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

To amend Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and secondary education, so as to enact the "Student/Teacher Protection Act"; to end punitive testing consequences for both teachers and students related to federal, state, and locally mandated standardized assessments; to provide for alternative administrations of student assessments; to ensure that federal, state, and locally mandated standardized assessments provide for multiyear grade span measures; to provide for guidelines for functional level testing for cognitively disabled students on all assessments; to clarify that local school systems are not required to set a 1 percent cap for students having significant cognitive disabilities who can be administered an alternate assessment with regard to federal, state, and locally mandated standardized assessments; to revise provisions relating to evaluation systems; to clarify that local school system authority allows both the expansion and enrichment of the state's content standards as well as to choose assessments aligned with the enriched content standards which may be more rigorous in its content coverage and difficulty than federal, state, and locally mandated standardized assessments; to prevent abusive or bullying responses and punitive policies regarding student nonparticipation in federal, state, and locally mandated standardized assessments; to set a percentage cap on the amount of time dedicated to all federal, state, and locally mandated standardized assessments and testing preparation for such assessments, including school system benchmarking; to provide for parental and medical reasons to excuse students from participation in any federal, state, and locally mandated standardized assessments; to provide for guidance on how students are reported for failure to take federal, state, and locally mandated standardized assessments; to prevent truancy or referrals to the Division of Family and Children Services for absenteeism during standardized testing windows for federal, state, and locally mandated standardized assessments unless a student already has a chronic history of truancy; to provide for a short title; to provide for legislative findings; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:
SECTION 1.

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

SECTION 2.

The General Assembly finds that:

1. Due to the unscientific and unreliable methods of measuring student growth, the percentage amount of any teacher's evaluation dependent on student test performance should be drastically reduced;
2. The recent federal study by the National Center for Education Evaluation and Regional Assistance, which is part of the Institute of Education Sciences of the United States Department of Education, reveals that the value added models are not capable of measuring a teacher's effect on student learning in just one year;
3. Even over three years, these measures of effectiveness still do not meet the .85 level of reliability traditionally desired in scores used for high-stakes decisions (Haertel, 2013; Wasserman & Bracken, 2003); and
4. The study strongly cautions states that are considering the student growth percentile model for teacher accountability about using the scores for high-stakes decisions.

SECTION 3.

Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and secondary education, is amended in Code Section 20-2-200, relating to regulation of certificated professional personnel by the Professional Standards Commission, by revising subsection (c) as follows:

"(c) An individual who has received any combination of three unsatisfactory, ineffective, or needs development annual summative performance evaluations in the previous five-year period pursuant to Code Section 20-2-210 shall not be entitled to a renewable certificate prior to demonstrating that such performance deficiency has been satisfactorily addressed, but such individual may apply to the commission for a nonrenewable certificate, as defined by the commission. Each local school system and charter school shall report all unsatisfactory, ineffective, and needs development ratings of all performance evaluations as provided in Code Section 20-2-210 for certificated personnel in their employ in a manner, format, and frequency determined by the commission. The commission is authorized to release such data provided that it cannot be personally identifiable to any currently or formerly certificated person."
SECTION 4.

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

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

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

(A) For teachers of record who teach courses that are subject to annual state or school system level assessments aligned with state standards and the principals and assistant principals of elementary or secondary schools that are subject to such assessments, such assessments shall be independently validated and proven as reliable; growth in student achievement on such assessments shall count for at least 50 percent of the teacher's evaluation, using the student growth and academic achievement measures identified in the evaluation system. At least 90 percent of the evaluation shall be based on multiple forms of measures of growth and overall academic achievement measures, not associated with standardized testing results, developed by the school system in a uniform process approved by the State Board of Education. As used in this subparagraph, the term 'independently validated and proven as reliable' means that the reliability and validity of a student assessment has been measured and proven by an independent or outside psychometric team or company. The statistical measurements used in this process must meet American Educational Research Association, American Psychological Association, American Statistical Association, and National Council on Measurement in Education standards and definitions of reliability and validity as provided in the publication Standards for Educational and Psychological Testing;
(B) For teachers of record who teach courses not subject to annual state assessments, growth in student achievement shall be assessed through measures of student achievement growth developed at the school system level and in a process approved by the Department of Education; provided, however, that such measures as student learning objectives, student growth objectives, school system benchmarks, or similar measures shall be approved by the Department of Education for reliability and validity, and the methodology and measurements used shall be posted on the department website. When sufficient data becomes available from the department to calculate student achievement growth measures, such measures of student achievement growth shall count for at least 50 no more than 10 percent of the evaluation, using student growth and academic achievement measures developed by the school system in a process approved by the State Board of Education, and at least 90 percent of the teacher's evaluation shall be based on multiple forms of measures of growth and overall academic achievement measures, not associated with standardized testing results, developed by the school system in a uniform process approved by the State Board of Education;

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

(D) For assistant principals and principals, the annual evaluation shall also include multiple additional measures that shall be aligned with impacts on student achievement results. These measures shall include multiple school observations each year by different appropriately trained and credentialed evaluators; provided, however, that there shall be no more than four observations in an academic school year. Such observations, along with the domains, standards, and performance indicators of the Leader Assessment of Performance Standards, shall constitute at least 50 percent of the annual evaluation. When sufficient data becomes available from the department to calculate student achievement growth measures composing the Leader Effectiveness
Measure, such measures shall count for no more than 10 percent of the annual evaluation, and no more than 40 percent of the principal and assistant principal's evaluation shall be based on multiple forms of measures of growth and overall student academic achievement measures, not associated with standardized testing results, developed by the school system in a uniform process approved by the State Board of Education; provided, however, that such measures as student learning objectives, student growth objectives, school system benchmarks, or other similar measures shall be approved by the Department of Education for reliability and validity, and the methodology and measurements used shall be posted on the department website. When sufficient data becomes available from the department to calculate performance measures, these measures shall also include the principal's ability to attract and retain highly effective teachers, effectively manage the school, and establish a positive climate for learning, and other measures aligned with student achievement for students in all subgroups.

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

(3) The evaluation system adopted by the State Board of Education shall give every teacher of record, assistant principal, and principal one of four rating levels that are designated as 'Exemplary,' 'Proficient,' 'Needs Development,' or 'Ineffective,' as further defined by the State Board of Education. A rating of 'Ineffective' shall constitute evidence of incompetency as provided by paragraph (1) of subsection (a) of Code Section 20-2-940. Certificated personnel who receive a rating of 'Ineffective' shall have professional development plans designed to mitigate such deficiencies and other needs as may have been identified during the evaluation process. Progress relative to completing the professional development plan shall be assessed during the annual evaluation process. If a certificated employee shows no improvement pursuant to a professional development plan, such employee shall be placed on probation and a new professional development plan shall be implemented. If the certificated employee shows no improvement pursuant to a professional development plan in the third year, such employee shall be subject to the provisions of subsection (c) of Code Section 20-2-200, relating to renewable certificates, and subsection (a) of Code Section 20-2-212, relating to placement on the state salary schedule.
(4) All teachers of record, assistant principals, and principals shall have a pre-evaluation conference, midyear evaluation conference, and a summative evaluation conference, in accordance with state board rules. All teachers of record, assistant principals, and principals shall be notified of and have access to the results of the annual summative performance evaluation and any formative observations conducted throughout the school year pursuant to this subsection within five working days of such evaluation or observations. A teacher of record, assistant principal, or principal, or an evaluator of any such individuals, may request a conference within ten working days of notice of results of a formative observation, and such conference shall be provided within ten working days of the request. Conferences shall include the individual being evaluated, his or her supervisor, and the evaluator, unless otherwise agreed upon.

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

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

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

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

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

SECTION 5.

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

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

S. B. 355
- 6 -
annualized from a ten-month basis to a 12 month basis, shall be comparable to the beginning salaries of the recent graduates of the University System of Georgia holding bachelor's degrees and entering positions, excluding professional educator teaching positions, in Georgia having educational entry requirements comparable to the requirements for entry into Georgia public school teaching. The placement of teachers on the salary schedule shall be based on certificate level and years of creditable experience, except that a teacher shall not receive credit for any year of experience the second year in which the teacher received an unsatisfactory or ineffective annual summative performance evaluation or for the second third year in which a teacher receives two three consecutive annual summative needs development ratings pursuant to Code Section 20-2-210. The General Assembly shall annually appropriate funds to implement a salary schedule for certificated professional personnel. For each state fiscal year, the state board shall adopt the salary schedule for which funding has been appropriated by the General Assembly. A local unit of administration shall not pay to any full-time certificated professional employee a salary less than that prescribed by the schedule of minimum salaries, except as required by this Code section; nor shall a local unit of administration pay to any part-time certificated professional employee less than a pro rata portion of the respective salary prescribed by the schedule of minimum salaries, except as required by this Code section. For purposes of this subsection, an educator's placement on the salary schedule shall not be based on a leadership degree, which shall mean a degree earned in conjunction with completion of an educator leadership preparation program approved by the Professional Standards Commission, unless the educator is employed in a leadership position as defined by the State Board of Education, but shall be placed on the salary schedule position attributable to the educator but for the leadership degree; provided, however, that this shall not apply, regardless of whether or not he or she is in a leadership position, to:
(1) An educator who possessed a leadership degree prior to July 1, 2010; or
(2) An educator who possessed:
   (A) A master's level leadership degree prior to July 1, 2012;
   (B) An education specialist level leadership degree prior to July 1, 2013; or
   (C) A doctoral level leadership degree prior to July 1, 2014, so long as he or she was enrolled in such leadership preparation program on or before April 1, 2009.  

SECTION 6. Said chapter is further amended by revising Code Section 20-2-281, relating to student assessments, as follows:
(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. 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 school systems by the State Board of Education with regard to administration guidance, scoring, and reporting of such instruments. Each local school system is strongly encouraged to implement a program of formative assessment and intervention in reading for kindergarten through third grade and mathematics for kindergarten through fifth grade to ensure that students are on track to meet grade-level expectations. The State Board of Education shall 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. Such 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 three through eight. These tests shall contain features that allow for comparability to other states with whom 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. This action shall be completed according to a schedule established by the State Board of Education. Writing performance shall be assessed, at a minimum, for students in grades three, five, eight, and 11 and may be assessed for students in additional grade levels as designated by the State Board of Education. Writing performance results shall be provided to students and their parents.

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

(b) The nationally norm-referenced instruments provided for in subsection (a) of this Code section and any other federal, state, or locally mandated nationally norm-referenced
instruments and criterion-referenced assessments 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
academic achievement at the individual student, in specific conventions, science content
areas and their content strands, and math skills instead of general domains, including, for
purposes of illustration, academic skills such as spelling, capitalization, punctuation,
reading comprehension, adding and subtracting with whole numbers or decimals, and
multiplying with fractions, in order to give teachers and parents a clear understanding of
the strengths and weaknesses of students so that assessment results can be beneficial to
teacher planning and student learning, as well as reflect student achievement within the
context of the classroom, school, system, state, and, if applicable, national levels. The
State Board of Education shall participate in the National Assessment of Educational
Progress (NAEP) and may participate in any other tests 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. Further, the state board 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, and
the Iowa Test of Basic Skills may be used for such assessment. 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 instruments
adopted and administered by the state board pursuant to subsection (a) of this Code section
and the end-of-course assessments adopted and administered by the state board pursuant
to subsections (f), and (h), and (j) 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; provided, however, that affording
an opportunity to take any such test shall not be interpreted to be a mandate to take such

S. B. 355
- 9 -
tests. In compliance with 20 U.S.C., Chapter 33, Sub Chapter II, Section 1414, a local school system that is responsible for making a free appropriate public education available to a child with a disability shall obtain informed consent from the parent of such child before providing special education and related services to the child, and each state assessment for any child with a disability shall require written informed consent from at least one parent or from the child's legal guardian prior to that child taking any federally mandated standardized assessments or state mandated standardized assessments, including any mandated school system level standardized assessments. If the parent or legal guardian of such child refuses to consent to testing or the parent or legal guardian fails to respond to a request to provide such consent, the local school system shall not be considered to be in violation of the requirement to make available a free appropriate public education to the child for the failure to provide such child this related service, in the form of an assessment, for which the local school system requests such consent. Further, a teacher, a principal, an assistant principal, any school, or any local school system shall not be penalized for any such child who does not participate in such assessments. Such regulations shall further provide for appropriate accommodations in the content and administration of such test, and such accommodation may include the choice of an assessment which matches the functional level of the child instead of the child's grade level. 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, who, through parental or guardian refusal, has failed to take 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 subsections (a) and (f) 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. Nothing in this subsection shall be construed to permit the Department of Education to set a 1 percent local cap on the percentage of students administered an alternate assessment under this subsection; provided, however, that a local school system shall submit information to the Department of Education explaining the need to exceed 1 percent of the students administered an alternate assessment. An opportunity for taking such assessments shall not be interpreted as a mandate to take such assessments. In compliance with 20 U.S.C., Chapter 33, Sub Chapter II, Section 1414, a local school
system that is responsible for making a free appropriate public education available to a child with a disability shall obtain informed consent from the parent of such child before providing special education and related services to the child, and each state assessment for any child with a disability shall require written informed consent from at least one parent or from the child's legal guardian prior to that child taking any federally mandated standardized assessments or state mandated standardized assessments, including any mandated school system level standardized assessments. If the parent or legal guardian of such child refuses to consent to testing or the parent or legal guardian fails to respond to a request to provide such consent, the local school system shall not be considered to be in violation of the requirement to make available a free appropriate public education to the child for the failure to provide such child this related service, in the form of an assessment, for which the local school system requests such consent. Further, a teacher, a principal, an assistant principal, any school, or any local school system shall not be penalized for any such child who does not participate in such assessments.

(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. Such accommodations may include assessment at the student's functional level instead of grade level.

(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) The State Board of Education shall adopt end-of-course assessments for students in grades nine through 12 for all core subjects to be determined by the state board. 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 administered under subsection (a) of this Code section and each end-of-course assessment administered under subsection (h) of this Code section after the last time such assessment is administered for a school year.

(h) The State Board of Education, through the Department of Education, shall administer the end-of-course assessments for core subject areas as defined by state board policy. By the 2015-2016 school year, the State Board of Education shall make all end-of-course
assessments available 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 subsections (a) and (h) 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 shall 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, provided that no more than 10 percent of a student's final course grade shall be based on such end-of-course assessments; and provided, further, that such assessments have been independently validated and proven as reliable and approved for reliability and validity by the Department of Education. Any kindergarten through grade 12 assessment linked to student learning objectives, student growth objectives, school system benchmarks, or similar measures shall be reviewed by the Department of Education for reliability and validity. The Department of Education shall establish an internal process to consistently complete such vetting process in a timely fashion. If the proposed assessment is not approved as reliable and valid by the Department of Education, that assessment shall not be considered as part of the final student grade and shall not be part of the evaluation for teachers, principals, assistant principals, the school building, and the school system. As used in this subsection, the term 'independently validated and proven as reliable' means that the reliability and validity of a student assessment has been measured and proven by an independent or outside psychometric team or company with complete results made available on the Department of Education website. The statistical measurements used in this process must meet American Educational Research Association, American Psychological Association, American Statistical Association, and National Council on Measurement in Education standards and definitions of reliability and validity as provided in the publication Standards for Educational and Psychological Testing. As used in this subsection, the term 'reliability and validity' means a student assessment has been measured and proven to meet statistical standards as defined by the American Educational Research Association, American Psychological Association, American Statistical Association, and National Council on Measurement in Education standards and definitions of reliability and validity as provided in the publication Standards for Educational and Psychological Testing.

(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 that are
federal, state, or locally mandated standardized assessments, 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, provided that minutes shall be taken and made public online
and by paper copy upon request without charge after such assessment instruments have
been administered, and the assessment instruments or assessment instrument items shall
be confidential until such assessments have been administered to students.

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

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

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

SECTION 7.

Said chapter is further amended by adding a new Code section to read as follows:
"20-2-281.2.
(a) State mandated tests pursuant to Code Section 20-2-281 shall be mandatory for school systems to administer but optional for students, notwithstanding any other provision of law, under the following conditions:

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

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

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

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

1. An indication that the rating was affected by a federal law requirement;

2. A brief explanation of the federal law requirement that affected the rating; and

3. The rating the school would have received if not for the federal law requirement of the 95 percent participation threshold.*

SECTION 8.
Said chapter is further amended in Code Section 20-2-283, relating to criteria and specific requirements for students in grades three, five, and eight, by revising paragraph (2) of subsection (b) as follows:

*2. When a student does not perform at grade level on any end-of-grade assessment specified in paragraph (1) of this subsection, then the following shall occur:
(A) The parent or guardian of the student shall be notified in writing by first-class mail by the school principal or such official's designee regarding the student's performance below grade level on the assessment instrument, the retest to be given the student, the accelerated, differentiated, or additional instruction program to which the student is assigned, and the possibility that the student might be retained at the same grade level for the next school year;

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

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

SECTION 9.

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

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

SECTION 10.

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

S. B. 355
- 16 -