

**SENATE CHAMBER**  
**STATE OF OKLAHOMA**

DISPOSITION

☐ FLOOR AMENDMENT

No. \_\_\_\_\_

\_\_\_\_\_

☐ COMMITTEE AMENDMENT

\_\_\_\_\_  
(Date)

Mr./Madame President:

I move to amend Senate Bill No. 1170, by substituting the attached floor substitute for the title, enacting clause and entire body of the measure.

Submitted by:

\_\_\_\_\_  
Senator Ford

Ford-EB-FS-Req#3188  
2/29/2016 4:08 PM

(Floor Amendments Only)    Date and Time Filed: \_\_\_\_\_

☐ Untimely

☐ Amendment Cycle Extended

☐ Secondary Amendment

STATE OF OKLAHOMA

2nd Session of the 55th Legislature (2016)

FLOOR SUBSTITUTE  
FOR

SENATE BILL NO. 1170

By: Ford, Dossett and Smalley  
of the Senate

and

Casey, Bennett and Nollan  
of the House

FLOOR SUBSTITUTE

An Act relating to student assessments; amending 70 O.S. 2011, Section 1210.508, as last amended by Section 8, Chapter 430, O.S.L. 2014 (70 O.S. Supp. 2015, Section 1210.508), which relates to criterion-referenced tests; removing language referencing end-of-instruction tests; updating reference to certain assessments; directing a standard diploma to be administered to students who have received certain certification by school districts; directing the State Board of Education, in certain consultation, to adopt an assessment or assessments that measure mastery of certain subjects; directing districts to administer certain assessment; allowing school districts to apply to the State Board of Education for certain approval; providing for assessment of students who have an individualized education program; providing for a diploma to be issued to students with a certain IEP; providing for the Oklahoma School for the Deaf and the Oklahoma School for the Blind to be considered certain agencies for certain purpose; providing for assessment of English language learners; requiring certain performance level to be noted on high school transcripts; requiring school districts to report certain information to the State Department of Education; requiring the State Department of Education to submit certain report; providing for promulgation of rules;

1       repealing 70 O.S. 2011, Section 1210.523, as last  
2       amended by Section 26, Chapter 4, O.S.L. 2014 (70  
3       O.S. Supp. 2015, Section 1210.523), which relates to  
4       end-of-instruction criterion-referenced tests; and  
5       providing for codification.

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

7       SECTION 1.       AMENDATORY       70 O.S. 2011, Section 1210.508, as  
8       last amended by Section 8, Chapter 430, O.S.L. 2014 (70 O.S. Supp.  
9       2015, Section 1210.508), is amended to read as follows:

10       Section 1210.508.   A.   1.   The State Board of Education shall  
11       develop and administer a series of criterion-referenced tests  
12       designed to indicate whether the subject matter standards, as  
13       defined by the State Board of Education, which Oklahoma public  
14       school students are expected to have attained have been achieved.  
15       The Board may develop and administer any criterion-referenced test  
16       in any subject not required by federal law, contingent upon the  
17       availability of funding.   Students who do not perform at least at  
18       the proficient level on tests shall be remediated, subject to the  
19       availability of funding.

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

- 23               a.   reading, and  
24               b.   mathematics.

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

- 3            a. reading,
- 4            b. mathematics,
- 5            c. science,
- 6            d. social studies, which shall consist of the history,  
7                Constitution and government of the United States, and  
8                geography, and
- 9            e. writing of English.

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

- 13           a. reading, and
- 14           b. mathematics.

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

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

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

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

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

22 ~~The end-of-instruction tests shall serve the purpose of the~~  
23 ~~criterion-referenced tests as provided in paragraph 1 of this~~  
24 ~~subsection. The English II and English III end-of-instruction tests~~

1 ~~shall include a writing component. Students who do not score at~~  
2 ~~least at the proficient level shall be afforded the opportunity to~~  
3 ~~retake each test up to three (3) times each calendar year until at~~  
4 ~~least achieving at the proficient level. In order to provide an~~  
5 ~~indication of the levels of competency attained by the student in a~~  
6 ~~permanent record for potential future employers and institutions of~~  
7 ~~higher education, for students who enter the ninth grade in or prior~~  
8 ~~to the 2007-08 school year, school districts shall report the~~  
9 ~~highest achieved state test performance level on the end of~~  
10 ~~instruction tests on the student's high school transcript.~~  
11 ~~Beginning with students who enter the ninth grade in the 2008-09~~  
12 ~~school year, school districts shall report the highest-achieved~~  
13 ~~state test performance level on the end of instruction tests and any~~  
14 ~~business and industry-recognized endorsements attained on the~~  
15 ~~student's high school transcript. Any student at the middle school~~  
16 ~~level who completes the instruction in a secondary course specified~~  
17 ~~in this paragraph shall be administered the appropriate end-of-~~  
18 ~~instruction test.~~

19       ~~7.~~ a. Each school district shall administer to each student  
20               in the school district in grades three through eight  
21               an assessment designed to assess the student in the  
22               fine arts area in which the student has received  
23               instruction.  
24

1           b.    Each school district shall prepare an annual report  
2                for approval by the State Board of Education outlining  
3                the fine arts assessment strategies used by the  
4                district, when the assessments were administered, how  
5                many students were assessed during the previous year,  
6                and the results of the assessments.

7           B.   1.   All criterion-referenced tests required by this section  
8                shall measure academic competencies in correlation with the subject  
9                matter standards adopted by the Board pursuant to Sections 11-103.6  
10              and 11-103.6a of this title. The State Board of Education shall  
11              evaluate the subject matter standards to ensure the competencies  
12              reflect high standards, are specific, well-defined, measurable,  
13              challenging, and will prepare elementary students for next-grade-  
14              level course work and secondary students for postsecondary studies  
15              at institutions of higher education or technology center schools  
16              without the need for remediation. All subject matter standards  
17              shall reflect the goals as set forth in Section 11-103.6 of this  
18              title and of improving the state average ACT score.

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

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

8 3. The State Board of Education in coordination with the Office  
9 of Educational Quality and Accountability shall review, realign, and  
10 recalibrate, as necessary, the tests in reading and mathematics in  
11 third through eighth grade and the ~~end-of-instruction tests~~  
12 assessments administered pursuant to Section 1210.528 of this title.

13 The Commission for Educational Quality and Accountability shall  
14 determine the cut scores for the performance levels on the ~~end-of-~~  
15 ~~instruction tests developed pursuant to paragraph 6 of subsection A~~  
16 ~~of this section~~ assessments administered pursuant to Section  
17 1210.528 of this title. The Commission shall conduct an ongoing  
18 review to compare the ~~end-of-instruction test~~ assessment content and  
19 performance descriptors with those of other states. Upon receipt of  
20 the review, the Commission may adjust the cut scores as necessary.

21 4. The State Board of Education, for the purposes of conducting  
22 reliability and validity studies, monitoring contractor adherence to  
23 professionally accepted testing standards, and providing  
24 recommendations for testing program improvement, shall retain the



1 services of an established, independent agency or organization that  
2 is nationally recognized for its technical expertise in educational  
3 testing but is not engaged in the development of aptitude or  
4 achievement tests for elementary or secondary level grades. These  
5 national assessment experts shall annually conduct studies of the  
6 reliability and validity of the ~~end-of-instruction tests~~  
7 ~~administered pursuant to this section~~ assessments administered  
8 pursuant to Section 1210.528 of this title. Validity studies shall  
9 include studies of decision validity and concurrent validity.

10 C. 1. The State Board of Education shall set the testing  
11 window dates for each criterion-referenced test required in  
12 paragraphs 1 through 5 of subsection A of this section for grades  
13 three through eight so that, with the exception of the writing  
14 assessments, the tests are administered to students no earlier than  
15 April 10 each year and so that the test results are reported back to  
16 school districts in a timely manner. Each ~~criterion-referenced test~~  
17 ~~required in paragraph 6 of subsection A of this section~~ assessment  
18 administered pursuant to Section 1210.528 of this title may be  
19 administered to students at a time set by the State Board of  
20 Education as near as possible to the end of the course; provided, if  
21 a school district is unable to administer the tests online to all  
22 students taking the test for the first time and all students  
23 retaking the test during the testing window time set by the Board,  
24 the school district may elect to administer any of the tests to

1 students retaking the test at any time not more than two (2) weeks  
2 prior to the start of the testing window time set by the Board. All  
3 results and reports of the criterion-referenced test series required  
4 in paragraphs 1 through 5 of subsection A of this section for grades  
5 three through eight shall be returned to each school district prior  
6 to the beginning of the next school year. The vendor shall provide  
7 a final electronic data file of all school site, school district,  
8 and state results to the State Department of Education and the  
9 Office of Educational Quality and Accountability prior to September  
10 1 of each year. The Department shall forward the final data files  
11 for each school district and each school site in that district to  
12 the school district. The Board shall ensure the contract with the  
13 testing vendor includes a provision that the vendor report test  
14 results directly to the Office of Educational Quality and  
15 Accountability at the same time it is reported to the Board.

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

1 levels in the Oklahoma School Testing Program as reported in the  
2 Oklahoma Educational Indicators Program at the end of each school  
3 year.

4 D. The State Board of Education shall be responsible for the  
5 development, field-testing, and validation of the criterion-  
6 referenced test series required in subsection A of this section. In  
7 the interest of economy the Board may participate in a multistate or  
8 multigovernmental cooperative pursuant to the requirements of The  
9 Oklahoma Central Purchasing Act, but shall not bind the state,  
10 contractually or otherwise, to the authority of any other state,  
11 organization or entity which may supersede the authority of the  
12 Board, for the purpose of adapting criterion-referenced tests, to  
13 the extent that such tests are appropriate for use in the testing  
14 program to be administered to Oklahoma students.

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

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

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1210.528 of Title 70, unless there is created a duplication in numbering, reads as follows:

A. A standard diploma shall be awarded to each student that has been certified by the local school district as having mastered the curriculum requirements set forth in Section 11-103.6 of Title 70 of the Oklahoma Statutes.

B. The State Board of Education, in consultation with the Oklahoma State Regents for Higher Education and the State Board of Career and Technology Education, shall adopt an assessment or assessments that measure mastery of English, mathematics and science.

C. 1. Each school district in the state shall administer the assessment or assessments adopted pursuant to subsection B of this section to every student at least once before completion of the twelfth grade.

2. School districts may apply to the State Board of Education for approval to administer an assessment or assessments other than the assessment or assessments adopted pursuant to subsection B of this section.

D. 1. Students who have an individualized education program (IEP) pursuant to the Individuals with Disabilities Education Act shall have an appropriate statement on the student's IEP requiring administration of the assessment or assessments with or without

1 accommodations or an alternate assessment. Any accommodations  
2 normally employed for the assessment or assessments shall be  
3 approved by the State Board of Education and be provided for in the  
4 IEP. All documentation for each student shall be on file in the  
5 school prior to administration of the assessment or assessments.

6 2. Students with disabilities whose IEP indicates that the  
7 student is to be assessed with alternate achievement standards  
8 through the Oklahoma Alternate Assessment Program (OAAP) may be  
9 eligible to graduate from a public high school with a standard  
10 diploma if the student meets all other graduation requirements of  
11 the school district in which the student is enrolled.

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

16 4. Students identified as English language learners shall be  
17 assessed in a valid and reliable manner with the assessment or  
18 assessments administered by the district pursuant to subsection C of  
19 this section with acceptable accommodations as necessary or, to the  
20 extent practicable, with alternate assessments provided by the  
21 district in the language and form most likely to yield accurate data  
22 of the student's knowledge of the content areas.

23 E. Each school district in the state shall provide on each  
24 student's high school transcript the highest achieved performance

1 level on the assessment or assessments administered by the district  
2 pursuant to subsection C of this section.

3 F. Each school district shall report annually to the State  
4 Department of Education information regarding the assessment or  
5 assessments administered pursuant to this section, including but not  
6 limited to:

7 1. The number and percent of students who graduated with a  
8 standard diploma; and

9 2. The performance achieved by students on the assessment or  
10 assessments administered by the district pursuant to subsection C of  
11 this section.

12 G. The State Department of Education shall provide an annual  
13 report to the Governor, President Pro Tempore of the Senate and  
14 Speaker of the House of Representatives with district-level data  
15 reported pursuant to subsection F of this section as well as a  
16 ranking of districts by performance level on the assessment or  
17 assessments administered pursuant to subsection C of this section.  
18 The report shall be posted on the State Department of Education's  
19 website.

20 H. The State Board of Education shall promulgate rules  
21 necessary to implement the provisions of this section, including a  
22 timeline to implement the provisions of this section.

1       SECTION 3.       REPEALER       70 O.S. 2011, Section 1210.523, as  
2 last amended by Section 26, Chapter 4, O.S.L. 2014 (70 O.S. Supp.  
3 2015, Section 1210.523), is hereby repealed.

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