

1 ENGROSSED HOUSE  
2 BILL NO. 1035

By: Casey, Roberts (Dustin),  
Smalley, Nollan, Shelton,  
Hoskin and Condit of the  
House

4 and

5 Ford of the Senate

6  
7  
8 An Act relating to schools; amending 70 O.S. 2011,  
9 Section 1210.508, as last amended by Section 8,  
10 Chapter 354, O.S.L. 2012 (70 O.S. Supp. 2012, Section  
11 1210.508), which relates to the Oklahoma School  
12 Testing Program; providing an exception from certain  
13 end-of-instruction examination requirement; amending  
14 70 O.S. 2011, Section 1210.523, as amended by Section  
15 1, Chapter 96, O.S.L. 2012 (70 O.S. Supp. 2012,  
16 Section 1210.523), which relates to mastery of state  
17 academic content standards; allowing scores on  
18 certain other approved alternative examinations and  
19 assessments to demonstrate mastery; allowing certain  
20 students to be eligible to graduate with a standard  
21 diploma and not take certain exams; prohibiting the  
22 State Board of Education from limiting students to  
23 one alternative exam; providing an effective date;  
24 and declaring an emergency.

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

20 SECTION 1. AMENDATORY 70 O.S. 2011, Section 1210.508, as  
21 last amended by Section 8, Chapter 354, O.S.L. 2012 (70 O.S. Supp.  
22 2012, Section 1210.508), is amended to read as follows:

23 Section 1210.508 A. 1. The State Board of Education shall  
24 develop and administer a series of criterion-referenced tests

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

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

- 13 a. reading, and
- 14 b. mathematics.

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

- 17 a. reading,
- 18 b. mathematics,
- 19 c. science,
- 20 d. social studies, which shall consist of the history,  
21 Constitution and government of the United States, and  
22 geography, and
- 23 e. writing of English.

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

- 4 a. reading, and
- 5 b. mathematics.

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

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

- 10 a. reading,
- 11 b. mathematics,
- 12 c. science,
- 13 d. social studies, which shall consist of the history,  
14 Constitution, and government of the United States, and
- 15 e. writing of English.

16 The Board shall administer the tests for grade eight in reading  
17 and mathematics online with raw score test results reported  
18 immediately and complete results reported in less than two (2) weeks  
19 beginning in the 2007-08 school year.

20 6. ~~Each~~ Except as otherwise provided for in Section 1210.523 of  
21 this title, each student who completes the instruction for English  
22 II, English III, United States History, Biology I, Algebra I,  
23 Geometry, and Algebra II at the secondary level shall complete an  
24 end-of-instruction test, when implemented, to measure for attainment

1 in the appropriate state academic content standards in order to  
2 graduate from a public high school with a standard diploma. All  
3 students shall take the tests prior to graduation, unless otherwise  
4 exempt by law. The State Board of Education shall administer the  
5 criterion-referenced tests. The Board shall develop and field test  
6 the end-of-instruction tests in English III, Geometry, and Algebra  
7 II during the 2006-07 school year, implement the tests during the  
8 2007-08 school year, and administer them each year thereafter. The  
9 Board shall administer the multiple choice portion of the end-of-  
10 instruction tests online with raw score test results reported  
11 immediately and complete results reported in less than two (2) weeks  
12 beginning in the 2008-09 school year.

13 The end-of-instruction tests shall serve the purpose of the  
14 criterion-referenced tests as provided in paragraph 1 of this  
15 subsection. The English II and English III end-of-instruction tests  
16 shall include a writing component. Students who do not score at  
17 least at the proficient level shall be afforded the opportunity to  
18 retake each test up to three (3) times each calendar year until at  
19 least achieving at the proficient level. In order to provide an  
20 indication of the levels of competency attained by the student in a  
21 permanent record for potential future employers and institutions of  
22 higher education, for students who enter the ninth grade in or prior  
23 to the 2007-08 school year, school districts shall report the  
24 highest-achieved state test performance level on the end-of-

1 instruction tests on the student's high school transcript.  
2 Beginning with students who enter the ninth grade in the 2008-09  
3 school year, school districts shall report the highest-achieved  
4 state test performance level on the end-of-instruction tests and any  
5 business and industry-recognized endorsements attained on the  
6 student's high school transcript. Any student at the middle school  
7 level who completes the instruction in a secondary course specified  
8 in this paragraph shall be administered the appropriate end-of-  
9 instruction test.

10 7. a. Each school district shall administer to each student  
11 in the school district in grades three through eight  
12 an assessment designed to assess the student in the  
13 fine arts area in which the student has received  
14 instruction.

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

21 B. 1. All criterion-referenced tests required by this section  
22 shall measure academic competencies in correlation with the state  
23 academic content standards adopted by the Board pursuant to Section  
24 11-103.6 of this title and known as the Priority Academic Student

1 Skills Curriculum. The State Board of Education shall evaluate the  
2 academic content standards to ensure the competencies reflect high  
3 standards, are specific, well-defined, measurable, challenging, and  
4 will prepare elementary students for next-grade-level course work  
5 and secondary students for postsecondary studies at institutions of  
6 higher education or technology center schools without the need for  
7 remediation in core curriculum areas. All state academic content  
8 standards shall reflect the benchmarks of the American Diploma  
9 Project and the goal of improving the state average ACT score.

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

23 3. The State Board of Education in coordination with the Office  
24 of Educational Quality and Accountability shall review, realign, and

1 recalibrate, as necessary, the tests in reading and mathematics in  
2 third through eighth grade and the end-of-instruction tests. The  
3 Commission for Educational Quality and Accountability shall  
4 determine the cut scores for the performance levels on the end-of-  
5 instruction tests developed pursuant to paragraph 6 of subsection A  
6 of this section. The Commission shall conduct an ongoing review to  
7 compare the end-of-instruction test content and performance  
8 descriptors with those of other states. Upon receipt of the review,  
9 the Commission may adjust the cut scores as necessary.

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

22 C. 1. The State Board of Education shall set the testing  
23 window dates for each criterion-referenced test required in  
24 paragraphs 1 through 5 of subsection A of this section for grades

1 three through eight so that, with the exception of the writing  
2 assessments, the tests are administered to students no earlier than  
3 April 10 each year and so that the test results are reported back to  
4 school districts in a timely manner. Each criterion-referenced test  
5 required in paragraph 6 of subsection A of this section may be  
6 administered to students at a time set by the State Board of  
7 Education as near as possible to the end of the course; provided, if  
8 a school district is unable to administer the tests online to all  
9 students taking the test for the first time and all students  
10 retaking the test during the testing window time set by the Board,  
11 the school district may elect to administer any of the tests to  
12 students retaking the test at any time not more than two (2) weeks  
13 prior to the start of the testing window time set by the Board. All  
14 results and reports of the criterion-referenced test series required  
15 in paragraphs 1 through 5 of subsection A of this section for grades  
16 three through eight shall be returned to each school district prior  
17 to the beginning of the next school year. The vendor shall provide  
18 a final electronic data file of all school site, school district,  
19 and state results to the State Department of Education and the  
20 Office of Educational Quality and Accountability prior to September  
21 1 of each year. The Department shall forward the final data files  
22 for each school district and each school site in that district to  
23 the school district. The Board shall ensure the contract with the  
24 testing vendor includes a provision that the vendor report test

1 results directly to the Office of Educational Quality and  
2 Accountability at the same time it is reported to the Board.

3       2. State, district, and site level results of all tests  
4 required in this section shall be disaggregated by gender, race  
5 ethnicity, disability status, migrant status, English proficiency,  
6 and status as economically disadvantaged, except that such  
7 disaggregation shall not be required in a case in which the number  
8 of students in a category is insufficient to yield statistically  
9 reliable information or the results would reveal personally  
10 identifiable information about an individual student. Each school  
11 site shall notify the student's parents of the school's performance  
12 levels in the Oklahoma School Testing Program as reported in the  
13 Oklahoma Educational Indicators Program at the end of each school  
14 year.

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

23       E. The State Board of Education shall develop, administer, and  
24 incorporate as a part of the Oklahoma School Testing Program, other

1 testing programs or procedures, including appropriate accommodations  
2 for the testing of students with disabilities as required by the  
3 Individuals with Disabilities Education Act (IDEA), 20 USC, Section  
4 1400 et seq.

5 SECTION 2. AMENDATORY 70 O.S. 2011, Section 1210.523, as  
6 amended by Section 1, Chapter 96, O.S.L. 2012 (70 O.S. Supp. 2012,  
7 Section 1210.523), is amended to read as follows:

8 Section 1210.523 A. Except as provided in subsections D and E  
9 of this section, beginning with students entering the ninth grade in  
10 the 2008-2009 school year, every student shall demonstrate mastery  
11 of the state academic content standards in the following subject  
12 areas in order to graduate from a public high school with a standard  
13 diploma:

- 14 1. Algebra I;
- 15 2. English II; and
- 16 3. Two of the following five:
  - 17 a. Algebra II,
  - 18 b. Biology I,
  - 19 c. English III,
  - 20 d. Geometry, and
  - 21 e. United States History.

22 B. To demonstrate mastery, the student shall attain at least a  
23 proficient score on the end-of-instruction criterion-referenced  
24 tests administered pursuant to Section 1210.508 of this title.

1 C. Notwithstanding any other provision of law, students who do  
2 not attain at least a proficient score on any end-of-instruction  
3 test shall be provided remediation or intervention and the  
4 opportunity to retake the test until at least a proficient score is  
5 attained on the tests of Algebra I, English II and two of the tests  
6 required in paragraph 3 of subsection A of this section or an  
7 approved alternative test. Technology center schools shall be  
8 authorized to provide intervention and remediation in Algebra I,  
9 Algebra II, Geometry, English II, English III, United States  
10 History, and Biology I to students enrolled in technology center  
11 schools, with the approval of the independent school district board.

12 D. 1. Students who do not meet the requirements of subsection  
13 A of this section may graduate from a public high school with a  
14 standard diploma by demonstrating mastery of state academic content  
15 standards by alternative methods as approved by the State Board of  
16 Education.

17 2. Students who have an American College Testing Program (ACT)  
18 score, the ACT PLAN score, the Scholastic Aptitude Test (SAT) or the  
19 Preliminary Scholastic Aptitude Test (PSAT)/National Merit  
20 Scholarship Qualifying Test that is the greater of one point or ten  
21 percent (10%) above the cut score established by the Oklahoma State  
22 Board of Education as proficient for the subject area or areas in  
23 which those exams are an approved alternate exam shall be deemed to  
24 have satisfactorily demonstrated mastery of state academic content

1 standards for the subject area or areas as required in subsection A  
2 of this section and shall be eligible to graduate from a public high  
3 school with a standard diploma and shall not have to take the end-  
4 of-instruction exam for the subject area or areas as required in  
5 Section 1210.508 of this title.

6 3. Students who have a WorkKeys job skills assessment score  
7 that is the greater of one point or ten percent (10%) above the cut  
8 score established by the Oklahoma State Board of Education as  
9 proficient for the subject area or areas in which the WorkKeys is an  
10 approved alternate exam shall be deemed to have satisfactorily  
11 demonstrated mastery of state academic content standards for the  
12 subject area or areas as required in subsection A of this section  
13 and shall be eligible to graduate from a public high school with a  
14 standard diploma and shall not have to take the end-of-instruction  
15 exam for the subject area or areas as required in Section 1210.508  
16 of this title.

17 4. Students who have attained scores established by the State  
18 Board of Education as proficient for the subject area or areas in  
19 which an Advanced Placement course exam, an International  
20 Baccalaureate (IB) course exam or a College Level Examination  
21 Program (CLEP) exam is an approved alternate exam shall be deemed to  
22 have satisfactorily demonstrated mastery of state academic content  
23 standards for the subject area or areas as required in subsection A  
24 of this section and shall be eligible to graduate from a public high

1 school with a standard diploma and shall not have to take the end-  
2 of-instruction exam for the subject area or areas as required in  
3 Section 1210.508 of this title.

4 5. The State Board of Education shall not limit the ability of  
5 a student to demonstrate mastery of academic content to any one  
6 approved alternate exam.

7 6. The State Board of Education shall adopt rules providing for  
8 necessary student exceptions and exemptions to the requirements of  
9 this section. The Board shall collect data by school site and  
10 district on the number of students provided and categories of  
11 exceptions and exemptions granted. Beginning October 1, 2012, the  
12 Board shall provide an annual report of this data to the Governor,  
13 President Pro Tempore of the State Senate and Speaker of the House  
14 of Representatives.

15 E. 1. The State Board of Education shall adopt rules  
16 establishing an appeal process for students who have been denied a  
17 standard diploma by the school district in which the student is or  
18 was enrolled for failing to meet the requirements of this section.  
19 A student who has been denied a standard diploma by the school  
20 district in which the student is enrolled shall have thirty (30)  
21 days after denial of the standard diploma in which to file a  
22 petition for an appeal to the Board. The Board shall take action on  
23 a petition for an appeal no later than forty-five (45) days after  
24 receiving the petition.

1           2. The Board shall collect data by school site and school  
2 district on the number of students petitioning for an appeal and the  
3 number of appeals approved by the Board pursuant to this subsection.  
4 Beginning October 1, 2012, the Board shall provide an annual report  
5 of this data to the Governor, President Pro Tempore of the State  
6 Senate and Speaker of the House of Representatives.

7           F. 1. Students who have individualized education programs  
8 pursuant to the Individuals with Disabilities Education Act (IDEA)  
9 shall have an appropriate statement on the student's individualized  
10 education program requiring administration of the assessment with or  
11 without accommodations or an alternate assessment. Any  
12 accommodations normally employed for the assessment shall be  
13 approved by the State Board of Education and be provided for in the  
14 individualized education program. All documentation for each  
15 student shall be on file in the school prior to administration of  
16 the assessment.

17           2. Students identified as English language learners shall be  
18 assessed in a valid and reliable manner with the state academic  
19 assessments with acceptable accommodations as necessary or, to the  
20 extent practicable, with alternate assessments aligned to the state  
21 assessment provided by the school district in the language and form  
22 most likely to yield accurate data of the student's knowledge of the  
23 content areas.

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1 G. The State Board of Education shall be authorized to contract  
2 with an entity to develop and advise on the implementation of a  
3 communications campaign to build public understanding of and support  
4 for the testing requirements of this section.

5 SECTION 3. This act shall become effective July 1, 2013.

6 SECTION 4. It being immediately necessary for the preservation  
7 of the public peace, health and safety, an emergency is hereby  
8 declared to exist, by reason whereof this act shall take effect and  
9 be in full force from and after its passage and approval.

10 Passed the House of Representatives the 13th day of March, 2013.

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\_\_\_\_\_  
Presiding Officer of the House  
of Representatives

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Passed the Senate the \_\_\_ day of \_\_\_\_\_, 2013.

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Presiding Officer of the Senate

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