

House Bill 656 (AS PASSED HOUSE AND SENATE)

By: Representatives Smith of the 175<sup>th</sup>, Turnquest of the 73<sup>rd</sup>, Dukes of the 161<sup>st</sup>, Jamieson of the 22<sup>nd</sup>, Porter of the 143<sup>rd</sup> 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 create early intervention programs for  
3 kindergarten, primary grades, and upper elementary grades, in place of the special  
4 instructional assistance program to assist students with certain identified developmental  
5 deficiencies; to provide for identification of students at risk of not reaching or maintaining  
6 academic grade level at the beginning of each school year and during the school year; to  
7 provide for assignment of such students to early intervention as soon as practicable and for  
8 notice; to provide for such programs' purpose, rules and regulations, inclusion in  
9 accountability standards, delivery models, and funding; to provide for reporting of students  
10 served in such programs; to exclude students in grades four and five from the remedial  
11 education program; to clarify and revise the calculation of funding for alternative education  
12 programs; to provide that funds for alternative education programs may be used in  
13 kindergarten and in grades one through 12; to change program weights for funding purposes;  
14 to revise definitions relative to equalization grants; to provide for adjustment to the effective  
15 millage rate in certain circumstances; to change the method of accounting for funds earned  
16 for counselors and technology specialists; to provide for certain funding for specialists  
17 qualified to teach foreign language; to provide for using the most recent full-time equivalent  
18 program count for certain new programs for calculating allotments; to provide for  
19 calculating, designating, and using funds for 20 days of additional instruction for 10 percent  
20 of the full-time equivalent count of students; to delete a provision for funding laboratory  
21 supervisors for the vocational laboratory program; to provide for instructional aides for  
22 kindergarten and kindergarten early intervention; to provide that such aides shall not be used  
23 to increase the maximum class size in kindergarten; to limit the maximum class size for  
24 kindergarten to no more than 20 percent over the funding ratio; to authorize state payment  
25 of a portion of the national certification program participation fee prior to certification for  
26 certain teachers; to provide for repayment to the state of such state payment in certain  
27 circumstances; to delete a requirement for paying the state supplement to principals in a  
28 single separate payment; to change provisions relating to capital outlay funds; to provide for

1 the use of state capital outlay funds for construction projects that serve cooperative efforts  
2 between local school systems and postsecondary institutions and use certain prototypical  
3 designs which incorporate elements creating a quality learning environment; to change the  
4 method of calculating the required local participation and provide an incentive for school  
5 systems to use prototypical designs and have projects managed under the direction of the  
6 Georgia State Financing and Investment Commission; to increase the maximum amount of  
7 annual authorization by the State Board of Education; to change provisions relating to annual  
8 debt service and local funds contributed in excess of required local participation; to provide  
9 for rules; to provide for special appropriations for school capital outlay and for rules for  
10 disbursement and application of any such special appropriation; to provide for purposes for  
11 disbursements, amendments to facilities plans, and priorities among permitted purposes; to  
12 provide for calculation of entitlement of local school systems and for determination of need;  
13 to authorize the board to determine whether to require local participation and whether to  
14 allow application to reimbursement of current principal payments on local indebtedness; to  
15 change provisions relating to low-wealth capital outlay grants to local school systems; to  
16 provide for grants for school systems which use a prototypical design and have the project  
17 managed under the direction of the Georgia State Financing and Investment Commission;  
18 to enact the Georgia Academic Placement and Promotion Policy; to provide for adoption by  
19 each local board of education of a placement and promotion policy including standards for  
20 retention of students in certain grades, retesting, appeal of retention decisions, accelerated,  
21 differentiated, or additional instruction, and procedures for students receiving special  
22 education services; to provide for placement committees and their composition, functions,  
23 and procedures; to provide for additional policies by local boards of education relative to  
24 accelerated, differentiated, or additional instruction, placement, promotion, or retention of  
25 students; to provide for assistance from the State Board of Education; to provide for a  
26 timetable for implementation; to create the "Georgia Closing the Achievement Gap  
27 Commission" and to provide for its members, purpose, authority and duties, emphasis,  
28 reports, per diem and expenses, staff and administrative support, and termination; to change  
29 provisions relating to schedules and remedial education in middle schools; to provide for  
30 eligibility for sparsity grants to supplement funding for certain alternative education  
31 programs; to change the definition of a charter school; to amend Chapter 3 of Title 20 of the  
32 Official Code of Georgia Annotated, relating to postsecondary education, so as to change  
33 eligibility requirements for HOPE scholarships for seniors attending private postsecondary  
34 institutions; to change a provision relating to PROMISE teachers' scholarships; to change  
35 a provision relating to PROMISE II teachers' scholarships; to amend an Act approved April  
36 22, 1999 (Ga. L. 1999, p. 400), so as to change the date for automatic repeal of such Act,

1 relating to low-wealth capital outlay grants, to June 30, 2009; to provide for related matters;  
 2 to repeal conflicting laws; and for other purposes.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

4 **SECTION 1.**

5 Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and  
 6 secondary education, is amended by striking in its entirety Code Section 20-2-153, relating  
 7 to the special instructional assistance program for students with developmental deficiencies,  
 8 and inserting in lieu thereof the following:

9 "20-2-153.

10 (a) The State Board of Education shall create and each local board of education shall  
 11 provide an early intervention a special instructional assistance program to serve students  
 12 in kindergarten through grade five. The kindergarten early intervention program shall  
 13 serve students enrolled in kindergarten. The primary grades early intervention program  
 14 shall serve students enrolled in grades one through three. The upper elementary grades  
 15 early intervention program shall serve students in grades four through five.

16 (b) The early intervention program shall serve to assist students who with identified  
 17 developmental deficiencies which are likely to at risk of not reaching or result in problems  
 18 in maintaining a academic grade level of performance consistent with expectations for  
 19 their respective ages, including but not limited to students who are identified through the  
 20 first grade readiness assessment required by Code Section 20-2-151 and 20-2-281 and  
 21 students with identified academic performance below grade levels defined by the Office  
 22 of Education Accountability in Code Section 20-14-31 for any criterion-referenced  
 23 assessment administered in accordance with Code Section 20-2-281 for grades one through  
 24 five. Local school systems shall devise a process for the identification of such students at  
 25 the beginning of each school year and also during the school year as a continuous process  
 26 of early identification and monitoring. School systems may use indicators such as but not  
 27 limited to the student's scores on previous assessments, the student's classroom  
 28 performance in the same or previous years, and other reliable indicators to identify such  
 29 students. A student shall be assigned to the early intervention program as soon as is  
 30 practicable after the student is identified as at risk or after the results of the first-grade  
 31 readiness assessment or the criterion-referenced assessment are known. The school shall  
 32 provide timely notice and an opportunity for a conference with the student and his or her  
 33 parents or guardians to discuss the student's academic performance and the role of the early  
 34 intervention program. Only students enrolled in grades kindergarten through five with  
 35 documented developmental levels below expectations for their respective ages that are not

~~1 attributable to an identified disabling condition and who are not enrolled in either the  
2 remedial education program or any of the special education programs shall be eligible for  
3 the special instructional assistance program, provided, however, that students with physical  
4 disabilities whose special education services consist solely of therapy related to the  
5 physical disability shall be eligible for the special instructional assistance program if they  
6 meet all other criteria of this Code section. The state board shall specify the instruments  
7 and process used to determine student eligibility for this program, including specification  
8 of the student eligibility criteria to be applied, the allowable educational services to be  
9 provided under this Code section, and the funding guidelines to be used in distributing state  
10 funds to participating local school systems. Such policies and guidelines shall be submitted  
11 to the General Assembly for review and comment prior to the request for funding by the  
12 state board.~~

13 (c) The State Board of Education shall describe by rules and regulations such additional  
14 services, resources, support, or strategies as may be provided by the local school system.  
15 The specifications for delivery of early intervention services shall be the responsibility of  
16 local boards of education except that the program rules and regulations adopted by the  
17 State Board of Education shall be followed in designing the program delivery models.  
18 Delivery models may include, but are not limited to, class augmentation, pull-out or  
19 self-contained classes, and the Reading Recovery Program delivered by certificated  
20 personnel.

21 (d) The early intervention program shall be designed with the intent of helping the student  
22 to perform at expectations and exit the program in the shortest possible time. Students  
23 shall be moved into this program, provided assistance, and moved out of this program upon  
24 reaching grade level performance. It is not the intent of the General Assembly that students  
25 be assigned to this program on a continuing or permanent basis. In developing  
26 accountability standards for schools, the Office of Education Accountability shall consider  
27 the length of time that students spend in the early intervention program as one of the  
28 determinants of performing and nonperforming schools.

29 (e) Funding for the early intervention program shall have a full-time equivalent  
30 teacher-student ratio of one teacher to 11 students.

31 (f) Each local school system shall annually report by grade level the number of eligible  
32 students, the number of students served, the types of services provided, and the average  
33 achievement of students served. For the first year of implementation of this program state  
34 wide, the state board shall request an amount for grants to local school systems based upon  
35 documentation of the number of eligible students estimated to be served; provided,  
36 however, that funds appropriated for this program in the initial year of operation shall be  
37 allocated only on the basis of the documented actual number of students being served

1 ~~during the initial year. For the second year of operation and thereafter, the amount of funds~~  
 2 ~~appropriated and allocated for this program shall be based on the actual count of students~~  
 3 ~~served during the preceding year. In the event that insufficient funds are appropriated by~~  
 4 ~~the General Assembly to serve all eligible students in this program, any funds which are~~  
 5 ~~appropriated shall be directed toward addressing the needs of the most needy eligible~~  
 6 ~~students in each local school system as identified by the local board of education in each~~  
 7 ~~local system the number of students served in the early intervention program as part of the~~  
 8 ~~full-time equivalent program count conducted pursuant to Code Section 20-2-160.~~"

## 9 SECTION 2.

10 Said chapter is further amended by striking in its entirety Code Section 20-2-154, relating  
 11 to the remedial education program, and inserting in lieu thereof the following:

12 "20-2-154.

13 (a) All children and youth who are eligible for a general and career education program  
 14 under Code Section 20-2-151 and who are also eligible under the criteria specified in this  
 15 Code section shall be provided, in accordance with policies adopted by the State Board of  
 16 Education, the remedial education program services needed to address their respective  
 17 reading, mathematics, or writing deficiencies ~~beginning fiscal year 1992~~. The following  
 18 students shall be eligible for remedial education services:

19 (1) Students in ~~grades four and five and~~ grades nine through 12 may be eligible for  
 20 services if they meet two or more of the following criteria:

21 (A) The student has been through the formal student support team process and has  
 22 documented evidence to support the placement in remedial education;

23 (B) The student has been retained in the grade;

24 (C) The student is receiving services under Part A of Chapter 1 of Title 1 of the  
 25 Elementary and Secondary Education Act of 1965, as amended by the Improving  
 26 America's Schools Act of 1994 (Public Law 103-382);

27 (D) The student has been recommended by the teacher who has documented any of the  
 28 following student information:

29 (i) Low performance in the reading series system;

30 (ii) Low performance in the mathematics series; or

31 (iii) The student is unable to verbally express ideas and cannot write or dictate a  
 32 meaningful sentence; or

33 (E) Current test information in the student file indicates the student has a score at or  
 34 below the twenty-fifth percentile; and

35 (2) Students in ~~grades four and five and~~ grades nine through 12 who are receiving  
 36 services under the special education program as authorized by Code Section 20-2-152 and

1 whose Individualized Education Programs (IEP's) specify that they meet the eligibility  
 2 requirements specified in paragraph (1) of this subsection and that their special education  
 3 program is not designed to address their respective reading, mathematics, or writing  
 4 deficiencies.

5 No more than 25 percent of the full-time equivalent population in eligible grades as  
 6 specified in paragraphs (1) and (2) of this subsection shall be eligible for the remedial  
 7 program; provided, however, that the State Board of Education may develop regulations  
 8 whereby a higher percentage may be eligible if the percentage of students receiving free  
 9 and reduced price lunches exceeds 50 percent.

10 ~~(b) Students in grades four and five shall only receive instruction at any given time at their~~  
 11 ~~current performance level or slightly above such level in the subject matter areas for which~~  
 12 ~~they are eligible under the provisions of this Code section; provided, however, that the~~  
 13 ~~program of instruction is designed to move the student to grade level or higher in the~~  
 14 ~~shortest possible time while ensuring mastery as the student progresses.~~ Each local unit  
 15 of administration shall submit to the State Board of Education by July 1 of each year the  
 16 average achievement scores by subject area and grade level of all students who were  
 17 receiving instructional services under the provisions of this Code section, except those  
 18 students whose Individualized Education Programs under the special education program  
 19 state they shall not be administered such achievement tests. If appropriate evaluation data  
 20 are not received from a local school system by the state board by July 1 of each year, after  
 21 a hearing has been held for the system, the subsequent allocation of funds under this Code  
 22 section for the next fiscal year shall be withheld in accordance with the procedure specified  
 23 in Code Section 20-2-243. The state board shall monitor each local school system's  
 24 remedial education program at least once each year. The state board shall annually request  
 25 sufficient state funds to pay a pro rata share of the costs associated with the staff of the  
 26 federal compensatory education program for disadvantaged children when such staff is  
 27 used to evaluate the remedial education program under this Code section in conjunction  
 28 with the evaluation of the federal compensatory education program for disadvantaged  
 29 children in the same local school system."

### 30 SECTION 3.

31 Said chapter is further amended in Code Section 20-2-154.1, relating to alternative education  
 32 programs, by striking subsection (h) in its entirety and inserting in lieu thereof the following:

33 "(h) For the 2000-2001 and 2001-2002 school year years, state funding of alternative  
 34 education programs shall be based upon a full-time equivalent program count that equals  
 35 2.5 percent of the sum of the full-time equivalent program count ~~for grades six through 12~~  
 36 of the middle grades program, the middle school program as defined in Code Section

1 20-2-290, the high school general education program (grades nine through 12), and the  
 2 vocational laboratory program (grades nine through 12). For the ~~2001-2002~~ 2002-2003  
 3 school year and thereafter, the amount of state funds appropriated and allocated for the  
 4 alternative education program provided for in this Code section shall be based on the actual  
 5 count of students served during the preceding year, except that the count of students served  
 6 shall not exceed 2.5 percent of the sum of the full-time equivalent program count ~~for grades~~  
 7 ~~six through 12~~ of the middle grades program, the middle school program as defined in  
 8 Code Section 20-2-290, the high school general education program (grades nine through  
 9 12), and the vocational laboratory program (grades nine through 12). Funds earned may  
 10 be expended in kindergarten and in grades one through 12."

11 **SECTION 4.**

12 Said chapter is further amended by striking in its entirety subsection (e) of Code Section  
 13 20-2-160, relating to determination of enrollment and funds to be appropriated, and inserting  
 14 in lieu thereof the following:

15 "(e) For purposes of calculating allotments for the instructional programs identified in  
 16 paragraphs (2), (4), ~~(7), and (18)~~ (6), (8), and (19) of subsection (b) of Code Section  
 17 20-2-161, for which the full-time equivalent program counts provided for in subsections  
 18 (a) through (d) of this Code section do not exist, the most recent full-time equivalent  
 19 program count shall be used until such time as the full-time equivalent program counts  
 20 provided for in subsections (a) through (d) of this Code section do exist."

21 **SECTION 5.**

22 Said chapter, article, and part are further amended in Code Section 20-2-161, relating to the  
 23 Quality Basic Education Formula, by striking subsection (b) in its entirety and inserting in  
 24 lieu thereof the following:

25 "(b) As the cost of instructional programs varies depending upon the teacher-student ratios  
 26 and specific services typically required to address the special needs of students enrolled,  
 27 state authorized instructional programs shall have the following program weights and  
 28 teacher-student ratios:

29	(1) Kindergarten program .....	1.3405
30		<u>1.6226</u>
31		weight and
32		1 to 15
		ratio

1	(2) Kindergarten early intervention program .....	<del>1.7082</del>
2		<u>1.9952</u>
3		weight and
4		1 to 11
		ratio
5	(3) Primary grades program (1-3) .....	<del>1.2689</del>
6		<u>1.2686</u>
7		weight and
8		1 to 17
		ratio
9	(4) Primary grades early intervention program (1-3) .....	<del>1.7556</del>
10		<u>1.7617</u>
11		weight and
12		1 to 11
		ratio
13	(5) Upper elementary grades program (4-5) .....	<del>1.0289</del>
14		<u>1.0258</u>
15		weight and
16		1 to 23
		ratio
17	<u>(6) Upper elementary grades early intervention program (4-5) .....</u>	<u>1.7549</u>
18		<u>weight and</u>
19		<u>1 to 11</u>
20		<u>ratio</u>
21	<del>(6)</del> <u>(7)</u> Middle grades program (6-8) .....	<del>1.0218</del>
22		<u>1.0102</u>
23		weight and
24		1 to 23
		ratio
25	<del>(7)</del> <u>(8)</u> Middle school program (6-8) as defined in Code Section 20-2-290 .	<del>1.1196</del>
26		<u>1.1104</u>
27		weight and
28		1 to 20
		ratio

1	<del>(8)</del> <u>(9)</u> High school general education program (9-12) .....	1.0000
2		weight and
3		1 to 23
4		ratio
5	<del>(9)</del> <u>(10)</u> Vocational laboratory program (9-12) .....	<del>1.2052</del>
6		<u>1.2010</u>
7		weight and
8		1 to 20
		ratio
9	<del>(10)</del> <u>(11)</u> Program for persons with disabilities:	
10	Category I .....	<del>2.3272</del>
11		<u>2.3409</u>
12		weight and
13		1 to 8
		ratio
14	<del>(11)</del> <u>(12)</u> Program for persons with disabilities:	
15	Category II .....	<del>2.7111</del>
16		<u>2.7330</u>
17		weight and
18		1 to 6.5
		ratio
19	<del>(12)</del> <u>(13)</u> Program for persons with disabilities:	
20	Category III .....	<del>3.4485</del>
21		<u>3.4778</u>
22		weight and
23		1 to 5
		ratio
24	<del>(13)</del> <u>(14)</u> Program for persons with disabilities:	
25	Category IV .....	<del>5.5742</del>
26		<u>5.6253</u>
27		weight and
28		1 to 3
		ratio

1	<del>(14)</del> <u>(15)</u> Program for persons with disabilities:	
2	Category V .....	<del>2.4136</del>
3		<u>2.4233</u>
4		weight and
5		1 to 8
		ratio
6	<del>(15)</del> <u>(16)</u> Program for intellectually gifted students:	
7	Category VI .....	<del>1.6255</del>
8		<u>1.6340</u>
9		weight and
10		1 to 12
		ratio
11	<del>(16)</del> <u>(17)</u> Remedial education program .....	<del>1.2864</del>
12		<u>1.2917</u>
13		weight and
14		1 to 15
		ratio
15	<del>(17)</del> <u>(18)</u> Alternative education program .....	<del>1.5613</del>
16		<u>1.5683</u>
17		weight and
18		1 to 15
		ratio
19	<del>(18)</del> <u>(19)</u> English for speakers of other languages (ESOL) program .....	<del>2.4317</del>
20		<u>2.4521</u>
21		weight and
22		1 to 7
		ratio"

**SECTION 6.**

24 Said chapter is further amended in Code Section 20-2-165, relating to annual calculation and  
25 allocation of equalization grants, by striking subsection (a) and inserting in lieu thereof the  
26 following:

27 "(a) As used in this Code section, the term:

28 (1) 'Assessed valuation' is defined as 40 percent of the equalized adjusted school  
29 property tax digest reduced by the amount calculated pursuant to subsection (g) of Code  
30 Section 20-2-164.

1 (2) 'Assessed valuation per weighted full-time equivalent' is defined as the assessed  
2 valuation for the most recent year available divided by the weighted full-time equivalent  
3 for the year of the digest.

4 (3) 'Average weighted full-time equivalent count' is defined as the first count of a fiscal  
5 year weighted two parts and the second count weighted one part.

6 (4) 'Effective millage rate' is defined as local tax revenues divided by the assessed  
7 valuation and multiplied by 1,000; provided, however, that if the amount of local tax  
8 revenues is subsequently adjusted as a result of an audit of a local school system's annual  
9 financial report, the increase or decrease in local tax revenues resulting from the audit  
10 shall cause an adjustment to be made in the effective millage rate that was calculated  
11 initially. Any net change in the amount of equalization dollars earned as a result of such  
12 adjustment shall be applied to the amount of the local school system's equalization grant  
13 in a subsequent fiscal year.

14 (5) 'Eligible full-time equivalent program count' is defined as the sum of the full-time  
15 equivalent resident student count and full-time equivalent nonresident student count  
16 pursuant to subsection (b) of Code Section 20-2-160 for each program specified pursuant  
17 to subsection (b) of Code Section 20-2-161; provided, however, that each local school  
18 system's total full-time equivalent nonresident student count for all programs except  
19 handicapped programs shall not exceed the lesser of the count for fiscal year 2000 or the  
20 count for any ensuing fiscal year, unless the local school system serves under contract all  
21 of the students in one or more grade levels from an adjoining system or unless the system  
22 serves students from an adjoining system under court order.

23 (6) 'Equalized adjusted school property tax digest' is defined as the most recent equalized  
24 adjusted school property tax digest furnished to the State Board of Education pursuant  
25 to paragraph (1) of subsection (c) of Code Section 20-2-164.

26 (7) 'Guaranteed valuation school system' is defined as the local school system ranking  
27 at the seventy-fifth percentile in dollars of assessed valuation per weighted full-time  
28 equivalent, where the ranking of school systems is such that the one-hundredth percentile  
29 school system is that with the highest amount in dollars of assessed valuation per  
30 weighted full-time equivalent. For the purpose of determining the assessed valuation per  
31 weighted full-time equivalent of the guaranteed valuation school system only, a reduction  
32 of the assessed valuation for exemptions authorized by Code Sections 48-5-44 and  
33 48-5-48 shall be calculated whether such exemptions are granted or not granted by the  
34 guaranteed valuation school system.

35 (8) 'Local tax revenues' is defined as the sum of tax revenues for a local school system  
36 as furnished to the state board by the Department of Revenue pursuant to subsection (e)  
37 of Code Section 20-2-164 Department of Education by the school system in its annual

1 financial report, reduced by the total amount of general funds expended for capital outlay  
 2 or transferred into an escrow account for capital outlay purposes for the most recent fiscal  
 3 year such data are available and increased by any federal funds designed to replace local  
 4 tax revenues provided to the said system; provided, however, that the local school system  
 5 has furnished the state board with acceptable documentation which clearly identifies the  
 6 source or sources of such federal funds.

7 (9) 'Most recent average weighted full-time equivalent count' is defined as the average  
 8 of the two most recent weighted full-time equivalent counts.

9 (10) 'Qualified local school system' is defined as any local school system having an  
 10 assessed valuation per weighted full-time equivalent count for the year of the digest  
 11 ranking below the guaranteed valuation school system and having an effective millage  
 12 rate greater than the millage rate applied to calculate the local five mill share pursuant to  
 13 subsection (a) of Code Section 20-2-164.

14 (11) 'Weighted full-time equivalent count' is defined as the sum of all eligible full-time  
 15 equivalent program counts multiplied by their respective program weights in effect  
 16 during the fiscal year that the full-time equivalent program counts were obtained pursuant  
 17 to Code Section 20-2-161.

18 (12) 'Weighted full-time equivalent for the year of the digest' is defined as the average  
 19 of the two weighted full-time equivalent counts taken during that fiscal year beginning  
 20 during the year of the digest."

## 21 **SECTION 7.**

22 Said chapter is further amended by striking paragraph (1) of subsection (a) of Code Section  
 23 20-2-167, relating to funding for direct instructional, media center, and staff development  
 24 costs, budget and accounting system, and submission of local budget to the state board, and  
 25 inserting in lieu thereof the following:

26 "(a)(1) The State Board of Education shall annually compute, based upon the initial  
 27 allotment of funds to each local school system, the total funds needed for direct  
 28 instructional costs for each program identified in Code Section 20-2-161, specifying the  
 29 number of positions earned and salaries and operational costs portions. 'Direct  
 30 instructional costs' is defined as those components of the program weights which are  
 31 specified in subsections (a) through (g) of Code Section 20-2-182. In computing the total  
 32 funds needed for direct instructional costs for each program, the state board shall apply  
 33 the percentage that these costs represent of the total costs used in developing the program  
 34 weights. The direct instructional costs for the five instructional programs for disabled  
 35 students shall be summed into one amount for special education. Following the midterm  
 36 adjustment, the state board shall issue allotment sheets for each local school system and

1 each school reflecting the total amount of earnings, initial earnings, and midterm  
 2 adjustment, if any, for each program authorized by Code Section 20-2-161. For each  
 3 such program, each local school system shall spend a minimum of 90 percent of funds  
 4 designated for direct instructional costs on the direct instructional costs of such program  
 5 at the school site in which the funds were earned, except that funds earned for special  
 6 education programs shall be summed for the purposes of this expenditure control. For the  
 7 purposes of this expenditure control, funds earned for counselors and technology  
 8 specialists shall each be summed to the school level. Only the state salary amounts  
 9 resulting from the amount earned on the state-wide salary schedule as approved by the  
 10 State Board of Education pursuant to Code Section 20-2-212 plus associated benefits  
 11 funded by the state and the salaries and any ~~state-earned~~ state earned benefits or  
 12 comparable ~~state-earned~~ state earned benefits of technology specialists and classroom  
 13 aides may be applied to the salary cost components for the purpose of meeting this  
 14 expenditure control. Except as otherwise provided by law or rule and regulation of the  
 15 state board, local school systems may decide whether direct instructional funds shall be  
 16 used for teacher salaries, aide salaries, instructional material or equipment, or any other  
 17 appropriate direct instructional expense; provided, however, that 100 percent of funds  
 18 earned for direct instructional salaries shall be expended for salaries of direct instructional  
 19 personnel and classroom aides. The total number of positions earned for direct  
 20 instruction as specified in Code Section 20-2-182, adjusted for maximum class size, shall  
 21 be employed for the delivery of services for which the funds were earned. This position  
 22 control shall be for the kindergarten program, the kindergarten early intervention  
 23 program, the primary grades program, and the primary grades early intervention program  
 24 combined and the combined total for all other programs; provided, however, that  
 25 positions earned for art, music, foreign language, and physical education, technology  
 26 specialists, and counselors shall be totaled for all programs. Fractional amounts may be  
 27 combined and used for any direct instructional position. Funds earned for any fractional  
 28 amounts may be used for any direct instructional expense. Quality Basic Education  
 29 Formula funds in excess of the amount required by this paragraph to be expended by a  
 30 local school system for the direct instructional costs of an instructional program specified  
 31 by Code Section 20-2-161 which are not expended for direct instructional costs must be  
 32 returned to the state treasury."

### 33 SECTION 8.

34 Said chapter is further amended by striking in its entirety Code Section 20-2-181, relating  
 35 to calculation of program weights to reflect base school size, and inserting in lieu thereof the  
 36 following:

1 "20-2-181.  
 2 The calculation of all program weights shall reflect a base size local school system of 3,300  
 3 full-time equivalent students. The calculation of program weights for the kindergarten  
 4 program, the kindergarten early intervention program, the primary grades (1-3) early  
 5 intervention program, the primary grades (1-3) program, the upper elementary grades (4-5)  
 6 early intervention program, and the upper elementary grades (4-5) program shall reflect a  
 7 base school size of 450 full-time equivalent students. The calculation of program weights  
 8 for the middle grades (6-8) program, the middle school (6-8) program, the special  
 9 education programs, the remedial education program, and the English for speakers of other  
 10 languages program shall reflect a base school size of 624 full-time equivalent students. The  
 11 calculation of the program weights for the high school general education program and the  
 12 high school vocational laboratory program shall reflect a base school size of 970 full-time  
 13 equivalent students. The calculation of program weights for the alternative education  
 14 program shall reflect a base school size of 100 full-time equivalent students, except that the  
 15 calculations for secretaries and media personnel shall reflect a base school size of 624  
 16 full-time equivalent students."

#### 17 SECTION 9.

18 Said chapter is further amended by striking in its entirety Code Section 20-2-182, relating  
 19 to program weights reflecting funds for payment of salaries and benefits, and inserting in lieu  
 20 thereof the following:

21 "20-2-182.

22 (a) The program weights, when multiplied by the base amount, shall reflect sufficient  
 23 funds to pay at least the beginning salaries of all teachers needed to provide essential  
 24 classroom instruction in order to ensure a Quality Basic Education Program for all enrolled  
 25 students, subject to appropriation by the General Assembly.

26 (b) The program weights for the primary, primary grades early intervention, upper  
 27 elementary, upper elementary grades early intervention, middle grades, and middle school  
 28 programs, when multiplied by the base amount, shall reflect sufficient funds to pay at least  
 29 the beginning salaries of specialists qualified to teach art, music, foreign language, and  
 30 physical education, subject to appropriation by the General Assembly.

31 (c) The program weights for the kindergarten, kindergarten early intervention, primary,  
 32 primary grades early intervention, upper elementary, upper elementary grades early  
 33 intervention, middle grades, middle school, and alternative education programs and the  
 34 program weights for the high school programs authorized pursuant to paragraph (4) of  
 35 subsection (b) of Code Section 20-2-151, when multiplied by the base amount, shall reflect  
 36 sufficient funds to pay the beginning salaries for guidance counselors needed to provide

1 essential guidance services to students and whose duties and responsibilities shall be  
 2 established by the state board to require a minimum of five of the six full-time equivalent  
 3 program count segments of the counselor's time to be spent counseling or advising students  
 4 or parents.

5 (c.1) The program weights for the kindergarten and the kindergarten early intervention  
 6 programs, when multiplied by the base amount, shall reflect sufficient funds to pay the  
 7 salaries for instructional aides.

8 (d) All program weights, when multiplied by the base amount, shall reflect sufficient funds  
 9 to pay the beginning salaries for technology specialists needed to provide essential  
 10 technology services.

11 (e) The program weights for the high school programs authorized pursuant to paragraph  
 12 (4) of subsection (b) of Code Section 20-2-151, when multiplied by the base amount, shall  
 13 reflect sufficient funds to provide teachers with a preparation period free of assigned  
 14 students.

15 ~~(f) The program weights for the vocational laboratory program, when multiplied by the~~  
 16 ~~base amount, shall reflect sufficient funds to pay the beginning salaries of laboratory~~  
 17 ~~supervisors in such program~~ Reserved.

18 ~~(f.1) The program weights for the kindergarten, kindergarten early intervention, primary,~~  
 19 ~~primary early intervention, upper elementary, middle grades, middle school, remedial, and~~  
 20 ~~alternative education programs and the program weights for the high school programs~~  
 21 ~~authorized pursuant to paragraph (4) of subsection (b) of Code Section 20-2-151, when~~  
 22 ~~multiplied by the base amount, shall reflect sufficient funds to pay the beginning salaries~~  
 23 ~~for instructors needed to provide 20 additional days of instruction for 10 percent of the~~  
 24 ~~full-time equivalent count of the respective program. Such funds shall be used for~~  
 25 ~~addressing the academic needs of low-performing students with programs such as, but not~~  
 26 ~~limited to, instructional opportunities for students beyond the regular school day, Saturday~~  
 27 ~~classes, intersession classes, and summer school classes.~~

28 (g) All program weights, when multiplied by the base amount, shall reflect sufficient funds  
 29 to pay the cost of sick and personal leave for teachers, the employer's portion of costs for  
 30 membership in the Teachers Retirement System of Georgia and health insurance programs  
 31 authorized by law, the cost of essential instructional materials and equipment needed to  
 32 operate effectively such instructional programs, and the cost of travel required of personnel  
 33 in order to deliver educational services to enrolled students, subject to appropriation by the  
 34 General Assembly.

35 (h) All program weights, when multiplied by the base amount, shall reflect, whenever they  
 36 are revised pursuant to subsection (f) of Code Section 20-2-161, an amount of funds for the  
 37 purpose of providing staff and professional development to certificated and classified

1 personnel and local school board members which shall be at least equivalent to 1.5 percent  
2 of salaries of all certificated professional personnel used in the development of each  
3 respective program weight, subject to appropriation by the General Assembly. Funds used  
4 for professional or staff development purposes may be used throughout the fiscal year,  
5 including days when students are not present at school, to meet professional or staff  
6 development needs in the order of priority determined by the local board of education  
7 within the comprehensive professional and staff development program plan approved by  
8 the State Board of Education pursuant to Code Section 20-2-232. Such professional and  
9 staff development program plan shall address deficiencies of certificated personnel as  
10 identified by evaluations required under Code Section 20-2-210. Where possible,  
11 professional and staff development funds shall be used for activities that enhance the skills  
12 of certificated personnel and directly relate to student achievement. Subsequent certificated  
13 personnel evaluations shall include an assessment of an employee's professional and staff  
14 development activities and their effect on identified deficiencies and student achievement.  
15 Funds for professional development purposes may be used for activities occurring at any  
16 time during the fiscal year outside of an employee's normal contract hours.

17 (i) The State Board of Education shall adopt for each instructional program authorized  
18 pursuant to Part 3 of this article and the middle school program provided for in Code  
19 Section 20-2-290 the maximum number of students which may be taught by a teacher in  
20 an instructional period. Such maximum class sizes shall be equal to or greater than the  
21 teacher-student ratios used in the calculation of the program weights as set forth in  
22 subsection (b) of Code Section 20-2-161 but shall not exceed the funding class size by  
23 more than 20 percent, unless specifically authorized by the State Board of Education;  
24 provided, however, that in no case shall the 20 percent maximum be exceeded for  
25 mathematics, science, social studies, or English classes; provided, further, that the  
26 maximum class size for kindergarten and grades one through three shall not exceed 20  
27 percent over the funding ratio except for art, music, or physical education classes;  
28 provided, further, that the maximum class size for special education, gifted, and English  
29 for speakers of other languages classes shall be set by the State Board of Education. For  
30 a period not to exceed four years, beginning with the 2000-2001 school year, local school  
31 systems shall be allowed to exceed the maximum class sizes set forth in this subsection in  
32 a manner consistent with State Board of Education rules. The State Board of Education  
33 shall lower the current maximum class sizes set by state board rules in effect for the  
34 1999-2000 school year, beginning with the 2000-2001 school year, by a proportional  
35 amount each school year so that, beginning with the 2003-2004 school year, State Board  
36 of Education rules are in compliance with this subsection. An aide may be used to increase  
37 ~~the maximum class size in kindergarten from 18 to 20 and may be used in all other in~~ in

1 programs to increase class size as allowed by State Board of Education rule, except that an  
2 aide shall not be used to increase the maximum class size in kindergarten or grades one  
3 through three. The maximum class size for the kindergarten and primary grades programs  
4 is defined as the number of students in a physical classroom. Maximum class sizes that  
5 result in a fractional full-time equivalent shall be rounded up to the nearest whole number  
6 as needed. The middle school program shall use the teacher-student ratio of the middle  
7 grades program for the purpose of this subsection. The number of students taught by a  
8 teacher at any time after the first 15 school days of a school year may not exceed the  
9 maximum such number unless authorization for a specific larger number is requested of  
10 the state board, along with the educational justification for granting the requested  
11 exemption, and the state board has approved said request. The state board shall not reduce  
12 class sizes without the authorization of the General Assembly, if this reduction necessitates  
13 added costs for facilities, personnel, and other program needs. Local boards of education  
14 may reduce class sizes, build additional facilities, and provide other resources at local cost  
15 if such actions are in the best interest of the local school systems' programs as determined  
16 by the local boards of education."

17 **SECTION 10.**

18 Said chapter is further amended by inserting a new Code section to be designated Code  
19 Section 20-2-184.1 to read as follows:

20 "20-2-184.1.

21 The program weights for the kindergarten, kindergarten early intervention, primary,  
22 primary grades early intervention, upper elementary, upper elementary grades early  
23 intervention, middle grades, middle school, and remedial programs and the program  
24 weights for the high school programs authorized pursuant to paragraph (4) of subsection  
25 (b) of Code Section 20-2-151, when multiplied by the base amount, shall reflect sufficient  
26 funds to pay the beginning salaries for instructors needed to provide 20 additional days of  
27 instruction for 10 percent of the full-time equivalent count of the respective program. Such  
28 funds shall be used for addressing the academic needs of low-performing students with  
29 programs including, but not limited to, instructional opportunities for students beyond the  
30 regular school day, Saturday classes, intersession classes, and summer school classes.  
31 Following the midterm adjustment, the state board shall issue allotment sheets for each  
32 local school system. Each local school system shall spend 100 percent of the funds  
33 designated for additional days of instruction for such costs."

**SECTION 11.**

Said chapter is further amended in Code Section 20-2-212.2, relating to salary increases for persons receiving certification from the National Board for Professional Teaching Standards, by striking subsections (d) and (e) and inserting in lieu thereof the following:

"(d) A portion of the national certification program participation fee may be paid by the state prior to certification for any person who:

(1) Is currently teaching in a Georgia public school and holds a valid Georgia teaching certificate;

(2) Has completed three years of teaching in Georgia public schools prior to applying for national certification;

(3) Has submitted an application and the initial qualifying payment to the National Board for Professional Teaching Standards; and

(4) Has successfully completed a screening process developed by the Professional Standards Commission.

(e) A teacher for whom the State of Georgia pays a portion of the national certification participation fee and who does not teach in a Georgia public school for at least one year after receiving certification shall repay the state's portion of the participation fee to the state. Repayment is not required if the teacher is unable to complete the additional year of teaching due to the death or disability of the teacher, and repayment is not required if the teacher fails to receive national board certification.

~~(d)~~(f) The portion of the national certification program participation fee paid by the participant shall be reimbursed by the state upon certification for any teacher who is eligible for an increase pursuant to subsection (b) of this Code section.

~~(e)~~(g) A teacher for whom the State of Georgia ~~pays~~ reimburses the cost of the participation fee and who does not teach in a Georgia public school for at least one year after receiving certification shall repay the ~~certification fee~~ reimbursement payment to the state. Repayment is not required if the teacher is unable to complete the additional year of teaching due to the death or disability of the teacher."

**SECTION 12.**

Said chapter is further amended by striking in its entirety Code Section 20-2-214, relating to salaries and salary supplements for principals, and inserting in lieu thereof the following:

"20-2-214.

The State Board of Education shall establish a salary schedule for school principals that includes a supplement amount for each principal. The amount of the supplement shall be based on the amount appropriated by the General Assembly for this purpose each year divided by the total weighted full-time equivalent count for the state. The amount for each

1 principal shall be determined by multiplying the amount per weighted full-time equivalent  
 2 count by the weighted full-time equivalent count for each school. Local school systems  
 3 shall pay this supplement to each local school principal ~~in one separate payment each~~  
 4 ~~school year.~~"

### 5 SECTION 13.

6 Said chapter is further amended in Code Section 20-2-260, relating to capital outlay funds,  
 7 by striking subsections (b), (c), (e), (f), (g), (h), and (j) and inserting in lieu thereof the  
 8 following:

9 "(b) As used in this Code section, the following words or terms shall have the following  
 10 meanings:

11 (1) 'Addition' refers to square footage of room floor space for instructional or other  
 12 purposes added to an existing educational facility, whether physically connected thereto  
 13 or a separate structure located on the same site.

14 (2) 'Annual debt service' is defined as expenditures for the annual retirement of debt for  
 15 capital outlay construction projects for educational facilities and shall include the interest  
 16 on the principal as well as the principal of the debt.

17 (3) 'Capital outlay' includes, but is not necessarily limited to, expenditures which result  
 18 in the acquisition of fixed assets, existing buildings, improvements to sites, construction  
 19 of buildings, construction of additions to buildings, retrofitting of existing buildings for  
 20 energy conservation, and initial and additional equipment and furnishings for educational  
 21 facilities.

22 (4) 'Construction project' refers to the construction of new buildings, additions or  
 23 expansion of existing buildings, relocation of existing buildings or portions thereof,  
 24 renovation or modernization of existing buildings or structures, and procedures and  
 25 processes connected thereto, related to educational facilities.

26 (5) 'Educational facilities' shall include buildings, fixtures, and equipment necessary for  
 27 the effective and efficient operation of the program of public education required by this  
 28 article, which, without limiting the generality of the foregoing, shall include classrooms,  
 29 libraries, rooms and space for physical education, space for fine arts, restrooms,  
 30 specialized laboratories, cafeterias, media centers, building equipment, building fixtures,  
 31 furnishings, related exterior facilities, landscaping and paving, and similar items which  
 32 the State Board of Education may determine necessary. The following facilities are  
 33 specifically excluded: swimming pools, tracks, stadiums, and other facilities or portions  
 34 of facilities used primarily for athletic competition and the central and area administrative  
 35 offices of local units of administration.

1 (6) 'Educational facilities survey' is defined as a systematic study of present educational  
2 facilities and a five-year forecast of future needs.

3 (7) 'Entitlement' refers to the maximum portion of the total need that may be funded in  
4 a given year.

5 (7.1) 'Exceptional growth' means that growth experienced by an exceptional growth  
6 system under the calculations specified in subparagraph (j)(2)(A) of this Code section.

7 (8) 'Full-time equivalent student count' is defined as the average of the two full-time  
8 equivalent counts pursuant to Code Section 20-2-160 for a school year; ~~provided,~~  
9 ~~however, that the average daily membership shall be used in lieu of such full-time~~  
10 ~~equivalent student counts for school years for which such counts are not available.~~

11 (9) 'Local funds' refers to funds available to local school systems from sources other than  
12 state and federal funds except any federal funds designed to replace local tax revenues.

13 (10) 'Local school system's 1 percent local sales tax wealth' is defined as the funds in  
14 dollars generated or which could be generated during the year by a 1 percent sales tax.

15 (11) 'Local wealth factor' is defined as the average of the property tax wealth factor and  
16 the sales tax wealth factor. The property tax wealth factor is determined by dividing the  
17 local school system's net equalized adjusted property tax digest per weighted full-time  
18 equivalent student by the state-wide net equalized adjusted property tax digest per  
19 weighted full-time equivalent student. The sales tax wealth factor is determined by  
20 dividing the local school system's 1 percent local sales tax wealth per weighted full-time  
21 equivalent student by the state-wide 1 percent sales tax wealth per weighted full-time  
22 equivalent student.

23 ~~(10)~~(12) 'Net equalized adjusted school property tax digest' is defined as the equalized  
24 adjusted school property tax digest furnished pursuant to Code Section 48-5-274,  
25 reduced in accordance with paragraphs (1) and (2) of subsection (a) of Code Section  
26 20-2-164.

27 ~~(11)~~(13) 'Physical education facility' is defined as any facility which is designed for an  
28 instructional program in physical education and shall exclude any spectator stands,  
29 lobbies, public restrooms, concession areas, or space normally identified to serve only the  
30 interscholastic athletic program in which the school may participate.

31 ~~(12)~~(14) 'Renovation' or 'modernization' or both refers to construction projects which  
32 consist of the installation or replacement of major building components such as lighting,  
33 heating, air-conditioning, plumbing, roofing, electrical, electronic, or flooring systems;  
34 millwork; cabinet work and fixed equipment; energy retrofit packages; or room-size  
35 modifications within an existing facility, but excluding routine maintenance and repair  
36 items or operations.

1 ~~(13)~~(15) 'Required local participation' is defined as the amount of funds which must be  
 2 contributed by local school systems from local funds for each construction project.

3 ~~(14)~~(16) 'Unhoused students' is defined as those students who are not housed in school  
 4 facilities which are structurally sound with adequate space as defined by the state board.

5 ~~(15)~~(17) 'Weighted full-time equivalent student count' is defined as the average weighted  
 6 full-time equivalent count as defined in paragraph (3) of subsection (a) of Code Section  
 7 20-2-165.

8 (c) The State Board of Education shall adopt policies, guidelines, and standards, pursuant  
 9 to Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' that meet the  
 10 requirements specified in this Code section. The state board's responsibilities shall include  
 11 the following:

12 (1) To adopt policies, guidelines, and standards for the annual physical facility and real  
 13 property inventory required of each local school system. This inventory shall include, but  
 14 not be limited to: parcels of land; number of educational facilities; year of construction  
 15 and design; size, number, and type of construction space; amount of instructional space  
 16 in permanent and temporary buildings; designations for each instructional space in  
 17 permanent and temporary buildings occupied by designated state approved instructional  
 18 programs, federal programs, or local programs not required by the state; local property  
 19 assessment for bond purposes; outstanding school bonds and annual debt service; and  
 20 buildings and facilities not in use or rented or leased to individuals or other agencies of  
 21 government, or used for other than instructional programs required by this article, each  
 22 identified by its current use. Department of Education staff shall annually review, certify  
 23 the accuracy of, and approve each local school system's inventory;

24 (2) To adopt policies, guidelines, and standards for the educational facilities survey  
 25 required of local school systems. The educational facilities survey shall be initiated by  
 26 written request of a local board of education. The request may suggest the number of  
 27 teams and the individuals constituting such teams to participate in the survey. However,  
 28 it shall be the responsibility of the Department of Education to constitute the makeup of  
 29 the necessary teams. Said teams shall exclude local residents; employees of the local  
 30 board of education, the servicing regional educational services agency, and other  
 31 educational centers and agencies servicing the local board; and individuals deemed  
 32 unacceptable by the local board. The state board shall establish and maintain  
 33 qualification standards for participants of survey teams. Each educational facilities  
 34 survey shall include, but not be limited to, an analysis of population growth and  
 35 development patterns; assessment of existing instructional and support space; assessment  
 36 of existing educational facilities; extent of obsolescence of facilities; and  
 37 recommendations for improvements, expansion, modernization, safety, and energy

1 retrofitting of existing educational facilities. The Department of Education staff shall  
2 review and certify as to the accuracy of each educational facilities survey. The state board  
3 shall approve or reject the recommendations of the survey team and shall establish appeal  
4 procedures for rejected surveys;

5 (3) To adopt policies, guidelines, and standards for educational facilities construction  
6 plans. Local school system facilities construction plans shall include, but not be limited  
7 to, a list of construction projects currently eligible for state capital outlay funds, if any;  
8 educational facilities projected for abandonment, if any; educational facilities projected  
9 as needed five years hence; proposed construction projects for modernization, renovation,  
10 and energy retrofitting; proposed construction projects for the purpose of consolidating  
11 small, inefficient educational facilities which are less than the minimum size specified  
12 in subsection (q) of this Code section; and other construction projects needed to house the  
13 instructional programs authorized by provisions of this article;

14 (4) To adopt uniform rules, regulations, policies, standards, and criteria respecting all  
15 location, construction, equipping, operating, maintenance, and use of educational  
16 facilities as may be reasonably necessary to assure effective, efficient, and economical  
17 operation of the schools and all phases of the public education program provided for  
18 under the provisions of this article. Such matters shall include, but not be limited to, the  
19 method, manner, type, and minimum specifications for construction and installation of  
20 fixtures and equipment in educational facilities; space requirements per student; number  
21 and size of classrooms; allowable construction costs based on current annual construction  
22 cost data maintained by the Department of Education; and other requirements necessary  
23 to ensure adequate, efficient, and economical educational facilities. The state board shall  
24 adopt policies or standards which shall allow renovation costs up to the amount of new  
25 construction of a replacement facility, provided that the renovated facility provides  
26 comparable instructional and supportive space and has an extended life comparable to  
27 that of a new facility. Except for satisfying the most recent life safety codes, facilities  
28 which are undergoing renovation, modernization, or additions shall otherwise meet  
29 requirements applicable to them prior to renovation, modernization, or additions,  
30 provided that such additions do not increase the student capacity of the facility  
31 substantially above the capacity for which it was designed;

32 (5) To develop a state-wide needs assessment for purposes of planning and developing  
33 policies, anticipating state-wide needs for educational facilities, and providing assistance  
34 to local school systems in developing educational facilities plans. The state-wide needs  
35 assessment shall be developed from, among other sources, vital statistics published by the  
36 Department of Human Resources, census data published by the Bureau of the Census,  
37 local school system educational facilities and real property inventories, educational

1 facilities surveys, full-time equivalent student projection research, and educational  
2 facilities construction plans; shall reflect circumstances where rapid population growth  
3 is caused by factors not reflected in full-time equivalent student projection research; and  
4 shall give priority to elementary school construction. In addition, the state board shall  
5 develop a consistent, systematic research approach to full-time equivalent student  
6 projections which will be used in the development of needs within each local unit.  
7 Projections shall not be confined to full-time equivalent resident students but shall be  
8 based on full-time equivalent student counts which include full-time equivalent  
9 nonresident students, whether or not such full-time equivalent nonresident students attend  
10 school pursuant to a contract between local school systems. The full-time equivalent  
11 projection shall be calculated in accordance with subsection (m) of this Code section.  
12 The survey team will use such projections in determining the improvements needed for  
13 the five-year planning period. The state board shall also develop schedules for allowable  
14 square footage and cost per square foot and review these schedules annually. The cost  
15 estimate for each recommended improvement included in the plan shall be based on these  
16 schedules. Any increase in cost or square footage for a project beyond that allowed by  
17 state board schedules for such projects shall be the responsibility of the local school  
18 system and shall not count toward present or future required local participation. The  
19 schedules for allowable square footage and cost per square foot shall be specified in  
20 regulations by the State Board of Education;

21 (6) To adopt policies, standards, and guidelines to ensure that the provisions of  
22 subsections (e), (f), (g), (h), (i), (j), and (k.1) of this Code section relating to uses of state  
23 capital outlay funds, state and local share of costs, entitlements, allocation of capital  
24 outlay funds, advance funding for certain construction projects, exceptional growth  
25 construction projects, and consolidation of schools across system lines are carried out;

26 (7) To review and approve proposed sites and all architectural and engineering drawings  
27 and specifications on construction projects for educational facilities to ensure compliance  
28 with state standards and requirements, and inspect and approve completed construction  
29 projects financed in whole or in part with state funds, except construction projects under  
30 supervision of the Georgia State Financing and Investment Commission. The state board  
31 may designate selected local units of administration which have staff qualified for such  
32 purposes to act on behalf of the Department of Education in such inspections, when the  
33 project is not under the direction of the Georgia State Financing and Investment  
34 Commission;

35 (8) To coordinate construction project reviews with the state fire marshal's office and the  
36 Department of Human Resources;

1 (9) To provide procedures whereby local school systems may revise their educational  
2 facilities plans or the priority order of construction projects requested to reflect  
3 unforeseen changes in locally identifiable needs, which revisions shall be approved by  
4 the State Board of Education, providing that such revisions meet state and local building  
5 codes, fire marshal certification, architectural requirements, and minimum size  
6 requirements under subsection (q) of this Code section; and

7 (10) To adopt uniform rules, regulations, policies, standards, and criteria respecting all  
8 location, construction, equipping, operating, maintenance, and use of education facilities  
9 which are used as schools and that are historic landmarks and which are registered as  
10 historic landmarks with the National Register of Historic Places or the Georgia Register  
11 of Historic Places or are certified by the state historic preservation officer as eligible for  
12 such registration and the expenditure of capital outlay funds otherwise available to a  
13 school system for such purposes."

14 "(e) State capital outlay funds for educational facilities appropriated in accordance with  
15 provisions of this Code section shall be used for the following purposes:

16 (1) To provide construction projects needed because of increased student enrollment or  
17 exceptional growth or to replace educational facilities which have been abandoned or  
18 destroyed by fire or natural disaster and which shall consist of new buildings and  
19 facilities on new sites or new additions to existing buildings and facilities, or relocation  
20 of existing educational facilities or portions thereof to different sites;

21 (2) To provide construction projects to renovate, modernize, or replace educational  
22 facilities in order to correct deficiencies which produce educationally obsolete, unsafe,  
23 inaccessible, energy inefficient, or unsanitary physical environments;

24 (3) To provide construction projects for new additions to existing educational facilities  
25 or relocation of existing educational facilities or portions thereof to different sites in order  
26 to house changes in the instructional program authorized and funded under provisions of  
27 this article or new educational facilities on new sites or new additions to existing ones as  
28 a result of internal population shifts or changes in attendance zones within the local  
29 school system;

30 (4) To provide construction projects to consolidate educational facilities which have  
31 fewer pupils than required for the minimum school population specified in subsection (q)  
32 of this Code section or which are too expensive to renovate or modernize due to  
33 obsolescence or location and which shall consist of new educational facilities on new  
34 sites, new additions to existing sites, or relocation of existing educational facilities or  
35 portions thereof to different sites;

36 (5) To provide construction projects to consolidate the total student populations in  
37 elementary, middle, or high schools across local school system lines. In such projects,

1 there shall be no requirement to include a vocational wing as defined within the high  
2 school structure but neither shall such vocational wing be excluded for funding purposes;

3 (6) To reimburse local school systems for current principal payments on local  
4 indebtedness for state approved construction projects for educational facilities. No local  
5 school system may request funds for the purposes of this paragraph unless and until all  
6 construction projects identified in its construction plan for the purposes of paragraphs (1)  
7 through (5) of this subsection have been completed; ~~and~~

8 (7) To provide construction projects to renovate or modernize facilities which are  
9 historic landmarks and are registered as historic landmarks with the National Register of  
10 Historic Places or the Georgia Register of Historic Places or are certified by the state  
11 historic preservation officer as eligible for such registration in order to correct  
12 deficiencies which produce educationally obsolete, unsafe, inaccessible, energy  
13 inefficient, or unsanitary physical environments; provided, however, that local school  
14 boards shall be required to use the facility which is or is eligible to be a historic landmark  
15 as a public school. Notwithstanding any other provisions of this Code section and  
16 without regard to location or obsolescence, the state board shall allocate funds to renovate  
17 and modernize historic landmark facilities which meet the requirements of this paragraph  
18 in an amount which is the lesser of the cost of new construction to replace the historic  
19 landmark or the actual cost of such renovation and modernization; provided, however,  
20 that the renovated facility has an extended life comparable to that of a new facility; and  
21 provided, further, that the local school system shall provide the remaining necessary  
22 capital outlay funds to renovate the facility in accordance with all other requirements of  
23 this Code section. No lottery proceeds shall be appropriated from the Lottery for  
24 Education Account to fund any project or purpose authorized by this paragraph;

25 (8) To provide construction projects that serve cooperative efforts between local school  
26 systems and postsecondary institutions; and

27 (9) To provide construction projects that use prototypical designs approved by the  
28 Georgia State Financing and Investment Commission, including designs which  
29 incorporate elements that create a quality learning and teaching environment.

30 (f) The state and each local school system shall provide capital outlay funds for  
31 educational facilities in accordance with this subsection as follows:

32 (1) The required local participation shall be ~~25~~ no more than 20 percent nor less than 8  
33 percent of the eligible project cost as ~~modified~~ determined by the local ability ratio. The  
34 local ability ratio is determined by multiplying the local wealth factor by 20 percent. At  
35 the time a local school system applies to use entitlement earnings, a system may earn an  
36 additional 2 percent reduction in the required local participation for each new  
37 construction project that uses a Georgia State Financing and Investment Commission

1 prototypical design with the project managed under the direction of the Georgia State  
 2 Financing and Investment Commission, and annual debt service. The local ability ratio  
 3 shall be determined by dividing the local school system's net equalized adjusted school  
 4 property tax digest per weighted full-time equivalent resident student by the state-wide  
 5 net equalized adjusted school property tax digest per weighted full-time equivalent  
 6 resident student. The resulting ratio shall be multiplied by 25 percent of the cost of the  
 7 eligible construction project to determine the required local participation. A local school  
 8 system may reduce its required local participation by an amount equal to no more than  
 9 75 percent of annual debt service payments of interest and principal on local bonds issued  
 10 for eligible construction projects. Regardless of the above, no local school system's  
 11 required local participation shall be less than ~~10~~ 6 percent nor greater than ~~25~~ 20 percent  
 12 of the cost of an eligible construction project except as provided in paragraph (2) of this  
 13 subsection; and

14 (2) The state shall participate in no more than 25 percent of the cost of construction  
 15 projects related to damage to educational facilities caused by fire or natural disaster.

16 (g)(1) In order to determine a reasonable total funding level for the purposes stated in  
 17 subsection (e) of this Code section, excluding funds provided for exceptional growth  
 18 pursuant to subsection (j) of this Code section, and to establish a fair and equitable  
 19 distribution of funds to local school systems, the State Board of Education shall annually  
 20 determine a level of authorization. ~~For a given fiscal year~~ Starting with fiscal year 2003  
 21 applications for funds and for each fiscal year thereafter, the new authorization level may  
 22 equal zero but shall not exceed ~~\$100~~ \$200 million, adjusted annually to reflect the  
 23 changes in the current annual construction cost data maintained by the Department of  
 24 Education pursuant to paragraph (4) of subsection (c) of this Code section. For purposes  
 25 of deliberations with the Governor and the General Assembly regarding the amount of  
 26 state funds to be appropriated, calculations shall be made for at least three levels below  
 27 the ~~\$100~~ \$200 million maximum authorization, adjusted as specified in this paragraph.

28 (2) In setting the annual authorization level under this subsection, the state board shall  
 29 consider any previously authorized but unfunded amounts together with the total estimate  
 30 of funds needed for school facilities in the state. Such total state facilities needs pursuant  
 31 to this subsection shall be computed by summing the following:

32 (A) The total facility improvement needs included in the most recent five-year  
 33 educational facilities plan, excluding exceptional growth construction projects which  
 34 shall be requested under subsection (j) of this Code section, which has been reviewed  
 35 by a survey team and approved by the state board. Such needs shall annually be  
 36 adjusted downward for projects financed by either state or local funds and shall  
 37 annually be adjusted upward or downward to reflect changes in the full-time equivalent

1 student counts but shall not be otherwise adjusted upward except upon approval of a  
 2 new or revised five-year plan pursuant to subsections (c) and (d) of this Code section;  
 3 and

4 (B) The sum of the annual debt service payments for the five-year period of the latest  
 5 survey (that used in subparagraph (A) of this paragraph), excluding payments for  
 6 postsecondary facilities, athletic facilities, administrative facilities, or other projects not  
 7 included in the approved five-year plan pursuant to subsections (c) and (d) of this Code  
 8 section. Such payments shall annually be adjusted ~~downward for any portion used in~~  
 9 ~~lieu of required local participation as allowed in subsection (f) of this Code section and~~  
 10 ~~shall be adjusted~~ upward or downward for the remaining portion of the five-year period  
 11 for ~~increases~~ changes in the annual debt service payments resulting from local financing  
 12 of projects covered by the state board approved plan.

13 (3) Each local school system shall be entitled to a portion of the total authorization set  
 14 by the state board annually under this subsection based on the ratio of that local school  
 15 system's needs as computed in paragraph (2) of this subsection to the total of all local  
 16 school systems' needs. In addition to the annual entitlement, the local school system is  
 17 eligible to receive any entitlement accrued from previous years for which state funds have  
 18 not yet been received. Any change in the method of determining entitlements in  
 19 subsequent years shall in no way affect the amount of previously accrued entitlements.

20 (4) In order to determine the amount of state funds to be requested for a given fiscal year  
 21 under this subsection, total new and accrued entitlements must be compared to the state  
 22 portion of the current cost estimates of the projects approved in the educational facilities  
 23 plan in priority order. Such comparison shall be made for each of the incremental  
 24 entitlement levels required in paragraph (1) of this subsection. In the event that projects  
 25 requested for funding exceed the total state entitlements and required local participation,  
 26 local school systems may elect to contribute additional local funding. Local funds  
 27 contributed in excess of required local participation on state eligible project costs may be  
 28 credited ~~as debt service credit only toward required local participation in subsequent~~  
 29 ~~years pursuant to paragraph (1) of subsection (f) of this Code section, provided that the~~  
 30 ~~requested state appropriation for this subsection shall not exceed \$100 million annually~~  
 31 ~~and, if necessary, the new entitlement level shall be reduced to comply with this~~  
 32 ~~limitation~~ toward earning entitlement for state eligible project costs pursuant to  
 33 subparagraph (B) of paragraph (2) of this subsection to the extent of the state eligible  
 34 needs identified in the local facilities plan. The State Board of Education shall adopt  
 35 rules that define the conditions and the extent of the crediting of local funds contributed  
 36 toward such entitlement.

1 (5) The final level of entitlements actually authorized by the state board for a fiscal year  
2 shall be that level which is consistent with the Appropriations Act for that year.

3 (h) A local school system may receive state capital outlay funds for one construction  
4 project under the advance funding category to meet educational facilities needs due to the  
5 following:

6 (1) Extraordinary growth of student population in excess of the capacity of existing  
7 facilities;

8 (2) Destruction of or damage to educational facilities by fire or natural disaster, limited  
9 by the provisions of paragraph (2) of subsection (f) of this Code section;

10 (3) Replacement of educational facilities which have been certified as hazards to health  
11 or safety;

12 (4) Projects, in priority order, which would otherwise require more than three years of  
13 the combined annual entitlement and required local participation amounts, estimated in  
14 accordance with the total entitlement intended for authorization by the State Board of  
15 Education; and

16 (5) Projects for consolidation of schools across local school system lines which have  
17 costs that exceed the combined annual entitlements of the participating local school  
18 systems. Such projects shall meet, with the exception of paragraph (2) of this subsection,  
19 the following conditions to qualify for advanced funding:

20 (A) The local school systems have specifically requested funding under this subsection  
21 prior to submission of the annual budget request for the state board to the General  
22 Assembly;

23 (B) Annual entitlements accrued under subsection (g) of this Code section have offset  
24 any advanced funding previously granted, except that no more than three years of  
25 combined entitlements of the participating local school systems shall be required to  
26 offset advance funding for consolidation projects pursuant to paragraph (5) of  
27 subsection (e) of this Code section;

28 (C) The projects to be funded are not in addition to projects funded for local school  
29 systems under the provisions of subsection (g) of this Code section in a given year; and

30 (D) The required local participation and all other procedural requirements of this Code  
31 section are met."

32 "(j)(1) In order to determine a reasonable funding level under this subsection and to  
33 establish a fair and equitable distribution of funds to local school systems for construction  
34 projects needed because of exceptional growth, the State Board of Education shall  
35 annually determine a level of authorization. For a given fiscal year, the new authorization  
36 may equal zero but shall not exceed \$100 million. For purposes of deliberations with the  
37 Governor and the General Assembly regarding the amount of state funds to be

1 appropriated, calculations shall be made for at least three levels below the \$100 million  
2 maximum authorization.

3 (2) In setting the annual authorization level for exceptional growth funding, the state  
4 board shall consider any previously authorized but unfunded amounts under this  
5 subsection together with the total estimate of funds needed for school facilities as a result  
6 of exceptional growth as computed under subparagraph (A) of this paragraph. The  
7 annual entitlement for each school system experiencing exceptional growth shall be  
8 computed as follows:

9 (A) The average of each school system's average full-time equivalent count for the  
10 three most recently completed school years ('most recent average') will be compared  
11 to the average of that system's average full-time equivalent count for the three most  
12 recently completed school years prior to the most recently completed school year  
13 ('earlier average'). If there is an increase in a school system's most recent average of at  
14 least 1.5 percent and at least 65 average full-time equivalent counts over that system's  
15 earlier average, that system will be an exceptional growth system. For each such  
16 exceptional growth system with an increased average count of at least 65 average  
17 full-time equivalent counts after the above calculation, the amount of such increase will  
18 be divided by the total such increase for all exceptional growth systems under this  
19 subsection to provide the ratio of each system's growth to the total growth of all  
20 systems with exceptional growth; and

21 (B) Each of the school systems identified as being an exceptional growth system under  
22 subparagraph (A) of this paragraph shall be entitled to a portion of the total entitlement  
23 authorization set by the General Assembly annually for exceptional growth based on  
24 each system's relative exceptional growth to the sum of exceptional growth for all  
25 systems as determined in subparagraph (A) of this paragraph. The entitlement for each  
26 school system shall be determined annually by multiplying each system's ratio of need  
27 to the total need for exceptional growth by each of the program authorization levels  
28 required in paragraph (1) of this subsection. In addition to the annual entitlement, the  
29 local school system is eligible to receive any entitlement accrued under this subsection  
30 from previous fiscal years for which state funds have not been received. Any method  
31 of determining entitlements in subsequent years shall in no way affect the amount of  
32 previously accrued entitlements.

33 (3) The level of entitlement approved by the General Assembly and authorized by the  
34 state board shall not be greater than a total level of entitlement which, when divided by  
35 the sum of exceptional growth for all school systems with exceptional growth, provides  
36 a cost per average exceptional growth full-time equivalent student that is not greater than  
37 the average of construction costs per full-time equivalent student for elementary school,

1 middle school, and high school construction as provided in paragraph (5) of subsection  
2 (c) of this Code section, the average of which three costs shall be reduced by the local  
3 participation required by subsection (f) of this Code section.

4 (4) In order to determine the amount of state funds to be requested for a given fiscal year  
5 under this subsection, total new and accrued entitlements under this subsection must be  
6 compared to the state portion of the current cost estimates for all projects approved for  
7 exceptional growth. Such comparisons shall be made for each of the incremental  
8 entitlement levels required in paragraph (1) of this subsection. In the event that funding  
9 requested for new construction for exceptional growth exceeds the total state entitlements  
10 earned for exceptional growth and the required local participation, local school systems  
11 may elect to contribute additional local funding. Local funds contributed in excess of  
12 required local participation on state eligible project costs may be credited ~~as debt service~~  
13 ~~credit pursuant to paragraph (1) of subsection (f)~~ toward earning entitlement for state  
14 eligible project costs pursuant to subparagraph (g)(2)(B) of this Code section to the extent  
15 of the state eligible needs identified in the local facilities plan. The State Board of  
16 Education shall adopt rules that define the conditions and the extent of the crediting of  
17 local funds contributed toward such entitlement.

18 (5) The final level of entitlements actually authorized by the state board for a fiscal year  
19 shall be that level which is consistent with the Appropriations Act for that year.

20 (6) Local school systems may receive state capital outlay funds for exceptional growth  
21 projects if that system experienced exceptional growth and the following conditions are  
22 met:

23 (A) The local school system has specifically requested funding under this subsection  
24 prior to submission of the annual budget request for the state board to the General  
25 Assembly;

26 (B) Any construction project submitted to utilize growth entitlement shall include  
27 construction of at least three new instructional units. If sufficient growth entitlement  
28 is not currently available for all of the new instructional units needed under this  
29 subsection, additional local funds or entitlements available to meet construction needs  
30 identified in the school system's facilities plan pursuant to subsection (g) of this Code  
31 section may be combined with any entitlement available for exceptional growth  
32 pursuant to this subsection for the purpose of completing all construction needs  
33 identified at a school. Entitlements earned under this subsection shall not be withheld,  
34 recalculated, or otherwise reduced for any construction project approved under  
35 subsection (g) of this Code section. Exceptional growth entitlement shall be utilized  
36 for construction of new instructional units at an existing school or for new schools only  
37 for those schools which, following the completion of such construction, meet the

1 minimum size specified in subsection (q) of this Code section. Other funding sources  
 2 must be utilized for any renovation or modification activities which may be needed; and  
 3 (C) The local participation required under subsection (f) of this Code section and all  
 4 other procedural requirements of this Code section are met."

5 "(s)(1) An appropriation for public school outlay for any one fiscal year that is in  
 6 addition to the annual fiscal year appropriation for school capital outlay will be deemed  
 7 a 'special appropriation for school capital outlay' for purposes of this subsection when:

8 (A) The appropriation is to the Georgia State Financing and Investment Commission;  
 9 and

10 (B) The Office of Planning and Budget confirms that a separate and substantial  
 11 appropriation for public school capital outlay has been made during the same fiscal year  
 12 to the board and Department of Education under another subsection of this Code  
 13 section.

14 (2) The State Board of Education shall promulgate rules, policies, standards, and  
 15 guidelines for the disbursement and application of any special appropriation for school  
 16 capital outlay and these rules, policies, standards, and guidelines shall be utilized by the  
 17 commission in making disbursements and overseeing applications of said special  
 18 appropriation. The state board may provide for disbursement for any capital outlay  
 19 purpose permitted by this Code section, unless purposes are stated more narrowly by the  
 20 special appropriation, and may provide for amendments to facilities plans for the limited  
 21 purpose of this paragraph. The board may set priorities among the permitted purposes  
 22 and may require each school system to apply its portion first to such priorities.

23 (3) Each local school system shall be entitled to its portion of a special appropriation for  
 24 school capital outlay based on the ratio of that system's needs to the total state-wide need.  
 25 The state board will provide for the determination of need as provided in this subsection  
 26 and as otherwise provided in this Code section. No need will be authorized which is not  
 27 a permitted capital outlay purpose under this Code section.

28 (4) In providing for disbursement, the state board will determine whether:

29 (A) To require local participation in capital expenditures funded by the special  
 30 appropriation for school capital outlay. No local participation will be required which  
 31 exceeds that otherwise required by this Code section; and

32 (B) To allow a special appropriation for school capital outlay to be applied to  
 33 reimbursement of current principal payments on local indebtedness.

34 In making its determination, the board will consider the efficient and economical use of  
 35 the special appropriation for school capital outlay and local revenues.

36 (5) In providing for disbursement and application of a special appropriation for school  
 37 capital outlay, the state board and the Georgia State Financing and Investment

1 Commission will not be subject to Chapter 13 of Title 50, the 'Georgia Administrative  
 2 Procedure Act.'"

3 **SECTION 14.**

4 Said chapter is further amended by striking in its entirety Code Section 20-2-262, relating  
 5 to low-wealth capital outlay grants to local school systems, and inserting in lieu thereof the  
 6 following:

7 "20-2-262.

8 (a) The General Assembly finds that many local school systems in Georgia have relatively  
 9 weak local tax bases and are unable to raise revenues sufficient to meet their facility needs.

10 The General Assembly further finds that even with current levels of state capital outlay  
 11 support, these systems must wait for years before they can accumulate funds to initiate  
 12 construction projects that are needed immediately. For some systems, the availability of  
 13 the local option sales tax does not resolve their problem, because their commercial tax base  
 14 is as meager as their property wealth. The difficulty is compounded if the per capita  
 15 income in the school system is low, because residents have less ability to take advantage  
 16 of property tax and sales tax options to meet their facility needs. It is the intent of the  
 17 General Assembly to provide for state capital outlay grants specifically targeted to  
 18 low-wealth school systems, on a ~~trial~~ short-term basis, in order to help such systems initiate  
 19 what they have been unable to accomplish with existing revenue sources.

20 (b) As used in this Code section, the terms 'full-time equivalent student count' and  
 21 'weighted full-time equivalent student count' shall have the same meaning as provided in  
 22 Code Section 20-2-260.

23 (c) The State Board of Education shall provide eligible local school systems with  
 24 low-wealth capital outlay grants as provided for in this Code section, subject to  
 25 appropriation by the General Assembly. Such grants shall provide sufficient funds to cover  
 26 ~~90~~ 92 percent of the state eligible cost of the local school system's first priority project in  
 27 the five-year facilities plan, as contained in the system's most recently approved local  
 28 facilities plan. A local school system may qualify for a grant not to exceed 95 percent of  
 29 the state eligible cost of the local school system's first priority project in the five-year  
 30 facilities plan if the system uses a Georgia State Financing and Investment Commission  
 31 prototypical design with the project managed under the direction of the Georgia State  
 32 Financing and Investment Commission.

33 (d) Local school systems which meet the following criteria shall be eligible for a  
 34 low-wealth capital outlay grant:

- 1 (1) The amount of sales tax revenues per unit in the full-time equivalent student count  
 2 of the local school system is less than 75 percent of the state-wide average sales tax  
 3 revenues per unit in the full-time equivalent student count;
- 4 (2) The value of property per unit in the weighted full-time equivalent student count of  
 5 the local school system is less than 75 percent of the state-wide average value of property  
 6 per unit in the weighted full-time equivalent student count;
- 7 (3) The per capita income of residents of the local school district is less than 75 percent  
 8 of the state-wide average per capita income level;
- 9 (4) The local school system's millage rate for maintenance and operation is at least 60  
 10 percent of the system's constitutional authority to recommend; or if the school system is  
 11 not a recommending authority, the appropriations to the system represent a minimum of  
 12 60 percent of the amount that would be generated by a rate of 20 mills; or if the school  
 13 system is eligible to receive local option sales tax proceeds for maintenance and operation  
 14 purposes, the combination of property tax revenue and sales tax revenue represents a  
 15 minimum of 60 percent of the amount that would be generated by a rate of 20 mills;
- 16 (5) A special purpose local option sales tax is in effect in the local school district or the  
 17 local school system has in place a millage rate for debt service on bonds, or both; and
- 18 (6) The local school system is currently participating in advance funding from the state  
 19 for capital outlay projects and will continue in that status for a minimum of one additional  
 20 fiscal year beyond the fiscal year for which the grant is made."

21 **SECTION 15.**

22 Said chapter is further amended by inserting in Part 12 of Article 6, relating to effectiveness  
 23 of educational programs, new Code Sections to be designated Code Sections 20-2-282,  
 24 20-2-283, 20-2-284, 20-2-285, and 20-2-286 to read as follows:

25 "20-2-282.

26 (a) It is the policy of the State of Georgia that the placement or promotion of a student into  
 27 a grade, class, or program should be based on an assessment of the academic achievement  
 28 of the student and a determination of the education setting in which the student is most  
 29 likely to receive the instruction and other services needed in order to succeed and progress  
 30 to the next higher level of academic achievement.

31 (b) This policy as provided for in this Code section and Code Sections 20-2-283 through  
 32 20-2-285 shall be known as the 'Georgia Academic Placement and Promotion Policy.'

1 20-2-283.

2 (a) No later than January 1, 2002, the State Board of Education shall adopt criteria for the  
3 development of a placement and promotion policy by each local board of education  
4 consistent with the Georgia Academic Placement and Promotion Policy.

5 (b) Such criteria as adopted by the State Board of Education shall require the following for  
6 students in grades three, five, and eight:

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

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

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

23 (C) The ninth grade program to which the student would otherwise be assigned if the  
24 student does not achieve grade level as defined by the Office of Education  
25 Accountability in accordance with Code Section 20-14-31 on the eighth grade  
26 criterion-referenced mathematics assessment and eighth grade criterion-referenced  
27 reading assessment developed in accordance with subsection (a) of Code Section  
28 20-2-281 and meet the promotional standards and criteria established by the State  
29 Board of Education and by the local school board for the school that the student attends;

30 (2) When a student does not perform at grade level on any criterion-referenced  
31 assessment specified in paragraph (1) of this subsection then the following shall occur:

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

1 (B) The student shall be retested with a criterion-referenced assessment or an  
2 alternative assessment instrument that is appropriate for the student's grade level as  
3 provided for by the State Board of Education and the local board of education; and

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

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

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

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

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

25 (D) The placement committee shall:

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

34 (ii) Prescribe for the student, whether the student is retained or promoted, such  
35 accelerated, differentiated, or additional instruction as needed to perform at grade  
36 level by the conclusion of the subsequent school year, prescribe such additional  
37 assessments as may be appropriate in addition to assessments administered to other

1 students at the grade level during the year, and provide for a plan of continuous  
2 assessment during the subsequent school year in order to monitor the progress of the  
3 student;

4 (E) For students receiving special education or related services, the Individualized  
5 Education Plan Committee shall serve as the placement committee; and

6 (F) The decision of the placement committee may be appealed only as provided for by  
7 the local board of education.

8 (c) This Code section does not preclude the retention by the school principal or the  
9 principal's designee of a student who performs satisfactorily on the criterion-referenced  
10 assessments specified in paragraph (1) of subsection (b) of this Code section as provided  
11 for by the local board of education.

12 (d) This Code section does not create a property interest in promotion.

13 (e) The State Board of Education shall establish policies and procedures for  
14 implementation of this Code section.

15 20-2-284.

16 (a) No later than July 1, 2003, each local board of education shall develop and adopt a  
17 placement and promotion policy in accordance with the criteria established by the State  
18 Board of Education as provided in Code Section 20-2-283 and consistent with the Georgia  
19 Academic Placement and Promotion Policy.

20 (b) Except for those criterion-referenced assessments specified in Code Section 20-2-283,  
21 the placement and promotion policy as developed and adopted by each local board of  
22 education shall state how the criterion-referenced competency tests administered under  
23 20-2-281 for grades one through eight will be weighted or otherwise utilized by the school  
24 principal or the principal's designee in determining the overall academic achievement of  
25 a student and an appropriate plan of accelerated, differentiated, or additional instruction,  
26 placement, promotion, or retention of a student.

27 (c) To assist each local board of education, the State Board of Education shall develop a  
28 model placement and promotion policy which may be utilized by a local board of  
29 education.

30 20-2-285.

31 The State Board of Education shall provide for a timetable of implementation of this Code  
32 section and the Georgia Academic Placement and Promotion Policy which shall include:

33 (1) The third grade beginning with the 2003-2004 school year;

34 (2) The fifth grade beginning with the 2004-2005 school year; and

35 (3) The eighth grade beginning with the 2005-2006 school year.

1 20-2-286.

2 (a) There is created a commission to be known as the 'Georgia Closing the Achievement  
3 Gap Commission,' referred to in this Code section as the commission.

4 (1) The commission shall consist of the following:

5 (A) A chairperson and six members to be appointed by the Governor;

6 (B) Six members to be appointed by the President of the Senate; and

7 (C) Six members to be appointed by the Speaker of the House of Representatives.

8 (2) In making appointments to the commission, the appointing officers shall ensure that  
9 representatives for at-risk student populations have significant representation on the  
10 commission.

11 (3) When a vacancy occurs in the membership of the commission, the vacancy shall be  
12 filled by the same appointing officer who made the initial appointment.

13 (b) The purpose of the commission is to provide a public policy focus on closing the  
14 student achievement gap that exists for at-risk students, including groups of students  
15 disaggregated by ethnicity, sex, disability, language proficiency, and socioeconomic status.  
16 The commission is to develop successful strategies, reports, and recommendations that will  
17 assist in closing this student achievement gap. The commission shall focus on  
18 disaggregated student achievement data and shall research programs and strategies utilized  
19 in schools in Georgia and nationally to reduce the achievement gap. The commission shall  
20 provide reports and recommendations to the Education Coordinating Council and the  
21 General Assembly regarding closing the gap in student achievement in Georgia.

22 (c) The commission shall be authorized to:

23 (1) Gather accurate and reliable data and research information pertaining to the status of  
24 at-risk students in the Georgia public school system;

25 (2) Identify and visit education programs and other efforts within and outside Georgia  
26 that appear to be successful in yielding significant positive results for at-risk students;

27 (3) Consult with higher education faculty members and other persons who have been  
28 engaged in extensive research and observation related to these issues and encourage their  
29 direct involvement in the activities of the commission;

30 (4) Conduct hearings throughout the state for the purpose of obtaining meaningful  
31 information regarding successful education programs and efforts related to those  
32 concerns;

33 (5) Identify, consult, and meet with representatives of national, regional, and state-level  
34 organizations and agencies that could be particularly helpful in addressing the concerns  
35 of at-risk student achievement;

1 (6) Devise recommendations regarding steps that should be taken to address the concerns  
 2 of at-risk student achievement and the steps that should be taken separately and  
 3 collectively by:

- 4 (A) State government agencies;
- 5 (B) Local government agencies;
- 6 (C) Public schools and higher education institutions;
- 7 (D) Nonprofit organizations;
- 8 (E) Professional educational organizations;
- 9 (F) Foundations;
- 10 (G) Faith based organizations or institutions;
- 11 (H) Civic organizations;
- 12 (I) The business community; and
- 13 (J) Other entities; and

14 (7) Receive reports from and consult with the Office of Education Accountability  
 15 regarding the student achievement results including all disaggregated student  
 16 achievement data.

17 (d) The commission should place particular emphasis on reviewing programs and efforts  
 18 that have been successful in attaining:

- 19 (1) Improved educational achievement amount at-risk students;
- 20 (2) Reduction of school discipline and behavioral problems that hinder student  
 21 achievement;
- 22 (3) Reduction of at-risk student dropout rates; and
- 23 (4) Improved parental involvement in a student's academic achievement and in the  
 24 school of the student.

25 (e) The commission shall report to the Education Coordinating Council and the General  
 26 Assembly their findings and recommendations including any legislation that the  
 27 commission has determined is needed to implement their recommendations.

28 (f) The commission shall receive per diem, subsistence, and travel allowance subject to  
 29 appropriation by the General Assembly.

30 (g) The commission shall be provided staff and administrative support by the Office of  
 31 Education Accountability to carry out the authority described in this Code section.

32 (h) The commission's existence shall be terminated on June 30, 2006, unless continued  
 33 existence is authorized by statute."

#### 34 **SECTION 16.**

35 Said chapter is further amended in Code Section 20-2-290, relating to organization of  
 36 schools, by striking subsections (b) and (c) and inserting in lieu thereof the following:

1 "(b) Beginning with the 2001-2002 school year, local boards of education shall schedule  
2 each middle school so as to provide a the following:

3 (1) A minimum of five hours of instruction in English and language arts, reading,  
4 mathematics, science, social studies, and such other academic subjects as the State Board  
5 of Education shall prescribe ~~and an interdisciplinary team of academic teachers with~~  
6 ~~common planning time of between 55 minutes and 85 minutes. Funds earned above the~~  
7 ~~funding class size for the middle school program may be used by the local board of~~  
8 ~~education to fund additional planning time above 55 minutes, provided that, for the~~  
9 ~~2000-2001 school year, such funds earned above the funding class size for the middle~~  
10 ~~school program shall be expended in conjunction with state appropriation for such~~  
11 ~~planning time to provide for not less than 85 minutes of planning time. Without limiting~~  
12 ~~the choices, the local board shall have the authority to schedule exploratory and physical~~  
13 ~~education classes for the remainder of the school day. For students not performing on~~  
14 ~~grade level, as defined by the Office of Education Accountability, the additional time~~  
15 ~~shall be designated for academic instruction~~ minimum of five hours shall include such  
16 remedial academic instruction in English and language arts, reading, mathematics,  
17 science, or social studies as required to bring such students to grade level performance  
18 with the priority for such remediation being placed on reading and mathematics or as  
19 otherwise determined by the student's team of academic teachers; provided that, in  
20 making such a determination the team shall consider the student's performance on the  
21 criterion-referenced assessments authorized in Code Section 20-2-181; ~~For students~~  
22 ~~performing at or above grade level, such additional time may be used to further advance~~  
23 ~~the student or to instruct in other academic subjects such as foreign language. A student~~  
24 ~~who is performing at or above grade level shall be allowed to take additional academic~~  
25 ~~classes instead of exploratory classes if the parent or guardian of such a student requests~~  
26 ~~such assignment, subject to available space. Until implementation of accountability~~  
27 ~~standards by the Office of Education Accountability, for any middle school with a~~  
28 ~~combined total of 65 percent scoring good or very good in the previous school year on~~  
29 ~~the first administration of the state eighth grade writing assessment and at the sixty-fifth~~  
30 ~~percentile or above on the Iowa Test of Basic Skills eighth grade composite score, the~~  
31 ~~local board is authorized to allow for a school day of a minimum of four and one-half~~  
32 ~~hours of academic instruction. After the implementation of the accountability standards~~  
33 ~~by the Office of Education Accountability, for any middle school scoring an A or B on~~  
34 ~~the absolute student achievement standard, the local board is authorized to allow for a~~  
35 ~~school day of a minimum of four and one-half hours of academic instruction.~~  
36 (2) Beyond the minimum of five hours of academic instruction, the local board shall  
37 have the authority to schedule for the remainder of the day such academic or exploratory

1 classes as the State Board of Education shall prescribe; provided, however, that a student  
 2 shall be allowed to take additional academic classes instead of exploratory classes if the  
 3 parent or guardian of such a student requests such assignment, subject to availability; and  
 4 (3) An interdisciplinary team of academic teachers with common planning time of a  
 5 minimum of 55 minutes.

6 (c) Local school systems shall comply with ~~this~~ subsection (b) of this Code section in  
 7 order to qualify for the middle ~~grades~~ school program.

8 ~~(c)~~(d) If a local school system has a combination of qualified and nonqualified schools, it  
 9 shall qualify for the middle school program only for those students counted in the full-time  
 10 equivalent count for the middle school program in qualified middle schools."

### 11 SECTION 17.

12 Said chapter is further amended by inserting in Code Section 20-2-292, relating to sparsity  
 13 grants, a new subsection to be designated subsection (d) to read as follows:

14 "(d) Beginning with the 2001-2002 school year, a school system may be eligible to receive  
 15 a sparsity grant to supplement funding for alternative education programs operated  
 16 pursuant to Code Section 20-2-154.1. Funds shall be distributed based on rules and  
 17 regulations adopted by the State Board of Education subject to appropriation by the  
 18 General Assembly."

### 19 SECTION 18.

20 Chapter 3 of Title 20, relating to postsecondary education, is amended in Code Section  
 21 20-3-519.3, relating to eligibility requirements for HOPE scholarships for a student attending  
 22 a private postsecondary institution, by striking paragraph (2) of subsection (d) and subsection  
 23 (e) and inserting in lieu thereof the following:

24 "(2) Meet achievement standards by meeting the following criteria:

25 ~~(A) Having met all achievement standards for HOPE eligibility in his or her junior~~  
 26 ~~year;~~

27 ~~(B)~~(A) Earning a cumulative grade point average of at least 3.0 at a postsecondary  
 28 institution at the end of the quarter or semester in which the student has attempted 135  
 29 quarter hours or 90 semester hours; and

30 ~~(C)~~(B) Maintaining satisfactory academic progress in a course of study in accordance  
 31 with the standards and practices used for federal Title IV programs by the  
 32 postsecondary institution in which the student is enrolled; and"

33 "(e) An otherwise eligible student who fails to maintain a cumulative grade point average  
 34 of at least 3.0 at the end of the quarter or semester in which the student has attempted 45  
 35 quarter hours or 30 semester hours may attend the next 45 quarter hours or 30 semester

1 hours without a HOPE scholarship. A student who regains a cumulative grade point  
 2 average of at least 3.0 at end of the quarter or semester in which the student has attempted  
 3 90 quarter hours or 60 semester hours may requalify for a HOPE scholarship. A student  
 4 who regains a cumulative grade point average of at least 3.0 at the end of the quarter or  
 5 semester in which the student has attempted 135 quarter hours or 90 semester hours may  
 6 requalify for a HOPE scholarship."

7 **SECTION 19.**

8 Said chapter is further amended in Code Section 20-3-519.7, relating to PROMISE teacher's  
 9 scholarships, by striking paragraph (2) of subsection (a) and inserting in lieu thereof the  
 10 following:

11 "(2) For a student in the junior year or a student in the senior year, have earned a  
 12 minimum overall cumulative ~~3.2~~ 3.0 postsecondary grade average at the beginning of the  
 13 first term for which scholarship aid is requested and be maintaining satisfactory academic  
 14 progress in his or her course of study in accordance with the standards and practices used  
 15 for federal Title IV programs by the postsecondary institution in which the student is  
 16 enrolled;"

17 **SECTION 20.**

18 Said chapter is further amended in Code Section 20-3-519.12, relating to PROMISE II  
 19 teacher's scholarships, by striking subsection (d) and inserting in lieu thereof the following:

20 "(d) A PROMISE II teacher's scholarship may be applied toward no more than 30  
 21 semester or 45 quarter hours of study subject to appropriation by the General Assembly."

22 **SECTION 21.**

23 Subsections (h) and (j) of Code Section 20-2-260, as set out in or amended by Section 13 of  
 24 this Act, shall be repealed automatically in their entirety on June 30, 2009, and the text of  
 25 such subsections shall on that date be replaced by "Reserved."

26 **SECTION 22.**

27 Said chapter is further amended by striking paragraph (3) of Code Section 20-2-2062,  
 28 relating to definitions applicable to charter schools, and inserting the following:

29 "(3) 'Charter school' means a public school that is operating under the terms of a charter  
 30 granted by the state board."

