

Senate Bill 69

By: Senators Cagle of the 49<sup>th</sup>, Johnson of the 1<sup>st</sup>, Price of the 56<sup>th</sup>, Perdue of the 18<sup>th</sup>, Ray of the 48<sup>th</sup> and others

A BILL TO BE ENTITLED  
AN ACT

1 To enact the "ABC Initiative"; to amend Part 12 of Article 6 of Chapter 2 of Title 20 of the  
2 Official Code of Georgia Annotated, relating to the effectiveness of educational programs  
3 under the "Quality Basic Education Act," so as to change a provision relating to notification  
4 regarding the results of required assessment tests; to change provisions relating to testing for  
5 students receiving special education services; to provide that the State Board of Education  
6 shall establish the standard of satisfactory performance on criterion-referenced competency  
7 tests; to provide for an accelerated reading program for students in grades kindergarten  
8 through two who are determined to be at risk for dyslexia or other reading difficulties; to  
9 prohibit the promotion of students in grades three, five, and eight who do not perform  
10 satisfactorily on certain criterion-referenced competency tests; to require that accelerated  
11 instruction be provided to such students; to provide for grade placement committees and for  
12 their powers and duties; to repeal conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 **SECTION 1.**

15 This Act shall be known and may be cited as the "ABC Initiative."

16 **SECTION 2.**

17 Part 12 of Article 6 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated,  
18 relating to the effectiveness of educational programs under the "Quality Basic Education  
19 Act," is amended by striking in its entirety Code Section 20-2-281, relating to the assessment  
20 of the effectiveness of educational programs, and inserting in lieu thereof the following:

21 "20-2-281.

22 (a) The State Board of Education shall adopt a student assessment program consisting of  
23 instruments, procedures, and policies necessary to implement the program and shall fund  
24 all costs of providing and scoring such instruments, subject to appropriation by the General  
25 Assembly. Nationally norm-referenced instruments in reading, mathematics, science, and

1 social studies shall be administered to students in grades three, five, and eight. The State  
2 Board of Education shall review, revise, and upgrade the quality core curriculum.  
3 Following the adoption of this revised curriculum, the State Board of Education shall  
4 contract for development of criterion-referenced competency tests to measure the quality  
5 core curriculum. Such tests in English and language arts, mathematics, and reading shall  
6 be administered annually to students in grades one through eight, and such tests in science  
7 and social studies shall be administered annually to students in grades three through eight.  
8 This action shall be completed according to a schedule established by the State Board of  
9 Education. A curriculum-based assessment shall be administered in grade 11 for  
10 graduation purposes. Writing assessments shall be administered to students in grades three,  
11 five, eight, and 11. The writing assessments shall provide students and their parents with  
12 performance outcome measures resulting from the administration of such tests.

13 (b) The nationally normed assessments provided for in subsection (a) of this Code section  
14 shall provide students and their parents with grade equivalencies and percentile ranks  
15 which result from the administration of such tests. Criterion-referenced tests and the high  
16 school graduation test provided for in subsection (a) of this Code section shall provide for  
17 results that reflect student achievement at the individual student, classroom, school, system,  
18 and state levels. The State Board of Education shall participate in the National Assessment  
19 of Educational Progress (NAEP) and may participate in any other tests that will allow  
20 benchmarking this state's performance against national or international performance. The  
21 results of such testing shall be provided to the Governor, the General Assembly, and the  
22 State Board of Education and shall be reported to the citizens of Georgia. Further, the state  
23 board shall adopt a school readiness assessment for students entering first grade and shall  
24 administer such assessment pursuant to paragraph (2) of subsection (b) of Code Section  
25 20-2-151. One of the components in the awarding of salary supplements as part of a pay  
26 for performance or related plan pursuant to Code Section 20-2-213 or other Code sections  
27 under this article may be assessments of student achievement.

28 (b.1) The State Board of Education shall notify local school systems and individual  
29 schools of the results of the assessment instruments administered under this Code section  
30 at the earliest possible date determined by the state board, but not later than the ~~beginning~~  
31 ~~of the subsequent school year~~ end of the school year in which the assessment instrument  
32 is administered.

33 (c) The State Board of Education shall have the authority to condition the awarding of a  
34 high school diploma to a student upon achievement of satisfactory scores on instruments  
35 or tests adopted and administered by the state board pursuant to subsection (a) of this Code  
36 section. The state board is authorized and directed to adopt regulations providing that any  
37 disabled child, as defined by the provisions of this article, shall be afforded opportunities

1 to take any test adopted by the state board as a condition for the awarding of a high school  
 2 diploma. Said regulations shall further provide for appropriate accommodations in the  
 3 administration of such test. Said regulations shall further provide for the awarding of a  
 4 special education diploma to any disabled student who is lawfully assigned to a special  
 5 education program and who does not achieve a passing score on said test or who has not  
 6 completed all of the requirements for a high school diploma but who has nevertheless  
 7 completed his or her Individualized Education Program.

8 ~~(d)(1) The State Board of Education shall develop or adopt alternate assessments to be~~  
 9 ~~administered to each student receiving special education services pursuant to Code~~  
 10 ~~Section 20-2-152 who does not receive instruction in the essential knowledge and skills~~  
 11 ~~identified in the quality core curriculum developed pursuant to Code Section 20-2-140~~  
 12 ~~and for whom the assessment instruments adopted under subsection (a) of this Code~~  
 13 ~~section, even with allowable modifications, would not provide an appropriate measure~~  
 14 ~~of student achievement, as determined by the student's Individualized Education Program~~  
 15 ~~team. A student's Individualized Education Program may serve as an alternate~~  
 16 ~~assessment for that student. Students with alternate assessments shall not be counted for~~  
 17 ~~the state accountability purposes provided for in this article.~~

18 ~~(2) A student's Individualized Education Program team shall determine appropriate~~  
 19 ~~participation in assessment and identify necessary accommodations in accordance with~~  
 20 ~~the federal Individuals with Disabilities Education Act.~~

21 ~~(e)~~(d) The State Board of Education shall adopt end-of-course assessments for students in  
 22 grades nine through 12 for all core subjects to be determined by the state board. For those  
 23 students with an Individualized Education Program, the student's Individualized Education  
 24 Program team shall determine appropriate participation in assessments and identify  
 25 necessary accommodations in accordance with the federal Individuals with Disabilities  
 26 Education Act.

27 ~~(f)~~(e) Under rules adopted by the State Board of Education, the Department of Education  
 28 shall release the questions and answer keys to each criterion-referenced competency test  
 29 administered under subsection (a) of this Code section and each end-of-course test  
 30 administered under subsection ~~(e)~~ (d) of this Code section after the last time the instrument  
 31 is administered for a school year. To ensure a valid bank of questions for use each year,  
 32 the department is not required to release a question that is being field tested and was not  
 33 used to compute the student's score on the instrument.

34 ~~(g)~~(f) The State Board of Education, through the Department of Education, shall  
 35 administer the end-of-course assessments for core subject areas as defined by state board  
 36 policy. The state board shall promulgate a schedule for the development and  
 37 administration of all end-of-course tests by December 1, 2000.

1 ~~(h)~~(g) The Department of Education shall develop study guides for the criterion-referenced  
2 tests and end-of-course assessments administered pursuant to subsections (a) and ~~(e)~~ (d)  
3 of this Code section. Each school system shall distribute the study guides to students who  
4 do not perform satisfactorily on one or more parts of an assessment instrument  
5 administered under this Code section and to the parents or guardians of such students.

6 ~~(i)~~(h)(1) The high school graduation test provided for in subsection (a) of this Code  
7 section shall continue in effect until all high school core subject end-of-course  
8 assessments have been developed and implemented, at which time the state board shall  
9 discontinue the test according to a schedule to be determined by the state board.

10 (2) The State Board of Education shall adopt rules regarding course exit requirements  
11 in regard to the implemented core subject end-of-course assessments before discontinuing  
12 the high school graduation test.

13 (3) Local boards of education shall have the option of allowing scores on end-of-course  
14 assessments to be counted as part of a student's grade in the course.

15 ~~(j)~~(i)(1) In addition to the assessment instruments adopted by the State Board of  
16 Education and administered by the Department of Education, a local school system may  
17 adopt and administer criterion-referenced or norm-referenced assessment instruments, or  
18 both, at any grade level. Such locally adopted assessment instruments may not replace  
19 the state's adopted assessment instruments for purposes of state accountability programs,  
20 except as otherwise provided in paragraph (2) of this subsection. A local school system  
21 shall be responsible for all costs and expenses incurred for locally adopted assessment  
22 instruments. Students with Individualized Education Programs must be included in the  
23 locally adopted assessments or provided an alternate assessment in accordance with the  
24 federal Individuals with Disabilities Education Act.

25 (2) The State Board of Education shall have the authority to grant waivers until Fiscal  
26 Year 2003 to local boards of education exempting said boards from the administration  
27 of the state criterion-referenced competency tests at any or all of the subject areas and  
28 grade levels for which the local board of education implements a locally developed  
29 criterion-referenced competency test or tests based on the Quality Core Curriculum which  
30 increases the expectations for student achievement beyond that of the applicable state  
31 criterion-referenced competency test or tests and meets all other requirements of this  
32 Code section, including reliability and validity requirements, with the exception of  
33 subsection ~~(f)~~ (e) of this Code section. Local boards of education with such waivers shall  
34 submit to the State Board of Education school and local school system score reports of  
35 the locally developed criterion-referenced competency tests.

36 ~~(k)~~(j) In adopting academic skills assessment instruments under this Code section, the  
37 State Board of Education or local school system shall ensure the security of the instruments

1 in their preparation, administration, and scoring. Notwithstanding any other provision of  
 2 law, meetings or portions of meetings held by the state board or a local board of education  
 3 at which individual assessment instruments or assessment instrument items are discussed  
 4 or adopted shall not be open to the public, and the assessment instruments or assessment  
 5 instrument items shall be confidential.

6 ~~(h)~~(k) The results of individual student performance on academic skills assessment  
 7 instruments administered under this Code section shall be confidential and may be released  
 8 only in accordance with the federal Family Educational Rights and Privacy Act of 1974,  
 9 20 U.S.C. Section 1232g.

10 ~~(m)~~(l) Overall student performance data shall be disaggregated by ethnicity, sex,  
 11 socioeconomic status, disability, language proficiency, grade level, subject area, school,  
 12 and system.

13 ~~(n)~~(m) Student performance data shall be made available to the public, with appropriate  
 14 interpretations, by the State Board of Education, the Office of Education Accountability,  
 15 and local school system. The information made available to the public shall not contain  
 16 the names of individual students or teachers.

17 ~~(o)~~(n) Teachers in grades one through 12 shall be offered the opportunity to participate  
 18 annually in a staff development program on the use of tests within the instructional  
 19 program designed to improve students' academic achievement. This program shall instruct  
 20 teachers on curriculum alignment related to tests, disaggregated student test data to identify  
 21 student academic weaknesses by subtests, and other appropriate applications as determined  
 22 by the State Board of Education."

### 23 SECTION 3.

24 Said part is further amended by adding at the end thereof two new Code sections, to be  
 25 designated as Code Sections 20-2-282 and 20-2-283, to read as follows:

26 "20-2-282.

27 (a) A local school system shall notify the parent or guardian of each student in  
 28 kindergarten who is determined, on the basis of results of the first grade readiness  
 29 instrument administered under paragraph (2) of subsection (b) of Code Section 20-2-151,  
 30 to be at risk for dyslexia or other reading difficulties. A local school system shall notify  
 31 the parent or guardian of each student in first or second grade who is determined, on the  
 32 basis of results of criterion-referenced competency tests in reading administered under  
 33 Code Section 20-2-281, to be at risk for dyslexia or other reading difficulties. The local  
 34 school system shall implement an accelerated reading instruction program that provides  
 35 reading instruction that addresses reading deficiencies in those students and shall determine  
 36 the form, content, and timing of that program. The Individualized Education Program team

1 of a student who receives special education services pursuant to Code Section 20-2-152 and  
2 who does not perform satisfactorily on the first grade readiness instrument or the  
3 criterion-referenced competency tests under this Code section shall determine the manner  
4 in which the student will participate in an accelerated reading instruction program under  
5 this subsection.

6 (b) The local school system shall report in writing to a student's parent or guardian the  
7 student's results on the first grade readiness instrument or the criterion-referenced  
8 competency tests in reading. The local school system shall make a good faith effort to  
9 ensure that the notice required under this Code section is provided either in person or by  
10 regular mail and that the notice is clear and easy to understand and is written in English and  
11 in the parent or guardian's native language.

12 (c) The provisions of this Code section relating to parental notification of a student's  
13 results on the readiness instrument or competency test and implementation of an  
14 accelerated reading instruction program may be implemented only if the State Board of  
15 Education certifies that funds have been appropriated during a school year for  
16 administering the accelerated reading instruction program specified under this Code  
17 section.

18 (d) Each local school system shall provide the accelerated reading instruction described  
19 in subsection (a) of this Code section to students in:

- 20 (1) Kindergarten beginning with the 2003-2004 school year;
- 21 (2) Kindergarten and first grade beginning with the 2005-2006 school year; and
- 22 (3) Kindergarten and first and second grades beginning with the 2008-2009 school year.

23 20-2-283.

24 (a) Except as provided by subsection (b) or (e) of this Code section, a student may not be  
25 promoted to:

- 26 (1) The fourth grade if the student does not perform satisfactorily on the third grade  
27 criterion-referenced competency test in reading administered under Code Section  
28 20-2-281;
- 29 (2) The sixth grade if the student does not perform satisfactorily on the fifth grade  
30 criterion-referenced competency tests in mathematics and reading administered under  
31 Code Section 20-2-281; or
- 32 (3) The ninth grade if the student does not perform satisfactorily on the eighth grade  
33 criterion-referenced competency tests in mathematics and reading administered under  
34 Code Section 20-2-281.

35 (b) A local school system shall provide to a student who initially fails to perform  
36 satisfactorily on a criterion-referenced competency test specified under subsection (a) of

1 this Code section at least two additional opportunities to take the test. A local school  
2 system may administer a different assessment instrument to a student who has failed a  
3 criterion-referenced competency test specified under subsection (a) of this Code section on  
4 the previous two opportunities. Notwithstanding any other provision of this Code section,  
5 a student may be promoted if the student performs at grade level on a different assessment  
6 instrument under this subsection that is appropriate for the student's grade level and  
7 approved by the State Board of Education.

8 (c) Each time a student fails to perform satisfactorily on a criterion-referenced competency  
9 test specified under subsection (a) of this Code section, the local school system in which  
10 the student attends school shall provide to the student accelerated instruction in the  
11 applicable subject area, including reading instruction for a student who fails to perform  
12 satisfactorily on a reading test. After a student fails to perform satisfactorily on a  
13 criterion-referenced competency test a second time, a grade placement committee shall be  
14 established to prescribe the accelerated instruction the local school system shall provide to  
15 the student before the student is administered the test the third time. The grade placement  
16 committee shall be composed of the principal or the principal's designee, the student's  
17 parent or guardian, and the teacher of the subject of a test on which the student failed to  
18 perform satisfactorily. The local school system shall notify the parent or guardian of the  
19 time and place for convening the grade placement committee and the purpose of the  
20 committee. An accelerated instruction group administered by a local school system under  
21 this Code section may not have a ratio of more than ten students for each teacher.

22 (d) In addition to providing accelerated instruction to a student under subsection (c) of this  
23 Code section, the local school system shall notify the student's parent or guardian of:

- 24 (1) The student's failure to perform satisfactorily on the criterion-referenced competency  
25 test;
- 26 (2) The accelerated instruction program to which the student is assigned; and
- 27 (3) The possibility that the student might be retained at the same grade level for the next  
28 school year.

29 (e) A student who, after at least three attempts, fails to perform satisfactorily on a  
30 criterion-referenced competency test specified under subsection (a) of this Code section  
31 shall be retained at the same grade level for the next school year in accordance with  
32 subsection (a) of this Code section. The student's parent or guardian may appeal the  
33 student's retention by submitting a request to the grade placement committee established  
34 under subsection (c) of this Code section. The local school system shall give the parent or  
35 guardian written notice of the opportunity to appeal. The grade placement committee may  
36 decide in favor of a student's promotion only if the committee concludes, using standards  
37 adopted by the local board of education, that if promoted and given accelerated instruction,

1 the student is likely to perform at grade level. A student may not be promoted on the basis  
2 of the grade placement committee's decision unless that decision is unanimous. The State  
3 Board of Education by rule shall establish a timeline for making the placement  
4 determination. This subsection does not create a property interest in promotion. The  
5 decision of the grade placement committee is final and may not be appealed.

6 (f) A local school system shall provide to a student who, after three attempts, has failed  
7 to perform satisfactorily on a criterion-referenced competency test specified under  
8 subsection (a) of this Code section accelerated instruction during the next school year as  
9 prescribed by an educational plan developed for the student by the student's grade  
10 placement committee established under subsection (c) of this Code section. The local  
11 school system shall provide that accelerated instruction regardless of whether the student  
12 has been promoted or retained. The educational plan must be designed to enable the  
13 student to perform at the appropriate grade level by the conclusion of the school year.  
14 During the school year, the student shall be monitored to ensure that the student is  
15 progressing in accordance with the plan. The local school system shall administer to the  
16 student the criterion-referenced competency test for the grade level in which the student  
17 is placed at the time the local school system regularly administers the criterion-referenced  
18 competency tests for that school year.

19 (g) This Code section does not preclude the retention at a grade level, in accordance with  
20 state law or local board of education policy, of a student who performs satisfactorily on a  
21 criterion-referenced competency test specified under subsection (a) of this Code section.

22 (h) In each instance under this Code section in which a local school system is specifically  
23 required to provide notice to a parent or guardian of a student, the local school system shall  
24 make a good faith effort to ensure that such notice is provided either in person or by regular  
25 mail and that the notice is clear and easy to understand and is written in English and the  
26 parent or guardian's native language.

27 (i) The Individualized Education Program team of a student who receives special  
28 education services pursuant to Code Section 20-2-152 and who does not perform  
29 satisfactorily on an assessment instrument specified under subsection (a) of this Code  
30 section shall determine:

31 (1) The manner in which the student will participate in an accelerated instruction  
32 program under this Code section; and

33 (2) Whether the student will be promoted or retained under this Code section.

34 (j) A local school system shall provide students required to attend accelerated instruction  
35 programs under this Code section with transportation to those programs if the programs  
36 occur outside of regular school hours.

1 (k) The State Board of Education shall adopt rules as necessary to implement this Code  
 2 section, including rules concerning when local school systems shall administer  
 3 criterion-referenced competency tests required under this Code section.

4 (l) The State Board of Education shall issue a report to the General Assembly not later than  
 5 December 1, 2006, that reviews the enrollment of students in accelerated instruction  
 6 programs and the quality and availability of accelerated instruction programs, including  
 7 accelerated instruction related teacher professional development programs.

8 (m) The State Board of Education shall certify, not later than July 1 of each school year  
 9 or as soon as practicable thereafter, whether sufficient funds have been appropriated state  
 10 wide for the purposes of this Code section. A determination by the State Board of  
 11 Education is final and may not be appealed. For purposes of certification, the State Board  
 12 of Education may not consider Quality Basic Education Program funds. This Code section  
 13 may be implemented only if the State Board of Education certifies that sufficient funds  
 14 have been appropriated during a school year for administering the accelerated instruction  
 15 programs specified under this Code section.

16 (n) This Code section applies to the criterion-referenced competency tests administered  
 17 to students in:

18 (1) The third grade beginning with the 2003-2004 school year;

19 (2) The fifth grade beginning with the 2005-2006 school year; and

20 (3) The eighth grade beginning with the 2008-2009 school year.

21 (o) Satisfactory performance on the criterion-referenced competency tests described in this  
 22 Code section shall be as established by the State Board of Education.

23 (p) In order to be eligible to receive state funding pursuant to Code Sections 20-2-161 and  
 24 20-2-260, a local school system shall comply with the requirements of this Code section."

#### 25 **SECTION 4.**

26 Article 2 of Chapter 14 of Title 20 of the Official Code of Georgia Annotated, relating to  
 27 education accountability assessment programs, is amended by striking in its entirety Code  
 28 Section 20-14-31, relating to standards for satisfactory performance, and inserting in lieu  
 29 thereof the following:

30 "20-14-31.

31 ~~Except as otherwise provided in this article, the office shall establish the level of~~  
 32 ~~performance considered to be satisfactory on each assessment instrument administered~~  
 33 ~~under Code Section 20-2-281 by establishing the standard that should be achieved by~~  
 34 ~~students in each subject area at each grade level. Data and information regarding the~~  
 35 ~~establishment of the standard shall be included in the annual report provided for in~~  
 36 ~~paragraph (2) of subsection (a) of Code Section 20-14-27 Reserved.~~"

