

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 55th Legislature (2016)

4 ENGROSSED SENATE
5 BILL NO. 1170

 By: Smalley, Dossett, Newberry,
 Fields, Stanislawski and
 Sykes of the Senate

6 and

7 Casey, Bennett, Nollan,
8 Henke and Montgomery of the
9 House

10
11
12 An Act relating to student assessments; amending 70
13 O.S. 2011, Section 1210.508, as last amended by
14 Section 8, Chapter 430, O.S.L. 2014 (70 O.S. Supp.
15 2015, Section 1210.508), which relates to criterion-
16 referenced tests; removing language referencing end-
17 of-instruction tests; updating reference to certain
18 assessments; directing a standard diploma to be
19 administered to students who have received certain
20 certification by school districts; directing the
21 State Board of Education, in certain consultation, to
22 adopt an assessment or assessments that measure
23 mastery of certain subjects; directing districts to
24 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;

1 requiring the State Department of Education to submit
2 certain report; providing for promulgation of rules;
3 repealing 70 O.S. 2011, Section 1210.523, as last
4 amended by Section 26, Chapter 4, O.S.L. 2014 (70
5 O.S. Supp. 2015, Section 1210.523), which relates to
6 end-of-instruction criterion-referenced tests; and
7 providing for codification.

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

9 SECTION 1. AMENDATORY 70 O.S. 2011, Section 1210.508, as
10 last amended by Section 8, Chapter 430, O.S.L. 2014 (70 O.S. Supp.
11 2015, Section 1210.508), is amended to read as follows:

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

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

a. reading, and

1 b. mathematics.

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

4 a. reading,

5 b. mathematics,

6 c. science,

7 d. social studies, which shall consist of the history,
8 Constitution and government of the United States, and
9 geography, and

10 e. writing of English.

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

14 a. reading, and

15 b. mathematics.

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

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

20 a. reading,

21 b. mathematics,

22 c. science,

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

1 e. writing of English.

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

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

23 ~~The end-of-instruction tests shall serve the purpose of the~~
24 ~~criterion-referenced tests as provided in paragraph 1 of this~~

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

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

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, realign⁷ 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 2 of this act. The
13 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 2 of
17 this act. The Commission shall conduct an ongoing review to compare
18 the ~~end-of-instruction test~~ assessment content and performance
19 descriptors with those of other states. Upon receipt of the review,
20 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 standards⁷ 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 2 of this act. Validity studies shall include
9 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 2 of this act may be administered
19 to students at a time set by the State Board of Education as near as
20 possible to the end of the course; provided, if a school district is
21 unable to administer the tests online to all students taking the
22 test for the first time and all students retaking the test during
23 the testing window time set by the Board, the school district may
24 elect to administer any of the tests to students retaking the test

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

16 2. State, district~~7~~ 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~~7~~
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.

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

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

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

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

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

21 D. 1. Students who have an individualized education program
22 (IEP) pursuant to the Individuals with Disabilities Education Act
23 shall have an appropriate statement on the student's IEP requiring
24 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.

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

COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated
04/06/2016 - DO PASS, As Coauthored.