

2nd

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 2nd Conference Committee Substitute be adopted.

Respectfully submitted,
SENATE CONFEREES

Jolley

Stanislawski

Ford

Rice

Halligan

Burrage

HOUSE CONFEREES:

Conference Committee on Government Modernization and Rules

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 2ND CONFERENCE COMMITTEE SUBSTITUTE
FOR ENGROSSED
4 SENATE BILL NO. 264

By: Jolley of the Senate

5 and

6 Nelson of the House

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10 2ND CONFERENCE COMMITTEE SUBSTITUTE

11 An Act relating to education; creating the Allowing
12 Local Administrators More Options Act; providing
13 short title; stating purpose; providing procedure for
14 exempting school districts from certain statutory
15 requirements and rules; providing authority of the
16 State Board of Education; granting school districts
17 certain options; requiring school districts to comply
18 with certain requirements; amending 70 O.S. 2001,
19 Section 1210.508, as last amended by Section 1 of
20 Enrolled House Bill No. 1680 of the 1st Session of
21 the 53rd Oklahoma Legislature, which relates to the
22 School Testing Program Act; directing State Board of
23 Education to take those steps required under No Child
24 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;
creating the Oklahoma School performance and
Innovation Grant Program; authorizing the State Board
of Education to award certain grants; providing
proposals eligible for grant funding; requiring the
State Department of Education to issue requests for
application by certain date; providing date by which
applications shall be submitted; requiring grant
applications to include certain evidence; providing
the requirements of a grant application; providing
for review of applications for conformance with

1 certain requirements; requiring the Board of
2 Education to award certain grants; providing that a
3 proposal be approved for no longer than three years;
4 requiring review of proposal after certain time
5 period; requiring submission of certain report;
6 repealing Section 5, Chapter 456, O.S.L. 2009 (70
7 O.S. Supp. 2010, Section 3-165), which relates to the
8 Quality Assessment and Accountability Board;
9 providing for codification; and declaring an
10 emergency.

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

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

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

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

20 A. The purpose of the Allowing Local Administrators More
21 Options Act is to empower locally elected school board members to
22 govern school districts and make decisions based on the needs of
23 their students and circumstances.

24 B. 1. Subject to the provisions of this section, a school
 district shall be allowed to submit a request to the State Board of
 Education for an exemption from all statutory requirements and State

1 Board of Education rules from which charter schools are exempt as
2 provided for in the Oklahoma Charter Schools Act. Any request for
3 exemption shall include a plan for deregulation which outlines the
4 goals sought to be achieved by deregulation. A plan shall, at a
5 minimum, include the educational and fiscal benefits of deregulation
6 and the anticipated impacts or outcomes deregulation will have in
7 the requesting district.

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

21 C. Nothing in this section shall prevent a school district
22 which has been granted approval by the State Board for the exemption
23 as set forth in subsection B of this section from choosing to follow
24 any or all state laws, rules, or regulations from which a charter

1 school is exempt. A school district which has been granted approval
2 for the exemption shall have the option to adopt policies to
3 implement any requirement for the school district that is consistent
4 with any statutory requirement or mandate or Board rule.

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

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

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

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

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

23 5. Require any person employed by the school district to file
24 with the district board a current Oklahoma criminal history record

1 check from the Oklahoma State Bureau of Investigation as well as a
2 national criminal history record check as defined in Section 150.9
3 of Title 74 of the Oklahoma Statutes. Each district shall adopt a
4 policy regarding criminal history record checks as set forth in
5 Section 5-142 of Title 70 of the Oklahoma Statutes, as applicable;

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

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

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

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

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1 10. School districts shall employ as teachers, counselors,
2 librarians, school nurses, superintendents, principals, supervisors,
3 or any other instructional, supervisory or administrative employee,
4 only those persons who are certified or licensed by the State Board
5 of Education in accordance with the Oklahoma Teacher Preparation
6 Act, except for persons exempt from the certification or licensure
7 requirements as otherwise provided by law;

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

11 12. Require schools within the school district to observe one
12 minute of silence each day as set forth in Section 11-101.2 of Title
13 70 of the Oklahoma Statutes; and

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

18 SECTION 3. AMENDATORY 70 O.S. 2001, Section 1210.508, as
19 last amended by Section 1 of Enrolled House Bill No. 1680 of the 1st
20 Session of the 53rd Oklahoma Legislature, is amended to read as
21 follows:

22 Section 1210.508 A. 1. The State Board of Education shall
23 develop and administer a series of criterion-referenced tests
24 designed to indicate whether the state academic content standards,

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

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

- a. reading, and
- b. mathematics.

14 3. Contingent upon the availability of funds, the Board shall
15 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.

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 student who completes the instruction for English II,
21 English III, United States History, Biology I, Algebra I, Geometry,
22 and Algebra II at the secondary level shall complete an end-of-
23 instruction test, when implemented, to measure for attainment in the
24 appropriate state academic content standards in order to graduate

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

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

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

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

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

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

- a. serves the dual purposes of accountability and instructional improvement,
- b. is aligned to state standards,
- c. provides components of the intrastate longitudinal data system needed to track student growth over multiple years,
- d. provides data to enable measurement of student growth over multiple years and over the course of the school year through multiple test administrations, and
- e. utilizes a dynamic, computer-based test format, which may be adaptive in design.

2. Once requirements under No Child Left Behind have been satisfied pursuant to paragraph 1 of this subsection, the State Board of Education shall implement the assessment system as provided in paragraph 1 of this subsection for grades three through eight in the same subjects as provided in paragraphs 1 through 5 of subsection A of this section.

C. 1. All criterion-referenced tests required by this section shall measure academic competencies in correlation with the state academic content standards adopted by the Board pursuant to Section 11-103.6 of this title and known as the Priority Academic Student Skills Curriculum. The State Board of Education shall evaluate the academic content standards to ensure the competencies reflect high standards, are specific, well-defined, measurable, challenging, and

1 will prepare elementary students for next-grade-level course work
2 and secondary students for postsecondary studies at institutions of
3 higher education or technology center schools without the need for
4 remediation in core curriculum areas. All state academic content
5 standards shall reflect the benchmarks of the American Diploma
6 Project and the goal of improving the state average ACT score.

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

20 3. The State Board of Education in coordination with the
21 Educational Quality and Accountability Board shall review, realign,
22 and recalibrate, as necessary, the tests in reading and mathematics
23 in third through eighth grade and the end-of-instruction tests. The
24 State Board of Education shall determine the cut scores for the

1 performance levels on the end-of-instruction tests developed
2 pursuant to paragraph 6 of subsection A of this section, which shall
3 be phased in over a multi-year period. The State Board of Education
4 shall conduct an ongoing review to compare the end-of-instruction
5 test content and performance descriptors with those of other states.
6 Upon receipt of the review, the State Board of Education may adjust
7 the cut scores as necessary.

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

21 C. D. 1. The State Board of Education shall set the testing
22 window dates for each criterion-referenced test required in
23 paragraphs 1 through 5 of subsection A of this section for grades
24 three through eight so that, with the exception of the writing

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

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

5 SECTION 4. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 3-175 of Title 70, unless there
7 is created a duplication in numbering, reads as follows:

8 A. There is hereby established the Oklahoma School Performance
9 and Innovation Grant Program. The purpose of the Program shall be
10 to encourage rigorous performance management by public school
11 districts and to spur investment in innovative and cost-effective
12 initiatives and strategies that support and improve student
13 learning.

14 B. Contingent upon the provision of funds designated for
15 Performance and Innovation grants, the State Board of Education is
16 authorized to award one or more competitive grants to public school
17 districts. Grants provided pursuant to this section shall not
18 include any federal funds. Grants shall be used by school districts
19 to implement proposals that will serve as models for other school
20 districts. Proposals eligible for grant funding shall include:

21 1. Early implementation of the Oklahoma Teacher and Leader
22 Effectiveness Evaluation System (TLE) as set forth in Section 6-
23 101.16 of Title 70 of the Oklahoma Statutes;

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1 2. Development of objective measurements for assessing teacher
2 effectiveness in grades and subjects for which there is not a state-
3 mandated testing measure;

4 3. Implementation of differentiated staffing patterns which
5 makes better use of education personnel and goes beyond traditional
6 staffing allocations based on subject matter distinctions and grade
7 level arrangements;

8 4. Implementation of incentive pay plans as set forth in
9 Section 5-141.4 of Title 70 of the Oklahoma Statutes;

10 5. Development of a school leadership evaluation system;

11 6. Development of a teacher training and coaching program;

12 7. Implementation of a continuous learning calendar for a
13 school site or school district;

14 8. Implementation of a dual enrollment option for students
15 which would allow certain students to enroll in college credit
16 courses and to receive academic credit at both a school district and
17 a higher education institution;

18 9. Development and implementation of a deregulation plan for a
19 school site or school district;

20 10. Development of new measures of student growth, competencies
21 and outcomes which moves away from quantitative assessments and seat
22 time requirements;

23 11. Implementation of school site or school district data-
24 driven academic instructional models; or

1 12. Implementation of programs which emphasize the subject
2 areas of Science, Technology, Engineering and Mathematics (STEM) or
3 advanced placement courses.

4 C. The State Department of Education shall issue a request for
5 applications for Performance and Innovation grants on or before
6 September 1, 2011. Applications shall be submitted to the
7 Department on or before October 1, 2011.

8 D. Each grant application submitted by a school district shall
9 include evidence of collaboration with teachers, administrators,
10 students, parents, and the community and shall demonstrate support
11 by each group for the proposal or proposals for which funding is
12 requested in the application. Evidence of community support may
13 include a guarantee of local public or private funds to match the
14 grant funds.

15 E. Each grant application shall include:

16 1. A description of the educational benefits to be derived from
17 the proposal or proposals;

18 2. A definition of the objectives, goals or work products of
19 the proposal or proposals;

20 3. Establishment of baseline data, standards or measures which
21 will be used to evaluate the success of the proposal or proposals;
22 and

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1 4. A description of an assessment mechanism which will be used
2 to determine progress in meeting the objectives, goals or work
3 products of the proposal or proposals.

4 F. The State Department of Education shall review the
5 applications for compliance with the requirements and purposes of
6 this section. The State Superintendent of Public Instruction shall
7 forward applications to the State Board of Education which the
8 Department has determined meet the requirements of this section and
9 shall make recommendations to the Board on the amount of grant
10 funding to be allocated for each proposal. On or before December
11 31, 2011, the Board shall award one or more Performance and
12 Innovation grants for proposals which have been approved by the
13 Department. The grant awards shall be made to school districts
14 which are geographically distributed throughout the state.

15 G. Each proposal shall be approved for no longer than three (3)
16 years. Each school district shall be required to submit a report to
17 the Department at the end of the three-year period. The Department
18 shall determine the form and contents of the report.

19 H. At the end of the three-year period, the State Department of
20 Education shall evaluate each proposal funded pursuant to this
21 section and shall submit a report summarizing the results of the
22 Oklahoma School Performance and Innovation Grant Program to the
23 Governor, President Pro Tempore of the Senate and Speaker of the
24 House of Representatives.

1 SECTION 5. REPEALER Section 5, Chapter 456, O.S.L. 2009

2 (70 O.S. Supp. 2010, Section 3-165), is hereby repealed.

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

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