STATE OF OKLAHOMA

1st Session of the 55th Legislature (2015)

CONFERENCE COMMITTEE
SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 1321 By: Nollan, Cannaday and Perryman of the House

and

Ford of the Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to schools; amending 70 O.S. 2011, Section 1210.508, as last amended by Section 8, Chapter 430, O.S.L. 2014 (70 O.S. Supp. 2014, Section 1210.508), which relates to the administration of criterion-referenced tests; authorizing the State Board of Education to not administer certain tests until after a certain time or upon certain conditions; amending 70 O.S. 2011, Section 1210.523, as last amended by Section 26, Chapter 4, O.S.L. 2014 (70 O.S. Supp. 2014, Section 1210.523), which relates to the end-of-instruction criterion-referenced tests; adding alternative methods for demonstrating mastery of state academic content standards in certain subject areas; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 70 O.S. 2011, Section 1210.508, as last amended by Section 8, Chapter 430, O.S.L. 2014 (70 O.S. Supp. 2014, 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 subject matter standards, as defined by the State Board of Education, 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,

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, provided that the Board may elect to not administer the writing of English test until the 2017-2018 school year or until the Board has developed the statewide student assessments for English Language Arts and Mathematics as provided for in paragraph 1 of subsection C of Section 11-103.6a of this title, whichever occurs first.

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, provided that the Board may elect to not administer the writing of English test until the 2017-2018 school year or until the Board has developed the statewide student assessments for English Language Arts and Mathematics as provided for in paragraph 1 of subsection C of Section 11-103.6a of this title, whichever occurs first.

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

6. Except as otherwise provided for in Section 1210.523 of this title, 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 subject matter 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. 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 shall include a writing component. Students who do not score at least at the proficient level shall be afforded the opportunity to retake each test up to three (3) times each calendar year until at least achieving at the proficient level. 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 highest-achieved state test performance level on the end-of-instruction tests 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 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 subject matter standards adopted by the Board pursuant to Sections 11-103.6 and 11-103.6a of this title. The State Board of Education shall evaluate the subject matter 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. All subject matter standards

shall reflect the goals as set forth in Section 11-103.6 of this title and of improving the state average ACT score.

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 Office of Educational Quality and Accountability 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 Commission for Educational Quality and Accountability 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. The Commission shall conduct an ongoing review to compare the end-of-instruction test content and performance

descriptors with those of other states. Upon receipt of the review, the Commission 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 and concurrent validity.

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 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 Educational Quality and 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 Educational Quality and 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, 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 may participate in a multistate or multigovernmental cooperative pursuant to the requirements of The Oklahoma Central Purchasing Act, but shall not bind the state, contractually or otherwise, to the authority of any other state, organization or entity which may supersede the authority of the Board, for the purpose of adapting criterion-referenced 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 Individuals with Disabilities Education Act (IDEA), 20 USC, Section 1400 et seq.

F. For purposes of developing and administering alternate assessments for students with the most significant cognitive disabilities, the State Board of Education shall not be subject to subsections D and E of Section 11-103.6a of this title.

SECTION 2. AMENDATORY 70 O.S. 2011, Section 1210.523, as last amended by Section 26, Chapter 4, O.S.L. 2014 (70 O.S. Supp. 2014, Section 1210.523), is amended to read as follows:

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

1. Algebra I;

2. English II; and

3. Two of the following five:

a. Algebra II,

b. Biology I,

c. English III,

d. Geometry, and

e. United States History.

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

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

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

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

3. Students who score ten percent (10%) above the cut scores approved by the State Board of Education for the American College Testing Program (ACT), the Scholastic Aptitude Test (SAT), ACT Plan or Preliminary Scholastic Aptitude Test/National Merit Scholarship Qualifying Test (PSAT/NMSQT) alternate tests shall be deemed to have satisfactorily demonstrated mastery of state academic content standards in the subject areas for which alternative tests have been approved and shall be exempt from taking the end-of-instruction criterion-referenced tests in the subject areas of Algebra II, English III, Geometry or United States History as listed in paragraph 3 of subsection A of this section.

4. Students who have a score that is equal to or above the cut scores approved by the State Board of Education for the Advanced Placement course exams, ACT Workkeys job skills assessment, College-Level Examination Program (CLEP) or International Baccalaureate (IB) alternate tests shall be deemed to have satisfactorily demonstrated mastery of state academic content standards in the subject areas for which alternate tests have been approved and shall be exempt from taking the end-of-instruction criterion-referenced tests in the subject areas of Algebra II, English III, Geometry or United States History as listed in paragraph 3 of subsection A of this section.

5. <u>Students who take the Armed Forces Vocational Aptitude Battery (ASVAB) and have a score that is equal to or above the minimum Armed Forces Qualification Test (AFQT) score required for</u>

enlistment in a branch of the armed forces shall be deemed to have satisfactorily demonstrated mastery of state academic content standards in one or more of the subject areas of Algebra II, English III, Geometry or United States History as listed in paragraph 3 of subsection A of this section and shall be exempt from taking the end-of-instruction criterion-referenced tests in that subject area or areas. The State Board of Education shall determine which subject area or areas the ASVAB may be used in lieu of the end-of-instruction criterion-referenced test for that subject. The student shall not be exempt from demonstrating mastery of state academic content standards in the subject areas of Algebra I and English II and from taking the end-of-instruction criterion-referenced test in the subject area of Biology I.

6. Students who earn business and industry-recognized endorsements that are recommended by the Oklahoma Department of Career and Technology Education and approved by the State Board of Education and which meet the following criteria:

a. standardized,

b. independently graded,

c. knowledge-based,

d. proctored, and

e. recognized or endorsed by an industry organization, association or government agency,

shall be deemed to have satisfactorily demonstrated mastery of state academic content standards in one or more of the subject areas of Algebra II, English III, Geometry or United States History as listed in paragraph 3 of subsection A of this section and shall be exempt from taking the end-of-instruction criterion-referenced tests in that subject area or areas. The State Board of Education shall determine which subject area or areas each business and industry-recognized endorsement may be used in lieu of the end-of-instruction criterion-referenced test for that subject. The student shall not be exempt from demonstrating mastery of state academic content standards in the subject areas of Algebra I and English II and from taking the end-of-instruction criterion-referenced test in the subject area of Biology I.

7. Students who earn college credits by dual or concurrent enrollment in college or university Composition I and Composition II courses shall be deemed to have satisfactorily demonstrated mastery of state academic content standards in the subject area of English III as listed in paragraph 3 of subsection A of this section and shall be exempt from taking the end-of-instruction criterion-referenced test in that subject area.

8. Students who earn college credits by dual or concurrent enrollment in a college or university Algebra course shall be deemed to have satisfactorily demonstrated mastery of state academic content standards in the subject areas of Algebra II and Geometry as

listed in paragraph 3 of subsection A of this section and shall be exempt from taking the end-of-instruction criterion-referenced tests in those subject areas.

9. Students who earn college credits by dual or concurrent enrollment in a college or university Post-Civil War United States History course shall be deemed to have satisfactorily demonstrated mastery of state academic content standards in the subject area of United States History as listed in paragraph 3 of subsection A of this section and shall be exempt from taking the end-of-instruction criterion-referenced test in that subject area.

10. The State Board of Education shall adopt rules providing for implementation of paragraphs 3 and 4 of this subsection. The rules shall provide for the designation of students as proficient or advanced based on the scores obtained pursuant to paragraphs 3 and 4 of this subsection for the purposes of calculating the grade of a school as part of the accountability system developed pursuant to Section 1210.545 of this title, evaluating teachers and administrators as part of the Teacher and Leader Effectiveness Evaluation System developed pursuant to Section 6-101.16 of this title and for any other purpose provided for by law.

E. 1. The State Board of Education shall adopt rules establishing an appeal process for students who have been denied a standard diploma by the school district in which the student is or was enrolled for failing to meet the requirements of this section.

A student who has been denied a standard diploma by the school district in which the student is enrolled shall have thirty (30) days after denial of the standard diploma in which to file a petition for an appeal to the State Board of Education. The State Board of Education shall take action on a petition for an appeal no later than forty-five (45) days after receiving the petition.

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

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

2. Students with disabilities whose individualized education program (IEP) pursuant to the Individuals with Disabilities Education Act (IDEA) indicates that the student is to be assessed with alternate achievement standards through the Oklahoma Alternate Assessment Program (OAAP) may be eligible to graduate from a public high school with a standard diploma after failing to meet the requirements of subsection A of this section upon the determination of the school district that the student meets the following criteria:

a. obtains a written recommendation from the student's teacher of record in consultation with the teacher in each subject in which the student failed to meet the requirements of subsection A of this section. The recommendation shall be supported by the principal and by documentation demonstrating the acquired knowledge of the student by alternate measures as required by the individualized education program (IEP),

b. completes remediation opportunities to the extent required by the individualized education program (IEP),

c. retakes the exam in each subject in which the student failed to meet the requirements of subsection A of this section if the individualized education program (IEP) requires retake opportunities,

d. maintains at least a C average or the equivalent in each subject in which the student failed to meet the requirements of subsection A of this section, and

e. meets all other graduation requirements of the school district in which the student is enrolled.

3. The Oklahoma School for the Blind and the Oklahoma School for the Deaf shall be considered local education agencies solely for the purposes of purchasing, administering and obtaining test results under this section for the students attending their schools.

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

G. Students who have been denied a standard diploma by the school district in which the student is or was enrolled for failing to meet the requirements of this section may re-enroll in the school district that denied the student a standard diploma following the denial of a standard diploma. The student shall be provided remediation or intervention and the opportunity to retake the test until at least a proficient score is attained on the test or tests necessary to obtain a standard diploma. Students who re-enroll in

the school district to meet the graduation requirements of this section shall be exempt from the hourly instructional requirements of Section 1-111 of this title and the six-period enrollment requirements of Section 11-103.6 of this title.

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

SECTION 3. This act shall become effective July 1, 2015.

SECTION 4. 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.

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