

The House Committee on Education offers the following substitute to SB 364:

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to
2 elementary and secondary education, so as to revise provisions relating to annual teacher,
3 principal, and assistant principal evaluations; to revise provisions relating to student
4 assessments; to provide for mastery in reading by the end of third grade and mastery in basic
5 math skills by the end of fifth grade; to provide for complaints on procedural deficiencies in
6 conducting evaluations; to provide for related matters; to repeal conflicting laws; and for
7 other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and
11 secondary education, is amended by revising subsection (b) of Code Section 20-2-210,
12 relating to annual performance evaluations, as follows:

13 "(b)(1) No later than the 2014-2015 school year, each local school system and all charter
14 schools shall implement an evaluation system as adopted and defined by the State Board
15 of Education for elementary and secondary school teachers of record, assistant principals,
16 and principals. The evaluation system shall be developed by the department in
17 consultation with stakeholders, such as teachers and principals. The evaluation system
18 shall use multiple measures, prioritizing growth in student achievement as specified in
19 this subsection. For purposes of the evaluation system established pursuant to this
20 subsection, the state board shall define and designate teachers of record, assistant
21 principals, and principals; provided, however, that growth in student achievement shall
22 not include the test scores of any student who has not been in attendance for a specific
23 course for at least 90 percent of the instructional days for such course.

24 ~~(2) Teachers of record, assistant principals, and principals shall be evaluated using~~
25 ~~multiple, rigorous, and transparent measures. Beginning with the 2014-2015 school year,~~
26 ~~teachers of record, assistant principals, and principals shall be given written notice in~~

27 ~~advance of the school year of the evaluation measures and any specific indicators that~~
 28 ~~will be used to evaluate them. Evaluation measures shall include the following elements:~~

29 ~~(A) For teachers of record who teach courses that are subject to annual state~~
 30 ~~assessments aligned with state standards and the principals and assistant principals of~~
 31 ~~elementary or secondary schools that are subject to such assessments, growth in student~~
 32 ~~achievement on such assessments shall count for at least 50 percent of the evaluation,~~
 33 ~~using the student growth and academic achievement measures identified in the~~
 34 ~~evaluation system;~~

35 ~~(B) For teachers of record who teach courses not subject to annual state assessments,~~
 36 ~~growth in student achievement shall be assessed through measures of student~~
 37 ~~achievement growth developed at the school system level and approved by the~~
 38 ~~Department of Education. When sufficient data becomes available from the department~~
 39 ~~to calculate student achievement growth measures, such measures of student~~
 40 ~~achievement growth shall count for at least 50 percent of the evaluation, using student~~
 41 ~~growth and academic achievement measures developed by the school system in a~~
 42 ~~process approved by the State Board of Education;~~

43 ~~(C) For teachers of record, the annual evaluation shall also include multiple additional~~
 44 ~~measures that shall be correlated with impacts on student achievement results. These~~
 45 ~~measures shall include multiple classroom observations each year by appropriately~~
 46 ~~trained and credentialed evaluators, using clear, consistent observation rubrics, and~~
 47 ~~supplemented by other measures aligned with student achievement, including student~~
 48 ~~perception data and documentation of practice; and~~

49 ~~(D) For assistant principals and principals, the annual evaluation shall also include~~
 50 ~~multiple additional measures that shall be aligned with impacts on student achievement~~
 51 ~~results. These measures shall include multiple school observations each year by~~
 52 ~~appropriately trained and credentialed evaluators. When sufficient data becomes~~
 53 ~~available from the department to calculate performance measures, these measures shall~~
 54 ~~also include the principal's ability to attract and retain highly effective teachers,~~
 55 ~~effectively manage the school, and establish a positive climate for learning, and other~~
 56 ~~measures aligned with student achievement for students in all subgroups. Reserved.~~

57 (3) Teachers of record, assistant principals, and principals shall be evaluated using
 58 multiple, rigorous, and transparent measures. Teachers of record, assistant principals, and
 59 principals shall be given written notice in advance of the school year of the evaluation
 60 measures and any specific indicators that will be used to evaluate them. Beginning with
 61 the 2016-2017 school year, evaluation measures shall include the following elements:

62 (A) For teachers of record who teach courses that are subject to annual state
63 assessments aligned with state standards, the evaluation shall be composed of the
64 following:

65 (i) Student growth, based on student scores on the annual state assessment, shall
66 count for 30 percent of the evaluation;

67 (ii) Professional growth shall count for 20 percent of the evaluation. Professional
68 growth shall be measured by progress toward or attainment of professional growth
69 goals within an academic school year or across academic school years. Professional
70 growth goals may include measurements based on multiple student growth indicators,
71 evaluations and observations, standards of practice, and any additional professional
72 growth measures allowed by the local school system's or charter school's flexibility
73 contract or other agreement with the State Board of Education for local school
74 systems that are not under a flexibility contract; and

75 (iii) Teacher evaluations and observations conducted pursuant to paragraph (5) of this
76 subsection shall count for 50 percent of the evaluation.

77 (B) For teachers of record who teach courses that are not subject to annual state
78 assessments aligned with state standards, the evaluation shall be composed of the
79 following:

80 (i) Student growth shall count for 30 percent of the evaluation. Student growth shall
81 include at least one student growth measure and may utilize other student growth
82 indicators, including the school or local school system total score on the annual state
83 assessments, as allowed by the local school system's or charter school's flexibility
84 contract or other agreement with the State Board of Education for local school
85 systems that are not under a flexibility contract for at least one classroom for each
86 teacher of record who teaches courses that are not subject to annual state assessments
87 aligned with state standards. This provision shall not be construed to require the
88 measurement of student growth for every student taking courses that are not subject
89 to annual state assessments aligned with state standards;

90 (ii) Professional growth shall count for 20 percent of the evaluation. Professional
91 growth shall be measured by progress toward or attainment of professional growth
92 goals within an academic school year or across academic school years. Professional
93 growth goals may include measurements based on multiple student growth indicators,
94 evaluations and observations, standards of practice, and any additional professional
95 growth measures allowed by the local school system's or charter school's flexibility
96 contract or other agreement with the State Board of Education for local school
97 systems that are not under a flexibility contract; and

98 (iii) Teacher evaluations and observations conducted pursuant to paragraph (5) of this
 99 subsection shall count for 50 percent of the evaluation.

100 (C) For principals and assistant principals, the evaluation shall be composed of the
 101 following:

102 (i) Student growth, based on the school score on annual state assessments, shall count
 103 for 40 percent of the evaluation;

104 (ii) School climate shall count for 10 percent of the evaluation;

105 (iii) A combination of achievement gap closure, Beat the Odds, and College and
 106 Career Readiness Performance Index data, as allowed by the flexibility contract or
 107 other agreement with the State Board of Education for local school systems that are
 108 not under a flexibility contract, shall count for 20 percent of the evaluation; and

109 (iv) The results of evaluations, observations, and standards of practice shall count for
 110 30 percent of the evaluation.

111 ~~(3)~~(4) The evaluation system adopted by the State Board of Education shall give every
 112 teacher of record, assistant principal, and principal one of four rating levels that are
 113 designated as 'Exemplary,' 'Proficient,' 'Needs Development,' or 'Ineffective,' as further
 114 defined by the State Board of Education. A rating of 'Ineffective' shall constitute
 115 evidence of incompetency as provided by paragraph (1) of subsection (a) of Code Section
 116 20-2-940. Each teacher of record, assistant principal, and principal shall be evaluated on
 117 his or her own individual merits and neither the State Board of Education, a local school
 118 system, nor a charter school shall impose or require any quota system or predetermined
 119 distribution of ratings for teachers of record, assistant principals, or principals.

120 ~~(4)~~(5) All teachers of record, assistant principals, and principals shall have a
 121 pre-evaluation conference, midyear evaluation conference, and a summative evaluation
 122 conference, in accordance with state board rules. All teachers of record, assistant
 123 principals, and principals shall be notified of and have access to the results of the annual
 124 summative performance evaluation and any formative observations conducted throughout
 125 the school year pursuant to this subsection within ~~five~~ ten working days of such
 126 evaluation or observations. A teacher of record, assistant principal, or principal, or an
 127 evaluator of any such individuals, may request a conference within ten working days of
 128 notice of results of a formative observation and such conference shall be provided within
 129 ten working days of the request. Conferences shall include the individual being
 130 evaluated, his or her supervisor, and the evaluator, unless otherwise agreed upon. For
 131 teachers of record, the annual evaluation shall include multiple classroom observations
 132 conducted each year by appropriately trained and credentialed evaluators, using clear,
 133 consistent observation rubrics, and supplemented by other measures aligned with student
 134 achievement and professional growth. A local school system or charter school may

135 include in its flexibility contract, or other agreement with the State Board of Education
 136 for local school systems that are not under a flexibility contract, a provision for a tiered
 137 evaluation system, in which reduced observations of certain teachers of record may be
 138 conducted to provide additional time for evaluators to coach and mentor new teachers and
 139 teachers with a performance rating of 'Needs Development' or 'Ineffective' pursuant to
 140 paragraph (4) of this subsection on a pathway of continuous improvement. For the
 141 evaluation of teachers of record with a minimum of three years' teaching experience and
 142 a performance rating of 'Proficient' or 'Exemplary' pursuant to paragraph (4) of this
 143 subsection in the previous school year, the local school system or charter school, in its
 144 discretion, shall require no less than two classroom observations and one summative
 145 evaluation for the school year.

146 ~~(5)~~(6) In order to ensure proper implementation of the evaluation system developed
 147 pursuant to this Code section, the Department of Education shall:

148 (A) Establish processes and requirements to determine the teacher of record for
 149 purposes of assigning student achievement scores to a teacher in evaluating the
 150 teacher's performance;

151 (B) Establish processes for roster verification and student teacher linkages in order to
 152 assign the student's achievement scores to the teacher for the purposes of evaluating the
 153 teacher's performance;

154 (C) Establish minimum training and credentialing requirements for evaluators of
 155 teachers and principals; and

156 (D) Provide data systems to support the professional growth of teachers and leaders
 157 and facilitate human capital management.

158 (7) As used in this subsection, the term 'flexibility contract' means a charter for a charter
 159 system or a charter school or a contract entered into with the State Board of Education
 160 for a strategic waivers school system."

161 **SECTION 2.**

162 Said article is further amended by revising Code Section 20-2-281, relating to student
 163 assessments, as follows:

164 "20-2-281.

165 (a) The State Board of Education shall adopt a student assessment program consisting of
 166 instruments, procedures, and policies necessary to implement the program and shall fund
 167 all costs of providing and scoring such instruments, subject to appropriation by the General
 168 Assembly. The student assessment program shall include a comprehensive summative
 169 assessment program for grades three through 12. In addition, each local school system
 170 shall administer, with state funding, a research based formative assessment with a

171 summative component that is tied to performance indicators in English, language
 172 arts/reading, and mathematics in grades one and two, subject to available appropriations.
 173 Each local school system may elect to administer, with state funding, nationally
 174 norm-referenced instruments in reading, mathematics, science, or social studies in grade
 175 three, four, or five and in grade six, seven, or eight, subject to available appropriations,
 176 with assistance to such school systems by the State Board of Education with regard to
 177 administration guidance, scoring, and reporting of such instruments. Further, the State
 178 Board of Education shall adopt a school readiness assessment for students entering first
 179 grade and shall administer such assessment pursuant to paragraph (2) of subsection (b) of
 180 Code Section 20-2-151. Each local school system is strongly encouraged to develop and
 181 implement a program of multiple formative assessment and intervention assessments in
 182 reading and mathematics for kindergarten through third grade and mathematics for
 183 kindergarten through fifth grade to ensure that students entering sixth grade are on track
 184 to meet grade-level expectations, including mastery in reading by the end of third grade to
 185 prepare for the infusion of literacy in subsequent grades and mastery in basic mathematics
 186 skills by the end of fifth grade and in accordance with the local school system's five-year
 187 strategic plan, performance indicators, and, if applicable, flexibility contract or other
 188 agreement with the State Board of Education for local school systems that are not under
 189 a flexibility contract. The State Board of Education shall periodically review, revise, and
 190 upgrade the content standards. Following the adoption of such content standards, the State
 191 Board of Education shall contract for development of end-of-grade assessments to measure
 192 the content standards. Such As part of the comprehensive summative assessment program,
 193 end-of-grade assessments in English, language arts/reading, and mathematics shall be
 194 administered annually to students in grades three through eight, and such tests in science
 195 and social studies shall be administered annually to students in grades ~~three through five~~
 196 and eight. These tests shall contain features that allow for comparability to other states
 197 with whom establishing such comparison would be statistically sound; provided, however,
 198 that no such comparison shall be conducted which would relinquish any measure of control
 199 over assessments to any individual or entity outside the state. ~~This action shall be~~
 200 ~~completed according to a schedule established by the State Board of Education.~~ Further,
 201 as part of the comprehensive summative assessment program, the State Board of Education
 202 shall adopt and administer, through the Department of Education, end-of-course
 203 assessments for students in grades nine through 12 for all core subjects, as determined by
 204 the state board. Writing performance shall be assessed, at a minimum, for students in
 205 grades three, five, eight, and 11 and may be assessed for students in additional grade levels
 206 as designated by the State Board of Education. Such required writing performance
 207 assessment may be embedded within the assessments included in the comprehensive

208 summative assessment program. Writing performance results shall be provided to students
 209 and their parents. If authorized by federal law, the Department of Education may establish
 210 a pilot program for local school systems that have an existing program of multiple
 211 formative assessments during the course of the academic year that result in a single
 212 summative score that is valid and reliable in measuring individual student achievement or
 213 growth and assessing individual student needs or deficiencies, to utilize such local
 214 assessments in place of end-of-grade or end-of-course assessments, if provided for in the
 215 terms of the local school system's flexibility contract. As used in this subsection, the term
 216 'flexibility contract' means a charter for a charter system or a charter school or a contract
 217 entered into with the State Board of Education for a strategic waivers school system.

218 (b) The nationally norm-referenced instruments provided for in subsection (a) of this Code
 219 section shall provide students and their parents with grade equivalencies and percentile
 220 ranks which result from the administration of such instruments. End-of-grade assessments
 221 shall provide for results that reflect student achievement at the individual student,
 222 classroom, school, system, state, and national levels. The State Board of Education shall
 223 participate in the National Assessment of Educational Progress (NAEP) and may
 224 participate in any other tests that will allow benchmarking this state's performance against
 225 national or international performance. The results of such testing shall be provided to the
 226 Governor, the General Assembly, and the State Board of Education and shall be reported
 227 to the citizens of Georgia. ~~Further, the state board shall adopt a school readiness~~
 228 ~~assessment for students entering first grade and shall administer such assessment pursuant~~
 229 ~~to paragraph (2) of subsection (b) of Code Section 20-2-151.~~ One of the components in the
 230 awarding of salary supplements as part of a pay for performance or related plan under this
 231 article may be assessments of student achievement.

232 (b.1) The State Board of Education shall notify local school systems and individual
 233 schools of the results of the assessment instruments administered under this Code section
 234 at the earliest possible date determined by the state board, but not later than the beginning
 235 of the subsequent school year. In the event the state board is unable to provide timely
 236 results in the first year of implementation of a substantially new assessment instrument, the
 237 provisions in paragraphs (2) and (3) of subsection (b) of Code Section 20-2-283 shall not
 238 apply.

239 (c) The State Board of Education shall have the authority to condition the awarding of a
 240 high school diploma to a student upon achievement of satisfactory scores on end-of course
 241 assessments and other instruments adopted and administered by the state board pursuant
 242 to subsection (a) of this Code section ~~and the end-of-course assessments adopted and~~
 243 ~~administered by the state board pursuant to subsections (f) and (h) of this Code section.~~
 244 The state board is authorized and directed to adopt regulations providing that any disabled

245 child, as defined by the provisions of this article, shall be afforded opportunities to take any
 246 test adopted by the state board as a condition for the awarding of a high school diploma.
 247 Such regulations shall further provide for appropriate accommodations in the
 248 administration of such test. Such regulations shall further provide for the awarding of a
 249 special education diploma to any disabled student who is lawfully assigned to a special
 250 education program and who does not achieve a passing score on such test or who has not
 251 completed all of the requirements for a high school diploma but who has nevertheless
 252 completed his or her Individualized Education Program.

253 (d)(1) The State Board of Education shall develop or adopt alternate assessments to be
 254 administered to those students with significant cognitive disabilities, receiving special
 255 education services pursuant to Code Section 20-2-152, who cannot access the state
 256 adopted content standards without appropriate accommodations to those standards and
 257 for whom the assessment instruments adopted under ~~subsections~~ subsection (a) and (f)
 258 of this Code section, even with allowable accommodations, would not provide an
 259 appropriate measure of student achievement, as determined by the student's
 260 Individualized Education Program team. Such alternate assessments shall be aligned with
 261 alternate academic achievement standards that have been adopted through a documented
 262 and validated standards-setting process, for students with the most significant cognitive
 263 disabilities, provided those standards are aligned with the state standards established
 264 pursuant to Code Section 20-2-140 and promote access to the general education
 265 curriculum, consistent with the federal Individuals with Disabilities Education Act. The
 266 State Board of Education shall ensure that any alternate assessments developed or
 267 adopted pursuant to this subsection are in compliance with applicable federal law, but do
 268 not impose requirements in excess of such federal law in a manner that unduly burdens
 269 a local school system or that does not benefit students with the most significant cognitive
 270 disabilities.

271 (2) A student's Individualized Education Program team shall determine appropriate
 272 participation in assessment and identify necessary accommodations in accordance with
 273 the federal Individuals with Disabilities Education Act and state board regulations.

274 (e) The State Board of Education is authorized to adopt rules, regulations, policies, and
 275 procedures regarding accommodations and the participation of limited-English-proficient
 276 students, as defined in Code Section 20-2-156, in the assessments described in this Code
 277 section.

278 ~~(f) The State Board of Education shall adopt end-of-course assessments for students in~~
 279 ~~grades nine through 12 for all core subjects to be determined by the state board.~~ For those
 280 students with an Individualized Education Program, each such student's Individualized

281 Education Program team shall identify necessary accommodations in accordance with the
282 federal Individuals with Disabilities Education Act and state board regulations.

283 (g) Under rules adopted by the State Board of Education, the Department of Education
284 shall, subject to appropriations by the General Assembly, release some or all of the
285 questions and answers to each end-of-grade assessment and each end-of-course assessment
286 administered under subsection (a) of this Code section ~~and each end-of-course assessment~~
287 ~~administered under subsection (h) of this Code section~~ after the last time such assessment
288 is administered for a school year.

289 ~~(h) The State Board of Education, through the Department of Education, shall administer~~
290 ~~the end-of-course assessments for core subject areas as defined by state board policy. By~~
291 ~~the 2015-2016 school year, the State Board of Education shall make all end-of-course~~
292 assessments available for administration online and shall establish rules and regulations to
293 maximize the number of students and school systems utilizing such online assessments.

294 (i) The Department of Education shall develop study guides for the end-of-grade
295 assessments and end-of-course assessments administered pursuant to ~~subsections~~
296 subsection (a) and (h) of this Code section. Each school system shall distribute the study
297 guides to students who do not perform satisfactorily on one or more parts of an assessment
298 instrument administered under this Code section and to the parents or guardians of such
299 students.

300 (j) The State Board of Education shall adopt rules and regulations requiring the results of
301 core subject end-of-course assessments to be included as a factor in a student's final grade
302 in the core subject course for which the end-of-course assessment is given.

303 (k) In addition to the assessment instruments adopted by the State Board of Education and
304 administered by the Department of Education, a local school system may adopt and
305 administer criterion-referenced or norm-referenced assessment instruments, or both, at any
306 grade level. Such locally adopted assessment instruments may not replace the state's
307 adopted assessment instruments for purposes of state accountability programs. A local
308 school system shall be responsible for all costs and expenses incurred for locally adopted
309 assessment instruments. Students with Individualized Education Programs must be
310 included in the locally adopted assessments or provided an alternate assessment in
311 accordance with the federal Individuals with Disabilities Education Act.

312 (l) In adopting academic skills assessment instruments under this Code section, the State
313 Board of Education or local school system shall ensure the security of the instruments in
314 their preparation, administration, and scoring. Notwithstanding any other provision of law,
315 meetings or portions of meetings held by the state board or a local board of education at
316 which individual assessment instruments or assessment instrument items are discussed or

317 adopted shall not be open to the public, and the assessment instruments or assessment
318 instrument items shall be confidential.

319 (m) The results of individual student performance on academic skills assessment
320 instruments administered under this Code section shall be confidential and may be released
321 only in accordance with the federal Family Educational Rights and Privacy Act of 1974,
322 20 U.S.C. Section 1232g.

323 (n) Overall student performance data shall be disaggregated by ethnicity, sex,
324 socioeconomic status, disability, language proficiency, grade level, subject area, school,
325 system, and other categories determined by policies established by the Office of Student
326 Achievement.

327 (o) Student performance data shall be made available to the public, with appropriate
328 interpretations, by the State Board of Education, the Office of Student Achievement, and
329 local school system. The information made available to the public shall not contain the
330 names of individual students or teachers.

331 (p) Teachers in kindergarten through grade 12 shall be offered the opportunity to
332 participate annually in a staff development program on the use of tests within the
333 instructional program designed to improve students' academic achievement. This program
334 shall instruct teachers on curriculum alignment related to tests, disaggregated student test
335 data to identify student academic weaknesses by subtests, and other appropriate
336 applications as determined by the State Board of Education.

337 (q) The State Board of Education shall consider the passage by a student of an industry
338 certification examination or a state licensure examination which is approved by the State
339 Board of Education or a ~~COMPASS~~ an ACCUPLACER score approved by the State Board
340 of Education when considering whether to grant such student a variance or a waiver of one
341 or more end-of-course assessments or other instruments required by the State Board of
342 Education pursuant to subsection (c) of this Code section in order to obtain a Georgia high
343 school diploma; provided, however, that the state board shall not grant a variance to a
344 student unless the student has attempted and failed to pass the relevant end-of-course
345 assessment or assessments at least four times.

346 (r) In order to maximize classroom instruction time, the State Board of Education shall
347 study and adopt policies beginning with the 2017-2018 school year that will move the
348 end-of-grade and end-of-course assessment testing windows as close to the end of the
349 school year or semester as possible. The Department of Education shall prepare and submit
350 a report to the House Committee on Education and the Senate Education and Youth
351 Committee no later than December 31, 2016, regarding proposed policies and obstacles
352 that prevent testing windows from being scheduled later in the school year or semester.
353 Local school systems are strongly encouraged to administer any such state required

354 assessments within the last week of the school system's midyear semester, for assessments
355 administered at the end of a midyear semester, and within the last two weeks of the school
356 year for the school system, for assessments administered at the end of the academic year.
357 (s) All assessments adopted or developed by the State Board of Education pursuant to this
358 Code section shall be verified for reliability and validity by a nationally recognized,
359 research based, third-party evaluator."

360 **SECTION 3.**

361 Said chapter is further amended by revising subsection (a) of Code Section 20-2-989.7,
362 relating to matters not subject to complaint, as follows:

363 "(a) The performance ratings contained in personnel evaluations conducted pursuant to
364 Code Section 20-2-210, professional development plans, and job performance shall not be
365 subject to complaint under the provisions of this part; provided, however, this shall not
366 apply to procedural deficiencies on the part of the local school system or charter school in
367 conducting an evaluation pursuant to Code Section 20-2-210. The termination,
368 nonrenewal, demotion, suspension, or reprimand of any employee, as set forth in Code
369 Section 20-2-940, and the revocation, suspension, or denial of certificates of any employee,
370 as set forth in Code Section 20-2-984.5, shall not be subject to complaint under the
371 provisions of this part."

372 **SECTION 4.**

373 All laws and parts of laws in conflict with this Act are repealed.