House Bill 91 (AS PASSED HOUSE AND SENATE)
By: Representatives Coleman of the 97th, Dickson of the 6th, Clark of the 101st, Maxwell of the 17th, England of the 116th, 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 the elementary and secondary education, so as to eliminate the Georgia High School Graduation Test as a requirement for purposes of graduation; to provide procedures for former students who did not pass one or more portions of the Georgia High School Graduation Test to petition to obtain a high school diploma; to provide for notice of such petition option; to provide for changes for purposes of conformity; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.
Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to the elementary and secondary education, is amended in Code Section 20-2-84, relating to accountability, flexibility, and consequences components of contracts, by revising subsection (a) as follows:

“(a) The accountability component of the contract provided in Code Section 20-2-83 shall include at least one of the student achievement measures in paragraphs (1) through (4) of this subsection, including both total scores and any needed targeted subgroups:

(1) High school graduation rates;
(2) SAT or ACT performance;
(3) State standardized test data, which may include criterion-referenced competency tests, the Georgia High School Graduation Test, end-of-grade assessments, end-of-course assessments, or a combination thereof;
(4) Advanced placement or international baccalaureate participation and performance; and
(5) Any other accountability measures included pursuant to Part 3 of Article 2 of Chapter 14 of this title.”
SECTION 2.

Said chapter is further amended by revising Code Section 20-2-132, relating to the primary goals of the "Quality Basic Education Act," as follows:

"20-2-132.

It is the intent of the General Assembly that the primary goals of this article shall be as follows:

(1) A substantial reduction in the number of teachers who leave the teaching profession for reasons of job dissatisfaction;

(2) A decrease in the percentage and number of students who enter school but drop out prior to graduation;

(3) The elimination of emergency teaching certificates and waivers for teaching outside of specialty;

(4) A decrease in the percentage of students who fail the Georgia High School Graduation Test to attain passing scores on end-of-course assessments;

(5) A significant increase in the test scores of Georgia students who take the Scholastic Assessment Test (SAT) or the ACT Assessment (ACT);

(6) An increase in the number of students mastering each skill in reading, mathematics, and other subject areas;

(7) An accountability system for education programs that measures efficiency and effectiveness and ensures that programs produce improvement in student achievement scores for all students;

(8) A comprehensive program and financial information system that provides data that allow for the accurate evaluation of program effectiveness;

(9) A seamless education system that allows students to be served in the most effective and efficient way possible;

(10) The elimination of school violence;

(11) A decrease in the percentage of students who perform below grade level;

(12) An increase in parental and community involvement in schools;

(13) Better coordination between education agencies and other organizations providing instructional and related services to students;

(14) A more competent school work force through the effective use of evaluation tools, training, and school improvement teams that promote best practices; and

(15) More flexibility for high-performing schools so that services can be better adapted to student needs."
Said chapter is further amended in Code Section 20-2-171, relating to minimum direct classroom expenditures, by revising paragraph (3) of subsection (b) as follows:

"(3) A local school system that has direct classroom expenditures that are less than 65 percent of its total operating expenditures and that is unable to meet the expenditure requirements in paragraph (2) of this subsection may apply to the State Board of Education for a one-year renewable achievement waiver. The waiver request must include evidence that the local school system is exceeding the state averages in academic categories designated by the board, which may include, but not be limited to, criterion-referenced competency tests, the Georgia High School Graduation Test, end-of-grade assessments, end-of-course assessments, and the SAT, a plan for obtaining compliance with this Code section, and any other information required at the discretion of the board; and"

Said chapter is further amended by revising Code Section 20-2-281, relating to the assessment of effectiveness of educational programs under the "Quality Basic Education Act," as follows:

"20-2-281. (a) The State Board of Education shall adopt a student assessment program consisting of instruments, procedures, and policies necessary to implement the program and shall fund all costs of providing and scoring such instruments, subject to appropriation by the General Assembly. 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 assessments. The State Board of Education shall review, revise, and upgrade the quality core curriculum. Following the adoption of this revised curriculum, the State Board of Education shall contract for development of criterion-referenced competency tests, end-of-grade assessments to measure the quality core curriculum. Such tests assessments in English and language arts, mathematics, and reading shall be administered annually to students in grades one through eight, and such tests in science and social studies shall be administered annually to students in grades three through eight. This action shall be completed according to a schedule established by the State Board of Education. A curriculum based assessment shall be administered in grade 11 for graduation purposes. Writing assessments shall be administered, at a minimum, for students in grades three, five, eight,
and 11. The writing assessments shall provide students and their parents with performance outcome measures resulting from the administration of such tests.

(b) The nationally normed assessments norm-referenced instruments provided for in subsection (a) of this Code section shall provide students and their parents with grade equivalencies and percentile ranks which result from the administration of such tests.

Criterion-referenced tests and the high school graduation test provided for in subsection (a) of this Code section shall provide for results that reflect student achievement at the individual student, classroom, school, system, and state 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. 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.

(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 or tests 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) 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. Said regulations shall further provide for appropriate accommodations in the administration of such test. Said 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 said 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 each student receiving special education services pursuant to Code Section 20-2-152 who does not receive instruction in the essential knowledge and skills identified in the quality core curriculum developed pursuant to Code Section 20-2-140 and for whom the assessment instruments adopted under subsection (a) of this Code section, even with allowable modifications, would not provide an appropriate measure of student achievement, as determined by the student's Individualized Education Program team. A student's Individualized Education Program may serve as an alternate assessment for that student.

(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.

(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, the each such student's Individualized Education Program team shall determine appropriate participation in assessments and identify necessary accommodations in accordance with the federal Individuals with Disabilities Education Act.

(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 criterion-referenced competency test end-of-grade assessment administered under subsection (a) of this Code section and each end-of-course assessment administered under subsection (e)(f) of this Code section after the last time the instrument 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. The state board shall promulgate a schedule for the development and administration of all end-of-course tests. 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 criterion-referenced tests end-of-grade assessments and end-of-course assessments administered pursuant to
subsections (a) and (f) 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)(1) The high school graduation test provided for in subsection (a) of this Code section
shall continue in effect until all high school core subject end-of-course assessments have
been developed and implemented, at which time the state board shall discontinue the test
according to a schedule to be determined by the state board:

(2) 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.

(k)(1) 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, except as
otherwise provided in paragraph (2) of this subsection. 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.

(2) The State Board of Education shall have the authority to grant waivers until Fiscal
Year 2003 to local boards of education exempting said boards from the administration
of the state criterion-referenced competency tests at any or all of the subject areas and
grade levels for which the local board of education implements a locally developed
criterion-referenced competency test or tests based on the Quality Core Curriculum which
increases the expectations for student achievement beyond that of the applicable state
criterion-referenced competency test or tests and meets all other requirements of this
Code section, including reliability and validity requirements, with the exception of
subsection (g) of this Code section. Local boards of education with such waivers shall
submit to the State Board of Education school and local school system score reports of
the locally developed criterion-referenced competency tests:

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

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

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

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

(p) Teachers in grades one 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 when considering whether to grant such student a variance for one or more portions of the high school graduation test 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 portion of the high school graduation test end-of-course assessment or assessments at least four times.

SECTION 5.

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

"20-2-281.1. (a) On and after the effective date of this Act, students shall no longer be required to earn a passing score on the Georgia High School Graduation Test to earn a high school diploma.

(b) A person who is no longer enrolled in a Georgia public school and who previously failed to receive a high school diploma in this state or was denied graduation solely for
failing to achieve a passing score on one or more portions of the Georgia High School Graduation Test or its predecessor or the Georgia High School Writing Test or its predecessor may petition the local board of education in which he or she was last enrolled to determine the student's eligibility to receive a high school diploma pursuant to this Code section based on the graduation requirements in effect when the student first entered ninth grade. Once the local board of education confers a diploma upon a student meeting such requirements, the local board shall transmit to the Georgia Department of Education in accordance with department procedures the number of diplomas awarded. The local board of education may date the high school diploma on the date the student graduated or the date the diploma was conferred. Students receiving diplomas pursuant to this Code section shall not be counted as graduates in the graduation rate calculations for affected schools and school systems, either retroactively or in current or future calculations. On or before January 31, 2020, the Georgia Department of Education shall report to the State Board of Education and the General Assembly the number of diplomas granted, by local school system, pursuant to this Code section.

(c) Each local school system shall annually advertise the provisions of this Code section, one time no later than January 15, 2016, one time no later than January 15, 2017, and one time no later than January 15, 2018. Such advertisement shall be made in a local newspaper of general circulation which shall be the same newspaper in which other legal announcements of the local board of education are advertised. At a minimum, such notice shall consist of two columns measuring at least ten inches in length and measuring at least four and one-half inches in combined width, and include:

(1) A headline printed in at least a 24 point boldface type;
(2) An explanation of who qualifies for the petitioning option;
(3) An explanation of the petition process;
(4) A contact name and phone number; and
(5) The deadline for submitting a petition."

SECTION 6.

Said chapter is further amended by revising Code Section 20-2-283, relating to criteria for placement and promotion policies and specific requirements for students in grades three, five, and eight, as follows:

"20-2-283.
(a) No later than January 1, 2002, the State Board of Education shall adopt criteria for the development of a placement and promotion policy by each local board of education consistent with the Georgia Academic Placement and Promotion Policy.
(b) Such criteria as adopted by the State Board of Education shall require the following for students in grades three, five, and eight:

(1) No student shall be promoted, except as provided in this Code section, to:

(A) The fourth grade program to which the student would otherwise be assigned if the student does not achieve grade level as defined by the Office of Student Achievement in accordance with Code Section 20-14-31 on the third grade criterion-referenced end-of-grade reading assessment developed in accordance with subsection (a) of Code Section 20-2-281 and meet the promotional standards and criteria established by the State Board of Education and by the local school board for the school that the student attends;

(B) The sixth grade program to which the student would otherwise be assigned if the student does not achieve grade level as defined by the Office of Student Achievement in accordance with Code Section 20-14-31 on the fifth grade criterion-referenced end-of-grade mathematics assessment and fifth grade criterion-referenced end-of-grade reading assessment developed in accordance with subsection (a) of Code Section 20-2-281 and meet the promotional standards and criteria established by the State Board of Education and by the local school board for the school that the student attends; or

(C) The ninth grade program to which the student would otherwise be assigned if the student does not achieve grade level as defined by the Office of Student Achievement in accordance with Code Section 20-14-31 on the eighth grade criterion-referenced end-of-grade mathematics assessment and eighth grade criterion-referenced end-of-grade reading assessment developed in accordance with subsection (a) of Code Section 20-2-281 and meet the promotional standards and criteria established by the State Board of Education and by the local school board for the school that the student attends;

(2) When a student does not perform at grade level on any criterion-referenced 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 a criterion-referenced end-of-grade assessment or an alternative assessment instrument that is appropriate for the student's grade level as provided for by the State Board of Education and the local board of education; and

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

(3) When a student does not perform at grade level on any criterion-referenced end-of-grade assessment specified in paragraph (1) of this subsection and also does not perform at grade level on a second additional opportunity as provided for in paragraph (2) of this subsection then the following shall occur:

(A) The school principal or the principal's designee shall retain the student for the next school year except as otherwise provided in this subsection;

(B) The school principal or the principal's designee shall notify in writing by first-class mail the parent or guardian of the student and the teacher regarding the decision to retain the student. The notice shall describe the option of the parent, guardian, or teacher to appeal the decision to retain the student and shall further describe the composition and functions of the placement committee as provided for in this subsection, including the requirement that a decision to promote the student must be a unanimous decision of the committee;

(C) If the parent, guardian, or teacher appeals the decision to retain the student, then the school principal or designee shall establish a placement committee composed of the principal or the principal's designee, the student's parent or guardian, and the teacher of the subject of the assessment instrument on which the student failed to perform at grade level and shall notify in writing by first-class mail the parent or guardian of the time and place for convening the placement committee;

(D) The placement committee shall:

(i) Review the overall academic achievement of the student in light of the performance on the criterion-referenced end-of-grade assessment and the standards and criteria as adopted by the local board of education and make a determination to promote or retain. A decision to promote must be a unanimous decision and must determine that if promoted and given accelerated, differentiated, or additional instruction during the next year, the student is likely to perform at grade level as defined by the Office of Student Achievement in accordance with Code Section 20-14-31 by the conclusion of the school year; and

(ii) Prescribe for the student, whether the student is retained or promoted, such accelerated, differentiated, or additional instruction as needed to perform at grade level by the conclusion of the subsequent school year, prescribe such additional assessments as may be appropriate in addition to assessments administered to other...
students at the grade level during the year, and provide for a plan of continuous
assessment during the subsequent school year in order to monitor the progress of the
student;
(E) For students receiving special education or related services, the Individualized
Education Plan Committee shall serve as the placement committee; and
(F) The decision of the placement committee may be appealed only as provided for by
the local board of education.
(c) This Code section does not preclude the retention by the school principal or the
principal's designee of a student who performs satisfactorily on the criterion-referenced
end-of-grade assessments specified in paragraph (1) of subsection (b) of this Code section
as provided for by the local board of education.
(d) This Code section does not create a property interest in promotion.
(e) The State Board of Education shall establish policies and procedures for
implementation of this Code section."

SECTION 7.
Said chapter is further amended by revising Code Section 20-2-284, relating to criteria for
local board of education and model placement and promotion policies, as follows:
"20-2-284.
(a) No later than July 1, 2003, each local board of education shall develop and adopt a
placement and promotion policy in accordance with the criteria established by the State
Board of Education as provided in Code Section 20-2-283 and consistent with the Georgia
Academic Placement and Promotion Policy.
(b) Except for those criterion-referenced end-of-grade assessments specified in Code
Section 20-2-283, the placement and promotion policy as developed and adopted by each
local board of education shall state how the criterion-referenced competency tests
end-of-grade assessments administered under Code Section 20-2-281 for grades one
through eight will be weighted or otherwise utilized by the school principal or the
principal's designee in determining the overall academic achievement of a student and an
appropriate plan of accelerated, differentiated, or additional instruction, placement,
promotion, or retention of a student.
(c) To assist each local board of education, the State Board of Education shall develop a
model placement and promotion policy which may be utilized by a local board of
education."
SECTION 8.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 9.

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