

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

CHARLES EDWARD PACK, II;
MARA NOVY;
LEONARDO DE ANDRADE;
ELIZABETH LUECKE;
NANCY KUNSMAN;
HEATHER SPARKS;
LEO J. BAXTER;
AMY ANNE FORD;
WILLIAM F. SHDEED;
and DANIEL KEATING,

Petitioners,

v.

STATE OF OKLAHOMA; PRESIDENT
PRO TEMPORE OF THE OKLAHOMA
SENATE; SPEAKER OF THE HOUSE
OF REPRESENTATIVES; THE
OKLAHOMA STATE DEPARTMENT
OF EDUCATION,

Respondents.

FILED
SUPREME COURT
STATE OF OKLAHOMA
JUN 25 2014
MICHAEL S. HORTIE
CLERK

Case No. **#11297 4**

APPLICATION TO ASSUME ORIGINAL JURISDICTION
AND PETITION FOR WRIT AND DECLARATORY RELIEF

OKLAHOMA STATE DEPARTMENT OF EDUCATION

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AND DANIEL KEATING

June 25, 2014

INTRODUCTION

Pursuant to Article VII, Section 4 of the Oklahoma Constitution, Petitioners Charles Edward Pack, II, Mara Novy, Leonardo De Andrade, Elizabeth Luecke, Nancy Kunsman, Heather Sparks, Leo J. Baxter, Amy Anne Ford, William F. Shdeed, and Daniel Keating hereby ask this Court to assume original jurisdiction of this matter, declare 2014 Oklahoma Session Law § 430 (“HB 3399”) unconstitutional, and issue a writ of mandamus prohibiting the Oklahoma State Department of Education (the “Department”) from executing HB 3399.

Petitioners are parents, teachers, and members of the Oklahoma State Board of Education (the “Board”) who ask this Court to declare HB 3399 unconstitutional on two grounds. First, HB 3399 allows the Legislature to encroach on the authority granted to the Board in the Oklahoma Constitution—to supervise instruction in public schools—by giving the Legislature exclusive authority to rewrite and approve the State’s subject matter standards for instruction in public schools. Second, HB 3399 violates the Oklahoma Constitution’s separation of powers doctrine by allowing the Legislature to exert coercive influence over the Board, an Executive agency.

BACKGROUND

In support of this Application, Petitioners state as follows:

1. This case presents urgent and important constitutional issues concerning the Mathematics and English subject matter standards and assessments used for each public elementary, middle, and high school student across the State of Oklahoma in the 2014-15 school year, and whether the procedures for developing and adopting subject matter standards in HB 3399 constitute an impermissible encroachment on the Constitutional authority granted to the Board over the “supervision of instruction in the public schools,”

Okla. Const. Art. XIII, § 5, and a violation of Constitutional separation of powers, Okla. Const. Art. 4, § 1.

2. This original action requires expedited treatment because Oklahoma public schools are scheduled to start in August, less than two months from the date of filing. Board members, school districts, administrators, teachers, parents, and students need as much time as possible to prepare for the school year with information on the applicable educational standards to be instructed and the assessments to be administered.

3. The Priority Academic Student Skills (“PASS”) are the subject matter standards for public education that existed before June 2010, as codified in Title 210 Chapter 15 of the Oklahoma Administrative Code.

4. In May 2010 the Legislature voted to approve Senate Bill 2033, which directed the Board to adopt Common Core Standards for K-12 education by August 1, 2010. Effective July 1, 2010, 70 Okla. Stat. § 11-103.6a required the Board to “adopt revisions to the subject matter curriculum adopted by the State Board for English Language Arts and Mathematics as is necessary to align the curriculum with the K-12 Common Core State Standards developed by the Common Core State Standards Initiative” by August 1, 2010.

5. Accordingly, Title 210 Chapter 15-4-3 of the Oklahoma Administrative Code, effective July 11, 2011, required the “school districts of the state” to “begin implementing a plan for transitioning from the Priority Academic Student Skills to full implementation of the Common Core State Standards.” Since the 2010-2011 school year, the Department and schools across the state have been phasing out the PASS standards and transitioning to the Common Core State Standards, which are referred to as the “Oklahoma Academic Standards” (“OAS”). Exec. Order 2013-40, Okla. Admin. Code 1:2013-40 (Dec. 4, 2013).

6. On May 23, 2014, the Legislature passed HB 3399 with an emergency clause rendering it effective immediately upon the Governor's approval. (App. at page 57.)

7. On June 5, 2014, Governor Fallin signed HB 3399. (App. at page 58.)

8. HB 3399 Section 3 amends 70 O.S. § 11-103.6a(A) to require new subject matter standards to be developed “[b]eginning with the 2014-15 school year . . . and subject to legislative review and approval as provided for in Section 4” of HB 3399. Section 3 amends 70 O.S. § 11-103.6(a)(C)(2) and provides “the statewide assessments of English Language Arts and Mathematics shall continue to assess standards . . . which were in place prior to the revisions adopted by the Board in June 2010[.]” Section 3 also amends 70 O.S. § 11-103.6a(B)(2) and provides that “[u]ntil the statewide student assessments for English Language Arts and Mathematics are implemented, the Board shall implement the subject matter standards for English Language Arts and Mathematics which were in place prior to the revisions adopted by the Board in June 2010.” Thus HB 3399 requires teaching and assessments to be conducted this school year beginning in August 2014 pursuant to the PASS standards that were in place before June 2010.

9. HB 3399 Section 4 creates a new section of law codified as 70 O.S. § 11-103.6a-1. Part A requires all subject matter standards adopted by the Board to be “subject to legislative review as set forth in this section.” No subject matter standards may be implemented by the Board “until the legislative review process is completed.” *Id.* The “legislative review process” in HB 3399 for subject matter standards can be summarized as follows:

- a) The Board is required to submit adopted standards to the Speaker of the House and the President Pro Tempore of the Senate before the last 30 days of the legislative session. § 4, amending 70 O.S. § 11-103.6a-1(B).

- b) The Legislature, by joint resolution, shall “approve the standards, disapprove the standards in whole or in part, *amend the standards in whole or in part* or disapprove the standards in whole or in part *with instructions* to the State Board of Education.” § 4, amending 70 O.S. § 11-103.6a-1(C) (emphasis added).
- c) If the Legislature amends the standards or issues instructions to the Board, the Board “may revise” and implement the standards only “in accordance with the legislative changes.” § 4, amending 70 O.S. § 11-103.6a-1(D).
- d) The standards are considered final agency rules only after final legislative approval of the standards and are then included in the Oklahoma Administrative Code in the same manner as agency rules. § 4, amending 70 O.S. § 11-103.6a-1(E).

10. HB 3399 sets a deadline for the Board’s adoption of new English Language Arts and Mathematics subject matter standards of August 1, 2016. 70 O.S. § 11-103.6a(B)(1). HB 3399 Section 3 repeatedly emphasizes the legislative review and approval process of Section 4: “each area of subject matter standards . . . shall be adopted by the State Board of Education and shall be subject to legislative review and approval as provided for in Section 4 of this act”; and “Any revisions adopted by the State Board of Education shall be subject to review and approval as provided for in Section 4 of this act.” 70 O.S. § 11-103.6a(A).

11. Oklahoma public schools are scheduled to begin classes in August, less than two months from the filing of this Petition.

12. Since the 2010-2011 school year, the Department, school districts, administrators, and teachers have undertaken professional development training, equipping of classrooms, purchasing of books, and development of curricula in a calculated transition to the 2010 OAS standards and assessments. (*See Okla. Admin. Code 210:15-4-3; Affidavit of Phyllis Hudecki ¶ 4, App. at page 59.*) The PASS subject matter standards have been gradually phased out since 2010.

13. The differences between the PASS standards and assessments and the 2010 OAS are pronounced, including the pace and substance of material taught in each grade, the books and textbooks needed, and the equipment and materials needed for teaching and assessing each K-12 student. (Affidavit of Phyllis Hudecki ¶¶ 6-9, App. at pages 60-61.)

14. The pace, sequence, and content of English Language Arts and Mathematics standards vary greatly between PASS and OAS. For example:

- PASS English Language Arts standards for fourth grade include competency in cursive handwriting. Okla. Admin. Code 210:15-3-15(b)(3)(F). The OAS for fourth grade do not incorporate cursive handwriting. (Excerpt of Dept. of Education Fourth Grade ELA Standards Comparison, App. at page 64.)
- PASS Math standards for first grade include identification of pennies, nickels, dimes and quarters. Okla. Admin. Code 210:15-3-41(d)(3). OAS do not include identification of money in first grade standards. (Excerpt of Dept. of Education First Grade Math Standards Comparison, App. at page 66.)
- The Math OAS require second graders to understand decimal notation; PASS standards for second graders do not include decimals, but do include solving problems involving the number of days in a week, month, or year. (Okla. Admin. Code 210:15-3-42, 210:15-3-42(d)(2)(B); Excerpt of Dept. of Education Second Grade Math Standards Comparison, App. at pages 68-69.)
- PASS emphasizes reading predominantly fiction in English Language Arts curriculum; OAS increase the focus on literacy in informational, technical, scientific, historical, and other types of writing. (Affidavit of Phyllis Hudecki ¶¶ 6-9, App. at pages 60-61.)
- PASS emphasizes students' retention of information about readings (i.e. identify the characters, retell the main events, describe the setting) versus OAS, which emphasize critical thinking and analysis (i.e. comparing and contrasting the experiences of different characters, what is the author attempting to convey, what information does the author use effectively to make her argument). (Affidavit of Phyllis Hudecki ¶¶ 6-9, App. at pages 60-61.)

15. The standards will also affect what types of tests need to be administered pursuant to the Achieving Classroom Excellence Act. 70 O.S. § 1210.521, *et. seq.* Students must receive a passing grade on specified subject matter tests in order to graduate from high

school. 70 O.S. § 1210.523. PASS and OAS differ in the standards and tests used for this graduation requirement.

16. Petitioners ask this Court to assume original jurisdiction over this matter to determine the constitutionality of HB 3399.

17. Petitioners seek a declaratory judgment that HB 3399 is unconstitutional.

18. Further, Petitioners seek a writ prohibiting the Department from executing or implementing HB 3399.

THE PARTIES

19. Petitioner Charles Edward Pack, II, is a father of two children in Tahlequah School District and the District Mathematics Curriculum Coordinator for Tahlequah Public Schools, the Mathematics Department Chair for Tahlequah High School, and he teaches Geometry, Pre-Calculus, and Advanced Placement Statistics at Tahlequah High School. Mr. Pack has been a teacher in Tahlequah for 14 years. Mr. Pack is responsible for the development of math curriculum and its instruction for students from pre-kindergarten through Twelfth Grade in the Tahlequah Public Schools. His job responsibilities are directly affected by HB 3399, and he is entitled to perform his responsibilities under subject matter standards that are constitutionally adopted without coercive legislative involvement. As a father of public school students, Mr. Pack is entitled to have his children taught under standards drawn by the Board without unconstitutional legislative interference.

20. Petitioner Mara Novy is a mother of two students in the Tulsa School District, a biomedical engineer, a member of the State Department of Education's Transition Committee for Science Standards, and a member of the Tulsa Regional STEM Alliance, an organization committed to advancing education in science, technology, engineering, and

mathematics. Ms. Novy is also a biomedical advisor to the Tulsa Technology Center. As a mother of public school students, Ms. Novy is entitled to have her children taught under standards drawn by the Board without unconstitutional legislative interference.

21. Petitioner Leonardo de Andrade teaches Fifth Grade at Eisenhower International School in the Tulsa School District. He has been a teacher at Eisenhower for 14 years. Mr. de Andrade is entitled to teach under subject matter standards that are constitutionally adopted without unwarranted legislative involvement in the drafting of those standards. HB 3399 affects the very core of his job responsibilities and the time and effort required to develop different English and Math curriculum and materials for his incoming Fifth Grade students.

22. Petitioner Elizabeth Luecke teaches Sixth Grade at Sequoyah Middle School in the Edmond School District. She has been a teacher at Sequoyah for 4 years. Ms. Luecke is entitled to perform her responsibilities under subject matter standards that are constitutionally adopted without unwarranted legislative involvement in the drafting of those standards. HB 3399 affects the very core of her job responsibilities and the time and effort required to develop different English curriculum and materials for her incoming Sixth Grade students.

23. Petitioner Nancy Kunsman is an Eleventh and Twelfth and Advanced Placement English teacher at Gore High School. Ms. Kunsman has been a teacher for 17 years. She was President of the Oklahoma Council of Teachers of English during the 2013-2014 school year. Ms. Kunsman's job responsibilities are directly affected by HB 3399, and she is entitled to perform her responsibilities based on subject matter standards that are constitutionally approved without excessive or coercive legislative influence.

24. Petitioner Heather Sparks is a parent with a child in the Edmond School District and a teacher in the Oklahoma City School District. She has taught in the Oklahoma City School District for a total of 21 years, including as a Math teacher at Taft Middle School for the past 11 years. She is entitled to have her child taught under subject matter standards which have been constitutionally adopted. HB 3399 greatly affects the core of Ms. Sparks's job responsibilities, and she is entitled to perform these responsibilities under subject matter standards which were constitutionally adopted.

25. Petitioner Lee Baxter is a member of the Board. Maj. Gen. Baxter has been a member of the Board since 2011. He previously served as Vice President of Cameron University. Before that, Maj. Gen. Baxter served in the U.S. Army as the commanding general at Fort Sill. Maj. Gen. Baxter is entitled to fulfill his constitutional responsibility to supervise instruction in public schools without coercive interference by the Legislature into the drafting of subject matter standards.

26. Petitioner Amy Anne Ford is a member of the Board. Ms. Ford also serves on the Southeastern Oklahoma State University Foundation Board of Directors and the Board of Directors for The Oklahoma Academy for State Goals. Ms. Ford is entitled to fulfill her constitutional responsibility to supervise instruction in public schools without coercive interference by the Legislature into the drafting of subject matter standards.

27. Petitioner William F. Shdeed is a member of the Board. Mr. Shdeed is a practicing attorney and on the Board of Directors of Oklahoma City University. He has served as a member of the Board of Trustees of Oklahoma City University since 1987, was Chairman of the Board of Oklahoma City University from 1999-2010, and was elected as Chairman Emeritus of Oklahoma City University. Mr. Shdeed is entitled to fulfill his

constitutional responsibility to supervise instruction in public schools without coercive interference by the Legislature into the drafting of subject matter standards.

28. Petitioner Daniel Keating is a member of the Board. Mr. Keating was appointed by President Bush to the Board of Advisors on Tribal Colleges and Universities in 2002. He is a member of Oklahoma Wesleyan University Foundation's board of directors and previously was an adjunct professor at Oral Roberts University. Mr. Keating is entitled to fulfill his constitutional responsibility to supervise instruction in public schools without coercive interference by the Legislature into the drafting of subject matter standards.

29. The President Pro Tempore of the Oklahoma Senate and the Speaker of the Oklahoma House are named as Respondents only in their official capacities because Petitioners seek a declaration that HB 3399 is unconstitutional as passed by the Oklahoma House of Representatives and Senate.

30. The State of Oklahoma and the Oklahoma State Department of Education are named as Respondents because they will execute HB 3399. Petitioners do not allege that the State Department of Education has engaged in any unlawful conduct.

PUBLIC IMPORTANCE OF THE ISSUE

31. This is a critically important issue because HB 3399 would materially change the pace, content, sequence, and manner of teaching students in every public elementary, middle, and high school in Oklahoma beginning in August 2014. Resolving the constitutionality of HB 3399 would bring certainty and stability to public schools statewide.

32. Further, HB 3399 would materially diminish the independence and authority of the Board and fundamentally alter the balance of power between the Executive and Legislative Branches with respect to public education and agency rulemaking.

**CONFLICT BETWEEN THE OKLAHOMA CONSTITUTION
AND HB 3399**

33. Article XIII, Section 5 of the Oklahoma Constitution grants power to the Board over “supervision of instruction in the public schools.” The Board’s default *ex officio* members are the Governor, Secretary of State, and Attorney General—executive officers. Okla. Const. Art. XIII, § 3. The Legislature has empowered the Governor to appoint six members of the Board, to serve at her pleasure. 70 O.S. § 3-101. Thus the Board is a constitutional body confined to the Executive branch. Article IV, Section 1 of the Oklahoma Constitution provides “the Legislative, Executive, and Judicial departments of government shall be separate and distinct, and neither shall exercise the powers properly belonging to either of the others.”

34. “Every positive delegation of power by the Constitution to one officer or department of government implies a negation of its exercise by any other officer or department.” *Board of Regents v. Baker*, 1981 OK 160, ¶ 7, 638 P.2d 464, 466. “[O]ne constitutional body may not exercise a function expressly set apart to another constitutional body.” *Ethics Com’n v. Cullison*, 1993 OK 37, ¶ 18, 850 P.2d 1069, 1076, citing *Tweedy v. Okla. Bar Ass’n*, 1981 OK 12, ¶¶ 8-9, 624 P.2d 1049, 1053-54.

35. This Court has rejected attempts by the Legislature to interfere with education at the University level based on the similar Constitutional grant of authority to the boards of regents. “We have no doubt that in elevating the status of the Board from a statutory to a constitutional entity, the people intended to limit legislative control over University affairs.” *Baker*, 1981 OK 160, ¶ 8, 638 P.2d at 467; accord *Board of Regents v. Merit Protection Com’n*, 2001 OK 17, ¶ 2, 19 P.3d 865, 866 (Application of the whistleblower act to universities would “clearly offend the exclusive authority granted them by the terms of Art. 6

§ 31a, Art. 13-A and Art. 13-B of the Oklahoma Constitution.”); *Trapp v. Cook Const. Co.*, 1909 OK 259, 105 P. 667 (Constitutionally created A&M Board of Regents not governed by legislation creating Board of Public Affairs); A.G. Opinion 71-322 (Legislature could not change the courses of study at a particular college because Art. XIII-A gives authority over the college to the Board of Regents for Higher Education). The constitutional Board tasked with supervising instruction of kindergarten through twelfth grade should be no different.

36. The executive nature of the Board means HB 3399 separately violates the Constitution’s separation of powers doctrine. Art. IV, § 1, Okla. Const. This Court has rejected similar “legislative intrusion upon the functions assigned by the constitution to the executive.” *Fent v. Contingency Review Bd.*, 2007 OK 27, ¶ 12, 163 P.3d 512, 521. “[E]ach department of the government shall be kept independent in the sense that the acts of each shall never be controlled by or subjected, directly or indirectly, to the coercive influences of either of the other departments.” *In re Oklahoma Dep’t of Transp. for Approval of Not to Exceed \$100 Million Oklahoma Dep’t of Transp. Grant Anticipation Notes, Series 2002* (“*In re ODOT*”), 2002 OK 74, ¶ 8, 64 P.3d 546, 549.

37. This Court has adopted the separation of powers analysis employed by the Supreme Court of Kansas in *Schneider v. Bennett*, 219 Kan. 285, 547 P.2d 786 (1976). *In re ODOT*, 2002 OK 74, ¶ 11, 64 P.3d 546. The first factor—the essential nature of the power being exercised—indicates the Legislature is performing an executive function. The subject matter standards are part of the Oklahoma Administrative Code, so the development and codification of those standards is executive, particularly given the level of specificity in the standards. The Board’s composition of executive officers and appointees underscores the executive nature of its functions. The second and third factors also demonstrate a separation

of powers problem. This Court has held the Legislature was exercising improper coercive control over the Executive when it required consultation or approval for executive functions. *Fent v. Fallin*, 2011 OK 100, 271 P.3d 798, 799; *Fent v. Contingency Review Bd.*, 2007 OK 27, ¶16, 163 P.3d 512, 522; *In re ODOT*, 2002 OK 74, ¶ 26, 64 P.3d 546. Pre-approval of agency action in those cases is no less coercive than the legislative review and approval process of HB 3399 Section 4. Those cases show a lesser degree of control exerted by the Legislature because the Legislature did not have authority to overhaul the agency rules in any of those cases, as it does in HB 3399. The Legislature’s intent to place itself in a position of superiority over the Board is apparent on the face of the statute: HB 3399 does not allow the Board to implement new standards “until the legislative review process is completed” and the Legislature has given “final approval.” 70 O.S. § 11-103.6a-1(A) and (E). HB 3399 Section 3(A), revoking OAS, twice prohibits the Board from implementing subject matter standards or revisions to such standards without “legislative review and approval as provided for in Section 4.” 70 O.S. § 11-103.6a(A).

38. Before Oklahoma embarks on a path to give the Legislature absolute control over the manner and detailed content of instruction and assessment in public school classrooms statewide, setting a new precedent for Legislative authority to draft executive agency rules with impunity, this Court should take up this matter.

JURISDICTION

39. This action is brought in the Supreme Court instead of a district court because no district court could provide sufficient finality on subject matter standards in time to begin the school year. Schools, teachers, parents, and students deserve to have as much preparation as possible for the 2014-15 school year. Moreover, proceeding through district court is unnecessary when the ultimate issue is a question of law that must be determined by this

Court *de novo*. *State ex rel. York v. Turpen*, 1984 OK 26, ¶ 10, 681 P.2d 763, 767 (“The Court alone has the power to authoritatively determine the validity or invalidity of a statute.”)

40. Petitioners seek an answer to a pure question of law: whether HB 3399 violates the Constitution. Specifically, Petitioners ask this Court to rule that the power granted to the Legislature in HB 3399 Section 4—to give “instructions to the State Board of Education” and to “amend the standards in whole or in part,” requiring the Board to incorporate those instructions and amendments—is an unconstitutional encroachment on the authority of the Board and the Executive branch. 70 O.S. § 11-103.6a-1(C).

41. The subject matter standards at the heart of HB 3399 are codified in Title 210 chapter 15 of the Oklahoma Administrative Code. Thus, HB 3399 represents a fundamental expansion of the Legislature’s power by giving the Legislature the pen to directly write regulatory sections of the Administrative Code, reducing the authority of the Board to non-discretionary rubber-stamping. The constitutionality of that grant of power is a straightforward question of law.

42. The Court may assume original jurisdiction on two grounds: its general superintending control over the Board and the doctrine of *publici juris*.

43. This Court’s original jurisdiction extends to “a general superintending control over all . . . Boards created by law.” Okla. Const. art. VII, § 4. The Court’s superintending authority allows the Court to assume original jurisdiction and issue writs of mandamus or prohibition regarding the execution of challenged statutes, *Ethics Comm’n of State of Okl. v. Cullison*, 1993 OK 37, ¶ 5, 850 P.2d 1069, 1072, and to issue “declaratory relief to resolve a claimed intolerable conflict” between the Legislature and an agency, commission or board, *id.* at ¶ 7, 850 P.2d at 1073-74. *See also* 12 O.S. § 1451. The superintending power of this

Court is squarely implicated here. The Court should exercise its superintending power over the Board to resolve a conflict between the authority vested in the Board by the Constitution and the authority granted to the Legislature over the Board in HB 3399.

44. Further, this Court may exercise its discretion to grant original jurisdiction under the doctrine of *publici juris* given the urgency of school starting within two months and that “this matter is imbued with great public importance involving a question of statewide concern relating to the respective powers of the Executive and Legislative Branches of government” and the scope of the Constitutional authority granted to the Board. *Keating v. Johnson*, 1996 OK 61, ¶ 6, ¶¶ 11-17 (collecting cases where requirements were satisfied), 918 P.2d 51, 55, 56-58; *see also Williams Natural Gas Co. v. State Bd. of Equalization*, 1994 OK 150, ¶ 6, 891 P.2d 1219, 1220 (matter concerned tax payments that, if escrowed, would adversely impact school districts); *Fent v. Contingency Review Board*, 2007 OK 27, ¶ 11, 163 P.3d 512, 521 (accepting original jurisdiction to resolve a separation of powers dispute that placed a “heavy cloud” over appropriations); *Edmondson v. Pearce*, 2004 OK 23, ¶ 11, 91 P.3d 605, 613 (*publici juris* requirements are public interest and urgency).

45. This Court’s jurisdiction is further addressed in the brief supporting this application.

REMEDY

46. With respect to remedy, the Petitioners ask this Court to resolve two issues: (a) Does HB 3399 allow the Legislature to encroach on the constitutional authority of the Board under art. XIII §5? and (b) Does the procedure in HB 3399 § 4 violate the separation of powers?

47. Severance of HB 3399 Section 4 is not an option. First, the unconstitutional provisions of Section 4 are so intertwined with Section 3, Section 8, and Section 12 of HB

3399 that it is not possible to sever out just the unconstitutional portions. Moreover, many of the provisions in Section 3 do not make sense without Section 4. Second, severing the unconstitutional portions would result in the Legislature having no power over the subject matter standards. Given the extensive power over the standards which is repeatedly contained in HB 3399, this Court cannot presume that the Legislature would have passed HB 3399 had it known there would be no legislative authority over the subject matter standards.

CONCLUSION

This Court should assume original jurisdiction, declare that HB 3399 violates Art. XIII § 5, Okla. Const., declare that HB 3399 violates Art. IV § 1, Okla. Const., and issue a writ of mandamus to the Oklahoma State Department of Education, prohibiting it from implementing HB 3399.



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BAXTER, AMY ANNE FORD, WILLIAM F. SHDEED,

AND DANIEL KEATING

CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of June, 2014, a true and correct copy of the forgoing Application to Assume Original Jurisdiction and Petition for Writ and Declaratory Relief was served as follows:

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