

1 STATE OF OKLAHOMA

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

3 SENATE BILL 938

By: Smalley

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5  
6 AS INTRODUCED

7 An Act relating to schools; directing the State Board  
8 of Education in certain consultation to adopt  
9 recommendations for requirements for high school  
10 graduation; prescribing duties of the State Board of  
11 Education in certain consultation; providing for  
12 submission of report by certain date; directing the  
13 State Board of Education to adopt requirements for  
14 high school graduation and an implementation timeline  
15 by certain date; amending 70 O.S. 2011, Section 11-  
16 103.6a, as amended by Section 3, Chapter 430, O.S.L.  
17 2014 (70 O.S. Supp. 2015, Section 11-103.6a), which  
18 relates to review of subject matter standards;  
19 modifying the State Board of Education's authority  
20 over certain assessments; amending 70 O.S. 2011,  
21 Section 1210.523, as last amended by Section 26,  
22 Chapter 4, O.S.L. 2014 (70 O.S. Supp. 2015, Section  
23 1210.523), which relates to mastery of standards;  
24 directing students entering certain grade by certain  
date to demonstrate mastery by certain method;  
modifying reference to certain tests; directing  
promulgation of rules; providing for codification;  
providing effective dates; and declaring an  
emergency.

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

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

1           A. The State Board of Education, in consultation with the  
2 Oklahoma State Regents for Higher Education, the Commission for  
3 Educational Quality and Accountability, the State Board of Career  
4 and Technology Education, and the Oklahoma Department of Commerce,  
5 shall develop recommendations for the requirements a student must  
6 meet to earn a diploma from an Oklahoma high school. In developing  
7 the high school graduation requirements, the State Board of  
8 Education, in consultation with the Oklahoma State Regents for  
9 Higher Education, the Commission for Educational Quality and  
10 Accountability, the State Board of Career and Technology Education,  
11 and the Oklahoma Department of Commerce, shall:

12           1. Hold public meetings and solicit public input;

13           2. Designate an assessment or assessments used by institutions  
14 of higher education to determine college readiness or the need for  
15 remediation through course placement as a high school exit exam;

16           3. Consider other criteria to be used in conjunction with the  
17 designated assessment or assessments for high school graduation;

18           4. Consider alternative assessments that may be used in place  
19 of the designated assessment or assessments for high school  
20 graduation; and

21           5. Consider assessments required by the Elementary and  
22 Secondary Education Act of 2001, P.L. No. 107-110, also known as the  
23 No Child Left Behind Act of 2001, as amended or reauthorized.

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1 B. A report of recommendations shall be made to the State Board  
2 of Education by March 1, 2017.

3 C. By May 1, 2017, the State Board of Education shall adopt the  
4 requirements for high school graduation and a timeline to implement  
5 the requirements.

6 SECTION 2. AMENDATORY 70 O.S. 2011, Section 11-103.6a,  
7 as amended by Section 3, Chapter 430, O.S.L. 2014 (70 O.S. Supp.  
8 2015, Section 11-103.6a), is amended to read as follows:

9 Section 11-103.6a. A. Beginning with the 2014-15 school year,  
10 each area of subject matter standards, except for standards for  
11 career and technology education adopted pursuant to Section 14-103  
12 of this title, shall be adopted by the State Board of Education and  
13 shall be subject to legislative review and approval as provided for  
14 in Section 4 11-103.6a-1 of this ~~act~~ title. The subject matter  
15 standards shall be implemented statewide by every public school  
16 district in this state. The subject matter standards shall be  
17 thoroughly reviewed by the State Board every six (6) years according  
18 to and in coordination with the existing subject area textbook  
19 adoption cycle. After review, the State Board shall adopt any  
20 revisions in such subject matter standards deemed necessary to  
21 achieve further improvements in the quality of education for the  
22 students of this state. Any revisions adopted by the State Board of  
23 Education shall be subject to review and approval as provided for in  
24 Section 4 11-103.6a-1 of this ~~act~~ title. The adoption of subject

1 matter standards or revisions to the standards by the State Board of  
2 Education pursuant to this section shall not be promulgated as rules  
3 and shall not be subject to Article I of the Administrative  
4 Procedures Act.

5 B. 1. In addition to the requirements set forth in subsection  
6 A of this section, on or before August 1, 2016, the State Board of  
7 Education, in consultation with the State Regents for Higher  
8 Education, the State Board of Career and Technology Education, and  
9 the Oklahoma Department of Commerce, shall adopt subject matter  
10 standards for English Language Arts and Mathematics which are  
11 college- and career-ready and will replace current standards. To be  
12 considered college- and career-ready, the standards shall be  
13 evaluated by the State Department of Education, the State Regents  
14 for Higher Education, the State Board of Career and Technology  
15 Education, and the Oklahoma Department of Commerce and be determined  
16 to be such that the standards will address the goals of reducing the  
17 need for remedial coursework at the postsecondary level and  
18 increasing successful completion of postsecondary education. The  
19 subject matter standards ~~and corresponding student assessments~~ for  
20 English Language Arts and Mathematics shall be solely approved and  
21 controlled by the state through the State Board of Education, and  
22 the corresponding student assessments for English Language Arts and  
23 Mathematics shall be solely approved by the state through the State  
24 Board of Education.

1           2. Upon the effective date of this act, the State Board of  
2 Education shall begin the process of adopting the English Language  
3 Arts and Mathematics standards and shall provide reasonable  
4 opportunity, consistent with best practices, for public comment on  
5 the revision of the standards, including but not limited to comments  
6 from students, parents, educators, organizations representing  
7 students with disabilities and English language learners, higher  
8 education representatives, career technology education  
9 representatives, subject matter experts, community-based  
10 organizations, Native American tribal representatives, and business  
11 community representatives.

12           3. Until the statewide student assessments for English Language  
13 Arts and Mathematics are implemented as provided for in paragraph 1  
14 of subsection C of this section, the State Board of Education shall  
15 implement the subject matter standards for English Language Arts and  
16 Mathematics which were in place prior to the revisions adopted by  
17 the Board in June 2010.

18           4. Upon the effective date of this act, the State Board of  
19 Education shall seek certification from the State Regents for Higher  
20 Education that the subject matter standards for English Language  
21 Arts and Mathematics which were in place prior to the revisions  
22 adopted by the Board in June 2010 are college- and career-ready as  
23 defined in the Federal Elementary and Secondary Education Act (ESEA)  
24 Flexibility document issued by the United States Department of

1 Education and referenced in Option B of Principle 1: College\_ and  
2 Career-Ready Expectations for All Students. The State Regents shall  
3 provide the Board a detailed description of the certification  
4 process and results, including a list of deficiencies if the State  
5 Regents conclude that the standards are not college- and career-  
6 ready. The Board shall post all documents, materials, reports,  
7 descriptions and correspondence produced by the State Regents or  
8 used by the State Regents in the certification process on the  
9 website for the State Department of Education.

10 C. 1. On or before the 2017-18 school year, the State Board of  
11 Education, in consultation with the State Regents for Higher  
12 Education, the State Board of Career and Technology Education, and  
13 the Oklahoma Department of Commerce, shall direct the process of the  
14 development of annual high-quality statewide student assessments for  
15 English Language Arts and Mathematics as provided for in Section  
16 1210.508 of this title that align with the college- and career-ready  
17 subject matter standards developed pursuant to subsection B of this  
18 section.

19 2. The statewide student assessments for English Language Arts  
20 and Mathematics shall continue to assess standards and objectives  
21 found in the subject matter standards for English Language Arts and  
22 Mathematics which were in place prior to the revisions adopted by  
23 the Board in June 2010 and the test blueprints shall continue to  
24 align to the standards and objectives found in such subject matter

1 standards for English Language Arts and Mathematics until the new  
2 assessments are implemented as provided for in paragraph 1 of this  
3 subsection.

4 D. 1. The State Board of Education shall not enter into any  
5 agreement, memorandum of understanding, or contract with any federal  
6 agency or private entity which in any way cedes or limits state  
7 discretion or control over the process of development, adoption, or  
8 revision of subject matter standards ~~and~~ or state discretion over  
9 the process of development, adoption or revision of corresponding  
10 student assessments in the public school system, including, ~~but not~~  
11 limited to, ~~agreements, memoranda of understanding and contracts in~~  
12 exchange for funding for public schools and programs. If the State  
13 Board of Education is a party to such an agreement, memorandum of  
14 understanding, or contract on the effective date of this act, the  
15 State Board of Education shall initiate necessary efforts to amend  
16 the agreement, memorandum of understanding, or contract to comply  
17 with the requirements of this subsection.

18 2. Nothing in this section shall be construed to prohibit the  
19 State Board of Education from seeking and being granted a waiver  
20 from federal law, provided that the conditions for the waiver do not  
21 require the state to cede or limit its discretion or control over  
22 the process of development, adoption, or revision of subject matter  
23 standards ~~and~~ or discretion over the process of development,  
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1 adoption, or revision of corresponding statewide student  
2 assessments.

3 3. The State Department of Education may participate in a  
4 multistate or multigovernmental cooperative pursuant to the  
5 requirements of the Oklahoma Central Purchasing Act, but shall not  
6 bind the state, contractually or otherwise, to the authority of any  
7 other state, organization, or entity which may supersede the  
8 authority of the State Board of Education.

9 E. The content of all subject matter standards ~~and~~  
10 ~~corresponding student assessments~~ shall be solely approved and  
11 controlled by the state through the State Board of Education, and  
12 corresponding student assessments shall be solely approved by the  
13 state through the State Board of Education. The State Board of  
14 Education shall maintain independence of all subject matter  
15 standards referenced in Section 11-103.6 of this title and  
16 corresponding statewide student assessments and shall not relinquish  
17 authority over Oklahoma subject matter standards and corresponding  
18 statewide student assessments. Nothing in this section shall  
19 prohibit benchmarking the state subject matter standards and  
20 corresponding student assessments with those of other states or  
21 nations to allow comparison of Oklahoma subject matter standards and  
22 corresponding student assessments with those of other states and  
23 nations.

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1 F. School districts shall exclusively determine the  
2 instruction, curriculum, reading lists, and instructional materials  
3 and textbooks, subject to any applicable provisions or requirements  
4 as set forth in law, to be used in meeting the subject matter  
5 standards. School districts may, at their discretion, adopt  
6 supplementary student assessments which are in addition to the  
7 statewide student assessments.

8 G. 1. Upon completion of the adoption of English Language Arts  
9 and Mathematics subject matter standards pursuant to subsection B of  
10 this section, the State Board of Education shall compare such  
11 English Language Arts and Mathematics standards with the English  
12 Language Arts and Mathematics standards that were adopted by the  
13 State Board of Education prior to implementation of this act. The  
14 State Board of Education shall consider public comments, the use of  
15 best practices, evidence, and research in the evaluation of both  
16 sets of standards. The State Board of Education shall compare the  
17 standards in the areas of:

- 18 a. effective preparation for active citizenship and  
19 postsecondary education or the workforce,
- 20 b. subject matter content,
- 21 c. sequencing of subject matter content and relationship  
22 to measurement of student performance and the  
23 application of subject matter standards,

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- d. developmental appropriateness of grade-level expectations, academic content, and instructional rigor,
- e. clarity for educators and parents,
- f. exemplars tied to the standards,
- g. measurability of student proficiency in the subject matter,
- h. pedagogy,
- i. development of critical thinking skills, and
- j. demonstration of application of acquired knowledge and skills.

2. Upon completion of the comparison of the English Language Arts and Mathematics subject matter standards, the State Board of Education shall submit to the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, the Minority Leader of the House of Representatives, and the Minority Leader of the Senate a report outlining the results of the comparison of the standards.

H. All subject matter standards and corresponding statewide student assessments adopted by the State Board of Education shall be carefully circumscribed to reflect direct application to subject matter proficiency and shall not include standards or assessment questions that are designed to collect or measure noncognitive,

1 emotional, or psychological characteristics, attributes, or skills  
2 of students.

3 I. Any rule, including but not limited to Rules 210:15-4-1  
4 through 210:15-4-3 of the Oklahoma Administrative Code, which  
5 conflicts with the requirements of this section, shall be amended or  
6 repealed by the State Board of Education as necessary to comply with  
7 the requirements of this section.

8 SECTION 3. AMENDATORY 70 O.S. 2011, Section 1210.523, as  
9 last amended by Section 26, Chapter 4, O.S.L. 2014 (70 O.S. Supp.  
10 2015, Section 1210.523), is amended to read as follows:

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

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

1 B. To demonstrate mastery, the student shall ~~attain at least a~~  
2 ~~proficient score on the end-of-instruction criterion referenced~~  
3 ~~tests administered pursuant to Section 1210.508 of this title~~ meet  
4 the requirements adopted by the State Board of Education in Section  
5 1 of this act.

6 C. Notwithstanding any other provision of law, students who do  
7 not ~~attain at least a proficient score on any end-of-instruction~~  
8 ~~test~~ meet the requirements adopted by the State Board of Education  
9 shall be provided remediation or intervention and ~~the opportunity~~  
10 additional opportunities to ~~retake the test until at least a~~  
11 ~~proficient score is attained on the tests of Algebra I, English II~~  
12 ~~and two of the tests required in paragraph 3 of subsection A of this~~  
13 ~~section or an approved alternative test~~ meet the requirements  
14 adopted by the State Board of Education. Technology center schools  
15 shall be authorized to provide intervention and remediation in  
16 Algebra I, Algebra II, Geometry, English II, English III, United  
17 States History, and Biology I to students enrolled in technology  
18 center schools, with the approval of the independent school district  
19 board.

20 D. 1. Students who do not meet the requirements of subsection  
21 A of this section may graduate from a public high school with a  
22 standard diploma by demonstrating mastery of state academic content  
23 standards by alternative methods as approved by the State Board of  
24 Education.

1           2. 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 Senate, and Speaker of the House of  
8 Representatives.

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

21           4. Students who have a score that is equal to or above the cut  
22 scores approved by the State Board of Education for the Advanced  
23 Placement course exams, ACT Workkeys job skills assessment, College-  
24 Level Examination Program (CLEP), or International Baccalaureate

1 (IB) alternate tests shall be deemed to have satisfactorily  
2 demonstrated mastery of state academic content standards in the  
3 subject areas for which alternate tests have been approved and shall  
4 be exempt from ~~taking the end-of-instruction criterion-referenced~~  
5 ~~tests in the subject areas of Algebra II, English III, Geometry or~~  
6 ~~United States History as listed in paragraph 3 of subsection A of~~  
7 ~~this section~~ meeting the corresponding requirements adopted by the  
8 State Board of Education.

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

19 E. 1. The State Board of Education shall adopt rules  
20 establishing an appeal process for students who have been denied a  
21 standard diploma by the school district in which the student is or  
22 was enrolled for failing to meet the requirements of this section.  
23 A student who has been denied a standard diploma by the school  
24 district in which the student is enrolled shall have thirty (30)

1 days after denial of the standard diploma in which to file a  
2 petition for an appeal to the State Board of Education. The State  
3 Board of Education shall take action on a petition for an appeal no  
4 later than forty-five (45) days after receiving the petition.

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

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

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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~~ any assessment or assessments designated

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1           by the State Board of Education if the individualized  
2           education program (IEP) requires retake opportunities,

3           d.    maintains at least a C average or the equivalent in  
4           each subject in which the student failed to meet the  
5           requirements of subsection A of this section, and

6           e.    meets all other graduation requirements of the school  
7           district in which the student is enrolled.

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

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

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

1 additional opportunities to meet the requirements adopted by the  
2 State Board of Education until ~~at least a proficient score is~~  
3 ~~attained on the test or tests~~ the requirements or alternative  
4 criteria adopted by the State Board of Education necessary to obtain  
5 a standard diploma are met. Students who re-enroll in the school  
6 district to meet the graduation requirements of this section shall  
7 be exempt from the hourly instructional requirements of Section 1-  
8 111 of this title and the six-period enrollment requirements of  
9 Section 11-103.6 of this title.

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

14 SECTION 4. NEW LAW A new section of law to be codified  
15 in the Oklahoma Statutes as Section 1210.529 of Title 70, unless  
16 there is created a duplication in numbering, reads as follows:

17 The State Board of Education shall promulgate rules necessary to  
18 implement the provisions of this act.

19 SECTION 5. Section 3 of this act shall become effective July 1,  
20 2017.

21 SECTION 6. Sections 1, 2 and 4 of this act shall become  
22 effective July 1, 2016.

23 SECTION 7. It being immediately necessary for the preservation  
24 of the public peace, health and safety, an emergency is hereby

1 declared to exist, by reason whereof this act shall take effect and  
2 be in full force from and after its passage and approval.

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