HOUSE OF REPRESENTATIVES - FLOOR VERSION

STATE OF OKLAHOMA

2nd Session of the 53rd Legislature (2012)

HOUSE BILL 2755 By: McPeak, Jordan and Hoskin of the House

and

Barrington of the Senate

AS INTRODUCED

An Act relating to schools; creating the Freedom to Succeed Act; amending 70 O.S. 2011, Section 1210.508, which relates to the Oklahoma School Testing Program Act; clarifying effect of proficiency attainment on the end-of-instruction tests on graduation; adding remediation or intervention requirements; allowing students to take an alternative assessment; requiring alternative assessments to be recorded on the transcript; amending 70 O.S. 2011, Section 1210.526, which relates to eligibility for funding under the Achieving Classroom Excellence Act of 2005; changing and updating statutory citations; repealing 70 O.S. 2011, Section 1210.523, which relates to demonstrating mastery of the state academic content standards; providing for noncodification; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

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This act shall be known and may be cited as the "Freedom to Succeed Act".

SECTION 2. AMENDATORY 70 O.S. 2011, Section 1210.508, is amended to read as follows:

Section 1210.508 A. 1. The State Board of Education shall develop and administer a series of criterion-referenced tests designed to indicate whether the state academic content standards, as defined by the State Board of Education in the Priority Academic Student Skills Curriculum, which Oklahoma public school students are expected to have attained have been achieved. The Board may develop and administer any criterion-referenced test in any subject not required by federal law, contingent upon the availability of funding. Students who do not perform at least at the proficient level on tests shall be remediated, subject to the availability of funding.

2. Contingent upon the availability of state and federal funds, the Board, in accordance with federal law, shall administer criterion-referenced tests for grades three and four in:

a. reading, and

b. mathematics.

3. Contingent upon the availability of funds, the Board shall administer criterion-referenced tests for grade five in:

a. reading,

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b. mathematics,

c. science,

d. social studies, which shall consist of the history, Constitution and government of the United States, and geography, and

e. writing of English.

4. Contingent upon the availability of state and federal funds, the Board, in accordance with federal law, shall administer criterion-referenced tests for grades six and seven in:

a. reading, and

b. mathematics.

In addition, the Board shall administer a criterion-referenced test in geography in grade seven.

5. Contingent upon the availability of funds, the Board shall administer criterion-referenced tests for grade eight in:

a. reading,

b. mathematics,

c. science,

d. social studies, which shall consist of the history, Constitution, and government of the United States, and

e. writing of English.

The Board shall administer the tests for grade eight in reading and mathematics online with raw score test results reported

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immediately and complete results reported in less than two (2) weeks beginning in the 2007-08 school year.

6. Each student who completes the instruction for English II, English III, United States History, Biology I, Algebra I, Geometry, and Algebra II at the secondary level shall complete an end-of-instruction test, when implemented, to measure for attainment in the appropriate state academic content standards in order to graduate from a public high school with a standard diploma. All students shall take the tests prior to graduation, unless otherwise exempt by law, but shall not be required to attain a proficient or higher score on the tests in order to graduate. The State Board of Education shall administer the criterion-referenced tests. The Board shall develop and field test the end-of-instruction tests in English III, Geometry, and Algebra II during the 2006-07 school year, implement the tests during the 2007-08 school year, and administer them each year thereafter. The Board shall administer the multiple choice portion of the end-of-instruction tests online with raw score test results reported immediately and complete results reported in less than two (2) weeks beginning in the 2008-09 school year.

The end-of-instruction tests shall serve the purpose of the criterion-referenced tests as provided in paragraph 1 of this subsection. The English II and English III end-of-instruction tests

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shall include a writing component. Students who do not score at least at the proficient level on any end-of-instruction test shall be provided remediation or intervention and afforded the opportunity to retake each test up to three (3) times each calendar year until at least achieving at the proficient level. Students who do not attain a score of at least the proficient level shall be afforded the opportunity to take an alternative assessment as approved by the State Board of Education. In order to provide an indication of the levels of competency attained by the student in a permanent record for potential future employers and institutions of higher education, for students who enter the ninth grade in or prior to the 2007-08 school year, school districts shall report the highest achieved state test performance level on the end-of-instruction tests on the student's high school transcript. Beginning with students who enter the ninth grade in the 2008-09 school year, school districts shall report the student's performance levels on the end-of-instruction tests, alternative assessments and any business and industry-recognized endorsements attained on the student's high school transcript. Any student at the middle school level who completes the instruction in a secondary course specified in this paragraph shall be administered the appropriate end-of-instruction test.

7. a. Each school district shall administer to each student in the school district in grades three through eight

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an assessment designed to assess the student in the fine arts area in which the student has received instruction.

b. Each school district shall prepare an annual report for approval by the State Board of Education outlining the fine arts assessment strategies used by the district, when the assessments were administered, how many students were assessed during the previous year, and the results of the assessments.

B. 1. All criterion-referenced tests required by this section shall measure academic competencies in correlation with the state academic content standards adopted by the Board pursuant to Section 11-103.6 of this title and known as the Priority Academic Student Skills Curriculum. The State Board of Education shall evaluate the academic content standards to ensure the competencies reflect high standards, are specific, well-defined, measurable, challenging, and will prepare elementary students for next-grade-level course work and secondary students for postsecondary studies at institutions of higher education or technology center schools without the need for remediation in core curriculum areas. All state academic content standards shall reflect the benchmarks of the American Diploma Project and the goal of improving the state average ACT score.

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2. The State Department of Education shall annually evaluate the results of the criterion-referenced tests. The State Board of Education shall ensure that test results are reported to districts in a manner that yields detailed, diagnostic information for the purpose of guiding instruction and student remediation. As improvements are made to the criterion-referenced tests required by this section, the Board shall seek to increase the depth of knowledge assessed for each subject. The State Board of Education shall seek to ensure that data yielded from the tests required in this section are utilized at the school district level to prescribe reinforcement and/or remediation by requiring school districts to develop and implement a specific program of improvement based on the test results.

3. The State Board of Education in coordination with the Educational Quality and Accountability Board shall review, realign, and recalibrate, as necessary, the tests in reading and mathematics in third through eighth grade and the end-of-instruction tests. The State Board of Education shall determine the cut scores for the performance levels on the end-of-instruction tests developed pursuant to paragraph 6 of subsection A of this section, which shall be phased in over a multi-year period. The State Board of Education shall conduct an ongoing review to compare the end-of-instruction test content and performance descriptors with those of other states.

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Upon receipt of the review, the State Board of Education may adjust the cut scores as necessary.

4. The State Board of Education, for the purposes of conducting reliability and validity studies, monitoring contractor adherence to professionally accepted testing standards, and providing recommendations for testing program improvement, shall retain the services of an established, independent agency or organization that is nationally recognized for its technical expertise in educational testing but is not engaged in the development of aptitude or achievement tests for elementary or secondary level grades. These national assessment experts shall annually conduct studies of the reliability and validity of the end-of-instruction tests administered pursuant to this section. Validity studies shall include studies of decision validity, concurrent validity and the validity of performance level cut scores.

C. 1. The State Board of Education shall set the testing window dates for each criterion-referenced test required in paragraphs 1 through 5 of subsection A of this section for grades three through eight so that, with the exception of the writing assessments, the tests are administered to students no earlier than April 10 each year and so that the test results are reported back to school districts in a timely manner. Each criterion-referenced test required in paragraph 6 of subsection A of this section may be

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administered to students at a time set by the State Board of Education as near as possible to the end of the course; provided, if a school district is unable to administer the tests online to all students taking the test for the first time and all students retaking the test during the testing window time set by the Board, the school district may elect to administer any of the tests to students retaking the test at any time not more than two (2) weeks prior to the start of the testing window time set by the Board. All results and reports of the criterion-referenced test series required in paragraphs 1 through 5 of subsection A of this section for grades three through eight shall be returned to each school district prior to the beginning of the next school year. The vendor shall provide a final electronic data file of all school site, school district, and state results to the State Department of Education and the Office of Accountability prior to September 1 of each year. The Department shall forward the final data files for each school district and each school site in that district to the school district. The Board shall ensure the contract with the testing vendor includes a provision that the vendor report test results directly to the Office of Accountability at the same time it is reported to the Board.

2. State, district, and site level results of all tests required in this section shall be disaggregated by gender, race

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ethnicity, disability status, migrant status, English proficiency, and status as economically disadvantaged, except that such disaggregation shall not be required in 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. Each school site shall notify the student's parents of the school's performance levels in the Oklahoma School Testing Program as reported in the Oklahoma Educational Indicators Program at the end of each school year.

D. The State Board of Education shall be responsible for the development, field-testing, and validation of the criterion-referenced test series required in subsection A of this section. In the interest of economy the Board shall adapt criterion-referenced tests that have been developed by or in collaboration with other states or are otherwise commercially available, or portions of such tests, to the extent that such tests are appropriate for use in the testing program to be administered to Oklahoma students.

E. The State Board of Education shall develop, administer, and incorporate as a part of the Oklahoma School Testing Program, other testing programs or procedures, including appropriate accommodations for the testing of students with disabilities as required by the

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Individuals with Disabilities Education Act (IDEA), 20 U.S.C., Section 1400 et seq.

SECTION 3. AMENDATORY 70 O.S. 2011, Section 1210.526, is amended to read as follows:

Section 1210.526 A. Contingent on the provision of appropriated funds designated for the Achieving Classroom Excellence Act of 2005, school districts shall be eligible for funding as follows:

1. A maximum of Two Hundred Forty Dollars ($240.00) for remediation or intervention for each subject-specific test by a student that resulted in a score at the unsatisfactory level and for which the student has been found to be in need of remediation or intervention pursuant to ~~Sections~~ Section 1210.522 and ~~1210.523~~ paragraph 6 of subsection A of Section 1210.508 of ~~Title 70 of the Oklahoma Statutes~~ this title;

2. A maximum of One Hundred Eighty Dollars ($180.00) for remediation or intervention for each subject-specific test by a student that resulted in a score at the limited knowledge level and for which the student has been found to be in need of remediation or intervention pursuant to ~~Sections~~ Section 1210.522 and ~~1210.523~~ paragraph 6 of subsection A of Section 1210.508 of ~~Title 70 of the Oklahoma Statutes~~ this title;

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3. Funds for remediation or intervention as provided for in paragraphs 1 and 2 of this subsection shall be disbursed by the State Department of Education by September 1 of each year and shall be based on the most recent test results available from the previous school year or summer test administration; and

4. Claims for reimbursement for costs associated with administration of alternative assessments as required by Section ~~1210.523~~ 1210.508 of Title 70 of the Oklahoma Statutes shall be filed with the State Department of Education at the end of each school semester or prior to the end of the fiscal year in which the alternative assessment is provided. Claims from summer alternative assessment administration provided in July or August shall be filed with the first semester claim of the subsequent school year. Claims shall be reimbursed in a timely manner.

B. Funds for remediation or intervention as provided for in subsection A of this section may be used to provide remediation or intervention to any student in grade 6 through grade 12 who has been determined to be in need of remediation or intervention, including but not limited to those students who have scored at the unsatisfactory or limited knowledge level.

C. Remediation and intervention provided pursuant to this section by school districts shall be for the purpose of assisting students in performing at least at the satisfactory level on the

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applicable criterion-referenced tests in reading and mathematics at the eighth-grade level, or the applicable end-of-instruction tests as required in Section ~~1210.523~~ 1210.508 of ~~Title 70 of the Oklahoma Statutes, or an alternative assessment if eligible~~ this title. Remediation and intervention may be provided by means which may include, but are not limited to, tutoring, additional help during the school day, extended-day programs, Saturday programs, summer programs, online coursework, or other supplementary services which are provided on an individual basis or in a classroom setting.

D. School districts shall report on their use of funds for remediation and intervention as provided for in this section to the State Board of Education in a manner prescribed by the Board.

E. The State Board of Education shall promulgate rules to implement the provisions of this section.

SECTION 4. REPEALER 70 O.S. 2011, Section 1210.523, is hereby repealed.

SECTION 5. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated 03/01/2012 - DO PASS, As Coauthored.

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