

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

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

6 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

7 **SECTION 1.**

8 Part 12 of Article 6 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated,
9 relating to effectiveness of educational programs, is amended by revising Code Section
10 20-2-281, relating to student assessments, as follows:

11 "20-2-281.

12 (a) The State Board of Education shall adopt a student assessment program consisting of
13 instruments, procedures, and policies necessary to implement the program and shall fund
14 all costs of providing and scoring such instruments, subject to appropriation by the General
15 Assembly. The student assessment program shall include a comprehensive summative
16 assessment program for grades three through 12. In addition, each local school system
17 shall administer, with state funding, a research based formative assessment with a
18 summative component that is tied to performance indicators in English language
19 arts/reading and mathematics in grades one and two, subject to available appropriations.
20 Such research based assessment shall be selected after consultation with local school
21 systems. Such research based assessment shall provide for real-time data analysis for
22 students, teachers, school leaders, and parents; allow flexible grouping of students based
23 on skill level; and measure student progress toward grade-level expectations throughout
24 the school year. Each local school system may elect to administer, with state funding,
25 nationally norm referenced instruments in reading, mathematics, science, or social studies
26 in grade three, four, or five and in grade six, seven, or eight, subject to available
27 appropriations, with assistance to such local school systems by the State Board of

28 Education with regard to administration guidance, scoring, and reporting of such
 29 instruments. ~~Further, the~~ The State Board of Education shall adopt a school readiness
 30 assessment for students entering first grade and shall administer such assessment pursuant
 31 to paragraph (2) of subsection (b) of Code Section 20-2-151. ~~Each local school system is~~
 32 ~~strongly encouraged to develop and implement a program of multiple formative~~
 33 ~~assessments in reading and mathematics for kindergarten through fifth grade to ensure that~~
 34 ~~students entering sixth grade are on track to meet grade-level expectations, including~~
 35 ~~mastery in reading by the end of third grade to prepare for the infusion of literacy in~~
 36 ~~subsequent grades and mastery in basic mathematics skills by the end of fifth grade and in~~
 37 ~~accordance with the local school system's five-year strategic plan, performance indicators,~~
 38 ~~and, if applicable, flexibility contract or other agreement with the State Board of Education~~
 39 ~~for local school systems that are not under a flexibility contract.~~ The State Board of
 40 Education shall periodically review, revise, and upgrade the content standards. Following
 41 the adoption of such content standards, the State Board of Education shall contract for
 42 development of end-of-grade assessments to measure the content standards. As part of the
 43 comprehensive summative assessment program, end-of-grade assessments in English
 44 language arts/reading and mathematics shall be administered annually to students in grades
 45 three through eight, ~~and;~~ such tests in science ~~and social studies~~ shall be administered
 46 annually to students in grades five and eight; and such tests in social studies shall be
 47 administered annually to students in grade eight; provided, however, that each local school
 48 system participating in the innovative assessment pilot program established pursuant to
 49 Code Section 20-2-286 shall be required to administer only such end-of-grade assessments
 50 as specified in the local school system's flexibility contract, as amended for participation
 51 in the innovative assessment pilot program. ~~These tests shall contain features that allow~~
 52 ~~for comparability to other states with which establishing such comparison would be~~
 53 ~~statistically sound; provided, however, that no such comparison shall be conducted which~~
 54 ~~would relinquish any measure of control over assessments to any individual or entity~~
 55 ~~outside the state.~~ ~~Further, as~~ As part of the comprehensive summative assessment program,
 56 the State Board of Education shall adopt and administer, through the Department of
 57 Education, one end-of-course assessments assessment for students in grades nine through
 58 12 ~~for all~~ in each of the four core subjects, as determined by the state board; provided,
 59 however, that each local school system participating in the innovative assessment pilot
 60 program established pursuant to Code Section 20-2-286 shall be required to administer
 61 only such end-of-course assessments as specified in the local school system's flexibility
 62 contract, as amended for participation in the innovative assessment pilot program. Writing
 63 performance shall be assessed, at a minimum, for students in grades three, five, and eight;
 64 ~~and 11 and may be assessed for students in additional grade levels as designated by the~~

65 ~~State Board of Education and once in grades nine through 12.~~ Such required writing
66 performance assessment may be embedded within the assessments included in the
67 comprehensive summative assessment program. Writing performance results shall be
68 provided to students and their parents. If authorized to establish and operate an innovative
69 assessment system pursuant to 34 C.F.R. Section 200.104, the Department of Education
70 may establish a pilot program for local school systems that have an existing program of
71 multiple formative assessments during the course of the academic year that result in a
72 single summative score that is valid and reliable in measuring individual student
73 achievement or growth and assessing individual student needs or deficiencies, to utilize
74 such local assessments in place of end-of-grade or end-of-course assessments, if provided
75 for in the terms of the local school system's flexibility contract. As used in this subsection,
76 the term 'flexibility contract' means a charter for a charter system or a charter school or a
77 contract entered into with the State Board of Education for a strategic waivers school
78 system.

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

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

98 (c) The State Board of Education shall have the authority to condition the awarding of a
99 high school diploma to a student upon achievement of satisfactory scores on end-of course
100 assessments and other instruments adopted and administered by the state board pursuant
101 to subsection (a) of this Code section. The state board is authorized and directed to adopt

102 regulations providing that any disabled child, as defined by the provisions of this article,
103 shall be afforded opportunities to take any test adopted by the state board as a condition for
104 the awarding of a high school diploma. Such regulations shall further provide for
105 appropriate accommodations in the administration of such test. Such regulations shall
106 further provide for the awarding of a special education diploma to any disabled student
107 who is lawfully assigned to a special education program and who does not achieve a
108 passing score on such test or who has not completed all of the requirements for a high
109 school diploma but who has nevertheless completed his or her Individualized Education
110 Program.

111 (d)(1) The State Board of Education shall develop or adopt alternate assessments to be
112 administered to those students with significant cognitive disabilities, receiving special
113 education services pursuant to Code Section 20-2-152, who cannot access the state
114 adopted content standards without appropriate accommodations to those standards and
115 for whom the assessment instruments adopted under subsection (a) of this Code section,
116 even with allowable accommodations, would not provide an appropriate measure of
117 student achievement, as determined by the student's Individualized Education Program
118 team. Such alternate assessments shall be aligned with alternate academic achievement
119 standards that have been adopted through a documented and validated standards-setting
120 process, for students with the most significant cognitive disabilities, provided that those
121 standards are aligned with the state standards established pursuant to Code Section
122 20-2-140 and promote access to the general education curriculum, consistent with the
123 federal Individuals with Disabilities Education Act. The State Board of Education shall
124 ensure that any alternate assessments developed or adopted pursuant to this subsection
125 are in compliance with applicable federal law, but do not impose requirements in excess
126 of such federal law in a manner that unduly burdens a local school system or that does
127 not benefit students with the most significant cognitive disabilities.

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

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

135 (f) For those students with an Individualized Education Program, each such student's
136 Individualized Education Program team shall identify necessary accommodations in
137 accordance with the federal Individuals with Disabilities Education Act and state board
138 regulations.

139 (g) Under rules adopted by the State Board of Education, the Department of Education
140 shall, subject to appropriations by the General Assembly, release some or all of the
141 questions and answers to each end-of-grade assessment and each end-of-course assessment
142 administered under subsection (a) of this Code section after the last time such assessment
143 is administered for a school year.

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

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

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

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

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

171 (m) The results of individual student performance on academic skills assessment
172 instruments administered under this Code section shall be confidential and may be released
173 only in accordance with the federal Family Educational Rights and Privacy Act of 1974,
174 20 U.S.C. Section 1232g.

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

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

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

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

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

211 regular school year. The state required end-of-course assessments for grades nine through
 212 12 shall be administered on dates set by the Department of Education.

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

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

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

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

246

SECTION 2.

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