Senate Bill 367
By: Senators Martin of the 9th, Strickland of the 17th, Tillery of the 19th, Kirkpatrick of the 32nd, Brass of the 28th and others

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

To amend Part 12 of Article 6 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to effectiveness of educational programs, so as to reduce the number of student assessments; to provide for when assessments must be administered; to provide for analysis of locally implemented assessments; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Part 12 of Article 6 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to effectiveness of educational programs, is amended by revising Code Section 20-2-281, relating to student assessments, as follows:

"20-2-281. (a) The State Board of Education shall adopt a student assessment program consisting of instruments, procedures, and policies necessary to implement the program and shall fund all costs of providing and scoring such instruments, subject to appropriation by the General Assembly. The student assessment program shall include a comprehensive summative assessment program for grades three through 12. In addition, each local school system shall administer, with state funding, a research based formative assessment with a summative component that is tied to performance indicators in English language arts/reading and mathematics in grades one and two, subject to available appropriations. Such research based assessment shall be selected after consultation with local school systems. Such research based assessment shall provide for real-time data analysis for students, teachers, school leaders, and parents; allow flexible grouping of students based on skill level; and measure student progress toward grade-level expectations throughout the school year. Each local school system may elect to administer, with state funding, nationally norm referenced instruments in reading, mathematics, science, or social studies in grade three, four, or five and in grade six, seven, or eight, subject to available appropriations, with assistance to such local school systems by the State Board of Education."
with regard to administration guidance, scoring, and reporting of such instruments. Further, the State Board of Education shall adopt a school readiness assessment for students entering first grade and shall administer such assessment pursuant to paragraph (2) of subsection (b) of Code Section 20-2-151. Each local school system is encouraged to develop and implement a program of multiple formative assessments in reading and mathematics for kindergarten through fifth grade to ensure that students entering sixth grade are on track to meet grade-level expectations, including mastery in reading by the end of third grade to prepare for the infusion of literacy in subsequent grades and mastery in basic mathematics skills by the end of fifth grade and in accordance with the local school system's five-year strategic plan, performance indicators, and, if applicable, flexibility contract or other agreement with the State Board of Education for local school systems that are not under a flexibility contract. The State Board of Education shall periodically review, revise, and upgrade the content standards. Following the adoption of such content standards, the State Board of Education shall contract for development of end-of-grade assessments to measure the content standards. As part of the comprehensive summative assessment program, end-of-grade assessments in English language arts/reading and mathematics shall be administered annually to students in grades three through eight, and such tests in science and social studies shall be administered annually to students in grades five and eight; and such tests in social studies shall be administered annually to students in grade eight; provided, however, that each local school system participating in the innovative assessment pilot program established pursuant to Code Section 20-2-286 shall be required to administer only such end-of-grade assessments as specified in the local school system's flexibility contract, as amended for participation in the innovative assessment pilot program. These tests shall contain features that allow for comparability to other states with which establishing such comparison would be statistically sound; provided, however, that no such comparison shall be conducted which would relinquish any measure of control over assessments to any individual or entity outside the state. Further, as part of the comprehensive summative assessment program, the State Board of Education shall adopt and administer, through the Department of Education, one end-of-course assessment for students in grades nine through twelve in each of the four core subjects, as determined by the state board; provided, however, that each local school system participating in the innovative assessment pilot program established pursuant to Code Section 20-2-286 shall be required to administer only such end-of-course assessments as specified in the local school system's flexibility contract, as amended for participation in the innovative assessment pilot program. Writing performance shall be assessed, at a minimum, for students in grades three, five, and eight; and 11 and may be assessed for students in additional grade levels as designated by the
State Board of Education and once in grades nine through 12. Such required writing performance assessment may be embedded within the assessments included in the comprehensive summative assessment program. Writing performance results shall be provided to students and their parents. If authorized to establish and operate an innovative assessment system pursuant to 34 C.F.R. Section 200.104, the Department of Education may establish a pilot program for local school systems that have an existing program of multiple formative assessments during the course of the academic year that result in a single summative score that is valid and reliable in measuring individual student achievement or growth and assessing individual student needs or deficiencies, to utilize such local assessments in place of end-of-grade or end-of-course assessments, if provided for in the terms of the local school system's flexibility contract. As used in this subsection, the term 'flexibility contract' means a charter for a charter system or a charter school or a contract entered into with the State Board of Education for a strategic waivers school system.

(b) The nationally norm-referenced instruments provided for in subsection (a) of this Code section shall provide students and their parents with grade equivalencies and percentile ranks which result from the administration of such instruments. End-of-grade assessments shall provide for results that reflect student achievement at the individual student, classroom, school, system, state, and national levels. The State Board of Education shall participate in the National Assessment of Educational Progress (NAEP) and may participate in any other tests with norm-referenced items that will allow benchmarking this state's performance against national or international performance. The results of such testing shall be provided to the Governor, the General Assembly, and the State Board of Education and shall be reported to the citizens of Georgia. One of the components in the awarding of salary supplements as part of a pay for performance or related plan under this article may be assessments of student achievement.

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

(c) The State Board of Education shall have the authority to condition the awarding of a high school diploma to a student upon achievement of satisfactory scores on end-of-course assessments and other instruments adopted and administered by the state board pursuant to subsection (a) of this Code section. The state board is authorized and directed to adopt
regulations providing that any disabled child, as defined by the provisions of this article, shall be afforded opportunities to take any test adopted by the state board as a condition for the awarding of a high school diploma. Such regulations shall further provide for appropriate accommodations in the administration of such test. Such regulations shall further provide for the awarding of a special education diploma to any disabled student who is lawfully assigned to a special education program and who does not achieve a passing score on such test or who has not completed all of the requirements for a high school diploma but who has nevertheless completed his or her Individualized Education Program.

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

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

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

(f) For those students with an Individualized Education Program, each such student's Individualized Education Program team shall identify necessary accommodations in accordance with the federal Individuals with Disabilities Education Act and state board regulations.
(g) Under rules adopted by the State Board of Education, the Department of Education shall, subject to appropriations by the General Assembly, release some or all of the questions and answers to each end-of-grade assessment and each end-of-course assessment administered under subsection (a) of this Code section after the last time such assessment is administered for a school year.

(h) The State Board of Education shall make all end-of-course assessments available for administration online and shall establish rules and regulations to maximize the number of students and school systems utilizing such online assessments.

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

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

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

(l) In adopting academic skills assessment instruments under this Code section, the State Board of Education or local school system shall ensure the security of the instruments in their preparation, administration, and scoring. Notwithstanding any other provision of law, meetings or portions of meetings held by the state board or a local board of education at which individual assessment instruments or assessment instrument items are discussed or adopted shall not be open to the public, and the assessment instruments or assessment instrument items shall be confidential.

(m) The results of individual student performance on academic skills assessment instruments administered under this Code section shall be confidential and may be released only in accordance with the federal Family Educational Rights and Privacy Act of 1974, 20 U.S.C. Section 1232g.
(n) Overall student performance data shall be disaggregated by ethnicity, sex, socioeconomic status, disability, language proficiency, grade level, subject area, school, system, and other categories determined by policies established by the Office of Student Achievement.

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

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

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

(r) In order to maximize classroom instruction time, the State Board of Education shall study and adopt policies beginning with the 2017-2018 school year that will move the end-of-grade and end-of-course assessment testing windows as close to the end of the school year or semester as possible. The Department of Education shall prepare and submit a report to the House Committee on Education and the Senate Education and Youth Committee no later than December 31, 2016, regarding proposed policies and obstacles that prevent testing windows from being scheduled later in the school year or semester. Local school systems are strongly encouraged to administer any such state required assessments within the last week of the school system's midyear semester, for assessments administered at the end of a midyear semester, and within the last two weeks of the school year for the school system, for assessments administered at the end of the academic year local school systems shall administer the state required end-of-grade assessments for grades three through eight within 25 school days of the school system's last school day of the
regular school year. The state required end-of-course assessments for grades nine through 12 shall be administered on dates set by the Department of Education.

(s) All assessments adopted or developed by the State Board of Education pursuant to this Code section shall be verified for reliability and validity by a nationally recognized, research based, third-party evaluator.

(t)(1) The State Board of Education shall direct the existing assessment workgroup to pursue maximum flexibility for state and local assessments under federal law. Such maximum flexibility shall include, but not be limited to, utilization of nationally recognized college and career ready high school assessments, provided that comparability can be established pursuant to paragraph (2) of this subsection, as well as application for innovative assessment demonstration authority, as provided for in 34 C.F.R. Section 200.104. The state board shall provide a report regarding such no later than September 1, 2017, to the State School Superintendent, Governor, Lieutenant Governor, Speaker of the House of Representatives, and the chairpersons of the Senate Education and Youth Committee and the House Committee on Education and shall post such report on the Department of Education website no later than September 1, 2017.

(2) The State Board of Education shall conduct a comparability study to determine and establish the concordance of nationally recognized academic assessments, including, but not limited to, the SAT, ACT, and ACCUPLACER with alignment to state content standards in grades nine through 12. Such comparability study shall also determine whether the nationally recognized high school academic assessment provides data that are comparable to current end-of-course assessments and valid and reliable for all subgroups and whether the assessment provides differentiation between schools' performances as required by the state accountability plan. The state board shall initiate such study no later than July 1, 2017, and shall post such study on the Department of Education website and provide the study to the State School Superintendent, Governor, Lieutenant Governor, Speaker of the House of Representatives, and the chairpersons of the Senate Education and Youth Committee and the House Committee on Education upon completion of the federal review process.

(u) The Department of Education may conduct an analysis of locally implemented assessments administered in local school systems, including the purpose, use, and number of locally implemented assessments. Based on this analysis, the Department of Education shall identify systems to assist with identification and elimination of redundant assessments and provide guidance to such school systems on developing effective locally implemented assessments that are most helpful with improving student achievement.”

SECTION 2.
247 All laws and parts of laws in conflict with this Act are repealed.