

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 54th Legislature (2013)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1035

By: Casey, Roberts (Dustin) and
Smalley

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

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1 d. social studies, which shall consist of the history,
2 Constitution and government of the United States, and
3 geography, and

4 e. writing of English.

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

8 a. reading, and

9 b. mathematics.

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

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

14 a. reading,

15 b. mathematics,

16 c. science,

17 d. social studies, which shall consist of the history,
18 Constitution, and government of the United States, and

19 e. writing of English.

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

1 6. ~~Each~~ Except as otherwise provided for in Section 1210.523 of
2 this title, each student who completes the instruction for English
3 II, English III, United States History, Biology I, Algebra I,
4 Geometry, and Algebra II at the secondary level shall complete an
5 end-of-instruction test, when implemented, to measure for attainment
6 in the appropriate state academic content standards in order to
7 graduate from a public high school with a standard diploma. All
8 students shall take the tests prior to graduation, unless otherwise
9 exempt by law. The State Board of Education shall administer the
10 criterion-referenced tests. The Board shall develop and field test
11 the end-of-instruction tests in English III, Geometry, and Algebra
12 II during the 2006-07 school year, implement the tests during the
13 2007-08 school year, and administer them each year thereafter. The
14 Board shall administer the multiple choice portion of the end-of-
15 instruction tests online with raw score test results reported
16 immediately and complete results reported in less than two (2) weeks
17 beginning in the 2008-09 school year.

18 The end-of-instruction tests shall serve the purpose of the
19 criterion-referenced tests as provided in paragraph 1 of this
20 subsection. The English II and English III end-of-instruction tests
21 shall include a writing component. Students who do not score at
22 least at the proficient level shall be afforded the opportunity to
23 retake each test up to three (3) times each calendar year until at
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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 highest-achieved
10 state test performance level on the end-of-instruction tests and any
11 business and industry-recognized endorsements attained on the
12 student's high school transcript. Any student at the middle school
13 level who completes the instruction in a secondary course specified
14 in this paragraph shall be administered the appropriate end-of-
15 instruction 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
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1 district, when the assessments were administered, how
2 many students were assessed during the previous year,
3 and the results of the assessments.

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

17 2. The State Department of Education shall annually evaluate
18 the results of the criterion-referenced tests. The State Board of
19 Education shall ensure that test results are reported to districts
20 in a manner that yields detailed, diagnostic information for the
21 purpose of guiding instruction and student remediation. As
22 improvements are made to the criterion-referenced tests required by
23 this section, the Board shall seek to increase the depth of
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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 Office
8 of Educational Quality and Accountability shall review, realign, and
9 recalibrate, as necessary, the tests in reading and mathematics in
10 third through eighth grade and the end-of-instruction tests. The
11 Commission for Educational Quality and Accountability shall
12 determine the cut scores for the performance levels on the end-of-
13 instruction tests developed pursuant to paragraph 6 of subsection A
14 of this section. The Commission shall conduct an ongoing review to
15 compare the end-of-instruction test content and performance
16 descriptors with those of other states. Upon receipt of the review,
17 the Commission may adjust the cut scores as necessary.

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

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

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

11 E. The State Board of Education shall develop, administer, and
12 incorporate as a part of the Oklahoma School Testing Program, other
13 testing programs or procedures, including appropriate accommodations
14 for the testing of students with disabilities as required by the
15 Individuals with Disabilities Education Act (IDEA), 20 USC, Section
16 1400 et seq.

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

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

- 3 1. Algebra I;
- 4 2. English II; and
- 5 3. Two of the following five:
 - 6 a. Algebra II,
 - 7 b. Biology I,
 - 8 c. English III,
 - 9 d. Geometry, and
 - 10 e. United States History.

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

14 C. Notwithstanding any other provision of law, students who do
15 not attain at least a proficient score on any end-of-instruction
16 test shall be provided remediation or intervention and the
17 opportunity to retake the test until at least a proficient score is
18 attained on the tests of Algebra I, English II and two of the tests
19 required in paragraph 3 of subsection A of this section or an
20 approved alternative test. Technology center schools shall be
21 authorized to provide intervention and remediation in Algebra I,
22 Algebra II, Geometry, English II, English III, United States
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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. Students who have an American College Testing Program (ACT) score, the ACT PLAN score, the Scholastic Aptitude Test (SAT) or the Preliminary Scholastic Aptitude Test (PSAT)/National Merit Scholarship Qualifying Test that is the greater of one point or ten percent (10%) above the cut score established by the Oklahoma State Board of Education as proficient for the subject area or areas in which those exams are an approved alternate exam shall be deemed to have satisfactorily demonstrated mastery of state academic content standards for the subject area or areas as required in subsection A of this section and shall be eligible to graduate from a public high school with a standard diploma and shall not have to take the end-of-instruction exam for the subject area or areas as required in Section 1210.508 of this title.

3. Students who have a WorkKeys job skills assessment score that is the greater of one point or ten percent (10%) above the cut score established by the Oklahoma State Board of Education as

1 proficient for the subject area or areas in which the WorkKeys is an
2 approved alternate exam shall be deemed to have satisfactorily
3 demonstrated mastery of state academic content standards for the
4 subject area or areas as required in subsection A of this section
5 and shall be eligible to graduate from a public high school with a
6 standard diploma and shall not have to take the end-of-instruction
7 exam for the subject area or areas as required in Section 1210.508
8 of this title.

9 4. Students who have attained scores established by the
10 Oklahoma State Board of Education as proficient for the subject area
11 or areas in which in an Advanced Placement course exam, an
12 International Baccalaureate (IB) course exam or a College Level
13 Examination Program (CLEP) exam is an approved alternate exam shall
14 be deemed to have satisfactorily demonstrated mastery of state
15 academic content standards for the subject area or areas as required
16 in subsection A of this section and shall be eligible to graduate
17 from a public high school with a standard diploma and shall not have
18 to take the end-of-instruction exam for the subject area or areas as
19 required in Section 1210.508 of this title.

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

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

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

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

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

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

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

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

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

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7 COMMITTEE REPORT BY: COMMITTEE ON COMMON EDUCATION, dated 02/27/2013
8 - DO PASS, As Amended and Coauthored.
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