

OKLAHOMA STATE SENATE
CONFERENCE
COMMITTEE REPORT

April 4, 2012

Mr. President:

Mr. Speaker:

The Conference Committee, to which was referred

SB 264

By: Jolley of the Senate and Nelson of the House

Title: An act relating to school testing; modifying criteria for reviewing recommendations; eliminating certain assessments; providing for certain assessments; requiring steps to be taken to comply with no child left behind; providing for approval of certain assessments. Effective date. Emergency.

together with Engrossed House Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:

1. That the House recede from all Amendments.
2. That the attached Conference Committee Substitute be adopted.

Respectfully submitted,
SENATE CONFEREES

Jolley

Stanislawski

Ford

Rice

Halligan

Burrage

HOUSE CONFEREES:

Senate Action _____ Date _____ House Action _____ Date _____

SB264 CCR A

Conference Committee on Government Modernization and Rules

Senate Action _____ Date _____ House Action _____ Date _____

STATE OF OKLAHOMA

1st Session of the 53rd Legislature (2011)

CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED

SENATE BILL NO. 264

By: Jolley of the Senate

and

Nelson of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to education; creating the Allowing Local Administrators More Options Act; stating purpose; providing procedure for exempting school districts from certain statutory requirements and rules; providing authority of the State Board of Education; granting school districts certain options; requiring school districts to comply with certain requirements; amending Section 4, Chapter 456, O.S.L. 2009, which relates to the Quality Assessment and Accountability Board; modifying certain deadlines; modifying criteria for reviewing and recommending assessments; requiring review of assessments that could be eliminated by adoption of new assessments; modifying appointment and composition of members to the Task Force; prohibiting travel reimbursement; modifying the reports which the Task Force may submit; amending 70 O.S. 2001, Section 1210.508, as last amended by Section 1 of Enrolled House Bill No. 1680 of the 1st Session of the 53rd Oklahoma Legislature, which relates to the School Testing Program Act; directing State Board of Education to take those steps required under No Child Left Behind to amend certain plan; specifying criteria; providing for implementation of certain assessments upon compliance with No Child Left Behind; requiring certain additional assessments; repealing Section 5, Chapter 456, O.S.L. 2009 (70 O.S. Supp. 2010, Section 3-165), which relates to the Quality Assessment and

1 Accountability Board; providing for codification; and
2 declaring an emergency.

3
4 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

5 SECTION 1. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 3-128.1 of Title 70, unless
7 there is created a duplication in numbering, reads as follows:

8 Section 2 of this act shall be known and may be cited as the
9 "Allowing Local Administrators More Options Act".

10 SECTION 2. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 3-128.2 of Title 70, unless
12 there is created a duplication in numbering, reads as follows:

13 A. The purpose of the Allowing Local Administrators More
14 Options Act is to empower locally elected school board members to
15 govern school districts and make decisions based on the needs of
16 their students and circumstances.

17 B. 1. Subject to the provisions of this section, a school
18 district shall be allowed to submit a request to the State Board of
19 Education for an exemption from all statutory requirements and State
20 Board of Education rules from which charter schools are exempt as
21 provided for in the Oklahoma Charter Schools Act. Any request for
22 exemption shall include a plan for deregulation which outlines the
23 goals sought to be achieved by deregulation. A plan shall, at a
24 minimum, include the educational and fiscal benefits of deregulation

1 and the anticipated impacts or outcomes deregulation will have in
2 the requesting district.

3 2. Within sixty (60) days after receiving the request and plan
4 for deregulation, the State Board shall approve or disapprove the
5 request. If the State Board does not approve the request, it shall
6 provide to the school district a written explanation of the basis
7 for its decision. The school district may resubmit an amended
8 request at any time after denial. The request shall be approved by
9 the State Board before implementation by the school district. An
10 approved request and plan shall be for no longer than three (3)
11 years. Prior to the beginning of the third year, the school
12 district may apply for renewal of the approved request and plan.
13 The school district shall be required to submit an annual report and
14 the State Board shall annually assess the academic achievement and
15 fiscal status of the school district.

16 C. Nothing in this section shall prevent a school district
17 which has been granted approval by the State Board for the exemption
18 as set forth in subsection B of this section from choosing to follow
19 any or all state laws, rules, or regulations from which a charter
20 school is exempt. A school district which has been granted approval
21 for the exemption shall have the option to adopt policies to
22 implement any requirement for the school district that is consistent
23 with any statutory requirement or mandate or Board rule.

1 D. A school district which has been granted approval by the
2 State Board for the exemption as set forth in subsection B of this
3 section shall comply with all statutory requirements and State Board
4 rules which charter schools are required to comply with and the
5 following requirements:

6 1. Students who reside in the school district shall be entitled
7 to attend school in the district as set forth in Section 1-114 of
8 Title 70 of the Oklahoma Statutes;

9 2. The minimum salary schedule for teachers as set forth in
10 Section 18-114.12 of Title 70 of the Oklahoma Statutes;

11 3. Employees of school districts shall participate as members
12 of the Teachers' Retirement System of Oklahoma as set forth in
13 Section 17-101 et seq. of Title 70 of the Oklahoma Statutes;

14 4. Provide a health insurance plan for school district
15 employees as set forth in Section 5-117.5 of Title 70 of the
16 Oklahoma Statutes and to establish or make available to school
17 district employees a cafeteria plan as set forth in Section 26-104
18 of Title 70 of the Oklahoma Statutes;

19 5. Require any person employed by the school district to file
20 with the district board a current Oklahoma criminal history record
21 check from the Oklahoma State Bureau of Investigation as well as a
22 national criminal history record check as defined in Section 150.9
23 of Title 74 of the Oklahoma Statutes. Each district shall adopt a
24

1 policy regarding criminal history record checks as set forth in
2 Section 5-142 of Title 70 of the Oklahoma Statutes, as applicable;

3 6. Evaluate teachers and to train personnel designated to
4 conduct personnel evaluations as set forth in Sections 6-101.10 and
5 6-101.11 of Title 70 of the Oklahoma Statutes, comply with the
6 dismissal and due process procedures for administrators as set forth
7 in Sections 6-101.13 through 6-101.15 of Title 70 of the Oklahoma
8 Statutes, and comply with the due process procedures for teachers as
9 set forth in Sections 6-101.21 through 6-101.26 of Title 70 of the
10 Oklahoma Statutes;

11 7. Make payroll deductions for either or both professional
12 organization dues and political contributions upon the request of an
13 employee as set forth in Section 5-139 of Title 70 of the Oklahoma
14 Statutes;

15 8. Offer to students and require students enrolled in the
16 school district to complete the curriculum requirements as set forth
17 in Section 11-103.6 of Title 70 of the Oklahoma Statutes;

18 9. Require students enrolled in the school district to
19 demonstrate mastery of the state academic content standards as set
20 forth in Section 1210.523 of Title 70 of the Oklahoma Statutes;

21 10. School districts shall employ as teachers, counselors,
22 librarians, school nurses, superintendents, principals, supervisors,
23 or any other instructional, supervisory or administrative employee,
24 only those persons who are certified or licensed by the State Board

1 of Education in accordance with the Oklahoma Teacher Preparation
2 Act, except for persons exempt from the certification or licensure
3 requirements as otherwise provided by law;

4 11. Provide for negotiations between school employees and
5 school districts as set forth in Section 509.1 through 509.11 of
6 Title 70 of the Oklahoma Statutes;

7 12. Require schools within the school district to observe one
8 minute of silence each day as set forth in Section 11-101.2 of Title
9 70 of the Oklahoma Statutes; and

10 13. Require members of the school district board of education
11 to satisfy the instruction and continuing education requirements as
12 set forth in Sections 5-110, 5-110.1 and 5-110.2 of Title 70 of the
13 Oklahoma Statutes.

14 SECTION 3. AMENDATORY Section 4, Chapter 456, O.S.L.
15 2009, is amended to read as follows:

16 Section 4. A. There is hereby created until ~~December 31, 2010~~
17 June 30, 2012, the Quality Assessment and Accountability Task Force.

18 B. The Task Force shall study the student testing system of
19 this state including, but not ~~be~~ limited to, the following:

20 1. The Task Force shall ~~conduct a crosswalk of curricular and~~
21 ~~performance standards developed by the State Department of Education~~
22 ~~with those of other states with high achievement as recommended by~~
23 ~~the Achieving Classroom Excellence II Task Force~~ review and
24 recommend those formative assessments which:

- a. improve instruction through providing regular and timely diagnostic data to parents, teachers, principals and superintendents;
- b. expect high standards of achievement from students as compared to those expected from Common Core Standards and other standards adopted in Oklahoma not yet effected by the adoption of the Common Core Standards;
- c. are able to be fully integrated with a statewide longitudinal Student Data System for portability of data inter-district; and
- d. would be the most cost effective for adoption and effectiveness;

2. The Task Force shall review the ~~results of the crosswalk conducted pursuant to paragraph 1 of this subsection and conduct a thorough review of the state student testing system and report findings on reforming and improving the system~~ number of student assessments currently required which could be eliminated by the adoption of those formative tests as identified in paragraph 1 of this subsection; and

3. The Task Force shall recommend a plan to achieve the identified reforms, along with any statutory, regulatory, or deregulatory changes necessary to improve the system, as well as any savings that could be realized or additional costs that may be incurred by the recommendations.

1 C. The Task Force shall consist of twelve (12) members as
2 follows:

3 1. The Chair of the Senate Committee on Education, appointed by
4 the President Pro Tempore of the ~~Oklahoma~~ Senate;

5 2. ~~The Vice Chair~~ A member of the Senate Committee on
6 Education, appointed by the President Pro Tempore of the ~~Oklahoma~~
7 Senate;

8 3. A member of the ~~Oklahoma~~ Senate, appointed by the Minority
9 Leader of the ~~Oklahoma~~ Senate;

10 4. The Chair of the House Committee on Common Education,
11 appointed by the Speaker of the House of Representatives;

12 5. ~~The Vice Chair~~ A member of the House Committee on Common
13 Education, appointed by the Speaker of the House of Representatives;

14 6. A member of the House of Representatives, appointed by the
15 Minority Leader of the House of Representatives;

16 7. A Superintendent of a public school district, appointed by
17 the Governor;

18 8. A Principal from a school in which over fifty percent (50%)
19 of the student population qualifies for the free-and-reduced lunch
20 program, appointed by the Governor;

21 9. ~~A representative of a statewide teacher's organization~~
22 classroom teacher, appointed by the Governor;

23 10. ~~State Superintendent of Public Instruction~~ The Secretary of
24 Education or designee;

1 11. ~~Director of the Oklahoma Department of Career and~~
2 ~~Technology Education~~ The State Superintendent of Public Instruction
3 or designee; and

4 12. A representative of a statewide organization representing
5 business, appointed by the Governor.

6 D. ~~The Chair of the Educational Quality and Accountability~~
7 ~~Board shall convene the first meeting of the Task Force. The~~
8 ~~members of the Task Force shall elect a chair and vice-chair from~~
9 ~~among the members at the first meeting~~ State Superintendent of
10 Public Instruction shall serve as Chair of the Task Force.

11 Appointments to the Task Force shall be made by ~~September 1, 2009~~
12 July 1, 2011. Meetings of the Task Force shall be held at the call
13 of the chair of the Task Force. Members shall serve at the pleasure
14 of their appointing authorities. A majority of the members of the
15 Task Force shall constitute a quorum to transact business, but no
16 vacancy shall impair the right of the remaining members to exercise
17 all of the powers of the Task Force. A vacancy on the Task Force
18 shall be filled by the original appointing authority. Staff support
19 for the Task Force shall be provided by the staff of the Senate,
20 House of Representatives, and Office of State Finance. The Office
21 of Accountability, State Department of Education, Oklahoma
22 Department of Career and Technology Education, and the Oklahoma
23 State Regents for Higher Education shall provide support and
24 information as requested by the Task Force.

1 E. Members of the Task Force shall receive no compensation or
2 travel reimbursement for serving on the Task Force, ~~but shall~~
3 ~~receive travel reimbursement as follows:~~

4 1. ~~Legislative members shall be reimbursed in accordance with~~
5 ~~Section 456 of Title 74 of the Oklahoma Statutes;~~

6 2. ~~State employees who are members of the Task Force shall be~~
7 ~~reimbursed for travel expenses incurred in the performance of their~~
8 ~~duties by their respective agencies in accordance with the State~~
9 ~~Travel Reimbursement Act; and~~

10 3. ~~All other Task Force members shall be reimbursed by the~~
11 ~~Legislative Service Bureau for travel expenses incurred in the~~
12 ~~performance of their duties in accordance with the State Travel~~
13 ~~Reimbursement Act.~~

14 F. The Task Force may seek the assistance of the Legislative
15 Service Bureau to contract with an independent consultant as
16 necessary to fulfill the duties specified in this section contingent
17 on the availability of funds.

18 G. The Task Force ~~shall~~ may submit ~~a report by December 31,~~
19 ~~2010~~ any report(s) on any findings and recommendations for
20 improvement and reform of the student curriculum, testing, and other
21 related matters, to the Governor, the President Pro Tempore of the
22 Senate, and the Speaker of the House of Representatives. ~~The report~~
23 ~~shall include findings and recommendations for improvement and~~

~~reform of the student curriculum, testing, and other related matters.~~

SECTION 4. AMENDATORY 70 O.S. 2001, Section 1210.508, as last amended by Section 1 of Enrolled House Bill No. 1680 of the 1st Session of the 53rd Oklahoma Legislature, 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,
- 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

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

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

19 The end-of-instruction tests shall serve the purpose of the
20 criterion-referenced tests as provided in paragraph 1 of this
21 subsection. The English II and English III end-of-instruction tests
22 shall include a writing component. Students who do not score at
23 least at the proficient level shall be afforded the opportunity to
24 retake each test up to three (3) times each calendar year until at

1 least achieving at the proficient level. In order to provide an
2 indication of the levels of competency attained by the student in a
3 permanent record for potential future employers and institutions of
4 higher education, for students who enter the ninth grade in or prior
5 to the 2007-08 school year, school districts shall report the
6 highest achieved state test performance level on the end-of-
7 instruction tests on the student's high school transcript.
8 Beginning with students who enter the ninth grade in the 2008-09
9 school year, school districts shall report the student's performance
10 levels on the end-of-instruction tests and any business and
11 industry-recognized endorsements attained on the student's high
12 school transcript. Any student at the middle school level who
13 completes the instruction in a secondary course specified in this
14 paragraph shall be administered the appropriate end-of-instruction
15 test.

16 7. a. Each school district shall administer to each student
17 in the school district in grades three through eight
18 an assessment designed to assess the student in the
19 fine arts area in which the student has received
20 instruction.

21 b. Each school district shall prepare an annual report
22 for approval by the State Board of Education outlining
23 the fine arts assessment strategies used by the
24 district, when the assessments were administered, how

1 many students were assessed during the previous year,
2 and the results of the assessments.

3 B. 1. By April 1, 2012, the State Board of Education shall
4 take those steps required under No Child Left Behind to amend the
5 state accountability plan to replace the criterion-referenced tests
6 required pursuant to paragraphs 1 through 5 of subsection A of this
7 section with an assessment system that:

- 8 a. serves the dual purposes of accountability and
9 instructional improvement,
- 10 b. is aligned to the Priority Academic Student Skills and
11 the K-12 Common Core State Standards,
- 12 c. provides components of the longitudinal data system
13 needed to track student growth over multiple years,
- 14 d. contributes to Oklahoma's compliance with the America
15 COMPETES Act,
- 16 e. provides data to enable measurement of student growth
17 over multiple years and over the course of the school
18 year through multiple test administrations, and
- 19 f. utilizes a dynamic, computer-based test format, which
20 may be adaptive in design.

21 2. Once requirements under No Child Left Behind have been
22 satisfied pursuant to paragraph 1 of this subsection, the State
23 Board of Education shall implement the assessment system as provided
24 in paragraph 1 of this subsection for grades three through eight in

1 the same subjects as provided in paragraphs 1 through 5 of
2 subsection A of this section. In addition, the Board shall include
3 assessments in reading and mathematics in kindergarten through grade
4 two.

5 C. 1. All criterion-referenced tests required by this section
6 shall measure academic competencies in correlation with the state
7 academic content standards adopted by the Board pursuant to Section
8 11-103.6 of this title and known as the Priority Academic Student
9 Skills Curriculum. The State Board of Education shall evaluate the
10 academic content standards to ensure the competencies reflect high
11 standards, are specific, well-defined, measurable, challenging, and
12 will prepare elementary students for next-grade-level course work
13 and secondary students for postsecondary studies at institutions of
14 higher education or technology center schools without the need for
15 remediation in core curriculum areas. All state academic content
16 standards shall reflect the benchmarks of the American Diploma
17 Project and the goal of improving the state average ACT score.

18 2. The State Department of Education shall annually evaluate
19 the results of the criterion-referenced tests. The State Board of
20 Education shall ensure that test results are reported to districts
21 in a manner that yields detailed, diagnostic information for the
22 purpose of guiding instruction and student remediation. As
23 improvements are made to the criterion-referenced tests required by
24 this section, the Board shall seek to increase the depth of

1 knowledge assessed for each subject. The State Board of Education
2 shall seek to ensure that data yielded from the tests required in
3 this section are utilized at the school district level to prescribe
4 reinforcement and/or remediation by requiring school districts to
5 develop and implement a specific program of improvement based on the
6 test results.

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

19 4. The State Board of Education, for the purposes of conducting
20 reliability and validity studies, monitoring contractor adherence to
21 professionally accepted testing standards, and providing
22 recommendations for testing program improvement, shall retain the
23 services of an established, independent agency or organization that
24 is nationally recognized for its technical expertise in educational

1 testing but is not engaged in the development of aptitude or
2 achievement tests for elementary or secondary level grades. These
3 national assessment experts shall annually conduct studies of the
4 reliability and validity of the end-of-instruction tests
5 administered pursuant to this section. Validity studies shall
6 include studies of decision validity, concurrent validity and the
7 validity of performance level cut scores.

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

1 in paragraphs 1 through 5 of subsection A of this section for grades
2 three through eight shall be returned to each school district prior
3 to the beginning of the next school year. The vendor shall provide
4 a final electronic data file of all school site, school district,
5 and state results to the State Department of Education and the
6 Office of Accountability prior to September 1 of each year. The
7 Department shall forward the final data files for each school
8 district and each school site in that district to the school
9 district. The Board shall ensure the contract with the testing
10 vendor includes a provision that the vendor report test results
11 directly to the Office of Accountability at the same time it is
12 reported to the Board.

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

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

9 ~~E.~~ F. The State Board of Education shall develop, administer,
10 and incorporate as a part of the Oklahoma School Testing Program,
11 other testing programs or procedures, including appropriate
12 accommodations for the testing of students with disabilities as
13 required by the Individuals with Disabilities Education Act (IDEA),
14 20 USC, Section 1400 et seq.

15 SECTION 5. REPEALER Section 5, Chapter 456, O.S.L. 2009
16 (70 O.S. Supp. 2010, Section 3-165), is hereby repealed.

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

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