

1 **SENATE FLOOR VERSION**

2 April 1, 2013

3 **AS AMENDED**

4 ENGROSSED HOUSE
5 BILL NO. 1035

6 By: Casey, Roberts (Dustin),
7 Smalley, Nollan, Shelton,
8 Hoskin, Condit, Cannaday
9 and Wood of the House

10 and

11 Ford and Brecheen of the
12 Senate

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

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

26 SECTION 1. AMENDATORY 70 O.S. 2011, Section 1210.508, as
27 last amended by Section 8, Chapter 354, O.S.L. 2012 (70 O.S. Supp.
28 2012, Section 1210.508), is amended to read as follows:

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

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

- 15 a. reading, and
- 16 b. mathematics.

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

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

1 e. writing of English.

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

5 a. reading, and

6 b. mathematics.

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

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

11 a. reading,

12 b. mathematics,

13 c. science,

14 d. social studies, which shall consist of the history,

15 Constitution, and government of the United States, and

16 e. writing of English.

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

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

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

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

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

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

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

22 B. 1. All criterion-referenced tests required by this section
23 shall measure academic competencies in correlation with the state
24 academic content standards adopted by the Board pursuant to Section

1 11-103.6 of this title and known as the Priority Academic Student
2 Skills Curriculum. The State Board of Education shall evaluate the
3 academic content standards to ensure the competencies reflect high
4 standards, are specific, well-defined, measurable, challenging, and
5 will prepare elementary students for next-grade-level course work
6 and secondary students for postsecondary studies at institutions of
7 higher education or technology center schools without the need for
8 remediation in core curriculum areas. All state academic content
9 standards shall reflect the benchmarks of the American Diploma
10 Project and the goal of improving the state average ACT score.

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

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

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

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

1 for each school district and each school site in that district to
2 the school district. The Board shall ensure the contract with the
3 testing vendor includes a provision that the vendor report test
4 results directly to the Office of Educational Quality and
5 Accountability at the same time it is reported to the Board.

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

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

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1 tests, to the extent that such tests are appropriate for use in the
2 testing program to be administered to Oklahoma students.

3 E. The State Board of Education shall develop, administer, and
4 incorporate as a part of the Oklahoma School Testing Program, other
5 testing programs or procedures, including appropriate accommodations
6 for the testing of students with disabilities as required by the
7 Individuals with Disabilities Education Act (IDEA), 20 USC, Section
8 1400 et seq.

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

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

- 18 1. Algebra I;
- 19 2. English II; and
- 20 3. Two of the following five:
 - 21 a. Algebra II,
 - 22 b. Biology I,
 - 23 c. English III,
 - 24 d. Geometry, and

1 e. United States History.

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

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

16 D. **Students who meet the requirements of subsection A of this**
17 **section by attaining at least a proficient score on the tests of**
18 **Algebra I, English II and two of the tests required in paragraph 3**
19 **of subsection A of this section or an approved alternative test**
20 **shall be exempt from taking any additional end-of-instruction**
21 **criterion-referenced tests but shall have the option of taking**
22 **additional end-of-instruction criterion-referenced tests.**

23 **E.** 1. Students who do not meet the requirements of subsection
24 A of this section may graduate from a public high school with a

1 standard diploma by demonstrating mastery of state academic content
2 standards by alternative methods as approved by the State Board of
3 Education.

4 2. Students who have an American College Testing Program (ACT)
5 score, the ACT PLAN score, the Scholastic Aptitude Test (SAT) or the
6 Preliminary Scholastic Aptitude Test (PSAT)/National Merit
7 Scholarship Qualifying Test that is the greater of one point or ten
8 percent (10%) above the cut score established by the Oklahoma State
9 Board of Education as proficient for the subject area or areas in
10 which those exams are an approved alternate exam shall be deemed to
11 have satisfactorily demonstrated mastery of state academic content
12 standards for the subject area or areas as required in subsection A
13 of this section and shall be eligible to graduate from a public high
14 school with a standard diploma and shall not have to take the end-
15 of-instruction exam for the subject area or areas as required in
16 Section 1210.508 of this title.

17 3. 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 ACT Workkeys job skills**
20 **assessment**, an International Baccalaureate (IB) course exam or a
21 College Level Examination Program (CLEP) exam is an approved
22 alternate exam shall be deemed to have satisfactorily demonstrated
23 mastery of state academic content standards for the subject area or
24 areas as required in subsection A of this section and shall be

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

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

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

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

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

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

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

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

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

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

12 COMMITTEE REPORT BY: COMMITTEE ON EDUCATION
13 April 1, 2013 - DO PASS AS AMENDED
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