

Assembly Bill No. 265

CHAPTER 975

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.

[Approved by Governor October 16, 1995. Filed
with Secretary of State October 16, 1995.]

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This bill would enact the California Assessment of Academic Achievement Act, which would be repealed on January 1, 2000.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.

