(8) Five million nine hundred forty-seven thousand dollars (\$5,947,000) for categorical block grants for charter schools to be expended consistent with the requirements specified in Item 6110-211-0001 of Section 2.00 of the Budget Act of **2008**.

(9) Thirty-eight million seven hundred twenty thousand dollars (\$38,720,000) for the School Safety Block Grant to be expended consistent with the requirements specified in Schedule (1) of Item 6110-228-0001 of Section 2.00 of the Budget Act of **2008**.

(10) One hundred million one hundred eighteen thousand dollars (\$100,118,000) for the Targeted Instructional Improvement Grant Program to be expended consistent with the requirements specified in Item 6110-246-0001 of Section 2.00 of the Budget Act of **2008**.

(b) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriations made by subdivision (a) shall be deemed to be "General Fund revenues appropriated for school districts," as defined in subdivision (c) of Section 41202 of the Education Code, for the 2009-10 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202 of the Education Code, for the 2009-10 fiscal year.

SEC. 35. (a) The sum of two hundred million dollars (\$200,000,000) is hereby appropriated from the General Fund to the Board of Governors of the California Community Colleges for apportionments to community college districts, for expenditure during the 2009-10 fiscal year, to be expended in accordance with Schedule (1) of Item 6870-101-0001 of Section 2.00 of the Budget Act of **2008**.

(b) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by subdivision (a) shall be deemed to be "General Fund revenues appropriated for community college districts," as defined in subdivision (d) of Section 41202 of the Education Code, for the 2009-10 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202 of the Education Code, for the 2009-10 fiscal year.

SEC. 36. Notwithstanding paragraphs (1) and (2) of subdivision (d) of Section 41207 of the Education Code, there shall be no annual appropriation in the **2008-09** fiscal year from the General Fund to the Controller for allocation by the Controller to school districts and community colleges for the purposes described in Section 41207.

SEC. 37. (a) Notwithstanding Sections 42238.1 and 42238.15 of the Education Code or any other provision of law, the cost-of-living adjustment for Items 6110-104-0001, 6110-105-0001, 6110-111-0001, 6110-156-0001, 6110-158-0001, 6110-161-0001, 6110-189-0001, 6110-190-0001, 6110-196-0001, 6110-232-0001, 6110-234-0001, 6110-244-0001, and 6110-246-0001 of Section 2.00 of the Budget Act of 2007 (Chapters 171 and 172 of the Statutes of 2007) and those items identified in subdivision (b) of Section 12.40 of the Budget Act of **2008** is zero percent for the **2008-09** fiscal year. All funds appropriated in the Budget Act of **2008** in the items identified in this section are in lieu of the amounts that would otherwise be

appropriated pursuant to any other provision of law.

(b) Notwithstanding Section 42238.1 of the Education Code or any other provision of law, for purposes of Section 48664 of the Education Code the cost-of-living adjustment is zero percent for the **2008-09** fiscal year.

SEC. 38. Notwithstanding any other provision of law, the funds appropriated pursuant to Items 6110-103-0001, 6110-104-0001, 6110-105-0001, 6110-111-0001, 6110-124-0001, 6110-156-0001, 6110-158-0001, 6110-161-0001, 6110-190-0001, 6110-211-0001, and 6110-243-0001 of Section 2.00 of the Budget Act of **2008** shall be encumbered by July 31, 2009. This one-month extension of encumbrance authority is provided due to the effect of the deferral of the June 2009 principal apportionment on the budget items specified in this section. It is the intent of the Legislature that, by extending the encumbrance authority for the funds identified in this section to July 31, 2009, the funds will be treated in a manner consistent with Section 1.80 of the Budget Act of **2008**.

SEC. 39. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make the necessary statutory changes to implement the Budget Act of **2008** at the earliest possible time, it is necessary that this act take effect immediately.

BILL NUMBER: SB 132 CHAPTERED 10/14/07

CHAPTER 730

FILED WITH SECRETARY OF STATE OCTOBER 14, 2007  
 APPROVED BY GOVERNOR OCTOBER 14, 2007  
 PASSED THE SENATE SEPTEMBER 10, 2007  
 PASSED THE ASSEMBLY SEPTEMBER 6, 2007  
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 AMENDED IN ASSEMBLY JUNE 26, 2007  
 AMENDED IN ASSEMBLY MAY 29, 2007  
 AMENDED IN SENATE APRIL 18, 2007  
 AMENDED IN SENATE MARCH 26, 2007

INTRODUCED BY Committee on Education (Senators Scott (Chair),  
 Alquist, Denham, Maldonado, Padilla, Romero, Simitian, Torlakson, and  
 Wyland)

JANUARY 24, 2007

An act to amend Sections 1242.5, 5017, 8222, 8223, 8236, 8265, 8279.1, 17072.11, 17608, 18444, 18830, 35035, 44258.9, 44269, 44270, 44300, 44302, 44386, 44506, 44868, 44869, 48900, 49430.7, 49452.8, 52055.625, 52302, 52302.2, 52321, 52379, 54022, 54023, 54026, 56351.5, 60242, 60640, and 99237 of, to add Sections 41544 and 52325 to, to repeal Section 8451 of, and to repeal Article 5.6 (commencing with Section 44305) of Chapter 2 of Part 25 of Division 3 of Title 2 of, the Education Code, relating to education.

LEGISLATIVE COUNSEL'S DIGEST

SB 132, Committee on Education. Education.

The Education Code assigns various duties to state and local educational agencies and governs the operation of public schools, community colleges, and universities in the state.

This bill would make various clarifying and technical changes to the code and also delete obsolete provisions from the code.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1242.5 of the Education Code is amended to read:

1242.5. On or before March 31, 2007, the department shall review the actual costs of 2005-06 fiscal year site visits conducted pursuant to Section 1240. If the department determines that a county office of education did not expend the funds allocated for this purpose during the 2005-06 fiscal year, the amount that exceeds the amount spent shall revert to the extraordinary cost pool created by Chapter 710 of the Statutes of 2005 and shall be available to cover the extraordinary costs incurred by county offices of education as a result of the reviews conducted pursuant to Section 1240. Based on a determination by the department and the Department of Finance that it was necessary for a county office of education to incur extraordinary costs to conduct the site visits, funds in the amount necessary to cover these costs shall be allocated to the county office of education by June 30, 2007.

SEC. 2. Section 5017 of the Education Code is amended to read:

5017. Each person elected at a regular biennial governing board member election shall hold office for a term of four years commencing on the first Friday in December next succeeding his or her election. Any member of the governing board of a school district or community college district whose term has expired shall continue to discharge the duties of the office until his or her successor has qualified. The term of the successor shall begin upon the expiration of the term of his or her predecessor.

SEC. 3. Section 8222 of the Education Code is amended to read:

8222. (a) Payments made by alternative payment programs shall not exceed the applicable market rate ceiling. Alternative payment programs may expend more than the standard reimbursement rate for a particular child. However, the aggregate payments for services purchased by the agency during the contract year shall not exceed the assigned reimbursable amount as established by the contract for the year. No agency may make payments in excess of the rate charged to full-cost families. This section does not preclude alternative payment programs from using the average daily enrollment adjustment factor for children with exceptional needs as provided in Section 8265.5.

(b) Alternative payment programs shall reimburse licensed child care providers in accordance with an annual market rate survey, at a rate not to exceed the ceilings established pursuant to statute.

(c) An alternative payment program shall reimburse a licensed provider for child care of a subsidized child based on the rate charged by the provider to nonsubsidized families, if any, for the same services, or the rates established by the provider for prospective nonsubsidized families. A licensed child care provider shall submit to the alternative payment program a copy of the provider's rate sheet listing the rates charged, and the provider's discount or scholarship policies, if any, along with a statement signed by the provider confirming that the rates charged for a subsidized child are equal to or less than the rates charged for a nonsubsidized child.

(d) An alternative payment program shall maintain a copy of the rate sheet and the confirmation statement.

(e) A licensed child care provider shall submit to the local resource and referral agency a copy of the provider's rate sheet listing rates charged, and the provider's discount or scholarship policies, if any, and shall self-certify that the information is correct.

(f) Each licensed child care provider may alter rate levels for subsidized children once per year and shall provide the alternative payment program and resource and referral agency with the updated information pursuant to subdivisions (c) and (e), to reflect any changes.

(g) A licensed child care provider shall post in a prominent location adjacent to the provider's license at the child care facility the provider's rates and discounts or scholarship policies, if any.

(h) An alternative payment program shall verify provider rates once a year by randomly selecting 10 percent of licensed child care providers serving subsidized families. The purpose of this verification process is to confirm that rates reported to the alternative payment programs reasonably correspond to those reported to the resource and referral agency and the rates actually charged to nonsubsidized families for equivalent levels of services. It is the intent of the Legislature that the privacy of nonsubsidized families shall be protected in implementing this subdivision.

(i) The department shall develop regulations for addressing

discrepancies in the provider rate levels identified through the rate verification process in subdivision (h).

SEC. 4. Section 8223 of the Education Code is amended to read:

8223. The reimbursement for alternative payment programs shall include the cost of child care paid to child care providers plus the administrative and support services costs of the alternative payment program. The total cost for administration and support services shall not exceed an amount equal to 23.4567 percent of the direct cost-of-care payments to child care providers. The administrative costs shall not exceed the costs allowable for administration under federal requirements.

SEC. 5. Section 8236 of the Education Code is amended to read:

8236. (a) For purposes of this section, the following definitions apply:

(1) "Eligible children" means children who are currently eligible for the state preschool program.

(2) "Four-year-old children" means those children who will have their fourth birthday on or before December 2 of the fiscal year in which they are enrolled in a state preschool program.

(3) "Local educational agency" means a school district, a county office of education, a community college district, or a school district on behalf of one or more schools within the school district.

(4) "Superintendent" means the Superintendent of Public Instruction.

(5) "Three-year-old children" means those children who will have their third birthday on or before December 2 of the fiscal year in which they are enrolled in a state preschool program.

(b) (1) Each applicant or contracting agency funded pursuant to Section 8235 shall give first priority to neglected or abused children who are recipients of child protective services, or recipients who are at risk of being neglected or abused, upon written referral from a legal, medical, or social service agency. If an agency is unable to enroll a child in this first priority category, the agency shall refer the child's parent or guardian to local resource and referral services so that services for the child can be located.

(2) After children in the first priority category set forth in paragraph (1) are served, each agency funded pursuant to Section 8235 shall serve eligible four-year-old children prior to serving eligible three-year-old children. Each agency shall certify to the Superintendent that enrollment priority is being given to eligible four-year-old children.

(c) For state preschool programs operating with funding that was initially allocated in a prior fiscal year, at least half the children enrolled at a preschool site shall be four-year-olds. Any exception to this requirement shall be approved by the Superintendent. The Superintendent shall inform the Secretary of Child Development and Education of any exceptions that have been granted.

(d) The following provisions apply to the award of new funding for the expansion of the state preschool program that is appropriated by the Legislature for that purpose in any fiscal year:

(1) In an application for those expansion funds, an agency shall furnish the Superintendent with an estimate of the number of four-year-old and three-year-old children that it plans to serve in the following fiscal year with those expansion funds. The agency also shall furnish documentation that indicates the basis of those estimates.

(2) In awarding contracts for expansion pursuant to this



subdivision, the Superintendent, after taking into account the geographic criteria established pursuant to Section 8279.3, and the headquarters preferences and eligibility criteria relating to fiscal or programmatic noncompliance established pursuant to Section 8261, shall give priority to applicant agencies that, in expending the expansion funds, will be serving the highest percentage of four-year-old children.

(3) (A) Agencies that receive funding for the expansion of a state preschool program shall enroll children in the following priority order:

(i) Neglected or abused children who are recipients of child protective services, or recipients who are at risk of being neglected or abused, upon written referral from a legal, medical, or social services agency.

(ii) Four-year-old children who are eligible for the state preschool program.

(B) Otherwise, children shall be enrolled based on other statutory and regulatory priorities for the state preschool program.

(e) Nothing in this section shall be deemed to preclude a local educational agency from subcontracting with an appropriate public or private agency to operate a state preschool program and to apply for funds made available for the purposes of this section. If a school district chooses not to operate or subcontract for a state preschool program, the Superintendent shall work with the county office of education and other eligible agencies to explore possible opportunities in contracting or alternative subcontracting to provide a state preschool program.

(f) Nothing in this section shall prevent eligible children who are currently receiving services from continuing to receive those services in future years pursuant to this chapter.

SEC. 6. Section 8265 of the Education Code is amended to read:

8265. (a) The Superintendent shall implement a plan that establishes reasonable standards and assigned reimbursement rates, which vary with the length of the program year and the hours of service.

(1) Parent fees shall be used to pay reasonable and necessary costs for providing additional services.

(2) When establishing standards and assigned reimbursement rates, the Superintendent shall confer with applicant agencies.

(3) The reimbursement system, including standards and rates, shall be submitted to the Joint Legislative Budget Committee.

(4) The Superintendent may establish any regulations he or she deems advisable concerning conditions of service and hours of enrollment for children in the programs.

(b) The standard reimbursement rate shall be three thousand five hundred twenty-three dollars (\$3,523) per unit of average daily enrollment for a 250-day year, increased by the cost-of-living adjustment granted by the Legislature beginning July 1, 1980.

(c) The plan shall require agencies having an assigned reimbursement rate above the current year standard reimbursement rate to reduce costs on an incremental basis to achieve the standard reimbursement rate.

(d) The plan shall provide for adjusting reimbursement on a case-by-case basis, in order to maintain service levels for agencies currently at a rate less than the standard reimbursement rate. Assigned reimbursement rates shall be increased only on the basis of one or more of the following:

(1) Loss of program resources from other sources.

(2) Need of an agency to pay the same child care rates as those prevailing in the local community.

(3) Increased costs directly attributable to new or different regulations.

(4) Documented increased costs necessary to maintain the prior year's level of service and ensure the continuation of threatened programs.

Child care agencies funded at the lowest rates shall be given first priority for increases.

(e) The plan shall provide for expansion of child development programs at no more than the standard reimbursement rate for that fiscal year.

(f) The Superintendent may reduce the percentage of reduction for a public agency that satisfies any of the following:

(1) Serves more than 400 children.

(2) Has in effect a collective bargaining agreement.

(3) Has other extenuating circumstances that apply, as determined by the Superintendent.

SEC. 7. Section 8279.1 of the Education Code is amended to read:

8279.1. (a) The Legislature recognizes that child care programs have made valuable contributions towards ensuring that public assistance recipients will be able to accept and maintain employment or employment-related training. Therefore, it is the intent of the Legislature that the Superintendent ensure that counties comply with the requirements of Section 8279.

(b) The Superintendent shall ensure each county's compliance with Section 8279 by not issuing funds to a local child care contractor within a county until the Superintendent has received written certification from that county that the level of expenditure for child care services provided by the county has been maintained at the 1970-71 fiscal year level pursuant to Section 8279. Funding provided by a county to a local child care contractor shall not adversely affect the reimbursement received by the agency from the Superintendent pursuant to Section 8265, 8265.5, or 8266.

SEC. 8. Section 8451 of the Education Code is repealed.

SEC. 9. Section 17072.11 of the Education Code is amended to read:

17072.11. (a) All of the following shall apply on and after July 1, 2006:

(1) The per-unhoused-pupil grant eligibility determined under paragraphs (1) and (2) of subdivision (a) of Section 17072.10 shall be increased by 7 percent.

(2) The per-unhoused-pupil grant eligibility determined under paragraph (3) of subdivision (a) of Section 17072.10 shall be increased by 4 percent.

(3) The board shall conduct an analysis of the relationship between the per-unhoused-pupil grant eligibility determined under this article and the per-pupil cost of new school construction for elementary, middle, and high school pupils.

(b) On or after January 1, 2008, the board shall increase or decrease the per-unhoused-pupil grant eligibility determined pursuant to subdivision (a) by amounts it deems necessary to cause the grants to correspond to costs of new school construction, provided that the increase in any fiscal year pursuant to this section shall not exceed 6 percent.

SEC. 10. Section 17608 of the Education Code is amended to read:

17608. This article and Article 17 (commencing with Section 13180) of Chapter 2 of Division 7 of the Food and Agricultural Code shall be known and cited as the Healthy Schools Act of 2000.

SEC. 11. Section 18444 of the Education Code is amended to read:

18444. Within 30 days after the members of the commission are first appointed, and whenever vacancies in an office occur and are

filled, the commission shall meet and organize as a commission, electing a president and a secretary from their number, after which they may transact business. The commission shall meet at a time and place that the commission determines by resolution. Regular and special meetings shall be called and conducted as prescribed in Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code.

SEC. 12. Section 18830 of the Education Code is amended to read:

18830. (a) Libraries in public library jurisdictions that are members of a regional library network and libraries in institutions that are members of a regional library network are eligible to receive services under this chapter and to become participating libraries. The board of governance or the appropriate administrative authority for each academic library, public library, school library, and special library that decides to join a regional library network shall take official action to approve network membership. That local governing agency or appropriate administrative authority shall agree not to reduce funding for library services as a result of network participation. Each public library jurisdiction, school district, university or college, and institution or corporation, or agency or branch thereof, may become a member of a regional library network. A public library jurisdiction not a member of the California Library Service Act public library system on the effective date of this section, and an institution, shall have at least one library that agrees to be a participating library and meets the following eligibility standards:

(1) A written explicit mission statement and service objectives.

(2) A fixed location in California.

(3) Established hours of service.

(4) An organized collection of information and materials accessible for use by its primary clientele.

(5) Designated, onsite, paid staff for library services. At least one staff person shall have a master's degree in library or information science or a California library media teacher or teacher librarian credential issued by the Commission on Teacher Credentialing, but equivalent graduate education or demonstrated professional experience may be substituted for this requirement. The eligibility determination will be made by the regional library network.

(6) An established funding base.

(b) Participating libraries must agree to all of the following:

(1) To share resources and services with other members of the regional library network.

(2) To provide resources and services for other members of the regional library network.

(3) To meet the minimum resource-sharing performance standards of the regional library network.

(c) Participating libraries may not obtain services provided under this act on behalf of nonparticipating libraries. No membership fees or service fees may be assessed for access to services delivered by state funds under this chapter. Regional library networks may provide their members with increased or enhanced services for a fee, at the option of each member.

(d) Library jurisdictions that are members of the California Library Services Act public library systems on the effective date of this section are deemed to meet the eligibility standards in subdivision (a), and shall not be required to certify that they meet these eligibility standards.

SEC. 13. Section 35035 of the Education Code is amended to read:

35035. The superintendent of each school district shall, in

addition to other powers and duties granted to or imposed upon him or her:

(a) Be the chief executive officer of the governing board of the district.

(b) Except in a district where the governing board has appointed or designated an employee other than the superintendent, or a deputy, or assistant superintendent, to prepare and submit a budget, prepare and submit to the governing board of the district, at the time it may direct, the budget of the district for the next ensuing school year, and revise and take other action in connection with the budget as the board may desire.

(c) Subject to the approval of the governing board, assign all employees of the district employed in positions requiring certification qualifications, to the positions in which they are to serve. This power to assign includes the power to transfer a teacher from one school to another school at which the teacher is certificated to serve within the district when the superintendent concludes that the transfer is in the best interest of the district.

(d) Upon adoption, by the district board, of a district policy concerning transfers of teachers from one school to another school within the district, have authority to transfer teachers consistent with that policy.

(e) Determine that each employee of the district in a position requiring certification qualifications has a valid certificated document registered as required by law authorizing him or her to serve in the position to which he or she is assigned.

(f) Enter into contracts for and on behalf of the district pursuant to Section 17604.

(g) Submit financial and budgetary reports to the governing board as required by Section 42130.

SEC. 14. Section 41544 is added to the Education Code, to read:

41544. (a) For a basic aid district that was entitled to reimbursement pursuant to Section 42247.4, as that section read on January 1, 2001, and that received an apportionment pursuant to subdivision (h) of Section 42247.4, as that section read on January 1, 2001, because a court order directs pupils to transfer to that district as part of the court-ordered voluntary pupil transfer program, the Superintendent, commencing with the 2001-02 fiscal year, shall calculate an apportionment of state funds for that basic aid district that provides 70 percent of the school district revenue limit calculated pursuant to Section 42238 that would have been apportioned to the school district from which the pupils were transferred for the average daily attendance of any pupils credited under that court order who did not attend the basic aid school district before the 1995-96 fiscal year.

(b) For purposes of this section, "basic aid district" means a school district that does not receive from the state, for any fiscal year in which this section is applied, an apportionment of state funds pursuant to subdivision (h) of Section 42238.

SEC. 15. Section 44258.9 of the Education Code is amended to read:

44258.9. (a) The Legislature finds that continued monitoring of teacher assignments by county superintendents of schools will ensure that the rate of teacher misassignment remains low. To the extent possible and with funds provided for that purpose, each county superintendent of schools shall perform the duties specified in subdivisions (b) and (c).

(b) (1) Each county superintendent of schools shall monitor and review school district certificated employee assignment practices in accordance with the following:

(A) Annually monitor and review schools and school districts that are likely to have problems with teacher misassignments and teacher vacancies, as defined in subparagraphs (A) and (B) of paragraph (5) of subdivision (b) of Section 33126, based on past experience or other available information.

(B) Annually monitor and review schools ranked in deciles 1 to 3, inclusive, of the base Academic Performance Index, as specified in paragraph (2) of subdivision (c) of Section 1240, if those schools are not currently under review through a state or federal intervention program. If a review completed pursuant to this subparagraph finds that a school has no teacher misassignments or teacher vacancies for two consecutive years, the next review of that school may be conducted according to the cycle specified in subparagraph (C), unless the school meets the criteria of subparagraph (A).

(C) All other schools on a four-year cycle.

(2) Each county superintendent of schools shall investigate school and district efforts to ensure that a credentialed teacher serving in an assignment requiring a certificate issued pursuant to Section 44253.3, 44253.4, or 44253.7 or training pursuant to Section 44253.10 completes the necessary requirements for these certificates or completes the required training.

(3) The Commission on Teacher Credentialing shall be responsible for the monitoring and review of those counties or cities and counties in which there is a single school district, including the Counties of Alpine, Amador, Del Norte, Mariposa, Plumas, and Sierra, and the City and County of San Francisco. All information related to the misassignment of certificated personnel and teacher vacancies shall be submitted to each affected district within 30 calendar days of the monitoring activity.

(c) County superintendents of schools shall submit an annual report to the Commission on Teacher Credentialing and the department summarizing the results of all assignment monitoring and reviews. These reports shall include, but need not be limited to, the following:

(1) The numbers of teachers assigned and types of assignments made by the governing board of a school district under the authority of Sections 44256, 44258.2, and 44263.

(2) Information on actions taken by local committees on assignment, including the number of assignments authorized, subject areas into which committee-authorized teachers are assigned, and evidence of departures from the implementation plans presented to the county superintendent by school districts.

(3) Information on each school district reviewed regarding misassignments of certificated personnel, including efforts to eliminate these misassignments.

(4) (A) Information on certificated employee assignment practices in schools ranked in deciles 1 to 3, inclusive, of the base Academic Performance Index, as specified in paragraph (2) of subdivision (c) of Section 1240, to ensure that, at a minimum, in any class in these schools in which 20 percent or more pupils are English learners, the assigned teacher possesses a certificate issued pursuant to Section 44253.3 or 44253.4, or has completed training pursuant to Section 44253.10, or is otherwise authorized by statute.

(B) This paragraph shall not relieve a school district from compliance with state and federal law regarding teachers of English learners or be construed to alter the definition of "misassignment" in subparagraph (B) of paragraph (5) of subdivision (b) of Section 33126.

(5) After consultation with representatives of county

superintendents of schools, other information as may be determined to be needed by the Commission on Teacher Credentialing.

(d) The Commission on Teacher Credentialing shall submit biennial reports to the Legislature concerning teacher assignments and misassignments that shall be based, in part, on the annual reports of the county superintendents of schools.

(e) (1) The Commission on Teacher Credentialing shall establish reasonable sanctions for the misassignment of credentialholders.

Prior to the implementation of regulations establishing sanctions, the Commission on Teacher Credentialing shall engage in a variety of activities designed to inform school administrators, teachers, and personnel within the offices of county superintendents of schools of the regulations and statutes affecting the assignment of certificated personnel. These activities shall include the preparation of instructive brochures and the holding of regional workshops.

(2) Commencing July 1, 1989, a certificated person who is required by an administrative superior to accept an assignment for which he or she has no legal authorization, after exhausting existing local remedies, shall notify the county superintendent of schools in writing of the illegal assignment. The county superintendent of schools, within 15 working days, shall advise the affected

certificated person

concerning the legality of his or her assignment. There shall be no adverse action taken against a certificated person who files a notification of misassignment with the county superintendent of schools. During the period of the misassignment, the certificated person who files a written notification with the county superintendent of schools shall be exempt from Section 45034. If it is determined that a misassignment has taken place, any performance evaluation of the employee under Sections 44660 to 44664, inclusive, in any misassigned subject shall be nullified.

(3) The county superintendent of schools shall notify, through the office of the school district superintendent, a certificated school administrator responsible for the assignment of a certificated person to a position for which he or she has no legal authorization of the misassignment and shall advise him or her to correct the assignment within 30 calendar days. The county superintendent of schools shall notify the Commission on Teacher Credentialing of the misassignment if the certificated school administrator has not corrected the misassignment within 30 days of the initial notification, or if the certificated school administrator has not described, in writing, within the 30-day period, to the county superintendent of schools the extraordinary circumstances which make this correction impossible.

(4) The county superintendent of schools shall notify the superintendent of a school district in which 5 percent or more of all certificated teachers in the secondary schools are found to be misassigned of the misassignments and shall advise him or her to correct the misassignments within 120 calendar days. The county superintendent of schools shall notify the Commission on Teacher Credentialing of the misassignments if the school district superintendent has not corrected the misassignments within 120 days of the initial notification, or if the school district superintendent of schools has not described, in writing, within the 120-day period, to the county superintendent of schools the extraordinary circumstances that make this correction impossible.

(f) An applicant for a professional administrative service credential shall be required to demonstrate knowledge of existing credentialing laws, including knowledge of assignment authorizations.

(g) The Superintendent shall submit a summary of the reports

submitted by county superintendents pursuant to subdivision (c) to the Legislature. The Legislature may hold, within a reasonable period after receipt of the summary, public hearings on pupil access to teachers and to related statutory provisions. The Legislature also may assign one or more of the standing committees or a joint committee, to determine the following:

(1) The effectiveness of the reviews required pursuant to this section.

(2) The extent, if any, of vacancies and misassignments, as defined in subparagraphs (A) and (B) of paragraph (5) of subdivision (b) of Section 33126.

(3) The need, if any, to assist schools ranked in deciles 1 to 3, inclusive, of the base Academic Performance Index, as defined in paragraph (2) of subdivision (c) of Section 1240, to eliminate vacancies and misassignments.

SEC. 16. Section 44269 of the Education Code is amended to read:

44269. The commission may issue a services credential authorizing service as a library media teacher upon completion of specialized preparation as required by the commission.

The standards for these credentials are a baccalaureate degree or higher degree from an institution approved by the commission, a valid teaching credential, and specialized and professional preparation as the commission may require.

Whenever the term "librarian" or "library media teacher" is used in this article, it shall be deemed to refer to "teacher librarian."

SEC. 17. Section 44270 of the Education Code is amended to read:

44270. (a) The minimum requirements for the preliminary services credential with a specialization in administrative services are all of the following:

(1) Possession of one of the following:

(A) A valid teaching credential requiring the possession of a baccalaureate degree and a professional preparation program including student teaching.

(B) A valid designated subjects vocational education, adult, or special subjects teaching credential, as specified in Section 44260, 44260.1, 44260.2, 44260.3, or 44260.4, provided the candidate also possesses a baccalaureate degree.

(C) A valid services credential with a specialization in pupil personnel, health, or clinical or rehabilitative services, as specified in Section 44266, 44267, 44267.5, or 44268, or a valid services credential authorizing service as a teacher librarian, as specified in Section 44269.

(D) A valid credential issued under the laws, rules, and regulations in effect on or before December 31, 1971, which authorizes the same areas as in subparagraphs (B) and (C).

(2) Completion of a minimum of three years of successful, full-time classroom teaching experience in the public schools, including, but not limited to, service in state- or county-operated schools, or in private schools of equivalent status or three years of experience in the fields of pupil personnel, health, clinical or rehabilitative, or librarian services.

(3) Completion of an entry level program of specialized and professional preparation in administrative services approved by the commission or a one-year internship in a program of supervised training in administrative services, approved by the commission as satisfying the requirements for the preliminary services credential with a specialization in administrative services.

(4) Current employment in an administrative position after completion of professional preparation as defined in paragraph (3), whether full or part time, in a public school or private school of

equivalent status. The commission shall encourage school districts to consider the recency of preparation or professional growth in school administration as one of the criteria for employment.

(b) The preliminary administrative services credential shall be valid for a period of five years from the date of initial employment in an administrative position, whether full or part time, and shall not be renewable.

(c) A candidate who completed, by September 30, 1984, the requirements for the administrative services credential in effect on June 30, 1982, is eligible for the credential authorized under those requirements. All other candidates shall satisfy the requirements set forth in this section.

SEC. 18. Section 44300 of the Education Code is amended to read:

44300. (a) Commencing January 1, 1990, the commission may issue or renew emergency teaching or specialist permits in accordance with regulations adopted by the commission corresponding to the credential types specified in paragraphs (1), (2), and (3) of subdivision (b) of Section 44225, provided that all of the following conditions are met:

(1) The applicant possesses a baccalaureate degree conferred by a regionally accredited institution of higher education and has fulfilled the subject matter requirements of Section 44301.

(2) The applicant passes the state basic skills proficiency test as provided for in Section 44252.

(3) The commission approves the justification for the emergency permit submitted by the school district in which the applicant is to be employed. The justification shall include all of the following:

(A) Annual documentation that the district has implemented in policy and practices a process for conducting a diligent search that shall include, but is not limited to, distributing job announcements, contacting college and university placement centers, advertising in local newspapers, exploring the incentives included in the Teaching As A Priority Block Grant established pursuant to Section 44735, participating in the state and regional recruitment centers established pursuant to Sections 44751, as it read prior to May 5, 2003, and 90530, and participating in job fairs in this state, but has been unable to recruit a sufficient number of certificated teachers, including teacher candidates pursuing full certification through internship, district internship, or other alternative routes established by the commission.

(B) A declaration of need for fully qualified educators based on the documentation set forth in subparagraph (A) and made in the form of a motion adopted by the governing board of the district or the county board of education at a regularly scheduled meeting of the governing board or the county board of education. The motion may not be part of the consent agenda and shall be entered in the minutes of the meeting.

(b) The commission may deny a request for an emergency permit that does not meet the justification set forth in subparagraph (A) of paragraph (3) of subdivision (a).

(c) It is the intent of the Legislature that the commission continue to issue emergency teaching permits to individuals employed by school districts defined in regulations as remote from regionally accredited institutions of higher education.

(d) The commission may issue and reissue emergency permits corresponding to the credential types specified in paragraph (4) of subdivision (b) of Section 44225. The commission shall establish appropriate standards for each type of emergency permit specified in paragraph (4) of subdivision (b) of Section 44225.

(e) The exclusive representative of certificated employees, if



any, as provided under Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, may submit a written statement to the commission agreeing or disagreeing with the justification submitted to the commission pursuant to paragraph (3) of subdivision (a).

(f) A person holding an emergency teaching or specialist permit shall attend an orientation to the curriculum and to techniques of instruction and classroom management, and shall teach only with the assistance and guidance of a certificated employee of the district who has completed at least three years of full-time teaching experience, or the equivalent thereof. It is the intent of the Legislature to encourage districts to provide directed teaching experience to new emergency permit holders with no prior teaching experience.

(g) The holder of an emergency permit shall participate in ongoing training, coursework, or seminars designed to prepare the individual to become a fully credentialed teacher or other educator in the subject area or areas in which he or she is assigned to teach or serve. The employing agency shall verify that employees applying to renew their emergency permits are meeting these ongoing training requirements.

(h) Emergency permits for pupil personnel services shall not be valid for the purpose of determining pupil eligibility for placement in a special education class or program.

(i) This section shall not apply to the issuance of an emergency substitute teaching permit, or of an emergency permit to a teacher who has consented to teach temporarily outside of his or her field of certification, for which the commission shall establish minimum requirements.

SEC. 19. Section 44302 of the Education Code is amended to read:

44302. The Commission on Teacher Credentialing regularly shall notify local educational agencies of the various provisions in current law that allow the assignment of personnel when a fully qualified teacher is not available and a substitute has served for the maximum days permitted by law, including emergency permits under Section 44300, long-term and short-term waivers under subdivision (m) of Section 44225, and intern permits under Sections 44235, 44250, and 44464. When fulfilling the notification requirements of this section, the commission shall utilize a variety of approaches, including, but not limited to, correspondence, annual workshops for credential analysts, a credential handbook, a waiver handbook, the commission website, and special telephone, fax, and e-mail lines for school districts and county offices of education. Additionally, the commission shall provide local educational agencies with information about waiver requests including specific timelines, key steps, and appeal rights.

SEC. 20. Article 5.6 (commencing with Section 44305) of Chapter 2 of Part 25 of Division 3 of Title 2 of the Education Code is repealed.

SEC. 21. Section 44386 of the Education Code is amended to read:

44386. (a) From funds appropriated for the purposes of this article, the Commission on Teacher Credentialing shall award incentive grants to qualifying school districts or county offices of education. Each school district or county office of education that receives a grant shall provide matching funds from available sources in an amount equal to 50 percent of the cost of the alternative certification program. Grants shall be awarded by the commission for the remaining 50 percent of the cost of the alternative certification program, but in no event shall the grant amount awarded to a school district or county office of education exceed two thousand five

hundred dollars (\$2,500) per intern per year, except that the commission may require a lesser local contribution, or provide a larger grant per intern per year, in hardship cases.

(b) Participants in a district intern program conducted pursuant to Article 7.5 (commencing with Section 44325) or in an intern program conducted pursuant to Article 3 (commencing with Section 44450) of Chapter 3, who have received a preliminary credential and who are receiving funding for participating in an induction program pursuant to Article 4.5 (commencing with Section 44279.1) are not eligible for funding under this section.

SEC. 22. Section 44506 of the Education Code is amended to read:

44506. (a) The state funding for this article subsequent to the 1999-2000 fiscal year is subject to an appropriation in the annual Budget Act.

(b) A school district that receives funds for purposes of this article also may expend those funds for any of the following purposes:

(1) The Marian Bergeson Beginning Teacher Support and Assessment System as set forth in Article 4.5 (commencing with Section 44279.1) of Chapter 2.

(2) A district intern program as set forth in Article 7.5 (commencing with Section 44325) of Chapter 2.

(3) Professional development or other educational activities previously provided pursuant to Article 4 (commencing with Section 44490) of Chapter 3, as it read prior to January 1, 2002.

(4) A program that supports the training and development of new teachers.

(c) (1) The Superintendent shall determine a base funding unit rate for the California Peer Assistance and Review Program for Teachers that is equal to the total amount provided for the California Mentor Teacher Program in subdivision (b) of Section 6 of Chapter 4 of the Statutes of 1999 for the First Extraordinary Session, divided by the total number of mentor teachers that the state calculated the school district is entitled to in the 1999-2000 fiscal year.

(2) The Superintendent annually shall apportion to each school district that certified implementation of the Peer Assistance and Review Program for Teachers pursuant to subdivision (b) of Section 44505, an amount equal to 5 percent of the prior year count of certificated classroom teachers employed by the school district, multiplied by a rate that equals the sum of (i) the base amount per funding unit as calculated in paragraph (1) of subdivision (c), adjusted annually pursuant to subdivision (b) of Section 42238.1, and (ii) two thousand eight hundred dollars (\$2,800); adjusted annually pursuant to subdivision (b) of Section 42238.1.

(3) The Superintendent annually shall apportion to each school district that certified implementation of a Peer Assistance and Review Program for Teachers pursuant to subdivision (d) of Section 44505, an amount equal to 5 percent of the prior year count of certificated classroom teachers employed by the school district, multiplied by a rate which equals the sum of (i) the base amount per funding unit as calculated in paragraph (1) of subdivision (c), adjusted annually pursuant to subdivision (b) of Section 42238.1, and (ii) the per mentor teacher unit amount provided to the district pursuant to subdivision (c) of Section 44505, adjusted annually pursuant to subdivision (b) of Section 42238.1.

(4) In paragraphs (2) and (3), 5 percent of the certificated classroom teachers employed by the district shall be rounded to the next whole integer.

(5) If at the end of a fiscal year, an amount of funds available

for purposes of the Peer Assistance and Review Program remain unallocated, the Superintendent shall use the unallocated amount to increase the base funding rate calculated under paragraph (1) for the succeeding fiscal year.

SEC. 23. Section 44868 of the Education Code is amended to read:

44868. No person shall be employed as a teacher librarian in an elementary or secondary school, unless he or she holds a valid credential of proper grade authorizing service as a teacher librarian or a valid teaching credential issued by the Commission on Teacher Credentialing if he or she has completed the specialized area of librarianship.

SEC. 24. Section 44869 of the Education Code is amended to read:

44869. A teacher librarian, when employed full time as a teacher librarian or serving full time, partly as a teacher librarian and partly as a teacher, shall rank as a teacher.

SEC. 25. Section 48900 of the Education Code is amended to read:

48900. A pupil shall not be suspended from school or recommended for expulsion, unless the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has committed an act as defined pursuant to any of subdivisions (a) to (q), inclusive:

(a) (1) Caused, attempted to cause, or threatened to cause physical injury to another person.

(2) Willfully used force or violence upon the person of another, except in self-defense.

(b) Possessed, sold, or otherwise furnished a firearm, knife, explosive, or other dangerous object, unless, in the case of possession of an object of this type, the pupil had obtained written permission to possess the item from a certificated school employee, which is concurred in by the principal or the designee of the principal.

(c) Unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of, a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind.

(d) Unlawfully offered, arranged, or negotiated to sell a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind, and either sold, delivered, or otherwise furnished to a person another liquid, substance, or material and represented the liquid, substance, or material as a controlled substance, alcoholic beverage, or intoxicant.

(e) Committed or attempted to commit robbery or extortion.

(f) Caused or attempted to cause damage to school property or private property.

(g) Stolen or attempted to steal school property or private property.

(h) Possessed or used tobacco, or products containing tobacco or nicotine products, including, but not limited to, cigarettes, cigars, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel. However, this section does not prohibit use or possession by a pupil of his or her own prescription products.

(i) Committed an obscene act or engaged in habitual profanity or vulgarity.

(j) Unlawfully possessed or unlawfully offered, arranged, or negotiated to sell drug paraphernalia, as defined in Section 11014.5 of the Health and Safety Code.

(k) Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of

their duties.

(l) Knowingly received stolen school property or private property.

(m) Possessed an imitation firearm. As used in this section, "imitation firearm" means a replica of a firearm that is so substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm.

(n) Committed or attempted to commit a sexual assault as defined in Section 261, 266c, 286, 288, 288a, or 289 of the Penal Code or committed a sexual battery as defined in Section 243.4 of the Penal Code.

(o) Harassed, threatened, or intimidated a pupil who is a complaining witness or a witness in a school disciplinary proceeding for the purpose of either preventing that pupil from being a witness or retaliating against that pupil for being a witness, or both.

(p) Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma.

(q) Engaged in, or attempted to engage in, hazing. For purposes of this subdivision, "hazing" means a method of initiation or preinitiation into a pupil organization or body, whether or not the organization or body is officially recognized by an educational institution, which is likely to cause serious bodily injury or personal degradation or disgrace resulting in physical or mental harm to a former, current, or prospective pupil. For purposes of this subdivision, "hazing" does not include athletic events or school-sanctioned events.

(r) A pupil shall not be suspended or expelled for any of the acts enumerated in this section, unless that act is related to school activity or school attendance occurring within a school under the jurisdiction of the superintendent or principal or occurring within any other school district. A pupil may be suspended or expelled for acts that are enumerated in this section and related to school activity or attendance that occur at any time, including, but not limited to, any of the following:

(1) While on school grounds.

(2) While going to or coming from school.

(3) During the lunch period whether on or off the campus.

(4) During, or while going to or coming from, a school sponsored activity.

(s) A pupil who aids or abets, as defined in Section 31 of the Penal Code, the infliction or attempted infliction of physical injury to another person may be subject to suspension, but not expulsion, pursuant to this section, except that a pupil who has been adjudged by a juvenile court to have committed, as an aider and abettor, a crime of physical violence in which the victim suffered great bodily injury or serious bodily injury shall be subject to discipline pursuant to subdivision (a).

(t) As used in this section, "school property" includes, but is not limited to, electronic files and databases.

(u) A superintendent or principal may use his or her discretion to provide alternatives to suspension or expulsion, including, but not limited to, counseling and an anger management program, for a pupil subject to discipline under this section.

(v) It is the intent of the Legislature that alternatives to suspension or expulsion be imposed against a pupil who is truant, tardy, or otherwise absent from school activities.

SEC. 26. Section 49430.7 of the Education Code is amended to read:

49430.7. (a) For purposes of this section, the following terms have the following meanings:

(1) "School" means a school operated and maintained by a school district or county office of education, or a charter school.

(2) "School district" means a school district, charter school, or county office of education.

(3) "Child development program" means a program operated pursuant to Chapter 2 (commencing with Section 8200) of Part 6.

(b) As a condition of receipt of funds pursuant to Section 49430.5, commencing with the **2007-08** fiscal year, for meals and food items sold as part of the free and reduced-price meal programs, a school or school district shall comply with all of the following requirements and prohibitions:

(1) Follow the United States Department of Agriculture (USDA) nutritional guidelines or the menu planning options of Shaping Health as Partners in Education developed by the state (SHAPE California network).

(2) Not sell or serve a food item that has in any way been deep fried, par fried, or flash fried by a school or school district.

(3) Not sell or serve a food item containing artificial trans fat. A food item contains artificial trans fat if it contains vegetable shortening, margarine, or any kind of hydrogenated or partially hydrogenated vegetable oil, unless the manufacturer's documentation or the label required on the food, pursuant to applicable federal and state law, lists the trans fat content as less than 0.5 gram per serving.

(4) Not sell or serve a food item that, as part of the manufacturing process, has been deep fried, par fried, or flash fried in an oil or fat that is prohibited by this paragraph. Oils and fats prohibited by this paragraph include, but are not limited to, palm, coconut, palm kernel, lard, typically solid at room temperature and are known to negatively impact cardiovascular health. Oils permitted by this paragraph include, but are not limited to, canola, safflower, sunflower, corn, olive, soybean, peanut, or a blend of these oils, typically liquid at room temperature and are known for their positive cardiovascular benefit.

(c) Commencing with the **2007-08** fiscal year, for meals and food items sold as part of the free and reduced-price meal programs, a child development program is encouraged to comply with all of the following guidelines:

(1) Meet developmentally and programmatically appropriate meal pattern and meal planning requirements developed by the USDA or menu planning options of Shaping Health as Partners in Education developed by the state (SHAPE California network).

(2) Not sell or serve a food item that has in any way been deep fried, par fried, or flash fried by a school, school district, or child development program.

(3) Not sell or serve a food item containing artificial trans fat. A food item contains artificial trans fat if it contains vegetable shortening, margarine, or any kind of hydrogenated or partially hydrogenated vegetable oil, unless the manufacturer's documentation or the label required on the food, pursuant to applicable federal and state law, lists the trans fat content as less than 0.5 gram per serving.

(4) Not sell or serve a food item that, as part of the manufacturing process, has been deep fried, par fried, or flash fried in an oil or fat prohibited by this paragraph. Oils and fats prohibited by this paragraph include, but are not limited to, palm, coconut, palm kernel, lard, typically solid at room temperature and are known to negatively impact cardiovascular health. Oils permitted by this provision include, but are not limited to, canola, safflower,

sunflower, corn, olive, soybean, peanut, or a blend of these oils, typically liquid at room temperature and are known for their positive cardiovascular benefit.

(d) The prohibitions and requirements of this section regarding food items sold or served by a school or school district apply to raw bulk USDA commodity foods ordered by schools or school districts and sent to commercial processors for conversion into ready to use end products, but do not apply to other USDA commodity foods until the scheduled 2009 reauthorization of the USDA National School Lunch Program is complete or ingredient and nutrition information is available for all USDA commodity foods, whichever is earlier.

(e) As a condition of receipt of funds pursuant to Section 49430.5, no later than June 30, 2008, schools and school districts shall provide the department with a one-time certification of compliance with the provisions of this section.

(f) This section shall become operative only upon an appropriation for its purposes in the annual Budget Act or another statute.

SEC. 27. Section 49452.8 of the Education Code is amended to read:

49452.8. (a) A pupil, while enrolled in kindergarten in a public school, or while enrolled in first grade in a public school if the pupil was not previously enrolled in kindergarten in a public school, no later than May 31 of the school year, shall present proof of having received an oral health assessment by a licensed dentist, or other licensed or registered dental health professional operating within his or her scope of practice, that was performed no earlier than 12 months prior to the date of the initial enrollment of the pupil.

(b) The parent or legal guardian of a pupil may be excused from complying with subdivision (a) by indicating on the form described in subdivision (d) that the oral health assessment could not be completed because of one or more of the reasons provided in subparagraphs (A) to (C), inclusive, of paragraph (2) of subdivision (d).

(c) A public school shall notify the parent or legal guardian of a pupil described in subdivision (a) concerning the assessment requirement. The notification, at a minimum, shall consist of a letter that includes all of the following:

(1) An explanation of the administrative requirements of this section.

(2) Information on the importance of primary teeth.

(3) Information on the importance of oral health to overall health and to learning.

(4) A toll-free telephone number to request an application for Healthy Families, Medi-Cal, or other government-subsidized health insurance programs.

(5) Contact information for county public health departments.

(6) A statement of privacy applicable under state and federal laws and regulations.

(d) In order to ensure uniform data collection, the department, in consultation with interested persons, shall develop and make available on the Internet Web site of the department, a standardized notification form as specified in subdivision (c) that shall be used by each school district. The standardized form shall include all of the following:

(1) A section that can be used by the licensed dentist or other licensed or registered dental health professional performing the assessment to record information that is consistent with the information collected on the oral health assessment form developed by the Association of State and Territorial Dental Directors.

(2) A section in which the parent or legal guardian of a pupil can indicate the reason why an assessment could not be completed by marking the box next to the appropriate reason. The reasons for not completing an assessment shall include all of the following:

(A) Completion of an assessment poses an undue financial burden on the parent or legal guardian.

(B) Lack of access by the parent or legal guardian to a licensed dentist or other licensed or registered dental health professional.

(C) The parent or legal guardian does not consent to an assessment.

(e) Upon receiving completed assessments, all school districts, by December 31 of each year, shall submit a report to the county office of education of the county in which the school district is located. The report shall include all of the following:

(1) The total number of pupils in the district, by school, who are subject to the requirement to present proof of having received an oral health assessment pursuant to subdivision (a).

(2) The total number of pupils described in paragraph (1) who present proof of an assessment.

(3) The total number of pupils described in paragraph (1) who could not complete an assessment due to financial burden.

(4) The total number of pupils described in paragraph (1) who could not complete an assessment due to lack of access to a licensed dentist or other licensed or registered dental health professional.

(5) The total number of pupils described in paragraph (1) who could not complete an assessment because their parents or legal guardians did not consent to their child receiving the assessment.

(6) The total number of pupils described in paragraph (1) who are assessed and found to have untreated decay.

(7) The total number of pupils described in paragraph (1) who did not return either the assessment form or the waiver request to the school.

(f) Each county office of education shall maintain the data described in subdivision (e) in a manner that allows the county office to release it upon request.

(g) This section does not prohibit any of the following:

(1) County offices of education from sharing aggregate data collected pursuant to this section with other governmental agencies, philanthropic organizations, or other nonprofit organizations for the purpose of data analysis.

(2) Use of assessment data that is compliant with the federal Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191) for purposes of conducting research and analysis on the oral health status of public school pupils in California.

(h) This section does not preclude a school district or county office of education from developing a schoolsite-based oral health assessment program to meet the requirements of this section.

(i) The Office of Oral Health of the Chronic Disease Control Branch of the State Department of Public Health shall conduct an evaluation of the requirements imposed by this section and prepare and submit a report to the Legislature by January 1, 2010, that discusses improvements in the oral health of children resulting from the imposition of those requirements. The Office of Oral Health may receive private funds and contract with the University of California to fulfill the duties described in this subdivision.

(j) Funds appropriated in the annual Budget Act for the activities required by this section shall first be used to offset reimbursement provided to local educational agencies pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for state-mandated costs imposed by this section.

SEC. 28. Section 52055.625 of the Education Code is amended to read:

52055.625. (a) It is the intent of the Legislature that the lists contained in paragraph (2) of subdivisions (c), (d), (e), and (f) be considered options that may be considered by a school in the development of its school action plan and that a school not be required to adopt all of the listed options as a condition of funding under the terms of this section. Instead, this listing of options is intended to provide the opportunity for focus and strategic planning as schools plan to address the needs of high-priority pupils.

(b) (1) As a condition of the receipt of funds, a school action plan shall include each of the following essential components:

(A) Pupil literacy and achievement.

(B) Quality of staff.

(C) Parental involvement.

(D) Facilities, curriculum, instructional materials, and support services.

(2) As a condition of the receipt of funds, a school action plan for a school initially applying to participate in the program during or after the 2004-05 fiscal year shall include each of the following essential components:

(A) Pupil literacy and achievement.

(B) Quality of staff, including highly qualified teachers, as required by the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.), and appropriately credentialed teachers for English learners.

(C) Parental involvement.

(D) Facilities maintained in good repair as specified in Sections 17014, 17032.5, 17070.75, and 17089, curriculum, instructional materials that, at a minimum, are consistent with the requirements of Section 60119, and support services.

(c) (1) The pupil literacy and achievement component shall contain a strategy to focus on increasing pupil literacy and achievement, with necessary attention to the needs of English language learners. At a minimum, this strategy shall include a plan to achieve the following goals:

(A) Each pupil at the school will be provided appropriate instructional materials aligned with the academic content and performance standards adopted by the state board as required by law.

(B) Each significant subgroup at the school will demonstrate increased achievement based on Academic Performance Index (API) results by the end of the implementation period.

(C) English language learners at the school will demonstrate increased performance based on the English language development test required by Section 60810 and the achievement tests required pursuant to Section 60640.

(2) To achieve the goals described in paragraph (1), a school, in its action plan, may include, among other things, any of the following options:

(A) Selective class size reduction in key curricular areas, provided this does not result in a decrease in the proportion of experienced credentialed teachers at the schoolsite.

(B) Increased learning time in key curricular areas identified as needing attention, including mathematics.

(C) Targeted intensive reading instruction utilizing reading capacity-level materials that may include, but are not limited to, the following strategies:

(i) The development of a reading competency program for pupils in grades 5 to 8, inclusive, whose reading scores are at or below the 40th percentile or in the two lowest performance levels, as adopted



by the state board, on the reading portion of the achievement test authorized by Section 60640. This program may include direct instruction in reading at grade level utilizing the English language arts content standards adopted pursuant to Section 60605. Additionally, this program may offer specialized intervention that utilizes state-approved instructional materials adopted pursuant to Section 60200. It is the intent of the Legislature, as a recommendation, that this curriculum consist of at least one class period during the regular schoolday taught by a teacher trained in the English language arts content and performance standards pursuant to Section 60605. It is also the intent of the Legislature, as a recommendation, that periodic assessments throughout the year be conducted to monitor the progress of the pupils involved.

(ii) The use of a teacher librarian to work cooperatively with every teacher and principal at the schoolsite to develop and implement an independent and free reading program, help teachers determine a pupil's reading level, order books that have been determined to meet the needs of pupils, help choose books at independent reading levels of pupils, and assure that pupils read a variety of genres across all academic content areas. For purposes of this article, "teacher librarian" means a classroom teacher who possesses or is in the process of obtaining a teacher librarian services credential consistent with Section 44868.

(D) Mentoring programs for pupils.

(E) Community, business, or university partnerships with the school.

(d) (1) The quality of staff component shall contain a strategy to attract, retain, and fairly distribute the highest quality staff at the school, including teachers, administrators, and support staff. At a minimum, this strategy shall include a plan to achieve the following goals:

(A) An increase in the number of credentialed teachers working at that schoolsite.

(B) An increase in or targeting of professional development opportunities for teachers related to the goals of the action plan and English language development standards adopted by the State Board aligned with the academic content and performance standards, including, but not limited to, participation in professional development institutes established pursuant to Article 2 (commencing with Section 99220) of Chapter 5 of Part 65.

(C) By the end of the implementation period, successful completion by the schoolsite administrators of a program designed to maximize leadership skills.

(2) To achieve the goals described in paragraph (1), a school may include in its action plan, among others, any of the following options:

(A) Incentives to attract credentialed teachers and quality administrators to the schoolsite, including, but not limited to, additional compensation strategies similar to those authorized pursuant to Section 44735.

(B) A school district preintern or intern program within which eligible emergency permit teachers located at the schoolsite would be required to participate, unless those individuals are already participating in another teacher preparation program that leads to the attainment of a valid California teaching credential.

(C) Common planning time for teachers, administrators, and support staff focused on improving pupil achievement.

(D) Mentoring for site administrators, peer assistance for credentialed teachers, and support services for new teachers, including, but not limited to, the Beginning Teacher Support and

Assessment System.

(E) Providing assistance and incentives to teachers for completion of professional certification programs and toward attaining BCLAD or CLAD certification.

(F) Increasing professional development in state academic content and performance standards, including English language development standards.

(e) (1) The parental involvement component shall contain a strategy to change the culture of the school community to recognize parents and guardians as partners in the education of their children and to prepare and educate parents and guardians in the learning and academic progress of their children. At a minimum, this strategy shall include a commitment to develop a school-parent compact as required by Section 51101 and a plan to achieve the goal of maintaining or increasing the number and frequency of personal parent and guardian contacts each year at the schoolsite and school-home communications designed to promote parent and guardian support for meeting state standards and core curriculum requirements.

(2) To achieve the goals in subdivision (a), a school, in its action plan, may include, among others, any of the following options:

(A) Parent and guardian homework support classes.

(B) A program of regular home visits.

(C) After school and evening opportunities for parents, guardians, and pupils to learn together.

(D) Training programs to educate parents and guardians about state standards and testing requirements, including the high school exit examination.

(E) Creation, maintenance, and support of parent centers located on schoolsites to educate parents and guardians regarding pupil expectations and provide support to parents and guardians in their efforts to help their children learn.

(F) Programs targeted at parents and guardians of special education pupils.

(G) Efforts to develop a culture at the schoolsite focused on college attendance, including programs to educate parents and guardians regarding college entrance requirements and options.

(H) Providing more bilingual personnel at the schoolsite and at school-related functions to communicate more effectively with parents and guardians who speak a language other than English.

(I) Providing an opportunity for parents to monitor online, if the technology is available, and in compliance with applicable state and federal privacy laws, the academic progress and attendance of their children.

(f) (1) The facilities, curriculum, instructional materials, and support services component shall contain a strategy to provide an environment that is conducive to teaching and learning and that includes the development of a high-quality curriculum and instruction aligned with the academic content and performance standards adopted pursuant to Section 60605 and the standards for English language development adopted pursuant to Section 60811 to measure progress made towards achieving English language proficiency. At a minimum, this strategy shall include the goal of providing adequate logistical support including, but not limited to, curriculum, quality instruction, instructional materials, support services, and supplies for every pupil.

(2) To achieve the goal specified in paragraph (1), a school, in its action plan, may include, among others, any of the following options:

(A) State and locally developed valid and reliable assessments

based on state academic content standards.

(B) Increased learning time in key curricular areas identified as needing attention, including mathematics.

(C) The addition of more pupil support services staff, including, but not limited to, paraprofessionals, counselors, teacher librarians, nurses, psychologists, social workers, speech therapists, audiologists, and speech pathologists.

(D) Pupil support centers for additional tutoring or homework assistance.

(E) Use of most current standards-aligned textbooks adopted by the State Board, including materials for English language learners.

(F) For secondary schools, offering advanced placement courses and courses that meet the requirements for admission to the University of California or the California State University.

(g) A school action plan to improve pupil performance that is developed for participation in the program established pursuant to this article shall meet the requirements of subdivisions (d) and (e) of Section 52054 and this article.

(h) Participants under subdivision (d) of Section 52055.600 shall develop a series of schoolwide systemic support activities that provide pupils with the opportunity to meet the same state and local standards in core academic areas expected of all other pupils. Participating schools shall provide enrichment activities designed to improve pupil academic achievement and performance; improve life skill accomplishments; transition to a regular program of instruction or higher education, or both; access vocational training; or obtain employment. Individual pilot grant plans and systemic support activities shall comport with the statutory and regulatory requirements of each respective program.

SEC. 29. Section 52302 of the Education Code is amended to read:

52302. (a) On or before July 1, 2010, the governing board of each regional occupational center or program shall ensure that at least 90 percent of all state-funded courses offered by the center or program, in occupational areas in which both the program or center and the community college offer instruction, are part of occupational course sequences that target comprehensive skills. Each occupational sequence shall do all of the following:

(1) Result in an occupational skill certificate developed in cooperation with the appropriate employer advisory board created under Section 52302.2.

(2) Provide prerequisite courses that are needed to enter apprenticeship, or postsecondary vocational certificate or degree programs. Where possible, sequenced courses shall be linked to certificate and degree programs in the region.

(3) Focus on occupations requiring comprehensive skills leading to high entry-level wages or the possibility of significant wage increases after a few years on the job, or both.

(4) Offer as many courses as possible that have been approved by the University of California as courses meeting the "A-G" admissions requirements.

(b) (1) On or before July 1, 2008, the governing board of each regional occupational center or program shall develop a plan for establishing sequences of courses, and certify to the department, that those sequences have been developed, as described in subdivision (a). The board shall consult with the superintendents of the school districts served by the center or program and presidents of community colleges in the area during the development of the plan.

(2) The plan shall be presented at a public hearing by the governing board of each school district served by the regional occupational center or program and by the county board of education.

(3) Community college boards with identified articulated programs shall also review the plans in a public session.

(4) In developing the plan, each regional occupational program or center shall consult with school districts and community college districts located within the region served by the program or center and with the relevant occupational advisers and local workforce investment board to ensure the plan meets the vocational education needs of high school pupils in the region by providing sequences of courses that begin with middle or high school introductory courses, including, but not limited to, occupational skill courses provided by high schools or regional occupational programs or centers.

(5) The plan shall maximize the use of local, state, and federal resources in helping high school pupils enter comprehensive skill occupations, or apprenticeship programs, or continue education in college, or all of these, after graduating from high school.

(6) The plan shall include strategies for filling gaps in courses or other services needed to make the sequences effective in meeting the needs of pupils in developing skills and attending community college upon graduation from high school.

(7) Each center or program shall submit a copy of the approved plan to the appropriate community college or colleges in the region and the Superintendent on or before July 1, 2008. Every four years after this date, each center and program shall submit an update to the plan to the local community college or colleges and the Superintendent.

(c) As a condition of receiving federal funds provided under the Carl D. Perkins Vocational and Applied Technology Education Act of 1998 (20 U.S.C. Sec. 2301 et seq.), or any successor thereof, and to the extent permitted by federal law, school districts, regional occupational centers or programs, and community college districts shall do all of the following:

(1) Develop course sequences that meet the requirements of this section according to the schedule set forth in this paragraph.

(A) On or before July 1, 2008, school districts, regional occupational centers or programs, and community college districts shall have adopted an approved plan as required under this section.

(B) On or before July 1, 2009, school districts, regional occupational centers or programs, and community college districts shall have established course sequences as required under this section that include at least one-third of the courses offered by the regional occupational center or program in occupational areas in which both the program or center and the community college offer instruction.

(C) On or before July 1, 2010, school districts, regional occupational centers or programs, and community college districts shall have established course sequences as required under this section that include at least two-thirds of the courses offered by the regional occupational center or program in occupational areas in which both the program or center and the community college offer instruction.

(2) Provide pupils who are participating in vocational sequences with information and experiences designed to increase their postgraduation work and school options, including, but not limited to, all of the following:

(A) Information about the admissions requirements of the University of California and California State University.

(B) Information about the placement requirements of the local community college or colleges.

(C) Information about higher education options related to the interests of the pupil.

(D) Encourage visits to local colleges and universities offering programs that allow pupils to gain additional skills and degrees in related occupations.

(E) Information and referrals to employers for internships, summer employment opportunities, and employment after graduation from high school.

(3) School districts, regional occupational centers or programs, and community college districts that do not develop course sequences on or before the dates established under this subdivision, and have not received a waiver under subdivision (d), shall enter into a corrective action plan with the department and shall meet any timelines established by the Superintendent.

(d) (1) The department, with the assistance of the Office of the Chancellor of the California Community Colleges, shall meet with each program or center and the community college or colleges in the region no later than the 2009-10 fiscal year to validate that course sequences meeting the requirements of this section have been developed. These meetings shall be conducted using the existing resources of the department and shall be consistent with the standards developed pursuant to Section 51226.

(2) The department and the office of the chancellor shall provide technical assistance to programs or centers and community colleges that have developed articulated sequences for less than half of the courses offered by the program or center.

(3) The Superintendent may waive the requirements of subdivision (a) for programs or centers and community colleges located in rural areas of the state if the Superintendent finds that development of sequences is infeasible because of the distance, travel time, or safety between the center or program and the community college.

SEC. 30. Section 52302.2 of the Education Code is amended to read:

52302.2. (a) The governing board of each regional occupational center or program shall establish and maintain an employer advisory board or boards pursuant to guidelines developed by the department. The advisory board shall do all of the following:

(1) Assist in the development of skill certificates that identify the skills and knowledge that pupils completing an occupational course sequence are expected to acquire upon completing the sequence. The advisory board also shall approve the measures and criteria, and methods to evaluate whether pupils actually acquired the identified skills and knowledge.

(2) Review at least once a year whether pupils who are assessed as having met the requirements for a skill certificate possess the skills needed for success in employment in that occupation.

(3) Review the specific occupational sequences offered by the regional occupational center or program to train pupils for jobs that are in demand and offer high beginning salaries or the potential for significant wage increase after several years on the job.

(4) Assist the regional occupational center or program in developing internships, paid summer employment, and postgraduation employment opportunities for pupils participating in the course sequences.

(5) Assist the regional occupational center or program in creating college scholarships for pupils participating in the course sequences.

(b) Employer advisory boards shall be composed of representatives of trade organizations and businesses or government agencies that hire a significant number of employees each year and require the skills and knowledge that are taught in the course sequence or

sequences in that occupational area, as well as at least one representative from a school district career technical educational advisory committee. The department shall develop regulations guiding the establishment of these boards.

(c) Regional occupational centers or programs operated in a rural county of the sixth, seventh, or eighth class may designate a local business or industry organization as the advisory board and consult with the leadership of the local business or industry organization to determine skill needs in the region and emerging job market needs. For purposes of this section, the local business organization may be designated as the advisory board for the regional occupational center or program.

SEC. 31. Section 52321 of the Education Code is amended to read:

52321. (a) (1) A regional occupational center or program established and maintained by school districts or joint powers agencies pursuant to Section 52301 shall receive in annual operating funds from each of the participating school districts an amount per unit of average daily attendance equal to the revenue limit received by those districts for each unit of average daily attendance generated in the regional occupational center or program.

(2) A regional occupational center or program established and maintained by a county superintendent of schools pursuant to Section 52301 shall receive funding pursuant to Section 2550. A county superintendent of schools shall report average daily attendance to the Superintendent for that funding.

(b) A regional occupational center or program is authorized to budget and accumulate an amount necessary to meet the cashflow needs of the regional occupational center or program known as a general reserve, and is authorized also to budget and accumulate amounts known as the designated fund balance and as the unappropriated fund balance. Alternatively, a center or program may budget and accumulate amounts necessary to meet its long-term program needs in a separate account known as the capital outlay and equipment replacement reserve account, and this account shall be part of the designated fund balance. At the end of each school year, the ending balance in the regional occupational center or program account may be distributed to any of the general reserve, designated fund balance, and unappropriated fund balance accounts, provided that the combined total distributed does not exceed 15 percent of the expenditures for the current school year.

(1) The general reserve, the designated fund balance, including the capital outlay and equipment replacement reserve account, and the unappropriated fund balance shall be available for appropriation only after approval by a majority vote of the governing body of the regional occupational center or program.

(2) Funds of a regional occupational center or program shall be distributed to the capital outlay and equipment replacement reserve account only upon adoption by the governing board of a resolution specifying the general use to which each appropriation from the account would be put.

(c) (1) At the end of each school year, the combined ending balances of the general reserve, the designated fund balance, except the capital outlay and equipment replacement reserve account, and the unappropriated fund balance shall not exceed 15 percent of the expenditures for the current fiscal year.

(2) A regional occupational center or program may accumulate, over a period of two or more school years, an ending balance in the capital outlay and equipment replacement reserve account of more than 15 percent of the expenditures for the current fiscal year, under provisions of a resolution of the governing board pursuant to

paragraph (2) of subdivision (b).

(d) Funds placed in either the general reserve, the designated fund balance, including the capital outlay and equipment replacement reserve account, or the unappropriated fund balance shall be expended only for regional occupational center or program educational purposes.

(e) The Superintendent shall require an annual certification by school districts, county superintendents of schools, and joint powers agencies commencing in the 2007-08 fiscal year that the regional occupational center or program funds have been expended as provided in this section. The Superintendent shall withhold from the apportionment of a subsequent fiscal year, any ending fund balance in excess of 15 percent of the expenditures for the year, except those funds specifically set aside by the governing board in the capital outlay and equipment replacement reserve account.

SEC. 32. Section 52325 is added to the Education Code, to read:

52325. A day of attendance for pupils enrolled in a regional occupational center or program is 180 minutes of attendance.

SEC. 33. Section 52379 of the Education Code is amended to read:

52379. (a) Funds appropriated in the annual Budget Act for the purposes of this chapter shall be allocated to school districts based on an equal amount per pupil enrolled in the district in the prior fiscal year, based on the fall California Basic Educational Data System (CBEDS) enrollment data, in grades 7 to 12, inclusive, with the following minimum-grant exceptions:

(1) Five thousand dollars (\$5,000) for each schoolsite that has 100 or fewer pupils enrolled in any of grades 7 to 12, inclusive.

(2) Ten thousand dollars (\$10,000) for each schoolsite that has at least 101, but not more than 200, pupils enrolled in any of grades 7 to 12, inclusive.

(3) Thirty thousand dollars (\$30,000) or an amount per pupil enrolled, whichever is greater, for each schoolsite with more than 200 pupils enrolled in any of grades 7 to 12, inclusive.

(b) Funds allocated pursuant to this section shall supplement, and not supplant, expenditures made by a school district for school counseling programs.

(c) For purposes of this section, a charter school is not eligible to receive a minimum grant but instead shall receive an amount per pupil enrolled in grades 7 to 12, inclusive.

(d) Funds appropriated in the annual Budget Act for the purposes of this chapter shall be used to provide supplemental counseling services delivered by personnel who hold a valid pupil personnel services credential.

SEC. 34. Section 54022 of the Education Code is amended to read:

54022. For the 2006-07 fiscal year and each fiscal year thereafter, each school district shall receive the amount of economic impact aid determined by the Superintendent pursuant to subdivision (b) or (c), whichever is greater, calculated for each school district according to all of the following:

(a) Increase the prior fiscal year economic impact aid per pupil amount by the percentage change specified in paragraph (2) of subdivision (b) of Section 42238.1 for the current fiscal year.

(b) Multiply the economic impact aid per pupil amount for the current fiscal year calculated in subdivision (a) by the economic impact aid-eligible pupil count for the current fiscal year as calculated in Section 54023.

(c) A school district shall, at a minimum, receive funds based on the number of economic impact aid-eligible pupils according to the following schedule:

(1) For the 2006-07 fiscal year, according to the following table:

Number of economic impact aid-eligible pupils	Amount
0.....	None
1-10.....	\$5,500
11 or more.....	\$8,300

(2) For the **2007-08** fiscal year and each fiscal year thereafter, the minimum amounts for the schedule in paragraph (1) for the prior fiscal year shall be increased by the percentage change specified in paragraph (2) of subdivision (b) of Section 42238.1.

SEC. 35. Section 54023 of the Education Code is amended to read:

54023. For each fiscal year, the economic impact aid-eligible pupil count shall be calculated for each school district as follows:

(a) Determine the count of economically disadvantaged pupils, as defined in Section 54026.

(b) Determine the count of English learners, as defined in subdivision (b) of Section 54026.

(c) Calculate an economic impact aid weighted pupil concentration factor:

(1) Add the pupil counts determined in subdivisions (a) and (b).

(2) Divide the fall CBEDS enrollment for the school district for the prior school year by two.

(3) Subtract from the sum calculated in paragraph (1) the quotient calculated in paragraph (2).

(4) If the result of the calculation in paragraph (3) is greater than zero, multiply that difference by 0.5. If the result is less than zero, it shall be deemed to be zero.

(d) The economic impact aid-eligible pupil count for each school district shall equal the sum of the pupil counts determined in subdivisions (a) and (b), and the weighted pupil concentration factor determined in subdivision (c).

(e) In calculating the economic impact aid-eligible pupil count for a new charter school in its first year of operation, the department shall use CBEDS enrollment counts and counts of English learners reported in the current year instead of the prior year.

SEC. 36. Section 54026 of the Education Code is amended to read:

54026. For purposes of this article, the following definitions apply:

(a) "Economically disadvantaged pupils" means either of the following, whichever is applicable:

(1) Pupils described in Section 101 of Title I of the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6333(c)(1)(A)(B)). Counts of the pupils described in this paragraph shall be the counts used in the current year apportionment calculations for purposes of Title I of the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.).

(2) (A) Notwithstanding paragraph (1), for a small school district, the product of the number of pupils eligible for participation in the free meals program for the prior fiscal year, as defined in subdivision (d), and the free meals adjustment factor. The free meals adjustment factor is the quotient, rounded to two decimal places, resulting from dividing the statewide total of economically disadvantaged pupils as defined in paragraph (1) by the statewide total of pupils eligible for participation in the free meals program for the prior fiscal year, as defined in subdivision (d).

(B) Notwithstanding paragraph (1) or subparagraph (A), for charter schools that are funded through the block grant funding model



pursuant to Article 2 (commencing with Section 47633) of Chapter 6 of Part 26.8 in the 2006-07 fiscal year, the department shall use counts as of October 2006 of pupils ages 5 to 17 years, inclusive, who are living with families whose annual income is at or below the federal poverty guideline, as collected through the first principal apportionment data collection process, as defined in Section 41601, without revision. Commencing in the 2007-08 fiscal year, the Superintendent shall use counts as of October of the prior year of pupils ages 5 to 17 years, inclusive, who are living with families whose annual income is at or below the federal poverty guideline, as collected through the first principal apportionment data collection process, as defined in Section 41601, without revision. For purposes of this subdivision, the department may use in the first year of operation of a charter school that is established on or after July 1, 2007, the current year counts of pupils ages 5 to 17 years, inclusive, who are living with families whose annual income is at or below the federal poverty guideline.

(C) The Superintendent may expand upon an existing process of collecting free or reduced price meal data in order to collect from small districts, as defined in subdivision (c), counts of pupils living with families whose annual income is at or below the federal poverty guideline.

(b) "English learner" means a pupil described in subdivision (a) of Section 306 or identified as a pupil of limited English proficiency, as that term is defined in subdivision (m) of Section 52163. Counts of the pupils described in this subdivision shall be the counts reported in the prior year language census.

(c) "Small school district" means a school district that has an annual enrollment of less than 600 pupils based on prior school year CBEDS data and is, for the purposes of this section, designated a rural school by the Superintendent based on the appropriate school locale codes, as used by the National Center for Education Statistics of the United States Department of Education.

(d) "Free meals" means the aggregate number of pupils meeting the income eligibility guidelines established by the federal government for free meals as reported for all schools for which the district is the authorizing agency.

(e) For purposes of subparagraph (B) of paragraph (2) of subdivision (a), the count of economically disadvantaged pupils for a charter school that is operated pursuant to Section 47612.1 shall be calculated without regard to the age of the pupil. A pupil who resides in program housing shall be considered a family of one.

SEC. 37. Section 56351.5 of the Education Code is amended to read:

56351.5. (a) (1) A local educational agency may reinforce braille instruction using a braille instructional aide who meets the criteria set forth in paragraph (2) under the supervision of a teacher who holds an appropriate credential, as determined by the Commission on Teacher Credentialing, to teach pupils who are functionally blind or visually impaired. This instruction shall be in accordance with the individualized education program of the pupil.

(2) For purposes of this section, a braille instructional aide shall demonstrate to the supervising teacher that he or she is fluent in reading and writing grade 2 braille and possesses basic knowledge of the rules of braille construction.

(b) A local educational agency that employs a braille instructional aide shall provide the aide with information regarding teaching credential programs, including the Wildman-Keeley-Solis Exemplary Teacher Training Act of 1997 (Article 12 (commencing with Section 44390) of Chapter 2 of Part 25) and the Teacher Education

Internship Act of 1967 (Article 3 (commencing with Section 44450) of Chapter 3 of Part 25).

SEC. 38. Section 60242 of the Education Code is amended to read:

60242. (a) The state board shall encumber the fund for the purpose of establishing an allowance for each school district, which may reflect increases or decreases in enrollment, that the district may use for the following purposes:

(1) To purchase instructional materials adopted by the state board pursuant to Section 60200 for kindergarten and grades 1 to 8, inclusive, or by the governing board pursuant to Section 60400 for grades 9 to 12, inclusive. A school district may purchase with funds received pursuant to Chapter 3.25 (commencing with Section 60420) instructional materials for the visual and performing arts, foreign language, health, or other curricular area if those materials are adopted by the state board pursuant to Section 60200 for kindergarten and grades 1 to 8, inclusive, or by the governing board pursuant to Section 60400 for grades 9 to 12, inclusive, and if the school district certifies that it has provided each pupil with a standards-aligned textbook or basic instructional materials in reading/language arts, mathematics, history/social science, and science.

(2) To purchase, at the discretion of the district, instructional materials, including, but not limited to, supplementary instructional materials and technology-based materials, from any source.

(3) To purchase tests.

(4) To bind basic textbooks that are otherwise usable and are on the most recent list of basic instructional materials adopted by the State Board and made available pursuant to Section 60200.

(5) To fund in-service training related to instructional materials.

(6) To purchase classroom library materials for kindergarten and grades 1 to 4, inclusive.

(b) The state board shall specify the percentage of the allowance of a district that is authorized to be used for each of the purposes identified in subdivision (a).

(c) Allowances established for school districts pursuant to this section shall be apportioned in September of each fiscal year.

(d) (1) A school district that purchases classroom library materials, as a condition of receiving funding pursuant to this article, shall develop a districtwide classroom library plan for kindergarten and grades 1 to 4, inclusive, and shall receive certification of the plan from the governing board of the school district. A school district shall include in the plan a means of preventing loss, damage, or destruction of the materials.

(2) In developing the plan required by paragraph (1), a school district is encouraged to consult with school teacher librarians and primary grade teachers and to consider selections included in the list of recommended books established pursuant to Section 19336. If a school teacher librarian is not employed by the school district, the district is encouraged to consult with a school teacher librarian employed by the local county office of education in developing the plan.

(3) To the extent that a school district or county office of education already has a plan meeting the criteria specified in paragraphs (1) and (2), no new plan is required to establish eligibility.

SEC. 39. Section 60640 of the Education Code, as amended by Section 22 of Chapter 174 of the Statutes of 2007, is amended to read:

60640. (a) There is hereby established the Standardized Testing

and Reporting Program, to be known as the STAR Program.

(b) Commencing in the 2004-05 fiscal year and each fiscal year thereafter, and 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 and 7 the achievement test designated by the state board pursuant to Section 60642 and 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 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 2 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 2 to 11, inclusive, pursuant to the process used for designation of the assessment chosen in the 1997-98 fiscal year, as specified in Sections 60642 and 60643, as applicable.

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

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

(C) In choosing a contractor to develop a primary language assessment the state board shall consider the criteria for choosing a contractor or test publisher as specified by Sections 60642 and 60643, and as specified by Section 60642.5, as applicable.

(D) Subject to the availability of funds, the assessments shall be developed in grade order starting with the lowest grade subject to

the STAR Program.

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

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

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

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

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

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

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

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

(1) The number of pupils enrolled in the school district in grades

2 to 11, inclusive.

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

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

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

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

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

SEC. 40. Section 99237 of the Education Code is amended to read:

99237. (a) As a condition of receipt of funds for purposes of Section 99234 or 99235, a local educational agency shall submit a certified assurance signed by the appropriate agency official and approved in a public session by the governing body of the agency to the state board that contains its proposal to satisfy the following:

(1) It contracted with a provider whose training curriculum was based upon one of the training models outlined in guidelines and criteria for approval of training providers established by the state board, and was approved by the state board, or the training curriculum of the local educational agency was based upon one of the training models outlined in guidelines and criteria for approval of training providers established by the state board and approved by the state board. Approval by the state board of the training curriculum shall be based on the criteria contained in paragraph (4) and in subdivision (b).

(2) It or the provider with whom it contracted provided professional development training focused primarily on the following:

(A) The mathematics or English language arts content standards adopted by the state board pursuant to Section 60605.

(B) The curriculum frameworks adopted by the state board for mathematics and English language arts.

(C) The use of instructional materials that will be used by pupils and are aligned to the mathematics or English language arts content standards adopted by the state board pursuant to Section 60605.

(D) The training shall include instructional strategies designed to help all pupils gain mastery of the California academic content standards with special emphasis on English language learners and pupils with exceptional needs.

(3) (A) It provides each pupil with instructional materials that are aligned to the state content standards in mathematics and English language arts no later than the first day of the first school term that commences 12 months or less after those materials are adopted by the state board in the case of instructional materials for kindergarten and grades 1 to 8, inclusive, or by the governing board of the school district in the case of instructional materials for grades 9 to 12, inclusive.

(B) For local educational agencies that are piloting or evaluating instructional materials that are aligned to the state content standards in mathematics and English language arts, those materials shall be provided to each pupil no later than the first day of the

first school term that commences 24 months or less after those materials were adopted by the state board in the case of instructional materials for grades 1 to 8, inclusive, or by the governing board of the school district in the case of instructional materials for grades 9 to 12, inclusive.

(C) If a local educational agency has not adopted instructional materials as required by subparagraph (A) for one or more grade levels because it is piloting or evaluating those instructional materials, the local educational agency may only claim funding pursuant to Section 99234 for grade levels and subjects where the local educational agency is in compliance with subparagraphs (A) and (B).

(D) For each teacher, in each core area for which funding is claimed pursuant to this article and for which there are not standards-aligned textbooks for each pupil, as determined through an audit, the Superintendent, on a one-time basis, shall adjust the next principal apportionment to withhold from the local educational agency an amount equal to one hundred dollars (\$100) for each of those pupils. The funds withheld are deemed to be an offset against the training funds provided pursuant to this article.

(4) It provides in-house professional development that focuses primarily on the following:

(A) The mathematics or English language arts content standards adopted by the state board pursuant to Section 60605.

(B) The curriculum frameworks adopted by the state board for mathematics and English language arts.

(C) The use of instructional materials that will be used by pupils and are aligned to the mathematics or English language arts content standards adopted by the state board pursuant to Section 60605.

(D) The training shall include instructional strategies designed to help all pupils gain mastery of the California academic content standards, with special emphasis on English language learners and pupils with exceptional needs.

(5) It provides the data elements required pursuant to Section 99240.

(b) As an additional condition of receipt of funds for purposes of Section 99234, a local educational agency shall certify that:

(1) Forty hours of professional development based on the statewide academic content standards adopted pursuant to Section 60605, the Mathematics and Reading/English Language Arts frameworks adopted by the state board, and instructional materials adopted by the state board or standards-aligned instructional materials and 80 hours of followup instruction, coaching, or additional schoolsite assistance, in mathematics or reading, based upon the individual school needs, as appropriate, was provided to teachers who meet the criteria specified in paragraphs (1) and (2) of subdivision (a) of Section 99233.

(2) Forty hours of reading or English language arts professional development that includes strategies to help all pupils gain mastery of the California content standards and based on the statewide academic content standards adopted pursuant to Section 60605, the Reading/English Language Arts framework adopted by the state board, and instructional materials adopted by the state board or standards-aligned instructional materials, and 80 hours of followup instruction, coaching, or additional schoolsite assistance, based upon the individual teacher or school needs, was provided to teachers who meet the criteria specified in paragraphs (3) and (4) of subdivision (a) of Section 99233.

(3) Forty hours of professional development in mathematics based on the statewide academic content standards adopted pursuant to

Section 60605, the Mathematics framework adopted by the state board, instructional strategies designed to help all pupils gain mastery of the California academic content standards, and instructional materials adopted by the state board or standards-aligned instructional materials, and 80 hours of followup instruction, coaching, or additional schoolsite assistance, based upon the individual teacher or school needs, was provided to teachers who meet the criteria specified in paragraphs (5) and (6) of subdivision (a) of Section 99233.

(c) If, as the result of a program audit, it is found that the participating local educational agency served fewer participants than it was funded to serve, the Superintendent shall adjust the next principal apportionment to withhold from the local educational agency an amount proportional to the amount of funding associated with the number of teachers that were not served.

(d) If, as the result of a program audit, it is found that the training provided by the local educational agency or the provider with whom it contracted did not meet the requirements of paragraph (4) of subdivision (a), the Superintendent shall withhold from the next monthly principal apportionment payment to the local educational agency an amount equal to the amount of funding associated with the training that was not aligned to state standards and curriculum frameworks.

(e) It is the intent of the Legislature that audits referenced in subdivisions (c) and (d) be conducted as part of a compliance audit performed in accordance with Sections 14503, 14508, and 41020.

SEC. 41. It is the intent of the Legislature that funds made available for the purchase of art, music, and physical education supplies and equipment pursuant to paragraph (16) of subdivision (a) of Section 43 of Chapter 79 of the Statutes of 2006, as amended by Chapter 371 of the Statutes of 2006, shall be available also for the costs of installing that equipment.

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CHAPTER    233

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INTRODUCED BY    Senator Alpert  
(Coauthor:    Senator Scott)

FEBRUARY 19, 2004

An act to amend Sections 60601, 60602, 60607, 60611, 60641, and 60644 of, to amend and repeal Section 60642 of, and to amend, repeal, and add Sections 60603, 60604, 60605, 60605.6, 60606, 60640, 60643, and 60643.1 of, the Education Code, relating to pupil assessment.

LEGISLATIVE COUNSEL'S DIGEST

SB 1448, Alpert. Pupil assessment.

(1) 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. Existing law repeals the act on January 1, 2005.

This bill would extend the repeal date of the act to January 1, 2011, thereby imposing a state-mandated local program. The bill would, commencing July 1, 2007, exclude pupils in grade 2 from the standards-based achievement test requirement and make conforming changes.

(2) Existing law requires a pupil to have an individual record of accomplishment that includes the results of achievement tests, end-of-course exams, and whatever vocational education certification exams the pupil chose to take, and prohibits the record of accomplishment from being released to any person other than the parent or guardian of the pupil, or a teacher, counselor, or administrator, directly involved with the pupil, without the express written consent of the parent or guardian of the pupil if the pupil is a minor, or the pupil, if the pupil has reached the age of majority or is emancipated. Existing law also prohibits individual results of achievement tests from being released without the permission of the parent or guardian of the pupil.

This bill would, upon the request of a pupil, or his or her parent or guardian, permit the release of the record of accomplishment and the results of achievement tests to a postsecondary educational institution for specified purposes. The bill would permit the release of individual results of the California Standards Tests to a postsecondary educational institution for the purposes of credit, placement, or admission. The bill would require the State Department of Education to ensure that a specified assessment that is administered for the purpose of determining credit, placement, or



admission of a pupil in a postsecondary educational institution informs a pupil in grade 11 that he or she may request that the results of that assessment be released to a postsecondary educational institution.

(3) Existing law prohibits a city, county, city and county, or district superintendent of schools or principal or teacher of any elementary or secondary school from carrying on any program of specific preparation of the pupils for the statewide pupil assessment program or a particular test used in the statewide pupil assessment program.

This bill would, in addition, place that prohibition on a charter school, but would exempt from that prohibition instructional materials provided by the State Department of Education if those instructional materials are embedded in an instructional program that is intended to improve pupil learning.

(4) Existing law, the Standardized Testing and Reporting (STAR) Program requires each school district, charter school, and county office of education to administer to each of its pupils in grades 2 to 11, inclusive, a standards-based achievement test. Existing law authorizes a pupil of limited English proficiency who is enrolled in any of grades 2 to 11, inclusive, to take a second achievement test in his or her primary language at the option of the school district.

This bill would require the department to develop and adopt primary language assessments that are aligned to the state academic content standards to supplant the primary language test, as specified.

(5) Existing law requires that individual results of achievement tests be reported to the parent or guardian of a pupil, including a clear explanation of the purpose of the test, the pupil's score, and the intended use of the test. Existing law specifies that those provisions do not require teachers to prepare individualized explanations of each pupil's test score.

This bill would, in addition, specify that those provisions do not require other district personnel to prepare individualized explanations of each pupil's test score.

(6) Existing law requires the State Board of Education to designate an achievement test, to be administered to pupils in grades 3 and 8.

This bill would, instead, provide that that test is administered in grades 3 and 7.

(7) 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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

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.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

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

60601. This chapter shall remain in effect only until January 1,

2011, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2011, deletes or extends that date.

SEC. 2. Section 60602 of the Education Code is amended to read:

60602. (a) It is the intent of the Legislature in enacting this chapter to provide a system of individual assessment of pupils that has the primary purpose of assisting teachers, administrators, pupils, and their parents, to improve teaching and learning. In order to accomplish these goals, the Legislature finds and declares that California should adopt a coordinated and consolidated testing program to do all of the following:

(1) First and foremost, provide information on the academic status and progress of individual pupils to those pupils, their parents, and their teachers. This information should be designed to assist in the improvement of teaching and learning in California public classrooms. The Legislature recognizes that, in addition to statewide assessments that will occur as specified in this chapter, school districts will conduct additional ongoing pupil diagnostic assessment and provide information regarding pupil performance based on those assessments on a regular basis to parents or guardians and schools. The Legislature further recognizes that local diagnostic assessment is a primary mechanism through which academic strengths and weaknesses are identified.

(2) Develop and adopt a set of statewide academically rigorous content standards and performance standards in all major subject areas to serve as the basis for assessing the academic achievement of individual pupils, as well as for schools, school districts, and for the California education system as a whole. The performance standards shall be designed to lead to specific grade level benchmarks of academic achievement for each subject area tested within each grade level and shall be based on the knowledge and skills that pupils will need in order to succeed in the information-based, global economy of the 21st century.

(3) Ensure that all assessment procedures, items, instruments, and scoring systems are independently reviewed to ensure that they meet high standards of statistical reliability and validity and that they do not use procedures, items, instruments, or scoring practices that are racially, culturally, or gender biased.

(4) Provide information to pupils, parents or guardians, teachers, schools, and school districts on a timely basis so that the information can be used to further the development of the pupil and to improve the educational program.

(5) Develop assessments that are comparable to the National Assessment of Educational Progress and other national and international assessment efforts, so that California's local and state test results are reported in a manner that corresponds to the national test results. Test results should be reported in terms describing a pupil's academic performance in relation to the statewide academically rigorous content and performance standards adopted by the State Board of Education and in terms of employment skills possessed by the pupil, in addition to being reported as numerical or percentile scores.

(6) Assess pupils for a broad range of academic skills and knowledge including both basic academic skills and the ability of pupils to apply those skills.

(7) Include an appropriate balance of types of assessment instruments, including, but not limited to, multiple choice questions, short answer questions, and assessments of applied academic skills.

(8) Minimize the amount of instructional time devoted to

assessments administered pursuant to this chapter.

(b) It is the intent of the Legislature, pursuant to this article, to begin a planning and implementation process to enable the Superintendent of Public Instruction to accomplish the goals set forth in this section as soon as feasible.

(c) It is the intent of the Legislature that parents, classroom teachers, other educators, governing board members of school districts, and the public be involved, in an active and ongoing basis, in the design and implementation of the statewide pupil assessment program and the development of assessment instruments.

(d) It is the intent of the Legislature, insofar as is practically feasible and following the completion of annual testing, that the content, test structure, and test items in the assessments that are part of the Standardized Testing and Reporting Program become open and transparent to teachers, parents, and pupils, to assist all the stakeholders in working together to demonstrate improvement in pupil academic achievement. A planned change in annual test content, format, or design, should be made available to educators and the public well before the beginning of the school year in which the change will be implemented.

(e) It is the intent of the Legislature that the results of the California Standards Tests be available for use, after appropriate validation, academic credit, or placement and admissions processes, or both, at postsecondary educational institutions.

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

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

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

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

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

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

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

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

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

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

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

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

(b) This section shall become inoperative on July 1, 2007, and, as of January 1, 2008, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2008, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 4. Section 60603 is added to the Education Code, to read:

60603. (a) As used in this chapter:

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

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

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

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

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

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

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

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

(7) "Direct writing assessment" means an assessment of applied academic skills that requires pupils to use written expression to demonstrate writing skills, including writing mechanics, grammar,

punctuation, and spelling.

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

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

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

(11) "Statewide pupil assessment program" means the systematic achievement testing of pupils in grades 3 to 11, inclusive, pursuant to the standardized testing and reporting program under Article 4 (commencing with Section 60640) and the assessment of basic academic skills and applied academic skills, administered to pupils in grade levels specified in subdivision (c) of Section 60605, required by this chapter in all schools within each school district by means of tests designated by the State Board of Education.

(b) This section shall become operative on July 1, 2007.

SEC. 5. Section 60604 of the Education Code is amended to read:

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

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

(2) A method of working with publishers to ensure valid, reliable, and comparable individual, grade-level, school-level, district-level, county-level, and statewide scores in grades 2 to 11, inclusive, that is based on the achievement test designated pursuant to subdivision (b) of Section 60605.

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

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

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

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

(7) The development of a contract or contracts with a publisher or

publishers, after the approval of statewide academically rigorous content standards by the state board, for the development of performance standards and assessments of applied academic skills designed to test pupils' knowledge of academic skills and abilities to apply that knowledge and those skills in order to solve problems and communicate.

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

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

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

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

(f) This section shall become inoperative on July 1, 2007, and, as of January 1, 2008, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2008, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 6. Section 60604 is added to the Education Code, to read:

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

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

(2) A method of working with publishers to ensure valid, reliable, and comparable individual, grade-level, school-level, district-level, county-level, and statewide scores in grades 3 to 11, inclusive, that is based on the achievement test designated pursuant to subdivision (b) of Section 60605.

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

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

the state board.

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

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

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

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

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

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

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

(f) This section shall become operative July 1, 2007.

SEC. 7. Section 60605 of the Education Code is amended to read:

60605. (a) (1) (A) Not later than January 1, 1998, the State Board of Education shall adopt statewide academically rigorous content standards, pursuant to the recommendations of the Commission for the Establishment of Academic Content and Performance Standards, in the core curriculum areas of reading, writing, and mathematics to serve as the basis for assessing the academic achievement of individual pupils and of schools, school districts, and the California education system. Not later than November 1, 1998, the state board shall adopt these standards in the core curriculum areas of history/social science and science.

(B) The state board shall adopt statewide performance standards in the core curriculum areas of reading, writing, mathematics, history/social science, and science based on the recommendations made by the Superintendent of Public Instruction and a contractor or contractors.

(C) The state board shall require the contractor or contractors to submit performance standards to the superintendent and the state board not later than a specified date that allows sufficient opportunity for the superintendent to make a recommendation to the state board and for the state board to conduct regional hearings prior to the adoption of the performance standards.

(2) (A) The state board may modify any proposed content standards or performance standards prior to adoption and may adopt content and performance standards in individual core curriculum areas as those standards are submitted to the board. The state performance standards shall be established against specific grade level benchmarks of academic achievement for each subject area tested and shall be based on the knowledge and skills that pupils will need in order to succeed in the information-based, global economy of the 21st century. These skills shall not include personal behavioral standards or skills, including, but not limited to, honesty, sociability, ethics, or self-esteem. The standards adopted pursuant to this section shall be for the purpose of guiding state decisions regarding the development, adoption, and approval of assessment instruments pursuant to this chapter and does not mandate any actions or activities by school districts.

(B) Because these standards are models, the adoption of these standards is not subject to the Administrative Procedure Act. This subparagraph is declaratory of existing law.

(3) Before adopting academic content and performance standards, the state board shall hold regional hearings for the purpose of giving parents and other members of the public the opportunity to comment on the proposed standards.

(b) (1) The state board shall require the department to notify publishers of the opportunity to submit, for consideration by the state board pursuant to Section 60642, tests of achievement that include all of the basic academic skills identified in subdivision (c) of Section 60603 in grades 2 to 8, inclusive, and the core curriculum areas of English and language arts, mathematics, and science in grades 9 to 11, inclusive.

(2) The superintendent shall recommend to the state board which achievement test to adopt pursuant to subdivision (b) of Section 60642.

(c) (1) The state board shall ensure that the statewide assessment system adopted pursuant to this chapter yields valid, reliable individual pupil scores and, where applicable, aggregate school scores, school district scores, and statewide scores of pupils and assesses basic academic skills and content standards, including the use of a direct writing assessment or other applied academic skills if deemed valid and reliable and if resources are made available for their use.

(2) This subdivision does not prevent the state board from developing or adopting an assessment instrument that also contains assessments of basic academic skills.

(d) To the extent feasible and as otherwise required, the state board shall ensure that assessments developed, or contracted for pursuant to Section 60642.5, by the state are aligned with the statewide content and performance standards adopted pursuant to subdivision (a). The department, with the approval of the state board, shall periodically contract for a review of the achievement test for conformance with these standards.

(e) After adopting statewide content and performance standards, the state board shall review the existing curriculum frameworks for conformity with the new statewide standards and shall modify the curriculum frameworks where appropriate to bring them into alignment with the standards.

(f) The state board shall adopt regulations for the conduct and administration of the testing and assessment program.

(g) The state board shall adopt a regulation for minimum security procedures that test and assessment publishers and school districts must follow to ensure the security and integrity of test and



assessment questions and materials.

(h) This section shall become inoperative on July 1, 2007, and, as of January 1, 2008, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2008, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 8. Section 60605 is added to the Education Code, to read:

60605. (a) (1) (A) Not later than January 1, 1998, the State Board of Education shall adopt statewide academically rigorous content standards, pursuant to the recommendations of the Commission for the Establishment of Academic Content and Performance Standards, in the core curriculum areas of reading, writing, and mathematics to serve as the basis for assessing the academic achievement of individual pupils and of schools, school districts, and the California education system. Not later than November 1, 1998, the state board shall adopt these standards in the core curriculum areas of history/social science and science.

(B) The state board shall adopt statewide performance standards in the core curriculum areas of reading, writing, mathematics, history/social science, and science based on the recommendations made by the superintendent and a contractor or contractors.

(C) The state board shall require the contractor or contractors to submit performance standards to the superintendent and the state board not later than a specified date that allows sufficient opportunity for the superintendent to make a recommendation to the state board and for the state board to conduct

regional hearings prior to the adoption of the performance standards.

(2) (A) The state board may modify any proposed content standards or performance standards prior to adoption and may adopt content and performance standards in individual core curriculum areas as those standards are submitted to the state board. The performance standards shall be established against specific grade level benchmarks of academic achievement for each subject area tested and shall be based on the knowledge and skills that pupils will need in order to succeed in the information-based, global economy of the 21st century. These skills shall not include personal behavioral standards or skills, including, but not limited to, honesty, sociability, ethics, or self-esteem. The standards adopted pursuant to this section shall be for the purpose of guiding state decisions regarding the development, adoption, and approval of assessment instruments pursuant to this chapter and shall not be construed to mandate any actions or activities by school districts.

(B) Because these standards are models, the adoption of these standards is not subject to the Administrative Procedure Act. This subparagraph is declaratory of existing law.

(3) Before adopting academic content and performance standards, the state board shall hold regional hearings for the purpose of giving parents and other members of the public the opportunity to comment on the proposed standards.

(b) (1) The state board shall require the department to notify publishers of the opportunity to submit, for consideration by the state board pursuant to Section 60642, tests of achievement that include all of the basic academic skills identified in subdivision (c) of Section 60603 in grades 3 to 8, inclusive, and the core curriculum areas of English and language arts, mathematics, and science in grades 9 to 11, inclusive.

(2) The superintendent shall recommend to the state board which achievement test to adopt pursuant to subdivision (b) of Section 60642.

(c) (1) The state board shall ensure that the statewide assessment

system adopted pursuant to this chapter yields valid, reliable individual pupil scores and, where applicable, aggregate school scores, school district scores, and statewide scores of pupils and assesses basic academic skills and content standards, including the use of a direct writing assessment or other applied academic skills if deemed valid and reliable and if resources are made available for their use.

(2) This subdivision does not prevent the state board from developing or adopting an assessment instrument that also contains assessments of basic academic skills.

(d) To the extent feasible and as otherwise required, the state board shall ensure that assessments developed, or contracted for pursuant to Section 60642.5, by the state are aligned with the statewide content and performance standards adopted pursuant to subdivision (a). The department, with the approval of the state board, shall periodically contract for a review of the achievement test for conformance with these standards.

(e) After adopting statewide content and performance standards, the state board shall review the existing curriculum frameworks for conformity with the new statewide standards and shall modify the curriculum frameworks where appropriate to bring them into alignment with the standards.

(f) The state board shall adopt regulations for the conduct and administration of the testing and assessment program.

(g) The state board shall adopt a regulation for minimum security procedures that test and assessment publishers and school districts must follow to ensure the security and integrity of test and assessment questions and materials.

(h) This section shall become operative July 1, 2007.

SEC. 9. Section 60605.6 of the Education Code is amended to read:

60605.6. Subject to the availability of funds in the annual Budget Act for this purpose, the Superintendent of Public Instruction, upon approval of the State Board of Education, shall contract for the development and distribution of workbooks, as follows:

(a) One workbook to be distributed to all pupils in the 10th grade. 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 2 to 11, inclusive. Each pupil in grades 2 to 11, inclusive, who is required to take the achievement tests described in Section 60642 or 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 inoperative on July 1, 2007, and, as of January 1, 2008, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2008, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 10. Section 60605.6 is added to the Education Code, to read:

60605.6. Subject to the availability of funds in the annual Budget Act for this purpose, the Superintendent of Public Instruction, upon approval of the State Board of Education, shall contract for the development and distribution of workbooks, as follows:

(a) One workbook to be distributed to all pupils in the 10th grade. 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 or 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 July 1, 2007.

SEC. 11. Section 60606 of the Education Code is amended to read:

60606. (a) After designating a test of academic achievement for use in grades 2 to 11, inclusive, pursuant to Section 60642, or adopting an assessment of applied academic skills for use in grades 4, 5, 8, and 10 pursuant to Section 60605, the State Board of Education shall submit each of those two instruments when designated or adopted to the Statewide Pupil Assessment Review Panel, which is hereby established, for review by the panel.

(b) The panel shall consist of six members. Three members shall be appointed by the Governor, one member shall be appointed by the Senate Committee on Rules, one member shall be appointed by the Speaker of the Assembly, and one member shall be appointed by the superintendent. A majority of the panel shall consist of parents whose children attend public schools in the state in kindergarten and grades 1 to 12, inclusive.

(c) Panel members shall serve two-year terms, without compensation. No panel member shall serve more than two consecutive terms.

(d) The panel shall review the two instruments specified in subdivision (a) in order to ensure that the content of the instruments complies with the requirements of Section 60614. Notwithstanding any other provision of law, the panel may meet in closed session with a publisher for the purpose of addressing questions and clarifying issues that relate to ensuring that the content of the publisher's test or assessment, as the case may be, comply with the requirements of Section 60614.

(e) The panel shall report its findings and recommendations to the state board within 10 days of its receipt of each instrument. If the panel fails to report within the required 10 days, the test or assessment shall be deemed acceptable to the panel.

(f) This section shall become inoperative on July 1, 2007, and, as of January 1, 2008, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2008, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 12. Section 60606 is added to the Education Code, to read:

60606. (a) After designating a test of academic achievement for use in grades 3 to 11, inclusive, pursuant to Section 60642, or adopting an assessment of applied academic skills for use in grades 4, 5, 8, and 10 pursuant to Section 60605, the State Board of Education shall submit each of those two instruments when designated or adopted to the Statewide Pupil Assessment Review Panel, which is hereby established, for review by the panel.

(b) The panel shall consist of six members. Three members shall be appointed by the Governor, one member shall be appointed by the Senate Committee on Rules, one member shall be appointed by the Speaker of the Assembly, and one member shall be appointed by the Superintendent of Public Instruction. A majority of the panel shall consist of parents whose children attend public schools in the state in kindergarten and grades 1 to 12, inclusive.

(c) Panel members shall serve two-year terms, without compensation. No panel member shall serve more than two consecutive terms.

(d) The panel shall review the two instruments specified in subdivision (a) in order to ensure that the content of the instruments complies with the requirements of Section 60614. Notwithstanding any other provision of law, the panel may meet in closed session with a publisher for the purpose of addressing questions and clarifying issues that relate to ensuring that the content of the publisher's test or assessment, as the case may be, comply with the requirements of Section 60614.

(e) The panel shall report its findings and recommendations to the state board within 10 days of its receipt of each instrument. If the panel fails to report within the required 10 days, the test or assessment shall be deemed acceptable to the panel.

(f) This section shall become operative July 1, 2007.

SEC. 13. Section 60607 of the Education Code is amended to read:

60607. (a) Each pupil shall have an individual record of accomplishment by the end of grade 12 that includes the results of the achievement test required and administered annually as part of the Standardized Testing and Reporting (STAR) Program established pursuant to Article 4 (commencing with Section 60640), results of end-of-course exams he or she has taken, and the vocational education certification exams he or she chose to take.

(b) It is the intent of the Legislature that school districts and schools use the results of the academic achievement tests administered annually as part of the statewide pupil assessment program to provide support to pupils and parents or guardians in order to assist pupils in strengthening their development as learners, and thereby to improve their academic achievement and performance in subsequent assessments.

(c) (1) Any pupil results or a record of accomplishment shall be private, and may not be released to any person, other than the pupil's parent or guardian and a teacher, counselor, or administrator directly involved with the pupil, without the express written consent of either the parent or guardian of the pupil if the pupil is a minor, or the pupil if the pupil has reached the age of majority or is emancipated.

(2) (A) Notwithstanding paragraph (1), a pupil or his or her parent or guardian may authorize the release of pupil results or a record of accomplishment to a postsecondary educational institution for the purposes of credit, placement, or admission.

(B) Notwithstanding paragraph (1), the results of an individual pupil on the California Standards Test may be released to a postsecondary educational institution for the purposes of credit,

placement, or admission.

SEC. 14. Section 60611 of the Education Code is amended to read:

60611. (a) A city, county, city and county, district superintendent of schools, or principal or teacher of any elementary or secondary school, including a charter school shall carry on any program of specific preparation of pupils for the statewide pupil assessment program or a particular test used therein.

(b) City, county, city and county, district superintendent of schools, principal, teacher of an elementary and secondary school, including a charter school, may use instructional materials provided by the department or its agents in the academic preparation of pupils for the statewide pupil assessment if those instructional materials are embedded in an instructional program that is intended to improve pupil learning.

SEC. 15. Section 60640 of the Education Code, as added by Chapter 773 of the Statutes of 2003, is amended to read:

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

(b) Commencing in the **2004**-05 fiscal year and each fiscal year thereafter, and 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 and 7 the achievement test designated by the State Board of Education pursuant to Section 60642 and 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 paragraph (17) of subsection (a) of Section 1412 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 2 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 2 to 11, inclusive, pursuant to the process used for designation of the assessment chosen in the 1997-98 fiscal year, as specified in Sections 60642 and 60643, as applicable.

(3) (A) The department shall use funds made available pursuant to Title VI of the federal No Child Left Behind Act of 2001 and appropriated by the annual Budget Act for the purpose of developing and adopting primary language assessments that are aligned to the

state academic content standards. Subject to the availability of funds, primary language assessments shall be developed and adopted for reading/language arts and mathematics in the dominant primary language of limited-English-proficient pupils. The dominant primary language shall be determined by the count in the annual language census of the primary language of each limited-English-proficient pupil enrolled in the California public schools.

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

(C) In choosing a contractor to develop a primary language assessment the State Board of Education shall consider the criteria for choosing a contractor or test publisher as specified by Sections 60642 and 60643, and as specified by Section 60642.5, as applicable.

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

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

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

(g) A pupil of limited English proficiency who is enrolled in any of grades 2 to 11, inclusive, shall be required to take a test in his or her primary language if a test is available, and if fewer than 12 months have elapsed after his or her initial enrollment in any public or nonpublic school in the state.

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

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

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

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

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

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

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

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

(k) This section shall become inoperative on July 1, 2007, and as of January 1, 2008, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2008, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 16. 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) Commencing in the 2007-08 fiscal year and each fiscal year thereafter, and 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 and 7 the achievement test designated by the State Board of Education pursuant to Section 60642 and 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 paragraph (17) of subsection (a) of Section 1412 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) At the option of the school district, a pupil with limited English proficiency who is enrolled in any of grades 3 to 11, inclusive, may take a second achievement test in his or her 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. 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 assessment chosen in the 1997-98 fiscal year, as specified by Sections 60642 and 60643, and as specified by Section 60642.5, as applicable.

(g) A pupil identified as limited English proficient pursuant to the administration of a test provided by Section 60810, who is enrolled in any of grades 3 to 11, inclusive, and has not been reclassified as proficient in English pursuant to reclassification procedures required to be developed by Section 313, shall be required to take a test in his or her primary language if a test is available and if fewer than 12 months have elapsed after his or her initial enrollment in any public school in the state.

(h) (1) The Superintendent of Public Instruction shall apportion funds to school districts to enable school districts to meet the requirements of subdivision (b), the alternative assessment required by subdivision (e), and subdivisions (f) and (g).

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

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

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

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

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



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

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

(k) The superintendent and the state board are authorized and encouraged to assist postsecondary educational institutions to use the California Standards Tests for academic credit, or placement, and admissions processes, or both purposes.

(l) The superintendent shall, with the approval of the state board, annually release to the public at least 25 percent of test items from the standards-based achievement test provided for in Section 60642.5 from the test administered in the previous year.

(m) This section shall become operative July 1, 2007.

SEC. 17. Section 60641 of the Education Code is amended to read:

60641. (a) The department shall ensure that school districts comply with each of the following requirements:

(1) The achievement test designated pursuant to Section 60642 and the standards-based achievement test provided for in Section 60642.5 are scheduled to be administered to all pupils during the period prescribed in subdivision (b) of Section 60640.

(2) The individual results of each pupil test administered pursuant to Section 60640 shall be reported, in writing, to the pupil's parent or guardian. The written report shall include a clear explanation of the purpose of the test, the pupil's score, and its intended use by the school district. This subdivision does not require teachers or other school district personnel to prepare individualized explanations of each pupil's test score.

(3) (A) The individual results of each pupil test administered pursuant to Section 60640 shall also be reported to the pupil's school and teachers. The school district shall include the pupil's test results in his or her pupil records. However, except as provided in this section, individual pupil test results may only be released with the permission of either the pupil's parent or guardian if the pupil is a minor, or the pupil if the pupil has reached the age of majority or is emancipated.

(B) Notwithstanding subparagraph (A), a pupil or his or her parent or guardian may authorize the release of individual pupil results to a postsecondary educational institution for the purpose of credit, placement, or admission.

(4) The districtwide, school-level, and grade-level results of the STAR Program in each of the grades designated pursuant to Section 60640, but not the score or relative position of any individually ascertainable pupil, shall be reported to the governing board of the school district at a regularly scheduled meeting, and the countywide, school-level, and grade-level results for classes and programs under the jurisdiction of the county office of education shall be similarly reported to the county board of education at a regularly scheduled meeting.

(b) The publisher designated pursuant to Section 60642 and the publisher of the standards-based achievement tests provided for in Section 60642.5 shall make the individual pupil, grade, school, school district, and state results available to the department pursuant to paragraph (9) of subdivision (a) of Section 60643 by August 8 of each year in which the achievement test is administered for those schools for which the last day of test administration, including makeup days, is on or before June 25. The department shall make the grade, school, school district, and state results available on the Internet by August 15 of each year in which the achievement test is administered for those schools for which the last day of test administration, including makeup days, is on or before June 25.

(c) The department shall take all reasonable steps to ensure that the results of the test for all pupils who take the test by June 25 are made available on the Internet by August 15, as set forth in subdivision (b).

(d) The department shall ensure that a California Standards Test that is augmented for the purpose of determining credit, placement, or admission of a pupil in a postsecondary educational institution inform a pupil in grade 11 that he or she may request that the results from that assessment be released to a postsecondary educational institution.

SEC. 18. Section 60642 of the Education Code, as added by Chapter 773 of the Statutes of 2003, is amended to read:

60642. (a) The Superintendent of Public Instruction and the State Board of Education may consider any evaluations of independent experts who have not been employed by a test publisher in the preceding 12 months regarding the suitability of the achievement tests submitted by publishers as required by subdivision (b) of Section 60605 for use as part of the STAR Program established by this article.

(b) Based upon a review of the achievement tests submitted and the recommendation made by the superintendent pursuant to subdivision (b) of Section 60605, the state board, in its sole discretion, based on the considerations set forth in Section 60644, shall designate for use as part of the STAR Program a single test in grades 3 and 7.

(c) The state board shall ensure that the achievement test designated pursuant to subdivision (b) contains the subject areas specified in subdivision (c) of Section 60603 for grades 3 and 7.

(d) The state board is hereby authorized to designate the achievement test to be administered pursuant to this article for more than one academic year subject to the availability of funds.

(e) The state board shall minimize, to the extent it deems feasible, the amount of testing time required by the assessment in subdivision (b) for those content areas for which there also exists a standards-based examination as provided for pursuant to Section 60642.5.

(f) This section shall become inoperative on July 1, 2007, and, as of January 1, 2008, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2008, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 19. Section 60643 of the Education Code is amended to read:

60643. (a) To be eligible for consideration under Section 60642 or 60642.5 by the State Board of Education, test publishers shall agree in writing each year to meet the following requirements, as applicable, if selected:

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

(2) With respect to selection under Section 60642.5, align the standards-based achievement test provided for in Section 60642.5 to the academically rigorous content and performance standards adopted by the State Board of Education.

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

(4) Provide valid and reliable individual pupil scores only in the content areas specified in subdivision (c) of Section 60642 to parents or guardians, teachers, and school administrators.

(5) Provide valid and reliable aggregate scores only in the content areas specified in subdivision (c) of Section 60642 to school districts and county boards of education in all of the following forms and formats:

(A) Grade level.

(B) School level.

- (C) District level.
- (D) Countywide.
- (E) Statewide.
- (F) Comparison of statewide scores relative to other states.

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

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

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

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

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

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

(d) Notwithstanding any other provision of law, the publisher of the achievement test designated pursuant to Section 60642, the publisher of the standards-based achievement test provided for in Section 60642.5, or any contractor under subdivision (f) shall comply with all of the conditions and requirements enumerated in subdivision (a), as applicable, to the satisfaction of the state board.

(e) (1) A publisher may not provide a test described in Section 60642, 60642.5, or 60650 or in subdivision (f) of Section 60640 for use in California public schools, unless the publisher enters into a written contract with the department as set forth in this subdivision.

(2) The department shall develop, and the state board shall approve, a contract to be entered into with any publisher pursuant to

paragraph (1). The department may develop the contract through negotiations with the publisher.

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

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

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

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

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

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

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

(B) Test materials production or publication.

(C) Delivery of test materials to school districts.

(D) Test processing, scoring, and analyses.

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

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

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

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

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

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

(g) This section shall become inoperative on July 1, 2007, and, as of January 1, 2008, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2008, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 20. Section 60643 is added to the Education Code, to read:

60643. (a) To be eligible for consideration under Section 60642 or 60642.5 by the State Board of Education, test publishers shall agree in writing each year to meet the following requirements, as applicable, if selected:

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

(2) With respect to selection under Section 60642.5, align the standards-based achievement test provided for in Section 60642.5 to the academically rigorous content and performance standards adopted by the state board.

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

(4) Provide valid and reliable individual pupil scores only in the content areas specified in subdivision (c) of Section 60642 to parents or guardians, teachers, and school administrators.

(5) Provide valid and reliable aggregate scores only in the content areas specified in subdivision (c) of Section 60642 to school districts and county boards of education in all of the following forms and formats:

(A) Grade level.

(B) School level.

(C) District level.

(D) Countywide.

(E) Statewide.

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

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

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

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

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

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

proxy for "economically disadvantaged" status pursuant to paragraph (7).

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

(d) Notwithstanding any other provision of law, the publisher of the achievement test designated pursuant to Section 60642, the publisher of the standards-based achievement test provided for in Section 60642.5, or any contractor under subdivision (f) shall comply with all of the conditions and requirements enumerated in subdivision (a), as applicable, to the satisfaction of the state board.

(e) (1) A publisher may not provide a test described in Section 60642, 60642.5, or 60650 or in subdivision (f) of Section 60640 for use in California public schools unless the publisher enters into a written contract with the department as set forth in this subdivision.

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

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

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

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

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

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

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

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

(B) Test materials production or publication.

(C) Delivery of test materials to school districts.

(D) Test processing, scoring, and analyses.

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

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

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

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

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

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

(g) This section shall become operative July 1, 2007.

SEC. 21. Section 60643.1 of the Education Code is amended to read:

60643.1. (a) (1) Commencing in the 1999-2000 school year, and each school year thereafter, the test publisher designated by the State Board of Education pursuant to Section 60642 shall make available a reading list on the Internet by June 1 of that 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 shall also include information related to the subject matter of each title. At a minimum, the reading list shall also categorize titles by subject matter and identify age-appropriate distinctions in the list.

(2) Commencing in the 1999-2000 school year, and each school year thereafter, the test publisher 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) Commencing in the 1999-2000 school year, and each school year thereafter, the test publisher 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 only become

operative 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 of Public Instruction shall jointly certify that the process used by the publisher to determine the reading levels of the corresponding reading list pursuant to paragraph (1) of subdivision (a) meets the following criteria:

(1) The process is educationally valid.

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

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

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

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

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

(e) This section shall become inoperative on July 1, 2007, and, as of January 1, 2008, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2008, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 22. Section 60643.1 is added to the Education Code, to read:

60643.1. (a) (1) Commencing in the 1999-2000 school year, and each school year thereafter, the test publisher designated by the State Board of Education pursuant to Section 60642 shall make available a reading list on the Internet by June 1 of that 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 3 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 shall also include information related to the subject matter of each title. At a minimum, the reading list shall also categorize titles by subject matter and identify age-appropriate distinctions in the list.

(2) Commencing in the 1999-2000 school year, and each school year thereafter, the test publisher 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) Commencing in the 1999-2000 school year, and each school year thereafter, the test publisher 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 only become operative 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 of Public Instruction shall jointly certify that the process used by the publisher to determine the reading levels of the corresponding reading list pursuant to paragraph (1) of subdivision (a) meets the following criteria:

(1) The process is educationally valid.

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

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

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

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

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

(e) This section shall become operative July 1, 2007.

SEC. 23. Section 60644 of the Education Code is amended to read:

60644. In designating an achievement test pursuant to Section 60642, the state board shall adopt only a nationally normed test that meets nationally recognized criteria for validity and reliability and shall consider each of the following criteria:

(a) Ability of the publisher to produce valid, reliable individual pupil scores.

(b) Quality and age of empirical data supporting national norm referenced data analysis of the proposed assessment.

(c) Ability to report results pursuant to the provisions of paragraphs (4) to (7), inclusive, of subdivision (a) of Section 60643 by August 8.

(d) Ability to report results that permit comparability between data from school districts' previous administration of standardized achievement tests, if feasible.

(e) Per-pupil cost estimates of administering the proposed assessment.

(f) The publisher's procedure for ensuring the security and integrity of test questions and materials.

(g) Experience in the successful conduct of testing programs

adopted and administered by other states. For experience to be considered, the number of grades and pupils tested shall be provided.

SEC. 24. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

BILL NUMBER: SB 233      CHAPTERED 10/11/01

CHAPTER 722

FILED WITH SECRETARY OF STATE    OCTOBER 11, 2001  
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PASSED THE SENATE    SEPTEMBER 14, 2001  
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AMENDED IN SENATE    MAY 2, 2001  
AMENDED IN SENATE    APRIL 19, 2001

INTRODUCED BY    Senator Alpert

FEBRUARY 14, 2001

An act to amend Sections 60601, 60605, 60607, 60630, 60641, 60642, 60642.5, 60643, 60643.5, and 60650 of, to add Sections 60605.6 and 60653 to, and to repeal Sections 60609 and 60640.1 of, the Education Code, relating to pupil testing.

LEGISLATIVE COUNSEL'S DIGEST

SB 233, Alpert. Pupil testing.

(1) Existing law repeals the provisions of the Leroy Greene California Assessment of Academic Achievement Act which consists in part of the Standardized Testing and Reporting (STAR) Program on January 1, 2002.

This bill would extend the repeal date to January 1, 2005. The bill would delete obsolete provisions regarding the assessment of applied academic skills that is no longer a part of the Leroy Greene California Assessment of Academic Achievement Act.

(2) Existing law, the Standardized Testing and Reporting Program, requires each school district, charter school, and county office of education to administer to each of its pupils in grades 2 to 11, inclusive, a designated achievement test and a standards-based achievement test. Existing law requires the State Board of Education to ensure that the achievement test for grades 9 to 11, inclusive, contain core curriculum areas consisting of reading, writing, mathematics, history/social science, and science.

This bill would instead require the achievement test to contain English and language arts, mathematics, and science and would also make other conforming changes. The bill would require the board to minimize the amount of testing time for content areas for which there already exists a standards-based examination, as specified.

(3) Existing law requires the Superintendent of Public Instruction, with approval of the State Board of Education, to provide for the development of an assessment instrument that measures the degree to which pupils are achieving the academically rigorous content standards and performance standards, to the extent standards have been adopted by the State Board of Education. Existing law requires the standards-based achievement test to include, at a minimum, a direct writing assessment once in elementary school and once in middle or junior high school and other items of applied academic skills if deemed valid and reliable.

This bill would name the standards-based achievement test the California Standards Tests and would require them to also include an assessment in history/social science in at least one elementary or middle school grade level selected by the State Board of Education and in science in at least one elementary or middle school grade level selected by the State Board of Education.

(4) Existing law requires the Superintendent of Public Instruction to prepare and submit to the Legislature, the State Board of Education, and each school district in the state an annual report containing an analysis, on a school-by-school basis, of the results and test scores of the assessment of applied academic skills and the achievement test.

This bill would delete the requirements that the report be submitted to each school district in the state and that the analysis be prepared on a school-by-school basis.

(5) Existing law established the Golden State Examination Program to administer the Golden State Examination to measure pupil achievement under statewide standards of competency in academic subjects.

This bill would instead require the examination to measure advanced pupil achievement on the academically rigorous content standards adopted by the State Board of Education and would require the examination to be administered in augmentation of standards-based achievement tests, as specified. The bill would require the State Department of Education, with approval of the State Board of Education, to contract for a study of the Golden State Examination to be completed by December 15, 2003, as specified. The bill would require a Golden State Examination to consist of some portion of the California Standards Test and additional Golden State Examination items in order to reduce testing time and in subjects for which a California Standards Test and a Golden State Examination exist.

(6) Existing law authorizes a school district to receive reimbursement for the costs of the STAR Program tests, as specified, for the 1997-98 fiscal year.

This bill would repeal this provision.

(7) Existing law requires the establishment of a high school exit examination and requires each pupil to successfully complete the examination as a condition of receiving a high school diploma.

This bill would require the State Board of Education to consider, to the extent feasible, the extent to which any exams authorized by the state can be consolidated, as specified.

(8) This bill would, subject to the availability of funds in the annual Budget Act for this purpose, require the Superintendent of Public Instruction, upon approval of the State Board of Education, to contract for the development and distribution of a workbook to be distributed to all pupils in the 10th grade that would contain information on the proficiency levels that must be demonstrated by pupils on the high school exit examination, and separate workbooks for each of grades 2 to 11, inclusive, for each pupil in grades 2 to 11, inclusive, who is required to take the STAR Program achievement tests.

(9) Existing law requires test publishers to agree to meet certain requirements in order to be eligible for consideration to contract with the state with regard to the statewide achievement test and the standards-based achievement test. Existing law requires the costs associated with test item development to be provided as a separate amount in the written contract between test publishers and the State Department of Education and prohibits the amortization of those costs across the number of tests to be administered.

This bill would delete the provisions regarding the costs of test

item development. The bill would authorize the State Department of Education, with the approval of the State Board of Education, to enter into a separate contract for the administration of any test that is part of the Leroy Greene California Assessment of Academic Achievement Act, including coordination of tests, assemblage of tests or test items, scoring, or reporting.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. (a) It is the intent of the Legislature to provide a system of individual pupil assessments that meets the different needs of the state, school administrators, teachers, parents and guardians, and pupils.

(b) It is the further intent of the Legislature that the pupil assessment system do each of the following:

(1) Emphasize standards-based tests that measure the achievement of pupils on the state's academic content and performance standards relative to nationally normed tests.

(2) Minimize the amount of instructional time spent on statewide testing by eliminating redundant tests and consolidating different state testing programs if the consolidated examination can achieve the purpose of the original examinations with equal rigor, reliability, and validity.

(3) Provide accountability in the elementary grades in history/social science and science with the addition of a standards-based test in each of these core areas in at least one upper elementary grade.

(4) Use a nationally normed test in high school science until a standards-based test can be developed that is appropriate for the range of science classes offered in California high schools for which there are no standards-based end-of-course examinations.

(5) Create a standards-based mathematics test available to pupils in grades 8 and 9 who have not yet completed coursework that would prepare them to take the Algebra I or Integrated I standards-based mathematics test.

(6) Decrease the amount of time in the statewide testing system dedicated to the nationally normed test by using shortened test forms where appropriate; by 2003, eliminates the history/social science nationally normed test in grades 9 to 11, inclusive, and uses a short form of a nationally normed mathematics test in grades 2 to 11, inclusive. No later than 2005, the State Board of Education shall make a finding regarding the feasibility of using a short form of a nationally normed test in English/language arts in grades 2 to 11, inclusive.

(7) Restructure the Golden State Examination to increase the potential use of this examination. Possible additional uses include determining college placement, credit, and admission. To reduce testing time and in subjects for which a California Standards Test and a Golden State Examination exist, a Golden State Examination should consist of some portion of a California Standards Test and additional Golden State Examination items. It is further the intent of the Legislature that the Golden State Examination program be continued only to the extent that the examination meets the same psychometric standards of other nationally accepted examinations used to measure advanced academic achievement.

(8) Allow the Superintendent of Public Instruction to recommend, and the State Board of Education to approve, a statewide master contract to execute the state testing system.

(9) Conduct a series of technical evaluations to ensure system coordination and coherency as well as technical validity and reliability. These evaluations shall include analyses regarding how well each of the components of the state testing system provide information about the degree to which pupils are learning the content of the state standards.

SEC. 2. Section 60601 of the Education Code is amended to read:

60601. This chapter shall remain in effect only until January 1, 2005, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2005, deletes or extends that date.

SEC. 3. Section 60605 of the Education Code is amended to read:

60605. (a) (1) (A) Not later than January 1, 1998, the State Board of Education shall adopt statewide academically rigorous content standards, pursuant to the recommendations of the Commission for the Establishment of Academic Content and Performance Standards, in the core curriculum areas of reading, writing, and mathematics to serve as the basis for assessing the academic achievement of individual pupils and of schools, school districts, and the California education system. Not later than November 1, 1998, the State Board of Education shall adopt these standards in the core curriculum areas of history/social science and science.

(B) The board shall adopt statewide performance standards in the core curriculum areas of reading, writing, mathematics, history/social science, and science based on the recommendations made by the Superintendent of Public Instruction and a contractor or contractors.

(C) The State Board of Education shall require the contractor or contractors to submit performance standards to the Superintendent of Public Instruction and the board not later than a specified date that allows sufficient opportunity for the Superintendent of Public Instruction to make a recommendation to the board and for the board to conduct regional hearings prior to the adoption of the performance standards.

(2) (A) The State Board of Education may modify any proposed content standards or performance standards prior to adoption and may adopt content and performance standards in individual core curriculum areas as those standards are submitted to the board. The performance standards shall be established against specific grade level benchmarks of academic achievement for each subject area tested and shall be based on the knowledge and skills that pupils will need in order to succeed in the information-based, global economy of the 21st century. These skills shall not include personal behavioral standards or skills, including, but not limited to, honesty, sociability, ethics, or self-esteem. The standards adopted pursuant to this section shall be for the purpose of guiding state decisions regarding the development, adoption, and approval of assessment instruments pursuant to this chapter and shall not be construed to mandate any actions or activities by school districts.

(B) Because these standards are models, the adoption of these standards is not subject to the Administrative Procedure Act. This subparagraph is declaratory of existing law.

(3) Before adopting academic content and performance standards, the board shall hold regional hearings for the purpose of giving parents and other members of the public the opportunity to comment on the proposed standards.

(b) (1) The State Board of Education shall require the State Department of Education to notify publishers of the opportunity to submit, for consideration by the State Board of Education pursuant to Section 60642, tests of achievement that include all of the basic

academic skills identified in subdivision (c) of Section 60603 in grades 2 to 8, inclusive, and the core curriculum areas of English and language arts, mathematics, and science in grades 9 to 11, inclusive.

(2) The Superintendent of Public Instruction shall recommend to the State Board of Education which achievement test to adopt pursuant to subdivision (b) of Section 60642.

(c) (1) The State Board of Education shall ensure that the statewide assessment system adopted pursuant to this chapter yields valid, reliable individual pupil scores and, where applicable, aggregate school scores, school district scores, and statewide scores of pupils and assesses basic academic skills and content standards, including the use of a direct writing assessment or other applied academic skills if deemed valid and reliable and if resources are made available for their use.

(2) Nothing in this subdivision shall be construed to prevent the State Board of Education from developing or adopting an assessment instrument that also contains assessments of basic academic skills.

(d) To the extent feasible and as otherwise required, the State Board of Education shall ensure that assessments developed, or contracted for pursuant to Section 60642.5, by the state are aligned with the statewide content and performance standards adopted pursuant to subdivision (a). The State Department of Education, with the approval of the State Board of Education, shall periodically contract for a review of the achievement test for conformance with these standards.

(e) After adopting statewide content and performance standards, the State Board of Education shall review the existing curriculum frameworks for conformity with the new statewide standards and shall modify the curriculum frameworks where appropriate to bring them into alignment with the standards.

(f) The State Board of Education shall adopt regulations for the conduct and administration of the testing and assessment program.

(g) The State Board of Education shall adopt a regulation for minimum security procedures that test and assessment publishers and school districts must follow to ensure the security and integrity of test and assessment questions and materials.

SEC. 4. Section 60605.6 is added to the Education Code, to read: 60605.6. Subject to the availability of funds in the annual Budget Act for this purpose, the Superintendent of Public Instruction, upon approval of the State Board of Education, shall contract for the development and distribution of workbooks, as follows:

(a) One workbook to be distributed to all pupils in the 10th grade. 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 of Education pursuant to Section 60605.

(b) Separate workbooks for each of grades 2 to 11, inclusive. Each pupil in grades 2 to 11, inclusive, who is required to take the achievement tests described in Section 60642 or 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 of Education 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 of Education adopted academic content standards.

SEC. 5. Section 60607 of the Education Code is amended to read:

60607. (a) Each pupil shall have an individual record of accomplishment by the end of grade 12 that includes the results of the achievement test required and administered annually as part of the standardized testing and reporting program established pursuant to Article 4 (commencing with Section 60640), results of end-of-course exams he or she has taken, and whatever vocational education certification exams he or she chose to take.

(b) It is the intent of the Legislature that school districts and schools use the results of the academic achievement tests administered annually as part of the statewide pupil assessment program to provide support to pupils and parents or guardians in order to assist pupils in strengthening their development as learners, and thereby to improve their academic achievement and performance in subsequent assessments.

(c) Any pupil results or record of achievement shall be private, and may not be released to any person, other than the pupil's parent or guardian and a teacher, counselor, or administrator directly involved with the pupil, without the express written consent of the parent or guardian of the pupil if the pupil is a minor or the pupil if the pupil has reached the age of majority or is emancipated.

SEC. 6. Section 60609 of the Education Code is repealed.

SEC. 7. Section 60630 of the Education Code is amended to read:

60630. (a) The Superintendent of Public Instruction shall prepare and submit an annual report to the Legislature and the State Board of Education containing an analysis of the results and test scores of the assessment of applied academic skills adopted pursuant to subdivision (c) of Section 60605 and the achievement test designated pursuant to Section 60642. The report simultaneously shall be made available in an electronic medium on the Internet. The analysis may include, but need not be limited to, the following factors:

(1) Financial characteristics, including specially funded programs.

(2) Pupil and parent characteristics.

(3) Staff characteristics.

(4) Instructional methodologies and materials.

(b) School districts shall submit to the State Department of Education whatever information the department deems necessary to carry out this section.

SEC. 8. Section 60640.1 of the Education Code is repealed.

SEC. 9. Section 60641 of the Education Code is amended to read:

60641. (a) The State Department of Education shall ensure that school districts comply with each of the following requirements:

(1) The achievement test designated pursuant to Section 60642 and the standards-based achievement test provided for in Section 60642.5 are scheduled to be administered to all pupils during the period prescribed in subdivision (b) of Section 60640.

(2) The individual results of each pupil test administered pursuant to Section 60640 shall be reported, in writing, to the pupil's parent or guardian. The written report shall include a clear explanation of the purpose of the test, the pupil's score, and its intended use by the school district. Nothing in this subdivision shall be construed to require teachers to prepare individualized explanations of each pupil's test score.

(3) The individual results of each pupil test administered pursuant to Section 60640 shall also be reported to the pupil's school and teachers. The school district shall include the pupil's



test results in his or her pupil records. However, except as provided in this section, individual pupil test results may only be released with the permission of the pupil's parent or guardian.

(4) The districtwide, school-level, and grade-level results of the STAR Program in each of the grades designated pursuant to Section 60640, but not the score or relative position of any individually ascertainable pupil, shall be reported to the governing board of the school district at a regularly scheduled meeting, and the countywide, school-level, and grade-level results for classes and programs under the jurisdiction of the county office of education shall be similarly reported to the county board of education at a regularly scheduled meeting.

(b) The publisher designated pursuant to Section 60642 and the publisher of the standards-based achievement tests provided for in Section 60642.5 shall make the individual pupil, grade, school, school district, and state results available to the State Department of Education pursuant to paragraph (9) of subdivision (a) of Section 60643 by August 8 of each year in which the achievement test is administered for those schools for which the last day of test administration, including makeup days, is on or before June 25. The State Department of Education shall make the grade, school, school district, and state results available on the Internet by August 15 of each year in which the achievement test is administered for those schools for which the last day of test administration, including makeup days, is on or before June 25.

(c) The department shall take all reasonable steps to ensure that the results of the test for all pupils who take the test by June 25 are made available on the Internet by August 15, as set forth in subdivision (b).

SEC. 10. Section 60642 of the Education Code is amended to read:

60642. (a) The Superintendent of Public Instruction and the State Board of Education may consider any evaluations of independent experts who have not been employed by a test publisher in the preceding 12 months regarding the suitability of the achievement tests submitted by publishers as required by subdivision (b) of Section 60605 for use as part of the STAR Program established by this article.

(b) Based upon a review of the achievement tests submitted and the recommendation made by the Superintendent of Public Instruction pursuant to subdivision (b) of Section 60605, the State Board of Education, in its sole discretion, based on the considerations set forth in Section 60644, shall designate for use as part of the STAR Program a single test in grades 2 to 11, inclusive.

(c) The State Board of Education shall ensure that the achievement test designated pursuant to subdivision (b) contains the subject areas specified in subdivision (c) of Section 60603 for grades 2 to 8, inclusive, and the core curriculum areas of English and language arts, mathematics, and science for grades 9 to 11, inclusive.

(d) The State Board of Education is hereby authorized to designate the achievement test to be administered pursuant to this article for more than one academic year subject to the availability of funds.

(e) The board shall minimize, to the extent it deems feasible, the amount of testing time required by the assessment in subdivision (b) for those content areas for which there also exists a standards-based examination as provided for pursuant to Section 60642.5.

SEC. 11. Section 60642.5 of the Education Code is amended to read:

60642.5. (a) The Superintendent of Public Instruction, with approval of the State Board of Education, shall provide for the

development of an assessment instrument, to be called the California Standards Tests, that measures the degree to which pupils are achieving the academically rigorous content standards and performance standards, to the extent standards have been adopted by the State Board of Education. This standards-based achievement test shall contain the subject areas specified in subdivision (c) of Section 60603 for grades 2 to 8, inclusive, and shall include an assessment in history/social science in at least one elementary or middle school grade level selected by the State Board of Education and science in at least one elementary or middle school grade level selected by the State Board of Education, and the core curriculum areas specified in subdivision (e) of Section 60603 for grades 9 to 11, inclusive, and shall include, at a minimum, a direct writing assessment once in elementary school and once in middle or junior high school and other items of applied academic skill if deemed valid and reliable and if resources are made available for their use.

(b) In approving a contract for the development or administration of the California Standards Tests, the State Board of Education shall consider each of the following criteria:

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

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

(3) The ability of the contractor to ensure alignment between the standards-based achievement test and the academically rigorous content and performance standards as those standards are adopted by the State Board of Education. This criterion shall include the ability of the contractor to implement a process to establish and maintain alignment between the test items and the standards.

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

(5) The contractor's procedures to ensuring the security and integrity of test questions and materials.

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

(c) The standards-based achievement tests may use items from other tests including items from the achievement test designated pursuant to Section 60642.

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

60643. (a) To be eligible for consideration under Section 60642 or 60642.5 by the State Board of Education, test publishers shall agree in writing each year to meet the following requirements, as applicable, if selected:

(1) Enter into an agreement, pursuant to subdivision (e) or (f), with the State Department of Education by October 15.

(2) With respect to selection under Section 60642.5, align the standards-based achievement test provided for in Section 60642.5 to the academically rigorous content and performance standards adopted by the State Board of Education.

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

(4) Provide valid and reliable individual pupil scores only in the content areas specified in subdivision (c) of Section 60642 to parents or guardians, teachers, and school administrators.

(5) Provide valid and reliable aggregate scores only in the content areas specified in subdivision (c) of Section 60642 to school districts and county boards of education in all of the following

forms and formats:

- (A) Grade level.
- (B) School level.
- (C) District level.
- (D) Countywide.
- (E) Statewide.
- (F) Comparison of statewide scores relative to other states.

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

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

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

(9) Provide information listed in paragraphs (5), (6), (7), and (8) to the State Board of Education and the State Department of Education in the medium requested by each entity, respectively.

(b) It is the intent of the Legislature that the publisher work with the Superintendent of Public Instruction and the State Board of Education in developing a methodology to disaggregate statewide scores as required in paragraphs (6) and (7) of subdivision (a), and in determining which variable indicated on the STAR testing document shall serve as a proxy for "economically disadvantaged" status pursuant to paragraph (7).

(c) Access to any information about individual pupils or their families shall be granted to the publisher only for purposes of correctly associating test results with the pupils who produced those results or for reporting and disaggregating test results as required by this section. School districts are prohibited from excluding a pupil from the test if a parent or parents decline to disclose income. Nothing in this chapter shall be construed to abridge or deny rights to confidentiality contained in the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Sec. 1232g) or other applicable provisions of state and federal law that protect the confidentiality of information collected by educational institutions.

(d) Notwithstanding any other provision of law, the publisher of the achievement test designated pursuant to Section 60642, the publisher of the standards-based achievement test provided for in Section 60642.5, or any contractor under subdivision (f) shall comply with all of the conditions and requirements enumerated in subdivision (a), as applicable, to the satisfaction of the State Board of Education.

(e) (1) A publisher may not provide a test described in Section 60642, 60642.5, or 60650 or in subdivision (f) of Section 60640 for use in California public schools unless the publisher enters into a

written contract with the State Department of Education as set forth in this subdivision.

(2) The State Department of Education shall develop, and the State Board of Education shall approve, a contract to be entered into with any publisher pursuant to paragraph (1). The department may develop the contract through negotiations with the publisher.

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

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

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

(6) The contracts shall establish the process and criteria by which the successful completion of each component task shall be recommended by the State Department of Education and approved by the State Board of Education.

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

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

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

(B) Test materials production or publication.

(C) Delivery of test materials to school districts.

(D) Test processing, scoring, and analyses.

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

(F) Reporting of test results to the State Department of Education, including, but not limited to, the electronic files required pursuant to this section.

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

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

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

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

the scope of the contract specified in this subdivision.

(f) The State Department of Education, with approval of the State Board of Education, may enter into a separate contract for the development or administration of any 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 any contract entered into pursuant to this subdivision.

SEC. 13. Section 60643.5 of the Education Code is amended to read:

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

(b) The State Department of Education shall monitor and report to the State Board of Education regarding the publisher's production, processing, and delivery system to ensure that a timely delivery of testing materials to all schools occurs during the 1999-2000 testing cycle.

SEC. 14. Section 60653 is added to the Education Code, to read:

60653. To reduce testing time and in subjects for which a California Standards Test and a Golden State Examination exist, a Golden State Examination shall consist of some portion of the California Standards Test and additional Golden State Examination items.

SEC. 15. Section 60650 of the Education Code is amended to read:

60650. There is hereby established the Golden State Examination Program for the purpose of administering the Golden State Examination to pupils enrolled in public high schools. The Golden State Examination shall measure advanced pupil achievement on the academically rigorous content standards adopted by the State Board of Education and shall be administered as an augmentation to the standards test provided in Section 60642.5 unless there is no standards test in the subject area being tested. With the approval of the State Board of Education, the State Department of Education shall, in consultation with the California State University System and the University of California, contract for a study to determine if Golden State Examinations meet the same psychometric standards of nationally accepted examinations used for determining college placement, credit, or admission. The study shall be completed by December 15, 2003. A special honors designation and insignia shall be adopted on a high school diploma for qualifying pupils. Participation in the Golden State Examination Program shall be voluntary on the part of each school district maintaining a high school. The governing board of each participating school district shall determine the extent to which pupils of the district shall be required to participate in the Golden State Examination.

BILL NUMBER: SB 245      CHAPTERED 06/15/01

CHAPTER 20

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PASSED THE ASSEMBLY MAY 24, 2001

AMENDED IN ASSEMBLY MAY 21, 2001

AMENDED IN SENATE APRIL 3, 2001

AMENDED IN SENATE MARCH 19, 2001

INTRODUCED BY    Senator O'Connell

FEBRUARY 14, 2001

An act to amend Sections 60604, 60640, 60641, and 60643 of the Education Code, relating to pupil testing, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 245, O'Connell. Pupil testing.

(1) Under existing law, the Leroy Greene California Assessment of Academic Achievement Act requires the Superintendent of Public Instruction to design and implement, a statewide pupil assessment program. Existing law requires the results of the achievement test administered pursuant to the Standardized Testing and Reporting Program to be returned to the school district in the same academic year in which the test was administered and no later than July 30 of the calendar year in which the test was administered.

This bill would, instead, require those test results to be returned to the district within the period of time specified by the State Board of Education.

(2) Under existing law, the Standardized Testing and Reporting Program requires each school district, charter school, and county office of education to administer to each of its pupils in grades 2 to 11, inclusive, an achievement test and a standards-based achievement test. Existing law requires the publisher of the tests and the school district to provide two makeup days for the testing of previously absent pupils no later than June 25. Existing law requires the publisher of the achievement test and standards-based test to make the individual pupil, grade, school, school district, and state results available to the State Board of Education by August 8 of each year when the achievement test is administered and available on the Internet by August 15 of that year.

This bill would instead require the publisher and the district to provide the makeup tests for absent pupils within the testing period established by the board. The bill would also require the publisher to make the test results available to the department by August 8 and the department to make results available on the Internet by August 15 only for those schools for which the last day of test administration, including makeup dates, is on or before June 25.

(3) This bill would declare that it is to take effect immediately as an urgency statute.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 60604 of the Education Code is amended to read:

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

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

(2) A method of working with publishers to ensure valid, reliable, and comparable individual, grade-level, school-level, district-level, county-level, and statewide scores in grades 2 to 11, inclusive, that is based on the achievement test designated pursuant to subdivision (b) of Section 60605.

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

(4) A statewide system that provides the results of testing in a manner that reflects the degree to which pupils are achieving the academically rigorous content and performance standards adopted by the State Board of Education.

(5) The alignment of assessment with the statewide academically rigorous content and performance standards adopted by the State Board of Education.

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

(7) The development of a contract or contracts with a publisher or publishers, after the approval of statewide academically rigorous content standards by the State Board of Education, for the development of performance standards and assessments of applied academic skills designed to test pupils' knowledge of academic skills and abilities to apply that knowledge and those skills in order to solve problems and communicate.

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

(c) The Superintendent of Public Instruction shall provide each school district with guidelines for professional development that are designed to assist classroom teachers to use the results of the assessments administered pursuant to this chapter to modify instruction for the purpose of improving pupil learning. These guidelines shall be developed in consultation with classroom teachers and approved by the State Board of Education before dissemination.

(d) The Superintendent of Public Instruction and the State Board of Education shall consider comments and recommendations from school districts and the public in the development, adoption, and approval of assessment instruments.

(e) The results of the achievement test administered pursuant to Article 4 (commencing with Section 60640) shall be returned to the school district within the period of time specified by the State Board of Education.

SEC. 2. 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) Commencing in the 1997-98 fiscal year and each fiscal year thereafter, and 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 achievement test designated by the State Board of Education pursuant to Section 60642 and the standards-based achievement test provided for in Section 60642.5. The State Board of Education 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 of Education in subdivision (b).

(d) The governing board of the school district may administer achievement tests in kindergarten and grade 1 or 12, or both, as it deems appropriate.

(e) Individuals with exceptional needs who have an explicit provision in their individualized education program that exempts them from the testing requirement of subdivision (b) shall be so exempt.

(f) At the school district's option, pupils of limited English proficiency who are enrolled in any of grades 2 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. Notwithstanding any other provision of law, the State Board of Education shall designate for use, as part of this program, a single primary language test in each language for which such a test is available for grades 2 to 11, inclusive, no later than November 14, 1998, pursuant to the process used for designation of the assessment chosen in the 1997-98 fiscal year, as specified in Sections 60642 and 60643, as applicable.

(g) Pupils of limited English proficiency who are enrolled in any of grades 2 to 11, inclusive, shall be required to take a test in their primary language if such a test is available, if fewer than 12 months have elapsed after their initial enrollment in any public school in the state.

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

(2) The State Board of Education shall annually establish the amount of funding to be apportioned to school districts for each test administered and shall annually establish the amount that each publisher shall be paid for each test administered under the agreements required pursuant to Section 60643. The amounts to be



paid to the publishers shall be determined by considering the cost estimates submitted by each publisher each September and the amount included in the Budget Act and by making allowance for the estimated costs to school districts for compliance with the requirements of subdivisions (b), (f), and (g).

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

(i) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation for the apportionments made pursuant to paragraph (1) of subdivision (h), and the payments made to the publishers under the contracts required pursuant to Section 60643 or subparagraph (C) of paragraph (1) of subdivision (a) of Section 60605 between the State Department of Education and the contractor, shall be deemed to be "General Fund revenues appropriated for school districts," as defined in subdivision (c) of Section 41202 of the Education Code, for the applicable fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIIIB," as defined in subdivision (e) of Section 41202 of the Education Code, for that fiscal year.

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

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

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

(3) The number of pupils in paragraph (1) who were exempted from the test pursuant to subdivision (e) of Section 60640.

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

SEC. 3. Section 60641 of the Education Code is amended to read:

60641. (a) The State Department of Education shall ensure that school districts comply with each of the following requirements:

(1) The achievement test designated pursuant to Section 60642 and the standards-based achievement test provided for in Section 60642.5 are scheduled to be administered to all pupils during the period prescribed in subdivision (b) of Section 60640.

(2) The individual results of each pupil test administered pursuant to Section 60640 shall be reported, in writing, to the pupil's parent or guardian. The written report shall include a clear explanation of the purpose of the test, the pupil's score, and its intended use by the school district. Nothing in this subdivision shall be construed to require teachers to prepare individualized explanations of each pupil's test score.

(3) The individual results of each pupil test administered pursuant to Section 60640 shall also be reported to the pupil's school and teachers. The school district shall include the pupil's test results in his or her pupil records. However, except as

provided in this section, individual pupil test results may only be released with the permission of the pupil's parent or guardian.

(4) The districtwide, school-level, and grade-level results of the STAR Program in each of the grades designated pursuant to Section 60640, but not the score or relative position of any individually ascertainable pupil, shall be reported to the governing board of the school district at a regularly scheduled meeting, and the countywide, school-level, and grade-level results for classes and programs under the jurisdiction of the county office of education shall be similarly reported to the county board of education at a regularly scheduled meeting. These results shall be reported at the same meeting at which the results of the assessments of applied academic skills are reported pursuant to Section 60609, when those assessments are implemented.

(b) The publisher designated pursuant to Section 60642 and the publisher of the standards-based achievement tests provided for in Section 60642.5 shall make the individual pupil, grade, school, school district, and state results available to the State Department of Education pursuant to paragraph (9) of subdivision (a) of Section 60643 by August 8 of each year in which the achievement test is administered for those schools for which the last day of test administration, including makeup days, is on or before June 25. The State Department of Education shall make the grade, school, school district, and state results available on the Internet by August 15 of each year in which the achievement test is administered for those schools for which the last day of test administration, including makeup days, is on or before June 25.

(c) The department shall take all reasonable steps to ensure that the results of the test for all pupils who take the test by June 25 are made available on the Internet by August 15, as set forth in subdivision (b).

SEC. 4. Section 60643 of the Education Code is amended to read:

60643. (a) To be eligible for consideration under Section 60642 or 60642.5 by the State Board of Education, test publishers shall agree in writing each year to meet the following requirements, if selected:

(1) Enter into an agreement, pursuant to subdivision (e), with the State Department of Education by November 15, for the 1999-2000 school year, or by October 15, for any school year thereafter.

(2) With respect to selection under Section 60642.5, align the standards-based achievement test provided for in Section 60642.5 to the academically rigorous content and performance standards adopted by the State Board of Education.

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

(4) Provide valid and reliable individual pupil scores only in the content areas specified in subdivision (c) of Section 60642 to parents or guardians, teachers, and school administrators.

(5) Provide valid and reliable aggregate scores only in the content areas specified in subdivision (c) of Section 60642 to school districts and county boards of education in all of the following forms and formats:

(A) Grade level.

(B) School level.

(C) District level.

(D) Countywide.

(E) Statewide.

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

(6) Provide disaggregated scores, based on limited-English-proficient status and nonlimited-English-proficient status. For purposes of this section, pupils with

"nonlimited-English-proficient status" shall include the total of those pupils who are English-only pupils, fluent-English-proficient pupils, and redesignated fluent-English-proficient pupils. These scores shall be provided to school districts and county boards of education in the same form and formats listed in paragraph (5).

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

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

(9) Provide information listed in paragraphs (5), (6), (7), and (8) to the State Board of Education and the State Department of Education in the medium requested by each entity, respectively.

(b) It is the intent of the Legislature that the publisher work with the Superintendent of Public Instruction and the State Board of Education in developing a methodology to disaggregate statewide scores as required in paragraphs (6) and (7) of subdivision (a), and in determining which variable indicated on the STAR testing document shall serve as a proxy for "economically disadvantaged" status pursuant to paragraph (7).

(c) Access to any information about individual pupils or their families shall be granted to the publisher only for purposes of correctly associating test results with the pupils who produced those results or for reporting and disaggregating test results as required by this section. School districts are prohibited from excluding a pupil from the test if a parent or parents decline to disclose income. Nothing in this chapter shall be construed to abridge or deny rights to confidentiality contained in the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Sec. 1232g) or other applicable provisions of state and federal law that protect the confidentiality of information collected by educational institutions.

(d) Notwithstanding any other provision of law, the publisher of the achievement test designated pursuant to Section 60642 and the publisher of the standards-based achievement test provided for in Section 60642.5 shall comply with all of the conditions and requirements enumerated in subdivision (a) to the satisfaction of the State Board of Education.

(e) (1) Commencing January 1, 2000, a publisher may not provide a test described in Section 60642 or 60642.5 or in subdivision (f) of Section 60640 for use in California public schools unless the publisher enters into a written contract with the State Department of Education as set forth in this subdivision.

(2) The State Department of Education shall develop, and the State Board of Education shall approve, a contract to be entered into with a publisher pursuant to paragraph (1). The department may develop the contract through negotiations with the publisher.

(3) For purposes of the contract authorized pursuant to this subdivision, the State Department of Education is exempt from the requirements of Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code and from the requirements of Article 6 (commencing with Section 999) of Chapter 6 of Division 4 of the

Military and Veterans Code.

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

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

(6) The contract shall establish the process and criteria by which the successful completion of each component task shall be recommended by the State Department of Education and approved by the State Board of Education.

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

(8) The costs associated with item development shall be provided as a separate amount and shall not be amortized across the number of tests to be administered.

(9) The contract shall specify the following component tasks that are separate and distinct:

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

(B) Test materials production or publication.

(C) Delivery of test materials to school districts.

(D) Test processing, scoring, and analyses.

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

(F) Reporting of test results to the State Department of Education, including, but not limited to, the electronic files required pursuant to this section.

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

(10) The contract shall specify the specific reports and data files that are to be provided to school districts by the publisher and the number of copies of each report or file to be provided.

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

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

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to help ensure that the achievement tests administered under the STAR Program and the results of those tests are based on accurate data and provided on a reasonable timetable, thereby increasing the accuracy of the results which may affect the types of

funding received by schools and the level of education received by pupils, it is necessary this act take effect immediately.

BILL NUMBER: SB 366      CHAPTERED 10/10/99

CHAPTER      **735**  
 FILED WITH SECRETARY OF STATE      OCTOBER 10, **1999**  
 APPROVED BY GOVERNOR      OCTOBER 7, **1999**  
 PASSED THE SENATE      SEPTEMBER 10, **1999**  
 PASSED THE ASSEMBLY      SEPTEMBER 9, **1999**  
 AMENDED IN ASSEMBLY      SEPTEMBER 7, **1999**  
 AMENDED IN ASSEMBLY      AUGUST 16, **1999**  
 AMENDED IN ASSEMBLY      JULY 8, **1999**  
 AMENDED IN ASSEMBLY      JULY 1, **1999**  
 AMENDED IN SENATE      JUNE 2, **1999**  
 AMENDED IN SENATE      APRIL 15, **1999**

INTRODUCED BY      Senator Alpert  
 (Coauthor:      Senator Poochigian)

FEBRUARY 11, **1999**

An act to amend Sections 60605, 60640, 60641, 60643, and 60644 of, to add Sections 60605.5 and 60643.1 to, and to repeal Section 60646 of, the Education Code, and to amend Section 11126 of the Government Code, relating to pupil testing, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 366, Alpert. Pupil testing.

Under the Leroy Greene California Assessment of Academic Achievement Act, the State Board of Education is required to adopt statewide performance standards in the core curriculum areas of reading, writing, and mathematics based on the recommendations made by a contractor or contractors no later than July 15, **1999**.

This bill would instead provide that the State Board of Education is required to adopt statewide performance standards in these core curriculum areas no later than December 31, **1999**.

This bill would require the State Board of Education to adopt a performance standards system that includes performance levels, performance level descriptors, test administration data from the applicable board adopted tests, and exemplars of pupil performance that exemplify the content and performance standards. The bill would require the State Board of Education to ensure that the performance standards system is aligned to the state's academically rigorous content standards.

Existing law requires the State Department of Education and the publisher of the achievement test that is part of the STAR Program to make the grade, school, school district, and state results available on the Internet by June 30 of each year in which the achievement test is administered.

This bill would instead require the test publisher to make the results available to the State Department of Education by July 8 of each year, require that the individual pupil results also be made available, and require the State Department of Education to make the grade, school, school district, and state results available on the Internet by July 15 of each year in which the achievement test is administered.

Under the STAR Program, the State Board of Education is required

to designate a single statewide achievement test in grades 2 to 11, inclusive. Existing law authorizes the State Department of Education to develop a standard agreement, subject to the approval of the State Board of Education, that all test publishers are required to use. Under existing law, to be eligible for consideration, test publishers are required, among other things, to enter into this standard agreement with each school district in the state that includes, among other things, the requirement that the publisher post a performance bond.

This bill would instead require the department to develop, and the State Board of Education to approve, a contract for these purposes. The bill would recast these provisions to require a test publisher to enter into the contract with the State Department of Education instead of with each school district and to require test publishers to provide valid and reliable individual pupil and aggregate scores in certain content areas.

This bill would delete the requirement of a performance bond and would make conforming changes.

This bill would exempt these contracts from requirements applicable to certain public contracts, would prescribe the contents of the contracts, would expand the law authorizing closed sessions related to pupil tests, would delete provisions authorizing the State Board of Education to adopt related regulations, and would make conforming changes.

This bill would require the State Board of Education to annually establish the minimum funding to be apportioned to school districts and to annually establish the amount per test administered that each publisher shall be paid pursuant to the contracts.

This bill would, commencing in the 1999-2000 school year, and each school year thereafter, and contingent upon a determination by the Director of Finance that funds are available to make an adjustment to funds apportioned to school districts for purposes of the testing program, require the test publisher to make available a reading list on the Internet, require the reading list to include an index that correlates ranges of pupil reading scores on the English language arts portion of the achievement test to titles of materials that would be suitable for pupils to read in order to improve their reading skills, and require the test publisher to 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 test and reading lists that can be distributed to pupils based on the ranges of scores on the English language arts portion of the test and the age of the pupil.

This bill would provide that certain statutory changes made by the bill do not apply to the 1999 STAR Program and would require the 1999 STAR Program be governed by specified statutes as they existed on January 1, 1999.

This bill would incorporate changes in Sections 60641 and 60643 of the Education Code proposed by AB 144 to be operative only if AB 144 and this bill are both enacted and become effective on or before January 1, 2000, and this bill is enacted last.

This bill would declare that it is to take effect immediately as an urgency statute.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 60605 of the Education Code, as amended by Chapter 78 of the Statutes of 1999, is amended to read:

60605. (a) (1) (A) Not later than January 1, 1998, the State Board of Education shall adopt statewide academically rigorous content standards, pursuant to the recommendations of the Commission for the Establishment of Academic Content and Performance Standards, in the core curriculum areas of reading, writing, and mathematics to serve as the basis for assessing the academic achievement of individual pupils and of schools, school districts, and the California education system. Not later than November 1, 1998, the State Board of Education shall adopt these standards in the core curriculum areas of history/social science and science. The performance standards and the assessments described in subdivision (c) may be developed concurrently, and shall be based on the content standards adopted by the board pursuant to this section.

(B) The board shall adopt statewide performance standards in the core curriculum areas of reading, writing, mathematics, history-social science, and science based on the recommendations made by a contractor or contractors. By November 15, 2000, the board shall complete the adoption of the portion of the pupil assessments described in subdivision (c) in the core curriculum areas of reading, writing, mathematics, history-social science, and science.

(C) In specifying timeframes for deliverables in the request for proposal developed pursuant to subdivision (i), the State Board of Education shall require the contractor or contractors to submit performance standards to the board not later than a specified date that allows sufficient opportunity for the board to conduct regional hearings prior to the adoption of the performance standards by the dates specified in subparagraph (B).

(2) (A) The State Board of Education may modify any proposed content standards or performance standards prior to adoption and may adopt content and performance standards in individual core curriculum areas as those standards are submitted to the board by the commission or the contractor. The performance standards shall be established against specific grade level benchmarks of academic achievement for each subject area tested and shall be based on the knowledge and skills that pupils will need in order to succeed in the information-based, global economy of the 21st century. These skills shall not include personal behavioral standards or skills, including, but not limited to, honesty, sociability, ethics, or self-esteem. The standards adopted pursuant to this section shall be for the purpose of guiding state decisions regarding the development, adoption, and approval of assessment instruments pursuant to this chapter and shall not be construed to mandate any actions or activities by school districts.

(B) Because these standards are models, the adoption of these standards is not subject to the Administrative Procedure Act. This subparagraph is declaratory of existing law.

(3) Before adopting academic content and performance standards, the board shall hold regional hearings for the purpose of giving parents and other members of the public the opportunity to comment on the proposed standards.

(b) (1) The State Board of Education shall require the State Department of Education to notify publishers of the opportunity to submit, for consideration by the State Board of Education pursuant to Section 60642, tests of achievement that include all of the basic academic skills identified in subdivision (c) of Section 60603 in grades 2 to 8, inclusive, and the core curriculum areas identified in subdivision (e) of Section 60603 in grades 9 to 11, inclusive.

(2) On or before October 31, 1997, the Superintendent of Public Instruction shall recommend to the State Board of Education which achievement test to adopt pursuant to subdivision (b) of Section



60642.

(c) (1) The State Board of Education shall adopt an assessment instrument that meets the objectives of Section 60602 and that yields valid, reliable estimates of school performance, school district performance, and statewide performance of pupils that, in grades 4, 5, 8, and 10, assess basic academic skills and incorporate the use of direct writing assessment and other assessments of applied academic skills.

(2) The State Board of Education shall annually require that each school district administer the statewide assessment pursuant to this subdivision to all pupils in grades 4, 5, 8, and 10. The core curriculum areas shall be addressed by that assessment. Notwithstanding any other provision of law, the assessment provided for under this subdivision shall address, in grade 4, only reading, written expression, and mathematics, and, in grade 5, only history/social science and science. Pupils in a given school shall be administered a portion of all subjects of the assessment that will be representative of all the assessment objectives, goals, and categories of items on the entire assessment in a manner that will produce results that are valid and reliable at the school and school district level. The State Department of Education may provide assistance to school districts in the implementation of the assessment established pursuant to this subdivision.

(3) Nothing in this subdivision shall be construed to prevent the State Board of Education from developing or adopting an assessment instrument that also contains assessments of basic academic skills.

(d) The State Board of Education shall adopt assessments pursuant to subdivision (c) that are aligned with the statewide content and performance standards adopted pursuant to subdivision (a). The State Board of Education shall not adopt an assessment pursuant to subdivision (c) for any core curriculum area until the statewide content standards for that core curriculum area have been adopted by the board pursuant to subdivision (a). The State Board of Education shall not award contracts for the development of performance standards and assessments pursuant to subdivision (c) for any core curriculum area until after adoption of statewide content standards for that core curriculum area.

(e) After adopting statewide content standards, the State Board of Education shall review the achievement test designated pursuant to Section 60642 for conformance with these statewide standards.

(f) After adopting statewide content and performance standards, the State Board of Education shall review the existing curriculum frameworks for conformity with the new statewide standards and shall modify the curriculum frameworks where appropriate to bring them into alignment with the standards.

(g) The State Board of Education shall adopt regulations for the conduct and administration of the testing and assessment program.

(h) The State Board of Education shall adopt a regulation for minimum security procedures that test and assessment publishers and school districts must follow to ensure the security and integrity of test and assessment questions and materials.

(i) Following consideration of recommendations of the Superintendent of Public Instruction, the State Board of Education shall award a contract or contracts to develop performance standards pursuant to subdivision (a) and instruments to be used for the purposes of subdivision (c), according to competitive bidding procedures.

(1) As part of this process, the board may convene an advisory panel composed of nationally recognized experts in pupil assessment. Two members of the panel shall be selected from a list of at least

10 nominees of the Superintendent of Public Instruction. This panel, if convened, shall assist the board and the Superintendent of Public Instruction in the preparation of the request or requests for proposals to develop performance standards and instruments for use as assessments of applied academic skills and in the review and rating of proposals that are submitted. The panel shall also assist the board and the Superintendent of Public Instruction in determining methods of ensuring that the achievement test designated pursuant to Section 60642 meets the requirements of Section 60644. The State Department of Education shall provide any necessary staff support for the work of the advisory committee.

(2) Any contractor to whom a contract is awarded pursuant to this subdivision shall assure that parents, classroom teachers, administrators, school district governing board members, and the general public are actively involved in the development of any assessment instruments.

(3) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, appropriations made for the payment of contracts awarded pursuant to this subdivision shall be deemed to be "General Fund revenues appropriated for school districts," as defined in subdivision (c) of Section 41202, for the applicable fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIIIIB," as defined in subdivision (e) of Section 41202, for that fiscal year.

(j) (1) Not less than 60 days before adopting the statewide pupil assessment pursuant to subdivision (c), the State Board of Education shall make the proposed assessment available for inspection by the public. The board shall adopt any proposed amendments or modifications to the assessment before this public inspection period so that the materials available for inspection are the same materials that the board shall consider for final adoption. This provision applies to subsequent amendments or modifications of the examination in addition to the initial adoption. The proposed assessment shall be available for inspection by the public for a reasonable period of time.

(2) The assessment adopted pursuant to subdivision (c) shall be available for inspection at each county superintendent of schools' office and within each school district at a centrally located site selected by the governing board of each school district. The governing board may also make the assessment available for public inspection at other locations within the school district. An assessment may not be copied or taken from the inspection site.

SEC. 2. Section 60605.5 is added to the Education Code, to read:

60605.5. (a) On or before November 15, 2001, the State Board of Education shall adopt a performance standards system that includes the following components:

(1) Performance levels.

(2) Performance level descriptors.

(3) Test administration data from the applicable State Board of Education adopted tests.

(4) Exemplars of pupil performance that exemplify the content and performance standards.

(b) The State Board of Education shall ensure that the performance standards system is aligned to the state's academically rigorous content standards.

SEC. 3. Section 60640 of the Education Code, as amended by Chapter 78 of the Statutes of 1999, is amended to read:

60640. (a) There is hereby established the Standardized Testing

and Reporting Program, to be known as the STAR Program.

(b) Commencing in the 1997-98 fiscal year and each fiscal year thereafter, and 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, before May 15, the achievement test designated by the State Board of Education pursuant to Section 60642.

(c) The publisher and the school district shall provide two makeup days for the testing of previously absent pupils no later than May 25.

(d) The governing board of the school district may administer achievement tests in kindergarten, and grade 1 or 12, or both, as it deems appropriate.

(e) Individuals with exceptional needs who have an explicit provision in their individualized education program that exempts them from the testing requirement of subdivision (b) shall be so exempt.

(f) At the school district's option, pupils of limited English proficiency who are enrolled in any of grades 2 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 subdivisions (b), (c), (d), and (e) of Section 60641. These primary language tests shall produce individual pupil scores that are valid and reliable. Notwithstanding any other provision of law, the State Board of Education shall designate for use, as part of this program, a single primary language test in each language for which such a test is available for grades 2 to 11, inclusive, no later than November 14, 1998, pursuant to the process used for designation of the assessment chosen in the 1997-98 fiscal year, as specified in Section 60642 and 60643, as applicable.

(g) Pupils of limited English proficiency who are enrolled in any of grades 2 to 11, inclusive, shall be required to take a test in their primary language if such a test is available, if fewer than 12 months have elapsed after their initial enrollment in any public school in the state.

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

(2) The State Board of Education shall annually establish the amount of funding to be apportioned to school districts for each test administered and shall annually establish the amount that each publisher shall be paid for each test administered under the agreements required pursuant to Section 60643. The amounts to be paid to the publishers shall be determined by considering the cost estimates submitted by each publisher each September and the amount included in the Budget Act and by making allowance for the estimated costs to school districts for compliance with the requirements of subdivisions (b), (f), and (g).

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

of the Legislature of the decision.

(i) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation for the apportionments made pursuant to paragraph (1) of subdivision (h), and the payments made to the publishers under the contract required pursuant to Section 60643 between the State Department of Education and the publisher, shall be deemed to be "General Fund revenues appropriated for school districts," as defined in subdivision (c) of Section 41202 of the Education Code, for the applicable fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202 of the Education Code, for that fiscal year.

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

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

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

(3) The number of pupils in paragraph (1) who were exempted from the test pursuant to subdivision (e) of Section 60640.

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

SEC. 4. Section 60641 of the Education Code is amended to read:

60641. The State Department of Education shall ensure that school districts comply with each of the following requirements:

(a) The achievement test designated pursuant to Section 60642 is scheduled to be administered to all pupils during the period prescribed in subdivision (b) of Section 60640.

(b) The individual results of each pupil test administered pursuant to Section 60640 shall be reported, in writing, to the pupil's parent or guardian. The written report shall include a clear explanation of the purpose of the test, the pupil's score, and its intended use by the school district. Nothing in this subdivision shall be construed to require teachers to prepare individualized explanations of each pupil's test score.

(c) The individual results of each pupil test administered pursuant to Section 60640 shall also be reported to the pupil's school and teachers. The school district shall include the pupil's test results in his or her pupil records. However, except as provided in this section, individual pupil test results may only be released with the permission of the pupil's parent or guardian.

(d) The districtwide, school-level, and grade-level results of the STAR Program in each of the grades designated pursuant to Section 60640, but not the score or relative position of any individually ascertainable pupil, shall be reported to the governing board of the school district at a regularly scheduled meeting, and the countywide, school-level, and grade-level results for classes and programs under the jurisdiction of the county office of education shall be similarly reported to the county board of education at a regularly scheduled meeting. These results shall be reported at the same meeting at which the results of the assessments of applied academic skills are reported pursuant to Section 60609, when those assessments are implemented.

(e) The publisher designated pursuant to Section 60642 shall make the individual pupil, grade, school, school district, and state results available to the State Department of Education pursuant to paragraph (8) of subdivision (a) of Section 60643 by July 8 of each

year in which the achievement test is administered. The State Department of Education shall make the grade, school, school district, and state results available on the Internet by July 15 of each year in which the achievement test is administered.

SEC. 4.5. Section 60641 of the Education Code is amended to read:

60641. The State Department of Education shall ensure that school districts comply with each of the following requirements:

(a) The achievement test designated pursuant to Section 60642 is scheduled to be administered to all pupils during the period prescribed in subdivision (b) of Section 60640.

(b) The individual results of each pupil test administered pursuant to Section 60640 shall be reported, in writing, to the pupil's parent or guardian. The written report shall include a clear explanation of the purpose of the test, the pupil's score, and its intended use by the school district. Nothing in this subdivision shall be construed to require teachers to prepare individualized explanations of each pupil's test score.

(c) The individual results of each pupil test administered pursuant to Section 60640 shall also be reported to the pupil's school and teachers. The school district shall include the pupil's test results in his or her pupil records. However, except as provided in this section, individual pupil test results may only be released with the permission of the pupil's parent or guardian.

(d) (1) (A) Except as provided in subparagraph (B), the districtwide, school-level, and grade-level results of the STAR Program in each of the grades designated pursuant to Section 60640, but not the score or relative position of any individually ascertainable pupil, shall be reported to the governing board of the school district at a regularly scheduled meeting.

(B) The scores of pupils with limited-English-proficient status who have been enrolled in the school district for fewer than 12 months shall not be included in the districtwide, school-level, or grade-level results of the STAR program.

(2) The countywide, school-level, and grade-level results for classes and programs under the jurisdiction of the county office of education shall be similarly reported to the county board of education at a regularly scheduled meeting.

(3) The results described in this subdivision shall be reported at the same meeting at which the results of the assessments of applied academic skills are reported pursuant to Section 60609, when those assessments are implemented.

(e) The publisher designated pursuant to Section 60642 shall make the individual pupil, grade, school, school district, and state results available to the State Department of Education pursuant to paragraph (8) of subdivision (a) of Section 60643 by July 8 of each year in which the achievement test is administered. The State Department of Education shall make the grade, school, school district, and state results available on the Internet by July 15 of each year in which the achievement test is administered.

SEC. 5. Section 60643 of the Education Code, as amended by Chapter 78 of the Statutes of 1999, is amended to read:

60643. (a) To be eligible for consideration under Section 60642 by the State Board of Education, test publishers shall agree in writing each year to meet the following requirements, if selected:

(1) Enter into an agreement, pursuant to subdivision (e), with the State Department of Education by November 15, for the 1999-2000 school year, or by October 15, for any school year thereafter.

(2) Align the achievement test to the academically rigorous content and performance standards adopted by the State Board of

## Education.

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

(4) Provide valid and reliable individual pupil scores only in the content areas specified in subdivision (c) of Section 60642 to parents or guardians, teachers, and school administrators.

(5) Provide valid and reliable aggregate scores only in the content areas specified in subdivision (c) of Section 60642 to school districts and county boards of education in all of the following forms and formats:

(A) Grade level.

(B) School level.

(C) District level.

(D) Countywide.

(E) Statewide.

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

(6) Provide disaggregated scores, based on limited-English-proficient status and non-limited-English-proficient status. For purposes of this section, pupils with "non-limited-English-proficient status" shall include the total of those pupils who are English-only pupils, fluent-English-proficient pupils, and redesignated fluent-English-proficient pupils. These scores shall be provided to school districts and county boards of education in the same form and formats listed in paragraph (5).

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

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

(9) Provide information listed in paragraphs (5), (6), (7), and (8) to the State Board of Education and the State Department of Education in the medium requested by each entity, respectively, by the date set forth in subdivision (e) of Section 60641.

(b) It is the intent of the Legislature that the publisher work with the Superintendent of Public Instruction and the State Board of Education in developing a methodology to disaggregate statewide scores as required in paragraphs (6) and (7) of subdivision (a), and in determining which variable indicated on the STAR testing document shall serve as a proxy for "economically disadvantaged" status pursuant to paragraph (7).

(c) Access to any information about individual pupils or their families shall be granted to the publisher only for purposes of correctly associating test results with the pupils who produced those results or for reporting and disaggregating test results as required by this section. School districts are prohibited from excluding a pupil from the test if a parent or parents decline to disclose income. Nothing in this chapter shall be construed to abridge or deny rights to confidentiality contained in the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Sec. 1232g) or other applicable provisions of state and federal law that protect the confidentiality of information collected by educational institutions.

(d) Notwithstanding any other provision of law, the publisher of

the achievement test designated pursuant to Section 60642 shall comply with all of the conditions and requirements enumerated in subdivision (a) to the satisfaction of the State Board of Education.

(e) (1) Commencing January 1, 2000, a publisher may not provide a test described in Section 60642 or in subdivision (f) of Section 60640 for use in California public schools unless the publisher enters into a written contract with the State Department of Education as set forth in this subdivision.

(2) The State Department of Education shall develop, and the State Board of Education shall approve, a contract to be entered into with a publisher pursuant to paragraph (1). The department may develop the contract through negotiations with the publisher.

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

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

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

(6) The contract shall establish the process and criteria by which the successful completion of each component task shall be recommended by the State Department of Education and approved by the State Board of Education.

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

(8) The costs associated with item development shall be provided as a separate amount and shall not be amortized across the number of tests to be administered.

(9) The contract shall specify the following component tasks that are separate and distinct:

(A) Development of new tests or test items as required by paragraph (3) of subdivision (a).

(B) Test materials production or publication.

(C) Delivery of test materials to school districts.

(D) Test processing, scoring, and analyses.

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

(F) Reporting of test results to the State Department of Education, including, but not limited to, the electronic files required pursuant to this section.

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

(10) The contract shall specify the specific reports and data files that are to be provided to school districts by the publisher

and the number of copies of each report or file to be provided.

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

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

SEC. 5.5. Section 60643 of the Education Code, as amended by Chapter 78 of the Statutes of 1999, is amended to read:

60643. (a) To be eligible for consideration under Section 60642 by the State Board of Education, test publishers shall agree in writing each year to meet the following requirements, if selected:

(1) Enter into an agreement, pursuant to subdivision (e), with the State Department of Education by November 15, for the 1999-2000 school year, or by October 15, for any school year thereafter.

(2) Align the achievement test to the academically rigorous content and performance standards adopted by the State Board of Education.

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

(4) Provide valid and reliable individual pupil scores only in the content areas specified in subdivision (c) of Section 60642 to parents or guardians, teachers, and school administrators.

(5) Provide valid and reliable aggregate scores only in the content areas specified in subdivision (c) of Section 60642 to school districts and county boards of education in all of the following forms and formats:

(A) Grade level.

(B) School level.

(C) District level.

(D) Countywide.

(E) Statewide.

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

(6) Provide disaggregated scores, based on limited-English-proficient status and non-limited-English-proficient status. Scores of pupils with a limited-English-proficient status should be further disaggregated, based on whether those pupils have been enrolled in the school district for fewer than 12 months. For purposes of this section, pupils with "non-limited-English-proficient status" shall include the total of those pupils who are English-only pupils, fluent-English-proficient pupils, and redesignated fluent-English-proficient pupils. These scores shall be provided to school districts and county boards of education in the same form and formats listed in paragraph (5).

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

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

(9) Provide information listed in paragraphs (5), (6), (7), and



(8) to the State Board of Education and to the State Department of Education in the medium requested by each entity, respectively, by the date set forth in subdivision (e) of Section 60641.

(b) It is the intent of the Legislature that the publisher work with the Superintendent of Public Instruction and the State Board of Education in developing a methodology to disaggregate statewide scores as required in paragraphs (6) and (7) of subdivision (a), and in determining which variable indicated on the STAR testing document shall serve as a proxy for "economically disadvantaged" status pursuant to paragraph (7).

(c) Access to any information about individual pupils or their families shall be granted to the publisher only for purposes of correctly associating test results with the pupils who produced those results or for reporting and disaggregating test results as required by this section. School districts are prohibited from excluding a pupil from the test if a parent or parents decline to disclose income. Nothing in this chapter shall be construed to abridge or deny rights to confidentiality contained in the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Sec. 1232g) or other applicable provisions of state and federal law that protect the confidentiality of information collected by educational institutions.

(d) Notwithstanding any other provision of law, the publisher of the achievement test designated pursuant to Section 60642 shall comply with all of the conditions and requirements enumerated in subdivision (a) to the satisfaction of the State Board of Education.

(e) (1) Commencing January 1, 2000, a publisher may not provide a test described in Section 60642 or in subdivision (f) of Section 60640 for use in California public schools unless the publisher enters into a written contract with the State Department of Education as set forth in this subdivision.

(2) The State Department of Education shall develop, and the State Board of Education shall approve, a contract to be entered into with a publisher pursuant to paragraph (1). The department may develop the contract through negotiations with the publisher.

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

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

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

(6) The contract shall establish the process and criteria by which the successful completion of each component task shall be recommended by the State Department of Education and approved by the State Board of Education.

(7) The publishers shall submit, as part of the contract

negotiation process, a proposed budget and invoice schedule that includes a detailed listing of the costs for each component task and the expected date of the invoice for each completed component task.

(8) The costs associated with item development shall be provided as a separate amount and shall not be amortized across the number of tests to be administered.

(9) The contract shall specify the following component tasks that are separate and distinct:

(A) Development of new tests or test items as required by paragraph (3) of subdivision (a).

(B) Test materials production or publication.

(C) Delivery of test materials to school districts.

(D) Test processing, scoring, and analyses.

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

(F) Reporting of test results to the State Department of Education, including, but not limited to, the electronic files required pursuant to this section.

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

(10) The contract shall specify the specific reports and data files that are to be provided to school districts by the publisher and the number of copies of each report or file to be provided.

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

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

SEC. 6. Section 60643.1 is added to the Education Code, to read:

60643.1. (a) (1) Commencing in the **1999**-2000 school year, and each school year thereafter, the test publisher designated by the State Board of Education pursuant to Section 60643 shall make available a reading list on the Internet by June 1. The reading list shall include an index that correlates ranges of pupil reading scores on the English language arts portion of the achievement test administered pursuant to subdivision (b) of Section 60640 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 shall also include information related to the subject matter of each title. At a minimum, the reading list shall also categorize titles by subject matter and identify age-appropriate distinctions in the list.

(2) Commencing in the **1999**-2000 school year, and each school year thereafter, the test publisher 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 administered pursuant to subdivision (b) of Section 60640.

(3) Commencing in the **1999**-2000 school year, and each school year thereafter, the test publisher 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 administered pursuant to subdivision (b) of Section 60640.

(4) The requirements of this subdivision shall only become operative 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 of Education and the Superintendent of Public Instruction shall jointly certify that the process used by the publisher to determine the reading levels of the corresponding reading list pursuant to paragraph (1) of subdivision (a) meets the following criteria:

(1) The process is educationally valid.

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

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

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

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

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

SEC. 7. Section 60644 of the Education Code is amended to read:

60644. In designating an achievement test pursuant to Section 60642, the State Board of Education shall adopt only a nationally normed test and shall consider each of the following criteria:

(a) Ability of the publisher to produce valid, reliable individual pupil scores.

(b) Quality and age of empirical data supporting national norm referenced data analysis of the proposed assessment.

(c) Ability to report results pursuant to the provisions of paragraphs (4) to (7), inclusive, of subdivision (a) of Section 60643 by July 8.

(d) Ability to report results that permit comparability between data from school districts' previous administration of standardized achievement tests, if feasible.

(e) Ability to provide results comparable with data from the 1998 benchmark year and administrations in subsequent years with the grade level competencies established pursuant to the academically rigorous content and performance standards adopted by the State Board of Education pursuant to Section 60605.

(f) (1) Ability to align the achievement test with academically rigorous content and performance standards as those standards are adopted by the State Board of Education. It is the intent of the Legislature that, to the extent feasible, the nationally-normed test shall be augmented with items that assess the specific grade-level content standards and produce valid and reliable scores for pupils

achievement for each of the State Board of Education designated performance standards adopted by the State Board of Education pursuant to subdivision (a) of Section 60605.

(2) Until the State Board of Education adopts academically rigorous content standards, the test shall be consistent with Section 60200.4, reasonably aligned with the state curriculum frameworks, and substantively aligned with the program advisories jointly adopted by the Superintendent of Public Instruction, the State Board of Education, and the Commission on Teacher Credentialing in 1996.

(g) Per-pupil cost estimates of administering the proposed assessment.

(h) The publisher's procedure for ensuring the security and integrity of test questions and materials.

(i) Experience in the successful conduct of testing programs adopted and administered by other states. For experience to be considered, the number of grades and pupils tested shall be provided.

SEC. 8. Section 60646 of the Education Code is repealed.

SEC. 9. Section 11126 of the Government Code is amended to read:

11126. (a) (1) Nothing in this article shall be construed to prevent a state body from holding closed sessions during a regular or special meeting to consider the appointment, employment, evaluation of performance, or dismissal of a public employee or to hear complaints or charges brought against that employee by another person or employee unless the employee requests a public hearing.

(2) As a condition to holding a closed session on the complaints or charges to consider disciplinary action or to consider dismissal, the employee shall be given written notice of his or her right to have a public hearing, rather than a closed session, and that notice shall be delivered to the employee personally or by mail at least 24 hours before the time for holding a regular or special meeting. If notice is not given, any disciplinary or other action taken against any employee at the closed session shall be null and void.

(3) The state body also may exclude from any public or closed session, during the examination of a witness, any or all other witnesses in the matter being investigated by the state body.

(4) Following the public hearing or closed session, the body may deliberate on the decision to be reached in a closed session.

(b) For the purposes of this section, "employee" shall not include any person who is elected to, or appointed to a public office by, any state body. However, officers of the California State University who receive compensation for their services, other than per diem and ordinary and necessary expenses, shall, when engaged in that capacity, be considered employees. Furthermore, for purposes of this section, the term employee shall include a person exempt from civil service pursuant to subdivision (e) of Section 4 of Article VII of the California Constitution.

(c) Nothing in this article shall be construed to do any of the following:

(1) Prevent state bodies that administer the licensing of persons engaging in businesses or professions from holding closed sessions to prepare, approve, grade, or administer examinations.

(2) Prevent an advisory body of a state body that administers the licensing of persons engaged in businesses or professions from conducting a closed session to discuss matters that the advisory body has found would constitute an unwarranted invasion of the privacy of an individual licensee or applicant if discussed in an open meeting, provided the advisory body does not include a quorum of the members of the state body it advises. Those matters may include review of an applicant's qualifications for licensure and an inquiry specifically

related to the state body's enforcement program concerning an individual licensee or applicant where the inquiry occurs prior to the filing of a civil, criminal, or administrative disciplinary action against the licensee or applicant by the state body.

(3) Prohibit a state body from holding a closed session to deliberate on a decision to be reached in a proceeding required to be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 or similar provisions of law.

(4) Grant a right to enter any correctional institution or the grounds of a correctional institution where that right is not otherwise granted by law, nor shall anything in this article be construed to prevent a state body from holding a closed session when considering and acting upon the determination of a term, parole, or release of any individual or other disposition of an individual case, or if public disclosure of the subjects under discussion or consideration is expressly prohibited by statute.

(5) Prevent any closed session to consider the conferring of honorary degrees, or gifts, donations, and bequests that the donor or proposed donor has requested in writing to be kept confidential.

(6) Prevent the Alcoholic Beverage Control Appeals Board from holding a closed session for the purpose of holding a deliberative conference as provided in Section 11125.

(7) (A) Prevent a state body from holding closed sessions with its negotiator prior to the purchase, sale, exchange, or lease of real property by or for the state body to give instructions to its negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease.

(B) However, prior to the closed session, the state body shall hold an open and public session in which it identifies the real property or real properties that the negotiations may concern and the person or persons with whom its negotiator may negotiate.

(C) For purposes of this paragraph, the negotiator may be a member of the state body.

(D) For purposes of this paragraph, "lease" includes renewal or renegotiation of a lease.

(E) Nothing in this paragraph shall preclude a state body from holding a closed session for discussions regarding eminent domain proceedings pursuant to subdivision (e).

(8) Prevent the California Postsecondary Education Commission from holding closed sessions to consider matters pertaining to the appointment or termination of the Director of the California Postsecondary Education Commission.

(9) Prevent the Council for Private Postsecondary and Vocational Education from holding closed sessions to consider matters pertaining to the appointment or termination of the Executive Director of the Council for Private Postsecondary and Vocational Education.

(10) Prevent the Franchise Tax Board from holding closed sessions for the purpose of discussion of confidential tax returns or information the public disclosure of which is prohibited by law, or from considering matters pertaining to the appointment or removal of the Executive Officer of the Franchise Tax Board.

(11) Require the Franchise Tax Board to notice or disclose any confidential tax information considered in closed sessions, or documents executed in connection therewith, the public disclosure of which is prohibited pursuant to Article 2 (commencing with Section 19542) of Chapter 7 of Part 10.2 of the Revenue and Taxation Code.

(12) Prevent the Board of Corrections from holding closed sessions when considering reports of crime conditions under Section 6027 of the Penal Code.

(13) Prevent the State Air Resources Board from holding closed

sessions when considering the proprietary specifications and performance data of manufacturers.

(14) Prevent the State Board of Education or the Superintendent of Public Instruction, or any committee advising the board or the superintendent, from holding closed sessions on those portions of its review of assessment instruments pursuant to Chapter 5 (commencing with Section 60600) of, or pursuant to Chapter 8 (commencing with Section 60850) of, Part 33 of the Education Code during which actual test content is reviewed and discussed. The purpose of this provision is to maintain the confidentiality of the assessments under review.

(15) Prevent the California Integrated Waste Management Board or its auxiliary committees from holding closed sessions for the purpose of discussing confidential tax returns, discussing trade secrets or confidential or proprietary information in its possession, or discussing other data, the public disclosure of which is prohibited by law.

(16) Prevent a state body that invests retirement, pension, or endowment funds from holding closed sessions when considering investment decisions. For purposes of consideration of shareholder voting on corporate stocks held by the state body, closed sessions for the purposes of voting may be held only with respect to election of corporate directors, election of independent auditors, and other financial issues that could have a material effect on the net income of the corporation. For the purpose of real property investment decisions that may be considered in a closed session pursuant to this paragraph, a state body shall also be exempt from the provisions of paragraph (7) relating to the identification of real properties prior to the closed session.

(17) Prevent a state body, or boards, commissions, administrative officers, or other representatives that may properly be designated by law or by a state body, from holding closed sessions with its representatives in discharging its responsibilities under Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 as the sessions relate to salaries, salary schedules, or compensation paid in the form of fringe benefits. For the purposes enumerated in the preceding sentence, a state body may also meet with a state conciliator who has intervened in the proceedings.

(d) (1) Notwithstanding any other provision of law, any meeting of the Public Utilities Commission at which the rates of entities under the commission's jurisdiction are changed shall be open and public.

(2) Nothing in this article shall be construed to prevent the Public Utilities Commission from holding closed sessions to deliberate on the institution of proceedings, or disciplinary actions against any person or entity under the jurisdiction of the commission.

(e) (1) Nothing in this article shall be construed to prevent a state body, based on the advice of its legal counsel, from holding a closed session to confer with, or receive advice from, its legal counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the state body in the litigation.

(2) For purposes of this article, all expressions of the lawyer-client privilege other than those provided in this subdivision are hereby abrogated. This subdivision is the exclusive expression of the lawyer-client privilege for purposes of conducting closed session meetings pursuant to this article. For purposes of this subdivision, litigation shall be considered pending when any of the following circumstances exist:

(A) An adjudicatory proceeding before a court, an administrative body exercising its adjudicatory authority, a hearing officer, or an arbitrator, to which the state body is a party, has been initiated formally.

(B) (i) A point has been reached where, in the opinion of the state body on the advice of its legal counsel, based on existing facts and circumstances, there is a significant exposure to litigation against the state body.

(ii) Based on existing facts and circumstances, the state body is meeting only to decide whether a closed session is authorized pursuant to clause (i).

(C) (i) Based on existing facts and circumstances, the state body has decided to initiate or is deciding whether to initiate litigation.

(ii) The legal counsel of the state body shall prepare and submit to it a memorandum stating the specific reasons and legal authority for the closed session. If the closed session is pursuant to paragraph (1), the memorandum shall include the title of the litigation. If the closed session is pursuant to subparagraph (A) or (B), the memorandum shall include the existing facts and circumstances on which it is based. The legal counsel shall submit the memorandum to the state body prior to the closed session, if feasible, and in any case no later than one week after the closed session. The memorandum shall be exempt from disclosure pursuant to Section 6254.25.

(iii) For purposes of this subdivision, "litigation" includes any adjudicatory proceeding, including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator.

(iv) Disclosure of a memorandum required under this subdivision shall not be deemed as a waiver of the lawyer-client privilege, as provided for under Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code.

(f) In addition to subdivisions (a), (b), and (c), nothing in this article shall be construed to do any of the following:

(1) Prevent a state body operating under a joint powers agreement for insurance pooling from holding a closed session to discuss a claim for the payment of tort liability or public liability losses incurred by the state body or any member agency under the joint powers agreement.

(2) Prevent the examining committee established by the State Board of Forestry and Fire Protection, pursuant to Section 763 of the Public Resources Code, from conducting a closed session to consider disciplinary action against an individual professional forester prior to the filing of an accusation against the forester pursuant to Section 11503.

(3) Prevent an administrative committee established by the State Board of Accountancy pursuant to Section 5020 or 5020.3 of the Business and Professions Code from conducting a closed session to consider disciplinary action against an individual accountant prior to the filing of an accusation against the accountant pursuant to Section 11503. Nothing in this article shall be construed to prevent an examining committee established by the Board of Accountancy pursuant to Section 5023 of the Business and Professions Code from conducting a closed hearing to interview an individual applicant or accountant regarding the applicant's qualifications.

(4) Prevent a state body, as defined in Section 11121.2, from conducting a closed session to consider any matter that properly could be considered in closed session by the state body whose authority it exercises.

(5) Prevent a state body, as defined in Section 11121.7, from conducting a closed session to consider any matter that properly could be considered in a closed session by the body defined as a state body pursuant to Section 11121, 11121.2, or 11121.5.

(6) Prevent a state body, as defined in Section 11121.8, from conducting a closed session to consider any matter that properly could be considered in a closed session by the state body it advises.

(7) Prevent the State Board of Equalization from holding closed sessions for either of the following:

(A) When considering matters pertaining to the appointment or removal of the Executive Secretary of the State Board of Equalization.

(B) For the purpose of hearing confidential taxpayer appeals or data, the public disclosure of which is prohibited by law.

(8) Require the State Board of Equalization to disclose any action taken in closed session or documents executed in connection with that action, the public disclosure of which is prohibited by law pursuant to Sections 15619 and 15641 of this code and Sections 833, 7056, 8255, 9255, 11655, 30455, 32455, 38705, 38706, 43651, 45982, 46751, 50159, 55381, and 60609 of the Revenue and Taxation Code.

(9) Prevent the California Earthquake Prediction Evaluation Council, or other body appointed to advise the Director of the Office of Emergency Services or the Governor pursuant to Section 8590 concerning matters relating to volcanic or earthquake predictions, from holding closed sessions when considering the evaluation of possible predictions.

(g) This article shall not prevent either of the following:

(1) The Teachers' Retirement Board or the Board of Administration of the Public Employees' Retirement System from holding closed sessions when considering matters pertaining to the recruitment, appointment, employment, or removal of the chief executive officer or when considering matters pertaining to the recruitment or removal of the Chief Investment Officer of the State Teachers' Retirement System or the Public Employees' Retirement System.

(2) The Commission on Teacher Credentialing from holding closed sessions when considering matters relating to the recruitment, appointment, or removal of its executive director.

SEC. 10. (a) The statutory changes made by the act adding this section to Sections 60640, 60641, 60643, and 60644 and the repeal by this bill of Section 60646 do not apply to the testing program conducted in 1999 and authorized pursuant to Article 4 (commencing with Section 60640) of Chapter 5 of Part 33 of the Education Code.

(b) Notwithstanding Chapter 78 of the Statutes of 1999, Sections 60640, 60641, 60643, 60644, and 60646, as those sections existed on January 1, 1999, shall govern the testing program conducted in 1999 and authorized pursuant to Article 4 (commencing with Section 60640).

SEC. 11. Section 4.5 of this bill incorporates amendments to Section 60641 of the Education Code proposed by both this bill and AB 144. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, but this bill becomes operative first, (2) each bill amends Section 60641 of the Education Code, and (3) this bill is enacted after AB 144, in which case Section 60641 of the Education Code, as amended by Section 4 of this bill, shall remain operative only until the operative date of AB 144, at which time Section 4.5 of this bill shall become operative.

SEC. 12. Section 5.5 of this bill incorporates amendments to Section 60643 of the Education Code proposed by both this bill and AB



144. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, but this bill becomes operative first, (2) each bill amends Section 60643 of the Education Code, and (3) this bill is enacted after AB 144, in which case Section 60643 of the Education Code, as amended by Section 5 of this bill, shall remain operative only until the operative date of AB 144, at which time Section 5.5 of this bill shall become operative.

SEC. 13. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

To ensure the orderly operation of the elementary and secondary schools in the state, it is necessary for this act to take effect immediately.

BILL NUMBER: SB 376      CHAPTERED 10/10/97

CHAPTER      **828**  
 FILED WITH SECRETARY OF STATE      OCTOBER 10, 1997  
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 AMENDED IN ASSEMBLY      JUNE 17, 1997  
 AMENDED IN ASSEMBLY      MAY 28, 1997  
 AMENDED IN SENATE      APRIL 1, 1997

INTRODUCED BY Senator Alpert  
 (Principal coauthors: Assembly Members Mazzoni and Pacheco)  
 (Coauthor: Senator McPherson)  
 (Coauthors: Assembly Members Baldwin, Frusetta, and Prenter)

FEBRUARY 13, 1997

An act to amend Sections 33050, 60603, 60604, 60605, 60606, 60607, 60613, 60616, and 60630 of, and to repeal and add Article 4 (commencing with Section 60640) of Chapter 5 of Part 33 of, the Education Code, relating to education, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 376, Alpert. Education: academic assessment and performance standards.

(1) Existing law authorizes the State Board of Education, upon the request of a governing board of a school district or a county board of education, to waive all or a part of any provision of the Education Code or any regulation adopted by the State Board of Education that implements a provision of the Education Code, except as specified.

This bill would prohibit the State Board of Education from approving a waiver relating to the requirements of the Standardized Testing and Reporting (STAR) Program established by the bill.

(2) Existing law, known as the Leroy Greene California Assessment of Academic Achievement Act (Assessment Act), among other things, requires the State Board of Education to adopt statewide academically rigorous content and performance standards, in all core curriculum areas, pursuant to the recommendations of the Commission for the Establishment of Academic Content and Performance Standards, no later than January 1, 1998, to serve as the basis for assessing academic achievement. The Assessment Act provides, among other things, that, commencing with the 1995-96 fiscal year, under the pupil testing incentive program of the Assessment Act, each school district that certifies to the Superintendent of Public Instruction that they will administer tests to all of their pupils in grades 2 to 10, inclusive, or in as many of those grades as are served by the school district, are apportioned a specified amount per pupil tested.

This bill would specify that the State Board of Education shall

adopt statewide academically rigorous content and performance standards in the core curriculum areas of reading, writing, and mathematics no later than January 1, 1998, and in the core curriculum areas of history/social science and science no later than November 1, 1998.

This bill, in effect, would amend the Assessment Act to repeal the pupil testing incentive program and instead would establish the STAR Program in grades 2 to 11, inclusive, as specified. The bill would specify the provisions with which school districts would be required to comply in the administration of achievement tests under the STAR Program. The bill would provide for the reporting of the achievement test results, as specified. Because the bill would impose new responsibilities on school districts, it would constitute a state-mandated local program.

This bill would make other, related changes.

(3) 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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

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.

(4) This bill would declare that it is to take effect immediately as an urgency statute.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 33050 of the Education Code, as amended by Chapter 299 of the Statutes of 1997, is amended to read:

33050. (a) The governing board of a school district or a county board of education may, on a districtwide or countywide basis or on behalf of one or more of its schools or programs, after a public hearing on the matter, request the State Board of Education to waive all or part of any section of this code or any regulation adopted by the State Board of Education that implements a provision of this code that may be waived, except:

- (1) Article 1 (commencing with Section 15700) and Article 2 (commencing with Section 15780) of Chapter 6 of Part 10.
- (2) Chapter 8 (commencing with Section 16000) and Chapter 9 (commencing with Section 16400) of Part 10.
- (3) Chapter 22 (commencing with Section 17700), Chapter 23 (commencing with Section 17760), and Chapter 25 (commencing with Section 17785) of Part 10.
- (4) Part 13 (commencing with Section 22000).
- (5) Section 35735.1.
- (6) Paragraph (8) of subdivision (a) of Section 37220.
- (7) The following provisions of Part 23:
  - (A) Chapter 1 (commencing with Section 39000).
  - (B) Article 1 (commencing with Section 39100) to Article 6 (commencing with Section 39210), inclusive, of Chapter 2.
  - (C) Section 39248; Sections 39313 to 39325, inclusive; Sections 39360.5 and 39363 and subdivision (a) of Section 39363.5; and Sections 39618 to 39621, inclusive.
- (8) Sections 52163, 52165, 52166, and 52178.

(9) Article 3 (commencing with Section 52850) of Chapter 12 of Part 28.

(10) The identification and assessment criteria relating to any categorical aid program, including Sections 52164.1 and 52164.6.

(11) Sections 41000 to 41360, inclusive; Sections 41420 to 41423, inclusive; Sections 41600 to 41866, inclusive; Sections 41920 to 42911, inclusive; Article 3 (commencing with Section 44930) of Chapter 4 of Part 25; Part 26 (commencing with Section 46000) and Chapter 6 (commencing with Section 48900) and Chapter 6.5 (commencing with Section 49060) of Part 27; or regulations in Title 5 of the California Code of Regulations adopted pursuant to Article 3 (commencing with Section 44930) of Chapter 4 of Part 25.

(12) Section 51513.

(13) Chapter 6.10 (commencing with Section 52120) of Part 28, relating to the Class Size Reduction Program.

(14) Section 56364.1, except that this restriction shall not prohibit the State Board of Education from approving any waiver of Section 56364 relating to full inclusion.

(15) Article 4 (commencing with Section 60640) of Chapter 5 of Part 33, relating to the STAR Program, and any other provisions of Chapter 5 (commencing with Section 60600) of Part 33 that establish requirements for the STAR Program.

(b) Any waiver of provisions related to the programs identified in Section 52851 shall be granted only pursuant to Article 3 (commencing with Section 52850) of Chapter 12 of Part 28.

(c) The waiver of an advisory committee required by law shall be granted only pursuant to Article 4 (commencing with Section 52870) of Chapter 12 of Part 28.

(d) Any request for a waiver submitted by the governing board of a school district or a county board of education pursuant to subdivision (a) shall include a written statement as to (1) whether the exclusive representative of employees, if any, as provided in Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, participated in the development of the waiver and (2) the exclusive representative's position regarding the waiver.

(e) Any request for a waiver submitted pursuant to subdivision (a) relating to a regional occupational center or program established pursuant to Article 1 (commencing with Section 52300) of Chapter 9 of Part 28, that is operated by a joint powers entity established pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code, shall be submitted as a joint waiver request for each participating school district and shall meet both of the following conditions:

(1) Each joint waiver request shall comply with all of the requirements of this article.

(2) The submission of a joint waiver request shall be approved by a unanimous vote of the governing board of the joint powers agency.

(f) The governing board of any school district requesting a waiver under this section of any provision of Article 5 (commencing with Section 39390) of Chapter 3 of Part 23 shall provide written notice of any public hearing it conducted pursuant to subdivision (a), at least 30 days prior to the hearing, to each public agency identified under Section 39394.

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

60603. As used in this chapter:

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

(b) "Assessment of applied academic skills" means a form of

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

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

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

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

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

(g) "End of course exam" means a comprehensive and challenging assessment of pupil achievement in a particular subject area or discipline such as the Golden State Exams.

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

(i) "Publisher" means a commercial publisher or any other public or private entity, other than the State Department of Education, which is able to provide tests or test items that meet the requirements of this chapter.

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

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

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

(1) A plan for producing valid, reliable, and comparable individual pupil scores in grades 2 to 11, inclusive, and a comprehensive analysis of these scores based on the results of the achievement test designated by the State Board of Education that assesses a broad range of basic academic skills pursuant to the Standardized Testing and Reporting (STAR) Program established by Article 4 (commencing with Section 60640) and the assessment established pursuant to subdivision (c) of Section 60605.

(2) A method of working with publishers to ensure valid, reliable,

and comparable individual, grade-level, school-level, district-level, county-level, and statewide scores in grades 2 to 11, inclusive, that is based on the achievement test designated pursuant to subdivision (b) of Section 60605 and that, in the grade levels and subject areas specified in subdivision (c) of Section 60605, ensures valid, reliable and comparable school-level, district-level, county-level, and statewide scores in the assessments administered pursuant to subdivision (c) of Section 60605.

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

(4) A statewide system that provides the results of testing in a manner that reflects the degree to which pupils are achieving the academically rigorous content and performance standards adopted by the State Board of Education.

(5) The alignment of assessment with the statewide academically rigorous content and performance standards adopted by the State Board of Education.

(6) The active, ongoing involvement of parents, classroom teachers, administrators, other educators, governing board members of school districts, and the public in all phases of the design and implementation of the statewide pupil assessment program and the development of assessment instruments pursuant to the requirements of subdivision (c) of Section 60605.

(7) The development of a contract with a publisher or publishers, after the approval of statewide academically rigorous content and performance standards by the State Board of Education, for the development of assessments of applied academic skills designed to test pupils' knowledge of academic skills and abilities to apply that knowledge and those skills in order to solve problems and communicate, limited to the grade levels and subject areas specified in subdivision (c) of Section 60605.

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

(c) The Superintendent of Public Instruction shall provide each school district with guidelines for professional development that are designed to assist classroom teachers to use the results of the assessments administered pursuant to this chapter to modify instruction for the purpose of improving pupil learning. These guidelines shall be developed in consultation with classroom teachers and approved by the State Board of Education before dissemination.

(d) The Superintendent of Public Instruction shall make available prototype and sample versions of the statewide pupil assessment test pursuant to subdivision (c) of Section 60605 to each school district and to the public prior to administration of the tests. The superintendent and the State Board of Education shall consider comments and recommendations from school districts and the public in the development, adoption, and approval of subsequent assessment instruments.

(e) The results of the achievement test administered pursuant to Article 4 (commencing with Section 60640) shall be returned to the

school district in the same academic year in which the test was administered and no later than June 30 of the calendar year in which the test was administered.

SEC. 4. Section 60605 of the Education Code is amended to read:

60605. (a) (1) No later than January 1, 1998, the State Board of Education shall adopt statewide academically rigorous content and performance standards, pursuant to the recommendations of the Commission for the Establishment of Academic Content and Performance Standards, in the core curriculum areas of reading, writing, and mathematics to serve as the basis for assessing the academic achievement of individual pupils and of schools, school districts, and the California education system. No later than November 1, 1998, the State Board of Education shall adopt such standards in the core curriculum areas of history/social science and science.

(2) The board may modify any proposed content standards or performance standards prior to adoption and may adopt content and performance standards in individual core curriculum areas as those standards are submitted to the board by the commission. The performance standards shall be established against specific grade level benchmarks of academic achievement for each subject area tested and shall be based on the knowledge and skills that pupils will need in order to succeed in the information-based, global economy of the 21st century. These skills shall not include personal behavioral standards or skills, including, but not limited to, honesty, sociability, ethics, or self-esteem. The standards adopted pursuant to this section shall be for the purpose of guiding state decisions regarding the development, adoption, and approval of assessment instruments pursuant to this chapter and shall not be construed to mandate any actions or activities by school districts.

(3) Prior to the adoption of academic content and performance standards, the board shall hold regional hearings for the purpose of giving parents and other members of the public the opportunity to comment on the proposed standards.

(b) (1) The State Board of Education shall require the State Department of Education to notify publishers of the opportunity to submit, for consideration by the State Board of Education pursuant to Section 60642, tests of achievement that include all of the basic academic skills identified in subdivision (c) of Section 60603 in grades 2 to 8, inclusive, and the core curriculum areas identified in subdivision (e) of Section 60603 in grades 9 to 11, inclusive.

(2) On or before October 31, 1997, the Superintendent of Public Instruction shall recommend to the State Board of Education which achievement test to adopt pursuant to subdivision (b) of Section 60642.

(c) (1) The State Board of Education shall adopt an assessment instrument that meets the objectives of Section 60602 and that yields valid, reliable estimates of school performance, school district performance, and statewide performance of pupils that, in grades 4, 5, 8, and 10, assess basic academic skills and incorporate the use of direct writing assessment and other assessments of applied academic skills.

(2) The State Board of Education shall annually require that each school district administer the statewide assessment pursuant to this subdivision to all pupils in grades 4, 5, 8, and 10. The core curriculum areas shall be addressed by that assessment. Notwithstanding any other provision of law, the assessment provided for under this subdivision shall address, in grade 4, only reading, written expression, and mathematics, and, in grade 5, only history/social science and science. Pupils in a given school shall be administered a portion of all subjects of the assessment that will

be representative of all the assessment objectives, goals, and categories of items on the entire assessment in a manner that will produce results that are valid and reliable at the school and school district level. The State Department of Education may provide assistance to school districts in the implementation of the assessment established pursuant to this subdivision.

(3) Nothing in this subdivision shall be construed to prevent the State Board of Education from developing or adopting an assessment instrument that also contains assessments of basic academic skills.

(d) The State Board of Education shall adopt assessments pursuant to subdivision (c) that are aligned with the statewide content and performance standards adopted pursuant to subdivision (a). The State Board of Education shall not adopt an assessment pursuant to subdivision (c) for any core curriculum area until the statewide content and performance standards for that core curriculum area have been adopted by the board pursuant to subdivision (a). The State Board of Education shall not award contracts pursuant to subdivision (h) for any core curriculum area until after adoption of statewide content and performance standards for that core curriculum area.

(e) After the adoption of the statewide content and performance standards, the State Board of Education shall review the achievement test designated pursuant to Section 60642 for conformance with these statewide standards.

(f) After the adoption of the statewide content and performance standards, the board shall review the existing curriculum frameworks for conformity with the new statewide standards and shall modify the curriculum frameworks where appropriate to bring them into alignment with the standards.

(g) The State Board of Education shall adopt regulations for the conduct and administration of the testing and assessment program.

(h) The State Board of Education shall adopt a regulation for minimum security procedures that test and assessment publishers and school districts must follow to ensure the security and integrity of test and assessment questions and materials.

(i) Following consideration of recommendations of the Superintendent of Public Instruction, the State Board of Education shall award contracts to develop instruments to be used for the purposes of subdivision (c), according to competitive bidding procedures.

(1) As part of this process, the board may convene an advisory panel composed of nationally recognized experts in pupil assessment. Two members of the panel shall be selected from a list of at least 10 nominees of the Superintendent of Public Instruction. This panel, if convened, shall assist the board in the preparation of the request for proposals to develop instruments for use as assessments of applied academic skills and in the review and rating of proposals that are submitted. The panel shall also assist the board in determining methods of ensuring that the achievement test designated pursuant to Section 60642 meets the requirements of Section 60644.

(2) Any contractor to whom a contract is awarded pursuant to this subdivision shall assure that parents, classroom teachers, administrators, school district governing board members, and the general public are actively involved in the development of any assessment instruments.

(j) (1) Not less than 60 days before adoption of the statewide pupil assessment pursuant to subdivision (c), the State Board of Education shall make the proposed assessment available for inspection by the public. The board shall adopt any proposed amendments or modifications to the assessment before this public inspection period so that the materials available for inspection are the same materials



that the board shall consider for final adoption. This provision applies to subsequent amendments or modifications of the examination in addition to the initial adoption. The proposed assessment shall be available for inspection by the public for a reasonable period of time.

(2) The assessment adopted pursuant to subdivision (c) shall be available for inspection at each county superintendent of schools' office and within each school district at a centrally located site selected by the governing board of each school district. The governing board may also make the assessment available for public inspection at other locations within the school district. No assessment may be copied or taken from the inspection site.

SEC. 5. Section 60606 of the Education Code, as amended by Chapter 44 of the Statutes of 1997, is amended to read:

60606. (a) After designating a test of academic achievement for use in grades 2 to 11, inclusive, pursuant to Section 60642, or adopting an assessment of applied academic skills for use in grades 4, 5, 8, and 10 pursuant to Section 60605, the State Board of Education shall submit each of those two instruments when designated or adopted to the Statewide Pupil Assessment Review Panel, which is hereby established, for review by the panel.

(b) The panel shall consist of six members. Three members shall be appointed by the Governor, one member shall be appointed by the Senate Committee on Rules, one member shall be appointed by the Speaker of the Assembly, and one member shall be appointed by the Superintendent of Public Instruction. A majority of the panel shall consist of parents whose children attend public schools in the state in kindergarten and grades 1 to 12, inclusive.

(c) Panel members shall serve two-year terms, without compensation. No panel member shall serve more than two consecutive terms.

(d) The panel shall review the two instruments specified in subdivision (a) in order to ensure that the content of the instruments complies with the requirements of Section 60614. Notwithstanding any other provision of law, the panel may meet in closed session with a publisher for the purpose of addressing questions and clarifying issues that relate to ensuring that the content of the publisher's test or assessment, as the case may be, comply with the requirements of Section 60614.

(e) The panel shall report its findings and recommendations to the State Board of Education within 10 days of its receipt of each instrument. If the panel fails to report within the required 10 days, the test or assessment shall be deemed acceptable to the panel.

SEC. 6. Section 60607 of the Education Code is amended to read:

60607. (a) Each pupil shall have an individual record of accomplishment by the end of grade 12 that includes the results of the achievement test required and administered annually as part of the standardized testing and reporting program established pursuant to Article 4 (commencing with Section 60640), results of end-of-course exams he or she has taken, and whatever vocational education certification exams he or she chose to take.

(b) It is the intent of the Legislature that school districts and schools use the results of the academic achievement tests administered annually as part of the statewide pupil assessment program to provide support to pupils and parents or guardians in order to assist pupils in strengthening their development as learners, and thereby to improve their academic achievement and performance in subsequent assessments.

(c) Any pupil, or his or her parent or guardian, may request and

receive individual pupil assessment results from the assessments of applied academic skills administered pursuant to subdivision (c) of Section 60605 to the extent individual results are available.

(d) Any pupil results or record of achievement shall be private, and may not be released to any person, other than the pupil's parent or guardian and a teacher, counselor, or administrator directly involved with the pupil, without the express written consent of the parent or guardian of the pupil if the pupil is a minor or the pupil if the pupil has reached the age of majority or is emancipated.

SEC. 7. Section 60613 of the Education Code is amended to read:

60613. A school district is an agent of the State Department of Education for the purpose of administering a test or assessment required pursuant to this article. No action may be brought or maintained against any school district or its officers or employees acting in accordance with the instructions of the Superintendent of Public Instruction or the State Board of Education.

SEC. 8. Section 60616 of the Education Code is amended to read:

60616. Any achievement test designated pursuant to Section 60642 or adopted by the State Board of Education pursuant to this chapter may be reviewed by any Member of the Legislature or any member of the governing board of a school district, if the member agrees in writing prior to the review to maintain the confidentiality of the test.

SEC. 9. Section 60630 of the Education Code is amended to read:

60630. (a) The Superintendent of Public Instruction shall prepare and submit an annual report to the Legislature, the State Board of Education, and each school district in the state containing an analysis, on a school-by-school basis, of the results and test scores of the assessment of applied academic skills adopted pursuant to subdivision (c) of Section 60605 and the achievement test designated pursuant to Section 60642. The report shall include an analysis of the operational factors that appear to have a significant relationship to, or bearing on, the results. The report simultaneously shall be made available in an electronic medium on the Internet. The analysis may include, but need not be limited to, the following factors:

(1) Financial characteristics, including specially funded programs.

(2) Pupil and parent characteristics.

(3) Staff characteristics.

(4) Instructional methodologies and materials.

(b) School districts shall submit to the State Department of Education whatever information the department deems necessary to carry out this section.

SEC. 10. Article 4 (commencing with Section 60640) of Chapter 5 of Part 33 of the Education Code is repealed.

SEC. 11. Article 4 (commencing with Section 60640) is added to Chapter 5 of Part 33 of the Education Code, to read:

#### Article 4. Standardized Testing and Reporting Program

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

(b) Commencing in the 1997-98 fiscal year and each fiscal year thereafter, and 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, before May 15, the achievement test designated by the State Board of Education pursuant to Section 60642.

(c) The publisher and the school district shall provide two makeup days for the testing of previously absent pupils no later than May 25.

(d) The governing board of the school district may administer achievement tests in kindergarten, and grade 1 or 12, or both, as it deems appropriate.

(e) Individuals with exceptional needs who have an explicit provision in their individualized education program that exempts them from the testing requirement of subdivision (b) shall be so exempt.

(f) At the school district's option, pupils of limited English proficiency who are enrolled in any of grades 2 to 11, inclusive, may take a second achievement test in their primary language.

(g) In addition to the test required by subdivision (b), pupils of limited English proficiency who are enrolled in any of grades 2 to 11, inclusive, shall be required to take a test in their primary language if such a test is available, if less than 12 months have elapsed after their initial enrollment in any public school in the state.

(h) The Superintendent of Public Instruction shall apportion funds to enable school districts to meet the requirements of subdivisions (b), (f), and (g). The State Board of Education shall establish the amount of funding to be apportioned. The amount to be apportioned shall be up to eight dollars (\$8) per test administered to a pupil in grades 2 to 11, inclusive.

(i) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation for the apportionments made pursuant to subdivision (g) shall be deemed to be "General Fund revenues appropriated for school districts," as defined in subdivision (c) of Section 41202 of the Education Code, for the applicable fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIIIIB," as defined in subdivision (e) of Section 41202 of the Education Code, for that fiscal year.

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

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

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

(3) The number of pupils in paragraph (1) who were exempted from the test pursuant to subdivision (e) of Section 60640.

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

60640.1. (a) For the 1997-98 fiscal year, a school district may receive reimbursement for costs of a test in addition to the test designated pursuant to Section 60642 if all of the following conditions are met:

(1) On or before July 1, 1997, the school district can show that it had an executed contract with a test publisher to administer in the 1997-98 school year, pursuant to Section 60641 as that section read on June 30, 1997, a test approved by the State Board of Education.

(2) The school district certifies that, if the test is administered in the 1997-98 school year, the district will comply with the requirement of Section 60641 as that section read on June 30, 1997.

(3) The costs for which the school district seeks reimbursement

pursuant to this section are not associated with the test that is designated pursuant to Section 60642.

(b) The Superintendent of Public Instruction may apportion up to five dollars (\$5) per pupil in reimbursement for 1997-98 testing costs in accordance with subdivision (a).

60641. The State Department of Education shall ensure that school districts comply with each of the following requirements:

(a) The achievement test designated pursuant to Section 60642 is scheduled to be administered to all pupils during the period prescribed in subdivision (b) of Section 60640.

(b) The individual results of each pupil test administered pursuant to Section 60640 shall be reported, in writing, to the pupil's parent or guardian. The written report shall include a clear explanation of the purpose of the test, the pupil's score, and its intended use by the school district. Nothing in this subdivision shall be construed to require teachers to prepare individualized explanations of each pupil's test score.

(c) The individual results of each pupil test administered pursuant to Section 60640 shall also be reported to the pupil's school and teachers. The school district shall include the pupil's test results in his or her pupil records. However, except as provided in this section, individual pupil test results may only be released with the permission of the pupil's parent or guardian.

(d) The districtwide, school-level, and grade-level results of the STAR Program in each of the grades designated pursuant to Section 60640, but not the score or relative position of any individually ascertainable pupil, shall be reported to the governing board of the school district at a regularly scheduled meeting, and the countywide, school-level, and grade-level results for classes and programs under the jurisdiction of the county office of education shall be similarly reported to the county board of education at a regularly scheduled meeting. These results shall be reported at the same meeting at which the results of the assessments of applied academic skills are reported pursuant to Section 60609, when those assessments are implemented.

(e) The State Department of Education and publisher designated pursuant to Section 60642 shall make the grade, school, school district, and state results available on the Internet by June 30 of each year in which the achievement test is administered.

60642. (a) By September 1, 1997, or as soon thereafter as is practical, the State Board of Education may consider any evaluations of independent experts who have not been employed by a test publisher in the preceeding 12 months regarding the suitability of the achievement tests submitted by publishers as required by subdivision (b) of Section 60605 for use as part of the STAR Program established by this article.

(b) Based upon a review of the achievement tests submitted and the recommendation made by the Superintendent of Public Instruction pursuant to subdivision (b) of Section 60605, the State Board of Education, in its sole discretion, based on the considerations set forth in Section 60644, shall designate for use as part of the STAR Program a single test in grades 2 to 11, inclusive, no later than November 14, 1997.

(c) The State Board of Education shall ensure that the achievement test designated pursuant to subdivision (b) contains the subject areas specified in subdivision (c) of Section 60603 for grades 2 to 8, inclusive, and the core curriculum areas specified in subdivision (e) of Section 60603 for grades 9 to 11, inclusive.

(d) The State Board of Education is hereby authorized to designate the achievement test to be administered pursuant to this article for

more than one academic year subject to the availability of funds.

60643. (a) To be eligible for consideration under Section 60642 by the State Board of Education, test publishers shall agree in writing to meet the following requirements, if selected:

(1) Post a performance bond in an amount to be determined by the State Board of Education.

(2) Enter into a standard agreement with all school districts in the state that includes a payment schedule and conditions prescribed by the State Board of Education.

(3) Align the achievement test to the academically rigorous content and performance standards adopted by the State Board of Education.

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

(5) Provide individual pupil scores to parents or guardians, teachers, and school administrators.

(6) Provide aggregate scores to teachers, administrators, governing boards of school districts, county boards of education, and the State Department of Education in all of the following forms and formats:

(A) Grade level.

(B) School level.

(C) District level.

(D) Countywide.

(E) Statewide.

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

(7) Provide disaggregated scores, based on limited-English-proficient status, to teachers, administrators, governing boards of school districts, county boards of education, and the State Department of Education in the same form and formats listed in paragraph (6).

(8) Provide all information listed in paragraph (6) and in paragraph (7) to the State Board of Education and to the recipients listed in paragraph (6), in hard copy and in an electronic medium compatible for access through the Internet.

(b) Notwithstanding any other provision of law, the publisher of the achievement test designated pursuant to Section 60642 shall comply with all of the conditions and requirements enumerated in subdivision (a) to the satisfaction of the State Board of Education.

(c) The State Department of Education is hereby authorized to develop a standard agreement, subject to the approval of the State Board of Education, that all school districts shall be required to use. The agreement shall contain provisions for withholding payments for test development, publication, administration, scoring, test security, data aggregation, analysis, reporting, and electronic transmission. The State Department of Education shall specify in the standard agreement that final payments by school districts or any agent of the State of California shall be withheld until the Superintendent of Public Instruction notifies all school districts that the test administration is completed for the academic year and the State Board of Education has received complete statewide data to its satisfaction reported in the manner prescribed by this section.

(d) The State Board of Education shall consider the performance of publishers no later than July 31 following the test administration for purposes of making appropriate determinations pursuant to the standard agreement authorized pursuant to this section.

60644. In designating an achievement test pursuant to Section 60642, the State Board of Education shall adopt only a nationally normed test and shall consider each of the following criteria:

(a) Ability of the publisher to produce valid, reliable individual

pupil scores.

(b) Quality and age of empirical data supporting national norm referenced data analysis of the proposed assessment.

(c) Ability to report results pursuant to the provisions of paragraphs (5) to (8), inclusive, of subdivision (a) of Section 60643 by June 30.

(d) Ability to report results that permit comparability between data from school districts' previous administration of standardized achievement tests, if feasible.

(e) Ability to provide results comparable with data from the 1998 benchmark year and administrations in subsequent years with the grade level competencies established pursuant to the academically rigorous content and performance standards adopted by the State Board of Education pursuant to Section 60605.

(f) (1) Ability to align the achievement test with academically rigorous content and performance standards adopted by the State Board of Education. It is the intent of the Legislature that, to the extent feasible, the nationally-normed test shall be augmented with items that assess the specific grade-level content standards accepted by the State Board of Education pursuant to subdivision (a) of Section 60605.

(2) Until the State Board of Education adopts academically rigorous content and performance standards, the test shall be consistent with Section 60200.4, reasonably aligned with the state curriculum frameworks, and substantively aligned with the program advisories jointly adopted by the Superintendent of Public Instruction, the State Board of Education, and the Commission on Teacher Credentialing in 1996.

(g) The circumstances, if any, under which a publisher forfeited a performance bond.

(h) Per-pupil cost estimates of administering the proposed assessment.

(i) The publisher's procedure for ensuring the security and integrity of test questions and materials.

(j) Experience in the successful conduct of testing programs adopted and administered by other states. For experience to be considered, the number of grades and pupils tested shall be provided.

60645. (a) The panel established pursuant to Section 60606 shall review the achievement test designated by the State Board of Education pursuant to Section 60642 and items identified in subdivision (d) for compliance with Section 60614.

(b) Any test questions or test content identified by the panel to be out of compliance with Section 60614 shall be recommended for deletion or replacement pursuant to subdivision (e) of Section 60606.

(c) The State Board of Education shall ensure that any question or content not in compliance with Section 60614 is deleted from assessments designated pursuant to Section 60642.

(d) If necessary to maintain the requirements of Section 60644, the publisher shall replace deleted test content with revisions that comply with Section 60614 as required by the State Board of Education pursuant to subdivision (c).

60646. (a) If the State Board of Education determines at a regular scheduled meeting that the publisher of the achievement test designated under Section 60642 is unable to meet without just cause the obligations of Section 60643, 60644, or 60645, it shall notify the publisher that the performance bond posted under Section 60643 shall be forfeited to the State of California. Notwithstanding any other provision of law, the proceeds from a forfeit of a performance

bond pursuant to this section shall be deposited in the Proposition 98 Reversion Account in the General Fund.

(b) Neither the State of California nor any agent of the State Board of Education, Superintendent of Public Instruction, or local educational agency shall be liable for undelivered work in progress by the publisher as a result of a determination made by the State Board of Education pursuant to subdivision (a).

(c) For purposes of subdivision (b), work in progress activities include, but are not limited to, the following activities: development, test revision pursuant to Section 60644 or 60645, administration, scoring, data aggregation, analysis, reporting, or transmission of results.

60647. Any action to challenge any provision of this article or any determination made by the State Board of Education thereunder, shall be filed and adjudicated pursuant to the provisions of Sections 860 to 870, inclusive, of the Code of Civil Procedure, except that any determination made by the State Board of Education pursuant to Section 60642 may only be challenged by an unsuccessful publisher pursuant to an action filed within 30 days thereafter. No exercise of discretion by the State Board of Education in its administration of this article or exercise of its discretion pursuant to Section 60605 shall be overturned absent a finding that the State Board of Education acted in an arbitrary and capricious manner.

SEC. 12. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 13. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the Standardized Testing and Reporting Program, and the other important reforms made by this act, to operate effectively during the 1997-98 school year, it is necessary that this act take effect immediately.

BILL NUMBER: SB 755      CHAPTERED 10/07/05

CHAPTER 676

FILED WITH SECRETARY OF STATE OCTOBER 7, 2005

APPROVED BY GOVERNOR OCTOBER 7, 2005

PASSED THE SENATE SEPTEMBER 8, 2005

PASSED THE ASSEMBLY SEPTEMBER 6, 2005

AMENDED IN ASSEMBLY AUGUST 31, 2005

AMENDED IN ASSEMBLY JULY 11, 2005

AMENDED IN ASSEMBLY JUNE 14, 2005

AMENDED IN SENATE MAY 31, 2005

AMENDED IN SENATE MAY 4, 2005

INTRODUCED BY Senator Poochigian

FEBRUARY 22, 2005

An act to amend Sections 60611 and 60640 of, and to amend, repeal, and add Section 8669 of, to the Education Code, relating to pupils, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 755, Poochigian Pupils: educational enrichment: California State Summer School for Mathematics and Science: pupil assessment.

(1) Existing law establishes the California State Summer School for Mathematics and Science to provide academic development to enable pupils with demonstrated academic excellence in mathematics and science to receive intensive educational enrichment in these subjects and an opportunity for pupils who wish to study mathematics or science or to pursue careers that require a high degree of skills in and knowledge of mathematics and science. Existing law requests the Regents of the University of California to operate the summer school.

Existing law authorizes the regents to set a tuition fee within a range that corresponds to actual program costs, up to but not exceeding \$1,000 in the year 2000, and to increase this fee by an amount of up to 5% each year thereafter.

This bill would instead authorize the regents to set a tuition fee for the summer school that does not exceed \$2,200 in the year 2006, and to increase this fee by an amount of up to 5% in 2007. As of January 1, 2008, the bill would return these provisions to existing law.

(2) Existing law, the Standardized Testing and Reporting (STAR) Program, requires each school district, charter school, and county office of education to administer a designated achievement test to each of its pupils in grades 3 and 7 and a standards-based achievement test to each of its pupils in grades 2 to 11, inclusive, until July 1, 2007, and to each of its pupils in grades 3 to 11, inclusive, after July 1, 2007.

Existing law requires, until July 1, 2007, a pupil of limited English proficiency who is enrolled in any of grades 2 to 11, inclusive, to take a test in his or her primary language if a test is available and if fewer than 12 months have elapsed after his or her initial enrollment in any public or nonpublic school.

This bill would instead require a pupil identified as limited



English proficient pursuant to a specified test who is enrolled in any of grades 2 to 11, inclusive, and who either receives instruction in his or her primary language or has been enrolled in a school in the United States for less than 12 months, to take a test in his or her primary language if a test is available. To the extent this bill would impose additional duties on school districts, this bill would create a state-mandated local program.

This bill would require the Superintendent of Public Instruction, with the approval of the State Board of Education, to annually release to the public at least 25% of test items from the standards-based achievement test from the test administered in the previous year.

(3) This bill would make other technical, nonsubstantive changes to existing law, and would conform certain provisions of existing law that are effective July 1, 2007, to those that are operative until that date.

(4) This bill would reappropriate the sum of \$2,285,000 from the Proposition 98 Reversion Account to the State Department of Education to cover costs incurred during the 2004-05 fiscal year to maintain and score the direct writing assessment for grades 4 and 7 under the STAR Program.

(5) 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.

(6) This bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 8669 of the Education Code is amended to read:

8669. (a) It is the intent of the Legislature that at least 50 percent, but not more than 75 percent, of the actual costs of the California State Summer School for Mathematics and Science for each fiscal year would be financed by state funds beginning in the 1999-2000 fiscal year. The balance of the operating costs would be financed with fees and private support.

(b) Except as provided in subdivision (c), the Regents of the University of California shall set a tuition fee within a range that corresponds to actual program costs, up to but not exceeding two thousand two hundred dollars (\$2,200) per session in the year 2006, and may increase this fee by an amount up to 5 percent each year thereafter. It is the intent of the Legislature that the University of California award full or partial scholarships on the basis of need and that pupils who are unable to pay all or part of the fee may petition the University of California for a fee reduction or waiver to ensure that a qualified applicant is not denied admission solely because of an ability to pay part or all of the fee. Any public announcement regarding the summer school program should include notification that need-based scholarships are available, and information regarding the procedure for applying for a scholarship award.

(c) For pupils who are not California residents, it is the intent of the Legislature that the Regents of the University of California set a tuition fee that is not less than the total actual costs to the summer school of services per pupil.

(d) The foundation authorized to be established pursuant to subdivision (f) of Section 8664 may raise funds from the private sector that may be used by the summer school for general program operating costs, scholarships, program augmentation, public relations, recruitment activity, or special projects. Private support may include, but not necessarily be limited to, direct grants to the summer school from private corporations or foundations, individual contributions, in-kind contributions, or fundraising benefits conducted by any entity.

(e) This section shall remain in effect only until January 1, 2008, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2008, deletes or extends that date.

SEC. 2. Section 8669 is added to the Education Code, to read:

8669. (a) It is the intent of the Legislature that at least 50 percent, but not more than 75 percent, of the actual costs of the California State Summer School for Mathematics and Science for each fiscal year would be financed by state funds beginning in the 1999-2000 fiscal year. The balance of the operating costs would be financed with fees and private support.

(b) Except as provided in subdivision (c), the Regents of the University of California shall set a tuition fee within a range that corresponds to actual program costs, up to but not exceeding one thousand dollars (\$1,000) per session in the year 2000, and may increase this fee by an amount up to 5 percent each year thereafter. It is the intent of the Legislature that the University of California award full or partial scholarships on the basis of need and that pupils who are unable to pay all or part of the fee may petition the University of California for a fee reduction or waiver to ensure that a qualified applicant is not denied admission solely because of an ability to pay part or all of the fee. Any public announcement regarding the summer school program should include notification that need-based scholarships are available, and information regarding the procedure for applying for a scholarship award.

(c) For pupils who are not California residents, it is the intent of the Legislature that the Regents of the University of California set a tuition fee that is not less than the total actual costs to the summer school of services per pupil.

(d) The foundation authorized to be established pursuant to subdivision (f) of Section 8664 may raise funds from the private sector that may be used by the summer school for general program operating costs, scholarships, program augmentation, public relations, recruitment activity, or special projects. Private support may include, but not necessarily be limited to, direct grants to the summer school from private corporations or foundations, individual contributions, in-kind contributions, or fundraising benefits conducted by any entity.

(e) This section shall become operative on January 1, 2008.

SEC. 3. Section 60611 of the Education Code is amended to read:

60611. (a) A city, county, city and county, district superintendent of schools, or principal or teacher of any elementary or secondary school, including a charter school, shall not carry on any program of specific preparation of pupils for the statewide pupil assessment program or a particular test used therein.

(b) A city, county, city and county, district superintendent of schools, principal, or a teacher of an elementary or secondary

school, including a charter school, may use instructional materials provided by the department or its agents in the academic preparation of pupils for the statewide pupil assessment if those instructional materials are embedded in an instructional program that is intended to improve pupil learning.

SEC. 4. Section 60640 of the Education Code, as amended by Section 15 of Chapter 233 of the Statutes of 2004, is amended to read:

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

(b) Commencing in the 2004-05 fiscal year and each fiscal year thereafter, and 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 and 7 the achievement test designated by the state board pursuant to Section 60642 and 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 paragraph (17) of subsection (a) of Section 1412 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 2 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 2 to 11, inclusive, pursuant to the process used for designation of the assessment chosen in the 1997-98 fiscal year, as specified in Sections 60642 and 60643, as applicable.

(3) (A) The department shall use funds made available pursuant to Title VI of the federal No Child Left Behind Act of 2001 and appropriated by the annual Budget Act for the purpose of developing and adopting primary language assessments that are aligned to the state academic content standards. Subject to the availability of funds, primary language assessments shall be developed and adopted for reading/language arts and mathematics in the dominant primary language of limited-English-proficient pupils. The dominant primary language shall be determined by the count in the annual language census of the primary language of each limited-English-proficient pupil enrolled in the California public schools.

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

level.

(C) In choosing a contractor to develop a primary language assessment the state board shall consider the criteria for choosing a contractor or test publisher as specified by Sections 60642 and 60643, and as specified by Section 60642.5, as applicable.

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

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

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

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

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

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

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

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

the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202, for that fiscal year.

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

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

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

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

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

(l) The Superintendent shall, with the approval of the state board, annually release to the public at least 25 percent of test items from the standards-based achievement test provided for in Section 60642.5 from the test administered in the previous year.

(m) This section shall become inoperative on July 1, 2007, and as of January 1, 2008, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2008, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 5. Section 60640 of the Education Code, as added by Section 16 of Chapter 233 of the Statutes of 2004, is amended to read:

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

(b) Commencing in the 2007-08 fiscal year and each fiscal year thereafter, and 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 and 7 the achievement test designated by the state board pursuant to Section 60642 and 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 paragraph (17) of subsection (a) of Section 1412 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, a pupil with limited English proficiency who is enrolled in any of grades 3 to 11, inclusive, may take a second achievement test in his or her 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 assessment chosen in the 1997-98 fiscal year, as specified by Sections 60642 and 60643, and as specified by Section 60642.5, as applicable.

(3) (A) The department shall use funds made available pursuant to Title VI of the federal No Child Left Behind Act of 2001 and appropriated by the annual Budget Act for the purpose of developing and adopting primary language assessments that are aligned to the state academic content standards. Subject to the availability of funds, primary language assessments shall be developed and adopted for reading/language arts and mathematics in the dominant primary language of limited-English-proficient pupils. The dominant primary language shall be determined by the count in the annual language census of the primary language of each limited-English-proficient pupil enrolled in the California public schools.

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

(C) In selecting a contractor to develop a primary language assessment, the state board shall consider the criteria for choosing a contractor or test publisher as specified by Sections 60642 and 60643, and as specified by Section 60642.5, as applicable.

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

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

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

(h) (1) The Superintendent shall apportion funds to school districts to enable school districts to meet the requirements of subdivision (b), the alternative assessment required by subdivision (e), and subdivisions (f) and (g).

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

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

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

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

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

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

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

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

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

(l) The Superintendent shall, with the approval of the state board, annually release to the public at least 25 percent of test items from the standards-based achievement test provided for in Section 60642.5 from the test administered in the previous year.

(m) This section shall become operative July 1, 2007.

SEC. 6. The sum of two million two hundred eighty-five thousand dollars (\$2,285,000) is hereby reappropriated from the Proposition 98 Reversion Account to the State Department of Education for the Standardized Testing and Reporting Program. These funds shall be used to cover costs incurred during the 2004-05 fiscal year to maintain and score the direct writing assessment for grades 4 and 7 for the program funded by Schedule 3 of Item 6110-113-0001 of Section 2.00 of the Budget Act of 2004 (Chapter 208, Statutes of 2004).

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

SEC. 8. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that the summer school program and the pupil

testing programs affected by this act are properly implemented, pursuant to changes made by this act, it is necessary that this act take effect immediately.



BILL NUMBER: SB 80            CHAPTERED 08/24/07

CHAPTER 174

FILED WITH SECRETARY OF STATE AUGUST 24, 2007

APPROVED BY GOVERNOR AUGUST 24, 2007

PASSED THE ASSEMBLY JULY 20, 2007

PASSED THE SENATE AUGUST 21, 2007

AMENDED IN ASSEMBLY JULY 19, 2007

AMENDED IN ASSEMBLY JULY 16, 2007

INTRODUCED BY    Committee on Budget and Fiscal Review

JANUARY 17, 2007

An act to amend Sections 41203.1, 41350, 48313, 48315, 49430, 56836.155, 60601, 60642, and 60810 of, to amend and repeal Sections 60603, 60604, 60605, 60605.6, 60606, 60640, 60643, and 60643.1 of, to add Sections 48314.5, 49430.7, and 52055.58 to, and to add and repeal Chapter 6.5 (commencing with Section 52060) of Part 28 of Division 4 of Title 2 of, the Education Code, to amend Section 17581.5 of the Government Code, to amend Section 37 of Chapter 79 of the Statutes of 2006, and to amend Item 6110-136-0890 of Section 2.00 of Chapter 47 of the Statutes of 2006, relating to education, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 80, Committee on Budget and Fiscal Review. Education.

(1) Existing law requires, for the 1990-91 fiscal year and each fiscal year thereafter, that moneys to be applied by the state for the support of school districts, community college districts, and direct elementary and secondary level instructional services provided by the state be distributed in accordance with certain calculations governing the proration of those moneys among the 3 segments of public education. Existing law makes that provision inapplicable to the fiscal years between the 1992-93 and 2006-07 fiscal years, inclusive.

This bill, in addition, would make that provision inapplicable to the 2007-08 fiscal year.

(2) Existing law requires the Superintendent of Public Instruction to reimburse school districts for free and reduced-price meals served or sold based on the average statewide meal cost.

This bill would base that reimbursement on the median statewide meal cost.

(3) Existing law requires each person between the ages of 6 and 18 years who is not otherwise exempt to attend the public full-time day school in the school district in which his or her parent or guardian is a resident. The governing board of a school district is authorized to accept interdistrict transfers by admitting pupils residing in other school districts to attend its schools, subject to specified conditions. A school district that elects to accept interdistrict transfers is authorized to keep an accounting of all requests made for alternative attendance and records of all disposition of those requests. The provisions governing interdistrict transfers become inoperative on July 1, 2007, and are repealed on January 1, 2008.

This bill, instead, would require a school district that elects to accept interdistrict transfers to keep an accounting of all requests made for alternative attendance and records of all disposition of those requests and to report that information to the Superintendent of Public Instruction annually on or before a date designated by the Superintendent. Commencing in 2008, the Superintendent annually would be required to make the information received from school districts available to the Governor, the Legislature, and the public on or before April 1. On or before November 1, 2008, the State Department of Education would be required to prepare and submit a report to the Legislature regarding the effectiveness of the interdistrict transfer program. Commencing on the effective date of this bill, the governing board of a school district that has not previously elected to participate in the interdistrict transfer program would be prohibited from electing to become a school district of choice, as defined. The inoperative and repeal dates for the provisions governing interdistrict transfers would be extended to July 1, 2009, and January 1, 2010, respectively.

(4) The Pupil Nutrition, Health, and Achievement Act of 2001 requires a school to be reimbursed \$0.21 for free and reduced-price meals sold or served to pupils. To qualify for this reimbursement, a school is required to follow the Enhanced Food Based Meal Pattern, Nutrient Standard Meal Planning, or Traditional Meal Pattern developed by the United States Department of Agriculture (USDA) or the California's Shaping Health as Partners in Education (SHAPE) menu patterns developed by the state.

The Child Nutrition Act of 1974 authorizes a child nutrition entity, as defined, to apply to the State Department of Education for all available federal and state funds so that a nutritionally adequate breakfast or lunch, or both, may be provided to pupils and requires the department before July 1 of each year to prescribe an adjustment in the established state meal contribution rates based on a specified cost-of-living adjustment.

This bill would require schools and school districts, commencing with the 2007-08 fiscal year, for meals and food items sold or served as part of a free or reduced-price meal program, to comply with specified nutrition-related prohibitions and requirements. By requiring schools and school districts to satisfy new requirements for free and reduced-price meals, the bill would impose a state-mandated local program. These prohibitions and requirements would not apply to USDA commodity foods, as specified. Child development programs would be encouraged, commencing with the 2007-08 fiscal year, for meals and food items sold or served as part of a free or reduced-price meal program, to comply with specified nutrition-related prohibitions and requirements.

(5) Existing law requires the State Department of Education to identify local educational agencies that are in danger of being identified within 2 years as program improvement local educational agencies under the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.), and to notify those local educational agencies, in writing, of this status and provide those local educational agencies with research-based criteria to conduct a voluntary self-assessment. A local educational agency that is identified for corrective action under the federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.) is subject to one or more sanctions recommended by the Superintendent and approved by the state board, including a requirement to contract with a district assistance and intervention team to aid the local educational agency.

This bill would require the department to transmit, by April 1,

2010, to the appropriate fiscal and policy committees of the Legislature, the Legislative Analyst's Office, and the Department of Finance a copy of the final evaluation of the pilot project involving district assistance and intervention teams conducted by the department and a consortium of county offices of education.

(6) Existing law, the Budget Act of 2006, appropriates \$633,000 for purposes of the American Indian Early Childhood Education Program. That program was repealed effective January 1, 2004.

This bill would recodify the American Indian Early Childhood Education Program, under which the governing board of a school district receiving equalization aid, having a school in which there is a concentration of 10% or more of American Indian pupils, and that maintains prekindergarten or kindergarten, or both, and grades 1 to 4, inclusive, would be authorized to apply to the Superintendent of Public Instruction for a project in American Indian early childhood education. A school district receiving funds would be required to establish a districtwide American Indian advisory committee for American Indian early childhood education.

(7) Existing law adjusts funding for individuals with exceptional needs based on an incidence multiplier, as defined, for each special education local plan area.

This bill would continue the current special education incidence factor formula through the 2007-08 fiscal year.

(8) Existing law, the Leroy Greene California Assessment of Academic Achievement Act, until July 1, 2007, 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, including a standards-based achievement test pursuant to the Standardized Testing and Reporting (STAR) Program. Existing law, commencing July 1, 2007, deletes that requirement with regard to pupils in grade 2. Existing law repeals the act on January 1, 2011.

This bill would reinstate the requirement that each school district, charter school, and county office of education administer those achievement tests to each of its pupils in grade 2 on and after July 1, 2007. The bill would make certain provisions relating to those achievement tests inoperative on July 1, 2011, and would extend the repeal date of the act to January 1, 2012. By extending the time period during which school districts are required to perform various duties related to the administration of achievement tests, the bill would impose a state-mandated local program.

(9) Existing law requires the Superintendent of Public Instruction to review existing tests that assess the English language development of pupils whose primary language is a language other than English and to determine if those tests have sufficient range to assess pupils in kindergarten and grades 1 to 12, inclusive, in English reading, speaking, and written skills. Pupils in kindergarten and grade 1 are required to be assessed in reading and written communication only to the extent that comparable standards and assessments in English and language arts are used for native speakers of English.

This bill, instead, would require the tests to have sufficient range to assess pupils in grades 2 to 12, inclusive, in English listening, speaking, reading, and writing skills, and would require pupils in kindergarten and grade 1 to be assessed in English listening, speaking, and early literacy skills. In developing the test for pupils in kindergarten and grade 1, the State Department of Education would be required to minimize any additional testing time and to ensure that the test is age and developmentally appropriate, as specified. The department would be required to report to the

Legislature on the administration of the kindergarten and grade 1 English listening, speaking, and early literacy assessment results, as well as on the administrative process, as specified.

(10) Under the California Constitution, whenever the Legislature or a state agency mandates a new program or higher level of service on any local government, including school districts, the state is required to provide a subvention of funds to reimburse the local government, with specified exceptions.

Existing law provides that no local agency or school district shall be required to implement or give effect to any statute or Executive order, or portion thereof that imposes a mandate during any fiscal year and for the period immediately following that fiscal year for which the Budget Act has not been enacted for the subsequent fiscal year if specified conditions are met, including that the statute or executive order, or portion thereof, has been specifically identified by the Legislature in the Budget Act for the fiscal year as being one for which reimbursement is not provided for that fiscal year. Existing law provides that only certain specified mandates are subject to that provision.

This bill would add Sexual Harassment Training in the Law Enforcement Workplace, as specified, to the list of mandates subject to that provision.

(11) Existing law appropriates \$26,726,000 from the General Fund to the State Department of Education for the Pupil Retention Block Grant for expenditure during the 2007-08 fiscal year.

This bill, instead, would appropriate that amount for supplemental instruction for expenditure during the 2007-08 fiscal year, thereby making an appropriation.

(12) Existing law requires a school district or charter school that applies for funding appropriated for the purpose of meeting the outstanding long-term fiscal obligations of school districts and charter schools concerning retired employee nonpension benefits to complete and submit to the county superintendent of schools a plan for meeting those obligations.

This bill would require the plan to be completed and submitted to the county superintendent of schools on or before June 30, 2009.

(13) Existing law requires the State Department of Education to contract for the development of the California Longitudinal Pupil Achievement Data System, which will provide for the retention and analysis of data on specified statewide tests administered to pupils. The data elements and codes included in the system are required to comply with, among other things, the federal Family Education Rights and Privacy Act statute and regulations.

This bill would require the department to provide a report, no later than August 1, 2007, to the Legislature, the Department of Finance, the Office of the Secretary for Education, and the Legislative Analyst's Office that includes the current guidelines used by the department regarding access to data within CALPADS, a summary of the ways in which other states interpret and apply the federal Family Educational Rights and Privacy Act, and suggestions, based on current knowledge and understanding, for options to ensure access that is consistent with the federal Family Educational Rights and Privacy Act.

(14) This bill would set the cost-of-living adjustment for specified items in the Budget Act of 2006 at 4.53%.

(15) This bill would make funds appropriated pursuant to specified items in the Budget Act of 2007 available for encumbrance until July 31, 2010, and would thereafter revert all unencumbered funds in those items to the Proposition 98 Reversion Account.

(16) This bill would appropriate \$388,283,000 from the General

Fund for expenditure during the 2008-09 fiscal year according to a specified schedule. The bill would provide that for purposes of satisfying the minimum annual funding obligation for school districts required by the California Constitution, those funds are General Fund revenues appropriated for school districts and community college districts for the 2008-09 fiscal year.

(17) This bill would appropriate \$200,000,000 from the General Fund to the Board of Governors of the California Community Colleges for expenditure during the 2008-09 fiscal year according to a specified item in the Budget Act of 2007. The bill would provide that for purposes of satisfying the minimum annual funding obligation for community college districts required by the California Constitution, those funds are General Fund revenues appropriated for community college districts for the 2008-09 fiscal year.

(18) This bill would state the intent of the Legislature regarding the priority allocation, in the 2008-09 fiscal year, of certain funds for kindergarten and grades 1 to 12, inclusive, to fund revenue limit equalization.

(19) This bill would make other technical, clarifying, and conforming changes.

(20) 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.

(21) This bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 41203.1 of the Education Code is amended to read:

41203.1. (a) For the 1990-91 fiscal year and each fiscal year thereafter, allocations calculated pursuant to Section 41203 shall be distributed in accordance with calculations provided in this section. Notwithstanding Section 41203, and for the purposes of this section, school districts, community college districts, and direct elementary and secondary level instructional services provided by the State of California shall be regarded as separate segments of public education, and each of these three segments of public education shall be entitled to receive respective shares of the amount calculated pursuant to Section 41203 as though the calculation made pursuant to subdivision (b) of Section 8 of Article XVI of the California Constitution were to be applied separately to each segment and the base year for the purposes of this calculation under paragraph (1) of subdivision (b) of Section 8 of Article XVI of the California Constitution were based on the 1989-90 fiscal year. Calculations made pursuant to this subdivision shall be made so that each segment of public education is entitled to the greater of the amounts calculated for that segment pursuant to paragraph (1) or (2) of subdivision (b) of Section 8 of Article XVI of the California Constitution.

(b) If the single calculation made pursuant to Section 41203 yields a guaranteed amount of funding that is less than the sum of the amounts calculated pursuant to subdivision (a), the amount

calculated pursuant to Section 41203 shall be prorated for the three segments of public education.

(c) Notwithstanding any other law, this section does not apply to the 1992-93 to 2007-08 fiscal years, inclusive.

SEC. 2. Section 41350 of the Education Code is amended to read:

41350. The Superintendent shall make allowances for child nutrition as follows:

(a) Reimbursement of child nutrition entities, as defined by Section 49530.5, for all free and reduced-price meals, pursuant to Section 49536.

(b) Reimbursement of school districts for the difference between the current fiscal year median statewide lunch or breakfast cost for all free and reduced-price meals required by Section 49550 as determined by the Superintendent and the combined total income per meal derived from pupil charges, federal funds, and state funds as provided in Article 11 (commencing with Section 49550) of Chapter 9 of Part 27.

(c) Reimbursement of county superintendents of schools for the difference between the current fiscal year median statewide lunch or breakfast cost for all free and reduced-price meals as determined by the Superintendent and the combined total income per meal derived from pupil charges, federal funds, and state funds as provided in Article 11 (commencing with Section 49550) of Chapter 9 of Part 27.

The combined state and federal reimbursements shall not exceed the current fiscal year median statewide lunch or breakfast cost. If the combined pupil charges, state reimbursements, and federal reimbursements exceed the current median statewide lunch or breakfast costs, the federal funds shall be expended prior to the expenditure of any state funds.

SEC. 3. Section 48313 of the Education Code is amended to read:

48313. (a) Pursuant to this article, each school district electing to accept transfer pupils shall keep an accounting of all requests made for alternative attendance and records of all disposition of those requests that may include, but are not limited to, all of the following:

(1) The number of requests granted, denied, or withdrawn. In the case of denied requests, the records may indicate the reasons for the denials.

(2) The number of pupils transferred out of the district pursuant to this article.

(3) The number of pupils transferred into the district pursuant to this article.

(b) The information maintained pursuant to subdivision (a) may be reported to the governing board of the school district at a regularly scheduled meeting of the governing board. The school district annually shall report the information maintained pursuant to subdivision (a) in addition to information regarding the district's status as a school district of choice to the Superintendent on or before a date designated by the Superintendent. Commencing in 2008, the Superintendent annually shall make the information available to the Governor, the Legislature, and the public on or before April 1.

(c) On or before November 1, 2008, the department shall prepare and submit to the Legislature a report evaluating interdistrict transfer options within the state with an emphasis on the interdistrict transfer program established pursuant to this article. The report shall include, but is not limited to, the information described in paragraphs (1) to (3), inclusive, of subdivision (a) and all of the following:

(1) The number and characteristics of pupils who use one of the various interdistrict transfer options and other school choice

options within the state, with a specific focus on pupils who use the interdistrict transfer program established pursuant to this article. The characteristics reported on pursuant to this paragraph shall include, but not be limited to, race, ethnicity, socioeconomic status, English proficiency, and whether or not the pupil participates in a special education program, the International Baccalaureate Program, or another specialized instructional program.

(2) The Academic Performance Index scores of schools in school districts of residence and school districts of choice for the previous five years, including subgroup scores.

(3) The graduation rates of school districts of residence and school districts of choice for the previous five years.

(4) The enrollment of school districts of residence and school districts of choice for the previous five years.

(5) The fiscal health of school districts of residence and school districts of choice, including, but not limited to, both of the following:

(A) Whether or not the school district is experiencing a decline in enrollment.

(B) Whether or not the school district received a negative or qualified rating of its certification pursuant to Section 42131.

(6) Whether any school district has exceeded the transfer limits in Section 48307 and the resulting implications for the impacted district.

(7) Other information the department deems appropriate, including information related to educational outcomes of school districts of residence and school districts of choice.

(8) Recommendations regarding the extension of the interdistrict transfer program pursuant to this article.

(d) To the extent practicable, the department shall survey school districts of residence and school districts of choice to gather the information described in paragraphs (1) to (7), inclusive, of subdivision (c).

SEC. 4. Section 48314.5 is added to the Education Code, to read:

48314.5. Notwithstanding any other provision of this article, commencing on the effective date of the act adding this section, the governing board of a school district that has not previously elected to participate in interdistrict transfers pursuant to this article shall not elect to become a school district of choice.

SEC. 5. Section 48315 of the Education Code is amended to read:

48315. This article shall become inoperative on July 1, 2009, and, as of January 1, 2010, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2010, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 6. Section 49430 of the Education Code is amended to read:

49430. As used in this article, the following terms have the following meanings:

(a) "Elementary school" means a public school that maintains any grade from kindergarten to grade 6, inclusive, but no grade higher than grade 6.

(b) "Middle school" means a public school that maintains grade 7 or 8, 7 to 9, inclusive, or 7 to 10, inclusive.

(c) "High school" means a public school maintaining any of grades 9 to 12, inclusive.

(d) "Full meal" means a combination of food items that meet USDA-approved School Breakfast Program or National School Lunch Program meal pattern requirements or the menu planning options of Shaping Health as Partners in Education developed by the state (SHAPE California network).

(e) "Added sweetener" means an additive other than 100 percent fruit juice that enhances the sweetness of a beverage.

(f) "Sold" means the exchange of food for money, coupons, or vouchers.

(g) "Entree" means a food that is generally regarded as being the primary food in a meal, and shall include, but not be limited to, sandwiches, burritos, pasta, and pizza.

(h) "Snack" means a food that is generally regarded as supplementing a meal, including, but not limited to, chips, crackers, onion rings, nachos, french fries, donuts, cookies, pastries, cinnamon rolls, and candy.

(i) "Deep fried" means a food item is cooked by total submersion in oil or fat.

(j) "Par fried" means a food item is fried to reach an internal temperature of 160 degrees Fahrenheit then is cooled to room temperature so that it may be refrigerated or frozen for future frying.

(k) "Flash fried" means a food item is quickly fried on both sides in oil with a temperature of 400 degrees Fahrenheit or higher.

SEC. 7. Section 49430.7 is added to the Education Code, to read:

49430.7. (a) For purposes of this section, the following terms have the following meanings:

(1) "School" means a school operated and maintained by a school district or county office of education, or a charter school.

(2) "School district" means a school district, charter school, or county office of education.

(3) "Child development program" means a program operated pursuant to Chapter 2 (commencing with Section 8200) of Part 6.

(b) As a condition of receipt of funds pursuant to Section 49430.5, commencing with the 2007-08 fiscal year, for meals and food items sold as part of the free and reduced-price meal programs, a school or school district shall comply with all of the following requirements and prohibitions:

(1) Follow the United States Department of Agriculture (USDA) nutritional guidelines or the menu planning options of Shaping Health as Partners in Education developed by the state (SHAPE California network).

(2) Not sell or serve a food item that has in any way been deep fried, par fried, or flash fried by a school or school district.

(3) Not sell or serve a food item containing artificial trans fat. A food item contains artificial trans fat if it contains vegetable shortening, margarine, or any kind of hydrogenated or partially hydrogenated vegetable oil, unless the manufacturer's documentation or the label required on the food, pursuant to applicable federal and state law, lists the trans fat content as less than 0.5 gram per serving.

(4) Not sell or serve a food item that has been deep fried, par fried, or flash fried in oil or fat as part of the manufacturing process. Oils and fats prohibited by this paragraph include, but are not limited to, palm, coconut, palm kernel, lard, typically solid at room temperature and are known to negatively impact cardiovascular health. Oils permitted by this paragraph include, but are not limited to, canola, safflower, sunflower, corn, olive, soybean, peanut, or a blend of these oils, typically liquid at room temperature and are known for their positive cardiovascular benefit.

(c) Commencing with the 2007-08 fiscal year, for meals and food items sold as part of the free and reduced-price meal programs, a child development program is encouraged to comply with all of the following guidelines:

(1) Meet developmentally and programmatically appropriate meal



pattern and meal planning requirements developed by the USDA or menu planning options of Shaping Health as Partners in Education developed by the state (SHAPE California network).

(2) Not sell or serve a food item that has in any way been deep fried, par fried, or flash fried by a school, school district, or child development program.

(3) Not sell or serve a food item containing artificial trans fat. A food item contains artificial trans fat if it contains vegetable shortening, margarine, or any kind of hydrogenated or partially hydrogenated vegetable oil, unless the manufacturer's documentation or the label required on the food, pursuant to applicable federal and state law, lists the trans fat content as less than 0.5 gram per serving.

(4) Not sell or serve a food item that has been deep fried, par fried, or flash fried in oil or fat as part of the manufacturing process. Oils and fats prohibited by this paragraph include, but are not limited to, palm, coconut, palm kernel, lard, typically solid at room temperature and are known to negatively impact cardiovascular health. Oils permitted by this provision include, but are not limited to, canola, safflower, sunflower, corn, olive, soybean, peanut, or a blend of these oils, typically liquid at room temperature and are known for their positive cardiovascular benefit.

(d) The prohibitions and requirements of this section regarding food items sold or served by a school or school district apply to raw bulk USDA commodity foods ordered by schools or school districts and sent to commercial processors for conversion into ready to use end products, but do not apply to other USDA commodity foods until the scheduled 2009 reauthorization of the USDA National School Lunch Program is complete or ingredient and nutrition information is available for all USDA commodity foods, whichever is earlier.

(e) As a condition of receipt of funds pursuant to Section 49430.5, no later than June 30, 2008, schools and school districts shall provide the department with a one-time certification of compliance with the provisions of this section.

(f) This section shall become operative only upon an appropriation for its purposes in the annual Budget Act or another statute.

SEC. 8. Section 52055.58 is added to the Education Code, to read:

52055.58. By April 1, 2010, the department shall transmit to the appropriate fiscal and policy committees of the Legislature, the Legislative Analyst's Office, and the Department of Finance a copy of the final evaluation of the pilot project involving district assistance and intervention teams conducted by the department and a consortium of county offices of education.

SEC. 9. Chapter 6.5 (commencing with Section 52060) is added to Part 28 of Division 4 of Title 2 of the Education Code, to read:

CHAPTER 6.5. AMERICAN INDIAN EARLY CHILDHOOD EDUCATION PROGRAM

52060. (a) It is the intent and purpose of the Legislature that the American Indian Early Childhood Education Program provided for by this chapter be directed to improve the educational accomplishments of American Indian pupils in the educational systems in California.

(b) It is the intent of the Legislature to establish projects in American Indian education that are designed to develop and test educational models that increase competence in reading and mathematics. These instructional projects shall be provided in prekindergarten, kindergarten, and grades 1 to 4, inclusive.

(c) The Legislature recognizes the importance of American Indian parent-community involvement in the planning, implementing, and evaluation of the American Indian early childhood education programs.

52061. As used in this chapter:

(a) "State board" means the State Board of Education.

(b) "Superintendent" means the Superintendent of Public Instruction.

(c) "Project" means an organized undertaking in American Indian early childhood education that includes, but is not limited to, a description of the undertaking, a listing of the goals and objectives to be achieved, a statement of methods to be used, and the methods to be used in evaluating the success of the project.

52062. From the funds appropriated to the department for the purposes of this chapter, the Superintendent, with the approval of the state board, shall administer this chapter and make apportionments to school districts to meet the total approved expense that school districts incurred in establishing American Indian early childhood education programs.

52063. (a) The governing board of a school district receiving equalization aid, having a school in which there is a concentration of 10 percent or more of American Indian pupils, and that maintains prekindergarten or kindergarten, or both, and grades 1 to 4, inclusive, may apply to the Superintendent for a project in American Indian early childhood education.

(b) The governing boards of two or more of school districts that may apply for a project pursuant to subdivision (a) may apply jointly for a project in American Indian early childhood education.

(c) The application shall be made on forms provided by the Superintendent and in accordance with the rules and regulations adopted by the state board. The dates for making application shall be established by the Superintendent.

52064. Upon approval by the state board of an application under Section 52063, the Superintendent shall certify the amount to be apportioned to the applicant school district.

52065. (a) A school district receiving funds provided by Section 52062 shall establish a districtwide American Indian advisory committee for American Indian early childhood education.

(b) At each participating school, an American Indian parent advisory committee shall be established to increase communication and understanding between members of a community and the school officials. Each committee shall provide advice and suggestions on all parts of the program.

52066. This chapter shall remain in effect only until January 1, 2009, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2009, deletes or extends that date.

SEC. 10. Section 56836.155 of the Education Code is amended to read:

56836.155. (a) On or before November 2, 1998, the department, in conjunction with the Legislative Analyst's Office, shall do the following:

(1) Calculate an "incidence multiplier" for each special education local plan area using the definition, methodology, and data provided in the final report submitted by the American Institutes for Research pursuant to Section 67 of Chapter 854 of the Statutes of 1997.

(2) Submit the incidence multiplier for each special education local plan area and supporting data to the Department of Finance.

(b) The Department of Finance shall review the incidence multiplier for each special education local plan area and the supporting data, and report any errors to the department and the Legislative Analyst's Office for correction.

(c) The Department of Finance shall approve the final incidence multiplier for each special education local plan area by November 23, 1998.

(d) For the 1998-99 fiscal year and each fiscal year thereafter to and including the 2007-08 fiscal year, the Superintendent shall perform the following calculation to determine the adjusted entitlement of each special education local plan area for the incidence of disabilities:

(1) The incidence multiplier for the special education local plan area shall be multiplied by the statewide target amount per unit of average daily attendance for special education local plan areas determined pursuant to Section 56836.11 for the fiscal year in which the computation is made.

(2) The amount determined pursuant to paragraph (1) shall be added to the statewide target amount per unit of average daily attendance for special education local plan area determined pursuant to Section 56836.11 for the fiscal year in which the computation is made.

(3) Subtract the amount of funding for the special education local plan area determined pursuant to paragraph (1) of subdivision (a) or paragraph (1) of subdivision (b) of Section 56836.08, as appropriate for the fiscal year in which the computation is made, or the statewide target amount per unit of average daily attendance for special education local plan areas determined pursuant to Section 56836.11 for the fiscal year in which the computation is made, whichever is greater, from the amount determined pursuant to paragraph (2). For the purposes of this paragraph for the 2002-03, 2003-04, 2004-05, 2005-06, 2006-07, and 2007-08 fiscal years, the amount, if any, received pursuant to Section 56836.159 shall be excluded from the funding level per unit of average daily attendance for a special education local plan area. If the result is less than zero, the special education local plan area may not receive an adjusted entitlement for the incidence of disabilities.

(4) Multiply the amount determined in paragraph (3) by either the average daily attendance reported for the special education local plan area for the fiscal year in which the computation is made, as adjusted pursuant to subdivision (a) of Section 56836.15, or the average daily attendance reported for the special education local plan area for the prior fiscal year, as adjusted pursuant to subdivision (a) of Section 56826.15, whichever is less.

(5) If there are insufficient funds appropriated in the fiscal year for which the computation is made for the purposes of this section, the amount received by each special education local plan area shall be prorated.

(e) For the 1997-98 fiscal year, the Superintendent shall perform the calculation in paragraphs (1) to (3), inclusive, of paragraph (d) only for the purposes of making the computation in paragraph (1) of subdivision (d) of Section 56836.08, but the special education local plan area may not receive an adjusted entitlement for the incidence of disabilities pursuant to this section for the 1997-98 fiscal year.

SEC. 11. Section 60601 of the Education Code is amended to read:

60601. This chapter shall remain in effect only until January 1, 2012, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2012, deletes or extends that date.

SEC. 12. Section 60603 of the Education Code, as amended by Section 3 of Chapter 233 of the Statutes of 2004, 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 of applied academic skills may not include assessments of personal behavioral standards or skills, including, but not limited to, honesty, sociability, ethics, or self-esteem.

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 13. Section 60603 of the Education Code, as added by Section 4 of Chapter 233 of the Statutes of 2004, is repealed.

SEC. 14. Section 60604 of the Education Code, as amended by Section 5 of Chapter 233 of the Statutes of 2004, is amended to read:

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

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

(2) A method of working with publishers to ensure valid, reliable, and comparable individual, grade-level, school-level, district-level, county-level, and statewide scores in grades 2 to 11, inclusive, that is based on the achievement test designated pursuant to subdivision (b) of Section 60605.

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

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

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

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

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

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

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

(d) The Superintendent and the state board shall consider comments and recommendations from school districts and the public in the

development, adoption, and approval of assessment instruments.

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

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

SEC. 15. Section 60604 of the Education Code, as added by Section 6 of Chapter 233 of the Statutes of 2004, is repealed.

SEC. 16. Section 60605 of the Education Code, as amended by Section 7 of Chapter 233 of the Statutes of 2004, is amended to read:

60605. (a) (1) (A) Not later than January 1, 1998, the state board shall adopt statewide academically rigorous content standards, pursuant to the recommendations of the Commission for the Establishment of Academic Content and Performance Standards, in the core curriculum areas of reading, writing, and mathematics to serve as the basis for assessing the academic achievement of individual pupils and of schools, school districts, and the California educational system. Not later than November 1, 1998, the state board shall adopt these standards in the core curriculum areas of history/social science and science.

(B) The state board shall adopt statewide performance standards in the core curriculum areas of reading, writing, mathematics, history/social science, and science based on the recommendations made by the Superintendent of a contractor or contractors.

(C) The state board shall require the contractor or contractors to submit performance standards to the Superintendent and the state board not later than a specified date that allows sufficient opportunity for the Superintendent to make a recommendation to the state board and for the state board to conduct regional hearings prior to the adoption of the performance standards.

(2) (A) The state board may modify any proposed content standards or performance standards prior to adoption and may adopt content and performance standards in individual core curriculum areas as those standards are submitted to the state board. The state performance standards shall be established against specific grade level benchmarks of academic achievement for each subject area tested and shall be based on the knowledge and skills that pupils will need in order to succeed in the information-based, global economy of the 21st century. These skills shall not include personal behavioral standards or skills, including, but not limited to, honesty, sociability, ethics, or self-esteem. The standards adopted pursuant to this section shall be for the purpose of guiding state decisions regarding the development, adoption, and approval of assessment instruments pursuant to this chapter and does not mandate any actions or activities by school districts.

(B) Because these standards are models, the adoption of these standards is not subject to the Administrative Procedure Act. This subparagraph is declaratory of existing law.

(3) Before adopting academic content and performance standards, the state board shall hold regional hearings for the purpose of giving parents and other members of the public the opportunity to comment on the proposed standards.

(b) (1) The state board shall require the department to notify publishers of the opportunity to submit, for consideration by the state board pursuant to Section 60642, tests of achievement that include all of the basic academic skills identified in subdivision (c) of Section 60603 in grades 2 to 8, inclusive, and the core curriculum areas of English and language arts, mathematics, and science in grades 9 to 11, inclusive.

(2) The Superintendent shall recommend to the state board which achievement test to adopt pursuant to subdivision (b) of Section 60642.

(c) (1) The state board shall ensure that the statewide assessment system adopted pursuant to this chapter yields valid, reliable individual pupil scores and, where applicable, aggregate school scores, school district scores, and statewide scores of pupils and assesses basic academic skills and content standards, including the use of a direct writing assessment or other applied academic skills if deemed valid and reliable and if resources are made available for their use.

(2) This subdivision does not prevent the state board from developing or adopting an assessment instrument that also contains assessments of basic academic skills.

(d) To the extent feasible and as otherwise required, the state board shall ensure that assessments developed, or contracted for pursuant to Section 60642.5, by the state are aligned with the statewide content and performance standards adopted pursuant to subdivision (a). The department, with the approval of the state board, periodically shall contract for a review of the achievement test for conformance with these standards.

(e) After adopting statewide content and performance standards, the state board shall review the existing curriculum frameworks for conformity with the new statewide standards and shall modify the curriculum frameworks where appropriate to bring them into alignment with the standards.

(f) The state board shall adopt regulations for the conduct and administration of the testing and assessment program.

(g) The state board shall adopt a regulation for minimum security procedures that test and assessment publishers and school districts must follow to ensure the security and integrity of test and assessment questions and materials.

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

SEC. 17. Section 60605 of the Education Code, as added by Section 8 of Chapter 233 of the Statutes of 2004, is repealed.

SEC. 18. Section 60605.6 of the Education Code, as amended by Section 9 of Chapter 233 of the Statutes of 2004, is amended to read:

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

(a) One workbook to be distributed to all pupils in the 10th grade. 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 2 to 11, inclusive. Each pupil in grades 2 to 11, inclusive, who is required to take the achievement tests described in Section 60642 or 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 inoperative on July 1, 2011.

SEC. 19. Section 60605.6 of the Education Code, as added by Section 10 of Chapter 233 of the Statutes of 2004, is repealed.

SEC. 20. Section 60606 of the Education Code, as amended by Section 11 of Chapter 233 of the Statutes of 2004, is amended to read:

60606. (a) After designating a test of academic achievement for use in grades 2 to 11, inclusive, pursuant to Section 60642, or adopting an assessment of applied academic skills for use in grades 4, 5, 8, and 10 pursuant to Section 60605, the state board shall submit each of those two instruments when designated or adopted to the Statewide Pupil Assessment Review Panel, which is hereby established, for review by the panel.

(b) The panel shall consist of six members. Three members shall be appointed by the Governor, one member shall be appointed by the Senate Committee on Rules, one member shall be appointed by the Speaker of the Assembly, and one member shall be appointed by the Superintendent. A majority of the panel shall consist of parents whose children attend public schools in the state in kindergarten and grades 1 to 12, inclusive.

(c) Panel members shall serve two-year terms, without compensation. No panel member shall serve more than two consecutive terms.

(d) The panel shall review the two instruments specified in subdivision (a) in order to ensure that the content of the instruments complies with the requirements of Section 60614. Notwithstanding any other provision of law, the panel may meet in closed session with a publisher for the purpose of addressing questions and clarifying issues that relate to ensuring that the content of the publisher's test or assessment, as the case may be, comply with the requirements of Section 60614.

(e) The panel shall report its findings and recommendations to the state board within 10 days of its receipt of each instrument. If the panel fails to report within the required 10 days, the test or assessment shall be deemed acceptable to the panel.

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

SEC. 21. Section 60606 of the Education Code, as added by Section 12 of Chapter 233 of the Statutes of 2004, is repealed.

SEC. 22. Section 60640 of the Education Code, as amended by Section 4 of Chapter 676 of the Statutes of 2005, is amended to read:

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

(b) Commencing in the 2004-05 fiscal year and each fiscal year thereafter, and 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 and 7 the achievement test designated by the state board pursuant to Section 60642 and 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 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 2 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 2 to 11, inclusive, pursuant to the process used for designation of the assessment chosen in the 1997-98 fiscal year, as specified in Sections 60642 and 60643, as applicable.

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

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

(C) In choosing a contractor to develop a primary language assessment the state board shall consider the criteria for choosing a contractor or test publisher as specified by Sections 60642 and 60643, and as specified by Section 60642.5, as applicable.

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

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

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

(g) A pupil identified as limited English proficient pursuant to the administration of a test made available pursuant to Section 60810 who is enrolled in any of grades 2 to 11, inclusive, and who either receives instruction in his or her primary language or has been enrolled in a school in the United States for less than 12 months

shall be required to take a test in his or her primary language if a test is available.

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

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

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

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

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

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

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

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

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

(l) The Superintendent, with the approval of the state board, annually shall release to the public at least 25 percent of test items from the standards-based achievement test provided for in Section 60642.5 from the test administered in the previous year.

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

SEC. 23. Section 60640 of the Education Code, as amended by Section 5 of Chapter 676 of the Statutes of 2005, is repealed.

SEC. 24. Section 60642 of the Education Code is amended to read:

60642. (a) The Superintendent and the state board may consider any evaluations of independent experts who have not been employed by a test publisher in the preceding 12 months regarding the suitability of the achievement tests submitted by publishers as required by subdivision (b) of Section 60605 for use as part of the STAR Program established by this article.

(b) Based upon a review of the achievement tests submitted and the recommendation made by the Superintendent pursuant to subdivision (b) of Section 60605, the state board, in its sole discretion, based on the considerations set forth in Section 60644, shall designate for use as part of the STAR Program a single test in grades 3 and 7.

(c) The state board shall ensure that the achievement test designated pursuant to subdivision (b) contains the subject areas specified in subdivision (c) of Section 60603 for grades 3 and 7.

(d) The state board is hereby authorized to designate the achievement test to be administered pursuant to this article for more than one academic year subject to the availability of funds.

(e) The state board shall minimize, to the extent it deems feasible, the amount of testing time required by the assessment in subdivision (b) for those content areas for which there also exists a standards-based examination as provided for pursuant to Section 60642.5.

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

SEC. 25. Section 60643 of the Education Code, as amended by Section 19 of Chapter 233 of the Statutes of 2004, is amended to read:

60643. (a) To be eligible for consideration under Section 60642 or 60642.5 by the state board, test publishers shall agree in writing each year to meet the following requirements, as applicable, if selected:

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

(2) With respect to selection under Section 60642.5, align the standards-based achievement test provided for in Section 60642.5 to the academically rigorous content and performance standards adopted by the state board.

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

(4) Provide valid and reliable individual pupil scores only in the content areas specified in subdivision (c) of Section 60642 to parents or guardians, teachers, and school administrators.

(5) Provide valid and reliable aggregate scores only in the content areas specified in subdivision (c) of Section 60642 to school districts and county boards of education in all of the following forms and formats:

(A) Grade level.

(B) School level.

(C) District level.

(D) Countywide.

(E) Statewide.

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

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

(7) Provide disaggregated scores by pupil gender and ethnicity and

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

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

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

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

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

(d) Notwithstanding any other provision of law, the publisher of the achievement test designated pursuant to Section 60642, the publisher of the standards-based achievement test provided for in Section 60642.5, or any contractor under subdivision (f) shall comply with all of the conditions and requirements enumerated in subdivision (a), as applicable, to the satisfaction of the state board.

(e) (1) A publisher shall not provide a test described in Section 60642, 60642.5, or 60650 or in subdivision (f) of Section 60640 for use in California public schools, unless the publisher enters into a written contract with the department as set forth in this subdivision.

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

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

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

component tasks by that publisher. The total amount withheld pending final completion shall not exceed 10 percent of the total contract price.

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

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

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

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

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

(B) Test materials production or publication.

(C) Delivery of test materials to school districts.

(D) Test processing, scoring, and analyses.

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

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

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

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

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

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

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

SEC. 26. Section 60643 of the Education Code, as added by Section 20 of Chapter 233 of the Statutes of 2004, is repealed.

SEC. 27. Section 60643.1 of the Education Code, as amended by Section 21 of Chapter 233 of the Statutes of 2004, 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 levels of the corresponding reading list pursuant to paragraph (1) of subdivision (a) meets the following criteria:

(1) The process is educationally valid.

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

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

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

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

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

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

SEC. 28. Section 60643.1 of the Education Code, as added by Section 22 of Chapter 233 of the Statutes of 2004, is repealed.

SEC. 29. Section 60810 of the Education Code is amended to read:

60810. (a) (1) The Superintendent shall review existing tests that assess the English language development of pupils whose primary language is a language other than English. The tests shall include, but not be limited to, an assessment of achievement of these pupils

in English reading, speaking, and written skills. The Superintendent shall determine which tests, if any, meet the requirements of subdivisions (b) and (c). If any existing test or series of tests meets these criteria, the Superintendent, with approval of the state board, shall report to the Legislature on its findings and recommendations.

(2) If no suitable test exists, the Superintendent shall explore the option of a collaborative effort with other states to develop a test or series of tests and share test development costs. If no suitable test exists, the Superintendent, with approval of the state board, may contract to develop a test or series of tests that meets the criteria of subdivisions (b) and (c) or may contract to modify an existing test or series of tests so that it will meet the requirements of subdivisions (b) and (c).

(3) The Superintendent and the state board shall release a request for proposals for the development of the test or series of tests required by this subdivision. The state board shall select a contractor or contractors for the development of the test or series of tests required by this subdivision, to be available for administration during the 2000-01 school year.

(4) The Superintendent shall apportion funds appropriated to enable school districts to meet the requirements of subdivision (d). The state board shall establish the amount of funding to be apportioned per test administered, based on a review of the cost per test.

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

(b) (1) The test or series of tests developed or acquired pursuant to subdivision (a) shall have sufficient range to assess pupils in grades 2 to 12, inclusive, in English listening, speaking, reading, and writing skills. Pupils in kindergarten and grade 1 shall be assessed in English listening and speaking, and, once an assessment is developed, early literacy skills. The early literacy assessment shall be administered for a period of three years beginning after the initial administration of the assessment or until July 1, 2012, whichever occurs first. Six months after the results of the last administered assessment are collected, but no later than January 1, 2013, the department shall report to the Legislature on the administration of the kindergarten and grade 1 early literacy assessment results, as well as on the administrative process, in order to determine whether reauthorization of the early literacy assessment is appropriate.

(2) In the development and administration of the assessment for pupils in kindergarten and grade 1, the department shall minimize any additional assessment time, to the extent possible. To the extent that it is technically possible, items that are used to assess listening and speaking shall be used to measure early literacy skills. The department shall ensure that the test and procedures for its administration are age and developmentally appropriate. Age and developmentally appropriate procedures for administration may

include, but are not limited to, one-on-one administration, a small group setting, and orally responding or circling a response to a question.

(c) The test or series of tests shall meet all of the following requirements:

(1) Provide sufficient information about pupils at each grade level to determine levels of proficiency ranging from no English proficiency to fluent English proficiency with at least two intermediate levels.

(2) Have psychometric properties of reliability and validity deemed adequate by technical experts.

(3) Be capable of administration to pupils with any primary language other than English.

(4) Be capable of administration by classroom teachers.

(5) Yield scores that allow comparison of the growth of a pupil over time, can be tied to readiness for various instructional options, and can be aggregated for use in the evaluation of program effectiveness.

(6) Not discriminate on the basis of race, ethnicity, or gender.

(7) Be aligned with the standards for English language development adopted by the state board pursuant to Section 60811.

(8) Be age and developmentally appropriate for pupils.

(d) The test shall be used for the following purposes:

(1) To identify pupils who are limited English proficient.

(2) To determine the level of English language proficiency of pupils who are limited English proficient.

(3) To assess the progress of limited-English-proficient pupils in acquiring the skills of listening, reading, speaking, and writing in English.

SEC. 30. Section 17581.5 of the Government Code is amended to read:

17581.5. (a) A school district shall not be required to implement or give effect to the statutes, or a portion of the statutes, identified in subdivision (b) during any fiscal year and for the period immediately following that fiscal year for which the Budget Act has not been enacted for the subsequent fiscal year if all of the following apply:

(1) The statute or a portion of the statute, has been determined by the Legislature, the commission, or any court to mandate a new program or higher level of service requiring reimbursement of school districts pursuant to Section 6 of Article XIII B of the California Constitution.

(2) The statute, or a portion of the statute, or the test claim number utilized by the commission, specifically has been identified by the Legislature in the Budget Act for the fiscal year as being one for which reimbursement is not provided for that fiscal year. For purposes of this paragraph, a mandate shall be considered specifically to have been identified by the Legislature only if it has been included within the schedule of reimbursable mandates shown in the Budget Act and it specifically is identified in the language of a provision of the item providing the appropriation for mandate reimbursements.

(b) This section applies only to the following mandates:

(1) The School Bus Safety I (CSM-4433) and II (97-TC-22) mandates (Chapter 642 of the Statutes of 1992; Chapter 831 of the Statutes of 1994; and Chapter 739 of the Statutes of 1997).

(2) The School Crimes Reporting II mandate (97-TC-03; and Chapter 759 of the Statutes of 1992 and Chapter 410 of the Statutes of 1995).

(3) Investment reports (96-358-02; and Chapter 783 of the Statutes



of 1995 and Chapters 156 and 749 of the Statutes of 1996).

(4) County treasury oversight committees (96-365-03; and Chapter 784 of the Statutes of 1995 and Chapter 156 of the Statutes of 1996).

(5) Grand jury proceedings mandate (98-TC-27; and Chapter 1170 of the Statutes of 1996, Chapter 443 of the Statutes of 1997, and Chapter 230 of the Statutes of 1998).

(6) Sexual Harassment Training in the Law Enforcement Workplace (97-TC-07; and Chapter 126 of the Statutes of 1993).

SEC. 31. Section 37 of Chapter 79 of the Statutes of 2006 is amended to read:

Sec. 37. (a) Three hundred eighty-eight million two hundred eighty-three thousand dollars (\$388,283,000) is hereby appropriated from the General Fund, for expenditure during the 2007-08 fiscal year, in accordance with the following schedule:

(1) Six million two hundred twenty-seven thousand dollars (\$6,227,000) to the State Department of Education for apprenticeship programs to be expended consistent with the requirements specified in Item 6110-103-0001 of Section 2.00 of the Budget Act of 2006.

(2) Sixty-three million three hundred ninety-one thousand dollars (\$63,391,000) to the State Department of Education for supplemental instruction to be expended consistent with the requirements specified in Item 6110-104-0001 of Section 2.00 of the Budget Act of 2006. Of the amount appropriated by this paragraph, fifty-one million sixty-one thousand dollars (\$51,061,000) shall be expended consistent with Schedule (1) of Item 6110-104-0001 of Section 2.00 of the Budget Act of 2006, and twelve million three hundred thirty thousand dollars (\$12,330,000) shall be expended consistent with Schedule (2) of that item.

(3) Twenty-six million seven hundred twenty-six thousand dollars (\$26,726,000) to the State Department of Education for supplemental instruction to be expended consistent with the requirements specified in Item 6110-104-0001 of Section 2.00 of the Budget Act of 2006. Of the amount appropriated by this paragraph, four million six hundred ninety thousand dollars (\$4,690,000) shall be expended consistent with Schedule (3) of Item 6110-104-0001 of Section 2.00 of the Budget Act of 2006, and twenty-two million thirty-six thousand dollars (\$22,036,000) shall be expended consistent with Schedule (4) of that item.

(4) Thirty-nine million six hundred thirty thousand dollars (\$39,630,000) to the State Department of Education for regional occupational centers and programs to be expended consistent with the requirements specified in Schedule (1) of Item 6110-105-0001 of Section 2.00 of the Budget Act of 2006.

(5) Fifty-two million five hundred eighty-three thousand dollars (\$52,583,000) to the State Department of Education for home-to-school transportation to be expended consistent with the requirements specified in Schedule (1) of Item 6110-111-0001 of Section 2.00 of the Budget Act of 2006.

(6) Four million two hundred ninety-four thousand dollars (\$4,294,000) to the State Department of Education for the Gifted and Talented Pupil Program to be expended consistent with the requirements specified in Item 6110-124-0001 of Section 2.00 of the Budget Act of 2006.

(7) Forty-five million eight hundred ninety-six thousand dollars (\$45,896,000) to the State Department of Education for adult education to be expended consistent with the requirements specified in Schedule (1) of Item 6110-156-0001 of Section 2.00 of the Budget Act of 2006.

(8) Four million seven hundred fifty-one thousand dollars

(\$4,751,000) to the State Department of Education for community day schools to be expended consistent with the requirements specified in of Item 6110-190-0001 of Section 2.00 of the Budget Act of 2006.

(9) Five million nine hundred forty-seven thousand dollars (\$5,947,000) to the State Department of Education for categorical block grants for charter schools to be expended consistent with the requirements specified in Item 6110-211-0001 of Section 2.00 the Budget Act of 2006.

(10) Thirty-eight million seven hundred twenty thousand dollars (\$38,720,000) to the State Department of Education for the School Safety Block Grant to be expended consistent with the requirements specified in Schedule (1) of Item 6110-228-0001 of Section 2.00 of the Budget Act of 2006.

(11) One hundred million one hundred eighteen thousand dollars (\$100,118,000) to the State Department of Education for Targeted Instructional Improvement Grant Program to be expended consistent with the requirements specified in Item 6110-246-0001 of Section 2.00 of the Budget Act of 2006.

(b) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriations made by subdivision (a) shall be deemed to be "General Fund revenues appropriated for school districts," as defined in subdivision (c) of Section 41202 of the Education Code, for the 2007-08 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202 of the Education Code, for the 2007-08 fiscal year.

SEC. 32. Item 6110-136-0890 of Section 2.00 of the Budget Act of 2006 (Chapter 47 of the Statutes of 2006) is amended to read:  
6110-136-0890--For local assistance,  
Department of Education, payable from  
the Federal Trust Fund..... 1,760,816,000

Schedule:

(1)	10.30.060-Title I-	1,680,283,00
	ESEA.....	0
(2)	10.30.065-McKinney-	
	Vento Homeless	
	Children Education..	8,409,000
(3)	10.30.080-Title I-	
	School Improvement..	72,124,000

Provisions:

1. In administering the accountability system required by this item, the State Department of Education shall align the forms, processes, and procedures required of local educational agencies in a manner that they may be utilized for the purposes of implementing the Public Schools Accountability Act, as established by Chapter 6.1 (commencing with Section 52050) of Part 28 of the Education Code, so that duplication of effort is minimized at the local level.
2. Of the funds appropriated in Schedule (3), \$10,000,000 shall

- be available for use by the State Department of Education for the purposes of the Statewide System of School Support established by Article 4.2 (commencing with Section 52059) of Chapter 6.1 of Part 28 of the Education Code.
3. Of the funds appropriated in Schedule (3), up to \$2,000,000 shall be made available to support school assistance and intervention teams that enter into a contract with a school pursuant to subdivision (a) of Section 52055.51 of the Education Code. These funds shall be allocated in the amount of \$75,000 for each school assistance and intervention team assigned to an elementary or middle school, and \$100,000 for each team assigned to a high school. The State Department of Education and Department of Finance may approve applications with justification for a total funding level of \$125,000.
  4. Of the funds appropriated in Schedule (3), up to \$22,069,000 shall be made available to provide \$150 per pupil for each pupil in a school that is managed in accordance with paragraph (3) of subdivision (b) of Section 52055.5 of the Education Code or that contracts with a school assistance and intervention team pursuant to subdivision (a) of Section 52055.51 of the Education Code.
  5. Of the funds appropriated in Schedule (3), \$16,180,000 shall be available pursuant to Article 3.1 (commencing with Section 52055.57) of Chapter 6.1 of Part 28 of the Education Code, for Title I district accountability.
  6. The funds appropriated in Schedule (1) include a one-time carryover from prior years of \$3,500,000, available for the Even Start program.
  7. The funds appropriated in Schedule (2) include a one-time carryover of \$500,000 to support the existing McKinney-Vento Homeless Children Education program.
  9. The funds appropriated in

- Schedule (1) include a one-time carryover of \$24,300,000 to support the Title I Basic Program.
10. The funds appropriated in Schedule (3) include a one-time carryover of \$22,275,000 to support the Title I School Improvement program.

SEC. 33. In order to be eligible for an allocation of funds made available pursuant to paragraph (6) of subdivision (a) of Section 9 of Chapter 371 of the Statutes of 2006, a school district or charter school that applies for that funding shall complete and submit to the county superintendent of schools on or before June 30, 2009, its plan for meeting its outstanding long-term fiscal obligations concerning retired employee nonpension benefits.

SEC. 34. The allocation of funds a school district, charter school, or county office of education receives pursuant to paragraph (16) of subdivision (a) of Section 43 of Chapter 79 of the Statutes of 2006, as amended by Section 9 of Chapter 371 of the Statutes of 2006, shall be used solely for the following:

- (a) Art and music supplies and equipment.
- (b) Physical education supplies and equipment.
- (c) Professional development in arts, music, physical education, or physical fitness.

SEC. 35. It is the intent of the Legislature to enact legislation requiring the clear articulation of a data access policy that is both compliant with the federal Family Educational Rights and Privacy Act (20 U.S.C. Sec. 1232g) and related federal regulations and allows parents, educators, researchers, policymakers, and the public appropriate access to the longitudinal data that will be available in the California Longitudinal Pupil Achievement Data System (CALPADS). To further that intent, the State Department of Education shall provide a report, no later than August 1, 2007, to the Legislature, the Department of Finance, the Office of the Secretary for Education, and the Legislative Analyst's Office that includes all of the following:

- (a) The current guideline used by the department regarding access to data within CALPADS.
- (b) A summary of the ways in which other states interpret and apply the federal Family Educational Rights and Privacy Act (20 U.S.C. Sec. 1232g) to longitudinal pupil data.
- (c) Suggestions, based on current knowledge and understanding, for options to ensure access that is consistent with the federal Family Educational Rights and Privacy Act (20 U.S.C. Sec. 1232g).

SEC. 36. Notwithstanding Sections 42238.1 and 42238.15 of the Education Code or any other provision of law, the cost-of-living adjustment for Items 6110-104-0001, 6110-105-0001, 6110-111-0001, 6110-156-0001, 6110-158-0001, 6110-161-0001, 6110-189-0001, 6110-190-0001, 6110-196-0001, 6110-232-0001, 6110-234-0001, 6110-244-0001, and 6110-246-0001 of Section 2.00 of the Budget Act of 2006 (Chapter 47 of the Statutes of 2006), and those items identified in subdivision (b) of Section 12.40 of the Budget Act of 2006, is 4.53 percent. All funds appropriated in the items identified in this section are in lieu of the amounts that would otherwise be appropriated

pursuant to any other provision of law.

SEC. 37. Notwithstanding any other provision of law, the funds

appropriated pursuant to Items 6110-103-0001, 6110-104-0001, 6110-105-0001, 6110-111-0001, 6110-124-0001, 6110-156-0001, 6110-158-0001, 6110-161-0001, 6110-190-0001, 6110-211-0001, and 6110-243-0001 of Section 2.00 of the Budget Act of 2007 are available for encumbrance until July 31, 2010, and after that date, all remaining unencumbered funds in those items shall revert to the Proposition 98 Reversion Account.

SEC. 38. (a) The sum of three hundred eighty-eight million two hundred eighty-three thousand dollars (\$388,283,000) is hereby appropriated from the General Fund, for expenditure during the 2008-09 fiscal year, in accordance with the following schedule:

(1) Six million two hundred twenty-seven thousand dollars (\$6,227,000) to the State Department of Education for apprenticeship programs to be expended consistent with the requirements specified in Item 6110-103-0001 of Section 2.00 of the Budget Act of 2007.

(2) Ninety million one hundred seventeen thousand dollars (\$90,117,000) to the State Department of Education for supplemental instruction to be expended consistent with the requirements specified in Item 6110-104-0001 of Section 2.00 of the Budget Act of 2007. Of the amount appropriated by this paragraph, fifty-one million sixty-one thousand dollars (\$51,061,000) shall be expended consistent with Schedule (1) of Item 6110-104-0001 of Section 2.00 of the Budget Act of 2007, twelve million three hundred thirty thousand dollars (\$12,330,000) shall be expended consistent with Schedule (2) of that item, four million six hundred ninety thousand dollars (\$4,690,000) shall be expended consistent with Schedule (3) of that item, and twenty-two million thirty-six thousand dollars (\$22,036,000) shall be expended consistent with Schedule (4) of that item.

(3) Thirty-nine million six hundred thirty thousand dollars (\$39,630,000) to the State Department of Education for regional occupational centers and programs to be expended consistent with the requirements specified in Schedule (1) of Item 6110-105-0001 of Section 2.00 of the Budget Act of 2007.

(4) Fifty-two million five hundred eighty-three thousand dollars (\$52,583,000) to the State Department of Education for home-to-school transportation to be expended consistent with the requirements specified in Schedule (1) of Item 6110-111-0001 of Section 2.00 of the Budget Act of 2007.

(5) Four million two hundred ninety-four thousand dollars (\$4,294,000) to the State Department of Education for the Gifted and Talented Pupil Program to be expended consistent with the requirements specified in Item 6110-124-0001 of Section 2.00 of the Budget Act of 2007.

(6) Forty-five million eight hundred ninety-six thousand dollars (\$45,896,000) to the State Department of Education for adult education to be expended consistent with the requirements specified in Schedule (1) of Item 6110-156-0001 of Section 2.00 of the Budget Act of 2007.

(7) Four million seven hundred fifty-one thousand dollars (\$4,751,000) to the State Department of Education for community day schools to be expended consistent with the requirements specified in Item 6110-190-0001 of Section 2.00 of the Budget Act of 2007.

(8) Five million nine hundred forty-seven thousand dollars (\$5,947,000) to the State Department of Education for categorical block grants for charter schools to be expended consistent with the requirements specified in Item 6110-211-0001 of Section 2.00 of the Budget Act of 2007.

(9) Thirty-eight million seven hundred twenty thousand dollars (\$38,720,000) to the State Department of Education for the School

Safety Block Grant to be expended consistent with the requirements specified in Schedule (1) of Item 6110-228-0001 of Section 2.00 of the Budget Act of **2007**.

(10) One hundred million one hundred eighteen thousand dollars (\$100,118,000) to the State Department of Education for Targeted Instructional Improvement Grant Program to be expended consistent with the requirements specified in Item 6110-246-0001 of Section 2.00 of the Budget Act of **2007**.

(b) For purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriations made by subdivision (a) shall be deemed to be "General Fund revenues appropriated for school districts," as defined in subdivision (c) of Section 41202 of the Education Code, for the 2008-09 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202 of the Education Code, for the 2008-09 fiscal year.

SEC. 39. (a) The sum of two hundred million dollars (\$200,000,000) is hereby appropriated from the General Fund to the Board of Governors of the California Community Colleges for apportionments to community college districts, for expenditure during the 2008-09 fiscal year, to be expended in accordance with Schedule (1) of Item 6870-101-0001 of Section 2.00 of the Budget Act of **2007**.

(b) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by subdivision (a) shall be deemed to be "General Fund revenues appropriated for community college districts," as defined in subdivision (d) of Section 41202 of the Education Code, for the 2008-09 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202 of the Education Code, for the 2008-09 fiscal year.

SEC. 40. It is the intent of the Legislature that for the 2008-09 fiscal year, after funding cost-of-living and enrollment growth adjustments for kindergarten and grades 1 to 12, inclusive, education programs operated in the **2007-08** fiscal year, a priority for the allocation of any additional funds available for kindergarten and grades 1 to 12, inclusive, within the Proposition 98 minimum guarantee shall be to fund revenue limit equalization in a manner consistent with Section 42238.48 of the Education Code.

SEC. 41. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 42. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make the necessary statutory changes to implement the Budget Act of **2007** at the earliest possible time, it is necessary that this act take effect immediately.

BILL NUMBER: SB 946      CHAPTERED 09/28/08

CHAPTER 473

FILED WITH SECRETARY OF STATE SEPTEMBER 28, 2008

APPROVED BY GOVERNOR SEPTEMBER 28, 2008

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AMENDED IN ASSEMBLY AUGUST 14, 2008

AMENDED IN ASSEMBLY AUGUST 12, 2008

AMENDED IN ASSEMBLY JUNE 28, 2007

AMENDED IN ASSEMBLY JUNE 21, 2007

INTRODUCED BY Senator Scott

(Coauthors: Assembly Members Brownley and Karnette)

FEBRUARY 23, 2007

An act to amend Section 60641 of, and to add Chapter 6 (commencing with Section 99300) to Part 65 of Division 14 of Title 3 of, the Education Code, relating to postsecondary education.

LEGISLATIVE COUNSEL'S DIGEST

SB 946, Scott. Community College Early Assessment Pilot Program.

Existing law establishes the California Community Colleges, under the administration of the Board of Governors of the California Community Colleges, as one of the segments of postsecondary education in this state. Existing law establishes community college districts throughout the state, and authorizes those districts to provide instruction to students at community college campuses.

This bill would express legislative findings and declarations relating to the Early Assessment Program (EAP), a collaborative effort established by the California State University to enable pupils to learn about their readiness for college-level English and mathematics before their senior year of high school. The bill would express legislative intent that the existing EAP be modified by expanding it to include the California Community Colleges. The bill would also express legislative intent that the existing EAP student notification system, as currently operated by agreement between CSU and the State Department of Education, be modified to include specified requirements.

This bill would authorize community college districts to use the California Standards Test (CST) and augmented CST to provide diagnostic advice to prospective community college students participating in the EAP. As authorized by specified law, the individual results of the CST and the augmented CST would be provided to the office of the Chancellor of the California Community Colleges, which would coordinate with community college districts that choose to voluntarily participate in the EAP. The bill would specify that certain provisions apply to those community college districts that choose to work directly with high school pupils who took the CST and choose to offer assistance to these pupils in strengthening their college readiness skills.

The bill would require that the individual results of the CST and the augmented CST be released to, and in addition to any other purposes permit the use by, CSU to provide diagnostic advice to, or for the placement of prospective CSU students participating in the EAP. The bill would prohibit CSU from using the individual results of

the CST and the augmented CST as a criterion for admission.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 60641 of the Education Code is amended to read:

60641. (a) The department shall ensure that school districts comply with each of the following requirements:

(1) The achievement test designated pursuant to Section 60642 and the standards-based achievement test provided for in Section 60642.5 are scheduled to be administered to all pupils during the period prescribed in subdivision (b) of Section 60640.

(2) The individual results of each pupil test administered pursuant to Section 60640 shall be reported, in writing, to the pupil's parent or guardian. The written report shall include a clear explanation of the purpose of the test, the pupil's score, and its intended use by the school district. This subdivision does not require teachers or other school district personnel to prepare individualized explanations of each pupil's test score.

(3) (A) The individual results of each pupil test administered pursuant to Section 60640 shall also be reported to the pupil's school and teachers. The school district shall include the pupil's test results in his or her pupil records. However, except as provided in this section, individual pupil test results may only be released with the permission of either the pupil's parent or guardian if the pupil is a minor, or the pupil if the pupil has reached the age of majority or is emancipated.

(B) Notwithstanding subparagraph (A), a pupil or his or her parent or guardian may authorize the release of individual pupil results to a postsecondary educational institution for the purpose of credit, placement, determination of readiness for college-level coursework, or admission.

(4) The districtwide, school-level, and grade-level results of the STAR Program in each of the grades designated pursuant to Section 60640, but not the score or relative position of any individually ascertainable pupil, shall be reported to the governing board of the school district at a regularly scheduled meeting, and the countywide, school-level, and grade-level results for classes and programs under the jurisdiction of the county office of education shall be similarly reported to the county board of education at a regularly scheduled meeting.

(b) The publisher designated pursuant to Section 60642 and the publisher of the standards-based achievement tests provided for in Section 60642.5 shall make the individual pupil, grade, school, school district, and state results available to the department pursuant to paragraph (9) of subdivision (a) of Section 60643 by August 8 of each year in which the achievement test is administered for those schools for which the last day of test administration, including makeup days, is on or before June 25. The department shall make the grade, school, school district, and state results available on the Internet by August 15 of each year in which the achievement test is administered for those schools for which the last day of test administration, including makeup days, is on or before June 25.

(c) The department shall take all reasonable steps to ensure that the results of the test for all pupils who take the test by June 25 are made available on the Internet by August 15, as set forth in subdivision (b).

(d) The department shall ensure that a California Standards Test that is augmented for the purpose of determining credit, placement,



or readiness for college-level coursework of a pupil in a postsecondary educational institution inform a pupil in grade 11 that he or she may request that the results from that assessment be released to a postsecondary educational institution.

SEC. 2. Chapter 6 (commencing with Section 99300) is added to Part 65 of Division 14 of Title 3 of the Education Code, to read:

CHAPTER 6. THE EARLY ASSESSMENT PROGRAM

99300. (a) The Legislature finds and declares that in 2004, the California State University (CSU) established the Early Assessment Program (EAP), a collaborative effort among the State Board of Education, the State Department of Education, and CSU, to enable pupils to learn about their readiness for college-level English and mathematics before their senior year of high school. It is the intent of the Legislature that the office of the Chancellor of the California Community Colleges, the office of the Chancellor of the California State University, the State Board of Education, and the State Department of Education work together to modify the existing EAP to expand it to include the California Community Colleges (CCC) so that, beginning in the 2009-10 school year, high school juniors who are considering attending either system can take the EAP and receive information in the summer before their senior year concerning their preparation for college-level work at both CSU and CCC.

(b) It is also the intent of the Legislature that the existing EAP student notification system, as currently operated by agreement between CSU and the State Department of Education, be modified to do both of the following:

(1) Reassure pupils that they are eligible to attend a community college and that taking the EAP test has no bearing on their eligibility to attend a community college.

(2) Inform pupils of their readiness for college-level coursework in English or mathematics, or both, and recommend the next appropriate steps as they pertain to achieving success at a community college, similar to how CSU communicates with pupils who take the EAP test and are prospective CSU students.

(c) It is also the intent of the Legislature that the EAP be modified to include all of the following requirements:

(1) That the participating community college districts utilize the existing EAP secure data repository and clearinghouse for test score distribution of the California Standards Test (CST) and the augmented CST, as referenced in Section 60641.

(2) That the modified EAP not affect the statutory reporting requirements of the STAR Program, or increase the costs of either the STAR Program or the State Department of Education.

(3) That the modified EAP be titled the "Early Assessment Program."

99301. (a) Notwithstanding subdivision (a) of Section 78213, the individual results of the California Standards Test (CST) and the augmented CST, as referenced in Section 60641, in addition to any other purposes may be used by community college districts to provide diagnostic advice to, or for the placement of, prospective community college students participating in the EAP.

(b) (1) As authorized pursuant to subparagraph (B) of paragraph (3) of subdivision (a) of Section 60641, the individual results of the CST and the augmented CST, as referenced in Section 60641, shall be provided to the office of the Chancellor of the California Community Colleges.

(2) The office of the Chancellor of the California Community Colleges shall coordinate with community college districts that

choose to voluntarily participate in the EAP as follows, and, to the extent possible, shall accomplish all of the following activities using existing resources:

(A) Encourage community college districts to choose to voluntarily participate in the EAP and notify them of the requirements of subdivision (c), including the requirements that the standards utilized by CSU to assess readiness for college-level English and mathematics courses, as expressed in the CST as augmented by CSU, shall also be used for the purposes of the EAP.

(B) Coordinate the progress of the program, provide technical assistance to participating community college districts pursuant to subdivision (c) as needed, identify additional reporting and program criteria as needed, and provide a report to the Legislature and Governor on or before February 15, 2015, on the implementation and results of the EAP for community college students.

(C) Provide access to the individual test results of the CST and the augmented CST, as referenced in Section 60641, to participating community college districts.

(c) For those community college districts that choose to work directly with high school pupils within their respective district boundaries who took the augmented CST, as referenced in Section 60641, and choose to offer assistance to these pupils in strengthening their college readiness skills, all of the following provisions apply:

(1) The individual results of the CST and the augmented CST, as referenced in Section 60641, shall be released by the office of the Chancellor of the California Community Colleges, as authorized pursuant to subparagraph (B) of paragraph (3) of subdivision (a) of Section 60641, to participating community college districts upon their request for this information and may be used to provide diagnostic advice to prospective community college students participating in the EAP.

(2) Pursuant to subparagraph (A) of paragraph (2) of subdivision (b), the same standards utilized by CSU to assess readiness shall also be used for purposes of this section.

(3) The augmented CST as referenced in Section 60641, and currently utilized by CSU for purposes of early assessment, shall be used to assess the college readiness of pupils in the EAP.

(4) Participating community college districts are encouraged to consult with the Academic Senate for the California Community Colleges to work toward sequencing their precollegiate level courses and transfer-level courses in English and mathematics to the elementary and secondary education academic content standards adopted pursuant to Section 60605.

(5) Participating community college districts shall identify an EAP coordinator and shall coordinate with CSU campuses and schools offering instruction in kindergarten and any of grades 1 to 12, inclusive, in their respective district boundaries on EAP-related activities that assist pupils in making decisions that increase their college readiness skills and likelihood of pursuing a postsecondary education.

(6) In order to provide high school pupils with an indicator of their college readiness, a community college district participating in the EAP shall use individual test results provided to that college pursuant to paragraph (1) of, and subparagraph (C) of paragraph (2) of, subdivision (b) to provide diagnostic advice to prospective community college students participating in the EAP.

(7) The individual results of the augmented CST, as referenced in Section 60641 for purposes of the EAP, shall not be used by a community college as a criterion for admission.

(8) Participating community college districts shall utilize the existing infrastructure of academic opportunities, as developed by CSU, to provide additional preparation in grade 12 for prospective community college students participating in the EAP.

(d) Both of the following provisions apply to CSU:

(1) The individual results of the CST and the augmented CST, as referenced in Section 60641, as authorized pursuant to subparagraph (B) of paragraph (3) of subdivision (a) of Section 60641, shall be released to, and in addition to any other purposes may be used by, CSU to provide diagnostic advice to, or for the placement of prospective CSU students participating in the EAP.

(2) The individual results of the augmented CST, as referenced in Section 60641 for purposes of the EAP, shall not be used by CSU as a criterion for admission.

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**Title 5. EDUCATION**  
**Division 1. State Department of Education**  
**Chapter 2. Pupils**  
**Subchapter 3.75. Standardized Testing and Reporting Program**  
**Article 1. General**

**§ 850. Definitions.**

For the purposes of the Standardized Testing and Reporting (STAR) Program, the following terms shall have the following meanings unless the context indicates otherwise:

(a) "Accommodations" means any variation in the assessment environment or process that does not fundamentally alter what the test measures or affect the comparability of scores. Accommodations may include variations in scheduling, setting, aids, equipment, and presentation format.

(b) "Administration Period" means one of multiple test administration periods used by school districts with schools or programs on non-traditional calendars that begin and complete the school year at various times and have staggered vacation periods, in order to ensure that all pupils are tested at approximately the same point in the instructional year.

(c) "Alternate Assessment" means an assessment as provided in Education Code section 60640(e) developed to measure the degree to which pupils with exceptional needs who are unable to take the standards-based achievement tests even with accommodations or modifications are achieving the state content standards. Alternate assessments include administration manuals, administrative materials, and documents on which the test examiner records the pupils' responses.

(d) "California Standards Tests" means an assessment as provided in Education Code section 60642.5 that measures the degree to which pupils are achieving the state content standards.

(e) "CDE" means the California Department of Education.

(f) "Designated achievement test" means an assessment as provided in Education Code section 60640(b) and 60642 for grades 3 and 7. The designated achievement test includes test booklets, test answer documents, administration manuals, and administrative materials.

1 (g) “Designated primary language test” means an assessment as provided in  
2 Education Code section 60640(f)(1) and (2) in each primary language for which a test  
3 is available for students with limited English proficiency and includes the test booklets,  
4 test answer documents, administration manuals, administrative materials, and practice  
5 tests.

6 (h) “Eligible pupil” is any pupil in grades 2 to 11, inclusive, who is not exempted  
7 pursuant to Education Code section 60615.

8 (1) For the designated achievement test, an eligible pupil is any pupil in grades 3 or  
9 7.

10 (2) For the designated primary language test and the standards-based test in  
11 Spanish, an eligible pupil is an English learner with a primary language for which a test  
12 is required or optional pursuant to Education Code section 60640.

13 (i) “Grade” means the grade assigned to the pupil by the school district at the time  
14 of testing.

15 (j) “Modification” means any variation in the assessment environment or process  
16 that fundamentally alters what the test measures or affects the comparability of scores.

17 (k) “Nonpublic schools (NPS)” are nonpublic, nonsectarian schools as set forth in  
18 California Education Code section 56034.

19 (l) “School districts” includes elementary, high school, and unified school districts;  
20 county offices of education; and any charter school that for assessment purposes does  
21 not elect to be part of the school district or county office of education that granted the  
22 charter; and any charter school chartered by the State Board of Education (SBE).

23 (m) “Scribe” is an employee of the school district, or a person assigned by a  
24 nonpublic school to implement a pupil’s individualized education program (IEP) who  
25 has signed a STAR Test Security Affidavit and is required to transcribe a pupil’s  
26 responses to the format required by the test. A student’s parent or guardian is not  
27 eligible to be a scribe.

28 (n) A “significant medical emergency” is a significant accident, trauma, or illness  
29 (mental or physical) that precludes a pupil in grades 2 to 11, inclusive, from taking the  
30 standards-based achievement tests or designated achievement test. An accident,  
31 trauma, or illness is significant if the pupil has been determined by a licensed physician  
32 to be unable to participate in the tests.

1 (o) “Standards-based achievement tests” means an assessment that measures the  
2 degree to which pupils are achieving the state content standards as provided in  
3 Education Code sections 60640(e) alternate assessment, 60640(f)(3) standards-based  
4 test in Spanish, and 60642.5 California Standards Tests. The standards-based  
5 achievement tests include test booklets, test answer documents, administration  
6 manuals, administrative materials, practice tests and other materials developed and  
7 provided by the contractor of the tests.

8 (p) “Standards-based test in Spanish” means an assessment as provided in  
9 Education Code section 60640(f)(3) in the dominant primary language of limited-  
10 English proficient students enrolled in California public schools that measures the  
11 degree to which pupils are achieving the state content standards.

12 (q) “Test examiner” is an employee of a school district or an employee of a non-  
13 public school who has been trained to administer the tests and has signed a STAR  
14 Test Security Affidavit. For the alternate assessment, the test examiner must be a  
15 certificated or licensed school staff member.

16 (r) “Test proctor” is an employee of a school district, or a person assigned by a  
17 nonpublic school to implement a pupil’s IEP, who has signed a STAR Test Security  
18 Affidavit and has received training designed to prepare him or her to assist the test  
19 examiner in the administration of tests within the STAR Program.

20 (s) “Variation” is a change in the manner in which a test is presented or  
21 administered, or in how a test taker is allowed to respond, and includes, but is not  
22 limited to, accommodations and modifications.

23 NOTE: Authority cited: Sections 33031 and 60605, Education Code. Reference:  
24 Sections 56034, 60615, 60640, 60642 and 60642.5, Education Code.

25  
26 **§ 850.5. School District Liability.**

27 NOTE: Authority cited: Sections 33031 and 60605, Education Code.  
28 Reference: Sections 60603, 60604 and 60613, Education Code.

29  
30 **Article 2. Designated Achievement Test, Standards-Based**  
31 **Achievement Tests, Alternate Assessment, and Designated Primary Language**  
32 **Test**

1     **§ 851. Pupil Testing.**

2         (a) School districts shall administer the designated achievement test, and  
3 standards-based achievement tests and the designated primary language test to each  
4 eligible pupil, enrolled in a school district on the date testing begins in the pupil’s school  
5 or school district.

6         (b) School districts shall make whatever arrangements are necessary to test all  
7 eligible pupils in alternative education programs or programs conducted off campus,  
8 including, but not limited to, continuation schools, independent study, community day  
9 schools, county community schools, or nonpublic schools.

10        (c) No test may be administered in a home or hospital except by a test examiner.  
11 No test shall be administered to a pupil by the parent or guardian of that pupil. This  
12 subdivision does not prevent classroom aides from assisting in the administration of the  
13 test under the supervision of a test examiner provided that the classroom aide does not  
14 assist his or her own child and that the classroom aide signs a security affidavit.

15        NOTE: Authority cited: Sections 33031 and 60605, Education Code. Reference:  
16 Section 60640, Education Code.

17

18     **§ 852. Pupil Exemptions.**

19         A parent or guardian may submit to the school a written request to excuse his or her  
20 child from any or all parts of any test provided pursuant to Education Code section  
21 60640. A school district and its employees may discuss the STAR Program with  
22 parents and may inform parents of the availability of exemptions under Education Code  
23 section 60615. However, the school district and its employees shall not solicit or  
24 encourage any written exemption request on behalf of any child or group of children.

25        NOTE: Authority cited: Sections 33031 and 60605, Education Code. Reference:  
26 Sections 60615 and 60640, Education Code.

27

28     **§ 853. Administration.**

29         The designated achievement test, standards-based achievement tests and  
30 designated primary language test shall be administered and returned by school districts  
31 in accordance with the manuals or other instructions provided by the contractor for  
32 administering and returning the tests unless specifically provided otherwise in this

1 subchapter including instructions for administering the test with variations,  
2 accommodations, and modifications specified in section 853.5. The procedures shall  
3 include, but are not limited to, those designed to insure the uniform and standard  
4 administration of the tests to pupils, the security and integrity of the test content and  
5 test items, and the timely provision of all required student and school level information.  
6 NOTE: Authority cited: Sections 12001, 33031 and 60605, Education Code. Reference:  
7 Section 60640, Education Code; and 20 USC Section 6311.

8  
9 **§ 853.5. Use of Variations, Accommodations, and Modifications.**

10 (a) School districts may provide all pupils the following variations:

11 (1) have test directions simplified or clarified.

12 (2) write in test booklets for grades 2 to 11, on the standards-based achievement  
13 test inclusive, e.g., underlining, working math problems. Any marks other than those in  
14 response circles for grades 2 and 3 must be erased to ensure that the tests can be  
15 scored.

16 (3) have as much time as needed within a single sitting to complete a test or test  
17 part on the standards-based achievement tests.

18 (b) School districts may provide all pupils the following testing variations if regularly  
19 used in the classroom:

20 (1) special or adaptive furniture.

21 (2) special lighting, special acoustics, or visual magnifying or audio amplification  
22 equipment.

23 (3) an individual carrel or study enclosure.

24 (4) test individually in a separate room provided that an employee of the school,  
25 school district, or non-public school, who has signed the STAR Test Security Affidavit,  
26 directly supervises the pupil.

27 (5) colored overlay, mask, or other means to maintain visual attention to the test or  
28 test questions.

29 (6) Manually Coded English or American Sign Language to present directions for  
30 administration.

31 (c) Eligible pupils with disabilities who have IEPs and pupils with Section 504 plans  
32 shall be permitted the following presentation, response or setting accommodations if



1 specified in the IEP or Section 504 plan:

2 (1) large print versions.

3 (2) test items enlarged if font larger than that used on large print versions is  
4 required.

5 (3) Braille transcriptions provided by the test contractor.

6 (4) audio or oral presentation of the mathematics, science, or history-social science  
7 tests.

8 (5) Manually Coded English or American Sign Language to present test questions  
9 on the mathematics, science, or history-social science tests.

10 (6) for grades 4 to 11 responses marked in test booklet and transferred to the  
11 answer document by a school, school district, or nonpublic school employee who has  
12 signed the STAR Test Security Affidavit.

13 (7) responses dictated orally, in Manually Coded English or American Sign  
14 Language to a scribe for selected-response items (e.g., multiple-choice test questions).

15 (8) responses dictated to a scribe, audio recorder, or speech to text converter on  
16 the writing portion of the English-language arts tests, and the pupil indicates all spelling  
17 and language conventions.

18 (9) use of word processing software with spell and grammar check tools turned off  
19 on the writing portion of the English-language arts tests.

20 (10) use of an assistive device that does not interfere with the independent work of  
21 the student on the multiple-choice or writing portion of the test.

22 (11) supervised breaks within a section of the test.

23 (12) administration of the test at the most beneficial time of day to the pupil.

24 (13) administration of any test or test part to be given in a single sitting over more  
25 than one day except for the writing portion of the English-language arts tests.

26 (14) test administered by a test examiner to a pupil at home or in the hospital.

27 (15) extra time within the testing day on the designated achievement test.

28 (d) Eligible pupils with disabilities shall be permitted the following modifications if  
29 specified in the eligible pupil's IEP or Section 504 Plan:

30 (1) calculators, arithmetic tables, or mathematics manipulatives on the mathematics  
31 or science tests.

32 (2) audio or oral presentation of the English-language arts tests.

1 (3) Manually Coded English or American Sign Language to present test questions  
2 on the English-language arts tests.

3 (4) spellcheckers, grammar checkers, or word processing software programs that  
4 check or correct spelling and/or grammar on the writing portion of the English-language  
5 arts tests.

6 (5) mechanical or electronic devices or other assistive devices that are not used  
7 solely to record the pupil's responses, including but not limited to transcribers, scribes,  
8 voice recognition or voice to text software, and that identify a potential error in the  
9 pupil's response or that correct spelling, grammar or conventions on the writing portion  
10 of the English-language arts tests.

11 (6) responses dictated orally, in Manually Coded English or American Sign  
12 Language to provide an essay response to a scribe and the scribe provides spelling,  
13 grammar, and language conventions.

14 (7) dictionary.

15 (e) If the school district, pupil's IEP team or Section 504 plan proposes a variation  
16 for use on the designated achievement test, the standards-based achievement tests, or  
17 the designated primary language test, that has not been listed in this section, the  
18 school district may submit, to the CDE, for review of the proposed variation in  
19 administering the designated achievement test, standards-based achievement tests or  
20 designated primary language test.

21 (f) School districts shall provide identified English learner pupils the following testing  
22 variations if regularly used in the classroom or for assessment:

23 (1) Flexible setting. Tested in a separate room with other English learners provided  
24 that an employee of the school, school district, or non-public school, who has signed  
25 the Test Security Affidavit, directly supervises the pupil.

26 (2) Flexible schedule. Additional supervised breaks following each section within a  
27 test part provided that the test section is completed within a testing day. A test section  
28 is identified by a "STOP" at the end of it.

29 (3) Translated directions. Hear the test directions printed in the test administration  
30 manual translated into their primary language. English learners shall have the  
31 opportunity to ask clarifying questions about any test directions presented orally in their  
32 primary language.

1 (4) Glossaries. Access to translation glossaries/word lists for the standards-based  
2 achievement tests in mathematics, science, and history-social science (English to  
3 primary language). The translation glossaries/word lists are to include only the English  
4 word or phrase with the corresponding primary language word or phrase. The  
5 glossaries/word lists shall include no definitions or formulas.

6 NOTE: Authority cited: Sections 12001, 33031 and 60605, Education Code. Reference:  
7 Section 60640, Education Code; and 20 USC Section 6311.

8  
9 **§ 854. Advance Preparation for the Tests.**

10 (a) Except for materials specifically provided by the CDE or its agents, no program  
11 or materials shall be used by any school district or employee of a school district that are  
12 specifically formulated or intended to prepare pupils for the designated achievement  
13 tests, standards-based achievement tests, or the designated primary language test. No  
14 administration or use of an alternate or parallel form of the designated achievement test  
15 or the designated primary language test shall be used as practice for any pupils in  
16 grades 2 to 11, inclusive.

17 (b) Practice tests provided by the contractor as part of the standards-based  
18 achievement tests and the designated primary language test for the limited purpose of  
19 familiarizing pupils with the use of scannable test booklets or answer sheets and the  
20 format of test items are not subject to the prohibition of subdivision (a).

21 NOTE: Authority cited: Sections 33031 and 60605, Education Code. Reference:  
22 Sections 60611 and 60640, Education Code.

23  
24 **§ 855. Testing Period.**

25 (a)(1) The designated achievement test and the standards-based achievement  
26 tests, except for the STAR writing assessment as specified in subdivision (c), shall be  
27 administered to each pupil during a testing window of 21 instructional days that  
28 includes 10 instructional days before and after completion of 85% of the school's,  
29 track's, or program's instructional days. Testing for all pupils, including makeup testing,  
30 is to be completed within this 21 instructional day window.

31 (2) Each school district shall provide for at least two makeup days of testing for  
32 pupils who were absent during the period in which any school administered the

1 designated achievement test and the standards-based achievement tests. All makeup  
2 testing shall occur within five instructional days of the last date that the school district  
3 administered the tests but not later than the end of the 21 instructional day period  
4 established in subdivision (a)(1).

5 (b)(1) Any designated primary language test or tests, as applicable, shall be  
6 administered between March 15 and May 14, inclusive, of each school year.

7 (2) Each school district shall provide for at least two makeup days of testing for  
8 pupils who were absent during the period that any school administered any designated  
9 primary language test or tests. All makeup testing shall occur within ten instructional  
10 days of the last date that the school district administered any designated primary  
11 language test or tests, but not later than May 25<sup>th</sup> of each school year, whichever is  
12 earlier.

13 (3) A school district with schools operating on a multitrack year round schedule may  
14 submit a request to the contractor to begin testing no earlier than the fourth Monday in  
15 February.

16 (c) The STAR writing assessment shall be administered to each eligible pupil only  
17 on the day(s) specified annually by the State Superintendent of Public Instruction. An  
18 eligible pupil for purposes of the writing assessment is a pupil taking the standards-  
19 based achievement tests for a grade at which the writing test will be administered.

20 NOTE: Authority cited: Sections 33031 and 60605, Education Code. Reference:  
21 Sections 60640 and 60642.5, Education Code.

22

23 **§ 857. District STAR Coordinator.**

24 (a) On or before September 30 of each school year, the superintendent of each  
25 school district shall designate from among the employees of the school district a district  
26 STAR coordinator. The district STAR coordinator, or the school district superintendent  
27 or his or her designee, shall be available through August 15 of the following year to  
28 complete school district testing. The school district shall notify the contractor(s) of the  
29 identity and contact information, including electronic mail address, if available in the  
30 school district, for the district STAR coordinator and for the superintendent and his or  
31 her designee, if any. The district STAR coordinator shall serve as the school district  
32 representative and the liaison between the school district and the contractor(s) and the

1 school district and the CDE for all matters related to the STAR Program. A school  
2 district superintendent may designate a separate STAR program district coordinator for  
3 any designated primary language test.

4 (b) The district STAR coordinator's responsibilities shall include, but not be limited  
5 to, all of the following duties:

6 (1) Responding to correspondence and inquiries from the contractor and from the  
7 CDE in a timely manner and as provided in the contractor's instructions and these  
8 regulations.

9 (2) Determining school district and individual school test and test material needs in  
10 conjunction with schools within the district and the contractor, using current enrollment  
11 data and communicating school district test material needs to the contractor on or  
12 before December 1.

13 (3) Ensuring delivery of tests and test materials to the test sites no more than ten or  
14 fewer than five working days before the first day of testing designated by the district.

15 (4) Coordinating the testing and makeup testing days for the school district and for  
16 those pupils of the district who are enrolled in nonpublic schools within any required  
17 time periods with the school test site coordinators. Overseeing the collection of all pupil  
18 data as required to comply with section 861.

19 (5) Maintaining security over the designated achievement test, the standards-based  
20 achievement tests, the designated primary language test, and test data using the  
21 procedure set forth in section 859. The district STAR coordinator shall sign the security  
22 agreement set forth in section 859 and submit it to the contractor prior to receipt of the  
23 test materials from the contractor.

24 (6) Overseeing the administration of the designated achievement test, the  
25 standards-based achievement tests, and the designated primary language test to  
26 eligible pupils.

27 (7) Overseeing the collection and return of all test materials and test data to the  
28 contractor within any required time periods.

29 (8) Assisting the contractor and the CDE in the resolution of any discrepancies in  
30 the test information and materials, including but not limited to, pre-identification files  
31 and all pupil level data required to comply with sections 861 and 862.

32 (9) Immediately notifying the CDE of any security breaches or testing irregularities

1 in the district before, during, or after the test administration.

2 (10) Ensuring that an answer document is submitted for scoring for each eligible  
3 pupil enrolled in the district on the first day of testing.

4 (11) After receiving summary reports and files from the contractor, the district STAR  
5 coordinator shall review the files and reports for completeness and accuracy, and shall  
6 notify the contractor and the CDE of any errors, discrepancies, or incomplete  
7 information.

8 (12) Training test site coordinators to oversee the test administration at each school.

9 NOTE: Authority cited: Sections 33031 and 60605, Education Code. Reference:  
10 Sections 52052, 60630, and 60640, Education Code; and 20 USC Section 6311.

11

12 **§ 858. STAR Test Site Coordinator.**

13 (a) At each test site, including but not limited to, each elementary, middle, and high  
14 school or other grade-span designated school, each charter school, each court-school,  
15 each school or program operated by a school district, and all other public programs  
16 serving pupils in any of the grades 2 to 11, inclusive, the superintendent of the school  
17 district or the district STAR coordinator shall designate a STAR test site coordinator  
18 from among the employees of the school district. The STAR test site coordinator, or the  
19 site principal or his or her designee, shall be available to the district STAR coordinator,  
20 and the district coordinator for the designated primary language test by telephone  
21 through August 15 for purposes of resolving discrepancies or inconsistencies in  
22 materials or errors in reports.

23 (b) The STAR test site coordinator's responsibilities shall include, but are not limited  
24 to, all of the following duties:

25 (1) Determining site test and test material needs and communicating the site needs  
26 to the district STAR coordinator.

27 (2) Overseeing the acquisition and distribution of tests and test materials at the test  
28 site, including but not limited to, distributing test materials to test examiners on each  
29 day of testing in accordance with the contractor's directions.

30 (3) Cooperating with the district STAR coordinator to provide the testing and  
31 makeup testing days for the site within any required time periods.

32 (4) Maintaining security over the designated achievement test, the standards-based

1 achievement tests, and the designated primary language test and test data. The STAR  
2 test site coordinator shall sign the security agreement set forth in section 859 and  
3 submit it to the district STAR coordinator prior to the receipt of the test materials.

4 (5) Arranging for and overseeing the administration of the designated achievement  
5 test, the standards-based achievement tests, and the designated primary language test  
6 to eligible pupils at the test site.

7 (6) Overseeing the collection and return of all testing materials to the district STAR  
8 coordinator.

9 (7) Assisting the district STAR coordinator, the contractor, and the CDE in the  
10 resolution of any discrepancies in the test information and materials.

11 (8) Overseeing the collection of all pupil level and other data required to comply with  
12 sections 861 and 862.

13 (9) Ensuring that an answer document is submitted for scoring for each eligible pupil  
14 enrolled in the school on the first day of testing for the designated achievement test or  
15 the standards-based achievement tests.

16 (10) Ensuring that for each pupil tested only one scannable answer document is  
17 submitted for scoring, except that for each pupil tested at grades for which the  
18 contractor has designated the use of more than one answer document. An answer  
19 document for the STAR writing assessment administered pursuant to section 855(c)  
20 shall be submitted in addition to the answer document for the multiple choice items.

21 (11) Immediately notifying the district STAR coordinator of any security breaches or  
22 testing irregularities that occur in the administration of the designated achievement test,  
23 the standards-based achievement tests, or the designated primary language test that  
24 violate the terms of the STAR Security Affidavit in section 859.

25 (12) Training all test examiners, proctors, and scribes for administering the tests.

26 NOTE: Authority cited: Sections 33031 and 60605, Education Code. Reference:  
27 Sections 60630 and 60640, Education Code; and 20 USC Section 6311.

28  
29 **§ 859. STAR Test Security Agreement and Test Security Affidavit.**

30 (a) All STAR district and test site coordinators (coordinators) shall sign the STAR  
31 Test Security Agreement set forth in subdivision (b) before receiving any designated  
32 achievement test, standards-based achievement tests, or designated primary language

1 test or test materials.

2 (b) The STAR Test Security Agreement shall be as follows:

3 STAR TEST SECURITY AGREEMENT

4 I acknowledge by my signature on this form that the designated achievement test,  
5 the standards-based achievement tests, and the designated primary language test are  
6 secure tests and agree to each of the following conditions to ensure test security:

7 (1) I will take all necessary precautions to safeguard all tests and test materials by  
8 limiting access to persons within the school district with a responsible, professional  
9 interest in the tests' security.

10 (2) I will keep on file the names of all persons having access to tests and test  
11 materials. All persons having access to the materials shall be required by the  
12 coordinator to sign the STAR Test Security Affidavit that will be kept on file in the  
13 school district office.

14 (3) I will keep the designated achievement test, the standards-based achievement  
15 tests, and the designated primary language test and test materials in a secure, locked  
16 location and will deliver tests and test materials only to those persons who have  
17 executed STAR Test Security Affidavits, on actual testing dates as provided in section  
18 859(d).

19 (4) I will keep the alternate assessment materials in a secure locked location when  
20 not being used by examiners to prepare for and to administer the assessment. I will  
21 adhere to the contractor's directions for the distribution of the assessment materials to  
22 examiners.

23 (5) I will not copy any part of the tests or test materials without written permission  
24 from the CDE to do so.

25 (6) I will not disclose, or allow to be disclosed, the contents of, or the test  
26 instrument. I will not review any test questions, passages, or other test items with any  
27 other person before, during, or after the test administration.

28 (7) I will not review test questions, develop any scoring keys or review or score any  
29 pupil responses except as required by the contractor's manuals.

30 By signing my name to this document, I am assuring that I will abide by the above  
31 conditions.

32 By: \_\_\_\_\_



1 Title: \_\_\_\_\_

2 School District: \_\_\_\_\_

3 Date: \_\_\_\_\_

4 (c) All test examiners, proctors, scribes, and any other persons having access to the  
5 designated achievement test and test materials, the standards-based achievement  
6 tests and test materials, and the designated primary language test and test materials  
7 shall acknowledge the limited purpose of their access to the tests by signing the STAR  
8 Test Security Affidavit set forth in subdivision (d).

9 (d) The STAR Test Security Affidavit shall be as follows:

10 STAR TEST SECURITY AFFIDAVIT

11 I acknowledge that I will have access to the designated achievement test, the  
12 standards-based achievement tests, and/or the designated primary language test for  
13 the purpose of administering the test(s). I understand that these materials are highly  
14 secure, and it is my professional responsibility to protect their security as follows:

15 (1) I will not divulge the contents of the tests to any other person through verbal,  
16 written, or any other means of communication.

17 (2) I will not copy any part of the test(s) or test materials.

18 (3) I will keep the test(s) secure until the test(s) are actually distributed to pupils.

19 (4) I will limit access to the test(s) and test materials by test examinees to the actual  
20 testing periods when they are taking the test(s).

21 (5) I will collect and account for all materials following each period of testing and will  
22 not permit pupils to remove test materials from the room where testing takes place.

23 (6) I will not review any test questions, passages, or other test items with pupils or  
24 any other person before, during, or following testing.

25 (7) I will not develop scoring keys or review or score any pupil responses except as  
26 required by the contractor's administration manual(s) to prepare answer documents for  
27 machine or other scoring.

28 (8) I will return all test materials, except for alternate assessment materials, to the  
29 designated STAR test site coordinator daily upon completion of testing.

30 (9) I will keep all alternate assessment materials in secure locked storage except  
31 when I am administering or observing the administration of the assessment to pupils.

32 (10) I will administer the test(s) in accordance with the directions for test

1 administration set forth in the contractor’s manual for test administration.

2 (11) I have been trained to administer the tests.

3 Signed: \_\_\_\_\_

4 Print Name: \_\_\_\_\_

5 Position: \_\_\_\_\_

6 School: \_\_\_\_\_

7 School District: \_\_\_\_\_

8 Date: \_\_\_\_\_

9 (e) To maintain the security of the Program, all district STAR coordinators and test  
10 site coordinators are responsible for inventory control and shall use appropriate  
11 inventory control forms to monitor and track test inventory.

12 NOTE: Authority cited: Sections 33031 and 60605, Education Code. Reference:  
13 Section 60640, Education Code.

14

15 **§ 861. School-By-School Analysis**

16 (a) Each school district shall provide the contractor for the designated achievement  
17 test and standards-based achievement tests, the following information for each pupil  
18 enrolled on the first day the tests are administered for purposes of the reporting  
19 required by the Academic Performance Index of the Public Schools Accountability Act  
20 (chapter 6.1, commencing with section 52050), section 60630, and chapter 5  
21 (commencing with section 60640) of the Education Code:

22 (1) Pupil’s full name.

23 (2) Date of birth.

24 (3) Grade level.

25 (4) Gender.

26 (5) English proficiency and primary language.

27 (6) Date of English proficiency reclassification.

28 (7) If R-FEP pupil scored proficient or above on the California English-Language  
29 Arts Standards Test three times since reclassification.

30 (8) Program participation.

31 (9) Use of accommodations or modifications.

32 (10) Statewide Student Identifier.

1 (11) Parent education level.

2 (12) School and district California Basic Educational Data System (CBEDS)  
3 enrollment.

4 (13) Grade last enrolled in school where being tested.

5 (14) For English learners, date first enrolled in school in the United States and the  
6 length of time in U.S. schools.

7 (15) Participation in the National School Lunch Program.

8 (16) Ethnicity.

9 (17) Primary disability code.

10 (18) County and District of residence for pupils with IEPs.

11 (19) Special testing conditions and/or reasons for not being tested.

12 (20) Student enrolled in NPS by district based on IEP.

13 (21) NPS school code.

14 (b) In addition to the demographic data required to be reported in section 861(a),  
15 school districts may report if an eligible pupil is not tested with the standards-based  
16 achievement tests due to a significant medical emergency.

17 (c) Each school district shall provide the contractor for the designated primary  
18 language test the information specified in subdivision (a) for each pupil assessed with  
19 the designated primary language test pursuant to Education Code section 60640.

20 (d) The information is for the purposes of aggregate analyses only and shall be  
21 provided and collected as part of the testing materials for the designated achievement  
22 test, and the standards-based achievement tests.

23 (e) School districts shall provide the same information for each eligible pupil  
24 enrolled in an alternative or off campus program or for pupils placed in nonpublic  
25 schools as is provided for all other eligible pupils in grades 2 to 11, inclusive.

26 (f) If the information required by section 861(a) is incorrect, the school district may  
27 enter into a separate agreement with the contractor to have the district's student data  
28 file corrected. The district STAR coordinator shall provide the correct information to the  
29 contractor within the contractor's timeline. Any costs for correcting the student data  
30 shall be the district's responsibility.

31 NOTE: Authority cited: Sections 33031 and 60605, Education Code. Reference:  
32 Section 60630, Education Code.

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**§ 862. Apportionment Information Report.**

(a) Annually, each school district shall receive an apportionment information report with the following information for the designated achievement test and the standards-based achievement tests by grade level for each of grades 2 to 11, inclusive:

(1) The number of pupils enrolled in each school and in the school district on the first day of testing as indicated by the number of answer documents submitted to the test contractor for scoring.

(2) The number of pupils in each school and in the school district tested with the alternate assessment.

(3) The number of pupils in each school and in the school district exempted from testing at the request of their parents or guardians pursuant to Education Code section 60615.

(4) The number of pupils who were administered any portion of the designated achievement test and standards-based achievement tests.

(5) The number of pupils with demographic information only who were not tested for any reason other than a parent/guardian exemption.

(b) Annually, each school district shall receive an apportionment information report for the designated primary language test with the following information by grade level for each of grades 2 to 11, inclusive:

(1) The number of English language learners who were administered each designated primary language test pursuant to Education Code section 60640(f).

(2) The number of English language learners who were administered each designated primary language test pursuant to Education Code section 60640(g).

(c) To be eligible for apportionment payment for the designated achievement test, the standards-based achievement tests and/or the designated primary language test, school districts must meet the following conditions:

(1) The school district has returned all secure test materials, and

(2) The superintendent of each school district has certified the accuracy of the apportionment information report for examinations administered during the calendar year (January 1 through December 31), which is either;

(A) postmarked by December 31, or

1 (B) if postmarked after December 31, the apportionment information report must be  
2 accompanied by a waiver request as provided by Education Code section 33050. For  
3 those apportionment information reports postmarked after December 31,  
4 apportionment payment is contingent upon the availability of an appropriation for this  
5 purpose in the fiscal year in which the testing window began.

6 NOTE: Authority cited: Sections 33031 and 60605, Education Code. Reference:  
7 Sections 60615 and 60640, Education Code.

8  
9 **§ 863. STAR Student Reports and Cumulative Record Labels.**

10 (a) The school district shall forward the STAR Student Report for the designated  
11 achievement test and standards-based achievement tests and the designated primary  
12 language test provided by the contractor(s) to each pupil's parent or guardian, within no  
13 more than 20 working days from receipt of the report from the contractor.

14 (b) If the school district receives the reports for the designated achievement test and  
15 standards-based tests, or the designated primary language test from the contractor  
16 after the last day of instruction for the school year, the school district shall send the  
17 pupil results to the parent or guardian by U.S. mail at the parent's or guardian's last  
18 known address. If the report is non-deliverable, the school district shall make the report  
19 available to the parent or guardian during the next school year.

20 (c) Schools are responsible for affixing cumulative record labels reporting each  
21 pupil's scores to the pupil's permanent school records or for entering the scores into  
22 electronic pupil records, and for forwarding the results to schools to which pupils  
23 matriculate or transfer. Schools may annotate the scores when the scores may not  
24 accurately reflect pupils' achievement due to illness or testing irregularities.

25 NOTE: Authority cited: Sections 33031 and 60605, Education Code. Reference:  
26 Sections 49068, 60641, and 60607, Education Code.

27  
28 **§ 864. Reporting Test Scores.**

29 No aggregate or group scores or reports that are compiled pursuant to Education  
30 Code section 60641 or 60643 shall be reported electronically, in hard copy, or in other  
31 media, to any audience other than the school or school district where the pupils were  
32 tested, if the aggregate or group scores or reports are composed of ten or fewer

1 individual pupil scores. In each instance in which no score is reported for this reason,  
2 the notation shall appear “The number of pupils in this category is too small for  
3 statistical accuracy or privacy protection.” In no case shall any group score be reported  
4 that would deliberately or inadvertently make public the score or performance of any  
5 individual pupil.

6 NOTE: Authority cited: Sections 33031 and 60605, Education Code. Reference:  
7 Section 60640 and 60643, Education Code.

8

9 **§ 864.5. Test Order Information.**

10 (a) The school district shall provide to the contractor(s), for the designated  
11 achievement test and the standards-based achievement tests no later than December  
12 1 of the year immediately prior to the year of test administration, the following data for  
13 each test site of the school district, by grade level:

14 (1) Valid county district school (CDS) codes.

15 (2) Number of tests.

16 (3) Numbers of special version tests including, but not limited to, Braille and large  
17 print.

18 (4) Number of Directions for Administration needed, by grade level.

19 (5) Number of pupils to be tested with the alternate assessment.

20 (6) Number of test examiners for the alternate assessment.

21 (7) The first and last date of instruction and all non-instructional days during the  
22 school year for each school in the district and all non-working days for the school  
23 district.

24 (b) the school district shall provide to the contractor for the designated primary  
25 language test, the following data:

26 (1) Whether or not the district has eligible pupils for the tests.

27 (2) For all test sites in the district with eligible pupils, by grade level, the information  
28 in subdivision (a)(1), (2), (3), and (4).

29 (c) Each school district that elects pre-identification of answer documents shall  
30 submit an electronic file that includes all of the information required in section 861. The  
31 file must be submitted in accordance with the timeline, format, and instructions  
32 provided by the contractor(s).

1 (d) If the testing materials are lost or destroyed while in the possession of the school  
2 district, and the contractor provides the school district with replacement materials, the  
3 school district is responsible for the cost of all replacement materials.

4 (e) If the school district places an order for tests for any school that is excessive, the  
5 school district is responsible for the cost of materials for the difference between the  
6 sum of the number of pupil tests submitted for scoring including tests for non-tested  
7 pupils and 90 percent of the materials ordered. In no event shall the cost to the school  
8 district for replacement or excessive materials exceed the amount per test booklet and  
9 accompanying material that is paid to the contractor by the CDE as part of the contract  
10 for the current year.

11 NOTE: Authority cited: Sections 33031 and 60605, Education Code. Reference:  
12 Sections 60640 and 60643, Education Code.

13  
14 **§ 865. Transportation.**

15 (a) Upon arrival of the test materials at a single location designated by each school  
16 district, the district STAR coordinator shall provide the contractor with a signed receipt  
17 certifying that all cartons were received.

18 (b) The security of the test materials that have been duly delivered to the school  
19 district is the sole responsibility of the school district until all test materials have been  
20 inventoried, accounted for, and delivered to the common or private carrier designated  
21 by the contractor for return to the contractor.

22 (c) Secure transportation within a school district is the responsibility of the school  
23 district once materials have been duly delivered to the school district. The school  
24 district is responsible for secure delivery of test materials to nonpublic schools.

25 NOTE: Authority cited: Sections 33031 and 60605, Education Code. Reference:  
26 Section 60640, Education Code.

27  
28 **§ 866. School District Delivery.**

29 (a) No school district shall receive its designated achievement test, standards-  
30 based achievement test, or designated primary language test materials more than  
31 twenty or fewer than ten working days prior to the first day of testing in the school  
32 district. A school district that has not received test materials from the contractor at least

1 ten working days before the first date of testing in the school district shall notify the  
2 contractor and the CDE on the tenth working day before testing is scheduled to begin  
3 that the school district has not received its materials. Deliveries of test materials to  
4 single school districts shall use the schedule in section 867.

5 (b) A school district and the contractor shall establish a periodic delivery schedule to  
6 accommodate all test administration periods within the school district. Any schedule  
7 established must conform to sections 866(a) and (b) for each test administration period.

8 (c) No school district shall receive its writing test materials more than ten or fewer  
9 than five working days before the day on which the writing tests are to be administered.

10 NOTE: Authority cited: Sections 33031 and 60605, Education Code. Reference:  
11 Sections 60640, 60642.5, and 60643, Education Code.

12  
13 **§ 867. Test Site Delivery and Return.**

14 (a) No school or other test site shall receive any designated achievement test,  
15 standards-based tests, or designated primary language test or related test materials  
16 more than ten or fewer than five working days prior to the first day of testing scheduled  
17 at the school or test site.

18 (b) All testing materials shall be returned to the school district location designated  
19 by the district STAR coordinator no more than two working days after testing is  
20 completed for each test administration period.

21 (c) No school or other test site shall receive any writing test materials more than six  
22 or fewer than two working days before the test administration date.

23 (d) Writing test materials shall be returned to the district STAR coordinator no more  
24 than one day after the day scheduled for makeup testing.

25 NOTE: Authority cited: Sections 33031 and 60605, Education Code. Reference:  
26 Section 60640 and 60642.5, Education Code.

27  
28 **§ 867.5. Retrieval of Materials by Contractor.**

29 (a) The school district shall ensure that designated achievement test, standards-  
30 based tests, or designated primary language testing materials are inventoried,  
31 packaged, and labeled in accordance with instructions from the contractor, and  
32 returned to a single school district location for pickup by the contractor within five



1 working days following completion of testing in the school district and in no event later  
2 than five working days after each test administration period.

3 (b) School districts shall return all writing tests and test materials to the contractor  
4 no more than two working days after the makeup day specified for the writing test.

5 NOTE: Authority cited: Sections 33031 and 60605, Education Code. Reference:  
6 Sections 60640, 60642.5, and 60643, Education Code.

7

8 **§ 868. Discrepancy Resolution for Designated Achievement Test, Standards-**  
9 **Based Achievement Tests, and Designated Primary Language Test.**

10 (a) School districts shall process discrepancies determined by the contractor(s)  
11 upon receipt of returned tests and test materials pursuant to this subdivision:

12 (1) Receipt of a discrepancy notice in writing, via telephone, or via electronic mail by  
13 the district STAR coordinator for one or more of the following shall require a response  
14 from the district STAR coordinator to the contractor within 24 hours.

15 (A) A discrepancy between the quantity of tests and test materials shipped to the  
16 school district and the number of tests and test materials returned to the contractor  
17 from the school district.

18 (B) Information on scannable documents or test support materials that is  
19 inconsistent, incomplete, or missing, according to criteria established with the CDE.

20 (2) The district STAR coordinator shall acknowledge the discrepancy notice via  
21 electronic mail, if available in the school district, to the contractor and to the CDE within  
22 24 hours of its receipt via electronic mail.

23 (b) The district STAR coordinator shall report any discrepancy in the total amount of  
24 the shipment from the contractor within two working days of the receipt of the shipment.  
25 If the contractor does not remedy the discrepancy within two working days of the school  
26 district report, the school district shall notify the CDE within 24 hours.

27 (c) Any discrepancy in a shipment of designated achievement tests or test  
28 materials, standards-based achievement tests or test materials, or designated primary  
29 language test or test materials received by a test site from the district STAR coordinator  
30 shall be reported to the district STAR coordinator immediately but no later than two  
31 working days of the receipt of the shipment at the testing site. The district STAR  
32 coordinator shall remedy the discrepancy within two working days.

1 (d) The district STAR coordinator shall report to the contractor any discrepancy  
2 reported by a STAR test site coordinator within three working days of receipt of  
3 materials at the test site. If the district STAR coordinator does not have a sufficient  
4 supply of tests or test materials to remedy any shortage, the contractor shall remedy  
5 the shortage by providing sufficient materials directly to the test site within two working  
6 days of the notification by the district STAR coordinator.

7 (e) The notices required by this section shall be made by telephone with  
8 simultaneous confirmation in writing and by electronic mail.

9 NOTE: Authority cited: Sections 33031 and 60605, Education Code. Reference:  
10 Sections 60640 and 60643, Education Code.

11  
12 **§ 870. Apportionment to School Districts.**

13 (a) The amount of funding to be apportioned to the school district for the costs of  
14 administering the designated achievement test, the standards-based achievement  
15 tests, and the designated primary language test shall be the amount established by the  
16 State Board of Education to enable school districts to meet the requirements of  
17 administering the designated achievement test, the standards-based achievement  
18 tests, and the designated primary language test per the number of tests administered  
19 to eligible pupils in grades 2 to 11, inclusive, and the number of answer documents  
20 returned with only demographic information for the designated achievement test and  
21 the standards-based achievement tests for pupils enrolled on the first day of testing  
22 who were not tested in the school district. The number of tests administered and the  
23 number of demographic answer documents shall be determined by the certification of  
24 the school district superintendent pursuant to section 862. For purposes of this portion  
25 of the apportionment, administration of the designated achievement test, the standards-  
26 based achievement tests, and the designated primary language test includes the  
27 following items:

28 (1) All staffing costs, including the district STAR coordinator and the STAR test site  
29 coordinators, staff training and other staff expenses related to testing.

30 (2) All expenses incurred at the school district and test site level related to testing.

31 (3) All transportation costs of delivering and retrieving tests and test materials within  
32 the school district and to nonpublic schools.

1 (4) All costs associated with mailing the STAR Student Reports to  
2 parents/guardians.

3 (5) All costs associated with pre-identification of answer sheets and consumable  
4 test booklets, and other activities intended to provide the complete and accurate data  
5 required in section 861 of these regulations.

6 (b) This amount does not include any funding for the purposes of:

7 (1) reimbursing the costs incurred by any school district pursuant to section 864.5(d)  
8 or (e);

9 (2) reimbursing any school district for designated primary language tests for non-  
10 eligible pupils; and

11 (3) reimbursing any school district for designated achievement tests for non-eligible  
12 pupils.

13 (c) If at the time a school district's scannable documents are processed by the  
14 contractor a student data record is missing any of the data elements required in section  
15 861 of these regulations for the designated achievement test or the standards-based  
16 achievement tests, the school district shall provide the missing data elements within the  
17 time required by the contractor to process the documents and meet the contractor's  
18 schedule of deliverables under its contract with the CDE. The additional costs incurred  
19 by the school district to have the contractor reprocess the student information to  
20 acquire the data required by section 861 of these regulations shall be withheld from the  
21 school district's apportionment.

22 NOTE: Authority cited: Sections 33031 and 60605, Education Code. Reference:  
23 Sections 60640 and 60643, Education Code.

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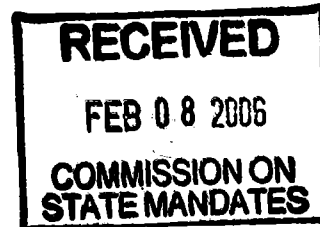
DEPARTMENT OF  
**FINANCE**

ARNOLD SCHWARZENEGGER, GOVERNOR

915 L STREET ■ SACRAMENTO CA ■ 95814-3706 ■ WWW.DOF.CA.GOV

February 3, 2006

Ms. Paula Higashi  
Executive Director  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814



Dear Ms. Higashi:

As requested in your Notice of Complete Test Claim Filing, Schedule for Comments, and Consolidation of Test Claims, and the Request for Extension of Time for the Standardized Testing and Reporting (STAR) II Test Claim (05-TC-02 and 05-TC-03) related to reimbursable state mandated costs submitted by the San Diego Unified and Grant Joint Union School Districts, the Department of Finance has reviewed the test claim and respectfully submits comments supporting the following conclusions:

- A. The statute of limitations has passed for filing a claim for the California Standards Tests (CSTs) and the California Alternate Performance Assessment (CAPA); and
- B. The No Child Left Behind Act (NCLB) is a federal mandate, therefore, the CSTs, CAPA, the designated primary language test (DPLT), and the standards-based test in Spanish (STS) portions of the STAR program are not state mandates because they are necessary to ensure California's compliance with NCLB.

**Amendments to STAR per Senate Bill 1448 (Chapter 233, Statutes of 2004)**

Contrary to the claimants' contentions in this consolidated test claim, in which they appear to claim costs for the entire STAR program, SB 1448 made only the following changes to the STAR program:

1. Reauthorized the CSTs and the CAPA until January 1, 2011, but extended the sunset to only July 1, 2007 for testing in grade 2 and the national norm-referenced test (NRT) administered in grades 3 and 7.
2. Required the State Department of Education (SDE) to develop and adopt a primary language test for reading/language arts and mathematics that is aligned to State academic content standards to replace the current DPLT (formerly the Spanish Assessment of Basic Education, Second Edition [SABE/2] and currently the Apprenda 3), contingent upon appropriations for that purpose.
3. Required SDE to submit a report to the Legislature on the development and implementation of the initial primary language assessments and recommendations on the development and implementation of future assessments and funding requirements on or before January 1, 2006.
4. Required that a pupil in 11<sup>th</sup> grade be informed that he or she may request that the results from an assessment be released to a postsecondary educational institution if a school

district elects to administer a version of the CST that is augmented for the purpose of determining credit, placement, or admission of a pupil in a postsecondary educational institution.

5. Allowed a pupil, or his or her parent or guardian, to authorize the release of pupil results or a record of accomplishment to a postsecondary educational institution for the purposes of credit, placement, or admission, and for student results on the CSTs to be released to a postsecondary educational institution for the purposes of placement upon the written consent of the pupil.
6. Required a city, county, city and county, district superintendent of schools, or principal or teacher of any elementary or secondary school, including a charter school, to carry on any program of specific preparation of pupils for the statewide pupil assessment program. However, this amendment resulted from a drafting error that inadvertently omitted the word "not" before "carry on any program" and already has been corrected by SB 755 (Chapter 676, Statutes of 2005). As a result, these entities are prohibited from offering these programs, as had always been the case.
7. Allowed a city, county, city and county, district superintendent of schools, or principal or teacher of any elementary or secondary school, including a charter school, to use instructional materials provided by SDE in the academic preparation of pupils for the statewide pupil assessment if those instructional materials are embedded in an instructional program that is intended to improve pupil learning.

From this list, Items 2 and 3 are clearly requirements placed on SDE, a state agency, and therefore cannot be found to require reimbursable conduct by school districts. Items 4 and 5 clearly are operative only as a result of a discretionary local decision to offer an augmented CST, and therefore cannot be found to be mandated by the State. With the error corrected, Item 6 is a prohibition, not a requirement, and therefore is not a mandate. Item 7 similarly is merely permissive, leaving only Item 1 to be discussed further.

### **Extension of a Sunset Date is Not a New Program or Higher Level of Service**

As described above, SB 1448, the enabling statute for the activities pled in this test claim, *continued a program that was scheduled to sunset* on January 1, 2006. In a 1990 decision for CSM No. 4313 "Adult Protective Services", the Commission on State Mandates (Commission) determined that *the repeal of a sunset date does not, in and of itself, cause the creation of a state-mandated program*. That determination was made on a test claim based on Chapter 69/86 which, among other things, deleted a January 1, 1990 sunset date on the requirement for counties to report cases of abuse of dependent adults. Relying on AG Opinion No. 50-2, 15 Ops. Cal. Atty. Gen. 49 (1950) and case law, including Estate of Naegely (1939) 31 Cal. App. 2d 470, 473, 474., the Commission determined that the legal effect of the repeal of a sunset clause depends on whether the program scheduled to sunset is a state-mandated program: (1) if so, the repeal of that sunset date merely continues the operation of a state-mandated program; (2) if not, it merely continues the operation of a non-state mandated program.

Although SB 1448 reauthorized STAR by adding a new code section duplicative of the existing ones but simply with different dates, we note that the Commission's decision for 97-TC-10, 97-TC-11, 97-TC-12 "Community College District Budget and Financial Reports, Fiscal Management Reports, and Financial Compliance Audits", and on AG Opinion No. 50-2, found that when a statute is renumbered or reenacted, only substantive changes to the law creating new duties or activities meets the criteria for finding a reimbursable state mandate. This is based on In re Martin's Estate (1908) 153 Cal. 225, 229, and on a general finding also included

in the decision for test claim 97-TC-10, 97-TC-11, 97-TC-12, that any new provisions, insofar as they are substantially the same as existing statutory provisions relating to the same subject matter, are construed as restatements and continuations, and not as new enactments.

**Statute of Limitations has lapsed for the CSTs and the CAPA**

While we assert that the existing program which this bill would impact is not mandated by the State for the reasons discussed later, the statute of limitations pursuant to subsection (c) of Government Code Section 17551 has expired for filing this test claim. In 2000, AB 2812 (Chapter 576, Statutes of 2000) amended the STAR program by deleting the requirements of the Academic Skills Assessment Program for pupils in grades 4, 5, 8, and 10, and replacing them with a standards-based achievement test to include, at a minimum, a direct writing assessment once in elementary schools and once in middle or junior high schools. In 2001, SB 233 (Chapter 722, Statutes of 2001) made further changes to the STAR program by naming the standards-based achievement test the CSTs and requiring an assessment in history/social science and science in at least one elementary or middle schools grade level, to be decided by the State Board of Education. Accordingly, as the effective dates of these statutes were January 1, 2001 and January 1, 2002, respectively, a test claim would have been required to be filed by September 30, 2003, based on AB 3000 (Chapter 1124, Statutes of 2002) which required a one year window to file a test claim ending on September 30, 2003. As such, the statute of limitations for filing this test claim has passed. Further, based on the Commission's decision for 97-TC-10, 97-TC-11, 97-TC-12 cited above, we conclude that SB 1448 merely continued the operation of the STAR program and, therefore, did not create a new one year window nor create any additional state liability beyond that which may have existed under previous law.

**NCLB is a Federal mandate, and therefore, STAR is not a state mandate**

Regarding activities associated with the CSTs and CAPA, we reiterate comments previously submitted as part of the reconsideration proceedings for the original STAR test claim (Case No. 04-RL-9723-01 [97-TC-23, STAR Program]), in which Finance, SDE, and the Legislative Analyst's Office (LAO) concluded that NCLB is a federal mandate, and therefore the STAR program could not be found to be a state mandate. We support this conclusion based on the following significant points:

1. The STAR is not a new program. Prior to NCLB, the federal Title I program provisions under the Improving America's Schools Act (IASA) of 1994 required statewide systems of assessment and accountability for schools and districts participating in the Title I program. Assessment requirements contained in the IASA included: 1) the testing of all students in each of three grade spans (grades 3 through 5, 6 through 9, and 10 through 12); 2) the provision of reasonable adaptations and accommodations for students with special learning needs; and 3) the provision of individual student assessment results to parents. We therefore assert the STAR program was not a new program when it was enacted in 1997. While it may have resulted in a higher level of service as it evolved over time, the program itself is mandated by the federal statutes discussed in this letter, and has most recently evolved to fulfill the NCLB mandates discussed below.

The NCLB replaced the IASA in 2002, and required states to develop a system of assessments that meet specific criteria. Pursuant to Section 1111 of NCLB, each state is required to implement a single, statewide accountability system based on academic standards and academic assessments to assess the yearly progress of "all public elementary and secondary school students." NCLB also specifically requires annual

testing in mathematics and reading in grades 3 through 8 and once in grades 9 through 12. States also must begin to assess students specifically in science beginning in 2007-08. Without such a system, a state would jeopardize the receipt of federal NCLB funds.

We therefore assert this program is a federal mandate, as defined in Government Code Section 17513 ("...where failure to enact that law or regulation to meet specific federal program or service requirements imposed upon the state would result in substantial monetary penalties or loss of funds to public or private persons in the state whether the federal law was enacted before or after the enactment of the state law, regulation, or executive order") and subsection (c) of Government Code Section 17556 ("The statute or executive order imposes a requirement that is mandated by a federal law or regulation and results in costs mandated by the federal government, unless the statute or executive order mandates costs that exceed the mandate in that federal law or regulation. This subdivision applies regardless of whether the federal law or regulation was enacted or adopted prior to or after the date on which the state statute or executive order was enacted or issued").

2. Federal Title I and VI funds are provided for purposes of STAR. Under Title I NCLB, "Improving the Academic Achievement of the Disadvantaged", Section 1111(a)(1) provides the following: *"For any State desiring to receive a grant (Title I) under this part, the State education agency shall submit to the Secretary a plan, developed by the State educational agency, in consultation with local educational agencies, teachers, principals, pupil services personnel, administrators (including administrators of programs described in other parts of this title), other staff, and parents, that satisfies the requirements of this section..."* This section includes a provision (1111(b)(2)(A)) that requires states to establish a single statewide assessment and accountability system for all public school students. In addition, Section 1111(b)(2)(A)(i) requires that each state accountability system "be based on academic standards and academic assessments." Further, Section 1111(b)(2)(B) requires each state to demonstrate what constitutes adequate yearly progress of the State, and of all public elementary schools, secondary schools, and local educational agencies in the State, based on those academic assessments. Finally, Section 1002(a) provides the authorization of appropriations to local educational agencies for the purpose of carrying out Part A of Title I, which covers the aforementioned sections and requirements *and does not allow their expenditure for any other purpose*. Therefore, Title I funds are clearly provided for school districts for the STAR program, which is the central element of the State's assessment and accountability system used to satisfy the federal requirements under NCLB. Without the program, the State would not be in compliance with federal law and would jeopardize its receipt of federal Title I funds.

Under Title VI of NCLB, titled "Flexibility and Accountability", Section 6111 provides that the grants be available for states to enable them to "pay the costs of the development of the additional State assessments and standards required by section 1111(b)", which is referenced above under Title I. Section 6111 also provides that the grants be available, "if a State has developed the assessments and standards required by section 1111(b), to administer those assessments or to carry out other activities described in this subpart and other activities related to ensuring that the State's schools and local educational agencies are held accountable for results, Similar to that of Title I, school districts clearly are provided federal Title VI funds for the STAR program.

3. There are substantial consequences and penalties for noncompliance with NCLB requirements. We also submit evidence documenting instances involving the States of Minnesota and Texas, where the United States Department of Education withheld funds for noncompliance or other consequences of failure to comply with federal law, including NCLB testing requirements. We would note that no other State receives as much NCLB funding as California, at either the state or local level.

**Minnesota.** Section 1111(b)(2)(C)(iv) of NCLB requires that a State's definition of adequate yearly progress (AYP) measure the progress of its schools based primarily on academic assessments. The State of Minnesota was penalized in 2002-03 for not using school year assessment data as the primary determinant of AYP for the middle and high school levels. Rather, Minnesota used attendance rate data for middle schools and graduation rate data for high schools as the primary means for making AYP determinations. Consequently, the USDE exercised its authority under Section 1111(g)(2) to withhold ten percent of Minnesota's Title I, Part A administrative funds for the 2002-03 school year, and also indicated it would withhold ten percent of Minnesota's Title I, Part A administrative funds for each subsequent year until Minnesota is in compliance.

**Texas.** As part of the state accountability plans under section 1111 of NCLB, states are required to provide timely decisions about AYP determinations for schools to implement the sanctions required under section 1116 before the beginning of the next academic year. While most of Texas' public elementary and secondary schools started the 2004-05 school year the week of August 16, 2004, the Texas Education Agency did not provide Title I schools with their AYP determinations until September 27, 2004. This delay was in violation of section 1111 of NCLB. As such, the USDE pursuant to section 1111(g)(2), withheld four percent of Texas' Title I State administrative funds for the 2004-05 fiscal year.

### **Comments by the SDE, Commission, and LAO**

As part of the reconsideration proceedings for the original STAR test claim, we note that SDE and the LAO similarly concluded that the NCLB is a federal mandate. At the May 26, 2005 hearing, SDE testified that the NCLB and its predecessors (IASA and the Elementary and Secondary Education Act [ESEA]) are federal mandates because the State does not have a choice in whether to meet NCLB requirements. SDE also indicated that STAR has evolved from a system that was initially set up to meet the IASA and ESEA, which had less stringent requirements than NCLB, to the STAR system by adding additional activities and tests to meet the minimum requirements of NCLB. According to SDE, it operates in an environment of compulsion and coercion from the federal government, as demonstrated by recent discussions between SDE and the USDE over a definitional issue related to categorizing schools as program improvement schools under NCLB.

On June 9, 2005, SDE submitted a declaration that NCLB imposes a federal mandate on California and that the USDE uses sanctions, fines, and penalties to compel and coerce states into full compliance with the requirements of NCLB, including the testing requirements of the STAR program. SDE stated that in order to receive the more than \$3 billion in federal funds under NCLB, California is required to implement a statewide accountability system, of which STAR is the primary component, that is effective in every district and that ensures all public elementary and secondary schools make AYP in meeting academic goals as defined by NCLB. SDE also stated that noncompliance with NCLB leads to fiscal penalties imposed or threatened



by the USDE, ranging from fines taken against state administrative funding to the full loss of NCLB grant funding. To further illustrate, SDE submitted a letter from the USDE to all Chief State School Officers stating that if the state's system of standards and assessment is not approved, it can choose from any one or more of three remedies: withholding state funds pursuant to section 1111 (g)(2) of NCLB, a compliance agreement, and/or mandatory oversight status. The letter also states that if a State's standards and assessment system does not have *Full Approval or Full Approval with Recommendations* by July 1, 2006, the USDE will place conditions on the receipt of fiscal year 2006 Title I funding. These conditions will continue until *Full Approval or Full Approval with Recommendations* is attained.

The LAO also has stated that NCLB is a federal mandate, since it amounts to direct compulsion on states for an assessment and accountability system used to measure the achievement of all children in English, mathematics, and science. The LAO has stated that The STAR program was enacted, in part, to bring California into compliance with the IASA and NCLB.

In the Commission's Revised Staff Analysis for the reconsideration of STAR I, dated June 24, 2005, Commission staff found there is substantial evidence in the record to conclude that NCLB is a federal mandate based on the following five factors contained in *State of California v. City of Sacramento*: 1) the nature and purpose of the federal program; 2) whether its design suggests an intent to coerce; 3) when the state and/or local participation began; 4) the penalties, if any, assessed for withdrawal or refusal to participate or comply; and 5) any other legal or practical consequences of nonparticipation, noncompliance, or withdrawal. Commission staff based its finding on *Hayes v. Commission on State Mandates*, as well as other reasons stated in the analysis. The Revised Staff Analysis stated that although NCLB itself does not strongly indicate whether its design suggests intent to coerce, evidence submitted June 9, 2005 by the SDE indicates that USDE implements the law in a coercive manner. Further, Commission staff found that the documents submitted by SDE on June 9, 2005, and June 20, 2005, regarding USDE correspondence and state noncompliance with NCLB requirements demonstrates substantial evidence that the penalties for not implementing NCLB-required assessments in California would be certain and severe.

### **STAR I Reconsideration Findings**

On July 28, 2005, in its the reconsideration of the decision for Case No. 04-RL-9723-01 (97-TC-23, STAR Program), the Commission found that administering the NRT (currently the California Achievement Tests, 'Sixth Edition Survey [CAT/6 Survey]) in grades 3 and 7 imposes a reimbursable state mandate on school districts and that all the other activities (limited to the SABE/2) were either federally mandated or no longer required, and thus, not reimbursable. As the activities for the SABE/2 and the Appenda 3 claimed in this consolidated test claim are the same as those activities found to be federally mandated by the Commission in STAR I, we respectfully urge the Commission to make a similar determination in that these activities are not mandated by the State.

As required by the Commission's regulations, we are including a "Proof of Service" indicating that the parties included on the mailing list which accompanied your November 9, 2005 letter have been provided with copies of this letter via either United States Mail or, in the case of other state agencies, Interagency Mail Service.

If you have any questions regarding this letter, please contact Lenin Del Castillo, Finance Budget Analyst at (916) 445-0328, or Jesse McGuinn, state mandates claims coordinator for the Department of Finance, at (916) 445-8913.

Sincerely,

A handwritten signature in black ink, appearing to read 'N. Schweizer', written over a horizontal line.

Nicolas Schweizer  
Assistant Program Budget Manager

Attachment

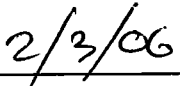
Attachment A

DECLARATION OF NICOLAS SCHWEIZER  
DEPARTMENT OF FINANCE  
CLAIM NO. 05-TC-02 and 05-TC-03

1. I am currently employed by the State of California, Department of Finance (Finance), am familiar with the duties of Finance, and am authorized to make this declaration on behalf of Finance.

I certify under penalty of perjury that the facts set forth in the foregoing are true and correct of my own knowledge except as to the matters therein stated as information or belief and, as to those matters, I believe them to be true.

  
\_\_\_\_\_  
at Sacramento, CA

  
\_\_\_\_\_

## PROOF OF SERVICE

Test Claim Name: Standardized Testing and Reporting (STAR) II

Test Claim Number: 05-TC-02 and 05-TC-03

I, the undersigned, declare as follows:

I am employed in the County of Sacramento, State of California, I am 18 years of age or older and not a party to the within entitled cause; my business address is 915 L Street, 7th Floor, Sacramento, CA 95814.

On November 7, 2005, I served the attached recommendation of the Department of Finance in said cause, by facsimile to the Commission on State Mandates and by placing a true copy thereof: (1) to claimants and nonstate agencies enclosed in a sealed envelope with postage thereon fully prepaid in the United States Mail at Sacramento, California; and (2) to state agencies in the normal pickup location at 915 L Street, 7th Floor, for Interagency Mail Service, addressed as follows:

A-16

Ms. Paula Higashi, Executive Director  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814  
Facsimile No. 445-0278

B-8

State Controller's Office  
Division of Accounting & Reporting  
Attention: Ms. Ginny Brummels  
3301 C Street, Room 500  
Sacramento, CA 95816

B-29

Legislative Analyst's Office  
Attention Marianne O'Malley  
925 L Street, Suite 1000  
Sacramento, CA 95814

School Services of California, Inc.

Attention: Robert Miyashiro  
1121 L Street, Suite 1060  
Sacramento, CA 95814

Sixten & Associates

Attention: Keith Petersen  
5252 Balboa Avenue, Suite 807  
San Diego, CA 92117

Department of Education

Fiscal and Administrative Services Division  
Attention: Gerald Shelton  
1430 N Street, Suite 2213  
Sacramento, CA 95814

Steve Smith Enterprises, Inc.

Attention: Steve Smith  
4633 Whitney Avenue, Suite A  
Sacramento, CA 95821

San Diego Unified School District

Attention: Arthur Palkowitz  
4100 Normal Street, Room 3159  
San Diego, CA 92103-2682

E-8

State Board of Education  
Attention: Bill Lucia, Executive Director  
721 Capitol Mall, Room 532  
Sacramento, CA 95814

California Teachers Association

Attention: Steve DePue  
2921 Greenwood Road  
Greenwood, CA 95635

Girard & Vinson  
Attention: Paul Minney  
1676 N. California Blvd., Suite 450  
Walnut Creek, CA 95496

Scribner Consulting Group, Inc.  
Attention: David E. Scribner  
3840 Rosin Court, Suite 190  
Sacramento, CA 95834

Reynolds Consulting Group, Inc.  
Attention: Sandy Reynolds  
P.O. Box 894059  
Temecula, CA 92589

Mandate Resource Services  
Attention: Harmeet Barkschat  
5325 Elkhorn Blvd. #307  
Sacramento, CA 95842

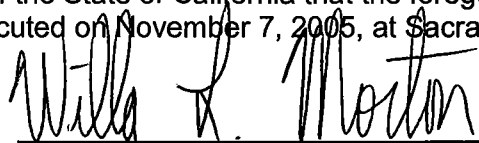
Cost Recovery Systems, Inc.  
Attention: Annette Chinn  
705-2 East Bidwell Street, #294  
Folsom, CA 95630

Shields Consulting Group, Inc.  
Attention: Steve Shields  
1536 36<sup>th</sup> Street  
Sacramento, CA 95816

Centration, Inc.  
Attention: Beth Hunter  
8316 Red Oak Street, Suite 101  
Rancho Cucamonga, CA 91730

School Innovations & Advocacy  
Attention: Joe Rombold  
11130 Sun Center Drive, Suite 100  
Rancho Cordova, CA 95670

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on November 7, 2005, at Sacramento, California.



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## COMMISSION ON STATE MANDATES

980 NINTH STREET, SUITE 300  
 SACRAMENTO, CA 95814  
 PHONE: (916) 323-3562  
 FAX: (916) 445-0278  
 E-mail: csminfo@csm.ca.gov



September 24, 2013

Mr. Arthur Palkowitz  
 Stutz Artiano Shinoff & Holtz  
 2488 Historic Decatur Road, Suite 200  
 San Diego, CA 92106

Mr. David Scribner  
 Max8550  
 2200 Sunrise Boulevard, Suite 240  
 Gold River, CA 95670

*And Affected State Agencies and Interested Parties (See Mailing List)*

Re: **Draft Staff Analysis, Schedule for Comments, and Notice of Hearing**  
*Standardized Testing and Reporting (STAR) II and III, 05-TC-02, 05-TC-03,*  
*and 08-TC-06*  
 Education Code Sections 60601 et al.  
 San Diego Unified School District, Grant Joint Union High School District,  
 and Twin Rivers Unified School District, Claimants

Dear Mr. Palkowitz and Mr. Scribner:

The draft staff analysis for the above-named matter is enclosed for your review and comment.

### Written Comments

Written comments may be filed on the draft staff analysis by **October 15, 2013**. You are advised that comments filed with the Commission are required to be simultaneously served on the other interested parties on the mailing list, and to be accompanied by a proof of service. However, this requirement may also be satisfied by electronically filing your documents. Please see <http://www.csm.ca.gov/dropbox.shtml> on the Commission's website for instructions on electronic filing. (Cal. Code Regs., tit. 2, § 1181.2.)

If you would like to request an extension of time to file comments, please refer to section 1183.01(c)(1) of the Commission's regulations.

### Hearing

This matter is set for hearing on **Friday, December 6, 2013**, at 10:00 a.m., State Capitol, Room 447, Sacramento, California. The final staff analysis will be issued on or about November 22, 2013. Please let us know in advance if you or a representative of your agency will testify at the hearing, and if other witnesses will appear. If you would like to request postponement of the hearing, please refer to section 1183.01(c)(2) of the Commission's regulations.

Please contact Camille Shelton at (916) 323-3562 if you have any questions

Sincerely,

Heather Halsey  
 Executive Director

**ITEM \_\_\_\_**  
**TEST CLAIM**  
**DRAFT STAFF ANALYSIS**  
**AND**  
**PROPOSED STATEMENT OF DECISION**

Education Code Sections 60601, 60602, 60603, 60604, 60605, 60605.6, 60606, 60607, 60611,  
60615, 60630, 60640, 60641, 60642.5

Statutes 1995, Chapter 975; Statutes 1997, Chapter 828; Statutes 1999, Chapter 735; Statutes  
2000, Chapter 576; Statutes 2001, Chapter 20; Statutes 2001, Chapter 722; Statutes 2002,  
Chapter 1168; Statutes 2003, Chapter 773; Statutes 2004, Chapter 183; Statutes 2004,  
Chapter 233; Statutes 2005, Chapter 676; Statutes 2007, Chapter 174; Statutes 2007, Chapter  
730; Statutes, 2008, Chapter 473, Statutes 2008, Chapter 757

California Code of Regulations, Title 5, Sections 850, 851, 852, 853, 855, 857, 858, 859, 861,  
862, 863, 864.5, 865, 866, 867, 867.5, and 868

Register 2005, No. 34 (Sept. 21, 2005), Register 2006, No. 45 (Dec. 8, 2006)<sup>1</sup>

*Standardized Testing and Reporting (STAR) II and III*  
05-TC-02, 05-TC-03, and 08-TC-06

San Diego Unified School District, Grant Joint Union High School District,  
Twin Rivers Unified School District, Claimants

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Attached is the draft proposed statement of decision for this matter. This draft proposed statement of decision also functions as the draft staff analysis, as required by section 1183.07 of the Commission's regulations.

**EXECUTIVE SUMMARY**

**Background**

Each spring, California students in grades 2 through 11 take a series of standardized tests administered under the Standardized Testing and Reporting program (STAR). The STAR program was first enacted in 1997 and the test results are a major component used for calculating each school's Academic Performance Index (API), which measures the growth in academic performance. These results are also used for determining whether elementary and middle schools are making adequate yearly progress (AYP) in helping students become proficient on the California content standards, as required by the federal No Child Left Behind Act of 2001.

The STAR program has gone through many changes over the years. Currently, the STAR program includes the California Standards Tests (CSTs), a series of standards-based assessments in English language arts, mathematics, science, and history/social science at specified grade levels); the California Modified Assessment (CMA), a standards-based test for many students with exceptional needs who have individualized education programs (IEPs); the California Alternate Performance Assessment (CAPA), for students with significant cognitive disabilities

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<sup>1</sup> Test Claim 08-TC-06 refers to regulations effective February 2007, but there were no test claim regulations effective on that date.

who are unable to take the other two tests; and the Standards-based Tests in Spanish (STS), required for pupils who receive instruction in their primary language or have been enrolled in a school in the United States for less than 12 months. Students taking the Standards-based Tests in Spanish are also required to take one of the standards-based tests in English. Before 2008-2009, the STAR program also included the California Achievement Test, Sixth Edition Survey (CAT/6), a national norm-referenced test. In 2009, the CAT/6 was eliminated and is no longer administered.

The state has provided funding to school districts to administer the STAR program pursuant to Education Code section 60640(h) and section 870 of the title 5 regulations. The funding is generally appropriated to school districts on a per test basis and is intended to pay for the following administrative activities and costs:

1. All staffing costs, including the costs incurred by the district coordinator and the test site coordinator, staff training, and other staff expenses related to testing.
2. All expenses incurred at the school district and test site level related to testing.
3. All transportation costs of delivering and retrieving tests and test materials within the school district.
4. All costs associated with mailing the parent reports.
5. All costs associated with pre-identification of answer sheets and consumable test booklets, and other activities intended to provide the complete and accurate data required by section 861 of the regulations.<sup>2</sup>

Federal funding is also available and has been appropriated to school districts for the STAR program.

The consolidated test claims plead statutes enacted from 1995 through 2008, and regulations adopted by the State Board of Education (SBE) in 2005 and 2006.

### **Procedural History**

The *STAR II* test claim (05-TC-02) was filed by the San Diego Unified School District (SDUSD) on August 15, 2005, establishing a potential period of reimbursement beginning on July 1, 2004.<sup>3</sup> The *STAR III* test claim (05-TC-03) was filed by the Grant Joint Union High School District (GJUHSD) on September 21, 2005, establishing a potential period of reimbursement beginning on July 1, 2004. The Commission consolidated test claims 05-TC-02 and 05-TC-03 on October 6, 2005, and called it the *STAR II* test claim. The Department of Finance requested an extension of time to file comments on November 4, 2005, and filed its comments on February 3, 2006 on test claims 05-TC-02 and 05-TC-03, arguing that the activities to implement the STAR program are mandated by federal law through No Child Left Behind and, thus, do not impose state-mandated costs. The *STAR III* test claim (08-TC-06) was filed on June 25, 2009 by the

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<sup>2</sup> California Code of Regulations, title 5, section 870.

<sup>3</sup> Government Code section 17557(e).



Twin Rivers Unified School District (TRUSD), establishing a potential period of reimbursement beginning on July 1, 2007.

### Commission Responsibilities

Under article XIII B, section 6 of the California Constitution, local agencies and school districts are entitled to reimbursement for the costs of state-mandated new programs or higher levels of service. In order for local government to be eligible for reimbursement, one or more similarly situated local agencies or school districts must file a test claim with the Commission. “Test claim” means the first claim filed with the Commission alleging that a particular statute or executive order imposes costs mandated by the state. Test claims function similarly to class actions and all members of the class have the opportunity to participate in the test claim process and all are bound by the final decision of the Commission for purposes of that test claim. The Commission is the quasi-judicial body vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6. In making its decisions, the Commission cannot apply article XIII B as an equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities.<sup>4</sup>

### Claims

Subject	Description	Staff Recommendation
Education Code sections 60607, 60630, and 60641 (Stats. 1997, ch. 828)	<p>Education Code section 60607 addresses the individual record of accomplishment and release of pupil assessment results.</p> <p>Education Code section 60630 addresses the annual report of the Superintendent of Public Instruction (SPI).</p> <p>Education Code section 60641 imposes requirements on California Department of Education (CDE) to ensure that school districts comply with specified requirements relating to the STAR program.</p>	<b><u>Deny.</u></b> The Commission does not have jurisdiction over these code sections as added by Statutes of 1997, chapter 828. These code sections, as amended by this statute were the subject of a prior test claim approved by the Commission in <i>Standardized Testing and Reporting (STAR, 97-TC-23)</i> and reconsidered in 04-RL-9723-01 as directed by the Legislature. A Commission decision that becomes final and has not been set aside by a court cannot be reconsidered.
Education Code section 60641 and 60642.5 (Stats. 2003, ch. 773)	<p>Education Code section 60641 imposes requirements on CDE to ensure that school districts comply with the STAR requirements.</p> <p>Education Code section 60642.5 addresses the CSTs.</p>	<b><u>Deny.</u></b> These code sections were not amended by Statutes 2003, chapter 773. This is a mistake in pleading.

<sup>4</sup> *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802.

<p>Education Code section 60607 (Stats. 1995, ch. 975, and Stats. 2001, ch. 722);</p> <p>Education Code section 60615 (as added by Stats. 1995, ch. 975); 60630 (as added and amended by Stats. 1995, ch. 975 and Stats 2001, ch. 722);</p> <p>Education Code section 60640 (as amended by Stats. 2004, ch. 183; Stats. 2005, ch. 676; and Stats. 2007, chs. 174 and 730);</p> <p>Education Code section 60641 (as added and amended by Stats. 1997, ch. 828; Stats. 1999, ch. 735; and Stats. 2001, chs. 20 and 722);</p> <p>Education Code section 60642.5 (as added by Stats. 2000, ch. 576; and Stats. 2001, ch. 722); and</p> <p>California Code of Regulations, title 5, sections 850 et seq. (as amended by Register 2006, no. 45)</p>	<p>These code sections and regulations implement the STAR program.</p>	<p><b><u>Deny.</u></b> The Commission does not have jurisdiction over these statutes and regulations. With respect to these statutes and regulations, the test claim filed by TRUSD on June 25, 2009, was not timely filed within the one-year statute of limitations provided in Government Code section 17551(c).</p> <p>In addition, the claimant’s assertion that the test claim is timely filed since it first incurred costs within one year after TRUSD became a new entity is not supported by the law. On November 8, 2007, local voters passed Measure B to unify four existing school districts (GJUHSD, Del Paso Heights Elementary School District, North Sacramento Elementary School District, and Rio Linda Elementary School District) and to create a new school district, TRUSD, effective July 1, 2008. Pursuant to the provisions of Measure B, all obligations and responsibilities of the existing four districts became the obligations and responsibilities of the new unified school district, without change in enrollment or the classification of employees of the former districts. Thus, it cannot be said that the costs resulting from these older provisions in law were new or were first incurred in July 2008, as asserted by the claimant. Under the</p>
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		<p>provisions of Measure B, TRUSD incurred the same per-pupils costs (and received the same per-pupil apportionment from the state) for administering the STAR program as the former districts that were unified to create TRUSD.</p> <p>Moreover, there is no indication in the plain language of Government Code section 17551(c), or in the legislative history of the two bills that established a statute of limitations for filing test claims, that the Legislature intended to allow the filing of a new test claim on old statutes and regulations long required to be complied with by all local governments, whenever a new local government is created.</p>
Education Code section 60640 (as amended by Stats. 2003, ch. 773)	Education Code section 60640 establishes the STAR program and governs the administration of the test. Statutes 2003, chapter 773 amended the statute, beginning July 1, 2004, to administer the national norm-referenced achievement test (CAT/6) to pupils in grades 3 and 8 rather than to all pupils in grades 2 through 11, and continued the requirement that the standards-aligned achievement test be administered to pupils in grades 2 to 11.	<b><u>Deny.</u></b> Education Code section 60640 as amended by Statutes 2003, chapter 773, reduces requirements imposed on school districts, resulting in a lower level of service, and does not impose any new requirements on school districts.
Education Code section 60601 (Stats. 2004, ch. 233)	This statute was amended in 2004 to extend the sunset date for the STAR program.	<b><u>Deny.</u></b> This statute does not impose any requirements on school districts.

<p>Education Code sections 60602, 60603, 60604, 60605, 60605.6, 60606 (Stats. 2004, ch. 233)</p>	<p>These statutes provide a statement of legislative intent, define terms for the STAR program, and impose duties on the SBE and Superintendent of Public Instruction (SPI).</p>	<p><b><u>Deny.</u></b> These statutes do not impose any requirements on school districts.</p>
<p>Education Code section 60607 and 60641 (Stats. 2004, ch. 233)</p>	<p>These statutes were amended in 2004 to provide that a pupil or the parent or guardian may authorize the release of pupil results on the CSTs to a postsecondary educational institution for the purposes of credit, placement, or admission.</p>	<p><b><u>Deny.</u></b> These statutes do not impose any new requirements on school districts. Under prior law, school districts were required to provide access to any pupil record, including standardized test results, to parents and required school districts to have procedures for granting parental requests for releasing the records to “any person.” (Ed. Code, §§ 49061 (Stats. 2003, ch. 862), 49065 (Stats. 1977, ch. 36), 49069 (Stats. 1977, ch. 36), 60607(c) (Stats. 2001, ch. 722).)</p>
<p>Education Code section 60611 (Stats. 2004, ch. 233)</p>	<p>This statute was originally added in 1995 to prohibit counties, cities, and school districts from carrying on any program of specific preparation of pupils for any statewide pupil assessment program or a particular test. The 2004 amendment added language authorizing school districts to use instructional materials provided by CDE to prepare pupils for the statewide pupil assessment if the instructional materials are embedded in a program that is intended to improve pupil learning.</p>	<p><b><u>Deny.</u></b> This statute provides authority, but does not impose any requirements on school districts.</p>
<p>Education Code section 60640 (Stats. 2004, ch. 233)</p>	<p>Education Code section 60640 establishes the STAR program and governs the administration of the tests. Several amendments were made to section 60640 by the 2004</p>	<p><b><u>Deny.</u></b> The administration of CAT/6 to 7<sup>th</sup> graders instead of 8<sup>th</sup> graders is the same level of service as under prior law and does not increase the</p>

	<p>test claim statute. It changed the requirement to administer the national norm-referenced achievement test (CAT/6) from pupils in grades 3 and 8 to pupils in grades 3 and 7; provided authority for school districts to require pupils of limited English proficiency who are enrolled in any of grades 2 through 11 for <i>more than</i> 12 months to take a second achievement test in their primary language; and required school districts to administer the primary language test to students of limited English proficiency in grades 2 through 11, who are enrolled for <i>less than</i> 12 months in a nonpublic school (a school that enrolls individuals with exceptional needs pursuant to an IEP).</p>	<p>activities or costs of the school district. Additionally, the authority to provide limited English proficiency students a second test in their primary language is optional.</p> <p>The requirement imposed by section 60640(g) to administer the primary language test to students of limited English proficiency in grades 2 through 11, who are enrolled for <i>less than</i> 12 months in a nonpublic school, is a new requirement imposed on public school districts.</p> <p>However, the state has appropriated state and federal funds sufficient to pay for the costs of the new required activity, which “shall first be used” to offset costs that may be claimed through the state mandates reimbursement process for the STAR program. There is no evidence in the record of increased costs mandated by the state beyond the funding appropriated to school districts for the activities identified above. Thus, there are no costs mandated by the state pursuant to Government Code section 17556(e).</p>
<p>Education Code sections 60630, 60640, 60641, and 60642.5 (Stats. 2008, chs. 473 and 757)</p>	<p>The 2008 statute amended these code sections to remove the requirement for school districts to assess pupils with the national norm-referenced achievement test (CAT/6) in grades 3 and 7; clarified language that the CSTs is augmented for determining a</p>	<p><b><u>Deny.</u></b> The amendments made by the 2008 statutes to these code sections do not impose any requirements on school districts.</p>

	<p>student’s readiness for college-level coursework; and made non-substantive clarifying amendments.</p>	
<p>California Code of Regulations, Title 5, Sections 850, 851, 852, 853, 855, 857, 858, 859, 861, 862, 863, 864.5, 865, 866, 867, 867.5, and 868 (Register 2005, No. 34, Sept. 21, 2005)</p>	<p>These regulations implement the STAR program. They were amended in 2005 to clarify and add activities.</p>	<p><b><u>Deny.</u></b> The regulations (in sections 851(e), 857(b)(9)(10)(12), 858(b)(4)(9)(11)(12), 861(a), and 866(b)) do impose the new activities on school districts, effective September 21, 2005. As described in the analysis, the duties of the district STAR coordinator and the test site coordinator have increased. In addition, school districts are now required to provide <i>all</i> information specified in section 861(a) to the contractor for those pupils enrolled on the first day the tests are administered and who do not in fact take a STAR test, and provide the new information to the contractor for each pupil tested. School districts must also now establish a periodic delivery schedule to accommodate test administration periods within the school district.</p> <p>However, the state has appropriated state and federal funds sufficient to pay for the costs of the new required activity, which “shall first be used” to offset costs that may be claimed through the state mandates reimbursement process for the STAR program. There is no evidence in the record of increased costs mandated by</p>

		the state beyond the funding appropriated to school districts for the activities identified above. Thus, there are no costs mandated by the state pursuant to Government Code section 17556(e).
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### Analysis

These consolidated test claims plead statutes enacted from 1995 through 2008 and amendments to title 5 regulations adopted in 2005 and 2006. The Commission does not have jurisdiction over several statutes and regulations pled, however, because the Commission has already issued a prior final decision on the Education Code sections added by Statutes 1997, chapter 828, and the test claims were filed beyond the statute of limitations for several other statutes and regulations pled. The Commission finds that the following statutes and regulations have been properly pled and are analyzed in this decision to determine whether they impose a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution:

- Education Code section 60640 as amended by Statutes 2003, chapter 773;
- Education Code sections 60601, 60602, 60603, 60604, 60605, 60605.6, 60606, 60607, 60611, 60640, 60641 as amended by Statutes 2004, chapter 233;
- Education Code section 60641 as amended by Statutes 2008, chapter 473;
- Education Code sections 60630, 60640, 60641, and 60642.5 as amended by Statutes 2008, chapter 757; and
- California Code of Regulations, title 5, sections 850, 851, 852, 853, 855, 857, 858, 859, 861, 862, 863, 864.5, 865, 866, 867, 867.5, and 868 as amended by Register 2005, No. 34 (eff. September 21, 2005).

Staff finds that these statutes and regulations require school districts to perform the following new activities:

- Beginning July 1, 2004, administer the primary language test to students of limited English proficiency enrolled for less than 12 months in a *nonpublic* school in grades 2 to 11. Beginning October 7, 2005, school districts are required to administer the primary language test to those students in nonpublic schools in grades 3 to 11, instead of grades 2 to 11. (Ed. Code, § 60640(g), as amended by Stats. 2004, ch. 233.)
- Effective September 21, 2005, district STAR coordinators are required to
  - Immediately notify CDE of any security breaches or testing irregularities in the district before, during, or after the test administration. (Cal. Code Regs., tit. 5, § 857(b)(9); Register 2005, No. 34.)
  - Ensure that an answer document is submitted for scoring for each eligible pupil enrolled in the district on the first day of testing. (Cal. Code Regs., tit. 5, § 857(b)(10), as added by Register 2005, No. 34.)

- Train test site coordinators to oversee the test administration at each school. (Cal. Code Regs., tit. 5, § 857(b)(12); Register 2005, No. 34.)
- Effective September 21, 2005, the STAR test site coordinators are required to
  - Submit the signed security agreement to the district STAR coordinator prior to the receipt of test materials. (Cal. Code Regs., tit. 5, § 858(b)(4); Register 2005, No. 34.)
  - Ensure that an answer document is submitted for scoring for those pupils enrolled on the first day of testing, but excused from testing. (Cal. Code Regs., tit. 5, § 858(b)(9), as added by Register 2005, No. 34.)
  - Immediately notify the district STAR coordinator of any security breaches or testing irregularities that occur in the administration of the designated achievement test, the standards-based achievement tests, or the CAPA that violate the terms of the STAR Security Affidavit in Section 859. (Cal. Code Regs., tit. 5, § 858(b)(11); Register 2005, No. 34.)
  - Train all test examiners, proctors, and scribes for administering the tests. (Cal. Code Regs., tit. 5, §§ 851(e) and 858(b)(12); Register 2005, No. 34.)
- Effective September 21, 2005, provide *all* information specified in section 861(a) to the contractor for those pupils enrolled on the first day the tests are administered and who do not in fact take a STAR test. (Cal. Code Regs., tit. 5, § 861(a); Register 2005, No. 34.)
- Effective September 21, 2005, provide the following new information to the contractor for each pupil tested:
  - The pupil's full name;
  - Date of English proficiency reclassification;
  - If R-FEP pupil scored proficient or above on the California English-language arts test three (3) times since reclassification to English proficient;
  - California School Information Services (CSIS) Student Number once assigned;
  - For English learners, length of time in California public schools and in school in the United States;
  - Participation in the National School Lunch Program;
  - County and district of residence for pupils with IEPs;
  - Special testing conditions and/or reasons for not being tested. (Cal. Code Regs., tit. 5, § 861(a); Register 2005, No. 34.)
- Effective September 21, 2005, establish a periodic delivery schedule, which conforms to section 866(a) and (b), to accommodate test administration periods within the school district. (Cal. Code Regs., tit. 5, § 866(b); Register 2005, No. 34.)



The Department of Finance argues that these requirements do not result in state-mandated costs within the meaning of article XIII B, section 6, because the activities were enacted to implement the testing requirements of federal law, through the No Child Left Behind Act.

The Commission does not need to reach the federal law issue, however. As described in this decision, staff finds that the state has appropriated state and federal funds sufficient to pay for the costs of the new required activities. This funding, by law, “shall first be used” to offset costs that may be claimed through the state mandates reimbursement process for the STAR program and there is no evidence in the record of increased costs mandated by the state beyond the funding appropriated to school districts for the activities identified above. Thus, there are no costs mandated by the state pursuant to Government Code section 17556(e).

### **Conclusion**

Staff finds that the test claim statutes and regulations do not impose a reimbursable state-mandated program on school districts within the meaning of article XIII B, section 6, of the California Constitution and Government Code sections 17514.

### **Staff Recommendation**

Staff recommends that the Commission adopt the proposed statement of decision to deny these test claims. Staff also recommends that the Commission authorize staff to make any non-substantive, technical corrections to the statement of decision following the hearing.

BEFORE THE  
COMMISSION ON STATE MANDATES  
STATE OF CALIFORNIA

IN RE TEST CLAIM ON: Education Code Sections 60601, 60602, 60603, 60604, 60605, 60605.6, 60606, 60607, 60611, 60615, 60630, 60640, 60641, 60642.5

Statutes 1995, Chapter 975; Statutes 1997, Chapter 828; Statutes 1999, Chapter 735; Statutes 2000, Chapter 576; Statutes 2001, Chapter 20; Statutes 2001, Chapter 722; Statutes 2002, Chapter 1168; Statutes 2003, Chapter 773; Statutes 2004, Chapter 183; Statutes 2004, Chapter 233; Statutes 2005, Chapter 676; Statutes 2007, Chapter 174; Statutes 2007, Chapter 730; Statutes 2008, Chapter 473; Statutes 2008, Chapter 757

California Code of Regulations, Title 5, Sections 850, 851, 852, 853, 855, 857, 858, 859, 861, 862, 863, 864.5, 865, 866, 867, 867.5, and 868; Register 2005, No. 34 (Sept. 21, 2005), Register 2006, No. 45 (Dec. 8, 2006)<sup>5</sup>

Filed on August 15, 2005, by San Diego Unified School District, Claimant.

Filed on September 21, 2005, by Grant Joint Union High School District, Claimant

Filed on June 25, 2009, by Twin Rivers Unified School District, Claimant

Case Nos.: 05-TC-02, 05-TC-03, and 08-TC-06

*Standardized Testing and Reporting II and III*

STATEMENT OF DECISION PURSUANT TO GOVERNMENT CODE SECTION 17500 ET SEQ.; CALIFORNIA CODE OF REGULATIONS, TITLE 2, DIVISION 2, CHAPTER 2.5, ARTICLE 7.

*(Adopted December 6, 2013)*

**PROPOSED STATEMENT OF DECISION**

The Commission on State Mandates (Commission) heard and decided this test claim during a regularly scheduled hearing on December 6, 2013. [Witness list will be included in the final statement of decision.]

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<sup>5</sup> Test Claim 08-TC-06 refers to regulations effective February 2007, but there were no test claim regulations effective on that date.

The law applicable to the Commission’s determination of a reimbursable state-mandated program is article XIII B, section 6 of the California Constitution, Government Code sections 17500 et seq., and related case law.

The Commission [adopted/modified] the proposed statement of decision to [approve/deny] the test claim at the hearing by a vote of [vote count will be included in the final statement of decision].

### **Summary of the Findings**

Each spring, California students in grades 2 through 11 take a series of standardized tests administered under the Standardized Testing and Reporting program (STAR). The STAR program was first enacted in 1997 and has gone through many changes over the years. These consolidated test claims plead statutes enacted from 1995 through 2008, and amendments to title 5 regulations adopted in 2005 and 2006. The Commission does not have jurisdiction over several statutes and regulations pled, however, because the Commission has already issued a prior final decision on the Education Code sections added by Statutes 1997, chapter 828, and the test claims were filed beyond the statute of limitations for several other statutes and regulations pled. The Commission finds that the following statutes and regulations have been properly pled and are analyzed in this decision to determine whether they impose a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution:

- Education Code section 60640 as amended by Statutes 2003, chapter 773;
- Education Code sections 60601, 60602, 60603, 60604, 60605, 60605.6, 60606, 60607, 60611, 60640, 60641 as amended by Statutes 2004, chapter 233;
- Education Code section 60641 as amended by Statutes 2008, chapter 473;
- Education Code sections 60630, 60640, 60641, and 60642.5 as amended by Statutes 2008, chapter 757; and
- California Code of Regulations, title 5, sections 850, 851, 852, 853, 855, 857, 858, 859, 861, 862, 863, 864.5, 865, 866, 867, 867.5, and 868 as amended by Register 2005, No. 34 (eff. September 21, 2005).

The Commission finds that these statutes and regulations require school districts to perform the following new activities:

- Beginning July 1, 2004, administer the primary language test to students of limited English proficiency enrolled for less than 12 months in a *nonpublic* school in grades 2 to 11. Beginning October 7, 2005, school districts are required to administer the primary language test to those students in nonpublic schools in grades 3 to 11, instead of grades 2 to 11. (Ed. Code, § 60640(g), as amended by Stats. 2004, ch. 233.)
- Effective September 21, 2005, district STAR coordinators are required to
  - Immediately notify CDE of any security breaches or testing irregularities in the district before, during, or after the test administration. (Cal. Code Regs., tit. 5, § 857(b)(9); Register 2005, No. 34.)

- Ensure that an answer document is submitted for scoring for each eligible pupil enrolled in the district on the first day of testing. (Cal. Code Regs., tit. 5, § 857(b)(10), as added by Register 2005, No. 34.)
- Train test site coordinators to oversee the test administration at each school. (Cal. Code Regs., tit. 5, § 857(b)(12); Register 2005, No. 34.)
- Effective September 21, 2005, the STAR test site coordinators are required to
  - Submit the signed security agreement to the district STAR coordinator prior to the receipt of test materials. (Cal. Code Regs., tit. 5, § 858(b)(4); Register 2005, No. 34.)
  - Ensure that an answer document is submitted for scoring for those pupils enrolled on the first day of testing, but excused from testing. (Cal. Code Regs., tit. 5, § 858(b)(9), as added by Register 2005, No. 34.)
  - Immediately notify the district STAR coordinator of any security breaches or testing irregularities that occur in the administration of the designated achievement test, the standards-based achievement tests, or the CAPA that violate the terms of the STAR Security Affidavit in Section 859. (Cal. Code Regs., tit. 5, § 858(b)(11); Register 2005, No. 34.)
  - Train all test examiners, proctors, and scribes for administering the tests. (Cal. Code Regs., tit. 5, §§ 851(e) and 858(b)(12); Register 2005, No. 34.)
- Effective September 21, 2005, provide *all* information specified in section 861(a) to the contractor for those pupils enrolled on the first day the tests are administered and who do not in fact take a STAR test. (Cal. Code Regs., tit. 5, § 861(a); Register 2005, No. 34.)
- Effective September 21, 2005, provide the following new information to the contractor for each pupil tested:
  - The pupil's full name;
  - Date of English proficiency reclassification;
  - If R-FEP pupil scored proficient or above on the California English-language arts test three (3) times since reclassification to English proficient;
  - California School Information Services (CSIS) Student Number once assigned;
  - For English learners, length of time in California public schools and in school in the United States;
  - Participation in the National School Lunch Program;
  - County and district of residence for pupils with IEPs;
  - Special testing conditions and/or reasons for not being tested. (Cal. Code Regs., tit. 5, § 861(a); Register 2005, No. 34.)

- Effective September 21, 2005, establish a periodic delivery schedule, which conforms to section 866(a) and (b), to accommodate test administration periods within the school district. (Cal. Code Regs., tit. 5, § 866(b); Register 2005, No. 34.)

The Department of Finance argues that these requirements do not result in state-mandated costs within the meaning of article XIII B, section 6, because the activities were enacted to implement the testing requirements of federal law, through the No Child Left Behind Act.

The Commission does not need to reach the federal law issue, however. As described in this decision, the Commission finds that the state has appropriated state and federal funds sufficient to pay for the costs of the new required activities. This funding, by law, “shall first be used” to offset costs that may be claimed through the state mandates reimbursement process for the STAR program and there is no evidence in the record of increased costs mandated by the state beyond the funding appropriated to school districts. Thus, there are no costs mandated by the state pursuant to Government Code section 17556(e).

Accordingly, the Commission finds that the test claim statutes and regulations do not impose a reimbursable state-mandated program on school districts within the meaning of article XIII B, section 6, of the California Constitution and Government Code sections 17514. The Commission therefore denies these consolidated test claims.

## **COMMISSION FINDINGS**

### **I. Chronology**

- 08/15/2005 Claimant San Diego Unified School District (SDUSD) filed the *Star II* test claim (05-TC-02) with the Commission.
- 09/21/2005 Claimant Grant Joint Union High School District (GJUHSD) filed the *STAR III* test claim (05-TC-03).
- 10/06/2005 Commission staff consolidated test claims 05-TC-02 and 05-TC-03 and named it the *STAR II* test claim.
- 11/04/2005 Department of Finance (Finance) requested extension of time to file comments.
- 02/03/2006 Finance filed comments on test claims 05-TC-02 and 05-TC-03.
- 06/25/2009 Claimant Twin Rivers Unified School District (TRUSD) filed the *STAR III* test claim 08-TC-06.
- 09/23/2013 Commission staff consolidated test claim 05-TC-02 and 05-TC-03 with 08-TC-06.

### **II. Background**

Each spring, California students in grades 2 through 11 take a series of standardized tests through the Standardized Testing and Reporting program (STAR). The STAR program was first enacted in 1997 and the test results are a major component used for calculating each school’s Academic Performance Index (API), which measures the growth in academic performance. These results are also used for determining whether elementary and middle schools are making adequate yearly progress (AYP) in helping students become proficient on the California content standards, as required by the federal No Child Left Behind Act of 2001.

The STAR program has gone through many changes over the years. Currently, the STAR program includes the California Standards Tests (CSTs), a series of standards-based assessments in English language arts, mathematics, science, and history/social science at specified grade levels); the California Modified Assessment (CMA), a standards-based test for many students with exceptional needs who have individualized education programs (IEPs); the California Alternate Performance Assessment (CAPA), for students with significant cognitive disabilities who are unable to take the other two tests; and the Standards-based Tests in Spanish (STS), required for pupils who receive instruction in their primary language or have been enrolled in a school in the United States for less than 12 months. Students taking the Standards-based Tests in Spanish are also required to take one of the standards-based tests in English. Before 2008-2009, the STAR program also included the California Achievement Test, Sixth Edition Survey (CAT/6), a national norm-referenced test. In 2009, the CAT/6 was eliminated and is no longer administered.

The state has provided funding to school districts to administer the STAR program pursuant to Education Code section 60640(h) and section 870 of the title 5 regulations. The funding is generally appropriated to school districts on a per test basis and is intended to pay for the following administrative activities and costs:

1. All staffing costs, including the costs incurred by the district coordinator and the test site coordinator, staff training, and other staff expenses related to testing.
2. All expenses incurred at the school district and test site level related to testing.
3. All transportation costs of delivering and retrieving tests and test materials within the school district.
4. All costs associated with mailing the parent reports.
5. All costs associated with pre-identification of answer sheets and consumable test booklets, and other activities intended to provide the complete and accurate data required by section 861 of the regulations.<sup>6</sup>

Federal funding is also available and has been appropriated to school districts for the STAR program.

#### **A. Overview of the Statutes and Regulations Pled.**

These test claims plead statutes enacted from 1995 through 2008. The earliest test claim statute, Statutes 1995, chapter 975 (AB 265), established the Leroy Greene California Assessment of Academic Achievement Act, which required the Superintendent of Public Instruction (SPI) and the State Board of Education (SBE) to approve a plan for the creation of incentives to promote the improvement of pupil academic achievements. The Act required, among other things, developing a system of assessments of applied academic skills administered to pupils in grades 4, 5, 8, and 10. It also required the State Board of Education (SBE), not later than January 1, 1998, to adopt statewide academically rigorous content standards and performance standards pursuant to specified recommendations in core curriculum areas.

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<sup>6</sup> California Code of Regulations, title 5, section 870.

Two years later, Statutes 1997, chapter 828 (SB 376) amended the 1995 statute to repeal the pupil testing incentive program and instead established the STAR Program in grades 2 to 11, inclusive, as specified. Statutes 1997, chapter 828 prohibited SBE from waiving any statutes or regulations that implement the STAR program. It required limited English proficient pupils, under certain conditions, to take a test in their primary language if one was available. It did not require individuals with exceptional needs to be assessed.

SBE designated the Stanford 9 as the norm-referenced achievement test, which was first administered in grades 2 to 11 in spring 1998. In 2002, SBE selected the CAT/6 Survey to replace the Stanford 9 test.

In 1999, the Legislature (Stats. 1999, ch. 735, SB 366) required SBE to adopt a performance standards system that, among other things, was aligned to the state's academically rigorous content standards. Statutes 1999, chapter 735 changed how and when test results were made available and required test publishers to enter into a contract with CDE instead of with each school district. It also required publishers to provide valid and reliable individual pupil and aggregate scores in certain content areas. It required SBE to annually establish the minimum funding to be apportioned to school districts and to annually establish the amount each test publisher is paid per test administered pursuant to the contracts.

The following year, Statutes 2000, chapter 576 (AB 2812), required the SPI to provide for developing an assessment instrument that measures the degree to which pupils achieve the academically rigorous content standards and performance standards, to the extent standards have been adopted by SBE. The standards-based achievement test was required to include, at a minimum, a direct writing assessment once in elementary school and once in middle or junior high school and other items of applied academic skills if deemed valid and reliable and if resources are made available for their use.

Statutes 2001, chapter 20 (SB 245), required the test results to be returned to the district as specified by SBE, rather than, as under prior law, no later than July 30 in the same academic year and calendar year in which the test was administered. It also changed the way make-up tests were provided for pupils who were absent, and changed the deadlines for publishers to make test results available.

Statutes 2001, chapter 722 (SB 233) extended the sunset date for the Assessment Act to January 1, 2005, and deleted obsolete provisions regarding the assessment of applied academic skills. It required the achievement test to contain English and language arts, mathematics, and science and made other conforming changes. The standards-based achievement test was renamed the California Standards Tests (CSTs) and was required to include an assessment in history/social science in at least one elementary or middle school grade level selected by SBE, and in science in at least one elementary or middle school grade level selected by SBE. The statute also modified reporting requirements, and made changes to other testing programs.

In 2002, the Education Code was amended (Stats. 2002, ch. 1168, AB 1818) to state that history-social science shall not be in the grade 9 assessment of the CSTs unless SBE adopts academic content standards for a grade 9 history-social science course.

Statutes 2003, chapter 773 (AB 1485) reduced the administration of the norm-referenced achievement test (CAT/6), effective in the 2004-2005 fiscal year, to grades 3 and 8 (instead of

grades 2-11 required under prior law). The CAT/6 testing was changed to grades 3 and 7 by Statutes 2004, chapter 233. Also in 2004, a code maintenance bill was enacted that made non-substantive changes to Education Code section 60640. (Stats. 2004, ch. 183, AB 3082.)

Statutes 2004, chapter 233 (SB 1448) extended the sunset date for the STAR program from January 1 2005 to January 1, 2011. Statutes 2004, chapter 233 extended testing grades 3-11 with the CSTs until January 1, 2011 and eliminated second grade testing as of July 1, 2007. The 2004 statute also required administering the CAT/6 (the national norm-referenced test) in grades 3 and 7 (as opposed to grades 3 and 8 in prior law). It amended legislative intent language, reporting requirements, and made other changes. According to the legislative history of SB 1448, “failure to reauthorize the STAR testing program could result in the loss of up to \$3 billion in federal funds.”<sup>7</sup>

Statutes 2005, chapter 676 (SB 755) required a pupil identified as limited English proficient who is enrolled in any of grades 2 to 11, inclusive, and who either receives instruction in his or her primary language or has been enrolled in a school in the United States for less than 12 months, to take a test in his or her primary language if a test is available. Prior law required limited English proficient pupils to take a test in their primary language if a test is available and if fewer than 12 months have elapsed after their initial enrollment in any public or nonpublic school. The bill also required the SPI, with the approval of SBE, to annually release to the public at least 25% of the test items from the CSTs administered in the previous year.

Statutes 2007, chapter 174 (SB 80) extended the requirement to test second grade with the CSTs (that was scheduled to sunset on July 1, 2007 by Stats. 2004, ch. 233) to January 1, 2011. This bill also extended sunset date for the CAT/6 national norm-referenced test from July 1, 2007 to July 1, 2011.

Statutes 2007, chapter 730 made non-substantive changes to Education Code section 60640.

Statutes 2008, chapter 757 eliminated the CAT/6 norm-referenced test as a required part of the STAR program, effective September 30, 2008.

The claimants have also pled the regulations implementing the STAR program (Cal. Code Regs., tit. 5, § 850 et seq.) operative September 21, 2005, which made various changes that CDE described in the Notice of Proposed Rulemaking as follows:

The purposes of the proposed amendments are to provide consistency with the regulations for the California High School Exit Examination (CAHSEE) and the California English Language Development Test (CELDT) by clarifying current language and adding definitions and language as needed to add and amend language regarding the use of variations, accommodations, and modifications; to make technical changes to correct inconsistent language, terms, and capitalization in the existing regulations; to modify the provisions for below-grade-level testing; to incorporate information about the use of released items for the California Standards Tests (CSTs); to modify test material delivery and return dates to eliminate the mixture of working and calendar days; to add the California

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<sup>7</sup> Assembly Floor, Third Reading Analysis of SB 1448 (2003-2004 Reg. Sess.) as amended July 28, 2004, page 3.



Alternate Performance Assessment (CAPA) as appropriate; to strengthen some test security language; to add a statement to the STAR Test Security Affidavit indicating that test examiners and proctors have been trained to administer the tests; to expand the student demographic data collected to meet the requirements for federal and state reporting; to clarify requirements related to including test results in pupils' permanent records as required by *Education Code* Section 60607; to reinforce the confidentiality of summary data that is based on test results for ten or fewer pupils; and to modify the process for completing Apportionment Information Reports required by *Education Code* Section 60640(j).

In the Initial Statement of Reasons, CDE stated that “some of the proposed amendments are required to enable the state to comply with the requirements of the federal No Child Left Behind Act of 2001.”

The STAR regulations were amended again (operative Dec. 8, 2006) to revise testing windows for the CSTs, CAT/6 and Standards-Based test in Spanish. The amendments also clarify and ensure consistency, remove the names of specific tests, and incorporate the designated primary language test regulations that were in Article 3 into Articles 1 and 2.<sup>8</sup>

#### **B. The Federal No Child Left Behind Act of 2001.**

Some tests in the STAR program meet the assessment and accountability provisions of Title I of the No Child Left Behind Act of 2001 (NCLB),<sup>9</sup> which Congress enacted as a reauthorization of the Elementary and Secondary Education Act of 1965 (ESEA). It requires states that participate and receive federal funds to:

[A] set of high-quality, yearly student academic assessments that include, at a minimum, academic assessments in mathematics, reading or language arts, and science that will be used as the primary means of determining the yearly performance of the State and of each local educational agency and school in the State in enabling all children to meet the State's challenging student academic achievement standards, except that no State shall be required to meet the requirements of this part relating to science assessments until the beginning of the 2007–2008 school year.<sup>10</sup>

Title I of NCLB also requires that the assessments measure pupil proficiency as follows:

Such assessments shall--

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<sup>8</sup> CDE, Notice of Proposed Rulemaking, Amendment to Title 5, California Code of Regulations, Regarding Standardized Testing and Reporting Program, May 19, 2006, page 2.

<sup>9</sup> CDE, Standardized Testing and Reporting Program: Annual Report to the Legislature,” July 2012, pages 5-6.

<sup>10</sup> 20 USC 6311 (b)(3)(A).

[(v)]...[(v)] (v)(I) except as otherwise provided for grades 3 through 8 under clause vii, measure the proficiency of students in, at a minimum, mathematics and reading or language arts, and be administered not less than once during—

(aa) grades 3 through 5;

(bb) grades 6 through 9; and

(cc) grades 10 through 12;

(II) beginning not later than school year 2007–2008, measure the proficiency of all students in science and be administered not less than one time during—

(aa) grades 3 through 5;

(bb) grades 6 through 9; and

(cc) grades 10 through 12;

(vi) involve multiple up-to-date measures of student academic achievement, including measures that assess higher-order thinking skills and understanding;

(vii) beginning not later than school year 2005–2006, measure the achievement of students against the challenging State academic content and student academic achievement standards in each of grades 3 through 8 in, at a minimum, mathematics, and reading or language arts, except that the Secretary may provide the State 1 additional year if the State demonstrates that exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State, prevented full implementation of the academic assessments by that deadline and that the State will complete implementation within the additional 1-year period;<sup>11</sup>

NCLB also includes the following reporting provisions in Title I, requiring the assessments to:

(xii) produce individual student interpretive, descriptive, and diagnostic reports, consistent with clause (iii) that allow parents, teachers, and principals to understand and address the specific academic needs of students, and include information regarding achievement on academic assessments aligned with State academic achievement standards, and that are provided to parents, teachers, and principals, as soon as is practicably possible after the assessment is given, in an understandable and uniform format, and to the extent practicable, in a language that parents can understand;

(xiii) enable results to be disaggregated within each State, local educational agency, and school by gender, by each major racial and ethnic group, by English proficiency status, by migrant status, by students with disabilities as compared to nondisabled students, and by economically disadvantaged students as compared to students who are not economically disadvantaged, except that, in the case of a local educational agency or a school, such disaggregation shall not be required in

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<sup>11</sup> 20 USC 6011 (b)(3)(C).

a case in which the number of students in a category is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual student.<sup>12</sup>

In a case that focused on the educational requirements and funding provisions of Title I of NCLB, the court stated the following:

In contrast to prior ESEA iterations, NCLB “provides increased flexibility of funds, accountability for student achievement and more options for parents.” 147 Cong. Rec. S13365, 13366 (2001) (statement of Sen. Bunning). The Act focuses federal funding more narrowly on the poorest students and demands accountability from schools, with serious consequences for schools that fail to meet academic-achievement requirements. *Id.* at 13366, 13372 (statements of Sens. Bunning, Landrieu, and Kennedy). States may choose not to participate in NCLB and forgo the federal funds available under the Act, but if they do accept such funds, they must comply with NCLB requirements. See, e.g., 20 U.S.C. § 6311 (“For any State desiring to receive a grant under this part, the State educational agency shall submit to the Secretary a plan....”) (emphasis added); see also *Spellings*, 453 F.Supp.2d at 469 (“In return for federal educational funds under the Act, Congress imposed on states a comprehensive regime of educational assessments and accountability measures.”).

Title I, Part A, of NCLB, titled “Improving Basic Programs Operated by Local Educational Agencies,” continues to pursue the objectives of the ESEA and imposes extensive educational requirements on participating States and school districts, and, likewise, provides the largest amount of federal appropriations to participating States. For example, in fiscal year 2006, NCLB authorized \$22.75 billion in appropriations for Title I, Part A, compared to \$14.1 billion for the remaining twenty-six parts of NCLB combined. Title I, Part A's stated purposes include meeting “the educational needs of low-achieving children in our Nation's highest-poverty schools, limited English proficient children, migratory children, children with disabilities, Indian children, neglected or delinquent children, and young children in need of reading assistance.” 20 U.S.C. § 6301(2).

In addition to Title I, Part A, NCLB establishes numerous other programs, including a literacy initiative for young children and poor families (Title I, Part B), special services for the education of children of migrant workers (Title I, Part C), requirements that all teachers be “highly qualified” (Title II, Part A), and instruction in English for children with limited English ability (Title III). . . .

To qualify for federal funding under Title I, Part A, States must first submit to the Secretary a “State plan,” developed by the State's department of education in consultation with school districts, parents, teachers, and other administrators. 20 U.S.C. § 6311(a)(1). A State plan must “demonstrate that the State has adopted challenging academic content standards and challenging student academic achievement standards” against which to measure the academic achievement of

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<sup>12</sup> 20 USC 6011 (b)(3)(C).

the State's students. *Id.* § 6311(b)(1)(A). The standards in the State plan must be uniformly applicable to students in all of the State's public schools, and must cover at least reading or language arts; math; and, by the fourth grade, science skills. *Id.* § 6311(b)(1)(C).

States also must develop, and school districts must administer, assessments to determine students' levels of achievement under plan standards. *Id.*

§ 6311(b)(2) (A). These assessments must show the percentage of students achieving “proficiency” among “economically disadvantaged students,” “students from major racial and ethnic groups,” “students with disabilities,” and “students with limited English proficiency.” *Id.* § 6311(b)(2)(C)(v)(II). Schools and districts are responsible for making “adequate yearly progress” (“AYP”) on these assessments, meaning that a minimum percentage of students, both overall and in each subgroup, must attain proficiency. 34 C.F.R. § 200.20(a)(1).

A school's failure to achieve AYP triggers other requirements of Title I, Part A. See 20 U.S.C. § 6316(b). If a school fails to make AYP for two consecutive years, it must be identified by the local educational agency for school improvement. 20 U.S.C. § 6316(b)(1)(A). Among other things, a school in improvement status must inform all of its students, including those who have been assessed as proficient, that they are permitted to transfer to any school within the district that has not been identified for school improvement. *Id.* § 6316(b)(1) (E)(i). The school also must develop a two-year plan setting forth extensive measures to improve student performance, including further education for teachers and possible before- or after-school instruction or summer instruction. *Id.* §§ 6316(b)(3)(A)(iii), (ix).

If a school does not achieve AYP after two years of improvement status, it is “identif[ied] ... for corrective action.” *Id.* § 6316(b)(7)(C)(iv). Corrective action involves significant changes, such as replacing teachers who are “relevant to the failure to make [AYP],” or instituting an entirely new curriculum. *Id.* § 6316(b)(7)(C)(iv)(I). If, after a year of corrective action, a school still has not reached AYP, the district must restructure the school entirely; options for restructuring include “[r]eopening the school as a public charter school,” replacing the majority of the staff, or allowing the State's department of education to run the school directly. *Id.* § 6316(b)(8)(B)(i).

. . . NCLB requires that States use federal funds made available under the Act “only to supplement the funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the education of pupils participating in programs assisted under this part, and not to supplant such funds.” 20 U.S.C. § 6321(b)(1). That is, States and school districts remain responsible for the majority of the funding for public education, and the funds distributed under

Title I are to be used only to implement Title I programming, not to replace funds already being used for general programming.<sup>13</sup>

### **C. Prior Commission Decisions on the STAR Program.**

In August 2000, the Commission made a determination on the STAR program, as it existed in 1997, in test claim 97-TC-23 (Stats. 1997, ch. 828). The Commission found that activities related to administering only the norm-referenced test (or CAT/6) and the designated primary language test (or SABE/2) to be reimbursable.

In 2004, the Legislature ordered the Commission to reconsider the STAR decision (Stats. 2004, ch. 216, § 34). On reconsideration, the Commission found that the SABE/2 was a federal mandate and, thus, reimbursement was denied for costs to administer that test. The Commission determined that administering the CAT/6 exam in grades 3 and 7 imposed a reimbursable state mandate on school districts within the meaning of article XIII B, section 6 of the California Constitution and Government Code sections 17514, effective July 1, 2004. The Commission also found that:

- All state funds appropriated for STAR must be used to offset all activities associated with administration of the CAT/6 exam; and that in any fiscal year in which school districts are legally required to, they must, “reduce their estimated and actual mandate reimbursement claims by the amount of funding provided to them” from appropriated state funds;<sup>14</sup> and
- School districts are not required to use Title I funds to offset the activities in the STAR statement of decision (i.e., to administer the CAT/6); and
- All federal Title VI funds appropriated for STAR, in any fiscal year in which school districts are legally required to do so, must be used to offset all activities associated with administration of the CAT/6 exam, and that school districts must “reduce their estimated and actual mandate reimbursement claims by the amount of funding provided to them” from appropriated federal Title VI funds.<sup>15</sup>

## **III. Positions of the parties**

### **A. Claimants’ positions**

The claimants allege that the test claim statutes and regulations impose a reimbursable state-mandated program for school districts under article XIII B, section 6 and Government Code section 17514 to administer the STAR Program.

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<sup>13</sup> *School Dist. of City of Pontiac v. Secretary of U.S. Dept. of Education* (2009) 584 F.3d 253, 257-258.

<sup>14</sup> Statutes 2004, chapter 208, Item 6110-113-0001, Schedule 3, Provision 8. Statutes 2005, chapter 38, Item 6110-113-0001, Schedule 2, Provision 8.

<sup>15</sup> Statutes 2004, chapter 208, Item 6110-113-0890, Schedule 2, Provision 11. Statutes 2005, chapter 38, Item 6110-113-0890, Schedules 4, 7 and 10, Provision 10.

a. San Diego Unified School District (05-TC-02)

The test claim filed by SDUSD seeks reimbursement as a result of Statutes 2004, chapter 233, which added and amended Education Code sections 60601-60605, 60605.6, 60606, 60607, 60611, 60640, and 60641. The claimant requests reimbursement for activities listed below related to the test administration of the Academic Skill Assessment program and the STAR program:

- Review the requirements of the law and any memoranda issued by CDE, and develop and implement procedures;
- Train administrators, teachers, and school district personnel on the requirements and test administration;
- Administer the tests for the Academic Skill Assessment program and the STAR program;
- Maintain individual records of the tests in pupil records;
- Report individual results to parents or guardians and to the pupils' schools and teachers;
- Collect, collate, and submit to CDE the information on the STAR program apportionment information report;
- Process requests for exemption for testing filed by parents and guardians;
- Review IEPs of children with disabilities to determine if the IEPs contain an express exemption from testing;
- Determine the appropriate grade level test for special education pupils and provide appropriate testing adaptations and accommodations for these pupils;
- Enter into and administer the contract with the test publisher for the STAR program.

SDUSD estimates costs of \$500,000 to implement the test claim statutes during 2004-2005 and approximately \$550,000 to implement them in 2005-2006 and beyond.

b. Grant Joint Union High School District (05-TC-03)

The test claim filed by GJUHSD requests reimbursement as a result of Statutes 2003, chapter 773, as it added or amended Education Code sections 60640, 60641, and 60642.5, and sections 850-868 of the title 5 regulations<sup>16</sup> that became effective on September 21, 2005. GJUHSD seeks reimbursement to:

- Administer the designated achievement test and standards-based achievement tests to each pupil enrolled in grades 2 to 11;
- Administer the CAPA, as set forth in the pupil's IEP, to each pupil in grades 2 to 11;
- Make arrangements to test pupils in alternative education programs;
- Accept waivers filed by parents or guardians;

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<sup>16</sup> The test claim did not include sections 850.5, 853.5, 854 or 864.

- Designate a district and school site STAR coordinator, and implement those coordinator duties;
- Provide the contractor for the designated achievement test and standards-based achievement test specified information for each pupil;
- Receive and review apportionment information report with information from the designated achievement test, standards based achievement test, and the CAPA;
- Forward the STAR student report to parents or guardians;
- Maintain individual records of the tests in pupil records;
- Provide the test contractor with specified data for each test site;
- Follow security measures for test administration.

GJUHSD claims that the test claim statutes and regulations cost \$110,000 to initially implement and \$125,000 in fiscal year 2005-2006 and beyond.

c. Twin Rivers Unified School District (08-TC-06)

TRUSD is a K-12 school district created on July 1, 2008, through the unification of Grant Joint Union High School District, Del Paso Heights Elementary School District, North Sacramento Elementary School District, and Rio Linda Elementary School District. The test claim filed by TRUSD seeks reimbursement for statutes enacted from 1995 to 2008 that added or amended Education Code sections 60607, 60615, 60630, 60640, 60641, 60642.5, and sections 850 to 863 of the title 5 regulations<sup>17</sup> that were amended, according to claimant, “eff. 2005 and 2/2007.”<sup>18</sup>

Test claim 08-TC-06 is supported by a declaration that claimant will incur approximately \$300,000 in costs in fiscal year 2008-2009.

**B. State Agencies’ Positions**

Finance, in comments submitted in February 2006 (on test claims 05-TC-02 and 05-TC-03), states that the statute of limitations has passed for filing a claim for the CSTs and the California Alternate Performance Assessment (CAPA). Finance also asserts that the STAR tests are necessary to ensure California’s compliance with NCLB, which is a federal mandate.

No comments have been filed by CDE.

**IV. Discussion**

Article XIII B, section 6 of the California Constitution provides in relevant part the following:

Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the state shall provide a subvention of funds to reimburse such local government for the costs of such programs or increased level of service.

<sup>17</sup> The test claim did not include sections 850.5, 853.5, 854 or 864.

<sup>18</sup> The test claim regulations were actually amended operative September 21, 2005 and December 8, 2006.

The purpose of article XIII B, section 6 is to “preclude the state from shifting financial responsibility for carrying out governmental functions to local agencies, which are ‘ill equipped’ to assume increased financial responsibilities because of the taxing and spending limitations that articles XIII A and XIII B impose.”<sup>19</sup> Thus, the subvention requirement of section 6 is “directed to state-mandated increases in the services provided by [local government] ...”<sup>20</sup>

Reimbursement under article XIII B, section 6 is required when the following elements are met:

1. A state statute or executive order requires or “mandates” local agencies or school districts to perform an activity.<sup>21</sup>
2. The mandated activity either:
  - a. Carries out the governmental function of providing a service to the public; or
  - b. Imposes unique requirements on local agencies or school districts and does not apply generally to all residents and entities in the state.<sup>22</sup>
3. The mandated activity is new when compared with the legal requirements in effect immediately before the enactment of the test claim statute or executive order and it increases the level of service provided to the public.<sup>23</sup>
4. The mandated activity results in the local agency or school district incurring increased costs. Increased costs, however, are not reimbursable if an exception identified in Government Code section 17556 applies to the activity.<sup>24</sup>

The Commission is vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6.<sup>25</sup> The determination whether a statute or executive order imposes a reimbursable state-mandated program is a question of law.<sup>26</sup> In making its decisions, the Commission must strictly construe article XIII B,

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<sup>19</sup> *County of San Diego v. State of California* (1997)15 Cal.4th 68, 81.

<sup>20</sup> *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56.

<sup>21</sup> *San Diego Unified School Dist. v. Commission on State Mandates (San Diego Unified School Dist.)* (2004) 33 Cal.4th 859, at p. 874.

<sup>22</sup> *San Diego Unified School Dist., supra*, 33 Cal.4th at pgs. 874-875 (reaffirming the test set out in *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56.

<sup>23</sup> *San Diego Unified School Dist., supra*, 33 Cal.4th 859, 874-875, 878; *Lucia Mar Unified School Dist. v. Honig* (1988) 44 Cal.3d 830, 835.

<sup>24</sup> *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487; *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1265, 1284; Government Code sections 17514 and 17556.

<sup>25</sup> *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 331-334; Government Code sections 17551 and 17552.

<sup>26</sup> *County of San Diego, supra*, 15 Cal.4th 68, 109.



section 6, and not apply it as an “equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities.”<sup>27</sup>

### **A. Jurisdictional and Pleading Issues.**

There are three test claims under consideration in this analysis. The first test claim (05-TC-02) was filed by SDUSD and pleads Education Code sections 60601, 60602, 60603, 60604, 60605, 60605.6, 60606, 60607, 60611, 60640, 60641, as amended by Statutes 2004, chapter 233. SDUSD’s test claim does not present any pleading or jurisdictional issues. Therefore, these code sections as amended in 2004 are analyzed below to determine whether they impose a reimbursable state-mandated program on school districts.

The other two test claims filed by GJUSHD and TRUSD (05-TC-03 and 08-TC-06), however, do present pleading and jurisdictional issues that are analyzed below.

#### **1. Test claim filed by Grant Joint Union High School District (05-TC-03)**

GJUHS D filed its test claim on September 21, 2005, requesting reimbursement as a result of Statutes 2003, chapter 773, as it amended Education Code sections 60640, 60641, and 60642.5, and sections 850-868 of the title 5 regulations that became operative on September 21, 2005.

##### **a) The test claim was not abandoned when GJUHS D ceased to exist because, upon its creation, TRUSD stepped into the shoes of GJUHS D, inheriting the rights and liabilities of the former district.**

On November 8, 2007, after the test claim was filed, local voters passed Measure B to unify GJUHS D, Del Paso Heights Elementary School District, North Sacramento Elementary School District, and Rio Linda Elementary School District and to create a new school district, TRUSD, effective July 1, 2008. Thus, effective July 1, 2008, the four existing school districts, including GJUHS D, no longer exist. Since GJUHS D no longer exists and GJUHS D can no longer act as a test claimant, the question of whether test claim 05-TC-03 has been abandoned arises.<sup>28</sup>

Although GJUHS D no longer exists, the Commission finds that the test claim has not been abandoned. The school district unification passed by Measure B provided that the new unified school district, TRUSD, assumed the rights and responsibilities of all the school districts included within the unification.<sup>29</sup> Thus, for purposes of test claim 05-TC-03, TRUSD assumed the rights of GJUHS D as the test claimant and may continue to request reimbursement for the statutes and regulations properly pled in the claim.<sup>30</sup>

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<sup>27</sup> *County of Sonoma, supra*, 84 Cal.App.4th 1265, 1280, citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817.

<sup>28</sup> Section 1183.081 of the Commission’s regulations authorizes the Commission’s executive director to deem a test claim “abandoned.” If, after notice of abandonment, another local agency files a request to substitute for the original test claimant, the new requester is deemed the “test claimant.”

<sup>29</sup> County of Sacramento, Analysis of Measure B, June 19, 2007, page 1.

<sup>30</sup> When TRUSD submitted the third test claim, 08-TC-06, it stated in the cover letter an intent to withdraw the second test claim, 05-TC-03, filed by the Grant Joint Union High School District.

**b) Of the statutes and regulations pled in 05-TC-03, only Education Code section 60640, as amended by Statutes 2003, chapter 773 and sections 850, 851, 852, 853, 855, 857, 858, 859, 861, 862, 863, 864.5, 865, 866, 867, 867.5, and 868 of the title 5 regulations as amended by Register 2005, No. 34, have been properly pled.**

The test claim mistakenly pleads Education Code section 60641 and 60642.5 as alleged to be amended by Statutes 2003, chapter 773. However, these code sections were not amended by Statutes 2003, chapter 773. Section 60641 was amended by Statutes 2001, chapter 722 and Statutes 2004, chapter 233, and again in 2008 and 2009. Section 60642.5 was amended by Statutes 2001, chapter 722; Statutes 2002, chapter 1168; and Statutes 2008, chapter 757. As further described below, sections 60641 and 60642.5 as amended in 2004 and 2008 have been properly pled in the other consolidated claims, and are analyzed in this decision. However, sections 60641 and 60642.5, as allegedly amended in 2003, do not exist.

The Commission finds that Education Code section 60640, as repealed and replaced by Statutes 2003, chapter 773 has been properly pled. Statutes 2003, chapter 773 had a delayed operative date of July 1, 2004. According to a declaration filed by claimant's predecessor agency GJUHSD, the district first incurred costs as a result of the statute three months after the statute's operative date in October 2004. There is no evidence in the record rebutting this fact. Section 1183(c) of the Commission's regulations interprets and implements the statute of limitations requirement of Government Code section 17551(c), and provides that the phrase "within 12 months" of first incurring costs means "by June 30 of the fiscal year following the fiscal year in which increased costs were first incurred by the test claimant." In this case, the claimant alleges it first incurred costs in October 2004 (within fiscal year 2004-2005), and had until June 30, 2006 (the end of the following fiscal year) to file the test claim on the 2003 version of section 60640. The test claim was filed on September 21, 2005, and is, therefore, timely filed for purposes of pleading section 60640 as repealed and replaced by the Statutes 2003, chapter 773.

In addition, the Commission finds that the test claim is timely filed with respect to sections 850, 851, 852, 853, 855, 857, 858, 859, 861, 862, 863, 864.5, 865, 866, 867, 867.5, and 868 of the title 5 regulations as amended by Register 2005, No. 34.

Therefore, with respect to test claim 05-TC-03, TRUSD is the test claimant and the following statute and regulations have been properly pled and are within the jurisdiction of the Commission: Education Code section 60640, as amended by Statutes 2003, chapter 773, and sections 850, 851, 852, 853, 855, 857, 858, 859, 861, 862, 863, 864.5, 865, 866, 867, 867.5, and 868 of the title 5 regulations effective September 21, 2005 (Register 2005, No. 34).

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According to section 1183.08 of the Commission's regulations, withdrawal is accomplished "upon written application to the executive director any time before a decision is adopted," and requires "written application in accordance with section 1181.2 of these regulations." Claimant's notice of intent to withdraw test claim 05-TC-03 in the cover letter for test claim 08-TC-06 upon Commission staff's "review and acceptance" merely communicates intent to withdraw the test claim in the future. Because claimant has not complied with section 1183.08 to withdraw 05-TC-03, the test claim remains pending.

## **2. Test claim filed by Twin Rivers Unified School District (08-TC-06)**

The third test claim (08-TC-06) was filed by TRUSD on June 24, 2009, and pleads Education Code section 60640 as added or amended from 2003 to 2008; section 60641 as added or amended from 1997 to 2008; section 60642.5 as added or amended from 2000-2008; section 60607, as added or amended from 1995 to 2004; section 60615 as added in 1995; and section 60630 as added or amended from 1995 to 2008. TRUSD also requests reimbursement for the title 5 regulations “eff. 2005 and 2/2007.” The test claim regulations were actually amended operative September 21, 2005 (Register 2005, No. 34) and December 8, 2006 (Register 2006, No. 45).

Part of TRUSD’s claim is duplicative of the statutes and regulations pled in the other two test claims that have been properly pled and are analyzed in this decision. These include Education Code 60607, as amended by Statutes 2004, chapter 233; Education Code section 60640, as amended by Statutes 2003, chapter 733, and Statutes 2004, chapter 233; Education Code section 60641, as amended by Statutes 2004, chapter 233; and the title 5 regulations effective September 21, 2005 (Register 2005, No. 34).

However, there are jurisdictional and pleading issues with respect to some of the remaining code and regulatory sections pled by TRUSD.

- a) **The Commission does not have jurisdiction over Education Code sections 60607, 60630, and 60641, as amended by Statutes 1997, chapter 828, because the Commission has already issued a prior decision on those statutes.**

The Commission does not have jurisdiction over Education Code sections 60607, 60630, and 60641, as amended by Statutes 1997, chapter 828, because these code sections were included in a prior test claim determined by the Commission and approved for reimbursement in *Standardized Testing and Reporting (STAR, 97-TC-23*, and reconsidered in 04-RL-9723-01 as directed by the Legislature). A Commission decision that becomes final and has not been set aside by a court cannot be reconsidered.<sup>31</sup>

- b) **The Commission only has jurisdiction over Education Code sections 60630, 60640, 60641, and 60642.5 as amended by Statutes 2008, chapter 473, and Statutes 2008, chapter 757, and does not have jurisdiction over the other statutes and regulations pled in 08-TC-06 since they were filed outside the statute of limitations.**

Government Code section 17551(c) generally requires a test claim to be filed not later than 12 months following the effective date of a statute or executive order. TRUSD filed its test claim on June 25, 2009, and the only statutes that became effective within the one-year statute of limitations are Statutes 2008, chapter 473, and Statutes 2008, chapter 757, which amended Education Code sections 60630, 60640, 60641, and 60642.5. All other statutes and regulations pled by TRUSD became effective between 1995 and 2006, more than one year before the test claim was filed on June 25, 2009 and, thus, raise statute of limitations issues.

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<sup>31</sup> *California School Boards Assoc. v. State of California* (2009) 171 Cal.App.4th 1183, 1200.

TRUSD asserts that the Commission has jurisdiction over all statutes and regulations pled since it first incurred costs on July 28, 2008, within the first month the district unification was effective.<sup>32</sup> In this regard, section 17551(c) does provide that a test claim is timely if it is filed within 12 months of incurring increased costs as a result of a statute or executive order. Section 1183 of the Commission's regulations defines the phrase "within 12 months" of incurring costs to mean "by June 30 of the fiscal year following the fiscal year in which increased costs were first incurred by the test claimant."

TRUSD is therefore attempting to use its status as a newly created school district to seek reimbursement for statutes and regulations that became effective more than 12 months before the filing of the test claim. By TRUSD's interpretation, any newly-created local government could file a test claim without being affected by the statute of limitations, since the new local government can only first incur costs from the time of its formation. Because test claims are treated as class action claims, TRUSD seeks to make all school districts eligible for reimbursement based on its status as a newly-formed entity.

The Commission finds that TRUSD's test claim is not timely filed on the older statutes and regulations that became effective between 1995 and 2006. As indicated above, local voters passed Measure B on November 8, 2007, to unify four existing school districts (GJUHSD, Del Paso Heights Elementary School District, North Sacramento Elementary School District, and Rio Linda Elementary School District) and to create a new school district, TRUSD, effective July 1, 2008. Pursuant to the provisions of Measure B, all obligations and responsibilities of the existing four districts became the obligations and responsibilities of the new unified school district, without change in enrollment or the classification of employees of the former districts. Measure B provides that "No students would be required to change schools as a result of the proposed unification;" that "employees of the existing four districts will become employees of the new district;" and pursuant to Education Code sections 35555 and 35556, that the unification shall not affect the classification of certificated and non-certificated employees already employed by any school district affected. The former school districts, by law, were required to comply with all statutes and regulations governing the STAR exam and incur those costs per pupil when the law became effective. The Commission may presume that the law was followed by the former districts and the costs were in fact incurred.<sup>33</sup> Since the obligations and responsibilities of the existing districts for testing and administering the STAR exam became the obligations and responsibilities of TRUSD for the same population of students, it cannot be said that the costs resulting from these older provisions in law were new or were first incurred in July 2008, as asserted by the claimant. Under the provisions of Measure B, TRUSD incurred the same per-pupils costs (and received the same per-pupil apportionment from the state) for administering the STAR program as the former districts that were unified to create TRUSD.

Moreover, there is no indication in the plain language of Government Code section 17551(c), or in the legislative history of the two bills that established a statute of limitations for filing test claims, that the Legislature intended to allow the filing of a new test claim on old statutes and

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<sup>32</sup> Test Claim 08-TC-06, page 34.

<sup>33</sup> There is a presumption that the former districts' official duties were regularly performed. (Evid. Code, § 664.)

regulations long required to be complied with by all local governments, whenever a new local government is created.<sup>34</sup> Such an interpretation would make the statute of limitations on class action claims pointless. The Legislature used the term “*increased costs*” in section 17551(c) and not merely “costs” because local governments eligible to claim reimbursement already exist and have the right to file a test claim seeking reimbursement from the state on behalf of all other local governments similarly affected by the statute or executive order. As the courts have held, the language of a statute should not be given a literal meaning if doing so would result in absurd consequences that the Legislature did not intend. In such circumstances, the intent prevails over the letter, and the letter will, if possible, be so read as to conform to the spirit of the act.<sup>35</sup>

Therefore, the Commission finds that the TRUSD test claim was not timely filed with respect to the following statutes and regulations: Education Code sections 60607 (as added and amended Statutes 1995, chapter 975, and Statutes 2001, chapter 722); 60615 (as added by Statutes 1995, chapter 975); 60630 (as added and amended by Statutes 1995, chapter 975 and Statutes 2001, chapter 722); 60640 (as amended by Statutes 2004, chapter 183; Statutes 2005, chapter 676; and Statutes 2007, chapters 174 and 730); 60641 (as added and amended by Statutes 1997, chapter 828; Statutes 1999, chapter 735; and Statutes 2001, chapters 20 and 722); and 60642.5 (as added by Statutes 2000, chapter 576; and Statutes 2001, chapter 722); and California Code of Regulations, title 5, sections 850 et seq. (as amended by Register 2006, No. 45).

**3. Conclusion regarding the statutes and regulations in these consolidated claims that have been properly and timely pled.**

The Commission finds that, for purposes of this consolidated test claim, the following statutes and regulations have been properly pled and are analyzed below to determine whether they impose a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution:

- Education Code section 60640 as amended by Statutes 2003, chapter 773;
- Education Code sections 60601, 60602, 60603, 60604, 60605, 60605.6, 60606, 60607, 60611, 60640, 60641 as amended by Statutes 2004, chapter 233;
- Education Code section 60641 as amended by Statutes 2008, chapter 473;
- Education Code sections 60630, 60640, 60641, and 60642.5 as amended by Statutes 2008, chapter 757; and

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<sup>34</sup> Statutes 2002, chapter 1124 first established a statute of limitations for filing test claim as “three years following the date the mandate became effective, or in the case of mandates that became effective before January 1, 2002, the time limit shall be one year from the effective date of this subdivision.” Statutes 2004, chapter 890 amended section 17551(c) to provide that “test claims shall be filed not later than 12 months following the effective date of a statute or executive order, or within 12 months of incurring increased costs as a result of a statute or executive order, whichever is later.”

<sup>35</sup> *Mundy v. Superior Court* (1995) 31 Cal.App.4th 1396, 1402.

- California Code of Regulations, title 5, sections 850, 851, 852, 853, 855, 857, 858, 859, 861, 862, 863, 864.5, 865, 866, 867, 867.5, and 868 as amended by Register 2005, No. 34 (eff. September 21, 2005).

**B. Do the test claim statutes and regulations impose a reimbursable state-mandated program?**

**1. New requirements imposed by the test claim statutes and regulations**

**a) Education Code section 60640, as amended by Statutes 2003, chapter 773**

Education Code section 60640 establishes the STAR program and governs the administration of the test. Before the 2003 amendment to the statute, section 60640 required each school district to administer an achievement test (national norm-referenced test or CAT/6) and a standards-based achievement test to each of its pupils in grades 2 to 11. Statutes 2003, chapter 773 changed the requirement beginning July 1, 2004, to administer the national norm-referenced achievement test (CAT/6) to pupils in grades 3 and 8 rather than to all pupils in grades 2 through 11, and continued the requirement that the standards-aligned achievement test be administered to pupils in grades 2 to 11. The purpose of the amendment is described in the legislative history as follows:

This bill revises state standardized testing requirements so that, effective with the 2004-05 school year, the "off the shelf" norm referenced test will only be administered in grades 3 and 8. The norm-referenced test is not aligned to California standards, whereas the more comprehensive test that is aligned to California's adopted content standards will still be administered in grades 2 through 11.

These provisions were previously approved in the Education Committee as part of the budget trailer bill, AB 1266. The reduced administration of the "of the shelf" test was originally proposed to save costs in the 2003-04 year. Since the new testing schedule will not become effective until 2004-05, this proposal is no longer necessary to implement the 2003-04 Budget Act.<sup>36</sup>

Based on the plain language of the statute, Education Code section 60640 as amended by Statutes 2003, chapter 773, reduces requirements imposed on school districts and does not impose any new requirements on school districts.

**b) Education Code sections 60601, 60602, 60603, 60604, 60605, 60605.6, 60606, 60607, 60611, 60640, 60641 as amended by Statutes 2004, chapter 233**

In 2004, the Legislature reauthorized the STAR program to prevent "the loss of up to \$3 billion in federal funds" and made various changes to the statutes governing the program.<sup>37</sup> According to the legislative history of the statute,

<sup>36</sup> Senate Rules Committee, Office of Senate Floor Analyses, Third Reading Analysis of AB 1485 (2003-2004 Reg. Sess.), amended September 8, 2003.

<sup>37</sup> Senate Rules Committee, Office of Senate Floor Analyses, Third Reading Analysis of SB 1448 (2003-2004 Reg. Sess.), as amended July 28, 2004.

This bill, sponsored by the State Superintendent of Public Instruction, proposes to reauthorize the STAR program for grades 3 through 11 until January 1, 2011 and sunset second grade testing on July 1, 2007. Without this bill, the state's assessment program will cease on January 1, 2005. Failure to continue the STAR testing program may result in a significant loss of federal NCLB funds.<sup>38</sup>

As described below, the Commission finds that the amendments made by Statutes 2004, chapter 233 to Education Code section 60640(g) impose one new requirement on school districts.

**1) Education Code section 60601 as amended in 2004 extends the sunset date for the STAR program until January 1, 2011, but does not impose any new requirements on school districts.**

Education Code section 60601 was amended in 2004 to extend the sunset date for the STAR program from January 1, 2005, until January 1, 2011. As amended, section 60601 states the following: "This chapter shall remain in effect only until January 1, 2011, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2011, deletes or extends that date."

Amending the sunset date continues the operation of existing law, but does not itself, impose any new state-mandated duties on school districts.<sup>39</sup> Therefore, section 60601, as amended by Statutes 2004, chapter 233, does not impose any requirements on school districts.

**2) Education Code sections 60602 and 60603 as amended in 2004 provide statements of legislative intent and define terms, but do not require school districts to perform any activities.**

Education Code sections 60602 and 60603 provide a statement of legislative intent and define terms for the STAR program. The 2004 statute amended section 60602(a) as follows:

(B) It is the intent of the Legislature in enacting this chapter to provide a system of individual assessment of pupils that has ~~as its primary purpose, the primary purpose, of assisting teachers, administrators, pupils, and their parents, and teachers to identify individual academic strengths and weaknesses, in order to improve teaching and learning. It is further the intent of the Legislature in enacting this chapter to determine the effectiveness of school districts and schools, as measured by the extent to which pupils demonstrate knowledge of the fundamental academic skills, as well as the ability to apply those skills.~~ In order to accomplish these goals, the Legislature finds and declares that California should adopt a coordinated and consolidated testing program to do all of the following:

(1) The Legislature recognizes that, in addition to statewide assessments that will occur as specified in this chapter, school districts will conduct additional ongoing pupil diagnostic assessment and provide information regarding pupil performance based on those assessments on a regular basis to parents or

<sup>38</sup> Senate Rules Committee, Office of Senate Floor Analysis, Third Reading Analysis of SB 1448 (2003-2004 Reg. Sess.), as amended July 28, 2004.

<sup>39</sup> *Perkins Mfg. Co. v. Clinton Const. Co. of California* (1931) 211 Cal. 228, 238.

guardians and schools. The Legislature further recognizes that local diagnostic assessment is a primary mechanism through which academic strengths and weaknesses are identified.

In addition, subdivisions (d) and (e) were added to section 60602 as follows:

- (d) It is the intent of the Legislature, insofar as is practically feasible and following the completion of annual testing, that the content, test structure, and test items in the assessments that are part of the Standardized Testing and Reporting Program become open and transparent to teachers, parents, and pupils, to assist all stakeholders in working together to demonstrate improvement in pupil academic achievement. A planned change in annual test content, format, or design, should be made available to educators and the public well before the beginning of the school year in which the change will be implemented.
- (e) It is the intent of the Legislature that the results of the California Standards Tests be available for use, after appropriate validation, academic credit, or placement and admissions processes, or both, at postsecondary educational institutions.

The definitions in Education Code section 60603 were also amended by the 2004 statute. Section 3 of the bill added a definition of “diagnostic assessment,” as follows:

- (6) “Diagnostic assessment” means interim assessments of the current level of achievement of a pupil that serves both of the following purposes: (A) The identification of particular academic standards or skills a pupil has or has not yet achieved. (B) The identification of possible reasons that a pupil has not yet achieved particular academic standards or skills.

Section 3 of the bill also amended the definition of “End of course exam,” to delete a reference to the Golden State Exams as follows: “End of course exam means a comprehensive and challenging assessment of pupil achievement in a particular subject area or discipline ~~such as the Golden State Exams.~~” The amendments made by section 3 of the bill became inoperative on July 1, 2007 and were repealed as of January 1, 2008.

Section 4 of the bill added another section 60603 to the Education Code beginning July 1, 2007, and amended the definition of “Diagnostic assessment” to add the word “frequent” as follows:

- (6) “Diagnostic assessment” means frequent, interim assessments of the current level of achievement of a pupil that serves both of the following purposes: (A) The identification of particular academic standards or skills a pupil has or has not yet achieved. (B) The identification of possible reasons that a pupil has not yet achieved particular academic standards or skills.

In addition, the definition of “statewide pupil assessment program,” in section 60603(a)(11) was amended to require testing pupils in grades 3 to 11, inclusive, rather than grades 2 to 11 under the original statute.

The Commission finds that Education Code sections 60602 and 60603 (as amended and added by Stats. 2004, ch. 233) do not impose any requirements on school districts.



**3) Education Code section 60604 as amended and added in 2004, imposes duties on the SPI, but does not require school districts to perform any activities.**

Statutes 2004, chapter 233, sections 5 and 6 amend Education Code section 60604 to make it inoperative on July 1, 2007, and add a new section 60604 effective July 1, 2007, to eliminate the CSTs for second grade pupils. Education Code section 60604(a)(2) provides that beginning July 1, 2007, the Superintendent of Public Instruction (SPI) shall design and implement a statewide pupil assessment program that includes the following:

A method of working with publishers to ensure valid, reliable, and comparable individual, grade-level, school-level, district-level, county-level, and statewide scores in grades 2 3 to 11, inclusive, that is based on the achievement test designated pursuant to subdivision (b) of Section 60605.

Education Code section 60604 imposes duties on the SPI, but does not impose any new requirements on school districts.

**4) Education Code section 60605 as amended and added by Statutes 2004, chapter 233, imposes duties on the SBE, but does not impose any requirements on school districts.**

Under prior law, Education Code section 60605 required the SBE to adopt statewide academically rigorous content standards in the core curriculum areas of reading, writing, and mathematics to serve as a basis for assessing the academic achievement of individual pupils and schools. By November 1, 1998, SBE was required to adopt statewide performance standards “in the core curriculum areas of history/social science and science.” The remaining provisions in section 60605 specify how the standards were to be adopted, how the assessments for the standards were to be adopted, and other requirements, such as holding regional hearings on the standards and adopting regulations for the assessments. Section 60605(b)(1) also requires the test to include all specified basic academic skills in grades 2 to 7, and the core curriculum areas of English and language arts, mathematics, and science in grades 9 to 11, inclusive.

Statutes 2004, chapter 233 included two versions of section 60605. Section 7 of the bill made non-substantive changes and added, in section 60605(h), a sunset provision that stated that “this section shall become inoperative on July 1, 2007, and, as of January 1, 2008, is repealed, unless a later enacted statute . . . deletes or extends the dates on which it becomes inoperative and is repealed.”

Section 8 of the bill amended section 60605 to become operative on July 1, 2007, and added a requirement to section 60605(b)(1) that SBE notify publishers of the opportunity to submit for consideration tests of achievement. The tests were to include all the basic academic skills in reading, spelling, written expression and mathematics in grades 3 to 8 (rather than grades 2 to 8 under prior law) and the core curriculum areas of English and language arts, mathematics, and science in grades 9 to 11, inclusive.

Based on the plain language of Statutes 2004, chapter 233, Education Code section 60605, as amended and added, imposes duties on the SBE, but does not impose any requirements on school districts.

**5) Education Code sections 60605.6 and 60606 as amended and added by Statutes 2004, chapter 233 impose duties on state agencies, but do not require school districts to perform any activities.**

Under prior law, the SPI, subject to available funds in the annual Budget Act and upon SBE approval, was required in section 60605.6 to contract for the development and distribution of workbooks, with specified contents, to be distributed to tenth graders. The workbooks had to contain information on the high school exit exam. Separate workbooks for grades 2 to 11 were to be distributed for the national norm-referenced achievement test (CAT/6, the test described in former section 60642) and the standards based achievement tests (CSTs, the test described in section 60642.5), with specified content and sample questions to assist pupils and their parents with standards-based learning.

Section 9 of Statutes 2004, chapter 233 amended section 60605.6 to add a sunset provision making the section inoperative on July 1, 2007, and made other non-substantive changes. Section 10 of the statute added section 60605.6, effective July 1, 2007, containing identical provisions as the section 60605.6 set to sunset in section 9, except that the workbooks for the CAT/6 and the CSTs were to be distributed to pupils in grades 3 to 11, instead of 2 to 11.

Section 60605.6 as amended and added by Statutes 2004, chapter 233, imposes requirements on the SPI to “contract for the development and distribution” of the workbooks, but does not impose any requirements on school districts.

Statutes 2004, chapter 233 also amended existing section 60606 and made it inoperative on July 1, 2007, and added a new section 60606 operative July 1, 2007, both of which require the SBE, after designing the CSTs and writing tests, to submit the tests to the Statewide Pupil Assessment Review Panel for review. Section 60606 requires the panel to consist of six members who are appointed to serve two-year uncompensated terms, and who review the tests for compliance with Education Code section 60614. Section 60614 prohibits the assessments from containing “any questions or items that solicit, or invite disclosure of a pupil’s, or his or her parents’ or guardians’, personal beliefs or practices in sex, family life, morality, or religion nor shall it contain any question designed to evaluate personal behavioral characteristics.” The panel’s findings and recommendations are to be reported to SBE within ten days of receiving the tests. If the panel fails to report within the required ten days, the test is “deemed acceptable to the panel.”<sup>40</sup>

Education Code section 60606, as amended and added by the 2004 test claim statute, imposes duties on the SBE, but does not impose any requirements on school districts.

**6) Education Code sections 60607 and 60641, as amended by Statutes 2004, chapter 233, do not impose new requirements on school districts.**

Since 1995, each pupil has been required to have an individual record of achievement or accomplishment as specified in Education Code section 60607 that contains the results of the achievement test that is part of the STAR program. The records of accomplishment are required to be private and may not be released to any person other than a parent or guardian or teacher,

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<sup>40</sup> Former Education Code section 60606(d), now in Education Code section 60606(e).

counselor or administrator directly involved with the pupil, without the express written consent of the parent or guardian, or a pupil that has reached the age of majority or is emancipated. The legislative intent expressed prior to the enactment of Statutes 2004, chapter 233 was for school districts and schools to use the test results to “provide support to pupils and parents or guardians in order to assist pupils in strengthening their development as learners, and thereby to improve their academic achievement and performance in subsequent assessments.”<sup>41</sup>

Preexisting law (§ 60641(a)) also required CDE to ensure that school districts report in writing the individual results of each pupil test administered to the pupil’s parent or guardian, school, and teachers, and to include the test results in the pupil’s records. Individual pupil test results may only be released with the permission of the pupil’s parent or guardian.

Statutes 2004, chapter 233 amended section 60607(c) to provide that a pupil or his or her parent or guardian may authorize the release of pupil results to a postsecondary educational institution for purposes of credit, placement, or admission as follows:

(c) (1) Any pupil results or a record of ~~achievement~~ accomplishment shall be private, and may not be released to any person, other than the pupil’s parent or guardian and a teacher, counselor, or administrator directly involved with the pupil, without the express written consent of either the parent or guardian of the pupil if the pupil is a minor, or the pupil if the pupil has reached the age of majority or is emancipated.

(2) (A) Notwithstanding paragraph (1), a pupil or his or her parent or guardian may authorize the release of pupil results or a record of accomplishment to a postsecondary educational institution for the purposes of credit, placement, or admission.

(B) Notwithstanding paragraph (1), the results of an individual pupil on the California Standards Test may be released to a postsecondary educational institution for the purposes of credit, placement, or admission.

Nearly identical language was also added to Education Code section 60641(a)(3)(B). In addition, Statutes 2004, chapter 233 amended section 60641(a)(3)(A) to add the following underlined text:

However, except as provided in this section, individual pupil test results may only be released with the permission of either the pupil’s parent or guardian if the pupil is a minor, or the pupil if the pupil reached the age of majority or is emancipated.

Statutes 2004, chapter 233 also added section 60641(d), requiring CDE to ensure that the CSTs that are “augmented for the purpose of determining credit, placement, or admission of a pupil in a postsecondary educational institution inform a pupil in grade 11 that he or she may request that the results from the assessment be released to a postsecondary educational institution.” The reference in section 60641(d) to an augmented CSTs is part of the Early Assessment Program (EAP) (Ed. Code, § 99300 et seq.), which is a collaborative effort among K-12 schools, the California State University, California Community Colleges, SBE, and CDE. Under the EAP,

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<sup>41</sup> Education Code section 60607(b) as added by Statutes 1995, chapter 975.

11th graders are encouraged to take an "augmented version" of the CSTs that includes additional English-language arts and math questions and a written essay. The results of the augmented version, once scored, indicate a pupil's readiness for college-level English-language arts and math. Those whose scores indicate they are not ready are encouraged to take classes during their senior year to improve and strengthen their skills. The goal of the EAP is to have high school graduates enter the California State University or a California community college fully prepared to do college-level work.<sup>42</sup>

The purpose of these amendments to release test results was stated as follows: "It is the intent of the Legislature that the results of the California Standards Tests be available for use, after appropriate validation, academic credit, or placement and admissions processes, or both, at postsecondary educational institutions."<sup>43</sup>

The Commission finds that Education Code sections 60607 and 60641, as amended by the Statutes 2004, chapter 233 do not impose new requirements on school districts. Preexisting law requires furnishing, releasing, or granting access to pupil records,<sup>44</sup> including standardized test results,<sup>45</sup> to parents of current or former pupils (or pupils 18 or over or who attend an institution of postsecondary education),<sup>46</sup> and requires school districts to have procedures for granting parental requests for furnishing copies of *all* pupil records.<sup>47</sup> Access to pupil records includes "a request to release a copy of any record."<sup>48</sup> The list of people who have access to pupil records without written consent includes a "pupil 16 years of age or older or having completed the 10<sup>th</sup> grade who requests access."<sup>49</sup> School districts are allowed to "make a reasonable charge in an amount not to exceed the actual cost of furnishing copies of any pupil record;" with some exceptions for former pupil records that are provided free of charge.<sup>50</sup>

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<sup>42</sup> Senate Rules Committee, Office of Senate Floor Analyses, Third Reading Analysis of SB 916 (2007-2008 Reg. Sess.) as amended Aug. 14, 2008, page 2.

<sup>43</sup> Education Code section 60602(e) (added by Stats. 2004, ch. 233).

<sup>44</sup> Pupil records include "any item of information directly related to an identifiable pupil, other than directory information [as defined] which is maintained by a school district or required to be maintained by an employee in the performance of his or her duties whether recorded by handwriting, print, tapes, film, microfilm or other means." (Ed. Code, § 49061(b).)

<sup>45</sup> California Code of Regulations, title 5, section 432(b).

<sup>46</sup> Education Code section 49061(a), as last amended by Statutes 2003, chapter 862.

<sup>47</sup> Education Code section 49069, as amended by Statutes 1977, chapter 36.

<sup>48</sup> Education Code section 49061(e), as last amended by Statutes 2003, chapter 862.

<sup>49</sup> Education Code section 49076(a)(6), as last amended by Statutes 2003, chapter 862.

<sup>50</sup> Education Code section 49065, as last amended by Statutes 1977, chapter 36. "No charge shall be made for furnishing (1) up to two transcripts of former pupils' records or (2) up to two verifications of various records of former pupils. No charge may be made to search for or to retrieve any pupil record."

In addition, parental authorization to release records is not new. Under preexisting law, in Education Code section 60607(c), as amended by Statutes 2001, chapter 722, parents could consent to have their child's record released to "any person," which could have included admissions officers at postsecondary institutions.

Moreover, the Statutes 2004, chapter 233 amendment to section 60641(d), requiring CDE to ensure that a test that is augmented for the purpose of determining credit, placement, or admission of a pupil in a postsecondary educational institution, inform a pupil in grade 11 that he or she may request that the results from the assessment be released to a postsecondary educational institution, is a requirement imposed on CDE and not a requirement on school districts.

Accordingly, the Commission finds that Education Code sections 60607 and 60641, as amended by Statutes 2004, chapter 233, does not impose new requirements on school districts.

**7) Education Code section 60611, as amended by Statutes 2004, chapter 233, does not impose new requirements on school districts.**

Since it was added by Statutes 1995, chapter 975, Education Code section 60611 has prohibited cities, counties, a city and county, district superintendents of schools, or principals or teachers, from carrying on any program of specific preparation of pupils for any statewide pupil assessment program or a particular test. Statutes 2004, chapter 233 added subdivision (b) to section 60611 as follows:

City, county, city and county, district superintendent of schools, principal, teacher of an elementary and secondary school, including a charter school, *may* use instructional materials provided by the department or its agents in the academic preparation of pupils for the statewide pupil assessment if those instructional materials are embedded in an instructional program that is intended to improve pupil learning. (Emphasis added.)

The plain language of this amendment authorizes, but does not require school districts to use instructional materials to prepare pupils for the statewide pupil assessment.<sup>51</sup> Thus, the Commission finds that section 60611(b) as added by Statutes 2004, chapter 233 does not impose any required activities on school districts.

Statutes 2004, chapter 233 also deleted the first word ("No") in Education Code section 60611(a):

~~No~~ (a) A city, county, city and county, ~~or~~ district superintendent of schools, or principal or teacher of any elementary or secondary school, including a charter school shall carry on any program of specific preparation of ~~the~~ pupils for the statewide pupil assessment program or a particular test used therein.

The plain language of the amendment to section 60611(a) that deleted the first word "no," made the statute read as if school districts were required to carry on a program of specific preparation for statewide pupil assessment. However, the deletion of the word "no" was a drafting error. A legislative committee report stated that a subsequent statute (Stats. 2005, ch. 676) "[c]orrects an

<sup>51</sup> Education Code section 75: "'Shall' is mandatory and 'may' is permissive."

error made by Chapter 233, of 2004 [the test claim statute] in order to clarify existing law that *prohibits* the use of specific test preparation programs that are not part of a larger curriculum.”<sup>52</sup> In addition, the Legislative Counsel’s Digest for the test claim statute (SB 1448, Stats. 2004, ch. 233), states:

Existing law prohibits a city, county, city and county, or district superintendent of schools or principal or teacher of any elementary or secondary school from carrying on any program of specific preparation of the pupils for the statewide pupil assessment program or a particular test used in the statewide pupil assessment program.

This bill would, in addition, place that prohibition on a charter school, but would exempt from that prohibition instructional materials provided by the State Department of Education if those instructional materials are embedded in an instructional program that is intended to improve pupil learning.<sup>53</sup>

The Legislative Counsel’s Digest mentions extending the prohibition for specific preparation to a charter school, but makes no mention of requiring schools to “carry on any program of specific preparation” as the plain, but unintended, language of the Statutes 2004, chapter 233 amendment to section 60611(a) would indicate.<sup>54</sup>

In short, the legislative history Statutes 2004, chapter 233 and of subsequent corrective legislation (Stats. 2005, ch. 676) makes clear that Statutes 2004, chapter 233 erroneously omitted the word “no” in Education Code section 60611(a). The Commission, like a court, may disregard a statute’s drafting error where the legislative intent is clear and correction will best carry out the legislative intent.<sup>55</sup>

Accordingly, the Commission finds that Education 60611, as amended by the 2004 test claim statute, does not impose a state-mandated new program or higher level of service on school districts.

**8) Education Code section 60640(g) as amended and added by Statutes 2004, chapter 233 imposes a new requirement on school districts to administer the primary language test to students of limited English proficiency enrolled in grades 2 to 11 in a *nonpublic* school for less than 12 months.**

- i. Administering the national norm-referenced achievement test (CAT/6) to grades 3 and 7, instead of grades 3 and 8 does not impose a new program or higher level of

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<sup>52</sup> Senate Committee on Education, Analysis of S.B. 755 (2005-2006 Reg. Sess.) as amended February 22, 2005, page 2.

<sup>53</sup> The Legislative Counsel’s Digest may be used to determine legislative intent. *Kaufman & Broad Communities, Inc. v. Performance Plastering, Inc.* (2005) 133 Cal.App.4th 26, 35.

<sup>54</sup> See also California Code of Regulations, title 5, section 854 that prohibits specific preparation materials for the STAR exams except as provided by CDE.

<sup>55</sup> *Arnall v. Superior Court* (2010) 190 Cal.App.4th 360, 368.

service on school districts. (Ed. Code, § 60640(b), as amended by Stats. 2004, ch. 233)

As indicated above, Education Code section 60640 establishes the STAR program and governs the administration of the test. Before the Statutes 2004, chapter 233 was enacted, Statutes 2003, chapter 733 amended section 60640 to require each school district to administer to each of its pupils in grades 3 and 8 the national norm-referenced achievement test designated by SBE pursuant to section 60642 and a standards-based achievement test designated by SBE pursuant to section 60642.5 for pupils in grades 2 to 11, inclusive. That provision was to become operative on July 1, 2004.

Section 15 of Statutes 2004, chapter 233 amended section 60640(b), commencing July 1, 2004, to change the grade requirements for the administration of the national norm-referenced achievement test (or CAT/6). Statutes 2004, chapter 233 requires each school district to administer the national norm-referenced achievement test to pupils in grades 3 and 7, instead of to pupils in grades 3 and 8, and makes the statute inoperative on July 1, 2007. Section 16 of the bill then added section 60640 back to the Education Code, commencing on July 1, 2007, to continue the same requirement to administer the test to pupils in grades 3 and 7. CDE requested that the test not be administered to students in grade 8 because by the time the test scores of 8th graders were available to their middle or junior high schools, the pupils had already graduated from the school.<sup>56</sup> Section 60640(b), as amended in 2004 (Stats. 2004, ch. 233), does not increase the testing requirements of school districts since it simply requires that the test be administered in the 7<sup>th</sup>, rather than 8<sup>th</sup> grade. Therefore, the Commission finds that Education Code section 60640 as amended by Statutes 2004, chapter 233 does not impose a new program or higher level of service on school districts.

ii. Administering the primary language test to pupils with limited English proficiency (Ed. Code, §§ 60640(f)(g), as amended by Stats. 2004, ch. 233)

As indicated above, immediately before the enactment of Statutes 2004, chapter 233, the law required school districts to administer to students in grades 3 and 8 the national norm-referenced achievement test, and to students in grades 2 through 11, a standards-based achievement test.<sup>57</sup> In addition to the national norm-referenced achievement test (CAT/6) and the standards-based achievement test (CSTs), the law also required school districts to administer a primary language test, if one was available, to pupils of limited English proficiency who had been enrolled in any of grades 2 to 11 in any public school in the state for *less than* 12 months before the administration of the test. School districts had the option of administering a primary language test to English learner pupils enrolled in a public school for *more than* 12 months before the administration of the test.<sup>58</sup> In addition, pupils in special education programs were required to be

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<sup>56</sup> Senate Committee on Education, Analysis of SB 1448 (2003-2004 Reg. Sess.) amended April 15, 2004, pages 3-4.

<sup>57</sup> Education Code section 60640, as amended by Statutes 2003, chapter 733.

<sup>58</sup> Education Code section 60640, as originally enacted by Statutes 1997, chapter 828. Former California Code of Regulations, title 5, section 880(a) also stated the following: “In addition to the designated achievement test and the standards-based achievement tests, school districts shall

tested, unless specifically exempted by their IEP, and school districts had the option of testing these pupils with a designated primary language test if the pupil was limited English proficient.<sup>59</sup>

Statutes 2004, chapter 233 made some changes to these provisions for fiscal year 2004-2005. Section 15 of Statutes 2004, chapter 233 added subdivision (f)(3) to section 60640 to require CDE to “use funds made available pursuant to Title VI of the federal No Child Left Behind Act of 2001 and appropriated by the annual Budget Act for the purpose of developing and adopting primary language assessments that are aligned to the state academic content standards.” The added provision specifies that the exams be developed and adopted for reading/language arts and mathematics in the dominant primary language of limited-English proficient pupils, determined by the count in the annual language census of limited-English-proficient pupils. Statutes 2004, chapter 233 also added other provisions in section 60640(f)(3) regarding the administration of the primary language assessment, choosing a contractor to develop the assessment, the grade order of developing the assessment, retention of ownership rights to the assessment and test items, a CDE report on developing and implementing the initial primary language assessment, and recommendations for future assessments and funding requirements. These amendments to section 60640(f)(3) are imposed on CDE, and do not require school districts to perform any activities.

In addition, Statutes 2004, chapter 233 added Education Code section 60640(f)(3)(B) to provide the following: “Once a dominant primary language assessment is available for use for a specific grade level, it shall be administered in place of the assessment designated pursuant to paragraph (1) for that grade level.” Paragraph (1) of subdivision (f) is the provision that allows schools, at their option, to have pupils who have been enrolled in a public school district for more than 12 months with limited English proficiency, take a second achievement test in their primary language. Subdivision (f)(1) states the following:

(f)(1) *At the option of the school district*, pupils with limited English proficiency who are enrolled in any of grades 2 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

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administer to English language learners who are enrolled in any of grades 2 to 11, inclusive, a designated primary language test if less than 12 months have elapsed after initial enrollment in any public school in this state and it a test has been designated in the pupil’s primary language.”

<sup>59</sup> Education Code section 60640(e), as amended by Statutes 2002, chapter 492, which provides the following: “Pursuant to paragraph (17) of subsection (a) of Section 1412 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, will be given an alternate assessment.” See also, Former California Code of Regulations, title 5, section 881(b) (Register 2001, No. 19), which provided that “Pupils in special education programs may be tested with a designated primary language test, if applicable, unless the individualized education program for the pupil specifically exempts the pupil from testing.”



shall produce individual pupil scores that are valid and reliable. (Emphasis added.)

Thus, the Commission finds that Education Code section 60640(f)(3)(B) does not impose any required activities on school districts. School districts that choose to have these students take a second test in their primary language do not incur state-mandated costs.<sup>60</sup>

In addition, Section 15 of Statutes 2004, chapter 233 amended section 60640(g) as follows:

A pupil of limited English proficiency who is enrolled in any of grades 2 to 11, inclusive, shall be required to take a test in ~~their~~ his or her primary language if a test is available, and if fewer than 12 months have elapsed after ~~their~~ his or her initial enrollment in any public or nonpublic school in the state.

The reference in the statute to a nonpublic school is new, and by the plain language of the statute, expands the requirement of administering the achievement test in the pupil's primary language (which is taken in addition to the national norm-referenced achievement test and the standards-based achievement test administered in English) to those pupils initially enrolled in a *nonpublic* school for less than 12 months. Education Code section 56034 defines a nonpublic school as a private, nonsectarian (nonreligious) school that enrolls individuals with exceptional needs pursuant to an individualized education program (IEP). Under federal law, every child is entitled to a free and appropriate public education in the least restrictive setting that meets the child's needs. When a child has exceptional needs that cannot be met in a public school setting, that child may be educated in a nonpublic school at public expense.<sup>61</sup> Education Code section 56365 states that the services shall be provided pursuant to state and federal law and under contract with the local educational agency, "to provide the appropriate special educational facilities, special education, or designated instruction and services required by the individual with exceptional needs if no appropriate public education program is available." (Emphasis added.) The tuition of a pupil in a nonpublic school is paid by the public local education agency that places the pupil in the nonpublic school based on the pupil's individual needs. Placement in nonpublic schools can be made outside of the state pursuant to section 56365(e), after documentation of efforts by the local educational agency to utilize public schools or to locate an appropriate nonpublic, nonsectarian school or agency program within the state. Section 56365(b) states that "pupils enrolled in nonpublic, nonsectarian schools and agencies under this section shall be deemed enrolled in public schools . . . ."

The Commission finds that the requirement to administer the primary language test to students of limited English proficiency enrolled for less than 12 months in a *nonpublic* school in grades 2 to 11 is a new requirement imposed on school districts beginning July 1, 2004. Under prior law, school districts had the option of administering a primary language test to special education students who were English learners pursuant to former section 881 of the title 5 regulations. Administering the primary language test, in addition to the national norm-referenced achievement test and the standards-based achievement test, is now required for those students

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<sup>60</sup> *Kern Unified School Dist.* (2003) 30 Cal.4<sup>th</sup> 727, 745.

<sup>61</sup> 20 United States Code, sections 1400, et seq; Code of Federal Regulations, title 20, section 300.146.

enrolled for less than 12 months in a nonpublic school. Pursuant to section 60640(k), the requirement was to become inoperative on July 1, 2007. However, effective October 7, 2005, Education Code section 60640(g) was amended again by Statutes 2005, chapter 676 to provide that students, in grades 3 to 11, receiving instruction in his or her primary language or who have been enrolled “in a school in the United States” for less than 12 months shall be required to take the primary language test as follows:

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

As indicated in part A of this decision, the Commission does not have jurisdiction to determine if the 2005 statute imposes a reimbursable state-mandated program and, thus, with respect to the language in the statute requiring the primary language test for pupils who “receive instruction in his or her primary language,” findings cannot be made. However, the requirement to administer the primary language test to those pupils, in grades 3 to 11, enrolled in a nonpublic school for less than 12 months continues with the plain language of the 2005 statute, which states that the primary language test is required for those enrolled in “a school in the United States” for less than 12 months. “A school in the United States” includes a nonpublic school, which by definition in Education Code section 56365(b), deems those pupils enrolled in a public school.<sup>62</sup>

Accordingly, the Commission finds that Education Code section 60640(g), as amended by section 15 of Statutes 2004, chapter 233, imposes the following new requirement on school districts beginning July 1, 2004:

- To administer the primary language test to students of limited English proficiency enrolled for less than 12 months in a *nonpublic* school in grades 2 to 11. Beginning October 7, 2005, school districts are required to administer the primary language test to those students in nonpublic schools in grades 3 to 11, instead of grades 2 to 11.

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<sup>62</sup> Section 16 of the 2004 test claim statute then added a new section 60640 to the Education Code for the 2007-2008 fiscal year, and required that the standards-based achievement test be administered to students in grades 3 to 11, instead of students in grades 2 to 11. With respect to pupils with limited English proficiency, section 60640(g), required the following for fiscal year 2007-2008:

(g) A pupil identified as limited English proficient pursuant to the administration of a test provided by Section 60810, who is enrolled in any of grades 3 to 11, inclusive, and has not been reclassified as proficient in English pursuant to reclassification procedures required to be developed by Section 313, shall be required to take a test in her or her primary language if a test is available and if fewer than 12 months have elapsed after his or her initial enrollment in any public school in the state.

Section 16 never took effect, however, because of the amendment to the statute by Statutes 2005, chapter 676.

**c) Education Code sections 60630, 60640, 60641, and 60642.5 as added and amended by Statutes 2008, chapters 473 and 757**

Statutes 2008, chapter 757 was an education budget trailer bill that amended Education Code section 60640 (Stats. 2008, ch. 757) to remove the requirement for school districts to assess pupils with the national norm-referenced achievement test (CAT/6) in grades 3 and 7. Specifically, Statutes 2008, chapter 757 removed from section 60640(b) reference to the “achievement test designated by the State Board of Education pursuant to Section 60642” and removed other references to section 60642 in section 60640 (f)(1) and (f)(3)(C). Removing these provisions requires less testing and imposes no new requirements on school districts.

Statutes 2008, chapter 757 also makes non-substantive amendments to section 60642.5, which, since 2000, has required the SPI to provide for development of the standards based achievement test (CSTs). The subject areas and grades to be tested are listed in section 60642.5, along with the criteria SBE must consider in approving a contract for development or administration of the CSTs.

In addition, Statutes 2008, chapter 757 makes non-substantive amendments to section 60630. Section 60630 requires the SPI to prepare and submit an annual report to the Legislature and the SBE with an analysis of the results and test scores of the STAR program that may include specified factors. Since 1997, section 60630(b) has required school districts to “submit to the State Department of Education whatever information the department deems necessary to carry out this section.” Statutes 2008, chapter 757 made the following non-substantive amendment to subdivision (b): “School districts shall submit to the ~~State Department of Education~~ department whatever information the department deems necessary to carry out this section.”

Thus, Statutes 2008, chapter 757 amendments to sections 60630 and 60642.5 removed references to the national norm-referenced achievement test in these statutes and made no other substantive changes that require school districts to perform any new activities.

Finally, the Legislature amended section 60641 in 2008, through chapters 473 and 757. Chapter 473 amended section 60641(a)(3)(B) to add the following underlined text: “Notwithstanding subparagraph (A), a pupil or his or her parent or guardian may authorize the release of individual pupil results to a postsecondary educational institution for the purpose of credit, placement, determination of readiness for college-level coursework, or admission.” Chapter 473 also amended section 60641(d) as follows:

The department shall ensure that a California Standards Test that is augmented for the purpose of determining credit, placement, or ~~admission~~ readiness for college-level coursework of a pupil in a postsecondary educational institution inform a pupil in grade 11 that he or she may request that the results from that assessment be released to a postsecondary educational institution.

These amendments do not impose any required activities on school districts.

Statutes 2008, chapter 757, amended section 60641 by deleting references to section 60642, the national norm-referenced test in section 60641(a) and (b), and made other non-substantive changes. Statutes 2008, chapter 757 did not impose any requirements on school districts.

**d) Amendments to the Title 5 regulations by Register 2005, No. 34.**

SBE adopted regulations in 2005 to amend sections 850 *et al.*, of the title 5 regulations relating to the STAR program, effective on September 21, 2005. According to the Initial Statement of Reasons for the regulations, the 2005 amendments were adopted to:

. . . clarify the specific student demographic data that districts must provide, provide information about the use of questions publicly released for the California Standards Tests, add requirements for the California Alternate Performance Assessment (CAPA), modify all dates associated with the Program to working days, and modify the process for collecting information required for providing apportionments to districts for costs associated with the Program. Changes to the regulations were also made in order to ensure consistency among the assessment programs, including the California High School Exit Examination (CAHSEE) and the California English Language Development Test (CELDT). Additionally, some of the proposed amendments are required to enable the state to comply with the requirements of the federal No Child Left Behind Act of 2001.<sup>63</sup>

To address federal guidelines that authorize states, beginning in the 2004-2005 school year, to not include a student with a significant medical emergency in the participation rate calculation, the 2005 regulations included a definition for significant medical emergency. The regulations also defined data provided by each school district to the test contractor for each pupil in grades 2 through 8 who is not tested due to a significant medical emergency. The 2005 amendments to the regulations are analyzed below.

**1) Definitions (Cal. Code Regs., tit. 5, § 850)**

Section 850 sets forth definitions for 19 terms used in the STAR testing program. Register 2005, No. 34, amended this section to “update and clarify the definitions.” This regulation defines terms, but does not itself, impose any required activities on school districts. The definitions that are relevant to any new required activity are discussed further below, however.

**2) Pupil Testing (Cal. Code Regs., tit. 5, § 851)**

Section 851(a) was amended to add the standards based achievement test (CSTs) required to be administered to pupils enrolled in grades 2 to 11 as follows:

(a) School districts shall administer the designated achievement test and standards based achievement tests to each eligible pupil enrolled in any of grades 2 to 11, inclusive, in a school district on the date testing begins in the pupil’s school.

Administration of the standards based achievement test (CSTs), however, is not a new requirement. Immediately before the effective date of the 2005 amendment to section 851, school districts were required to test pupils in grades 2-11 with “the standards-based achievement test provided for in Section 60642.5,” beginning in the 2004-2005 fiscal year as follows:

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<sup>63</sup> Initial Statement of Reasons, revised June 23, 2004.

(b) Commencing in the 2004–05 fiscal year and each fiscal year thereafter, and 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 and 8 the achievement test designated by the State Board of Education pursuant to Section 60642 and *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 of Education 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. (Emphasis added.)<sup>64</sup>

Section 853(b) of the preexisting regulations also required administering the standards based achievement tests in accordance with the manuals and instructions provided by the contractor. Thus, California Code of Regulations, title 5, section 851(a) as amended by Register 2005, No. 34, does not impose new requirements on school districts.

Section 851(b) was added by Register 2005, No. 34, to require school districts to administer the CAPA to those pupils with significant cognitive disabilities in grades 2 through 11, and ages 7 through 16 in ungraded programs. The CAPA is an alternative assessment individually administered to assess these pupils' achievement on a subset of California's Academic Content Standards.<sup>65</sup> Section 851(b) states the following:

(b) School districts shall administer the CAPA, as set forth in the pupil's IEP, to each eligible pupil in any of grades 2 to 11, inclusive, in a school district during the period specified by the test contractor. Pupils in ungraded special education classes shall be tested, if they are 7 to 16 years of age.

The requirement to administer the CAPA is not new, however. Since 2002, Education Code section 60640(e) has provided, pursuant to federal law (IDEA), that individuals with exceptional needs shall be included in the testing requirements of the STAR program with appropriate accommodations in administration, where necessary. The statute further provides that those individuals with exceptional needs who are unable to participate in the testing, even with accommodations, shall be given an alternate assessment.<sup>66</sup> CAPA was first administered in

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<sup>64</sup> Education Code section 60640(b), as added by Statutes 2003, chapter 773, beginning in the 2004-2005 fiscal year.

<sup>65</sup> California Code of Regulations, title 5, section 850(d) and (h).

<sup>66</sup> Statutes 2002, chapter 492 added subdivision (e) to section 60640 to state the following: "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." Subdivision (e) currently remains in section 60640.

2003<sup>67</sup> and was governed by section 853(b), as it existed when the 2005 regulations became effective, to provide that the CAPA shall be administered and returned by school districts in accordance with the manuals and instructions provided by the contractor, and in accordance with testing variations, accommodations, and modifications specified in section 853.5. Therefore, section 851(b) of the title 5 regulations as amended by Register 2005, No. 34, does not impose new requirements on school districts.

In addition, former section 851(d) was renumbered to section 851(e) and amended to provide the following:

No test may be administered in a ~~private home or location~~ hospital ~~unless the test is administered by either a certificated employee of the district or an employee of a nonpublic school pursuant to Education Code section 66365 who holds a credential and the employee signs a security affidavit~~ except by a test examiner. No test shall be administered to a pupil by the parent or guardian of that pupil. This subdivision does not prevent classroom aides from assisting in the administration of the test under the supervision of a credentialed school district employee provided that the classroom aide does not assist his or her own child and that the classroom aide signs a security affidavit.

A “test examiner” is defined in section 850(k), as amended by Register 2005, No. 34, to mean “an employee of a school district or an employee of a nonpublic school *who has been trained to administer the tests* and has signed a STAR Test Security Affidavit. For the CAPA, the test examiner must be a certificated or licensed school staff member.”

Thus, under former section 851, the tests could be administered by either a certificated employee of the district or an employee of a nonpublic school who holds a credential and signs a security affidavit. This section as amended by Register 2005, No. 34 now requires that the test be administered by a test examiner who, by definition, can still be an employee of a school district or an employee of a nonpublic school, but is now required for the first time to be trained to administer the tests. Pursuant to section 858(b)(12) as amended by Register 2005, No. 34, and discussed further below in the analysis, the STAR test site coordinator is required to provide the training to the test examiner. According to the 2005 STAR District and Test Site Coordinator Manual, the “2005 STAR Examiner Training video should be used as part of the training.”<sup>68</sup>

Thus, section 851(e) of the 2005 title 5 regulations, as amended by Register 2005, No. 34, imposes a new requirement for school districts to train test examiners on the administration of the STAR tests.

### **3) Pupil Exemptions (Cal. Code Regs., tit. 5, § 852)**

Section 852 authorizes a parent to submit to a school a written request to excuse his or her child from any or all parts of any of the STAR tests. The regulation also prohibits school districts or district employees from soliciting or encouraging exemptions from testing. Register 2005,

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<sup>67</sup> CDE memorandum titled “State Board of Education-Adopted CAPA Performance Level,” dated February 2009.

<sup>68</sup> STAR District and Test Site Coordinator Manual, Version 2-2005, page 20.

No. 34 amended Section 852 by *deleting* the following sentence from subdivision (b) and moving the substance of the language to section 850(d)(2):

(b) Pupils in special education programs shall be tested with the designated achievement test and the standards-based achievement tests unless the individualized educational program for the pupil specifically states that the pupil will be assessed with the California Alternate Performance Assessment or (CAPA).

Section 850(d)(2) now defines eligible pupil for the CAPA as “any pupil with a significant cognitive disability in grades 2 through 11, and ages 7 through 16 in ungraded programs, whose IEP states that the pupil is to take the CAPA.”

This amendment is not substantive. Therefore, section 852 as amended by Register 2005, No. 34 does not impose any new required activities on school districts.

**4) *Administering below grade level testing for pupils with IEPs (Cal. Code Regs., tit. 5, § 853)***

Register 2005, No. 34 amended section 853(c) for the 2004-2005 school year with respect to out of level, or below grade level testing of special education pupils with IEPs. States are required to demonstrate adequate yearly progress, measured in part by large-scale assessment programs and made public through accountability data. In an attempt to create more inclusive large-scale assessment practices for students who have not been exposed to grade-level curriculum, some states have added out-of-level testing as a component of large-scale assessment programs. Out-of-level testing is the administration of a test at a level that is above or below the student’s grade level in school. Typically, this means testing only students with disabilities below the grade in which their same-age peers are enrolled.<sup>69</sup>

The Register 2005, No. 34 regulations amended section 853(c) as follows:

(c) For the ~~2003-04~~ 2004-05 school year ~~only~~, pupils with IEPs specifying below-grade-level testing in grades 5 4 through 11 may be tested one or two grades below their enrollment grade. Pupils with IEPs specifying below-grade-level testing in grade three may be tested one grade level below their enrollment grade. The test level must be specified in the ~~student’s~~ pupil’s IEP. ~~Out-of-level~~ Below-grade-level testing shall be used only if the ~~student~~ pupil is not receiving grade-level ~~instruction~~ curriculum as specified by the California academic content standards, and is so indicated on the IEP. ~~Students~~ Pupils tested ~~out-of-level~~ below-grade-level must complete all tests required for the grade at which they are tested and shall be administered ~~only one level of the tests~~ the tests for only one grade level. ~~Out-of-level testing is not allowed for pupils in grades 2, 3, and 4. No out-of-level testing shall be allowed at any grade beginning with the 2004-05 school year.~~

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<sup>69</sup> “Reporting Out-of-Level Test Scores: Are These Students Included in Accountability Programs,” National Center on Educational Outcomes, October 2003)  
<http://www.cehd.umn.edu/NCEO/onlinepubs/OOLT10.html>.

Under prior law, section 853(c) allowed below grade level testing (either one or two grades below the pupil's enrollment grade) for pupils in grades 5 to 11, if specified in the pupil's IEP and the pupil is not receiving "grade level instruction." No out of level testing was allowed for pupils in grades 2 through 4, and no out of level testing was allowed for the 2004-2005 school year.

The Register 2005, No. 34 amendment expanded the pupils eligible to take below grade level testing for the 2004-2005 school year to pupils in grade 4 (who may be tested one or two grades below the enrollment grade), and to pupils in grade 3 (who may be tested one grade level below the enrollment grade), if below grade level testing is specified in the IEP and the pupil is not receiving grade level "curriculum that is specified by the California academic content standards."

CDE explained this amendment in the Final Statement of Reasons as follows:

The change in Section 853(c) is not a restriction. For the last two years below-grade-level testing was allowed only for students in grades five through eleven and beginning with the 2004-05 school year no below-grade-level testing was to be allowed. The proposed amendment to the regulations expands the option of below-grade-level testing to grades three and four and allows its use during the 2004-05 school year.<sup>70</sup>

The plain language of the regulation ("may be tested") and the Final Statement of Reasons both indicate that below-grade-level testing is an option allowed for testing pupils with IEPs and does not impose any requirements on school districts.<sup>71</sup>

#### **5) *Testing Period (Cal. Code Regs., tit. 5, § 855)***

Section 855 defines the testing period, designating a 21-day window during which testing is to be completed. The Register 2005, No. 34 amendment to section 855 deleted the definition of an eligible pupil for purposes of the writing assessment, and moved that definition to section 850(d)(4).<sup>72</sup> Section 855 as amended by Register 2005, No. 34 does not impose any requirements on school districts.

#### **6) *Test ordering and handling (Cal. Code Regs., tit. 5, §§ 864.5-867.5)***

There are five sections of the regulations that govern how test materials are ordered (§ 864.5), transported (§ 865), delivered to the school district (§ 866), delivered to each test site (§ 867) and retrieved by contractors (§ 867.5).

##### ***i) Test Order Information (Cal. Code Regs., tit. 5, § 864.5)***

Section 864.5 requires school districts to submit order information for each test site to the contractor in order to provide for the schools' testing needs. The Register 2005, No. 34 amendments to section 864.5 are as follows:

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<sup>70</sup> SBE, "Standardized Testing and Reporting (STAR) Program; Adopt Amendments to Title 5 Regulations" Agenda Item #6, Final Statement of Reasons, September 2004, page 3.

<sup>71</sup> Education Code section 75: "'Shall' is mandatory and 'may' is permissive."

<sup>72</sup> The definition is currently in section 850(h)(4).



(a) The school district shall provide to the ~~publisher~~ contractor, no later than December 1 of the year immediately prior to the year of test administration, the following data for each test site of the school district, by grade level:

~~(1) CBEDS enrollment~~

~~(2) Current enrollment~~

(1) Number of pupils to be tested

~~(2)(3)~~ Valid county district school (CDS) codes

~~(3)(4)~~ Number of tests without adaptation

~~(4)(5)~~ Numbers of special version tests with adaptations by type of adaptation including, but not limited to, Braille and large print.

~~(5)(6)~~ Number of directions for administration needed, by grade level.

~~(6)(7)~~ First date of testing in the school district, including the dates for each testing wave test administration period, if applicable.

~~(8) Date or dates on which delivery of materials to the school district is requested.~~

(b) Each school district that elects pre-identification of answer documents shall ~~provide to the publisher no fewer than 45 days prior to the first date of testing in the school district,~~ submit an electronic file that includes all of the information required in Section 861. The file must be submitted in accordance with the timeline, format, and instructions provided by the contractor.

(c) If the testing materials are lost or destroyed while in the possession of the school district, and the ~~publisher~~ contractor provides the school district with replacement materials, the school district is responsible for the cost of all replacement materials.

(d) If the school district places an order for tests for any school that is excessive, the school district is responsible for the cost of materials for the difference between the sum of the number of pupil tests scored, ~~the number of parent requests pursuant to Education Code section 60615, and the number of individualized education program exemptions pursuant to Education Code section 60640~~ (e) submitted for scoring including tests for non-tested pupils and 90 percent of the tests ordered. In no event shall the cost to the school district for replacement or excessive materials exceed the amount per test booklet and accompanying material that is paid to the ~~publisher~~ contractor by the Department as part of the contract ~~with the publisher~~ for the current year.

These amendments do not impose any new required activities on school districts that increase the level of service provided to the public.

Section 864.5(a)(1) now requires school districts to report to the publisher the “number of pupils tested,” rather than enrollment information. There is nothing in the record to indicate that reporting the “number of pupils tested” provides a higher level of service to the public than reporting enrollment under the CBEDS program and current enrollment information required

under prior law. CBEDs data is enrollment data collected by school districts and reported to CDE an “information day” in October. School enrollment for CBEDs is determined by an unduplicated count by grade, gender, and racial/ethnic designation of students enrolled on Information Day and reported to the state.<sup>73</sup> Both are methods provide information to the test contractor for purposes of ordering a sufficient number of tests.

The amendments to sections 864.5(a)(5) and (a)(7) renumbered those provisions to subsections (4) and (6) respectively, and made non-substantive, clarifying changes that do not impose any new required activities. Section 864(a)(5) was amended to provide that “(4)(5) Numbers of special version tests with adaptations by type of adaptation including, but not limited to, Braille and large print.” Similarly, section 864.5(a)(7) was clarified to change “testing wave” to “test administration period.”

In addition, the Register 2005, No. 34 regulations deleted former section 864.5(a)(8), which had required the district to report to the test publisher the requested date or dates of delivery for test materials, but did not impose any new required activities.

Therefore, California Code of Regulations, title 5, section 864.5(a), as amended by Register 2005, No. 34, does not impose new required activities on school districts.

The Register 2005, No. 34 regulations also amended section 864.5(b) as follows:

Each school district that elects pre-identification of answer documents shall ~~provide to the publisher no fewer than 45 days prior to the first date of testing in the school district, submit~~ an electronic file that includes all of the information required in Section 861. The file must be submitted in accordance with the timeline, format, and instructions provided by the contractor.

This amendment to 864.5(b) does not impose any requirements on school districts. The plain language makes the file submission requirements conditional on the school district’s discretionary decision to elect pre-identification answer documents. Requirements imposed due to participating in a discretionary program are not reimbursable state mandates.<sup>74</sup>

Finally, the amendment to section 864.5(d) altered the penalty formula if the school district places an excessive order for tests for any school, as follows:

(d) If the school district places an order for tests for any school that is excessive, the school district is responsible for the cost of materials for the difference between the sum of the number of pupil tests scored, ~~the number of parent requests pursuant to Education Code section 60615, and the number of individualized education program exemptions pursuant to Education Code section 60640(e)~~ submitted for scoring including tests for non-tested pupils and 90 percent of the tests ordered. In no event shall the cost to the school district for replacement or excessive materials exceed the amount per test booklet and accompanying material that is paid to the ~~publisher~~ contractor by the Department as part of the contract ~~with the publisher~~ for the current year.

<sup>73</sup> See generally, CBEDs Administrative Manual.

<sup>74</sup> *Kern Unified School Dist.*, *supra*, 33 Cal. 4<sup>th</sup> 859, 880.

The payment of the penalty for excessive orders is not new and does not provide a higher level of service to the public. In addition, the payment of the penalty depends on the actions of the school district, and is not triggered by a state-mandated requirement.

Accordingly, California Code of Regulations, title 5, section 864.5, as amended by Register 2005, No. 34, does not impose any new required activities.

ii) *Transportation of Exams (Cal. Code Regs., tit. 5, § 865)*

District test site coordinators are responsible for transporting STAR exams to test sites, as specified in section 865. The regulation was amended by Register 2005, No. 34 as follows:

- (a) Upon arrival of the test materials at a single location designated by each school district, the school district's ~~STAR program~~ district STAR coordinator shall provide the ~~publisher~~ contractor with a signed receipt certifying that all cartons were received.
- (b) The security of the test materials that have been duly delivered to the school district is the sole responsibility of the school district until all test materials have been inventoried, accounted for, and delivered to the common or private carrier designated by the ~~publisher~~ contractor for return to the contractor.
- (c) Secure transportation within a school district is the responsibility of the school district once materials have been duly delivered to the school district. The school district is responsible for secure delivery of test materials to non-public schools to which district pupils with disabilities are assigned.

The Commission finds that the amendments to subdivisions (a) and (b) are clarifying amendments and do not impose any new required activities. In addition, there is nothing in the record to indicate that the school district providing a signed receipt to the carrier “certifying that all cartons were received” (in §865(a)) provides a higher level of service to the public than providing the publisher with “a signed receipt” as required under the prior version of section 865(a). The amendment clarifies what the receipt contains.

In addition, the following sentence was added in the Register 2005, No. 34 amendment to section 865(c): “The school district is responsible for secure delivery of test materials to non-public schools to which district pupils with disabilities are assigned.” CDE received a comment on the proposed regulation requesting that nonpublic schools receive test materials directly from the contractor. CDE gave the following response in the Final Statement of Reasons:

Education Code Section 60640(b) requires each school district, charter school, and county office of education to administer to each of its pupils the tests within the STAR Program. Education Code Section 56366 states that the role of the nonpublic, nonsectarian school or agency shall be maintained and continued as an alternative special education service available to districts, special education local plan areas, county offices, and parents. The nonpublic, nonsectarian school or agency is required to provide all services specified in students’ Individualized Education Programs (IEPs). School districts, charter schools, and county offices of education retain responsibility for ensuring that students enrolled in them are tested as part of the STAR Program. Additionally, California County/District/

School (CDS) Codes are used for all aspects of the STAR Program including ordering materials and reporting results. Since nonpublic, nonsectarian schools or agencies are not assigned CDS codes; the Program contractor cannot work directly with the nonpublic, nonsectarian schools and agencies.<sup>75</sup>

As stated in the discussion of Education Code section 60640(g) above, Education Code section 56034 defines a nonpublic school as a private, nonsectarian school that enrolls individuals with exceptional needs pursuant to an individualized education program (IEP). Under federal law, every child is entitled to a free and appropriate public education in the least restrictive setting that meets the child's needs. When a child has exceptional needs that cannot be met in a public school setting, that child may be educated in a nonpublic school at public expense.<sup>76</sup> Education Code section 56365 states that the services shall be provided pursuant to state and federal law and under contract with the local educational agency, "to provide the appropriate special educational facilities, special education, or designated instruction and services required by the individual with exceptional needs if no appropriate public education program is available." The tuition of a pupil in a nonpublic school is paid by the public local education agency that places the pupil in the nonpublic school based on the pupil's individual needs. Placement in an out-of-state nonpublic school can be made pursuant to section 56365(e), after documentation of efforts by the local educational agency to utilize public schools or to locate an appropriate nonpublic, nonsectarian school or agency program within the state. Section 56365(b) states that "pupils enrolled in nonpublic, nonsectarian schools and agencies under this section shall be deemed enrolled in public schools . . . ."

The Commission finds that the addition of the sentence in section 865(c) stating that "the school district is responsible for secure delivery of test materials to non-public schools to which district pupils with disabilities are assigned," is clarifying of existing law and does not impose any new requirements on school districts. Since 2002, Education Code 60640(e) has required that individuals with exceptional needs be included in the testing requirements of the STAR program.<sup>77</sup> Immediately before the adoption of the Register 2005, No. 34 regulations, school districts were required to make the "necessary" arrangements to test all eligible pupils in alternative education programs or programs conducted off campus.<sup>78</sup> The prior regulations also specified that no test may be administered in a private home or location unless it was administered by either a certified employee of the school district or an employee of a nonpublic school who holds a credential and signs a security agreement.<sup>79</sup> Thus, under prior law, public

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<sup>75</sup> Final Statement of Reasons, Standardized Testing and Reporting (STAR) Program Regulations, September 8, 2004, page 2.

<sup>76</sup> 20 United States Code, sections 1400, et seq; Code of Federal Regulations, title 20, section 300.146.

<sup>77</sup> Statutes 2002, chapter 492.

<sup>78</sup> Former California Code of Regulations, title 5, section 851(b), renumbered without amendment to section 851(c) by the 2005 regulations.

<sup>79</sup> Former California Code of Regulations, title 5, section 851(d), which was amended and renumbered to section 851(e) by the 2005 regulations.

school districts were required to make arrangements “necessary” to test students in nonpublic schools, an alternative education program, and the tests could be administered by an employee of a nonpublic school. Making arrangements necessary to test the students in a nonpublic school includes securing delivery of the tests. The regulation as amended by Register 2005, No. 34 simply clarifies that the public school district, where the pupil is considered enrolled, secures the delivery of the test to the nonpublic school.

Accordingly, California Code of Regulations, title 5, section 865, as amended by Register 2005, No. 34, does not impose new requirements on school districts.

*iii. School District Delivery (Cal. Code Regs., tit. 5, § 866)*

Section 866 governs delivery of test materials to school districts. Section 866 was amended by Register 2005, No. 34 as follows:

(a) No school district shall receive its multiple-choice test materials more than ~~twenty-five (25)~~ twenty (20) or fewer than ten (10) ~~calendar~~ working days prior to the first day of testing in the school district. A school district that has not received multiple-choice test materials from the ~~test publisher~~ contractor at least ten (10) ~~calendar~~ working days before the first date of testing in the school district shall notify the ~~publisher~~ contractor and the Department on the tenth working day before testing is scheduled to begin that the school district has not received its materials. Deliveries of multiple-choice test materials to single school districts shall use the schedule in Section 867.

~~(b) School districts shall return all designated achievement tests and standards-based achievement tests and test materials to the publisher within five (5) working days of the last test date in the school district, including makeup testing days or six (6) days after any statutory deadline, whichever date is earlier.~~

~~(b)(e)~~ A school district and the ~~publisher~~ contractor ~~may~~ shall establish a periodic delivery and retrieval schedule to accommodate ~~wave test administration dates~~ test administration periods within the school district. Any schedule established must conform to Sections 866(a) and (b) for each test administration period.

(c) No school district shall receive its writing test materials more than ten (10) or fewer than five (5) working days before the day on which the writing tests are to be administered.

The amendments made to subdivisions (a) and (c) change when school districts receive the multiple choice and writing test materials, but do not impose any new required activities on school districts.

The amendment to subdivision (b), however, does impose a new requirement on school districts to establish a periodic delivery schedule with the contractor to accommodate test administration periods within the district. Before the Register 2005, No. 34 amendment, the activity was discretionary. Thus, section 866(b) imposes the following new requirement on school districts:

- Establish a periodic delivery schedule, which conforms to section 866(a) and (b), to accommodate test administration periods within the school district.

iv. Test site delivery and return (Cal. Code Regs., tit. 5, § 867)

Section 867 governs test delivery from the district to the test site and return of tests to the designated district location. The Register 2005, No. 34 amendments made the following changes marked in underline and strikeout:

(a) No school or other test site shall receive any multiple-choice test or related test materials more than ten (10) ~~working days~~ nor fewer than five (5) working days prior to the first day of testing scheduled at the school or test site.

~~(b) Upon completion of a testing wave at a site, including makeup testing, all tests and test materials shall be returned to the school district location designated by the STAR program district coordinator.~~

(b) All multiple-choice testing materials shall be returned to the school district location designated by the district STAR coordinator no more than two (2) working days after testing is completed for each test administration period.

~~(c) Designated achievement tests and standards-based achievement tests and test materials shall not be retained at the test site for more than two (2) working days after the last day of test administration including makeup testing days or after any statutory deadline, whichever is earlier. No school or other test site shall receive any writing test materials more than six (6) or fewer than two (2) working days before the test administration date.~~

(d) Writing test materials shall be returned to the district STAR coordinator no more than one day after the day scheduled for makeup testing.

These amendments change delivery and return deadlines, but do not add any new required activities. Under prior law, school districts were required to receive tests and testing materials, and return the materials to the district STAR coordinator after testing was complete.<sup>80</sup> The change in the delivery and return deadlines does not provide a higher level of service to the public.

v. Retrieval of materials by contractor (Cal. Code Regs., tit. 5, § 867.5)

Section 867.5 requires school districts to ensure that test materials are inventoried, packaged, labeled and returned to the test contractor. The Register 2005, No. 34 amendment reduces the number of days (from six to five) after the statutory deadline for school districts to have their multiple-choice test materials returned to the contractor. The Register 2005, No. 34 amendment (in subdivision (b)) also specifies a separate, two-day timeframe for returning writing tests and test materials, as follows:

(a) The school district shall ensure that multiple-choice testing materials are inventoried, packaged, and labeled in accordance with instructions from the publisher contractor, and returned to a single school district location for pickup by

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<sup>80</sup> Former California Code of Regulations, title 5, section 867(b)(c). In addition, former California Code of Regulations, title 5, section 897, governed the return procedure for the designated primary language test. Section 897 repealed in 2006 (Register 2006, No. 45.)

the ~~publisher contractor~~ within five (5) working days following completion of testing in the school district and in no event later than five (5) working days after ~~any applicable statutory deadline~~ each test administration period. All school districts must have their multiple-choice testing materials returned to the ~~publisher contractor~~ no later than ~~six (6)~~ five (5) working days after any statutory deadline.

(b) School districts shall return all writing tests and test materials to the contractor no more than two (2) working days after the makeup day specified for the writing test.

Although the amendment changes the deadlines for returning materials, the activity of returning test materials to the contractor is the same as prior law in section 867.5(a). Thus, the Register 2005, No. 34 amendments to section 867.5 do not impose a new activity on school districts.

#### *7) Duties of the District STAR coordinator (Cal. Code Regs., tit. 5, § 857)*

Each school year, the superintendent of a school district is required to designate an employee of the district to act as the district STAR coordinator. The district coordinator serves as the school district representative and the liaison between the school district, the test contractor, and CDE for all matters relating to the STAR program.<sup>81</sup> The Register 2005, No. 34 regulations made substantive amendments and added new requirements to the district coordinator's responsibilities in subdivision (b) as described below.

Section 857(b)(2) was amended as follows:

Determining school district and individual school test and test material needs in conjunction with schools within the district and the test publisher contractor, using ~~California Basic Education Data System (CBEDS)~~ and current enrollment data and communicating school district test and test material needs to the publisher contractor on or before December 1.

The amendments to section 857(b)(2) do not require school districts to perform a new activity or higher level of service. Determining test material needs for schools within the district using "current enrollment data," does not provide a higher level of service to the public when compared to prior law, which required the district STAR coordinator under former section 857(b)(2), to determine the district and schools' testing needs using CBEDs data. As indicated above, CBEDs data is enrollment data and, thus, the district coordinator is performing the same function of determining testing needs based on enrollment.

Section 857(b)(3) was amended by setting deadlines when the district STAR coordinator is required to oversee the distribution of tests and test materials to the test sites. This amendment establishes deadlines, but does not impose any new required activities on school districts.

The first sentence of section 857(b)(4) was also amended to clarify that the district STAR coordinator is required to coordinate the testing and makeup days for those pupils of the district enrolled in a nonpublic school as follows:

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<sup>81</sup> California Code of Regulations, title 5, section 857(a).

Coordinating the testing and makeup testing days for the school district and for those pupils of the district who are enrolled in nonpublic schools within any required time periods with the school test site coordinators. Overseeing the collection of all pupil data as required to comply with Section 861.

The added language in the first sentence of subdivision (b)(4) does not impose a new requirement on school districts. Under existing law, school districts were required to administer the testing requirements of the STAR program to all pupils, including those individuals with exceptional needs.<sup>82</sup> As stated above, pupils enrolled in a nonpublic school are considered enrolled in the local educational agency that placed them. In addition, school districts were required to make all necessary arrangements to test all eligible pupils in the district, including those in alternative education programs.<sup>83</sup> The language requiring the district STAR coordinator to coordinate testing and makeup testing days for the district, including those pupils enrolled in a nonpublic school, clarifies the law, but does not impose a new requirement.

In addition, the second sentence to section 857(b)(4) was added to state the following: “Overseeing the collection of all pupil data as required to comply with Section 861.” This sentence clarifies existing law, but does not require school districts to perform a new activity. Under preexisting law, section 861 of the regulations required the “school district” to submit the pupil data required under section 861 to the publisher or contractor of the STAR exams. In addition, former section 857(c), which was removed by the 2005 amendment, required the district coordinator to certify to CDE that the district had “collected all data and information as required by Sections 861 and 862.” Thus, the amendment to section 857(b)(4) for the district coordinator to oversee pupil data collection merely clarifies who at the district level oversees data collection, but does not result in a new school district activity.

The Register 2005, No. 34 amendment to section 857(b)(5) and (b)(6) alters the district coordinator’s duties to submit the security agreement to the contractor, and to expressly include administering and providing security for the CAPA as follows:

(b) The ~~STAR program~~ district STAR coordinator's responsibilities shall include, but not be limited to, all of the following duties: [¶]...[¶]

(5) Maintaining security over the designated achievement test, ~~and~~ the standards-based achievement tests, the CAPA and test data using the procedure set forth in Section 859. The ~~STAR program~~ district STAR coordinator shall sign the security agreement set forth in Section 859 and submit it to the contractor prior to receipt of the test materials from the contractor.

(6) Overseeing the administration of the designated achievement test, and the standards-based achievement tests, and the CAPA to eligible pupils.

Submitting the security agreement to the contractor does not impose a new requirement or provide a higher level of service to the public because under former section 857(c), the district

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<sup>82</sup> Education Code section 60640(e), as amended by Statutes 2002, chapter 492.

<sup>83</sup> Former California Code of Regulations, title 5, section 851(b), renumbered without amendment to section 851(c) by the Register 2005, No. 34 regulations.



STAR coordinator was required to certify to CDE “that the school district has maintained the security and integrity of the designated achievement test and the standards-based achievement tests.” There is nothing in the record to indicate that submitting the security agreement to the contractor is a higher level of service than certifying to CDE that the district has maintained the security and integrity of the STAR tests.

As for administering and providing security for the CAPA, preexisting law, in section 853(b), states:

(b) The standards-based achievement tests and the California Alternate Performance Assessment shall be administered and returned by school districts in accordance with the manuals and other instructions provided by the contractor, and in accordance with testing variations, accommodations, and modifications specified in Section 853.5. The procedures shall include, but are not limited to, those designed to insure the uniform and standard administration of the tests to pupils, the security and integrity of the test content and test items, and the timely provision of all required student and school level information.<sup>84</sup>

Preexisting law required school districts to administer the CAPA and to “insure . . . the security and integrity of the [CAPA] test content and test items.” The test claim regulation identifies who at the district level is responsible for administration and security. Thus, the Register 2005, No. 34 amendments to section 857(b)(5) and (b)(6) regarding the CAPA administration and security, do not impose new requirements on school districts.

The Register 2005, No. 34 amendment also added section 857(b)(9), which requires for the first time the district STAR coordinator to immediately notify CDE “of any security breaches or testing irregularities in the district before, during, or after the test administration.” Under prior law (in former § 857(c)), the district superintendent and district coordinator were required to certify to CDE with respect to the CSTs and CAT/6 the following:

[T]hat the school district has maintained the security and integrity of the designated achievement test and the standards-based achievement tests; collected all data and information as required by Sections 861 and 862; returned to the test publisher all test materials, answer documents, and other materials included as part of the designated achievement test and the standards-based achievement tests in the manner and as otherwise required by the test publisher;

Thus, the activity required by section 857(b)(9) to notify CDE of security breaches or testing irregularities is new.

Section 857(b)(10) was also added by Register 2005, No. 34 to state the following: “Ensuring that an answer document is submitted for scoring for each eligible pupil enrolled in the district on the first day of testing.” This requirement is new. Under prior law, the district site coordinator was required to determine the school district and individual school test and test

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<sup>84</sup> Register 2004, No. 6, operative February 3, 2004.

material needs using current enrollment data.<sup>85</sup> The district coordinator was also required to oversee and certify the collection and return of all test materials and test data to the publisher.<sup>86</sup> But the district coordinator was not required to ensure that an answer document was submitted for scoring for each eligible pupil *enrolled* in the district on the first day of testing. Not all pupils take the STAR tests. Pupils who are enrolled on the first day of testing may be excused from the tests if a parent or guardian submits to the school a written request to excuse his or her child from any or all parts of any of the STAR tests pursuant to section 852. In addition, pupils with significant medical emergencies that preclude the pupil from taking the test or makeup test can also be excused from the STAR testing. And under former section 858(9), the test site coordinator, under existing law, was required to ensure that an answer document was submitted for each pupil *tested*. There was no requirement to submit answer documents for each pupil enrolled. Thus, the requirement imposed on the district coordinator to ensure that an answer document is submitted for scoring for each eligible pupil enrolled in the district on the first day of testing is new.

Finally, section 857(b)(12), as added by Register 2005, No. 34 requires district STAR coordinators to train test site coordinators to oversee the test administration at each school. This is a new requirement. Prior law did not require district STAR coordinators to perform training. Thus, the Commission finds that section 857(b)(12) constitutes a state-mandated new program or higher level of service for district STAR coordinators to train test site coordinators to oversee the test administration at each school.

Accordingly, the Register 2005, No. 34 regulations imposed the following new requirements on the school district STAR coordinator:

- Immediately notify CDE of any security breaches or testing irregularities in the district before, during, or after the test administration. (Cal. Code Regs., tit. 5, § 857(b)(9), as added by Register 2005, No. 34.)
- Ensure that an answer document is submitted for scoring for each eligible pupil enrolled in the district on the first day of testing. (Cal. Code Regs., tit. 5, § 857(b)(10), as added by Register 2005, No. 34.)
- Train test site coordinators to oversee the test administration at each school. (Cal. Code Regs., tit. 5, § 857(b)(12), as added by Register 2005, No. 34.)

**8) *Duties of the STAR test site coordinator (Cal. Code Regs., tit. 5, § 858)***

Under existing law, a STAR test site coordinator is designated at each school site to be available through August 15 in a calendar year for purposes of resolving discrepancies or inconsistencies in materials or errors in reports. Several duties have been imposed on the test site coordinator and the Register 2005, No. 34 regulations amended section 858 of the regulations to add new requirements as described below.

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<sup>85</sup> California Code of Regulations, title 5, section 857(b)(2), as last amended by Register 2001, No. 19.

<sup>86</sup> California Code of Regulations, title 5, section 857(b)(7), (c), as last amended by Register 2001, No. 19.

The 2005 amendment to section 858(a) authorizes either the superintendent of the school district or the district STAR coordinator to designate a test site coordinator. Under prior law, only the school district superintendent could designate a test site coordinator. This gives the district more flexibility in appointing a STAR test site coordinator, but does not impose any new requirements on school districts.

Section 858(b)(2) was amended as follows:

Overseeing the acquisition and distribution of tests and test materials at the test site, including but not limited to, distributing test materials to test examiners on each day of testing in accordance with the contractor's directions.

The added language is a clarification of the existing requirement to distribute test materials at the test site, and does not impose a new requirement on the test site coordinator.

Section 858(b)(4) was amended to provide that the test site coordinator maintain security over the CAPA. This amendment is clarifying of existing law and does not impose a new requirement on school districts. Preexisting law required school district administration of the CAPA with “procedures . . . designed to insure . . . the security and integrity of the test content and test items.”<sup>87</sup> Thus, the Register 2005, No. 34 regulation specifies who is responsible for the test security, but does not impose new activities on the school district.

The amendment to section 858(b)(4) also added a requirement for the test site coordinator to submit the security agreement described in section 859 to the district STAR coordinator prior to the receipt of the test materials. Under prior law, the test site coordinator was required to sign the security agreement and certify to the district coordinator that the test site has maintained security and integrity of the tests.<sup>88</sup> However, submitting the security agreement to the STAR district coordinator is a new required activity.

Section 858(b)(5) was amended as follows:

Arranging for and overseeing the administration of the designated achievement test, and the standards-based achievement tests, and the CAPA to eligible pupils at the test site.

This amendment clarifies the administration of tests, but does not require a new district activity. In addition, administering the CAPA was required under preexisting law.<sup>89</sup> Thus, the 2005 amendment to section 858(b)(5) does not impose a new requirement on school districts.

Section 858(b)(9) was added as follows: “Ensuring that an answer document is submitted for scoring for each eligible pupil enrolled in the school on the first day of testing.” Under prior law, the test site coordinator was required to ensure that one scannable answer document is submitted for each pupil *tested*. The requirement now is to ensure that an answer document is submitted

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<sup>87</sup> California Code of Regulations, title 5, section 853(b) (Register 2004, No. 6, Operative February 3, 2004).

<sup>88</sup> Former California Code of Regulations, title 5, sections 858(b)(4) and 858(c).

<sup>89</sup> California Code of Regulations, title 5, section 853(b) (Register 2004, No. 6, Operative February 3, 2004).

for each pupil *enrolled* on the first day of testing, but do not take one of the STAR tests. As a result, the new requirement imposed on the test site coordinator by section 858(b)(9) is to ensure that an answer document is submitted for scoring for those pupils enrolled on the first day of testing, but are excused from testing because the parent or guardian submits a written request,<sup>90</sup> or the pupil who is absent from school when the test (and any makeup test) is administered for a significant medical emergency.

The newly designated section 858(b)(10) was amended by Register 2005, No. 34 as follows:

Ensuring that for each pupil tested only one scannable answer document is submitted for scoring, except that for each pupil tested at grades 4 or grade 7, for which the contractor has designated the use of more than one answer document. An answer document for the STAR writing assessment administered pursuant to Section 855(c) shall be submitted in addition to the answer document for the multiple choice items.”

This amendment does not require a new district activity. Both before and after the Register 2005, No. 34 amendment, section 858 required the test site coordinator to ensure that one scannable answer document per pupil was submitted for scoring for multiple choice tests, in addition to ensuring that a writing assessment answer document was submitted for pupils taking the writing test.

Finally, the Register 2005, No. 34 amendments added subdivision (b)(11) and (12) to section 858 to require the test site coordinator to perform the following activities:

(11) Immediately notify the district STAR coordinator of any security breaches or testing irregularities that occur in the administration of the designated achievement test, the standards-based achievement tests, or the CAPA that violate the terms of the STAR Security Affidavit in Section 859.

(12) Train all test examiners, proctors, and scribes for administering the tests.<sup>91</sup>

These activities are new and were not required under prior law.

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<sup>90</sup> Education Code section 60615; California Code of Regulations, title 5, section 852.

<sup>91</sup> California Code of Regulations, title 5, section 850(k) defines “test examiner” to mean “an employee of a school district or an employee of a nonpublic school who has been trained to administer the tests and has signed a STAR Test Security Affidavit. For the CAPA, the test examiner must be a certified or licensed school staff member.”

Section 850(l) defines a “test proctor” as “an employee of a school district, or a person assigned by a nonpublic school to implement a pupil’s IEP, who has received training designed to prepare him or her to assist the test examiner in the administration of tests within the STAR program.”

Section 850(m) defines “scribe” to mean “an employee of a school district, or a person assigned by a nonpublic school to implement a pupil’s IEP, and is required to transcribe a pupil’s responses to the format required by the test. A student’s parent or guardian is not eligible to be a scribe.”

Therefore, the Commission finds that the Register 2005, No. 34 amendments to section 858 of the title 5 regulations impose the following new requirements on the school test site coordinator:

- Submit the signed security agreement to the district STAR coordinator prior to the receipt of test materials. (Cal. Code Regs., tit. 5, § 858(b)(4), as added by Register 2005, No. 34.)
- Ensure that an answer document is submitted for scoring for those pupils enrolled on the first day of testing, but excused from testing. (Cal. Code Regs., tit. 5, § 858(b)(9), as added by Register 2005, No. 34.)
- Immediately notify the district STAR coordinator of any security breaches or testing irregularities that occur in the administration of the designated achievement test, the standards-based achievement tests, or the CAPA that violate the terms of the STAR Security Affidavit in Section 859. (Cal. Code Regs., tit. 5, § 858(b)(11), as added by Register 2005, No. 34.)
- Train all test examiners, proctors, and scribes for administering the tests. (Cal. Code Regs., tit. 5, § 858(b)(12), as added by Register 2005, No. 34.)

**9) STAR test security agreement and test security affidavit (Cal. Code Regs., tit. 5, § 859)**

Section 859 contains the STAR test security agreement that must be signed by STAR district and test site coordinators and the STAR test security affidavit, which must be signed by all test examiners, proctors, scribes, and other persons having access to the tests and test materials. The Register 2005, No. 34 amendment to section 859 added language in section 859(a) as follows: “All STAR ~~program~~ district and site coordinators (coordinators) shall sign the STAR Test Security Agreement set forth in Subdivision (b) before receiving any STAR Program tests or test materials.” The language requiring the signature of the agreement “before receiving any STAR program or tests or test materials” clarifies the timing of the signature, but does not impose any new required activities on school districts.

The remaining amendments to subdivision (b) modify the terms of the STAR test security agreement required to be signed by the district and test site coordinators. Pursuant to section 859(b), the agreement now specifies that the coordinator acknowledges by signature that the CAPA is a secure test. The amendments to the agreement further provide that the coordinator is required to deliver the tests and test materials to only those persons who have executed a STAR test security affidavit, to keep the CAPA materials in a secure locked location when not being used, and to adhere to the contractor’s directions for the distribution of the assessment materials to examiners. The agreement further prohibits coordinators from disclosing the contents of the tests or from reviewing any test items with any other person before, during, or after the test administration.

These amendments do not impose any new required activities. Although the form of the agreement has changed, no new activities are required to be performed by school districts. The updated form is readily available for download on the STAR website – a website for district STAR coordinators developed and maintained by Educational Testing Service (ETS) under

contract with CDE.<sup>92</sup> In addition, signing the agreement is not new and the new provisions of the agreement are already required by prior law. As discussed above, administering and providing security for the CAPA was required under preexisting law.<sup>93</sup> Moreover, under preexisting law,<sup>94</sup> all STAR tests were required to be treated securely and kept in a secure locked location, including the CAPA.<sup>95</sup> The preexisting STAR test security affidavit also required the STAR test, including the CAPA, to be administered in accordance with the contractor's directions.<sup>96</sup> In addition, the language prohibiting the coordinator from disclosing the contents of the test is not new. It was moved from the provisions of the STAR test security affidavit in section 859(d)(6). Thus, the amendments to sections 859(a) and (b) do impose any new requirements on school districts.

Sections 859(c) and (d) address the provisions of the STAR test security affidavit, which is signed by all persons having access to the tests and test materials. Subdivision (c) was amended to clarify that "all persons having access" to the tests and test materials "include test examiners, proctors, and scribes" are required to sign the affidavit. This amendment is clarifying of existing law and does not impose new requirements on school districts. All persons having access to the tests and the test materials were required by prior law to sign the security affidavit. In addition, the Register 2005, No. 34 amendment to the affidavit form, which now provides that the person has "been trained to administer the tests," does not impose a new activity or higher level of service. The requirement to provide the training is addressed in sections 851(e) and 858(b)(12), both of which are analyzed above, and the updated affidavit security form is readily available for download on the STAR website.<sup>97</sup> Thus, the amendments do not require school districts to perform any new activities.

Accordingly, the Commission finds that the Register 2005, No. 34 amendments to section 859 do not impose any new state-mandated requirements on school districts.

***10) Reporting data to the contractor for purposes of the reporting required by the API (Cal. Code Regs., tit. 5, § 861)***

Section 861 of the title 5 regulations was originally adopted in 1998 to require each school district to report specified information "for each pupil tested" to the test contractor for "purposes of reporting required by the Academic Performance Index of the Public Schools Accountability

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<sup>92</sup> See, STAR security agreement at:

[http://www.startest.org/pdfs/STAR.Security\\_Coord\\_Form.2014.pdf](http://www.startest.org/pdfs/STAR.Security_Coord_Form.2014.pdf).

<sup>93</sup> California Code of Regulations, title 5, section 853(b) (Register 2004, No. 6, operative Feb. 3, 2004).

<sup>94</sup> California Code of Regulations, title 5, section 859(b)(3) (Register 2004, No. 6, operative Feb. 3, 2004).

<sup>95</sup> Pupils with exceptional needs have long been required to be included in the testing since the CAPA was first administered in 2003 (Ed. Code, §60640(e), as added by Stats. 2002, ch. 492).

<sup>96</sup> California Code of Regulations, title 5, sections 853(b) and 859(d)(9).

<sup>97</sup> STAR Security Affidavit at:

[http://www.startest.org/pdfs/STAR.Security\\_Admin\\_Form.2014.pdf](http://www.startest.org/pdfs/STAR.Security_Admin_Form.2014.pdf)

Act.” The Register 2005, No. 34 regulations amended section 861(a) to require school districts to provide the contractor with the information for each pupil “enrolled on the first day the tests are administered,” instead of “for each pupil tested.” As a result, school districts are now required to provide data for pupils excused from testing whose parents or guardians submit a written request,<sup>98</sup> as well as pupils who are absent from school when the test (and any makeup test) is administered for a significant medical emergency. The requirement to provide *all* information specified in section 861(a) for those pupils enrolled on the first day the tests are administered, who do not in fact take a STAR test, is a new requirement imposed on school districts.

The Register 2005, No. 34 regulations also added the following new information to be provided to the contractor, and the requirement to provide this new information for each pupil tested constitutes a new requirement imposed on school districts:

- The pupil’s full name
- Date of English proficiency reclassification
- If R-FEP pupil scored proficient or above on the California English-language arts test three (3) times since reclassification to English proficient
- California School Information Services (CSIS) Student Number once assigned
- For English learners, length of time in California public schools and in school in the United States
- Participation in the National School Lunch Program
- County and district of residence for pupils with IEPs
- Special testing conditions and/or reasons for not being tested<sup>99</sup>

According to the Notice of Proposed Rulemaking for the Register 2005, No. 34 regulations, the purpose of the requirement to collect additional pupil data was “to expand the student demographic data collected to meet the requirements for federal and state reporting.”<sup>100</sup>

In addition, the Register 2005, No. 34 regulations added a new subdivision (b) to state the following: “In addition to the demographic data required to be reported in Section 861(a), school districts may report if a pupil in grades 2 through 11 is not tested due to a significant medical emergency.” A “significant medical emergency” is defined in section 850 as a significant accident, trauma, or illness (mental or physical) that precludes a pupil in grades 2 through 11 from taking the STAR tests. An accident, trauma, or illness is significant if it is determined by a licensed physician to be unable to participate in the tests. The reason for this amendment was stated by CDE as follows:

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<sup>98</sup> Education Code section 60615; California Code of Regulations, title 5, section 852.

<sup>99</sup> California Code of Regulations, title 5, section 861(a)(1)(6)(7)(10)(13)(14)(17)(18).

<sup>100</sup> CDE, Notice of Proposed Rulemaking, Standardized Testing and Reporting (STAR) Program, July 23, 2004, page 2.

The grade two through eight California Standards Tests (CSTs) within the STAR Program are used for federal accountability purposes under the No Child Left Behind (NCLB) Act. Beginning in the 2004-05 school year federal guidelines state that “States do not have to include a student with a significant medical emergency in the participation rate calculation.” The proposed additional amendments would add the definition for significant medical emergency as Section 850(r) and would include significant medical emergency under Section 861(b) as data that may be provided by each school district to the test contractor for each pupil in grades two through eight who is not tested due to a significant medical emergency.<sup>101</sup>

Because the plain language of the regulation authorizes school districts to report if a pupil is not tested due to a significant medical emergency, the Commission finds that section 861(b) (Register 2005, No. 34) does not impose a new requirement on school districts.<sup>102</sup>

Former section 861(c) was renumbered to subdivision (d) and amended by Register 2005, No. 34 to require school districts to provide the same information identified in subdivision (a) for each pupil placed in a nonpublic school. This amendment is clarifying of existing law, and does not impose a new requirement on school districts. As previously indicated, pupils placed in nonpublic schools are considered enrolled in the public school district. Since 2002, Education Code 60640(e) has required that individuals with exceptional needs be included in the testing requirements of the STAR program.<sup>103</sup> Immediately before the adoption of Register 2005, No. 34 regulations, school districts were required to make the “necessary” arrangements to test all eligible pupils in alternative education programs or programs conducted off campus.<sup>104</sup> The prior regulations also specified that no test may be administered in a private home or location unless it was administered by either a certified employee of the school district or an employee of a nonpublic school who holds a credential and signs a security agreement.<sup>105</sup> Section 861 of the regulations required each school district to provide the contractor with the information specified in subdivision (a) for each pupil tested, including those enrolled in “alternative or off campus” programs. Thus, the amendment to section 861(d) does not impose any new required activities on school districts.

Finally, the following language was added by the Register 2005, No. 34 regulations in section 861(e):

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<sup>101</sup> CDE, Last Minute Memorandum, Standardized Testing and Reporting (STAR) Program: Adopt Amendments to Title 5 Regulations, September 8, 2004, page 1.

<sup>102</sup> Education Code section 75: “‘Shall’ is mandatory and ‘may’ is permissive.”

<sup>103</sup> Statutes 2002, chapter 492.

<sup>104</sup> Former California Code of Regulations, title 5, section 851(b), renumbered without amendment to section 851(c) by the 2005 regulations.

<sup>105</sup> Former California Code of Regulations, title 5, section 851(d), which was amended and renumbered to section 851(e) by the 2005 regulations.



If the information required by Section 861(a) is incorrect, the school district may enter into a separate agreement with the contractor to have the district's student data file corrected. The district STAR coordinator shall provide the correct information to the contractor within the contractor's timeline. Any costs for correcting the student data shall be the district's responsibility.

The Commission finds that section 861(d) does not impose any required activities on school districts. If a school district mistakenly provides incorrect information to the contractor, the plain language of the regulation authorizes the district to enter into an agreement with the contractor to have a pupil's data file corrected at the district's expense. Thus, it is the district's mistake that triggers any additional costs incurred to correct the mistake.

Accordingly, the Commission finds that section 861 of the title 5 regulations, as amended by Register 2005, No. 34, imposes the following new requirements on school districts:

- Provide *all* information specified in section 861(a) for those pupils enrolled on the first day the tests are administered and who do not in fact take a STAR test.
- Provide the following new information to the contractor for each pupil tested:
  - The pupil's full name;
  - Date of English proficiency reclassification;
  - If R-FEP pupil scored proficient or above on the California English-language arts test three (3) times since reclassification to English proficient;
  - California School Information Services (CSIS) Student Number once assigned;
  - For English learners, length of time in California public schools and in school in the United States;
  - Participation in the National School Lunch Program;
  - County and district of residence for pupils with IEPs;
  - Special testing conditions and/or reasons for not being tested.

***11) Apportionment Information Report (Cal. Code Regs., tit. 5, § 862)***

Since 2003, Education Code section 60640 has provided that the Superintendent shall apportion funds to school districts to meet the requirements of the STAR program. As a condition of receiving the apportionment payment, Education Code section 60640(j) requires school districts to report to the Superintendent the following information: (1) the number of pupils enrolled in the school district in grades 2 to 11; (2) the number of pupils to whom an achievement test was administered in grades 2 to 11; and (3) the number of pupils who were exempted from the test at the request of their parents or guardians. The amount of funding to be apportioned is governed by section 870 and is determined by the certification of the school district superintendent pursuant to section 862.

Before the enactment of the Register 2005, No. 34 regulations, section 862 required each school district to report specified information to CDE in order to receive the apportionment payment. The Register 2005, No. 34 regulations amended section 862 to now provide that CDE is to

provide the information to the district, thus eliminating the duty of the district to report to the state. The SBE Agenda Report to adopt the Register 2005, No. 34 amendment to the STAR program regulations states the background for this amendment as follows:

Based on current technology, the Department is now able to produce Apportionment Information Reports for district superintendents to certify. This process results in more accurate reports and a workload reduction for districts.

Therefore receiving this information, instead of reporting the information, constitutes a reduction in the activities required of school districts.

Section 862(c) was then added to state in relevant part the following:

To be eligible for apportionment payment school districts must meet the following conditions:

- (1) The school district has returned all secure test materials, and
- (2) The superintendent of each school district has certified the accuracy of the apportionment information report for examinations administered during the calendar year . . . .

Section 862(c) as amended by Register 2005, No. 34 does not impose any new requirements on school districts. The pre-2005 version of section 857(c) required the STAR district coordinator to return test materials to the publisher. In addition, the district superintendent was required by the pre-2005 version of section 862(b)(1) to certify the accuracy of the apportionment information report.

***12) Student Reports and Record Labels (Cal. Code Regs, tit. 5, § 863)***

Section 863 requires school districts to forward the STAR student report of the pupil test results to each parent or guardian within 20 days of receiving the reports from the test contractor.

Section 863(b) was amended by Register 2005, No. 34 to require school districts to forward the standards-based tests or CAPA results to the pupil's parent or guardian if they are received by the school after the last day of instruction. This provision does not impose any new requirements on school districts. Under prior law, section 863(a) (Register 99, No. 4) and Education Code section 60641<sup>106</sup> required reporting individual results of each pupil test administered to the pupil's parent or guardian.

Section 863(c) was added by Register 2005, No. 34 to provide the following:

Schools are responsible for affixing cumulative record labels reporting each pupil's scores to the pupil's permanent school records or for entering the scores into electronic pupil records, and for forwarding the results to schools to which pupils matriculate or transfer. Schools may annotate the scores when the scores may not accurately reflect pupils' achievement due to illness or testing irregularities.

Section 863(c) does not impose any new requirements on school districts. Since 1997,

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<sup>106</sup> See former Education Code section 60641 (b) (Stats. 1997, ch. 828).

preexisting law has required schools to “include the pupil's test results in his or her pupil records.”<sup>107</sup> In addition, since 1997, Education Code section 60607(a) has required each pupil to have an individual record of accomplishment by the end of grade 12 that includes the results of the achievement test required and administered annually as part of the STAR Program.<sup>108</sup> The Notice of Proposed Rulemaking for the amendment to section 863 of the regulations indicates that its purpose is “to clarify requirements related to including test results in pupils’ permanent records as required by *Education Code* Section 60607.”<sup>109</sup> Preexisting law also requires school districts to forward pupil records, upon request, to schools to which the pupil transfers.<sup>110</sup>

### ***13) Discrepancy resolution (Cal. Code Regs., tit. 5, § 868)***

Section 868 was originally adopted in 1998 to require school districts to process discrepancies determined by the publisher or contractor of the tests upon receipt of returned tests and test materials.

The Register 2005, No. 34 amendments to section 868 made non-substantive changes to the language (e.g., changing “designated publisher” to “contractor” and “STAR program district coordinator” to “district STAR coordinator”), which do not impose any new requirements on school districts.

In addition, subdivision (c) was amended to specify that the test site coordinator is required to report to the district coordinator any discrepancy in a shipment of CAPA materials received and to require the district coordinator to remedy the discrepancy as follows.

Any discrepancy in a shipment of designated achievement tests or test materials, or standards-based achievement tests or test materials, or CAPA materials received by a test site from the ~~STAR program~~ district STAR coordinator shall be reported to the ~~STAR program~~ district STAR coordinator immediately but no later than two (2) working days of the receipt of the shipment at the testing site. The ~~STAR program~~ district STAR coordinator shall remedy the discrepancy within two (2) working days.

The Commission finds that the Register 2005, No. 34 amendment to subdivision (c) is clarifying of existing law and does not impose any new requirements on school districts. Since 2003, individuals with exceptional needs have been required to be included in the testing requirements of the STAR program.<sup>111</sup> The CAPA, the alternate assessment developed for students with

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<sup>107</sup> Education Code section 60641(a)(3) (added by Stats. 1997, ch. 828).

<sup>108</sup> Education Code section 60607(a) (Stats. 1997, ch. 828).

<sup>109</sup> SBE, “Standardized Testing and Reporting (STAR) Program; Approve Commencement of the Rulemaking Process for the Proposed Amendments to Title 5 Code of Regulations” Agenda Item #8, Notice of Proposed Rulemaking, July 2004, Attachment 2, page 2. The regulations were adopted and became operative on September 21, 2005 (Register 2005, No.34).

<sup>110</sup> Education Code section 49068.

<sup>111</sup> Education Code section 60640(e), as added by Statutes 2002, chapter 492.

exceptional needs, was developed and first administered in 2003.<sup>112</sup> The title 5 regulations in effect immediately before the enactment of the Register 2005, No. 34 amendments required that the CAPA be administered and returned by school districts in accordance with the manuals and other instructions provided by the contractor.<sup>113</sup> The existing regulations also required the district STAR coordinator to serve as the school district representative and the liaison between the school district and the publisher or contractor “for all matters related to the STAR program.”<sup>114</sup> In this respect, the district coordinator had the duty to respond to correspondence and inquiries from the publisher or contractor, the duty to oversee the collection and return of all test data and materials to the publisher or contractor, and the duty to assist the publisher and CDE in the resolution of any discrepancies in the test information and materials.<sup>115</sup> In addition, the STAR test site coordinator had the existing duty to be available to the district coordinator for purposes of resolving discrepancies or inconsistencies in materials or errors in reports.<sup>116</sup> The test site coordinator was also responsible for overseeing the collection and return “of all testing materials” to the district coordinator and assisting the district coordinator and the Department in the resolution of any discrepancies in the test information and materials.<sup>117</sup> Therefore, the Register 2005, No. 34 clarification of language to specifically identify the CAPA in section 868 does not impose new requirements on school districts.

**e) Summary of new required activities imposed by the test claim statute and regulations**

Based on the above, the Commission finds that the following activities are newly required of school districts:

- Beginning July 1, 2004, administer the primary language test to students of limited English proficiency enrolled for less than 12 months in a *nonpublic* school in grades 2 to 11. Beginning October 7, 2005, school districts are required to administer the primary language test to those students in nonpublic schools in grades 3 to 11, instead of grades 2 to 11. (Ed. Code, § 60640(g), as amended by Stats. 2004, ch. 233.)
- Effective September 21, 2005, district STAR coordinators are required to
  - Immediately notify CDE of any security breaches or testing irregularities in the district before, during, or after the test administration. (Cal. Code Regs., tit. 5, § 857(b)(9); Register 2005, No. 34.)

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<sup>112</sup> CDE memorandum titled “State Board of Education-Adopted CAPA Performance Level,” dated February 2009.

<sup>113</sup> California Code of Regulations, title 5, section 853(b).

<sup>114</sup> California Code of Regulations, title 5, section 857(a).

<sup>115</sup> California Code of Regulations, title 5, section 857(b).

<sup>116</sup> California Code of Regulations, title 5, section 858(a).

<sup>117</sup> California Code of Regulations, title 5, section 858(b)(6)(7)(8).

- Ensure that an answer document is submitted for scoring for each eligible pupil enrolled in the district on the first day of testing. (Cal. Code Regs., tit. 5, § 857(b)(10), as added by Register 2005, No. 34.)
- Train test site coordinators to oversee the test administration at each school. (Cal. Code Regs., tit. 5, § 857(b)(12); Register 2005, No. 34.)
- Effective September 21, 2005, the STAR test site coordinators are required to
  - Submit the signed security agreement to the district STAR coordinator prior to the receipt of test materials. (Cal. Code Regs., tit. 5, § 858(b)(4); Register 2005, No. 34.)
  - Ensure that an answer document is submitted for scoring for those pupils enrolled on the first day of testing, but excused from testing. (Cal. Code Regs., tit. 5, § 858(b)(9), as added by Register 2005, No. 34.)
  - Immediately notify the district STAR coordinator of any security breaches or testing irregularities that occur in the administration of the designated achievement test, the standards-based achievement tests, or the CAPA that violate the terms of the STAR Security Affidavit in Section 859. (Cal. Code Regs., tit. 5, § 858(b)(11); Register 2005, No. 34.)
  - Train all test examiners, proctors, and scribes for administering the tests. (Cal. Code Regs., tit. 5, §§ 851(e) and 858(b)(12); Register 2005, No. 34.)
- Effective September 21, 2005, provide *all* information specified in section 861(a) to the contractor for those pupils enrolled on the first day the tests are administered and who do not in fact take a STAR test. (Cal. Code Regs., tit. 5, § 861(a); Register 2005, No. 34.)
- Effective September 21, 2005, provide the following new information to the contractor for each pupil tested:
  - The pupil's full name;
  - Date of English proficiency reclassification;
  - If R-FEP pupil scored proficient or above on the California English-language arts test three (3) times since reclassification to English proficient;
  - California School Information Services (CSIS) Student Number once assigned;
  - For English learners, length of time in California public schools and in school in the United States;
  - Participation in the National School Lunch Program;
  - County and district of residence for pupils with IEPs;
  - Special testing conditions and/or reasons for not being tested. (Cal. Code Regs., tit. 5, § 861(a); Register 2005, No. 34.)

- Effective September 21, 2005, establish a periodic delivery schedule, which conforms to section 866(a) and (b), to accommodate test administration periods within the school district. (Cal. Code Regs., tit. 5, § 866(b); Register 2005, No. 34.)

The Department of Finance argues that these requirements do not impose state-mandated costs within the meaning of article XIII B, section 6, because the activities were enacted to implement the testing requirements of federal law, through the No Child Left Behind Act. The Commission does not need to reach the federal law issue, however. As described below, the Commission finds that the state has appropriated state and federal funds sufficient to pay for the costs of the new required activities and, thus, there are no costs mandated by the state.

**2. The State Has Appropriated State and Federal Funds For the STAR Program That are Sufficient to Pay for the Costs of the New Required Activities and, Thus, Pursuant to Government Code Section 17556(e), There are no Costs Mandated by the State.**

Government code section 17514 defines “costs mandated by the state” as any increased cost that a local agency or school district incurs as a result of any statute or executive order that mandates a new program or higher level of service. All claimants allege increased costs to comply with the total STAR program based on the statutes and regulations pled in their claims, and have also acknowledged the receipt of state and federal funds appropriated for the program.<sup>118</sup> These declarations do not provide any specific information regarding the new required activities described above, or acknowledge the state and federal funding actually received during the potential period of reimbursement beginning July 1, 2004 (based on the filing dates of the 2005 test claims and the first required activity effective on July 1, 2004).

The Commission finds that school districts have received state and federal funds specifically intended to pay for the cost of the required activities in an amount sufficient to fund the cost of the activities for all years within the eligible period of reimbursement for this consolidated claim, beginning July 1, 2004 (the effective date of the first required activity). Therefore, Government Code section 17556(e) applies to deny these test claims.

Government Code section 17556(e) provides that the Commission shall not find costs mandated by the state if:

The statute, executive order, or an appropriation in a Budget Act or other bill provides for offsetting savings to local agencies or school districts that result in no net costs to the local agencies or school districts, or includes additional revenue that was specifically intended to fund the costs of the state mandate in an amount sufficient to fund the cost of the state mandate.

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<sup>118</sup> SDUSD’s test claim states it incurred costs of \$550,000 to implement the test claim statutes during 2004-2005 and estimates costs of \$550,000 in 2005-2006 and beyond. (Test claim 05-TC-02, p. 15.) Grant’s test claim alleges that the test claim statutes and regulations cost approximately \$110,000 to initially implement and \$125,000 in fiscal year 2005-2006 and beyond. (Test claim 05-TC-03, p. 18.) TRUSD claims it will incur approximately \$300,000 in all costs claimed in fiscal year 2008-2009 and \$325,000 thereafter. (Test claim 08-TC-06, p. 21.)

Education Code section 60640(h) requires the SPI to apportion funds to school districts to administer the STAR program for each test administered to pupils.<sup>119</sup> Since 2004, significant amounts of state and federal funding have been appropriated to school districts as reflected in the chart below. The plain language of the Budget Acts appropriating the funds require that the appropriation “shall first be used” to offset costs that may be claimed through the state mandates reimbursement process for the STAR program. In addition, federal funds appropriated for the STAR program in Line Item 6110-113-0890 shall be fully expended before the funding provided by the state in Line Item 6110-113-0001 is expended for the same purposes.<sup>120</sup>

<b><u>Fiscal Year</u></b>	<b>State Funding Appropriation for Local Assistance for STAR <u>(Item 6110-113-0001)</u></b>	<b>Federal Funding Appropriation for Local Assistance for STAR <u>(Item 6110-113-0890)</u></b>
2012-2013	\$58,903,000	\$6,381,000 <sup>121</sup>
2011-2012	\$51,279,000	\$12,458,000 <sup>122</sup>
2010-2011	\$49,042,000	\$11,365,000 <sup>123</sup>
2009-2010	\$50,059,000	\$5,433,000 <sup>124</sup>

<sup>119</sup> See Education Code section 60640 (Stats. 1997, ch. 828).

<sup>120</sup> Items 6110-113-0001 and 6110-113-0890 in Statutes 2012, chapters 21 and 29; Statutes 2011, chapter 33; Statutes 2010, chapter 712; Statutes 2009, chapter 1 (4<sup>th</sup> Ex. Sess.); Statutes 2008, chapters 268 and 269; Statutes 2007, chapters 171 and 172; Statutes 2006, chapters 47 and 48; Statutes 2007, chapters 171 and 172; Statutes 2006, chapters 47 and 48; Statutes 2005, chapters 38 and 39; Statutes 2004, chapter 208. All Budget Acts contain language that says “funds provided in Schedules ...[appropriating the STAR funds] shall first be used to offset any state-mandated reimbursable costs that otherwise may be claimed through the state mandates reimbursement process for the Standardized Testing and Reporting Program ...”

<sup>121</sup> Federal funds appropriated “are provided for approved contract costs for the development and administration of the California Standards Tests, the Standards-Based Tests in Spanish, the California Modified Assessment, the California Alternate Performance Assessment (CAPA) and the Designated Primary Language Test, as part of the STAR program. (Stats. 2012, chs. 21 and 29, Item 6110-113-0890, Provision 1.)

<sup>122</sup> Federal funds appropriated “are provided for approved contract costs for the development and administration of the California Standards Tests, the Standards-Based Tests in Spanish, the California Modified Assessment, the California Alternate Performance Assessment (CAPA) and the Designated Primary Language Test, as part of the STAR program. (Stats. 2011, ch. 33, Item 6110-113-0890, Provision 1.)

<sup>123</sup> Federal funds appropriated “are provided for approved contract costs for the development and administration of the California Standards Tests, the Standards-Based Tests in Spanish, the California Modified Assessment, the California Alternate Performance Assessment (CAPA) and the Designated Primary Language Test, as part of the STAR program. (Stats. 2010, ch. 712, Item 6110-113-0890, Provision 2.)

<sup>124</sup> Federal funds appropriated “are provided for approved contract costs for the development and administration of the California Standards Tests, the Standards-Based Tests in Spanish, the

2008-2009	\$62,127,000	\$6,065,000 <sup>125</sup>
2007-2008	\$62,124,000	\$8,715,000 <sup>126</sup>
2006-2007	\$65,433,000	\$8,565,000 <sup>127</sup>
2005-2006	\$63,946,000	\$2,180,000 <sup>128</sup>
2004-2005	\$53,836,000	\$8,549,000 <sup>129</sup>

Pursuant to section 870(a) of the title 5 regulations, the amount of funding to be apportioned to the school district is established by SBE based on the number of tests administered to eligible pupils in grades 2 to 11 and the number of answer documents returned with only demographic information for pupils enrolled on the first day of testing who were not tested in the school district. The number of tests administered and the number of demographic answer documents is

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California Modified Assessment, the California Alternate Performance Assessment (CAPA) and the Designated Primary Language Test, as part of the STAR program. (Stats. 2009, ch. 1, 4<sup>th</sup> Ex. Sess., Item 6110-113-0890, Provision 2.)

<sup>125</sup> Federal funds appropriated “are provided for approved contract and district apportionment costs for the development and administration of the California Standards Tests, the national Norm-Referenced Test, the Standards-Based Test in Spanish, the California Modified Assessment, the California Alternate Performance Assessment (CAPA), and the Designated Primary Language Test, as part of the STAR program. District apportionments for the CAPA shall be \$5 per pupil.” (Stats. 2008, chs.268 and 269, Item 6110-113-0890, Provision 2.)

<sup>126</sup> Federal funds appropriated “are provided for approved contract and district apportionment costs for the development and administration of the California Standards Tests, the national Norm-Referenced Test, the Standards-Based Test in Spanish, the California Modified Assessment, the California Alternate Performance Assessment (CAPA), and the Designated Primary Language Test, as part of the STAR program. District apportionments for the CAPA shall be \$5 per pupil.” (Stats. 2007, chs. 171 and 172, Item 6110-113-0890, Provision 2.)

<sup>127</sup> Federal funds appropriated “are provided for approved contract and district apportionment costs for the development and administration of the California Standards Test, the national Norm-Referenced Test, the Standards-Based Test in Spanish, the California Modified Assessment, the California Alternate Performance Assessment, and the Designated Primary Language test, as part of the STAR program. District apportionments for the California Alternate Performance Assessment shall be \$5 per pupil.” (Stats. 2006, chs. 47 and 48, Item 6110-113-0890, Provision 2.)

<sup>128</sup> Federal funds appropriated “are provided for approved contract and district apportionment costs related to the Standardized Testing and Reporting Program. Of this amount, \$1.334 million is for the planning and development of science tests.” (Stats. 2005, chs. 38 and 39, Item 6110-113-0890, Provision 2.)

<sup>129</sup> Federal funds appropriated “are provided for approved contract and district apportionment costs related to the Standardized Testing and Reporting program. Of this amount, 1.4 million is for the planning and development of science tests and \$650,000 is for reporting Adequate Yearly Program pursuant to the No Child Left Behind Act of 2001 (P.L. 107-110.)” (Stats. 2004, ch. 208, Item 6110-113-0890, Provision 2.)



determined by the certification of the school district superintendent pursuant to section 862 of the title 5 regulations. In 2004, CDE issued an Information Memorandum to the SBE, which describes the apportionments to school districts that year as follows:

The apportionment amounts presented for 2004 are unchanged from last year for the Content Standards Test (CST) and California Achievement Test, Sixth Edition (CAT/6) Survey. The Spanish Assessment of Basic Edition, Second Edition (SABE/2) apportionment for grades 2 and 3 is being decreased by \$0.24 to reflect changes in the pre-ID costs for SABE/2. Including a California Alternative Performance Assessment (CAPA) apportionment in the STAR Program is new and reflects the addition of this assessment to the Program. The current budget includes funds to pay these apportionments.

The amounts recommended for the 2004 STAR district apportionments are:

- \$0.32 for completing demographic information for students not tested with the California Standards Tests and the CAT/6 Survey
- \$2.52 [per test for completing demographic information and administering the California Standards Tests and CAT/6 Survey
- \$2.44 for administering the SABE/2
- \$5.00 for administering the CAPA<sup>130</sup>

In a May 6, 2011 letter to school districts, SBE increased apportionments to districts for each test as follows:

The State Board of Education (SBE) has approved the 2011 STAR apportionment amounts as follows:

- \$0.38 for the completion of demographic information for each student not tested with the CSTs, the CMA, the STS, or the CAPA.
- \$2.52 per student for the completion of demographic information and administration of the CSTs, the CMA, or a combination thereof.
- \$2.52 per student for the completion of demographic information and administration of the STS to Spanish-speaking English learners.
- \$5.00 per student for the completion of demographic information and administration of the CAPA.

The STAR apportionment funds are unrestricted funds to reimburse school districts and charter schools for costs associated with the STAR Program that are above and beyond the CDE contract with its test contractor. The CDE contract covers the costs of all required STAR Program testing materials, the scoring of answer documents, and the production of reports. Costs associated with optional

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<sup>130</sup> CDE Information Memorandum to the SBE, dated January 29, 2004.

materials or services (such as the purchase of additional score reports, etc.) are the responsibility of the school district or charter school.<sup>131</sup>

The allocation formula is the same for fiscal year 2012-2013, which CDE lists on its website as:

STAR: \$2.52 per student tested in grades two through eleven with the California Standards Tests (CSTs), California Modified Assessment (CMA), or a combination thereof; \$5.00 per student tested with the California Alternate Performance Assessment (CAPA); \$2.52 per student tested in grades two through eleven with the Standards-based Tests in Spanish (STS); \$0.38 per student not tested with the CST, CMA, STS, or CAPA for whom only demographic data were submitted.<sup>132</sup>

For purposes of the apportionment, the activities and costs covered by the state's funding are defined in section 870 of the regulations to include the following:

- All staffing costs, including the costs incurred by the district coordinator and the test site coordinator, staff training, and other staff expenses related to testing.
- All expenses incurred at the school district and test site level related to testing.
- All transportation costs of delivering and retrieving tests and test materials within the school district.
- All costs associated with mailing the parent reports.
- All costs associated with pre-identification of answer sheets and consumable test booklets, and other activities intended to provide the complete and accurate data required by section 861 of the regulations.

The Commission finds that the itemization of activities and costs identified in section 870 of the regulations and covered by the appropriation includes the costs incurred to comply with the new requirements imposed by the test claim statute and regulations. Thus, the funding is specifically intended to cover the cost of the new required activities within the meaning of Government Code section 17556(e).

The Commission further finds, based on the record, that the appropriations have been sufficient to pay the costs of the new required activities. As indicated above, all claimants allege increased costs and acknowledge state and federal funding for the program. However, their filings do not address the new required activities and do not contain evidence to support their allegation of actual increased costs mandated by the state to perform these activities. As indicated by the court in *County of Sonoma v. Commission on State Mandates*, a showing of actual increased costs is required.

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<sup>131</sup> CDE, 2011 Standardized Testing and Reporting Program Apportionment Information, May 6, 2011. Emphasis added.

<sup>132</sup> CDE, "Assessment Apportionments for STAR, CELDT and CAHSEE" last modified August 13, 2012.

Section 6 is an obvious compliment to the goal of Proposition 4 in that it prevents the state from forcing extra programs on local governments in a manner that negates their careful budgeting of expenditures. A forced program that would negate such planning is one that results in *increased actual expenditures* of limited tax proceeds that are counted against the local government's spending limit. Section 6, located within a measure aimed at limiting expenditures, is expressly concerned with "costs" incurred by local government as a result of state-mandated programs, particularly when the costs of compliance with a new program restrict local spending in other areas. "*No state duty of subvention is triggered where the local agency is not required to expend its proceeds of taxes.*" [Citation omitted]. (Emphasis added.)<sup>133</sup>

In this case, the narrative of the test claims filed on behalf of TRUSD and GJUHS provide more detail on the allegation of costs. These test claims contain a chart alleging that the annual cost per student to administer the STAR program is \$12.08, a dollar figure above the amounts approved by SBE and apportioned to the districts on a per test (between \$2.52 and \$5.00 per test) and per pupil basis (between \$0.32 and \$0.38 per pupil enrolled who did not take the test, but provided demographic answer documents).<sup>134</sup> The claimants do not identify where the data comes from, and the allegation is not supported by evidence. Pursuant to Government Code section 17559 and sections 1183.03 and 1187.5 of the Commission's regulations, substantial evidence in the record is required to support a finding of costs mandated by the state. If assertions or representations of fact are made in a test claim, they must be supported by documentary evidence, authenticated by declarations signed under penalty of perjury or through testimony under oath or affirmation. Hearsay evidence may supplement or explain other evidence, but shall not be sufficient itself to support a finding. Thus, the narrative in the chart is simply an allegation and does not constitute evidence of costs. Moreover, even if the chart was supported by evidence, the chart is based on data for fiscal years 1997-1998 through 2003-2004, fiscal years *outside* the potential period of reimbursement for this consolidated claim. The effective date of the first required activity begins July 1, 2004, and the effective date for the remaining activities is September 21, 2005. Thus, there is no evidence showing that school districts incurred increased costs to comply with the new required activities beyond the state and federal funds received, which by law must first be applied to "any state-mandated reimbursable costs that otherwise may be claimed through the state mandates reimbursement process for the Standardized Testing and Reporting Program."

The cost issue in this case is similar to what occurred in the *Kern High School District* case,<sup>135</sup> which addressed a statutory requirement for school site councils to comply with modified open meeting act requirements, including posting a notice and an agenda of their meetings. School site councils were created by several state and federal programs that included funding for "reasonable district administrative expenses."<sup>136</sup> Based on the statutory schemes that created the

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<sup>133</sup> *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1264, 1284.

<sup>134</sup> Test Claim 08-TC-06, page 22; Test Claim 05-TC-03, page 19.

<sup>135</sup> *Kern High School Dist.*, *supra*, 30 Cal.4th 727, 746-747.

<sup>136</sup> *Id.* at page 747.

school site councils, the court noted that the program funding available for the programs was often substantial – “for example, on a statewide basis, funding provided by the state for school improvement programs [citations omitted] for the 1998-1999 fiscal year totaled approximately \$394 million. (Cal. Dept. of Ed., Rep., Budget Act of 1998 (Nov. 1998) p. 52.)”<sup>137</sup> In addition, the statutes allowed school districts to use the program funding for “administrative expenses,” but did not establish a priority use of the funds. Despite the allegations by the claimant of increased costs mandated by the state, the court still denied the claim as follows:

Even if we assume for purposes of analysis that claimants have been legally compelled to participate in the Chacon-Moscone Bilingual-Bicultural Education program, we nevertheless conclude that under the circumstances here presented, the costs necessarily incurred in complying with the notice and agenda requirements under that funded program do not entitle claimants to obtain reimbursement under article XIII B, section 6, because the state, in providing program funds to claimants, already has provided funds that may be used to cover the necessary notice and agenda related expenses.

We note that, based upon the evaluations made by the Commission, the costs associated with the notice and agenda requirements at issue in this case appear rather modest.

FN 16 Costs of compliance with the notice and agenda requirements have been estimated as amounting to approximately \$90 per meeting for the 1994-1995 fiscal year, and incrementally larger amounts in subsequent years, up to \$106 per meeting for the 2000-2001 fiscal year, for each committee or advisory council. . . . Under these formulae, a district that has 10 schools, each with one council or advisory committee that meets 10 times a year, would be forced to incur approximately \$9,000 to \$10,000 in costs to comply with statutory notice and agenda requirements.

Presumably, such costs are minimal relative to the funds allocated by the state to the school districts under these programs. . . .

And, even more significantly, we have found nothing to suggest that a school district is precluded from using a portion of the funds obtained from the state for the implementation of the underlying funded program to pay the associated notice and agenda costs. Indeed, the Chacon-Moscone Bilingual-Bicultural Education program explicitly authorizes school districts to do so. (See Ed. Code, § 52168, subd. (b) [“School districts may claim funds appropriated for purposes of this article for expenditures in, but not limited to, the following categories: [¶] . . . [¶] (6) Reasonable district administrative expenses. . . .”].) We believe it is plain that the costs of complying with program-related notice and agenda requirements qualify as “[r]easonable district administrative expenses.”<sup>138</sup>

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<sup>137</sup> *Id.* at page 732.

<sup>138</sup> *Id.* at pages 746-747.

Accordingly, the Commission finds that school districts have not incurred increased costs mandated by the state pursuant to Government Code section 17556(e).

## **V. CONCLUSION**

For the foregoing reasons, the Commission finds that the test claim statutes and regulations do not impose a reimbursable state-mandated program on school districts within the meaning of article XIII B, section 6, of the California Constitution and Government Code sections 17514. The Commission therefore denies these consolidated test claims.

**DECLARATION OF SERVICE BY EMAIL**

I, the undersigned, declare as follows:

I am a resident of the County of Solano and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On September 24, 2013, I served the:

**Notice of Draft Staff Analysis, Schedule for Comments, and Notice of Hearing**  
*Standardized Testing and Reporting (STAR) II and III*, 05-TC-02, 05-TC-03,  
and 08-TC-06  
San Diego Unified School District, Grant Joint Union High School District,  
and Twin Rivers Unified School District Claimants

by making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on September 24, 2013 at Sacramento, California.



\_\_\_\_\_

Heidi J. Palchik  
Commission on State Mandates  
980 Ninth Street, Suite 300  
Sacramento, CA 95814  
(916) 323-3562

## Commission on State Mandates

Original List Date: 8/17/2005  
Last Updated: 9/13/2013  
List Print Date: 09/23/2013  
Claim Number: 05-TC-02, -03, 08-TC-06  
Issue: Standardized Testing and Reporting (STAR) II and III

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#### TO ALL PARTIES AND INTERESTED PARTIES:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. However, this requirement may also be satisfied by electronically filing your documents. Please see <http://www.csm.ca.gov/dropbox.shtml> on the Commission's website for instructions on electronic filing. (Cal. Code Regs., tit. 2, § 1181.2.)

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Mr. Andy Nichols Nichols Consulting 1857 44th Street Sacramento, CA 95819	Tel: (916) 455-3939 Email andy@nichols-consulting.com Fax: (916) 739-8712
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Ms. Lacey Baysinger State Controller's Office Division of Accounting and Reporting 3301 C Street, Suite 700 Sacramento, CA 95816	Tel: (916) 324-0254 Email lbaysinger@sco.ca.gov Fax:
--	--

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Ms. Gwendolyn Carlos State Controllers Office Division of Accounting and Reporting 3301 C Street, Suite 700 Sacramento, CA 95816	Tel: (916) 324-5919 Email gcarlos@sco.ca.gov Fax: (916) 323-4807
--	--

---

Mr. Eric Feller Commission on State Mandates 980 9th Street, Suite 300 Sacramento, CA 95814	Tel: (916) 323-3562 Email eric.feller@csm.ca.gov Fax:
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Mr. Dennis Speciale State Controller's Office (B-08) Division of Accounting and Reporting 3301 C Street, Suite 700 Sacramento, CA 95816	Tel: (916) 324-0254 Email DSpeciale@sco.ca.gov Fax:
---	---

---

Ms. Jill Kanemasu State Controller's Office (B-08) Division of Accounting and Reporting 3301 C Street, Suite 700 Sacramento, CA 95816	Tel: (916) 322-9891 Email jkanemasu@sco.ca.gov Fax:
---	---

Ms. Andra Donovan San Diego Unified School District Legal Services Office 4100 Normal Street, Room 2148 San Diego, CA 92103	Tel: (619) 725-5630 Email adonovan@sandi.net Fax:
Ms. Annette Chinn Cost Recovery Systems, Inc. 705-2 East Bidwell Street, #294 Folsom, CA 95630	Tel: (916) 939-7901 Email achinnrcs@aol.com Fax: (916) 939-7801
Ms. Marieta Delfin State Controller's Office (B-08) Division of Accounting and Reporting 3301 C Street, Suite 700 Sacramento, CA 95816	Tel: (916) 323-0706 Email mdelfin@sco.ca.gov Fax: (916) 322-4404
Mr. Arthur Palkowitz Stutz Artiano Shinoff & Holtz 2488 Historic Decatur Road, Suite 200 San Diego, CA 92106	Tel: (619) 232-3122 Email apalkowitz@stutzartiano.com Fax: (619) 232-3264
Ms. Susan Geanacou Department of Finance (A-15) 915 L Street, Suite 1280 Sacramento, CA 95814	Tel: (916) 445-3274 Email susan.geanacou@dof.ca.gov Fax: (916) 449-5252
Mr. Brian Uhler Legislative Analyst's Office (B-29) 925 L Street, Suite 1000 Sacramento, CA 95814	Tel: (916) 319-8328 Email brian.uhler@lao.ca.gov Fax:
Mr. J. Bradley Burgess MGT of America 895 La Sierra Drive Sacramento, CA 95864	Tel: (916) 595-2646 Email Bburgess@mgtamer.com Fax:
Ms. Anita Worlow AK & Company 3531 Kersey Lane Sacramento, CA 95864	Tel: (916) 972-1666 Email akcompany@um.att.com Fax:
Ms. Michelle Mendoza MAXIMUS 17310 Red Hill Avenue, Suite 340 Irvine, CA 92614	Tel: (949) 440-0845 x 101 Email michellemendoza@maximus.com Fax: (614) 523-3679
Mr. Mark Ibele Senate Budget & Fiscal Review Committee (E-22) California State Senate State Capitol, Room 5019	Tel: (916) 651-4103 Email Mark.Ibele@sen.ca.gov Fax: (916) 323-8386



Sacramento, CA 95814

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Ms. Keely Bosler Senate Budget and Fiscal Review Committee State Capitol, Room 5019 Sacramento, CA 95814	Tel: (916) 651-4103 Email Keely.Bosler@sen.ca.gov Fax:
Mr. Ed Hanson Department of Finance (A-15) Education Systems Unit 915 L Street, 7th Floor Sacramento, CA 95814	Tel: (916) 445-0328 Email ed.hanson@dof.ca.gov Fax:
Mr. Paul Golaszewski Legislative Analyst's Office (B-29) 925 L Street, Suite 1000 Sacramento, CA 95814	Tel: (916) 319-8341 Email Paul.Golaszewski@lao.ca.gov Fax:
Ms. Veronica Lanto San Jose Unified School District 855 Lenzen Avenue San Jose, CA 95126-2736	Tel: (408) 535-6572 Email Veronica_Lanto@sjusd.org Fax: (408) 535-6692
Ms. Socorro Aquino State Controller's Office Division of Audits 3301 C Street, Suite 700 Sacramento, CA 95816	Tel: (916) 322-7522 Email SAquino@sco.ca.gov Fax:
Mr. Matthew Schuneman MAXIMUS 900 Skokie Boulevard, Suite 265 Northbrook, IL 60062	Tel: (847) 513-5504 Email matthewschuneman@maximus.com Fax: (703) 251-8240
Ms. Yazmin Meza Department of Finance 915 L Street Sacramento, CA 95814	Tel: (916) 445-0328 Email Yazmin.meza@dof.ca.gov Fax:
Mr. Michael Johnston Clovis Unified School District 1450 Herndon Ave Clovis, CA 93611-0599	Tel: (559) 327-9000 Email michaeljohnston@clovisusd.k12.ca.us Fax: (559) 327-9129
Mr. Jay Lal State Controller's Office (B-08) Division of Accounting & Reporting 3301 C Street, Suite 700 Sacramento, CA 95816	Tel: (916) 324-0256 Email JLal@sco.ca.gov Fax: (916) 323-6527
Ms. Sandy Reynolds Reynolds Consulting Group, Inc. P.O. Box 894059	Tel: (951) 303-3034 Email sandrareynolds_30@msn.com Fax: (951) 303-6607

---

Mr. Robert Miyashiro Education Mandated Cost Network 1121 L Street, Suite 1060 Sacramento, CA 95814	Tel: (916) 446-7517 Email robertm@sscal.com Fax: (916) 446-2011
Mr. Steve Shields Shields Consulting Group, Inc. 1536 36th Street Sacramento, CA 95816	Tel: (916) 454-7310 Email steve@shieldscg.com Fax: (916) 454-7312
Ms. Carol Bingham California Department of Education (E-08) Fiscal Policy Division 1430 N Street, Suite 5602 Sacramento, CA 95814	Tel: (916) 324-4728 Email cbingham@cde.ca.gov Fax: (916) 319-0116
Mr. David E. Scribner Max8550 2200 Sunrise Boulevard, Suite 240 Gold River, California 95670	Tel: (916) 852-8970 Email dscribner@max8550.com Fax: (916) 852-8978
Mr. Allan Burdick Mandates Plus 1104 Corporate Way Sacramento, CA 95831	Tel: (916) 203-3608 Email allanburdick@gmail.com Fax:
Mr. Lyndon Greco Department of Finance (A-15) 915 L Street, 7th Floor Sacramento, CA 95814	Tel: (916) 445-0328 Email Lyndon.Greco@dof.ca.gov Fax:
Mr. David Wellhouse David Wellhouse & Associates, Inc. 9175 Kiefer Blvd, Suite 121 Sacramento, CA 95826	Tel: (916) 368-9244 Email dwa-david@surewest.net Fax: (916) 368-5723
Mr. David Cichella California School Management Group 3130-C Inland Empire Blvd. Ontario, CA 91764	Tel: (209) 834-0556 Email dcichella@csmcentral.com Fax: (209) 834-0087
Mr. Keith Nezaam Department of Finance (A-15) 915 L Street, 8th Floor Sacramento, CA 95814	Tel: (916) 445-8913 Email Keith.Nezaam@dof.ca.gov Fax:
Mr. Mike Brown School Innovations & Advocacy 5200 Golden Foothill Parkway	Tel: (916) 669-5116 Email mikeb@sia-us.com Fax: (888) 487-6441

---

Mr. Christian Osmena Department of Finance 915 L Street Sacramento, CA 95814	Tel: (916) 445-0328 Email christian.osmena@dof.ca.gov Fax:
Mr. Chris Ferguson Department of Finance (A-15) Education Systems Unit 915 L Street, 7th Floor Sacramento, CA 95814	Tel: (916) 445-3274 Email Chris.Ferguson@dof.ca.gov Fax:
Mr. Robert Roach Twin Rivers Unified School District 3222 Winona Way North Highlands, CA 95660	Tel: (916) 566-1600 Email rob.roach@twinriversusd.org Fax:
Mr. Mark Rewolinski MAXIMUS 625 Coolidge Drive, Suite 100 Folsom, CA 95630	Tel: (949) 440-0845 Email markrewolinski@maximus.com Fax: (916) 366-4838
Ms. Kathy Rios State Controllers Office Division of Accounting and Reporting 3301 C Street, Suite 700 Sacramento, CA 95816	Tel: (916) 324-5919 Email krios@sco.ca.gov Fax: (916) 323-4807
Ms. Harmeet Barkschat Mandate Resource Services, LLC 5325 Elkhorn Blvd. #307 Sacramento, CA 95842	Tel: (916) 727-1350 Email harmeet@calsdrc.com Fax: (916) 727-1734
Ms. Elisa Wynne Department of Finance Department of Finance 915 L Street Sacramento, CA 95814	Tel: (916) 445-0238 Email elisa.wynne@dof.ca.gov Fax:
Mr. Jim Spano State Controller's Office (B-08) Division of Audits 3301 C Street, Suite 700 Sacramento, CA 95816	Tel: (916) 323-5849 Email jspano@sco.ca.gov Fax: (916) 327-0832
Ms. Jennifer Kuhn Legislative Analyst's Office (B-29) 925 L Street, Suite 1000 Sacramento, CA 95814	Tel: (916) 319-8332 Email Jennifer.kuhn@lao.ca.gov Fax: (916) 324-4281

---

Ms. Kathy Shepard  
Evergreen School District  
3188 Quinby Road  
San Jose, CA 95148

Tel: (408)270-6831  
Email kshepard@eesd.org  
Fax: (408)223-4580

---

Mr. Nicolas Schweizer  
Department of Finance (A-15)  
Education Systems Unit  
915 L Street, 7th Floor  
Sacramento, CA 95814

Tel: (916)445-0328  
Email nicolas.schweizer@dof.ca.gov  
Fax: (916)323-9530

---

Ms. Jolene Tollenaar  
MGT of America  
2001 P Street, Suite 200  
Sacramento, CA 95811

Tel: (916)443-9136  
Email jolene\_tollenaar@mgtamer.com  
Fax: (916)443-1766

---

Mr. Keith B. Petersen  
SixTen & Associates  
P.O. Box 340430  
Sacramento, CA 95834-0430

Tel: (916)419-7093  
Email kbpsixten@aol.com  
Fax: (916)263-9701

BEFORE THE  
COMMISSION ON STATE MANDATES  
STATE OF CALIFORNIA

IN RE TEST CLAIM ON:

Education Code Sections 60607, subdivision (a), 60609, 60615, 60630, 60640, 60641, and 60643, as amended by Statutes of 1997, Chapter 828;

Title 5, California Code of Regulations, Sections 850-874; and

Filed on March 23, 1998

By the San Diego Unified School District,  
Claimant.

No. 97-TC-23

*Standardized Testing and Reporting*

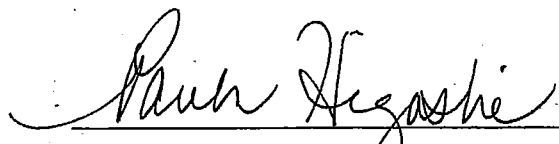
STATEMENT OF DECISION PURSUANT  
TO GOVERNMENT CODE SECTION  
17500 ET SEQ.; TITLE 2, CALIFORNIA  
CODE OF REGULATIONS, DIVISION 2,  
CHAPTER 2.5, ARTICLE 7

*(Adopted on August 24, 2000)*

**STATEMENT OF DECISION**

The attached Statement of Decision of the Commission on State Mandates is hereby adopted in the above-entitled matter.

This Decision shall become effective on August 25, 2000.



Paula Higashi, Executive Director

BEFORE THE  
COMMISSION ON STATE MANDATES  
STATE OF CALIFORNIA

IN RE TEST CLAIM ON:

Education Code Sections 60607, subdivision (a), 60609, 60615, 60630, 60640, 60641, and 60643, as amended by Statutes of 1997, Chapter 828;

Title 5, California Code of Regulations, Sections 850-874; and

Filed on March 23, 1998

By the San Diego Unified School District,  
Claimant.

No. 97-TC-23

*Standardized Testing and Reporting*

STATEMENT OF DECISION PURSUANT  
TO GOVERNMENT CODE SECTION 17500  
ET SEQ.; TITLE 2, CALIFORNIA CODE OF  
REGULATIONS, DIVISION 2, CHAPTER  
2.5, ARTICLE 7

*(Adopted on August 24, 2000)*

**STATEMENT OF DECISION**

The Commission on State Mandates (Commission) heard and decided this test claim on July 27, 2000 during a regularly scheduled hearing. James Cunningham, Richard Knott, and Robert Raines appeared for San Diego Unified School District. Jeannie Oropeza and Pete Zervinka appeared for the Department of Finance.

The law applicable to the Commission's determination of a reimbursable state mandated program is Government Code section 17500 et seq., article XIII B, section 6 of the California Constitution and related case law.

The Commission, by a vote of 7-0, approved this test claim.

**BACKGROUND AND FINDINGS**

Background on Statewide Achievement Tests

The test claim legislation and regulations established a program related to achievement testing that school districts must administer to pupils in the state – the Standardized Testing and Reporting (STAR) Program. The STAR Program requires school districts, between March 15 and May 15 each year, to test all students in grades 2 through 11 with a nationally normed achievement test designated by the State Board of Education. School districts are also required to engage in numerous activities related to test administration and reporting.

The state has required school districts to administer achievement tests to pupils for decades. For example, achievement tests were required for pupils in grades 6 and 12 under the California

School Testing Act of 1969.<sup>1</sup> In 1972, the Legislature expressed its intent regarding pupil testing as follows:

“It is the intent of the Legislature . . . to determine the effectiveness of school districts and schools in assisting pupils to master the fundamental educational skills towards which instruction is directed. The program of statewide testing shall provide the public, Legislature, and school districts evaluative information regarding the various levels of proficiency achieved by different groups of pupils of varying socioeconomic backgrounds, so that the Legislature and individual school districts may allocate educational resources in a manner to assure the maximum educational opportunities for all pupils. The program or statewide testing shall identify unusual success or failure and the factors which appear to be responsible, so that appropriate action may be taken at the district and state level to obtain the highest quality education for all public school pupils.”<sup>2</sup>

In 1990, the Legislature expressed that the purpose of California’s public school system is to “facilitate the development of each and every one of its pupils to become a self-motivated, competent, and lifelong learner.”<sup>3</sup> The Legislature stated that: “the current pupil assessment system does not meet [these] purposes.”<sup>4</sup> The Legislature further declared that:

“There is no consistent system that pupils and parents can use to assess the performance of schools and school districts in providing effective programs and to measure the academic achievement of pupils. The five grade levels currently tested under the California school assessment program do not provide the most efficient assessment of overall pupil achievement.”<sup>5</sup>

Statutes of 1990, Chapter 760 modified the state’s achievement testing to require the testing of pupils in grades 4, 5, 8, and 10. Former Education Code section 60600.1, as added by Statutes of 1990, Chapter 760, provided that:

“[Chapter 760] shall remain in effect only until January 1, 1995, and as of that date is repealed unless a later enacted statute, which is enacted *before* January 1, 1995, deletes or extends that date.” (Emphasis added.)

The Legislature did not enact a statute before January 1, 1995 that either deleted or extended the date regarding the administration of achievement tests. However, Statutes of 1995, Chapter 975, enacted the Leroy Greene California Assessment of Academic Achievement Act, which provided incentive funding for the provision of achievement testing to pupils in grades 2 through 10, inclusive, to each school district that certifies to the Superintendent of Public Instruction that they will administer such tests. The Commission notes that the achievement-testing program enacted under Chapter 975 was optional. Since the Legislature did not enact a statute by the

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<sup>1</sup> See former Education Code section 12820 cited as Exhibit C in the claimant’s test claim filing.

<sup>2</sup> See former Education Code section 12821 cited as Exhibit C in the claimant’s test claim filing.

<sup>3</sup> Section 1 of Statutes of 1990, Chapter 760 cited as Exhibit E in the claimant’s test claim filing.

<sup>4</sup> Section 1.3 of Statutes of 1990, Chapter 760 cited as Exhibit E in the claimant’s test claim filing.

<sup>5</sup> *Ibid.*

requisite deadline set forth in Chapter 760, the Commission found that mandatory achievement testing was repealed by operation of law effective January 1, 1995.

### Does the Test Claim Legislation Impose a New Program or Higher Level of Service?

The Commission found that the test claim legislation and regulations involve the administration of pupil achievement tests. Public education in California is a peculiarly governmental function administered by school districts as a service to the public. Moreover, the test claim legislation imposes unique requirements upon school districts that do not apply generally to all residents and entities of the state. Therefore, the Commission found that administering pupil achievement tests constitutes a “program” within the meaning of section 6, article XIII B of the California Constitution.<sup>6</sup>

### Prior Law Related to Achievement Tests

The Commission noted that the law in effect immediately before the enactment of the test claim legislation did not require school districts to administer achievement tests to pupils. Rather, prior law set up an incentive program for school districts that administer achievement tests to all pupils in grades 2 through 10.<sup>7</sup> Former Education Code section 60640 provided \$5 per pupil tested to those districts that certified to the Superintendent of Public Instruction that it would administer achievement tests to all pupils in grades 2 through 10. Section 60640 did not require districts to administer achievement tests to those pupils.

### The Test Claim Legislation: Current Law Related to the Standardized Testing and Reporting (STAR) Program

The Commission found that the test claim legislation and regulations established a program related to achievement testing that school districts must administer to pupils in the state – the Standardized Testing and Reporting (STAR) Program.<sup>8</sup>

The Commission found that the STAR Program requires school districts, between March 15 and May 15 each year, to test all students in grades 2 through 11 with a nationally normed achievement test designated by the State Board of Education.<sup>9</sup> The Commission found that school districts must also: designate a STAR Program district coordinator and STAR Program test site coordinator at each test site; administer an additional test to pupils of limited English proficiency who are enrolled in grades 2 through 11 if the pupil was enrolled in the district for less than 12 months before the time the last STAR Program test was administered; exempt pupils

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<sup>6</sup> *Long Beach Unified School Dist. v. State of California* (1990) 225 Cal.App.3d 155, 172.

<sup>7</sup> See former Education Code section 60640 cited as Exhibit F in the claimant’s test claim filing.

<sup>8</sup> The Commission noted that the original test claim filing included portions of the Education Code that related to the Academic Skills Assessment Program. However, the Department of Education has yet to promulgate regulations to implement the Program. Therefore, the claimant filed a motion to partially sever and withdraw those portions of this test claim that relate to the Academic Skills Assessment Program.

<sup>9</sup> The State Department of Education is administered through (1) the State Board of Education, which is the governing and policy determining body of the Department and (2) the Director of Education who is responsible for all executive and administrative functions of the Department and is the executive officer of the State Board of Education. See Education Code sections 33301, 33303. The State Superintendent of Public Instruction oversees the schools of this state and executes, under the direction of the State Board of Education, the policies that have been decided upon by the Board. The Superintendent is also ex-officio the director and executive director of the State Department of Education. See Education Code sections 33301-33303, 33111, 33112.



under certain circumstances; include STAR Program test results in the pupil's record or achievement; report STAR Program test results to the district's governing board or county board of education and to the pupil's parent or guardian; submit a report to the Superintendent of Public Instruction; contract with a test publisher to receive the tests; and submit whatever information the State Department of Education deems necessary to permit the State Superintendent of Public Instruction to prepare reports on the results of the STAR Program.<sup>10</sup>

The Commission also found that the state had required school districts to administer achievement tests to pupils since the 1960's, until Statutes of 1991, Chapter 760, repealed the mandatory achievement-testing requirement as of January 1, 1995. Statutes of 1995, Chapter 975, enacted the Leroy Greene California Assessment of Academic Achievement Act (Achievement Act), which provided incentive funding for the provision of achievement testing to pupils in grades 2 through 10, inclusive, to each school district that certifies to the Superintendent of Public Instruction that they will administer such tests. The Commission found that under the Achievement Act, the law in effect between January 1, 1996 and October 10, 1997, the operative date of the test claim legislation, school districts could *voluntarily* administer achievement tests to district pupils. However, the test claim legislation reinstated mandatory achievement testing under the STAR Program beginning on October 10, 1997. Thus, the Commission found that the test claim legislation and regulations have imposed a new program or higher level of service upon school districts since the law in effect prior to the enactment of the test claim legislation did not require the administration of achievement tests.

Based on the foregoing, the Commission found that the test claim legislation and regulations impose a new program upon school districts for the administration of the STAR Program.

Does the Test Claim Legislation Constitute Costs Mandated by the State?

*Testing In General*

The Commission found that in order for the test claim legislation and regulations to impose a reimbursable program under section 6, article XIII B of the California Constitution, the newly required activities must be state mandated.<sup>11</sup> The issue of whether the test claim legislation and regulations imposed costs mandated by the state centers on whether Government Code section 17556, subdivision (e), applies.

The Commission recognized that Government Code section 17556, subdivision (e), provides:

“The commission shall not find costs mandated by the state . . . in any claim submitted by a local agency or school district, if, after a hearing, the commission finds that:

“.....

“(e) The statute . . . includes additional revenue that was specifically intended to fund the costs of the state mandate in an amount sufficient to fund the cost of the state mandate.”

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<sup>10</sup> See Education Code sections 60607, 60615, 60630 60640, 60641, 60643, and Title 5, California Code of Regulations, sections 851-853, 855-860, 865, 867-869, 871, 873.

<sup>11</sup> *Lucia Mar Unified School Dist.*, *supra* 44 Cal.3d 830, 835.

The Commission also noted that section 60640, subdivision (h), provides:

“The Superintendent of Public Instruction shall apportion funds to enable school districts to meet the [STAR Program] requirements. . . . The State Board of Education shall establish the amount of funding to be apportioned. The amount to be apportioned shall be up to eight dollars (\$8) per test administered to a pupil in grades 2 to 11, inclusive.”

The claimant contended that section 17556, subdivision (e), is inapplicable to the present test claim because section 60640, subdivision (h), did not appropriate additional revenue in an amount sufficient to fund the mandate.<sup>12</sup> The claimant further contended that the State Board of Education’s reimbursement rate of \$6.65 per test, with an additional \$0.15 per test for districts requesting preprinted answer sheets, is not enough to cover the cost of administering the STAR Program.<sup>13</sup>

The Commission found that the test claim legislation *authorized* the Superintendent of Public Instruction to apportion funds for administration of the STAR Program as established by the State Board of Education. However, the test claim legislation did not itself include “additional revenue that was specifically intended to fund the costs of the state mandate in an amount sufficient to fund the cost of the state mandate.” Thus, the Commission found that Government Code section 17556, subdivision (e), is inapplicable to this test claim. Accordingly, the Commission found that the test claim legislation imposed costs mandated by the state upon school districts.

The Commission noted that the Legislature has appropriated the following amounts for administration of the STAR Program in the state Budget Act: 1997-98 – \$30,400,000; 1998-99 – \$39,700,000; 1999-00 – \$42,100,000. The Commission noted that funds received by school districts for the administration of the STAR Program pursuant to the State Board of Education’s reimbursement rate should be offset against total claim amounts for this test claim.

#### *Testing of Children with Disabilities*

The Commission found that the test claim legislation requires that: (1) children with disabilities be exempted from testing for pupils if the pupil’s individualized education program has an exemption provision; (2) districts determine the appropriate grade level test for each pupil in a special education program; and (3) districts provide appropriate testing adaptation or accommodations to pupils in special education programs.

DOF contended that these activities stem from federal law and therefore, pursuant to Government Code section 17556, subdivision (c), are not reimbursable.<sup>14</sup> The Commission recognized that Government Code section 17556, subdivision (c), provides:

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<sup>12</sup> The Commission noted that the Department of Finance states: “we have concluded that the statute may have resulted in some costs mandated by the State.”

<sup>13</sup> See Claimant’s test claim filing, Exhibit H, Nick Bohl’s declaration. The claimant estimates it would cost San Diego Unified School District \$14.00 per test per fiscal year to administer the STAR Program.

<sup>14</sup> Department of Finance’s July 10, 2000 filing at page 2.

“The commission shall not find costs mandated by the state . . . in any claim submitted by a local agency or school district, if, after a hearing, the commission finds that:

“.....  
“(c) The statute . . . implemented a federal law or regulation and resulted in costs mandated by the federal government, unless the statute . . . mandates costs which exceed the mandate in that federal law or regulation.”

Specifically, DOF cited to subdivision (a)(16), section 1412 of the United States Code, which provides:

“(16) Performance goals and indicators

“The State—

“(A) has established goals for the performance of children with disabilities in the State that—

“(i) will promote the purposes of this chapter, as stated in section 1400(d) of this title; and

“(ii) are consistent, to the maximum extent appropriate, with other goals and standards for children established by the State;

“(B) has established performance indicators the State will use to assess progress toward achieving those goals that, at a minimum, address the performance of children with disabilities on assessments, drop-out rates, and graduation rates;

“(C) will, every two years, report to the Secretary and the public on the progress of the State, and of children with disabilities in the State, toward meeting the goals established under subparagraph (A); and

“(D) based on its assessment of that progress, will revise its State improvement plan under part A of subchapter IV of this chapter as may be needed to improve its performance, if the State receives assistance under that part.”

The Commission found that, based on the plain reading of subdivision (a) above, that federal law *does not* require testing exemptions; the determination of appropriate test levels; or the provision of testing accommodations for children with disabilities. Therefore, the Commission found that these activities are reimbursable and that funding received by school districts for administration of the STAR Program shall be offset against reimbursement claims.

### CONCLUSION

Based on the foregoing, the Commission concluded that the test claim legislation and regulations for the STAR Program impose a reimbursable state-mandated program upon school districts within the meaning of section 6, article XIII B of the California Constitution and Government Code section 17514 for the following activities:

- Administration of the STAR Program tests to all pupils in grades 2 through 11, inclusive. (Ed. Code, §§ 60640, subs. (b), (c), 60641, subd. (a); Cal. Code Regs., tit. 5, §§ 851,

852, subd. (b), 853, and 855.) Costs associated with teacher time to administer the test are not reimbursable.

- Designation of a STAR Program district coordinator. (Cal. Code Regs., tit. 5, §§ 857-859, 865, 867, and 868.)
- Designation of a STAR Program test site coordinator at each test site. (Cal. Code Regs., tit. 5, §§ 857-859, 865, 867, and 868.)
- Administration of an additional test to pupils of limited English proficiency who are enrolled in grades 2 through 11 if the pupil was initially enrolled in any school district less than 12 months before the date that the English language STAR Program test was given. Only reimbursable to the extent such tests are available. (Ed. Code, § 60640, subd. (g); Cal. Code Regs., tit. 5, § 851, subd. (a).) Costs associated with teacher time to administer the test are not reimbursable.
- Exemption from testing for pupils if the pupil's individualized education program has an exemption provision. (Ed. Code, § 60640, subds. (e), (j); Cal. Code Regs., tit. 5, § 852, subd. (b).)
- Determination of the appropriate grade level test for each pupil in a special education program. (Cal. Code Regs., tit. 5, § 852, subd. (b).)
- Provision of appropriate testing adaptation or accommodations to pupils in special education programs. (Cal. Code Regs., tit. 5, § 852, subd. (b).)
- Inclusion of STAR Program test results in each pupil's record of accomplishment. (Ed. Code, §§ 60607, subd. (a), 60641, subd. (a).)
- Reporting of individual STAR Program test results in writing to each pupil's parent or guardian and to the pupil's school and teachers. (Ed. Code, § 60641, subds. (b) and (c); Cal. Code Regs., tit. 5, § 863.)
- Reporting of district-wide, school-level, and class-level results to the school district's governing board or county office of education. (Ed. Code, § 60641, subd. (d); Cal. Code Regs., tit. 5, § 864.)
- Submission of a report on the STAR Program to the Superintendent of Public Instruction. (Ed. Code, § 60640, subd. (j); Cal. Code Regs., tit. 5, § 862.)
- Contracting with a test publisher selected by the State Board of Education using an agreement approved by the State Board of Education. (Ed. Code, § 60643, subds. (a)(2) and (c); Cal. Code Regs., tit. 5, §§ 860, 873.) This activity is limited to completing the agreement approved by the State Board of Education. Modification of the approved agreement by school districts to include any additional materials or services pursuant to Education Code section 60643, subdivision (e)(12) is not reimbursable.
- Payment of sales tax to the publisher. (Cal. Code Regs., tit. 5, § 856.)
- Completion of delivery schedule and order form. (Cal. Code Regs., tit. 5, § 874.)
- Provision to the test publisher of enrollment and test order data by grade level. (Cal. Code Regs., tit. 5, § 874.)

- Administration of the standard agreement pursuant to the State Department of Education's regulations. (Cal. Code Regs., tit. 5, §§ 856, 869, subd. (b), and 871.)
- Exemption of pupils from the STAR Program tests upon request of their parent or guardian. (Ed. Code, §§ 60615, 60640, subd. (j); Cal. Code Regs., tit. 5, § 852, subd. (a).)
- Submission to the State Department of Education whatever information the Department deems necessary to permit the Superintendent of Public Instruction to prepare a report analyzing, on a school-by-school basis, the results and test scores of the STAR Program. (Ed. Code, § 60630, subd. (b); Cal. Code Regs., tit. 5, § 861.)
- Training and review of the STAR Program requirements as outlined in the test claim legislation and regulations by school district staff.
- Implementation of procedures relating the administration of the STAR Program.

BEFORE THE  
COMMISSION ON STATE MANDATES  
STATE OF CALIFORNIA

RECONSIDERATION OF PRIOR  
COMMISSION DECISION ON:

Education Code Sections 60607, subdivision (a), 60609, 60615, 60630, 60640, 60641, and 60643, as added or amended by Statutes 1997, Chapter 828; California Code of Regulations, Title 5, Sections 850-904 (Excluding Cal. Code Regs., tit. 5, §§ 853.5, 864.5, 867.5, 894 & 898)

Claim No. 97-TC-23

Directed by Statutes 2004, Chapter 216, Section 34 (Sen. Bill No. 1108, eff. 8/11/04) and Statutes 2004, Chapter 895, Section 19 (Assem. Bill No. 2855, eff. 1/1/05)

Effective July 1, 2004.

No. 04-RL-9723-01


*Standardized Testing and Reporting (STAR)*

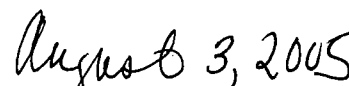
STATEMENT OF DECISION PURSUANT  
TO GOVERNMENT CODE SECTION 17500  
ET SEQ.; CALIFORNIA CODE OF  
REGULATIONS, TITLE 2, DIVISION 2,  
CHAPTER 2.5, ARTICLE 7

*(Adopted on July 28, 2005)*

**STATEMENT OF DECISION**

The attached Statement of Decision of the Commission on State Mandates is hereby adopted in the above-entitled matter.

  
\_\_\_\_\_  
PAULA HIGASHI, Executive Director

  
\_\_\_\_\_  
Date

BEFORE THE  
COMMISSION ON STATE MANDATES  
STATE OF CALIFORNIA

RECONSIDERATION OF PRIOR  
COMMISSION DECISION ON:

Education Code Sections 60607, subdivision (a), 60609, 60615, 60630, 60640, 60641, and 60643, as added or amended by Statutes 1997, Chapter 828; California Code of Regulations, Title 5, Sections 850-904 (Excluding Cal. Code Regs., tit. 5, §§ 853.5, 864.5, 867.5, 894 & 898)

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REGULATIONS, TITLE 2, DIVISION 2,  
CHAPTER 2.5, ARTICLE 7

*(Adopted on July 28, 2005)*

**STATEMENT OF DECISION**

The Commission on State Mandates (“Commission”) heard and decided this test claim during a regularly scheduled hearing on July 28, 2005. Art Palkowitz appeared on behalf of the San Diego Unified School District. David Scribner appeared on behalf of the Grant Joint Union High School District. Paul Warren appeared on behalf of the Office of the Legislative Analyst. Pete Cervinka and Lenin del Castillo appeared on behalf of the Department of Finance.

The law applicable to the Commission’s determination of a reimbursable state-mandated program is article XIII B, section 6 of the California Constitution, Government Code section 17500 et seq., and related case law.

The Commission adopted the staff analysis at the hearing by a vote of 5-0.

**BACKGROUND**

Statutes 2004, chapter 216, section 34 (Sen. Bill No. 1108, eff. Aug. 11, 2004) and Statutes 2004, chapter 895, section 19 (Assem. Bill No. 2855, eff. Jan. 1, 2005) direct the Commission to reconsider its prior final decision and parameters and guidelines for the *Standardized Testing and Reporting* (STAR) program. Section 34 of Senate Bill 1108 (almost identical to Assem. Bill No. 2855, section 19) states the following:

Notwithstanding any other law, the Commission on State Mandates shall, on or before December 31, 2005, reconsider its decision in 97-TC-23, relating to the Standardized Testing and Reporting (STAR) program mandate, and its parameters

and guidelines for calculating the state reimbursement for that mandate pursuant to Section 6 of Article XIII B of the California Constitution for each of the following statutes<sup>1</sup> in light of federal statutes enacted and state court decisions rendered since these statutes were enacted:

- (a) Chapter 975 of the Statutes of 1995.
- (b) Chapter 828 of the Statutes of 1997.
- (c) Chapter 576 of the Statutes of 2000.
- (d) Chapter 722 of the Statutes of 2001.<sup>2</sup>

### The STAR Program

The precursor to the STAR program was enacted in 1995 (Stats. 1995, ch. 975, Assem. Bill No. 265) as the Leroy Greene California Assessment of Academic Achievement Act. The Act required the Superintendent of Public Instruction (SPI) to design and implement a statewide pupil assessment program, with specified content (former Ed. Code, § 60604). The State Board of Education (SBE), by January 1, 1998, was required to adopt statewide academically rigorous content and performance standards (former Ed. Code, § 60605, subd. (a)), and to recommend achievement tests (former Ed. Code, § 60605, subd. (b)) to assess basic academic skills in grades 4, 5, 8 and 10 ((former Ed. Code, § 60605, subd. (c)).<sup>3</sup> Former section 60640,<sup>4</sup> the Pupil Testing Incentive Program, offered apportionments of \$5 per pupil tested to districts that administer to all pupils in grades 2 through 10, inclusive, an achievement test selected from among those approved by the SBE. To be eligible for the apportionment, districts had to certify that (1) tests were administered at the time of year specified by the SPI; (2) test results were reported to pupils' parents or guardians; (3) test results were reported to the pupil's school and teachers, and were included in the pupil's records; and (4) district-wide and school-level results were reported to the governing board of the school district at a regularly scheduled meeting (former Ed. Code, § 60641). The Leroy Greene California Assessment of Academic Achievement Act also provided for other programs and requirements not within the scope of this reconsideration.

The STAR program was enacted in October 1997 (Stats. 1997, ch. 828, Sen. Bill No. 376). It required school districts to administer the achievement test of section 60640 (formerly administered on an incentive basis) to all pupils in grades 2 through 11 inclusive, and required reporting various statistics to the SPI. Two sets of pupils were exempted: (1) those whose

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<sup>1</sup> The only STAR statute on which Commission issued a Statement of Decision is Statutes 1997, chapter 828.

<sup>2</sup> In Assembly Bill 2855, section 19, the order of subdivisions (c) and (d) is reversed.

<sup>3</sup> Claimants and Commission staff agreed to sever Education Code sections 60605 and 60607 from the original test claim. These provisions made up the Academic Skills Assessment Program, but regulations were never adopted and the program was discontinued by Statutes 2000, chapter 576.

<sup>4</sup> All statutory references are to the Education Code unless otherwise indicated.



Individualized Education Plans<sup>5</sup> specified that they were to have an alternate assessment; and (2) those for whom a parent/guardian requested in writing to exempt the pupil from testing.

As a result, the SBE designated the Stanford Achievement Test Series, Ninth Edition (Stanford 9) as the national norm-referenced achievement test for the STAR program. It was first administered to public school pupils in grades two through 11 during spring 1998 and was last administered during spring 2002. Pupils in grades two through eleven were tested in reading, language, and mathematics. Pupils in grades two through eight were also tested in spelling, and pupils in grades nine through eleven were tested in science and social science. The purpose of the Stanford 9 was to compare each pupil's achievement of general skills taught throughout the United States to the achievement of a national sample of pupils tested in the same grade at the same time.<sup>6</sup>

In 1998, the SBE designated the Spanish Assessment of Basic Education, Second Edition (SABE/2) as the primary language test for the STAR program. Starting in spring 1999, Spanish-speaking English learners who were enrolled in public schools less than 12 months when testing began were required to take the SABE/2, as well as the Stanford 9 and the Stanford 9 Augmentation/California Standards Tests. Districts were given the option of also testing Spanish-speaking English learners enrolled 12 months or more with the SABE/2.<sup>7</sup>

In 2000, the Legislature enacted changes to the STAR program (Stats. 2000, ch. 576, Assem. Bill No. 2812), the foremost of which deleted the requirements of the Academic Skills Assessment Program for pupils in grades 4, 5, 8 and 10. In its place, the SPI was required to develop a standards-based achievement test to include, at a minimum, a direct writing assessment once in elementary school and once in middle or junior high school (Ed. Code, § 60642.5). The Commission's original STAR Statement of Decision did not address this standards-based achievement test (currently known as the California Standards Tests).

In 2001 (Stats. 2001, ch. 722, Sen. Bill No. 233) the Legislature extended the sunset date for the Leroy Greene California Assessment of Academic Achievement Act (that includes the STAR program) to January 1, 2005.<sup>8</sup> In addition to other changes, that bill named the standards-based achievement test the California Standards Tests (CSTs) and required an assessment in history/social science and science in at least one elementary or middle school grade level, to be decided by the SBE.

The purpose of the CSTs<sup>9</sup> is to determine pupil achievement of the California Academic Content Standards for each grade or course. Pupils' scores are compared to preset criteria to determine if

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<sup>5</sup> An Individualized Education Plan (IEP) is a program for special education students that stems from the federal Individuals with Disabilities Education Act (IDEA). (20 U.S.C. § 1414 (d).)

<sup>6</sup> See <[http://star.cde.ca.gov/star2004/aboutSTAR\\_programbg.asp](http://star.cde.ca.gov/star2004/aboutSTAR_programbg.asp)> as of February 15, 2005.

<sup>7</sup> *Ibid.*

<sup>8</sup> It was extended to January 1, 2011, by Statutes 2004, chapter 233.

<sup>9</sup> The CSTs are in English-Language Arts (grades 2-11, but the writing test is in grades 4 and 7), Mathematics (grades 2-11), Science (grades 5 and 9-11) and History/Social Science (grades 8, 10 and 11). See <[http://star.cde.ca.gov/star2004/aboutSTAR\\_gradesandsubjects.asp](http://star.cde.ca.gov/star2004/aboutSTAR_gradesandsubjects.asp)> as of February 15, 2005.

performance on the test is advanced, proficient, basic, below basic, or far below basic. The state target is for all students to score at the proficient and advanced levels.<sup>10</sup>

In 2002, the SBE selected the California Achievement Tests, Sixth Edition Survey (hereafter the CAT/6 or CAT/6 exam)<sup>11</sup> to replace the Stanford 9 as the national norm-referenced test for the program beginning with spring 2003. The SBE also authorized the development of the California Alternate Performance Assessment (CAPA), for pupils with significant cognitive disabilities that preclude them from taking the CSTs and CAT/6 Survey. First administered in spring 2003, the CAPA assesses a subset of the California English-Language Arts and Mathematics Content Standards that are appropriate for pupils with significant cognitive disabilities. The Commission's STAR Statement of Decision did not address the CAPA.

The current STAR Program has four components: (1) CSTs; (2) CAPA; (3) CAT/6 Survey; and (4) SABE/2. As stated above, however, the CSTs (or standards-based achievement tests) and the CAPA are not reimbursable under the Commission's STAR Statement of Decision because they were not pled in the test claim.<sup>12</sup> Thus, the Commission's jurisdiction is limited to the CAT/6 exam, and the SABE/2 Spanish language examination.

In 2003, the Legislature reduced the administrations of the CAT/6 exam, starting in the 2004-05 school year, to only grades 3 and 8.<sup>13</sup> This provision was amended in 2004 to administer the CAT/6 only to grades 3 and 7.<sup>14</sup>

The CST and CAPA are a major part of California's accountability system for schools and districts, and the results of those tests are also the major criteria for calculating each school's Academic Performance Index. The results are also used to determine if elementary and middle schools are making adequate progress in pupil proficiency on the state's academic content standards under the federal No Child Left Behind Act (NCLB).<sup>15</sup>

#### Commission Statement of Decision

On August 24, 2000, the Commission determined that the STAR program (as enacted by Stats. 1997, ch. 828, Sen. Bill No. 376) imposes a reimbursable mandate on school districts (claim 97-TC-23, filed by the San Diego Unified School District).

The Commission determined, in summary, that:

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<sup>10</sup> See <[http://star.cde.ca.gov/star2004/aboutSTAR\\_programbg.asp](http://star.cde.ca.gov/star2004/aboutSTAR_programbg.asp)> as of February 15, 2005.

<sup>11</sup> References to the CAT/6 in this analysis would include a successor national norm-referenced test adopted by the SBE.

<sup>12</sup> According to the adopted STAR parameters and guidelines (Exhibit A, p. 750), "Only the designated achievement and primary language tests enacted by Statutes of 1997, chapter 828 are reimbursable, pursuant to these parameters and guidelines." (See Exhibit A, p. 751, fn. 3).

<sup>13</sup> Statutes 2003, chapter 773.

<sup>14</sup> Statutes 2004 chapter 233. See Education Code section 60640, subdivision (b).

<sup>15</sup> See <[http://star.cde.ca.gov/star2004/aboutSTAR\\_programbg.asp](http://star.cde.ca.gov/star2004/aboutSTAR_programbg.asp)> as of February 15, 2005.

The STAR Program requires school districts, between March 15 and May 15 each year, to test all students in grades 2 through 11 with a nationally normed achievement test designated by the State Board of Education. [Footnote omitted.] School districts must also: designate a STAR Program district coordinator and STAR Program test site coordinator at each test site; administer an additional test to pupils of limited English proficiency who are enrolled in grades 2 through 11 if the pupil was enrolled in the district for less than 12 months before the time the last STAR Program test was administered; exempt pupils under certain circumstances; include STAR Program test results in the pupil's record or [sic] achievement; report STAR Program test results to the district's governing board or county board of education and to the pupil's parent or guardian; submit a report to the Superintendent of Public Instruction; contract with a test publisher to receive the tests; and submit whatever information the State Department of Education deems necessary to permit the State Superintendent of Public Instruction to prepare reports on the results of the STAR Program.<sup>16</sup>

A detailed description of the STAR program's reimbursable activities is in the Commission's parameters and guidelines, as follows.

#### Commission Parameters and Guidelines

The Commission adopted parameters and guidelines (Ps&Gs) for the test claim statute in January 2002.<sup>17</sup> Under the heading "Reimbursable Costs," the Ps&Gs state:

For each eligible claimant, the following activities to administer the designated achievement and primary language tests are eligible for reimbursement:

##### A. Training, Policies, and Procedures

Reviewing the requirements of the STAR Program and conducting or attending training sessions. Increased costs for substitute teacher time during the school day or for teacher stipends to attend training sessions outside the regular school day (after school or on Saturday) are eligible for reimbursement. However, the time the teacher spends to attend training sessions during that teacher's normal classroom hours is not reimbursable. (One-time activity per employee per test site).

Developing internal policies, procedures, and forms to implement *Standardized Testing and Reporting*. (One-time activity)

The cost of travel for and materials and supplies used or distributed in training sessions is reimbursable under this activity.

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<sup>16</sup> Commission on State Mandates, STAR Statement of Decision, pages 3-4 (Exhibit A, p. 383). Findings are based on Education Code sections 60607, 60615, 60630, 60640, 60641, 60643, and California Code of Regulations, title 5, sections 851-853, 855-860, 865, 867-869, 871, 873.

<sup>17</sup> Exhibit A, page 750.

B. Test Materials, Supplies, and Equipment (*Reimbursement period: January 2, 1998 – December 15, 1999*)<sup>[18]</sup>

[¶]...[¶] [Based on the dates listed, these activities are no longer reimbursable.]

C. Pretest and Posttest Coordination (*Reimbursement period begins January 2, 1998*)

Processing requests for exemption from testing filed by parents and guardians. (Ed. Code, §§ 60615, 60640, subd. (j); Cal. Code Regs., tit. 5, §§ 852, subd. (a), & 881, subd. (a).)

Reviewing the Individualized Education Program (IEP) of children with disabilities to determine if the IEP contains an express exemption from testing.<sup>[19]</sup> (Ed. Code, § 60640, subds. (e), (j); Cal. Code Regs., tit. 5, §§ 852, subd. (b), & 881, subd. (b).)

Determining the appropriate grade level test for special education pupils and providing appropriate testing adaptations and accommodations for these pupils. (Cal. Code Regs., tit. 5, §§ 853, subd. (c),<sup>20</sup> & 882, subd. (c).)

Designating a school district employee as a STAR program district coordinator. The school district shall notify the publisher of the identity and contact information for the STAR program district coordinator. (Cal. Code Regs., tit. 5, §§ 857, 859, 865, 867, 868, 886, 888, 895, 897, & 899.)

- [¶]...[¶] [Based on the dates listed, this activity is no longer reimbursable.]
- Beginning January 1, 2001, the STAR program district coordinator, or the school district superintendent or his or her designee, shall be available through August 15 to complete school district testing.

Designating a school district employee as a STAR program test site coordinator at each test site. (Cal. Code Regs., tit. 5, §§ 858, 859, 867, 868, 887, 888, 897, & 899.)

- [¶]...[¶] [Based on the dates listed, this activity is no longer reimbursable.]
- Beginning January 1, 2001, the STAR program test site coordinator, or the site principal or his or her designee, shall be available to the STAR program

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<sup>18</sup> California Code of Regulations, title 5, sections 856, 869, and 871 were repealed effective December 16, 1999.

<sup>19</sup> Section 60640, subdivision (e) was amended in 2002 (Stats. 2002, ch. 492) to include disabled pupils in testing, and to add a citation to IDEA.

<sup>20</sup> California Code of Regulations, title 5, section 853, subdivision (c), was formerly section 852, subdivision (b). [Section 853, subdivision (c), was amended in February 2004 to allow for testing IEP pupils below grade level for the 2003-04 school year only, and to prohibit it beginning in the 2004-05 school year.]

district coordinator by telephone through August 15 for purposes of resolving discrepancies or inconsistencies in materials or errors in reports.

#### STAR Program District Coordinator

Activities performed by the STAR program district coordinator include, but are not limited to:

Responding to correspondence and inquiries from the publisher in a timely manner and as provided in the publisher's instructions. (Cal. Code Regs., tit. 5, §§ 857, subd. (b), & 886.)

Determining school district and individual school test and test material needs in conjunction with the test publisher, using California Basic Education Data System (CBEDS) and current enrollment data. (Cal. Code Regs., tit. 5, §§ 857, subd. (b), & 886.)

Overseeing the acquisition and distribution of tests and test materials to individual schools and test sites. (Cal. Code Regs., tit. 5, §§ 857, subd. (b), 866, subd. (a), 886, & 896, subd. (a).)

Providing a signed receipt to the test publisher upon receipt of the testing materials. (Cal. Code Regs., tit. 5, §§ 865, subd. (a), & 895, subd. (a).)

Coordinating testing dates and make-up testing dates for the school district. (Cal. Code Regs., tit. 5, §§ 857, subd. (b), & 886.)

Maintaining security over test material and test data. (Cal. Code Regs., tit. 5, §§ 857, subd. (b), & 886.)

Overseeing the administration of the designated achievement test and primary language test, if applicable, to eligible students. (Cal. Code Regs., tit. 5, §§ 857, subd. (b), & 886.)

Overseeing the collection and return of all test materials and tests to the publisher. (Cal. Code Regs., tit. 5, §§ 857, subd. (b), & 886.)

Resolving any discrepancies in the quantity of test and test materials received from and returned to the test publisher. (Cal. Code Regs., tit. 5, §§ 857, subd. (b), 868, 886, & 899.)

Certifying information with respect to the designated achievement test to the California Department of Education within five (5) working days of completed school district testing. (Cal. Code Regs., tit. 5, §§ 857, subd. (c), & 886.)

Preparing, executing, and collecting STAR Test Security Agreements and Affidavits from every person who has access to tests and other test materials. (Cal. Code Regs., tit. 5, §§ 859 & 888.)

Returning test materials, test order data, and enrollment data by grade level to the test publisher. (Cal. Code Regs., tit. 5, § 867.5.)

### STAR Program Test Site Coordinator

Activities performed by the STAR test site coordinator include, but are not limited to:

Determining site test and test material needs. (Cal. Code Regs., tit. 5, §§ 858, subd. (b), & 887.)

Overseeing the acquisition and distribution of tests and test materials at the test site. (Cal. Code Regs., tit. 5, §§ 858, subd. (b), & 887.)

Cooperating with the STAR program district coordinator to provide the testing and make-up testing days for the site. (Cal. Code Regs., tit. 5, §§ 858, subd. (b), & 887.)

Maintaining security over test material and test data. (Cal. Code Regs., tit. 5, §§ 858, subd. (b), & 887.)

Overseeing the administration of the designated achievement test and primary language test, if applicable, to eligible students at the test site. (Cal. Code Regs., tit. 5, §§ 858, subd. (b), & 887.)

Overseeing the collection and return of all testing materials and tests to the STAR program district coordinator. (Cal. Code Regs., tit. 5, §§ 858, subd. (b), & 887.)

Assisting the STAR program district coordinator and the test publisher in resolving any discrepancies in the test information and materials. (Cal. Code Regs., tit. 5, §§ 858, subd. (b), & 887.)

Certifying information to the STAR program district coordinator within three (3) working days of complete site testing. (Cal. Code Regs., tit. 5, §§ 858, subd. (b), & 887.)

Preparing, executing, and collecting STAR Test Security Agreements and Affidavits from every person who has access to tests and other test materials. (Cal. Code Regs., tit. 5, §§ 859 & 888.)

#### D. Test Administration (*Reimbursement period begins January 2, 1998*)

Conducting and monitoring the STAR Program designated achievement and primary language tests given to all pupils in grades 2 through 11, inclusive. (Ed. Code, §§ 60640, subds. (b), (c), 60641, subd. (a); Cal. Code Regs., tit. 5, §§ 851, 853, 855, 880, 882, & 884.)

To the extent that such tests are available, giving an additional test to pupils of limited English proficiency who are enrolled in grades 2 through 11 if the pupil was initially enrolled in any school district less than 12 months before the date that the English language STAR Program test was given. (Ed. Code, § 60640, subd. (g); Cal. Code Regs., tit. 5, § 880, subd. (a).)

Time spent by the classroom teacher during his or her normal classroom hours for test administration is not reimbursable.

E. Reporting and Record Keeping (*Reimbursement period begins January 2, 1998*)

Recording and maintaining individual records of the tests in pupil records. (Ed. Code, §§ 60607, subd. (a) & 60641, subd. (a).)

Preparing and mailing reports of the individual results of the STAR Program tests to the pupils' parents or guardians, to the pupils' schools, and to the pupils' teachers. (Ed. Code, § 60641, subds. (b) & (c); Cal. Code Regs., tit. 5, §§ 863 & 892.)

Reporting the results of the STAR Program tests to the school district governing board or county office of education on a districtwide and school-by-school basis. (Ed. Code, § 60641, subd. (d); Cal. Code Regs., tit. 5, §§ 864 & 893.)

Collecting, collating, and submitting to the Superintendent of Public Instruction the information on the STAR Program apportionment information report. (Ed. Code, § 60640, subd. (j); Cal. Code Regs., tit. 5, §§ 862 & 891.)

Submitting to the California Department of Education whatever information the Department deems necessary to permit the Superintendent of Public Instruction to prepare a report analyzing, on a school-by-school basis, the results and test scores of the STAR Program. (Ed. Code, § 60630, subd. (b); Cal. Code Regs., tit. 5, §§ 861 & 890.)

The cost of materials and supplies used for reports (including, paper and envelopes), the cost of postage for mailing reports to parents, and the cost of computer programming used for reporting purposes is reimbursable under this activity.

Federal Law

Some of the assessment requirements under the STAR program raise issues related to federal law, warranting a summary of federal statutes.

**Improving America's Schools Act of 1994:** The federal government required statewide systems of assessment and accountability for schools and districts participating in the Title I program under the Improving America's Schools Act (IASA) of 1994. Section 1111 (b)(3) of IASA requires all pupils to be assessed "in at least mathematics and reading or language arts" some time during grades 3-5, grades 6-9 and grades 10-12. Section 1111 (a)(1) of the Act states that the requirements apply to states, "desiring to receive a grant under this part." Section 1604 (a) of IASA, under Title I, states, "Nothing in this title shall be construed to authorize ... the Federal Government to mandate, direct, or control a State, local educational agency, or school's specific instructional content or pupil performance standards and assessments, curriculum, or program of instruction as a condition of eligibility to receive funds under this title." Thus, the IASA requirements were conditions on funding.

**No Child Left Behind Act:** In 2002, Congress enacted the NCLB Act to replace the IASA. Under NCLB, annual assessments in mathematics, reading and science are required,<sup>21</sup> and science assessments are required starting in the 2007-2008 school year.<sup>22</sup> States are also required, by school year 2002-2003, to “provide for an annual assessment of English proficiency ...of all students with limited English proficiency...”<sup>23</sup> The assessment system is required, among other things, to “be designed to be valid and accessible for use by the widest possible range of students, including students with disabilities and students with limited English proficiency.”<sup>24</sup> The assessment system, like all the NCLB requirements, is a condition on grant funds.<sup>25</sup> The act’s “penalty” for noncompliance is withholding federal funds.<sup>26</sup>

**Individuals with Disabilities Education Act:** Administering statewide assessments with accommodations to disabled students, and Individualized Education Plans (IEPs) are provided for under the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. § 1400 et. seq.), the purposes of which are as follows:

(1)(A) to ensure that all children with disabilities have available to them a free and appropriate public education that emphasizes special education and related services ... (B) to ensure that the rights of children with disabilities and parents ... are protected; and (C) to assist States, localities, educational services agencies, and Federal agencies to provide for the education of all children with disabilities ...<sup>27</sup>

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<sup>21</sup> Title 20 United States Code section 6311 (b)(3)(A); 34 Code of Federal Regulations part 200.2 (a) (2002). NCLB requires testing pupils in math and reading or language arts not less than once during grades 3-5, grades 6-9, and grades 10-12 (20 U.S.C. § 6311 (b)(3)(C)(v), and the same for science beginning school year 2007-2008 (*Ibid*). It also requires, beginning 2005-2006, assessing pupils in grades 3-8 “against the challenging State academic content and student academic achievement standards” in math and reading or language arts. (20 U.S.C. § 6311 (b)(3)(C)(vii)).

<sup>22</sup> Title 20 United States Code section 6311 (b)(3)(A); 34 Code of Federal Regulations part 200.2 (a) (2002).

<sup>23</sup> Title 20 United States Code section 6311 (b)(7).

<sup>24</sup> 34 Code of Federal Regulations part 200.2 (b)(2) (2002).

<sup>25</sup> Title 20 United States Code section 6311 (a)(1). 20 United States

<sup>26</sup> Title 20 United States Code section 6311 (g)(2). “In addition to these provisions contained in the NCLBA, there are remedies available to the Secretary of Education to take action against a federal funds recipient who fails to comply with legal requirements imposed by a federal education statute, including withholding of funds and conducting proceedings for the recovery of funds and the issuance of cease and desist orders. *See* 20 U.S.C. §§ 1234(a)-(i).” *Associates of Community Organizations for Reform Now v. New York City Department of Education* (2003) 269 F. Supp. 2d 338, 342.

<sup>27</sup> Title 20 United States Code section 1400 (d).



Other purposes of the IDEA include, “early intervention services for infants and toddlers with disabilities ... to ensure that educators and parents have the necessary tools to improve educational results for children with disabilities...and to assess, and ensure the effectiveness of efforts to educate children with disabilities.”<sup>28</sup> Assistance is available to states<sup>29</sup> and local educational agencies<sup>30</sup> that meet specified criteria.<sup>31</sup> IDEA requires that disabled children be “included in general State and district-wide assessment programs, with appropriate accommodations, where necessary”<sup>32</sup> IDEA also provides for the IEP, a document with specified contents that includes (1) measurable annual goals to meet the disabled child’s needs regarding the curriculum and other educational needs, and (2) the special education and aids and services to be provided to the child.<sup>33</sup> The STAR statutes and regulations generally conform to IDEA’s statewide assessment, accommodations, and IEP requirements.<sup>34</sup>

The predecessor to IDEA is the federal Education of the Handicapped Act, which since its 1975 amendments has,

... required recipient states to demonstrate a policy that assures all handicapped children the right to a free appropriate education. (20 U.S.C. § 1412 (a).) The act is not merely a funding statute; rather, it establishes an enforceable substantive right to a free appropriate public education in recipient states [citations omitted]. ... The Supreme Court has noted that Congress intended the act to establish “a basic floor of opportunity that would bring into compliance all school districts with the constitutional right to equal protection with respect to handicapped children.” [Citations omitted.]<sup>35</sup>

In *Hayes v. Commission on State Mandates*, the court held that the Education of the Handicapped Act is a federal mandate.<sup>36</sup> *Hayes* also held,

To the extent the state implemented the act [IDEA] by freely choosing to impose new programs or higher levels of service upon local school districts, the costs of

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<sup>28</sup> *Ibid.*

<sup>29</sup> Title 20 United States Code sections 1411 and 1412.

<sup>30</sup> Title 20 United States Code section 1413.

<sup>31</sup> 34 Code of Federal Regulations part 300.110 (1999).

<sup>32</sup> Title 20 United States Code section 1412 (a)(17); 34 Code of Federal Regulations part 300.138 (1999).

<sup>33</sup> Title 20 United States Code section 1414 (d).

<sup>34</sup> Section 60640, subdivision (e), as originally enacted required reviewing the pupil’s IEP to determine if it contains an express exemption from testing. This section was amended in 2002 (Stats. 2002, ch. 492) to include disabled pupils in testing and add a citation to IDEA. According to the legislative history of Statutes 2002, chapter 492, the purpose of the amendment was to conform the STAR program (and other Education Code provisions) to IDEA.

<sup>35</sup> *Hayes v. Commission on State Mandates* (1992) 11 Cal. App. 4th 1564, 1587.

<sup>36</sup> *Id.* at page 1592.

such programs or higher levels of service are state mandated and subject to subvention.<sup>37</sup>

**Equal Education Opportunities Act:** The Equal Educational Opportunities Act of 1974 (EEOA) (20 U.S.C. § 1701 et seq.) recognizes the state’s role in assuring equal educational opportunity for national origin minority students. It states,

No state shall deny equal educational opportunity to an individual on account of his or her race, color, sex, or national origin by [¶ ... ¶] (f) the failure by an educational agency to take appropriate action to overcome language barriers that impede equal participation by its students in its instructional programs.” (20 U.S.C. § 1703 (f)).

This federal statutory scheme (EEOA) is grounded in constitutional principles of equal protection.<sup>38</sup> Congress included an obligation to address the problem of language barriers in the EEOA, and granted limited English speaking pupils a private right of action to enforce that obligation in Title 20 United States Code section 1706.<sup>39</sup> Federal courts have interpreted section 1703 (f) of the EEOA to require testing students’ English-language skills, as well as standardized testing.<sup>40</sup>

### State Agency Positions

**Department of Finance:** The Department of Finance (DOF), in comments submitted in March 2005, argues that STAR is not a new program.<sup>41</sup> According to DOF, the federal Title I program provisions under 1994’s IASA required statewide assessment systems and accountability for schools and districts participating in the Title I program. DOF states that IASA’s assessment requirements included,

1) the testing of all students in each of three grade spans (grades 3 through 5, 6 through 9, and 10 through 12); 2) the provision of reasonable adaptations and accommodations for students with special learning needs; and 3) that individual student assessment results be provided to parents.

DOF states that STAR was not a new program when it was enacted in 1997, and has most recently evolved to fulfill the NCLB mandates.

DOF notes that NCLB replaced IASA in 2002, and that NCLB requires states to develop a system of assessments that meet specific criteria. According to DOF, section 1111 of NCLB

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<sup>37</sup> *Id.* at page 1594.

<sup>38</sup> *Castaneda v. Pickard* (5th Cir. 1981) 648 F. 2d 989, 999, 1001.

<sup>39</sup> *Id.* at pages 999 and 1009.

<sup>40</sup> *Ibid;* and *Keyes v. School Dist. No. 1* (D. Colo. 1983) 576 F. Supp. 1503.

<sup>41</sup> DOF’s March 2005 comments do not include support by “documentary evidence ... authenticated by declarations under penalty of perjury ... .” (Cal. Code Regs., tit. 2, § 1183.02, subd. (c)(1)). Nor are there citations to line-item budget appropriations. DOF’s comments, however, are not relied on by the Commission, which reaches conclusions based on evidence in the record.

requires each state to implement a single, statewide accountability system to assess the yearly progress of “all public elementary and secondary school students.” DOF states that NCLB requires annual testing specifically in mathematics and reading in grades 3 through 8, and once in grades 9 through 12, and that states must begin to assess students in science beginning in 2005-2006.<sup>42</sup> DOF asserts that, “Without such a system, a state would jeopardize the receipt of approximately \$4.3 billion *annually* in federal NCLB funds. We therefore believe this program is a federal mandate, as defined in Government Code Section 17513 ... and subsection (c) of Government Code Section 17556.” In comments on the draft staff analysis, DOF stated that the state would jeopardize about \$3 billion annually in NCLB funds.

DOF submits amounts from the General Fund and federal funds that have been appropriated to STAR in fiscal years 1998-1999 to 2004-2005. DOF argues that if the Commission disagrees that the program is federally mandated, “state funds provided for the program should first offset against any costs resulting from the activities found by the Commission to be state-mandated in excess of the federal statute.”

DOF argues that the Commission’s Statement of Decision on the original test claim makes no reference to IASA or NCLB, or how implementation of STAR interacts with federal law, so that “any STAR mandates should be adjusted to reflect federal testing requirements under IASA and NCLB.” DOF further argues that IASA’s assessment requirement was a mandate on local school districts, “the Title I assessment requirement could be satisfied through a system of local assessments that met federal standards. These local assessments would be developed or purchased by each district.” DOF asserts that the state, by enacting STAR, actually reduced districts’ costs, “by directly paying for Title I required assessments, achieving economies of scale, and providing apportionments to districts based on the number of students tested. ... [T]he state relieved districts of the cost of purchasing or developing a qualifying local assessment.”

DOF again asserts its belief that NCLB is a federal mandate, but if the Commission does not agree, DOF urges recognizing federal Title I funds as “offsetting revenue.” According to DOF, “Without the state’s action to identify an assessment that meets NCLB, no district in California would be eligible for Title I funds. As a result, we think the Commission has to either find that NCLB is a federal mandate *or* that Title I funds count as an offsetting revenue.”

DOF’s May 2005 written comments disagree with the findings in the draft staff analysis that (1) STAR is not a federal mandate and imposes reimbursable state-mandated activities;<sup>43</sup> (2) Federal funds provided under NCLB should not be counted as offsetting revenues;<sup>44</sup> and

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<sup>42</sup> Science assessments are actually required starting in 2007-08 (20 U.S.C. § 6311 (b)(3)(A); 34 C.F.R. § 200.2 (a) (2002)), but developing academic standards for science is required by 2005-06 (34 C.F.R. § 200.1(a)(3) & (b)(3)).

<sup>43</sup> To clarify, the finding in the draft staff analysis was that there was insufficient evidence in the record to conclude NCLB or IASA are federal mandates.

<sup>44</sup> To clarify, the finding is that there is no requirement for using federal funds to offset STAR.

(3) the Commission’s decision on this reconsideration should be effective July 1, 2004. DOF repeated these arguments at the May 26, 2005 STAR hearing.<sup>45</sup>

DOF submitted comments on June 9, 2005, concluding that Title I funds are provided for school districts to utilize for the STAR program, the central element of the state’s assessment and accountability system. According to DOF, without STAR, California would be out of compliance with NCLB and would jeopardize its receipt of federal Title I funds. DOF also argues that funds under Title VI of NCLB (that provides grants for state assessments and standards) are provided for the STAR program. DOF points to language in the 2004 State Budget Act (Stats. 2004, ch. 208), under the appropriation of Title VI funds to “local assistance,” that requires school districts to use the money “to reduce their estimated and actual mandate reimbursement claims by the amount of funding provided to them from these schedules.”<sup>46</sup>

DOF’s June 2005 comments also include amounts of state budgeted funds for STAR from 1997-2005. Further, DOF submitted information on how the U.S. Department of Education (USDE) had penalized Minnesota and Texas for not complying with provisions of NCLB.

In comments submitted in July 2005 on the revised staff analysis, DOF repeats its belief that the Legislature intended for the Commission’s reconsideration decision to be retroactive (“to apply to all district claims, regardless of timing”), as indicated by the fact that no funds were appropriated for STAR. As to Title VI offsets discussed below, DOF suggests that the offsets apply retroactively to all previously submitted claims. According to DOF, apportionment amounts from 1997 to 2005 must be considered as offsetting revenues. Finally, DOF disagrees that designation of a STAR Program district or test site coordinator should remain a reimbursable activity.

**Legislative Analyst’s Office:** The Legislative Analyst’s Office (LAO), in its publication *New Mandates: Analysis of Measures Requiring Reimbursement* (December 2003),<sup>47</sup> reviews 23 Commission mandate decisions, including STAR. LAO asserts that the STAR statewide cost estimate was based on faulty district claims that were not subject to review or audit before developing the cost estimate. LAO states that based on its review, school districts often failed to recognize state apportionments for STAR as offsetting revenue. According to LAO:

In part, this problem may have been caused by the commission's Ps&Gs, which, in our view, inappropriately narrow the activities against which state funds should apply as offsetting revenues. Most glaringly, the guidelines omit the cost of

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<sup>45</sup> Commission on State Mandates, Public Hearing, Transcript of Proceedings, May 26, 2005, pages 32-34.

<sup>46</sup> Statutes 2004, chapter 208, Item 6110-113-0890, Schedule 2, Provision 11. DOF states that Item 6110-113-0001 of the 2004 budget act, containing the General Fund local assistance appropriations, includes an identical provision that also applies to STAR (Stats. 2004, ch. 208, Item 6110-113-0001, Schedule 3, Provision 8).

<sup>47</sup> See <[http://www.lao.ca.gov/2003/state\\_mandates/state\\_mandates\\_1203.html](http://www.lao.ca.gov/2003/state_mandates/state_mandates_1203.html)> as of February 15, 2005.

printing, shipping, and scoring the tests from the list of costs that districts must offset with state funds.<sup>48</sup>

The LAO also states that the STAR program was enacted, in part, to bring California into compliance with the Title I program of the Improving America's Schools Act of 1994 (IASA) in which the federal government requires statewide assessments and systems of accountability for participating schools and districts. The LAO points out that IASA requires tests in language arts and mathematics for all pupils in one grade in each of three grade spans (grades 3-5, 6-9, and 10-12). IASA also requires reasonable accommodations and adaptations for pupils with special learning needs, and special education pupils. Also, some Title I schools are required to provide individual test results to parents. IASA was replaced by the federal NCLB Act in 2002, which according to LAO requires annual testing in mathematics and reading in grades 3 through 8, and once in grades 9 through 12, and science assessments starting in 2005-06.<sup>49</sup>

The LAO asserts that the Commission's STAR decision does not mention the IASA testing requirements. As LAO argues:

Our review suggests the federal assessment mandates contained in IASA and NCLB should render a significant portion of the STAR mandate costs ineligible for reimbursement. Because the three IASA-mandated tests constitute about one-third of the state-mandated STAR tests, mandated costs should fall by at least that proportion. We would expect the proportion to be higher than that, however, because a number of the activities identified as reimbursable must be done by local agencies regardless of the number of grades tested. For instance, each district would need a test coordinator regardless of whether three grades or ten grades were tested. Our review also indicates that some costs identified by the commission as state reimbursable, such as testing procedures for special education students and providing student test results to parents in certain Title I schools, are the result of federal requirements and therefore not state reimbursable. In addition, because NCLB testing mandates more closely mirror the STAR program, the number of reimbursable activities related to STAR mandates would be even fewer.

In its comments on the draft staff analysis, LAO asserts that (1) NCLB is a federal mandate; (2) that federal Title I funds should be used to offset the mandate, should the Commission find that the STAR program does not constitute a mandate under NCLB; and (3) that the effective date of the reconsideration decision should be apply to "past and future district claims on the mandate."<sup>50</sup>

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<sup>48</sup> *Ibid.*

<sup>49</sup> Science assessments are actually required starting in 2007-08 (20 U.S.C. § 6311 (b)(3)(A); 34 C.F.R. § 200.2 (a) (2002)), but developing academic standards for science is required by 2005-06 (34 C.F.R. § 200.1(a)(3) & (b)(3)).

<sup>50</sup> LAO's comments do not include support by "documentary evidence ... authenticated by declarations under penalty of perjury ... ." (Cal. Code Regs., tit. 2, § 1183.02, subd. (c)(1).)

**California Department of Education:** The California Department of Education (CDE), in testimony at the May 26, 2005 hearing, asserted that NCLB and its predecessors (IASA or the Elementary and Secondary Education Act (ESEA)) are federal mandates because CDE does not feel it has a choice in whether or not to meet the NCLB requirements. CDE testified that STAR has evolved from a system that was initially set up to meet the requirements of IASA or ESEA, which had less stringent requirements than NCLB. This means that additional activities and tests have been added. CDE states that it has evolved the STAR system to meet the minimum requirements of NCLB. According to CDE, it operates in an environment of compulsion and coercion from the federal government, as demonstrated by recent discussions between CDE and the USDE over a “fairly minor definitional issue related to categorizing schools as program-improvement schools under NCLB.” CDE testified that the USDE told the state, “If you don't change this definition, you will lose, initially, 25 percent -- up to 25 percent of your administrative funds under NCLB, and you will be at risk of losing the entire federal grant.” CDE further testified that federal grants under NCLB total \$3 billion, or close to eight percent of total state educational funding, which in CDE's opinion represents significant coercion.<sup>51</sup>

In follow-up correspondence dated June 9, 2005, CDE submits a declaration that NCLB imposes a federal mandate on California, that the USDE uses sanctions, fines, and penalties (or the threat thereof) to compel and coerce states into full compliance with the requirements of NCLB, including the testing requirements of California's STAR program. CDE states that in order to receive the more than \$3 billion in federal funds under NCLB, California is required to implement a statewide accountability system, of which STAR is the primary component, that is effective in every district and that ensures all public elementary and secondary schools make adequate yearly progress in meeting academic goals as defined by NCLB. CDE states that noncompliance with NCLB leads to fiscal penalties imposed or threatened by the USDE, ranging from fines taken against state administrative funding to the full loss of NCLB grant funding. CDE includes correspondence from USDE to Minnesota and Texas regarding withholding of Title I, Part A state administrative funds (10% for MN, 4% for TX) for failure to implement aspects of NCLB. CDE also includes a report and letter from USDE regarding CDE's implementation of various NCLB programs, that included a statement that USDE reserves its option to withhold funds for failure to comply. CDE further attaches correspondence from CDE to USDE requesting a waiver for testing English-learner pupil's reading and writing skills in kindergarten and first grade, and USDE's denial of the waiver request.

CDE's June 9, 2005 filing also includes a letter from USDE to all Chief State School Officers, stating that if the state's system of standards and assessment is not approved, USDE can choose from any one or more of three remedies: withholding state funds pursuant to section 1111 (g)(2) of NCLB, a compliance agreement, and/or mandatory oversight status. In the same letter, USDE also states, “Further, if a State's standards and assessment system does not have *Full Approval* or *Full Approval with Recommendations* by July 1, 2006, we will place conditions on the receipt of fiscal year 2006 Title I funding. These condition will continue until *Full Approval* or *Full Approval with Recommendation* is attained.”

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<sup>51</sup> Commission on State Mandates, Public Hearing, Transcript of Proceedings, May 26, 2005, pages 30-32.

As a result of a Commission request for further information, CDE submits the following in a declaration on June 20, 2005:

Of the \$3.012 billion in state level NCLB grants allocated to California for fiscal year 2004-05, \$109 million is allowable for State Administration purposes. These State Administration funds are allowed to ensure that California meets the requirements of NCLB and fully administers the NCLB programs funded by the remaining \$2.9 billion in the state's NCLB grants.

In comments submitted in July 2005 on the revised staff analysis, CDE generally concurs with the determination that NCLB imposes a federal mandate, but asks that clarifying information be included. CDE states that the conclusion in the revised staff analysis "holds both conceptual and technical difficulties" because it separates "the STAR Program by examination and grade level." CDE's accompanying declaration specifies, for the most part, activities for the CAT/6 exam that require no activities beyond what school districts already do for the rest of the STAR Program.

### **School District Positions**

**San Diego Unified School District:** San Diego Unified School District (SDUSD), the original claimant of 97-TC-23, submitted comments on the reconsideration in February 2005. SDUSD states that school districts have and will incur costs for various activities as listed in the parameters and guidelines above. SDUSD also asserts that while state funds are appropriated for the STAR program, no funds were appropriated by the test claim statute for reimbursement of mandated cost claims in excess of the amount provided by the state. "The state funds currently appropriated fall dramatically short in relation to the costs incurred by school districts throughout the state." SDUSD asserts that the period of reimbursement for the Commission's decision "shall be prospectively from the date of the statement of decision."

In its rebuttal brief, SDUSD argues that California freely chose to impose new programs or higher levels of service upon local districts subjecting those costs to subvention requirements. SDUSD cites the rule in *Hayes v. Commission on State Mandates*<sup>52</sup> that if the state freely chooses to impose costs as a means of implementing a federal program then the costs are reimbursable. According to SDUSD, the *Hayes* court dismissed the federal mandate argument raised by DOF, stating, "The state could not avoid its subvention responsibility by pleading 'federal mandate' because the federal statute does not require the state to impose the costs of such hearings upon local agencies. Thus, the burden is imposed by a state rather than federal mandate." (Citation omitted.) SDUSD also states that "the fact that NCLB extends to all schools and is not limited to the former IASA Title I sites [demonstrates that it] is a requirement of the state not the local districts." SDUSD calls the General Fund appropriation for STAR "a setoff for districts filing reimbursement claims." SDUSD states there is no basis to the argument that Title I funds be considered as offsetting revenue.

A declaration from SDUSD's Program Manager of the Testing Unit disagrees with the LAO's position that "the three IASA-mandated tests constitute about one-third of the state-mandated STAR test" and that "mandated costs should fall by at least that proportion." SDUSD argues that LAO is only considering the number of grades that must be tested (3 for IASA versus 10 for

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<sup>52</sup> *Hayes v. Commission on State Mandates, supra*, 11 Cal. App. 4th 1564.

STAR), but does not consider the number of tests required for each grade level. According to SDUSD, IASA only required a standardized test in mathematics and reading/language arts. STAR requires CSTs in Science, Writing, and History-Social Science, and the CAT/6. SDUSD asserts that there are 59 grade/subject tests required by the STAR mandate, only one-sixth of which are federally mandated under the IASA. Thus, SDUSD concludes that LAO's estimate of one-third is too high, and should be closer to 10 percent (6/59). SDUSD also notes the requirement of the SABLE/2 test (Spanish language) for all English learners in grades 2 through 11. SDUSD states that in Spring 2004, about 5000 of its 102,000 pupils took the SABLE/2. As to NCLB, SDUSD asserts that of the 59 grade/subject tests required by the STAR mandate, only fourteen are federally mandated under NCLB. Thus, the SDUSD estimate for possible offsets to STAR is only 24 percent (14/59) starting in 2002, and less when the SABLE/2 is factored in.

Commenting on the draft staff analysis, and in testimony at the May 26, 2005 Commission hearing, SDUSD disagrees with the analysis that EEOA is a federal mandate for testing English-learner pupils. These comments are addressed below.

In comments submitted in July 2005 on the revised staff analysis, SDUSD states that documents submitted by CDE are unsuccessful in proving whether NCLB constitutes a federal mandate based on the threat of certain and severe penalties. SDUSD argues that the documents show that only two states (of fifty) received nominal fines for noncompliance, and that CDE's declaration "fails to identify specifically the severe and certain penalties directly related to the USDE's recommendation and findings to the state of California." SDUSD asserts that the fines on Minnesota and Texas are not severe and certain penalties, and that the fines fail to meet the criteria set by the courts of an intent to coerce. SDUSD also points out that CDE staff was complimented by USDE on efforts to implement NCLB, indicating the lack of the threat of severe and certain penalties. Based on these arguments, SDUSD concludes that staff erred in concluding NCLB is a federal mandate.

**Grant Joint Union High School District:** Grant Joint Union High School District (GJUHSD), in its July 7, 2005 rebuttal to the revised staff analysis, disputes the application of several of CDE's documents. GJUHSD argues that the conclusion regarding implementation of NCLB is irrelevant to the first factor in *City of Sacramento* because the factor only addresses an intent to coerce, not implementation of the federal statute. GJUHSD goes on to argue that the portions of NCLB to which staff cites indicate no intent to coerce. GJUHSD refutes the CDE-submitted letter to the Minnesota Department of Education, arguing that because the penalty was based on failure to use academic assessments as the primary determinants of adequate yearly progress, it is impossible to determine, without further evidence, if the situation faced by Minnesota would be the same in California for failure to administer the STAR test. As to the CDE-submitted letter to Texas, GJUHSD also argues that the penalty on Texas is irrelevant without more evidence, and urges that the documents to Texas and Minnesota not be considered in the reconsideration. As to the report and letter from USDE regarding implementation of NCLB, GJUHSD urges citations to the record to justify the conclusions,<sup>53</sup> but argues that any information in the USDE letter and

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<sup>53</sup> The revised staff analysis noted in the USDE letter the following, "Moreover, ED reserves its option to take further administrative actions, including the withholding of funds." (Exhibit F, p. 1237). The context was CDE's alleged failure to identify a school district for improvement if the district failed to make adequate yearly progress for two consecutive years.



report are irrelevant anyway because CDE's response is not in the record. CDE's response is necessary, according to GJUHSD, because the focus is on a tangible, real penalty. GJUHSD contends that the USDE report, which indicated 27 findings of California's noncompliance with NCLB and that made recommendations, does not indicate any penalties were applied. GJUHSD argues that the state has been given ample opportunity to comply with NCLB and USDE has yet to threaten a single sanction or penalty. As to the CDE-submitted letter in which USDE denied the state a waiver of for testing English-learner pupils' reading and writing skills in kindergarten and first grade, GJUHSD asserts that the existence of a waiver process belies the existence of certain and severe penalties. GJUHSD also argues that simply having a penalty available does not make imposing the penalty certain and severe.

GJUHSD further comments on the January 15, 2005 letter from USDE to all Chief State School Officers, and that the USDE penalty for not assessing pupils amounts to \$109 million of funds for state administration. According to GJUHSD, there is no evidence in the record that supports that the financial penalty would be assessed over non-financial penalties, as California has yet to experience penalties. GJUHSD contends that California is currently not in compliance with the NCLB and has not been threatened with any sort of penalty from USDE, so a finding of a certain or severe penalty is not supported in the record.

As to the loss of state administrative funds, GJUHSD argues that the loss does not rise to the level of severe because at \$109 million, it amounts to only 3.6 percent of federal funds received under Title I, meaning that California would still receive 96.4 percent of its Title I funds, or \$2.9 billion. GJUHSD also asserts that placing conditions on receipt of federal NCLB funds is irrelevant as to the certainty and severity of the penalty. And GJUHSD states that the fact that the USDE letter states it "may" put conditions on Title I funds makes the conditions far from certain. As to the penalty on Minnesota, GJUHSD asserts that there is nothing in the record that the situation that applied in Minnesota applies in California, and that the penalty Minnesota received, 10 percent of its state administrative funds, would amount to only \$10.9 million in California. GJUHSD also assaults CDE's declaration and hearing testimony, asserting that it is irrelevant and does not go to the ultimate issue – whether there is a penalty for withdrawal or noncompliance. GJUHSD also argues that "other documents and testimony" upon which the staff analysis relies are not specified in the record.

As to the final *City of Sacramento* factor of other consequences for noncompliance, GJUHSD requests an affirmative statement as to whether other consequences exist.

As to the analysis of the *Hayes* decision, GJUHSD argues that the state has a true choice concerning the imposition of the STAR program on school districts. GJUHSD also criticizes the analysis for being incomplete because it only concerns the CAT/6 exam and not the remainder of the STAR program.

## COMMISSION FINDINGS

The courts have found that article XIII B, section 6 of the California Constitution<sup>54</sup> recognizes the state constitutional restrictions on the powers of local government to tax and spend.<sup>55</sup> “Its purpose is to preclude the state from shifting financial responsibility for carrying out governmental functions to local agencies, which are ‘ill equipped’ to assume increased financial responsibilities because of the taxing and spending limitations that articles XIII A and XIII B impose.”<sup>56</sup> A test claim statute or executive order may impose a reimbursable state-mandated program if it orders or commands a local agency or school district to engage in an activity or task.<sup>57</sup>

In addition, the required activity or task must be new, constituting a “new program,” or it must create a “higher level of service” over the previously required level of service.<sup>58</sup>

The courts have defined a “program” subject to article XIII B, section 6, of the California Constitution, as one that carries out the governmental function of providing public services, or a law that imposes unique requirements on local agencies or school districts to implement a state policy, but does not apply generally to all residents and entities in the state.<sup>59</sup> To determine if the program is new or imposes a higher level of service, the test claim legislation must be compared with the legal requirements in effect immediately before the enactment of the test

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<sup>54</sup> Article XIII B, section 6, subdivision (a), (as amended by Proposition 1A in November 2004) provides:

(a) Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the State shall provide a subvention of funds to reimburse that local government for the costs of the program or increased level of service, except that the Legislature may, but need not, provide a subvention of funds for the following mandates: (1) Legislative mandates requested by the local agency affected. (2) Legislation defining a new crime or changing an existing definition of a crime. (3) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975.

<sup>55</sup> *Department of Finance v. Commission on State Mandates (Kern High School Dist.)* (2003) 30 Cal.4th 727, 735.

<sup>56</sup> *County of San Diego v. State of California (County of San Diego)*(1997) 15 Cal.4th 68, 81.

<sup>57</sup> *Long Beach Unified School Dist. v. State of California* (1990) 225 Cal.App.3d 155, 174.

<sup>58</sup> *San Diego Unified School Dist. v. Commission on State Mandates* (2004) 33 Cal.4th 859, 878 (*San Diego Unified School Dist.*); *Lucia Mar Unified School District v. Honig* (1988) 44 Cal.3d 830, 835-836 (*Lucia Mar*).

<sup>59</sup> *San Diego Unified School Dist., supra*, 33 Cal.4th 859, 874, (reaffirming the test set out in *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56; *Lucia Mar, supra*, 44 Cal.3d 830, 835.)

claim legislation.<sup>60</sup> A “higher level of service” occurs when the new “requirements were intended to provide an enhanced service to the public.”<sup>61</sup>

Finally, the newly required activity or increased level of service must impose costs mandated by the state.<sup>62</sup> -

The Commission is vested with exclusive authority to adjudicate disputes over the existence of state-mandated programs within the meaning of article XIII B, section 6.<sup>63</sup> In making its decisions, the Commission must strictly construe article XIII B, section 6 and not apply it as an “equitable remedy to cure the perceived unfairness resulting from political decisions on funding priorities.”<sup>64</sup>

### **Issue 1: What is the scope of the Commission’s jurisdiction directed by Senate Bill 1108 and Assembly Bill 2855?**

#### Statutes reconsidered

Statutes 2004, chapter 216, section 34 (Sen. Bill No. 1108, eff. Aug. 11, 2004), and Statutes 2004, chapter 895, section 19 (Assem. Bill No. 2855, eff. Jan. 1, 2005), hereafter referred to as “the reconsideration statutes,” require the Commission on State Mandates, “notwithstanding any other provision of law” to “reconsider its decision in 97-TC-23 ... pursuant to Section 6 of Article XIII B of the California Constitution *for each of the following statutes* in light of federal statutes enacted and state court decisions rendered since these statutes were enacted: (a) Chapter 975 of the Statutes of 1995. (b) Chapter 828 of the Statutes of 1997. (c) Chapter 576 of the Statutes of 2000. (d) Chapter 722 of the Statutes of 2001.”<sup>65</sup> [Emphasis added.]

There is only one Commission decision on STAR, 97-TC-23, which is limited to Statutes 1997, chapter 828. The issue, therefore, is whether the reconsideration statutes expand the Commission’s jurisdiction to the other statutes listed (Stats. 1995, ch. 975, Stats. 2000, ch. 576, and Stats. 2001, ch. 722).

Administrative agencies, such as the Commission, are entities of limited jurisdiction that have only the powers that have been conferred on them, expressly or by implication, by statute or constitution.<sup>66</sup> An administrative agency may not substitute its judgment for that of the

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<sup>60</sup> *San Diego Unified School Dist.*, *supra*, 33 Cal.4th 859, 878; *Lucia Mar*, *supra*, 44 Cal.3d 830, 835.

<sup>61</sup> *San Diego Unified School Dist.*, *supra*, 33 Cal.4th 859, 878.

<sup>62</sup> *County of Fresno v. State of California* (1991) 53 Cal.3d 482, 487; *County of Sonoma v. Commission on State Mandates* (2000) 84 Cal.App.4th 1265, 1284 (*County of Sonoma*); Government Code sections 17514 and 17556.

<sup>63</sup> *Kinlaw v. State of California* (1991) 54 Cal.3d 326, 331-334; Government Code sections 17551, 17552.

<sup>64</sup> *County of Sonoma*, *supra*, 84 Cal.App.4th 1265, 1280, citing *City of San Jose v. State of California* (1996) 45 Cal.App.4th 1802, 1817.

<sup>65</sup> In Assembly Bill 2855, section 19, the order of subdivisions (c) and (d) are reversed.

<sup>66</sup> *Ferdig v. State Personnel Board* (1969) 71 Cal.2d 96, 103-104.

Legislature. When an administrative agency acts in excess of the powers conferred upon it by statute or constitution, its action is void.<sup>67</sup>

Government Code section 17559 grants the Commission authority to reconsider its prior final decisions only within 30 days after the Statement of Decision is issued. But in this case, the Commission's jurisdiction is based solely on the reconsideration statutes. Absent those, the Commission would have no jurisdiction to reconsider its decision relating to the STAR program.

The Government Code gives the Commission jurisdiction only over those statutes and/or executive orders pled by the claimant in the test claim.<sup>68</sup> The Commission does not have the authority to approve or deny a claim for reimbursement on statutes or executive orders that have not been pled by the claimant. The language of the reconsideration statutes, Senate Bill 1108 and Assembly Bill 2855, does not change this.

The reconsideration statutes reference test claim 97-TC-23, the STAR decision. The STAR decision in 97-TC-23 only addresses Statutes 1997, chapter 828 (consisting of the national norm reference test, or CAT/6 and the language test, or SABE/2). The reconsideration statutes cannot be read to expand the STAR test claim because there are no Commission decisions or parameters and guidelines for the other statutes named: Statutes 1995, chapter 975, Statutes 2000, chapter 576, or Statutes 2001, chapter 722. The Commission cannot "reconsider" parameters and guidelines for statutes it has never considered and for which it never issued parameters and guidelines. Therefore, this analysis does not apply to amendments to the STAR test claim statutes before or after Statutes 1997, chapter 828. Rather, the Commission finds that its jurisdiction is limited to Statutes 1997, chapter 828, the original test claim statute. In other words, the Commission's jurisdiction does not go beyond the national norm reference test, or CAT/6 and the language test, or SABE/2, effected by Statutes 1997, chapter 828.

Also, in the original Statement of Decision and parameters and guidelines, the Commission found that Education Code section 60615 contained a reimbursable activity for: "Processing requests for exemption from testing filed by parents and guardians." Section 60615, however, was not added or amended by the test claim statute. Rather, it was added by Statutes 1995, chapter 975. And even though claimant did not plead Statutes 1995, chapter 975 in the test claim, claimant did plead section 60615. Therefore, the Commission finds that it properly took jurisdiction over section 60615.

### Regulations reconsidered

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<sup>67</sup> *Ibid.*

<sup>68</sup> The Commission's powers are statutorily limited. Government Code section 17551 requires the Commission to hear and decide on a claim by a local agency or school district that the local agency or school district is entitled to reimbursement pursuant to article XIII B, section 6 of the California Constitution. Section 17521 defines test claim as "the first claim filed with the Commission alleging that a particular statute or executive order imposes costs mandated by the state."

Although the reconsideration statutes make no mention of the STAR regulations, the original STAR test claim statute, to which this reconsideration is directed, referred to regulations.<sup>69</sup> Therefore, the Commission finds that it has jurisdiction to reconsider the regulations to the STAR program that were originally included in the STAR decision and parameters and guidelines (97-TC-23).<sup>70</sup>

The Commission does not have jurisdiction over regulations enacted since adoption of the Statement of Decision or parameters and guidelines, or which the Commission never considered, such as: California Code of Regulations, title 5, sections 853.5 (Use of Variations, Accommodations, and Modifications for the Standards-Based Achievement Test and the California Alternative Performance Assessment), 864.5 (Test Order Information), 867.5 (Retrieval of Materials by Publisher), 894 (Test Order Information), and 898 (Retrieval of Materials by Publisher).

#### Effective date of reconsideration

The parameters and guidelines for the STAR program were adopted in January 2002, with a reimbursement period beginning October 10, 1997 (the effective date of the test claim statute). Neither of the two reconsideration statutes, however, specifies the period of reimbursement for the Commission's decision on reconsideration. Moreover, the two reconsideration statutes have different effective dates. Senate Bill 1108, a budget trailer bill, was effective August 11, 2004, and Assembly Bill 2855 (chaptered Sept. 29, 2004) was effective January 1, 2005. Thus, the first issue is which of these reconsideration statutes takes precedence, since one that prevails controls the effective date of this reconsideration.

The Commission finds that Senate Bill 1108, section 34 takes precedence over Assembly Bill 2855, section 19. Government Code section 9605 states that provisions of an amended statute that are left unchanged, "are to be considered as having been the law from the time when they were enacted." Thus, Senate Bill 1108 is considered to be the law from August 11, 2004 (its effective date) since section 34 of Senate Bill 1108 was left unchanged by Assembly Bill 2855 (chaptered on Sept. 29, 2004). Although Government Code section 9605 also states that, where two statutes are enacted during the same session, the statute with the higher chapter number will prevail, this rule only applies where the statutes are in conflict.<sup>71</sup> Therefore, since the two reconsideration statutes do not conflict, Senate Bill 1108, the urgency statute effective August 11, 2004, prevails over Assembly Bill 2855, the non-urgency statute effective January 1, 2005, even though Assembly Bill 2855 was enacted seven weeks later and had a higher chapter number.

The second issue is whether the Legislature intended to apply the Commission's STAR reconsideration decision retroactively back to the original reimbursement period of

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<sup>69</sup> Education Code sections 60608 and 60605, subdivision (f).

<sup>70</sup> In addition to the STAR statutes, the Statement of Decision was based on California Code of Regulations, title 5, sections 850-874. In the parameters and guidelines, the Commission found that the regulations for the primary language test were renumbered to sections 880-904, but the change was not substantive. Thus, the regulations reconsidered are sections 850-904.

<sup>71</sup> *In re Thierry S.* (1977) 19 Cal. 3d 727, 745.

October 10, 1997 (i.e., to reimbursement claims that have already been filed and have been paid or audited), or to prospective claims filed in the current and future budget years.

The LAO, in comments on the draft staff analysis, argues that the Legislature intended that changes to the Commission's previous findings on STAR should affect past and future district claims on the mandate. LAO states that the Legislature directed the LAO to evaluate newly completed mandate claims, which culminated in the 2003 report *New Mandates: Analysis of Measures Requiring Reimbursement*. LAO argues that by the Legislature approving LAO's recommendation for the Commission to reconsider the STAR decision, the Legislature, "signaled that it has not formally approved the commission's past work on the STAR mandate and, therefore, does not recognize the validity of the Parameters and Guidelines developed for the mandate."<sup>72</sup> Thus, LAO believes the Legislature intends that changes to the Commission's previous findings apply prospectively and retroactively. DOF's comments on the draft staff analysis and at the May 26, 2005 hearing echo this assertion.

The Commission disagrees. For the reasons below, the Commission finds the Legislature intended for the Commission's decision on reconsideration to apply prospectively, to the current and future budget years only.

A statute may be applied retroactively only if the statute contains "express language of retroactively [sic] or if other sources provide a clear and unavoidable implication that the Legislature intended retroactive application."<sup>73</sup> In *McClung v. Employment Development Department*, the California Supreme court explained this rule as follows:

"Generally, statutes operate prospectively only." [Citation omitted.] "[T]he presumption against retroactive legislation is deeply rooted in our jurisprudence, and embodies a legal doctrine centuries older than our Republic. Elementary considerations of fairness dictate that individuals should have an opportunity to know what the law is and to conform their conduct accordingly ... For that reason, the 'principle that the legal effect of conduct should ordinarily be assessed under the law that existed when the conduct took place has timeless and universal appeal.'" [Citation omitted.] "The presumption against statutory retroactivity has consistently been explained by reference to the unfairness of imposing new burdens on persons after the fact." [Citation omitted.]

This is not to say that a statute may never apply retroactively. "A statute's retroactivity is, *in the first instance*, a policy determination for the Legislature and one to which courts defer absent 'some constitutional objection' to retroactivity." [Citation omitted.] But it has long been established that a statute that interferes with antecedent rights will not operate retroactively unless such retroactivity be "the unequivocal and inflexible import of the terms, and the manifest intention of the legislature." [Citation omitted.] "A statute may be applied retroactively only if it contains express language of retroactively [sic] or

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<sup>72</sup> Legislative Analyst's Office, comments submitted May 9, 2005 (Exhibit D).

<sup>73</sup> *McClung v. Employment Development Department* (2004) 34 Cal.4th 467, 475.

*if other sources provide a clear and unavoidable implication that the Legislature intended retroactive application.” [Citation omitted.] [Emphasis added.]*<sup>74</sup>

There is nothing in the plain language of the reconsideration statutes or their legislative histories to indicate that the Legislature intended to apply the Commission’s reconsideration of the STAR decision retroactively. Section 42 of Senate Bill 1108 states that the act was necessary to implement the Budget Act of 2004. This supports the conclusion that the statute was intended to apply prospectively to the current and future budget years. Similarly, the legislative history contained in the analysis of the Senate Rules Committee supports the conclusion that the statute applies to current and future budget years only. Page one of the analysis states, “This bill makes changes to a variety of education-related statutes *in order to effectuate the changes included as part of the proposed 2004-05 Budget Act.*”<sup>75</sup> [Emphasis added.]

Based on the *McClung* case cited above, had the Legislature intended to apply the Commission’s reconsideration decision retroactively, the Legislature would have included retroactive language in the bill, or indicated such intent in the legislative history or other sources. The Commission finds no support in the record nor in the reconsideration statutes for LAO’s and DOF’s contention that the Legislature intended the reconsideration decision to apply to past and future district claims.

At the hearing on May 26, 2005, DOF inquired as to whether the fact that the Legislature and the Administration has never provided funding to implement the previous STAR mandate decision has any bearing on whether or not the reimbursement period should be applied retroactively.<sup>76</sup> LAO also stated that this lack of appropriation for STAR should indicate legislative intent.<sup>77</sup>

Lack of funding, however, is not an indication of legislative intent. SDUSD pointed out at the May 26, 2005 hearing that many mandates have not been funded, but this was not evidence that a reconsideration of them should apply retroactively. Moreover, another reconsideration statute, Statutes 2004, chapter 227, did indicate an effective date for the reconsideration. That statute, which directs the Commission to reconsider Board of Control decisions on regional housing mandates, states “[a]ny changes by the commission shall be deemed effective July 1, 2004.”<sup>78</sup> In contrast, the fact that no effective date was expressed in the reconsideration statutes for STAR means there is no legislative intent for the reconsideration to apply retroactively.<sup>79</sup> In addition, the California Supreme Court addressed the issue of whether the Legislature, by inaction, approved court decisions invalidating apportioning attorney fees for injured workers between the

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<sup>74</sup> *Ibid.*

<sup>75</sup> Senate Rules Committee, Office of Senate Floor Analyses, Analysis of Senate Bill 1108 (2003-2004 Reg. Sess.) as amended July 27, 2004, page 1.

<sup>76</sup> Commission on State Mandates, Public Hearing, Transcript of Proceedings, May 26, 2005, page 54.

<sup>77</sup> *Id.* at pages 65-66.

<sup>78</sup> Statutes 2004, chapter 227, section 109.

<sup>79</sup> Commission on State Mandates, Public Hearing, Transcript of Proceedings, May 26, 2005, pages 67.

worker and the employer. In commenting on the irrelevance of legislative inaction (stating that it presented no obstacles to resolution of the dispute), the court declared that for purposes of determining legislative intent, “[L]egislative inaction is indeed a slim reed upon which to lean.”<sup>80</sup> Like the court, the Commission does not rely on legislative inaction, such as lack of appropriations in this case, as evidence of legislative intent.

Thus, absent evidence of legislative intent, the Commission finds that the period of reimbursement for the STAR reconsideration decision begins July 1, 2004 (i.e., it applies to reimbursement claims filed for the 2004-05 fiscal year).

## **Issue 2: Is the STAR program subject to article XIII B, section 6 of the California Constitution?**

### **A. Is the STAR national norm-referenced test federally mandated?**

The issue, raised by DOF and LAO, is whether IASA<sup>81</sup> or NCLB is a federal mandate. If a program is a federal mandate on school districts, subvention under article XIII B, section 6 is not required because the mandate’s costs are exempt from the school district’s taxing and spending limitations.<sup>82</sup> The Commission finds, for the reasons indicated below, that it is not relevant whether IASA or NCLB are federal mandates because even if they were found to be, the CAT/6, (or any national norm-referenced exam) is not required by NCLB. Therefore, finding that NCLB is a federal mandate is unnecessary because the national norm-referenced exam is required only under California law.

As noted above, the original test claim only analyzed the CAT/6 and SABE/2 exams in the STAR program (the SABE/2 is discussed later). As to the CAT/6, starting in the 2004-2005 school year, it is only administered in grades 3 and 7.<sup>83</sup> Although California uses other exams that are administered in grades 2-11 to comply with NCLB,<sup>84</sup> those tests were not part of the original Statement of Decision and therefore are not part of this reconsideration.

NCLB requires a test once during grades 3 through 5, 6 through 9, and 10 through 12, and expands testing starting in the 2005-2006 school year.<sup>85</sup> The 2005-2006 and future tests must “measure the achievement of students against the challenging State academic content and student academic achievement standards in each of grades 3 through 8 in, at a minimum, mathematics,

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<sup>80</sup> *Quinn v. State of California* (1975) 15 Cal. 3d 162, 175.

<sup>81</sup> This discussion on NCLB also applies to IASA because the statutory schemes are similar. Thus, further reference is primarily to NCLB.

<sup>82</sup> *Hayes v. Commission on State Mandates, supra*, 11 Cal. App. 4th 1564, 1593.

<sup>83</sup> Education Code section 60640, subdivision (b). Formerly, the CAT/6 was administered in grades 2-11, inclusive (see former Ed. Code, § 60640, subd. (b)), but it was amended to grades 3 and 8 by Statutes 2003, chapter 773, and to grades 3 and 7 by Statutes 2004, chapter 233.

<sup>84</sup> For example, the California Standards Tests (Ed. Code, §§ 60640, subd. (b) & 60642.5), and the California Alternate Performance Assessment.

<sup>85</sup> Title 20 United States Code section 6311 (b)(3)(C)(v)-(vii).



and reading or language arts.”<sup>86</sup> NCLB also requires one test in grades 10-12.<sup>87</sup> Because the tests must be based on state academic content and student academic achievement standards,<sup>88</sup> the state uses the California Standards Tests to comply with NCLB.

In contrast, the CAT/6<sup>89</sup> is a national norm-referenced test.<sup>90</sup> The CAT/6 cannot be used to comply with NCLB because it is not aligned to state standards. Federal NCLB regulations allow (but do not require) states to use “criterion-referenced assessments” and “assessments that yield national norms” so long as they are augmented with items to measure the State’s academic content standards, and express results in terms of the standards.<sup>91</sup> The NCLB and CAT/6 assessment requirements are compared in the chart below:

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<sup>86</sup> Title 20 United States Code section 6311 (b)(3)(C)(v)-(vii), which states, “Such assessments shall – [¶]...[¶] (v)(I) except as otherwise provided for grades 3 through 8 under clause vii, measure the proficiency of students in, at a minimum, mathematics and reading or language arts, and be administered not less than once during—(aa) grades 3 through 5; (bb) grades 6 through 9; and (cc) grades 10 through 12; (II) beginning not later than school year 2007-2008, measure the proficiency of all students in science and be administered not less than one time during – (aa) grades 3 through 5; (bb) grades 6 through 9; and (cc) grades 10 through 12; [¶]...[¶] (vii) beginning not later than school year 2005-2006, measure the achievement of students against the challenging State academic content and student academic achievement standards in each of grades 3 through 8 in, at a minimum, mathematics, and reading or language arts, ...”

<sup>87</sup> *Ibid.*

<sup>88</sup> Title 20 United States Code section 6311 (b)(3)(C)(ii). “‘Content standards,’ means the specific academic knowledge, skills, and abilities that all public schools in this state are expected to teach and all pupils expected to learn in each of the core curriculum areas, at each grade level tested.” (Ed. Code, § 60603, subd. (a)(4)).

<sup>89</sup> The CAT/6 should not be confused with the State National Assessment of Educational Progress (NAEP), a test required under NCLB. There is no indication that the NAEP is related to the CAT/6 because state participation in the NAEP is required only biennially, and the NAEP is given to fourth and eighth graders. (34 C.F.R., § 200.11 (2003)).

<sup>90</sup> Senate Rules Committee, Office of Senate Floor Analyses, 3d reading analysis of Assembly Bill 1485 (2003-2004 Reg. Sess.) as amended September 8, 2003, page 3.

<sup>91</sup> 34 Code of Federal Regulations, part 200.3 (a)(2) (2002).

	2004-2005 school year	2005-2006 and beyond
NCLB requirement	Requires one test in each of grades 3-5, 6-9 and 10-12 (or 3 tests total) in mathematics, and reading or language arts, that <b>must be aligned to state standards</b>	Requires a test in each of grades 3-8, inclusive, and once in grades 10-12, in math and reading or language arts, <b>that must be aligned to state standards</b> (Science test required starting in 2007-2008 once in each of grades 3-5, 6-9 and 10-12)
State CAT/6 test	Requires testing in grades 3 and 7, <b>not aligned to state standards</b> , in mathematics and reading/language arts.	Requires testing in grades 3 and 7, <b>not aligned to state standards</b> , in mathematics and reading/language arts.

Neither the CAT/6, nor any other national norm-referenced test, is required by NCLB or any federal law. Therefore, the Commission makes no finding as to whether NCLB or IASA are federal mandates. Rather, the Commission finds that the CAT/6 is mandated by the state, and is therefore subject to article XIII B, section 6 of the California Constitution (the SABE/2 exam will be addressed below).

In its July 2005 comments, CDE states that the conclusion (that administering the CAT/6 exam in grades 3 and 7 imposes a reimbursable mandate) “holds both conceptual and technical difficulties because of the attempt to separate the STAR Program by examination and grade level.” CDE’s attached declaration addresses whether various activities for the CAT/6 impose additional activities beyond those necessary for the rest of the STAR program. CDE also opines that training requirements for administration of the CAT/6 would be minimal.

CDE’s comments are not relevant to whether the CAT/6 imposes a mandate, which is the primary issue in this analysis. Although the comments may be helpful in drafting the Ps&Gs they are not instructive to the issue at hand.

As to submitting a STAR report to the Superintendent of Public Instruction, CDE states that as of the 2004-2005 school year, the testing contractor fulfills this activity and not the school district. The law cited by CDE is Education Code section 60640, subdivision (j) and California Code of Regulations, title 5, section 862. The plain language of Education Code section 60640, subdivision (j), however, states that this is a school district requirement, “As a condition of receiving an apportionment pursuant to subdivision (h), a school district shall report to the superintendent all of the following: ...” This requirement on school districts is also in California Code of Regulations, title 5, section 862. Except for its declaration, CDE submits no documentation to the contrary. Therefore, the Commission finds that based on the plain language of the statute and the regulation, this reporting is required of school districts. However, to the extent that school districts do not incur increased costs mandated by the state, reimbursement would not be required.

**B. Are STAR activities for disabled or special education pupils federally mandated?**

There are three activities required in the STAR Statement of Decision that are targeted toward special education pupils or pupils with disabilities.<sup>92</sup> These are:

- Exemption from testing for pupils if the pupil’s individualized education program has an exemption provision. (Ed. Code, § 60640, subd. (e), and former subd. (j); Cal. Code Regs., tit. 5, § 852, subd. (b) & § 881, subd. (b).)
- Determination of the appropriate grade level test for each pupil in a special education program. (Cal. Code Regs., tit. 5, § 853, subd. (c) & § 882, subd. (c).)
- Provision of appropriate testing adaptation or accommodations to pupils in special education programs. (Cal. Code Regs., tit. 5, § 853, subd. (c) & § 882, subd. (c).)

The issue is whether these activities are federally mandated under the Individuals with Disabilities Education Act (IDEA), or under NCLB.

As stated above, the court in *Hayes* stated that the federal Education of the Handicapped Act (the predecessor to IDEA) is a federal mandate. Since the *Hayes* court concluded that the state had “no true choice” in whether or not to implement the federal statute, the only question is whether California has a choice. The Commission finds that it does not. IDEA requires that pupils with disabilities be included in state-wide and district-wide assessments, “with appropriate accommodations where necessary.”<sup>93</sup> IDEA also requires school districts to have IEPs in effect for pupils with disabilities.<sup>94</sup>

Education Code section 60640, subdivision (e) (and originally subd. (j)), and the corresponding regulations<sup>95</sup> (the STAR regulations on IEPs and on testing adaptations and accommodations) merely implement the IDEA (an amendment/successor to the federal Education of the Handicapped Act), and IDEA’s regulations.<sup>96</sup> Therefore, the Commission finds that section 60640, subdivision (e) and its corresponding regulations are not state mandates subject to article XIII B, section 6, because they implement a federal law or regulation.<sup>97</sup>

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<sup>92</sup> Commission on State Mandates, STAR Statement of Decision (Exhibit A, p. 391).

<sup>93</sup> Title 20 United States Code section 1412 (a)(17); 34 Code of Federal Regulations part 300.138 (2002).

<sup>94</sup> Title 20 United States Code section (d)(2)(A).

<sup>95</sup> The regulations on the IEP are in California Code of Regulations, title 5, sections 852, subdivision (b), and 881, subdivision. (b). The regulations on testing adaptations and accommodations are in California Code of Regulations, title 5, sections 853, subdivision (c), and 882, subdivision (c).

<sup>96</sup> 34 Code of Federal Regulations part 300.138 provides, “The State must have on file with the Secretary [of Education] information to demonstrate that-- (a) Children with disabilities are included in general State and district-wide assessment programs, with appropriate accommodations and modifications in administration, if necessary...”

<sup>97</sup> As an alternative ground for denial, the requirement to review “the IEP of children with disabilities to determine if the IEP contains an express exemption from testing” was repealed by

### C. Is the STAR foreign-language test federally mandated?

The STAR Statement of Decision included the following activity:

- Administration of an additional test to pupils of limited English proficiency who are enrolled in grades 2 through 11 if the pupil was initially enrolled in any school district less than 12 months before the date that the English language STAR Program test was given. Only reimbursable to the extent such tests are available. (Ed. Code, § 60640, subd. (g); Cal. Code Regs., tit. 5, § 851, subd. (a).)<sup>98</sup>

The issue is whether this activity (currently the SABE/2 test in California) is federally mandated under the Equal Education Opportunities Act (EEOA), or under NCLB.

Title VI of the Civil Rights Act (42 U.S.C. § 2000d) prohibits discrimination under any program or activity receiving federal financial assistance. The Equal Educational Opportunities Act of 1974 (EEOA) (20 U.S.C. § 1701 et seq.) recognizes the state's role in assuring equal educational opportunity for national origin minority students. It states:

No state shall deny equal educational opportunity to an individual on account of his or her race, color, sex, or national origin by [¶] ... [¶] (f) the failure by an educational agency to take appropriate action to overcome language barriers that impede equal participation by its students in its instructional programs.<sup>99</sup>

According to *Castaneda v. Pickard*,<sup>100</sup> a case cited by the California Department of Education as authority for some of its regulations,<sup>101</sup> the federal statutory scheme (EEOA) is grounded in constitutional principles of equal protection.<sup>102</sup>

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Statutes 2002, chapter 492, and amended so that the statute now includes disabled pupils in testing and cites to IDEA (the state regulation was also amended). Since disabled pupils are now tested, this activity is no longer required and thus, not subject to article XIII B, section 6.

As to determining the appropriate grade level and providing testing adaptations and accommodations, those activities are also no longer required. California Code of Regulations, title 5, section 853, subdivision (c) was amended in February 2004 to allow testing IEP pupils below grade level for the 2003-04 school year only, and to prohibit doing so beginning in the 2004-05 school year. Moreover, there is a now separate test for special education pupils (the CAPA, not covered by the original test claim). This reconsideration decision is effective July 1, 2004, and this activity is no longer required after the 2003-04 school year. Therefore, as an alternative ground for denial, the Commission finds that these activities are no longer required for pupils who take the CAT/6, and therefore is not subject to article XIII B, section 6.

<sup>98</sup> Commission on State Mandates, STAR Statement of Decision (Exhibit A, p. 391). Additional authority for this is in California Code of Regulations, title 5, section 880, subdivision (a).

<sup>99</sup> Title 20 United States Code section 1703 (f), hereafter referred to as section 1703 (f).

<sup>100</sup> *Castaneda v. Pickard* (5th Cir. 1981) 648 F. 2d 989.

<sup>101</sup> For example, see "authority cited" for California Code of Regulations, title 5, sections 11302, 11304 and 11305.

Congress included an obligation to address the problem of language barriers in the EEOA, and granted limited English speaking pupils a private right of action to enforce that obligation in Title 20 United States Code section 1706.<sup>103</sup>

Federal cases have interpreted section 1703 (f) to require testing students' English-language skills, as well as to require standardized testing. In *Castaneda v. Pickard*, the court stated,

We understand s 1703 (f) [sic] to impose on educational agencies not only an obligation to overcome the direct obstacle to learning which the language barrier itself poses, but also a duty to provide limited English speaking ability students *with assistance in other areas of the curriculum* where their equal participation may be impaired because of deficits incurred during participation in an agency's language remediation program.<sup>104</sup> [Emphasis added.] *Id.* at page 1011.

The *Castaneda* court went on to state the importance of testing,

Valid testing of students' progress in these areas [other than English language literacy skills] is, we believe, essential to measure the adequacy of a language remediation program. The progress of limited English speaking students in these other areas of the curriculum must be measured by means of a *standardized test in their own language* because no other device is adequate to determine their progress vis-à-vis that of their English speaking counterparts. ... Only by measuring the actual progress of students in these areas during the language remediation program can it be determined that such irremediable deficiencies are not being incurred.<sup>105</sup> [Emphasis added.]

In *Keyes v. School Dist. No. 1*,<sup>106</sup> another case cited by the California Department of Education in its regulations,<sup>107</sup> the court found violations by a Denver school district of section 1703 (f) of the EEOA. The court held the school district's bilingual program was "flawed by the failure to adopt adequate tests to measure the results of what the district is doing. ... The lack of an adequate measurement of the effects of such service is a failure to take reasonable action to implement the transitional policy."<sup>108</sup>

There is no indication in these or other cases that compliance with section 1703 (f) of the EEOA is limited to testing English or language skills. Rather, section 1703 (f) expressly promotes the broader goal of "equal participation by ... [English-learner] students in ... instructional programs."

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<sup>102</sup> *Castaneda v. Pickard, supra*, 648 F. 2d 989, 999 and 1001.

<sup>103</sup> *Id.* at page 999.

<sup>104</sup> *Id.* at page 1011.

<sup>105</sup> *Id.* at page 1014.

<sup>106</sup> *Keyes v. School Dist. No. 1* (D. Colo. 1983) 576 F. Supp. 1503

<sup>107</sup> For example, see "authority cited" for California Code of Regulations, title 5, sections 11302, 11304 and 11305.

<sup>108</sup> *Keyes v. School Dist. No. 1, supra*, 576 F. Supp. 1503, 1518.

In comments on the draft staff analysis, SDUSD disagrees with the reliance on *Castaneda*, concluding that *Castaneda* provides no guidance on whether the EEOA is a federal mandate regarding STAR activities. The Commission agrees that schools are free to determine appropriate programs for English learners under section 1703 (f) and applicable case law. However, SDUSD ignores portions of *Castaneda* that describe the “essential” nature of testing pupils in their own language.<sup>109</sup> SDUSD also ignores other cases that support standardized testing in foreign languages,<sup>110</sup> and the California Department of Education’s reliance on these cases in support of its regulations.

One of the reasons *Castaneda* is a leading case in interpreting section 1703 (f) is because the court devised a three part test to determine the sufficiency of the “appropriate action” under section 1703 (f). The test is first, whether the program is based on an educational theory recognized as sound or at least as a legitimate experimental strategy by some of the experts in the field. Second, is the program reasonably calculated to implement that theory? And third, after being used for a time sufficient to afford it a legitimate trial, has the program produced satisfactory results?<sup>111</sup> Thus, school districts must, under section 1703 (f) as interpreted by *Castaneda*, effect standardized testing or assessment to implement at least the third part of this test. Moreover, because Congress granted English–learner pupils a private right of action to enforce the section 1703 (f) obligation in Title 20 United States Code section 1706, California could be forced by litigation to offer the STAR test in Spanish if it did not already do so.

In testimony at the May 26, 2005 hearing, SDUSD asserts that no federal statute requires testing English learners, and reiterated its argument that the *Castaneda* case is not on point. SDUSD also introduced testimony on the activities it performs related to testing English-learner pupils. The Commission disagrees. Although the federal EEOA itself does not require testing English-learner pupils, the *Castaneda* case that interprets the EEOA does require testing these pupils, making the testing activity federally mandated.

Therefore, the Commission finds that section 60640, subdivision (g) and its regulations (Cal. Code Regs., tit. 5, § 880, subd. (a)) do not constitute a state mandate subject to article XIII B, section 6, because they implement a federal law or regulation.

#### **D. Are some STAR activities no longer state mandated?**

There are some activities in the STAR Statement of Decision that, although previously required, have been repealed since the original decision was adopted. These concern the school districts’ contracts with the test publisher, which is now a state function. The activities in question are bulleted (as designated in the original decision) as follows:

- Contracting with a test publisher selected by the State Board of Education using an agreement approved by the State Board of Education. (Ed. Code, § 60643, subds. (a)(2) and (c); Cal. Code Regs., tit. 5, §§ 860, 873.) This activity is limited to completing the agreement approved by the State Board of Education. Modification of the approved

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<sup>109</sup> *Castaneda v. Pickard*, *supra*, 648 F. 2d 989, 1014.

<sup>110</sup> *Keyes v. School Dist. No. 1*, *supra*, 576 F. Supp. 1503, 1518.

<sup>111</sup> *Castaneda v. Pickard*, *supra*, 648 F. 2d 989, 1009-1010.

agreement by school districts to include any additional materials or services pursuant to Education Code section 60643, subdivision (e)(12) is not reimbursable.

The statutory requirement for school districts to contract with a test publisher was repealed by Statutes 1999, chapter 735. The regulations that were the basis for this activity were repealed December 16, 1999.

- Payment of sales tax to the publisher. (Cal. Code Regs., tit. 5, § 856.)

The regulation that required this activity was repealed December 16, 1999.

- Completion of delivery schedule and order form. (Cal. Code Regs., tit. 5, § 874.)

The regulation that required this activity was repealed October 26, 1998.

- Provision to the test publisher of enrollment and test order data by grade level. (Cal. Code Regs., tit. 5, § 874.)

The regulation that required this activity was repealed October 26, 1998.

- Administration of the standard agreement pursuant to the State Department of Education's regulations. (Cal. Code Regs., tit. 5, §§ 856, 869, subd. (b), and 871.)

The regulations that required this activity were repealed December 16, 1999.

LAO criticizes the existing STAR parameters and guidelines for omitting the cost of printing, shipping, and scoring the tests from the list of costs that districts must offset with state funds.<sup>112</sup>

The Commission disagrees that this omission is improper. The activities of printing, shipping, and scoring the tests (for the CAT/6 and SABE/2 exams) do not appear to be the responsibility of the school district (except for shipping the test back to the publisher).<sup>113</sup> The current statutes and regulations do not require the school district to print, ship or score tests, or to pay for doing so. Therefore, the Commission finds that this activity is not mandated by the state.

Therefore, as activities that are no longer mandated, the Commission finds that the activities listed above are not subject to article XIII B, section 6.

DOF, in its July 2005 comments on the revised staff analysis, states that it is unclear why the activities of designating STAR program district and test site coordinators were not struck out or amended to replace the "STAR program" with "CAT/6" (to which the remainder of this analysis applies). DOF asserts that these activities are required by NCLB to administer the STAR program and therefore should not be reimbursable.

The Commission disagrees. Designating a "STAR Program District Coordinator" and "STAR Test Site Coordinator" is required of school districts under California's regulations.<sup>114</sup> Thus, a reference to a CAT/6 coordinator would not make sense and, as explained above, the CAT/6 is

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<sup>112</sup> See <[http://www.lao.ca.gov/2003/state\\_mandates/state\\_mandates\\_1203.html](http://www.lao.ca.gov/2003/state_mandates/state_mandates_1203.html)> as of February 15, 2005.

<sup>113</sup> California Code of Regulations, title 5, section 857, subdivision (c).

<sup>114</sup> California Code of Regulations, Title 5, sections 857 and 858.

not required by NCLB. Thus, the conclusion retains the STAR coordinator titles for those activities, which would only be reimbursable to the extent they apply to the CAT/6.

**E. Do the remaining STAR statutes and executive orders constitute a program under article XIII B, section 6?**

For purposes of this analysis, the STAR activities at issue are all those in the Statement of Decision (see Exhibit A, pages 391-392) except for the following that were discussed above as being federal mandates (nos.1-4 below), or no longer required (nos. 5-9 below):

1. Exemption from testing for pupils if the pupil's individualized education program has an exemption provision. (Ed. Code, § 60640, subd. (e), and former subd. (j); Cal. Code Regs., tit. 5, § 852, subd. (b) & § 881, subd. (b).)
2. Determination of the appropriate grade level test for each pupil in a special education program. (Cal. Code Regs., tit. 5, § 853, subd. (c) & § 882, subd. (c).)
3. Provision of appropriate testing adaptation or accommodations to pupils in special education programs. (Cal. Code Regs., tit. 5, § 853, subd. (c) & § 882, subd. (c).)
4. Administration of an additional test to pupils of limited English proficiency who are enrolled in grades 2 through 11 if the pupil was initially enrolled in any school district less than 12 months before the date that the English language STAR Program test was given. Only reimbursable to the extent such tests are available. (Ed. Code, § 60640, subd. (g); Cal. Code Regs., tit. 5, § 851, subd. (a).)<sup>115</sup>
5. Contracting with a test publisher selected by the State Board of Education using an agreement approved by the State Board of Education. (Ed. Code, § 60643, subds. (a)(2) and (c); Cal. Code Regs., tit. 5, §§ 860, 873.) This activity is limited to completing the agreement approved by the State Board of Education. Modification of the approved agreement by school districts to include any additional materials or services pursuant to Education Code section 60643, subdivision (e)(12) is not reimbursable.
6. Payment of sales tax to the publisher. (Cal. Code Regs., tit. 5, § 856.)
7. Completion of delivery schedule and order form. (Cal. Code Regs., tit. 5, § 874.)
8. Provision to the test publisher of enrollment and test order data by grade level. (Cal. Code Regs., tit. 5, § 874.)
9. Administration of the standard agreement pursuant to the State Department of Education's regulations. (Cal. Code Regs., tit. 5, §§ 856, 869, subd. (b), and 871.)

As noted above, the original Statement of Decision only included the SAT/9 (now the CAT/6) exam, and the language exam (the SABE/2, found to be federally mandated above). Therefore, the only exam remaining as a "program" in this analysis is the CAT/6. Since this exam is only a fraction of the STAR program, further reference will be to the CAT/6 rather than the STAR program.

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<sup>115</sup> Commission on State Mandates, STAR Statement of Decision (Exhibit A, p. 391). Additional authority for the language test is in California Code of Regulations, title 5, section 880, subdivision (a).



In order for the CAT/6 exam to be subject to article XIII B, section 6 of the California Constitution, it must constitute a “program.” This means a program that carries out the governmental function of providing a service to the public, or laws which, to implement a state policy, impose unique requirements on local governments and do not apply generally to all residents and entities in the state.<sup>116</sup> Only one of these findings is necessary to trigger article XIII B, section 6.<sup>117</sup>

The CAT/6 constitutes educational testing as a means to measure pupil achievement or school or district accountability, or national pupil comparison. These activities are within the purview of public education, a program that carries out a governmental function of providing a service to the public.<sup>118</sup> Moreover, the CAT/6 exam imposes unique requirements on school districts that do not apply generally to all residents and entities of the state.

Therefore, the CAT/6 exam is a program that carries out the governmental function of educational testing (or more specifically, national norm-referenced testing), and a law which, to implement state policy, imposes unique requirements on school districts and does not apply generally to all residents and entities in the state. As such, the Commission finds that the CAT/6 exam constitutes a program within the meaning of article XIII B, section 6.

**Issue 3: Does the CAT/6 exam impose a new program or higher level of service on school districts within the meaning of article XIII B, section 6?**

The Commission determined, on August 24, 2000, that the STAR program (which at the time consisted only of the SAT/9 test, precursor to the CAT/6, and the SABE/2 language test) constitutes a new program or higher level of service on school districts within the meaning of article XIII B, section 6 of the California Constitution. There has been no evidence or comments submitted that questions this determination. Thus, absent anything in the record to the contrary, the Commission finds that the activities in the original Statement of Decision (except for the activities that are federal mandates or no longer required, as discussed above) constitute a new program or higher level of service within the meaning of article XIII B, section 6.

**Issue 4: Does the CAT/6 exam impose “costs mandated by the state” on school districts within the meaning of article XIII B, section 6 of the California Constitution and Government Code sections 17514 and 17556 ?**

In order for the test claim statute to impose a reimbursable state-mandated program under the California Constitution, the test claim legislation must impose costs mandated by the state.<sup>119</sup> In addition, no statutory exceptions listed in Government Code section 17556 can apply. Government Code section 17514 defines “cost mandated by the state” as follows:

[A]ny increased costs which a local agency or school district is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or

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<sup>116</sup> *County of Los Angeles v. State of California*, *supra*, 43 Cal.3d 46, 56.

<sup>117</sup> *Carmel Valley Fire Protection Dist.* (1987) 190 Cal.App.3d 521, 537.

<sup>118</sup> “Education in our society is ... a peculiarly governmental function.” *Long Beach Unified School District v. State of California*, *supra*, 225 Cal.App.3d 155, 172.

<sup>119</sup> *Lucia Mar*, *supra*, 44 Cal.3d 830, 835; Government Code section 17514.

any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.

Government Code section 17556, (as amended by Stats. 2004, ch. 895, Assem. Bill No. 2855),<sup>120</sup> provides:

The commission shall not find costs mandated by the state, as defined in Section 17514, in any claim submitted by a local agency or school district, if, after a hearing, the commission finds that:

(a) The claim is submitted by a local agency or school district that requested legislative authority for that local agency or school district to implement the program specified in the statute, and that statute imposes costs upon that local agency or school district requesting the legislative authority. A resolution from the governing body or a letter from a delegated representative of the governing body of a local agency or school district that requests authorization for that local agency or school district to implement a given program shall constitute a request within the meaning of this paragraph.

(b) The statute or executive order affirmed for the state a mandate that had been declared existing law or regulation by action of the courts.

(c) The statute or executive order imposes a requirement that is mandated by a federal law or regulation and results in costs mandated by the federal government, unless the statute or executive order mandates costs that exceed the mandate in that federal law or regulation. This subdivision applies regardless of whether the federal law or regulation was enacted or adopted prior to or after the date on which the state statute or executive order was enacted or issued.

(d) The local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the mandated program or increased level of service.

(e) *The statute, executive order, or an appropriation in a Budget Act or other bill provides for offsetting savings to local agencies or school districts that result in no net costs to the local agencies or school districts, or includes additional revenue that was specifically intended to fund the costs of the state mandate in an amount sufficient to fund the cost of the state mandate.*

(f) The statute or executive order imposed duties that were expressly included in a ballot measure approved by the voters in a statewide or local election.

(g) The statute created a new crime or infraction, eliminated a crime or infraction, or changed the penalty for a crime or infraction, but only for that portion of the statute relating directly to the enforcement of the crime or infraction. [Emphasis added.]

**Offsetting state funds:** The first issue is whether, pursuant to section 17556, subdivision (e), appropriations of state funds for the STAR Program (of which the CAT/6 exam is the only remaining state-mandated component) precludes reimbursement.

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<sup>120</sup> Statutes 2005, chapter 72 (Assem. Bill No. 138) amended subdivision (f) of this section, but that is not relevant to this analysis.

DOF and LAO raise the issue of offsetting revenue for the STAR program. DOF argues that, “state funds provided for the program should first offset against any costs resulting from the activities found by the Commission to be state-mandated in excess of the federal statute.”

The Commission’s STAR parameters and guidelines provide for offsetting revenue as follows:

Any offsetting savings the claimant experiences in the same program as a result of the same statutes or executive orders found to contain the mandate shall be deducted from the costs claimed. In addition, reimbursement for this mandate received from any source, including but not limited to, service fees collected, federal funds and other state funds shall be identified and deducted from this claim.

Specifically, reimbursement for: 1) designating site and district coordinators, 2) exempting pupils from STAR Program tests upon request of parents or guardians, 3) coordinating testing at the test site, and 4) reporting data to the school district governing board or county office of education and the Superintendent of Public Instruction, shall be offset by funding provided in the State Budget for the STAR Program.<sup>121</sup>

There is no reason in the record for limiting offsetting revenue to the four activities listed in the parameters and guidelines, as this provision could be interpreted to mean.

In fact, the 2004 State Budget Act contains the following provision after a \$53.8 million appropriation of state funds for the STAR program (in schedule 3):

Funds provided in Schedules (3), (4), and (5) *shall first be used to offset any state-mandated reimbursable costs that otherwise may be claimed through the state mandates reimbursement process for the Standardized Testing and Reporting Program, the California English Language Development Test, and the California High School Exit Exam, respectively.* Local education agencies accepting funding from these schedules shall reduce their estimated and actual mandate reimbursement claims by the amount of funding provided to them from these schedules. [Emphasis added.]<sup>122</sup>

Similar language for the state STAR appropriation appears in the 2005 State Budget Act.<sup>123</sup>

Therefore, the Commission finds that state funds appropriated for administering the STAR exam must first be used to offset the mandated CAT/6 activities, for years in which the Legislature requires it. In addition, the Commission finds that offsets apply to all CAT/6 activities and are not limited to those listed above (from the Ps&Gs).

**Offsetting federal Title I funds:** DOF urges recognizing federal Title I funds as offsetting revenue, and repeats this assertion in comments on the draft staff analysis.

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<sup>121</sup> Exhibit A, page 750.

<sup>122</sup> Statutes 2004, chapter 208, Item 6110-113-0001, Schedule 3, Provision 8.

<sup>123</sup> Statutes 2005, chapter 38, Item 6110-113-0001, Schedule 2, Provision 8.

The Commission can find no legal requirement for school districts to use Title I funds as offsetting revenue for the STAR mandate. According to the Education Code:

[T]he governing board of any school district may initiate and carry on any program, activity, or may otherwise act in any manner which is not in conflict with or inconsistent with, or preempted by, any law and which is not in conflict with the purposes for which school districts are established.”<sup>124</sup>

[S]chool districts ... have diverse needs unique to their individual communities and programs. Moreover, in addressing their needs ... school districts ... should have the flexibility to create their own unique solutions.<sup>125</sup>

[I]t is the intent of the Legislature to give school districts ... broad authority to carry on activities and programs, *including the expenditure of funds for programs and activities which, in the determination of the governing board of the school district ... are necessary or desirable in meeting their needs* and are not inconsistent with the purposes for which the funds were appropriated. ...<sup>126</sup>  
[Emphasis added.]

Not only is there no requirement to use Title I funds to offset the STAR program costs (for only the CAT/6 test, according to the Statement of Decision and this reconsideration), but the Education Code indicates that school districts should have flexibility and broad authority in spending funds. In the absence of legislative direction, school districts have discretion in how to spend appropriated funds and are not required to spend it on the mandated exam(s) first (CAT/6).

LAO, in comments on the draft staff analysis, argues that the decision in *Kern High School District*<sup>127</sup> requires the Commission to find that Title I funds should offset the STAR program. In *Kern*, the court found that eight of the nine programs at issue were not state mandates, and made no finding whether the ninth program was a mandate. As to the ninth program, the court found that the costs in complying with the notice and agenda requirements for the Chacon-Moscone Bilingual-Bicultural Education program did not entitle claimants to obtain reimbursement under article XIII B, section 6 because the state had already provided funds that could be used to cover the necessary notice and agenda related expenses.<sup>128</sup>

LAO’s assessment is incorrect because *Kern* is distinguishable from the STAR program. First, under *Kern* the costs appeared “rather modest,”<sup>129</sup> which is not the case here. Second and most importantly, in *Kern*, the Legislature expressly authorized districts to use a portion of funds

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<sup>124</sup> Education Code section 35160.

<sup>125</sup> Education Code section 35160.1, subdivision (a).

<sup>126</sup> Education Code section 35160.1, subdivision (b).

<sup>127</sup> *Kern High School District, supra*, 30 Cal.4th 727.

<sup>128</sup> *Id.* at pages 746-747.

<sup>129</sup> *Id.* at page 747.

obtained from the state to pay the notice and agenda costs at issue.<sup>130</sup> In this case, there is no expressed legislative intent or requirement that school districts use Title I funds on STAR.

In comments at the May 26, 2005 Commission hearing, LAO opined that the districts should be required to use federal funds for requirements that arise under federal law, but not for those that go beyond federal law. At the same hearing, DOF stated that Title I funds are contingent on the state complying with federal NCLB requirements, so that the federal funds, which are dedicated to assessments and cannot be used for other purposes, should be considered as offsets.<sup>131</sup>

The Commission disagrees. If the state receives Title I funds earmarked for testing, that would be considered an offset, but there is no evidence in the record of the amount of funds or any legal requirements on the funds. If schools were required to use Title I funds for STAR, as opposed to other uses for Title I funds, there must be legislative direction as to the requirement. DOF stated that it would submit further evidence of federal assessment funds that are available for local use.<sup>132</sup>

In comments submitted June 9, 2005, DOF quotes the following language from NCLB: “For any State desiring to receive a grant under this part, the State education agency shall submit to the Secretary a plan ... that satisfies the requirements of this section ...”<sup>133</sup> DOF states that this requires states to establish a single statewide assessment and accountability system for all public school pupils, and requires each state accountability system to be based on academic standards and academic assessments, and requires each state to demonstrate what constitutes adequate yearly progress based on the academic assessments.<sup>134</sup> DOF also points to the section of NCLB that appropriates funds “For the purpose of carrying out part A of this subchapter.”<sup>135</sup> Part A contains the requirements for standards and assessments. DOF concludes that “Title I funds are clearly provided of school districts to utilize for the STAR program, which is the central element of the state’s assessment and accountability system used to satisfy the federal requirements under NCLB.”

Although the Commission agrees that Title I funds are used for STAR, Title I funds are used by school districts for other purposes also. For example, Title I is used for NCLB’s academic standards and accountability provisions,<sup>136</sup> for programs to build parental involvement,<sup>137</sup> and for programs to support ongoing training and professional development for teachers.<sup>138</sup> Again,

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<sup>130</sup> *Ibid.*

<sup>131</sup> Commission on State Mandates, Public Hearing, Transcript of Proceedings, May 26, 2005, page 59.

<sup>132</sup> *Ibid.*

<sup>133</sup> Title 20 United States Code section 6311 (a)(1).

<sup>134</sup> Title 20 United States Code section 6311.

<sup>135</sup> Title 20 United States Code section 6302 (a).

<sup>136</sup> Title 20 United States Code section 6311.

<sup>137</sup> Title 20 United States Code section 6318.

<sup>138</sup> Title 20 United States Code section 6319 (h).

the Commission can find no requirement for Title I funds to be spent in academic assessments any more than in any of these other activities for which Title I funds are authorized. Thus, the Commission finds that Title I funds are not required to be used to offset administration of the CAT/6 exam.

**Offsetting federal Title VI funds:** DOF's June 2005 comments cite Title VI of NCLB, which states in part:

The Secretary shall make grants to States to enable the States – ... (1) to pay the costs of the development of the additional State assessments and standards ... (2) if a State has developed the assessments and standards required ... [under] this title, *to administer those assessments* or to carry out other activities ... related to ensuring that the State's schools and local educational agencies are held accountable for results, such as ... [enumerated activities].<sup>139</sup> [Emphasis added]

This language is broad enough (as to "other activities" related to accountability) to encompass the CAT/6 administration and make it eligible for Title VI funding, even though NCLB does not require the CAT/6 exam.

DOF states that this Title VI language supports its assertion that school districts are provided federal Title VI funds for the STAR program. DOF also provides the following language from the 2004 State Budget Act that contains an \$8.5 million appropriation of federal Title VI funds for the STAR program (in schedule 2):

Funds provided in Schedules (2), (3), (5.5), and (7) shall *first be used to offset any state mandated reimbursable cost that otherwise may be claimed through the state mandates reimbursement process for the Standardized Testing and Reporting Program, the California High School Exit Exam, the California English Language Development Test, and the California Alternate Performance Assessment, respectively. Local education agencies accepting funding from these schedules shall reduce their estimated and actual mandate reimbursement claims by the amount of funding provided to them from these schedules.*<sup>140</sup> [Emphasis added.]

Similar language for the Title VI appropriation to STAR appears in the 2005 State Budget Act.<sup>141</sup>

Based on this language, the Commission finds that federal Title VI funds must be used as offsetting revenue for the CAT/6 exam for years in which the Legislature requires it.<sup>142</sup>

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<sup>139</sup> Title 20 United States Code section 7301 (2).

<sup>140</sup> Statutes 2004, chapter 208, Item 6110-113-0890, Schedule 2, Provision 11.

<sup>141</sup> Statutes 2005, chapter 38, Item 6110-113-0890, Schedules 4, 7 and 10, Provision 10.

<sup>142</sup> Title 20 United States Code section 7301 (2) states that the Title VI grants are "to pay the costs of the development of additional State assessments and standards required by section 6311 (b) of this title ... and (2) ... to administer those assessments... ."

Therefore, the Commission finds that in fiscal years 2004-2005, and 2005-2006 (and any other fiscal year in which they are legally required to do so), school districts are required to “reduce their estimated and actual mandate reimbursement claims by the amount of funding provided to them” from state and federal Title VI funding appropriated in the budget act.

DOF, in its July 2005 comments, argues that this conclusion should be retroactive to all previously submitted claims.

The Commission disagrees, as there is nothing in the record to indicate legislative intent that federal Title VI funds or state funds are required to offset mandated activities for the STAR program from 1997 to 2003, as DOF urges. As indicated from the discussion above of the *McClung* case regarding whether the Commission’s decision should be retroactive, the Commission cannot retroactively apply budget act provisions without indication of legislative intent. As discussed above, lack of an appropriation (i.e., legislative inaction) is not evidence of this intent.<sup>143</sup> The Legislature would have to expressly intend for federal Title VI funds or state funds to be used for mandated STAR activities prior to July 1, 2004, especially since the annual nature of the budget act affords the regular opportunity to do so.

However, because there is no information in the record as to the cost of administering the CAT/6 exam, the Commission makes no finding as to whether the Budget Act “includes additional revenue that was specifically intended to fund the costs of the state mandate *in an amount sufficient to fund the cost of the state mandate.*”<sup>144</sup> [Emphasis added.]

## CONCLUSION

The Commission finds, effective July 1, 2004, that administering the CAT/6 exam in grades 3 and 7 imposes a reimbursable state mandate on school districts within the meaning of article XIII B, section 6 of the California Constitution and Government Code sections 17514 and 17556, for all activities listed in the STAR Statement of Decision (97-TC-23)<sup>145</sup> except for those that are federally-mandated (bullets 4-7) or no longer required (bullets 12-16). The changes to reimbursable activities from the Commission’s original (August 2000) Statement of Decision are noted in ~~strikeout~~ and underline as follows:

1. Administration of the ~~STAR Program tests~~ CAT/6 (or a successor national norm-referenced test) to all pupils in grades ~~2 through 11, inclusive~~ 3 and 7. (Ed. Code, §§ 60640, subds. (b), (c), 60641, subd. (a); Cal. Code Regs., tit. 5, §§ 851, 852, subd. (b), 853, and 855.) Costs associated with teacher time to administer the test are not reimbursable.
2. Designation of a STAR Program district coordinator. (Cal. Code Regs., tit. 5, §§ 857-859, 865, 867, and 868.) This would only be reimbursable to the extent it applies to the CAT/6.

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<sup>143</sup> *Quinn v. State of California, supra*, 15 Cal. 3d 162, 175.

<sup>144</sup> Government Code section 17556, subdivision (e).

<sup>145</sup> See Exhibit A, page 383.

3. Designation of a STAR Program test site coordinator at each test site. (Cal. Code Regs., tit. 5, §§ 857-859, 865, 867, and 868.) This would only be reimbursable to the extent it applies to the CAT/6.
4. ~~Administration of an additional test to pupils of limited English proficiency who are enrolled in grades 2 through 11 if the pupil was initially enrolled in any school district less than 12 months before the date that the English language STAR Program test was given. Only reimbursable to the extent such tests are available. (Ed. Code, § 60640, subd. (g); Cal. Code Regs., tit. 5, § 851, subd. (a).) Costs associated with teacher time to administer the test are not reimbursable.~~
5. ~~Exemption from testing for pupils if the pupil's individualized education program has an exemption provision. (Ed. Code, § 60640, subds. (e), (j); Cal. Code Regs., tit. 5, § 852, subd. (b).)~~
6. ~~Determination of the appropriate grade level test for each pupil in a special education program. (Cal. Code Regs., tit. 5, § 852, subd. (b).)~~
7. ~~Provision of appropriate testing adaptation or accommodations to pupils in special education programs. (Cal. Code Regs., tit. 5, § 852, subd. (b).)~~
8. Inclusion of STAR Program CAT/6 test results in each pupil's record of accomplishment. (Ed. Code, §§ 60607, subd. (a), 60641, subd. (a).)
9. Reporting of individual STAR Program CAT/6 (or successor national norm referenced test) test results in writing to each pupil's parent or guardian and to the pupil's school and teachers. (Ed. Code, § 60641, subds. (b) and (c); Cal. Code Regs., tit. 5, § 863.)<sup>146</sup>
10. Reporting of district-wide, school-level, and class-level CAT/6 test results to the school district's governing board or county office of education. (Ed. Code, § 60641, subd. (d);<sup>147</sup> Cal. Code Regs., tit. 5, § 864.)
11. Submission of a report on the STAR Program CAT/6 test to the Superintendent of Public Instruction. (Ed. Code, § 60640, subd. (j); Cal. Code Regs., tit. 5, § 862.)
12. ~~Contracting with a test publisher selected by the State Board of Education using an agreement approved by the State Board of Education. (Ed. Code, § 60643, subds. (a)(2) and (c); Cal. Code Regs., tit. 5, §§ 860, 873.) This activity is limited to completing the agreement approved by the State Board of Education. Modification of the approved agreement by school districts to include any additional materials or services pursuant to Education Code section 60643, subdivision (e)(12) is not reimbursable.~~
13. ~~Payment of sales tax to the publisher. (Cal. Code Regs., tit. 5, § 856.)~~
14. ~~Completion of delivery schedule and order form. (Cal. Code Regs., tit. 5, § 874.)~~
15. ~~Provision to the test publisher of enrollment and test order data by grade level. (Cal. Code Regs., tit. 5, § 874.)~~
16. ~~Administration of the standard agreement pursuant to the State Department of Education's regulations. (Cal. Code Regs., tit. 5, §§ 856, 869, subd. (b), and 871.)~~

<sup>146</sup> Currently in Education Code section 60641, subdivision (a)(2).

<sup>147</sup> Currently in Education Code section 60641, subdivision (a)(3).



17. Exemption of pupils from the ~~STAR Program tests~~ CAT/6 test upon request of their parent or guardian. (Ed. Code, §§ 60615, 60640, subd. (j); Cal. Code Regs., tit. 5, § 852, subd. (a).)
18. Submission to the State Department of Education whatever information the Department deems necessary to permit the Superintendent of Public Instruction to prepare a report analyzing, on a school-by-school basis, the results and test scores of the ~~STAR Program~~ CAT/6 test. (Ed. Code, § 60630, subd. (b); Cal. Code Regs., tit. 5, § 861.)
19. Training and review of the ~~STAR Program~~ CAT/6 test requirements as outlined in the test claim legislation and regulations by school district staff.
20. Implementation of procedures relating the administration of the ~~STAR Program~~ CAT/6 test.

The Commission also finds, effective July 1, 2004, the following:

- All state funds appropriated for STAR must be used to offset all activities associated with administration of the CAT/6 exam; and that in any fiscal year in which school districts are legally required to, they must, “reduce their estimated and actual mandate reimbursement claims by the amount of funding provided to them”<sup>148</sup> from appropriated state funds; and
- School districts are not required to use Title I funds to offset the activities in the STAR Statement of Decision (i.e., to administer the CAT/6); and
- All federal Title VI funds appropriated for STAR, in any fiscal year in which school districts are legally required to do so, must be used to offset all activities associated with administration of the CAT/6 exam, and that school districts must “reduce their estimated and actual mandate reimbursement claims by the amount of funding provided to them”<sup>149</sup> from appropriated federal Title VI funds.

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<sup>148</sup> Statutes 2004, chapter 208, Item 6110-113-0001, Schedule 3, Provision 8. Statutes 2005, chapter 38, Item 6110-113-0001, Schedule 2, Provision 8.

<sup>149</sup> Statutes 2004, chapter 208, Item 6110-113-0890, Schedule 2, Provision 11. Statutes 2005, chapter 38, Item 6110-113-0890, Schedules 4, 7 and 10, Provision 10.

(Without reference to file)

SENATE THIRD READING  
SB 1448 (Alpert)  
As Amended July 28, 2004  
Majority vote

SENATE VOTE :37-0 \_

EDUCATION 8-1 APPROPRIATIONS  
(vote not available)

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Ayes:	Nakanishi, Cohn, Diaz,		
	Garcia, Liu, Mullin,		
	Pavley, Reyes		
-----			
Nays:	Goldberg		
-----			

SUMMARY : Reauthorizes the Standardized Testing and Reporting (STAR) Program until January 1, 2011, and makes various changes to the provisions of existing law governing the program. Specifically, this bill :

- 1) Extends the authorization for the STAR program until January 1, 2011, with the exception that the requirement to test pupils in 2nd grade is extended only until July 1, 2007.
- 2) Makes various statements of legislative intent, including that the primary purpose of the test is to improve teaching and learning; test results should be used to determine the effectiveness of school districts and schools; and, test content and structure should be open and transparent.
- 3) Defines "diagnostic assessment" as interim assessments of a pupil's current level of achievement that serve both of the following purposes:
  - a) The identification of particular academic standards that a pupil has or has not achieved; and,
  - b) The identification of possible reasons that a pupil has not achieved the standard.

- 4) Prohibits release of pupil results or records of accomplishment on academic achievement tests to anyone except the pupil's parent or guardian, teacher, counselor, or administrator directly involved with the pupil, without the parent or guardian's written consent, or the pupil if the pupil has reached 18 or is emancipated.
- 5) Allows a pupil or his or her parent or guardian to release achievement test results or records of accomplishment to a postsecondary education institution for purposes of credit, placement, or admission.
- 6) Authorizes the release, by any individual or institution holding the information, of individual pupil results from the California Standards Test to a postsecondary education institution for the purposes of credit, placement, or admission.
- 7) Requires the State Department of Education (SDE) to use designated federal funds to develop and adopt a primary language test that is aligned to academic content standards for reading/language arts and mathematics.
- 8) Requires the primary language test to be developed in the primary language of the greatest number of limited-English-proficient (LEP) pupils enrolled in the public

schools.

- 9) Requires that the primary language test, once it is available for use in a grade level and subject area, be used to meet the requirements of current law that authorize school districts to administer a second achievement test in the primary language of LEP pupils.
- 10) Requires SDE to report to the Legislature on the development and implementation of dominant primary language tests no later than January 1, 2007.
- 11) Designates grades 3 and 7, rather than grades 3 and 8, as the grades in which a norm-referenced achievement test will be administered.
- 12) Makes clarifying, conforming and substantive changes to

SB 1448  
Page 3

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provisions governing state contracts with test developers and publishers.

EXISTING LAW :

- 1) Repeals the provisions of law establishing the California Assessment of Academic Achievement, including the STAR Program, as of January 1, 2005, unless extended by a statute enacted prior to that date.
- 2) Requires school districts to annually administer standardized tests to pupils in grades 2 to 11 under the STAR program.
- 3) Requires that English learners be tested in their primary language if they have been in public school in the state for less than 12 months, and allows school districts to test English learners in grades 2 through 11 with a primary language assessment.

FISCAL EFFECT : According to the Senate Appropriations Committee, the STAR sunset extension will result in continued annual costs of \$54 million to the General Fund. Failure to reauthorize the STAR testing program could result in the loss of up to \$3 billion in federal funds.

COMMENTS : Related legislation: AB 356 (Hancock), provides for diagnostic assessment, and eliminates the requirement to administer standardized tests in grade 2. AB 356 failed passage in the Senate, was granted reconsideration and moved to the inactive file.

Analysis Prepared by : Dee Brennick / ED. / (916) 319-2087

FN: 0007232

AB 2856

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CONCURRENCE IN SENATE AMENDMENTS  
 AB 2856 (Laird)  
 As Amended August 17, 2004  
 Majority vote

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 |ASSEMBLY: | | (May 17, 2004) |SENATE: |36-0 | (August 18, |  
 | | | | | | |2004) |

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 (vote not relevant)

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 |COMMITTEE VOTE: |9-0 | (August 23, 2004) |RECOMMENDATION: |concur |  
 | | | | | | |

Original Committee Reference: L. GOV.

SUMMARY : Revises the procedures for receiving claims and for hearings on claims, as specified, and the definitions of terms related to the procedure and hearings, defines additional terms, abolishes the State Mandates Claim Fund, and deletes the option of paying claims from this fund.

The Senate amendments delete the Assembly version of this bill, and instead:

- 1) Abolish the State Mandates Claim Fund and delete references to this fund.
- 2) Define "cost savings authorized by the state" as any decreased costs that a local agency or school district realizes as a result of any statute enacted or any executive order adopted that permits or requires the discontinuance of or a reduction in the level of service of an existing program that was mandated before January 1, 1975.
- 3) Define "reasonable reimbursement methodology" as a formula for reimbursing local agency and school district costs mandated by the state that meets the following conditions:
  - a) The total amount to be reimbursed statewide is equivalent to total estimated local agency and school district costs to

AB 2856

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implement the mandate in a cost-efficient manner; and,

- b) For 50% or more of eligible local agency and school district claimants, the amount reimbursed is estimated to fully offset their projected costs to implement the mandate in a cost-efficient manner.
- 4) Require that, whenever possible, a reasonable reimbursement methodology shall be based on general allocation formulas, uniform cost allowances, and other approximations of local costs mandated by the state, rather than detailed documentation of actual local costs, except that, in cases when local agencies and school districts are projected to incur costs to implement a mandate over a period of more than one fiscal year, the determination of a reasonable reimbursement methodology may consider local costs and state reimbursements over a period of greater than one fiscal year, but not exceeding 10 years.
- 5) Remove redevelopment agencies and joint powers agencies from the definition of "special district."
- 6) Change the period during which a test claim may be filed from three years to 12 months from the effective date of a statute or executive order, or 12 months from incurring increased costs as a result of a statute or executive order.
- 7) Require that test claims be filed on a form prescribed by the Commission on State Mandates (Commission) that must contain, at a

minimum, a signed written narrative that identifies the specific sections of statutes or executive orders alleged to contain a mandate and includes specified details, along with specified support declarations and materials.

- 8) Repeal existing provisions pertaining to time limits for public hearings on test claims.
- 9) Require the Commission to notify the appropriate policy committees of the Legislature, the Legislative Analyst, the Department of Finance (DOF), and the Controller within 30 days after hearing and deciding upon a test claim.
- 10) Provide a process for local agencies, school districts, or the state to request that the Commission amend, modify, or supplement reimbursement parameters and guidelines.

AB 2856

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- 11) Require the Commission to consult with the affected state agency, the appropriate fiscal and policy committees of the Legislature, the Legislative Analyst, DOF, the Controller, and the claimant to consider a reasonable reimbursement methodology that balances accuracy with simplicity when adopting parameters and guidelines.
- 12) Require the Controller to request assistance from DOF when preparing claiming instructions.
- 13) Require the Controller to complete any audit of a reimbursement claim within two years of its commencement.
- 14) Authorize the Controller to conduct a field review of any claim after it has been submitted but before reimbursement occurs.
- 15) Make numerous other technical changes.

AS PASSED BY THE ASSEMBLY , this bill prohibited the Commission from finding a reimbursable state mandate if an appropriation in the Budget Act, or in another bill, provides funding or cost savings towards the reimbursable mandate.

FISCAL EFFECT : Unknown

COMMENTS : This bill is one of a number of bills under consideration this year that reform aspects of reimbursable state mandates policy. This bill addresses the way claims are filed and evaluated. It establishes a basic "reasonable reimbursement methodology" to be used as a formula for reimbursing local agency and school district costs mandated by the state, and requires that, whenever possible, this methodology shall be based on general allocation formulas, uniform cost allowances, and other approximations of local costs mandated by the state, rather than detailed documentation of actual local costs. However, the bill also provides for exceptions to this general rule. The bill also sets forth new procedures for filing test claims and establishing parameters and guidelines, and requires the Controller to complete any audit of a reimbursement claim within two years of its commencement.

Analysis Prepared by : J. Stacey Sullivan / L. GOV. / (916)  
319-3958 FN: 0008668

# Assessment Apportionments for STAR, CELDT, and CAHSEE

Funding is provided to reimburse local educational agencies the cost associated with administering the STAR, CELDT, and CAHSEE. The amount apportioned per pupil per test is established by the State Board of Education (SBE).

## Eligibility

<b>Eligible Applicants</b>	Local educational agencies
<b>Required Eligibility Criteria</b>	Local educational agencies that administer the STAR, CELDT, or CAHSEE.
<b>Other Eligibility Considerations</b>	Not applicable
<b>Eligible Grade Level(s)</b>	Not applicable
<b>Eligible Age Level(s)</b>	Not applicable

## Funding

<b>Legal Authority</b>	STAR: Education Code Section 60640(h) CELDT: Education Code Section 313 & 60810(a)(4) CAHSEE: Education Code Section 60851(a) State Board Item Number 6110-113-0001(5)
<b>Source / Type</b>	State / Apportionment
<b>State Fiscal Year</b>	2012-13
<b>SACS Resource/ Revenue Codes</b>	0000 / 8590
<b>Total Available</b>	\$27,572,111
<b>Recipient Amount</b>	See Allocation Formula.
<b>Match Requirement</b>	No
<b>Allocation Formula</b>	STAR: \$2.52 per student tested in grades two through eleven with the California Standards Tests (CSTs), California Modified Assessment (CMA), or a combination thereof; \$5.00 per student tested with the California Alternate Performance Assessment (CAPA); \$2.52 per student tested in grades two through eleven with the Standards-based Tests in Spanish (STS); \$0.38 per student not tested with the CST, CMA, STS, or CAPA for whom only demographic data were submitted. CELDT: \$5.00 per student tested. CAHSEE: \$3.00 per student tested; \$0.32 for each grade 10 census answer document returned.

## Important Dates

<b>Date Application Available</b>	Unavailable
<b>Due Date</b>	Unavailable

<b>Due Date</b>	Unavailable
<b>Expected Notification Date</b>	May 30, 2013

## Additional Information

<b>Application</b>	Unavailable
<b>Background</b>	<a href="http://www.cde.ca.gov/ta/tg/">http://www.cde.ca.gov/ta/tg/</a>
<b>Fiscal</b>	Unavailable
<b>Funding Results</b>	<a href="http://www.cde.ca.gov/fg/fo/r19/assmtapprt1213results.asp">http://www.cde.ca.gov/fg/fo/r19/assmtapprt1213results.asp</a>
<b>Other</b>	PROGRAM CONTACTS: (STAR: John Boivin, <a href="mailto:jboivin@cde.ca.gov">jboivin@cde.ca.gov</a> , 916-445-8765) (CELDT: Lily Roberts, <a href="mailto:lroberts@cde.ca.gov">lroberts@cde.ca.gov</a> , 916-319-0784) (CAHSEE: Diane Hernandez, <a href="mailto:dhernand@cde.ca.gov">dhernand@cde.ca.gov</a> , 916-445-9449) FISCAL CONTACTS: (STAR: Mei Tan, <a href="mailto:mtan@cde.ca.gov">mtan@cde.ca.gov</a> , 916-319-0346) (CELDT: Kerri Wong, <a href="mailto:kewong@cde.ca.gov">kewong@cde.ca.gov</a> , 916-319-0333) (CAHSEE: Gayle Jamerson, <a href="mailto:gjamerso@cde.ca.gov">gjamerso@cde.ca.gov</a> , 916-319-0340)

## Contacts

<b>Program</b>	See Other above. Phone : E-mail :
<b>Fiscal</b>	See Other above. Phone : E-mail :
<b>Division</b>	Assessment Development & Administration Division Phone : Fax : 916-319-0968

Last Modified: August 13, 2012

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California Department of Education  
1430 N Street  
Sacramento, CA 95814

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**California Basic Educational Data System (CBEDS)  
Administrative Manual**

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## General Information About CBEDS

The California Department of Education (CDE) is responsible for the administration and management of the California Basic Educational Data System Online Reporting Application (CBEDS-ORA). This function is performed under the direction of the CALPADS/CBEDS/CDS Operations Office of the Educational Data Management Division.

The CDE collects the CBEDS data, analyzes the information, and maintains the data. County offices of education, school districts, and independently reporting charter schools are the source of the data.

### Resources:

CBEDS Collection, Content, and General Inquiries:  
CALPADS/CBEDS/CDS Operations Office  
[cbeds@cde.ca.gov](mailto:cbeds@cde.ca.gov)  
916-324-6738

County-District-School (CDS) Code: To obtain a CDS code for a new school, complete the Application for County-District-School (CDS) Code form available from the CDE Web site at:  
<http://www.cde.ca.gov/ds/si/ds/documents/cdsappnew.doc>

CBEDS Coordinators: Information for CBEDS coordinators is available on the CDE's CBEDS Web page at:  
<http://www.cde.ca.gov/ds/dc/cb/index.asp>.

### Contact information for program questions:

#### Educational Options/Independent Study

Chiem-Seng Yaangh  
Educational Options, Student Support, and American  
Indian Education Office  
[CYaangh@cde.ca.gov](mailto:CYaangh@cde.ca.gov)  
916-319-0943

#### Truancy

Stephanie Papas  
Coordinated Support & Adult Education Division  
[SPapas@cde.ca.gov](mailto:SPapas@cde.ca.gov)  
916-445-8441

#### School Improvement Grant (SIG)

Chad Portney  
School Turnaround Office  
[CPortney@cde.ca.gov](mailto:CPortney@cde.ca.gov)  
916-324-3455

#### Technology

Jose Ortega  
Education Technology Office  
[jortega@cde.ca.gov](mailto:jortega@cde.ca.gov)  
916-323-5072

## Significant Dates – CBEDS 2013

By September 3	CBEDS coordinators receive materials.
By September 9	CBEDS coordinators train school staff in administrative procedures.
<b>October 2</b>	<b>Information Day</b>
October 11	Schools return materials to district CBEDS coordinators.
By October 31	Districts submit data through the Internet.
November 15	The CDE notifies district superintendents if CBEDS data are not received by this date.

### What Information is Collected?

Two separate forms are used to collect the data:

The **County/District Information Form (CDIF)** requests information on the following:

- **Classified staff** – The number of staff members by type, gender, and racial/ethnic designation.
- **Teacher hires** – The estimated number of hires by subject area for 2014-15.
- **High school graduation requirements** – The minimum units required for a high school diploma for 2013-14, by subject area.

The **School Information Form (SIF)** requests information on the following:

- **Classified staff** – The number and full-time equivalent classified staff members by type, gender, and racial/ethnic designation.
- **Educational Options/Independent Study/Online Education** – The number of participating students by type of educational option, the number of students taking classes through independent study and/or online education, and the number of students who completed one or more classes through independent study during any of grades 9–12 and graduated during the 2012–13 school year.

- **Technology** – The number of computers used for instruction-related purposes, the number of instructional settings used for instruction-related purposes, and the number of instructional settings that have high speed Internet connectivity.
- **Educational calendar** – The type of calendar on which the school operates, and the school’s start date and end date.
- **Parental Exception Waiver from English-Language Classrooms** – The number of waiver requests and the number of waivers granted for English learner (EL) students’ enrollment in a bilingual classroom.
- **Bilingual Paraprofessionals (Aides) Providing Services to English Learners** – The language and the number of bilingual paraprofessionals who provide primary language support to ELs in classrooms where the teacher is providing EL services.
- **Truancy** – The number of students who were truant in the 2012–13 school year (an unduplicated count).
- **School Improvement Grant (SIG) Supplement** – The methods for increased learning time, the minutes that the students were required to be in class, the number of students completing advanced coursework/dual class enrollment, and the attendance rate. (**Only** LEAs approved for SIG will have access to this section.)

### Who Provides Information for CBEDS?

Each county/district superintendent has been asked to designate a CBEDS coordinator. It is the CBEDS coordinator’s responsibility, on behalf of the superintendent, to ensure that all data collection and reporting procedures are followed and that accurate data are submitted to the CDE by the submission deadline. The CBEDS coordinator should serve as the primary source for clarifying instructions on completing the CBEDS forms.

A charter school may elect to (1) report data independently of its authorizing agency and directly to the CDE through CBEDS-ORA, or (2) have the authorizing agency report the charter school’s CBEDS data on its behalf. The time period for charter schools to submit requests to change their CALPADS and CBEDS-ORA reporting status was **June 1 through 30, 2013**.

On Information Day, each county office of education, school district, school, and independently reporting charter school is responsible for ensuring that the appropriate CBEDS forms are completed.

### How is the Information Collected?

Early in the fall, data collection information is distributed to the county and district CBEDS coordinators.

### The CDIF is to be completed by:

- County offices of education (COEs)
- Local school districts operating elementary and/or secondary schools (single-school districts should complete both the CDIF and the SIF.)
- The California Education Authority (CEA)
- State Board of Education (SBE) Agencies
- Statewide Benefit Charter (SBC) Agencies
- State Special Schools

### The SIF is to be completed by:

- All public schools maintained by county offices of education (including juvenile halls and other special schools). Data are not reported for preschools, children’s centers, after-school programs, adult schools, and regional occupational centers/programs (ROC/Ps).
- All public schools administered by a school district, including charter schools. (**Charter schools that report their data independently from their authorizing agencies should submit their SIF data directly on CBEDS.**) Data are not reported for preschools, children’s centers, after-school programs, adult schools, and ROC/Ps.
- All public schools administered by the California Education Authority.
- State Board of Education (SBE) Schools
- Statewide Benefit Charter (SBC) Schools
- State Special Schools

### How is the Information Used?

Information collected through CBEDS is used by the CDE to produce state and federal reports for: Estimated teacher hires, classified staff, special education, school improvement grants, discipline, Title III teachers, Office of Civil Rights data, Common Core of Data (CCD), and migrant education.

CBEDS data, after review and certification, are made available to educational institutions and the general public through the CDE’s Data and Statistics Web page at: <http://www.cde.ca.gov/ds/>.

For assistance accessing the data, please contact the CALPADS/CBEDS/CDS Operations Office at 916-324-6738.

# Receipt, Preparation, and Submission Process

## Materials Receipt

CBEDS coordinators will receive information regarding the October 2013 CBEDS collection through email.

## Preparation of Data

CBEDS coordinators are responsible for the following:

- 1) Review the **List of Expected Schools** to verify that the CDE's records for the schools in your LEA are up-to-date. The accuracy of this list is critical, as discrepancies may prevent data submission. The List of Expected Schools may be viewed from the CBEDS-ORA logon Web site, located at:  
<http://www3.cde.ca.gov/opuscbeds/login.aspx>.

To report school closures, school name changes, and grade-span changes you must work with your CDS coordinator. Further instructions for updating your school information are provided on the List of Expected Schools (located within CBEDS-ORA).

- 2) If a new school is opening in your LEA, complete the *Application for County-District-School (CDS) Code*, which is available from the CDE Web site at:  
<http://www.cde.ca.gov/ds/si/ds/documents/cdsappnew.doc>.
- 3) Review the CDIF and SIF to determine what data are needed. Some districts have the data available centrally; other districts must collect the data manually from each of the schools in the district.
- 4) If collecting the data manually, use the CBEDS-ORA to print out a blank CDIF or SIF for each school; or the schools may print the SIF from the Internet at:  
<http://www.cde.ca.gov/ds/dc/cb/>.

## Submission of Data

- 1) Use the CBEDS-ORA system to complete the **CDIF and SIF**. If the data are available in an electronic format, the data may be imported into the CBEDS-ORA system without manual data entry. To import, the data must be in the format specified for CBEDS-ORA, which is available under the *advanced features* menu in the application, and also on the CBEDS-Online Reporting Application and Resources Web page at:  
<http://www.cde.ca.gov/ds/dc/cb/cbedsora.asp>.
- 2) Verify that a SIF has been completed for each school in the district, that data are reported for the year-round schools that are off track (i.e., not in session) on Information Day, and that a CDIF has been completed for the district. CBEDS coordinators should also check the CDIF and the SIF of each school for completeness and accuracy.

# Glossary

## Bilingual Paraprofessional

For the purposes of this report, a bilingual paraprofessional is an aide fluent in both English and the primary language of the pupil or pupils of limited English proficiency and who provides primary language support. Such paraprofessionals should meet district criteria that ensure that these paraprofessionals are (1) able to understand, speak, read, and write English and the given primary language; and (2) are familiar with the cultural heritage of the given ELs.

## Classified Employee

A classified employee is defined as an employee of a school district who is employed in a position not requiring certification qualifications. In addition to the paraprofessionals and office/clerical staff, “other classified staff” may include custodians, food service staff, bus drivers, business managers, or staff below the level of assistant, deputy, or associate superintendents who hold positions not requiring credentials. For CBEDS reporting, do not include preschool, adult education, or ROC/P classified employees.

## Educational Calendar

*Single-Track Year-Round School:* Students follow an educational calendar that has frequent and shorter vacation periods. The entire student body occupies the facility for on-track sessions and shares similar vacation schedules during off-track periods. “Single Track” would not have more than a 30-day break during the year; whereas a “Traditional” calendar would be any calendar where there is a 31 days or more break.

*Multitrack Year-Round School:* Students are divided into three to five groups to increase the enrollment capacity of the facility. The three, four, or five tracks rotate throughout the year, following an educational calendar that has frequent and shorter vacation periods. One of the tracks is always on vacation.

*60/20:* Under this plan, the school year is divided into three 60-day (12-week) instructional periods and three 20-day (4-week) vacation periods.

*60/15:* Under this plan, the school year is divided into three 60-day (12-week) instructional periods and four 15-day (3-week) vacation periods.

*90/30:* Under this plan, the school year is divided into two 90-day (18-week) instructional periods and two 30-day (6-week) vacation periods.

*45/15:* Under this plan, the school year is divided into four 45-day (9-week) instructional periods separated by four 15-day (3-week) vacation periods.

*Concept 6:* The school year is divided into two 80-day (16-week) instructional periods and two 40-day (eight-

week) vacation periods. This is a three-track calendar.

*Custom Calendar:* This year-round educational program, which is not described above, has fewer than eight consecutive weeks of vacation scheduled during the school year.

## Educational Options

An “educational option” is a course of study, prescribed by the California Education Code (EC), which is **different** from and is an alternative to conventional or regular instruction (see EC 51225.3 [b]). The educational options described below are offered at the option of the district or county office of education. Some educational options may be a program within a school, while others may constitute the entire enrollment of a school. In both cases, this enrollment should be reported in section B on the SIF.

Students may be engaged concurrently in more than one educational option and should be reported in each educational option in which they participate. The categories within which students in educational options are to be reported in section B are discussed below.

“Alternative schools and programs of choice” refers to the voluntary schools and programs established by local governing boards pursuant to EC sections 58500 et seq. to provide different means of attaining the objectives of regular education and meeting different students’ interests, needs, and ways of learning. Alternative schools and programs of choice may offer different instructional strategies, philosophies, structures, or focuses. Examples include the following schools and programs: Dual immersion language, fundamental or back-to-basics, Montessori, open classroom, smaller learning communities, thematic schools and programs, and others.

“Magnet” means any school, program, or school within a school designed to attract students from their school of residence. A magnet school/program is established and operates on the basis of a particular curriculum theme and/or a particular instructional mode or structure; it may or may not be intended for achieving racial balance.

“Total (unduplicated)” means the total number of students reported in one or more of the alternative schools and programs of choice listed in this section (EC sections 58500–58512). Do not report a student more than once on the “total (unduplicated)” line.

## Independent Study

“Independent study” refers to an alternative to classroom instruction (consistent with the district’s course of study) that is engaged in voluntarily by the student in accordance with the terms and conditions of a written agreement as required by EC sections 51745-51749.3.

The student's study is always under the general supervision of a certificated district/county/charter school teacher.

### **Information Day**

On this day, personnel in schools, districts, and county offices of education are requested to provide information regarding their schools.

### **Online Education**

"Online education" means teacher-led education that takes place over the Internet, with the teacher and student separated geographically. Online classes can be either synchronous (students are under the immediate supervision and control of a certificated employee of the district/county/charter school), or asynchronous (students are *not* under the immediate supervision and control of a certificated employee of the district/county/charter school, students and the teacher are online at different times).

### **Other Classified Staff**

"Other classified staff" includes all noncertificated staff members not reported as "paraprofessionals" or "office/clerical staff," such as managers, custodians, food service staff, bus drivers, noon duty supervisors, and staff below the level of assistant, deputy, or associate superintendent.

### **Paraprofessional**

"Paraprofessionals" include teaching assistants, teacher aides, pupil service aides, and library aides.

### **Parental Exception Waiver from English-Language Classrooms**

A "parental exception waiver from English-language classrooms" is a written request from parents or guardians of ELs who petition for enrollment in a bilingual education class or other generally recognized alternative course of study. Pursuant to EC sections 310 and 311, districts are required to process parental exception waiver requests.

### **Racial/Ethnic Designations**

The following racial and ethnic designations and definitions are aligned with the federal standards for collecting and reporting race and ethnicity categories. The racial/ethnic designation that most closely reflects the individual's recognition in the community should be used for the purposes of this report.

*American Indian or Alaska Native, Not of Hispanic Origin:* A person having origins in any of the original peoples of North and South America (including Central America) and who maintains cultural identification through tribal affiliation or community recognition.

*Asian, Not of Hispanic Origin:* A person having origins in any of the original peoples of the Far East, Southeast

Asia, or the Indian subcontinent (e.g., Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, Thailand, and Vietnam).

*African American, Not of Hispanic Origin:* A non-Hispanic person having origins in any of the black racial groups of Africa.

*Filipino, Not of Hispanic Origin:* A person having origins in any of the original peoples of the Philippine Islands.

*Hispanic or Latino of any race:* A person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin regardless of race.

*Pacific Islander, Not of Hispanic Origin:* A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands (excludes the Philippine Islands).

*White, Not of Hispanic Origin:* A non-Hispanic person having origins in any of the original peoples of Europe, North Africa, or the Middle East (e.g., England, Portugal, Egypt, and Iran).

*Two or More Races, not Hispanic:* This is **not** a designation that should be used for local collection of racial/ethnic data from individuals. This designation should be used to report aggregated data from districts of more than one race or ethnicity.

*No Response:* Staff who did not report an ethnicity or racial designation should be reported in the "Two or More Races, not Hispanic" category.

### **School Improvement Grant (SIG)**

See page 12 of this manual for SIG definitions and instructions.

### **Truant**

Per Education Code Section 48260, "a pupil subject to compulsory full-time education or to compulsory continuation education who is absent from school without a valid excuse three full days in one school year or tardy or absent for more than a 30 minute period during the school day without a valid excuse on three occasions in one school year, or any combination thereof, shall be classified as a truant."

# Instructions for Completing the County/District Information Form

## General Instructions

County and district offices should complete only one CDIF. A sample of the CDIF is on page 7 of this manual.

Independently Reporting Charter Schools should **not** complete a CDIF.

- Report data current as of Information Day unless otherwise directed.
- Make copies for the county office of education and for your records as appropriate.

## Special Instructions

- **County Offices:** Report information only for students and staff in programs administered by the county office. Do not aggregate or duplicate district data.
- **District Offices:** Do not aggregate or duplicate information reported on a school report.

## Detailed Instructions by Item

### Contact information / Certification

Report the name and phone number of the person completing the CDIF. Report the name and title of the person certifying the CDIF.

### A. Number of Classified Staff, and Full Time Equivalent of Classified Staff (lines 1–9)

Report the paraprofessional, office/clerical, and other classified staff members assigned to the county or district office.

Do not report the sum of the classified staff reported on the district's SIFs.

Do not report adult education, ROC/P, or children's center/preschool classified staff.

Single-school districts should report all classified staff on the SIF only.

Refer to the Glossary in this manual for definitions of "racial/ethnic designation," "paraprofessional," and "other classified staff."

### Number of Classified Staff (lines 1-6 only)

Report in whole numbers, by type, gender, and racial/ethnic designation, the number of paid full-time and part-time classified employees assigned to the district office or county office of education and not to a specific school site as of Information Day.

For CBEDS reporting, refer to your county or district's definition of "full time" to determine whether an individual classified staff member should be reported as full time or part time. If your county or district does not have a definition of full time, report staff members who work 30 hours or more per week as full time, and staff members who work fewer than 30 hours per week as part time.

"Paraprofessional" or "office/clerical" staff who work in more than one position at the county or district office should select just one of their positions to report, and they should reflect all of their time under that position.

"Other classified" staff members who serve at more than one school site are reported on the CDIF.

### Full Time Equivalent of Classified Staff (lines 7–9 only)

Report in full time equivalent (FTE), by type, gender, and racial/ethnic designation, the FTE of classified employees assigned to the district office or county office of education and not to a specific school site. Report personnel who work full time as 1.00 FTE, and personnel who work less than full time by the percentage of time they work (e.g., a half-time person is .50 FTE; a quarter-time person is .25 FTE).

Classified staff members who work in more than one position at the county or district office should report the FTE for each position. For example, if a full-time staff person serves half time as a paraprofessional and half time as an office/clerical employee, report the position as .50 FTE paraprofessional and .50 FTE office/clerical.

Classified staff who serve at the county/district office and at a school site are reported on both the CDIF and the SIF.

### B. Estimated Number of Teacher Hires

Report the projected or estimated number of teacher hires for the 2014–15 school year to fill new positions or vacated positions. A vacated position occurs if a teacher is expected to retire, resign, transfer, or begin a leave of absence. Do **not** include teachers expected to remain with the district in a new specialization.

Report information about classroom teaching positions and specialist positions, including those funded by local, state, or federal monies. Do not include administrative, guidance, media, library, health service, or non-certificated positions in "other specializations."

Independently reporting charter schools are to report their estimated teacher hires on the SIF, so authorizing agencies should not include teacher hires from their independently reporting charter schools on the CDIF.

### C. High School Graduation Requirements (2013–14)

For your district's 2014 graduates, report the minimum number of units required in each subject, the total number of units needed for graduation on line 13, and the number of units in a one-year course on line 14. In addition to the minimum graduation requirements, if your district's graduation requirements include any of the specific mathematics and/or science subjects listed, report those units in the spaces provided.

Independently reporting charter schools are to report their 2014 high school graduation requirements on the SIF. Therefore, authorizing agencies should **not** include the graduation requirements from their independently reporting charter schools on the CDIF.

# CBEDS

California Basic Educational Data System  
California Department of Education  
Revised (06/27/2013)

## County/District Information Form (CDIF) October 2013

County/District Information	
County:	
District:	
CD Code:	

Contact Information / Certification	
Name of person completing the form	
Phone	
<b>Certification</b> – By electronically submitting the data to the CDE, I hereby certify that the data reported on this form are accurate.	
Name/Title of person certifying data	Date

A. Number of Classified Staff			Male							Female							Totals		
Report in whole numbers only the number of classified staff assigned to the district office or county office of education. (Single-school districts should NOT use this form to report classified staff. Instead they are to report classified staff on the SIF.)			American Indian or Alaska Native, Not Hispanic	Asian, Not Hispanic	Pacific Islander, Not Hispanic	Filipino, Not Hispanic	Hispanic or Latino of Any Race	African American, Not Hispanic	White, Not Hispanic	Two or More Races, Not Hispanic	American Indian or Alaska Native, Not Hispanic	Asian, Not Hispanic	Pacific Islander, Not Hispanic	Filipino, Not Hispanic	Hispanic or Latina of Any Race	African American, Not Hispanic	White, Not Hispanic	Two or More Races, Not Hispanic	Totals
1	Paraprofessionals	Full-time																	
2	Paraprofessionals	Part-time																	
3	Office/Clerical Staff	Full-time																	
4	Office/Clerical Staff	Part-time																	
5	Other Classified Staff	Full-time																	
6	Other Classified Staff	Part-time																	

Full Time Equivalent of Classified Staff – NEW (see instructions in the CBEDS Administrative Manual)			Male							Female							Totals		
Report to two decimal places the full-time equivalents (FTEs) of classified staff assigned to the district office or county office of education. For example, report full-time as 1.00 FTE, half-time as .50 FTE, and quarter-time as .25 FTE. (Single-school districts should NOT use this form to report classified staff. Instead they are to report classified staff on the SIF.)			American Indian or Alaska Native, Not Hispanic	Asian, Not Hispanic	Pacific Islander, Not Hispanic	Filipino, Not Hispanic	Hispanic or Latino of Any Race	African American, Not Hispanic	White, Not Hispanic	Two or More Races, Not Hispanic	American Indian or Alaska Native, Not Hispanic	Asian, Not Hispanic	Pacific Islander, Not Hispanic	Filipino, Not Hispanic	Hispanic or Latina of Any Race	African American, Not Hispanic	White, Not Hispanic	Two or More Races, Not Hispanic	Totals
7	Paraprofessionals																		
8	Office/Clerical Staff																		
9	Other Classified Staff																		

County/District Information Form (CDIF) (Continued)

CD Code:

B. Estimated Number of Teacher Hires (2014–15)			C. High School Graduation Requirements (2013–14)		
For classroom teaching and specialist positions only. Report in full-time equivalents (FTEs) to one decimal place. (Do not include administrative, guidance, media, library, health service, or classified positions.)			Minimum units required for a high school diploma. (Report units to one decimal place.)		
			Subject Areas		Units
			1	English	.
			2	Visual and Performing Arts	.
			3	Foreign Language	.
			4	Foreign Language or Visual and Performing Arts	.
			5	Health	.
			6	History-Social Science	.
			7	Mathematics	.
			8	Physical Education	.
			9	Science	.
			10	Community Service	.
			11	Electives	.
			12	Other Requirements	.
			13	<b>Total units needed for graduation</b>	.
			14	<b>Units in a One-Year Course</b> Report the number of units in a one-year course. Typically, a one-year course is equivalent to 10 units. For example, if four years and 40 units of English are required for graduation, the number of units in a one-year course would be 10.	.
			<b>Specific Graduation Requirements for Mathematics and Science</b> For mathematics: Complete the following section ONLY if your district's high school graduation requirements for mathematics include any of the subjects listed below. For science: Specify laboratory science.		
			<b>Mathematics Required for Graduation</b>		<b>Units</b>
			15	Geometry or Integrated Mathematics II (college preparatory)	.
			16	Algebra II or Integrated Mathematics III (college preparatory)	.
			17	Probability and Statistics or Data Analysis	.
			<b>Laboratory Science</b>		<b>Units</b>
			18	Laboratory Science required for graduation	.
1	Agriculture	.			
2	Art	.			
3	Bilingual Education	.			
4	Business	.			
5	Dance	.			
6	English	.			
7	Foreign Language	.			
8	Health Education	.			
9	Home Economics	.			
10	Life Science	.			
11	Mathematics	.			
12	Music	.			
13	Physical Education	.			
14	Physical Science	.			
15	Reading	.			
16	Self-contained Classes	.			
17	Special Education	.			
18	Social Science/Studies	.			
19	Drama/Theater	.			
20	Trades and Industrial Arts	.			
21	Other Specializations	.			



# Instructions for Completing the School Information Form

## General Instructions

Complete only one SIF for each school. A sample of the SIF for schools in districts or county offices of education is on pages 15–16 of this manual. A sample of the SIF for independently reporting charter schools is on pages 15–17 of this manual.

- **Independently Reporting Charter Schools should also complete the supplemental portion of the SIF that is designated “For Independently Reporting Charter Schools Only.”**
- **SIG participating schools will have additional reporting requirements which are outlined on the SIF Supplemental Form on page 18.**
- Report data current as of Information Day.
- Make a copy for the county office of education as appropriate. Retain a copy for school files.
- **County Superintendents:** *Do not report data for students concurrently enrolled in a school district.*

## Detailed Instructions by Item

### Contact Information / Certification

Report the name and phone number of the person completing the SIF. Report the name and title of the person certifying the SIF.

### A. Number of Classified Staff and Full Time Equivalent of Classified Staff (lines 1–9)

Report the paraprofessional, office/clerk, and other classified staff members assigned to a specific school site.

Do not report adult education, ROC/P, or children’s center/preschool classified staff.

Single-school districts should report all classified staff on the SIF only.

Refer to the Glossary in this manual for definitions of “racial/ethnic designation,” “paraprofessional,” and “other classified staff.”

### Number of Classified Staff (lines 1–6 only)

Report in whole numbers, by type, gender, and racial/ethnic designation, the number of paid full-time and part-time classified employees assigned to the school as of Information Day.

For CBEDS reporting, refer to your county or district’s definition of “full time” to determine whether an individual classified staff member should be reported as full time or part time. If your county or district does not have a definition of full time, report staff members who work 30 hours or more per week as full time and staff members who work fewer than 30 hours per week as part time.

Report the “paraprofessional” or “office/clerk” staff members who serve at more than one school only once on the SIF and at the school where they serve the majority of their time. Classified staff members who work in more than one position within the same school district should select one of the positions to report.

If “other classified” staff serve at more than one school, they should be reported on the CDIF.

### Full Time Equivalent of Classified Staff (lines 7–9 only)

Report in full-time equivalent, by type, gender, and racial/ethnic designation, the full-time equivalent (FTE) of classified employees assigned to a specific school site. Personnel who work full time are to be reported as 1.00 FTE. Personnel who work less than full time are to be designated by the percentage of time they work (e.g., a half-time position is .50 FTE; a quarter-time position is .25 FTE).

Classified staff members who work in more than one type of assignment should report the FTE for each assignment. For example, if a full-time staff person serves half time as a paraprofessional and half time as an office/clerk employee, report the position as .50 FTE paraprofessional and .50 FTE office/clerk.

All classified staff who serve at more than one school should report the FTE at each school site to which he/she is assigned. For example, if a paraprofessional assignment is considered half time, and the staff member is assigned to two schools, the paraprofessional’s FTE would be reported at each school site as .25 FTE.

### B. Educational Options/Independent Study/Online Education

Complete this section if any type of educational option, independent study, and/or online education is offered to your students. Students should be counted in each category that applies. Refer to the Glossary in this manual for definitions for this section.

### Types of Educational Options

Report the number of participating students for each type of educational option and the total unduplicated count.

Note: Charter schools cannot be an Alternative School of Choice, but should complete the independent study and online education sections.

Report Smaller Learning Communities and Thematic Schools and Programs under Alternative Schools and Programs of Choice.

### Independent Study/Online Education in all School Types (including charter schools)

Report the number of students taking classes through independent study and/or online education, and the total unduplicated count.

## Independent Study

Report students on lines 4 and 5 only if the students have a signed Independent Study Written Agreement for:

- A period of five consecutive days or more (not applicable to charter schools), up to one full semester or trimester; **or**
- If these students are away from classroom instruction temporarily (more than five days) for travel, vacation, or for short-term sickness not covered by home and hospital instruction, and if they plan to return to the classroom after the short-term independent study.

Most online education follows **independent study** rules and regulations (EC 51745-51749), so students taking online classes may need to be reported in both the independent study and online education sections.

- Report students taking asynchronous online classes in *both* sections.
  - These students are *not* under the immediate supervision and control of a certificated employee of the district/county/charter school.
  - Students and teachers are online at different times.
- Do **not** report students taking synchronous online classes in this independent study section.
  - These students are under the immediate supervision and control of a certificated employee of the district/county/charter school (EC section 46300 [a]).

Line 4: Report the total number of students currently taking one or more classes through independent study.

Line 5: Of the students reported on line 4, report the number of students taking 50 percent or more of their classes through independent study. Since this number is a subset of line 4, it may never be larger than the number of students reported on line 4.

*Community Day Schools:* Per EC 48663 (d), you cannot use independent study as a means of providing any part of the minimum instructional day. Do not report community day school students in this section.

*Continuation or Opportunity Students:* No more than 10 percent of the students participating in a continuation high school or opportunity school or program may be eligible for apportionment credit for independent study. A student who is pregnant or who is the primary caregiver for one or more of his or her children is not counted within the 10 percent cap (EC Section 51745 [b]).

## Online Education

Report on lines 6 and 7 in this section students taking:

- Asynchronous online classes (see Glossary – Online Education, page 5)
- Synchronous online classes (see Glossary – Online Education, page 5)

Line 6: Report the total number of students currently taking one or more classes via online education.

Line 7: Of the students reported on line 6, report the number of students taking 50 percent or more of their classes via

online education. Since this number is a subset of line 6, it may never be larger than the number of students reported on line 6.

## Graduates through Independent Study (2012–13)

Report the number of students who completed one or more classes through independent study during any of grades 9-12 and who graduated during the 2012-13 school year.

For questions regarding Independent Study contact Chiem-Seng Yaangh of the Educational Options, Student Support, and American Indian Education Office at 916-319-0943.

## C. Technology

### Computers Used for Instruction-Related Purposes

Line 1: Report the number of computers owned or leased by the school that are less than 48 months old and are used for direct instruction, curriculum development, classroom management, preparation of instructional materials, or similar activities. The count should include computers used for instruction-related purposes that may not be located at the school site (e.g., computers loaned to teachers or students for work at home or at other locations). Do not include word processing-only computers, thin clients, or tablet computers (e.g., iPads). If there are no computers, enter "0." If your school does not provide this count, the answer is assumed to be "0."

### Instructional Settings

Line 2: Report the number of instructional settings (e.g., classroom, media center, library, or gymnasium) that are used for instruction-related purposes. Count each instructional setting once (i.e., if you have 20 classrooms and 1 media center used as an instructional setting, then report "21" as the count for instructional settings). This information is necessary to calculate the percentage of these settings with high-speed Internet access and for other facilities-related data.

### Instructional Settings with Internet Access

Line 3: Report the number of instructional settings (e.g., classroom, media center, library, or gymnasium) used for instruction-related purposes that have high-speed Internet connectivity. A high-speed connection for these purposes is 10 megabits or greater, capable of streaming instructional content.

Count each instructional setting once, even if the setting is utilizing more than one computer with Internet access (i.e., if you have 15 classrooms, 1 library, and 2 media centers used for instruction-related purposes that have high-speed Internet connectivity, then report "18" as the count of instructional settings with Internet access). The count of instructional settings with Internet access cannot be greater than the total count of instructional settings reported on line 2. If there are no settings utilizing Internet access, please enter "0." If your school does not provide this count, the answer is assumed to be "0."

## D. Educational Calendar

Report the type of calendar on which your school operates. Do not report both single-track and multitrack for a single school site. If any part of the school is year-round,

select more than one type of calendar: Traditional and single-track, or traditional and multitrack.

Report the school's start date (first day of school) and the end date (last day of school).

Refer to the Glossary in this manual for definitions relevant to "Educational Calendar."

#### E. Parental Exception Waiver from English-Language Classrooms

Report the number of waiver requests (new or renewed) and the number granted during October 3, 2012 through October 2, 2013 from parents or guardians of English learner (EL) students who petition for enrollment in a bilingual education class or other generally recognized alternative course of study.

Note: A waiver granted under EC 310 and 311 is not the same as a parental request. Parental requests refer to solicitations on the part of parents or guardians to have their child transferred from a structured English immersion setting and placed in an English-language mainstream class and provided with additional and appropriate instructional services as authorized by CCR T5, 11301(b).

##### Parental Exception Waivers Requested

Line 1: Report the total number of new and renewal parental exception waivers that have either been granted or denied since the last CBEDS Information Day (October 3, 2012), pursuant to EC 310 and 311.

##### Parental Exception Waivers Granted

Line 2: Report the total number of parental waivers from line 1 that have been granted since October 3, 2012.

Note: The number reported in row 2, total parental exception waivers granted, may **not** be greater than the number reported in row 1, total parental exception waivers granted or denied. In row 1, include all waiver activity, new and renewal, including those waiver requests submitted before October 3, 2012, but where a decision that was pending on October 3, 2012, was eventually transacted after October 3, 2012 (granted or denied). In row 2, include all waivers, new, renewal, and pending, that were granted after October 3, 2012.

#### F. Bilingual Paraprofessionals Providing Services to ELs

By language, report the number of bilingual paraprofessionals (aides) who provide support to ELs in English language development (ELD), language arts, mathematics, science, and/or social studies classes, and who are assigned to ELs as of October 2, 2013. Refer to the Glossary in this manual for a definition of a "bilingual paraprofessional."

##### Language

From the languages listed on page 14 of this manual, report the primary language(s) used to support ELs in the classroom.

##### Bilingual Paraprofessionals (Aides)

Count each bilingual paraprofessional (aide) only once. Report persons in whole numbers regardless of full-time or part-time status (no fractions or decimals). If an aide works

at more than one school, report the person at the school in which he or she spends the majority of time providing EL instructional services. If the aide spends an equal amount of time serving ELs at more than one site, choose only one site and report all of their time at that site. Do not report this aide more than once, do not use decimals to report the time, and do report them under multiple languages.

#### M. Number of Truancies (2012–13)

Report the total **unduplicated** number of students who were truant between July 1, 2012 and June 30, 2013. A student is considered truant when the student has an unexcused absence for more than a 30 minute period on three or more days.

- Report truancy data for every school.
- A full day absence without an excuse should be counted as one unexcused absence. A "tardy" of more than a 30-minute period without a valid excuse is an unexcused absence.
- If a student was truant at the same school more than once, count the student as truant only once (unduplicated count).
- If a student was truant at more than one school during the 2012–13 school year, report the student in each school at which he/she was truant.
- Unexcused absences resulting from suspensions should not be reported.

For **most** schools, it is highly unlikely that zero students have had three or more unexcused absences. However, if you have no truancies to report, enter "0," and provide a brief explanation for your "0" response.

- The number of truancies reported cannot exceed the 2012–13 enrollment reported for the school.
- For further information regarding the collection of truancies, please contact Stephanie Papas, Coordinated Student Support & Adult Education Division, via phone at 916-445-8441, or via e-mail at [SPapas@cde.ca.gov](mailto:SPapas@cde.ca.gov).

#### Independently Reporting Charter Schools only:

#### G. Estimated Number of Teacher Hires (2014–15)

Report the projected or estimated number of teacher hires for the 2014–15 school year to fill new positions or vacated positions. A vacated position occurs if a teacher is expected to retire, resign, transfer, or begin a leave of absence.

Do **not** include teachers expected to remain with the district in a new specialization.

Report information about classroom teaching positions and specialist positions, including those funded by local, state, or federal monies. Do not include administrative, guidance, media, library, health service, or noncertificated positions in "other specializations."

#### H. High School Graduation Requirements (2013–14)

For your independently reporting charter school's 2013 graduates, report the minimum number of units required in

each subject, the total number of units needed for graduation on line 13, and the number of units in a one-year course on line 14. In addition to the minimum graduation requirements, if your school's graduation requirements include any of the specific mathematics and/or science subjects listed, report those units in the spaces provided.

### School Improvement Grant (SIG) Participants only:

The reporting period for SIG sections is the regular school year. However, if summer session is part of implementing the restart, transformation, or turnaround model, then the reporting period is the regular school year plus summer session.

#### I. Increased Learning Time (2012–13)

Report the types of increased learning time provided. Increases should be reported relative to the prior school year.

If the school had increased learning time, indicate which types of increased learning time were offered (longer school year, longer school day, before or after school, summer school, weekend school, or another method.) If "another method" was used, please provide a brief description of how learning time was extended.

If the school did not have increased learning time, indicate "Did not increase learning time."

#### J. School Year Minutes (2012–13)

Report the number of minutes that all students were required to be at school, plus any additional learning time (e.g., before or after school, weekend school, or summer school) for which all students had the opportunity to participate.

All students had the opportunity to participate if there was no selection process for the activity. For example, an afterschool program available only to a subset of students in the school, such as those who are failing a course, would not be included.

"School year minutes" are the total minutes of all full school days, all half school days, and any increased learning time provided to all students in the school.

Example:

The regular school year for a school included 176 full school days and four half school days that all students were required to attend.

- The school is in a local education agency where a full day is 390 minutes and a half day is 195 minutes.
- The school provided 80 days of additional learning time for which all students had the opportunity to participate.
- Additional learning time lasted 90 minutes per day. Total minutes would be 76,620, calculated as follows:
  - 176 days multiplied by 390 minutes = 68,640 minutes;
  - 4 days multiplied by 195 minutes = 780 minutes;
  - 80 days multiplied by 90 minutes = 7,200 minutes;
  - Add the results: 68,640 minutes + 780 minutes + 7,200 = 76,620 minutes

The "number of minutes" reporting indicator includes the total number of minutes within the school year, including the minutes added due to the increased learning time.

Note: to satisfy the requirements of the turnaround model and the transformation model for providing increased learning time, a before- or after-school or weekend instructional program must be available to all students in the school.

#### K. Advanced Coursework/Dual Class Enrollment (2012–13)

##### Advanced Coursework

Report the number of students who complete advanced coursework, such as Advanced Placement (AP), International Baccalaureate (IB), or advanced mathematics courses.

- AP is a program sponsored by the College Board through which high school students can earn college credit and advanced college placement. The list of courses identified by the College Board as preparation for AP tests is available at: <http://www.collegeboard.com/student/testing/ap/about.html> (Outside Source).
- The IB Diploma Programme, sponsored by the International Baccalaureate Organization, is designed as an academically challenging and balanced program of education, with final examinations, that prepares students, normally aged 16 to 19, for success at a university and life beyond.
- "Advanced mathematics" includes the following: trigonometry, trigonometry/algebra, trigonometry/analytic geometry, trigonometry/math analysis, analytic geometry, math analysis, math analysis/analytic geometry, probability and statistics, and pre-calculus.

Completing "advanced coursework" means that a student finished an advanced coursework class for which he or she received credit in accordance with state or local requirements.

Only include those students in grades 9, 10, 11, or 12.

A school should report a student only once if he or she completed more than one advanced course.

##### Dual Enrollment Classes

Report the number of high school students who complete at least one class in a postsecondary institution.

Only include those students in grades 9, 10, 11, or 12.

##### Advanced Coursework and Dual Enrollment Classes

Report the number of students who complete advanced coursework AND who complete at least one class in a postsecondary institution.

Only include those students in grades 9, 10, 11, or 12. Report only for Tier I and Tier II schools that implemented the restart, transformation, or turnaround model and were served with SIG funds.

## L. Attendance Rates (2012–13)

### Student Attendance Rate

Report the school's student attendance rate. The student attendance rate is calculated by dividing the number of school days that students attended school divided by the maximum number of days students could have attended school during the school year.

Example:

A school has enrolled five students during the school year, which is a 250-day session.

Students' days in attendance and enrollment are as follows:

Student	Attended	Enrolled
Student 1	200	250
Student 2	225	250
Student 3	200	210
Student 4	220	220
Student 5	150	200
Totals	995	1130

The school's student attendance rate would be 88.05 percent, calculated by dividing the sum of days attended (995) by the number of days enrolled (1130).

Students who have dropped out should be included in the calculation of the attendance rate based on their attendance and enrollment in the school.

Percentages should be reported as numeric values in the format of (5, 4), meaning that there are five total digits with four of those digits after the decimal point. For example, 100 percent would be represented as "1.0000" and 90 percent would be represented as "0.9000."

### Teacher Attendance Rate

Report the school's teacher attendance rate. The teacher attendance rate is calculated by dividing the number of full time equivalent (FTE) days classroom teachers worked by the maximum number of FTE-teacher working days.

Example:

A school has 40 full-time (1.0 FTE) and 10 half-time (0.5 FTE) teachers for a total of 45 FTE teachers. The maximum number of working days is 180. If the 40 full-time teachers worked 7,120 days and the 10 half-time teachers worked 1,760 days, the school's teacher attendance rate would be 98.77 percent, calculated as follows:

- *FTE Days Worked:* (7,120 days multiplied by 1 FTE) plus (1,760 days multiplied by 0.5 FTE) is 8,000 days.
- *Maximum FTE Days:* 45 FTE teachers multiplied by 180 working days is 8,100 days.
- *Attendance Rate:* 8,000 FTE days worked divided by 8,100 maximum FTE days is 98.77 percent.

A teacher is absent if he or she is not in attendance on a day in the regular school year when the teacher would otherwise be expected to be teaching students in an assigned class. This includes both days taken for sick leave and days taken for personal leave. Personal leave includes voluntary

absences for reasons other than sick leave. Do not include administratively approved leave for professional development, field trips, or other off-campus activities with students.

Part-time teachers should be included. This rate is based on FTE. The denominator of the rate would include the FTE for the part-time teachers.

Report only for Tier I and Tier II schools that implemented the restart, transformation, or turnaround model and were served with SIG funds.

Percentages should be reported as numeric values in the format of (5, 4), meaning there are five total digits with four of those digits after the decimal point. For example, 100 percent would be represented as "1.0000" and 90 percent would be represented as "0.9000."

Questions regarding SIG should be directed to Chad Portney, School Turnaround Office, at 916-324-3455 or via email at [CPortney@cde.ca.gov](mailto:CPortney@cde.ca.gov).

## List of Languages

The following is a list of primary languages and codes used for reporting bilingual paraprofessionals (aides) in section F of the School Information Form (SIF). Languages only on this list may be reported on the SIF. Primary languages not listed below are assigned code 99 (all other non-English languages).

For purposes of this data collection, sign language is not considered a primary language. Do not include it in your report.

### Primary Languages and Codes

<u>Code</u>	<u>Language</u>	<u>Code</u>	<u>Language</u>	<u>Code</u>	<u>Language</u>
56	Albanian	23	Hmong	06	Portuguese
11	Arabic	24	Hungarian	28	Punjabi
12	Armenian	25	Ilocano	45	Rumanian
42	Assyrian	26	Indonesian	29	Russian
61	Bengali	27	Italian	30	Samoan
13	Burmese	08	Japanese	52	Serbo-Croatian (Bosnian, Croatian, Serbian)
03	Cantonese	65	Kannada	60	Somali
36	Cebuano (Visayan)	09	Khmer (Cambodian)	01	Spanish
54	Chaldean	50	Khmu	46	Taiwanese
20	Chamorro (Guamanian)	04	Korean	63	Tamil
39	Chaozhou (Chiuchow)	51	Kurdish (Kurdi, Kurmanji)	62	Telugu
15	Dutch	47	Lahu	32	Thai
16	Farsi (Persian)	10	Lao	57	Tigrinya
05	Filipino (Pilipino or Tagalog)	07	Mandarin (Putonghua)	53	Toishanese
17	French	64	Marathi	34	Tongan
18	German	48	Marshallese	33	Turkish
19	Greek	44	Mien (Yao)	38	Ukrainian
43	Gujarati	49	Mixteco	35	Urdu
21	Hebrew	40	Pashto	02	Vietnamese
22	Hindi	41	Polish	99	All other non-English languages

School Information	
County:	
District:	
School:	
CDS Code:	

Contact Information / Certification	
Name of person completing the form	
Phone	
<b>Certification</b> – By electronically submitting the data to the CDE, I hereby certify that the data reported on this form are accurate.	
Name/Title of person certifying data	Date

A. Number of Classified Staff			Report in whole numbers. (Single-school districts should report classified staff only on this form.)																
			Male							Female									
			American Indian or Alaska Native, Not Hispanic	Asian, Not Hispanic	Pacific Islander, Not Hispanic	Filipino, Not Hispanic	Hispanic or Latino of Any Race	African American, Not Hispanic	White, Not Hispanic	Two or More Races, Not Hispanic	American Indian or Alaska Native, Not Hispanic	Asian, Not Hispanic	Pacific Islander, Not Hispanic	Filipino, Not Hispanic	Hispanic or Latina of Any Race	African American, Not Hispanic	White, Not Hispanic	Two or More Races, Not Hispanic	Totals
1	Paraprofessionals	Full-time																	
2	Paraprofessionals	Part-time																	
3	Office/Clerical Staff	Full-time																	
4	Office/Clerical Staff	Part-time																	
5	Other Classified Staff	Full-time																	
6	Other Classified Staff	Part-time																	

Full Time Equivalent of Classified Staff – NEW (see instructions in the CBEDS Administrative Manual)			Report to two decimal places the full-time equivalents (FTEs) of classified staff assigned to this school. For example, report full-time as 1.00 FTE, half-time as .50 FTE, and quarter-time as .25 FTE. (Single-school districts should report classified staff only on this form.)																
			Male							Female									
			American Indian or Alaska Native, Not Hispanic	Asian, Not Hispanic	Pacific Islander, Not Hispanic	Filipino, Not Hispanic	Hispanic or Latino of Any Race	African American, Not Hispanic	White, Not Hispanic	Two or More Races, Not Hispanic	American Indian or Alaska Native, Not Hispanic	Asian, Not Hispanic	Pacific Islander, Not Hispanic	Filipino, Not Hispanic	Hispanic or Latina of Any Race	African American, Not Hispanic	White, Not Hispanic	Two or More Races, Not Hispanic	Totals
7	Paraprofessionals																		
8	Office/Clerical Staff																		
9	Other Classified Staff																		





**Supplemental School Information Form (SIF)**

School:  
CDS Code:

**\*\* Only to be completed by Independently Reporting Charter Schools \*\***

<b>G. Estimated Number of Teacher Hires (2014–15)</b>			<b>H. High School Graduation Requirements (2013–14)</b>		
For classroom teaching and specialist positions only. Report in full-time equivalents (FTEs) to one decimal place. (Do not include administrative, guidance, media, library, health service, or classified positions.)			Minimum units required for a high school diploma. (Report units to one decimal place.)		
			<b>Subject Areas</b>		<b>Units</b>
			1	English	.
			2	Visual and Performing Arts	.
			3	Foreign Language	.
			4	Foreign Language or Visual and Performing Arts	.
			5	Health	.
			6	History-Social Science	.
			7	Mathematics	.
			8	Physical Education	.
			9	Science	.
			10	Community Service	.
			11	Electives	.
			12	Other Requirements	.
			13	<b>Total units needed for graduation</b>	.
			14	<b>Units in a One-Year Course</b> Report the number of units in a one-year course. Typically, a one-year course is equivalent to 10 units. For example, if four years and 40 units of English are required for graduation, the number of units in a one-year course would be 10.	.
			<b>Specific Graduation Requirements for Mathematics and Science</b> For mathematics: Complete the following section ONLY if your district's high school graduation requirements for mathematics include any of the subjects listed below. For science: Specify laboratory science.		
			<b>Mathematics Required for Graduation</b>		<b>Units</b>
			15	Geometry or Integrated Mathematics II (college preparatory)	.
			16	Algebra II or Integrated Mathematics III (college preparatory)	.
			17	Probability and Statistics or Data Analysis	.
			<b>Laboratory Science</b>		<b>Units</b>
			18	Laboratory Science required for graduation	.
1	Agriculture	.			
2	Art	.			
3	Bilingual Education	.			
4	Business	.			
5	Dance	.			
6	English	.			
7	Foreign Language	.			
8	Health Education	.			
9	Home Economics	.			
10	Life Science	.			
11	Mathematics	.			
12	Music	.			
13	Physical Education	.			
14	Physical Science	.			
15	Reading	.			
16	Self-contained Classes	.			
17	Special Education	.			
18	Social Science/Studies	.			
19	Drama/Theater	.			
20	Trades and Industrial Arts	.			
21	Other Specializations	.			

**\*\* Only to be completed by Independently Reporting Charter Schools \*\***

**Supplemental School Information Form (SIF)**

School:  
CDS Code:

**\*\* Only to be completed by School Improvement Grant (SIG) Participants \*\***

<b>I. Increased Learning Time (2012–13)</b>		<b>J. School Year Minutes (2012–13)</b>	
Indicate all methods for increased learning time, or indicate that learning time did not increase.		1	Number of minutes all students were required to be in class.
1	<input type="checkbox"/> Increased learning time through a longer school year.	<b>K. Advanced Coursework/Dual Class Enrollment (2012–13)</b>	
2	<input type="checkbox"/> Increased learning time through a longer school day.	1	The number of students who complete advanced coursework.
3	<input type="checkbox"/> Increased learning time either before or after school.	2	The number of students who complete at least one class in a postsecondary institution.
4	<input type="checkbox"/> Increased learning time through summer school.	3	The number of students who complete advanced coursework AND who complete at least one class in a postsecondary institution.
5	<input type="checkbox"/> Increased learning time through weekend school.	<b>L. Attendance Rates (2012–13)</b>	
6	<input type="checkbox"/> Increased learning time through another method. Explain in # 7 below.	1	Student Attendance Rate.
7	<input type="checkbox"/> Explanation of other method(s) of increased learning time: <div style="border: 1px solid black; height: 100px; width: 100%;"></div>	2	Teacher Attendance Rate. <i>(Do not include administrative, guidance, media, library, health service, or classified positions.)</i>
8	<input type="checkbox"/> Did not increase learning time.		

**\*\* Only to be completed by School Improvement Grant (SIG) Participants \*\***

**FINAL STATEMENT OF REASONS**  
**Standardized Testing and Reporting (STAR) Program**

**UPDATE OF INITIAL STATEMENT OF REASONS**

The proposed regulations were further amended to add a definition for significant medical emergency in Section 850 and to allow school districts to report students not tested due to a significant medical emergency. The relevant federal authority also was cited.

**SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE INITIAL NOTICE PERIOD OF JULY 23, 2004 THROUGH SEPTEMBER 7, 2004.**

**Comment:** A letter was received from Wayne K. Miyamoto, Director of Public and Governmental Affairs for the California Association of Private Special Education Schools (CAPSES) in support of the following:

- Changing the definition of a “test examiner” to include “an employee of a nonpublic school who has been trained to administer the tests.”
- Changing the definition of a “test proctor” to include a “person assigned by a nonpublic school to implement a pupil’s IEP, who has received training designed to prepare him or her to assist the test examiner in the administration of the tests within the STAR Program.”

Mr. Miyamoto also stated that CAPSES recommends that the regulations allow nonpublic schools to receive all test materials directly from the contractor and that the nonpublic schools return the completed materials directly to the contractor.

**Response:** *Education Code* Section 60640(b) requires each school district, charter school, and county office of education to administer to each of its pupils the tests within the STAR Program. *Education Code* Section 56366 states that the role of the nonpublic, nonsectarian school or agency shall be maintained and continued as an alternative special education service available to districts, special education local plan areas, county offices, and parents. The nonpublic, nonsectarian school or agency is required to provide all services specified in students’ Individualized Education Programs (IEPs). School districts, charter schools, and county offices of education retain responsibility for ensuring that students enrolled in them are tested as part of the STAR Program. Additionally, California County/District/School (CDS) Codes are used for all aspects of the STAR Program including ordering materials and reporting results. Since nonpublic, nonsectarian schools or agencies are not assigned CDS codes; the Program contractor cannot work directly with the nonpublic, nonsectarian schools and agencies.

**Comment:** E-mail was received from Marci Jenkins, Administrator Nonpublic School Program, Sonoma County Office of Education that included the following:

“The proposed Title 5 Regulations do not specify a CAPA delivery date to the LEA, making it hard to plan teacher trainings/preparation.

The proposed Title 5 Regulations do not specify the materials list for the CAPA or a date of release of the material list for testing kit preparation.

The proposed Title 5 Regulations should reflect ONE deadline submission date for the pre-ID file to the vendor.

Note: Educators and Parents would like to see the following occur:

- 1) Out of level testing for STAR beyond 2 grade levels below actual grade level.
- 2) STAR test materials NOT be identified with the grade level, just color coded for each grade level.
- 3) Development of a test between the STAR [California Standards Tests] and the CAPA for those high school academic students who are working at the beginning to upper elementary levels.

Note: Educators would like to see the CAPA materials available as completed test kits from CDE.”

**Response:** The first three items are not included in the Title 5 Regulations, because these do not address requirements with which schools and districts are to comply. The three areas are addressed through the Scope of Work that is part of the contract between the California Department of Education and the Contractor.

Out of level testing is currently allowed under a State Board of Education policy and the proposed regulations. Testing more than two grades below a student’s enrollment grade is considered inappropriate by test publishers.

Currently the California Standards Test materials are identified by grade level. These tests assess the state’s content standards only for the identified grade or course. The grade level and/or course designations assist all test examiners in determining if they have received the correct materials for the students they are testing.

The federal No Child Left Behind Act of 2001 allows states to develop an alternate assessment for students with significant cognitive disabilities. The CAPA was developed to assess the performance of these students on subsets of the state’s content standards that special educators identified as appropriate. Developing a higher level alternate assessment appears to not be allowed under the federal legislation and is not provided for in the state’s current budget.

The materials used for the CAPA are common materials that special educators designing the assessments indicated would be readily available in special education classrooms. The funds available for the assessment are insufficient to provide these materials as part of the state contract. School districts and county offices of education receive an apportionment for administering the CAPA that may be used to purchase any materials that are not available in the special education classrooms.

**Comment:** An E-mailed letter was received from Stephen A. Rosenbaum, Associate Managing Attorney for Protection & Advocacy, Inc.

Section 853(c). PAI is concerned that the notice for the 2004-05 school year test administration is not adequate. Given the restrictions on below-grade-level testing, there is not enough time to allow appropriate students to incorporate the requirement in their IEP.

Section 853.5. We are pleased to see the added variations, accommodations and modifications similar to those offered students taking the CAHSEE. We are also pleased to see subparagraph (e) which authorizes school districts to propose variations on any of the tests that are not listed in the regulations—as is the case for the CAHSEE.

**Response:** The change in Section 853(c) is not a restriction. For the last two years below-grade-level testing was allowed only for students in grades five through eleven and beginning with the 2004-05 school year no below-grade-level testing was to be allowed. The proposed amendment to the regulations expands the option of below-grade-level testing to grades three and four and allows its use during the 2004-05 school year.

### **ALTERNATIVES DETERMINATION**

The State Board has determined that no alternative would be more effective in carrying out the propose for which the regulation is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.

### **LOCAL MANDATE DETERMINATION**

The legislature has appropriated funds to cover the costs generated by the mandated activities included in the regulations and these amendments.

### **REGULATIONS TO BECOME EFFECTIVE UPON FILING**

It is important that this regulation becomes effective as soon as possible to meet the administration timeline.

## **INITIAL STATEMENT OF REASONS**

### **Standardized Testing and Reporting (STAR) Program**

#### **SPECIFIC PURPOSE OF THE REGULATIONS**

The proposed amendments to the regulations are intended to clarify the specific student demographic data that districts must provide, provide information about the use of questions publicly released for the California Standards Tests, add requirements for the California Alternate Performance Assessment (CAPA), modify all dates associated with the Program to working days, and modify the process for collecting information required for providing apportionments to districts for costs associated with the Program. Changes to the regulations were also made in order to ensure consistency among the assessment programs, including the California High School Exit Examination (CAHSEE) and the California English Language Development Test (CELDT). Additionally, some of the proposed amendments are required to enable the state to comply with the requirements of the federal No Child Left Behind Act of 2001.

#### **NECESSITY/RATIONALE**

The tests within the STAR Program have consequences for individual pupils, schools, and school districts. The test results are used by schools and school districts to screen pupils for special programs. The California Department of Education uses the test results for school and district Academic Performance Index (API) and Adequate Yearly Progress (AYP) calculations. The results of these accountability calculations are used to identify schools and districts that are meeting or not meeting required growth targets and may result in schools and districts being identified as program improvement schools or districts. The program improvement designation may result in state intervention. The regulations are designed to assure that the tests within the Program are administered fairly and consistently throughout the state so that valid and reliable results are available for API and AYP calculations.

#### **TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS**

No reports are required by these proposed regulations.

#### **REASONABLE ALTERNATIVES TO THE REGULATIONS AND THE AGENCY'S REASONS FOR REJECTING THOSE ALTERNATIVES**

No other alternatives were presented to or considered by California Department of Education.

#### **REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS**

It is not anticipated that there will be any adverse impact on small business that would

necessitate developing alternatives to the proposed regulatory action. The fiscal analysis is pending.

**EVIDENCE SUPPORTING FINDING NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS**

The proposed regulations are not anticipated to have a significant adverse economic impact on any business because the regulations only relate to local school districts and not to business practices. The fiscal analysis is pending.

## INFORMATION MEMORANDUM

**DATE:** January 29, 2004  
**TO:** MEMBERS, STATE BOARD OF EDUCATION  
**FROM:** Geno Flores, Deputy Superintendent  
Assessment and Accountability Branch  
**SUBJECT:** Standardized Testing and Reporting (STAR) Program: Approval of 2004 District Apportionment Amounts

Districts receive an apportionment for completing answer documents and testing students in grades two through eleven for the STAR Program. The *California Education Code* requires that the State Board of Education (SBE) approve the apportionment amounts each year. We will be asking SBE to act on this item at the March meeting. Following SBE approval, CDE will submit a letter to the Department of Finance requesting approval of the proposed 2004 district apportionment amounts.

The apportionment amounts presented for 2004 are unchanged from last year for the Content Standards Tests (CST) and California Achievement Test, Sixth Edition (CAT/6) Survey. The Spanish Assessment of Basic Edition, Second Edition (SABE/2) apportionment for grades 2 and 3 is being decreased by \$ 0.24 to reflect changes in the pre-ID costs for SABE/2. Including a California Alternative Performance Assessment (CAPA) apportionment in the STAR Program is new and reflects the addition of this assessment to the Program. The current budget includes funds to pay these apportionments.

The amounts recommended for the 2004 STAR district apportionments are:

- \$ 0.32 for completing demographic information for students not tested with the CSTs and the CAT/6 Survey
- \$ 2.52 for completing demographic information and administering the CSTs and CAT/6 Survey
- \$ 2.44 for administering the SABE/2
- \$ 5.00 for administering the CAPA



State of California

Department of Education

# LAST MINUTE MEMORANDUM

**DATE:** September 8, 2004

**TO:** MEMBERS, STATE BOARD OF EDUCATION

**FROM:** Geno Flores, Deputy Superintendent  
Assessment and Accountability Branch

**RE:** Item No. 6

**SUBJECT:** Standardized Testing and Reporting (STAR) Program: Adopt  
Amendments to Title 5 Regulations

## Background

In July 2004, the State Board of Education (SBE) approved the Initial Statement of Reasons, Notice of Proposed Rulemaking, and the proposed amendments to the Title 5 regulations for the Standardized Testing and Reporting (STAR) Program and the beginning of the 45-day written comment period.

## Additional Proposed Amendments to Regulations

The grade two through eight California Standards Tests (CSTs) within the STAR Program are used for federal accountability purposes under the No Child Left Behind (NCLB) Act. Beginning in the 2004-05 school year federal guidelines state that "States do not have to include a student with a significant medical emergency in the participation rate calculation." The proposed additional amendments would add the definition for significant medical emergency as Section 850 (r) and would include significant medical emergency under Section 861(b) as data that may be provided by each school district to the test contractor for each pupil in grades two through eight who is not tested due to a significant medical emergency.

## Report on Public Hearing

A public hearing was held on September 7, 2004, as required by the Administrative Procedures Act. The public hearing was called to order at 9:00 a.m. With no one present, the public hearing was recessed at 9:02 a.m., and then was reconvened at 9:33 a.m. No one was present to submit verbal comments, so the public hearing was adjourned at 9:34 a.m.

Three written comments were submitted to the Regulations Coordinator during the 45-day public comment period. The Final Statement of Reasons is attached summarizing the additional proposed amendments to the Regulations and the written comments submitted.

SBE has illustrated changes to the original text in the following manner: regulation language originally proposed is underlined, language originally deleted is in ~~strikeout~~. The 15-Day Notice illustrates deletions from the language originally proposed using a "~~bold strikeout~~"; and additions to the language originally proposed using a "double-underline."

### **Recommendation**

The California Department of Education recommends that the SBE:

- 1) Approve the proposed amendments to the draft regulations;
- 2) Direct that the proposed amendments be circulated for a 15-day public comment period in accordance with the Administrative Procedures Act;
- 3) If no public comments are received during the 15-day period, complete the rulemaking package and submit the amended regulations to the Office of Administrative Law for approval;
- 4) If public comments are received during the 15-day period, place the amended regulations on the SBE's November 2004 agenda for action following consideration of the comments received.

Attachment 2: Final Statement of Reasons (3 Pages)

Attachment 3: Amended Standardized Testing and Reporting Regulations  
(28 Pages)

## **State Board of Education-Adopted CAPA Performance Levels**

### **Introduction to the California Alternate Performance Assessment**

The California Alternate Performance Assessment (CAPA) is an alternate assessment for children with significant cognitive disabilities who cannot take the California Standards Tests (CSTs) even with accommodations or modifications. A student's individualized educational program (IEP) determines whether a student takes the CAPA and at what level (CAPA Levels I – V). Students with an IEP that designates the use of CAPA as part of the Standardized Testing and Reporting (STAR) Program who are enrolled in grades two through eleven take CAPA.

The California Alternate Performance Assessment (CAPA), administered for the first time in 2003, was developed to meet the requirements of the Individuals with Disabilities Education Act (IDEA) and the No Child Left Behind (NCLB) Act; whereby states were mandated to assess “all” students with an assessment based on state standards. California has met this mandate with the development and administration of two alternate assessments.

The State Board of Education (SBE) in 2006, adopted new blueprints establishing a link between the state content standards and CAPA in English-language arts, mathematics, and science. A student's IEP designates whether the student takes the grade-assigned CAPA Level or CAPA Level I. CAPA Level I is designed for the most severely cognitively disabled student who is receiving instruction and curriculum aligned to CAPA Level I blueprints (standards for grades Kindergarten and one with some grade two science standards). CAPA Levels II-V correspond to the grade of enrollment as follows: Level II, grades two and three; Level III, grades four and five; Level IV, grades six through eight, and Level V for grades nine through eleven. Science is assessed in grades five, eight and ten in Levels I, III, IV, and V.

In September 2008, a standard setting panel, comprised of content experts, teachers, and education professionals from throughout the state, was convened to recommend cut scores for the CAPA based on the new blueprints. Panel members represented not only all regions of the state but CAPA's diverse student groups including English learners.

The Performance Profile Method was utilized for the CAPA standard setting. This is a holistic method that requires panelists to make decisions or judgments based on an examinee's score profile or performance rather than on each separate test item. Panelists marked the raw score that corresponds to the performance profiles judged to be representing the competencies a student should have at each performance level. Using this method, panelists set proposed cut scores and determined proposed performance levels for basic, proficient, and advanced for the CAPA levels in English–language arts, mathematics, and science. The proposed cut score for below basic was set statistically after the standard setting to ensure that the lowest performance level was not set at chance.

For Level I, no data are available because the scoring rubric applied during the 2008 test administration will not be applied when the performance levels are reported on the 2009 test administration. For the CAPA Standard Setting, performance profiles for Level I were selected to characterize patterns at selected score levels, and test development experts familiar with CAPA Level I and the 2009 scoring rubric verified that these represented realistic examples of possible patterns for each score.

In November 2008, the SBE adopted the Superintendent of Public Instruction's (SSPI) recommendations for the proposed performance levels for the CAPA.

The SSPI's recommendations were based on analyses conducted by the California Department of Education (CDE) and ETS and differed from the standard setting panel's recommendations. Considering that every test has error of measurement and every standard setting has what could be termed "error of judgment,"<sup>1</sup> SSPI recommended the following cut scores (Table 1.2, 1.4, and 1.6) by which the adjustments would ensure a reasonable distribution of students across grade levels at each performance level.

The SBE-adopted cut scores lessen the likelihood that large discrepancies exist between the percentages of students scoring at proficient and above at each grade level by content area.

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<sup>1</sup> "Error" in this context refers to random fluctuations that cannot be completely controlled regardless of the quality of the test or the quality of the standard-setting process. Such error can be reduced through good measurement and standard setting techniques, but it can never be reduced to zero.

**Table 1.2**

**State Board of Education Adopted Performance Levels for the  
California Alternate Performance Assessment, Levels I–V, ELA**

To be used in reporting the results of the Levels III–V California Alternate Performance Assessment in  
ELA, 2008 administration and thereafter  
Level I, 2009 administration and thereafter

CAPA Level	Far Below Basic			Below Basic			Basic			Proficient			Advanced		
	% Students	Raw Cut Score*	% at and above	% Students	Raw Cut Score*	% at and above	% Students	Raw Cut Score*	% at and above	% Students	Raw Cut Score*	% at and above	% Students	Raw Cut Score*	% at and above
<b>I</b>	-	<b>&lt;4</b>	-	-	<b>4</b>	-	-	<b>11</b>	-	-	<b>20</b>	-	-	<b>30</b>	-
<b>II</b>	1	<b>&lt;4</b>	100	5	<b>4</b>	99	17	<b>13</b>	94	39	<b>19</b>	77	38	<b>26</b>	38
<b>III</b>	1	<b>&lt;4</b>	100	3	<b>4</b>	99	15	<b>10</b>	96	40	<b>18</b>	81	41	<b>26</b>	41
<b>IV</b>	2	<b>&lt;4</b>	100	8	<b>4</b>	99	16	<b>10</b>	91	40	<b>15</b>	75	35	<b>24</b>	35
<b>V</b>	2	<b>&lt;4</b>	100	5	<b>4</b>	98	16	<b>9</b>	93	38	<b>16</b>	77	39	<b>25</b>	39

Percent of Students <sup>†</sup>	Percent of students statewide who would be placed at this performance standard (level) on the basis of the results of the 2008 census tests for Levels I–V ELA.
Raw Cut Score	Minimum raw score needed to achieve this performance standard (level) on the 2008 tests.
Percent at and above <sup>†</sup>	Percent of students statewide who would be at and above this performance standard (level) on the basis of the results of the 2008 census tests for Levels I–V ELA.

*Note:* Levels I and III–V of this test have 40 score points for Level I and 32 score points for Levels II through V. For 2008, levels will be used solely for the purpose of No Child Left Behind Act accountability reporting. Beginning with the 2009 scores, students will receive their performance levels on the STAR Student Report.

\*For future administrations, cut scores will be expressed in the corresponding scaled scores.

<sup>†</sup>Data for CAPA Level I *%students* and *% at and above* are not available due to changes in the CAPA Level I scoring rubric. The CDE made changes to the Level I scoring rubric that will be applied to outcome data in the 2009 administration. The revised scoring rubric was used for standard setting.

**Table 1.4**

**State Board of Education Adopted Performance Levels for the  
California Alternate Performance Assessment, Levels I–V, Math**

To be used in reporting the results of the Levels III–V California Alternate Performance Assessment in  
Math, 2008 administration and thereafter  
Level I, 2009 administration and thereafter

CAPA Level	Far Below Basic			Below Basic			Basic			Proficient			Advanced		
	% Students	Raw Cut Score*	% at and above	% Students	Raw Cut Score*	% at and above	% Students	Raw Cut Score*	% at and above	% Students	Raw Cut Score*	% at and above	% Students	Raw Cut Score*	% at and above
<b>I</b>	-	<b>&lt;4</b>	-	-	<b>4</b>	-	-	<b>11</b>	-	-	<b>20</b>	-	-	<b>30</b>	-
<b>II</b>	3	<b>&lt;7</b>	100	16	<b>7</b>	97	24	<b>14</b>	81	29	<b>20</b>	57	28	<b>27</b>	28
<b>III</b>	1	<b>&lt;4</b>	100	11	<b>4</b>	99	26	<b>12</b>	88	33	<b>20</b>	62	29	<b>27</b>	29
<b>IV</b>	2	<b>&lt;5</b>	100	18	<b>5</b>	97	22	<b>12</b>	79	30	<b>17</b>	57	27	<b>25</b>	27
<b>V</b>	3	<b>&lt;6</b>	100	13	<b>6</b>	98	21	<b>12</b>	85	33	<b>20</b>	64	31	<b>27</b>	31

Percent of Students <sup>†</sup>	Percent of students statewide who would be placed at this performance standard (level) on the basis of the results of the 2008 census tests for Levels I–V Math.
Raw Cut Score	Minimum raw score needed to achieve this performance standard (level) on the 2008 tests.
Percent at and above <sup>†</sup>	Percent of students statewide who would be at and above this performance standard (level) on the basis of the results of the 2008 census tests for Levels I–V Math.

*Note:* Levels I and III–V of this test have 40 score points for Level I and 32 score points for Levels II through V. For 2008, levels will be used solely for the purpose of No Child Left Behind Act accountability reporting. Beginning with the 2009 scores, students will receive their performance levels on the STAR Student Report.

\*For future administrations, cut scores will be expressed in the corresponding scaled scores.

<sup>†</sup>Data for CAPA Level I %students and % at and above are not available due to changes in the CAPA Level I scoring rubric. The CDE made changes to the Level I scoring rubric that will be applied to outcome data in the 2009 administration. The revised scoring rubric was used for standard setting.

**Table 1.6**

**State Board of Education Adopted Performance Levels for the  
California Alternate Performance Assessment, Levels I and III–V, Science**

To be used in reporting the results of the Levels III–V California Alternate Performance Assessment in  
Science, 2008 administration and thereafter  
Level I, 2009 administration and thereafter

CAPA Level	Far Below Basic			Below Basic			Basic			Proficient			Advanced		
	% Students	Raw Cut Score*	% at and above	% Students	Raw Cut Score*	% at and above	% Students	Raw Cut Score*	% at and above	% Students	Raw Cut Score*	% at and above	% Students	Raw Cut Score*	% at and above
<b>I</b>	-	<b>&lt;4</b>	-	-	<b>4</b>	-	-	<b>11</b>	-	-	<b>20</b>	-	-	<b>30</b>	-
<b>III</b>	1	<b>&lt;4</b>	100	6	<b>4</b>	99	31	<b>11</b>	93	42	<b>20</b>	62	20	<b>28</b>	20
<b>IV</b>	1	<b>&lt;4</b>	100	7	<b>4</b>	98	32	<b>11</b>	91	43	<b>19</b>	59	16	<b>27</b>	16
<b>V</b>	3	<b>&lt;4</b>	100	8	<b>4</b>	97	30	<b>11</b>	89	42	<b>19</b>	59	17	<b>26</b>	17

Percent of Students <sup>†</sup>	Percent of students statewide who would be placed at this performance standard (level) on the basis of the results of the 2008 census tests for Levels I and III–V Science.
Raw Cut Score	Minimum raw score needed to achieve this performance standard (level) on the 2008 tests.
Percent at and above <sup>†</sup>	Percent of students statewide who would be at and above this performance standard (level) on the basis of the results of the 2008 census tests for Levels III–V Science.

*Note:* There is no Level II for the California Alternate Performance Assessment in Science. Levels I and III–V of this test have 40 score points for Level I and 32 score points for Levels III through V. For 2008, levels will be used solely for the purpose of No Child Left Behind Act accountability reporting. Beginning with the 2009 scores, students will receive their performance levels on the STAR Student Report.

\*For future administrations, cut scores will be expressed in the corresponding scaled scores.

<sup>†</sup>Data for CAPA Level I %students and % at and above are not available due to changes in the CAPA Level I scoring rubric. The CDE made changes to the Level I scoring rubric that will be applied to outcome data in the 2009 administration. The revised scoring rubric was used for standard setting.

**CALIFORNIA STATE BOARD OF EDUCATION**

1430 N Street, Room 5111  
Sacramento, CA 95814



**NOTICE OF PROPOSED RULEMAKING  
AMENDMENT TO TITLE 5, CALIFORNIA CODE OF REGULATIONS  
REGARDING STANDARDIZED TESTING AND REPORTING PROGRAM**

[Notice published May 19, 2006]

**NOTICE IS HEREBY GIVEN** that the State Board of Education (State Board) proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

**PUBLIC HEARING**

California Department of Education staff, on behalf of the State Board, will hold a public hearing beginning at **10:00 a.m. on July 7, 2006**, at 1430 N Street, Room 1101, Sacramento. The room is wheelchair accessible. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. The State Board requests that any person desiring to present statements or arguments orally notify the Regulations Coordinator of such intent. The State Board requests, but does not require, that persons who make oral comments at the hearing also submit a written summary of their statements. No oral statements will be accepted subsequent to this public hearing.

**WRITTEN COMMENT PERIOD**

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to:

Debra Strain, Regulations Coordinator  
LEGAL DIVISION  
California Department of Education  
1430 N Street, Room 5319  
Sacramento, California 95814

Comments may also be submitted by facsimile (FAX) at (916) 319-0155 or by e-mail to [regulations@cde.ca.gov](mailto:regulations@cde.ca.gov). Comments must be received by the Regulations Coordinator prior to **5:00 p.m. on July 7, 2006**.



STATE OF CALIFORNIA

ARNOLD SCHWARZENEGGER, Governor

**CALIFORNIA STATE BOARD OF EDUCATION**

1430 N Street, Room 5111  
Sacramento, CA 95814



**TITLE 5. EDUCATION**

**CALIFORNIA STATE BOARD OF EDUCATION**

**NOTICE OF PROPOSED RULEMAKING**

**Standardized Testing and Reporting (STAR) Program**

*[Notice published July 23, 2004]*

The State Board of Education (State Board) proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

**PUBLIC HEARING**

Program staff will hold a public hearing beginning at **9:00 a.m. on Tuesday, September 7, 2004** at 1430 N Street, Room 2102, Sacramento. The room is wheelchair accessible. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. The State Board requests that any person desiring to present statements or arguments orally notify the Regulations Coordinator of such intent. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. No oral statements will be accepted subsequent to this public hearing.

**WRITTEN COMMENT PERIOD**

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Regulations Coordinator. The written comment period ends at **5:00 p.m. on Tuesday, September 7, 2004**. The Board will consider only written comments received by the Regulations Coordinator or at the Board Office by that time (in addition to those comments received at the public hearing). Written comments for the State Board's consideration should be directed to:

Debra Strain, Regulations Coordinator  
California Department of Education  
LEGAL DIVISION  
1430 N Street, Room 5319  
Sacramento, CA 95814  
Email: [dstrain@cde.ca.gov](mailto:dstrain@cde.ca.gov)  
Telephone: (916) 319-0860  
FAX: (916) 319-0155

## **AUTHORITY AND REFERENCE**

Authority: Sections 33031 and 60605, Education Code.

Reference: Sections 60615, 60630, 60640, et seq.; Education Code; 20 USC 6311.

## **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

Amendments are proposed for Division 1, Chapter 2. Pupils, Subchapter 3.75, Articles 1 and 2 of Title 5 of the *California Code of Regulations*. Article 1 includes Program definitions and Article 2 addresses the designated achievement test, the standards-based achievement tests, and the California Alternate Performance Assessment. The amendments and technical corrections proposed for Articles 1 and 2 are also proposed for Article 3, which addresses the designated primary language test. The amendments to Article 3 are proposed to provide consistency across the regulations for the Program.

The purposes of the proposed amendments are to provide consistency with the regulations for the California High School Exit Examination (CAHSEE) and the California English Language Development Test (CELDT) by clarifying current language and adding definitions and language as needed to add and amend language regarding the use of variations, accommodations, and modifications; to make technical changes to correct inconsistent language, terms, and capitalization in the existing regulations; to modify the provisions for below-grade-level testing; to incorporate information about the use of released items for the California Standards Tests (CSTs); to modify test material delivery and return dates to eliminate the mixture of working and calendar days; to add the California Alternate Performance Assessment (CAPA) as appropriate; to strengthen some test security language; to add a statement to the STAR Test Security Affidavit indicting that test examiners and proctors have been trained to administer the tests; to expand the student demographic data collected to meet the requirements for federal and state reporting; to clarify requirements related to including test results in pupils' permanent records as required by *Education Code* Section 60607; to reinforce the confidentiality of summary data that is based on test results for ten or fewer pupils; and to modify the process for completing Apportionment Information Reports required by *Education Code* Section 60640(j).

## **DISCLOSURES REGARDING THE PROPOSED ACTION**

Mandate on local agencies and school districts: TBD

Cost or savings to any state agency: TBD

Costs to any local agency or school district that must be reimbursed in accordance with Government Code Section 17561: TBD

Other non-discretionary cost or savings imposed on local educational agencies: TBD  
Cost or savings in federal funding to the state: TBD

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: TBD

Cost impacts on a representative private person or businesses: TBD

Adoption of these regulations will not:

- (1) create or eliminate jobs within California;
  - (2) create new businesses or eliminate existing businesses within California;
- or
- (3) affect the expansion of businesses currently doing business within California.

Significant effect on housing costs: TBD

Effect on small businesses: TBD

### **CONSIDERATION OF ALTERNATIVES**

In accordance with Government Code Section 11346.5(a)(13), the State Board must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the State Board, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The State Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

### **CONTACT PERSONS**

Inquiries concerning the substance of the proposed regulations should be directed to:

Linda Lownes, Consultant  
California Department of Education  
Standards and Assessment Division  
**1430 N STREET, 5<sup>TH</sup> FLOOR**  
Sacramento, CA 95814  
Telephone: (916) 319-0364  
E-mail: [lownes@cde.ca.gov](mailto:lownes@cde.ca.gov)

Requests for a copy of the proposed text of the regulations, the Initial Statement of Reasons, the modified text of the regulations, if any, or other technical information upon which the rulemaking is based or questions on the proposed administrative action may be directed to the Regulations Coordinator, or to the backup contact person, Najia Rosales, at (916) 319-0860.

### **AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS**

The Regulations Coordinator will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at her office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons. A copy may be obtained by contacting the Regulations Coordinator at the above address.

### **AVAILABILITY OF CHANGED OR MODIFIED TEXT**

Following the public hearing and considering all timely and relevant comments received, the State Board may adopt the proposed regulations substantially as described in this notice. If the State Board makes modifications that are sufficiently related to the originally proposed text, the modified text (with changes clearly indicated) will be available to the public for at least 15 days before the State Board adopts the regulations as revised. Requests for copies of any modified regulations should be sent to the attention of the Regulations Coordinator at the address indicated above.

The State Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

### **AVAILABILITY OF THE FINAL STATEMENT OF REASONS**

Upon its completion, a copy of the Final Statement of Reasons may be obtained by contacting the Regulations Coordinator at the above address.

### **AVAILABILITY OF DOCUMENTS ON THE INTERNET**

Copies of the Notice of Proposed Rulemaking, the Initial Statement of Reasons, the text of the regulations in underline and strikeout, and the Final Statement of Reasons, can be accessed through the California Department of Education's Web site at <http://www.cde.ca.gov/re/lr/rr/>.

### **REASONABLE ACCOMMODATION FOR ANY INDIVIDUAL WITH A DISABILITY**

Pursuant to the *Rehabilitation Act of 1973*, the *Americans with Disabilities Act of 1990*, and the *Unruh Civil Rights Act*, any individual with a disability who requires reasonable accommodation to attend or participate in a public hearing on proposed regulations, may request assistance by contacting Linda Lownes, Standards and Assessment Division, 1430 N Street, Sacramento, CA 95814; telephone, (916) 319-0364; fax, (916) 319-0969. It is recommended that assistance be requested at least two weeks prior to the hearing.

**California Department of Education**

**Standardized Testing and Reporting Program:  
Annual Report to the Legislature**



**Prepared by:**

**Assessment Development and Administration Division  
District, School, and Innovation Branch**

**July 2012**

*Description:* Annual update on the Standardized Testing and Reporting Program

*Authority:* California Education Code Section 60604(b)

*Recipient:* Legislature, Senate and Assembly Budget Subcommittees

*Due Date:* March 1, 2012

**California Department of Education**  
**Standardized Testing and Reporting Program:**  
**Annual Report to the Legislature**  
**July 2012**

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    Requirements Included in AB 250 (Brownley)

## California Department of Education

### Standardized Testing and Reporting Program: Annual Report to the Legislature July 2012

#### Executive Summary

This report provides information about the Standardized Testing and Reporting (STAR) Program in response to the requirements of California *Education Code (EC)* Section 60604(b), which requires the State Superintendent of Public Instruction to develop and annually update for the Legislature a five-year cost projection, implementation plan, and timetable for implementing the STAR Program. The annual update shall be submitted on or before March 1 of each year.

The **Program Information** section of this report provides background information regarding the STAR Program.

The **Reauthorization of the Statewide Assessment System** section of this report provides information regarding legislative intent that the reauthorization of the statewide assessment system conform to the reauthorization of the Elementary and Secondary Education Act (ESEA) and include assessments aligned to the Common Core State Standards (CCSS), provides information about activities related to the CCSS and the development of new CCSS-aligned assessments; and provides information regarding the development of a plan for transitioning to high-quality assessments as defined in *EC* Section 60603.

The **Cost Projections** section provides information on projected STAR contract and local educational agency apportionment costs through the July 1, 2014, inoperative date and subsequent January 1, 2015, repeal date, for the STAR Program.

The **Timeline** section provides the overlapping contract activities that will occur each fiscal year (before, during, and after testing) for three separate test administrations of the STAR Program.

You can find this report on the California Department of Education STAR Web page at <http://www.cde.ca.gov/ta/tg/sr/>. If you need a copy of this report, please contact John Boivin, Administrator, STAR Program and Assessment Transition Office, by phone at 916-319-0575 or by e-mail at [jboivin@cde.ca.gov](mailto:jboivin@cde.ca.gov).

## California Department of Education

### Standardized Testing and Reporting Program: Annual Report to the Legislature July 2012

#### Program Information

This report provides information about the Standardized Testing and Reporting (STAR) Program as it relates to California *Education Code* (EC) Section 60604(b), which requires the submission of an annual report to the Legislature. EC Section 60604(b) states:

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

The California state legislature established the STAR Program in 1997, per EC Section 60640, to measure how well students in grades two through eleven in California public schools are learning the knowledge and skills identified in California's content standards in the subject areas of English–language arts (ELA), mathematics, science, and history–social science. EC Section 60642.5 required the State Superintendent of Public Instruction (SSPI), with the approval of the State Board of Education (SBE), to develop tests aligned with the academically rigorous California content standards adopted in 1997 and 1998 by the SBE. The ELA and mathematics content standards were adopted in 1997. While the STAR Program is based on the ELA and mathematics standards adopted in 1997, the Common Core State Standards (CCSS) for ELA and mathematics were adopted in 2010 and will be the basis for future assessments. The science and history–social science content standards were adopted in 1998. The content standards were designed to encourage the highest achievement of every student by defining the knowledge, concepts, and skills that students should acquire at each grade level. All STAR Program test blueprints specifying the content and skills to be included in the tests are approved by the SBE. All contracts for the development, purchase, or administration of the STAR Program tests are subject to approval by the SBE.

The STAR Program is the cornerstone of the current statewide pupil assessment system. The purposes of the STAR tests are to (1) provide individual student results to students, parents/guardians, and teachers; (2) produce school, district, and county results that allow the state to monitor, by means of the Academic Performance Index (API), school progress toward meeting state performance targets; and (3) produce results that allow the federal government to monitor the Adequate Yearly Progress



(AYP) of schools and local educational agencies (LEAs) toward meeting the accountability targets of the federal Elementary and Secondary Education Act (ESEA). The STAR Program currently consists of the following four components covering various subjects administered to students in grades two through eleven:

- The California Standards Tests (CSTs), which measure students' achievement of California's content standards for ELA, mathematics, science, and history–social science.
- The California Modified Assessment (CMA), an alternate assessment, which measures students' achievement of California's content standards on the basis of modified achievement standards for ELA, mathematics, and science for eligible students who have an individualized education program (IEP) and meet the CMA eligibility criteria adopted by the SBE.
- The California Alternate Performance Assessment (CAPA), an alternate assessment, which measures students' achievement of California's content standards on the basis of alternate achievement standards for ELA, mathematics, and science for students with an IEP who have significant cognitive disabilities and who are unable to take the CSTs with the appropriate accommodations and/or modifications and/or the CMA with the appropriate accommodations.
- The Standards-based Tests in Spanish (STS), which measure students' achievement of California's content standards for reading/language arts and mathematics and which are administered to Spanish-speaking English learners (ELs) who either receive instruction in Spanish or who have been enrolled in school in the United States less than 12 months.

The table on the following page shows the STAR Program assessments by grade and/or content area. The table also indicates the specific CSTs augmented for use as part of the voluntary Early Assessment Program (EAP).

The STAR Program was last reauthorized in 2004. The STAR Program inoperative date was extended in 2010 and again in 2011. The current STAR Program inoperative date is July 1, 2014.

You can find information regarding the STAR Program, including test blueprints and released test questions, on the CDE STAR Web page at <http://www.cde.ca.gov/ta/tq/sr/>.

### Statewide Assessments by Grade and/or Content Area

#### Standardized Testing and Reporting (STAR) Program

Grade and/or Content Area	Used for Federal Accountability: Title I or Title III	Used in State Accountability
<b>STAR Grade-Level Assessments</b>		
Grade 2 ELA and Mathematics (CST and CAPA)		X
Grade 3 ELA and Mathematics (CST, CMA, and CAPA)	X	X
Grade 4 ELA (includes writing component for CST and CMA) and Mathematics (CST, CMA, and CAPA)	X	X
Grade 5 ELA, Mathematics, and Science (CST, CMA, and CAPA)	X	X
Grade 6 ELA and Mathematics (CST, CMA, and CAPA)	X	X
Grade 7 ELA (includes writing component for CST and CMA) and Mathematics (CST, CMA, and CAPA)	X	X
Grade 8 ELA and Science (CST, CMA, and CAPA)	X	X
Grade 8 History–Social Science (CST)		X
Grade 9 ELA (CST, CMA, and CAPA)		X
Grade 10 ELA (CST and CMA)		X
Grade 10 ELA (CAPA)	X	X
Grade 10 Life Science (CST and CMA)	X	X
Grade 11 ELA (CST, CMA, CAPA, and EAP*)		X
Grade 11 U.S. History (CST)		X
<b>STAR Grade-Level Primary Language Assessments</b>		
Grade 2 Reading/Language Arts (RLA) and Mathematics (STS)		
Grade 3 RLA and Mathematics (STS)		
Grade 4 RLA and Mathematics (STS)		
Grade 5 RLA and Mathematics (STS)		
Grade 6 RLA and Mathematics (STS)		
Grade 7 RLA and Mathematics (STS)		
Grade 8 RLA and Mathematics (STS)		
Grade 9 RLA and Mathematics (STS)		
Grade 10 RLA and Mathematics (STS)		
Grade 11 RLA and Mathematics (STS)		
<b>STAR End-of-Course Assessments</b>		
Algebra I (CST and CMA)	X (grades 7 and 8)	X
General Mathematics (CST)	X (grade 8)	X
Geometry (CST and CMA)	X (grade 8)	X
Algebra II (CST and EAP)		X
Summative High School Mathematics (CST and EAP)		X
Integrated Mathematics 1 (CST)		X
Integrated Mathematics 2 (CST)		X
Integrated Mathematics 3 (CST)		X
Biology (CST)		X
Chemistry (CST)		X
Earth Science (CST)		X

\*The EAP is an augmentation of specific CSTs in collaboration with The California State University.

Grade and/or Content Area	Used for Federal Accountability: Title I or Title III	Used in State Accountability
<b>STAR End-of-Course Assessments (Cont.)</b>		
Physics (CST)		X
Integrated/Coordinated Science 1 (CST)		X
Integrated/Coordinated Science 2 (CST)		X
Integrated/Coordinated Science 3 (CST)		X
Integrated/Coordinated Science 4 (CST)		X
World History (CST)		X
<b>STAR Primary Language End-of-Course Assessments</b>		
Algebra I (STS)		
Geometry (STS)		

## Standardized Testing and Reporting Program Assessments

The following section provides a brief chronology of the development of the STAR Program assessments. No further STAR Program tests are planned for development.

### California Standards Tests

The development of the CSTs for ELA and mathematics began in 1999 with items that augmented the national norm-referenced test (NRT) designated by the SBE. The NRTs used in the STAR Program were off-the-shelf tests licensed for use by the state. The Stanford Achievement Test, Ninth Edition (Stanford 9), published by Harcourt Educational Measurement, was designated by the SBE in 1998 and administered as a full form test from 1998 through 2002 in grades two through twelve. The NRT was reduced per law to a small survey form test in 2003. The California Achievement Tests, Sixth Edition Survey (CAT/6 Survey), published by CTB/McGraw-Hill, was designated as the STAR NRT by the SBE in 2002 and administered in 2003 and 2004 in grades two through twelve. From 2005 through 2008 the CAT/6 Survey was administered only in grades three and seven. The NRT requirement was eliminated in 2009.

In 2000, the grade level CSTs for ELA in grades two through eleven and CSTs for mathematics in grades two through seven became stand-alone tests. That action meant that the NRT items that had been used for the CSTs were replaced with items developed specifically to measure students' achievement of California's content standards. In 2001, the CST end-of-course mathematics tests were separated from the NRT and became stand-alone tests. In 2001, a writing component was added to the CST for ELA in grades four and seven. In 2003, the CSTs for History–Social Science and Science were developed as stand-alone tests. In 2004, as a collaborative effort between the CDE and the California State University (CSU) and under a separate contract between CSU and the STAR contractor, the EAP for ELA (including a writing task) and EAP for Mathematics were added as a voluntary component of the annual STAR test administration as an augmentation for students in grade eleven taking the

grade eleven CST for ELA, CST for Algebra II, and CST for Summative High School Mathematics to produce information about students' readiness for college. The EAP was accepted for use by California Community Colleges in 2008. You can find information regarding the EAP on the CSU EAP Web page at <http://www.calstate.edu/eap/about.shtml>.

In 2004, the SBE approved the use of results on specified CSTs for graduating seniors to qualify for the Golden State Seal Merit Diploma (GSSMD). The GSSMD was established by state law in 1997. *EC* Section 51452 identified the Golden State Examination (GSE) as the means by which students could demonstrate their mastery of the high school curriculum and earn the GSSMD. The GSE program was repealed in 2003. *EC* Section 51452 allows the SBE to designate other subject-matter examinations deemed appropriately rigorous as the means by which students can demonstrate their mastery of the high school curriculum. In order to continue the GSSMD, the SBE adopted regulations in 2004 to allow the use of specified CST scaled scores, previously earned GSE results, or a combination of the two to qualify for the GSSMD. You can find information regarding the GSSMD on the CDE GSSMD Web page at <http://www.cde.ca.gov/ta/tg/sr/meritdiploma.asp>.

The CSTs include the following assessments:

<b>CST Subject</b>	<b>CST Grades</b>
ELA* (grade level)	Grades two through eleven
Mathematics (grade level)	Grades two through seven
Mathematics (end of course)	Grade seven—Algebra; Grades eight through eleven
Science (grade level)	Grades five, eight, and ten
Science (end of course)	Grades nine through eleven
History—social science (grade level)	Grades eight and eleven
History—social science: World History (end of course)	Grade nine, ten, or eleven

\*Includes a writing assessment component in grades four and seven.

### **California Modified Assessment**

The CMA is an alternate assessment, based on modified achievement standards, for eligible students with disabilities (SWDs) who have an IEP and meet the SBE-adopted CMA eligibility criteria. The CMA eligibility criteria are on the CDE CMA Web page at <http://www.cde.ca.gov/ta/tg/sr/cmastar.asp>. Under the ESEA, the federal government provided states with flexibility to develop an alternate assessment based on modified achievement standards. The CDE developed the CMA to meet this need. In November 2006, a pilot test was conducted for the CMA in grades two, three, and five to gather information about the population of students to be tested. There is no grade two CMA because of the SBE-adopted eligibility criteria that require a student to have taken a CST in a previous grade.

The CMA was administered for the first time in 2008 to eligible students in grades three through five. A writing component for the CMA for ELA was added in 2009 for grades four and seven. The CMA was administered in grades three through eight in 2009, in grades three through nine in 2010; and in grades three through eleven in 2011.

The CMA includes the following assessments:

<b>CMA Subject</b>	<b>CMA Grades</b>
ELA* (grade level)	Grades three through eleven
Mathematics (grade level)	Grades three through seven
Mathematics—Algebra I (end of course)	Grades seven through eleven
Mathematics—Geometry (end of course)	Grades eight through eleven
Science (grade level)	Grades five, eight, and ten

\*Includes a writing assessment in grades four and seven.

### **California Alternate Performance Assessment**

The CDE developed the CAPA to comply with the requirements of the federal Individuals with Disabilities Education Act (IDEA) and the ESEA. In order to meet those requirements, California must show evidence that all students are included in our statewide assessment and accountability systems. The CDE is required to develop and implement an alternate assessment for SWDs who cannot take part in general statewide assessment programs. The CAPA is an alternate assessment for students with an IEP who have significant cognitive disabilities and who are unable to take the CSTs with the appropriate accommodations and/or modifications or the CMA with the appropriate accommodations.

The CAPA links directly to California’s content standards for each grade. The CAPA has five levels (grade spans) and is a performance assessment administered individually (one on one) in the language of instruction by a trained test examiner. CAPA Level I is for students with the most significant cognitive disabilities whose instruction and curriculum are aligned to the Level I blueprints. CAPA is scored on the basis of the degree of independence students demonstrate when completing each task. CAPA Levels II through V correspond to students’ grade placement and are scored by the test examiner for the accuracy of the student’s response. A second examiner independently scores the CAPA responses for 10 percent of the students assessed at each school and each level to verify the reliability of the scoring.

The CAPA was initially developed by the CDE’s Special Education Division as required by the IDEA. The CAPA was first administered in 2003. In 2005, the CDE and CAPA assessment review panels reviewed and revised the CAPA blueprints to bring them into alignment with the federal ESEA requirement that the CAPA be linked to grade-level content standards. In March 2006, revised CAPA blueprints were adopted by the SBE.

Item development for the new assessments began in June 2006. Items were field-tested in 2007, and operational testing took place in 2008.

The CAPA includes the following assessments:

<b>CAPA Level</b>	<b>Grade Range</b>	<b>Subjects</b>
I	Grades two through eleven	ELA, mathematics, and science
II	Grades two and three	ELA and mathematics
III	Grades four and five	ELA, mathematics, and science
IV	Grades six through eight	ELA, mathematics, and science
V	Grades nine through eleven	ELA, mathematics, and science

### **Standards-based Tests in Spanish**

In addition to the requirement of administering the CSTs or the CMA to ELs, *EC* Section 60640 requires that ELs who either receive instruction in their primary language or who have been enrolled in school in the United States less than twelve months be administered a test in their primary language. LEAs also have the option of testing ELs who have been enrolled in school in the United States for twelve months or more who are not receiving instruction in their primary language with the primary language test. The STS results are not used for state or federal accountability purposes. Spanish is the only language for which a primary language test has been designated because no tests for languages other than Spanish have been submitted by bidders to the SBE for consideration in response to requests for submission.

In 1998, the Spanish Assessment of Basic Education, Second Edition (SABE/2), published by CTB/McGraw-Hill, was designated as the primary language test in Spanish and administered from 1999 through 2005. In 2004, *EC* Section 60640(f)(3) was added to state law, authorizing—subject to the availability of funds—the development of standards-based primary language tests in reading/language arts and mathematics and requiring that once a standards-based primary language test is available, it should be administered in place of the primary language test designated by the SBE in that language. In 2005, the *Aprenda: La Prueba de Logros en Español, Tercera Edición* (*Aprenda 3*), published by Harcourt Educational Measurement (purchased in 2008 by Pearson Educational Measurement), was designated to replace the SABE/2 and was administered from 2006 through 2008. The STS was developed to meet the requirement of *EC* Section 60640(f)(3) and replaced the *Aprenda 3* as STS grade-level tests became operational.

The *Aprenda 3* was administered for the first time in 2006 in grades two through eleven. In 2006, the CDE began the development of the STS for Reading/Language Arts and mathematics to replace the *Aprenda 3*. In 2007, the *Aprenda 3* was administered in grades five through eleven, and the STS was administered in its place in grades two through four. In 2007, the STS was administered in grades two through four. In 2008, the *Aprenda 3* was administered in grades eight through eleven and the STS was

administered in grades two through seven. Beginning in 2009, the STS was administered in grades two through eleven, replacing the Aprenda 3 in all grades.

The STS includes the following assessments:

<b>STS Subject</b>	<b>STS Grades</b>
Reading/language arts (grade level)	Grades two through eleven
Mathematics (grade level)	Grades two through seven
Algebra I (end of course)	Grade seven, eight, nine, ten, or eleven
Geometry (end of course)	Grade eight, nine, ten, or eleven

### **Reauthorization of Statewide Pupil Assessment System**

In 2010, *EC* Section 60604.5 was added to state law addressing the intent of the Legislature regarding the reauthorization of the statewide pupil assessment system. In 2011, *EC* Section 60604.5 was modified per Assembly Bill (AB) 250 (Brownley), Chapter 608, Statutes of 2011 to include the following requirements:

- Future assessments must conform to assessment requirements of any reauthorization of the federal ESEA or any other federal law that effectively replaces ESEA and align with CCSS, with at least 85 percent of items to address the CCSS.
- The SSPI must develop recommendations, in consultation with specific stakeholder groups, for the reauthorization of the statewide pupil assessment program, to be reported to the fiscal and appropriate policy committees of both houses of the Legislature on or before November 1, 2012.
- The SSPI's recommendations must take into consideration sixteen specific areas (see Appendix A) and include a plan for transitioning to a system of high-quality assessments as defined in *EC* Section 60603.

*EC* Section 60603 also was modified in 2011 per AB 250 to define "high-quality assessment" as an assessment designed to measure a pupil's knowledge of, understanding of, and ability to apply critical concepts through the use of a variety of item types and formats, including, but not limited to, items that allow for open-ended responses and items that require the completion of performance-based tasks.

### **Reauthorization of Elementary and Secondary Education Act**

The ESEA currently requires assessments in reading/language arts in grades three through eight and at least once in grades ten through twelve, in mathematics in grades three through eight and at least once in grades ten through twelve; and in science at least once during each of three specified grade spans: grades three through five, six

through nine, and ten through twelve. Under the requirements of ESEA, all states accepting Title I funds from the federal government must demonstrate evidence of a valid state assessment system based on rigorous academic standards. Each assessment must be independently evaluated for alignment of the assessment to the content standards for the subjects assessed. The peer review of the current STAR Program assessments in ELA, mathematics, and science are ongoing. California's peer review status is currently acknowledged as approval pending.

You can find information regarding the reauthorization of the ESEA on the ED ESEA Web page at <http://www.ed.gov/esea>.

### **Common Core State Standards Activities**

The CCSS were developed through a state-led initiative to establish consistent and clear college- and career-ready standards for ELA and mathematics. In August 2010, the SBE adopted the CCSS for ELA and mathematics as proposed by the California Academic Content Standards Commission (ACSC). The SBE-adopted standards include the CCSS and specific additional standards that the ACSC deemed necessary to maintain the integrity and rigor of California's already high standards. The full implementation of these standards will occur over several years as a new system of CCSS-aligned curriculum, instruction, and assessment is developed.

The CDE is currently developing a comprehensive CCSS Systems Implementation Plan. The CDE will utilize information from internal and external stakeholders to create a statewide plan for the CCSS systems implementation that represents the joint strategic vision of the SBE and the CDE. The CDE Common Core team will monitor and facilitate the progress of plan implementation, design systems for collaboration and clear communication between all of California's stakeholders, and identify areas for further work and policy development.

Current and ongoing CCSS activities include, but are not limited to, the following:

- Per Senate Bill (SB) 140 (Lowenthal), Chapter 623, Statutes of 2011, the CDE will develop, by July 1, 2012, a list of supplemental instructional materials (SIMs) for use in kindergarten through grade seven that are aligned with the CCSS for mathematics and SIMs for use in kindergarten through grade eight that are aligned with the CCSS for ELA. SB 140 also requires that the SBE approve or reject the list of SIMs by September 30, 2012. This measure ensures that SIMs will provide a bridge between the CCSS and the instructional materials currently being used by LEAs.
- Per AB 250 (Brownley), the SBE will adopt a new CCSS-based mathematics framework by May 30, 2013, and a new CCSS-based ELA framework by May 30, 2014.



- Per AB 124 (Fuentes), Chapter 124, Statutes of 2011, the SSPI, in consultation with the SBE will update, revise, and align the English Language Development (ELD) standards with the CCSS for ELA. The bill requires that the SBE either adopt or reject the revised ELD standards by September 30, 2012, and include teachers and administrators with expertise in instructing ELs in the membership of the committee.

You can find information regarding the CCSS on the CDE Common Core State Standards Resources Web page at <http://www.cde.ca.gov/ci/cc/>.

### **Common Core Assessment Development Activities**

In June 2011, the Governor, the SSPI, and the SBE President signed the memorandum of understanding for California's participation as a governing state in the SMARTER Balanced Assessment Consortium (SBAC). California was previously a participating state in the Partnership for the Assessment of Readiness for College and Careers. SBAC is a state-led consortium working to develop next-generation assessments aligned with the CCSS that measure student progress toward college- and career readiness. The SBAC approach includes computer adaptive summative and interim assessments as well as formative resources for teachers to monitor student progress.

The SBAC assessments are being developed for ELA and mathematics in grades three through eight and grade eleven. In order to deliver a fully functional assessment system by the 2014–15 school year, SBAC has created detailed work plans that specify the major activities required to create the summative and interim assessments and formative tools and processes for teachers. In August 2011, stakeholders across the state representing advocacy groups, LEAs, parent organizations, legislative committees, business organizations, and other stakeholders were invited to discuss proposed CCSS, SBAC, and professional learning implementation activities. Additional stakeholder meetings are anticipated over the next three years.

You can find information regarding the SBAC on the CDE SBAC Web page at <http://www.cde.ca.gov/ta/tg/sa/smarterbalanced.asp>.

### **Transitioning to New Statewide Pupil Assessment System**

By the November 2012 deadline, the CDE will utilize information gathered from internal and external stakeholders to provide recommendations to inform the Legislature and to create a transition plan to high-quality assessments as defined by *EC* Section 60603.

## Cost Projections

The annual budget appropriation for the STAR Program provides funding for the following two activities:

- **Contract costs**—The appropriation from each fiscal year funds the overlapping contract activities for three separate test administrations of the STAR Program. For example, in fiscal year 2012–13, costs will be incurred to score the 2012 test administration; complete test construction and administration activities for the 2013 administration; and develop test items in preparation for the 2014 administration. The development of new items for each assessment begins two years prior to operational testing of the new items. Items are written, reviewed by content experts, reviewed further for sensitivity and bias, field-tested, and analyzed before they are selected for operational testing. The activities involved in test construction, production, ordering, delivery, collection, scoring, and reporting overlap the item development timeline.
- **LEA apportionment costs**—Apportionments to LEAs are made after the completion of each test administration to reimburse districts for the costs associated with the STAR Program that are above and beyond the CDE’s statewide contract with test contractors. The amount to be apportioned per district is based on the actual number of student answer documents completed and returned for scoring. STAR apportionments reimburse districts for staffing costs, including the district STAR coordinator and the STAR test site coordinators, staff training, and other staff expenses related to testing; testing-related expenses incurred at the LEA level and test site level; transportation costs for delivering and retrieving tests and test materials within the LEA; and costs associated with the pre-identification of answer sheets and consumable test booklets and other activities intended to provide the complete and accurate data required per state regulations.

## Projected Annual Costs

This report provides the following cost projections based on the STAR Program continuing through the next few years as currently configured in state law. The projected annual fiscal year costs (represented in millions) through the STAR Program inoperative date of July 1, 2014, and subsequent repeal date of January 1, 2015, are as follows:

<b>Fiscal Year</b>	<b>Test Administrations</b>	<b>Contract Costs</b>	<b>LEA Apportionments</b>	<b>Total STAR Costs</b>
2011–12	2011, 2012, and 2013	\$53.6 million	\$12.4 million	\$66.0 million
2012–13	2012, 2013, and 2014	\$53.6 million	\$12.4 million	\$66.0 million
2013–14	2013 and 2014	\$51.0 million	\$12.5 million	\$63.5 million

<b>Fiscal Year</b>	<b>Test Administrations</b>	<b>Contract Costs</b>	<b>LEA Apportionments</b>	<b>Total STAR Costs</b>
2014–15	2014	\$9.6 million*	\$12.5 million**	\$22.1 million

\*Costs for remaining scoring and reporting tasks for the 2014 test administration.

\*\*The 2014 LEA apportionment reimbursements will be disbursed to LEAs after completion of scoring and reporting of the 2014 test administration.

### **Projected Contract Costs**

The current STAR contract was awarded by the SBE to Educational Testing Service (ETS) in 2006. The contract was extended in 2008 and again in 2010. As a condition of extending the contractor agreement in 2010 to cover the 2012 and 2013 test administrations, ETS was required to carry out the following:

1. Absorb the costs of administering the grade four writing components of the ELA assessments for both the CST and the CMA for the 2011, 2012, and 2013 test administrations without making any offsetting contract savings per provisions in the 2010 Budget Act.
2. Absorb the costs of developing a longitudinal student growth measure without making any offsetting contract savings per provisions in the 2010 Budget Act.
3. Reduce the costs for the 2011–12 fiscal year to \$53.6 million per negotiations held between the Department of Finance staff and ETS.
4. Absorb the one-time costs to field test writing prompts for the grade four and grade seven components of the ELA assessments for both the CST and the CMA per negotiations with the CDE.

In addition, in response to the SBE’s desire to retain the assessment review panels and the content reviews that were cut as part of the 2009–10 categorical budget reductions, ETS has continued to provide external new item and task reviews in a secure manner though electronic “live meeting” technology at no cost to the state.

The CDE and the SBE are in ongoing discussions with the current STAR contractor to consider implementing enhancements to the current STAR Program that will support the state’s transition activities over the next few years. The current STAR contract ends December 31, 2013, and covers work through the 2013 test administration. In 2011, the STAR Program inoperative date was extended one additional year to July 1, 2014, which provides the CDE and the SBE authorization to contract for a final 2014 STAR test administration. A decision whether to extend the current contract or release a Request for Submissions for competitive bids for the final 2014 STAR test administration will need to be made by the SBE in early 2012 in order to complete a competitive contract process and finalize contract negotiations for any identified ongoing

item development work necessary to refresh existing STAR assessments to begin by January 2013 for the final 2014 test administration.

There will be a one-year overlap of the current contract tasks to administer and report the 2013 test administration and the scope of work tasks for a 2014 test administration related to the development and construction of tests. In addition, the tasks related to the administration of the SBAC assessments in 2015 will overlap the tasks for the final 2014 STAR test administration.

### **Projected Local Educational Agency Apportionment Costs**

The STAR LEA apportionment costs are funded under a separate Assessment Apportionments schedule in the annual Budget Act that includes funding for apportionments to districts for the STAR tests, the CAHSEE, and the CELDT. A portion of the 2008–09 (\$14 million), 2009–10 (\$7 million), 2010–11 (\$8 million), and 2011–12 (\$11 million) assessment apportionment costs were deferred as a result of reductions made to various categorical programs. The current year (2011–12) and proposed 2012–13 Budget Act language provides that the amount appropriated annually may be used to pay current and previous-year assessment apportionment costs. State testing apportionments are not paid to LEAs until the following fiscal year after all test answer documents have been processed by the contractor and the final number of students tested has been certified by the LEAs.

The projected apportionment costs are based on the estimated student enrollment in grades two through eleven to be tested with the CSTs, CMA, or CAPA and the estimated number of Spanish-speaking ELs in those grades to be tested with the STS in addition to the CSTs or CMA. The annual projected apportionment costs for the STAR Program were reduced slightly beginning in 2009–10 to reflect more closely the percentage of enrolled students who are tested each year. The overall number of students tested has been consistently just under 100 percent of students enrolled. However, the DOF is projecting that enrollment for grades two through eleven will begin to increase slightly in fiscal year (school year) 2013–14; thus state testing apportionment cost projections would increase slightly beginning that year.

## **Timeline**

The attachments listed below provide information on the activities that are a part of each current STAR test administration cycle (before, during, and after testing), the timeline for field testing and operational testing, and the projected costs per fiscal year for the overlapping test administration cycles.

Attachment 1: Standardized Testing and Reporting Program, Timeline

Attachment 2: Standardized Testing and Reporting Program, 2011 and 2012 Administrations

Attachment 3: Standardized Testing and Reporting Program, 2013 and 2014 Administrations

**Standardized Testing and Reporting Program  
Timeline**

Fiscal Year 2010–11	Fiscal Year 2011–12	Fiscal Year 2012–13	Fiscal Year 2013–14	Fiscal Year 2014–15
<b>2012</b> Before Testing Technical Assistance Center/Help Desk (customer service) Item Development and Item Reviews Test Forms Construction Answer Document Construction Coordinator Security Affidavits Coordinator Manuals Pretest Workshops/Materials Pre-ID and Ordering Workshops Test Materials Delivery	<b>2012</b> During Testing Test Security Checks Administration of: CSTs CAPA CMA STS	<b>2012</b> After Testing Collection of Materials Test Processing Scoring Test Results to LEAs Test Results to CDE Item Bank Analysis of Results Technical Report		
	<b>2013</b> Before Testing Technical Assistance Center/Help Desk (customer service) Item Development and Item Reviews Test Forms Construction Answer Document Construction Coordinator Security Affidavits Coordinator Manuals Pretest Workshops/Materials Pre-ID and Ordering Workshops Test Materials Delivery	<b>2013</b> During Testing Test Security Checks Administration of: CSTs CAPA CMA STS	<b>2013</b> After Testing Collection of Materials Test Processing Scoring Test Results to LEAs Test Results to CDE Item Bank Analysis of Results Technical Report	
		<b>2014</b> Before Testing Technical Assistance Center/Help Desk (customer service) Item Development and Item Reviews Test Forms Construction Answer Document Construction Coordinator Security Affidavits Coordinator Manuals Pretest Workshops/Materials Pre-ID and Ordering Workshops Test Materials Delivery	<b>2014</b> During Testing Test Security Checks Administration of: CSTs CAPA CMA STS	<b>2014</b> After Testing Collection of Materials Test Processing Scoring Test Results to LEAs Test Results to CDE Item Bank Analysis of Results Technical Report
<b>Legend:</b>  CSTs: California Standards Tests (English–language arts [ELA], mathematics, history–social science, and science) CAPA: California Alternate Performance Assessment (ELA, mathematics, and science) CMA: California Modified Assessment (ELA, mathematics, and science) STS: Standards-based Tests in Spanish (reading/language arts and mathematics)			<b>2015</b> Before Testing New STAR (Requires Reauthorization) ----->	<b>2015</b> During Testing SBAC Administration ----->
				<b>2016</b> Before Testing New STAR ----->
<b>\$53.6 million</b> <b>\$12.4 million</b>	<b>\$53.6 million</b> <b>\$12.4 million</b>	<b>\$53.6 million</b> <b>\$12.4 million</b>	<b>\$51.0 million</b> <b>\$12.5 million</b> <b>New STAR: Unknown</b>	<b>\$9.6 million</b> <b>\$12.5 million</b> <b>New STAR: Unknown</b> <b>SBAC*: Unknown</b>
<b>\$66.0 million</b>	<b>\$66.0 million</b>	<b>\$66.0 million</b>	<b>\$63.5 million</b>	<b>\$22.1 million</b>

Note: The current item utilization plan requires a 35 percent refreshment rate. Operational tests include embedded field-test items to support ongoing item attrition.

\*SBAC assessments will be administered only in grades three through eight and in grade eleven.

**Standardized Testing and Reporting Program  
 2011 and 2012 Test Administrations**

Fiscal Year 2009–10	Fiscal Year 2010–11	Fiscal Year 2011–12	Fiscal Year 2012–13												
	<table border="1"> <thead> <tr> <th colspan="3" data-bbox="205 321 1312 354">2011 Administration</th> </tr> <tr> <th data-bbox="205 354 783 386">Before Testing</th> <th data-bbox="783 354 1035 386">During Testing</th> <th data-bbox="1035 354 1312 386">After Testing</th> </tr> </thead> <tbody> <tr> <td colspan="3" data-bbox="205 386 1312 410">Technical Assistance Center/Help Desk (customer service) -----&gt;</td> </tr> <tr> <td data-bbox="205 410 783 667">                     Item Development and Item Reviews                      Test Forms Construction                      Answer Document Construction                      Coordinator Security Affidavits                      Coordinator Manuals                      Pretest Workshops/Materials                      Pre-ID and Ordering Workshops                      Test Materials Delivery                 </td> <td data-bbox="783 410 1035 667">                     Test Security Checks                      Administration of:                      CSTs                      CAPA                      CMA                      STS                 </td> <td data-bbox="1035 410 1312 667">                     Collection of Materials                      Test Processing                      Scoring                      Test Results to LEAs                      Test Results to CDE                      Post-Test Workshops                      Item Bank                      Analysis of Results                      Technical Report                 </td> </tr> </tbody> </table>		2011 Administration			Before Testing	During Testing	After Testing	Technical Assistance Center/Help Desk (customer service) ----->			Item Development and Item Reviews Test Forms Construction Answer Document Construction Coordinator Security Affidavits Coordinator Manuals Pretest Workshops/Materials Pre-ID and Ordering Workshops Test Materials Delivery	Test Security Checks Administration of: CSTs CAPA CMA STS	Collection of Materials Test Processing Scoring Test Results to LEAs Test Results to CDE Post-Test Workshops Item Bank Analysis of Results Technical Report	
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Note: The current item utilization plan requires a 35 percent refreshment rate. Operational tests include embedded field-test items to support ongoing item attrition.

**Standardized Testing and Reporting Program  
 2013 and 2014 Test Administrations**

Fiscal Year 2011–12	Fiscal Year 2012–13	Fiscal Year 2013–14	Fiscal Year 2014–15												
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<b>Legend:</b>	<p>CSTs: California Standards Tests (English–language arts [ELA], mathematics, history–social science, and science)</p> <p>CAPA: California Alternate Performance Assessment (ELA, mathematics, and science)</p> <p>CMA: California Modified Assessment (ELA, mathematics, and science)</p> <p>STS: Standards-based Tests in Spanish (reading/language arts and mathematics)</p>														

*Note:* The current item utilization plan requires a 35 percent refreshment rate. Operational tests include embedded field-test items to support ongoing item attrition.



### **Reauthorization of Statewide Pupil Assessment System Requirements Included in AB 250 (Brownley)**

In 2010, *EC* Section 60604.5 was added to state law addressing the intent of the Legislature regarding the reauthorization of the statewide pupil assessment system. In 2011, AB 250 (Brownley) amended *EC* Section 60604.5 to:

- Require that future assessments conform to assessment requirements of any reauthorization of the federal Elementary and Secondary Education Act (ESEA) or any other federal law that effectively replaces ESEA and be aligned with common core state standards (CCSS), with at least 85 percent of items to address the CCSS.
- Require the State Superintendent of Public Instruction (SSPI) to develop recommendations, in consultation with specific stakeholder groups, for the reauthorization of the statewide pupil assessment program to be reported to the fiscal and appropriate policy committees of both houses of the legislature on or before November 1, 2012.
- Require the SSPI to develop recommendations to consider 16 specific areas and include a plan for transitioning to a system of high-quality assessments as defined in *EC* Section 60603.

AB 250 amended *EC* Section 60603 to define "high-quality assessment" as follows:

(j) "High-quality assessment" means an assessment designed to measure a pupil's knowledge of, understanding of, and ability to apply critical concepts through the use of a variety of item types and formats, including, but not limited to, items that allow for open-ended responses and items that require the completion of performance-based tasks.

A high-quality assessment should have the following characteristics:

- (1) Enable measurement of pupil achievement and pupil growth.
- (2) Be of high technical quality by being valid, reliable, fair, and aligned to standards.
- (3) Incorporate technology where appropriate.
- (4) Include the assessment of pupils with disabilities and English learners.
- (5) Use, to the extent feasible, universal design principles, as defined in Section 3 of the federal Assistive Technology Act of 1998 (29 U.S.C. Section 3002) in its development and administration.

*EC* Section 60603(n) defines “statewide pupil assessment system” as follows:

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

AB 250 amended *EC* Section 60604.5 to require that, in developing the recommendations, the SSPI shall consult with all of the following:

- (1) The State Board of Education
- (2) The committee advising the Superintendent on the Academic Performance Index pursuant to subdivision (a) of Section 52052.5 (Public Schools Accountability Act Advisory Committee)
- (3) Measurement experts from California’s public and private universities
- (4) Individuals with expertise in assessing pupils with disabilities and English learners
- (5) Teachers, administrators, and governing board members, from California’s local educational agencies
- (6) Parents

The recommendations shall include, but not be limited to, a plan for transitioning to a system of high-quality assessments. The recommendations shall consider including all of the following in the reauthorized assessment system:

- (1) Aligning the assessments to the standards adopted or revised pursuant to *EC* Section 60605.8.
- (2) Implementing and incorporating any common assessments aligned with the common set of standards developed by the CCSS Initiative consortium or other interstate collaboration in which the state participates.
- (3) Conforming to the assessment requirements of any reauthorization of the federal ESEA (20 U.S.C. Sec. 6301 et seq.) or any other federal law that effectively replaces that act.
- (4) Enabling the valid, reliable, and fair measurement of achievement at a point in time and over time for groups and subgroups of pupils, and for individual pupils.

- (5) Allowing the comparison from one year to the next of an individual pupil's scale scores in each content area tested, so as to reflect the growth in that pupil's actual scores over time.
- (6) Enabling and including the valid, reliable, and fair measurement of achievement of all pupils, including pupils with disabilities and English learners.
- (7) Providing for the assessment of English learners using primary language assessments.
- (8) Ensuring that no aspect of the system creates any bias with respect to race, ethnicity, culture, religion, gender, or sexual orientation.
- (9) Incorporating a variety of item types and formats, including, but not limited to, open-ended responses and performance-based tasks.
- (10) Generating multiple measures of pupil achievement, which, when combined with other measures, can be used to determine the effectiveness of instruction and the extent of learning.
- (11) Including the assessment of science and history-social science in all grade levels at or above grade four.
- (12) Assessing a pupil's understanding of and ability to use the technology necessary for success in the 21st century classroom and workplace.
- (13) Providing for both formative and interim assessments, as those terms are defined in this chapter, in order to provide timely feedback for purposes of continually adjusting instruction to improve learning.
- (14) Making use of test administration and scoring technologies that will allow the return of test results to parents and teachers as soon as is possible in order to support instructional improvement.
- (15) Minimizing testing time while not jeopardizing the validity, reliability, fairness, or instructional usefulness of the assessment results.
- (16) Including options for diagnostic assessments for pupils in grade two.

AB 250 amended *EC* Section 60601 to extend the Standardized Testing and Reporting Program by one year to become inoperative on July 1, 2014, and would repeal the act as of January 1, 2015.

2005

# CALIFORNIA

## Standardized Testing and Reporting



### STAR District and Test Site Coordinator Manual



# Telephone Assistance

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**Test site coordinators** should direct all questions to the district STAR coordinator—

District STAR coordinator is \_\_\_\_\_

Telephone \_\_\_\_\_

E-mail \_\_\_\_\_

---

**District STAR coordinators** should direct all questions regarding policies, Below-level testing, accommodations and modifications, test administration errors, testing irregularities, appropriate/inappropriate test preparation, or emergencies during testing (such as fire or earthquake) to—

STAR Unit  
Standards and Assessment Division  
California Department of Education  
Telephone (916) 445-8765  
FAX (916) 319-0969

**District STAR coordinators** should direct all questions regarding materials to—

ETS STAR Technical Assistance Center  
Telephone (toll-free) 1-800-955-2954  
FAX (toll-free) 1-800-541-8455

Information about the Standardized Testing and Reporting Program can also be found at the California Department of Education's Web site at [www.cde.ca.gov/ta/tg/sr/resources.asp](http://www.cde.ca.gov/ta/tg/sr/resources.asp)

Information about Pre-ID, ordering materials, *Directions for Administration*, and CAPA version assignments and required manipulatives can be found at the STAR Web site ETS maintains for district STAR coordinators at [www.startest.org](http://www.startest.org)

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# General Information

## New in 2005

**Table 1. New in 2005**

<b>California Achievement Tests, Sixth Edition Survey (CAT/6 Survey)</b>	The CAT/6 Survey will be administered only to students in grades 3 and 7. Districts have the option of administering the CAT/6 Survey to students with Individualized Education Programs (IEPs) in grades 4, 5, 8, and 9 who are taking the grade 3 and 7 CSTs below level.
<b>Below-Level Testing</b>	Below-level testing is allowed only for students with IEPs. Students in grade 3 may be tested one grade below level, and students in grades 4 through 11 may be tested one or two grades below level.
<b>Pre-ID</b>	A single Pre-ID file is being used for the CSTs, CAT/6 Survey, and CAPA. A CST <b>or</b> CAPA answer document will be generated for each student. The CST documents for students taking grade 3 and 7 tests will also include the CAT/6 Survey.
<b>NCLB California Science Standards Tests</b>	All students taking grade eight and ten tests are required to complete NCLB California Science Standards field tests.
<b>Answer Documents</b>	The following changes were made to answer documents: <ul style="list-style-type: none"> <li>• Student name grids and other identifying information are on the front cover of grade two and three test booklets, the front page of grade four through eleven answer documents, and the front cover of the Grade 4 and 7 Writing Prompt and Response Booklets.</li> <li>• Multiple sections related to accommodations and modifications, below-level testing, use of special versions, and reasons for students not being tested are in a single Section 26.</li> </ul>
<b>Scorable Materials</b>	Grades 4 and 7 Writing Prompt and Response Booklets will be returned with scorable materials only for students who are present for the test. Pre-ID booklets for students exempt by parent/guardian request or absent for regular and make-up testing will be returned with non-scorable materials.
<b>Reformatted Manuals</b>	All <i>Directions for Administration</i> and this manual have been reformatted.
<b>Videos</b>	Updated examiner/proctor and test site coordinator videos will be sent to STAR district and test site coordinators.

**Table 2. 2005 Grade 4 and 7 Writing Applications Testing Schedule**

Activity	Date
<b>March 1 Administration</b>	
All students in schools, programs, year-round schedules in session on March 1 may only be tested on March 1 with make-up testing only on March 2.	
District Pre-ID files due to ETS	January 4 Documents January 25 Labels
District coordinator receives materials Test site coordinators receive materials	February 14–22 District February 18–25 Test Sites
Writing test administration date Make-up testing date	March 1 March 2
Test site coordinators to return all scorable and non-scorable materials to district	March 3
District coordinator ships all scorable and non-scorable materials to STAR Scoring and Processing Centers	March 7
<b>April 26 Administration</b>	
Limited to schools, programs, and year-round schedules that are not in session on March 1. Make-up tests may only be given on April 27.	
District Pre-ID files due to ETS	March 1 Documents March 22 Labels
District coordinator receives materials Test site coordinators receive materials	April 12–19 District April 18–22 Test Sites
Writing test administration date Make-up testing date	April 26 April 27
Test site coordinators to return all scorable and non-scorable materials to district	April 28
District coordinator ships all scorable and non-scorable materials to STAR Scoring and Processing Centers	May 2

**Table 3. Multiple-Choice, CAPA, and EAP Essay Schedule**

Activity	Timeline
<p><b>District Coordinator</b> Submits district Pre-ID file(s) to ETS <i>See STAR Management System for the specific district dates.</i></p>	<p>30 Working Days before Material Ship Date for Pre-ID documents</p> <p>15 Working Days before Material Ship Date for Pre-ID labels</p>
<p><b>District Coordinator</b></p> <ul style="list-style-type: none"> <li>• Receives materials from contractor</li> <li>• Inventories cartons and notifies the STAR Technical Assistance Center of any discrepancy in the number of cartons received. Returns signed Materials Receipt Acknowledgment Form to the STAR TAC via FAX.</li> <li>• Distributes materials to test sites</li> <li>• Ships all scorable and non-scorable materials to STAR Scoring and Processing Centers</li> <li>• Ships all EAP scorable and non-scorable materials to STAR Scoring and Processing Centers</li> </ul>	<p>10 to 20 working days before each test administration period</p> <p>Within 2 days of delivery to the district</p> <p>5 to 10 working days before first testing day of each test administration period</p> <p>No more than 5 working days after completing testing for each administration period</p> <p>No more than 5 working days after completing essay but no later than May 6</p>

Activity	Timeline
<p><b>Test Site Coordinator</b></p> <ul style="list-style-type: none"> <li>• Receives materials from district coordinator</li>   <li>• Inventories all materials and notifies district STAR coordinator of any missing or incorrect materials</li>   <li>• Distributes CAPA Examiner’s Manuals</li>   <li>• Distributes and collects CAPA and CST answer documents, CST test booklets, and CST Examiner Manuals</li>   <li>• Returns all scorable and non-scorable materials to district STAR coordinator</li>   <li>• Returns all EAP scorable and non-scorable essay materials</li> </ul>	<p>5 to 10 working days before the first testing day of each administration period</p> <p>Within 2 days of delivery to the test site</p> <p>At least 5 working days before testing begins</p> <p>Each day of testing</p> <p>2 days after completing testing for each administration period</p> <p>By May 5</p>
<p>Districts receive student results for each administration period</p>	<p>July 5 – September 26</p>
<p>Districts distribute STAR Student Reports to parents/guardians</p>	<p>Within 20 working days of the receipt of the reports in the district for each administration period</p>
<p>Districts receive school and district summary reports</p>	<p>July 5 – August 8 for districts that submitted all materials for scoring on or before July 1</p> <p>August 8 – September 16 for districts with approved waivers for non-traditional school years</p>
<p>Results for schools, districts, county offices of education, and the state publicly released</p>	<p>August 15, 2005</p>

## Test Administration Periods

All students must be tested within a 21-day window that is comprised of the ten days before and the ten days after the day on which 85% of the year's instructional days are completed. District STAR coordinators used the STAR Management System to calculate the 21-day window for each school, program, and track. They then selected specific test administration days within each 21-day window. The district STAR coordinator may have established administration periods that are less than the 21-day window, but no district, school, program, or track may test outside of the 21-day window. Districts and schools that do not have multiple-tracks each have a single administration period.

The district coordinator should provide information for each administration period being used in the district. Test site coordinators may enter the information that applies to their schools/test sites in the following table. Be sure to clearly identify all administration periods during which tests will be administered at the school/test site.

Administration Period	Students To Be Tested	Material Delivery Date from District	Test Administration Dates	Make-Up Testing Dates	Date Materials Due to District
01					
02					
03					
04					
05					
06					
07					
08					

## Summary of Responsibilities

**Table 4. Summary of Responsibilities**

<b>DISTRICT COORDINATOR</b>	<b>TEST SITE COORDINATOR</b>
<b>Before Test Administration</b>	<b>Before Test Administration</b>
<ol style="list-style-type: none"> <li>1. Submit test orders for all test sites.</li> <li>2. Prepare or coordinate preparation of Pre-ID file(s).</li> <li>3. Submit Pre-ID file(s) to CSIS and use error and summary reports to correct file.</li> <li>4. Submit Pre-ID file(s) to ETS.</li> <li>5. Attend a pretest workshop.</li> <li>6. Prepare district testing schedule and distribute it to test site coordinators or have test site coordinators prepare a schedule for their site and submit it to the district office.</li> <li>7. Prepare the List of Demographic Fields Required To Be Gridded by Hand and distribute it to test site coordinators.</li> <li>8. Collect signed STAR Security Agreements from all test site coordinators.</li> <li>9. Collect signed STAR Security Affidavits for anyone in the district who will handle any STAR materials.</li> <li>10. Schedule and conduct test site coordinator training session(s).</li> <li>11. Receive and inventory shipments of materials (district materials and number of cartons for each site).</li> <li>12. Notify the STAR TAC of any discrepancies in district materials or cartons received.</li> <li>13. Arrange for testing all students with IEPs that the district enrolled in non-public schools.</li> <li>14. Provide assistance to test site coordinators as needed.</li> </ol>	<ol style="list-style-type: none"> <li>1. Attend test site coordinator training.</li> <li>2. Receive test administration schedule from district coordinator or prepare a schedule for the site and submit it to the district coordinator.</li> <li>3. Notify parents/guardians of schedule.</li> <li>4. Work with principal/administrator to designate test examiners and proctors; schedule and conduct training sessions for test examiners and proctors.</li> <li>5. Collect signed STAR Security Affidavits from anyone who will handle STAR materials. Forward these to your district coordinator to file at the district office.</li> <li>6. Arrange for locked central storage of testing materials.</li> <li>7. Arrange for testing locations and verify that they are prepared appropriately.</li> <li>8. Receive shipments of materials from district STAR coordinator.</li> <li>9. Inventory materials and notify district coordinator of any discrepancies.</li> <li>10. Supervise the verification of Pre-ID answer documents and the hand-gridding of any information marked on the List of Demographic Fields Required To Be Gridded by Hand that was provided by the district coordinator.</li> <li>11. Supervise the preparation of blank answer documents—hand-gridding or affixing bar code labels.</li> <li>12. Organize test materials for distribution to test examiners.</li> <li>13. Prepare inventory control forms and forms to track students requiring make-up testing.</li> <li>14. Arrange locations and supervision for students not being tested.</li> <li>15. Arrange locations and test examiners for testing English learners and students with IEPs or Section 504 Plans if needed.</li> <li>16. Arrange for a quiet room, adult escorts, a test examiner, and a proctor for students who need additional time to complete any part of a CST.</li> <li>17. Establish the location where test examiners will pick up and return materials each day.</li> </ol>

**Table 4. Summary of Responsibilities (continued)**

<b>DISTRICT COORDINATOR</b>	<b>TEST SITE COORDINATOR</b>
<p><b>During Test Administration</b></p> <ol style="list-style-type: none"> <li>1. Monitor test administration.</li> <li>2. Report any adult testing irregularities to the CDE. (916-445-8765)</li> <li>3. Have test site coordinators mark the appropriate circles in Section 26 on student answer documents for: <ul style="list-style-type: none"> <li>• Students who become ill during a test and cannot complete it.</li> <li>• Students who are cheating on the test.</li> </ul> </li> </ol>	<p><b>During Test Administration</b></p> <ol style="list-style-type: none"> <li>1. Monitor test administration, including the quiet room for students who need additional time to complete any part of the CSTs.</li> <li>2. Report any test administration errors or adult testing irregularities to the district coordinator.</li> <li>3. Follow the district coordinator's instructions to mark Section 26 of student answer documents.</li> </ol>
<p><b>After Test Administration</b></p> <ol style="list-style-type: none"> <li>1. Direct and monitor the collection of all scorable and non-scorable test materials from test sites.</li> <li>2. Randomly check school/test site cartons to verify that forms were completed correctly and that the materials are packaged correctly.</li> <li>3. Prepare all required forms for returning materials, including the 2005 Standardized Testing and Reporting Request for Student Data File and Additional Reports.</li> <li>4. Prepare cartons of scorable and non-scorable materials and return them to the STAR Scoring and Processing Centers.</li> <li>5. File all security agreements, affidavits, and forms.</li> </ol>	<p><b>After Test Administration</b></p> <ol style="list-style-type: none"> <li>1. Account for all testing materials received at the site.</li> <li>2. Oversee the checking of student answer documents to verify that all documents are in scorable condition, all demographic information has been completed, test version numbers are marked, end-of-course mathematics and science test names and version numbers are correctly marked, and Section 26 is completed correctly.</li> <li>3. Complete School and Grade Identification Sheets (SGIDs) for each set of answer documents to be scored, including an Instructional Materials Survey for each grade two through eight.</li> <li>4. Complete the School Master File Sheet.</li> <li>5. Make copies of all forms for school files.</li> <li>6. Follow the directions in this manual for packing all scorable and non-scorable materials.</li> <li>7. Return all cartons of scorable and non-scorable materials to the district coordinator.</li> </ol>

**Maintain test security and confidentiality at all times!**

## Testing Program Overview

The 2005 Standardized Testing and Reporting (STAR) Program includes the following components:

- **California Standards Tests (CSTs)**, multiple-choice tests for all students in grades 2 through 11 and writing tests for students who take the grade 4 and 7 multiple-choice tests. All items on these tests are developed by California educators and test developers and written specifically to assess students' achievement of California's Academic Standards.
- **California Alternate Performance Assessment (CAPA)**, an individually administered performance assessment for students in grades 2 through 11 (seven through sixteen years old) with significant cognitive disabilities who are unable to take CSTs even with accommodations or modifications. California special education consultants and test developers develop the CAPA.
- **NCLB Science Standards Field Tests**, multiple-choice field tests for all students in grades 8 and 10. All items on these tests are developed by California educators and test developers and written specifically to assess students' achievement of California's Academic Science Standards. These tests are being developed to meet a requirement for a federal No Child Left Behind Act of 2001 (NCLB).
- **California Achievement Tests, Sixth Edition Survey (CAT/6 Survey)**, multiple-choice tests that are required for all students in grades 3 and 7. These tests, published by CTB/McGraw-Hill, compare each student's score to the scores of a national sample of students tested in the same grade at the same time of the school year.
- **Spanish Assessment of Basic Education, Second Edition (SABE/2)**, multiple-choice tests for Spanish-speaking English learners in grades 2 through 11 who have been in California public schools less than 12 months. Students who take SABE/2 must also take the CSTs and CAT/6 Survey. SABE/2 tests are published by CTB/McGraw-Hill. The SABE/2 is a norm-referenced achievement test of basic skills in Spanish reading, language, and mathematics.

**This manual provides information about the responsibilities of district and test site coordinators.** Test preparation and administration procedures must be followed exactly so that all students have an equal opportunity to demonstrate their academic achievement.

Tests within the STAR Program must be administered to all students in grades 2 through 11 who are enrolled in California public schools or school districts, including students with Individualized Education Programs (IEPs) that districts assign to non-public schools.

This manual includes information that STAR district and test site coordinators are to use in coordinating the administration of the CSTs, CAPA, NCLB science field tests, and the CAT/6 Survey. For information about the SABE/2, see the *SABE/2 STAR Test Coordinator Manual*.



This manual is not intended as a substitute for the California Code of Regulations, Title 5 Education or to detail all of the coordinator's responsibilities. Use this manual in conjunction with the *California Standardized Testing and Reporting Directions for Administration*.

District and test site coordinators should be familiar with all information in this manual.

## Test Security and Confidentiality

All tests within the STAR Program are secure documents. All testing materials must be handled in strict accordance with the instructions in this manual and in the *Directions for Administration* and the statements in the STAR Security Agreement and Affidavit. Every person having access to test materials shall maintain the security and confidentiality of the tests.

**District STAR coordinators** must sign and submit a STAR Security Agreement to the STAR Technical Assistance (TAC) before ETS can ship any testing materials to the district.

**Test site coordinators** must sign and submit a STAR Security Agreement to the district STAR coordinator before any testing materials can be delivered to the school/test site.

**Anyone having access** to the test materials must sign and submit a STAR Security Affidavit to the test site coordinator before receiving access to any testing materials.

Copies of the STAR Security Agreement and Affidavit are in Appendix A of this manual.

**The district STAR coordinator is responsible for collecting and filing all STAR Security Agreements and Affidavits at the district office.**

Test security requires accounting for all secure materials before, during, and after each test administration. Coordinators are required to keep all test materials in central locked storage except during actual test administration times. Test site coordinators are responsible for accounting for and returning all secure materials to the district coordinator, who is responsible for returning them to the STAR Scoring and Processing Centers.

It is the responsibility of each person participating in the STAR Program to report immediately any violation or suspected violation of test security or confidentiality. The test site coordinator is responsible for immediately reporting any security violation to the district coordinator. The district coordinator is to contact the California Department of Education immediately and will be asked to follow up with a written explanation of the violation or suspected violation.

Any irregularities in test security may result in invalidation of student test results.

## Students to Be Tested and Required Tests

### Students to Be Tested

All students in grades 2 through 11 (ages seven through sixteen), including English learners, students with disabilities, and students placed in non-public schools by the district are required to participate in the STAR Program.

- All English learners are required to be tested regardless of the length of time they have been in California public schools or their fluency in English.
- All students with disabilities who would be enrolled in grades 2 through 11 of the general education program are required to be tested. Determine the grade for students in ungraded programs by subtracting five from their chronological age on December 2, 2004. A student who was eleven years old on December 2 would be given the sixth-grade tests ( $11 - 5 = 6$ ).

### Parent/Guardian Exemptions

Parents/guardians may submit or have on file from previous years written requests to exempt their children from all or any part of the CSTs, CAT/6 Survey, or CAPA. All such requests must be honored. Row A in Section 26 on student answer documents is to be marked for all tests not taken by parent/guardian request. **It is imperative that students whose parents/guardians have requested testing exemptions not be given test booklets or answer documents.**

**Important:** The California Code of Regulations states that the school district shall not solicit or encourage any written request on behalf of any child or group of children. Parents/guardians may be apprised of their right to exempt their child(ren) from testing, but every parent/guardian in the district must receive the same information. Be sure that any information provided to parents/guardians clearly indicates what tests students will be taking and the need for parents/guardians to include the specific test(s) from which they want their student exempted. Parents/guardians must submit written requests to the school to request the exemption. Parents may be provided a preprinted form only upon individual request.

If parents/guardians submit exemption requests after testing has begun, any tests completed before the request is received will be scored and the results reported to the parents/guardians and entered into student records.

### Required Tests

Students with significant cognitive disabilities may participate in the STAR Program by taking the CAPA. All other students are required to take the CSTs and the CAT/6 Survey. The following table shows the required tests by grade and content area.

**Note:** Tests that are required for all students in grades two through eleven are included in grade-level test booklets. The mathematics standards tests for

grades 8 through 11 and the science standards tests for grades 9 through 11 are printed in separate booklets. The mathematics and science CSTs for these grades are end-of-course tests, and the students required to take each are determined by course completion rather than by grade level. Information about the end-of-course mathematics and science standards tests, including the students who are required or eligible to take each test, is in Appendix C.

The California Writing Standards Tests for grades 4 and 7 are also in separate Writing Prompt and Response Booklets. All students taking grade 4 and 7 tests are required to take both the multiple-choice and writing test.

**Table 5. 2004 – 05 Testing Requirements**  
**California Standards Tests (CSTs),**  
**NCLB California Science Standards Tests,**  
**California Achievement Tests, Sixth Edition Survey (CAT/6 Survey), and**  
**California Alternate Performance Assessment (CAPA)**

Grade	2	3	4	5	6	7	8	9	10	11
CST English-Language Arts	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
CST Mathematics	✓	✓	✓	✓	✓	✓	✓*	✓*	*	*
CST History-Social Science							✓		✓	✓
CST Science				✓				*	*	*
NCLB California Science Standards							✓		✓	
CAT/6 Survey Reading/Language Mathematics Spelling		✓				✓				
CAPA English-Language Arts	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
CAPA Mathematics	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
CAPA Science				✓			✓		✓	

- ✓ Tests required for all students taking the grade level tests.
- \* Tests required based on course completion.

## CAPA Participation

Test site coordinators are responsible for having students' IEPs reviewed to determine if the students will take the CSTs with no accommodations or modifications, take the CSTs with accommodations and/or modifications, or take the CAPA.

IEP teams determine how students with disabilities will participate in the STAR Program. If the IEP team determines that the student should be assessed with the CAPA, the IEP team also is responsible for determining if the student should take the grade-assigned CAPA level or CAPA Level I. This information is included on each student's IEP. Students with grade level designations on their IEPs **must take** either CAPA Level I or the CAPA level designated for their grade level. **No below grade level testing is allowed for CAPA.**

**Table 6. CAPA Levels**

CAPA Level	Grade Range	Age Ranges for Un-graded Programs
I	2 – 11	7 – 16
II	2 & 3	7 & 8
III	4 & 5	9 & 10
IV	6 – 8	11 – 13
V	9 – 11	14 – 16

## Answer Document for Every Student

A grade 2 or 3 test booklet, grade 4 through 11 CST answer document, or a CAPA response document must be submitted with scorable materials for every student enrolled in grades 2 through 11 on the first day of testing. This includes students who are exempted from testing by parent/guardian request and students who are absent for all regular and make-up testing. For grade 3 students who are not tested, complete the demographic information and submit only Book 1 (CSTs) with scorable materials.

## Testing Accommodations

The “Matrix of Test Variations, Accommodations, and Modifications for Administration of California Statewide Assessments” is included as Appendix D of this manual. The decision to use a particular variation, accommodation, or modification with a student should be made on an individual basis and should take into consideration a) the needs of the student, and b) whether the student routinely receives the variation, accommodation, or modification in classroom instruction.

Test administration variations and accommodations do not result in changes to the students' scores for Academic Performance Index (API) or Adequate Yearly Progress (AYP) calculations. Scores for students tested with modifications are

counted as Far Below Basic for API calculations and Not Proficient for AYP calculations.

Students with IEPs in grades 3 through 11 may be tested below level, if they are receiving instruction at a lower grade level than their enrollment grade. Students in grade 3 may be tested one grade below level, and students in grades 4 through 11 may be tested one or two grades below level. Students tested below level may be counted as not tested when AYP participation rates are calculated. The IEP team determines the grade level test that is to be used, and the test level must be included in the student's IEP.

Any accommodations or modifications that are to be used for testing must match those regularly used for classroom instruction and must be specified in the student's IEP or Section 504 Plan.

Instructions that the teacher gives orally before or after a test may be signed for a student with a hearing impairment or translated into the primary language for an English learner. Directions in "SAY" boxes that the test examiner may sign or may translate are marked with a T in the *Directions for Administration* for each test.

Test examiners are to mark Section 26 of students' answer documents for:

- The specific tests on which students with IEPs or Section 504 Plans use accommodations or modifications.
- Below-level testing for students with IEPs.
- Special test versions used—large print or Braille.

The use of testing variations, including variations for English learners, is not marked on answer documents.

# District Coordinator Responsibilities

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## Before Testing

- Attend district STAR coordinator pretest workshop.
- Prepare and submit Pre-ID files for each test administration.
- Review *STAR District and Test Site Coordinator Manual*, the *Directions for Administration for the Grade 4 and 7 Writing Tests*, the *Directions for Administration* for at least one grade-level CST, and the Test Examiner and Test Site Coordinator videos.
- Prepare district testing schedule.
- Determine, within district policies, if answer documents for students with IEPs will be scored as a district program with a school code of 0000001.
- Prepare and conduct pretest workshop for test site coordinators.
- Receive and file STAR Security Agreements for all test site coordinators.

## During Testing

- Provide assistance to test site coordinators as needed.
- Receive reports of any testing irregularities at test sites and report these to the California Department of Education.
- Assist test site coordinators with handling defective test booklets.
- Assist test site coordinators with handling emergency situations that disrupt the test administration.

## After Testing

- File all district forms and STAR Security Affidavits from schools/test sites. See *Forms at a Glance*.
- Respond to contractor or CDE questions.
- Prepare for distribution of STAR Student Reports to parents/guardians, verification of all test data, and distribution of score reports to schools/test sites.

## Before Testing

### Attend Pretest Workshop for District STAR Coordinators

As district coordinator you are the contact person for all test site coordinators and school administrators and for all STAR-related communications for your district. It

is your responsibility throughout the testing period to answer questions that arise in the school district about the STAR Program and the tests within it.

Carefully read all materials that you receive and contact the California Department of Education or your STAR TAC representative with any questions you have related to the Program or the test administration.

Review the STAR Security Agreement and make sure that you understand your obligations related to test security. Review Title 5 of the California Code of Regulations and understand the definitions, testing requirements, coordinator responsibilities, and scheduling information included in them.

### **Prepare and Submit Pre-ID Files**

- Check the STAR Management System to verify when the district's Pre-ID files are to be submitted to ETS.
- Prepare or supervise the preparation of the Pre-ID file using the Pre-ID File layout, the *California Standardized Testing and Reporting Pre-ID Instructions for Spring 2005 Administration*, and the Pre-ID File Layout Descriptions that are available at [www.startest.org](http://www.startest.org). The district STAR coordinator is responsible for verifying that the file is complete and includes correct data.
- Submit the Pre-ID file to California School Information Services (CSIS) to have the data in the file checked.
  - a. Correct the Pre-ID file using the error and summary reports generated by CSIS.
  - b. Submit the Pre-ID file to ETS.
  - c. Complete the List of Demographic Fields Required To Be Gridded by Hand (Appendix B) to give to test site coordinators.

### **Review Documents and Videos**

Review the 2005 STAR Program documents including this manual, the *Directions for Administration*, and the Test Examiner and Test Site Coordinator videos. Clarify any questions you have about the testing requirements or procedures with STAR TAC and/or the California Department of Education.

### **Prepare District Testing Schedule**

Prepare a district testing schedule that includes the date and time each test and test part is to be administered in every school in the district. If the district does not use a district wide schedule, have test site coordinators prepare the testing schedules for each site and submit them to the district office before testing begins. All regular and make-up testing must be completed within the 21-day instructional day window for each test administration period. Generally, testing can be completed within a two-week period. If the district has high schools on block schedules, it is advisable to schedule the mathematics, science, and history-social science CSTs as close to the end of the 21-day window as possible.

### **Determine if Documents Will be Submitted for Scoring for a District Program**

Students with IEPs may be receiving services at a location other than their local or home school. In specific situations the students' answer documents may be

submitted for scoring as a district special education program. The following table summarizes how answer documents are to be submitted for scoring.

**Table 7. Submitting Answer Documents for Scoring**

<b>Special Education Service Provider</b>	<b>Answer Documents Submitted</b>
Student's home school	School's 7-digit school code
School other than home school	School's 7-digit code or school code of 0000001
District programs without school code	School code of 0000001
District special school or center	School's 7-digit school code or school code of 0000001
Non-traditional school—charter school, alternative education school, juvenile court school, community school	School's 7-digit code
County special education program	County's 7-digit special education school code
Non-public school	School code of 0000001
State Special School	School's 7-digit code

If the 0000001 school code is used, the **district coordinator** is responsible for:

- Having site coordinators return the students' scorable answer documents to the district office separately from other materials for the school/test site.
- Following all directions that are used by test site coordinators to prepare the documents for scoring, including completing SGID sheets and Master File Sheets.
- Packing the documents in Box 1 of the district shipment to ship for scoring.

**Important Notes:**

- It is essential that both the grade 4 and 7 Writing Prompt and Response Booklets and the multiple-choice answer folder be shipped for scoring under the same school code.
- The 0000001 school code may not be used by County Offices of Education or for any answer documents other than those for students with IEPs who are being served through a **district program or a non-public school to which the district assigned the student.**

**Prepare and conduct a pretest workshop for all test site coordinators.**

Formal, classroom-style training for STAR test site coordinators is encouraged. The training should include discussing the responsibilities and procedures described in this manual, reviewing any information and instructions that are specific to the district, and thoroughly reviewing security procedures. The 2005 STAR videos that were distributed to all schools and districts may be used during the training. Training should include but is not limited to:

- Responsibilities of test site coordinators and test examiners
- Required tests for each grade



- Security requirements (including completion of the STAR Test Security Agreement and Affidavit)
- Regulations and special instructions for the participation of English learners, students with Section 504 Plans, and students with IEPs
- Using special versions, accommodations, modifications, and below-level tests and marking answer documents appropriately
- Coding the demographic pages of a test booklet (grade 2 and 3) or answer document (grades 4–11) for every student enrolled on the first day of testing, including students who are not tested, and submitting these with the scorable materials for the students' classes or grade levels
- Arranging for test sites and additional proctors, as required
- Training test examiners using the STAR Examiner Training video
- Adhering to the established testing schedule
- Packaging and returning all testing materials to the district

District STAR coordinators may use the materials posted under Administrative Documents at [www.cde.ca.gov/ta/tg/sr/admin.asp](http://www.cde.ca.gov/ta/tg/sr/admin.asp) when preparing workshops and information for test site coordinators or refer test site coordinators to this Web address for information.

### **Prepare Inventory Control Sheets to Track Distribution of Materials from District Overage**

Following are brief instructions for using the District Inventory Control spreadsheet to track test materials. The district may use the spreadsheet provided or may choose another method for tracking test materials.

**Note:** To track inventory on paper, photocopy the District Inventory Control pages in Appendix I or J of this manual or to use electronic tracking:

1. Download the District Inventory Control spreadsheet from [www.startest.org](http://www.startest.org).
2. Open the District Inventory Control spreadsheet in Microsoft Excel.
3. Click the appropriate tab at the bottom of the Excel screen.
4. Enter the district name.
5. Enter the administration.
6. Enter the name of the school/test site receiving materials.
7. Enter the number of each type of document delivered to the school/test site in the appropriate columns.
8. Repeat steps 5 through 7 for all schools.
9. When materials are returned from the school/test site enter the number of items returned, both unused and scorable.

## **During Testing—District Coordinator**

### **Receive Reports of Testing Irregularities at Schools/Test Sites**

District coordinators should be available to assist school/test site coordinators with any testing irregularities or questions that may arise related to marking Section 26 of student answer documents.

If any reports of inappropriate test preparation or adult testing irregularities are reported, contact the California Department of Education at (916) 445-8765 to report and discuss the situation before advising the test site coordinator to mark anything in Rows Q or S.

### **Handling Defective Booklets**

Although test booklets are monitored for quality, occasionally print errors or other defects may occur. If defective test booklets are found, assist test site coordinators with replacing and handling the defective booklets. (See During Testing following Test Site Coordinator Responsibilities.)

- If grade 2 and 3 defective booklets are found, and there are insufficient quantities of the same version in the district coverage to replace the booklets, call the CDE at (916) 445-8765 for assistance.
- Report any defective booklet problems to the STAR Technical Assistance Center, including the print code(s) and the number of affected booklets for each print code.

### **Emergency Interruptions during Testing**

If an emergency situation occurs during the administration of any test, test site coordinators are to ensure that the safety of students and staff is their first priority. When it is safe to do so, the site coordinators are to report the situation that occurred and the actions taken to secure test materials. Report emergency situations to the California Department of Education, if there are any breaches of test security, testing cannot continue, or testing cannot be completed within the test window because of the emergency.

# Test Site Coordinator Responsibilities

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## Before Testing

- Attend district workshop for test site coordinators.
- Review *STAR District and Test Site Coordinator Manual*, the *Directions for Administration for the Grade 4 and 7 Writing Tests*, the *Directions for Administration* for at least one grade-level CST, and the Test Examiner and Test Site Coordinator videos.
- Plan all test administration logistics for the site.
- Identify staff members who will serve as:
  - CST-CAT/6 Survey Test Examiners
  - CST-CAT/6 Survey Proctors
  - CAPA Test Examiners—must be a certificated or licensed staff member who has been trained to administer the CAPA
  - CAPA Observer/Second Rater—must be a certificated or licensed staff member who has been trained to administer the CAPA
- Prepare and conduct pretest-training sessions for test examiners and proctors.
- Prepare or supervise hand-gridding of answer documents when Pre-ID was not used.
- Notify parents/guardians of testing schedule.
- Arrange for supervision of students who are not being tested.
- Receive and file STAR Security Affidavits for anyone who will have access to test materials.

## During Testing

- Monitor the test administration.
- Be available to answer questions from test examiners.
- Work with test examiners to grid Section 26 on student answer documents for students who become ill and cannot complete a test (Row D) or students who the text examiner or proctor observes cheating during a test (Row T).
- Work with test examiners to replace any defective test booklets that are found while students are working on a test.
- Handle any emergency situations that arise during testing.

## Test Examiner, Proctor, Scribe Identification and Training

The **test site coordinator** is responsible for identifying test examiners, proctors, and scribes.

- A test examiner is an employee of a school district or an employee of a non-public school who has been trained to administer the tests and has signed a STAR Test Security Affidavit. For the CAPA, the test examiner must be a certificated or licensed school staff member.
- A test proctor is an employee of a school district, or a person assigned by a non-public school to implement a pupil's IEP, who has received training designed to prepare him or her to assist the test examiner in the administration of tests within the STAR Program. Test proctors must sign STAR Test Security Affidavits.
- A scribe is an employee of the school district, or a person assigned by a non-public school to implement a pupil's IEP who is required to transcribe a pupil's responses to the format required by the test. A student's parent or guardian is not eligible to be a scribe. Scribes must sign STAR Test Security Affidavits.

**Note:** Only certificated or licensed employees who have been trained to administer the CAPA may serve as CAPA examiners or observers/second raters.

Test site coordinators must train test examiners, proctors, and scribes. The 2005 STAR Examiner Training video should be used as part of the training.

Training must include, but is not limited to:

- Distributing, explaining, completing, and collecting the signed security affidavits.
- Distributing and explaining the site's testing schedule including what tests are to be given each day and at what times, as well as how bell schedules, recess/nutrition, and lunch times are being adjusted.
- Discussing how to prepare rooms for testing.
- Explaining Pre-ID information, including where to place Pre-ID labels, if used, and how to read information under the Pre-ID bar code.
- Explaining hand-gridding requirements, including how to complete Section 26 of answer documents.
- Emphasizing that all students in grades 2 through 11 must complete Section 1 on their test booklets or answer folders.
- Emphasizing that it is essential that students in grades 4 through 11 write their names on the test booklets and code the test version number on their answer documents.
- Reviewing the *Directions for Administration* and stressing that all directions in "SAY" boxes must be read to students exactly as they are written.
- Informing test examiners of where to send students who need more time to complete the CSTs and the procedures for having an adult escort the students to the quiet room that has been set up.

- Informing test examiners of when and where to pick up and return all testing materials each day of testing.
- Distributing and discussing forms and the procedures for maintaining lists of students who are absent and require make-up testing.
- For the **CAPA**, reviewing the requirement that 10% of the tests for each content area must have an observer/second rater, previewing the CAPA administration schedule, and ensuring that each CAPA examiner will have an observer/second rater available.
- Emphasizing that teachers must ensure that students taking end-of-course mathematics or science tests correctly mark the test form and version. If the test form is not marked, the test will not be scored.
- Reminding test examiners administering science tests that students will use reference sheets for the CST grade 5, chemistry, physics, integrated/coordinated science, and the NCLB Grade 8 Science Standards Test. The *Directions for Administration* include directions for the test examiner to read to students that describe how to remove the reference sheets from the test booklets.
- Detailing who will be administering tests to English learners and discussing the limitation of translating only directions that are in “SAY” boxes marked with a **T**.
- Discussing who will administer tests to students with IEPs or Section 504 Plans who are to be provided testing accommodations or modifications and emphasizing that the students may use only accommodations or modifications specified in their IEPs or Section 504 Plans.

## Test Examiner and Proctor Responsibilities

Test examiners who administer the tests within the STAR Program are responsible for the following activities:

- Administering all tests according to the schedules developed by the district or test site coordinator.
- Hand-gridding or supervising the gridding of all student demographic data not included in the district’s pre-identification file.
- Thoroughly reviewing and following all procedures in the separate and grade-specific *Directions for Administration* or the CAPA Examiner’s Manual and in any supplemental instructions provided by the test site coordinator.
- Ensuring that the testing room is appropriately prepared for administering tests. No instructional materials directly related to the content of the test should be visible to any students. Inappropriate materials include, but are not limited to:
  - Tables of mathematical facts or formulas
  - Vocabulary or spelling lists
  - Phonics charts
  - Inappropriate history and science materials (e.g., maps, timelines, biological charts)
- Ensuring the security of test materials.

- Planning quiet activities not related to the test being taken for students who finish early.
- Ensuring that accurate records of students tested and not tested are maintained and submitted to the STAR test site coordinator.

### **Preparing Answer Documents if No Pre-ID**

If Pre-ID services were not used, determine how and when demographic information will be completed on student answer documents.

- All student demographic information must be hand-gridded for every student enrolled on the first day of testing.
- Determine where to locate the demographic information for students, e.g., cumulative record folders, electronic records in a district student information system, etc.
- Students **may grid** the information on the front page of the answer folders for grades 4 through 11 or the front cover of test booklets for grades 2 and 3 that includes **Name, Date of Birth**, etc., as appropriate to their grades.
- Under no circumstances should students grid anything on the back page of the answer folders for grades 4 through 11 or the back cover of test booklets for grades 2 and 3. All information on this page must be completed by a school or district staff member.

## **Assisting Test Examiners During Testing**

### **Reports of Inappropriate Test Preparation or Adult Testing Irregularities**

- If a report of inappropriate test preparation or an adult testing irregularity is received, immediately report this to the district STAR coordinator.
  - Inappropriate test preparation includes but is not limited to test examiners reviewing test content and providing instruction based on the review.
  - Adult testing irregularities include but are not limited to giving students answers during a test, reviewing student tests and having the students correct answers, changing student answers, or any adult activity that interferes with students independently completing any test.
- Have the appropriate circle(s) marked in Row T for students who use calculators, dictionaries, attempt to copy other students' answers, etc.
- The appropriate circle(s) should be marked in Row R if test examiners randomly distribute Pre-ID documents or do not adhere to the school's test schedule.

## Handling Defective Test Booklets

Although test booklets are monitored for quality, occasionally print errors or other defects may occur. If defective test booklets are found, have the test site coordinator do the following:

1. Stop testing for the group until replacement test booklets can be obtained. If defects are found during any CAT/6 Survey test, note the elapsed time before the defect was discovered.
2. Check the test booklets for all students to determine the extent of the problem.
3. Obtain replacement booklets from the school overage. Contact the district coordinator if there are an insufficient number of booklets in the school overage.
4. Give students in grades 4 through 11 replacement booklets with the same version number. If this is not possible, have the students erase the Version Number in Section 4 on their answer documents.
5. Use the same version number booklet for grades 2 and 3, and transcribe student demographic information and answers to the new booklet. After completing the transcription, mark the original test booklet “Void-Document Transcribed” and put it with non-scorable materials. If booklets with the same version numbers are not available, contact the district coordinator for assistance.
6. Record the print code that appears on the back of the test booklet(s) and forward this to the district coordinator.
7. Return defective booklets with non-scorable materials.

## Handling Emergency Situations

If an emergency situation occurs during the administration of any test, the first consideration must be for the safety of the students and staff. Test examiners should be advised to ensure that students are safe and then secure testing materials, if it is safe for the examiner to do so.

- Electrical outages**—if there is sufficient light to continue testing, students should continue working on the test. If there is insufficient light, the test examiner should collect and secure the test materials until they can be returned for central storage. Testing should continue when electricity is restored or on a subsequent day as appropriate.
- Earthquake or Fire**—test examiners should follow the school/site’s procedures. Test materials should be left on students’ desks and the room locked, if the building is being evacuated and locking the room does not endanger students or staff. When it is safe to do so, testing may resume or materials should be collected and secured to resume testing on a subsequent day.
- If an emergency occurs during a CAT/6 Survey administration, have test examiners estimate the length of time students had been working prior to the emergency. When testing resumes add one to two minutes to the remaining time and have students complete the test.

## Test Site Coordinator Responsibilities

- Notify the district coordinator of the emergency situation when it is safe to do so.



# Forms at a Glance

Table 8 briefly describes the forms that district and/or test site coordinators must complete. See Appendix G for samples of these forms.

**Table 8. Forms at a Glance**

<b>Before Testing</b>			
<b>Form</b>	<b>When to complete</b>	<b>Purpose</b>	<b>What to do with form</b>
<b>STAR Test Security Agreement</b>	Before receiving any STAR Program test materials.	STAR district and test site coordinators acknowledge agreement to maintain the security of all test materials.	<b>District coordinator</b> must submit form to the STAR Technical Assistance Center.  <b>Test site coordinators</b> must submit forms to the district STAR coordinator.  Forms should be filed and kept for at least one year.
<b>STAR Test Security Affidavit</b>	Before receiving or handling any test materials.	All persons having access to STAR Program materials, including test examiners, proctors, scribes, and anyone handling the materials, must sign an affidavit to agree to keep materials secure and to follow all program directions.	<b>Test site coordinators</b> are to deliver the signed forms to the district coordinator.  <b>District coordinator</b> files forms at district office. Forms should be kept for at least one year.
<b>List of Demographic Fields Required To Be Gridded by Hand</b>	<b>District coordinator</b> to complete when Pre-ID file is finalized.	Used to inform test site coordinators of student information that must be hand-gridded on answer documents.	<b>District coordinator</b> prepares and distributes to test site coordinators.  File a copy in district STAR file.
<b>Inventory Control Forms—District</b>  <b>Optional</b>	As materials are distributed to schools/test sites from the district overage.	Track the distribution and return of all secure materials received in the district. Verify that test sites return all materials received through original and supplemental	<b>District coordinator</b> sends to each test site when additional materials are distributed from the district overage.  Files a copy with district records.

<b>Before Testing</b>			
<b>Form</b>	<b>When to complete</b>	<b>Purpose</b>	<b>What to do with form</b>
		shipments.	
<b>Inventory Control Forms—Test Sites</b>  <b>Optional</b>	As testing materials are assembled for each test examiner.  Also used to log materials out and in from test examiners each day of testing.	Track the distribution and return of all testing materials to test examiners.	<b>Test site coordinator</b> retains until after verifying that all secure materials received at the test site have been packaged and returned to the district coordinator; and the district coordinator receives verification that the contractor received all secure materials for the test site.
<b>Test Site Absence Tracking Forms</b>  <b>Optional</b>	During or immediately after tests are administered.	<b>Test examiners</b> complete and return to test site coordinator to document students who require make-up testing.  May be used after test reports are received to verify missing scores for students who were absent during testing.	<b>Test site coordinator</b> retains until make-up testing is completed.  Advisable to file with school/test site's STAR documents until after reports are received.
<b>Test Site Tracking of Significant Medical Emergencies</b>	When documentation from a licensed physician is received that a student is not to be tested.	Schools/test sites are required to have documentation from a licensed physician for any student who is not tested due to a significant medical emergency.	<b>Test site coordinator</b> completes and retains in school/test site's STAR files.

<b>After Testing</b>			
<b>Form</b>	<b>When to complete</b>	<b>Purpose</b>	<b>What to do with form</b>
<b>School and Grade Identification Sheet (SGID Header Sheets)</b>	When bundling answer documents for scoring.	<p>Identify groups of scorable answer documents and ensure that all documents are accounted for during processing and scoring.</p> <p>Report all instructional materials used in grades 2 through 8.</p> <p>May be used to identify students whose scores are to be aggregated for The California Report for Teachers.</p> <p>Used to verify that schools/test sites receive score reports for all students tested.</p>	<p><b>Test site coordinator</b> places the original of each completed form on the appropriate group of scorable documents for test site.</p> <p><b>District coordinator</b> places the original of each completed form on each group of scorable documents submitted under a district program code.</p> <p>Retain copies for school/test site and district records.</p>
<b>Master File Sheet</b>	When preparing scorable materials for packing and shipping to the STAR Scoring Center.	Ensure that all groups of scorable answer documents are received at the STAR Scoring Center and that each group includes the correct number of answer documents.	<p><b>Test site coordinator</b> places original on top of all scorable documents for the school/test site.</p> <p>Retain copies for school/test site and district records.</p>
<b>2005 Standardized Testing and Reporting Request for Student Data File and Additional Reports</b>	When preparing cartons of scorable materials to ship to the STAR Scoring Center	<p>Used by contractor to log in materials for the district and test administration period.</p> <p>Identifies the electronic media on which the district wants to receive the Student Data File.</p> <p>Identifies any additional reports the district is ordering.</p>	<p><b>District coordinator</b> places original on top of District Box 1 of scorable materials.</p> <p>Fax the form to the STAR Scoring Center at 1-319-358-4356.</p> <p>Retain copy for district records.</p>

<b>After Testing</b>			
<b>Form</b>	<b>When to complete</b>	<b>Purpose</b>	<b>What to do with form</b>
<b>Return Address Labels</b>	<p>Immediately after packing boxes for shipping to the STAR Scoring and Processing Centers.</p> <p><b>Test site coordinator</b> completes school site information on each label.</p> <p><b>District coordinator</b> completes the district information on each label.</p>	<p>Ensure that materials are returned to the correct centers, and that they can be correctly logged in and accounted for after receipt.</p>	<p><b>Test site coordinator</b> places orange labels on scorable multiple-choice materials and green labels on non-scorable materials; blue labels on scorable grade 4 and 7 writing test materials and red labels on non-scorable materials; magenta labels on scorable EAP materials and yellow labels on non-scorable materials.</p>

## Completing Forms

District and test site coordinators are responsible for completing and returning all required forms. Samples of most forms are included in the appendices of this manual.

**STAR Test Security Agreement and Affidavit**—See Test Security and Confidentiality section of this manual (page 9).

**List of Demographic Fields Required To Be Gridded by Hand**—District coordinators are to complete and distribute this form to test site coordinators, if schools/test sites are receiving Pre-ID documents and any demographic information was not included in the district’s Pre-ID file. Test site coordinators are responsible for having demographic information that is checked on the form entered on student answer documents.

**Test Site Tracking of Significant Medical Emergencies**—Test site coordinators are responsible for completing this form and filing all related documentation for any student who is not tested due to a significant medical emergency. A “significant medical emergency” is a significant accident, trauma, or illness (mental or physical) that precludes a pupil in grades two through eleven from taking the California Standards Tests (CSTs), the California Alternate Performance Assessment (CAPA), and/or the California Achievement Tests, Sixth Edition Survey (CAT/6 Survey). An accident, trauma, or illness is significant if the pupil has been determined by a licensed physician to be unable to participate in the tests.

**School and Grade Identification Sheet (SGID or Header Sheets)**—Test site coordinators complete an SGID and place it on top of **each** set of answer documents to be scored.

- **Grade 4 and 7 Writing Tests**—The front of an SGID is to be completed for each grade-level set of booklets the school/test site is submitting for scoring.
- **CAPA**—The front of an SGID is to be completed and placed on top of the set of all CAPA answer documents for the school/test site.
- **CST-CAT/6 multiple-choice test booklets (grades 2 and 3) and answer documents (grades 4 through 11)**—Test site coordinators complete the front and back of SGIDs for every grade level based on how the district wants The California Reports for Teachers produced and whether or not teacher names were included in the district’s Pre-ID file.
  - **Teacher Reports by Grade**—Complete only the front of one SGID for each grade level.
  - **Teacher Reports by Teacher/Group and teacher/group names were not included in district’s Pre-ID file**—Complete an SGID for each teacher/group within a grade level, if teacher/group names were not included in the district’s Pre-ID file. Complete the front of the SGID and enter and grid the teacher/group name on the back of the SGID.
  - **Teacher Reports by Teacher/Group and teacher/group names were included in district’s Pre-ID file**—Complete only the front of one SGID for each grade level.

### SGID: Side 1

PRINT the information requested in the box in the upper right-hand corner:

- District—District name where the school/test site is located
- School—Name of the school/test site
- Grade—Grade level of answer documents under this SGID, leave blank for CAPA
- Test Date(s)—Date testing began
- Teacher, Counselor or Group—Only if documents are being submitted by Teacher/Group
- Fill in the circles for the following:
  - **Type of test**—Fill in the circle for CST and CAT/6 (applies to both writing and multiple-choice tests) or CAPA.
  - **Grade**—For CST-CAT/6 Survey documents, fill in the circle for the grade level in which the students were enrolled. If students were tested below level, documents for multiple test levels may be under one SGID. A set of answer documents for students enrolled in grade 6 may include test levels 4, 5, and 6. Leave this section blank for CAPA.
  - **Number of Documents**—Enter and grid the number of documents in the set—This number includes the number of answer documents for students tested plus the number of answer documents with only demographic information for students not tested. For grade 3, this is the number of Book 1's plus the number of Book 2's.
  - **School Name**—The school name is pre-printed on the SGID sheets provided with the school/test site materials. If using a blank SGID, print the school name (left justified) in the boxes and fill in the corresponding circle under each letter of the school name. Leave a space between each word and fill in the empty circle at the top of the column.
  - **School Code**—The school code is pre-printed on the SGID sheets provided with the school/test site materials. If using a blank SGID enter the school code in the boxes and fill in the corresponding circle under each number.

### SGID: Side 2

- **Instructional Materials Survey**—The **test site coordinator** is to complete this section on one SGID for each grade level, **2 through 8**. The Key for Coding Instructional Materials is in Appendix E of this manual. Leave blank for grade 4 and 7 writing tests and for grades 9, 10, and 11. For grades 2 through 8, place the SGID sheet that has the Instructional Materials Survey information on the top stack of answer documents for the appropriate grade.
- **Group Code** optional—Complete only if instructed to do so by district coordinator.
- **Teacher, Counselor, or Group Name**—Used only to produce The California Report for Teachers by class. If used, print the name left justified and fill in the corresponding circle under each letter.

**Master File Sheet**—Test site coordinators are responsible for completing a Master File Sheet for each shipment of documents to be scored. Enter the

**number of sets** of documents to be scored and the **total number of documents to be scored** (sum the numbers entered in the “Number of Documents” boxes from all SGIDs in the shipment).

**Return Address Labels**—Test site coordinators are to verify that the school information is correct and complete the “SCH: BOX \_\_\_ OF \_\_\_” on each label. District coordinators are to complete the “TOTAL SHIPMENT FROM THIS DISTRICT” information on each label. All boxes included in the district shipment are to be numbered Box 1 of X, Box 2 of X, etc.

# Grade 4 and 7 Writing Component

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The Writing Standards Tests comprise one of six Reporting Clusters for the Grades 4 and 7 California English-Language Arts Standards Tests. Scores for this component are combined with students' scores on the multiple-choice component of the test to produce California English-Language Arts Standards Test scores.

## Test Dates

- March 1 with make-up March 2 for all schools, tracks, and programs in session on March 1.
- April 26 with make-up April 27 for schools, tracks, and programs not in session on March 1.

**Important:** No student in a school, track, or program in session on March 1 may take the April writing test. If a student is absent in March when the test is given, the student will have no writing test score and the student's CST English-language arts score will be based on only the multiple-choice component. Writing Prompt and Response Booklets dated March 1, 2005 that are received for scoring after April 1, 2005 **will not be scored.**

## Test Materials

- Writing Prompt and Response Booklets—packages of 20's and 5's
- *Grade 4 and 7 Writing Test Directions for Administration*—packages of 5's and singles
- School and Grade Identification Sheets (SGIDs)
- Master File Sheet
- Paper Bands
- Packing List
- Scorable Materials Freight Kit—blue
- Non-scorable Materials Freight Kit—red

**Note:** If the district used the optional Pre-ID service, test booklets will be packaged by delivery name/code or grade and school. Only the overage (not pre-identified booklets) will be packaged in 20's and 5's.

**District coordinators and test site coordinators** also receive a Materials Receipt Acknowledgement Form and district and/or school/test site packing lists.

### Materials To Be Provided by District or School

- Two No. 2 pencils with erasers for each student plus extras
- One sheet of blank, unlined scratch paper for each student



### Matching Students' Multiple-Choice and Writing Tests

The following are used to match students' writing and multiple-choice documents:

- CSIS Student Number (if used)
- Student ID numbers (if used)
- Name (last, first, and middle initial)
- Birth date
- Gender

If test booklets are hand-gridded, **test site coordinators** should maintain lists of these data and ensure that students' multiple-choice and writing documents are gridded exactly the same.

### Accommodations and Modifications

Students may use accommodations or modifications specified in IEPs or Section 504 Plans during the test. If students use accommodations or modifications, test examiners are responsible for marking **Section 26** on students' Writing Prompt and Response Booklets immediately after testing.

### Below-Level Testing

Students with IEPs in grades 5 and 6 who are being tested below level must take the grade 4 writing test if they are taking the grade 4 multiple-choice tests. Students with IEPs in grades 8 and 9 must take the grade 7 writing test if they are taking the grade 7 multiple-choice tests. Only students with IEPs may be given below-level tests.

## District STAR Coordinator Responsibilities—for Each Administration

### Before Testing

- Receive district shipment of materials.
- Inventory shipment to verify that all cartons were received for all district schools/test sites and that the district overage is complete.
- Secure all materials.
- Place supplemental order, if needed.
- Return Materials Receipt Acknowledgement Form to contractor.
- Prepare inventory control sheets to track distribution of materials from district overage to schools/test sites.
- Ship materials to non-public schools if the district has placed students taking grade 4 or 7 tests at non-public schools.
- Distribute materials to all district schools/test sites to arrive between February 18 and 25 for March 1 administration and between April 18 and 22 for April 26 administration.

### During Testing

- Be available to respond to questions from test site coordinators.
- Receive any reports of testing irregularities and immediately report these to the California Department of Education. (916-445-8765)

## STAR Test Site Coordinator Responsibilities—for Each Administration

### Before Testing

- Identify test examiners, proctors, and testing locations.
- Schedule the test administration. Allow 75 minutes. The test must be administered in a single sitting with no breaks. Notify all staff of the testing time and ensure that testing rooms will not be interrupted by non-emergency announcements, fire drills, etc. during this time.
- Ensure that students' IEPs or Section 504 Plans are checked to determine any accommodations or modifications that are to be allowed during the test.
- Set up separate testing rooms and assign examiners for students with IEPs or Section 504 Plans, if needed.
- Inventory materials when they are received from the district coordinator.
- If large-print or Braille tests were ordered, verify that they are received.
- Contact the district STAR coordinator to report any discrepancies or to request additional materials.
- Secure all materials in central, locked storage.
- Prepare overhead transparencies of student directions for teachers who use American Sign Language to give directions to students with hearing impairments.
- Prepare inventory control forms to check materials out to each test examiner.
- Ensure that booklets are prepared for administering the test:
  - If the district did not Pre-ID documents, determine when demographic information will be gridded on booklets and who will do this. Anyone hand-gridding demographic information should do this in a setting supervised by the test site coordinator. Writing Prompt and Response Booklets should not be opened when gridding demographic information.
  - If Pre-ID demographic information is incorrect for some students, have new booklets hand-gridded.
  - Check the “List of Demographic Fields Required To Be Gridded by Hand” received from the district coordinator to identify demographic information that must be hand-gridded on Pre-ID documents. Determine who will complete this information and when it will be done.
- Organize materials for testing locations. Sets must include a DFA, Writing Prompt and Response Booklets including one for the test examiner to use, unlined scratch paper, and No. 2 pencils with erasers.

**Immediately Before Testing**

- Distribute sets of materials to test examiners.
- Ensure that test examiners receive large-print and Braille tests and overhead transparencies when appropriate.

**During Testing**

- Monitor the test administration.
- Answer any questions that may arise.
- Immediately notify the district coordinator of any test administration errors or adult testing irregularities.

Adult testing irregularities may include but are not limited to the test examiner:

- Providing practice before students begin the test.
- Reading the writing task to students.
- Providing assistance during the test.
- Giving students a break during the test, except for students with IEPs or Section 504 Plans being tested with accommodations.

**Immediately After Testing**

- Collect all test materials.

**Preparing and Returning Materials to District STAR Coordinator**

- Separate Writing Prompt and Response Booklets to be scored from all other materials. Booklets are to be submitted for scoring only for students who were present on the regular or make-up day of testing who were not exempt from the test by parent/guardian request.
- Verify that the number of booklets to be scored plus the number of all non-scorable booklets (unused and voided) equals the number of booklets received at the school/test site.
- If tests for students with IEPs in Special Day Classes who are not attending their home school are to be submitted for scoring as a district special education program (school code of 0000001), verify that all demographic information has been completed on the students' booklets and that Section 26 has been completed correctly. Then follow the district coordinator's instructions for forwarding the booklets to the district coordinator. The district coordinator is responsible for preparing the SGIDs and Master File Sheet for these tests.
- Enter the number of booklets forwarded to the district coordinator on the Test Site Inventory Control Form.

**Writing Prompt and Response Booklets To Be Scored**

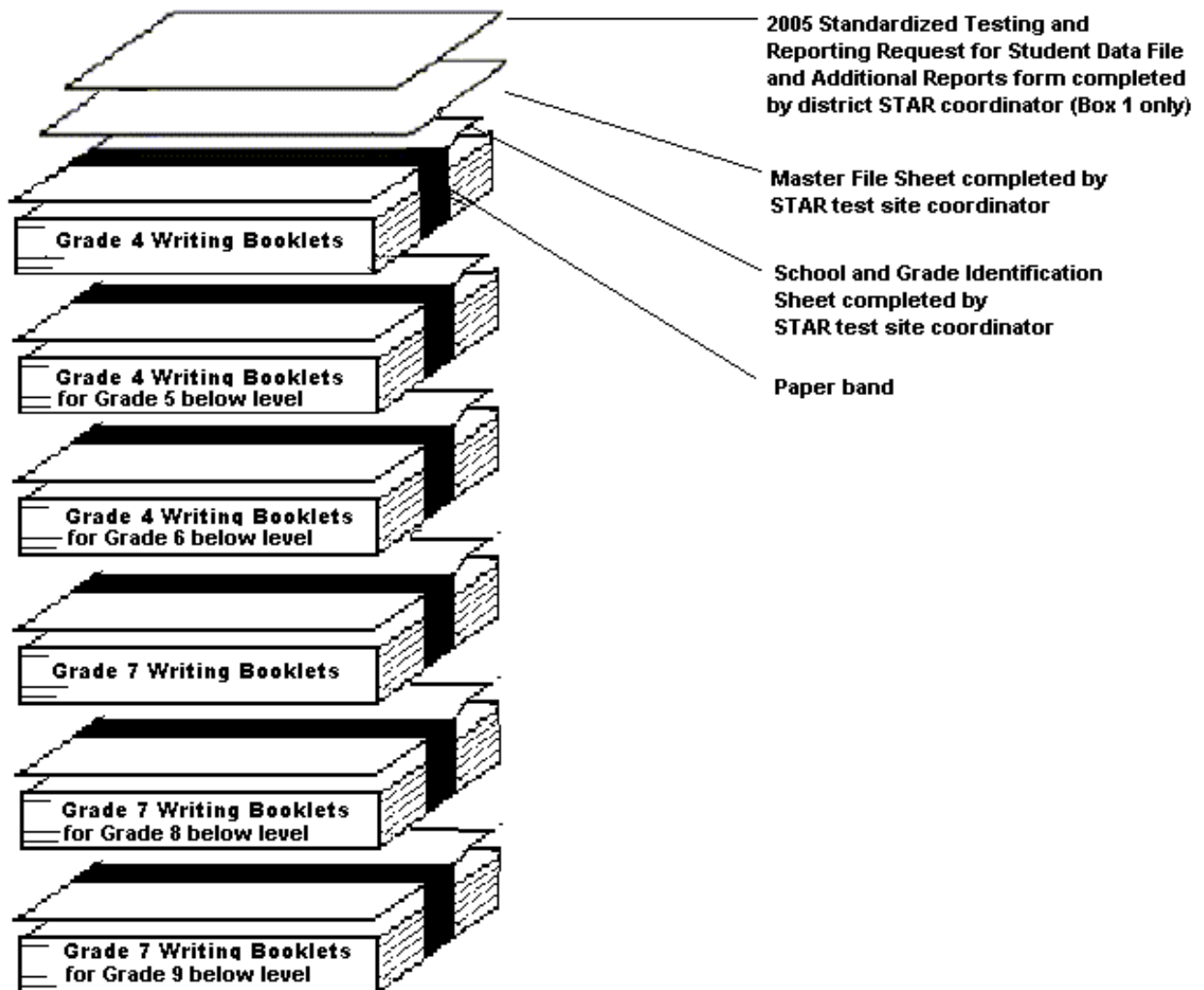
- Ensure that any large-print or Braille documents are transcribed to regular Writing Prompt and Response Booklets. Documents that are not transcribed will not be scored.

Grade 4 and 7 Writing Component

- Ensure that any booklets that have torn edges are transcribed to new booklets.
- Verify that all demographic information is complete for each student and that Section 26 has been marked correctly. If students with IEPs or Section 504 Plans typed their responses, Section 26 must be marked for the accommodation or modification or the test will not be scored. Insert typed response inside the front cover of the Writing Prompt and Response Booklet.
- Complete only the **front page** of an SGID for each grade level tested:
  - For grade 4, complete a single SGID for all booklets for students in grade 4. Complete separate SGIDs for students in grades 5 and 6 who were tested below level.
  - For grade 7, complete a single SGID for all booklets for students in grade 7. Complete separate SGIDs for students in grades 8 and 9 who were tested below level.
- Paper band a completed SGID on top of the sets of Writing Prompt and Response Booklets to be scored for each grade.
- Complete the Writing Master File Sheet by entering the grade level and number of scorable booklets in each banded set and place it on top of the banded set of booklets.
- Pack the banded set(s) of booklets and the Writing Master File Sheet in the original cartons in which materials were received. See the diagram on the following page.
- Record the school/test site information on a blue return address label and affix it to the carton of booklets to be scored.
- Set the completed carton(s) of scorable booklets aside and move to the non-scorable materials.

**Important:** No test examiner, district or test site coordinator, principal, or other administrator may invalidate any student Writing Prompt and Response Booklet for any reason. Booklets with drawings or other marks made by students must be submitted for scoring.

Figure 1. Packing Order for Returning Writing Prompt and Response Booklets



### Non-Scorable Materials

- Separate all non-scorable materials by grade—grade 4 and grade 7.
- Place unused blank grade 7 booklets (or grade 4 if the school/test site has only grade 4 or grade 7) in one of the original cartons in which materials were delivered to the school/test site.
- Mark all unused Pre-ID booklets—Void and the reason:
  - Void—Student Moved prior to testing
  - Void—Parent/guardian exemption
  - Void—Absent
  - Void—New Document Gridded
- Mark all transcribed documents, “Void—Document Transcribed” (for damaged booklets)
- Place all voided booklets on top of the unused booklets.

- Add all original large-print and Braille booklets that have been transcribed to regular booklets.
- Repeat these steps for grade 4, if the school has both grade levels.
- Record the school/test site information on a red return address label and affix it to the carton(s) of non-scorable materials.
- Destroy all DFAs, Pre-ID labels, and scratch paper.
- Return the cartons of scorable and non-scorable materials to the district STAR coordinator **by March 3** for the March administration or **by April 28** for the April administration.

**Table 9. Writing Test Materials to Return**

<b>Grades 4 and 7 Writing Component Scorable Materials Boxes with Blue Labels</b>  <i>Return to STAR Scoring Center, Iowa City, Iowa</i>	<b>Grades 4 and 7 Writing Component Non-scorable Materials Boxes with Red Labels</b>  <i>Return to STAR Processing Center, Cedar Rapids, Iowa</i>
<ul style="list-style-type: none"> <li>___ Used Writing Prompt and Response Booklets</li> <li>___ Completed School and Grade Identification Sheets (SGIDs) banded with Response Booklets to be scored</li> <li>___ Completed Writing Master File Sheet</li> </ul>	<ul style="list-style-type: none"> <li>___ Unused Booklets</li> <li>___ Voided Booklets</li> <li>___ Large-print and Braille Booklets</li> </ul>

## District STAR Coordinator Responsibilities—After Testing

### Documents for Students with IEPs Being Submitted as District Program (See District Coordinator Responsibilities)

- Receive materials from non-public schools and verify that all materials have been returned.
- Receive booklets for students with IEPs not attending their home schools, if the booklets are to be scored as a district program using a school code of 0000001.
- Follow all test site coordinator steps to prepare cartons of district materials for return to the STAR Scoring and Processing Centers.

### Preparing and Returning Materials to Contractor

- Receive materials from test site coordinators.
- Ensure that materials are packed correctly.
- Separate cartons of booklets to be scored (blue labels) from cartons of non-scorable materials (red labels).

- Complete the “2005 Standardized Testing and Reporting Request for Student Data File and Additional Reports” and place it on top of the materials in Box 1 of the district’s shipment of scorable materials.
- Fax a copy of the above form to the STAR Scoring Center at 1-319-358-4356 and retain a copy of district files.
- Complete district information on blue return address labels. Number all cartons sequentially beginning with the district program carton(s).
- Complete district information on red return address labels. Number all cartons sequentially beginning with the district non-scorable materials.
- Ensure that all unused materials in the district overage are included with the non-scorable materials.
- Ship all cartons **no later than March 7** for the March administration or **May 2** for the April administration.

### **Schedule Pick-Up for Both Scorable and Non-Scorable Materials**

- Read Instructions for Shipping and determine your designated freight carrier.
- Attach carrier labels to boxes ensuring that blue or red labels are completely visible.
- Contact the freight carrier whose telephone number is listed on the bill of lading to schedule pick-up of materials. Provide a contact name, number, address, pick-up hours, and pick-up location.

**Important: Use only the freight carrier assigned to you. Do not use another carrier or U.S. mail to ship materials. The addresses are on the blue and red labels.**

**Pick-up must be no later than March 7 for the March administration or May 2 for the April administration.**

- Be present or designate someone to be present for pick-up.
- Have all boxes in the appropriate pick-up location.
- File copies of shipping paperwork.
- Confirm that the materials were picked up as scheduled. If not, call the STAR Technical Assistance Center at 1-800-955-2954.

**Important: The district coordinator is responsible for verifying that the district shipments have been picked up for return to the contractor.**

# Coordinator Responsibilities for Multiple-Choice and CAPA

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## District Coordinator

- Receive and inventory materials.
- Distribute materials to schools and test sites.
- Monitor the test administration.
- Receive any reports of testing irregularities and report these to the California Department of Education. (916-445-8765)
- Receive scorable and non-scorable materials from schools and test sites.
- Complete district forms.
- Prepare district shipments of scorable and non-scorable materials for return to the STAR Scoring and Processing Centers.
- Complete district information on address labels on each carton.
- Ship materials no more than five days after testing is completed for each administration period.

## Test Site Coordinators

- Receive and inventory test materials.
- Prepare inventory control forms.
- Organize testing materials for each testing room.
- Check materials out to test examiners each day tests are administered.
- Monitor the test administration.
- Receive any reports of testing irregularities, report these to the district coordinator, and mark student answer documents as directed.
- Check all materials in from test examiners each day tests are administered.
- Complete school forms.
- Separate and pack scorable and non-scorable materials.
- Complete and affix address labels to each carton.
- Return all materials to district within two days of completing testing for each administration period.



# Multiple-Choice and CAPA Component

## Test Materials

Test booklets and answer documents are delivered in packages of 20s and 5s. Pre-identified test booklets and answer documents are packaged by delivery name/code within grade level and school. *Directions for Administration* (DFA) are delivered in packages of 5s or as single copies. One DFA is provided for every 20 test booklets or fraction thereof.

**Do not use any materials from a previous year.**

**Table 10. Test Materials by Grade Levels**

Test Materials	Grade Levels
CST Practice Tests	2, 3, and 4
CST Practice Test <i>Directions for Administration</i>	2, 3, and 4
CST Machine-Scorable Test Booklets	2 and 3
CAT/6 Survey Machine Scorable Test Booklets	3
CST Test Booklets	4, 5, 6, 8, 9, 10, 11
CST and CAT/6 Survey Test Booklets	7
End-of-Course Mathematics Test Booklets	8, 9, 10, and 11
End-of-Course Science Test Booklets	9, 10, and 11
Machine Scorable Answer Documents	4 through 11
<i>Directions for Administration</i>	2, 3, 4, 5, 6, 7, 8, and 9/10/11
Card Stock Rulers	2, 3, and 7
California State University Early Assessment Program (CSU EAP) Essay Sheets and Response Booklets	11
CAPA Examiner's Manuals and Stimulus Cards—manual includes directions for all CAPA levels	NA
Machine-Scorable CAPA Answer Documents	NA
SGID Sheets	
Paper Bands	
Materials Receipt Acknowledgement Form	
Packing List for Test Sites (Copies of all lists for district)	
Scorable Materials Freight Kit	
Non-Scorable materials Freight Kit	

**Note:** If the district used the optional Pre-ID service, test booklets (grades 2 and 3) and answer folders (grades 4 through 11) will be packaged by delivery name/code or grade and school. Only the overage (documents not pre-identified) will be packaged in 20's and 5's.

District **coordinators and test site coordinators** also receive a Materials Receipt Acknowledgement Form and district and/or school/test site packing lists.

## Materials To Be Provided by District or School

- Two No. 2 pencils with erasers for each student plus extras.
- Scratch paper for mathematics tests—lined, unlined, or graph
- Manipulatives for CAPA—district coordinators should go to [www.startest.org](http://www.startest.org) to verify the CAPA version assigned to the district and the manipulatives required for each level. The manipulatives required are generally available in special education classrooms. If additional manipulatives are needed, these are generally available through educational supply stores or companies.

## Accommodations and Modifications

Students may use accommodations or modifications specified in IEPs or Section 504 Plans during the test. If students use accommodations or modifications, test examiners are responsible for marking **Section 26** on students' test booklets or answer folders. For grade 3 accommodations and modifications are marked only on Book 1 (CST).

## Below-Level Testing

Below-level testing is allowed only for students with IEPs in grades 3 through 11. Administering the CAT/6 Survey tests is optional for students in grades 4 and 5 taking grade 3 tests and students in grades 8 and 9 taking grade 7 tests. Students with IEPs in grades 5 and 6 who are being tested below level must take the grade 4 writing test if they are taking the grade 4 multiple-choice tests. Students with IEPs in grades 8 and 9 must take the grade 7 writing test if they are taking the grade 7 multiple-choice tests. Only students with IEPs may be given below-level tests.

## District STAR Coordinator Responsibilities—for Each Administration

### Before Testing

- Receive district shipment of materials.
- Inventory shipment to verify that all cartons were received for all district schools/test sites and that the district overage is complete.
- Secure all materials.
- Place supplemental order, if needed.

- Return Materials Receipt Acknowledgement Form to contractor.
- Prepare inventory control sheets to track distribution of materials from district coverage to schools/test sites.
- Ship materials to non-public schools if the district has placed students with IEPs at non-public schools.
- Distribute materials to all district schools/test sites to arrive no more than 10 or fewer than 5 working days before the first day of testing.

### During Testing

- Be available to respond to questions from test site coordinators.
- Receive any reports of testing irregularities and immediately report these to the California Department of Education. (916-445-8765)

## STAR Test Site Coordinator Responsibilities—for Each Administration

### Before Testing

- Identify test examiners, proctors, scribes, CAPA examiners and observers/second raters, and testing locations.
- Schedule the test administration of each test or test part following the schedule provided by the district coordinator. If the district coordinator did not provide a schedule, plan the school/test site schedule and submit it to the district coordinator. Use the Item and Time charts in Appendix F to determine how much time needs to be allowed for each test or test part. Provide all test examiners with a copy of the testing schedule or have them enter the schedule on page iii in their copies of the *Directions for Administration*. Notify all staff of the testing dates and times and ensure that testing will not be interrupted by non-emergency announcements, fire drills, etc. during these times.
- Ensure that students' IEPs or Section 504 Plans are checked to determine any accommodations or modifications that are to be allowed for any test.
- Set up separate testing rooms and assign examiners for students with IEPs or Section 504 Plans, if needed.
- Inventory materials when they are received from the district coordinator.
- If large-print or Braille tests were ordered, verify that they were received. If any student for whom a large-print or Braille test was ordered has left the school, and the student transferred to another school within the district, work with the district coordinator to transfer the special version materials to the student's new school.
- Contact the district STAR coordinator to report any discrepancies or to request additional materials.

- Secure all materials in central, locked storage.
- Prepare overhead transparencies of student directions for teachers who use American Sign Language to give directions to students with hearing impairments or request these from the district coordinator.
- Prepare inventory control forms to check materials out to each test examiner.
- Ensure that test booklets and answer folders are prepared for administering the test:
  - If the district did not Pre-ID documents, determine when demographic information will be gridded on booklets and answer folders and who will do this. Anyone hand-gridding demographic information should do this in a setting supervised by the test site coordinator. Grade 2 and 3 test booklets should not be opened when gridding demographic information.
  - If Pre-ID demographic information is incorrect for some students, have new booklets or answer folders hand-gridded.
  - Check the “List of Demographic Fields Required To Be Gridded by Hand” received from the district coordinator to identify demographic information that must be hand-gridded on Pre-ID documents. Determine who will complete this information and when it will be done.
- Organize materials for testing locations. Sets must include a DFA, student booklets plus one for the test examiner to use, answer folders plus one for the test examiner to use, No. 2 pencils with erasers, scratch paper (lined, unlined, or graph only for mathematics tests), and card stock rulers for grades 2, 3, and 7 mathematics tests.

### **Immediately Before Testing**

- Distribute sets of materials to test examiners.
- Ensure that test examiners receive large-print and Braille tests and overhead transparencies when appropriate.

### **During Testing**

- Monitor the test administration.
- Answer any questions that may arise.
- Immediately notify the district coordinator of any test administration errors or adult testing irregularities.

Adult testing irregularities may include but are not limited to the test examiner:

- Providing practice before students begin the test.
- Reading test questions to students.
- Providing assistance during the test.
- Translating any information other than the directions in “SAY” boxes marked with a **T**.

- Giving students breaks within any part of a CST or CAT/6 Survey, except for students with IEPs or Section 504 Plans being tested with accommodations.
- Not timing any CAT/6 Survey test.

### **Immediately After Testing**

- Collect all test materials.

### **Preparing and Returning Materials to District STAR Coordinator**

- Separate CST-CAT/6 Survey materials from CAPA materials.
- Separate CST-CAT/6 Survey materials by grade level.
- Separate scorable materials from non-scorable materials.
- For grades 2 and 3, verify that the number of booklets to be scored plus the number of all non-scorable booklets (unused and voided) equals the number of booklets received at the school/test site.
- If tests for students with IEPs in Special Day Classes who are not attending their home school are to be submitted for scoring as a district special education program (school code of 0000001), verify that all demographic information has been completed on the students' booklets and answer folders and that Section 26 has been completed correctly. Then follow the district coordinator's instructions for forwarding the documents to the district coordinator. The district coordinator is responsible for preparing the SGIDs and Master File Sheet for these tests.
- If the materials being sent to the district coordinator for documents to be scored for a school code of 0000001 were in the school/test site's original shipment, enter the number of grade 2 and/or 3 booklets forwarded to the district coordinator on the Test Site Inventory Control Form.

### **Answer Documents To Be Scored**

Answer documents to be scored include grade 2 test booklets, grade 3 test booklets 1 and 2, grades 4 through 11 answer folders, and CAPA answer folders.

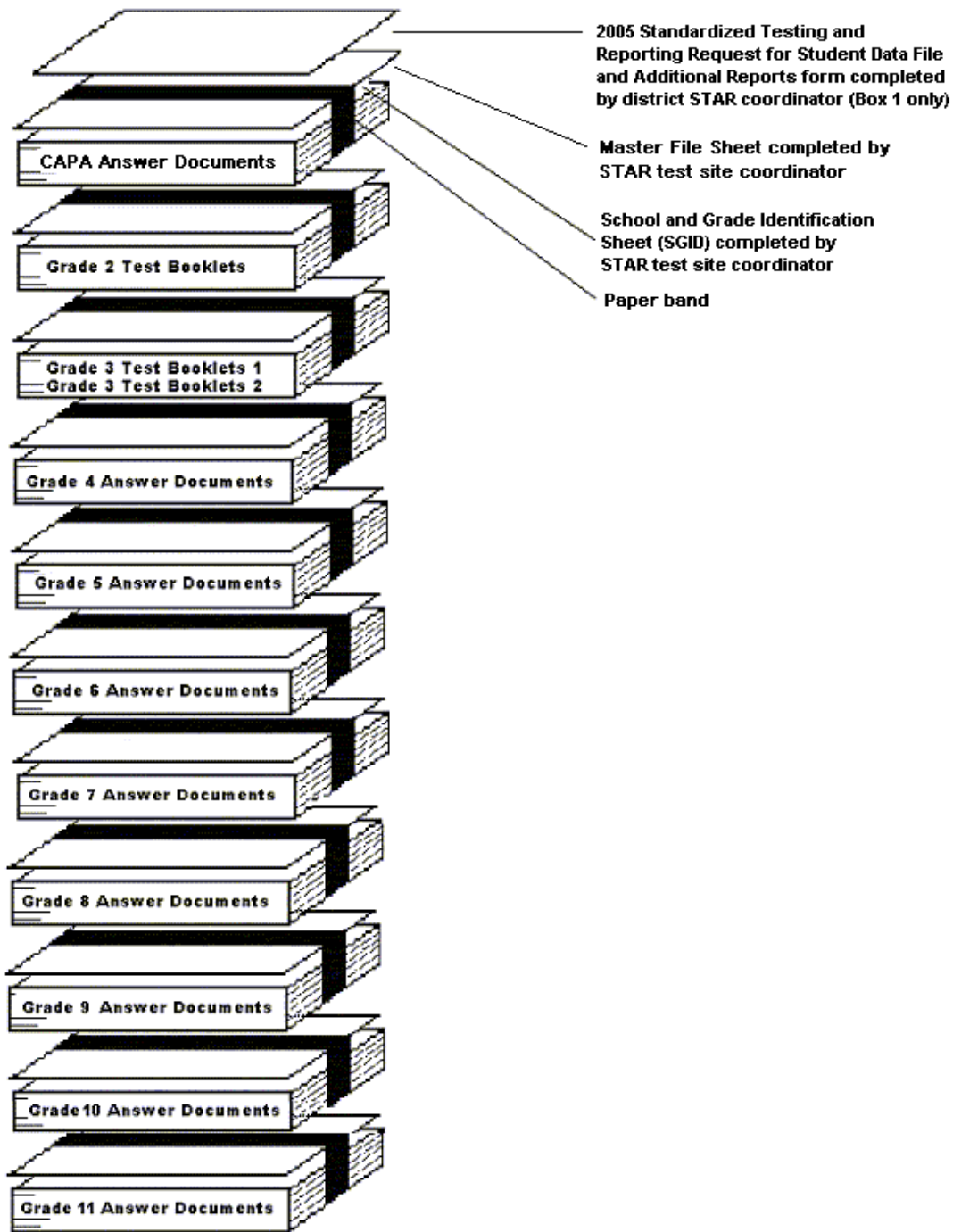
- Ensure that any large-print or Braille documents are transcribed to regular documents. Documents that are not transcribed will not be scored.
- Ensure that any documents with torn edges are transcribed to new documents.
- Remove any post-its or paper clips from answer documents.
- Verify that all demographic information is complete for each student and that Section 26 has been marked correctly.
- Darken light answer response circles and erase any stray marks.
- Work with one grade-level of documents at a time (or all CAPA documents).

## Multiple-Choice and CAPA Component

- Ensure that all marks other than filled-in answer circles in grade 2 and 3 test booklets or on grade 4 through 11 answer folders are erased.
  - Ensure that all demographic information that was to be hand-gridded has been completed.
  - Carefully check Section 26 and verify that answer documents are marked appropriately. Verify that no marks were made in Rows Q, R, S, and T unless directed to do so by the district coordinator.
- Complete an SGID for each set of materials to be scored following the directions in the Forms at a Glance section of this manual.
  - For grade 3 stack all Book 1's on top of all Book 2's for the grade or group.
  - For CAPA put the test examiner response document on top of the observer/second rater document for each student for whom there was an observer/second rater.
  - Paper band a completed SGID on top of the sets of materials to be scored for each grade level or group. All CAPA documents should be submitted under a single SGID.
  - Complete the Master File Sheet by entering the grade level and number of scorable booklets or answer folders in each banded set and place it on top of the banded sets of documents.
  - Pack the banded set(s) of documents and the Master File Sheet in the original cartons in which materials were received. See the diagram on the following page.
  - Record the school/test site information on an orange return address label and affix it to the carton of documents to be scored.
  - Set the completed carton(s) of scorable documents aside and move to the non-scorable materials.

**Important:** No test examiner, district or test site coordinator, principal, or other administrator may invalidate any student answer document for any reason. Answer documents that are pattern marked with drawings or other marks made by students must be submitted for scoring.

**Figure 2. Packing Order for Returning Multiple-Choice Answer Booklets and Documents**



**Non-Scorable Materials**

- Separate all non-scorable CST and CAPA materials.
- Separate all non-scorable CST materials by grade.
- Work with one grade level of CST materials at a time. Separate and discard:
  - Scratch paper
  - Card stock rulers (may be retained for classroom use)
  - Science reference sheets (may be retained for classroom use)

## Multiple-Choice and CAPA Component

- Used grade 2, 3, and 4 practice tests and *Directions for Administration of the Practice Tests*
  - Unused Pre-ID and blank CST and CAPA answer folders. Includes documents for students who moved before the first day of testing and documents that had incorrect Pre-ID information.
  - Extra SGIDs
  - Unused Pre-ID labels
- Use a black marking pen to mark all damaged answer folders and grade 2 and 3 test booklets that were transcribed to new documents, “Void—Document Transcribed.”
- Box the non-scorable CST materials in the following order (bottom to top of carton).
- All science end-of-course test booklets in the following order (bottom of last carton):
    - Biology (top of stack)
    - Chemistry
    - Earth Science
    - Physics
    - Integrated/Coordinated Science 1, 2, 3, 4 (in order)
  - All mathematics end-of-course test booklets in the following order:
    - General Mathematics (top of stack)
    - Algebra I
    - Geometry
    - Algebra II
    - Integrated Mathematics 1, 2, 3 (in order)
    - Summative High School Mathematics
  - Grades 4 through 11 test booklets (pack in same order as scorable documents)
  - Grades 4 through 11 *Directions for Administration*
  - Grade 3
    - Voided Book 1(CST) (top of stack)
    - Voided Book 2 (CAT/6 Survey)
    - Unused Book 1 (CST)
    - Unused Book 2 (CAT/6 Survey)
    - *Directions for Administration*
  - Grade 2
    - Voided Booklets (top of stack)
    - Unused Booklets
    - *Directions for Administration*
- Move to CAPA non-scorable materials
- Separate and discard all sets of Stimulus Cards.
  - Pack all CAPA Examiner’s Manuals on top of the Grade 2 CST materials.
- Place all voided answer folders on top of the CAPA materials.
- Place all original large-print and Braille booklets that have been transcribed to regular booklets on top of the voided answer folders.



**Table 11. Multiple-Choice Test and CAPA Materials to Return**

<b>Scorable Materials Boxes with Orange Labels</b> <i>Return to STAR Scoring Center, Iowa City</i>	<b>Non-scorable Materials Boxes with Green Labels</b> <i>Return to STAR Processing Center, Cedar Rapids</i>
___ Completed Master File Sheet ___ Completed School and Grade Identification Sheet (SGID) ___ CAPA Answer Documents ___ Used scorable test booklets (grades 2 & 3) ___ Used scorable answer documents	___ CAPA Examiner's Manuals ___ Unused and voided scorable test booklets and answer documents (organized by grade) ___ Unused non-scorable test booklets (organized by grade) ___ <i>Directions for Administration</i> (organized by grade) ___ Large-print and Braille test booklets and answer folders

**Important:** If the district tests in separate test administrations, return each administration's materials separately and include a Master File Sheet that correctly identifies the test administration.

Do **not** mix materials for different test administrations.

## **District STAR Coordinator Responsibilities—After Testing**

### **Documents for Students with IEPs Being Submitted as District Program** (See District Coordinator Responsibilities)

- Receive materials from non-public schools and verify that all materials have been returned.
- Receive answer documents for students with IEPs not attending their home schools, if the documents are to be scored as a district program using a school code of 0000001.
- Follow all test site coordinator steps to prepare cartons of district materials for return to the STAR Scoring and Processing Centers.

### **Preparing and Returning Material to Contractor**

- Receive materials from test site coordinators.
- Verify that all test booklets and Grade 2 *Directions for Administration* that were received in the district overage are being returned. These materials must be accounted for either in the school/test site materials to which they were distributed and the materials that remain in the district office.

- Ensure that materials are packed correctly by randomly checking school/test site cartons.
  - Ensure that a valid school code was entered on return address labels.
  - Randomly check materials to determine if materials were packed according to the directions in this manual. If not, correct the packing errors.
  - Verify that all demographic areas were completed on student answer documents.
  - Verify that SGID sheets were completed correctly and placed properly.
  - Verify that a Master File Sheet was completed for each site.
  - Verify that there are no test booklets labeled “Exempt,” “Not to be Scored” or “Do Not Include in Summary Data.” Remove any such labels, insert the documents into a correct grade level set of documents, and correct the SGID sheets, as needed.
  - Randomly check materials from additional sites. If in doubt about the accuracy of packing for a particular school/test site. Check that site’s materials.
- Separate cartons of documents to be scored (orange labels) from cartons of non-scorable materials (green labels).
- Complete the “2005 Standardized Testing and Reporting Request for Student Data File and Additional Reports” and place it on top of the materials in Box 1 of the district’s shipment of scorable materials.
- Fax a copy of the above form to the STAR Scoring Center at 1-319-358-4356 and retain a copy of district files.
- Complete district information on orange return address labels. Number all cartons sequentially beginning with the district program carton(s).
- Complete district information on green return address labels. Number all cartons sequentially beginning with the district non-scorable materials.
- Ensure that all unused materials in the district coverage are included with the non-scorable materials.
- Ship all cartons **no more than five working days after each test administration period.**

#### **Schedule Pick-Up for Both Scorable and Non-Scorable Materials**

- Read Instructions for Shipping and determine your designated freight carrier.
- Attach carrier labels to boxes ensuring that orange or green labels are completely visible.
- Contact the freight carrier whose telephone number is listed on the bill of lading to schedule pick-up of materials. Provide a contact name, number, address, pick-up hours, and pick-up location.

**Important:** Use only the freight carrier assigned to you. Do not use another carrier or U.S. mail to ship materials. The addresses are on the orange and green labels.

**Pick-up must be within five days of the last test date for each administration period.**

- Be present or designate someone to be present for pick-up.
- Have all boxes in the appropriate pick-up location.
- File copies of shipping paperwork.
- Confirm that the materials were picked up as scheduled. If not, call the STAR Technical Assistance Center at 1-800-955-2954 for assistance.

**Important:** The district coordinator is responsible for verifying that the district shipments have been picked up for return to the contractor.

# Early Assessment Program

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## Test Materials

California State University Early Assessment Program essay materials will be packaged in separate cartons and delivered with the Grade 11 CST materials. Schools/test sites will receive the same number of essays as Grade 11 California Standards Test booklets. EAP test materials include:

- *Directions for Administration of the Essay* (DFA)
- Response Booklets—Pre-ID or blank
- Essay Prompt Booklets (3 versions)
- District and Test Site Scorable Freight Kits (in magenta envelopes with pink checklists)
- District and Test Site Non-scorable Freight Kits (in yellow envelopes with yellow checklists)
- School and Grade Identification Sheets (SGID)
- CSU Writing Master File Sheet

## STAR Test Site Coordinator Responsibilities

### Before Testing

- Identify test examiners, proctors, and testing locations.
- Inventory materials when they are received from the district coordinator.
- Contact the district STAR coordinator to report any discrepancies or to request additional materials.
- Secure all materials.
- Schedule the essay administration. Allow 45 minutes. The essay may be administered throughout the day or on consecutive days if all periods do not meet every day and the essays are being completed in regular classes. **All essay administration must be completed by May 4.**
- Notify grade 11 students of the testing time and locations.
- Organize materials for testing locations. Sets must include a DFA, Response Booklets, and Essay Prompt Booklets.

### Immediately Before Testing

- Distribute sets of materials to test examiners.

### During Testing

- Monitor the essay administration.
- Answer any questions that may arise.

**Immediately After Testing**

- Collect all test materials.

**Package and Return Materials to District STAR Coordinator**

Use the original cartons in which materials were received to package and return materials to the district.

- Separate Response Booklets to be scored from all other documents.
- Complete the SGID (one for the school/test site).
- Paper band the SGID on top of all Response Booklets to be scored.
- Complete the CSU Writing Master File Sheet and place it on top of the banded set of booklets.
- Place the banded set of documents and the CSU Writing Master File Sheet into a carton.
- Record the school/test site information on a magenta return address label and affix it to the carton of Response Booklets to be scored.
- Place **all** Essay Prompt Booklets and voided Response Booklets in a separate carton.
- Record the school/test site information on a yellow return address label and affix it to the carton of non-scorable materials.
- Destroy all DFAs and unused Response Booklets.
- Return the cartons of scorable and non-scorable materials to the district STAR coordinator the day after the essays are administered but **no later than May 5**.

**Table 12. Early Assessment of Readiness for College Materials to Return**

<p><b>Early Assessment of Readiness for College English: Essay Scorable Materials Boxes with Magenta Labels</b></p> <p><i>Return to STAR Scoring Center, Iowa City, Iowa</i></p>	<p><b>Early Assessment of Readiness for College English: Essay Non-scorable Materials Boxes with Yellow Labels</b></p> <p><i>Return to STAR Processing Center, Cedar Rapids, Iowa</i></p>
<p>___ Completed CSU Writing Master File Sheet</p> <p>___ Completed School and Grade Identification Sheet (SGIDs) banded with Response Booklets to be scored</p>	<p>___ Essay Prompt Booklets</p> <p>___ Voided Response Booklets</p>

**District STAR Coordinator Responsibilities—After Testing**

- Receive materials from test site coordinators.
- Ensure that materials are packed correctly.
- Separate cartons of essays to be scored from cartons of non-scorable materials.
- Complete district information on magenta return address labels.
- Complete district information on yellow return address labels.
- Ship all cartons **no later than May 6.**



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## 2013–14 STAR Test Security Affidavit for Test Examiners, Proctors, Translators, Scribes, and Any Other Person Having Access to STAR Tests (Including Field Tests)

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I, \_\_\_\_\_, acknowledge that I will have access to one or more of the standards-based achievement tests (CSTs, CMA, CAPA, and STS), the EAP, and test materials, for the purpose of administering the test(s).

I understand that these materials are highly secure, and it is my professional responsibility to protect their security as follows:

- (1) I will not divulge the contents of the tests to any other person through verbal, written, or any other means of communication.

*Note: This includes, sharing or posting test content via the Internet without prior written permission of the California Department of Education.*

- (2) I will not copy any part of the test(s) or test materials.

*Note: This includes, photocopying (including enlarging) and recording without prior written permission of the California Department of Education.*

- (3) I will keep the test(s) secure until the test(s) are actually distributed to pupils.

*Note: Testing materials are required to be kept in central, locked storage except during actual testing administrations. Testing materials are required to be checked in and out each day from the STAR test site coordinator.*

- (4) I will limit access to the test(s) and test materials by test examinees to the actual testing periods when they are taking the test(s).

*Note: Only students who are testing and district staff participating in test administrations may be in the room where a test is being administered.*

- (5) I will collect and account for all materials following each period of testing and will not permit pupils to remove test materials from the room where testing takes place.

*Note: After each testing period examiners should count all test booklets and answer documents before allowing any student to leave the testing room.*

- (6) I will not review any test questions, passages, or other test items independently or with pupils or any other person before, during, or following testing.

*Note: This includes any discussions between district staff for training or professional development whether one-on-one or in a staff meeting.*

*This form continues on the next page.*

- (7) I will not develop scoring keys, review any pupil responses, or prepare answer documents except as required by the test administration manual(s) prepared by the testing contractor.

*Note: This includes “coaching” students (anything that may indicate correct or incorrect answers), or completing or changing students’ answers on answer documents.*

- (8) I will return all test materials for the CSTs, the CMA, the STS, and the EAP, to the designated STAR test site coordinator daily upon completion of testing.

*Note: All test booklets (including demonstration booklets), answer documents, and scratch paper should be returned to the STAR test site coordinator each day immediately after testing has been completed.*

- (9) I will keep all CAPA materials in secure locked storage except when I am administering or observing the administration of the assessment to pupils.

*Note: CAPA examiners should receive testing materials from the STAR site coordinator as soon as possible after receipt (from the district or publisher) so they can begin to prepare materials for test administration. CAPA examiners may retain their testing materials (examiner manual, stimulus cards, manipulatives, and student answer documents) within their testing location provided that the materials are in a locked storage cabinet when not in use. After all CAPA testing is completed, return both used and unused answer documents and CAPA Examiner’s Manuals to your STAR site coordinator.*

- (10) I will administer the test(s) in accordance with the directions for test administration and test administration manuals prepared by the testing contractor.

*Note: The directions for test administration and the test administration manuals prohibit the unauthorized copying, sharing, or reuse of any test booklet, test question, or the answer document by any means. This includes, but is not limited to, photocopying, recording, e-mailing, messaging (instant, text, or multimedia messaging service), using a camera/camera phone, and sharing or posting test content via the Internet without prior written permission of the California Department of Education.*

- (11) I have been trained to administer the tests.

<b><i>By signing below I swear that I have completely read, understand, and shall abide by this affidavit.</i></b>	
Signed	Date
Print Name	
Position	
School	
School District	





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## 2013–14 STAR Test (Including Field Tests) Security Agreement for District and Test Site Coordinators

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I acknowledge by my signature on this form that standards-based achievement tests, including the California Standards Tests (CSTs), the California Alternate Performance Assessment (CAPA), the California Modified Assessment (CMA), and the Standards-based Tests in Spanish (STS), and the Early Assessment Program (EAP), are secure tests and agree to each of the following conditions to ensure test security:

- (1) I will take all necessary precautions to safeguard all tests and test materials by limiting access to persons within the school district with a responsible, professional interest in the tests' security.
- (2) I will keep on file the names of all persons having access to tests and test materials. All persons having access to the materials shall be required to sign the STAR Test Security Affidavit that will be kept on file in the school district office.
- (3) I will keep the CSTs, the CAPA, the CMA, the STS, and the EAP tests and their test materials in a secure, locked location and will deliver tests and test materials only to those persons who have executed STAR Test Security Affidavits on actual testing dates as provided in section 859(d) with the exception of subdivision (4) below.
- (4) I will keep the CAPA materials in a secure locked location when not being used by examiners to prepare for and to administer the assessment. I will adhere to the contractor's directions for the distribution of the assessment materials to examiners.
- (5) I will not copy any part of the tests or test materials without written permission from the CDE to do so.
- (6) I will not disclose, or allow to be disclosed, the contents of the tests or the test instruments. I will not review any test questions, passages, or other test items with any other person before, during, or after the test administration.
- (7) I will not develop scoring keys, review any pupil responses, or prepare answer documents except as required by the test administration manual(s) prepared by the testing contractor.

By signing my name to this document, I am assuring that I will abide by the above conditions.

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Signed

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Print Name

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Title

---

School District

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Date



May 6, 2011

Dear County and District Superintendents and Charter School Administrators:

### **2011 STANDARDIZED TESTING AND REPORTING PROGRAM APPORTIONMENT INFORMATION**

This letter provides information regarding the reporting requirements for the 2011 Standardized Testing and Reporting (STAR) Program apportionment process for the California Standards Tests (CSTs); California Modified Assessment (CMA); California Alternate Performance Assessment (CAPA); and Standards-based Tests in Spanish (STS). Information for determining each school district's or charter school's STAR apportionment amount will be based on the multiple-choice answer documents submitted for scoring for the spring 2011 administration. School districts and charter schools that are testing independent of the district are reminded that accurate reporting is possible only if a CST, CMA, STS, or CAPA multiple-choice answer document is submitted with each school's scorable materials for every student enrolled on the first day of testing, including all students who are not tested for any reason.

#### **District Review of Summary Reports**

After receiving the 2011 test results from the contractor, it is imperative that the district STAR coordinator immediately review the summary reports for completeness and accuracy (per *California Code of Regulations [CCR]*, Title 5, Education, Division 1, Chapter 2, Subchapter 3.75, Section 857[b][11]) and notify the contractor and the California Department of Education (CDE) of any errors, discrepancies, or incomplete information.

#### **Apportionment Amounts**

The State Board of Education (SBE) has approved the 2011 STAR apportionment amounts as follows:

- \$0.38 for the completion of demographic information for each student not tested with the CSTs, the CMA, the STS, or the CAPA.
- \$2.52 per student for the completion of demographic information and administration of the CSTs, the CMA, or a combination thereof.

- \$2.52 per student for the completion of demographic information and administration of the STS to Spanish-speaking English learners.
- \$5.00 per student for the completion of demographic information and administration of the CAPA.

The STAR apportionment funds are unrestricted funds to reimburse school districts and charter schools for costs associated with the STAR Program that are above and beyond the CDE contract with its test contractor. The CDE contract covers the costs of all required STAR Program testing materials, the scoring of answer documents, and the production of reports. Costs associated with optional materials or services (such as the purchase of additional score reports, etc.) are the responsibility of the school district or charter school.

### **Demographic Edit Alerts**

The determination of each school district's or charter school's STAR apportionment amount will be based on the completeness of multiple-choice answer documents submitted from the spring 2011 administration for scoring. If any of the following data are identified as missing (i.e., not provided during Pre-ID process or hand-marked at the time of testing) for more than 3 percent of the CST, CMA, STS, or CAPA student answer documents submitted per school for scoring, \$1.32 per student will be withheld from the school district's or charter school's STAR apportionment:

- Gender
- Statewide Student Identifier (SSID)
- Hispanic or Latino
- Student's English Proficiency
- National School Lunch Program (NSLP)
- Primary Disability (disability code or "000" for students not receiving special education services)
- California Basic Educational Data System (CBEDS) Enrollment—district
- CBEDS Enrollment—school

Any funds withheld will be paid to the contractor to process the answer documents with the corrected data in order to produce and report test results for the school district or charter school. Please note that optional demographic data corrections that may be requested by the school district or charter school at its own expense for use in calculating the Academic Performance Index or Adequate Yearly Progress is a separate process from the demographic edit alerts process detailed above.

### **School/Test Site Data Collection Form**

You can find the STAR Program School/Test Site Data Collection Form on the CDE STAR Program Administrative Documents Web page at <http://www.cde.ca.gov/ta/tg/sr/admin.asp>. This optional form may be used by school districts and charter schools to assist in the required collection of test-site information specified in state regulations (*CCR*, Title 5, Education, Division 1, Chapter 2, Subchapter 3.75, Article 2, Section 862). Test-site information pertains to grades two through eleven as follows:

- Enrollment on the first day of STAR Program multiple-choice testing.
- Number of students tested with one or more of the CSTs or CMA.
- Number of students with significant disabilities assessed with the CAPA.
- Number of students exempt from all tests by parent/guardian request (CST, CMA, or CAPA answer document).
- Number of students with demographic information only who were not tested for any reason other than parent exemption request (CST, CMA, or CAPA answer document).
- Number of Spanish-speaking English learners receiving instruction in Spanish **or** enrolled in a school in the United States fewer than 12 months at the time of testing tested with the STS (mandated testing).
- Number of Spanish-speaking English learners mandated to be tested (see above) who were not tested with the STS because of parent exemption, absence during the entire testing window, and so forth.
- Number of Spanish-speaking English learners *not* receiving instruction in their primary language and enrolled in a school in the United States for more than 12

May 6, 2011  
Page 4

months who were tested with the STS at the option of the district (optional testing).

If used by the school district or charter school, the form may be submitted along with copies of the 2011 School and Grade Identification Sheets and Master File Sheets to the district STAR coordinator. The form may be kept on file for district staff to verify that summary test reports and data files received from the testing contractor are complete. The form may also be used to verify the accuracy of the apportionment information report that the CDE will mail to school districts and charter schools during October 2011. Do not return the STAR Program School/Test Site Data Collection Form to the CDE.

### **Apportionment Information Report**

In October 2011, the CDE will produce a STAR Apportionment Information Report compiled from the student data files produced by the testing contractor for each school district or charter school that is testing independently of its chartering authority. The district superintendent or charter school administrator will be required to certify the data and return the report to the CDE postmarked by December 31, 2011.

If you have any questions regarding the apportionment information, please contact Mei Tan, Analyst, STAR Office, by phone at 916-319-0346 or by e-mail at [mtan@cde.ca.gov](mailto:mtan@cde.ca.gov).

If you have any questions regarding the STAR Program, please contact the STAR Office by phone at 916-445-8765 or by e-mail at [star@cde.ca.gov](mailto:star@cde.ca.gov).

Sincerely,

Deborah V. H. Sigman, Deputy Superintendent  
Curriculum, Learning, and Accountability Branch

DS:mt

cc: District STAR Coordinators

**DEL PASO HEIGHTS SCHOOL DISTRICT  
GRANT JOINT UNION HIGH SCHOOL DISTRICT  
NORTH SACRAMENTO SCHOOL DISTRICT  
RIO LINDA UNION SCHOOL DISTRICT**

**MEASURE B**

**B** Shall the Del Paso Heights Elementary School District, the Grant Joint Union High School District, the North Sacramento Elementary School District, and the Rio Linda Elementary School District unify into one new district serving students in kindergarten through grade 12, with a seven-member governing board consisting of one member residing in each of seven trustee areas elected by the registered voters of the entire unified school district?

**IMPARTIAL ANALYSIS OF MEASURE B**

Prepared by Sacramento County Counsel

Measure B proposes the creation of a new K-12 school district through the unification of four existing school districts: the Del Paso Heights Elementary School District (grades K-6), the North Sacramento Elementary School District (K-7), the Rio Linda Union School District (K-8), and the Grant Joint Union High School District (7-12). The boundaries of the new school district would be identical to the boundaries of the existing Grant school district. The Del Paso Heights, North Sacramento, and Rio Linda school district currently lie within the boundaries of, and send their secondary school students to schools in, the Grant school district. The Elverta Joint Elementary School District (K-8) and the Robla Elementary School District (K-6), which also lie within the boundaries of, and send their secondary school students to schools in, the Grant school district are not included within the school district unification proposed by Measure B. They would remain independent elementary school districts and would send their students to secondary schools that would be part of the new unified school district. If Measure B is passed by the voters, the unification would be effective for all purposes on July 1, 2008.

The school district unification proposed by Measure B would include all the property, obligations, and bonded indebtedness of the existing four districts so that all of such property, obligations, and bonded indebtedness of each existing district would become the property, obligations, and bonded indebtedness of the new unified school district. The new unified district would also assume the rights and responsibilities of all the school districts included within the unification proposal, including charter schools and community day schools.

Education Code Section 35555 provides that the proposed unification will not impact the classification of certificated employees already employed by any affected school district. Such employees will have the same status with respect to their classification by their employing school district after the unification as they had prior to it. Education Code Section 35556 provides that the unification will not affect the rights of persons employed in positions not requiring certification qualifications and, therefore, these employees will retain the same salary, leaves, and other benefits that they would have had if the unification did not occur.

The proposed new unified school district will be governed by a seven member governing board whose members will be elected at the same time as the election on the unification of the school districts. One governing board member for the proposed new district will be elected from each of seven trustee areas, all candidates for each trustee area must reside in that trustee area, and candidates will be voted on by the registered voters of the entire

proposed unified school district. The initial terms of the trustees of the proposed new unified district shall be four years, unless the governing board consolidates the election of governing board members with the statewide general election in which case the initial terms of the trustees will be three years. Trustees elected at this next governing board election shall have either two-year (even-numbered trustee areas) or four-year (odd-numbered trustee areas) terms. Thereafter, all governing board members will have four-year terms.

Passage of Measure B requires approval by a majority of the voters voting thereon.

**Statement of Official Information and Statistics**

**MEASURE B**

**Sacramento County Committee on School District Organization**

**Statement of Official Information and Statistics Relating to the Proposed Establishment of a New North Area K-12 School District Through the Unification of the Del Paso Heights Elementary School District, the Grant Joint Union High School District, the North Sacramento Elementary School District, and the Rio Linda Union Elementary School District, and the Election of Governing Board Members of the New K-12 School District if it is Approved**

**June 19, 2007**

**Description of Unification Proposal**

The proposal is to create a new North Area K-12 school district through the unification of four existing school districts: the Del Paso Heights Elementary School District (grades K-6), the Grant Joint Union High School District (7-12), the North Sacramento Elementary School District (K-7), and the Rio Linda Union School District (K-8). (The governing board of the new district would determine its name.) The boundaries of the new school district would be identical to the current boundaries of the Grant school district. The Del Paso Heights, North Sacramento, and Rio Linda school districts lie within the boundaries of, and currently send their secondary students to schools in, the Grant school district. No students would be required to change schools as a result of the proposed unification. The proposed unification would include all of the property, obligations, and bonded indebtedness of the existing four districts; that is, all of the property, obligations, and bonded indebtedness of each district would become the property, obligations, and bonded indebtedness of the new district. The new district would assume the rights and responsibilities of all school districts in the unification, including charter schools and community day schools.

The Elverta Joint Elementary School District (K-8) and the Robla Elementary School District (K-6), which also lie within the boundaries of, and currently send their secondary students to schools in, the Grant school district, would be excluded (by their choice) from the unification. They would remain independent elementary school districts, and would send their 9-12 (Elverta) or 7-12 (Robla) students to the same secondary schools they attend now, but those schools would be part of the new unified school district instead of the existing Grant Joint Union High School District.

## Rationale

The governing boards of the four districts believe that creating a unified school district would (a) provide for greater educational opportunities to all of their students through seamless articulation and consolidation of programs and resources, (b) be sound fiscal and educational policy, and (c) address the community and academic needs of all the students and residents in the north area of Sacramento County. The proposed unified school district will receive more state funding than the total amount received separately by the four districts (see below).

## Background

This proposal was initiated in June 2006 by the submission to the Sacramento County Office of Education of resolutions by the governing boards of the four participating districts. In August 2006, the Sacramento County Board of Education, acting as the Sacramento County Committee on School District Organization (County Committee), held public hearings on the proposal in Del Paso Heights, North Sacramento, and Rio Linda. In December 2006, the County Committee added two provisions to the proposal (that the governing board would have seven members, and that the election for the first governing board would be held at the same time as the election on the reorganization of the school districts) and voted unanimously to recommend that the State Board of Education (SBE) approve the proposal. In addition, the County Committee voted to recommend to the SBE that the governing board of the new district be elected from trustee areas (by either all registered voters in the district or the registered voters within each trustee area) that reflect communities of interest.

In March 2007, the SBE held a public hearing on the proposal after which it approved the proposal, allowing it to go to the voters. The SBE also approved the requested exclusion from the unification of the Elverta and Robla school districts, and the County Committee's recommendations that the governing board have seven members, elected from trustee areas, and that the election for the first governing board be held at the same time as the election on the reorganization of the school districts. The SBE specified that the governing board members be elected by the voters of the entire school district, and that the territory in which the election regarding the proposed unification would be held would be the entire Grant Joint Union High School District.

The unification proposal will pass if a majority of all the votes cast are in favor of the proposal. If passed by the voters, the unification would be effective for all purposes on July 1, 2008.

## Governing Board Members

Governing board members of the proposed new unified school district are being elected at the same time as the election on the reorganization of the school districts. One governing board member for the proposed new district will be elected from each of seven trustee areas, all candidates for each trustee area must reside in that trustee area, and candidates will be voted on by the registered voters of the entire proposed unified school district. The attached map shows the boundaries of the trustee areas.

Pending State Board of Education approval at its July 11-12 meeting, the initial terms of the trustees shall be four years, unless the governing board consolidates the election of governing board members with the statewide general election, in which case the initial terms of the trustees shall be three years. Trustees elected at the next governing board member election shall have two-year (even-numbered trustee areas) or four-year (odd-numbered trustee areas) terms. Thereafter, all governing board members will have four-year terms. (If the SBE does not approve this pro-

vision, then the initial terms of the governing board members elected from the even-numbered trustee areas will end on December 7, 2008, and the initial terms of the governing board members elected from the odd-numbered trustee areas will end on December 3, 2010.)

## Rights of Employees

If the new district is formed, employees of the existing four districts will become employees of the new district. *Education Code* §35555 provides that the unification shall not affect the classification of certificated employees already employed by any school district affected. Such employees shall have the same status with respect to their classification by the district, including time served as probationary employees of the district, after the unification as they had prior to it. *Education Code* §35556 provides that the unification shall not affect the rights of persons employed in positions not requiring certification qualifications to retain the salary, leaves, and other benefits that they would have had if the unification had not occurred.

## Enrollment and Rate of Growth

In 2006-07, the combined enrollment of the four participating districts was 30,713. This number has been very stable since 2001-02, when combined enrollment was 30,553. It is expected, therefore, that if the new district were approved, it would have between 30,000 and 31,000 students its first year of operation (2008-09), and little change in enrollment would be expected over the next few years.

## Financial Information

Based on 2006-07 data, the revenue limit per pupil for the proposed unified school district is estimated to be \$6,262. (The revenue limit per pupil is the general purpose money a district receives from the state for each student. This amount is multiplied by the district's average daily attendance to get the total revenue limit funding for the district. If the proposed district is approved, the California Department of Education will calculate the actual revenue limit.) This represents about an 8 percent increase in the revenue limit per pupil for the four separate districts combined, and an increase of approximately \$12,500,000 in total revenue funding annually. Because Proposition 98 dictates the total state support for schools, this increase will not increase the total amount the state pays for education. In the future, state support for the proposed new district is expected to continue at levels comparable to those provided to unified school districts of similar size and characteristics.

The districts that will be unified currently receive additional state funding for gifted and talented pupils, home-to-school transportation, instructional materials, staff development, school improvement program, and other miscellaneous programs. Unification would not impact continued eligibility for the current funding levels; the effect of unification on state categorical programs and entitlements is essentially revenue neutral because the funding follows the students.

Because no students will be displaced or transferred to different schools as a result of the proposed unification, no additional facilities should be required as a consequence of the unification and, therefore, there should be no change in the costs of housing the existing student population.

## ARGUMENT IN FAVOR OF MEASURE B

Our area's schools are an amalgamation of 6 distinct school districts (5 elementary districts and a high school district). Established 75 years ago when the north Sacramento area was mostly rural, today these districts have overlapping boundaries, duplicate administrations and needless bureaucracy.

Measure B will combine 4 of the districts (Rio Linda Union, North Sacramento, Del Paso Heights and the Grant High School District) into one, new unified school district. Measure B is supported by teachers, both Democratic and Republican elected officials, business and religious leaders and each individual school district. The new district will make local schools better by eliminating bureaucracy and needless administration and redirecting resources into the classroom.

Instead of funding four separate school systems with four separate administrations, taxpayers will see their tax dollars better utilized in improved programs and opportunities for children. Because of the overlapping administrations, our local schools do not get their fair share of state educational funding. Passage of Measure B will qualify our local schools for an additional \$15 million in yearly state funding. This money will not be available to our schools if Measure B fails.

Classrooms teachers support Measure B because more resources will be spent in the classroom. Students will have a single, coordinated curriculum from preschool through 12th grade. Parents are supportive because the best academic programs from each school will be maintained and expanded to benefit all students throughout the new district. Students will be better prepared for college and careers.

Today, four different district administrations, four superintendents, 20 school board members and dozens of school administrators manage our local schools. Measure B will create one, streamlined administration, one new superintendent and a single seven member elected school board. This will improve fiscal oversight and eliminate duplicative functions. With less money spent on administration, more money will go to the classroom to benefit students.

Measure B will not raise tax rates. A single unified school district will save taxpayer money. Measure B will not close schools. No elementary, middle school or high school will be closed.

Measure B will not force students to attend a school outside their community or change where they go to school today. Students will continue to attend their local schools in their own neighborhoods.

Measure B will not result in teacher layoffs. In fact, Measure B will help attract and retain quality teachers.

Please join the teachers, parents and community leaders who support Measure B. Help us improve our local schools. Vote YES on Measure B.

s/Barbara Donovan, Rio Linda Teacher of the Year

s/Bill Murchison, Superintendent (Retired) Rio Linda Union School District

s/Darrell Steinberg, State Senator

s/John McGinness, Sheriff

s/Grantland Johnson, Former Sacramento County Supervisor

## REBUTTAL TO ARGUMENT IN FAVOR OF MEASURE B

Reasonable people can easily disagree with this flawed idea because:

Over the past 50 years, there have been many attempts to create one unified school district in our area. Those attempts have failed because the voters did not support a unified district largely because of a lack of confidence in the Grant high school district's management skills and educational programs.

Measure B will create a huge school district; so big that parents will not have the personal touch they now receive from their current school board. Their children will just be a number in a massive bureaucracy.

Elementary children will lose. More money will go to the high schools with fewer dollars going to the elementary schools.

Taxpayers should be concerned with the inappropriate use of public dollars to promote Measure B. In fact, thousands of dollars are being used to promote this scheme under the guise of voter information. Beware of propaganda pieces that appear in the "favor" arguments, campaign materials that will soon arrive in your mailbox or sent home from your child's school, and articles that will appear in your local newspapers.

Measure B destroys local control. This scheme creates a school board elected from geographical areas whose interests and priorities may differ from those of the whole school district. If trustees have narrow interests, this can interfere with their willingness to cooperate to achieve common goals.

It's time to focus on student achievement, not create a massive bureaucracy. Please vote NO on Measure B. Thank you.

s/Wess Larson, Founding Member of Families for Better Education and Member, Board of Trustees, Rio Linda Union School District

## ARGUMENT AGAINST MEASURE B

Warning! If you are one of the 19,000 voters that signed a petition that was circulated by Families for Better Education, a citizens group of parents and community members to reform the governance structure of public schools in the north area of Sacramento County, this is not the reforms that were envisioned in that petition.

Measure B is a risky proposition that will create a gigantic thirty thousand student school district, and then say "this is good" for our children. Simply put, bigger is not always better!

Nothing is more important to the future of the communities of Del Paso Heights, Foothill Farms, Natomas, North Highlands, North Sacramento, Robla, Rio Linda and Woodlake, than its public schools. Our success and prosperity depends on excellent schools where every child learns, and school boards and administrators are held accountable to the voters to see that it occurs. Measure B combines four school districts into one huge massive bureaucracy. Thus, destroying a central democratic principle of our society that of local control where communities of interest determine their own priorities.



I strongly support the restructuring of schools into a few "family-friendly" unified (K-12) school districts with economies of scale that maintain communities of interest, strengthen student achievement, enhance course alignment and improve articulation for all students to learn. But, Measure B is not the answer!

Please join me in voting NO on Measure B! Thank you.

s/Wess Larson, Founding Member of Families for Better Education and Member, Board of Trustees, Rio Linda Union School District

### **REBUTTAL TO ARGUMENT AGAINST MEASURE B**

The argument from the lone opponent of Measure B is misleading and inaccurate.

Here are the facts:

Measure B will do three things – first, it will reduce bureaucracy and waste and will redirect tax payer dollars back to the classroom; second, it will improve educational opportunities for local children; third, it will ensure our communities get our fair share of state funding.

Measure B enjoys unprecedented levels of support from school and community leaders. People who have disagreed about previous school reorganization efforts have now come together to support Measure B.

Measure B will strengthen local schools and improve accountability. A single, seven member elected school board will represent the north area community. Each trustee will reside in the community they represent. Elizabeth Mitchell, Rio Linda Trustee agrees, "County education officials have mapped out trustee areas so there is guaranteed representation from every single part of our community."

Measure B will create a new unified school district that is appropriately sized for the north area community and improve classroom education. It will be half the size of nearby Elk Grove Unified School District (53,400 students). Elk Grove USD is highly regarded with student test scores among the highest in the state.

Join parents, teachers, community leaders and the Sacramento Bee who said, "The 168,000 people who live in the four north area school districts deserve better from their education system...voters should support a north area unified school district to bring together the best of four districts into a single district."

Please vote YES.

s/Roger Niello, CA Assemblyman

s/Elizabeth Mitchell, Member Board of Trustees Rio Linda Union School District

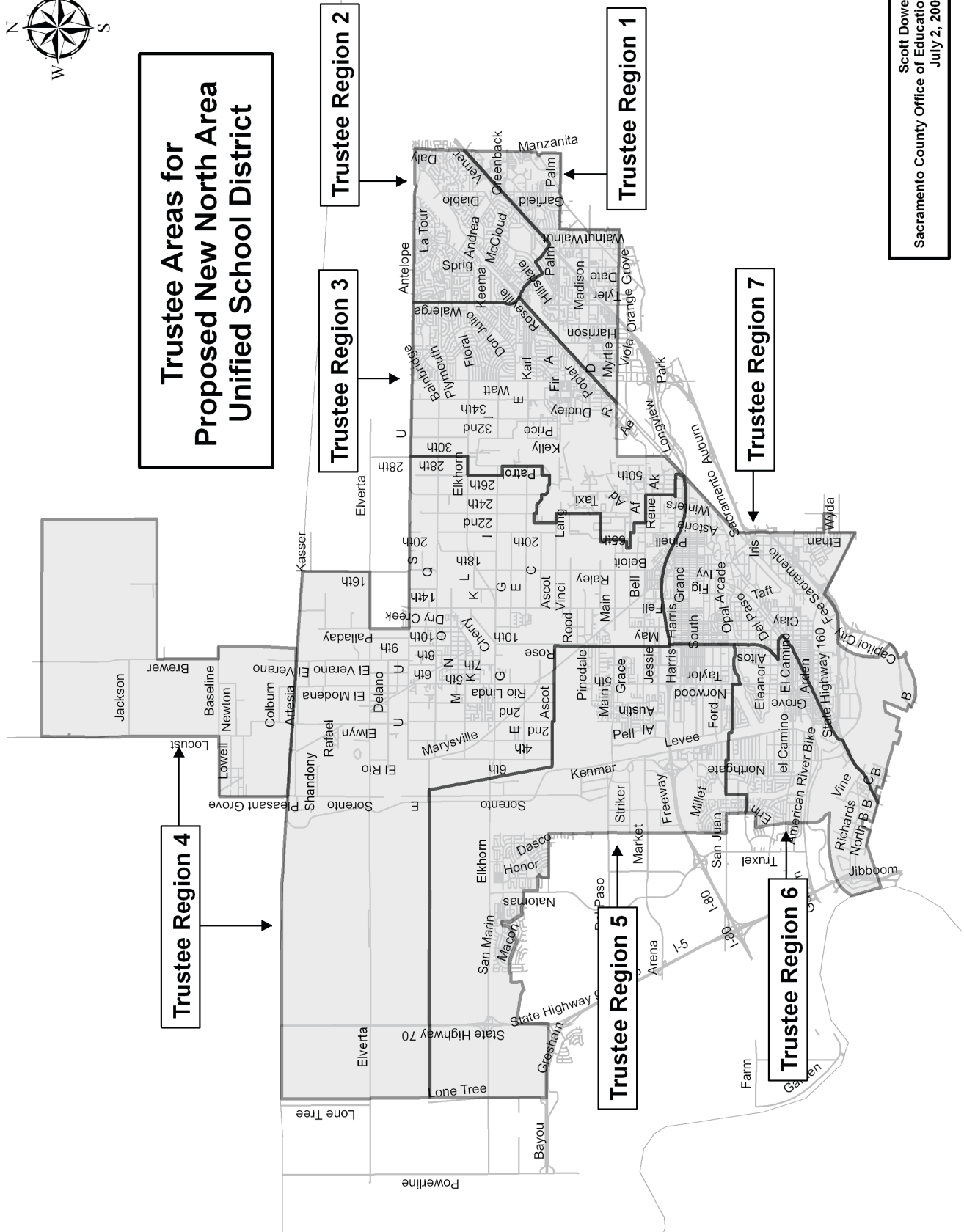
s/James C. Shelby, President & CEO Greater Sacramento Urban League

s/David Berry, Teacher Rio Linda High

s/Wendell W. Echols, Retired School Employee



**Trustee Areas for  
Proposed New North Area  
Unified School District**



Scott Dowell  
Sacramento County Office of Education  
July 2, 2007



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# Reporting Out-of-Level Test Scores: Are These Students Included in Accountability Programs?

## Out-of-Level Testing Project Report 10

Published by the National Center on Educational Outcomes

Prepared by Jane Minnema and Martha Thurlow

October 2003

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## Executive Summary

With enactment of the No Child Left Behind (NCLB) Act of 2001, states are expected to ensure that all students are participating in a rigorous curriculum that is standards-based and on-grade level. States are also required to demonstrate adequate yearly progress, measured in part by large-scale assessment programs and made public through accountability data. In an attempt to create more inclusive large-scale assessment practices for students who have not been exposed to grade-level curriculum, some states have added out-of-level testing as a component of large-scale assessment programs. Out-of-level testing is the administration of a test at a level that is above or below the student's grade level in school. Typically, this means testing only students with disabilities below the grade in which their same-age peers are enrolled. However, because the intent of NCLB is to bring all students' achievement up to grade level standards, states are currently discouraged from testing any student below their grade of enrollment in school (Federal Register, July 5, 2002, pp. 45044-45).

In order to ensure that all students reap the benefits of participating in assessments, it is also necessary for states to enter every test score in their accountability system and report those results publicly. However, in a previous research study where we accessed states' large-scale assessment results from public reports, we encountered difficulties in locating out-of-level test data. In this study, we first accessed the data that were available in states' data reports for school years 1999-2000 and 2000-2001. Next we collected current analysis procedures used to prepare out-of-level test scores for public reporting. To provide the context within which these test results were reported, we also described the features of states' large-scale assessment programs for those states that tested students with disabilities out of level in statewide testing at the time of our data collection process.

Our findings paint a bleak picture of the status of publicly reported out-of-level test results. In our document review of states' data reports from school years 1999-2000 and 2000-2001, we were unable to locate any out-of-level test data that were clearly identified as students below the grade in which they were enrolled in school. Telephone interviews with state personnel indicated that some states are in the process of either partially or fully reporting out-of-level test scores. However, out-of-level test scores are still not clearly identified in states' data reports for those states that equated below-grade level test scores to on-grade level test scores. Two states reported that they did not report these test scores at all. Further analysis indicated wide variability in reporting practices across states when student, district, and state-level practices were compared. A qualitative analysis of the telephone interview data yielded four themes of results: (1) out-of-level test scores are not readily available within multiple types of state reports that contain large-scale assessment results, (2) few states have developed a process for reporting out-of-level testing results to the public, (3) out-of-level test scores that are reported publicly are not clearly identified as below grade level testing, and (4) states view reporting out-of-level test scores as a statistical problem.

We conclude the report by identifying three challenges in need of resolution before states can make informed decisions about out-of-level testing reporting practices: (1) there is a lack of consistency in states' out-of-level testing policies, which impedes the development of recommended guidelines for reporting test data; (2) quite often, state education agencies lack communication among different divisions, all of which are important to the successful implementation of large-scale assessment and accountability policy; and (3) there are various factors inherent to states' out-of-level testing policy that constrain reporting practices.

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## Out-of-Level Testing Background

Standards-based educational reform has taken hold across the nation. By the end of the 1990s, many policymakers and educators had championed the cause, and all but two states (Iowa, Nebraska) had developed and implemented large-scale assessment and accountability programs statewide. The expansion of statewide testing and accountability programs occurred in part to meet the legal requirements of the 1994 Elementary and Secondary Education Act (ESEA) and the 1997 reauthorization of the Individuals with Disabilities Education Act (IDEA 97). Both laws required that *all* students participate in states' testing programs, with the Title I legislation extending the mandate to include accounting for *all* students. With enactment of the No Child Left Behind (NCLB) Act of 2001, which is the most recent re-authorization of ESEA, states are expected to ensure that *all* students are participating in a rigorous curriculum that is standards-based and on-grade level. States are also required to demonstrate adequate yearly progress,

measured by large-scale assessment programs and made public through accountability data.

Accordingly, today more than ever, the public wants students and schools to demonstrate improved educational results. As public scrutiny has increased, states have begun to realize that all students, especially those with disabilities, were being assessed in testing not used for accountability purposes. In an attempt to create more inclusive large-scale assessment practices for students who have not been exposed to grade-level curriculum, states added out-of-level testing as a component of large-scale assessment programs. Out-of-level testing is the administration of a test at a level that is above or below the student's grade level in school. Typically, this means testing only students with disabilities below the grade in which their same-age peers are enrolled. Once intended to measure program effectiveness of Title I interventions in the 1970s, the current use is one of measuring students' academic progress toward attaining states' content standards. In 2001-2002, 14 states (Arizona, California, Connecticut, Delaware, Hawaii, Iowa, Louisiana, Mississippi, Oregon, South Carolina, Texas, Utah, Vermont, West Virginia) tested students out of level in their large-scale assessments.

The use of out-of-level testing, or the administration of a test at a level lower than a student's age or grade level in school, has expanded within a contentious and politicized environment (Thurlow & Minnema, 2001). In fact, many states prefer not to use the term out-of-level testing, opting instead for terms that may invoke less adverse reactions. For instance, some states refer to below grade level testing as off-level testing, alternate assessment, alternative assessment, or challenge down testing. Because the current federal agenda for several years has been neither receptive nor supportive of the use of out-of-level tests for large-scale assessments, we acknowledge that the term "out-of-level testing" is not the preferred term for all of the states from which we collected data. It is also important to acknowledge that data were collected for this project prior to the enactment of No Child Left Behind in late 2001. That law clearly addresses the need for grade-level testing for all students' progress toward achieving grade-level content standards. The law also states, "The U.S. Department of Education considers out-of-level testing as not an acceptable means for a state to meet its assessment requirements under NCLB although such tests might be appropriate for other purposes." (Federal Register, July 5, 2002, pp. 45044-45). Given this, there may be instances where states' policies have changed in response to federal regulations. These changes will not be evident in the results of the research reported here.

States justify testing students out of level by claiming that more students with disabilities participate in statewide testing when tested at their instructional level. In order to ensure that all students reap the benefits of participating, it is also necessary for states to enter every test score in an accountability index and report those results publicly. To date, research has only described the perceptions of state level personnel about the reporting of out-of-level test results (Minnema, Thurlow, & Scott, 2001). That study indicated that data managers found it difficult to include out-of-level test scores in statewide assessment reporting. When we began to look for data on the prevalence of out-of-level testing in statewide assessments by reviewing states' public data reports, we found no disaggregated out-of-level test results clearly reported. This finding pushed us to request out-of-level test data directly from state educational agencies (Thurlow, Minnema, Bielinski, & Guven, 2003). In the end, only a few states supplied data.

Because of the difficulty we encountered in obtaining data for the 2000-2001 school year, we undertook a descriptive study of the reporting of out-of-level test data. This research had two purposes: (1) to describe what data were available in states' data reports for school years 1999-2000 and 2000-2001, and (2) to describe current analysis procedures used to prepare out-of-level test scores for public reporting.

# Out-of-Level Testing Practices

In order to understand how states report out-of-level test results, it is helpful to take a step back and consider the practices used when out-of-level tests are administered. Just as each state has created different statewide assessment and accountability programs, the practices used to implement out-of-level testing differ across states also. A recent comprehensive review of out-of-level testing policies, which was updated in 2002, yielded few similarities across states (Thurlow & Minnema, 2001). In fact, just one point of commonality among these out-of-level testing policies emerged. All 14 states that allowed out-of-level testing did so for students with disabilities. A few states test other subgroups of students below their grade of enrollment in addition to students with disabilities. There are few exceptions to this finding. Two states tested students with disabilities and students with 504 accommodation plans out of level (Utah, West Virginia), and one state tested any student who met the state out-of-level testing criteria (Vermont). Taken all together, it is important to note that the majority of statewide tests that are administered out of level are for students who receive special education services. (See Thurlow and Minnema, 2001, for a more in-depth discussion of the contextual issues concerning out-of-level testing.)

Table 1 presents some of the features of states' large-scale assessment programs that are relevant for our discussion of reporting out-of-level scores. Note that this table incorporates the changes in states' out-of-level testing policies from 1999 through 2002. Throughout the school year 1999-2000, 12 states (Alaska, Arizona, California, Connecticut, Delaware, Iowa, Louisiana, North Dakota, South Carolina, Utah, Vermont, West Virginia) tested students out of level in large-scale assessment programs. Since then, two states (Alaska, North Dakota) have discontinued an out-of-level testing policy while four states (Hawaii, Mississippi, Oregon, Texas) have initiated some version of testing students below grade level in their statewide assessment programs.

**Table 1. Out-of-Level Testing Features by State**

State	Type of Instrument	OOLT Classification	Equate to In-Level Scores	Accountability System(s)
Alaska*	CRT	Modification	No	Student accountability with voluntary system accountability
Arizona	CRT NRT	Modification	Not determined	Student accountability by 2002
California	NRT/CRT	Standard (1 level below) & Non-standard (2 or more levels below)  Accommodation	No	Student and system accountability
Connecticut	CRT	Alternate Assessment Option #1	No	Student and system accountability
Delaware	CRT/NRT	Accommodation	No	Student and system accountability

<b>Hawaii**</b>	CRT/NRT	Accommodation	No	School and system accountability
<b>Iowa</b>	NRT	Alternate assessment	Yes (Could equate)	None
<b>Louisiana</b>	NRT (In lieu of CRT)	Alternate assessment	Disaggregated	Student and system accountability
<b>Mississippi**</b>	CRT	Instructional level test	No	Student, school, and system accountability
<b>North Dakota*</b>	NRT	Accommodation	Aggregated	School accountability
<b>Oregon**</b>	CRT	Challenge down	No	Student, school, and system accountability
<b>South Carolina</b>	CRT	Modification	Disaggregated	System accountability
<b>Texas**</b>	CRT	Alternative test	Disaggregated	Student, school, and system accountability
<b>Utah</b>	CRT	Alternate Assessment	Disaggregated	System accountability (At district level by submitting accreditation report to Northwest Association of Schools & Colleges)  Student accountability by 2005
<b>Vermont</b>	CRT	Adapted (Out-of-Level) alternate assessment	Equated scores entered in accountability index	Student and system accountability
<b>West Virginia</b>	NRT	Modification	Aggregated with all non-standard SAT-9 scores	Student and system accountability

\* States eliminated out-of-level testing, 2001.

\*\* States initiated out-of-level testing, 2001

Each of these states administered a different type of testing instrument. Some states used a norm-referenced test (Iowa, North Dakota, West Virginia), some used a criterion-referenced test (Alaska, Connecticut, Mississippi, Oregon, South Carolina, Texas, Utah, Vermont), and others used a combination of a norm-referenced and criterion-referenced test (California, Delaware, Hawaii). In addition, one state (Arizona) tested out of level with both a CRT and an NRT while one other state (Louisiana) tested with an NRT for students who did not pass the CRT.

Few states treated out-of-level testing similarly in their state level assessment policies. Four states (Alaska, Arizona, South Carolina, West Virginia) considered out-of-level tests as modifications to a standard test presentation while three states (Delaware, Hawaii, North Dakota) treated out-of-level testing as an accommodated test. California labeled out-of-level testing a non-standard accommodation. The remaining states used a variety of labels for testing students below the grade level in which students are enrolled in school, including alternate assessment option #1, alternate assessment, benchmark challenge test, instructional level test, alternative test, and adapted (out-of-level) alternate assessment.

In terms of accountability programs, few states incorporated out-of-level test scores into their longitudinal measurement of groups of students' progress toward achieving state content standards. For those states (Iowa, North Dakota) that do, both administered an NRT where out-of-level test scores could be equated to on-grade level test scores for use in an accountability index. One other state (Vermont) developed transformation rules that convert below-grade level scores to on-grade level scores for accountability purposes. There are no states that used out-of-level test scores for making high stakes decisions for either students or school systems.

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## Method

Our purposive sample included all data reports from states that indicated that out-of-level tests were administered to students with disabilities as a component of statewide testing during the 1999-2000 testing cycle (Bielinski, Thurlow, Callender, & Bolt, 2001). We used two data collection strategies for gathering information from two sources of data. First, to understand what data were publicly reported in states' data reports, NCEO researchers conducted systematic reviews of data reports that were downloaded on the World Wide Web or accessed directly from state education agencies (SEAs). Publicly reported data were collected for both the entire group of students with disabilities and also for the subgroup of students with disabilities who were tested out of level. The document reviews were conducted on the results of states' large-scale assessments for both school years 1999-2000 and 2000-2001. (See Bielinski, Thurlow, Callender, and Bolt, 2002 and Thurlow, Wiley, and Bielinski, 2003 for a more thorough discussion of these assessment results.)

A second data collection activity involved direct contact with SEA personnel to learn about how out-of-level test results are prepared and posted for public reporting. As a first step, we reviewed Thurlow and Minnema (2001) to document how states described their reporting practices for school year 2000-2001. To update this information, we conducted telephone interviews with state level personnel ( $n = 16$ ) who were recommended to us as familiar with reporting large-scale assessment results. Our telephone interview protocol questions included:

1. Please describe the process used by your school districts to submit out-of-level test scores to your state educational agency.
2. How are out-of-level test scores reported at the local level? Are these data made public?
3. How are out-of-level test scores reported at the state level? Are these data made public?
4. Please describe the analysis procedures used for public reporting of out-of-level test scores.



Probe: Are out-of-level test scores aggregated? If so, with what other scores? At what grade level?

Probe: Are out-of-level test scores disaggregated? If so, what categories are used to disaggregate these data (e.g., disability category, grade level tested, assigned grade level)?

Each telephone interview was tape recorded. To analyze the narrative data, we listened to the tape recordings to glean relevant information that would address each interview question for each state that allowed out-of-level testing during the school year 2000-2001. To finalize our results, we conducted a semi-structured content analysis to identify general patterns in the interview data.

## Results

Our results are presented in two sections, with the analysis of data reports first, followed by the narrative results of our telephone interviews with SEA personnel. In the final portions of this report, we interpret and discuss our findings by treating the two data sets as a composite whole set of results.

### Analysis of States' Data Reports for Out-of-Level Test Results

We present the findings of our review of states' reports on large-scale assessment results in Table 2 (for the school year 1999-2000) and in Table 3 (for school year 2000-2001). An indication of whether data were located for the participation and the performance of students with disabilities in statewide testing is also presented. This provides a context for understanding what we found on out-of-level testing reporting. If our document reviews did not yield any out-of-level test results, we indicate that finding with "unable to locate."

**Table 2. Statewide Test Data for Students with Disabilities for 1999-2000**

State	<i>Report on ALL Students with Disabilities</i>	<b>Report on Out-of-Level Tests</b>
<b>Arizona</b>	Performance and participation data disaggregated	Unable to locate
<b>California</b>	No disaggregated data	Unable to locate
<b>Connecticut</b>	Performance and participation data disaggregated	Unable to locate
<b>Delaware</b>	Performance data disaggregated	Unable to locate
<b>Hawaii*</b>		
<b>Iowa</b>	Performance and participation data disaggregated	Unable to locate
<b>Louisiana</b>	Performance and participation data disaggregated	Unable to locate

<b>Mississippi*</b>		
<b>North Dakota</b>	Performance and participation data disaggregated	Unable to locate
<b>Oregon*</b>		
<b>South Carolina</b>	Disaggregated performance data	Unable to locate
<b>Texas*</b>		
<b>Utah</b>	Performance and participation data disaggregated	Unable to locate
<b>Vermont</b>	Disaggregated performance data	Unable to locate
<b>West Virginia</b>	Performance and participation data disaggregated	Unable to locate

\*Not testing out of level 1999-2000.

**Table 3. Statewide Test Data for Students with Disabilities from 2001-2002**

<b>State</b>	<b><i>Reported for ALL Students with Disabilities</i></b>	<b>Reported for Out-of-Level Tests</b>
<b>Arizona</b>	No disaggregated data	Unable to locate
<b>California</b>	Performance and participation data disaggregated	Unable to locate
<b>Connecticut</b>	Performance and participation data disaggregated	Disaggregated participation data
<b>Delaware</b>	Performance and participation data disaggregated	Unable to locate
<b>Hawaii</b>	No disaggregated data	Unable to locate
<b>Iowa</b>	Performance and participation data disaggregated	Unable to locate
<b>Louisiana</b>	Performance and participation data disaggregated (but no disaggregated data for the Developmental Reading Assessment)	Unable to locate
<b>Mississippi</b>	Performance and participation data disaggregated	Unable to locate
<b>Oregon</b>	Performance and participation data disaggregated	Unable to locate
<b>South Carolina</b>	Disaggregated performance data; disaggregated participation data for the PACT	Unable to locate
<b>Texas</b>	Performance and participation data disaggregated	Unable to locate
<b>Utah</b>	Performance and participation data disaggregated	Unable to locate
<b>Vermont</b>	No disaggregated data	Unable to locate
<b>West Virginia</b>	Performance and participation data disaggregated (but no disaggregated data for the Writing Assessment)	Unable to locate

For the school year 1999-2000, seven of the states using out-of-level testing (Arizona, Connecticut, Iowa, Louisiana, North Dakota, Utah, West Virginia) disaggregated data by conducting analyses on student subgroups for both the performance and participation of

students with disabilities in their states' large-scale assessment. Three states (Delaware, South Carolina, Vermont) disaggregated performance results only; one state (California) included no disaggregated data for students with disabilities in its state data report. In terms of reported results for the participation and performance of students with disabilities who were tested out of level in statewide testing, no state included those test data when reporting to the public. Some states may have equated below-grade level test scores to on-level scores, and then reported on the student's grade of enrollment. However, since these test results were not labeled "out-of-level," we were unable to locate them. Please note that Alaska was not included in this table because out-of-level testing was allowed for one school year, and then only for English language learners who attended a 4<sup>th</sup> grade language immersion program. No other students were to be tested out of level in school year 1999-2000. After that school year, no students were to be tested below grade level in Alaska's statewide assessment program.

Of the 14 states that tested students with disabilities out of level in statewide testing programs during the school year 2001-2002, 3 states (Arizona, Hawaii, Vermont) reported no disaggregated data for students with disabilities in either the regular assessment or the state assessment administered below grade level. We found performance and participation data disaggregated for students with disabilities for eight states (California, Connecticut, Delaware, Iowa, Mississippi, Oregon, Texas, Utah). Three states (Louisiana, South Carolina, West Virginia) did not disaggregate test results for all components of their statewide testing programs. Of the eight states with disaggregated data, only Connecticut made out-of-level test results public by reporting the number of students with disabilities who participated in out-of-level testing. No state's data reports contained clearly labeled out-of-level test performance results for students with disabilities.

## Analysis of Telephone Interview for States' Reporting Practices

Table 4 summarizes the results from two data collection activities that involved telephone contacts with SEA personnel regarding two testing cycles. For school year 1999-2000, Thurlow and Minnema (2001) found wide variability in how states managed and reported the results from out-of-level tests. No two states used the same procedures for including out-of-level test scores in accountability and then analyzing those data for public reporting purposes. Four states (Delaware, Louisiana, South Carolina, Utah) indicated that out-of-level test data were disaggregated (i.e., analyzed separately for students with disabilities). In doing so however, one state (Delaware) disaggregated the test data without reporting norm-referenced test scores at the state level. Four other states (Iowa, North Dakota, Vermont, and West Virginia) reported aggregating out-of-level test results for reporting to the public. However, only two states (Iowa, North Dakota) did so in a like manner by equating out-of-level test scores to on-grade level test scores for norm-referenced tests. Vermont had developed a system of transforming out-of-level test scores to on-grade level test scores for their criterion-referenced state test while West Virginia combined all types of nonstandard test results in one aggregated score. One state (California), which treats an out-of-level test as a nonstandard test presentation if the test level is more than one grade level below, reports no nonstandard test results at the state level. Another state (Arizona) indicated that reporting procedures for including out-of-level test results in data reports made public were in the process of being developed. Please note that four states (Hawaii, Mississippi, Oregon, Texas) had not fully initiated an out-of-level testing policy

for school year 1999-2000.

**Table 4. Out-of-Level Testing State Level Reporting Practices According to SEAs**

<b>State</b>	<b>For School Year 1999-2000 *</b>	<b>For School Year 2001-2002 **</b>
<b>Arizona</b>	In development	Not reported
<b>California</b>	Standard scores aggregated with grade of enrollment with  nonstandard scores not reported at state level	Standard scores aggregated with grade of enrollment with  nonstandard scores not reported at state level
<b>Connecticut</b>	Only participation reported	Participation reported for grade level of test
<b>Delaware</b>	Disaggregated without reporting NRT scores	Aggregated at lowest proficiency for grade of enrollment
<b>Hawaii</b>	Not testing out of level	Reporting procedures in development
<b>Iowa</b>	Aggregated	Aggregated with grade of enrollment
<b>Louisiana</b>	Disaggregated	Aggregated at grade of enrollment
<b>Mississippi</b>	Not testing out of level	Aggregated at lowest proficiency level for grade of enrollment (Writing Test only)
<b>North Dakota</b>	Aggregated at grade of enrollment	No longer testing out-of-level
<b>Oregon</b>	Not testing out of level	Reporting procedures in development
<b>South Carolina</b>	Disaggregated	SEA not responsible for report of modified tests in district or state reports
<b>Texas</b>	Not testing out of level	Disaggregated performance by grade, test level, and demographic groups
<b>Utah</b>	Disaggregated	Participation reported for grade level of test
<b>Vermont</b>	Equated scores entered in accountability index	Not reported
<b>West Virginia</b>	Aggregated with all non-standard scores	Aggregated with all non-standard scores

\* Source: Thurlow & Minnema, 2001

\*\* Source: Summer, 2001 data collection; Updated Fall, 2002

The results of the second phase of data collection indicated that reporting practices had not changed over the school years in four states (California, Connecticut, Iowa, West Virginia). In comparing the reporting practices between the two school years, four states changed the way in which out-of-level test scores were reported (Delaware, Louisiana, South Carolina, Utah). Each state had more reporting-specific information at the second point in data collection. Delaware

reported out-of-level test scores aggregated at the lowest proficiency level for the grade of enrollment regardless of test performance on the level at which tested. Louisiana equated out-of-level test scores to on-grade level test to report in aggregate on the grade of enrollment. South Carolina SEA does not report out-of-level tests scores because an independent agency develops the state data report for state accountability purposes. The fourth state that had changes in reporting practices, Utah, reported participation test data on the grade at which students were tested.

Two states did not report out-of-level test scores (Arizona, Vermont). In the case of Vermont, test-specific transformation rules have been developed to equate out-of-level test scores to on-grade level test scores. However, the validation of the rules has not yet been completed so that statewide test scores are not yet reported. States that were new to testing students below grade level by school year 2001-2001 were in the process of developing reporting practices. Three of these states (Mississippi, Oregon, Texas) were able to describe the point at which reporting procedures had been developed. Mississippi had reported Writing Test scores in aggregate at the lower proficiency with plans to do so for all content areas tested out of level in the future. Oregon did not report challenge down test scores for students with disabilities for the school year 2001-2002, but planned to do so in the future. Texas disaggregated performance test data for below-grade level testing for the alternative state test according to grade, test level, and demographic groups. Plans were in place to report progress toward proficiency levels in the future for those students with disabilities tested below-grade level. The final state new to out-of-level testing, Hawaii, did not have reporting information at this point in time. One state (North Dakota) had ceased testing students with disabilities out of level by the school year 2001-2002.

## Processing Test Scores

Responses to telephone interviews indicated that, with the exception of one state (Hawaii), all states received local level out-of-level test results in a similar manner. SEAs received test results via state contracts with testing vendors and designated dates for test administrations, but school districts were responsible for coordinating the administration of state tests and returning the answer sheets to the test company. Local educational agencies (LEAs), most typically at the district level, requested the number of out-of-level tests by test level needed per school for each testing cycle from the state's test contractor. Once the tests are administered, an educator who serves as a district test coordinator collects and packages the tests to return to the test company. Test companies scan test bubble sheets yielding test scores. Raw test data files are then submitted to the SEA for data analysis. Test results are distributed to LEAs as well as published in states' data reports for public examination.

Because of the unique organization of the Hawaii school district, scores are only transferred between the test contractor and the state assessment director who functions as the district test coordinator. The state in its entirety is one school district so that one administrator serves as both state assessment director and district test coordinator. State test data made public at the local and state level are published in one district/state report.

## Reporting Out-of-Level Test Scores at Local and State

# Levels

Table 5 displays the wide variability in the procedures that states use to report out-of-level test results, as reported in our interviews with states. Since some states do not necessarily provide similar information at the student and district level, we made these distinctions for local level reporting.

**Table 5. Out-of-Level Test Reporting Practices by Student, District, and State**

State	Student	District	State
<b>Arizona</b>	Reported separately on grade level.	Not reported	Not reported
<b>California</b>	Standard test scores reported as on-grade level scores. Nonstandard raw scores only.	Only standard scores equated, aggregated, and reported on grade of enrollment. Nonstandard not reported	Only standard scores equated, aggregated, and reported on grade of enrollment. Nonstandard not reported
<b>Connecticut</b>	Performance reported by test level	List of students by grade of enrollment, by test level, and score	Participation reported by test level
<b>Delaware</b>	Performance reported on grade level tested to parents	Reported at lowest proficiency level at grade of enrollment	Reported at lowest proficiency level at grade of enrollment
<b>Hawaii*</b>	Procedures in development	Procedures in development	Procedures in development
<b>Iowa</b>	Considering individual student reports	Performance equated, aggregated, and reported on grade of enrollment	Performance equated, aggregated, and reported on grade of enrollment
<b>Louisiana</b>	Individual student report	Performance equated, aggregated, and reported on grade of enrollment	Performance equated, aggregated, and reported on grade of enrollment
<b>Mississippi*</b>	Procedures in development	Participation report by test levels for writing	Procedures in development
<b>Oregon</b>	Performance reported on benchmark level to students and teachers	Performance aggregated at lowest proficiency level on benchmark level	Performance aggregated at lowest proficiency level on benchmark level
<b>South Carolina</b>	Modified test score reported to parents	Performance aggregated for state report card with %age tested out of level.	Not reported in state data report made public
<b>Texas*</b>	Disaggregated student performance by content area	Disaggregated performance by grade, test level, and demographic groups	Disaggregated performance by grade, test level, and demographic groups
<b>Utah</b>	Participation reported by grade level tested.	Participation reported by grade level tested	Participation reported by grade level tested
<b>Vermont</b>	School reports to parents	Not reported	Not reported
<b>West Virginia</b>	Not reported	Not reported	Aggregated with all nonstandard scores

\* First year of testing below grade level.

Only two states (Iowa, Louisiana) have adopted similar reporting procedures at the district and state level, probably because both states administer the same standardized instrument out of level. Both of these states report out-of-level test results in aggregate on the grade of enrollment. The states differ on reporting at the student level. Louisiana distributes an individual student report while Iowa indicated that it was considering doing so in the future. Other states use different approaches.

Three states (Arizona, Vermont, West Virginia) did not fully report out-of-level test scores. Arizona reported student performance on the grade of enrollment to students and parents, while not reporting these test results at the district or state level. Vermont also only reported out-of-level test results at the student level, but distributed school reports rather than individual student performance. West Virginia used yet another set of reporting procedures whereby out-of-level test scores were reported at the state level, but not at the local level.

Only two states (Texas, Utah) used similar reporting procedures across student, district, and state levels. Texas disaggregates all below grade level test results. At the student level, test results are disaggregated by content area while at the district and state levels data are disaggregated by both grade of enrollment and level at which tested. Other states (Connecticut, Delaware, South Carolina) vary both across and within states in terms of how out-of-level test scores are reported. Connecticut only reports participation data at the state level while reporting performance results by test level at the student level. The SEA does distribute a separate document to all schools in Connecticut that list students tested below grade level by grade of enrollment, level at which tested, and test score. Delaware and Oregon report all out-of-level test scores at the lowest level of proficiency on grade-level standards for both district and state reporting. Student performance according to the test level is reported at the student level in these two states. Differing further, out-of-level test data are reported by two organizations in South Carolina, each of which uses different procedures. At the student level, an individual score report is distributed to teachers and families indicating a modified assessment that does not necessarily represent achievement toward grade-level standards. The SEA also prepares a state data report for the public in which out-of-level test scores are not reported. For accountability purposes in South Carolina, an Education Oversight Committee prepares a state report card where out-of-level test scores are aggregated by level of proficiency regardless of the grade level at which students are tested.

At the time of our data collection activity, three states (Hawaii, Mississippi, Texas) were implementing an out-of-level testing policy for the first time. Table 5 contains information from each states' first testing cycle. We explain probable next steps in reporting out-of-level test results in each of these states for as much as the interviewees were able to project.

Hawaii, a state that is comprised of one school district, is in the process of determining how to report out-of-level test scores. At the time of our data collection, future plans were to report out-of-level test scores in a matrix of all scores that is distributed to each school. In order to report at the state level, test scores are tabulated across all schools. It was thought that an out-of-level test score would be reported at the lowest proficiency level, indicating that grade-level standards had not been met.

A second state, Mississippi, was also in the first year of testing out of level. In fact, at that point

in time, the SEA had not yet received results from the Mississippi Curriculum Test because the process to set grade-level, content standards had not been completed. The SEA did report on the writing test, which was administered earlier, by submitting summary reports to school districts. These reports contained aggregated participation data on the writing test according to the grade levels at which students were tested. Specific decisions about the configuration of aggregated and disaggregated test data for other content areas are in process. The SEA plans to make these data public as well as providing individual score reports for teachers and parents.

Texas was also between the first and second testing cycles at the time of our data collection. Table 5 contains reporting information for the first year of testing. School, district, and state level alternative test data were reported, with the number participating disaggregated by grade level tested for each grade of enrollment in school. In addition, by using the results from this testing cycle as baseline data, a percentage of students who meet academic growth across two years of testing as projected by their assessment, referral, and dismissal committees (ARDs) will be reported. However, the interviewee from the Texas state educational agency indicated that the details for these practices were not fully determined yet.

## Public Reporting

Reporting large-scale assessment results as a measure of academic progress toward grade level standards is in various stages of development across states that test students out of level. SEA personnel who participated in our telephone interviews described procedures that varied widely from state to state. In fact, the most common reporting feature across states was that no state is currently making out-of-level test scores public information in a clearly identifiable manner. On the other hand, one of the most promising findings from our telephone interviews is the finding that out-of-level data are being reported. The issue then becomes not necessarily one of whether out-of-level test scores are reported, but rather how these data are reported. There are two specific issues that emerge from a deeper understanding of publicly reported out-of-level test results. The first issue is one of what specific statistics are reported. The second issue relates to the procedures by which test data are included in states' data reports.

First, in terms of the type of data reported, three states (Connecticut, South Carolina, Utah) provide participation data for out-of-level tests in such a way that the public knows how many and what percentage of students are tested below their grade of enrollment. While participation rates are important indicators, full disclosure of performance data is just as important. Participation rates are an admirable first step to increased reporting, but not the end point in accounting for achievement over time.

Our findings also indicated that no state disaggregates out-of-level test results by disability category. This type of analysis could be informative for policymakers, teachers, and parents. Disproportionate participation of specific disability subgroups in out-of-level testing would have important ramifications for states that are striving to include all students in states' accountability programs.

A second public reporting issue, how states manipulate data for accountability purposes, points to the complexities involved in using out-of-level test results for accountability purposes. To find these results in states' data reports, it is necessary to describe reporting procedures specifically because the out-of-level test data are masked by the manner in which the results are reported.



For instance, Iowa uses a norm-referenced test so that the out-of-level test scores can be equated to grade-level test scores for reporting results on students' grade of enrollment. Delaware reports all out-of-level test scores on the lowest proficiency level, indicating that students striving to achieve lower grade level standards are "below basic" in achieving grade level standards. Another state, West Virginia, treats out-of-level tests as nonstandard test presentations, so that out-of-level test scores are reported in aggregate with other nonstandard test scores. Technically, in each of these cases, out-of-level test scores are reported in states' data reports. These results may be posted on SEAs' Web sites. However, it is not possible to know where the out-of-level test scores are incorporated into the statistical analyses unless the details of the procedures are specified.

There are also some states that either partially report out-of-level test scores or do not report these scores at all. Since California treats out-of-level tests that are administered one level below grade level as standard test administrations and more than one level below grade level as nonstandard test administrations, only standard test scores are reported. The remaining out-of-level tests in California are not reported. Three states (California, Vermont, West Virginia) indicated during our telephone interviews that their out-of-level test data are not made public. There may be additional states that fall into this category, but were unwilling to indicate so when interviewed. Two more states (Hawaii, Mississippi) were in the process of finalizing reporting practices for out-of-level testing at the time of our data collection activity.

## Purpose of Reported Score

Across states, out-of-level tests do not necessarily serve the same purpose. For most states, test results are intended to be a measure of academic progress toward content standards that are developed for a lower grade level than the grade in which a student is enrolled in school. However, in two states (Texas, Delaware) out-of-level test scores are not necessarily indicators for specific grade levels of content standards. In Texas, ARD committees determine a projected amount of progress toward content standards that students achieve throughout a school year. Scores from below grade level testing serve as a measure of growth to determine whether students meet the projected achievement, and are then reported as such. In contrast, out-of-level test data in Delaware do not represent specific academic achievement. The rationale for assigning the lowest proficiency level for all out-of-level test scores regardless of the statewide test score is to indicate that students have not reached proficiency on grade-level standards. Teacher and families receive more specific information as performance at the test level is shared at the student level. Schools receive some credit for a student who is achieving below grade level by reporting at the lowest proficiency, but remain responsible for students who are not achieving at the grade in which they are enrolled.

## Future Procedures

In our interviews, two states indicated projected changes in out-of-level testing policy for school year 2002-2003. Iowa indicated awareness of the importance of determining the number of students tested statewide below grade level as well as the grade levels at which students are tested. The SEA planned to put procedures in place in order to report on the numbers of

students tested below grade level. It was also indicated that Arizona is moving toward reporting out-of-level test participation rates at the state and local level.

## Qualifying Statements

Most states provided various rationales for the non-report of out-of-level test data. One state (Vermont) indicated that the number of students tested out of level statewide was so few that omitting these test scores from test data aggregated at the state level had a negligible effect on the resulting numbers. Disaggregating out-of-level test performance and participation had little meaning in Vermont, again because of the limited use of below grade level testing. Other states, Connecticut and Utah in particular, indicated that aggregating out-of-level test scores was not feasible since their statewide test was criterion referenced. Without a common scoring scale, out-of-level test scores cannot be meaningfully equated to on-grade level test scores. Finally, three states (Hawaii, Mississippi, Louisiana) specifically mentioned that reporting out-of-level test scores in a public format was not possible if the grouping of students was less than 10 students where confidentiality could potentially be violated. In Louisiana, for instance, school reports are distributed with out-of-level test data only for those schools that test 10 or more students out of level.

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## Discussion of Issues

Every effort was made to incorporate the most current information about reporting practices for those states that allow out-of-level testing in their large-scale assessment and accountability programs. Wherever possible, we used personnel from state educational agencies whose role is directly related to assessment and accountability programs as our source for data. Even so, it is possible that the interviewees may not have had complete information on reporting practices in their state. It is also possible that our information may not be fully updated if policy changes occurred as this report was being prepared. With that understanding, we present four central issues that evolved from our review of out-of-level testing policies.

### Issue #1—Out-of-level test scores are not readily available within multiple types of state reports that contain large-scale assessment results.

Generally speaking, the results of statewide tests that were administered below the grade in which students were enrolled in school were not readily accessible in either states' data reports or states' Web sites. If states are going to use out-of-level testing, it is imperative that they develop procedures to clearly report out-of-level test results to the public. Reporting in aggregated as well as disaggregated form is equally important. This means that scores for students with disabilities are included in "all students" results as well as in "students with disabilities tested below enrollment grade level." In order for students with disabilities to reap

the benefits of school improvement planning, it is necessary to accurately count and meaningfully consider their test performance. It is only by disaggregating test participation and performance that states can monitor how many students are tested below grade level as well as how well these students are challenged by state tests.

There are two states that have made an inroad toward clear reporting of out-of-level test data. In South Carolina, for instance, the results of out-of-level testing are reported in an individual student report as a modified assessment that describes the progress made toward standards at the grade of enrollment (a grade that is different from the one in which the student is tested). As another example, Connecticut provides a separate report to districts with detailed information about out-of-level testing in their schools.

## Issue #2—Few states have developed a process for reporting out-of-level testing results to the public.

The purpose of publicly reporting large-scale assessment results is to provide an accounting of schools', districts', and states' progress toward achieving grade-level content standards. However, when students are tested below grade level, including these test data in accountability indexes is very complex. Questions arise such as whether out-of-level test results should be reported at the grade level of testing or enrollment. If reported at the testing grade level, what does that say about achieving content standards at the grade of enrollment? Or, if the test data are reported at the grade of enrollment, what information does that provide about students' proficiency on a set of content standards that are below-grade level?

In response to these concerns some states, such as Delaware and Texas, have developed unique procedures for including below-grade level test scores in accounting for academic progress. By doing so, instructional questions arise for students in those states that do and do not report out-of-level test results. What happens to the academic progress of students who are tested below grade level over consecutive school years? How does out-of-level testing affect the learning expectations set by teachers, parents, and the students themselves? What happens to the graduation and dropout rates when students with disabilities are tested out of level at young ages? These are important issues that need to be resolved in order for states to be in compliance with current legal mandates.

## Issue #3—Out-of-level test scores that are reported publicly are not clearly identified as below grade level testing.

For those states that use a norm-referenced instrument for statewide testing, test companies have developed normative data to equate below-grade level test scores to on-grade level test scores. In these cases, out-of-level test scores are reported on the grade at which a student is enrolled in school. However, since test scores are transformed to grade level scores, it is not possible to know how many students were tested at which grade level. It is also not possible to

determine what test performance was according to the grade at which the students were tested. Since these data are not disaggregated by any variable, states' data reports do not convey student characteristics for those students who are tested out of level. We believe these data to be especially critical to describing the results of statewide testing because students with disabilities are typically those students who are tested below grade level. In order to determine whether there is an overrepresentation of specific disabilities that are tested out of level, it is important for policymakers, educators, and parents to know out-of-level test prevalence data by disability category. This type of data-based information can drive policy, instructional, and assessment decisions so that more students with disabilities are better supported in reaching high learning expectations. However, these decisions are impossible to make when state and district level large-scale assessment results are reported in such a way that the public does not know where and how out-of-level test scores are reported.

## Issue #4—Reporting out-of-level test scores is viewed as a statistical problem.

Some states identified specific statistical problems in reporting scores for below grade level testing. Interviewees expressed concerns about CRT scores that cannot be used for transforming out-of-level to on-level scores. In particular, those interviewed from Mississippi were concerned about the misleading nature of entering all out-of-level test scores in the lowest proficiency level for accounting progress toward grade level content standards. An interviewee from Hawaii acknowledged that the omission of out-of-level test scores to avoid confidentiality violations could potentially skew reporting on local data.

While we acknowledge that these are justifiable concerns, we raise an additional statistical concern that is also critical to suitable large-scale assessment and accountability programs. Generally speaking, when mathematically manipulating large numbers, the omission of a few test scores, as in the case of reporting state level large-scale assessment results, does not affect the numeric outcomes. However, ignoring the test scores of even a few students with disabilities falls short of current pressures to ensure that *all* students achieve grade-level content standards. Current federal mandates have moved the field beyond simply focusing on the statistics of reporting to the public. Instead, educators and policymakers alike are challenged to think critically about improving classroom instruction that in turn will augment the statistics of states' reported test results.

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## Remaining Challenges

This report has described states' reporting practices at specific points in time in order to flesh out the many issues related to reporting the results of out-of-level tests that are used for statewide testing. In doing so, our intent has not been to ascribe fault to state level personnel for not having resolved state-specific problems in their reporting practices. Since states have come under extreme scrutiny to demonstrate improved student results as measured by statewide testing over the past decade, it is especially important to acknowledge that these reporting practices on which we collected data were devised prior to the enactment of NCLB in 2001.

To that end, we conclude this report by identifying remaining challenges that constrain the research community as we respond to the informational needs of those who make decisions about out-of-level testing reporting practices.

- *There is a lack of consistency in states' out-of-level testing policies, which impedes the development of recommended guidelines for reporting test data.* The complexity of parsing out useful, data-based information to guide test administration and the subsequent public reporting is further compounded by the variety of contexts in which students with disabilities are tested out of level.
- *Quite often, SEAs lack communication among different divisions, all of which are important to the successful implementation of large-scale assessment and accountability policy.* States vary as to whether out-of-level testing is a special education or an assessment issue. States may contract out to other agencies that do not share common space further impeding collaboration. High demands on SEA personnel professional time allows for little cross-disciplinary communication. The political ramifications of testing students with disabilities out of level hamper the open sharing of information. Each of these factors also constrains the development and implementation of high-quality research processes.
- *There are various factors inherent to states' out-of-level testing policy that constrain reporting practices.* State policies define out-of-level testing in various ways that dictate how scores can be reported (e.g., modifications are used differently from accommodations). Some students' test scores are deleted from accountability indices to avoid violating confidentiality regulations. Again, the type of instrument administered out of level determines how scores can be treated mathematically for accountability purposes. Research can identify and describe these factors including the related policy constraints. However, when these constraints are played out within politically charged environments, conducting educational research becomes increasingly complicated.

In sum, fully reporting out-of-level test scores is a necessary step toward understanding better the needs that out-of-level testing is said to meet. To foster the acquisition of grade-level standards for all students, it is necessary for the educational community to re-focus its attention to the learning needs of students with disabilities. In doing so, public reporting becomes more than the numbers inherent in the accountability process. Reporting practices can be a tool to support students with disabilities as they strive for improved learning outcomes. Findings from this research study support the Federal decision that out-of-level testing is not an acceptable means for fulfilling the state's assessment requirements under NCLB (Federal Register, July 5, 2002, pp. 45044-45).

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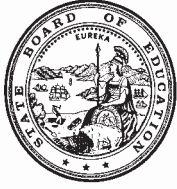
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# CALIFORNIA STATE BOARD OF EDUCATION

## JULY 2004 AGENDA

<p><b>SUBJECT</b></p> <p>Standardized Testing and Reporting (STAR) Program: Approve Commencement of the Rulemaking Process for Proposed Amendments to Title 5 Code of Regulations</p>	<p><input checked="" type="checkbox"/> <b>Action</b></p> <p><input checked="" type="checkbox"/> <b>Information</b></p> <p><input type="checkbox"/> <b>Public Hearing</b></p>
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**RECOMMENDATION**

The California Department of Education (CDE) recommends that the State Board of Education (SBE) approve the proposed Title 5 Regulation amendments for the STAR Program, the Initial Statement of Reasons, and the Notice of Proposed Rulemaking and direct staff to commence the rulemaking process.

**SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION**

SBE adopted first adopted regulations for the STAR Program during 1998 and has amended the regulations to conform to changes in the California Education Code or to conform to federal requirements as needed. The SBE last adopted amendments for the regulations in November 2003 that were approved by the Office of Administrative Law on December 18, 2003.

**SUMMARY OF KEY ISSUES**

The purpose of these amended regulations is to modify regulations previously adopted by SBE to:

- Update and clarify definitions used in the Program.
- Extend the use of below-grade-level testing for students with Individualized Education Programs (IEPs) for an additional year and expand the availability of below-grade-level testing to grades three and four.
- Make technical corrections to the testing variations, accommodations, and modifications to align the regulatory language with a matrix of allowable accommodations and modifications and to provide language that is consistent with the CAHSEE and CELDT regulatory language.
- Add the requirement that test examiners certify that they have received training to administer the tests. This addition was made due to an increasing number of test administration errors districts are reporting. The errors that are being made are generally linked to examiners not receiving training to administer the tests and not understanding the requirements.
- Modify the process for district STAR apportionments. Based on current technology,

## **SUMMARY OF KEY ISSUES**

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the Department is now able to produce Apportionment Information Reports for district superintendents to certify. This process results in more accurate reports and a workload reduction for districts.

- Modify the dates associated with testing materials being delivered to districts and schools and being returned to the contractor after testing. The modification involves changing all days to working days. Previously a combination of working days and calendar days was used, resulting in confusion about when materials would be received.
- Modify the regulations related to the designated primary language test to ensure that the regulations are consistent across all tests within the Program.

## **FISCAL ANALYSIS (AS APPROPRIATE)**

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## **ATTACHMENT(S)**

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[Attachment 1](#): Initial Statement of Reasons (2 Pages)

[Attachment 2](#): Notice of Proposed Rulemaking (4 Pages)

[Attachment 3](#): TITLE 5. Education, Division 1. State Department of Education, Chapter. Pupils, Subchapter 3.75. Standardized Testing and Reporting Program (44 Pages)

The Fiscal Impact Statement will be submitted as a Last Minute Memorandum.



## **INITIAL STATEMENT OF REASONS**

### **Standardized Testing and Reporting (STAR) Program**

#### **SPECIFIC PURPOSE OF THE REGULATIONS**

The proposed amendments to the regulations are intended to clarify the specific student demographic data that districts must provide, provide information about the use of questions publicly released for the California Standards Tests, add requirements for the California Alternate Performance Assessment (CAPA), modify all dates associated with the Program to working days, and modify the process for collecting information required for providing apportionments to districts for costs associated with the Program. Changes to the regulations were also made in order to ensure consistency among the assessment programs, including the California High School Exit Examination (CAHSEE) and the California English Language Development Test (CELDT). Additionally, some of the proposed amendments are required to enable the state to comply with the requirements of the federal No Child Left Behind Act of 2001.

#### **NECESSITY/RATIONALE**

The tests within the STAR Program have consequences for individual pupils, schools, and school districts. The test results are used by schools and school districts to screen pupils for special programs. The California Department of Education uses the test results for school and district Academic Performance Index (API) and Adequate Yearly Progress (AYP) calculations. The results of these accountability calculations are used to identify schools and districts that are meeting or not meeting required growth targets and may result in schools and districts being identified as program improvement schools or districts. The program improvement designation may result in state intervention. The regulations are designed to assure that the tests within the Program are administered fairly and consistently throughout the state so that valid and reliable results are available for API and AYP calculations.

#### **TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS**

No reports are required by these proposed regulations.

#### **REASONABLE ALTERNATIVES TO THE REGULATIONS AND THE AGENCY'S REASONS FOR REJECTING THOSE ALTERNATIVES**

No other alternatives were presented to or considered by California Department of Education.

#### **REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS**

It is not anticipated that there will be any adverse impact on small business that would

necessitate developing alternatives to the proposed regulatory action. The fiscal analysis is pending.

**EVIDENCE SUPPORTING FINDING NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS**

The proposed regulations are not anticipated to have a significant adverse economic impact on any business because the regulations only relate to local school districts and not to business practices. The fiscal analysis is pending.

STATE OF CALIFORNIA

ARNOLD SCHWARZENEGGER, Governor

**CALIFORNIA STATE BOARD OF EDUCATION**

1430 N Street, Room 5111  
Sacramento, CA 95814



**TITLE 5. EDUCATION**

**CALIFORNIA STATE BOARD OF EDUCATION**

**NOTICE OF PROPOSED RULEMAKING**

**Standardized Testing and Reporting (STAR) Program**

*[Notice published July 23, 2004]*

The State Board of Education (State Board) proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

**PUBLIC HEARING**

Program staff will hold a public hearing beginning at **9:00 a.m. on Tuesday, September 7, 2004** at 1430 N Street, Room 2102, Sacramento. The room is wheelchair accessible. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. The State Board requests that any person desiring to present statements or arguments orally notify the Regulations Coordinator of such intent. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. No oral statements will be accepted subsequent to this public hearing.

**WRITTEN COMMENT PERIOD**

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Regulations Coordinator. The written comment period ends at **5:00 p.m. on Tuesday, September 7, 2004**. The Board will consider only written comments received by the Regulations Coordinator or at the Board Office by that time (in addition to those comments received at the public hearing). Written comments for the State Board's consideration should be directed to:

Debra Strain, Regulations Coordinator  
California Department of Education  
LEGAL DIVISION  
1430 N Street, Room 5319  
Sacramento, CA 95814  
Email: [dstrain@cde.ca.gov](mailto:dstrain@cde.ca.gov)  
Telephone: (916) 319-0860  
FAX: (916) 319-0155

## **AUTHORITY AND REFERENCE**

Authority: Sections 33031 and 60605, Education Code.

Reference: Sections 60615, 60630, 60640, et seq.; Education Code; 20 USC 6311.

## **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

Amendments are proposed for Division 1, Chapter 2. Pupils, Subchapter 3.75, Articles 1 and 2 of Title 5 of the *California Code of Regulations*. Article 1 includes Program definitions and Article 2 addresses the designated achievement test, the standards-based achievement tests, and the California Alternate Performance Assessment. The amendments and technical corrections proposed for Articles 1 and 2 are also proposed for Article 3, which addresses the designated primary language test. The amendments to Article 3 are proposed to provide consistency across the regulations for the Program.

The purposes of the proposed amendments are to provide consistency with the regulations for the California High School Exit Examination (CAHSEE) and the California English Language Development Test (CELDT) by clarifying current language and adding definitions and language as needed to add and amend language regarding the use of variations, accommodations, and modifications; to make technical changes to correct inconsistent language, terms, and capitalization in the existing regulations; to modify the provisions for below-grade-level testing; to incorporate information about the use of released items for the California Standards Tests (CSTs); to modify test material delivery and return dates to eliminate the mixture of working and calendar days; to add the California Alternate Performance Assessment (CAPA) as appropriate; to strengthen some test security language; to add a statement to the STAR Test Security Affidavit indicting that test examiners and proctors have been trained to administer the tests; to expand the student demographic data collected to meet the requirements for federal and state reporting; to clarify requirements related to including test results in pupils' permanent records as required by *Education Code* Section 60607; to reinforce the confidentiality of summary data that is based on test results for ten or fewer pupils; and to modify the process for completing Apportionment Information Reports required by *Education Code* Section 60640(j).

## **DISCLOSURES REGARDING THE PROPOSED ACTION**

Mandate on local agencies and school districts: TBD

Cost or savings to any state agency: TBD

Costs to any local agency or school district that must be reimbursed in accordance with Government Code Section 17561: TBD

Other non-discretionary cost or savings imposed on local educational agencies: TBD  
Cost or savings in federal funding to the state: TBD

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: TBD

Cost impacts on a representative private person or businesses: TBD

Adoption of these regulations will not:

- (1) create or eliminate jobs within California;
  - (2) create new businesses or eliminate existing businesses within California;
- or
- (3) affect the expansion of businesses currently doing business within California.

Significant effect on housing costs: TBD

Effect on small businesses: TBD

### **CONSIDERATION OF ALTERNATIVES**

In accordance with Government Code Section 11346.5(a)(13), the State Board must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the State Board, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The State Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

### **CONTACT PERSONS**

Inquiries concerning the substance of the proposed regulations should be directed to:

Linda Lownes, Consultant  
California Department of Education  
Standards and Assessment Division  
**1430 N STREET, 5<sup>TH</sup> FLOOR**  
Sacramento, CA 95814  
Telephone: (916) 319-0364  
E-mail: [lownes@cde.ca.gov](mailto:lownes@cde.ca.gov)

Requests for a copy of the proposed text of the regulations, the Initial Statement of Reasons, the modified text of the regulations, if any, or other technical information upon which the rulemaking is based or questions on the proposed administrative action may be directed to the Regulations Coordinator, or to the backup contact person, Najia Rosales, at (916) 319-0860.

### **AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS**

The Regulations Coordinator will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at her office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons. A copy may be obtained by contacting the Regulations Coordinator at the above address.

### **AVAILABILITY OF CHANGED OR MODIFIED TEXT**

Following the public hearing and considering all timely and relevant comments received, the State Board may adopt the proposed regulations substantially as described in this notice. If the State Board makes modifications that are sufficiently related to the originally proposed text, the modified text (with changes clearly indicated) will be available to the public for at least 15 days before the State Board adopts the regulations as revised. Requests for copies of any modified regulations should be sent to the attention of the Regulations Coordinator at the address indicated above.

The State Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

### **AVAILABILITY OF THE FINAL STATEMENT OF REASONS**

Upon its completion, a copy of the Final Statement of Reasons may be obtained by contacting the Regulations Coordinator at the above address.

### **AVAILABILITY OF DOCUMENTS ON THE INTERNET**

Copies of the Notice of Proposed Rulemaking, the Initial Statement of Reasons, the text of the regulations in underline and strikeout, and the Final Statement of Reasons, can be accessed through the California Department of Education's Web site at <http://www.cde.ca.gov/re/lr/rr/>.

### **REASONABLE ACCOMMODATION FOR ANY INDIVIDUAL WITH A DISABILITY**

Pursuant to the *Rehabilitation Act of 1973*, the *Americans with Disabilities Act of 1990*, and the *Unruh Civil Rights Act*, any individual with a disability who requires reasonable accommodation to attend or participate in a public hearing on proposed regulations, may request assistance by contacting Linda Lownes, Standards and Assessment Division, 1430 N Street, Sacramento, CA 95814; telephone, (916) 319-0364; fax, (916) 319-0969. It is recommended that assistance be requested at least two weeks prior to the hearing.

1 Title 5. EDUCATION  
2 Division 1. State Department of Education  
3 Chapter 2. Pupils  
4 SUBCHAPTER 3.75. STANDARDIZED TESTING AND REPORTING PROGRAM  
5 ARTICLE 1. GENERAL  
6

7 *Add subsection (h) to Section 850 to read:*

8 **§ 850. Definitions.**

9 For the purposes of the Standardized Testing and Reporting (STAR) Program, the  
10 following terms shall have the following meanings unless the context indicates  
11 otherwise:

12 ~~(a) “Designated achievement test” is the achievement test required by Education~~  
13 ~~Code sSection 60640(b). The designated achievement test includes test booklets, test~~  
14 ~~answer documents, administration manuals, and administrative materials. The~~  
15 ~~designated achievement test is to be administered in the areas of reading, spelling,~~  
16 ~~written expression and mathematics for pupils in grades 2 to 8, inclusive; and in the~~  
17 ~~core curriculum areas of reading, writing, mathematics, history social science and~~  
18 ~~science for pupils in grades 9 to 11, inclusive.~~

19 (b) “Primary language test” includes any test administered pursuant to Education  
20 Code sSection 60640(f) or a test administered pursuant to the requirement of  
21 Education Code sSection 60640(g), as applicable, and includes the test booklets, test  
22 answer documents, administration manuals, administrative materials and practice tests.

23 (c) “School districts” includes elementary, high school, and unified school districts;  
24 county offices of education; and any charter school that for assessment purposes does  
25 not elect to be part of the school district or county office of education that granted the  
26 charter; and any charter school chartered by the State Board of Education.

27 (d) “Eligible pupil”

28 (1) For the designated achievement test and the standards-based achievement  
29 tests, an eligible pupil is any pupil in grades 2 through 11, inclusive, including those  
30 pupils placed in a non-public school through the Individualized Education Program  
31 (IEP) process pursuant to Education Code Section 56365 who is not exempted by

1 parent/guardian request or eligible to take the CAPA.

2 (2) For the CAPA, an eligible pupil is any pupil with a significant cognitive disability  
3 with in grades 2 through 11 and ages 7 through 16 in ungraded programs whose IEP  
4 states that the pupil is to take the CAPA.

5 (3) For the primary language test, an eligible pupil is an English learner with a  
6 primary language for which a test is required or optional.

7 (e) "Department" means the California Department of Education.

8 (f)(1) "Standards-based achievement tests" are those tests that measure the degree  
9 to which pupils are achieving the content standards and performance standards  
10 adopted by the State Board of Education as provided in Education Code §Section  
11 60642.5. The standards-based achievement tests include test booklets, test answer  
12 documents, administration manuals, administrative materials, practice tests and other  
13 materials developed and provided by the contractor of the tests.

14 (2) The term "standards-based achievement test" may refer to one or more of the  
15 individual achievement tests in the subject of core curriculum areas required by  
16 Education Code §Section 60642.5, or all of the standards-based achievement tests  
17 collectively.

18 (g) "Administration Period" means one of multiple test administration periods by  
19 school districts with schools or programs on non-traditional calendars that begin and  
20 complete the school year at various times and have staggered vacation periods, in  
21 order to ensure that all pupils are tested at approximately the same point in the  
22 instructional year.

23 (h) "The California Alternate Performance Assessment" (CAPA) is an individually  
24 administered performance assessment developed to assess students' achievement on  
25 a subset of California's Academic Content Standards. It ~~is~~ shall only be administered to  
26 students with significant cognitive disabilities receiving special education services  
27 whose IEP teams determined that the students are to be assessed with the CAPA. The  
28 CAPA includes administration manuals, administrative materials, and documents on  
29 which the examiner records the student's responses.

30 (i) "Untimed administration" means that pupils may receive as much time as needed  
31 within a single sitting to complete a test or test part.



1 (j) ~~“Out-of-level testing”~~ “Below grade level testing” means administering a test that  
2 is below the grade level of the pupil being tested.

3 (k) “Test examiner” is an employee of a school district or an employee of a non-  
4 public school who has been trained to administer the tests. For the CAPA, the test  
5 examiner must be a certificated or licensed school staff member.

6 (l) “Test proctor” is an employee of a school district, or a person assigned by a  
7 nonpublic school to implement a pupil’s IEP, who has received training designed to  
8 prepare him or her to assist the test examiner in the administration tests within the  
9 STAR program.

10 ~~(+)(m)~~ “Scribe” is an employee of the school district, or a person assigned to a  
11 nonpublic school to implement a pupil’s IEP and is required to transcribe a pupil’s or  
12 ~~adult student’s~~ responses to the format required by the examination test. A family  
13 ~~member~~ student’s parent or guardian is not eligible to be a scribe.

14 ~~(+)(n)~~ “Accommodation” means any variation in the assessment environment or  
15 process that does not fundamentally alter what the test measures or affect the  
16 comparability of scores. Accommodations may include variations in scheduling, setting,  
17 aids, equipment, and presentation format.

18 ~~(+)(o)~~ “Modification” means any variation in the assessment environment or process  
19 that fundamentally alters what the test measures or affects the comparability of scores.

20 ~~(+)(p)~~ “Variation” is a change in the manner in which a test is presented or  
21 administered, or in how a test taker is allowed to respond, and includes, but is not  
22 limited to, accommodations and modifications ~~as defined in Education Code section~~  
23 ~~60850~~.

24 (q) “Grade” means the grade assigned to the pupil by the school district at the time  
25 of testing.

26 NOTE: Authority cited: Sections 33031 and 60605, Education Code. Reference:  
27 Sections 60615, 60640, 60642, and 60642.5, Education Code.

28  
29 **Article 2. Designated Achievement Test, and Standards-Based**  
30 **Achievement Tests,**  
31 **and California Alternate Performance Assessment**

1

2 *Amend Section 851 to read:*

3 **§ 851. Pupil Testing.**

4 (a) School districts shall administer the designated achievement test and standards  
5 based achievement tests or the CAPA to each eligible pupil enrolled in any of grades 2  
6 to 11, inclusive, in a school district on the date testing begins in the pupil's school.

7 (b) School districts shall administer the CAPA, as set forth in the pupil's IEP, to each  
8 eligible pupil in any of grades 2 to 11, inclusive, in a school district during the period  
9 specified by the test contractor. Students in ungraded special education classes shall  
10 be tested, if they are 7 to 16 years of age.

11 (c) School districts shall make whatever arrangements are necessary to test all  
12 eligible pupils in alternative education programs or programs conducted off campus,  
13 including, but not limited to, continuation schools, independent study, community day  
14 schools, or county community schools.

15 (d) School districts may administer the designated achievement test to pupils  
16 enrolled in kindergarten or grade 1 or 12, but those pupils shall not be counted for the  
17 apportionment pursuant to Education Code ~~s~~Section 60640(h).

18 (e) No test may be administered in a ~~private home or location~~ hospital unless the  
19 test is administered by either a certificated employee of the school district or an  
20 employee of a nonpublic school pursuant to Education Code ~~s~~Section 56365 who holds  
21 a credential and the employee signs a security affidavit. No test shall be administered  
22 to a pupil by the parent or guardian of that pupil. This subdivision does not prevent  
23 classroom aides from assisting in the administration of the test under the supervision of  
24 a credentialed school district employee provided that the classroom aide does not  
25 assist his or her own child and that the classroom aide signs a security affidavit.

26 NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code.

27 Reference: Section 60640, Education Code.

28

29 *Amend Section 852 to read:*

30 **§ 852. Pupil Exemptions.**

31 (~~a~~) A parent or guardian may submit to the school a written request to excuse his or

1 her child from any or all parts of any test provided pursuant to Education Code ~~s~~Section  
2 60640. A school district and its employees may discuss the Standardized Testing and  
3 Reporting Program with parents and may inform parents of the availability of  
4 exemptions under Education Code ~~s~~Section 60615. However, the school district and its  
5 employees shall not solicit or encourage any written exemption request on behalf of  
6 any child or group of children.

7 ~~(b) Pupils in special education programs shall be tested with the designated~~  
8 ~~achievement test and the standards-based achievement tests unless the individualized~~  
9 ~~educational program for the pupil specifically states that the pupil will be assessed with~~  
10 ~~the California Alternate Performance Assessment or (CAPA).~~

11 NOTE: Authority cited: Sections 33031 and 60605, Education Code. Reference:  
12 Sections 60615 and 60640, Education Code.

13  
14 *Amend Section 853 to read:*

15 **§ 853. Administration.**

16 (a) The designated achievement test shall be administered and returned by school  
17 districts in accordance with the manuals or other instructions provided by the contractor  
18 for administering and returning the tests unless specifically provided otherwise in this  
19 subchapter including instructions for administering the test with variations,  
20 accommodations, and modifications. The procedures shall include, but are not limited  
21 to, those designated to insure the uniform and standard administration of the tests to  
22 pupils, the security and integrity of the test content and test items, and the timely  
23 provision of all required student and school level information.

24 (b) The standards-based achievement tests and the California Alternate  
25 Performance Assessment (CAPA) shall be administered and returned by school  
26 districts in accordance with the manuals and other instructions provided by the  
27 contractor, and in accordance with testing variations, accommodations, and  
28 modifications specified in Section 853.5. The procedures shall include, but are not  
29 limited to, those designed to insure the uniform and standard administration of the tests  
30 to pupils, the security and integrity of the test content and test items, and the timely  
31 provision of all required student and school level information, The procedures shall not

1 include criteria for who should be assessed by the CAPA.

2 (c) For the ~~2003-04~~ 2004-05 school year ~~only~~, pupils with IEPs specifying below  
3 grade level testing in grades ~~5~~ 4 through 11 may be tested one or two grades below  
4 their enrollment grade. Pupils with IEPs specifying below grade level testing in grade 3  
5 may be tested one grade level below their enrollment grade. The test level must be  
6 specified in the ~~student's~~ pupil's IEP. ~~Out-of-level~~ Below grade level testing shall be  
7 used only if the ~~student~~ pupil is not receiving grade-level ~~instruction~~ curriculum as  
8 specified by the California academic content standards, and is so indicated on the IEP.  
9 ~~Students~~ Pupils tested ~~out-of-level~~ below grade level must complete all tests required  
10 for the grade at which they are tested and shall be administered ~~only one level of the~~  
11 tests the test for only one grade level. ~~Out-of-level testing is not allowed for pupils in~~  
12 ~~grades 2, 3, and 4. No out-of-level testing shall be allowed at any grade beginning with~~  
13 ~~the 2004-05 school year.~~

14 NOTE: Authority cited: Sections 12001, 33031 and 60605, Education Code. Reference:  
15 Section 60640, Education Code; and 20 USC Section 6311.

16

17 *Amend Section 853.5 to read:*

18 **§ 853.5 Use of Variations, Accommodations, and Modifications for the Standards-**  
19 **Based Achievement Test and the California Alternate Performance Assessment.**

20 (a) School districts may provide all pupils the following testing variations if regularly  
21 used in the classroom:

22 (1) test directions that are simplified ~~or clarified.~~

23 (2) special or adaptive furniture.

24 (3) special lighting, ~~or acoustics,~~ visual magnifying, or audio amplification  
25 equipment.

26 (4) an individual carrel or study enclosure.

27 (5) test individually in a separate room provided that an employee of the school,  
28 district, or non-public school, who has signed the STAR Test Security Affidavit, directly  
29 supervises the pupil.

30 (6) ~~markers,~~ colored overlay, masks, or other means to maintain visual attention to  
31 the ~~examination~~ test or test ~~items~~ questions.

1 (7) grade two or three standards-based achievement tests underlining or marking  
2 information or math problems in the test booklet and having a school, school district, or  
3 non-public school employee who has signed the Test Security Affidavit transfer the  
4 answers to a new test booklet.

5 ~~(4)~~(8) use of ~~m~~Manually eCoded English or American sign language to present  
6 directions for administration.

7 (b) Eligible pupils with disabilities who have IEPs and students with Section 504  
8 plans shall be permitted ~~to take the standards-based achievement tests with the~~  
9 following presentation, response or setting accommodations if specified in the IEP or  
10 Section 504 plan:

11 (1) large print versions.

12 (2) test items enlarged ~~through electronic means (e.g., photocopier)~~ if font larger than  
13 that used on large print versions is required.

14 (3) Braille transcriptions provided by the test contractor.

15 (4) for grade two or three designated achievement test underlining or marking  
16 information or working math problems in addition to marking question answers in test  
17 booklets and having a school, school district, or non-public school employee who has  
18 signed the Test Security Affidavit transfer the answers to a new test booklet.

19 (5) audio or oral presentation of the mathematics; science, or history-social science  
20 tests.

21 (6) use of manually coded English or American sign language to present test questions  
22 on the mathematics, science, or history-social science tests.

23 (7) responses marked in test booklet and transferred to the answer document by a  
24 school, ~~or~~ school district, or non-public employee who has signed the Test Security  
25 Affidavit.

26 (8) responses dictated to a scribe for selected-response items (e.g., multiple-choice  
27 test questions).

28 (9) responses dictated to a scribe, audio recorder or speech to text converter on the  
29 grade 4 or grade 7 writing application standards section of the California English-  
30 Language Arts Standards Test, and the pupil indicates all spelling and language  
31 conventions.

1 (10) use of word processing software with spell and grammar check tools turned off  
2 on the writing portion of the grade 4 or 7 test.

3 (11) use of an assistive device that does not interfere with the independent work of  
4 the student on the multiple-choice or writing portion of the test.

5 (12) supervised breaks within a section of the test.

6 (13) administration of the test at the most beneficial time of day to the pupil.

7 (14) test administered by certificated teacher to a pupil ~~or adult student~~ at home or  
8 in the hospital.

9 (c) Eligible pupils with disabilities shall be permitted to take the standards-based  
10 tests with the following modifications if specified in the eligible pupil's IEP or a 504  
11 Plan:

12 (1) calculators, arithmetic tables, or mathematics manipulatives on the mathematics  
13 or science tests.

14 (2) audio or oral presentation of the English-language arts tests.

15 (3) ~~use of m~~Manually eCoded or American sign language to present test questions  
16 on the English-language arts tests.

17 (4) spellcheckers, grammar checkers, or word processing software programs that  
18 check or correct spelling and/or grammar on the writing portion of the ~~grade 4 and 7~~  
19 English-language arts tests.

20 (5) mechanical or electronic devices or other assistive devices that are not used  
21 solely to record the pupil's responses, including but not limited to transcribers, scribes,  
22 voice recognition or voice to text software, and that identify a potential error in the  
23 pupil's response or that correct spelling, grammar or conventions on the writing portion  
24 of the ~~grade 4 and 7~~ English-language arts tests.

25 (6) ~~use of~~ American sign language to provide a response to the written portion of  
26 the ~~grade 4 and 7~~ English-language arts tests.

27 (7) ~~English dictionary on the English-language arts test.~~

28 (8) ~~mathematics dictionary on the mathematics section of the examination.~~

29 (d) School districts shall provide identified English learner pupils the following ~~additional~~  
30 testing variations if regularly used in the classroom or for assessment:

31 (1) Flexible setting. Tested in a separate room with other English learners provided that

1 an employee of the school, district, or non-public school, who has signed the Test Security  
2 Affidavit, directly supervises the pupil ~~and the pupil has been provided such a flexible~~  
3 ~~setting.~~

4 (2) Flexible schedule. Additional supervised breaks following each section within a test  
5 part provided that the test section is completed within a testing day. A test section is  
6 identified by a "STOP" at the end of it.

7 (3) Translated directions. Hear ~~any~~ the test directions ~~the test examiner is to read aloud~~  
8 printed in the test contractor's manual translated into their primary language. English  
9 learners shall have the opportunity to ask clarifying questions about any test directions  
10 presented orally in their primary language.

11 (4) Glossaries. Access to translation glossaries/word lists for the standards-based  
12 achievement tests in mathematics, science, and history-social science ~~if used regularly~~  
13 ~~in the classroom~~ (English to primary language). The translation glossaries/word lists  
14 are to include only the English word or phrase with the corresponding primary language  
15 word or phrase. The glossaries/word lists shall include no definitions or formulas.

16 NOTE: Authority cited: Sections 12001, 33031 and 60605, Education Code. Reference:  
17 Section 60640, Education Code; 20 USC Section 6311.

18

19 *Amend Section 854 to read:*

20 **§ 854. Advance Preparation for the Test.**

21 (a) Except for materials specifically ~~included within the designated achievement or~~  
22 ~~standards-based tests~~ provided by the California Department of Education, no program  
23 or materials shall be used by any school district or employee of a school district that are  
24 specifically formulated or intended to prepare pupils for the designated achievement  
25 tests or standards-based achievement tests. No administration or use of an alternate or  
26 parallel form of the designated achievement test ~~for any stated purpose~~ shall be  
27 ~~permitted~~ used as practice for any pupils in grades 2 through 11, inclusive.

28 (b) Practice tests provided by the ~~publisher~~ contractor as part of the ~~designated~~  
29 ~~achievement test~~ standards-based achievement tests for the limited purpose of  
30 familiarizing pupils with the use of scannable test booklets or answer sheets and the  
31 format of test items are not subject to the prohibition of Subdivision (a).

1 NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code.

2 Reference: Sections 60611 and 60640, Education Code.

3

4 *Amend Section 855 to read:*

5 **§ 855. Testing Period.**

6 (a) The designated achievement test and the standards-based achievement tests,  
7 except for the STAR writing assessment as specified in subdivision (c) shall be  
8 administered to each pupil during a testing window of twenty-one (21) instructional  
9 days that includes ten (10) instructional days before and after completion of 85% of the  
10 school's, track's or program's instructional days. Testing for all pupils, including  
11 makeup testing, is to be completed within this twenty-one day instruction day window  
12 unless all or part of the twenty-one instructional day period falls after any statutorily  
13 specified deadline.

14 (b) Each school district shall provide for at least two (2) makeup days of testing for  
15 pupils who are absent during the period in which any school administered the  
16 designated achievement test and the standards-based achievement tests. All makeup  
17 testing shall occur within five (5) instructional days of the last date that the school  
18 district administered the tests but not later than the end of the twenty-one instructional  
19 day period established in subdivision (a).

20 (c) The STAR writing assessment shall be administered to each eligible pupil only  
21 on the day(s) specified annually by the Superintendent of Public Instruction. An eligible  
22 pupil for purposes of the writing assessment is a pupil taking the standards-based  
23 achievement tests for enrolled in a grade at which the writing test will be administered.

24 NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code.

25 Reference: Sections 60640 and 60642.5, Education Code.

26

27 *Amend Section 857 to read:*

28 **§ 857. STAR Program District Coordinator.**

29 (a) On or before ~~November 15, 1999 and October 15~~ September 30 of each  
30 ~~subsequent~~ school year, the superintendent of each school district shall designate from  
31 among the employees of the school district a STAR program district coordinator. The



1 STAR program district coordinator, or the school district superintendent or his or her  
2 designee, shall be available through August 15 of the following year to complete school  
3 district testing. The school district shall notify the ~~publisher~~ contractor of the identity and  
4 contact information, including electronic mail address, if available in the school district,  
5 for the STAR program district coordinator and for the superintendent and his or her  
6 designee, if any. The STAR program district coordinator shall serve as the school  
7 district representative and the liaison between the school district and the ~~test publisher~~  
8 contractor and the school district and the Department for all matters related to the  
9 STAR Program.

10 (b) The STAR program district coordinator's responsibilities shall include, but not be  
11 limited to, all of the following duties:

12 (1) Responding to correspondence and inquiries from the ~~publisher~~ contractor and  
13 from the Department in a timely manner and as provided in the ~~publisher's~~ contractor's  
14 instructions and these regulations.

15 (2) Determining school district and individual school test and test material needs in  
16 conjunction with schools within the district and the test publisher contractor, using  
17 ~~California Basic Education Data System (CBEDS)~~ and current enrollment data and  
18 communicating school district test ~~and test~~ material needs to the ~~publisher~~ contractor  
19 on or before December 1.

20 (3) ~~Overseeing the acquisition and distribution of tests and test materials to~~  
21 ~~individual schools and test sites.~~ Ensuring delivery of tests and test materials to the test  
22 sites no more than ten (10) or fewer than five (5) working days before the first day of  
23 testing designated by the district.

24 (4) Coordinating the testing and makeup testing days for the school district and  
25 nonpublic schools within any required time periods with the school test site  
26 coordinators. Overseeing the collection of all pupil data as required to comply with  
27 Section 861.

28 (5) Maintaining security over the designated achievement test, ~~and~~ the standards-  
29 based achievement tests, the California Alternate Performance Assessment and test  
30 data using the procedure set forth in Section 859. The STAR program district  
31 coordinator shall sign the security agreement set forth in Section 859 prior to receipt of

1 the test materials.

2 (6) Overseeing the administration of the designated achievement test, and the  
3 standards-based achievement tests, and the California Alternate Performance  
4 Assessment to eligible pupils.

5 (7) Overseeing the collection and return of all test materials and test data to the  
6 publisher contractor within any required time periods.

7 (8) Assisting the test publisher contractor and the Department in the resolution of  
8 any discrepancies in the test information and materials, including but not limited to, pre-  
9 identification files and all pupil level data required to comply with Sections 861 and 862.

10 (9) Immediately notifying the Department of any security breaches or testing  
11 irregularities in the district before, during, or after the test administration.

12 (11) Ensuring that an answer document is submitted for scoring for each eligible  
13 pupil enrolled in the district on the first day of testing.

14 ~~(c) Within five (5) working days of completed school district testing, the school~~  
15 ~~district superintendent and the STAR program district coordinator shall certify the~~  
16 ~~following information with respect to the designated achievement test and the~~  
17 ~~standards-based achievement tests to the Department: that the school district has~~  
18 ~~maintained the security and integrity of the designated achievement test and the~~  
19 ~~standards-based achievement tests; collected all data and information as required by~~  
20 ~~Sections 861 and 862; returned to the test publisher all test materials, answer~~  
21 ~~documents, and other materials included as part of the designated achievement test~~  
22 ~~and the standards-based achievement tests in the manner and as otherwise required~~  
23 ~~by the test publisher; and assisted the test publisher in the resolution of any~~  
24 ~~discrepancies in the test or test materials as required by Section 868.~~

25 ~~(d)~~(12) Within five (5) working days of After receiving summary reports and files  
26 from the publisher contractor, the school district STAR coordinator shall review the files  
27 and reports for completeness and accuracy, and shall notify the publisher contractor  
28 and the Department of its findings. ~~The school district shall notify the Department in~~  
29 ~~writing whether any errors, discrepancies, or incomplete information have been~~  
30 ~~resolved.~~

31 (13) Training test site coordinators to oversee the test administration at each school.  
32

1 NOTE: Authority cited: Sections 33031 and 60605~~(g) and (h)~~, Education Code.

2 Reference: Sections 60630 and 60640, Education Code.

3

4 *Amend Section 858 to read:*

5 **§ 858. STAR Test Site Coordinator.**

6 (a) At each test site, including but not limited to, each elementary, middle, and high  
7 school or other grade-span designated school, each charter school, each court-school,  
8 each school or program operated by a school district, and all other public programs  
9 serving pupils in any of the grades 2 to 11, inclusive, the superintendent of the school  
10 district or the district STAR coordinator shall designate a STAR test site coordinator  
11 from among the employees of the school district. The STAR test site coordinator, or the  
12 site principal or his or her designee, shall be available to the STAR program district  
13 coordinator by telephone through August 15 for purposes of resolving discrepancies or  
14 inconsistencies in materials or errors in reports.

15 (b) The STAR test site coordinator's responsibilities shall include, but are not limited  
16 to, all of the following duties:

17 (1) Determining site test and test material needs and communicating the site needs  
18 to the STAR program district coordinator.

19 (2) Overseeing the acquisition and distribution of tests and test materials at the test  
20 site.

21 (3) Cooperating with the STAR program district coordinator to provide the testing  
22 and makeup testing days for the site within any required time periods.

23 (4) Maintaining security over the designated achievement test, ~~and the standards-~~  
24 based achievement tests, the California Alternate Performance Assessment and test  
25 data. The STAR test site coordinator shall sign the security agreement set forth in  
26 Section 859 prior to the receipt of the test materials.

27 (5) Arranging for and O~~verseeing~~ the administration of the designated  
28 achievement test, ~~and the standards-based achievement tests, and the California~~  
29 Alternate Performance Assessment to eligible pupils at the test site.

30 (6) Overseeing the collection and return of all testing materials to the STAR  
31 program district coordinator.

1 (7) Assisting the STAR program district coordinator, the ~~test publisher~~ contractor,  
2 and the Department in the resolution of any discrepancies in the test information and  
3 materials.

4 (8) Overseeing the collection of all pupil level and other data required to comply with  
5 Sections 861 and 862.

6 (9) Ensuring that an answer document is submitted for scoring for each eligible pupil  
7 enrolled in the school on the first day of testing.

8 ~~(10)~~(9) Ensuring that for each pupil tested only one scannable answer document is  
9 submitted for scoring, except for each pupil tested at grades 4 or grade 7, for which the  
10 contractor has designated the use of more than one answer document. An answer  
11 document for the STAR writing assessment administered pursuant to Section 855(c)  
12 shall be submitted in addition to the answer document for the multiple choice items.

13 (11) Immediately notifying the STAR program district coordinator of any security  
14 breaches or testing irregularities that occur in the administration of the designated  
15 achievement test, the standards-based achievement tests, or the California Alternate  
16 Performance Assessment that violate the terms of the STAR Security Affidavit in  
17 Section 859.

18 (12) Training all test examiners, proctors, and scribes for administering the tests.

19 ~~(c) Within three (3) working days of complete site testing, the principal and the~~  
20 ~~STAR test site coordinator shall certify to the STAR program district coordinator that~~  
21 ~~the test site has maintained the security and integrity of the designated achievement~~  
22 ~~test and the standards-based achievement tests, collected all data and information as~~  
23 ~~required, and returned all test materials, answer documents, and other materials~~  
24 ~~included as part of the designated achievement test in the manner and as otherwise~~  
25 ~~required by the STAR program district coordinator.~~

26 NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code.

27 Reference: Sections 60630 and 60640, Education Code.

28  
29 *Amend Section 859 to read:*

30 **§ 859. STAR Test Security Agreement and Test Security Affidavit.**

31 (a) All STAR program district and test site coordinators (coordinators) shall sign the

1 STAR Test Security Agreement set forth in Subdivision (b) before receiving any STAR  
2 program tests or test materials.

3 (b) The STAR Test Security Agreement shall be as follows:

4 STAR TEST SECURITY AGREEMENT

5 ~~The coordinator~~ I acknowledges by ~~his or her~~ my signature on this form that the  
6 designated achievement test, ~~and the standards-based achievement tests,~~ and the  
7 California Alternate Performance Assessment are secure tests and agrees to each of  
8 the following conditions to ensure test security.

9 (1) ~~The coordinator~~ I will take all necessary precautions to safeguard all tests and  
10 test materials by limiting access to persons within the school district with a responsible,  
11 professional interest in the ~~test's~~ tests' security.

12 (2) ~~The coordinator~~ I will keep on file the names of all persons having access to  
13 tests and test materials. All persons having access to the materials shall be required by  
14 the coordinator to sign the STAR Test Security Affidavit that will be kept on file in the  
15 school district office.

16 (3) ~~The coordinator~~ I will keep the designated achievement test and the standards-  
17 based achievement tests and test materials in a secure, locked location limiting access  
18 to only those persons ~~responsible for test security~~ who have executed STAR Test  
19 Security Affidavits, except on actual testing dates as provided in California Code of  
20 Regulations, Title 5, Division 1, Chapter 2, Subchapter 3.75.

21 (4) I will keep the CAPA materials in a secure locked location when not being used  
22 by examiners to prepare for and to administer the assessment. I will adhere to the  
23 contractor's directions for the distribution of the assessment materials to examiners.

24 ~~(5)~~(4) The coordinator will not copy any part of the ~~tests~~ or test materials without  
25 written permission from the Department to do so.

26 (6) I will not disclose, or allow to be disclosed, the contents of, or the test  
27 instrument. I will not review any test questions, passages, or other test items with any  
28 other person before, during, or after the test administration.

29 ~~(7)~~(5) The coordinator ~~will~~ shall not review test questions, develop any scoring keys  
30 or review or score any pupil responses except as required by the contractor's manuals.

31 By signing my name to this document, I am assuring that I ~~and anyone having~~

1 ~~access to the test materials~~ will abide by the above conditions.

2 By: \_\_\_\_\_

3 Title: \_\_\_\_\_

4 School District: \_\_\_\_\_

5 Date: \_\_\_\_\_

6 (c) Each STAR test site coordinator shall deliver the designated achievement test  
7 and the standards-based achievement tests and test materials only to ~~those persons~~  
8 ~~actually administering the designated achievement test and the standards-based~~  
9 ~~achievement tests~~ test examiners who have been trained to administer the tests and  
10 who have signed the STAR Test Security Affidavit set forth in Subdivision (f) on the  
11 date each day of testing to persons trained to administer the test who have executed  
12 the STAR Test Security Affidavit set forth in Subdivision (e).

13 (d) Each STAR test site coordinator shall deliver the California Alternate  
14 Performance Assessment (CAPA) materials only to test examiners. The coordinator  
15 shall adhere to the contractor's directions for the distribution of the assessment  
16 materials to test examiners.

17 (e)(d) All test examiners, proctors, scribes, and any other persons having access to  
18 the designated achievement test and test materials, and to the standards-based  
19 achievement tests and test materials, and the CAPA materials shall acknowledge the  
20 limited purpose of their access to the tests by signing the STAR Test Security Affidavit  
21 set forth in Subdivision (f).

22 (f)(e)The STAR Test Security Affidavit shall be as follows:

23 STAR TEST SECURITY AFFIDAVIT

24 I acknowledge that I will have access to the designated achievement test and to the  
25 standards-based achievement tests for the purpose of administering the test(s). I  
26 understand that these materials are highly secure, and it is my professional  
27 responsibility to protect their security as follows:

28 (1) I will not divulge the contents of the tests to any other person through verbal,  
29 written, or any other means of communication.

30 (2) I will not copy any part of the test(s) or test materials.

31 (3) I will keep the test(s) secure until the test(s) are actually distributed to pupils.

1 (4) I will limit access to the test(s) and test materials by test examinees to the actual  
2 testing periods when they are taking the test(s).

3 (5) I will collect and account for all materials following each period of testing and will  
4 not permit pupils to remove test materials from the room where testing takes place.

5 (6) ~~I will not disclose, or allow to be disclosed, the contents of, or the test~~  
6 ~~instrument.~~ I will not review any test questions, passages, or other test items with pupils  
7 or any other person before, during, or following testing.

8 (7) I will not develop scoring keys or review or score any pupil responses except as  
9 required by the ~~publisher's~~ contractor's administration manual(s) to prepare answer  
10 documents for machine or other scoring.

11 (8) I will return all test materials to the designated STAR test site coordinator daily  
12 upon completion of testing.

13 (9) I will administer the test(s) in accordance with the directions for test  
14 administration set forth in the ~~publisher's~~ contractor's manual for test administration.

15 (10) I have been trained to administer the tests.

16 Signed: \_\_\_\_\_

17 Print Name: \_\_\_\_\_

18 Position: \_\_\_\_\_

19 School: \_\_\_\_\_

20 School District: \_\_\_\_\_

21 Date: \_\_\_\_\_

22 \_\_\_\_\_

23 (g)(f) To maintain the security of the Program, all STAR program district  
24 coordinators and test site coordinators are responsible for inventory control and shall  
25 use appropriate inventory control forms to monitor and track test inventory.

26 *Section 861 to read:*

27 **§ 861. School-By-School Analysis**

28 (a) Each school district shall provide the ~~publisher~~ contractor ~~of~~ for the designated  
29 achievement test and the standards-based achievement tests or CAPA, the following  
30 information for each pupil ~~tested~~ enrolled on the first day the tests are administered for  
31 purposes of the reporting required by the Academic Performance Index of the Public

1 Schools Accountability Act (Chapter 6.1, commencing with Section 52050), Section  
2 60630, and Chapter 5 (commencing with Section 60640) of the Education Code:

3 (1) Pupil's full name.

4 (2)(4) Date of birth.

5 (3)(2) Grade level.

6 (4)(3) Gender.

7 (5)(4) language fluency English proficiency and home primary language.

8 (6) Date of English proficiency reclassification.

9 (7) If R-FEP pupil scored proficient or above on the California English-Language  
10 Arts Standards Test three (3) times since reclassification.

11 (8)(5) Special pProgram participation.

12 (9)(6) Use of Testing adaptations or accommodations, or modifications.

13 (10) California School Information Services (CSIS) Student Number once assigned.

14 (11)(7) Parent education level.

15 (12)(8) Amount of time in the school and school district.

16 (13) For English learners, length of time in California public schools and in school in  
17 the United States.

18 (14) Participation in the National School Lunch Program.

19 (15)(9) Ethnicity.

20 (16)(10) Handicapping condition or disability.

21 (17) County and District of residence for students with disabilities.

22 (18) Special testing conditions and/or reasons for not being tested.

23 (b) The information is for the purposes of aggregate analyses only and shall be  
24 provided and collected as part of the testing materials for the designated achievement  
25 test, the standards-based achievement tests, and the California Alternate Performance  
26 Assessment.

27 (c) School districts shall provide the same information for each eligible pupil enrolled  
28 in an alternative or off campus program or for pupils placed in nonpublic schools as is  
29 provided for all other eligible pupils in grades 2 to 11, inclusive.

30 (d) If the information required by section 861(a) is incorrect, the school district may  
31 enter into a separate agreement with the contractor to have the district's student data



1 file corrected. The district STAR coordinator shall provide the correct information to the  
2 contractor within the contractor's timeline. Any costs for correcting the student data  
3 shall be the district's responsibility.

4 NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code.  
5 Reference: Section 60630, Education Code.

6  
7 *Amend Section 862 to read:*

8 **§ 862. Apportionment.**

9 ~~(a) Each school district shall report to the Department all of the following information~~  
10 relevant to Annually, each school district shall receive an apportionment information  
11 report with the following information for the designated achievement test, ~~and the~~  
12 standards-based achievement tests, and the CAPA by grade level for each of grades 2  
13 to 11, inclusive:

14 (1) The number of pupils enrolled in each school and in the school district on the  
15 first day of testing ~~in the school district~~ as indicated by the number of answer  
16 documents submitted to the test contractor for scoring.

17 (2) The number of pupils with significant cognitive disabilities in each school and in  
18 the school district ~~exempted from testing pursuant to Education Code section 60640(e)~~  
19 tested with the California Alternate Performance Assessment (CAPA).

20 (3) The number of pupils in each school and in the school district exempted from  
21 testing at the request of their parents or guardians pursuant to Education Code  
22 ~~s~~Section 60615.

23 (4) The number of pupils ~~to whom~~ who were administered any portion of the  
24 designated achievement test was administered and standards-based achievement  
25 tests.

26 (5) The number of pupils with demographic information only who were not tested for  
27 any reason other than because of a parent/guardian exemption.

28 (b) The department shall distribute the reports to districts no later than November 15  
29 following each testing cycle.

30 ~~(b)(1) The superintendent of each school district shall certify the accuracy of all~~  
31 ~~information submitted. The report required by Subdivision (a) shall be filed with the~~

1 State Superintendent of Public Instruction within ten (10) working days of the last day of  
2 makeup testing in the school district.

3 ~~(2) School districts with an average daily attendance greater than 100,000 may~~  
4 ~~certify the accuracy and submit the information required by Subdivision (a) within fifteen~~  
5 ~~(15) working days of the last day of makeup testing in the school district. The school~~  
6 ~~district may submit a request to the Department to obtain approval of the State Board~~  
7 ~~of Education for an extension of ten (10) additional working days if the fifteen (15)~~  
8 ~~working day requirement presents an undue hardship.~~

9 (c) To be eligible for apportionment payment school districts must meet the  
10 following condition:

11 (1) The superintendent of each school district has certified the accuracy of the  
12 apportionment information report for examinations administered during the calendar  
13 year (January 1 through December 31), which is either:

14 (A) postmarked by December 31, or

15 (B) if postmarked after December 31, the apportionment information report must be  
16 accompanied by a waiver request as provided by Education Code Section 33050. For  
17 those apportionment information reports postmarked after December 31,  
18 apportionment payment is contingent upon the availability of an appropriation for this  
19 purpose in the fiscal year in which the testing window began.

20 NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code.

21 Reference: Sections 60615 and 60640, Education Code.

22  
23 *Amend Section 863 to read:*

24 **§ 863. STAR Student Parent Reports and Cumulative Record Labels.**

25 (a) The school district shall forward the STAR Student Report provided by the  
26 contractor, in writing, the results of to each pupil's test to the pupil's parent or guardian,  
27 within not more than twenty (20) working days from receipt of the report test results  
28 from the publisher contractor.

29 (b) If the school district receives these reports for the designated achievement test  
30 and standards-based tests from the test publisher contractor after the last day of  
31 instruction for the school year, the school district shall send the pupil results to the

1 parent or guardian by U.S. mail at the parent's or guardian's last known address. If the  
2 report is non-deliverable, the school district shall make the report available to the  
3 parent or guardian during the next school year.

4 (c) Schools are responsible for affixing cumulative record labels reporting each  
5 pupil's scores to pupils' permanent school records, for entering the scores into  
6 electronic student records, and for forwarding the results to schools to which pupils  
7 matriculate or transfer. Schools may annotate the scores when the scores may not  
8 accurately reflect students' achievement due to illness or testing irregularities.

9 NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code.

10 Reference: Section 60641, Education Code.

11  
12 *Amend Section 864 to read:*

13 **§ 864. Reporting Test Scores.**

14 No aggregate or group scores or reports that are compiled pursuant to Education  
15 Code section 60641 or 60643 shall be reported electronically, in hard copy, or in other  
16 media, to any audience other than the school or school district where the pupils were  
17 tested, if the aggregate or group scores or reports ~~is~~ are composed of ten (10) or fewer  
18 individual pupil scores. In each instance in which no score is reported for this reason,  
19 the notation shall appear "The number of pupils in this category is too small for  
20 statistical accuracy or privacy protection." In no case shall any group score be reported  
21 that would deliberately or inadvertently make public the score or performance of any  
22 individual pupil.

23  
24 *Amend Section 864.5. to read:*

25 **§ 864.5. Test Order Information.**

26 (a) The school district shall provide to the ~~publisher~~ contractor, no later than  
27 December 1 of the year immediately prior to the year of test administration, the  
28 following data for each test site of the school district, by grade level:

29 ~~(1) CBEDS enrollment~~

30 ~~(2) Current enrollment~~

31 (1) Number of students to be tested

1       (2)(3) Valid county district school (CDS) codes

2       (3)(4) Number of tests without adaptation

3       (4)(5) Numbers of special version tests with adaptations by type of adaptation

4 including but not limited to Braille and large print.

5       (5)(6) Number of directions for administration needed, by grade level.

6       (6)(7) First date of testing in the school district, including the dates for each ~~testing~~

7 ~~wave~~ test administration period, if applicable.

8       (7)(8) ~~Date or dates on which delivery of materials to the school district is~~

9 ~~requested.~~

10       (b) Each school district that elects pre-identification of answer documents shall  
11 ~~provide to the publisher no fewer than 45 days prior to the first date of testing in the~~  
12 ~~school district,~~ submit an electronic file that includes all of the information required in  
13 Section 861. The file must be submitted in accordance with the timeline, format, and  
14 instructions provided by the contractor.

15       (c) If the testing materials are lost or destroyed while in the possession of the school  
16 district, and the ~~publisher~~ contractor provides the school district with replacement  
17 materials, the school district is responsible for the cost of all replacement materials.

18       (d) If the school district places an order for tests for any school that is excessive, the  
19 school district is responsible for the cost of materials for the difference between the  
20 sum of the number of pupil tests ~~scored,~~ ~~the number of parent requests pursuant to~~  
21 ~~Education Code section 60615,~~ ~~and the number of individualized education program~~  
22 ~~exemptions pursuant to Education Code section 60640(e)~~ submitted for scoring  
23 including tests for non-tested pupils and 90 percent of the tests ordered. In no event  
24 shall the cost to the school district for replacement or excessive materials exceed the  
25 amount per test booklet and accompanying material that is paid to the ~~publisher~~  
26 contractor by the Department as part of the contract ~~with the publisher~~ for the current  
27 year.

28 NOTE: Authority cited: Sections 33031 and 60605(~~g~~) and (~~h~~), Education Code.

29 Reference: Sections 60640 and 60643, Education Code.

30

31 *Amend Section 865 to read:*

1 **§ 865. Transportation.**

2 (a) Upon arrival of the test materials at a single location designated by each school  
3 district, the school district's STAR program district coordinator shall provide the  
4 ~~publisher~~ contractor with a signed receipt certifying that all cartons were received.

5 (b) The security of the test materials that have been duly delivered to the school  
6 district is the sole responsibility of the school district until all test materials have been  
7 inventoried, accounted for, and delivered to the common or private carrier designated  
8 by the ~~publisher~~ contractor for return to the contractor.

9 (c) Secure transportation within a school district is the responsibility of the school  
10 district once materials have been duly delivered to the school district. The school  
11 district is responsible for secure delivery of test materials to non-public schools to which  
12 district students with disabilities are assigned.

13 NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code.

14 Reference: Section 60640, Education Code.

15

16 *Amend Section 866 to read:*

17 **§ 866. School District Delivery.**

18 (a) No school district shall receive its multiple-choice test materials more than  
19 ~~twenty-five (25)~~ twenty (20) or fewer than ten (10) ~~calendar~~ working days prior to the  
20 first day of testing in the school district. A school district that has not received multiple-  
21 choice test materials from the ~~test publisher~~ contractor at least ten (10) ~~calendar~~  
22 working days before the first date of testing in the school district shall notify the  
23 ~~publisher~~ contractor and the Department on the tenth working day before testing is  
24 scheduled to begin that the school district has not received its materials. Deliveries of  
25 multiple-choice test materials to single school districts shall use the schedule in Section  
26 867.

27 ~~(b) School districts shall return all designated achievement tests and standards-~~  
28 ~~based achievement tests and test materials to the publisher within five (5) working days~~  
29 ~~of the last test date in the school district, including makeup testing days or six (6) days~~  
30 ~~after any statutory deadline, whichever date is earlier.~~

31 ~~(b)(c)~~ A school district and the ~~publisher~~ contractor ~~may~~ shall establish a periodic

1 delivery and retrieval schedule to accommodate ~~wave test administration dates~~ test  
2 administration periods within the school district. Any schedule established must  
3 conform to Sections 866(a) and (b) for each test administration period.

4 (c) No school district shall receive its writing test materials more than ten (10) or  
5 fewer than five (5) working days before the day on which the writing tests are to be  
6 administered.

7 NOTE: Authority cited: Sections 33031 and 60605~~(g) and (h)~~, Education Code.

8 Reference: Sections 60640 and 60643, Education Code.

9 *Amend Section 867 to read:*

10 **§ 867. Test Site Delivery and Return.**

11 (a) No school or other test site shall receive any multiple-choice test or related test  
12 materials more than ten (10) ~~working days~~ nor fewer than five (5) working days prior to  
13 the first day of testing scheduled at the school or test site.

14 ~~(b) Upon completion of a testing wave at a site, including makeup testing, all tests~~  
15 ~~and test materials shall be returned to the school district location designated by the~~  
16 ~~STAR program district coordinator.~~

17 (b) All multiple-choice testing materials shall be returned to the school district  
18 location designated by the STAR program district coordinator no more than two (2)  
19 working days after testing is completed for each test administration period.

20 ~~(c) Designated achievement tests and standards-based achievement tests and test~~  
21 ~~materials shall not be retained at the test site for more than two (2) working days after~~  
22 ~~the last day of test administration including makeup testing days or after any statutory~~  
23 ~~deadline, whichever is earlier. No school or other test site shall receive any writing test~~  
24 materials more than six (6) or fewer than two (2) working days before the test  
25 administration date.

26 (d) Writing test materials shall be returned to the district STAR program coordinator  
27 no more than one day after the day scheduled for makeup testing.

28  
29 *Amend Section 867.5 to read:*

30 **§ 867.5. Retrieval of Materials by Publisher Contractor.**

31 (a) The school district shall ensure that multiple-choice testing materials are

1 inventoried, packaged, and labeled in accordance with instructions from the ~~publisher~~  
2 contractor, and returned to a single school district location for pickup by the ~~publisher~~  
3 contractor within five (5) working days following completion of testing in the school  
4 district and in no event later than five (5) working days after ~~any applicable statutory~~  
5 deadline each test administration period. All school districts must have their multiple-  
6 choice testing materials returned to the ~~publisher~~ contractor no later than ~~six (6)~~ five (5)  
7 working days after any statutory deadline.

8 (b) School districts shall return all writing tests and test materials to the contractor  
9 no more than two (2) working days after the makeup day specified for the writing test.

10 NOTE: Authority cited: Sections 33031 and 60605~~(g)~~ and ~~(h)~~, Education Code.

11 Reference: Sections 60640 and 60643, Education Code.

12  
13 *Amend Section 868 to read:*

14 **§ 868. Discrepancy Resolution for Designated Achievement Test, Standards-**  
15 **Based Achievement Tests, and CAPA.**

16 (a) School districts shall process discrepancies determined by the ~~designated~~  
17 ~~publisher~~ contractor upon receipt of returned tests and test materials pursuant to this  
18 subdivision:

19 (1) Receipt of a discrepancy notice in writing, via telephone, or via electronic mail by  
20 the STAR program district coordinator for one or more of the following shall require a  
21 response from the STAR program district coordinator to the ~~publisher~~ contractor within  
22 24 hours.

23 (A) A discrepancy between the quantity of tests and test materials shipped to the  
24 school district and the number of tests and test materials returned to the ~~publisher~~  
25 contractor from the school district.

26 (B) Information on scannable documents or test support materials that is  
27 inconsistent, incomplete, or missing, according to criteria established with the  
28 Department.

29 (2) The STAR program district coordinator shall acknowledge the discrepancy  
30 notice via electronic mail, if available in the school district, to the ~~publisher~~ contractor  
31 and to the Department within twenty-four (24) hours of its receipt via electronic mail.

1 (b) The STAR program district coordinator shall report any discrepancy in the total  
2 amount of the shipment from the ~~designated test publisher~~ contractor within two (2)  
3 working days of the receipt of the shipment. If the ~~designated test publisher~~ contractor  
4 does not remedy the discrepancy within two (2) working days of the school district  
5 report, the school district shall notify the Department within 24 hours.

6 (c) Any discrepancy in a shipment of designated achievement tests or test  
7 materials, ~~or standards-based achievement tests or test materials, or California~~  
8 Alternate Performance Assessment materials received by a test site from the STAR  
9 program district coordinator shall be reported to the STAR program district coordinator  
10 immediately but no later than two (2) working days of the receipt of the shipment at the  
11 testing site. The STAR program district coordinator shall remedy the discrepancy within  
12 two (2) working days.

13 (d) The STAR program district coordinator shall report to the ~~publisher~~ contractor  
14 any discrepancy reported by a STAR test site coordinator within three (3) working days  
15 of receipt of materials at the test site. If the STAR program district coordinator does not  
16 have a sufficient supply of tests or test materials to remedy any shortage, the ~~test~~  
17 ~~publisher~~ contractor shall remedy the shortage by providing sufficient materials directly  
18 to the test site within two (2) working days of the notification by the STAR program  
19 district coordinator.

20 (e) The notices required by this section shall be made by telephone with  
21 simultaneous confirmation in writing and by electronic mail.

22 NOTE: Authority cited: Sections 33031 and 60605(g) ~~and (h)~~, Education Code.

23 Reference: Sections 60640 and 60643, Education Code.

24

25 *Amend Section 870 to read:*

26 **§ 870. Apportionment to School Districts.**

27 (a) The amount of funding to be apportioned to the school district for the costs of  
28 administering the designated achievement test, ~~and the standards-based achievement~~  
29 ~~tests, and the California Alternate Performance Assessment~~ shall be the amount  
30 established by the State Board of Education to enable school districts to meet the  
31 requirements of administering the designated achievement test, ~~and the standards-~~



1 based achievement tests, and the California Alternate Performance Assessment per  
2 the number of tests administered to eligible pupils in grades 2 to 11, inclusive, and the  
3 number of answer documents returned with only demographic information for students  
4 enrolled on the first day of testing who were not tested in the school district. The  
5 number of tests administered and the number of demographic answer documents shall  
6 be determined by the certification of the school district superintendent pursuant to  
7 Section 862. For purposes of this portion of the apportionment, administration of the  
8 designated achievement test, ~~and~~ the standards-based achievement tests, and the  
9 California Alternate Performance Assessment includes the following items:

10 (1) All staffing costs, including the STAR program district coordinator and the STAR  
11 test site coordinators, staff training and other staff expenses related to testing.

12 (2) All expenses incurred at the school district and test site level related to testing.

13 (3) All transportation costs of delivering and retrieving tests and test materials within  
14 the school district.

15 (4) All costs associated with mailing the ~~parent reports of test results~~ STAR Student  
16 Reports to parents/guardians.

17 (5) All costs associated with pre-identification of answer sheets and consumable  
18 test booklets, and other activities intended to provide the complete and accurate data  
19 required in Section 861 of these regulations.

20 (b) This amount does not include any funding for the purposes of reimbursing the  
21 costs incurred by any school district pursuant to Section 864.5(d) placing an order that  
22 is excessive, or for replacement costs for test materials lost or destroyed while in  
23 possession of the school district as allocated in Section 865. These costs are outside  
24 the scope of the mandates of the STAR Program.

25 (c) If at the time a school district's scannable documents are processed by the  
26 ~~publisher~~ contractor a student data record is missing any of the data elements required  
27 in Section 861 of these regulations, the school district shall provide the missing data  
28 elements within the time required by the ~~publisher~~ contractor to process the documents  
29 and meet the ~~publisher's~~ contractor's schedule of deliverables under its contract with  
30 the Department. The additional costs incurred by the school district to have the  
31 ~~publisher~~ contractor reprocess the student information to acquire the data required by

1 Section 861 of these regulations shall be withheld from the school district's  
2 apportionment.

3 NOTE: Authority cited: Sections 33031 and 60605~~(g) and (h)~~, Education Code.

4 Reference: Sections 60640 and 60643, Education Code.

5

### 6 **ARTICLE 3. DESIGNATED PRIMARY LANGUAGE TEST**

7

8 *Amend Section 880 to read:*

#### 9 **§ 880. Pupil Testing.**

10 (a) In addition to the designated achievement test, ~~and the standards-based~~  
11 ~~achievement tests, and the California Alternate Performance Assessment~~, school  
12 districts shall administer to English language learners who are enrolled in any of grades  
13 2 to 11, inclusive, a designated primary language test if less than 12 months have  
14 elapsed after initial enrollment in any public school in this state and if a test has been  
15 designated in the pupil's primary language.

16 (b) School districts shall make whatever arrangements are necessary to test all  
17 eligible pupils in alternative education programs or programs conducted off campus,  
18 including, but not limited to, continuation schools, independent study, community day  
19 schools, or county community schools.

20 (c) Pursuant to Education Code Section 60640(f) school districts have the option of  
21 administering the designated primary language test to English learners who have been  
22 enrolled in California public schools 12 months or more as part of the state testing  
23 program.

24 ~~(d)(e)~~ School districts may administer a designated primary language test to pupils  
25 enrolled in kindergarten or grade 1 or 12 or to English only and fluent-English proficient  
26 pupils in grades 2 to 11 language immersion programs for the designated primary  
27 language test, but those pupils shall not be counted for an apportionment pursuant to  
28 Education Code ~~s~~Section 60640(h) and the district shall be responsible for all costs  
29 associated with testing the pupils.

30 ~~(e)(d)~~ No test may be administered in a ~~private home or location~~ hospital unless the  
31 test is administered by either a certificated employee of the school district or an

1 employee of a nonpublic school pursuant to Education Code ~~s~~Section 56365 who holds  
2 a credential and the employee signs a security affidavit. No test shall be administered  
3 to a pupil by the parent or guardian of that pupil. This subdivision does not prevent  
4 classroom aides from assisting in the administration of the test under the direct  
5 supervision of a credentialed school district employee provided that the classroom aide  
6 does not assist his or her own child and that the classroom aide signs a security  
7 affidavit.

8 NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code.  
9 Reference: Section 60640, Education Code.

10  
11 *Amend Section 881 to read:*

12 **§ 881. Pupil Exemptions.**

13 (a) A parent or guardian may submit to the school a written request to excuse his or  
14 her child from any or all parts of any designated primary language test provided  
15 pursuant to Education Code ~~s~~Section 60640. The parent or guardian must initiate the  
16 request and the school district and its employees shall not solicit or encourage any  
17 written request on behalf of any child.

18 (b) Pupils in special education programs may be tested with a designated primary  
19 language test, if applicable, unless the individualized education program for the pupil  
20 specifically ~~exempts the pupil from testing~~ states that the pupil will be assessed with the  
21 California Alternate Performance Assessment (CAPA).

22 NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code.  
23 Reference: Sections 60615 and 60640, Education Code.

24  
25 *Amend Section 882 to read:*

26 **§ 882. Administration.**

27 (a) Any designated primary language test or tests, which includes all those  
28 materials set forth in Section 850(b), shall be administered and returned in accordance  
29 with the manuals or other instructions provided by the ~~publisher~~ contractor(s) for  
30 administering and returning the tests unless specifically provided otherwise in this  
31 subchapter. The procedures shall include, but are not limited to, those designed to

1 insure the uniform and standard administration of the test(s) to pupils and the security  
2 and integrity of the test content(s) and test items.

3 (b) Except as provided in Subdivision (c), the reading section of any test or tests  
4 shall not be read, interpreted, or translated to any pupil and no pupil may use a  
5 calculator while taking any designated primary language test or tests administered  
6 pursuant to Education Code ~~§~~Section 60640(f) or (g).

7 (c) Pupils in special education programs with individualized education programs  
8 delineating accommodations such as, but not limited to, large print, extended time, or  
9 the use of a reader or scribe; or pupils with current plans under Section 504 of the  
10 Rehabilitation Act of 1973 specifying such accommodations shall be tested and the  
11 prescribed adaptations or accommodations shall be made.

12 (d) Except for pupils in special education programs with individualized education  
13 programs and pupils with section 504 plans that require specific accommodations or  
14 modifications, no pupil shall be tested with the accommodations or modifications of  
15 large print, use of a reader or scribe, extended time, use of a calculator, or ~~out-of-level~~  
16 below grade level test.

17 NOTE: Authority cited: 33031 and 60605(~~g~~) and (~~h~~), Education Code. Reference:  
18 Section 60640, Education Code.

19

20 *Amend Section 883 to read:*

21 **§ 883. Advance Preparation for Test.**

22 (a) Except for materials specifically included within any designated primary  
23 language test or tests, no program or materials shall be used by any school district or  
24 employee of a school district that are specifically formulated, or intended by any school  
25 district or employee of a school district, to prepare pupils for any designated primary  
26 language test or tests. No administration or use of an alternate or parallel form of the  
27 designated test for any stated purpose shall be permitted for any pupils in grades 2  
28 through 11, inclusive.

29 (b) Practice tests provided by the ~~publisher~~ contractor(s) as part of any designated  
30 primary language test or tests for the limited purpose of familiarizing pupils with the use  
31 of scannable test booklets or answer sheets and the format of test items are not

1 subject to the prohibition of Subdivision (a).

2 NOTE: Authority cited: Sections 33031 and 60605~~(g) and (h)~~, Education Code.

3 Reference: Sections 60611 and 60640, Education Code.

4

5 *Amend Section 884 to read:*

6 **§ 884. Testing Period.**

7 (a) Any designated primary language test or tests, as applicable, shall be  
8 administered during the testing period of all instructional days commencing on or after  
9 March 15 to the 14<sup>th</sup> day of May, inclusive, of each school year.

10 (b) Each school district shall provide for at least two (2) makeup days of testing for  
11 pupils who were absent during the period that any school administered any designated  
12 primary language test or tests. All makeup testing shall occur within ~~ten (10)~~ five (5)  
13 instructional days of the last date that the school district administered any designated  
14 primary language test or tests for any testing wave, but not later than May 25th of each  
15 school year, whichever is earlier.

16 (c) A school district with schools operating on a multitrack year round schedule may  
17 submit a request to the ~~Department~~ contractor to begin testing no earlier than the fourth  
18 Monday in February. The ~~State Board of Education~~ contractor shall approve the  
19 request if it determines that sufficient tests and test materials are available from the  
20 ~~publisher~~ contractor(s) and that the school district will not otherwise be able to  
21 complete the testing of all eligible pupils prior to May 15th of the school year.

22 NOTE: Authority cited: Sections 33031 and 60605~~(g) and (h)~~, Education Code.

23 Reference: Section 60640, Education Code.

24

25 *Amend Section 886 to read:*

26 **§ 886. STAR Program District Coordinator.**

27 The STAR program district coordinator designated by the superintendent of the  
28 school district pursuant to Section 857 shall have the same responsibilities with regard  
29 to the designated primary language test(s) including, but not limited to, all the duties  
30 listed in Section 857(b) and the certifications required in Section 857~~(c), (d), and (e)~~ for  
31 the designated achievement test, the standards-based achievements tests, and the

1 California Alternate Performance Assessment. If necessary, a school district  
2 superintendent may designate a separate STAR program district coordinator for any  
3 designated primary language test.

4 NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code.  
5 Reference: Sections 60630 and 60640, Education Code.

6

7 *Amend Section 887 to read:*

8 **§ 887. STAR Test Site Coordinator.**

9 The STAR test site coordinator designated by the ~~S~~superintendent or the district  
10 STAR coordinator of the school district pursuant to Section 858 shall have the same  
11 responsibilities with regard to the designated primary language test(s) including, but not  
12 limited to, all of the duties listed in Section 858(b) ~~and the certification required in~~  
13 ~~Section 858(c) for the designated achievement test. If necessary, a school district~~  
14 ~~superintendent may designate a separate STAR program district coordinator for any~~  
15 ~~designated primary language test.~~

16

17

18 *Amend Section 888 to read:*

19 **§ 888. STAR Test Security Agreement and Test Security Affidavit.**

20 (a) All STAR program district and test site coordinators (coordinators) shall sign the  
21 STAR Test Security Agreement set forth in Subdivision (b).

22 (b) The STAR Test Security Agreement shall be as follows:

23 **STAR TEST SECURITY AGREEMENT**

24 The coordinator acknowledges by his or her signature on this form that the  
25 designated primary language test or tests are secure tests and agrees to each of the  
26 following conditions to ensure test security.

27 (1) ~~The coordinator~~ I will take all necessary precautions to safeguard all tests and  
28 test materials by limiting access to persons within the school district with a responsible,  
29 professional interest in the ~~test's~~ tests' security.

30 (2) ~~The coordinator~~ I will keep on file the names of all persons having access to  
31 tests and test materials. All persons having access to the materials shall be required by

1 the coordinator to sign the STAR Test Security Affidavit that will be kept on file in the  
2 school district office.

3 (3) ~~The coordinator~~ I will keep the tests and test materials in a secure, locked  
4 location limiting access to only those persons responsible for test security except on  
5 actual testing dates as provided in California Code of Regulations, Title 5, Division 1,  
6 Chapter 2, Subchapter 3.75.

7 (4) I will not copy any part of the test or test materials without written permission  
8 from the Department to do so.

9 (5) I will not disclose or allow to be disclosed the contents of, or the test instrument.  
10 I will not review any test questions, passages, or other test items with any other person  
11 before, during, or after the test administrator.

12 (6) I will not review test questions, develop any scoring keys or review or score any  
13 pupil responses except as required by the contractor's manuals.

14 By signing my name to this document, I am assuring that I and anyone having  
15 access to the test materials will abide by the above conditions.

16 By: \_\_\_\_\_

17 \_\_\_\_\_

18 Title: \_\_\_\_\_

19 \_\_\_\_\_

20 School District: \_\_\_\_\_

21 Date: \_\_\_\_\_

22 \_\_\_\_\_

23 (c) Each STAR test site coordinator shall deliver the tests and test materials only to  
24 ~~those persons actually administering the designated primary language test or tests on~~  
25 ~~the date of testing and only upon execution of the~~ test examiners who have been  
26 trained to administer the tests and who have signed the STAR Test Security Affidavit  
27 set forth in Subdivision (e).

28 (d) All persons having access to the designated primary language test or tests and  
29 test materials shall acknowledge the limited purpose of their access to the tests, by  
30 signing the STAR Test Security Affidavit set forth in Subdivision (e).

31 (e) The STAR Test Security Affidavit shall be as follows:

1 STAR TEST SECURITY AFFIDAVIT

2 I acknowledge that I will have access to the designated primary language test or  
3 tests for the purpose of administering the test. I understand that these materials are  
4 highly secure, and it is my professional responsibility to protect their security as follows:

5 (1) I will not divulge the contents of the test(s) to any other person through verbal,  
6 written, or any other means of communication.

7 (2) I will not copy any part of the test(s) or test materials.

8 (3) I will keep the test(s) secure until the test(s) are actually distributed to pupils.

9 (4) I will limit access to the test(s) and test materials by test examinees to the actual  
10 testing periods when they are taking the test(s).

11 (5) I will collect and account for all materials following each period of testing and will  
12 not permit pupils to remove test materials from the room where testing takes place.

13 (6) I will not disclose, ~~or allow to be disclosed,~~ the contents of, ~~or the scoring keys~~  
14 ~~to,~~ or the test instruments. I will not review any test questions, passages, or other test  
15 items with pupils before, during, or following testing.

16 (7) I will not develop scoring keys or review or score any pupil responses except as  
17 required by the contractor's administration manual(s) to prepare answer documents for  
18 machine or other scoring.

19 (8)(7) I will return all test materials to the designated STAR test site coordinator  
20 daily upon completion of ~~the test(s)~~ testing.

21 (9) I will administer the test(s) in accordance with the directions for test  
22 administration set forth in the publisher's manual for test administration.

23 (10) I have been trained to administer the tests.

24 Signed: \_\_\_\_\_

25 Print Name: \_\_\_\_\_

26 Position: \_\_\_\_\_

27 School: \_\_\_\_\_

28 School District: \_\_\_\_\_

29 Date: \_\_\_\_\_

30 (f) To maintain the security of the program, all STAR program district coordinators  
31 and test site coordinators are responsible for inventory control and shall use



1 appropriate inventory control forms to monitor and track test inventory.

2 NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code.

3 Reference: Section 60640, Education Code.

4

5 *Amend Section 890 to read:*

6 **§ 890. School-By-School Analysis.**

7 (a) Each school district shall provide each ~~publisher~~ contractor of a designated  
8 primary language test or tests the following information for each pupil tested for  
9 purposes of the reporting required by Section 60630 and Article 4 (commencing with  
10 Section 60640) of the Education Code:

11 (1) Pupil's full name.

12 ~~(2)(1)~~ Date of birth.

13 ~~(3)(2)~~ Grade level.

14 ~~(4)(3)~~ Gender.

15 ~~(4) Language fluency and home language.~~

16 (5) Participation in the National School Lunch Program.

17 ~~(6)(5) Special p~~Program participation.

18 ~~(7)(6) Testing adaptations or~~ Use of accommodations or modifications.

19 (8) California School Information Services (CSIS) Student Number once assigned.

20 ~~(9)(7)~~ Parent education level.

21 ~~(10)(8)~~ Amount of time in the school, school district, and in California public schools.

22 (11) Length of time in school in the United States.

23 ~~(12)(9)~~ Ethnicity.

24 ~~(13)(10)~~ Handicapping condition or disability.

25 (b) The information is for the purposes of aggregate analyses only and shall be  
26 provided and collected as part of the testing materials for the designated primary  
27 language test or tests.

28 (c) School districts shall provide the same information for each eligible pupil enrolled  
29 in an alternative or off campus program as is provided for all other eligible pupils in  
30 grades 2 to 11, inclusive.

31 NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code.

1 Reference: Section 60630, Education Code.

2

3 *Amend Section 891 to read:*

4 **§ 891. Apportionment Report Information.**

5 ~~(a) Each school district shall report to the State Department of Education~~ The  
6 Department shall prepare an apportionment report for each district by compiling  
7 information that was entered into pre-ID files or gridded on student test booklets and  
8 answer documents. The report shall include all of the following information relevant to  
9 the designated primary language test ~~by grade level~~ for grades 2 to 11, inclusive:

10 (1) The number of pupils who are English language learners.

11 (2) The number of English language learners who were administered each  
12 designated primary language test pursuant to Education Code section 60640(f).

13 (3) The number of English language learners who were administered each  
14 designated primary language test pursuant to Education Code section 60640(g).

15 ~~(4) The total number of English language learners exempted from the test pursuant~~  
16 ~~to Education Code section 60615.~~

17 ~~(5) The total number of English language learners exempted pursuant to any~~  
18 ~~provision in their individualized education programs (IEPs) which explicitly exempts~~  
19 ~~them from standardized testing.~~

20 ~~(6) If a school district opted to have the publisher of a designated primary language~~  
21 ~~test provide pre-identification of answer sheets, the number of tests administered with~~  
22 ~~pre-identified answer documents.~~

23 (b) The Department shall distribute the reports to districts no later than November  
24 15 following each testing cycle.

25 (c)(1) The superintendent of each school district shall certify the accuracy of report  
26 no later than December 31 of the calendar year in which the tests were administered.  
27 Certified reports postmarked after December 31 must be accompanied by a waiver  
28 request as provided by Education Code Section 33050. The Department shall not  
29 process the apportionment payment prior to the State Board approving the waiver  
30 request. Reports that are postmarked after June 30 of the fiscal year during which the  
31 report was prepared shall not be processed ~~all information submitted. The report~~

1 ~~required by Subdivision (a) shall be filed with the State Superintendent of Public~~  
2 ~~Instruction within ten (10) working days of the last day of makeup testing in the school~~  
3 ~~district.~~

4 (2) ~~School districts with an average daily attendance greater than 100,000 may~~  
5 ~~certify the accuracy and submit the information required by Subdivision (a) within fifteen~~  
6 ~~(15) working days of the last day of makeup testing in the school district. The school~~  
7 ~~district may submit a request to the Department to obtain approval of the State Board~~  
8 ~~of Education for an extension of ten (10) additional working days if the fifteen (15)~~  
9 ~~working day requirement presents an undue hardship. In addition to certifying the~~  
10 ~~information on the apportionment report received from the California Department of~~  
11 ~~Education, the district shall report the following:~~

12 (A) The total number of English learners exempted from the test pursuant to  
13 Education Code section 60615.

14 NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code.

15 Reference: Sections 60615 and 60640, Education Code.

16  
17 *Amend Section 892 to read:*

18 **§ 892. Parent Reports.**

19 (a) A school district shall report the results of each pupil's test to the pupil's parent  
20 or guardian as provided in Section 863. The school district shall forward the reports for  
21 the designated primary language test(s) to each pupil's parent or guardian, within not  
22 more than twenty (20) working days from receipt of the reports from the publisher.

23 (b) If the school district receives the reports for the designated primary language  
24 tests after the last day of instruction for the school year, the school district shall send  
25 the pupil results to the parent or guardian by U.S. mail at the parent's or guardian's last  
26 known address. If the report is non-deliverable, the school district shall make the report  
27 available to the parent or guardian during the next school year.

28 (c) Schools are responsible for affixing cumulative record labels reporting each  
29 pupil's scores to pupils' permanent school records, for entering the scores into  
30 electronic student records, and for forwarding the results to schools to which pupils  
31 matriculate or transfer. Schools may annotate the scores when the scores may not

1 accurately reflect students' achievement due to illness or testing irregularities.

2

3 *Amend Section 894 to read:*

4 **§ 894. Test Order Information.**

5 (a) Each ~~publisher~~ contractor of a designated primary language test or tests shall  
6 notify all school districts of any adaptations available from each ~~publisher~~ contractor to  
7 accommodate pupils with exceptional needs including, but not limited to, Braille and  
8 large print.

9 (b) The school district shall provide to the ~~publisher~~ contractor, no later than  
10 ~~December~~ November 15 of the year immediately prior to the year of test administration,  
11 the following data for each test site of the school district, by grade level:

12 (1) The number of pupils to be tested

13 (2) Valid county district school (CDS) codes

14 ~~(3) Number of tests without adaptation~~

15 (3) ~~(4)~~ Number of large print tests.

16 (4) ~~(5)~~ Number of Directions for Administration needed, by grade level

17 (5) ~~(6)~~ First date of testing in the school district including the dates for each ~~testing~~  
18 wave test administration period, if applicable

19 ~~(7) Date or dates on which delivery of materials to the school district is required.~~

20 (c) Each school district that elects pre-identification of answer documents shall  
21 ~~provide to the publisher no fewer than 45 days prior to the first date of testing in the~~  
22 ~~school district,~~ submit an electronic file that includes all of the information required in  
23 Section ~~864~~ 890.

24 (1) If the testing materials are lost or destroyed while in the possession of the school  
25 district, and the ~~publisher~~ contractor provides the school district with replacement  
26 materials, the school district is responsible for the cost of all replacement materials,

27 (2) If the school district places orders for tests for any school that are excessive, the  
28 school district is responsible for the cost of materials for the difference between the  
29 sum of the number of pupil tests scored, and the number of parent requests pursuant  
30 to Education Code section 60615, ~~and the number of individualized education program~~  
31 ~~exemptions pursuant to Education Code section 60640(e)~~ and 90 percent of the tests

1 ordered. In no event shall the cost to the school district for replacement or excessive  
2 materials exceed the amount per test booklet and accompanying material that is paid to  
3 the ~~publisher~~ contractor by the Department as part of the contract with the ~~publisher~~  
4 contractor for the current year.

5 NOTE: Authority cited: Sections 33031 and 60605(~~g~~) and (~~h~~), Education Code.  
6 Reference: Sections 60640 and 60643, Education Code.

7  
8 *Amend Section 895 to read:*

9 **§ 895. Transportation.**

10 (a) Each ~~test publisher~~ contractor shall assume all responsibility for the security and  
11 integrity of their tests and test materials at all sites where the ~~publisher~~ contractor  
12 creates, produces, stores, or maintains the materials and during the time that any and  
13 all materials are in transit by any means from the ~~publisher's~~ contractor's storage,  
14 production, maintenance, or transfer facility until the materials arrive at a single location  
15 designated by each school district and the school district's STAR program district  
16 coordinator provides the ~~publisher~~ contractor with a signed receipt. Upon arrival of the  
17 test materials at a single location designated by each school district, the school  
18 district's STAR program district coordinator shall provide the ~~publisher~~ contractor with a  
19 signed receipt.

20 (b) The security of the tests and test materials that have been duly delivered to the  
21 school district is the sole responsibility of the school district until all tests and test  
22 materials have been inventoried, accounted for, and delivered to the common or private  
23 carrier designated by the ~~publisher~~ contractor.

24 (c) Secure transportation within a school district is the responsibility of the school  
25 district once materials have been duly delivered to the school district.

26 NOTE: Authority cited: Sections 33031 and 60605(~~g~~) and (~~h~~), Education Code.  
27 Reference: Sections 60640 and 60643, Education Code.

28  
29 *Amend Section 896 to read:*

30 **§ 896. School District Delivery and Return of Materials.**

31 (a) No school district shall receive its test materials more than twenty-five (25) or

1 fewer than ten (10) ~~calendar~~ working days prior to the first day of testing in the school  
2 district. A school district that has not received test materials from the ~~test publisher~~  
3 contractor at least ten (10) ~~calendar~~ working days before the first date of testing in the  
4 school district shall notify the ~~publisher~~ contractor and the Department on the tenth day  
5 before testing is scheduled to begin that the school district has not received its  
6 materials.

7 (b) School districts shall return all designated primary language tests and test  
8 materials to the ~~publisher(s)~~ contractor(s) within five (5) working days of the last test  
9 date in the school district, including makeup testing days or June 1, whichever date is  
10 earlier.

11 (c) If the school district has ~~an average daily attendance greater than 50,000 or has~~  
12 schools on a multitrack year round calendar, the school district and the ~~publisher(s)~~  
13 contractor(s) may establish a periodic delivery and retrieval schedule to accommodate  
14 staggered test administration dates within the school district.

15 (d) A unified school district that will administer the designated primary language test  
16 to pupils in grades 9 through 11 during a time frame that does not overlap the  
17 administration of the test to pupils in grades 2 through 8 may establish a periodic  
18 delivery and retrieval schedule with the ~~publisher~~ contractor to accommodate staggered  
19 test administration dates within the school districts for grades 9 through 11 and grades  
20 2 through 8.

21 NOTE: Authority cited: Sections 33031 and 60605~~(g)~~ and ~~(h)~~, Education Code.

22 Reference: Sections 60640 and 60643, Education Code.

23  
24 *Amend Section 897 to read:*

25 **§ 897. Test Site Delivery and Return of Materials.**

26 (a) No school or other test site shall receive any test or related test materials more  
27 than ten (10) working days nor fewer than five (5) working days prior to the first day of  
28 testing scheduled at the school or test site.

29 (b) Upon completion of testing at a site, including makeup testing, all tests and test  
30 materials shall be returned to the school district location designated by the STAR  
31 program district coordinator.

1 (c) Tests and test materials shall not be retained at the test site for more than two  
2 (2) working days after the last day of test administration including makeup testing days  
3 ~~or May 25th, whichever is earlier.~~

4  
5 *Amend Section 898 to read:*

6 **§ 898. Retrieval of Materials by ~~Publisher~~ Contractor.**

7 (a) The school district shall ensure that materials are inventoried, packaged, and  
8 labeled in accordance with instructions from each designated ~~publisher~~ contractor, and  
9 returned to a single school district location for pickup by each ~~publisher~~ contractor  
10 within five (5) working days following completion of testing in the school district and in  
11 no event later than May 30. ~~All school districts must have their materials returned to~~  
12 ~~the publisher(s) no later than June 1.~~

13 (b) Each ~~publisher~~ contractor shall arrange with the STAR program district  
14 coordinator a range of dates on which the ~~publisher~~ contractor will pick up the  
15 packaged materials.

16 NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code.

17 Reference: Sections 60640 and 60643, Education Code.

18  
19 *Amend Section 899 to read:*

20 **§899. Discrepancy Resolution for Designated Primary Language Test(s).**

21 (a) School districts shall process discrepancies determined by the designated  
22 ~~publisher(s)~~ contractor(s) upon receipt of returned tests and test materials pursuant to  
23 this subdivision:

24 (1) Receipt of a discrepancy notice in writing, via telephone, or via electronic mail by  
25 the STAR program district coordinator for one or more of the following items shall  
26 require a response from the STAR program district coordinator to the ~~publisher~~  
27 contractor within 24 hours.

28 (A) A discrepancy between the quantity of tests and test materials shipped to the  
29 school district and the number of tests and test materials returned to the ~~publisher~~  
30 contractor from the school district.

31 (B) Information on scannable documents or test support materials that is

1 inconsistent, incomplete, or missing, according to criteria established with the  
2 Department.

3 (2) The STAR program district coordinator shall acknowledge the discrepancy  
4 notice via electronic mail, if available in the school district, to the ~~publisher~~ contractor  
5 and to the Department within twenty-four (24) hours of its receipt via electronic mail.

6 (b) The STAR program district coordinator shall report any discrepancy in the total  
7 amount of the shipment from the ~~publisher~~ contractor of any designated primary  
8 language test material to the ~~publisher~~ contractor within two (2) working days of the  
9 receipt of the shipment. If the ~~publisher~~ contractor does not remedy the discrepancy  
10 within two (2) working days of the school district report, the school district shall notify  
11 the Department within 24 hours.

12 (c) Any discrepancy in a shipment of tests or test materials received at a test site  
13 from the STAR program district coordinator shall be reported to the STAR program  
14 district coordinator immediately but no later than two (2) working days of the receipt of  
15 the shipment at the testing site. The STAR program district coordinator shall remedy  
16 the discrepancy within two (2) working days.

17 (d) The STAR program district coordinator shall report to the ~~publisher~~ contractor  
18 any discrepancy reported by a STAR test site coordinator within three (3) working days  
19 of receipt of materials at the ~~school district~~ test site. If the STAR program district  
20 coordinator does not have a sufficient supply of tests or test materials to remedy any  
21 shortage, the ~~test publisher~~ contractor shall remedy the shortage by providing sufficient  
22 materials directly to the test site within two (2) working days of the notification by the  
23 STAR  
24 program district coordinator.

25 (e) The notices required by this section shall be made by telephone with  
26 simultaneous confirmation in writing and by electronic mail, if available.

27

28 *Amend Section 901 to read:*

29 **§ 901. Apportionment.**

30 (a) The amount of funding to be apportioned to the school district for the costs of  
31 administering any designated primary language test shall be the amount established by



1 the State Board of Education to enable school districts to meet the requirements of  
2 administering any designated primary language tests ~~per the number of tests~~  
3 ~~administered~~ to eligible pupils in grades 2 to 11, inclusive, in the school district. The  
4 number of tests administered shall be determined by the certification of the school  
5 district superintendent pursuant to Section 891. For purposes of this portion of the  
6 apportionment, administration of any designated primary language test includes the  
7 following items:

8 (1) All staffing costs, including the STAR program district coordinator and the STAR  
9 test site coordinators, staff training and other staff expenses related to testing.

10 (2) All expenses incurred at the school district and test site level related to testing.

11 (3) All transportation costs of delivering and retrieving tests and test materials within  
12 the school district.

13 (4) All costs associated with mailing the parent reports of test results.

14 (5) All costs associated with pre-identification of answer sheets and consumable  
15 test booklets, and other activities intended to provide the complete and accurate data  
16 required in Section 861 of these regulations.

17 ~~(b) If at the time a school district's scannable documents are processed by the~~  
18 ~~publisher a student data record is missing any of the data elements required in Section~~  
19 ~~861 of these regulations, the school district shall provide the missing data elements~~  
20 ~~within the time required by the publisher to process the documents and meet the~~  
21 ~~publisher's schedule of deliverables under its contract with the Department. The~~  
22 ~~additional costs incurred by the school district to have the publisher reprocess the~~  
23 ~~student information to acquire the data required by Section 890 of these regulations~~  
24 ~~shall be withheld from the school district's apportionment. This amount does not include~~  
25 ~~any funding for the purposes of reimbursing the costs incurred by any school district~~  
26 ~~pursuant to Section 894(c)(2) for placing an order that is excessive, or for replacement~~  
27 ~~costs for test materials lost or destroyed while in possession of the school district as~~  
28 ~~allocated in Section 894(c)(1). These costs are outside the scope of the mandates of~~  
29 ~~the STAR program.~~

30 NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code.

31 Reference: Sections 60640 and 60643, Education Code.

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State of California

Department of Education

## LAST MINUTE MEMORANDUM

**DATE:** July 1, 2004

**TO:** MEMBERS, STATE BOARD OF EDUCATION

**FROM:** Geno Flores, Deputy Superintendent  
Assessment and Accountability Branch

**RE:** Item No. 8

**SUBJECT:** Standardized Testing and Reporting (STAR) Program: Approve  
Commencement of the Rulemaking Process for Proposed Amendments to  
Title 5 Code of Regulations

The proposed amendments for the Title 5 Code of Regulations that board members received previously have been modified. The copy of the regulations being received has the following changes from the original copy that board members received:

- Page 3 lines 11 and 12 (m)—family member was deleted
- Page 4 (e)—certificated employee was changed to test examiner
- Page 6 lines 14 through 18 were added to include test administration variations that all allowed for all pupils
- Page 8 line 7—504 Plan was added to allow pupils to use modifications that are specified in the pupil's 504 Plan
- Page 8 line 25—the use of dictionaries is designated as a modification for any subject area. Previously dictionaries were designated as accommodations for mathematics, science, and history-social science. The designation of any use of a dictionary as a modification is consistent with recommendations received from test publishers
- Page 18, Section 862 was changed to conform to procedures and language provided following the fiscal review of the proposed amendments.
- Article 3 has been removed from the document. Due to pending legislation, no amendments are proposed for this article at this time.

Additional technical non-substantive changes to ensure that language is consistent; phrasing in the regulations matches that is use in schools and school districts, i.e., STAR Program district coordinator changed to district STAR coordinator; correct typographical errors, i.e., changing of to or.

Conforming changes were made in the Informative Digest and Initial Statement of Reasons. Additionally, the inclusion of a statement indicating that the tests within the STAR Program have consequences for individual pupils was deleted.

This Last Minute Memorandum also includes an Economic and Fiscal Impact Statement and a summary of the Economic and Fiscal Impact Analysis. The Economic Impact Statement concludes that while there are some costs related to the amendments most of the costs are attributable to either state or federal statutes. Some of the regulations

generate a cost savings. Costs not attributable to statute are reimbursable by the apportionment.

### **Attachments**

[Attachment 4:](#) Informative Digest (1 Page)

[Attachment 5:](#) Initial Statement of Reasons (2 Pages)

[Attachment 6:](#) Proposed changes to the Title 5. Education, Division 1. State Department of Education, Chapter 2. Pupils, Subchapters 3.75. Standardized Testing and Reporting Program, Article1. General (26 Pages).

Attachment 7: Economic and Fiscal Impact Analysis, Proposed Amendments of Title 5, CCR, Regulations, Relating to the Standardized Testing and Reporting (STAR) Program (6 Pages)

Attachment 7 is not available for Web viewing. A printed copy is available for viewing in the State Board Office.

## INFORMATIVE DIGEST

### Standardized Testing and Reporting (STAR) Program Regulations

Amendments are proposed for Division 1, Chapter. Pupils, Subchapter 3.75, Articles 1 and 2 of Title 5 of the *California Code of Regulations*. Article 1 includes Program definitions and Article 2 addresses the designated achievement test, the standards-based achievement tests, and the California Alternate Performance Assessment.

The purposes of the proposed amendments are to provide consistency with the regulations for the California High School Exit Examination (CAHSEE) and the California English Language Development Test (CELDT) by clarifying current language and adding definitions and language as needed; to make technical changes to correct inconsistent language, terms, and capitalization in the existing regulations; to add a section on test administration variations that all students may have; to modify the provisions for below-grade-level testing; to modify test material delivery and return dates to eliminate the mixture of working and calendar days; to add the California Alternate Performance Assessment (CAPA) as appropriate; to strengthen some test security language; to add a statement to the STAR Test Security Affidavit indicating that test examiners and proctors have been trained to administer the tests; to expand the student demographic data collected to meet the requirements for federal and state reporting and to match the language that is used on test documents; to clarify requirements related to including test results in pupils' permanent records as required by *Education Code* Section 60607; to reinforce the confidentiality of summary data that is based on test results for ten or fewer pupils; and to modify the process for completing Apportionment Information Reports required by *Education Code* Section 60640(j).

## **INITIAL STATEMENT OF REASONS**

### **Standardized Testing and Reporting (STAR) Program**

#### **SPECIFIC PURPOSE OF THE REGULATIONS**

The proposed amendments to the regulations are intended to clarify the specific student demographic data that districts must provide, add requirements for the California Alternate Performance Assessment (CAPA), modify all dates associated with the Program to working days, and modify the process for collecting information required for providing apportionments to districts for costs associated with the Program. Additionally, some of the proposed amendments are required to enable the state to comply with the requirements of the federal No Child Left Behind Act of 2001.

#### **NECESSITY/RATIONALE**

The tests within the STAR Program have consequences for schools and school districts. The California Department of Education uses the test results for school and district Academic Performance Index (API) and Adequate Yearly Progress (AYP) calculations. The results of these accountability calculations are used to identify schools and districts that are meeting or not meeting required growth targets and may result in schools and districts being identified as program improvement schools or districts. The program improvement designation may result in state intervention. The regulations are designed to assure that the tests within the Program are administered fairly and consistently throughout the state so that valid and reliable results are available for API and AYP calculations.

#### **TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS**

No reports are required by these proposed regulations.

#### **REASONABLE ALTERNATIVES TO THE REGULATIONS AND THE AGENCY'S REASONS FOR REJECTING THOSE ALTERNATIVES**

No other alternatives were presented to or considered by California Department of Education.

#### **REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS**

The State Board of Education has not identified any adverse impact on small business that would necessitate developing alternatives to the proposed regulatory action.

#### **EVIDENCE SUPPORTING FINDING NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS**

The proposed regulations would not have a significant adverse economic impact on any business because the regulations only relate to local school districts and not to business practices.

1  
2 **Title 5. EDUCATION**

3 **Division 1. State Department of Education**

4 **Chapter 2. Pupils**

5 Subchapter 3.75. Standardized Testing and Reporting Program

6 Article 1. General

7  
8 *Add subsection (h) to Section 850 to read:*

9 **§ 850. Definitions.**

10 For the purposes of the Standardized Testing and Reporting (STAR) Program, the  
11 following terms shall have the following meanings unless the context indicates  
12 otherwise:

13 ~~(a) “Designated achievement test” is the achievement test required by Education~~  
14 ~~Code sSection 60640(b). The designated achievement test includes test booklets, test~~  
15 ~~answer documents, administration manuals, and administrative materials. The~~  
16 ~~designated achievement test is to be administered in the areas of reading, spelling,~~  
17 ~~written expression and mathematics for pupils in grades 2 to 8, inclusive; and in the~~  
18 ~~core curriculum areas of reading, writing, mathematics, history-social science and~~  
19 ~~science for pupils in grades 9 to 11, inclusive.~~

20 (b) “Primary language test” includes any test administered pursuant to Education  
21 Code sSection 60640(f) or a test administered pursuant to the requirement of Education  
22 Code sSection 60640(g), as applicable, and includes the test booklets, test answer  
23 documents, administration manuals, administrative materials and practice tests.

24 (c) “School districts” includes elementary, high school, and unified school districts;  
25 county offices of education; and any charter school that for assessment purposes does  
26 not elect to be part of the school district or county office of education that granted the  
27 charter; and any charter school chartered by the State Board of Education.

28 (d) “Eligible pupil”

29 (1) For the designated achievement test and the standards-based achievement  
30 tests, an eligible pupil is any pupil in grades 2 through 11, inclusive, including those  
31 pupils placed in a non-public school through the Individualized Education Program (IEP)  
32 process pursuant to Education Code Section 56365 who is not exempted by



1 parent/guardian request or eligible to take the California Alternate Performance  
2 Assessment (CAPA).

3 (2) For the CAPA, an eligible pupil is any pupil with a significant cognitive disability in  
4 grades 2 through 11 and ages 7 through 16 in ungraded programs whose IEP states  
5 that the pupil is to take the CAPA.

6 (3) For the primary language test, an eligible pupil is an English learner with a  
7 primary language for which a test is required or optional.

8 (e) “Department” means the California Department of Education.

9 (f)(1) “Standards-based achievement tests” are those tests that measure the degree  
10 to which pupils are achieving the content standards and performance standards  
11 adopted by the State Board of Education as provided in Education Code §Section  
12 60642.5. The standards-based achievement tests include test booklets, test answer  
13 documents, administration manuals, administrative materials, practice tests and other  
14 materials developed and provided by the contractor of the tests.

15 (2) The term “standards-based achievement test” may refer to one or more of the  
16 individual achievement tests in the subject or core curriculum areas required by  
17 Education Code §Section 60642.5, or all of the standards-based achievement tests  
18 collectively.

19 (g) “Administration Period” means one of multiple test administration periods by  
20 school districts with schools or programs on non-traditional calendars that begin and  
21 complete the school year at various times and have staggered vacation periods, in  
22 order to ensure that all pupils are tested at approximately the same point in the  
23 instructional year.

24 (h) ~~“The California Alternate Performance Assessment”~~ (CAPA) is an individually  
25 administered performance assessment developed to assess students’ achievement on  
26 a subset of California’s Academic Content Standards. It ~~is~~ shall only be administered to  
27 ~~students~~ pupils with significant cognitive disabilities receiving special education services  
28 whose IEP teams determined that the pupil’s are to be assessed with the CAPA. The  
29 CAPA includes administration manuals, administrative materials, and documents on  
30 which the examiner records the student’s responses.

31 (i) “Untimed administration” means that pupils may receive as much time as needed  
32 within a single sitting to complete a test or test part.

1 (j) ~~“Out-of-level testing”~~ “Below-grade-level testing” means administering a test that  
2 is below the grade level of the pupil being tested.

3 (k) “Test examiner” is an employee of a school district or an employee of a non-  
4 public school who has been trained to administer the tests and has signed a STAR Test  
5 Security Affidavit. For the CAPA, the test examiner must be a certificated or licensed  
6 school staff member.

7 (l) “Test proctor” is an employee of a school district, or a person assigned by a  
8 nonpublic school to implement a pupil’s IEP, who has received training designed to  
9 prepare him or her to assist the test examiner in the administration of tests within the  
10 STAR Program.

11 ~~(m)~~(n) “Scribe” is an employee of the school district, or a person assigned by a  
12 nonpublic school to implement a pupil’s IEP and is required to transcribe a pupil’s or  
13 ~~adult student’s~~ responses to the format required by the examination test. A family  
14 ~~member~~ student’s parent or guardian is not eligible to be a scribe.

15 ~~(m)~~(n) “Accommodation” means any variation in the assessment environment or  
16 process that does not fundamentally alter what the test measures or affect the  
17 comparability of scores. Accommodations may include variations in scheduling, setting,  
18 aids, equipment, and presentation format.

19 ~~(n)~~(o) “Modification” means any variation in the assessment environment or process  
20 that fundamentally alters what the test measures or affects the comparability of scores.

21 ~~(o)~~(p) “Variation” is a change in the manner in which a test is presented or  
22 administered, or in how a test taker is allowed to respond, and includes, but is not  
23 limited to, accommodations and modifications ~~as defined in Education Code section~~  
24 ~~60850.~~

25 (q) “Grade” means the grade assigned to the pupil by the school district at the time  
26 of testing.

27 NOTE: Authority cited: Sections 33031 and 60605, Education Code. Reference:  
28 Sections 60615, 60640, 60642, and 60642.5, Education Code.

29  
30 **Article 2. Designated Achievement Test, and Standards-Based**  
31 **Achievement Tests,**  
32 **and California Alternate Performance Assessment**  
33

1 *Amend Section 851 to read:*

2 **§ 851. Pupil Testing.**

3 (a) School districts shall administer the designated achievement test and standards  
4 based achievement tests or the CAPA to each eligible pupil enrolled in any of grades 2  
5 to 11, inclusive, in a school district on the date testing begins in the pupil's school.

6 (b) School districts shall administer the CAPA, as set forth in the pupil's IEP, to each  
7 eligible pupil in any of grades 2 to 11, inclusive, in a school district during the period  
8 specified by the test contractor. Students in ungraded special education classes shall be  
9 tested, if they are 7 to 16 years of age.

10 (c) School districts shall make whatever arrangements are necessary to test all  
11 eligible pupils in alternative education programs or programs conducted off campus,  
12 including, but not limited to, continuation schools, independent study, community day  
13 schools, or county community schools.

14 (d) School districts may administer the designated achievement test to pupils  
15 enrolled in kindergarten or grade 1 or 12, but those pupils shall not be counted for the  
16 apportionment pursuant to Education Code ~~s~~Section 60640(h).

17 (e) No test may be administered in a ~~private home or location~~ hospital ~~unless the~~  
18 ~~test is administered by either a certificated employee of the school district or an~~  
19 ~~employee of a nonpublic school pursuant to Education Code section 56365 who holds a~~  
20 ~~credential and the employee signs a security affidavit~~ except by a test examiner. No test  
21 shall be administered to a pupil by the parent or guardian of that pupil. This subdivision  
22 does not prevent classroom aides from assisting in the administration of the test under  
23 the supervision of a credentialed school district employee provided that the classroom  
24 aide does not assist his or her own child and that the classroom aide signs a security  
25 affidavit.

26 NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code.

27 Reference: Section 60640, Education Code.

28

29 *Amend Section 852 to read:*

30 **§ 852. Pupil Exemptions.**

31 ~~(a)~~ A parent or guardian may submit to the school a written request to excuse his or  
32 her child from any or all parts of any test provided pursuant to Education Code ~~s~~Section  
33 60640. A school district and its employees may discuss the Standardized Testing and

1 Reporting Program with parents and may inform parents of the availability of  
2 exemptions under Education Code sSection 60615. However, the school district and its  
3 employees shall not solicit or encourage any written exemption request on behalf of any  
4 child or group of children.

5 ~~(b) Pupils in special education programs shall be tested with the designated~~  
6 ~~achievement test and the standards-based achievement tests unless the individualized~~  
7 ~~educational program for the pupil specifically states that the pupil will be assessed with~~  
8 ~~the California Alternate Performance Assessment or (CAPA).~~

9 NOTE: Authority cited: Sections 33031 and 60605, Education Code. Reference:  
10 Sections 60615 and 60640, Education Code.

11  
12 *Amend Section 853 to read:*

13 **§ 853. Administration.**

14 (a) The designated achievement test shall be administered and returned by school  
15 districts in accordance with the manuals or other instructions provided by the contractor  
16 for administering and returning the tests unless specifically provided otherwise in this  
17 subchapter including instructions for administering the test with variations,  
18 accommodations, and modifications. The procedures shall include, but are not limited  
19 to, those designated to insure the uniform and standard administration of the tests to  
20 pupils, the security and integrity of the test content and test items, and the timely  
21 provision of all required student and school level information.

22 (b) The standards-based achievement tests and the ~~California Alternate~~  
23 ~~Performance Assessment (CAPA)~~ shall be administered and returned by school districts  
24 in accordance with the manuals and other instructions provided by the contractor, and in  
25 accordance with testing variations, accommodations, and modifications specified in  
26 Section 853.5. The procedures shall include, but are not limited to, those designed to  
27 insure the uniform and standard administration of the tests to pupils, the security and  
28 integrity of the test content and test items, and the timely provision of all required  
29 student and school level information, The procedures shall not include criteria for who  
30 should be assessed by the CAPA.

31 (c) For the ~~2003-04~~ 2004-05 school year ~~only~~, pupils with IEPs specifying below-  
32 grade-level testing in grades ~~5~~ four through 11 may be tested one or two grades below  
33 their enrollment grade. Pupils with IEPs specifying below-grade-level testing in grade

1 three may be tested one grade level below their enrollment grade. The test level must  
 2 be specified in the student's pupil's IEP. ~~Out-of-level~~ Below-grade-level testing shall be  
 3 used only if the student pupil is not receiving grade-level instruction curriculum as  
 4 specified by the California academic content standards, and is so indicated on the IEP.  
 5 ~~Students~~ Pupils tested ~~out-of-level~~ below-grade-level must complete all tests required  
 6 for the grade at which they are tested and shall be administered ~~only one level of the~~  
 7 ~~tests~~ the tests for only one grade level. ~~Out-of-level testing is not allowed for pupils in~~  
 8 ~~grades 2, 3, and 4. No out-of-level testing shall be allowed at any grade beginning with~~  
 9 ~~the 2004-05 school year.~~

10 NOTE: Authority cited: Sections 12001, 33031 and 60605, Education Code. Reference:  
 11 Section 60640, Education Code; and 20 USC Section 6311.

12  
 13 *Amend Section 853.5 to read:*

14 **§ 853.5 Use of Variations, Accommodations, and Modifications for the Standards-**  
 15 **Based Achievement Test and the California Alternate Performance Assessment.**

16 (a) All students may:

17 (1) have test directions clarified.

18 (2) write in test booklets for grades 4-11.

19 (3) have as much time as needed within a single sitting to complete a test or test  
 20 part.

21 (b)(a) School districts may provide all pupils the following testing variations if  
 22 regularly used in the classroom:

23 (1) test directions that are simplified ~~or clarified.~~

24 (2) special or adaptive furniture.

25 (3) special lighting, ~~or acoustics,~~ visual magnifying, or audio amplification equipment.

26 (4) an individual carrel or study enclosure.

27 (5) test individually in a separate room provided that an employee of the school,  
 28 school district, or non-public school, who has signed the STAR Test Security Affidavit,  
 29 directly supervises the pupil.

30 (6) ~~markers,~~ colored overlay, masks, or other means to maintain visual attention to  
 31 the ~~examination test~~ or test ~~items~~ questions.

32 (7) grade two or three standards-based achievement tests underlining or marking  
 33 information or working math problems in the test booklet and having a school, school

1 district, or non-public school employee who has signed the Test Security Affidavit  
2 transfer the answers to a new test booklet.

3 ~~(4)(8) use of manually coded English or American Sign Language to present~~  
4 directions for administration.

5 ~~(c)(b)~~ Eligible pupils with disabilities who have IEPs and students with Section 504  
6 plans shall be permitted ~~to take the standards-based achievement tests with the~~  
7 following presentation, response or setting accommodations if specified in the IEP or  
8 Section 504 plan:

9 (1) large print versions.

10 (2) test items enlarged ~~through electronic means (e.g., photocopier)~~ if font larger  
11 than that used on large print versions is required.

12 (3) Braille transcriptions provided by the test contractor.

13 (4) for grade two or three designated achievement test underlining or marking  
14 information or working math problems in addition to marking question answers in test  
15 booklets and having a school, school district, or non-public school employee who has  
16 signed the Test Security Affidavit transfer the answers to a new test booklet.

17 (5) audio or oral presentation of the mathematics; science, or history-social science  
18 tests.

19 (6) use of manually coded English or American Sign Language to present test  
20 questions on the mathematics, science, or history-social science tests.

21 (7) responses marked in test booklet and transferred to the answer document by a  
22 school, ~~or~~ school district, or non-public employee who has signed the Test Security  
23 Affidavit.

24 (8) responses dictated to a scribe for selected-response items (e.g., multiple-choice  
25 test questions).

26 (9) responses dictated to a scribe, audio recorder or speech to text converter on the  
27 grade 4 or grade 7 writing application standards section of the California English-  
28 Language Arts Standards Test, and the pupil indicates all spelling and language  
29 conventions.

30 (10) use of word processing software with spell and grammar check tools turned off  
31 on the writing portion of the ~~grade 4 or 7 test~~ English-language arts tests.

32 (11) use of an assistive device that does not interfere with the independent work of  
33 the student on the multiple-choice or writing portion of the test.

1 (12) supervised breaks within a section of the test.

2 (13) administration of the test at the most beneficial time of day to the pupil.

3 (14) administration of any test or test part to be given in a single sitting over more  
4 than one day.

5 ~~(15)~~(14) test administered by ~~certificated teacher~~ a test examiner to a pupil ~~or adult~~  
6 ~~student~~ at home or in the hospital.

7 ~~(d)~~(e) Eligible pupils with disabilities shall be permitted to take the standards-based  
8 tests with the following modifications if specified in the eligible pupil's IEP or 504 Plan:

9 (1) calculators, arithmetic tables, or mathematics manipulatives on the mathematics  
10 or science tests.

11 (2) audio or oral presentation of the English-language arts tests.

12 (3) ~~use of m~~Manually eCoded English or American sSign language to present test  
13 questions on the English-language arts tests.

14 (4) spellcheckers, grammar checkers, or word processing software programs that  
15 check or correct spelling and/or grammar on the writing portion of the ~~grade 4 and 7~~  
16 English-language arts tests.

17 (5) mechanical or electronic devices or other assistive devices that are not used  
18 solely to record the pupil's responses, including but not limited to transcribers, scribes,  
19 voice recognition or voice to text software, and that identify a potential error in the  
20 pupil's response or that correct spelling, grammar or conventions on the writing portion  
21 of the ~~grade 4 and 7~~ English-language arts tests.

22 ~~(6) use of American sign language to provide a response to the written portion of the~~  
23 ~~grade 4 and 7 English-language arts tests~~ responses dictated orally, in Manually Coded  
24 English or American Sign Language to provide an essay response to a scribe and the  
25 scribe provides spelling, grammar, and language conventions.

26 (7) ~~English dictionary on the English-language arts test.~~

27 ~~(8) mathematics dictionary on the mathematics section of the examination.~~

28 ~~(e)~~(d) School districts shall provide identified English learner pupils the following  
29 ~~additional~~ testing variations if regularly used in the classroom or for assessment:

30 (1) Flexible setting. Tested in a separate room with other English learners provided  
31 that an employee of the school, school district, or non-public school, who has signed the  
32 Test Security Affidavit, directly supervises the pupil ~~and the pupil has been provided~~  
33 ~~such a flexible setting.~~

1 (2) Flexible schedule. Additional supervised breaks following each section within a  
2 test part provided that the test section is completed within a testing day. A test section is  
3 identified by a "STOP" at the end of it.

4 (3) Translated directions. Hear ~~any~~ the test directions ~~the test examiner is to read~~  
5 ~~aloud~~ printed in the test administration manual translated into their primary language.  
6 English learners shall have the opportunity to ask clarifying questions about any test  
7 directions presented orally in their primary language.

8 (4) Glossaries. Access to translation glossaries/word lists for the standards-based  
9 achievement tests in mathematics, science, and history-social science ~~if used regularly~~  
10 ~~in the classroom~~ (English to primary language). The translation glossaries/word lists are  
11 to include only the English word or phrase with the corresponding primary language  
12 word or phrase. The glossaries/word lists shall include no definitions or formulas.

13 NOTE: Authority cited: Sections 12001, 33031 and 60605, Education Code. Reference:  
14 Section 60640, Education Code; 20 USC Section 6311.

15  
16 *Amend Section 854 to read:*

17 **§ 854. Advance Preparation for the Test.**

18 (a) Except for materials specifically ~~included within the designated achievement or~~  
19 ~~standards-based tests~~ provided by the California Department of Education or its agents,  
20 no program or materials shall be used by any school district or employee of a school  
21 district that are specifically formulated or intended to prepare pupils for the designated  
22 achievement tests or standards-based achievement tests. No administration or use of  
23 an alternate or parallel form of the designated achievement test ~~for any stated purpose~~  
24 shall be ~~permitted~~ used as practice for any pupils in grades 2 through 11, inclusive.

25 (b) Practice tests provided by the ~~publisher~~ contractor as part of the ~~designated~~  
26 ~~achievement test~~ standards-based achievement tests for the limited purpose of  
27 familiarizing pupils with the use of scannable test booklets or answer sheets and the  
28 format of test items are not subject to the prohibition of Subdivision (a).

29 NOTE: Authority cited: Sections 33031 and 60605~~(g)~~ ~~and (h)~~, Education Code.  
30 Reference: Sections 60611 and 60640, Education Code.

31  
32 *Amend Section 855 to read:*

33 **§ 855. Testing Period.**



1 (a) The designated achievement test and the standards-based achievement tests,  
2 except for the STAR writing assessment as specified in subdivision (c) shall be  
3 administered to each pupil during a testing window of twenty-one (21) instructional days  
4 that includes ten (10) instructional days before and after completion of 85% of the  
5 school's, track's, or program's instructional days. Testing for all pupils, including  
6 makeup testing, is to be completed within this twenty-one (21) instructional day window  
7 unless all or part of the twenty-one (21) instructional day period falls after any statutorily  
8 specified deadline.

9 (b) Each school district shall provide for at least two (2) makeup days of testing for  
10 pupils who are absent during the period in which any school administered the  
11 designated achievement test and the standards-based achievement tests. All makeup  
12 testing shall occur within five (5) instructional days of the last date that the school district  
13 administered the tests but not later than the end of the twenty-one instructional day  
14 period established in subdivision (a).

15 (c) The STAR writing assessment shall be administered to each eligible pupil only on  
16 the day(s) specified annually by the State Superintendent of Public Instruction. An  
17 eligible pupil for purposes of the writing assessment is a pupil taking the standards-  
18 based achievement tests for ~~enrolled in~~ a grade at which the writing test will be  
19 administered.

20 NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code.

21 Reference: Sections 60640 and 60642.5, Education Code.

22  
23 *Amend Section 857 to read:*

24 **§ 857. ~~STAR Program~~ District STAR Coordinator.**

25 (a) On or before ~~November 15, 1999 and October 15~~ September 30 of each  
26 ~~subsequent~~ school year, the superintendent of each school district shall designate from  
27 among the employees of the school district a ~~STAR program~~ district STAR coordinator.  
28 The ~~STAR program~~ district STAR coordinator, or the school district superintendent or  
29 his or her designee, shall be available through August 15 of the following year to  
30 complete school district testing. The school district shall notify the ~~publisher~~ contractor  
31 of the identity and contact information, including electronic mail address, if available in  
32 the school district, for the ~~STAR program~~ district STAR coordinator and for the  
33 superintendent and his or her designee, if any. The ~~STAR program~~ district STAR

1 coordinator shall serve as the school district representative and the liaison between the  
2 school district and the ~~test publisher~~ contractor and the school district and the  
3 Department for all matters related to the STAR Program.

4 (b) The ~~STAR program~~ district STAR coordinator's responsibilities shall include, but  
5 not be limited to, all of the following duties:

6 (1) Responding to correspondence and inquiries from the ~~publisher~~ contractor and  
7 from the Department in a timely manner and as provided in the ~~publisher's~~ contractor's  
8 instructions and these regulations.

9 (2) Determining school district and individual school test and test material needs in  
10 conjunction with schools within the district and the test publisher contractor, using  
11 ~~California Basic Education Data System (CBEDS)~~ and current enrollment data and  
12 communicating school district test ~~and test material~~ needs to the ~~publisher~~ contractor on  
13 or before December 1.

14 (3) ~~Overseeing the acquisition and distribution of tests and test materials to~~  
15 ~~individual schools and test sites.~~ Ensuring delivery of tests and test materials to the test  
16 sites no more than ten (10) or fewer than five (5) working days before the first day of  
17 testing designated by the district.

18 (4) Coordinating the testing and makeup testing days for the school district and  
19 nonpublic schools within any required time periods with the school test site  
20 coordinators. Overseeing the collection of all pupil data as required to comply with  
21 Section 861.

22 (5) Maintaining security over the designated achievement test, ~~and the standards-~~  
23 ~~based achievement tests,~~ the CAPA and test data using the procedure set forth in  
24 Section 859. The ~~STAR program~~ district STAR coordinator shall sign the security  
25 agreement set forth in Section 859 and submit it to the contractor prior to receipt of the  
26 test materials from the contractor.

27 (6) Overseeing the administration of the designated achievement test, ~~and the~~  
28 ~~standards-based achievement tests,~~ and the CAPA to eligible pupils.

29 (7) Overseeing the collection and return of all test materials and test data to the  
30 ~~publisher~~ contractor within any required time periods.

31 (8) Assisting the ~~test publisher~~ contractor and the Department in the resolution of  
32 any discrepancies in the test information and materials, including but not limited to, pre-  
33 identification files and all pupil level data required to comply with Sections 861 and 862.

1 (9) Immediately notifying the Department of any security breaches or testing  
2 irregularities in the district before, during, or after the test administration.

3 (10) Ensuring that an answer document is submitted for scoring for each eligible  
4 pupil enrolled in the district on the first day of testing.

5 ~~(c) Within five (5) working days of completed school district testing, the school~~  
6 ~~district superintendent and the STAR program district coordinator shall certify the~~  
7 ~~following information with respect to the designated achievement test and the~~  
8 ~~standards-based achievement tests to the Department: that the school district has~~  
9 ~~maintained the security and integrity of the designated achievement test and the~~  
10 ~~standards-based achievement tests; collected all data and information as required by~~  
11 ~~Sections 861 and 862; returned to the test publisher all test materials, answer~~  
12 ~~documents, and other materials included as part of the designated achievement test~~  
13 ~~and the standards-based achievement tests in the manner and as otherwise required by~~  
14 ~~the test publisher; and assisted the test publisher in the resolution of any discrepancies~~  
15 ~~in the test or test materials as required by Section 868.~~

16 ~~(d)(11) Within five (5) working days of~~ After receiving summary reports and files from  
17 the ~~publisher~~ contractor, the school district STAR coordinator shall review the files and  
18 reports for completeness and accuracy, and shall notify the ~~publisher~~ contractor and the  
19 Department of its findings. ~~The school district shall notify the Department in writing~~  
20 ~~whether~~ any errors, discrepancies, or incomplete information ~~have been resolved.~~

21 (12) Training test site coordinators to oversee the test administration at each school.

22 NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code.

23 Reference: Sections 60630 and 60640, Education Code.

24  
25 *Amend Section 858 to read:*

26 **§ 858. STAR Test Site Coordinator.**

27 (a) At each test site, including but not limited to, each elementary, middle, and high  
28 school or other grade-span designated school, each charter school, each court-school,  
29 each school or program operated by a school district, and all other public programs  
30 serving pupils in any of the grades 2 to 11, inclusive, the superintendent of the school  
31 district or the district STAR coordinator shall designate a STAR test site coordinator  
32 from among the employees of the school district. The STAR test site coordinator, or the  
33 site principal or his or her designee, shall be available to the ~~STAR program~~ district

1 STAR coordinator by telephone through August 15 for purposes of resolving  
2 discrepancies or inconsistencies in materials or errors in reports.

3 (b) The STAR test site coordinator's responsibilities shall include, but are not limited  
4 to, all of the following duties:

5 (1) Determining site test and test material needs and communicating the site needs  
6 to the ~~STAR program~~ district STAR coordinator.

7 (2) Overseeing the acquisition and distribution of tests and test materials at the test  
8 site.

9 (3) Cooperating with the ~~STAR program~~ district STAR coordinator to provide the  
10 testing and makeup testing days for the site within any required time periods.

11 (4) Maintaining security over the designated achievement test, ~~and~~ the standards-  
12 based achievement tests, the CAPA and test data. The STAR test site coordinator shall  
13 sign the security agreement set forth in Section 859 and submit it to the district STAR  
14 coordinator prior to the receipt of the test materials.

15 (5) Arranging for and ~~Overseeing~~ the administration of the designated achievement  
16 test, ~~and~~ the standards-based achievement tests, and the CAPA to eligible pupils at the  
17 test site.

18 (6) Overseeing the collection and return of all testing materials to the ~~STAR program~~  
19 district STAR coordinator.

20 (7) Assisting the ~~STAR program~~ district STAR coordinator, the ~~test publisher~~  
21 contractor, and the Department in the resolution of any discrepancies in the test  
22 information and materials.

23 (8) Overseeing the collection of all pupil level and other data required to comply with  
24 Sections 861 and 862.

25 (9) Ensuring that an answer document is submitted for scoring for each eligible pupil  
26 enrolled in the school on the first day of testing.

27 ~~(10)~~(9) Ensuring that for each pupil tested only one scannable answer document is  
28 submitted for scoring, except for each pupil tested at grades 4 or grade 7, for which the  
29 contractor has designated the use of more than one answer document. ~~An~~ answer  
30 document for the STAR writing assessment administered pursuant to Section 855(c)  
31 shall be submitted in addition to the answer document for the multiple choice items.

32 (11) Immediately notifying the district STAR coordinator of any security breaches or  
33 testing irregularities that occur in the administration of the designated achievement test.

1 the standards-based achievement tests, or the CAPA that violate the terms of the STAR  
 2 Security Affidavit in Section 859.

3 (12) Training all test examiners, proctors, and scribes for administering the tests.

4 ~~(c) Within three (3) working days of complete site testing, the principal and the STAR~~  
 5 ~~test site coordinator shall certify to the STAR program district coordinator that the test~~  
 6 ~~site has maintained the security and integrity of the designated achievement test and~~  
 7 ~~the standards-based achievement tests, collected all data and information as required,~~  
 8 ~~and returned all test materials, answer documents, and other materials included as part~~  
 9 ~~of the designated achievement test in the manner and as otherwise required by the~~  
 10 ~~STAR program district coordinator.~~

11 NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code.

12 Reference: Sections 60630 and 60640, Education Code.

13  
 14 *Amend Section 859 to read:*

15 **§ 859. STAR Test Security Agreement and Test Security Affidavit.**

16 (a) All STAR ~~program~~ district and test site coordinators (coordinators) shall sign the  
 17 STAR Test Security Agreement set forth in Subdivision (b) before receiving any STAR  
 18 Program tests or test materials.

19 (b) The STAR Test Security Agreement shall be as follows:

20 **STAR TEST SECURITY AGREEMENT**

21 ~~The coordinator I~~ acknowledges by his or her my signature on this form that the  
 22 designated achievement test, ~~and the standards-based achievement tests, and the~~  
 23 CAPA are secure tests and agrees to each of the following conditions to ensure test  
 24 security.

25 (1) ~~The coordinator I~~ will take all necessary precautions to safeguard all tests and  
 26 test materials by limiting access to persons within the school district with a responsible,  
 27 professional interest in the ~~test's~~ tests' security.

28 (2) ~~The coordinator I~~ will keep on file the names of all persons having access to tests  
 29 and test materials. All persons having access to the materials shall be required by the  
 30 coordinator to sign the STAR Test Security Affidavit that will be kept on file in the school  
 31 district office.

32 (3) ~~The coordinator I~~ will keep the designated achievement test and the standards-  
 33 based achievement tests and test materials in a secure, locked location ~~limiting access~~

1 ~~to~~ and will deliver tests and test materials only to those persons responsible for test  
 2 security who have executed STAR Test Security Affidavits, except on actual testing  
 3 dates as provided in California Code of Regulations, Title 5, Division 1, Chapter 2,  
 4 Subchapter 3.75.

5 (4) I will keep the CAPA materials in a secure locked location when not being used  
 6 by examiners to prepare for and to administer the assessment. I will adhere to the  
 7 contractor's directions for the distribution of the assessment materials to examiners.

8 ~~(5)(4)~~ The coordinator I will not copy any part of the tests or test materials without  
 9 written permission from the Department to do so.

10 (6) I will not disclose, or allow to be disclosed, the contents of, or the test instrument.  
 11 I will not review any test questions, passages, or other test items with any other person  
 12 before, during, or after the test administration.

13 ~~(7)(5)~~ The coordinator I will not review test questions, develop any scoring keys or  
 14 review or score any pupil responses except as required by the contractor's manuals.

15 By signing my name to this document, I am assuring that I ~~and anyone having~~  
 16 ~~access to the test materials~~ will abide by the above conditions.

17 By: \_\_\_\_\_

18 Title: \_\_\_\_\_

19 School District: \_\_\_\_\_

20 Date: \_\_\_\_\_

21 (c) Each STAR test site coordinator shall deliver the designated achievement test  
 22 and the standards-based achievement tests and test materials on each day of testing  
 23 only to those persons actually administering the designated achievement test and the  
 24 standards-based achievement tests test examiners who have been trained to administer  
 25 the tests and who have signed the STAR Test Security Affidavit set forth in Subdivision  
 26 (f) on the date of testing to persons trained to administer the test who have executed the  
 27 STAR Test Security Affidavit set forth in Subdivision (e).

28 (d) Each STAR test site coordinator shall deliver the CAPA materials  
 29 only to test examiners. The coordinator shall adhere to the  
 30 contractor's directions for the distribution of the assessment materials  
 31 to test examiners.

32 ~~(e)(d)~~ All test examiners, proctors, scribes, and any other persons having access to  
 33 the designated achievement test and test materials, and to the standards-based  
 34 achievement tests and test materials, and the CAPA materials shall acknowledge the

1 limited purpose of their access to the tests by signing the STAR Test Security Affidavit  
2 set forth in Subdivision (f).

3 ~~(f)(e)~~The STAR Test Security Affidavit shall be as follows:

4 STAR TEST SECURITY AFFIDAVIT

5 I acknowledge that I will have access to the designated achievement test and to the  
6 standards-based achievement tests and the CAPA for the purpose of administering the  
7 test(s). I understand that these materials are highly secure, and it is my professional  
8 responsibility to protect their security as follows:

9 (1) I will not divulge the contents of the tests to any other person through verbal,  
10 written, or any other means of communication.

11 (2) I will not copy any part of the test(s) or test materials.

12 (3) I will keep the test(s) secure until the test(s) are actually distributed to pupils.

13 (4) I will limit access to the test(s) and test materials by test examinees to the actual  
14 testing periods when they are taking the test(s).

15 (5) I will collect and account for all materials following each period of testing and will  
16 not permit pupils to remove test materials from the room where testing takes place.

17 ~~(6) I will not disclose, or allow to be disclosed, the contents of, or the test instrument.~~  
18 I will not review any test questions, passages, or other test items with pupils or any  
19 other person before, during, or following testing.

20 (7) I will not develop scoring keys or review or score any pupil responses except as  
21 required by the ~~publisher's~~ contractor's administration manual(s) to prepare answer  
22 documents for machine or other scoring.

23 (8) I will return all test materials to the designated STAR test site coordinator daily  
24 upon completion of testing.

25 (9) I will administer the test(s) in accordance with the directions for test  
26 administration set forth in the ~~publisher's~~ contractor's manual for test administration.

27 (10) I have been trained to administer the tests.

28 Signed: \_\_\_\_\_

29 Print Name: \_\_\_\_\_

30 Position: \_\_\_\_\_

31 School: \_\_\_\_\_

32 School District: \_\_\_\_\_

33 Date: \_\_\_\_\_

1 ~~(g)(f)~~ To maintain the security of the Program, all ~~STAR program~~ district STAR  
 2 coordinators and test site coordinators are responsible for inventory control and shall  
 3 use appropriate inventory control forms to monitor and track test inventory.

4 *Section 861 to read:*

6 **§ 861. School-By-School Analysis**

7 (a) Each school district shall provide the ~~publisher~~ contractor ~~of~~ for the designated  
 8 achievement test and the standards-based achievement tests or CAPA, the following  
 9 information for each pupil ~~tested~~ enrolled on the first day the tests are administered for  
 10 purposes of the reporting required by the Academic Performance Index of the Public  
 11 Schools Accountability Act (Chapter 6.1, commencing with Section 52050), Section  
 12 60630, and Chapter 5 (commencing with Section 60640) of the Education Code:

13 (1) Pupil's full name.

14 ~~(2)(1)~~ Date of birth.

15 ~~(3)(2)~~ Grade level.

16 ~~(4)(3)~~ Gender.

17 ~~(5)(4) language fluency~~ English proficiency and ~~home~~ primary language.

18 (6) Date of English proficiency reclassification.

19 (7) If R-FEP pupil scored proficient or above on the California English-Language Arts  
 20 Standards Test three (3) times since reclassification.

21 ~~(8)(5) Special p~~Program participation.

22 ~~(9)(6) Use of Testing adaptations or accommodations, or modifications.~~

23 (10) California School Information Services (CSIS) Student Number once assigned.

24 ~~(11)(7)~~ Parent education level.

25 ~~(12)(8)~~ Amount of time in the school and school district.

26 (13) For English learners, length of time in California public schools and in school in  
 27 the United States.

28 (14) Participation in the National School Lunch Program.

29 ~~(15)(9)~~ Ethnicity.

30 ~~(16)(10) Handicapping condition or~~ Primary disability.

31 (17) County and District of residence for students with IEPs.

32 (18) Special testing conditions and/or reasons for not being tested.



1 (b) The information is for the purposes of aggregate analyses only and shall be  
2 provided and collected as part of the testing materials for the designated achievement  
3 test, the standards-based achievement tests, and the CAPA.

4 (c) School districts shall provide the same information for each eligible pupil enrolled  
5 in an alternative or off campus program or for pupils placed in nonpublic schools as is  
6 provided for all other eligible pupils in grades 2 to 11, inclusive.

7 (d) If the information required by section 861(a) is incorrect, the school district may  
8 enter into a separate agreement with the contractor to have the district's student data  
9 file corrected. The district STAR coordinator shall provide the correct information to the  
10 contractor within the contractor's timeline. Any costs for correcting the student data shall  
11 be the district's responsibility.

12 NOTE: Authority cited: Sections 33031 and 60605(g) ~~and (h)~~, Education Code.

13 Reference: Section 60630, Education Code.

14  
15 *Amend Section 862 to read:*

16 **§ 862. Apportionment.**

17 ~~(a) Each school district shall report to the Department all of the following information~~  
18 ~~relevant to~~ Annually, each school district shall receive an apportionment information  
19 report with the following information for the designated achievement test, ~~and the~~  
20 standards-based achievement tests, and the CAPA by grade level for each of grades 2  
21 to 11, inclusive:

22 (1) The number of pupils enrolled in each school and in the school district on the first  
23 day of testing ~~in the school district~~ as indicated by the number of answer documents  
24 submitted to the test contractor for scoring.

25 (2) The number of pupils with significant cognitive disabilities in each school and in  
26 the school district ~~exempted from testing pursuant to Education Code section 60640(e)~~  
27 tested with the California Alternate Performance Assessment (CAPA).

28 (3) The number of pupils in each school and in the school district exempted from  
29 testing at the request of their parents or guardians pursuant to Education Code ~~s~~Section  
30 60615.

31 (4) The number of pupils ~~to whom~~ who were administered any portion of the  
32 designated achievement test ~~was administered~~ and standards-based achievement  
33 tests.

1 (5) The number of pupils with demographic information only who were not tested for  
2 any reason other than because of a parent/guardian exemption.

3 (b) The department shall distribute the reports to districts no later than November 15  
4 following each testing cycle.

5 ~~(b)(1) The superintendent of each school district shall certify the accuracy of all~~  
6 ~~information submitted. The report required by Subdivision (a) shall be filed with the~~  
7 ~~State Superintendent of Public Instruction within ten (10) working days of the last day of~~  
8 ~~makeup testing in the school district.~~

9 ~~(2) School districts with an average daily attendance greater than 100,000 may~~  
10 ~~certify the accuracy and submit the information required by Subdivision (a) within fifteen~~  
11 ~~(15) working days of the last day of makeup testing in the school district. The school~~  
12 ~~district may submit a request to the Department to obtain approval of the State Board of~~  
13 ~~Education for an extension of ten (10) additional working days if the fifteen (15) working~~  
14 ~~day requirement presents an undue hardship.~~

15 (c) To be eligible for apportionment payment school districts must meet the following  
16 conditions:

17 (1) The school district has returned all secure test materials, and

18 (2) The superintendent of each school district has certified the accuracy of the  
19 apportionment information report for examinations administered during the calendar  
20 year (January 1 through December 31), which is either;

21 (A) postmarked by December 31, or

22 (B) if postmarked after December 31, the apportionment information report must be  
23 accompanied by a waiver request as provided by Education Code Section 33050. For  
24 those apportionment information reports postmarked after December 31, apportionment  
25 payment is contingent upon the availability of an appropriation for this purpose in the  
26 fiscal year in which the testing window began.

27 NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code.

28 Reference: Sections 60615 and 60640, Education Code.

29  
30  
31 *Amend Section 863 to read:*

32 **§ 863. STAR Student Parent Reports and Cumulative Record Labels.**

1 (a) The school district shall forward the STAR Student Report provided by the  
2 contractor, in writing, the results of to each pupil's test to the pupil's parent or guardian,  
3 within not more than twenty (20) working days from receipt of the report test results from  
4 the publisher contractor.

5 (b) If the school district receives these reports for the designated achievement test  
6 and standards-based tests from the test publisher contractor after the last day of  
7 instruction for the school year, the school district shall send the pupil results to the  
8 parent or guardian by U.S. mail at the parent's or guardian's last known address. If the  
9 report is non-deliverable, the school district shall make the report available to the parent  
10 or guardian during the next school year.

11 (c) Schools are responsible for affixing cumulative record labels reporting each  
12 pupil's scores to pupils' permanent school records, for entering the scores into  
13 electronic student records, and for forwarding the results to schools to which pupils  
14 matriculate or transfer. Schools may annotate the scores when the scores may not  
15 accurately reflect students' achievement due to illness or testing irregularities.

16 NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code.  
17 Reference: Section 60641, Education Code.

18  
19 *Amend Section 864 to read:*

20 **§ 864. Reporting Test Scores.**

21 No aggregate or group scores or reports that are compiled pursuant to Education  
22 Code section 60641 or 60643 shall be reported electronically, in hard copy, or in other  
23 media, to any audience other than the school or school district where the pupils were  
24 tested, if the aggregate or group scores or reports ~~is~~ are composed of ten (10) or fewer  
25 individual pupil scores. In each instance in which no score is reported for this reason,  
26 the notation shall appear "The number of pupils in this category is too small for  
27 statistical accuracy or privacy protection." In no case shall any group score be reported  
28 that would deliberately or inadvertently make public the score or performance of any  
29 individual pupil.

30 NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code.  
31 Reference: Section 60640, Education Code.

32 *Amend Section 864.5. to read:*

33 **§ 864.5. Test Order Information.**

1 (a) The school district shall provide to the ~~publisher~~ contractor, no later than  
2 December 1 of the year immediately prior to the year of test administration, the following  
3 data for each test site of the school district, by grade level:

4 ~~(1) CBEDS enrollment~~

5 ~~(2) Current enrollment~~

6 (1) Number of students to be tested

7 ~~(2)(3) Valid county district school (CDS) codes~~

8 ~~(3)(4) Number of tests without adaptation~~

9 ~~(4)(5) Numbers of special version tests with adaptations by type of adaptation~~  
10 including but not limited to Braille and large print.

11 ~~(5)(6) Number of directions for administration needed, by grade level.~~

12 ~~(6)(7) First date of testing in the school district, including the dates for each testing~~  
13 ~~wave test administration period, if applicable.~~

14 ~~(7)(8) Date or dates on which delivery of materials to the school district is requested.~~

15 (b) Each school district that elects pre-identification of answer documents shall  
16 provide to the ~~publisher~~ no fewer than 45 days prior to the first date of testing in the  
17 ~~school district~~, submit an electronic file that includes all of the information required in  
18 Section 861. The file must be submitted in accordance with the timeline, format, and  
19 instructions provided by the contractor.

20 (c) If the testing materials are lost or destroyed while in the possession of the school  
21 district, and the ~~publisher~~ contractor provides the school district with replacement  
22 materials, the school district is responsible for the cost of all replacement materials.

23 (d) If the school district places an order for tests for any school that is excessive, the  
24 school district is responsible for the cost of materials for the difference between the sum  
25 of the number of pupil tests scored, ~~the number of parent requests pursuant to~~  
26 ~~Education Code section 60615, and the number of individualized education program~~  
27 ~~exemptions pursuant to Education Code section 60640(e)~~ submitted for scoring  
28 including tests for non-tested pupils and 90 percent of the tests ordered. In no event  
29 shall the cost to the school district for replacement or excessive materials exceed the  
30 amount per test booklet and accompanying material that is paid to the ~~publisher~~  
31 contractor by the Department as part of the contract ~~with the publisher~~ for the current  
32 year.

1 NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code.

2 Reference: Sections 60640 and 60643, Education Code.

3  
4 *Amend Section 865 to read:*

5 **§ 865. Transportation.**

6 (a) Upon arrival of the test materials at a single location designated by each school  
7 district, the school district's ~~STAR program~~ district STAR coordinator shall provide the  
8 ~~publisher contractor~~ with a signed receipt certifying that all cartons were received.

9 (b) The security of the test materials that have been duly delivered to the school  
10 district is the sole responsibility of the school district until all test materials have been  
11 inventoried, accounted for, and delivered to the common or private carrier designated  
12 by the ~~publisher contractor~~ contractor for return to the contractor.

13 (c) Secure transportation within a school district is the responsibility of the school  
14 district once materials have been duly delivered to the school district. The school district  
15 is responsible for secure delivery of test materials to non-public schools to which district  
16 students with disabilities are assigned.

17 NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code.

18 Reference: Section 60640, Education Code.

19  
20 *Amend Section 866 to read:*

21 **§ 866. School District Delivery.**

22 (a) No school district shall receive its multiple-choice test materials more than  
23 ~~twenty-five (25)~~ twenty (20) or fewer than ten (10) calendar working days prior to the  
24 first day of testing in the school district. A school district that has not received multiple-  
25 choice test materials from the ~~test publisher contractor~~ contractor at least ten (10) calendar  
26 working days before the first date of testing in the school district shall notify the  
27 ~~publisher contractor~~ and the Department on the tenth working day before testing is  
28 scheduled to begin that the school district has not received its materials. Deliveries of  
29 multiple-choice test materials to single school districts shall use the schedule in Section  
30 867.

31 ~~(b) School districts shall return all designated achievement tests and standards-~~  
32 ~~based achievement tests and test materials to the publisher within five (5) working days~~

1 ~~of the last test date in the school district, including makeup testing days or six (6) days~~  
2 ~~after any statutory deadline, whichever date is earlier.~~

3 ~~(b)(e) A school district and the publisher contractor may shall establish a periodic~~  
4 ~~delivery and retrieval schedule to accommodate wave test administration dates test~~  
5 ~~administration periods within the school district. Any schedule established must conform~~  
6 ~~to Sections 866(a) and (b) for each test administration period.~~

7 ~~(c) No school district shall receive its writing test materials more than ten (10) or~~  
8 ~~fewer than five (5) working days before the day on which the writing tests are to be~~  
9 ~~administered.~~

10 NOTE: Authority cited: Sections 33031 and 60605(g) ~~and (h)~~, Education Code.

11 Reference: Sections 60640 and 60643, Education Code.

12  
13 *Amend Section 867 to read:*

14 **§ 867. Test Site Delivery and Return.**

15 (a) No school or other test site shall receive any multiple-choice test or related test  
16 materials more than ten (10) ~~working days~~ nor fewer than five (5) working days prior to  
17 the first day of testing scheduled at the school or test site.

18 ~~(b) Upon completion of a testing wave at a site, including makeup testing, all tests~~  
19 ~~and test materials shall be returned to the school district location designated by the~~  
20 ~~STAR program district coordinator.~~

21 ~~(b) All multiple-choice testing materials shall be returned to the school district~~  
22 ~~location designated by the district STAR coordinator no more than two (2) working days~~  
23 ~~after testing is completed for each test administration period.~~

24 ~~(c) Designated achievement tests and standards-based achievement tests and test~~  
25 ~~materials shall not be retained at the test site for more than two (2) working days after~~  
26 ~~the last day of test administration including makeup testing days or after any statutory~~  
27 ~~deadline, whichever is earlier. No school or other test site shall receive any writing test~~  
28 ~~materials more than six (6) or fewer than two (2) working days before the test~~  
29 ~~administration date.~~

30 ~~(d) Writing test materials shall be returned to the district STAR coordinator no more~~  
31 ~~than one day after the day scheduled for makeup testing.~~

32 *Amend Section 867.5 to read:*

33 **§ 867.5. Retrieval of Materials by Publisher Contractor.**

1       (a) The school district shall ensure that multiple-choice testing materials are  
2 inventoried, packaged, and labeled in accordance with instructions from the ~~publisher~~  
3 contractor, and returned to a single school district location for pickup by the ~~publisher~~  
4 contractor within five (5) working days following completion of testing in the school  
5 district and in no event later than five (5) working days after ~~any applicable statutory~~  
6 deadline each test administration period. All school districts must have their multiple-  
7 choice testing materials returned to the ~~publisher~~ contractor no later than ~~six (6)~~ five (5)  
8 working days after any statutory deadline.

9       **(b) School districts shall return all writing tests and test materials to the contractor no**  
10 **more than two (2) working days after the makeup day specified for the writing test.**

11 NOTE: Authority cited: Sections 33031 and 60605(~~g~~) and (~~h~~), Education Code.

12 Reference: Sections 60640 and 60643, Education Code.

13  
14 *Amend Section 868 to read:*

15 **§ 868. Discrepancy Resolution for Designated Achievement Test, Standards-**  
16 **Based Achievement Tests, and CAPA.**

17       (a) School districts shall process discrepancies determined by the ~~designated~~  
18 ~~publisher~~ contractor upon receipt of returned tests and test materials pursuant to this  
19 subdivision:

20       (1) Receipt of a discrepancy notice in writing, via telephone, or via electronic mail by  
21 the ~~STAR program~~ district STAR coordinator for one or more of the following shall  
22 require a response from the ~~STAR program~~ district STAR coordinator to the ~~publisher~~  
23 contractor within 24 hours.

24       (A) A discrepancy between the quantity of tests and test materials shipped to the  
25 school district and the number of tests and test materials returned to the ~~publisher~~  
26 contractor from the school district.

27       (B) Information on scannable documents or test support materials that is  
28 inconsistent, incomplete, or missing, according to criteria established with the  
29 Department.

30       (2) The ~~STAR program~~ district STAR coordinator shall acknowledge the discrepancy  
31 notice via electronic mail, if available in the school district, to the ~~publisher~~ contractor  
32 and to the Department within twenty-four (24) hours of its receipt via electronic mail.

1 (b) The ~~STAR program~~ district STAR coordinator shall report any discrepancy in the  
2 total amount of the shipment from the ~~designated test publisher~~ contractor within two (2)  
3 working days of the receipt of the shipment. If the ~~designated test publisher~~ contractor  
4 does not remedy the discrepancy within two (2) working days of the school district  
5 report, the school district shall notify the Department within 24 hours.

6 (c) Any discrepancy in a shipment of designated achievement tests or test materials,  
7 ~~or standards-based achievement tests or test materials,~~ or CAPA materials received by  
8 a test site from the ~~STAR program~~ district STAR coordinator shall be reported to the  
9 ~~STAR program~~ district STAR coordinator immediately but no later than two (2) working  
10 days of the receipt of the shipment at the testing site. The ~~STAR program~~ district STAR  
11 coordinator shall remedy the discrepancy within two (2) working days.

12 (d) The ~~STAR program~~ district STAR coordinator shall report to the ~~publisher~~  
13 contractor any discrepancy reported by a STAR test site coordinator within three (3)  
14 working days of receipt of materials at the test site. If the ~~STAR program~~ district STAR  
15 coordinator does not have a sufficient supply of tests or test materials to remedy any  
16 shortage, the ~~test publisher~~ contractor shall remedy the shortage by providing sufficient  
17 materials directly to the test site within two (2) working days of the notification by the  
18 ~~STAR program~~ district STAR coordinator.

19 (e) The notices required by this section shall be made by telephone with  
20 simultaneous confirmation in writing and by electronic mail.

21 NOTE: Authority cited: Sections 33031 and 60605(~~g~~) and (~~h~~), Education Code.

22 Reference: Sections 60640 and 60643, Education Code.

23  
24 *Amend Section 870 to read:*

25 **§ 870. Apportionment to School Districts.**

26 (a) The amount of funding to be apportioned to the school district for the costs of  
27 administering the designated achievement test, ~~and the standards-based achievement~~  
28 tests, and the CAPA shall be the amount established by the State Board of Education to  
29 enable school districts to meet the requirements of administering the designated  
30 achievement test, ~~and the standards-based achievement tests, and the CAPA~~ per the  
31 number of tests administered to eligible pupils in grades 2 to 11, inclusive, and the  
32 number of answer documents returned with only demographic information for students  
33 enrolled on the first day of testing who were not tested in the school district. The number



1 of tests administered and the number of demographic answer documents shall be  
2 determined by the certification of the school district superintendent pursuant to Section  
3 862. For purposes of this portion of the apportionment, administration of the designated  
4 achievement test, and the standards-based achievement tests, and the CAPA includes  
5 the following items:

6 (1) All staffing costs, including the ~~STAR program~~ district STAR coordinator and the  
7 STAR test site coordinators, staff training and other staff expenses related to testing.

8 (2) All expenses incurred at the school district and test site level related to testing.

9 (3) All transportation costs of delivering and retrieving tests and test materials within  
10 the school district.

11 (4) All costs associated with mailing the ~~parent reports of test results~~ STAR Student  
12 Reports to parents/guardians.

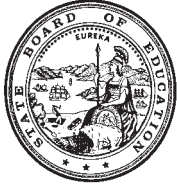
13 (5) All costs associated with pre-identification of answer sheets and consumable test  
14 booklets, and other activities intended to provide the complete and accurate data  
15 required in Section 861 of these regulations.

16 (b) This amount does not include any funding for the purposes of reimbursing the  
17 costs incurred by any school district pursuant to Section 864.5(d) placing an order that  
18 is excessive, or for replacement costs for test materials lost or destroyed while in  
19 possession of the school district as ~~allocated~~ stated in Section ~~865~~ 864.5(c). These  
20 costs are outside the scope of the mandates of the STAR Program.

21 (c) If at the time a school district's scannable documents are processed by the  
22 ~~publisher~~ contractor a student data record is missing any of the data elements required  
23 in Section 861 of these regulations, the school district shall provide the missing data  
24 elements within the time required by the ~~publisher~~ contractor to process the documents  
25 and meet the ~~publisher's~~ contractor's schedule of deliverables under its contract with  
26 the Department. The additional costs incurred by the school district to have the  
27 ~~publisher~~ contractor reprocess the student information to acquire the data required by  
28 Section 861 of these regulations shall be withheld from the school district's  
29 apportionment.

30 NOTE: Authority cited: Sections 33031 and 60605(~~g~~) and (~~h~~), Education Code.

31 Reference: Sections 60640 and 60643, Education Code.



# CALIFORNIA STATE BOARD OF EDUCATION

## SEPTEMBER 2004 AGENDA

<b>SUBJECT</b> Standardized Testing and Reporting (STAR) Program: Adopt Amendments to Title 5 Regulations	<input checked="" type="checkbox"/> <b>Action</b>  <input checked="" type="checkbox"/> <b>Information</b>  <input type="checkbox"/> <b>Public Hearing</b>
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### RECOMMENDATION

Consider comments received during the public comment period and at the public hearing and take action to adopt the regulations.

### SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

In July 2004, the State Board of Education (SBE) approved the Initial Statement of Reasons, Notice of Proposed Rulemaking, and the commencement of the regulatory process for the proposed amendments to the Title 5 regulations for the Standardized Testing and Reporting (STAR) Program and directed staff to begin the 45-day written comment period.

### SUMMARY OF KEY ISSUES

The proposed amendments to the regulations:

- Update and clarify definitions used in the Program.
- Extend the use of below-grade-level testing for students with Individualized Education Programs (IEPs) for an additional year and expand the availability of below-grade-level testing to grades three and four.
- Make technical corrections to the testing variations, accommodations, and modifications to align the regulatory language with a matrix of allowable accommodations and modifications and to provide language that is consistent with the CAHSEE and CELDT regulatory language.
- Add the requirement that test examiners certify that they have received training to administer the tests. This addition was made due to an increasing number of test administration errors districts are reporting. The errors that are being made are generally linked to examiners not receiving training to administer the tests and not understanding the requirements.

## **SUMMARY OF KEY ISSUES**

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- Modify the process for district STAR apportionments. Based on current technology, the Department is now able to produce Apportionment Information Reports for district superintendents to certify. This process results in more accurate reports and a workload reduction for districts.
- Modify the dates associated with testing materials being delivered to districts and schools and being returned to the contractor after testing. The modification involves changing all days to working days. Previously a combination of working days and calendar days was used, resulting in confusion about when materials would be received.

## **FISCAL ANALYSIS (AS APPROPRIATE)**

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The Economic and Fiscal Impact Analysis concluded that while there are some costs related to the amendments, most of the costs are attributable to either state or federal statutes. Some of the regulations generate a cost savings. Costs not attributable to statute are reimbursable by the apportionment. The analysis was included in the Last Minute Memorandum submitted to SBE for the agenda item on the proposed regulations at the July 2004 SBE meeting.

## **ATTACHMENT**

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The proposed regulations that were approved by SBE to be sent out for the 45-day written comment period are attached.

Attachment 1: [STAR Regulations, Title 5. Education, Division 1. State Department of Education, Chapter 2. Pupils, Subchapter 3.75. Standardized Testing and Reporting. Article 1. General \(30 Pages\)](#)

A Last Minute Memorandum will be provided that will include a summary of the comments received during the public comment period and at the public hearing.

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**Title 5. EDUCATION**  
**DIVISION 1. STATE DEPARTMENT OF EDUCATION**  
**Chapter 2. Pupils**  
**Subchapter 3.75. Standardized Testing and Reporting**  
**ARTICLE 1. GENERAL**

*Add subsection (h) to Section 850 to read:*

**§ 850. Definitions.**

For the purposes of the Standardized Testing and Reporting (STAR) program, the following terms shall have the following meanings unless the context indicates otherwise:

(a) "Designated achievement test" is the achievement test required by Education Code sSection 60640(b). The designated achievement test includes test booklets, test answer documents, administration manuals, and administrative materials. ~~The designated achievement test is to be administered in the areas of reading, spelling, written expression and mathematics for pupils in grades 2 to 8, inclusive; and in the core curriculum areas of reading, writing, mathematics, history-social science and science for pupils in grades 9 to 11, inclusive.~~

(b) "Primary language test" includes any test administered pursuant to Education Code sSection 60640(f) or a test administered pursuant to the requirement of Education Code sSection 60640(g), as applicable, and includes the test booklets, test answer documents, administration manuals, administrative materials and practice tests.

(c) "School districts" includes elementary, high school, and unified school districts; county offices of education; and any charter school that for assessment purposes does not elect to be part of the school district or county office of education that granted the charter; and any charter school chartered by the State Board of Education.

(d) "Eligible pupil" is any pupil in grades 2 to 11, inclusive, who is not otherwise exempted.

1       (1) For the designated achievement test and the standards-based  
2 achievement tests, an eligible pupil is any pupil in grades 2 through 11, inclusive,  
3 including those pupils placed in a non-public school through the Individualized  
4 Education Program (IEP) process pursuant to Education Code Section 56365  
5 who is not exempted by parent/guardian request or eligible to take the California  
6 Alternate Performance Assessment (CAPA).

7       (2) For the CAPA, an eligible pupil is any pupil with a significant cognitive  
8 disability in grades 2 through 11, and ages 7 through 16 in ungraded programs,  
9 whose IEP states that the pupil is to take the CAPA.

10       (3) For the primary language test, an eligible pupil is an English learner with a  
11 primary language for which a test is required or optional.

12       (e) “Department” means the California Department of Education.

13       (f)(1) “Standards-based achievement tests” are those tests that measure the  
14 degree to which pupils are achieving the content standards and performance  
15 standards adopted by the State Board of Education as provided in Education  
16 Code ~~§~~Section 60642.5. The standards-based achievement tests include test  
17 booklets, test answer documents, administration manuals, administrative  
18 materials, practice tests and other materials developed and provided by the  
19 ~~publisher~~ contractor of the tests.

20       (2) The term “standards-based achievement test” may refer to one or more of  
21 the individual achievement tests in the subject or core curriculum areas required  
22 by Education Code ~~§~~Section 60642.5, or all of the standards-based achievement  
23 tests collectively.

24       (g) “Administration Period” means one of multiple test administration periods  
25 by school districts with schools or programs on non-traditional calendars that  
26 begin and complete the school year at various times and have staggered vacation  
27 periods, in order to ensure that all pupils are tested at approximately the same  
28 point in the instructional year.

29       ~~(h) “The California Alternate Performance Assessment” (CAPA) “CAPA” is an~~  
30 ~~individually administered performance assessment developed to assess students’~~  
31 ~~pupils’~~ achievement on a subset of California’s Academic Content Standards. It is

1 ~~administered to students receiving special education services who are~~  
2 ~~significantly cognitively disabled.~~ The CAPA includes administration manuals,  
3 administrative materials, and documents on which the examiner records the  
4 ~~students' pupils' responses.~~

5 (i) "Untimed administration" means that pupils may receive as much time as  
6 needed within a single sitting to complete a test or test part.

7 ~~(j)(i) "Out-of-level testing" "Below-grade-level testing"~~ means administering a  
8 test that is below the grade level of the pupil being tested.

9 (k) "Test examiner" is an employee of a school district or an employee of a  
10 non-public school who has been trained to administer the tests and has signed a  
11 STAR Test Security Affidavit. For the CAPA, the test examiner must be a  
12 certificated or licensed school staff member.

13 (l) "Test proctor" is an employee of a school district, or a person assigned by a  
14 nonpublic school to implement a pupil's IEP, who has received training designed  
15 to prepare him or her to assist the test examiner in the administration of tests  
16 within the STAR Program.

17 ~~(m)(j)~~ "Scribe" is an employee of the school district, or a person assigned by a  
18 nonpublic school to implement a pupil's IEP, and is required to transcribe a pupil's  
19 ~~or adult student's~~ responses to the format required by the examination test. A  
20 ~~family member~~ student's parent or guardian is not eligible to be a scribe.

21 ~~(n)(k)~~ "Accommodations" means any variation in the assessment environment  
22 or process that does not fundamentally alter what the test measures or affect the  
23 comparability of scores. Accommodations may include variations in scheduling,  
24 setting, aids, equipment, and presentation format.

25 ~~(o)(f)~~ "Modification" means any variation in the assessment environment or  
26 process that fundamentally alters what the test measures or affects the  
27 comparability of scores.

28 ~~(p)(m)~~ "Variation" is a change in the manner in which a test is presented or  
29 administered, or in how a test taker is allowed to respond, and includes, but is not  
30 limited to, accommodations and modifications ~~as defined in Education Code~~  
31 ~~section 60850.~~

1 (g) "Grade" means the grade assigned to the pupil by the school district at the  
2 time of testing.

3 NOTE: Authority cited: Sections 33031 and 60605, Education Code. Reference:  
4 Sections 60615, 60640, 60642 and 60642.5, Education Code.

5  
6 **Article 2. Designated Achievement Test, and Standards-Based**  
7 **Achievement Tests, and California Alternate Performance Assessment**

8  
9 *Amend Section 851 to read:*

10 **§ 851. Pupil Testing.**

11 (a) School districts shall administer the designated achievement test and  
12 standards- based achievement tests to each eligible pupil enrolled in any of  
13 grades 2 to 11, inclusive, in a school district on the date testing begins in the  
14 pupil's school.

15 (b) School districts shall administer the CAPA, as set forth in the pupil's IEP, to  
16 each eligible pupil in any of grades 2 to 11, inclusive, in a school district during the  
17 period specified by the test contractor. Pupils in ungraded special education  
18 classes shall be tested, if they are 7 to 16 years of age.

19 (c)(b) School districts shall make whatever arrangements are necessary to test  
20 all eligible pupils in alternative education programs or programs conducted off  
21 campus, including, but not limited to, continuation schools, independent study,  
22 community day schools, or county community schools.

23 (d)(e) School districts may administer the designated achievement test to  
24 pupils enrolled in kindergarten or grade 1 or 12, but those pupils shall not be  
25 counted for the apportionment pursuant to Education Code ~~s~~Section 60640(h).

26 (e)(d) No test may be administered in a ~~private~~ home or ~~location~~ hospital  
27 ~~unless the test is administered by either a certificated employee of the school~~  
28 ~~district or an employee of a nonpublic school pursuant to Education Code section~~  
29 ~~56365 who holds a credential and the employee signs a security affidavit~~ except  
30 by a test examiner. No test shall be administered to a pupil by the parent or  
31 guardian of that pupil. This subdivision does not prevent classroom aides from

1 assisting in the administration of the test under the supervision of a credentialed  
2 school district employee provided that the classroom aide does not assist his or  
3 her own child and that the classroom aide signs a security affidavit.

4 NOTE: Authority cited: Sections 33031 and 60605~~(g) and (h)~~, Education Code.  
5 Reference: Sections 60640 and 60642.5, Education Code.

6  
7 *Amend Section 852 to read:*

8 **§ 852. Pupil Exemptions.**

9 (a) A parent or guardian may submit to the school a written request to excuse  
10 his or her child from any or all parts of any test provided pursuant to Education  
11 Code ~~s~~Section 60640. A school district and its employees may discuss the  
12 Standardized Testing and Reporting program with parents and may inform parents  
13 of the availability of exemptions under Education Code ~~s~~Section 60615. However,  
14 the school district and its employees shall not solicit or encourage any written  
15 exemption request on behalf of any child or group of children.

16 ~~(b) Pupils in special education programs shall be tested with the designated~~  
17 ~~achievement test and the standards-based achievement tests unless the~~  
18 ~~individualized educational program for the pupil specifically states that the pupil~~  
19 ~~will be assessed with the California Alternate Performance Assessment or~~  
20 ~~(CAPA).~~

21 NOTE: Authority cited: Sections 33031 and 60605, Education Code. Reference:  
22 Sections 60615 and 60640, Education Code.

23  
24 *Amend Section 853 to read:*

25 **§ 853. Administration.**

26 (a) The designated achievement test shall be administered and returned by  
27 school districts in accordance with the manuals or other instructions provided by  
28 the contractor for administering and returning the tests unless specifically  
29 provided otherwise in this subchapter including instructions for administering the  
30 test with variations, accommodations, and modifications. The procedures shall  
31 include, but are not limited to, those designed to insure the uniform and standard



1 administration of the tests to pupils, the security and integrity of the test content  
2 and test items, and the timely provision of all required student and school level  
3 information.

4 (b) The standards-based achievement tests and the ~~California Alternate~~  
5 ~~Performance Assessment (CAPA)~~ shall be administered and returned by school  
6 districts in accordance with the manuals and other instructions provided by the  
7 contractor, and in accordance with testing variations, accommodations, and  
8 modifications specified in Section 853.5. The procedures shall include, but are not  
9 limited to, those designed to insure the uniform and standard administration of the  
10 tests to pupils, the security and integrity of the test content and test items, and the  
11 timely provision of all required student and school level information. The  
12 procedures shall not include criteria for who should be assessed by the CAPA.

13 (c) For the ~~2003-04~~ 2004-05 school year ~~only~~, pupils with IEPs specifying  
14 below- grade-level testing in grades ~~5~~ 4 through 11 may be tested one or two  
15 grades below their enrollment grade. Pupils with IEPs specifying below-grade-  
16 level testing in grade three may be tested one grade level below their enrollment  
17 grade. The test level must be specified in the ~~student's~~ pupil's IEP. ~~Out-of-level~~  
18 Below-grade-level testing shall be used only if the ~~student~~ pupil is not receiving  
19 grade-level ~~instruction~~ curriculum as specified by the California academic content  
20 standards, and is so indicated on the IEP. ~~Students~~ Pupils tested ~~out-of-level~~  
21 below-grade-level must complete all tests required for the grade at which they are  
22 tested and shall be administered ~~only one level of the tests~~ the tests for only one  
23 grade level. ~~Out-of-level testing is not allowed for pupils in grades 2, 3, and 4. No~~  
24 ~~out-of-level testing shall be allowed at any grade beginning with the 2004-05~~  
25 ~~school year.~~

26 NOTE: Authority cited: Sections 12001, 33031 and 60605, Education Code.

27 Reference: Section 60640, Education Code; and 20 USC Section 6311.

28  
29 *Amend Section 853.5 to read:*

30 **§ 853.5 Use of Variations, Accommodations, and Modifications for the**  
31 **~~Standards-Based Achievement Test and the California Alternate~~**

1 **Performance Assessment.**

2 (a) School districts may provide all pupils the following variations:

3 (1) have test directions simplified or clarified.

4 (2) write in test booklets for grades 4-11 on the Standards-Based Achievement  
5 Test.

6 (3) have as much time as needed within a single sitting to complete a test or  
7 test part on the Standards-Based Achievement Test.

8 (b)(a) School districts may provide all pupils the following testing variations if  
9 regularly used in the classroom:

10 (1) test directions that are simplified or clarified.

11 (1)(2) special or adaptive furniture.

12 (2)(3) special lighting, or special acoustics, or visual magnifying or audio  
13 amplification equipment.

14 (3)(4) an individual carrel or study enclosure.

15 (4)(5) test individually in a separate room provided that an employee of the  
16 school, school district, or non-public school, who has signed the STAR Test  
17 Security Affidavit, directly supervises the pupil.

18 (5)(6) markers, colored overlay, masks, or other means to maintain visual  
19 attention to the examination test or test items questions.

20 (6) grade two or three standards-based achievement tests underlining or  
21 marking information or working math problems in the test booklet and having a  
22 school, school district, or non-public school employee who has signed the Test  
23 Security Affidavit transfer the answers to a new test booklet.

24 (7) Manually Coded English or American Sign Language to present directions for  
25 administration.

26 (c)(b) Eligible pupils with disabilities who have IEPs and students pupils with  
27 Section 504 plans shall be permitted to take the standards-based achievement  
28 tests with the following presentation, response or setting accommodations if  
29 specified in the IEP or Section 504 plan:

30 (1) large print versions.

31 (2) test items enlarged through electronic means (e.g., photocopier) if font larger

1 than that used on large print versions is required.

2 (3) Braille transcriptions provided by the test contractor.

3 ~~(4) Use of manually coded or American sign language to present directions for~~  
4 ~~administration.~~

5 (4) for grade two or three designated achievement test underlining or marking  
6 information or working math problems in addition to marking question answers in test  
7 booklets and having a school, school district, or non-public school employee who has  
8 signed the Test Security Affidavit transfer the answers to a new test booklet.

9 (5) audio or oral presentation of the mathematics, science, or history-social  
10 science tests.

11 (6) use of ~~m~~Manually eCoded English or American ~~s~~Sign lLanguage to present  
12 test questions on the mathematics, science, or history-social science tests.

13 (7) responses marked in test booklet and transferred to the answer document by  
14 a school, ~~or~~ school district, or non-public employee who has signed the Test Security  
15 Affidavit.

16 (8) responses dictated orally, in Manually Coded English or American Sign  
17 Language to a scribe for selected-response items (e.g., multiple-choice test  
18 questions).

19 (9) responses dictated to a scribe, audio recorder or speech to text converter  
20 on the ~~grade 4 or grade 7 writing application standards section~~ portion of the  
21 ~~California English-L~~anguage ~~A~~rts ~~S~~tandards ~~T~~ests, and the pupil indicates all  
22 spelling and language conventions.

23 (10) use of word processing software with spell and grammar check tools  
24 turned off on the writing portion of the ~~grade 4 or 7 test~~ English-language arts  
25 tests.

26 (11) use of an assistive device that does not interfere with the independent  
27 work of the student on the multiple-choice or writing portion of the test.

28 (12) supervised breaks within a section of the test.

29 (13) administration of the test at the most beneficial time of day to the pupil.

30 (14) administration of any test or test part to be given in a single sitting over  
31 more than one day.

1 ~~(15)~~(14) test administered by ~~certificated teacher~~ a test examiner to a pupil or  
2 adult student at home or in the hospital.

3 (16) write in test booklet for grades 4-11 on the designated achievement test.

4 (17) extra time within the testing day on the designated achievement test.

5 ~~(d)(e)~~ Eligible pupils with disabilities shall be permitted ~~to take the standards-~~  
6 ~~based tests with~~ the following modifications if specified in the eligible pupil's IEP  
7 or Section 504 Plan:

8 (1) calculators, arithmetic tables, or mathematics manipulatives on the  
9 mathematics or science tests.

10 (2) audio or oral presentation of the English-language arts tests.

11 (3) ~~use of m~~Manually e~~Coded English~~ or American ~~s~~Sign l~~Language~~ to present  
12 test questions on the English-language arts tests.

13 (4) spellcheckers, grammar checkers, or word processing software programs  
14 that check or correct spelling and/or grammar on the writing portion of the ~~grade 4~~  
15 ~~and 7~~ English-language arts tests.

16 (5) mechanical or electronic devices or other assistive devices that are not  
17 used solely to record the pupil's responses, including but not limited to  
18 transcribers, scribes, voice recognition or voice to text software, and that identify a  
19 potential error in the pupil's response or that correct spelling, grammar or  
20 conventions on the writing portion of the ~~grade 4 and 7~~ English-language arts  
21 tests.

22 ~~(6) use of American sign language to provide a response to the written portion~~  
23 ~~of the grade 4 and 7 English-language arts tests~~ responses dictated orally, in  
24 Manually Coded English or American Sign Language to provide an essay  
25 response to a scribe and the scribe provides spelling, grammar, and language  
26 conventions.

27 (7) ~~English dictionary on the English-language arts test.~~

28 ~~(8) mathematics dictionary on the mathematics section of the examination.~~

29 (e) If the school district, pupil's IEP team or Section 504 plan proposes a  
30 variation for use on the designated achievement test, the standards-based  
31 achievement test, or the CAPA, that has not been listed in this section, the school

1 district may submit, to the California Department of Education, for review of the  
2 proposed variation in administering the designated achievement test, standards-  
3 based achievement test, or the CAPA.

4 ~~(f)(d)~~ School districts shall provide identified English learner pupils the following  
5 ~~additional~~ testing variations if regularly used in the classroom or for assessment:

6 (1) Flexible setting. Tested in a separate room with other English learners  
7 provided that an employee of the school, school district, or non-public school, who  
8 has signed the Test Security Affidavit, directly supervises the pupil ~~and the pupil has~~  
9 ~~been provided such a flexible setting.~~

10 (2) Flexible schedule. Additional supervised breaks following each section within a  
11 test part provided that the test section is completed within a testing day. A test  
12 section is identified by a "STOP" at the end of it.

13 (3) Translated directions. Hear ~~any~~ the test directions ~~the test examiner is to read~~  
14 ~~aloud~~ printed in the test administration manual translated into their primary language.  
15 English learners shall have the opportunity to ask clarifying questions about any test  
16 directions presented orally in their primary language.

17 (4) Glossaries. Access to translation glossaries/word lists for the standards-  
18 based achievement tests in mathematics, science, and history-social science ~~if~~  
19 ~~used regularly in the classroom~~ (English to primary language). The translation  
20 glossaries/word lists are to include only the English word or phrase with the  
21 corresponding primary language word or phrase. The glossaries/word lists shall  
22 include no definitions or formulas.

23 NOTE: Authority cited: Sections 12001, 33031 and 60605, Education Code.

24 Reference: Section 60640, Education Code; and 20 USC Section 6311.

25  
26 *Amend Section 854 to read:*

27 **§ 854. Advance Preparation for the Test.**

28 (a) Except for materials specifically ~~included within the designated~~  
29 ~~achievement or standards-based test~~ provided by the California Department of  
30 Education or its agents, no program or materials shall be used by any school  
31 district or employee of a school district that are specifically formulated or intended

1 to prepare pupils for the designated achievement tests or standards-based  
2 achievement tests. No administration or use of an alternate or parallel form of the  
3 designated achievement test for ~~any stated purpose~~ shall be permitted used as  
4 practice for any pupils in grades 2 through 11, inclusive.

5 (b) Practice tests provided by the ~~publisher~~ contractor as part of the  
6 ~~designated achievement test~~ standards-based achievement tests for the limited  
7 purpose of familiarizing pupils with the use of scannable test booklets or answer  
8 sheets and the format of test items are not subject to the prohibition of  
9 Subdivision (a).

10 NOTE: Authority cited: Sections 33031 and 60605(~~g~~) and (~~h~~), Education Code.  
11 Reference: Sections 60611 and 60640, Education Code.

12  
13 *Amend Section 855 to read:*

14 **§ 855. Testing Period.**

15 (a) The designated achievement test and the standards-based achievement  
16 tests, except for the STAR writing assessment as specified in subdivision (c), shall  
17 be administered to each pupil during a testing window of twenty-one (21)  
18 instructional days that includes ten (10) instructional days before and after  
19 completion of 85% of the school's, track's, or program's instructional days. Testing  
20 for all pupils, including makeup testing, is to be completed within this twenty-one  
21 (21) instructional day window unless all or part of the twenty-one (21) instructional  
22 day period falls after any statutorily specified deadline.

23 (b) Each school district shall provide for at least two (2) makeup days of  
24 testing for pupils who were absent during the period in which any school  
25 administered the designated achievement test and the standards-based  
26 achievement tests. All makeup testing shall occur within five (5) instructional days  
27 of the last date that the school district administered the tests but not later than the  
28 end of the twenty-one (21) instructional day period established in subdivision (a).

29 (c) The STAR writing assessment shall be administered to each eligible pupil  
30 only on the day(s) specified annually by the State Superintendent of Public  
31 Instruction. An eligible pupil for purposes of the writing assessment is a pupil

1 taking the standards-based achievement tests for enrolled in a grade at which the  
2 writing test will be administered.

3 NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code.

4 Reference: Sections 60640 and 60642.5, Education Code.

5

6 *Amend Section 857 to read:*

7 **§ 857. ~~STAR Program~~ District STAR Coordinator.**

8 (a) On or before ~~November 15, 1999 and October 15~~ September 30 of each  
9 ~~subsequent~~ school year, the superintendent of each school district shall designate  
10 from among the employees of the school district a ~~STAR program~~ district STAR  
11 coordinator. The ~~STAR program~~ district STAR coordinator, or the school district  
12 superintendent or his or her designee, shall be available through August 15 of the  
13 following year to complete school district testing. The school district shall notify  
14 the ~~publisher~~ contractor of the identity and contact information, including  
15 electronic mail address, if available in the school district, for the ~~STAR program~~  
16 district STAR coordinator and for the superintendent and his or her designee, if  
17 any. The ~~STAR program~~ district STAR coordinator shall serve as the school  
18 district representative and the liaison between the school district and the ~~test~~  
19 ~~publisher~~ contractor and the school district and the Department for all matters  
20 related to the STAR program.

21 (b) The ~~STAR program~~ district STAR coordinator's responsibilities shall  
22 include, but not be limited to, all of the following duties:

23 (1) Responding to correspondence and inquiries from the ~~publisher~~ contractor  
24 and from the Department in a timely manner and as provided in the ~~publisher's~~  
25 contractor's instructions and these regulations.

26 (2) Determining school district and individual school test and test material  
27 needs in conjunction with schools within the district and the ~~test publisher~~  
28 contractor, using ~~California Basic Education Data System (CBEDS)~~ and current  
29 enrollment data and communicating school district test ~~and test~~ material needs to  
30 the ~~publisher~~ contractor on or before December 1.

1       (3) ~~Overseeing the acquisition and distribution of tests and test materials to~~  
2 ~~individual schools and test sites.~~ Ensuring delivery of tests and test materials to  
3 the test sites no more than ten (10) or fewer than five (5) working days before the  
4 first day of testing designated by the district.

5       (4) Coordinating the testing and makeup testing days for the school district  
6 and for those pupils of the district who are enrolled in nonpublic schools within  
7 any required time periods with the school test site coordinators. Overseeing the  
8 collection of all pupil data as required to comply with Section 861.

9       (5) Maintaining security over the designated achievement test, ~~and the~~  
10 standards-based achievement tests, the CAPA and test data using the procedure  
11 set forth in Section 859. The ~~STAR program~~ district STAR coordinator shall sign  
12 the security agreement set forth in Section 859 and submit it to the contractor  
13 prior to receipt of the test materials from the contractor.

14       (6) Overseeing the administration of the designated achievement test, ~~and the~~  
15 standards-based achievement tests, and the CAPA to eligible pupils.

16       (7) Overseeing the collection and return of all test materials and test data to  
17 the ~~publisher~~ contractor within any required time periods.

18       (8) Assisting the ~~test publisher~~ contractor and the Department in the resolution  
19 of any discrepancies in the test information and materials, including but not limited  
20 to, pre-identification files and all pupil level data required to comply with Sections  
21 861 and 862.

22       (9) Immediately notifying the Department of any security breaches or testing  
23 irregularities in the district before, during, or after the test administration.

24       (10) Ensuring that an answer document is submitted for scoring for each  
25 eligible pupil enrolled in the district on the first day of testing.

26       (c) ~~Within five (5) working days of completed school district testing, the school~~  
27 ~~district superintendent and the STAR program district coordinator shall certify the~~  
28 ~~following information with respect to the designated achievement test and the~~  
29 ~~standards-based achievement tests to the Department: that the school district has~~  
30 ~~maintained the security and integrity of the designated achievement test and the~~  
31 ~~standards-based achievement tests; collected all data and information as required~~



1 ~~by Sections 861 and 862; returned to the test publisher all test materials, answer~~  
2 ~~documents, and other materials included as part of the designated achievement~~  
3 ~~test and the standards-based achievement tests in the manner and as otherwise~~  
4 ~~required by the test publisher; and assisted the test publisher in the resolution of~~  
5 ~~any discrepancies in the test or test materials as required by Section 868.~~

6 ~~(d)(11) Within five (5) working days of~~ After receiving summary reports and  
7 files from the ~~publisher~~ contractor, the ~~school~~ district STAR coordinator shall  
8 review the files and reports for completeness and accuracy, and shall notify the  
9 ~~publisher~~ contractor and the Department of ~~its findings~~. ~~The school district shall~~  
10 ~~notify the Department in writing whether any errors, discrepancies, or incomplete~~  
11 ~~information have been resolved.~~

12 (12) Training test site coordinators to oversee the test administration at each  
13 school.

14 NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code.  
15 Reference: Sections 52052, 60630, and 60640, Education Code; and 20 USC  
16 Section 6311.

17  
18 *Amend Section 858 to read:*

19 **§ 858. STAR Test Site Coordinator.**

20 (a) At each test site, including but not limited to, each elementary, middle, and  
21 high school or other grade-span designated school, each charter school, each  
22 court-school, each school or program operated by a school district, and all other  
23 public programs serving pupils in any of the grades 2 to 11, inclusive, the  
24 superintendent of the school district or the district STAR coordinator shall  
25 designate a STAR test site coordinator from among the employees of the school  
26 district. The STAR test site coordinator, or the site principal or his or her designee,  
27 shall be available to the ~~STAR program~~ district STAR coordinator by telephone  
28 through August 15 for purposes of resolving discrepancies or inconsistencies in  
29 materials or errors in reports.

30 (b) The STAR test site coordinator's responsibilities shall include, but are not  
31 limited to, all of the following duties:

1 (1) Determining site test and test material needs and communicating the site  
2 needs to the ~~STAR program~~ district STAR coordinator.

3 (2) Overseeing the acquisition and distribution of tests and test materials at the  
4 test site, including but not limited to, distributing test materials to test examiners  
5 on each day of testing in accordance with the contractor's directions.

6 (3) Cooperating with the ~~STAR program~~ district STAR coordinator to provide  
7 the testing and makeup testing days for the site within any required time periods.

8 (4) Maintaining security over the designated achievement test, ~~and the~~  
9 standards-based achievement tests, the CAPA and test data. The STAR test site  
10 coordinator shall sign the security agreement set forth in Section 859 and submit  
11 it to the district STAR coordinator prior to the receipt of the test materials.

12 (5) Arranging for and Overseeing the administration of the designated  
13 achievement test, ~~and the standards-based achievement tests,~~ and the CAPA to  
14 eligible pupils at the test site.

15 (6) Overseeing the collection and return of all testing materials to the ~~STAR~~  
16 ~~program~~ district STAR coordinator.

17 (7) Assisting the ~~STAR program~~ district STAR coordinator, the ~~test publisher~~  
18 contractor, and the Department in the resolution of any discrepancies in the test  
19 information and materials.

20 (8) Overseeing the collection of all pupil level and other data required to  
21 comply with Sections 861 and 862.

22 (9) Ensuring that an answer document is submitted for scoring for each eligible  
23 pupil enrolled in the school on the first day of testing.

24 ~~(10)~~(9) Ensuring that for each pupil tested only one scannable answer  
25 document is submitted for scoring, except that for each pupil tested at grades 4 or  
26 grade 7, for which the contractor has designated the use of more than one answer  
27 document. An answer document for the STAR writing assessment administered  
28 pursuant to Section 855(c) shall be submitted in addition to the answer document  
29 for the multiple choice items.

30 (11) Immediately notifying the district STAR coordinator of any security  
31 breaches or testing irregularities that occur in the administration of the designated

1 achievement test, the standards-based achievement tests, or the CAPA that  
2 violate the terms of the STAR Security Affidavit in Section 859.

3 (12) Training all test examiners, proctors, and scribes for administering the  
4 tests.

5 ~~(c) Within three (3) working days of complete site testing, the principal and the~~  
6 ~~STAR test site coordinator shall certify to the STAR program district coordinator~~  
7 ~~that the test site has maintained the security and integrity of the designated~~  
8 ~~achievement test and the standards-based achievement tests, collected all data~~  
9 ~~and information as required, and returned all test materials, answer documents,~~  
10 ~~and other materials included as part of the designated achievement test in the~~  
11 ~~manner and as otherwise required by the STAR program district coordinator.~~

12 NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code.  
13 Reference: Sections 60630 and 60640, Education Code; and 20 USC Section  
14 6311.

15  
16 *Amend Section 859 to read:*

17 **§ 859. STAR Test Security Agreement and Test Security Affidavit.**

18 (a) All STAR ~~program~~ district and test site coordinators (coordinators) shall  
19 sign the STAR Test Security Agreement set forth in Subdivision (b) before  
20 receiving any STAR Program tests or test materials.

21 (b) The STAR Test Security Agreement shall be as follows:

22 STAR TEST SECURITY AGREEMENT

23 ~~The coordinator~~ I acknowledge by his or her my signature on this form that  
24 the designated achievement test, ~~and the standards-based achievement tests,~~  
25 and the CAPA are secure tests and agrees to each of the following conditions to  
26 ensure test security:

27 (1) ~~The coordinator~~ I will take all necessary precautions to safeguard all tests  
28 and test materials by limiting access to persons within the school district with a  
29 responsible, professional interest in the ~~test's~~ tests' security.

30 (2) ~~The coordinator~~ I will keep on file the names of all persons having access  
31 to tests and test materials. All persons having access to the materials shall be

1 required by the coordinator to sign the STAR Test Security Affidavit that will be  
2 kept on file in the school district office.

3 ~~(3) The coordinator I~~ will keep the designated achievement test and the  
4 standards-based achievement tests and test materials in a secure, locked location  
5 limiting access to and will deliver tests and test materials only to those persons  
6 responsible for test security who have executed STAR Test Security Affidavits,  
7 ~~except~~ on actual testing dates as provided in California Code of Regulations, Title  
8 5, Division 1, Chapter 2, Subchapter 3.75.

9 (4) I will keep the CAPA materials in a secure locked location when not being  
10 used by examiners to prepare for and to administer the assessment. I will adhere  
11 to the contractor's directions for the distribution of the assessment materials to  
12 examiners.

13 ~~(5)(4)The coordinator I~~ will not copy any part of the tests or test materials  
14 without written permission from the Department to do so.

15 (6) I will not disclose, or allow to be disclosed, the contents of, or the test  
16 instrument. I will not review any test questions, passages, or other test items with  
17 any other person before, during, or after the test administration.

18 ~~(7)(5)The coordinator I~~ will not review test questions, develop any scoring  
19 keys or review or score any pupil responses except as required by the  
20 contractor's manuals.

21 By signing my name to this document, I am assuring that I ~~and anyone having~~  
22 ~~access to the test materials~~ will abide by the above conditions.

23 By: \_\_\_\_\_

24 Title: \_\_\_\_\_

25 School District: \_\_\_\_\_

26 Date: \_\_\_\_\_

27 ~~(c) Each STAR test site coordinator shall deliver the tests and test materials~~  
28 ~~only to those persons actually administering the designated achievement test and~~  
29 ~~the standards-based achievement tests on the date of testing to persons trained~~  
30 ~~to administer the test who have executed the STAR Test Security Affidavit set~~  
31 ~~forth in Subdivision (e).~~

1 ~~(c)(d)~~ All test examiners, proctors, scribes, and any other persons having  
2 access to the designated achievement test and test materials, ~~and to the~~  
3 standards-based achievement tests and test materials, and the CAPA materials  
4 shall acknowledge the limited purpose of their access to the tests by signing the  
5 STAR Test Security Affidavit set forth in Subdivision ~~(d)(f)~~.

6 ~~(d)(e)~~ The STAR Test Security Affidavit shall be as follows:

7 STAR TEST SECURITY AFFIDAVIT

8 I acknowledge that I will have access to the designated achievement test and  
9 to the standards-based achievement tests and the CAPA for the purpose of  
10 administering the test(s). I understand that these materials are highly secure, and  
11 it is my professional responsibility to protect their security as follows:

12 (1) I will not divulge the contents of the tests to any other person through  
13 verbal, written, or any other means of communication.

14 (2) I will not copy any part of the test(s) or test materials.

15 (3) I will keep the test(s) secure until the test(s) are actually distributed to  
16 pupils.

17 (4) I will limit access to the test(s) and test materials by test examinees to the  
18 actual testing periods when they are taking the test(s).

19 (5) I will collect and account for all materials following each period of testing  
20 and will not permit pupils to remove test materials from the room where testing  
21 takes place.

22 ~~(6) I will not disclose, or allow to be disclosed, the contents of, or the test~~  
23 ~~instrument.~~ I will not review any test questions, passages, or other test items with  
24 pupils or any other person before, during, or following testing.

25 (7) I will not develop scoring keys or review or score any pupil responses  
26 except as required by the publisher's contractor's administration manual(s) to  
27 prepare answer documents for machine or other scoring.

28 (8) I will return all test materials to the designated STAR test site coordinator  
29 daily upon completion of testing.

1 (9) I will administer the test(s) in accordance with the directions for test  
2 administration set forth in the ~~publisher's~~ contractor's manual for test  
3 administration.

4 (10) I have been trained to administer the tests.

5 Signed: \_\_\_\_\_

6 Print Name: \_\_\_\_\_

7 Position: \_\_\_\_\_

8 School: \_\_\_\_\_

9 School District: \_\_\_\_\_

10 Date: \_\_\_\_\_

11 ~~(e)(f)~~ To maintain the security of the Program, all ~~STAR program~~ district STAR  
12 coordinators and test site coordinators are responsible for inventory control and  
13 shall use appropriate inventory control forms to monitor and track test inventory.  
14 NOTE: Authority cited: Sections 33031 and 60605, Education Code. Reference:  
15 Section 60640, Education Code.

16  
17 *Amend Section 861 to read:*

18 **§ 861. School-By-School Analysis**

19 (a) Each school district shall provide the ~~publisher~~ contractor ~~of~~ for the  
20 designated achievement test and standards-based achievement tests or CAPA,  
21 the following information for each pupil ~~tested~~ enrolled on the first day the tests  
22 are administered for purposes of the reporting required by the Academic  
23 Performance Index of the Public Schools Accountability Act (Chapter 6.1,  
24 commencing with Section 52050), Section 60630, and Chapter 5 (commencing  
25 with Section 60640) of the Education Code:

26 (1) Pupil's full name.

27 ~~(2)(4)~~ Date of birth.

28 ~~(3)(2)~~ Grade level.

29 ~~(4)(3)~~ Gender.

30 ~~(5)(4)~~ Language fluency English proficiency and ~~home~~ primary language.

31 (6) Date of English proficiency reclassification.

1 (7) If R-FEP pupil scored proficient or above on the California English-  
2 language arts test three (3) times since reclassification.

3 (8)(5) Special program participation.

4 (9)(6) Use of Testing adaptations or accommodations or modifications.

5 (10) California School Information Services (CSIS) Student Number once  
6 assigned.

7 (11)(7) Parent education level.

8 (12)(8) Amount of time in the school and school district.

9 (13) For English learners, length of time in California public schools and in  
10 school in the United States.

11 (14) Participation in the National School Lunch Program.

12 (15)(9) Ethnicity.

13 (16)(10) Handicapping condition or Primary disability.

14 (17) County and District of residence for pupils with IEPs.

15 (18) Special testing conditions and/or reasons for not being tested.

16 (b) The information is for the purposes of aggregate analyses only and shall  
17 be provided and collected as part of the testing materials for the designated  
18 achievement test, the standards-based achievement tests, and the CAPA.

19 (c) School districts shall provide the same information for each eligible pupil  
20 enrolled in an alternative or off campus program or for pupils placed in nonpublic  
21 schools as is provided for all other eligible pupils in grades 2 to 11, inclusive.

22 (d) If the information required by Section 861(a) is incorrect, the school district  
23 may enter into a separate agreement with the contractor to have the district's  
24 student data file corrected. The district STAR coordinator shall provide the correct  
25 information to the contractor within the contractor's timeline. Any costs for  
26 correcting the student data shall be the district's responsibility.

27 NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code.  
28 Reference: Section 60630, Education Code.

29  
30 *Amend Section 862 to read:*

31 **§ 862. Apportionment Information Report.**

1 (a) ~~Each school district shall report to the Department all of the following~~  
2 ~~information relevant to~~ Annually, each school district shall receive an  
3 apportionment information report with the following information for the designated  
4 achievement test, ~~and the standards-based achievement tests,~~ and the CAPA by  
5 grade level for each of grades 2 to 11, inclusive:

6 (1) The number of pupils enrolled in each school and in the school district on  
7 the first day of testing ~~in the school district~~ as indicated by the number of answer  
8 documents submitted to the test contractor for scoring.

9 (2) The number of pupils with significant cognitive disabilities in each school  
10 and in the school district ~~exempted from testing pursuant to Education Code~~  
11 ~~section 60640(e)~~ tested with the California Alternate Performance Assessment  
12 (CAPA).

13 (3) The number of pupils in each school and in the school district exempted  
14 from testing at the request of their parents or guardians pursuant to Education  
15 Code ~~s~~Section 60615.

16 (4) The number of pupils ~~to whom~~ who were administered any portion of the  
17 designated achievement test was administered and standards-based  
18 achievement tests.

19 (5) The number of pupils with demographic information only who were not  
20 tested for any reason other than a parent/guardian exemption.

21 (b) The department shall distribute the reports to districts no later than  
22 November 15 following each testing cycle.

23 ~~(b)(1) The superintendent of each school district shall certify the accuracy of~~  
24 ~~all information submitted. The report required by Subdivision (a) shall be filed with~~  
25 ~~the State Superintendent of Public Instruction within ten (10) working days of the~~  
26 ~~last day of makeup testing in the school district.~~

27 ~~(2) School districts with an average daily attendance greater than 100,000~~  
28 ~~may certify the accuracy and submit the information required by Subdivision (a)~~  
29 ~~within fifteen (15) working days of the last day of makeup testing in the school~~  
30 ~~district. The school district may submit a request to the Department to obtain~~  
31 ~~approval of the State Board of Education for an extension of ten (10) additional~~



1 ~~working days if the fifteen (15) working day requirement presents an undue~~  
2 ~~hardship.~~

3 (c) To be eligible for apportionment payment school districts must meet the  
4 following conditions:

5 (1) The school district has returned all secure test materials, and

6 (2) The superintendent of each school district has certified the accuracy of the  
7 apportionment information report for examinations administered during the  
8 calendar year (January 1 through December 31), which is either;

9 (A) postmarked by December 31, or

10 (B) if postmarked after December 31, the apportionment information report  
11 must be accompanied by a waiver request as provided by Education Code  
12 Section 33050. For those apportionment information reports postmarked after  
13 December 31, apportionment payment is contingent upon the availability of an  
14 appropriation for this purpose in the fiscal year in which the testing window began.

15 NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code.

16 Reference: Sections 60615 and 60640, Education Code.

17  
18 *Amend Section 863 to read:*

19 **§ 863. STAR Student Parent Reports and Cumulative Record Labels.**

20 (a) The school district shall forward the STAR Student R~~report~~ provided by the  
21 contractor, in writing, the results of to ~~each pupil's test to the pupil's parent or~~  
22 guardian, within not more than twenty (20) working days from receipt of the report  
23 test results from the publisher contractor.

24 (b) If the school district receives these reports for the designated achievement  
25 test and standards-based tests or CAPA from the ~~test publisher~~ contractor after  
26 the last day of instruction for the school year, the school district shall send the  
27 pupil results to the parent or guardian by U.S. mail at the parent's or guardian's  
28 last known address. If the report is non-deliverable, the school district shall make  
29 the report available to the parent or guardian during the next school year.

30 (c) Schools are responsible for affixing cumulative record labels reporting each  
31 pupil's scores to the pupil's permanent school records or for entering the scores

1 into electronic pupil records, and for forwarding the results to schools to which  
2 pupils matriculate or transfer. Schools may annotate the scores when the scores  
3 may not accurately reflect pupils' achievement due to illness or testing  
4 irregularities.

5 NOTE: Authority cited: Sections 33031 and 60605(~~g~~) and (~~h~~), Education Code.  
6 Reference: Sections 49068, 60641, and 60607, Education Code.

7

8 *Amend Section 864 to read:*

9 **§ 864. Reporting Test Scores.**

10 No aggregate or group scores or reports that are compiled pursuant to  
11 Education Code sSection 60641 or 60643 shall be reported electronically, in hard  
12 copy, or in other media, to any audience other than the school or school district  
13 where the pupils were tested, if the aggregate or group scores or reports ~~is~~ are  
14 composed of ten (10) or fewer individual pupil scores. In each instance in which  
15 no score is reported for this reason, the notation shall appear "The number of  
16 pupils in this category is too small for statistical accuracy or privacy protection." In  
17 no case shall any group score be reported that would deliberately or inadvertently  
18 make public the score or performance of any individual pupil.

19 NOTE: Authority cited: Sections 33031 and 60605(~~g~~) and (~~h~~), Education Code.  
20 Reference: Section 60640 and 60643, Education Code.

21

22 *Amend Section 864.5. to read:*

23 **§ 864.5. Test Order Information.**

24 (a) The school district shall provide to the ~~publisher~~ contractor, no later than  
25 December 1 of the year immediately prior to the year of test administration, the  
26 following data for each test site of the school district, by grade level:

27 ~~(1) CBEDS enrollment~~

28 ~~(2) Current enrollment~~

29 (1) Number of pupils to be tested

30 ~~(2)(3)~~ Valid county district school (CDS) codes

31 ~~(3)(4)~~ Number of tests without adaptation

1       ~~(4)(5)~~ Numbers of special version tests with adaptations by type of adaptation  
2 including, but not limited to, Braille and large print.

3       ~~(5)(6)~~ Number of directions for administration needed, by grade level.

4       ~~(6)(7)~~ First date of testing in the school district, including the dates for each  
5 ~~testing wave~~ test administration period, if applicable.

6       ~~(8) Date or dates on which delivery of materials to the school district is~~  
7 ~~requested.~~

8       (b) Each school district that elects pre-identification of answer documents shall  
9 ~~provide to the publisher no fewer than 45 days prior to the first date of testing in~~  
10 ~~the school district,~~ submit an electronic file that includes all of the information  
11 required in Section 861. The file must be submitted in accordance with the  
12 timeline, format, and instructions provided by the contractor.

13       (c) If the testing materials are lost or destroyed while in the possession of the  
14 school district, and the ~~publisher~~ contractor provides the school district with  
15 replacement materials, the school district is responsible for the cost of all  
16 replacement materials.

17       (d) If the school district places an order for tests for any school that is  
18 excessive, the school district is responsible for the cost of materials for the  
19 difference between the sum of the number of pupil tests ~~scored, the number of~~  
20 ~~parent requests pursuant to Education Code section 60615, and the number of~~  
21 ~~individualized education program exemptions pursuant to Education Code section~~  
22 ~~60640~~ (e) submitted for scoring including tests for non-tested pupils and 90  
23 percent of the tests ordered. In no event shall the cost to the school district for  
24 replacement or excessive materials exceed the amount per test booklet and  
25 accompanying material that is paid to the ~~publisher~~ contractor by the Department  
26 as part of the contract ~~with the publisher~~ for the current year.

27 NOTE: Authority cited: Sections 33031 and 60605~~(g) and (h)~~, Education Code.  
28 Reference: Sections 60640 and 60643, Education Code.

29  
30 *Amend Section 865 to read:*

31 **§ 865. Transportation.**

1 (a) Upon arrival of the test materials at a single location designated by each  
2 school district, the school district's ~~STAR program~~ district STAR coordinator shall  
3 provide the ~~publisher~~ contractor with a signed receipt certifying that all cartons  
4 were received.

5 (b) The security of the test materials that have been duly delivered to the  
6 school district is the sole responsibility of the school district until all test materials  
7 have been inventoried, accounted for, and delivered to the common or private  
8 carrier designated by the ~~publisher~~ contractor for return to the contractor.

9 (c) Secure transportation within a school district is the responsibility of the  
10 school district once materials have been duly delivered to the school district. The  
11 school district is responsible for secure delivery of test materials to non-public  
12 schools to which district pupils with disabilities are assigned.

13 NOTE: Authority cited: Sections 33031 and 60605(~~g~~) and (~~h~~), Education Code.

14 Reference: Section 60640, Education Code.

15 *Amend Section 866 to read:*

16 **§ 866. School District Delivery.**

17 (a) No school district shall receive its multiple-choice test materials more than  
18 ~~twenty-five (25)~~ twenty (20) or fewer than ten (10) ~~calendar~~ working days prior to  
19 the first day of testing in the school district. A school district that has not received  
20 multiple-choice test materials from the ~~test publisher~~ contractor at least ten (10)  
21 ~~calendar~~ working days before the first date of testing in the school district shall  
22 notify the ~~publisher~~ contractor and the Department on the tenth working day  
23 before testing is scheduled to begin that the school district has not received its  
24 materials. Deliveries of multiple-choice test materials to single school districts  
25 shall use the schedule in Section 867.

26 ~~(b) School districts shall return all designated achievement tests and~~  
27 ~~standards-based achievement tests and test materials to the publisher within five~~  
28 ~~(5) working days of the last test date in the school district, including makeup~~  
29 ~~testing days or six (6) days after any statutory deadline, whichever date is earlier.~~

30 ~~(b)(c)~~ A school district and the ~~publisher~~ contractor may shall establish a  
31 periodic delivery and retrieval schedule to accommodate ~~wave~~ test administration

1 dates test administration periods within the school district. Any schedule  
2 established must conform to Sections 866(a) and (b) for each test administration  
3 period.

4 (c) No school district shall receive its writing test materials more than ten (10)  
5 or fewer than five (5) working days before the day on which the writing tests are to  
6 be administered.

7 NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code.

8 Reference: Sections 60640, 60642.5, and 60643, Education Code.

9  
10 *Amend Section 867 to read:*

11 **§ 867. Test Site Delivery and Return.**

12 (a) No school or other test site shall receive any multiple-choice test or related  
13 test materials more than ten (10) ~~working days~~ nor fewer than five (5) working  
14 days prior to the first day of testing scheduled at the school or test site.

15 ~~(b) Upon completion of a testing wave at a site, including makeup testing, all~~  
16 ~~tests and test materials shall be returned to the school district location designated~~  
17 ~~by the STAR program district coordinator.~~

18 (b) All multiple-choice testing materials shall be returned to the school district  
19 location designated by the district STAR coordinator no more than two (2) working  
20 days after testing is completed for each test administration period.

21 ~~(c) Designated achievement tests and standards-based achievement tests and~~  
22 ~~test materials shall not be retained at the test site for more than two (2) working~~  
23 ~~days after the last day of test administration including makeup testing days or~~  
24 ~~after any statutory deadline, whichever is earlier. No school or other test site shall~~  
25 ~~receive any writing test materials more than six (6) or fewer than two (2) working~~  
26 ~~days before the test administration date.~~

27 (d) Writing test materials shall be returned to the district STAR coordinator no  
28 more than one day after the day scheduled for makeup testing.

29 NOTE: Authority cited: Sections 33031 and 60605(g) and (j), Education Code.

30 Reference: Section 60640 and 60642.5, Education Code.

31

1 *Amend Section 867.5 to read:*

2 **§ 867.5. Retrieval of Materials by ~~Publisher~~ Contractor.**

3 (a) The school district shall ensure that multiple-choice testing materials are  
4 inventoried, packaged, and labeled in accordance with instructions from the  
5 ~~publisher-contractor~~, and returned to a single school district location for pickup by  
6 the ~~publisher~~ contractor within five (5) working days following completion of  
7 testing in the school district and in no event later than five (5) working days after  
8 ~~any applicable statutory deadline~~ each test administration period. All school  
9 districts must have their multiple-choice testing materials returned to the ~~publisher~~  
10 contractor no later than ~~six (6)~~ five (5) working days after any statutory deadline.

11 (b) School districts shall return all writing tests and test materials to the  
12 contractor no more than two (2) working days after the makeup day specified for  
13 the writing test.

14 NOTE: Authority cited: Sections 33031 and 60605(~~g~~) and (~~h~~), Education Code.  
15 Reference: Sections 60640, 60642.5, and 60643, Education Code.

16

17 *Amend Section 868 to read:*

18 **§ 868. Discrepancy Resolution for Designated Achievement Test,  
19 Standards-Based Achievement Tests, and CAPA.**

20 (a) School districts shall process discrepancies determined by the ~~designated~~  
21 ~~publisher~~ contractor upon receipt of returned tests and test materials pursuant to  
22 this subdivision:

23 (1) Receipt of a discrepancy notice in writing, via telephone, or via electronic  
24 mail by the ~~STAR program~~ district STAR coordinator for one or more of the  
25 following shall require a response from the ~~STAR program~~ district STAR  
26 coordinator to the ~~publisher~~ contractor within 24 hours.

27 (A) A discrepancy between the quantity of tests and test materials shipped to  
28 the school district and the number of tests and test materials returned to the  
29 ~~publisher~~ contractor from the school district.

30 (B) Information on scannable documents or test support materials that is  
31 inconsistent, incomplete, or missing, according to criteria established with the

1 Department.

2 (2) The ~~STAR program~~ district STAR coordinator shall acknowledge the  
3 discrepancy notice via electronic mail, if available in the school district, to the  
4 ~~publisher contractor~~ and to the Department within twenty-four (24) hours of its  
5 receipt via electronic mail.

6 (b) The ~~STAR program~~ district STAR coordinator shall report any discrepancy  
7 in the total amount of the shipment from the ~~designated test publisher contractor~~  
8 within two (2) working days of the receipt of the shipment. If the ~~designated test~~  
9 ~~publisher contractor~~ does not remedy the discrepancy within two (2) working days  
10 of the school district report, the school district shall notify the Department within  
11 24 hours.

12 (c) Any discrepancy in a shipment of designated achievement tests or test  
13 materials, ~~or standards-based achievement tests or test materials,~~ or CAPA  
14 materials received by a test site from the ~~STAR program~~ district STAR coordinator  
15 shall be reported to the ~~STAR program~~ district STAR coordinator immediately but  
16 no later than two (2) working days of the receipt of the shipment at the testing site.  
17 The ~~STAR program~~ district STAR coordinator shall remedy the discrepancy within  
18 two (2) working days.

19 (d) The ~~STAR program~~ district STAR coordinator shall report to the ~~publisher~~  
20 contractor any discrepancy reported by a STAR test site coordinator within three  
21 (3) working days of receipt of materials at the test site. If the ~~STAR program~~  
22 district STAR coordinator does not have a sufficient supply of tests or test  
23 materials to remedy any shortage, the ~~test publisher contractor~~ shall remedy the  
24 shortage by providing sufficient materials directly to the test site within two (2)  
25 working days of the notification by the ~~STAR program~~ district STAR coordinator.

26 (e) The notices required by this section shall be made by telephone with  
27 simultaneous confirmation in writing and by electronic mail.

28 NOTE: Authority cited: Sections 33031 and 60605(~~g~~) and (~~h~~), Education Code.

29 Reference: Sections 60640 and 60643, Education Code.

30

31 *Amend Section 870 to read:*

1 **§ 870. Apportionment to School Districts.**

2 (a) The amount of funding to be apportioned to the school district for the costs  
3 of administering the designated achievement test, ~~and~~ the standards-based  
4 achievement tests, and the CAPA shall be the amount established by the State  
5 Board of Education to enable school districts to meet the requirements of  
6 administering the designated achievement test, ~~and~~ the standards-based  
7 achievement tests, and the CAPA per the number of tests administered to eligible  
8 pupils in grades 2 to 11, inclusive, and the number of answer documents returned  
9 with only demographic information for pupils enrolled on the first day of testing  
10 who were not tested in the school district. The number of tests administered and  
11 the number of demographic answer documents shall be determined by the  
12 certification of the school district superintendent pursuant to Section 862. For  
13 purposes of this portion of the apportionment, administration of the designated  
14 achievement test, ~~and~~ the standards-based achievement tests, and the CAPA  
15 includes the following items:

16 (1) All staffing costs, including the ~~STAR program~~ district STAR coordinator  
17 and the STAR test site coordinators, staff training and other staff expenses related  
18 to testing.

19 (2) All expenses incurred at the school district and test site level related to  
20 testing.

21 (3) All transportation costs of delivering and retrieving tests and test materials  
22 within the school district.

23 (4) All costs associated with mailing the ~~parent reports of test results~~ STAR  
24 Student Reports to parents/guardians.

25 (5) All costs associated with pre-identification of answer sheets and  
26 consumable test booklets, and other activities intended to provide the complete  
27 and accurate data required in Section 861 of these regulations.

28 (b) This amount does not include any funding for the purposes of reimbursing  
29 the costs incurred by any school district pursuant to Section 864.5(d) placing an  
30 order that is excessive, or for replacement costs for test materials lost or  
31 destroyed while in possession of the school district as ~~allocated~~ stated in Section



1 ~~865~~ 864.5(c). These costs are outside the scope of the mandates of the STAR  
2 program.

3 (c) If at the time a school district's scannable documents are processed by the  
4 ~~publisher~~ contractor a student data record is missing any of the data elements  
5 required in Section 861 of these regulations, the school district shall provide the  
6 missing data elements within the time required by the ~~publisher~~ contractor to  
7 process the documents and meet the ~~publisher's~~ contractor's schedule of  
8 deliverables under its contract with the Department. The additional costs incurred  
9 by the school district to have the ~~publisher~~ contractor reprocess the student  
10 information to acquire the data required by Section 861 of these regulations shall  
11 be withheld from the school district's apportionment.

12 NOTE: Authority cited: Sections 33031 and 60605(~~g~~) and (~~h~~), Education Code.  
13 Reference: Sections 60640 and 60643, Education Code.

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7-14-04

State of California

Department of Education

## LAST MINUTE MEMORANDUM

**DATE:** September 8, 2004

**TO:** MEMBERS, STATE BOARD OF EDUCATION

**FROM:** Geno Flores, Deputy Superintendent  
Assessment and Accountability Branch

**RE:** Item No. 6

**SUBJECT:** Standardized Testing and Reporting (STAR) Program: Adopt  
Amendments to Title 5 Regulations

### Background

In July 2004, the State Board of Education (SBE) approved the Initial Statement of Reasons, Notice of Proposed Rulemaking, and the proposed amendments to the Title 5 regulations for the Standardized Testing and Reporting (STAR) Program and the beginning of the 45-day written comment period.

### Additional Proposed Amendments to Regulations

The grade two through eight California Standards Tests (CSTs) within the STAR Program are used for federal accountability purposes under the No Child Left Behind (NCLB) Act. Beginning in the 2004-05 school year federal guidelines state that "States do not have to include a student with a significant medical emergency in the participation rate calculation." The proposed additional amendments would add the definition for significant medical emergency as Section 850 (r) and would include significant medical emergency under Section 861(b) as data that may be provided by each school district to the test contractor for each pupil in grades two through eight who is not tested due to a significant medical emergency.

### Report on Public Hearing

A public hearing was held on September 7, 2004, as required by the Administrative Procedures Act. The public hearing was called to order at 9:00 a.m. With no one present, the public hearing was recessed at 9:02 a.m., and then was reconvened at 9:33 a.m. No one was present to submit verbal comments, so the public hearing was adjourned at 9:34 a.m.

Three written comments were submitted to the Regulations Coordinator during the 45-day public comment period. The Final Statement of Reasons is attached summarizing the additional proposed amendments to the Regulations and the written comments submitted.

SBE has illustrated changes to the original text in the following manner: regulation language originally proposed is underlined, language originally deleted is in ~~strikeout~~. The 15-Day Notice illustrates deletions from the language originally proposed using a "~~bold strikeout~~"; and additions to the language originally proposed using a "double-underline."

### **Recommendation**

The California Department of Education recommends that the SBE:

- 1) Approve the proposed amendments to the draft regulations;
- 2) Direct that the proposed amendments be circulated for a 15-day public comment period in accordance with the Administrative Procedures Act;
- 3) If no public comments are received during the 15-day period, complete the rulemaking package and submit the amended regulations to the Office of Administrative Law for approval;
- 4) If public comments are received during the 15-day period, place the amended regulations on the SBE's November 2004 agenda for action following consideration of the comments received.

Attachment 2: Final Statement of Reasons (3 Pages)

Attachment 3: Amended Standardized Testing and Reporting Regulations  
(28 Pages)

**FINAL STATEMENT OF REASONS**  
**Standardized Testing and Reporting (STAR) Program**

**UPDATE OF INITIAL STATEMENT OF REASONS**

The proposed regulations were further amended to add a definition for significant medical emergency in Section 850 and to allow school districts to report students not tested due to a significant medical emergency. The relevant federal authority also was cited.

**SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE INITIAL NOTICE PERIOD OF JULY 23, 2004 THROUGH SEPTEMBER 7, 2004.**

**Comment:** A letter was received from Wayne K. Miyamoto, Director of Public and Governmental Affairs for the California Association of Private Special Education Schools (CAPSES) in support of the following:

- Changing the definition of a “test examiner” to include “an employee of a nonpublic school who has been trained to administer the tests.”
- Changing the definition of a “test proctor” to include a “person assigned by a nonpublic school to implement a pupil’s IEP, who has received training designed to prepare him or her to assist the test examiner in the administration of the tests within the STAR Program.”

Mr. Miyamoto also stated that CAPSES recommends that the regulations allow nonpublic schools to receive all test materials directly from the contractor and that the nonpublic schools return the completed materials directly to the contractor.

**Response:** *Education Code* Section 60640(b) requires each school district, charter school, and county office of education to administer to each of its pupils the tests within the STAR Program. *Education Code* Section 56366 states that the role of the nonpublic, nonsectarian school or agency shall be maintained and continued as an alternative special education service available to districts, special education local plan areas, county offices, and parents. The nonpublic, nonsectarian school or agency is required to provide all services specified in students’ Individualized Education Programs (IEPs). School districts, charter schools, and county offices of education retain responsibility for ensuring that students enrolled in them are tested as part of the STAR Program. Additionally, California County/District/School (CDS) Codes are used for all aspects of the STAR Program including ordering materials and reporting results. Since nonpublic, nonsectarian schools or agencies are not assigned CDS codes; the Program contractor cannot work directly with the nonpublic, nonsectarian schools and agencies.

**Comment:** E-mail was received from Marci Jenkins, Administrator Nonpublic School Program, Sonoma County Office of Education that included the following:

“The proposed Title 5 Regulations do not specify a CAPA delivery date to the LEA, making it hard to plan teacher trainings/preparation.

The proposed Title 5 Regulations do not specify the materials list for the CAPA or a date of release of the material list for testing kit preparation.

The proposed Title 5 Regulations should reflect ONE deadline submission date for the pre-ID file to the vendor.

Note: Educators and Parents would like to see the following occur:

- 1) Out of level testing for STAR beyond 2 grade levels below actual grade level.
- 2) STAR test materials NOT be identified with the grade level, just color coded for each grade level.
- 3) Development of a test between the STAR [California Standards Tests] and the CAPA for those high school academic students who are working at the beginning to upper elementary levels.

Note: Educators would like to see the CAPA materials available as completed test kits from CDE.”

**Response:** The first three items are not included in the Title 5 Regulations, because these do not address requirements with which schools and districts are to comply. The three areas are addressed through the Scope of Work that is part of the contract between the California Department of Education and the Contractor.

Out of level testing is currently allowed under a State Board of Education policy and the proposed regulations. Testing more than two grades below a student’s enrollment grade is considered inappropriate by test publishers.

Currently the California Standards Test materials are identified by grade level. These tests assess the state’s content standards only for the identified grade or course. The grade level and/or course designations assist all test examiners in determining if they have received the correct materials for the students they are testing.

The federal No Child Left Behind Act of 2001 allows states to develop an alternate assessment for students with significant cognitive disabilities. The CAPA was developed to assess the performance of these students on subsets of the state’s content standards that special educators identified as appropriate. Developing a higher level alternate assessment appears to not be allowed under the federal legislation and is not provided for in the state’s current budget.

The materials used for the CAPA are common materials that special educators designing the assessments indicated would be readily available in special education classrooms. The funds available for the assessment are insufficient to provide these materials as part of the state contract. School districts and county offices of education receive an apportionment for administering the CAPA that may be used to purchase any materials that are not available in the special education classrooms.

**Comment:** An E-mailed letter was received from Stephen A. Rosenbaum, Associate Managing Attorney for Protection & Advocacy, Inc.

Section 853(c). PAI is concerned that the notice for the 2004-05 school year test administration is not adequate. Given the restrictions on below-grade-level testing, there is not enough time to allow appropriate students to incorporate the requirement in their IEP.

Section 853.5. We are pleased to see the added variations, accommodations and modifications similar to those offered students taking the CAHSEE. We are also pleased to see subparagraph (e) which authorizes school districts to propose variations on any of the tests that are not listed in the regulations—as is the case for the CAHSEE.

**Response:** The change in Section 853(c) is not a restriction. For the last two years below-grade-level testing was allowed only for students in grades five through eleven and beginning with the 2004-05 school year no below-grade-level testing was to be allowed. The proposed amendment to the regulations expands the option of below-grade-level testing to grades three and four and allows its use during the 2004-05 school year.

### **ALTERNATIVES DETERMINATION**

The State Board has determined that no alternative would be more effective in carrying out the propose for which the regulation is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.

### **LOCAL MANDATE DETERMINATION**

The legislature has appropriated funds to cover the costs generated by the mandated activities included in the regulations and these amendments.

### **REGULATIONS TO BECOME EFFECTIVE UPON FILING**

It is important that this regulation becomes effective as soon as possible to meet the administration timeline.

1 **Title 5. EDUCATION**

2 **Division 1. State Department of Education**

3 **Chapter 2. Pupils**

4 Subchapter 3.75. Standardized Testing and Reporting Program

5 Article 1. General

6  
7 *Add subsection (h) to Section 850 to read:*

8 **§ 850. Definitions.**

9 For the purposes of the Standardized Testing and Reporting (STAR) program, the  
10 following terms shall have the following meanings unless the context indicates  
11 otherwise:

12 (a) “Designated achievement test” is the achievement test required by Education  
13 Code ~~§~~Section 60640(b). The designated achievement test includes test booklets, test  
14 answer documents, administration manuals, and administrative materials. ~~The~~  
15 ~~designated achievement test is to be administered in the areas of reading, spelling,~~  
16 ~~written expression and mathematics for pupils in grades 2 to 8, inclusive; and in the~~  
17 ~~core curriculum areas of reading, writing, mathematics, history-social science and~~  
18 ~~science for pupils in grades 9 to 11, inclusive.~~

19 (b) “Primary language test” includes any test administered pursuant to Education  
20 Code ~~§~~Section 60640(f) or a test administered pursuant to the requirement of Education  
21 Code ~~§~~Section 60640(g), as applicable, and includes the test booklets, test answer  
22 documents, administration manuals, administrative materials and practice tests.

23 (c) “School districts” includes elementary, high school, and unified school districts;  
24 county offices of education; and any charter school that for assessment purposes does  
25 not elect to be part of the school district or county office of education that granted the  
26 charter; and any charter school chartered by the State Board of Education.

27 (d) “Eligible pupil” is any pupil in grades 2 to 11, inclusive, who is not otherwise  
28 exempted.

29 (1) For the designated achievement test and the standards-based achievement  
30 tests, an eligible pupil is any pupil in grades 2 through 11, inclusive, including those  
31 pupils placed in a non-public school through the Individualized Education Program (IEP)  
32 process pursuant to Education Code Section 56365 who is not exempted by

1 parent/guardian request or eligible to take the California Alternate Performance  
2 Assessment (CAPA).

3 (2) For the CAPA, an eligible pupil is any pupil with a significant cognitive disability in  
4 grades 2 through 11, and ages 7 through 16 in ungraded programs, whose IEP states  
5 that the pupil is to take the CAPA.

6 (3) For the primary language test, an eligible pupil is an English learner with a  
7 primary language for which a test is required or optional.

8 (4) For purposes of the writing assessment, an eligible pupil is an eligible pupil for  
9 the purpose of taking the standards-based achievement tests for a grade at which the  
10 writing test will be administered.

11 (e) "Department" means the California Department of Education.

12 (f)(1) "Standards-based achievement tests" are those tests that measure the degree  
13 to which pupils are achieving the content standards and performance standards  
14 adopted by the State Board of Education as provided in Education Code sSection  
15 60642.5. The standards-based achievement tests include test booklets, test answer  
16 documents, administration manuals, administrative materials, practice tests and other  
17 materials developed and provided by the ~~publisher~~ contractor of the tests.

18 (2) The term "standards-based achievement test" may refer to one or more of the  
19 individual achievement tests in the subject or core curriculum areas required by  
20 Education Code sSection 60642.5, or all of the standards-based achievement tests  
21 collectively.

22 (g) "Administration Period" means one of multiple test administration periods by  
23 school districts with schools or programs on non-traditional calendars that begin and  
24 complete the school year at various times and have staggered vacation periods, in  
25 order to ensure that all pupils are tested at approximately the same point in the  
26 instructional year.

27 (h) ~~"The California Alternate Performance Assessment" (CAPA)~~ "CAPA" is an  
28 individually administered performance assessment developed to assess ~~students'~~  
29 pupils' achievement on a subset of California's Academic Content Standards. ~~It is~~  
30 ~~administered to students receiving special education services who are significantly~~  
31 ~~cognitively disabled.~~ The CAPA includes administration manuals, administrative



1 materials, and documents on which the examiner records the ~~students'~~ pupils'  
2 responses.

3 (i) "Untimed administration" means that pupils may receive as much time as needed  
4 within a single sitting to complete a test or test part.

5 (j)(i) "Out-of-level testing" "Below-grade-level testing" means administering a test that  
6 is below the grade level of the pupil being tested.

7 (k) "Test examiner" is an employee of a school district or an employee of a non-  
8 public school who has been trained to administer the tests and has signed a STAR Test  
9 Security Affidavit. For the CAPA, the test examiner must be a certificated or licensed  
10 school staff member.

11 (l) "Test proctor" is an employee of a school district, or a person assigned by a  
12 nonpublic school to implement a pupil's IEP, who has received training designed to  
13 prepare him or her to assist the test examiner in the administration of tests within the  
14 STAR Program.

15 (m)(j) "Scribe" is an employee of the school district, or a person assigned by a  
16 nonpublic school to implement a pupil's IEP, and is required to transcribe a pupil's or  
17 adult student's responses to the format required by the examination test. A family  
18 member student's parent or guardian is not eligible to be a scribe.

19 (n)(k) "Accommodations" means any variation in the assessment environment or  
20 process that does not fundamentally alter what the test measures or affect the  
21 comparability of scores. Accommodations may include variations in scheduling, setting,  
22 aids, equipment, and presentation format.

23 (o)(l) "Modification" means any variation in the assessment environment or process  
24 that fundamentally alters what the test measures or affects the comparability of scores.

25 (p)(m) "Variation" is a change in the manner in which a test is presented or  
26 administered, or in how a test taker is allowed to respond, and includes, but is not  
27 limited to, accommodations and modifications as defined in Education Code section  
28 60850.

29 (q) "Grade" means the grade assigned to the pupil by the school district at the time  
30 of testing.

31 (r) A "significant medical emergency" is a significant accident, trauma, or illness  
32 (mental or physical) that precludes a pupil in grades two through eleven from taking the

1 California Standards Tests (CSTs), the California Alternate Performance Assessment  
2 (CAPA), and/or the California Achievement Tests, Sixth Edition Survey (CAT/6 Survey).  
3 An accident, trauma or illness is significant if the pupil has been determined by a  
4 licensed physician to be unable to participate in the tests.

5 NOTE: Authority cited: Sections 33031 and 60605, Education Code. Reference:  
6 Sections 60615, 60640, 60642 and 60642.5, Education Code.

7  
8 **Article 2. Designated Achievement Test, and Standards-Based**  
9 **Achievement Tests, and California Alternate Performance Assessment**

10  
11 *Amend Section 851 to read:*

12 **§ 851. Pupil Testing.**

13 (a) School districts shall administer the designated achievement test and standards-  
14 based achievement tests to each eligible pupil enrolled in any of grades 2 to 11,  
15 inclusive, in a school district on the date testing begins in the pupil's school.

16 (b) School districts shall administer the CAPA, as set forth in the pupil's IEP, to each  
17 eligible pupil in any of grades 2 to 11, inclusive, in a school district during the period  
18 specified by the test contractor. Pupils in ungraded special education classes shall be  
19 tested, if they are 7 to 16 years of age.

20 ~~(c)(b)~~ School districts shall make whatever arrangements are necessary to test all  
21 eligible pupils in alternative education programs or programs conducted off campus,  
22 including, but not limited to, continuation schools, independent study, community day  
23 schools, or county community schools.

24 ~~(d)(e)~~ School districts may administer the designated achievement test to pupils  
25 enrolled in kindergarten or grade 1 or 12, but those pupils shall not be counted for the  
26 apportionment pursuant to Education Code ~~s~~Section 60640(h).

27 ~~(e)(d)~~ No test may be administered in a private home or location hospital ~~unless the~~  
28 ~~test is administered by either a certificated employee of the school district or an~~  
29 ~~employee of a nonpublic school pursuant to Education Code section 56365 who holds a~~  
30 ~~credential and the employee signs a security affidavit~~ except by a test examiner. No test  
31 shall be administered to a pupil by the parent or guardian of that pupil. This subdivision  
32 does not prevent classroom aides from assisting in the administration of the test under

1 the supervision of a credentialed school district employee provided that the classroom  
2 aide does not assist his or her own child and that the classroom aide signs a security  
3 affidavit.

4 NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code.  
5 Reference: Sections 60640 and 60642.5, Education Code.

6  
7 *Amend Section 852 to read:*

8 **§ 852. Pupil Exemptions.**

9 (a) A parent or guardian may submit to the school a written request to excuse his or  
10 her child from any or all parts of any test provided pursuant to Education Code ~~§~~Section  
11 60640. A school district and its employees may discuss the Standardized Testing and  
12 Reporting program with parents and may inform parents of the availability of exemptions  
13 under Education Code ~~§~~Section 60615. However, the school district and its employees  
14 shall not solicit or encourage any written exemption request on behalf of any child or  
15 group of children.

16 ~~(b) Pupils in special education programs shall be tested with the designated~~  
17 ~~achievement test and the standards-based achievement tests unless the individualized~~  
18 ~~educational program for the pupil specifically states that the pupil will be assessed with~~  
19 ~~the California Alternate Performance Assessment or (CAPA).~~

20 NOTE: Authority cited: Sections 33031 and 60605, Education Code. Reference:  
21 Sections 60615 and 60640, Education Code.

22  
23 *Amend Section 853 to read:*

24 **§ 853. Administration.**

25 (a) The designated achievement test shall be administered and returned by school  
26 districts in accordance with the manuals or other instructions provided by the contractor  
27 for administering and returning the tests unless specifically provided otherwise in this  
28 subchapter including instructions for administering the test with variations,  
29 accommodations, and modifications. The procedures shall include, but are not limited  
30 to, those designed to insure the uniform and standard administration of the tests to  
31 pupils, the security and integrity of the test content and test items, and the timely  
32 provision of all required student and school level information.

1 (b) The standards-based achievement tests and the ~~California Alternate~~  
2 ~~Performance Assessment (CAPA)~~ shall be administered and returned by school districts  
3 in accordance with the manuals and other instructions provided by the contractor, and in  
4 accordance with testing variations, accommodations, and modifications specified in  
5 Section 853.5. The procedures shall include, but are not limited to, those designed to  
6 insure the uniform and standard administration of the tests to pupils, the security and  
7 integrity of the test content and test items, and the timely provision of all required  
8 student and school level information. The procedures shall not include criteria for who  
9 should be assessed by the CAPA.

10 (c) For the ~~2003-04~~ 2004-05 school year ~~only~~, pupils with IEPs specifying below-  
11 grade-level testing in grades ~~5~~ 4 through 11 may be tested one or two grades below  
12 their enrollment grade. Pupils with IEPs specifying below-grade-level testing in grade  
13 three may be tested one grade level below their enrollment grade. The test level must  
14 be specified in the ~~student's~~ pupil's IEP. ~~Out-of-level~~ Below-grade-level testing shall be  
15 used only if the ~~student~~ pupil is not receiving grade-level ~~instruction~~ curriculum as  
16 specified by the California academic content standards, and is so indicated on the IEP.  
17 ~~Students~~ Pupils tested ~~out-of-level~~ below-grade-level must complete all tests required  
18 for the grade at which they are tested and shall be administered ~~only one level of the~~  
19 ~~tests~~ the tests for only one grade level. ~~Out-of-level testing is not allowed for pupils in~~  
20 ~~grades 2, 3, and 4. No out-of-level testing shall be allowed at any grade beginning with~~  
21 ~~the 2004-05 school year.~~

22 NOTE: Authority cited: Sections 12001, 33031 and 60605, Education Code. Reference:  
23 Section 60640, Education Code; and 20 USC Section 6311.

24  
25 *Amend Section 853.5 to read:*

26 **~~§ 853.5 Use of Variations, Accommodations, and Modifications for the Standards-~~**  
27 **~~Based Achievement Test and the California Alternate Performance Assessment.~~**

28 (a) School districts may provide all pupils the following variations:

29 (1) have test directions simplified or clarified.

30 (2) write in test booklets for grades 4-11 on the Standards-Based Achievement Test.

31 (3) have as much time as needed within a single sitting to complete a test or test  
32 part on the Standards-Based Achievement Test.

1 ~~(b)(a)~~ School districts may provide all pupils the following testing variations if  
2 regularly used in the classroom:

3 ~~(1) test directions that are simplified or clarified.~~

4 ~~(1)(2) special or adaptive furniture.~~

5 ~~(2)(3) special lighting, or special acoustics, or visual magnifying or audio~~  
6 ~~amplification equipment.~~

7 ~~(3)(4) an individual carrel or study enclosure.~~

8 ~~(4)(5) test individually in a separate room provided that an employee of the school,~~  
9 ~~school district, or non-public school, who has signed the STAR Test Security Affidavit,~~  
10 directly supervises the pupil.

11 ~~(5)(6) markers, colored overlay, masks, or other means to maintain visual attention~~  
12 ~~to the examination test or test items questions.~~

13 ~~(6) grade two or three standards-based achievement tests underlining or marking~~  
14 ~~information or working math problems in the test booklet and having a school, school~~  
15 ~~district, or non-public school employee who has signed the Test Security Affidavit~~  
16 ~~transfer the answers to a new test booklet.~~

17 ~~(7) Manually Coded English or American Sign Language to present directions for~~  
18 ~~administration.~~

19 ~~(c)(b)~~ Eligible pupils with disabilities who have IEPs and ~~students~~ pupils with Section  
20 504 plans shall be permitted to ~~take the standards-based achievement tests with the~~  
21 following presentation, response or setting accommodations if specified in the IEP or  
22 Section 504 plan:

23 (1) large print versions.

24 (2) test items enlarged ~~through electronic means (e.g., photocopier)~~ if font larger  
25 ~~than that used on large print versions is required.~~

26 (3) Braille transcriptions provided by the test contractor.

27 ~~(4) Use of manually coded or American sign language to present directions for~~  
28 ~~administration.~~

29 ~~(4) for grade two or three designated achievement test underlining or marking~~  
30 ~~information or working math problems in addition to marking question answers in test~~  
31 ~~booklets and having a school, school district, or non-public school employee who has~~  
32 ~~signed the Test Security Affidavit transfer the answers to a new test booklet.~~

1 (5) audio or oral presentation of the mathematics, science, or history-social science  
2 tests.

3 (6) use of ~~m~~Manually eCoded English or American ~~s~~Sign language to present test  
4 questions on the mathematics, science, or history-social science tests.

5 (7) responses marked in test booklet and transferred to the answer document by a  
6 school, ~~or~~ school district, or non-public employee who has signed the Test Security  
7 Affidavit.

8 (8) responses dictated orally, in Manually Coded English or American Sign  
9 Language to a scribe for selected-response items (e.g., multiple-choice test questions).

10 (9) responses dictated to a scribe, audio recorder or speech to text converter on the  
11 ~~grade 4 or grade 7 writing application standards section~~ portion of the California  
12 English-~~L~~anguage ~~A~~rts ~~S~~tandards ~~T~~ests, and the pupil indicates all spelling and  
13 language conventions.

14 (10) use of word processing software with spell and grammar check tools turned off  
15 on the writing portion of the ~~grade 4 or 7 test~~ English-language arts tests.

16 (11) use of an assistive device that does not interfere with the independent work of  
17 the student on the multiple-choice or writing portion of the test.

18 (12) supervised breaks within a section of the test.

19 (13) administration of the test at the most beneficial time of day to the pupil.

20 (14) administration of any test or test part to be given in a single sitting over more  
21 than one day.

22 (15)~~(14)~~ test administered by ~~certificated teacher~~ a test examiner to a pupil ~~or adult~~  
23 ~~student~~ at home or in the hospital.

24 (16) write in test booklet for grades 4-11 on the designated achievement test.

25 (17) extra time within the testing day on the designated achievement test.

26 (d)~~(c)~~ Eligible pupils with disabilities shall be permitted to ~~take the standards-based~~  
27 ~~tests with~~ the following modifications if specified in the eligible pupil's IEP or Section 504  
28 Plan:

29 (1) calculators, arithmetic tables, or mathematics manipulatives on the mathematics  
30 or science tests.

31 (2) audio or oral presentation of the English-language arts tests.

32 (3) ~~use of m~~Manually eCoded English or American ~~s~~Sign language to present test

1 questions on the English-language arts tests.

2 (4) spellcheckers, grammar checkers, or word processing software programs that  
3 check or correct spelling and/or grammar on the writing portion of the ~~grade 4 and 7~~  
4 English-language arts tests.

5 (5) mechanical or electronic devices or other assistive devices that are not used  
6 solely to record the pupil's responses, including but not limited to transcribers, scribes,  
7 voice recognition or voice to text software, and that identify a potential error in the  
8 pupil's response or that correct spelling, grammar or conventions on the writing portion  
9 of the ~~grade 4 and 7~~ English-language arts tests.

10 ~~(6) use of American sign language to provide a response to the written portion of the~~  
11 ~~grade 4 and 7 English-language arts tests~~ responses dictated orally, in Manually Coded  
12 English or American Sign Language to provide an essay response to a scribe and the  
13 scribe provides spelling, grammar, and language conventions.

14 (7) English dictionary ~~on the English-language arts test.~~

15 ~~(8) mathematics dictionary on the mathematics section of the examination.~~

16 (e) If the school district, pupil's IEP team or Section 504 plan proposes a variation for  
17 use on the designated achievement test, the standards-based achievement test, or the  
18 CAPA, that has not been listed in this section, the school district may submit, to the  
19 California Department of Education, for review of the proposed variation in  
20 administering the designated achievement test, standards-based achievement test, or  
21 the CAPA.

22 ~~(f)(d)~~ School districts shall provide identified English learner pupils the following  
23 ~~additional~~ testing variations if regularly used in the classroom or for assessment:

24 (1) Flexible setting. Tested in a separate room with other English learners provided  
25 that an employee of the school, school district, or non-public school, who has signed the  
26 Test Security Affidavit, directly supervises the pupil ~~and the pupil has been provided~~  
27 ~~such a flexible setting.~~

28 (2) Flexible schedule. Additional supervised breaks following each section within a  
29 test part provided that the test section is completed within a testing day. A test section is  
30 identified by a "STOP" at the end of it.

31 (3) Translated directions. Hear any the test directions ~~the test examiner is to read~~  
32 ~~aloud~~ printed in the test administration manual translated into their primary language.

1 English learners shall have the opportunity to ask clarifying questions about any test  
2 directions presented orally in their primary language.

3 (4) Glossaries. Access to translation glossaries/word lists for the standards-based  
4 achievement tests in mathematics, science, and history-social science ~~if used regularly~~  
5 ~~in the classroom~~ (English to primary language). The translation glossaries/word lists are  
6 to include only the English word or phrase with the corresponding primary language  
7 word or phrase. The glossaries/word lists shall include no definitions or formulas.

8 NOTE: Authority cited: Sections 12001, 33031 and 60605, Education Code. Reference:  
9 Section 60640, Education Code; and 20 USC Section 6311.

10  
11 *Amend Section 854 to read:*

12 **§ 854. Advance Preparation for the Test.**

13 (a) Except for materials specifically ~~included within the designated achievement or~~  
14 ~~standards-based test~~ provided by the California Department of Education or its agents,  
15 no program or materials shall be used by any school district or employee of a school  
16 district that are specifically formulated or intended to prepare pupils for the designated  
17 achievement tests or standards-based achievement tests. No administration or use of  
18 an alternate or parallel form of the designated achievement test ~~for any stated purpose~~  
19 shall be ~~permitted~~ used as practice for any pupils in grades 2 through 11, inclusive.

20 (b) Practice tests provided by the ~~publisher~~ contractor as part of the ~~designated~~  
21 ~~achievement test~~ standards-based achievement tests for the limited purpose of  
22 familiarizing pupils with the use of scannable test booklets or answer sheets and the  
23 format of test items are not subject to the prohibition of Subdivision (a).

24 NOTE: Authority cited: Sections 33031 and 60605~~(g) and (h)~~, Education Code.  
25 Reference: Sections 60611 and 60640, Education Code.

26  
27 *Amend Section 855 to read:*

28 **§ 855. Testing Period.**

29 (a) The designated achievement test and the standards-based achievement tests,  
30 except for the STAR writing assessment as specified in subdivision (c), shall be  
31 administered to each pupil during a testing window of twenty-one (21) instructional days  
32 that includes ten (10) instructional days before and after completion of 85% of the



1 school's, track's, or program's instructional days. Testing for all pupils, including  
2 makeup testing, is to be completed within this twenty-one (21) instructional day window  
3 unless all or part of the twenty-one (21) instructional day period falls after any statutorily  
4 specified deadline.

5 (b) Each school district shall provide for at least two (2) makeup days of testing for  
6 pupils who were absent during the period in which any school administered the  
7 designated achievement test and the standards-based achievement tests. All makeup  
8 testing shall occur within five (5) instructional days of the last date that the school district  
9 administered the tests but not later than the end of the twenty-one (21) instructional day  
10 period established in subdivision (a).

11 (c) The STAR writing assessment shall be administered to each eligible pupil only on  
12 the day(s) specified annually by the State Superintendent of Public Instruction. ~~An~~  
13 ~~eligible pupil for purposes of the writing assessment is a pupil taking the standards-~~  
14 ~~based achievement tests for enrolled in a grade at which the writing test will be~~  
15 ~~administered.~~

16 NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code.  
17 Reference: Sections 60640 and 60642.5, Education Code.

18

19 *Amend Section 857 to read:*

20 **§ 857. STAR Program District STAR Coordinator.**

21 (a) On or before ~~November 15, 1999 and October 15~~ September 30 of each  
22 ~~subsequent~~ school year, the superintendent of each school district shall designate from  
23 among the employees of the school district a ~~STAR program~~ district STAR coordinator.  
24 The ~~STAR program~~ district STAR coordinator, or the school district superintendent or  
25 his or her designee, shall be available through August 15 of the following year to  
26 complete school district testing. The school district shall notify the ~~publisher~~ contractor  
27 of the identity and contact information, including electronic mail address, if available in  
28 the school district, for the ~~STAR program~~ district STAR coordinator and for the  
29 superintendent and his or her designee, if any. The ~~STAR program~~ district STAR  
30 coordinator shall serve as the school district representative and the liaison between the  
31 school district and the ~~test publisher~~ contractor and the school district and the  
32 Department for all matters related to the STAR program.

1 (b) The ~~STAR program~~ district STAR coordinator's responsibilities shall include, but  
2 not be limited to, all of the following duties:

3 (1) Responding to correspondence and inquiries from the ~~publisher~~ contractor and  
4 from the Department in a timely manner and as provided in the ~~publisher's~~ contractor's  
5 instructions and these regulations.

6 (2) Determining school district and individual school test and test material needs in  
7 conjunction with schools within the district and the test publisher contractor, using  
8 ~~California Basic Education Data System (CBEDS) and~~ current enrollment data and  
9 communicating school district test ~~and test~~ material needs to the ~~publisher~~ contractor on  
10 or before December 1.

11 (3) ~~Overseeing the acquisition and distribution of tests and test materials to~~  
12 ~~individual schools and test sites.~~ Ensuring delivery of tests and test materials to the test  
13 sites no more than ten (10) or fewer than five (5) working days before the first day of  
14 testing designated by the district.

15 (4) Coordinating the testing and makeup testing days for the school district and for  
16 those pupils of the district who are enrolled in nonpublic schools within any required  
17 time periods with the school test site coordinators. Overseeing the collection of all pupil  
18 data as required to comply with Section 861.

19 (5) Maintaining security over the designated achievement test, ~~and~~ the standards-  
20 based achievement tests, the CAPA and test data using the procedure set forth in  
21 Section 859. The ~~STAR program~~ district STAR coordinator shall sign the security  
22 agreement set forth in Section 859 and submit it to the contractor prior to receipt of the  
23 test materials from the contractor.

24 (6) Overseeing the administration of the designated achievement test, ~~and~~ the  
25 standards-based achievement tests, and the CAPA to eligible pupils.

26 (7) Overseeing the collection and return of all test materials and test data to the  
27 ~~publisher~~ contractor within any required time periods.

28 (8) Assisting the ~~test publisher~~ contractor and the Department in the resolution of  
29 any discrepancies in the test information and materials, including but not limited to, pre-  
30 identification files and all pupil level data required to comply with Sections 861 and 862.

31 (9) Immediately notifying the Department of any security breaches or testing  
32 irregularities in the district before, during, or after the test administration.

1 (10) Ensuring that an answer document is submitted for scoring for each eligible  
2 pupil enrolled in the district on the first day of testing.

3 ~~(c) Within five (5) working days of completed school district testing, the school~~  
4 ~~district superintendent and the STAR program district coordinator shall certify the~~  
5 ~~following information with respect to the designated achievement test and the~~  
6 ~~standards-based achievement tests to the Department: that the school district has~~  
7 ~~maintained the security and integrity of the designated achievement test and the~~  
8 ~~standards-based achievement tests; collected all data and information as required by~~  
9 ~~Sections 861 and 862; returned to the test publisher all test materials, answer~~  
10 ~~documents, and other materials included as part of the designated achievement test~~  
11 ~~and the standards-based achievement tests in the manner and as otherwise required by~~  
12 ~~the test publisher; and assisted the test publisher in the resolution of any discrepancies~~  
13 ~~in the test or test materials as required by Section 868.~~

14 ~~(d)(11) Within five (5) working days of~~ After receiving summary reports and files from  
15 the ~~publisher contractor~~, the school district STAR coordinator shall review the files and  
16 reports for completeness and accuracy, and shall notify the ~~publisher contractor~~ and the  
17 Department of its findings. ~~The school district shall notify the Department in writing~~  
18 ~~whether any errors, discrepancies, or incomplete information have been resolved.~~

19 (12) Training test site coordinators to oversee the test administration at each school.

20 NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code.

21 Reference: Sections 52052, 60630, and 60640, Education Code; and 20 USC Section  
22 6311.

23  
24 *Amend Section 858 to read:*

25 **§ 858. STAR Test Site Coordinator.**

26 (a) At each test site, including but not limited to, each elementary, middle, and high  
27 school or other grade-span designated school, each charter school, each court-school,  
28 each school or program operated by a school district, and all other public programs  
29 serving pupils in any of the grades 2 to 11, inclusive, the superintendent of the school  
30 district or the district STAR coordinator shall designate a STAR test site coordinator  
31 from among the employees of the school district. The STAR test site coordinator, or the  
32 site principal or his or her designee, shall be available to the ~~STAR program~~ district

1 STAR coordinator by telephone through August 15 for purposes of resolving  
2 discrepancies or inconsistencies in materials or errors in reports.

3 (b) The STAR test site coordinator's responsibilities shall include, but are not limited  
4 to, all of the following duties:

5 (1) Determining site test and test material needs and communicating the site needs  
6 to the ~~STAR program~~ district STAR coordinator.

7 (2) Overseeing the acquisition and distribution of tests and test materials at the test  
8 site, including but not limited to, distributing test materials to test examiners on each day  
9 of testing in accordance with the contractor's directions.

10 (3) Cooperating with the ~~STAR program~~ district STAR coordinator to provide the  
11 testing and makeup testing days for the site within any required time periods.

12 (4) Maintaining security over the designated achievement test, ~~and~~ the standards-  
13 based achievement tests, the CAPA and test data. The STAR test site coordinator shall  
14 sign the security agreement set forth in Section 859 and submit it to the district STAR  
15 coordinator prior to the receipt of the test materials.

16 (5) Arranging for and ~~Overseeing~~ the administration of the designated achievement  
17 test, ~~and~~ the standards-based achievement tests, and the CAPA to eligible pupils at the  
18 test site.

19 (6) Overseeing the collection and return of all testing materials to the ~~STAR program~~  
20 district STAR coordinator.

21 (7) Assisting the ~~STAR program~~ district STAR coordinator, the ~~test publisher~~  
22 contractor, and the Department in the resolution of any discrepancies in the test  
23 information and materials.

24 (8) Overseeing the collection of all pupil level and other data required to comply with  
25 Sections 861 and 862.

26 (9) Ensuring that an answer document is submitted for scoring for each eligible pupil  
27 enrolled in the school on the first day of testing.

28 ~~(10)~~(9) Ensuring that for each pupil tested only one scannable answer document is  
29 submitted for scoring, except that for each pupil tested at grades 4 or grade 7, for which  
30 the contractor has designated the use of more than one answer document. ~~a~~An answer  
31 document for the STAR writing assessment administered pursuant to Section 855(c)  
32 shall be submitted in addition to the answer document for the multiple choice items.

1 (11) Immediately notifying the district STAR coordinator of any security breaches or  
2 testing irregularities that occur in the administration of the designated achievement test,  
3 the standards-based achievement tests, or the CAPA that violate the terms of the STAR  
4 Security Affidavit in Section 859.

5 (12) Training all test examiners, proctors, and scribes for administering the tests.

6 ~~(c) Within three (3) working days of complete site testing, the principal and the STAR~~  
7 ~~test site coordinator shall certify to the STAR program district coordinator that the test~~  
8 ~~site has maintained the security and integrity of the designated achievement test and~~  
9 ~~the standards-based achievement tests, collected all data and information as required,~~  
10 ~~and returned all test materials, answer documents, and other materials included as part~~  
11 ~~of the designated achievement test in the manner and as otherwise required by the~~  
12 ~~STAR program district coordinator.~~

13 NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code.

14 Reference: Sections 60630 and 60640, Education Code; and 20 USC Section 6311.

15  
16 *Amend Section 859 to read:*

17 **§ 859. STAR Test Security Agreement and Test Security Affidavit.**

18 (a) All STAR ~~program~~ district and test site coordinators (coordinators) shall sign the  
19 STAR Test Security Agreement set forth in Subdivision (b) before receiving any STAR  
20 Program tests or test materials.

21 (b) The STAR Test Security Agreement shall be as follows:

22 STAR TEST SECURITY AGREEMENT

23 ~~The coordinator I~~ acknowledges by his or her my signature on this form that the  
24 designated achievement test, ~~and the standards-based achievement tests,~~ and the  
25 CAPA are secure tests and agrees to each of the following conditions to ensure test  
26 security:

27 (1) ~~The coordinator I~~ will take all necessary precautions to safeguard all tests and  
28 test materials by limiting access to persons within the school district with a responsible,  
29 professional interest in the ~~test's~~ tests' security.

30 (2) ~~The coordinator I~~ will keep on file the names of all persons having access to tests  
31 and test materials. All persons having access to the materials shall be required by the

1 coordinator to sign the STAR Test Security Affidavit that will be kept on file in the school  
2 district office.

3 (3) ~~The coordinator I~~ will keep the designated achievement test and the standards-  
4 based achievement tests and test materials in a secure, locked location limiting access  
5 to and will deliver tests and test materials only to those persons ~~responsible for test~~  
6 ~~security who have executed STAR Test Security Affidavits, except~~ on actual testing  
7 dates as provided in California Code of Regulations, Title 5, Division 1, Chapter 2,  
8 Subchapter 3.75.

9 (4) I will keep the CAPA materials in a secure locked location when not being used  
10 by examiners to prepare for and to administer the assessment. I will adhere to the  
11 contractor's directions for the distribution of the assessment materials to examiners.

12 (5)~~(4)~~The coordinator I will not copy any part of the tests or test materials without  
13 written permission from the Department to do so.

14 (6) I will not disclose, or allow to be disclosed, the contents of, or the test instrument.  
15 I will not review any test questions, passages, or other test items with any other person  
16 before, during, or after the test administration.

17 (7)~~(5)~~The coordinator I will not review test questions, develop any scoring keys or  
18 review or score any pupil responses except as required by the contractor's manuals.

19 By signing my name to this document, I am assuring that I ~~and anyone having~~  
20 ~~access to the test materials~~ will abide by the above conditions.

21 By: \_\_\_\_\_

22 Title: \_\_\_\_\_

23 School District: \_\_\_\_\_

24 Date: \_\_\_\_\_

25 (c) ~~Each STAR test site coordinator shall deliver the tests and test materials only to~~  
26 ~~those persons actually administering the designated achievement test and the~~  
27 ~~standards-based achievement tests on the date of testing to persons trained to~~  
28 ~~administer the test who have executed the STAR Test Security Affidavit set forth in~~  
29 ~~Subdivision (c).~~

30 (c)~~(d)~~ All test examiners, proctors, scribes, and any other persons having access to  
31 the designated achievement test and test materials, ~~and to~~ the standards-based  
32 achievement tests and test materials, and the CAPA materials shall acknowledge the

1 limited purpose of their access to the tests by signing the STAR Test Security Affidavit  
2 set forth in Subdivision (d)(f).

3 (d)(e)The STAR Test Security Affidavit shall be as follows:

4 STAR TEST SECURITY AFFIDAVIT

5 I acknowledge that I will have access to the designated achievement test and to the  
6 standards-based achievement tests and the CAPA for the purpose of administering the  
7 test(s). I understand that these materials are highly secure, and it is my professional  
8 responsibility to protect their security as follows:

9 (1) I will not divulge the contents of the testss to any other person through verbal,  
10 written, or any other means of communication.

11 (2) I will not copy any part of the test(s) or test materials.

12 (3) I will keep the test(s) secure until the test(s) are actually distributed to pupils.

13 (4) I will limit access to the test(s) and test materials by test examinees to the actual  
14 testing periods when they are taking the test(s).

15 (5) I will collect and account for all materials following each period of testing and will  
16 not permit pupils to remove test materials from the room where testing takes place.

17 ~~(6) I will not disclose, or allow to be disclosed, the contents of, or the test instrument.~~  
18 I will not review any test questions, passages, or other test items with pupils or any  
19 other person before, during, or following testing.

20 (7) I will not develop scoring keys or review or score any pupil responses except as  
21 required by the ~~publisher's~~ contractor's administration manual(s) to prepare answer  
22 documents for machine or other scoring.

23 (8) I will return all test materials to the designated STAR test site coordinator daily  
24 upon completion of testing.

25 (9) I will administer the test(s) in accordance with the directions for test  
26 administration set forth in the ~~publisher's~~ contractor's manual for test administration.

27 (10) I have been trained to administer the tests.

28 Signed: \_\_\_\_\_

29 Print Name: \_\_\_\_\_

30 Position: \_\_\_\_\_

31 School: \_\_\_\_\_

32 School District: \_\_\_\_\_

1 Date: \_\_\_\_\_

2 ~~(e)(f)~~ To maintain the security of the Program, all ~~STAR program~~ district STAR  
3 coordinators and test site coordinators are responsible for inventory control and shall  
4 use appropriate inventory control forms to monitor and track test inventory.

5 NOTE: Authority cited: Sections 33031 and 60605, Education Code. Reference: Section  
6 60640, Education Code.

7

8 *Amend Section 861 to read:*

9 **§ 861. School-By-School Analysis**

10 (a) Each school district shall provide the ~~publisher~~ contractor ~~of~~ for the designated  
11 achievement test and standards-based achievement tests or CAPA, the following  
12 information for each pupil ~~tested~~ enrolled on the first day the tests are administered for  
13 purposes of the reporting required by the Academic Performance Index of the Public  
14 Schools Accountability Act (Chapter 6.1, commencing with Section 52050), Section  
15 60630, and Chapter 5 (commencing with Section 60640) of the Education Code:

16 (1) Pupil's full name.

17 ~~(2)(1)~~ Date of birth.

18 ~~(3)(2)~~ Grade level.

19 ~~(4)(3)~~ Gender.

20 ~~(5)(4)~~ Language fluency English proficiency and ~~home~~ primary language.

21 (6) Date of English proficiency reclassification.

22 (7) If R-FEP pupil scored proficient or above on the California English-language arts  
23 test three (3) times since reclassification.

24 ~~(8)(5)~~ Special ~~p~~Program participation.

25 ~~(9)(6)~~ Use of Testing adaptations or accommodations or modifications.

26 (10) California School Information Services (CSIS) Student Number once assigned.

27 ~~(11)(7)~~ Parent education level.

28 ~~(12)(8)~~ Amount of time in the school and school district.

29 (13) For English learners, length of time in California public schools and in school in  
30 the United States.

31 (14) Participation in the National School Lunch Program.

32 ~~(15)(9)~~ Ethnicity.



1 ~~(16)(10)~~ Handicapping condition or Primary disability.

2 (17) County and District of residence for pupils with IEPs.

3 (18) Special testing conditions and/or reasons for not being tested.

4 (b) In addition to the demographic data required to be reported in Section 861(a),  
5 school districts may report if a pupil in grades 2 through 11 is not tested due to a  
6 significant medical emergency.

7 ~~(c)(b)~~ The information is for the purposes of aggregate analyses only and shall be  
8 provided and collected as part of the testing materials for the designated achievement  
9 test, the standards-based achievement tests, and the CAPA.

10 ~~(d)(e)~~ School districts shall provide the same information for each eligible pupil  
11 enrolled in an alternative or off campus program or for pupils placed in nonpublic  
12 schools as is provided for all other eligible pupils in grades 2 to 11, inclusive.

13 ~~(e)(f)~~ If the information required by Section 861(a) is incorrect, the school district  
14 may enter into a separate agreement with the contractor to have the district's student  
15 data file corrected. The district STAR coordinator shall provide the correct information to  
16 the contractor within the contractor's timeline. Any costs for correcting the student data  
17 shall be the district's responsibility.

18 NOTE: Authority cited: Sections 33031 and 60605~~(g)~~ and ~~(h)~~, Education Code.

19 Reference: Section 60630, Education Code.

20  
21 *Amend Section 862 to read:*

22 **§ 862. Apportionment Information Report.**

23 ~~(a) Each school district shall report to the Department all of the following information~~  
24 ~~relevant to~~ Annually, each school district shall receive an apportionment information  
25 report with the following information for the designated achievement test, and the  
26 standards-based achievement tests, and the CAPA by grade level for each of grades 2  
27 to 11, inclusive:

28 (1) The number of pupils enrolled in each school and in the school district on the first  
29 day of testing in the school district as indicated by the number of answer documents  
30 submitted to the test contractor for scoring.

1 (2) The number of pupils with significant cognitive disabilities in each school and in  
2 the school district ~~exempted from testing pursuant to Education Code section 60640(e)~~  
3 tested with the California Alternate Performance Assessment (CAPA).

4 (3) The number of pupils in each school and in the school district exempted from  
5 testing at the request of their parents or guardians pursuant to Education Code ~~s~~Section  
6 60615.

7 (4) The number of pupils ~~to whom~~ who were administered any portion of the  
8 designated achievement test was administered and standards-based achievement  
9 tests.

10 (5) The number of pupils with demographic information only who were not tested for  
11 any reason other than a parent/guardian exemption.

12 (b) The department shall distribute the reports to districts no later than November 15  
13 following each testing cycle.

14 (b)(1) ~~The superintendent of each school district shall certify the accuracy of all~~  
15 ~~information submitted. The report required by Subdivision (a) shall be filed with the~~  
16 ~~State Superintendent of Public Instruction within ten (10) working days of the last day of~~  
17 ~~makeup testing in the school district.~~

18 (2) ~~School districts with an average daily attendance greater than 100,000 may~~  
19 ~~certify the accuracy and submit the information required by Subdivision (a) within fifteen~~  
20 ~~(15) working days of the last day of makeup testing in the school district. The school~~  
21 ~~district may submit a request to the Department to obtain approval of the State Board of~~  
22 ~~Education for an extension of ten (10) additional working days if the fifteen (15) working~~  
23 ~~day requirement presents an undue hardship.~~

24 (c) To be eligible for apportionment payment school districts must meet the following  
25 conditions:

26 (1) The school district has returned all secure test materials, and

27 (2) The superintendent of each school district has certified the accuracy of the  
28 apportionment information report for examinations administered during the calendar  
29 year (January 1 through December 31), which is either;

30 (A) postmarked by December 31, or

31 (B) if postmarked after December 31, the apportionment information report must be  
32 accompanied by a waiver request as provided by Education Code Section 33050. For

1 those apportionment information reports postmarked after December 31, apportionment  
2 payment is contingent upon the availability of an appropriation for this purpose in the  
3 fiscal year in which the testing window began.

4 NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code.  
5 Reference: Sections 60615 and 60640, Education Code.

6  
7 *Amend Section 863 to read:*

8 **§ 863. STAR Student Parent Reports and Cumulative Record Labels.**

9 (a) The school district shall forward the STAR Student Rreport provided by the  
10 contractor, in writing, the results of to each pupil's test to the pupil's parent or guardian,  
11 within not more than twenty (20) working days from receipt of the report test results from  
12 the publisher contractor.

13 (b) If the school district receives these reports for the designated achievement test  
14 and standards-based tests or CAPA from the test publisher contractor after the last day  
15 of instruction for the school year, the school district shall send the pupil results to the  
16 parent or guardian by U.S. mail at the parent's or guardian's last known address. If the  
17 report is non-deliverable, the school district shall make the report available to the parent  
18 or guardian during the next school year.

19 (c) Schools are responsible for affixing cumulative record labels reporting each  
20 pupil's scores to the pupil's permanent school records or for entering the scores into  
21 electronic pupil records, and for forwarding the results to schools to which pupils  
22 matriculate or transfer. Schools may annotate the scores when the scores may not  
23 accurately reflect pupils' achievement due to illness or testing irregularities.

24 NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code.  
25 Reference: Sections 49068, 60641, and 60607, Education Code.

26  
27 *Amend Section 864 to read:*

28 **§ 864. Reporting Test Scores.**

29 No aggregate or group scores or reports that are compiled pursuant to Education  
30 Code sSection 60641 or 60643 shall be reported electronically, in hard copy, or in other  
31 media, to any audience other than the school or school district where the pupils were  
32 tested, if the aggregate or group scores or reports is are composed of ten (10) or fewer

1 individual pupil scores. In each instance in which no score is reported for this reason,  
2 the notation shall appear “The number of pupils in this category is too small for  
3 statistical accuracy or privacy protection.” In no case shall any group score be reported  
4 that would deliberately or inadvertently make public the score or performance of any  
5 individual pupil.

6 NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code.

7 Reference: Section 60640 and 60643, Education Code.

8

9 *Amend Section 864.5. to read:*

10 **§ 864.5. Test Order Information.**

11 (a) The school district shall provide to the ~~publisher~~ contractor, no later than  
12 December 1 of the year immediately prior to the year of test administration, the following  
13 data for each test site of the school district, by grade level:

14 ~~(1) CBEDS enrollment~~

15 ~~(2) Current enrollment~~

16 (1) Number of pupils to be tested

17 ~~(2)(3) Valid county district school (CDS) codes~~

18 ~~(3)(4) Number of tests without adaptation~~

19 ~~(4)(5) Numbers of special version tests with adaptations by type of adaptation~~  
20 including, but not limited to, Braille and large print.

21 ~~(5)(6) Number of directions for administration needed, by grade level.~~

22 ~~(6)(7) First date of testing in the school district, including the dates for each testing~~  
23 wave test administration period, if applicable.

24 ~~(8) Date or dates on which delivery of materials to the school district is requested.~~

25 (b) Each school district that elects pre-identification of answer documents shall  
26 ~~provide to the publisher no fewer than 45 days prior to the first date of testing in the~~  
27 ~~school district,~~ submit an electronic file that includes all of the information required in  
28 Section 861. The file must be submitted in accordance with the timeline, format, and  
29 instructions provided by the contractor.

30 (c) If the testing materials are lost or destroyed while in the possession of the school  
31 district, and the ~~publisher~~ contractor provides the school district with replacement  
32 materials, the school district is responsible for the cost of all replacement materials.

1 (d) If the school district places an order for tests for any school that is excessive, the  
2 school district is responsible for the cost of materials for the difference between the sum  
3 of the number of pupil tests scored, ~~the number of parent requests pursuant to~~  
4 ~~Education Code section 60615, and the number of individualized education program~~  
5 ~~exemptions pursuant to Education Code section 60640(e)~~ submitted for scoring  
6 including tests for non-tested pupils and 90 percent of the tests ordered. In no event  
7 shall the cost to the school district for replacement or excessive materials exceed the  
8 amount per test booklet and accompanying material that is paid to the ~~publisher~~  
9 contractor by the Department as part of the contract ~~with the publisher~~ for the current  
10 year.

11 NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code.

12 Reference: Sections 60640 and 60643, Education Code.

13  
14 *Amend Section 865 to read:*

15 **§ 865. Transportation.**

16 (a) Upon arrival of the test materials at a single location designated by each school  
17 district, the school district's ~~STAR program~~ district STAR coordinator shall provide the  
18 ~~publisher~~ contractor with a signed receipt certifying that all cartons were received.

19 (b) The security of the test materials that have been duly delivered to the school  
20 district is the sole responsibility of the school district until all test materials have been  
21 inventoried, accounted for, and delivered to the common or private carrier designated  
22 by the ~~publisher~~ contractor for return to the contractor.

23 (c) Secure transportation within a school district is the responsibility of the school  
24 district once materials have been duly delivered to the school district. The school district  
25 is responsible for secure delivery of test materials to non-public schools to which district  
26 pupils with disabilities are assigned.

27 NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code.

28 Reference: Section 60640, Education Code.

29 *Amend Section 866 to read:*

30 **§ 866. School District Delivery.**

31 (a) No school district shall receive its multiple-choice test materials more than  
32 ~~twenty-five (25)~~ twenty (20) or fewer than ten (10) calendar working days prior to the

1 first day of testing in the school district. A school district that has not received multiple-  
2 choice test materials from the ~~test publisher~~ contractor at least ten (10) calendar  
3 working days before the first date of testing in the school district shall notify the  
4 ~~publisher~~ contractor and the Department on the tenth working day before testing is  
5 scheduled to begin that the school district has not received its materials. Deliveries of  
6 multiple-choice test materials to single school districts shall use the schedule in Section  
7 867.

8 ~~(b) School districts shall return all designated achievement tests and standards-~~  
9 ~~based achievement tests and test materials to the publisher within five (5) working days~~  
10 ~~of the last test date in the school district, including makeup testing days or six (6) days~~  
11 ~~after any statutory deadline, whichever date is earlier.~~

12 ~~(b)(c)~~ A school district and the ~~publisher~~ contractor ~~may~~ shall establish a periodic  
13 delivery and retrieval schedule to accommodate ~~wave test administration dates~~ test  
14 administration periods within the school district. Any schedule established must conform  
15 to Sections 866(a) and (b) for each test administration period.

16 (c) No school district shall receive its writing test materials more than ten (10) or  
17 fewer than five (5) working days before the day on which the writing tests are to be  
18 administered.

19 NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code.

20 Reference: Sections 60640, 60642.5, and 60643, Education Code.

21  
22 *Amend Section 867 to read:*

23 **§ 867. Test Site Delivery and Return.**

24 (a) No school or other test site shall receive any multiple-choice test or related test  
25 materials more than ten (10) ~~working days~~ nor fewer than five (5) working days prior to  
26 the first day of testing scheduled at the school or test site.

27 ~~(b) Upon completion of a testing wave at a site, including makeup testing, all tests~~  
28 ~~and test materials shall be returned to the school district location designated by the~~  
29 ~~STAR program district coordinator.~~

30 (b) All multiple-choice testing materials shall be returned to the school district  
31 location designated by the district STAR coordinator no more than two (2) working days  
32 after testing is completed for each test administration period.

1 (c) ~~Designated achievement tests and standards-based achievement tests and test~~  
2 ~~materials shall not be retained at the test site for more than two (2) working days after~~  
3 ~~the last day of test administration including makeup testing days or after any statutory~~  
4 ~~deadline, whichever is earlier. No school or other test site shall receive any writing test~~  
5 ~~materials more than six (6) or fewer than two (2) working days before the test~~  
6 ~~administration date.~~

7 (d) Writing test materials shall be returned to the district STAR coordinator no more  
8 than one day after the day scheduled for makeup testing.

9 NOTE: Authority cited: Sections 33031 and 60605(g) ~~and (j)~~, Education Code.  
10 Reference: Section 60640 and 60642.5, Education Code.

11  
12 *Amend Section 867.5 to read:*

13 **§ 867.5. Retrieval of Materials by ~~Publisher~~ Contractor.**

14 (a) The school district shall ensure that multiple-choice testing materials are  
15 inventoried, packaged, and labeled in accordance with instructions from the ~~publisher~~  
16 contractor, and returned to a single school district location for pickup by the ~~publisher~~  
17 contractor within five (5) working days following completion of testing in the school  
18 district and in no event later than five (5) working days after ~~any applicable statutory~~  
19 ~~deadline~~ each test administration period. All school districts must have their multiple-  
20 choice testing materials returned to the ~~publisher~~ contractor no later than ~~six (6)~~ five (5)  
21 working days after any statutory deadline.

22 (b) School districts shall return all writing tests and test materials to the contractor no  
23 more than two (2) working days after the makeup day specified for the writing test.

24 NOTE: Authority cited: Sections 33031 and 60605(g) ~~and (h)~~, Education Code.  
25 Reference: Sections 60640, 60642.5, and 60643, Education Code.

26  
27 *Amend Section 868 to read:*

28 **§ 868. Discrepancy Resolution for Designated Achievement Test, Standards-**  
29 **Based Achievement Tests, and CAPA.**

30 (a) School districts shall process discrepancies determined by the ~~designated~~  
31 ~~publisher~~ contractor upon receipt of returned tests and test materials pursuant to this  
32 subdivision:

1 (1) Receipt of a discrepancy notice in writing, via telephone, or via electronic mail by  
2 the ~~STAR program~~ district STAR coordinator for one or more of the following shall  
3 require a response from the ~~STAR program~~ district STAR coordinator to the ~~publisher~~  
4 contractor within 24 hours.

5 (A) A discrepancy between the quantity of tests and test materials shipped to the  
6 school district and the number of tests and test materials returned to the ~~publisher~~  
7 contractor from the school district.

8 (B) Information on scannable documents or test support materials that is  
9 inconsistent, incomplete, or missing, according to criteria established with the  
10 Department.

11 (2) The ~~STAR program~~ district STAR coordinator shall acknowledge the discrepancy  
12 notice via electronic mail, if available in the school district, to the ~~publisher~~ contractor  
13 and to the Department within twenty-four (24) hours of its receipt via electronic mail.

14 (b) The ~~STAR program~~ district STAR coordinator shall report any discrepancy in the  
15 total amount of the shipment from the ~~designated test publisher~~ contractor within two (2)  
16 working days of the receipt of the shipment. If the ~~designated test publisher~~ contractor  
17 does not remedy the discrepancy within two (2) working days of the school district  
18 report, the school district shall notify the Department within 24 hours.

19 (c) Any discrepancy in a shipment of designated achievement tests or test materials,  
20 ~~or standards-based achievement tests or test materials,~~ or CAPA materials received by  
21 a test site from the ~~STAR program~~ district STAR coordinator shall be reported to the  
22 ~~STAR program~~ district STAR coordinator immediately but no later than two (2) working  
23 days of the receipt of the shipment at the testing site. The ~~STAR program~~ district STAR  
24 coordinator shall remedy the discrepancy within two (2) working days.

25 (d) The ~~STAR program~~ district STAR coordinator shall report to the ~~publisher~~  
26 contractor any discrepancy reported by a STAR test site coordinator within three (3)  
27 working days of receipt of materials at the test site. If the ~~STAR program~~ district STAR  
28 coordinator does not have a sufficient supply of tests or test materials to remedy any  
29 shortage, the ~~test publisher~~ contractor shall remedy the shortage by providing sufficient  
30 materials directly to the test site within two (2) working days of the notification by the  
31 ~~STAR program~~ district STAR coordinator.



1 (e) The notices required by this section shall be made by telephone with  
2 simultaneous confirmation in writing and by electronic mail.

3 NOTE: Authority cited: Sections 33031 and 60605(g) and (h), Education Code.

4 Reference: Sections 60640 and 60643, Education Code.

5  
6 *Amend Section 870 to read:*

7 **§ 870. Apportionment to School Districts.**

8 (a) The amount of funding to be apportioned to the school district for the costs of  
9 administering the designated achievement test, ~~and the standards-based achievement~~  
10 ~~tests, and the CAPA~~ shall be the amount established by the State Board of Education to  
11 enable school districts to meet the requirements of administering the designated  
12 achievement test, ~~and the standards-based achievement tests, and the CAPA~~ per the  
13 number of tests administered to eligible pupils in grades 2 to 11, inclusive, ~~and the~~  
14 ~~number of answer documents returned with only demographic information for pupils~~  
15 ~~enrolled on the first day of testing who were not tested~~ in the school district. The number  
16 of tests administered ~~and the number of demographic answer documents~~ shall be  
17 determined by the certification of the school district superintendent pursuant to Section  
18 862. For purposes of this portion of the apportionment, administration of the designated  
19 achievement test, ~~and the standards-based achievement tests, and the CAPA~~ includes  
20 the following items:

21 (1) All staffing costs, including the ~~STAR program~~ district STAR coordinator and the  
22 STAR test site coordinators, staff training and other staff expenses related to testing.

23 (2) All expenses incurred at the school district and test site level related to testing.

24 (3) All transportation costs of delivering and retrieving tests and test materials within  
25 the school district.

26 (4) All costs associated with mailing the ~~parent reports of test results~~ STAR Student  
27 Reports to parents/guardians.

28 (5) All costs associated with pre-identification of answer sheets and consumable test  
29 booklets, and other activities intended to provide the complete and accurate data  
30 required in Section 861 of these regulations.

31 (b) This amount does not include any funding for the purposes of reimbursing the  
32 costs incurred by any school district pursuant to Section 864.5(d) placing an order that

1 is excessive, or for replacement costs for test materials lost or destroyed while in  
2 possession of the school district as ~~allocated~~ stated in Section ~~865~~ 864.5(c). These  
3 costs are outside the scope of the mandates of the STAR program.

4 (c) If at the time a school district's scannable documents are processed by the  
5 ~~publisher~~ contractor a student data record is missing any of the data elements required  
6 in Section 861 of these regulations, the school district shall provide the missing data  
7 elements within the time required by the ~~publisher~~ contractor to process the documents  
8 and meet the ~~publisher's~~ contractor's schedule of deliverables under its contract with  
9 the Department. The additional costs incurred by the school district to have the  
10 ~~publisher~~ contractor reprocess the student information to acquire the data required by  
11 Section 861 of these regulations shall be withheld from the school district's  
12 apportionment.

13 NOTE: Authority cited: Sections 33031 and 60605~~(g)~~ and ~~(h)~~, Education Code.

14 Reference: Sections 60640 and 60643, Education Code.

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|SENATE RULES COMMITTEE | AB 1485|
|Office of Senate Floor Analyses |
|1020 N Street, Suite 524 |
|(916) 445-6614 Fax: (916) |
|327-4478 |
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THIRD READING

Bill No: AB 1485  
 Author: Firebaugh (D), et al  
 Amended: 9/8/03 in Senate  
 Vote: 21

SENATE EDUCATION COMMITTEE : 9-0, 7/10/03  
 AYES: Vasconcellos, Alarcon, Alpert, Chesbro, Karnette,  
 Romero, Scott, Sher, Vincent  
 NO VOTE RECORDED: McPherson, Denham, Knight, Speier

SENATE APPROPRIATIONS COMMITTEE : 7-5, 8/25/03  
 AYES: Alpert, Bowen, Escutia, Karnette, Machado, Murray,  
 Speier  
 NOES: Battin, Aanestad, Ashburn, Johnson, Poochigian  
 NO VOTE RECORDED: Burton

ASSEMBLY FLOOR : 47-27, 6/3/03 - See last page for vote

SUBJECT : English learners: academic assessment

SOURCE : Author

DIGEST : This bill makes modifications to the requirements of the Reading First Program in regards to English language learners (ELL). The bill also clarifies the administration of a nationally normed portion of the state standardized testing program.

Senate Floor Amendments of 9/8/03 add provisions related to the standardized testing program which were previously part of the budget trailer bill, AB 1266.

CONTINUED

AB 1485

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ANALYSIS : In 2001, the United States Congress passed the No Child Left Behind Act (NCLB), the reauthorization of the Elementary, Secondary Education Act. The Reading First Program was established as part of Title I of NCLB. Reading First is a competitive program that provides early reading intervention programs for students in grades K-3 and K-12 special education students. Every state is required to submit a plan and be approved by the federal government in order to qualify for funding. Local education agencies receive the funding and then provide the program in accordance with the specifications of the state plan. AB 65 (Strom-Martin, Chapter 730, Statutes of 2002) established the California Reading First Plan, administered by the State Department of Education (SDE). In 2002-03, California was approved to receive approximately \$133 million for this program. In 2003-2004, the program is expected to provide a total of \$146.6 million, approximately a \$15 million increase over current year funding. Federal funding for the program is expected to continue annually through the 2008-2009 school year.

In 1998, statewide voters passed Proposition 227 which required all ELL students to be placed in "sheltered English-immersion" programs for approximately one year and then transferred to English mainstream classes. The proposition allows for parents to request and be granted a waiver from this requirement. Under this waiver, children

may be placed in classes where they are taught English and other subjects through bilingual education techniques. In 2002-03, approximately 1,688 schools offered 3,766 classes to 75,300 K-3 students. Item 6110-126-0890 (2) of the Budget Act of 2003 appropriates \$13,635,000 for bilingual education programs pursuant to legislation to be enacted during the 2003-04 Regular Session.

This bill modifies the existing law regarding the Reading First Plan to:

1. Prohibit the SDE and the State Board of Education (SBE) from developing or implementing requirements that make a local educational agency (LEA) ineligible for funding because the LEA provides primary language instruction and comprehensive English language development instruction to

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ELLs in classrooms where ELLs are not educated through sheltered or structured English immersion.

2. Authorize the use of primary language materials in specified cases for purposes of participation in a program funded with Reading First funds.
3. Require SDE to amend the Reading First plan to authorize LEAs operating programs in which ELLs are not educated through sheltered or structural English immersion to apply for funding under the federal NCLB Act.
4. Require the plan to specify that priority to specified federal funds be given to programs meeting certain criteria.
5. Prohibit the allocation of a specified appropriation made in the Budget Act of 2003 until the SBE amends the Reading First plan according to this act and submits it to federal authorities and the Secretary of Education approves the plan.

This bill revises state standardized testing requirements so that, effective with the 2004-05 school year, the "off the shelf" norm referenced test will only be administered in grades 3 and 8. The norm-referenced test is not aligned to California standards, whereas the more comprehensive test that is aligned to California's adopted content standards will still be administered in grades 2 through 11.

These provisions were previously approved in the Education Committee as part of the budget trailer bill, AB 1266. The reduced administration of the "of the shelf" test was originally proposed to save costs in the 2003-04 year. Since the new testing schedule will not become effective until 2004-05, this proposal is no longer necessary to implement the 2003-04 Budget Act.

Comments

What problem is the bill trying to address? In its implementation of the Reading First Program, the State Board of Education required that any Proposition 227

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waivered classrooms could be included in the funding calculation for a Reading First grant only if they provided, respectively, one hour and two and one-half hours in English Language Arts instruction in kindergarten and grades 1-3, utilizing the full state adopted reading program in English. On March 27, 2003, the San Francisco Superior Court issued two orders in Pazmino, et al. v. California Board of Education, et. Al. The State Board of Education and the California Department of Education were

ordered to cease applying the Frequently Asked Question (FAQ) that required the specified hours of English instruction in bilingual classrooms authorized to operate under a waiver, unless and until there was compliance with the Administrative Procedure Act (APA). This bill would explicitly allow the granting of Reading First Funds to classrooms that provide primary language reading and English language development instruction in alternative classrooms lawfully operating under the provisions of Proposition 227.

What is the current status of Reading First funds? At its April 9, 2003, meeting the State Board of Education considered and adopted emergency regulations that require that distribution of Reading First funds be based upon the number of K-3 classrooms agreeing to implement the full English language arts program, as provided in the adopted instructional materials, in English for a specified number of hours. The net effect of these regulations is that schools with bilingual programs authorized under current law, are excluded from applying or competing for these funds unless they conform to the requirements for specified hours of instruction in English.

Does federal law prohibit participation of bilingual education classrooms in the Reading First program? The State Board of Education has opined that, under the requirements of the Reading First Program, bilingual classrooms without the specified hours of English instruction are ineligible for these federal funds. According to the author, Texas, New Mexico, and Florida all have federally approved Reading First plans that include bilingual programs.

FISCAL EFFECT : Appropriation: No Fiscal Com.: Yes

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Local: No

According to the Senate Appropriations Committee:

Fiscal Impact (in thousands)

<u>Major Provisions</u>	<u>2003-04</u>	<u>2004-05</u>
<u>2005-06 Fund</u>		
Revised Reading First plan	Up to \$100	Federal
Funding priority (authorizes the expenditure of funds appropriated in the 2003 Budget)		\$13, 635 Federal
Funding prohibition potential reallocation of funds to schools complying with provisions of the bill and from schools out of compliance		Unknown Federal

SUPPORT : (Verified 8/28/03)

California Association for Bilingual Education  
 California Teachers of English to Speakers of Other Languages (CATESOL)  
 Californians Together  
 Riverside County Schools Advocacy Association

ASSEMBLY FLOOR :

AYES: Berg, Bermudez, Calderon, Canciamilla, Chan, Chavez, Chu, Cohn, Corbett, Correa, Diaz, Dutra, Dymally, Firebaugh, Frommer, Goldberg, Hancock, Jerome Horton, Jackson, Kehoe, Laird, Leno, Levine, Lieber, Liu, Longville, Lowenthal, Matthews, Montanez, Mullin, Nakano, Nation, Negrete McLeod, Nunez, Oropeza, Parra, Pavley, Reyes, Ridley-Thomas, Salinas, Simitian, Steinberg, Vargas, Wiggins, Wolk, Yee, Wesson  
 NOES: Aghazarian, Bates, Benoit, Campbell, Cogdill, Cox, Daucher, Dutton, Harman, Haynes, Shirley Horton, Houston, Keene, La Malfa, Maddox, Maldonado, Maze, McCarthy,

Mountjoy, Nakanishi, Pacheco, Plescia, Richman, Runner,  
Samuelian, Strickland, Wyland

NC:n1 9/8/03 Senate Floor Analyses

SUPPORT/OPPOSITION: SEE ABOVE

\*\*\*\* END \*\*\*\*

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|SENATE RULES COMMITTEE | SB 1448|
|Office of Senate Floor Analyses | |
|1020 N Street, Suite 524 | |
|(916) 445-6614 Fax: (916) | |
|327-4478 | |
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UNFINISHED BUSINESS

Bill No: SB 1448  
 Author: Alpert (D)  
 Amended: 7/28/04  
 Vote: 21

SENATE EDUCATION COMMITTEE : 10-0, 4/21/04  
 AYES: Vasconcellos, McPherson, Alarcon, Alpert, Chesbro,  
 Denham, Karnette, Romero, Scott, Speier  
 NO VOTE RECORDED: Knight, Sher, Vincent

SENATE APPROPRIATIONS COMMITTEE : 12-0, 5/20/04  
 AYES: Alpert, Battin, Aanestad, Ashburn, Bowen, Burton,  
 Escutia, Johnson, Karnette, Machado, Murray, Poochigian  
 NO VOTE RECORDED: Speier

SENATE FLOOR : 37-0, 5/26/04  
 AYES: Aanestad, Ackerman, Alarcon, Alpert, Ashburn,  
 Battin, Bowen, Brulte, Burton, Chesbro, Denham, Ducheny,  
 Dunn, Escutia, Figueroa, Florez, Hollingsworth, Johnson,  
 Karnette, Kuehl, Machado, Margett, McClintock, McPherson,  
 Morrow, Murray, Oller, Ortiz, Perata, Poochigian, Romero,  
 Scott, Soto, Speier, Torlakson, Vasconcellos, Vincent  
 NO VOTE RECORDED: Cedillo, Sher, Vacancy

ASSEMBLY FLOOR : 68-6, 7/28/04 - See last page for vote

SUBJECT : Pupil assessment

SOURCE : State Superintendent of Public Instruction

DIGEST : This bill reauthorizes the STAR program, which  
 CONTINUED

SB 1448

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includes the California Standardized Tests for grades 2-11, and the California Achievement Test (CAT-6) for grades 3 and 8. This bill extends the STAR program for grades 3-11 until January 1, 2011 and eliminates second grade testing as of July 1, 2007.

Assembly Amendments exclude pupils in grade 2 from the standards-based achievement test requirement as of July 1, 2007, change the submission date for a report, clarify the development and use of primary language assessments, and make further clarifying and conforming changes to the Standardized Testing and Reporting (STAR) program.

ANALYSIS : Current law requires school districts to annually administer standardized tests to pupils in grades 2 to 11 under the STAR program. Currently, pupils take both the California Standards Tests (CSTs), which are aligned to California's adopted academic content standards and a national norm-referenced test that is currently the CAT-6 "off the shelf" basic skills test published by CTB/McGraw-Hill. The norm-referenced assessment used in the STAR program is administered at the third and eighth grade levels. Scores on both the standards tests and the norm-referenced test are currently used to establish each school's Academic Performance Index (API). (The CAT-6, a nationally norm-referenced test based on national consensus curriculum, measures what students should know and be able to do at grade level and compares those scores to the

scores of other students across the nation.)

Existing law requires that English learners be tested in their primary language if they have been enrolled in a public school in the state for less than 12 months, and allow school districts to test English learners in grades 2 through 11 with a primary language assessment.

This bill reauthorizes the STAR program, which includes the California Standardized Tests (CSTs) for grades 2-11, and the CAT-6 for grades 3 and 8. This bill extends the STAR program for grades 3-11 until January 1, 2011 and eliminates second grade testing as of July 1, 2007. Specifically, this bill:

1. Defines "assessment" as interim assessments of the

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current level of achievement of a public that accomplishes the following: (a) identification of particular academic standards the pupil has not achieved, and (b) identification of possible reasons the pupil has not yet achieved particular academic standards.

2. Establishes that a pupil, or a parent or guardian, may authorize the release of test results, including the CSTs, to a postsecondary education institution for the purpose of credit, placement, or admission.
3. Allows city, county, city and county, district superintendent of schools, principal, and teachers to use instructional materials provided by the State Department of Education (SDE) in the academic preparation of pupils for the STAR program if those instructional materials are embedded in an instructional program that is intended to improve learning.
4. Requires SDE to use federal Title VI, No Child Left Behind Act of 2001 (NCLB) funds that are appropriated in the annual Budget Act to develop or adopt primary language assessments that are aligned to the California academic content standards.

The measure further specifies that these assessments shall be developed in reading/language arts and mathematics in the dominant primary language of limited-English-proficient (LEP) students and in grade order beginning with the lowest grade of the STAR program.

5. Specifies that the once these standards-aligned primary language assessments are developed, they will replace the appropriate grade level primary language test currently authorized in the STAR program (i.e., the Spanish Assessment of Basic Education (SABE)).
6. Requires SDE, on or before January 1, 2006, to submit a report to the Legislature regarding the development and implementation of the primary language assessments, as specified.

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7. Requires SDE to ensure that a CST is augmented for the purpose of determining credit, placement, or admission of a pupil in a postsecondary educational institution and to inform the pupil in grade 11 that these results may be requested to be released to the appropriate postsecondary institution.
8. Requires the State Board of Education to designate the CAT-6 to be administered in grades 3 and 7 (as opposed



to grades 3 and 8 in current law).

Comments

Rationale . The STAR program was established by SB 376 (Alpert), Chapter 828, Statutes of 1997, and currently consists of three major elements: (1) the Cat-6, a nationally norm-references test (NRT) administered in grades 3 and 8, (2) the CSTs, and (3) the SABE, a NRT primary language test. Under the STAR program, the state requires schools to test all students in grades 2 to 11, as specified. For the purposes of calculating a school's score on the Academic Performance Index (API) and the federal Adequate Yearly Progress (AYP), the STAR places greater weight on the results of the CSTs.

This bill, sponsored by the State Superintendent of Public Instruction, proposes to reauthorize the STAR program for grades 3 through 11 until January 1, 2011 and sunset second grade testing on July 1, 2007. Without this bill, the state's assessment program will cease on January 1, 2005. Failure to continue the STAR testing program may result in a significant loss of federal NCLB funds.

Related Legislation

AB 356 (Hancock), which is currently on the Senate Inactive File, revises the STAR program to (1) change school and staff rewards programs to be only nonmonetary awards, (2) provide for diagnostic assessment but not standardized testing in grade 2, and (3) delay the requirement to pass the California High School Exit Exam for high school graduation.

AB 2413 (Diaz), which is currently in the Senate

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Appropriations Committee, requires the SDE to develop or adopt primary language assessments in reading/language arts, mathematics, science, and history/social science in the dominant primary language of LEP students.

AB 2860 (Pavley), which is currently in the Senate Appropriations Committee, permits a pupil or his/her parent or guardian to authorize the release of specified eleventh grade pupil test results to postsecondary educational institutions for the purpose of credit, placement or admission for administering the Early Assessment Program.

FISCAL EFFECT : Appropriation: No Fiscal Com.: Yes  
Local: Yes

The 2004-05 proposed budget, as adopted by the Joint Budget Conference Committee, allocates approximately \$112.2 million in state and federal funds for the development and implementation of the STAR program. Of this amount, \$76 million is General Fund (Proposition 98) funding and \$36.2 million is provided by federal Title VI, NCLB funds, including \$3 million for the development of primary language assessments.

General Fund (Proposition 98) savings, beginning in 2007, of approximately \$3.2 million from eliminating participation of pupils in grade 2 from the STAR program, which may be used for other educational purposes under Proposition 98.

Potential General Fund (Proposition 98) costs of approximately \$400,000 to inform pupils that the results of the CSTs may be released to postsecondary education institutions. The bill does not specify how the state would inform pupils.

SUPPORT : (Verified 7/28/04)

State Superintendent of Public Instruction (source)  
Association of California School Administrators  
California Business for Education Excellence  
California Business Roundtable  
California State University

Ed Voice  
Riverside County Schools Advocacy Association  
The Education Trust - West

ASSEMBLY FLOOR :

AYES: Aghazarian, Bates, Benoit, Berg, Bermudez, Bogh,  
Calderon, Campbell, Chavez, Chu, Cogdill, Cohn, Corbett,  
Correa, Cox, Daucher, Diaz, Dutra, Dutton, Firebaugh,  
Frommer, Garcia, Harman, Jerome Horton, Shirley Horton,  
Houston, Jackson, Keene, Kehoe, La Malfa, La Suer, Laird,  
Leno, Leslie, Levine, Lieber, Liu, Lowenthal, Maddox,  
Maldonado, Matthews, Maze, McCarthy, Montanez, Nakanishi,  
Nakano, Nation, Oropeza, Pacheco, Parra, Pavley, Plescia,  
Reyes, Richman, Ridley-Thomas, Runner, Salinas,  
Samuelian, Simitian, Spitzer, Steinberg, Strickland,  
Vargas, Wesson, Wolk, Wyland, Yee, Nunez  
NOES: Canciamilla, Goldberg, Koretz, Longville, Negrete  
McLeod, Wiggins  
NO VOTE RECORDED: Chan, Dymally, Hancock, Haynes,  
Mountjoy, Mullin

NC:mel 7/29/04 Senate Floor Analyses

SUPPORT/OPPOSITION: SEE ABOVE

\*\*\*\* END \*\*\*\*

BILL ANALYSIS

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SENATE RULES COMMITTEE	SB 946
Office of Senate Floor Analyses	
1020 N Street, Suite 524	
(916) 651-1520 Fax: (916)	
327-4478	
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UNFINISHED BUSINESS

Bill No: SB 946  
Author: Scott (D)  
Amended: 8/14/08  
Vote: 21

SENATE EDUCATION COMMITTEE : 8-1, 4/26/07  
AYES: Scott, Wyland, Alquist, Maldonado, Padilla, Romero,  
Simitian, Torlakson  
NOES: Denham

SENATE APPROPRIATIONS COMMITTEE : 14-2, 5/31/07  
AYES: Torlakson, Cox, Ashburn, Cedillo, Corbett, Dutton,  
Florez, Kuehl, Oropeza, Ridley-Thomas, Simitian,  
Steinberg, Wyland, Yee  
NOES: Aanestad, Runner  
NO VOTE RECORDED: Battin

SENATE FLOOR : 30-8, 6/6/07  
AYES: Alquist, Ashburn, Calderon, Cedillo, Corbett, Cox,  
Ducheny, Dutton, Florez, Kehoe, Kuehl, Lowenthal,  
Machado, Maldonado, Margett, Migden, Negrete McLeod,  
Oropeza, Padilla, Perata, Ridley-Thomas, Romero, Scott,  
Simitian, Steinberg, Torlakson, Vincent, Wiggins, Wyland,  
Yee  
NOES: Aanestad, Ackerman, Cogdill, Denham, Harman,  
Hollingsworth, McClintock, Runner  
NO VOTE RECORDED: Battin, Correa

ASSEMBLY FLOOR : 78-0, 8/21/08 - See last page for vote

SUBJECT : Community College Early Assessment Program  
CONTINUED

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SOURCE : Author

DIGEST : This bill authorizes the individual results of the California Standards Test to be provided to the California Community Colleges so that the Early Assessment Program may be expanded to include participation by prospective community college students.

Assembly Amendments delete the prior contents without altering the subject or the intent. As it left the Senate, the bill established the Community College Early Assessment Pilot Program for the purpose of providing high school students with an indicator of their readiness for college-level English and Math.

ANALYSIS : Currently, the California State University (CSU) operates an Early Assessment Program (EAP); a collaborative effort among the K-12 schools, the State Board of Education (SBE), and the California Department of Education (CDE). Under this EAP, 11th graders taking the California Standards Test are encouraged to take an "augmented version" of the test that includes additional English and math questions and a written essay. The results of the augmented version, once scored, indicate a student's "readiness" for college-level English and math. Those whose scores indicate they are not ready are

encouraged to take classes during their senior year to improve and strengthen their skills. The goal of the EAP is to have high school graduates enter the CSU fully prepared to do college-level work. More than 60 percent of the nearly 40,000 first-time freshmen admitted to the CSU require remedial education in English, mathematics or both.

This bill authorizes the individual results of the California Standards Test (CST) and the CST augmented test to be provided to the office of the Chancellor of the California Community Colleges (CCC) and CCC districts so that the EAP, established by CSU in coordination with SBE and the CDE, may be expanded to include participation by prospective CCC students. Specifically, this bill:

1. Expresses the intent of the Legislature that the CCC

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Chancellor's office, CSU Chancellor's office, the SBE, and CDE work together to modify the existing EAP to expand it to include CCC so that beginning in the 2009-10 school year, high school juniors who are considering attending either system can take the EAP and receive information in the summer before their senior year concerning their preparation for college-level work at both CSU and CCC.

2. Requires the CCC Chancellor's office to coordinate with CCC districts that choose to voluntarily participate in the EAP; accomplishes specified goals, to the extent possible; provides a report to the Legislature and the Governor by February 15, 2015, on the implementation and results of the EAP for CCC students; and releases the individual results of the CST and the augmented CST to participating CCC districts upon their request for this information, which may be used to provide diagnostic advice to prospective CCC students participating in the EAP; accomplishes all of the following activities using existing resources:
3. Requires CCC districts that choose to work directly with high school pupils within their respective district boundaries who took the augmented CST, do the following:
  - A. Use same standards utilized by CSU to assess readiness;
  - B. Use the augmented CST, currently utilized by CSU for purposes of early assessment, to assess the college readiness of pupils in the EAP;
  - C. Consider consulting with the CCC Academic Senate to work toward sequencing their pre-collegiate level courses and transfer-level courses in English and mathematics to the elementary and secondary education content standards;
  - D. Identify an EAP coordinator and coordinate with CSU campuses and schools offering instruction in kindergarten through grade 12 in their respective district boundaries on EAP-related activities that

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assist pupils in making decisions that increase their college readiness skills and likelihood of pursuing a postsecondary education;

- E. Use individual CST and augmented CST test results provided to that college to provide diagnostic advice to prospective CCC students participating in the EAP; and,

- F. Utilize the existing infrastructure of academic opportunities, as developed by CSU, to provide additional preparation in grade 12 for prospective CCC students participating in the EAP.
4. Provides that the individual results of the CST and the augmented CST shall be released to and may be used by CSU to provide diagnostic advice to prospective CSU students participating in the EAP and that the individual results of the augmented CST shall not be used by CSU as a criterion for admission.
5. Prohibits CCC from using the individual results of the augmented CST as a criterion for admission.

Comments

Recent studies indicate a significant number of incoming CCC students are unprepared to undertake basic math and English coursework-in fact, one out of three CCC students enrolls in a basic skills class. A recent survey by the CCC Research and Planning Group indicated that over 70 percent of students who took a CCC placement test require remedial math while 42 percent require remedial English. These statistics have serious repercussions on a student's educational path; those who lack basic skills are less likely to receive a degree or transfer to a university.

Unlike CSU and the University of California, CCC does not have a single English or math proficiency exam upon enrollment at a CCC. Each of the 109 campuses determines for itself the type of placement tests to use. However, the CCC Board of Governors recently directed the Chancellor to begin a consultation process to evaluate implementation of system wide student assessment measures.

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Modeled on successful CSU program: Under the EAP, initiated by CSU in coordination with CDE and SBE in 2004, 11th graders taking the CST are encouraged to take an "augmented version" of the test, comprised of 15 additional English language arts questions, an essay, and 15 additional math questions. The results of the augmented tests, once scored, indicate a student's "readiness" for college-level English and math. Those considered proficient on the augmented CST tests are not required to take the English and/or math placement tests upon admission to CSU. Those whose scores indicate they are not ready are encouraged to take classes during their senior year to improve and strengthen their skills and/or work independently on CSU's English and math success Internet Web sites. In coordination with CDE and SBE, CSU developed new courses that seniors can take in high school during their senior year and provides professional development to K-12 teachers.

The goal of the EAP is to have high school graduates enter CSU fully prepared to do college-level work and reduce the more than 60 percent of the nearly 40,000 first-time freshmen admitted to CSU who require remedial education in English, math or both.

FISCAL EFFECT : Appropriation: No Fiscal Com.: Yes  
Local: No

Potential redirection of existing resources for districts who volunteer to participate in the EAP. Ongoing General Fund costs of around \$50,000 to the CCC Chancellor's Office for one-half position to administer the EAP.

SUPPORT : (Verified 8/26/08)

California Community Colleges Chancellor's Office  
California Federation of Teachers  
California State University  
Community College League of California  
EdVoice

ASSEMBLY FLOOR :

AYES: Adams, Aghazarian, Anderson, Arambula, Beall,  
Benoit, Berg, Berryhill, Blakeslee, Brownley, Caballero,  
Charles Calderon, Carter, Cook, Coto, Davis, De La Torre,  
De Leon, DeSaulnier, DeVore, Duvall, Dymally, Emmerson,  
Eng, Evans, Feuer, Fuentes, Fuller, Furutani, Gaines,  
Galgiani, Garcia, Garrick, Hancock, Hayashi, Hernandez,  
Horton, Houston, Huff, Huffman, Jeffries, Jones,  
Karnette, Keene, Krekorian, La Malfa, Laird, Leno,  
Levine, Lieber, Lieu, Ma, Maze, Mendoza, Mullin,  
Nakanishi, Nava, Niello, Nunez, Parra, Plescia,  
Portantino, Price, Ruskin, Salas, Saldana, Silva, Smyth,  
Solorio, Spitzer, Strickland, Swanson, Torrico, Tran,  
Villines, Walters, Wolk, Bass

NO VOTE RECORDED: Sharon Runner, Soto

NC:nl 8/27/08 Senate Floor Analyses

SUPPORT/OPPOSITION: SEE ABOVE

\*\*\*\* END \*\*\*\*

SENATE COMMITTEE ON EDUCATION  
 Jack Scott, Chair  
 2005-2006 Regular Session

BILL NO: SB 755  
 AUTHOR: Poochigian  
 INTRODUCED: February 22, 2005  
 FISCAL COMM: Yes HEARING DATE: April 27, 2005  
 URGENCY: Yes CONSULTANT: James Wilson

SUBJECT : Standardized Testing and Reporting (STAR)

SUMMARY

This bill, an urgency measure, extends STAR testing in grade 2 beyond its currently scheduled termination in 2007 to sunset with all other STAR tests in 2011.

This bill also requires that pupils who are limited English proficient and who receive instruction in their primary language should be tested in their primary language instead of English if the primary language test is available.

Finally, this bill appropriates \$2,285,000 for the costs of the direct writing assessment in grades 4 and 7 in 2004.

BACKGROUND

Current law requires school districts to annually administer standardized tests to pupils in grades 2 to 11, until 2006-07, and grades 3 to 11, after 2006-07. Under the STAR program, pupils take both the California Standards Tests, which are aligned to California's academic content standards and a basic skills test that is referenced to the national average, or "norm" for that test. The norm-referenced assessment is administered at the third and eighth grade, while the California Standards Test is given to all pupils in grades 2 through 11, until 2007, when grade 2 testing is scheduled to stop and STAR testing will continue in grades 3 through 11.

Current law requires that a pupil of limited English proficiency take STAR tests in his or her primary language if a test is available and if fewer than 12 months have

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 Page 2

elapsed after his or her initial enrollment in any public or nonpublic school in the state.

Currently, appropriations from the General Fund that are applied to the satisfaction of the annual guarantee of K-14 funding under Proposition 98 are sometimes not fully expended. Since these funds have already been credited to the schools under the Constitution, balances are not allowed to revert but are reserved for further appropriation to K-14 schools in the "Proposition 98 reversion account".

ANALYSIS

This bill, an urgency measure:

- 1) Delays the self-repeal provisions of current STAR testing from 2007 to 2011, and repeals the comparable sections that would have become effective in 2007, thereby continuing testing in grade 2 until at least 2011.
- 2) Corrects an error made by Chapter 233, of 2004 in order to clarify existing law that prohibits the use of specific test preparation programs that are not part of a larger curriculum.
- 3) Requires that a pupil who is identified by the English language proficiency test as being of limited English

proficiency, and who receives instruction in his or her primary language or has been enrolled in a school in the United States for less than 12 months, must take the STAR tests in his or her primary language if a test is available.

- 4) Appropriates \$2,285,000 from the General Fund ("Proposition 98 Reversion Account") to cover costs incurred during the 2004-05 fiscal year to maintain and score the direct writing assessment for grades 4 and 7.

STAFF COMMENTS

- 1) Reversing course. This bill is repealing a number of sections created by Chapter 233 of 2004 (SB 1448, Alpert & Scott). The repealed sections would all be

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Page 3

effective July 1, 2007, and would apply to testing in grades 3 through 11, instead of 2 - 11 as now. Grade 2 testing is continued by extending the life of the current sections beyond July 1, 2007, and repealing the sections that are scheduled to replace current law on that date. No other substantive changes have been made in these sections except to insert some provisions concerning release of test items and use of the tests by higher education that were part of the new law scheduled to take effect in July 2007. \_

- 2) Related legislation. SB 385 (Ducheny) approved (7 - 1) by this Committee on April 20th, requires that pupils that are identified as limited English proficient who receive instruction in their primary language, or who have been enrolled in a school in the United States for less than 12 months, must take state required standardized tests in their primary language, if such tests are available. Current law requires that a LEP pupil take a test in his or her primary language "if fewer than 12 months have elapsed after his or her initial enrollment in a school in the state". This bill revises that requirement to apply to a pupil of limited English proficiency who has been enrolled in a school in the United States for less than 12 months.

SUPPORT

California Business for Education Excellence  
California Business Roundtable  
Ed Voice.  
Superintendent of Public Instruction

OPPOSITION

California Federation of Teachers  
California Teachers Association



SENATE COMMITTEE ON EDUCATION  
 John Vasconcellos, Chair  
 2003-2004 Regular Session

BILL NO: SB 1448  
 AUTHOR: Alpert  
 AMENDED: April 15, 2004  
 FISCAL COMM: Yes HEARING DATE: April 21, 2004  
 URGENCY: No CONSULTANT:Tanya Lieberman

SUBJECT : Pupil assessment

SUMMARY

This bill makes changes to the Standardized Testing and Reporting program (STAR), including extending the sunset date on the STAR program to 2011, eliminating the requirement that English learners be assessed in their primary language, requiring that some test items be released to the public after the test administration, and changing the grades at which the norm-referenced assessment is administered.

BACKGROUND

Current law requires school districts to annually administer standardized tests to pupils in grades 2 to 11 under the STAR program. Currently, pupils take both the California Standards Tests, which are aligned to California's adopted academic content standards and a national norm-referenced test that is currently the CAT/6 "off the shelf" basic skills test published by CTB/McGraw-Hill. The norm-referenced assessment used in the STAR program is administered at the third and eighth grade levels. Scores on both the standards tests and the norm-referenced test are currently used to establish each school's Academic Performance Index.

Current law requires that English learners be tested in their primary language if they have been enrolled in a public school in the state for less than 12 months, and allows school districts to test English learners in grades 2 through 11 with a primary language assessment.

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ANALYSIS

This bill:

- 1) States that the Legislature recognizes that local diagnostic assessment is a primary mechanism through which academic strengths and weaknesses are identified.
- 2) Expresses the intent of the Legislature that the content, test structure, and test items in the STAR assessments become open and transparent to teachers, parents, and students in order to assist all stakeholders in working together to demonstrate improvement in pupil academic achievement. States that a planned change in test content, format, or design should be made available to educators and the public before the beginning of the school year in which the change will be implemented.
- 3) States the intent of the Legislature that the results of the California Standards Tests be available for use, after appropriate validation, for academic credit, placement, and admissions processes at postsecondary institutions. Encourages the Superintendent of Public Instruction (SPI) and the State Board of Education (SBE) to assist postsecondary institutions use of the California Standards Tests for these purposes.

- 4) Defines diagnostic assessment as frequent, interim assessments of the current level of achievement of a student that identifies the academic skills or skills a student has not yet achieved, and identification of possible reasons a student has not yet achieved particular standards or skills.
- 5) Removes a reference to the Golden State Examinations from the definition of "end of course exam."
- 6) States that school districts may test English learners in grades 2 through 11 with a primary language assessment if the student is receiving instruction in his or her primary language.
- 7) Eliminates the requirement that English learners be

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tested in their primary language if they have been enrolled in a public school in the state for less than 12 months.

- 8) Requires the SPI, with the approval of the SBE, to annually release to the public at least 25 percent of the test items from the California Standards Tests administered in the previous year.
- 9) States that teachers or other school district personnel are not required to prepare individualized explanations of each student's test score.
- 10) Requires that the norm-referenced assessments in the STAR program be administered at the 3rd and 7th grade, rather than the 3rd and 8th grade levels.
- 11) Extends the sunset date for the testing program from January 1, 2005 to January 1, 2011.

STAFF COMMENTS

1) Bill eliminates requirement to test English learners in their primary language. The current primary language test (SABE/2) is not aligned to the state's English assessments (the California Standards Tests and the CAT/6) and as such provides an incomplete picture of students' mastery of state academic content standards. However, it is very important to have some measure of English Learners' understanding of content, and for many English Learners this cannot be done using an English test. AB 2413 (Diaz), currently pending in the Assembly, proposes the development of a new primary language assessment which is aligned to state content standards. If such a test becomes available, the current law requirements will yield much better information. Staff recommends that the bill be amended to remove sections limiting primary language testing.

2) Change of grades for norm-referenced test sacrifices comparisons with NAEP. This bill requires that the norm-referenced assessments in the STAR program be administered at the 3rd and 7th grade, rather than the 3rd and 8th grade levels. The SDE notes that, by the time scores of 8th graders are available to his or her

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junior high school, the student has already graduated from the school. However, by changing the grade of test administration, the state loses its ability to compare its test scores with those produced by the National Assessment of Educational Progress (NAEP), the which is administered at the 4th, 8th, and 12th grade levels.

3) Related legislation. AB 356 (Hancock) of this session would provide for diagnostic assessment but no

standardized testing in grade 2, change school and staff rewards programs to be only nonmonetary awards, and delay the requirement to pass the exit exam for high school graduation. AB 2413 (Diaz) of this session would require the SDE to develop academic assessments of English/language arts and mathematics in three primary languages of limited-English-proficient students, and would require data from those assessments to be included in the Academic Performance Index.

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