

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 CONFERENCE COMMITTEE
4 SUBSTITUTE
5 FOR ENGROSSED
6 HOUSE BILL NO. 1321

By: Nollan, Cannaday and
Perryman of the House

7 and

8 Ford of the Senate

9
10
11 CONFERENCE COMMITTEE SUBSTITUTE

12 An Act relating to schools; amending 70 O.S. 2011,
13 Section 1210.508, as last amended by Section 8,
14 Chapter 430, O.S.L. 2014 (70 O.S. Supp. 2014, Section
15 1210.508), which relates to the administration of
16 criterion-referenced tests; authorizing the State
17 Board of Education to not administer certain tests
18 until after a certain time or upon certain
19 conditions; amending 70 O.S. 2011, Section 1210.523,
20 as last amended by Section 26, Chapter 4, O.S.L. 2014
21 (70 O.S. Supp. 2014, Section 1210.523), which relates
22 to the end-of-instruction criterion-referenced tests;
23 adding alternative methods for demonstrating mastery
24 of state academic content standards in certain
subject areas; providing an effective date; and
declaring an emergency.

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

1 SECTION 1. AMENDATORY 70 O.S. 2011, Section 1210.508, as
2 last amended by Section 8, Chapter 430, O.S.L. 2014 (70 O.S. Supp.
3 2014, Section 1210.508), is amended to read as follows:

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

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

- 17 a. reading, and
- 18 b. mathematics.

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

- 21 a. reading,
- 22 b. mathematics,
- 23 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, provided that the Board may elect
5 to not administer the writing of English test until
6 the 2017-2018 school year or until the Board has
7 developed the statewide student assessments for
8 English Language Arts and Mathematics as provided for
9 in paragraph 1 of subsection C of Section 11-103.6a of
10 this title, whichever occurs first.

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, provided that the Board may elect
2 to not administer the writing of English test until
3 the 2017-2018 school year or until the Board has
4 developed the statewide student assessments for
5 English Language Arts and Mathematics as provided for
6 in paragraph 1 of subsection C of Section 11-103.6a of
7 this title, whichever occurs first.

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

12 6. Except as otherwise provided for in Section 1210.523 of this
13 title, each student who completes the instruction for English II,
14 English III, United States History, Biology I, Algebra I, Geometry,
15 and Algebra II at the secondary level shall complete an end-of-
16 instruction test, when implemented, to measure for attainment in the
17 appropriate subject matter standards in order to graduate from a
18 public high school with a standard diploma. All students shall take
19 the tests prior to graduation, unless otherwise exempt by law. The
20 State Board of Education shall administer the criterion-referenced
21 tests. The Board shall develop and field test the end-of-
22 instruction tests in English III, Geometry, and Algebra II during
23 the 2006-07 school year, implement the tests during the 2007-08
24 school year, and administer them each year thereafter. The Board

1 shall administer the multiple choice portion of the end-of-
2 instruction tests online with raw score test results reported
3 immediately and complete results reported in less than two (2) weeks
4 beginning in the 2008-09 school year.

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

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

8 b. Each school district shall prepare an annual report
9 for approval by the State Board of Education outlining
10 the fine arts assessment strategies used by the
11 district, when the assessments were administered, how
12 many students were assessed during the previous year,
13 and the results of the assessments.

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

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

16 3. The State Board of Education in coordination with the Office
17 of Educational Quality and Accountability shall review, realign, and
18 recalibrate, as necessary, the tests in reading and mathematics in
19 third through eighth grade and the end-of-instruction tests. The
20 Commission for Educational Quality and Accountability shall
21 determine the cut scores for the performance levels on the end-of-
22 instruction tests developed pursuant to paragraph 6 of subsection A
23 of this section. The Commission shall conduct an ongoing review to
24 compare the end-of-instruction test content and performance

1 descriptors with those of other states. Upon receipt of the review,
2 the Commission may adjust the cut scores as necessary.

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

15 C. 1. The State Board of Education shall set the testing
16 window dates for each criterion-referenced test required in
17 paragraphs 1 through 5 of subsection A of this section for grades
18 three through eight so that, with the exception of the writing
19 assessments, the tests are administered to students no earlier than
20 April 10 each year and so that the test results are reported back to
21 school districts in a timely manner. Each criterion-referenced test
22 required in paragraph 6 of subsection A of this section may be
23 administered to students at a time set by the State Board of
24 Education as near as possible to the end of the course; provided, if

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

20 2. State, district, and site level results of all tests
21 required in this section shall be disaggregated by gender, race,
22 ethnicity, disability status, migrant status, English proficiency,
23 and status as economically disadvantaged, except that such
24 disaggregation shall not be required in a case in which the number

1 of students in a category is insufficient to yield statistically
2 reliable information or the results would reveal personally
3 identifiable information about an individual student. Each school
4 site shall notify the student's parents of the school's performance
5 levels in the Oklahoma School Testing Program as reported in the
6 Oklahoma Educational Indicators Program at the end of each school
7 year.

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

19 E. The State Board of Education shall develop, administer, and
20 incorporate as a part of the Oklahoma School Testing Program, other
21 testing programs or procedures, including appropriate accommodations
22 for the testing of students with disabilities as required by the
23 Individuals with Disabilities Education Act (IDEA), 20 USC, Section
24 1400 et seq.

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

5 SECTION 2. AMENDATORY 70 O.S. 2011, Section 1210.523, as
6 last amended by Section 26, Chapter 4, O.S.L. 2014 (70 O.S. Supp.
7 2014, Section 1210.523), is amended to read as follows:

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

- 14 1. Algebra I;
- 15 2. English II; and
- 16 3. Two of the following five:
 - 17 a. Algebra II,
 - 18 b. Biology I,
 - 19 c. English III,
 - 20 d. Geometry, and
 - 21 e. United States History.

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

1 C. Notwithstanding any other provision of law, students who do
2 not attain at least a proficient score on any end-of-instruction
3 test shall be provided remediation or intervention and the
4 opportunity to retake the test until at least a proficient score is
5 attained on the tests of Algebra I, English II and two of the tests
6 required in paragraph 3 of subsection A of this section or an
7 approved alternative test. Technology center schools shall be
8 authorized to provide intervention and remediation in Algebra I,
9 Algebra II, Geometry, English II, English III, United States
10 History, and Biology I to students enrolled in technology center
11 schools, with the approval of the independent school district board.

12 D. 1. Students who do not meet the requirements of subsection
13 A of this section may graduate from a public high school with a
14 standard diploma by demonstrating mastery of state academic content
15 standards by alternative methods as approved by the State Board of
16 Education.

17 2. The State Board of Education shall adopt rules providing for
18 necessary student exceptions and exemptions to the requirements of
19 this section. The Board shall collect data by school site and
20 district on the number of students provided and categories of
21 exceptions and exemptions granted. Beginning October 1, 2012, the
22 Board shall provide an annual report of this data to the Governor,
23 President Pro Tempore of the Senate and Speaker of the House of
24 Representatives.

1 3. Students who score ten percent (10%) above the cut scores
2 approved by the State Board of Education for the American College
3 Testing Program (ACT), the Scholastic Aptitude Test (SAT), ACT Plan
4 or Preliminary Scholastic Aptitude Test/National Merit Scholarship
5 Qualifying Test (PSAT/NMSQT) alternate tests shall be deemed to have
6 satisfactorily demonstrated mastery of state academic content
7 standards in the subject areas for which alternative tests have been
8 approved and shall be exempt from taking the end-of-instruction
9 criterion-referenced tests in the subject areas of Algebra II,
10 English III, Geometry or United States History as listed in
11 paragraph 3 of subsection A of this section.

12 4. Students who have a score that is equal to or above the cut
13 scores approved by the State Board of Education for the Advanced
14 Placement course exams, ACT Workkeys job skills assessment, College-
15 Level Examination Program (CLEP) or International Baccalaureate (IB)
16 alternate tests shall be deemed to have satisfactorily demonstrated
17 mastery of state academic content standards in the subject areas for
18 which alternate tests have been approved and shall be exempt from
19 taking the end-of-instruction criterion-referenced tests in the
20 subject areas of Algebra II, English III, Geometry or United States
21 History as listed in paragraph 3 of subsection A of this section.

22 5. Students who take the Armed Forces Vocational Aptitude
23 Battery (ASVAB) and have a score that is equal to or above the
24 minimum Armed Forces Qualification Test (AFQT) score required for

1 enlistment in a branch of the armed forces shall be deemed to have
2 satisfactorily demonstrated mastery of state academic content
3 standards in one or more of the subject areas of Algebra II, English
4 III, Geometry or United States History as listed in paragraph 3 of
5 subsection A of this section and shall be exempt from taking the
6 end-of-instruction criterion-referenced tests in that subject area
7 or areas. The State Board of Education shall determine which
8 subject area or areas the ASVAB may be used in lieu of the end-of-
9 instruction criterion-referenced test for that subject. The student
10 shall not be exempt from demonstrating mastery of state academic
11 content standards in the subject areas of Algebra I and English II
12 and from taking the end-of-instruction criterion-referenced test in
13 the subject area of Biology I.

14 6. Students who earn business and industry-recognized
15 endorsements that are recommended by the Oklahoma Department of
16 Career and Technology Education and approved by the State Board of
17 Education and which meet the following criteria:

- 18 a. standardized,
- 19 b. independently graded,
- 20 c. knowledge-based,
- 21 d. proctored, and
- 22 e. recognized or endorsed by an industry organization,
23 association or government agency,

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1 shall be deemed to have satisfactorily demonstrated mastery of state
2 academic content standards in one or more of the subject areas of
3 Algebra II, English III, Geometry or United States History as listed
4 in paragraph 3 of subsection A of this section and shall be exempt
5 from taking the end-of-instruction criterion-referenced tests in
6 that subject area or areas. The State Board of Education shall
7 determine which subject area or areas each business and industry-
8 recognized endorsement may be used in lieu of the end-of-instruction
9 criterion-referenced test for that subject. The student shall not
10 be exempt from demonstrating mastery of state academic content
11 standards in the subject areas of Algebra I and English II and from
12 taking the end-of-instruction criterion-referenced test in the
13 subject area of Biology I.

14 7. Students who earn college credits by dual or concurrent
15 enrollment in college or university Composition I and Composition II
16 courses shall be deemed to have satisfactorily demonstrated mastery
17 of state academic content standards in the subject area of English
18 III as listed in paragraph 3 of subsection A of this section and
19 shall be exempt from taking the end-of-instruction criterion-
20 referenced test in that subject area.

21 8. Students who earn college credits by dual or concurrent
22 enrollment in a college or university Algebra course shall be deemed
23 to have satisfactorily demonstrated mastery of state academic
24 content standards in the subject areas of Algebra II and Geometry as

1 listed in paragraph 3 of subsection A of this section and shall be
2 exempt from taking the end-of-instruction criterion-referenced tests
3 in those subject areas.

4 9. Students who earn college credits by dual or concurrent
5 enrollment in a college or university Post-Civil War United States
6 History course shall be deemed to have satisfactorily demonstrated
7 mastery of state academic content standards in the subject area of
8 United States History as listed in paragraph 3 of subsection A of
9 this section and shall be exempt from taking the end-of-instruction
10 criterion-referenced test in that subject area.

11 10. The State Board of Education shall adopt rules providing
12 for implementation of paragraphs 3 and 4 of this subsection. The
13 rules shall provide for the designation of students as proficient or
14 advanced based on the scores obtained pursuant to paragraphs 3 and 4
15 of this subsection for the purposes of calculating the grade of a
16 school as part of the accountability system developed pursuant to
17 Section 1210.545 of this title, evaluating teachers and
18 administrators as part of the Teacher and Leader Effectiveness
19 Evaluation System developed pursuant to Section 6-101.16 of this
20 title and for any other purpose provided for by law.

21 E. 1. The State Board of Education shall adopt rules
22 establishing an appeal process for students who have been denied a
23 standard diploma by the school district in which the student is or
24 was enrolled for failing to meet the requirements of this section.

1 A student who has been denied a standard diploma by the school
2 district in which the student is enrolled shall have thirty (30)
3 days after denial of the standard diploma in which to file a
4 petition for an appeal to the State Board of Education. The State
5 Board of Education shall take action on a petition for an appeal no
6 later than forty-five (45) days after receiving the petition.

7 2. The State Board of Education shall collect data by school
8 site and school district on the number of students petitioning for
9 an appeal and the number of appeals approved by the State Board of
10 Education pursuant to this subsection. Beginning October 1, 2012,
11 the State Board of Education shall provide an annual report of this
12 data to the Governor, President Pro Tempore of the Senate and
13 Speaker of the House of Representatives.

14 F. 1. Students who have individualized education programs
15 pursuant to the Individuals with Disabilities Education Act (IDEA)
16 shall have an appropriate statement on the student's individualized
17 education program requiring administration of the assessment with or
18 without accommodations or an alternate assessment. Any
19 accommodations normally employed for the assessment shall be
20 approved by the State Board of Education and be provided for in the
21 individualized education program. All documentation for each
22 student shall be on file in the school prior to administration of
23 the assessment.

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1 2. Students with disabilities whose individualized education
2 program (IEP) pursuant to the Individuals with Disabilities
3 Education Act (IDEA) indicates that the student is to be assessed
4 with alternate achievement standards through the Oklahoma Alternate
5 Assessment Program (OAAP) may be eligible to graduate from a public
6 high school with a standard diploma after failing to meet the
7 requirements of subsection A of this section upon the determination
8 of the school district that the student meets the following
9 criteria:

- 10 a. obtains a written recommendation from the student's
11 teacher of record in consultation with the teacher in
12 each subject in which the student failed to meet the
13 requirements of subsection A of this section. The
14 recommendation shall be supported by the principal and
15 by documentation demonstrating the acquired knowledge
16 of the student by alternate measures as required by
17 the individualized education program (IEP),
- 18 b. completes remediation opportunities to the extent
19 required by the individualized education program
20 (IEP),
- 21 c. retakes the exam in each subject in which the student
22 failed to meet the requirements of subsection A of
23 this section if the individualized education program
24 (IEP) requires retake opportunities,

- 1 d. maintains at least a C average or the equivalent in
2 each subject in which the student failed to meet the
3 requirements of subsection A of this section, and
4 e. meets all other graduation requirements of the school
5 district in which the student is enrolled.

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

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

17 G. Students who have been denied a standard diploma by the
18 school district in which the student is or was enrolled for failing
19 to meet the requirements of this section may re-enroll in the school
20 district that denied the student a standard diploma following the
21 denial of a standard diploma. The student shall be provided
22 remediation or intervention and the opportunity to retake the test
23 until at least a proficient score is attained on the test or tests
24 necessary to obtain a standard diploma. Students who re-enroll in

1 the school district to meet the graduation requirements of this
2 section shall be exempt from the hourly instructional requirements
3 of Section 1-111 of this title and the six-period enrollment
4 requirements of Section 11-103.6 of this title.

5 H. The State Board of Education shall be authorized to contract
6 with an entity to develop and advise on the implementation of a
7 communications campaign to build public understanding of and support
8 for the testing requirements of this section.

9 SECTION 3. This act shall become effective July 1, 2015.

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

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