

Senate Bill 355

By: Senators Ligon, Jr. of the 3rd, McKoon of the 29th, Hill of the 6th, Williams of the 27th, Martin of the 9th and others

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 enact the "Student/Teacher Protection Act";
3 to end punitive testing consequences for both teachers and students related to federal, state,
4 and locally mandated standardized assessments; to provide for alternative administrations of
5 student assessments; to ensure that federal, state, and locally mandated standardized
6 assessments provide for multiyear grade span measures; to provide for guidelines for
7 functional level testing for cognitively disabled students on all assessments; to clarify that
8 local school systems are not required to set a 1 percent cap for students having significant
9 cognitive disabilities who can be administered an alternate assessment with regard to federal,
10 state, and locally mandated standardized assessments; to revise provisions relating to
11 evaluation systems; to clarify that local school system authority allows both the expansion
12 and enrichment of the state's content standards as well as to choose assessments aligned with
13 the enriched content standards which may be more rigorous in its content coverage and
14 difficulty than federal, state, and locally mandated standardized assessments; to prevent
15 abusive or bullying responses and punitive policies regarding student nonparticipation in
16 federal, state, and locally mandated standardized assessments; to set a percentage cap on the
17 amount of time dedicated to all federal, state, and locally mandated standardized assessments
18 and testing preparation for such assessments, including school system benchmarking; to
19 provide for parental and medical reasons to excuse students from participation in any federal,
20 state, and locally mandated standardized assessments; to provide for guidance on how
21 students are reported for failure to take federal, state, and locally mandated standardized
22 assessments; to prevent truancy or referrals to the Division of Family and Children Services
23 for absenteeism during standardized testing windows for federal, state, and locally mandated
24 standardized assessments unless a student already has a chronic history of truancy; to provide
25 for a short title; to provide for legislative findings; to provide for related matters; to repeal
26 conflicting laws; and for other purposes.

27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

28 **SECTION 1.**

29 This Act shall be known and may be cited as the "Student/Teacher Protection Act."

30 **SECTION 2.**

31 The General Assembly finds that:

32 (1) Due to the unscientific and unreliable methods of measuring student growth, the
33 percentage amount of any teacher's evaluation dependent on student test performance
34 should be drastically reduced;35 (2) The recent federal study by the National Center for Education Evaluation and
36 Regional Assistance, which is part of the Institute of Education Sciences of the United
37 States Department of Education, reveals that the value added models are not capable of
38 measuring a teacher's effect on student learning in just one year;39 (3) Even over three years, these measures of effectiveness still do not meet the .85 level
40 of reliability traditionally desired in scores used for high-stakes decisions (Haertel, 2013;
41 Wasserman & Bracken, 2003); and42 (4) The study strongly cautions states that are considering the student growth percentile
43 model for teacher accountability about using the scores for high-stakes decisions.44 **SECTION 3.**45 Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and
46 secondary education, is amended in Code Section 20-2-200, relating to regulation of
47 certificated professional personnel by the Professional Standards Commission, by revising
48 subsection (c) as follows:49 "(c) An individual who has received any combination of ~~two~~ three unsatisfactory,
50 ineffective, or needs development annual summative performance evaluations in the
51 previous five-year period pursuant to Code Section 20-2-210 shall not be entitled to a
52 renewable certificate prior to demonstrating that such performance deficiency has been
53 satisfactorily addressed, but such individual may apply to the commission for a
54 nonrenewable certificate, as defined by the commission. Each local school system and
55 charter school shall report all unsatisfactory, ineffective, and needs development ratings
56 of all performance evaluations as provided in Code Section 20-2-210 for certificated
57 personnel in their employ in a manner, format, and frequency determined by the
58 commission. The commission is authorized to release such data, provided that it cannot
59 be personally identifiable to any currently or formerly certificated person."

SECTION 4.

60
61 Said chapter is further amended in Code Section 20-2-210, relating to the annual teacher
62 evaluation, by revising subsection (b) as follows:

63 "(b)(1) No later than the 2014-2015 school year, each local school system and all charter
64 schools shall implement an evaluation system as adopted and defined by the State Board
65 of Education for elementary and secondary school teachers of record, assistant principals,
66 and principals. The evaluation system shall be developed by the department in
67 consultation with stakeholders, such as teachers and principals. The evaluation system
68 shall use multiple measures, prioritizing growth in student achievement; provided,
69 however, that growth in student achievement shall not include the test scores of any
70 student who has been absent from a specific course for more than ten days based on
71 maximum days of possible enrollment from the first day of the academic year or
72 semester. For purposes of the evaluation system established pursuant to this subsection,
73 the state board shall define and designate teachers of record, assistant principals, and
74 principals.

75 (2) Teachers of record, assistant principals, and principals shall be evaluated using
76 multiple, rigorous, and transparent measures. Beginning with the 2014-2015 school year,
77 teachers of record, assistant principals, and principals shall be given written notice in
78 advance of the school year of the evaluation measures and any specific indicators that
79 will be used to evaluate them. Evaluation measures shall include the following elements:

80 (A) For teachers of record who teach courses that are subject to annual state or school
81 system level assessments aligned with state standards and the principals and assistant
82 principals of elementary or secondary schools ~~that~~ who are subject to such assessments,
83 such assessments shall be independently validated and proven as reliable; growth in
84 student achievement on such assessments shall count for ~~at least 50~~ no more than 10
85 percent of the teacher's evaluation, using the student growth and academic achievement
86 measures identified in the evaluation system. At least 90 percent of the evaluation shall
87 be based on multiple forms of measures of growth and overall academic achievement
88 measures, not associated with standardized testing results, developed by the school
89 system in a uniform process approved by the State Board of Education. As used in this
90 subparagraph, the term 'independently validated and proven as reliable' means that the
91 reliability and validity of a student assessment has been measured and proven by an
92 independent or outside psychometric team or company. The statistical measurements
93 used in this process must meet American Educational Research Association, American
94 Psychological Association, American Statistical Association, and National Council on
95 Measurement in Education standards and definitions of reliability and validity as
96 provided in the publication *Standards for Educational and Psychological Testing*;

97 (B) For teachers of record who teach courses not subject to annual state assessments,
98 growth in student achievement shall be assessed through measures of student
99 achievement growth developed at the school system level and in a process approved by
100 the Department of Education; provided, however, that such measures as student
101 learning objectives, student growth objectives, school system benchmarks, or similar
102 measures shall be approved by the Department of Education for reliability and validity,
103 and the methodology and measurements used shall be posted on the department
104 website. When sufficient data becomes available from the department to calculate
105 student achievement growth measures, such measures of student achievement growth
106 shall count for ~~at least 50~~ no more than 10 percent of the evaluation, using student
107 growth and academic achievement measures developed by the school system in a
108 process approved by the State Board of Education, and at least 90 percent of the
109 teacher's evaluation shall be based on multiple forms of measures of growth and overall
110 academic achievement measures, not associated with standardized testing results,
111 developed by the school system in a uniform process approved by the State Board of
112 Education;

113 (C) For teachers of record, the annual evaluation shall also include multiple additional
114 measures, including both formal and informal teacher observations in a modified
115 system, that shall be correlated with impacts on student achievement results; provided,
116 however, that there shall be no more than four formal and four informal teacher
117 observations in an academic school year. These measures shall include multiple
118 classroom observations each year by different appropriately trained and credentialed
119 evaluators, using clear, consistent observation rubrics, and supplemented by other
120 measures aligned with student achievement, including ~~student perception data and~~
121 ~~documentation of practice.~~ As used in this subparagraph, the term 'modified system'
122 means that school systems have the flexibility to require fewer teacher and leader
123 observations and evaluations for those individuals who have received proficient or
124 exemplary ratings as reported to the Georgia Professional Standards Commission; and

125 (D) For assistant principals and principals, the annual evaluation shall also include
126 multiple additional measures that shall be aligned with impacts on student achievement
127 results. These measures shall include multiple school observations each year by
128 different appropriately trained and credentialed evaluators; provided, however, that
129 there shall be no more than four observations in an academic school year. Such
130 observations, along with the domains, standards, and performance indicators of the
131 Leader Assessment of Performance Standards, shall constitute at least 50 percent of the
132 annual evaluation. When sufficient data becomes available from the department to
133 calculate student achievement growth measures composing the Leader Effectiveness

134 Measure, such measures shall count for no more than 10 percent of the annual
135 evaluation, and no more than 40 percent of the principal and assistant principal's
136 evaluation shall be based on multiple forms of measures of growth and overall student
137 academic achievement measures, not associated with standardized testing results,
138 developed by the school system in a uniform process approved by the State Board of
139 Education; provided, however, that such measures as student learning objectives,
140 student growth objectives, school system benchmarks, or other similar measures shall
141 be approved by the Department of Education for reliability and validity, and the
142 methodology and measurements used shall be posted on the department website. When
143 sufficient data becomes available from the department to calculate performance
144 measures, these measures shall also include the principal's ability to attract and retain
145 highly effective teachers, effectively manage the school, and establish a positive climate
146 for learning, and other measures aligned with student achievement for students in all
147 subgroups.

148 As used in this paragraph, the term 'reliability and validity' means a student assessment
149 has been measured and proven to meet statistical standards as defined by the American
150 Educational Research Association, American Psychological Association, American
151 Statistical Association, and National Council on Measurement in Education standards and
152 definitions of reliability and validity as provided in the publication *Standards for*
153 *Educational and Psychological Testing*.

154 (3) The evaluation system adopted by the State Board of Education shall give every
155 teacher of record, assistant principal, and principal one of four rating levels that are
156 designated as 'Exemplary,' 'Proficient,' 'Needs Development,' or 'Ineffective,' as further
157 defined by the State Board of Education. A rating of 'Ineffective' shall constitute
158 evidence of incompetency as provided by paragraph (1) of subsection (a) of Code Section
159 20-2-940. Certificated personnel who receive a rating of 'Ineffective' shall have
160 professional development plans designed to mitigate such deficiencies and other needs
161 as may have been identified during the evaluation process. Progress relative to
162 completing the professional development plan shall be assessed during the annual
163 evaluation process. If a certificated employee shows no improvement pursuant to a
164 professional development plan, such employee shall be placed on probation and a new
165 professional development plan shall be implemented. If the certificated employee shows
166 no improvement pursuant to a professional development plan in the third year, such
167 employee shall be subject to the provisions of subsection (c) of Code Section 20-2-200,
168 relating to renewable certificates, and subsection (a) of Code Section 20-2-212, relating
169 to placement on the state salary schedule.

170 (4) All teachers of record, assistant principals, and principals shall have a pre-evaluation
 171 conference, midyear evaluation conference, and a summative evaluation conference, in
 172 accordance with state board rules. All teachers of record, assistant principals, and
 173 principals shall be notified of and have access to the results of the annual summative
 174 performance evaluation and any formative observations conducted throughout the school
 175 year pursuant to this subsection within five working days of such evaluation or
 176 observations. A teacher of record, assistant principal, or principal, or an evaluator of any
 177 such individuals, may request a conference within ten working days of notice of results
 178 of a formative observation, and such conference shall be provided within ten working
 179 days of the request. Conferences shall include the individual being evaluated, his or her
 180 supervisor, and the evaluator, unless otherwise agreed upon.

181 (5) In order to ensure proper implementation of the evaluation system developed
 182 pursuant to this Code section, the Department of Education shall:

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

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

189 (C) Establish minimum training and credentialing requirements for evaluators of
 190 teachers and principals; and

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

193 **SECTION 5.**

194 Said chapter is further amended in Code Section 20-2-212, relating to salary schedules, by
 195 revising subsection (a) as follows:

196 "(a) The State Board of Education shall establish a schedule of minimum salaries for
 197 services rendered which shall be on a ten-month basis and which shall be paid by local
 198 units of administration to the various classifications of professional personnel required to
 199 be certificated by the Professional Standards Commission. The minimum salary schedule
 200 shall provide a minimum salary base for each classification of professional personnel
 201 required to be certificated; shall provide for increment increases above the minimum salary
 202 base of each classification based upon individual experience and length of satisfactory
 203 service; and shall include such other uniformly applicable factors as the state board may
 204 find relevant to the establishment of such a schedule. The minimum salary base for
 205 certificated professional personnel with bachelor's degrees and no experience, when

206 annualized from a ten-month basis to a 12 month basis, shall be comparable to the
 207 beginning salaries of the recent graduates of the University System of Georgia holding
 208 bachelor's degrees and entering positions, excluding professional educator teaching
 209 positions, in Georgia having educational entry requirements comparable to the
 210 requirements for entry into Georgia public school teaching. The placement of teachers on
 211 the salary schedule shall be based on certificate level and years of creditable experience,
 212 except that a teacher shall not receive credit for ~~any year of experience~~ the second year in
 213 which the teacher received an unsatisfactory or ineffective annual summative performance
 214 evaluation or for the ~~second~~ third year in which a teacher receives ~~two~~ three consecutive
 215 annual summative needs development ratings pursuant to Code Section 20-2-210. The
 216 General Assembly shall annually appropriate funds to implement a salary schedule for
 217 certificated professional personnel. For each state fiscal year, the state board shall adopt
 218 the salary schedule for which funding has been appropriated by the General Assembly. A
 219 local unit of administration shall not pay to any full-time certificated professional employee
 220 a salary less than that prescribed by the schedule of minimum salaries, except as required
 221 by this Code section; nor shall a local unit of administration pay to any part-time
 222 certificated professional employee less than a pro rata portion of the respective salary
 223 prescribed by the schedule of minimum salaries, except as required by this Code section.
 224 For purposes of this subsection, an educator's placement on the salary schedule shall not
 225 be based on a leadership degree, which shall mean a degree earned in conjunction with
 226 completion of an educator leadership preparation program approved by the Professional
 227 Standards Commission, unless the educator is employed in a leadership position as defined
 228 by the State Board of Education, but shall be placed on the salary schedule position
 229 attributable to the educator but for the leadership degree; provided, however, that this shall
 230 not apply, regardless of whether or not he or she is in a leadership position, to:
 231 (1) An educator who possessed a leadership degree prior to July 1, 2010; or
 232 (2) An educator who possessed:
 233 (A) A master's level leadership degree prior to July 1, 2012;
 234 (B) An education specialist level leadership degree prior to July 1, 2013; or
 235 (C) A doctoral level leadership degree prior to July 1, 2014,
 236 so long as he or she was enrolled in such leadership preparation program on or before
 237 April 1, 2009."

238 SECTION 6.

239 Said chapter is further amended by revising Code Section 20-2-281, relating to student
 240 assessments, as follows:

241 "20-2-281.

242 (a) The State Board of Education shall adopt a student assessment program consisting of
243 instruments, procedures, and policies necessary to implement the program and shall fund
244 all costs of providing and scoring such instruments, subject to appropriation by the General
245 Assembly. Each local school system may elect to administer, with state funding, nationally
246 norm-referenced instruments in reading, mathematics, science, or social studies in grade
247 three, four, or five and in grade six, seven, or eight, subject to available appropriations,
248 with assistance to such school systems by the State Board of Education with regard to
249 administration guidance, scoring, and reporting of such instruments. Each local school
250 system is strongly encouraged to implement a program of formative assessment and
251 intervention in reading for kindergarten through third grade and mathematics for
252 kindergarten through fifth grade to ensure that students are on track to meet grade-level
253 expectations. The State Board of Education shall review, revise, and upgrade the content
254 standards. Following the adoption of such content standards, the State Board of Education
255 shall contract for development of end-of-grade assessments to measure the content
256 standards. Such assessments in English, language arts/reading, and mathematics shall be
257 administered annually to students in grades three through eight, and such tests in science
258 and social studies shall be administered annually to students in grades three through eight.
259 These tests shall contain features that allow for comparability to other states with whom
260 establishing such comparison would be statistically sound; provided, however, that no such
261 comparison shall be conducted which would relinquish any measure of control over
262 assessments to any individual or entity outside the state. This action shall be completed
263 according to a schedule established by the State Board of Education. Writing performance
264 shall be assessed, at a minimum, for students in grades three, five, eight, and 11 and may
265 be assessed for students in additional grade levels as designated by the State Board of
266 Education. Writing performance results shall be provided to students and their parents.

267 (a.1) Any federal, state, or locally mandated nationally norm-referenced instruments and
268 criterion-referenced assessments administered to students in this state, including any such
269 instruments or assessments administered pursuant to this Code section, shall objectively
270 measure academic achievement, knowledge, and skills and shall not evaluate or assess
271 personal or family beliefs or attitudes. Further, any higher order thinking skills which are
272 assessed on such instruments or assessments shall use peer reviewed methods with
273 statistically reliable results and shall be grade appropriate, except that pre-kindergarten
274 through grade three students and students with cognitive disabilities shall not be assessed
275 at the advanced levels of higher order thinking skills.

276 (b) The nationally norm-referenced instruments provided for in subsection (a) of this Code
277 section and any other federal, state, or locally mandated nationally norm-referenced

278 instruments and criterion-referenced assessments shall provide students and their parents
279 with grade equivalencies and percentile ranks which result from the administration of such
280 instruments. End-of-grade assessments shall provide for results that reflect student
281 academic achievement at the individual student, in specific conventions, science content
282 areas and their content strands, and math skills instead of general domains, including, for
283 purposes of illustration, academic skills such as spelling, capitalization, punctuation,
284 reading comprehension, adding and subtracting with whole numbers or decimals, and
285 multiplying with fractions, in order to give teachers and parents a clear understanding of
286 the strengths and weaknesses of students so that assessment results can be beneficial to
287 teacher planning and student learning, as well as reflect student achievement within the
288 context of the classroom, school, system, state, and, if applicable, national levels. The
289 State Board of Education shall participate in the National Assessment of Educational
290 Progress (NAEP) and may participate in any other tests that will allow benchmarking this
291 state's performance against national or international performance. The results of such
292 testing shall be provided to the Governor, the General Assembly, and the State Board of
293 Education and shall be reported to the citizens of Georgia. Further, the state board shall
294 adopt a school readiness assessment for students entering first grade and shall administer
295 such assessment pursuant to paragraph (2) of subsection (b) of Code Section 20-2-151, and
296 the Iowa Test of Basic Skills may be used for such assessment. One of the components in
297 the awarding of salary supplements as part of a pay for performance or related plan under
298 this article may be assessments of student achievement.

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

306 (c) The State Board of Education shall have the authority to condition the awarding of a
307 high school diploma to a student upon achievement of satisfactory scores on instruments
308 adopted and administered by the state board pursuant to subsection (a) of this Code section
309 and the end-of-course assessments adopted and administered by the state board pursuant
310 to subsections (f), ~~and (h)~~, and (j) of this Code section. The state board is authorized and
311 directed to adopt regulations providing that any disabled child, as defined by the provisions
312 of this article, shall be afforded opportunities to take any test adopted by the state board as
313 a condition for the awarding of a high school diploma; provided, however, that affording
314 an opportunity to take any such test shall not be interpreted to be a mandate to take such

315 tests. In compliance with 20 U.S.C., Chapter 33, Sub Chapter II, Section 1414, a local
316 school system that is responsible for making a free appropriate public education available
317 to a child with a disability shall obtain informed consent from the parent of such child
318 before providing special education and related services to the child, and each state
319 assessment for any child with a disability shall require written informed consent from at
320 least one parent or from the child's legal guardian prior to that child taking any federally
321 mandated standardized assessments or state mandated standardized assessments, including
322 any mandated school system level standardized assessments. If the parent or legal guardian
323 of such child refuses to consent to testing or the parent or legal guardian fails to respond
324 to a request to provide such consent, the local school system shall not be considered to be
325 in violation of the requirement to make available a free appropriate public education to the
326 child for the failure to provide such child this related service, in the form of an assessment,
327 for which the local school system requests such consent. Further, a teacher, a principal, an
328 assistant principal, any school, or any local school system shall not be penalized for any
329 such child who does not participate in such assessments. Such regulations shall further
330 provide for appropriate accommodations in the content and administration of such test, and
331 such accommodation may include the choice of an assessment which matches the
332 functional level of the child instead of the child's grade level. Such regulations shall further
333 provide for the awarding of a special education diploma to any disabled student who is
334 lawfully assigned to a special education program and who does not achieve a passing score
335 on such test, who, through parental or guardian refusal, has failed to take such test, or who
336 has not completed all of the requirements for a high school diploma but who has
337 nevertheless completed his or her Individualized Education Program.

338 (d)(1) The State Board of Education shall develop or adopt alternate assessments to be
339 administered to those students with significant cognitive disabilities, receiving special
340 education services pursuant to Code Section 20-2-152, who cannot access the state
341 adopted content standards without appropriate accommodations to those standards and
342 for whom the assessment instruments adopted under subsections (a) and (f) of this Code
343 section, even with allowable accommodations, would not provide an appropriate measure
344 of student achievement, as determined by the student's Individualized Education Program
345 team. Nothing in this subsection shall be construed to permit the Department of
346 Education to set a 1 percent local cap on the percentage of students administered an
347 alternate assessment under this subsection; provided, however, that a local school system
348 shall submit information to the Department of Education explaining the need to exceed
349 1 percent of the students administered an alternate assessment. An opportunity for taking
350 such assessments shall not be interpreted as a mandate to take such assessments. In
351 compliance with 20 U.S.C., Chapter 33, Sub Chapter II, Section 1414, a local school

352 system that is responsible for making a free appropriate public education available to a
353 child with a disability shall obtain informed consent from the parent of such child before
354 providing special education and related services to the child, and each state assessment
355 for any child with a disability shall require written informed consent from at least one
356 parent or from the child's legal guardian prior to that child taking any federally mandated
357 standardized assessments or state mandated standardized assessments, including any
358 mandated school system level standardized assessments. If the parent or legal guardian
359 of such child refuses to consent to testing or the parent or legal guardian fails to respond
360 to a request to provide such consent, the local school system shall not be considered to
361 be in violation of the requirement to make available a free appropriate public education
362 to the child for the failure to provide such child this related service, in the form of an
363 assessment, for which the local school system requests such consent. Further, a teacher,
364 a principal, an assistant principal, any school, or any local school system shall not be
365 penalized for any such child who does not participate in such assessments.

366 (2) A student's Individualized Education Program team shall determine appropriate
367 participation in assessment and identify necessary accommodations in accordance with
368 the federal Individuals with Disabilities Education Act and state board regulations. Such
369 accommodations may include assessment at the student's functional level instead of grade
370 level.

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

375 (f) The State Board of Education shall adopt end-of-course assessments for students in
376 grades nine through 12 for all core subjects to be determined by the state board. For those
377 students with an Individualized Education Program, each such student's Individualized
378 Education Program team shall identify necessary accommodations in accordance with the
379 federal Individuals with Disabilities Education Act and state board regulations.

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

385 (h) The State Board of Education, through the Department of Education, shall administer
386 the end-of-course assessments for core subject areas as defined by state board policy. By
387 the 2015-2016 school year, the State Board of Education shall make all end-of-course

388 assessments available online and shall establish rules and regulations to maximize the
389 number of students and school systems utilizing such online assessments.

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

395 (j) The State Board of Education shall adopt rules and regulations requiring the results of
396 core subject end-of-course assessments to be included as a factor in a student's final grade
397 in the core subject course for which the end-of-course assessment is given, provided that
398 no more than 10 percent of a student's final course grade shall be based on such
399 end-of-course assessments; and provided, further, that such assessments have been
400 independently validated and proven as reliable and approved for reliability and validity by
401 the Department of Education. Any kindergarten through grade 12 assessment linked to
402 student learning objectives, student growth objectives, school system benchmarks, or
403 similar measures shall be reviewed by the Department of Education for reliability and
404 validity. The Department of Education shall establish an internal process to consistently
405 complete such vetting process in a timely fashion. If the proposed assessment is not
406 approved as reliable and valid by the Department of Education, that assessment shall not
407 be considered as part of the final student grade and shall not be part of the evaluation for
408 teachers, principals, assistant principals, the school building, and the school system. As
409 used in this subsection, the term 'independently validated and proven as reliable' means that
410 the reliability and validity of a student assessment has been measured and proven by an
411 independent or outside psychometric team or company with complete results made
412 available on the Department of Education website. The statistical measurements used in
413 this process must meet American Educational Research Association, American
414 Psychological Association, American Statistical Association, and National Council on
415 Measurement in Education standards and definitions of reliability and validity as provided
416 in the publication *Standards for Educational and Psychological Testing*. As used in this
417 subsection, the term 'reliability and validity' means a student assessment has been measured
418 and proven to meet statistical standards as defined by the American Educational Research
419 Association, American Psychological Association, American Statistical Association, and
420 National Council on Measurement in Education standards and definitions of reliability and
421 validity as provided in the publication *Standards for Educational and Psychological*
422 *Testing*.

423 (k) In addition to the assessment instruments adopted by the State Board of Education and
424 administered by the Department of Education, a local school system may adopt and

425 administer criterion-referenced or norm-referenced assessment instruments, or both, at any
426 grade level. Such locally adopted assessment instruments may not replace the state's
427 adopted assessment instruments for purposes of state accountability programs. A local
428 school system shall be responsible for all costs and expenses incurred for locally adopted
429 assessment instruments. Students with Individualized Education Programs must be
430 included in the locally adopted assessments or provided an alternate assessment in
431 accordance with the federal Individuals with Disabilities Education Act.

432 (l) In adopting academic skills assessment instruments under this Code section that are
433 federal, state, or locally mandated standardized assessments, the State Board of Education
434 or local school system shall ensure the security of the instruments in their preparation,
435 administration, and scoring. Notwithstanding any other provision of law, meetings or
436 portions of meetings held by the state board or a local board of education at which
437 individual assessment instruments or assessment instrument items are discussed or adopted
438 shall not be open to the public, provided that minutes shall be taken and made public online
439 and by paper copy upon request without charge after such assessment instruments have
440 been administered, and the assessment instruments or assessment instrument items shall
441 be confidential until such assessments have been administered to students.

442 (m) The results of individual student performance on academic skills assessment
443 instruments administered under this Code section shall be confidential and may be released
444 only in accordance with the federal Family Educational Rights and Privacy Act of 1974,
445 20 U.S.C. Section 1232g.

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

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

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

460 (q) The State Board of Education shall consider the passage by a student of an industry
461 certification examination or a state licensure examination which is approved by the State

462 Board of Education or a COMPASS score approved by the State Board of Education when
463 considering whether to grant such student a variance or a waiver of one or more
464 end-of-course assessments required by the State Board of Education pursuant to subsection
465 (c) of this Code section in order to obtain a Georgia high school diploma; provided,
466 however, that the state board shall not grant a variance to a student unless the student has
467 attempted and failed to pass the relevant end-of-course assessment or assessments at least
468 four times.

469 (r) With respect to any standardized assessments developed and administered pursuant to
470 this Code section, the State Board of Education or local school system shall administer
471 such assessment in a paper-and-pencil format to any student whose parent or guardian
472 requests such format, to any student 18 years of age or older who requests such format, and
473 to any other student who would perform better in that academic subject by using such
474 format, as determined by the teacher of that academic subject.

475 (s) The State School Superintendent shall develop guidelines, approved by the State Board
476 of Education, by September 1, 2016, that identify a range of appropriate policies that may
477 be adopted by a school system when considering how students not participating in a
478 state-wide assessment will be supervised and what, if any, alternate arrangements will be
479 provided to them during the test administration. The guidelines should prohibit a school
480 system from taking punitive action against a student, including, but not limited to, the
481 adoption of sit and stare policies, in response to a student's refusal to participate in a
482 federal, state, or locally mandated standardized assessment. The guidelines shall offer
483 positive learning opportunities for students and not be undirected free time. The guidelines
484 shall also address how and when the school system's policy will be communicated to
485 parents, students, and school system staff. As used in this subsection, the term 'sit and
486 stare' means any policy that requires a student whose parent or guardian has given written
487 instructions for such student not to participate in federal, state, or locally mandated
488 standardized assessments to remain with his or her class in the test room or in another
489 location without any alternate instructional activity provided.

490 (t) The State Board of Education shall set a 2 percent comprehensive cap on the amount
491 of instructional hours that can be devoted to taking federal, state, or locally mandated
492 standardized assessments and the preparation time devoted to such assessments."

493 **SECTION 7.**

494 Said chapter is further amended by adding a new Code section to read as follows:

495 "20-2-281.2.

496 (a) State mandated tests pursuant to Code Section 20-2-281 shall be mandatory for school
 497 systems to administer but optional for students, notwithstanding any other provision of law,
 498 under the following conditions:

499 (1) A parent or legal guardian's written request to school officials to excuse his or her
 500 child from any or all parts of the state mandated assessments administered pursuant to
 501 Code Section 20-2-281 shall be granted; and

502 (2) A licensed therapist's order or a physician's order to excuse a child from any or all
 503 parts of the state mandated assessments administered pursuant to Code Section 20-2-281
 504 shall be granted.

505 (b) A student who is absent or otherwise unable to take any federal, state, or locally
 506 mandated assessment on the first administration or its designated make-up day or days may
 507 take the assessment on the second administration day or days or an alternative assessment
 508 instrument that is provided for by the State Board of Education or the local board of
 509 education, which is appropriate for the student's grade level, or in the case of students
 510 covered under 20 U.S.C., Chapter 33, Subchapter II, Section 1414, a student's functional
 511 level. Placement or promotion of these students shall follow the same procedures as
 512 students who do not achieve grade level on the first administration of the assessment;
 513 provided, however, that students who have not taken a federal, state, or locally mandated
 514 assessment due to parental refusal or medical or professional exemption shall not be subject
 515 to grade retention based solely on the fact that the student failed to take the assessment, and
 516 teachers, principals, assistant principals, schools, and local school systems shall not be
 517 subject to any penalties due to any student's nonparticipation.

518 (c) If the rating on a school performance report is affected by the number of students
 519 excused or otherwise not taking the standardized assessments, the Department of Education
 520 shall include on the school performance report:

521 (1) An indication that the rating was affected by a federal law requirement;

522 (2) A brief explanation of the federal law requirement that affected the rating; and

523 (3) The rating the school would have received if not for the federal law requirement of
 524 the 95 percent participation threshold."

525 **SECTION 8.**

526 Said chapter is further amended in Code Section 20-2-283, relating to criteria and specific
 527 requirements for students in grades three, five, and eight, by revising paragraph (2) of
 528 subsection (b) as follows:

529 "(2) When a student does not perform at grade level on any end-of-grade assessment
 530 specified in paragraph (1) of this subsection, then the following shall occur:

531 (A) The parent or guardian of the student shall be notified in writing by first-class mail
 532 by the school principal or such official's designee regarding the student's performance
 533 below grade level on the assessment instrument, the retest to be given the student, the
 534 accelerated, differentiated, or additional instruction program to which the student is
 535 assigned, and the possibility that the student might be retained at the same grade level
 536 for the next school year;

537 (B) The student shall be retested with a an end-of-grade assessment or an alternative
 538 assessment instrument that is appropriate for the student's grade level and shall include
 539 the option of the Iowa Test of Basic Skills, as provided for by the State Board of
 540 Education and the local board of education, and promotion may be determined based
 541 on the student's performance on the Iowa Test of Basic Skills; and

542 (C) The student shall be given an opportunity for accelerated, differentiated, or
 543 additional instruction in the applicable subject; and"

544 **SECTION 9.**

545 Said chapter is further amended in Code Section 20-2-693, relating to exemptions to
 546 compulsory attendance, by adding a new subsection to read as follows:

547 "(c) Children during the ages of mandatory attendance as required in subsection (a) of
 548 Code Section 20-2-690.1 who are students without a chronic history of truancy shall not
 549 be reported truant or their families reported to the Division of Family and Children
 550 Services of the Department of Human Services during any testing window for standardized
 551 assessments, and such missed testing days shall not count toward any maximum number
 552 of days that a child can be absent from school without an excused absence."

553 **SECTION 10.**

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