

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

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4 analysis of locally implemented assessments; to remove outdated provisions; to provide for
5 related matters; to provide for an effective date; to repeal conflicting laws; and for other
6 purposes.

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

8 **SECTION 1.**

9 Part 12 of Article 6 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated,
10 relating to effectiveness of educational programs, is amended by revising Code Section
11 20-2-281, relating to student assessments, as follows:

12 "20-2-281.

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

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

64 pursuant to Code Section 20-2-286 shall be required to administer only such end-of-course
 65 assessments as specified in the local school system's flexibility contract, as amended for
 66 participation in the innovative assessment pilot program. Writing performance shall be
 67 assessed, at a minimum, for students in grades three, five, and eight, ~~and 11 and may be~~
 68 ~~assessed for students in additional grade levels as designated by the State Board of~~
 69 Education and once in grades nine through 12. Such required writing performance
 70 assessment may be embedded within the assessments included in the comprehensive
 71 summative assessment program. Writing performance results shall be provided to students
 72 and their parents. If authorized to establish and operate an innovative assessment system
 73 pursuant to 34 C.F.R. Section 200.104, the Department of Education may establish a pilot
 74 program for local school systems that have an existing program of multiple formative
 75 assessments during the course of the academic year that result in a single summative score
 76 that is valid and reliable in measuring individual student achievement or growth and
 77 assessing individual student needs or deficiencies, to utilize such local assessments in place
 78 of end-of-grade or end-of-course assessments, if provided for in the terms of the local
 79 school system's flexibility contract. As used in this subsection, the term 'flexibility
 80 contract' means a charter for a charter system or a charter school or a contract entered into
 81 with the State Board of Education for a strategic waivers school system.

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

97 (b.1) The State Board of Education shall notify local school systems and individual
 98 schools of the results of the assessment instruments administered under this Code section
 99 at the earliest possible date determined by the state board, but not later than the beginning
 100 of the subsequent school year. In the event the state board is unable to provide timely

101 results in the first year of implementation of a substantially new assessment instrument, the
102 provisions in paragraphs (2) and (3) of subsection (b) of Code Section 20-2-283 shall not
103 apply.

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

117 (d)(1) The State Board of Education shall develop or adopt alternate assessments to be
118 administered to those students with significant cognitive disabilities, receiving special
119 education services pursuant to Code Section 20-2-152, who cannot access the state
120 adopted content standards without appropriate accommodations to those standards and
121 for whom the assessment instruments adopted under subsection (a) of this Code section,
122 even with allowable accommodations, would not provide an appropriate measure of
123 student achievement, as determined by the student's Individualized Education Program
124 team. Such alternate assessments shall be aligned with alternate academic achievement
125 standards that have been adopted through a documented and validated standards-setting
126 process, for students with the most significant cognitive disabilities, provided that those
127 standards are aligned with the state standards established pursuant to Code Section
128 20-2-140 and promote access to the general education curriculum, consistent with the
129 federal Individuals with Disabilities Education Act. The State Board of Education shall
130 ensure that any alternate assessments developed or adopted pursuant to this subsection
131 are in compliance with applicable federal law, but do not impose requirements in excess
132 of such federal law in a manner that unduly burdens a local school system or that does
133 not benefit students with the most significant cognitive disabilities.

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

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

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

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

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

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

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

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

170 (l) In adopting academic skills assessment instruments under this Code section, the State
171 Board of Education or local school system shall ensure the security of the instruments in
172 their preparation, administration, and scoring. Notwithstanding any other provision of law,
173 meetings or portions of meetings held by the state board or a local board of education at

174 which individual assessment instruments or assessment instrument items are discussed or
175 adopted shall not be open to the public, and the assessment instruments or assessment
176 instrument items shall be confidential.

177 (m) The results of individual student performance on academic skills assessment
178 instruments administered under this Code section shall be confidential and may be released
179 only in accordance with the federal Family Educational Rights and Privacy Act of 1974,
180 20 U.S.C. Section 1232g.

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

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

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

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

204 (r) In order to maximize classroom instruction time, ~~the State Board of Education shall~~
205 ~~study and adopt policies beginning with the 2017-2018 school year that will move the~~
206 ~~end-of-grade and end-of-course assessment testing windows as close to the end of the~~
207 ~~school year or semester as possible. The Department of Education shall prepare and submit~~
208 ~~a report to the House Committee on Education and the Senate Education and Youth~~
209 ~~Committee no later than December 31, 2016, regarding proposed policies and obstacles~~
210 ~~that prevent testing windows from being scheduled later in the school year or semester.~~

211 ~~Local school systems are strongly encouraged to administer any such state required~~
 212 ~~assessments within the last week of the school system's midyear semester, for assessments~~
 213 ~~administered at the end of a midyear semester, and within the last two weeks of the school~~
 214 ~~year for the school system, for assessments administered at the end of the academic year~~
 215 local school systems shall administer the state required end-of-grade assessments for grades
 216 three through eight within 25 school days of the school system's last school day of the
 217 regular school year. The state required end-of-course assessments for grades nine through
 218 12 shall be administered on dates set by the Department of Education.

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

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

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

246 (t) The Department of Education may conduct an analysis of locally implemented
 247 assessments administered in local school systems, including the purpose, use, and number

248 of locally implemented assessments. Based on this analysis, the Department of Education
249 shall identify systems to assist with identification and elimination of redundant assessments
250 and provide guidance to such school systems on developing effective locally implemented
251 assessments that are most helpful with improving student achievement."

252 **SECTION 2.**

253 This Act shall become effective on August 1, 2020.

254 **SECTION 3.**

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