

House Bill 1190 (COMMITTEE SUBSTITUTE) (AM)

By: Representatives O`Neal of the 117th, Coleman of the 65th, Burkhalter of the 36th, and Glick of the 34th, Post 3

A BILL TO BE ENTITLED

AN ACT

1 To amend Title 20 of the Official Code of Georgia Annotated, relating to education, so as to
2 change certain provisions regarding early intervention programs; to change certain provisions
3 relating to expenditure controls for the 2004-2005 school year; to provide for certain reports;
4 to change certain provisions relating to maximum class size for the 2004-2005 school year;
5 to provide for automatic repeal; to change certain provisions relating to salaries of
6 professional educators; to provide for certain salary increases for certain national
7 certification; to authorize waiver of certain provisions in order to improve student
8 performance in specified circumstances; to provide for contents of the application for waiver;
9 to provide for maximum duration of a waiver; to change certain provisions regarding
10 effectiveness assessment; to delay the implementation of the Georgia Academic Placement
11 and Promotion Policy for third graders for one year; to provide for testing policies and
12 procedures for the 2003-2004 school year; to provide for remedial instruction, retesting,
13 reports, and reporting subsequent test results separately for certain students who fail the
14 reading assessment in 2004; to delete a provision prohibiting the identification by name of
15 any student in records stored at the state level; to require school principals to support the
16 authority of teachers to remove certain students from a classroom; to provide for additional
17 requirements for student codes of conduct; to provide that prohibited activities apply to
18 school buses; to provide for provisions in student codes of conduct for off-campus behavior
19 by a student; to eliminate the requirement that local boards of education submit a copy of
20 their student codes of conduct to the State Board of Education; to provide that local board
21 policies require local school superintendents to support the authority of principals and
22 teachers to remove certain students from a classroom; to change certain provisions relating
23 to suspending students for committing acts of physical violence to conform to other Code
24 sections; to revise certain provisions relating to disciplinary hearings by a disciplinary
25 hearing officer, panel, or tribunal; to require that all disciplinary hearings be held within a
26 certain time after the beginning of a student's suspension; to provide for notice to any teacher
27 who is called as a witness for a disciplinary hearing; to change penalties for failure to comply
28 with compulsory attendance requirements; to provide for written summaries of penalties and

1 consequences of failure to comply with compulsory attendance requirements; to provide for
 2 student attendance protocols and their contents, purpose, and dissemination; to provide for
 3 student attendance protocol committees and their membership and duties; to change certain
 4 provisions regarding legislative intent with respect to charter schools; to change certain
 5 provisions regarding petitions to establish charter schools; to change certain provisions
 6 regarding operation, control, and management requirements for charter schools; to prohibit
 7 identifying students and employees by social security number in violation of law; to provide
 8 for a daily break for certain students; to provide that such break shall be considered academic
 9 instruction but not a part of the Quality Core Curriculum; to provide that the break shall not
 10 be a replacement for physical education; to provide for policies of local boards; to change
 11 certain provisions regarding the powers and duties of the Office of Education Accountability;
 12 to provide for changes to the accountability assessment program; to amend the Official Code
 13 of Georgia Annotated so as to change the name "Office of Education Accountability" to
 14 "Office of Student Achievement"; to provide for related matters; to provide an effective date;
 15 to repeal conflicting laws; and for other purposes.

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

17 **SECTION 1.**

18 Title 20 of the Official Code of Georgia Annotated, relating to education, is amended by
 19 striking Code Section 20-2-153, relating to early intervention programs, and inserting in its
 20 place a new Code Section 20-2-153 to read as follows:

21 "20-2-153.

22 (a) The State Board of Education shall create and each local board of education shall
 23 provide an early intervention program to serve students in kindergarten through grade five.
 24 The kindergarten early intervention program shall serve students enrolled in kindergarten.
 25 The primary grades early intervention program shall serve students enrolled in grades one
 26 through three. The upper elementary grades early intervention program shall serve students
 27 in grades four through five.

28 (b) The early intervention program shall serve students who are at risk of not reaching or
 29 maintaining academic grade level, including but not limited to students who are identified
 30 through the first grade readiness assessment required by Code Sections 20-2-151 and
 31 20-2-281 and students with identified academic performance below grade levels defined
 32 by the Office of ~~Education Accountability~~ Student Achievement in Code Section 20-14-31
 33 for any criterion-referenced assessment administered in accordance with Code Section
 34 20-2-281 for grades one through five. Local school systems shall devise a process for the
 35 identification of such students at the beginning of each school year and also during the

1 school year as a continuous process of early identification and monitoring. School systems
 2 may use indicators such as but not limited to the student's scores on previous assessments,
 3 the student's classroom performance in the same or previous years, and other reliable
 4 indicators to identify such students. A student shall be assigned to the early intervention
 5 program as soon as is practicable after the student is identified as at risk or after the results
 6 of the first-grade readiness assessment, or the criterion-referenced assessment, or other
 7 indicators are known. The school shall provide timely notice and an opportunity for a
 8 conference with the student and his or her parents or guardians to discuss the student's
 9 academic performance and the role of the early intervention program.

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

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

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

28 (f) Each local school system shall annually report the number of students served in the
 29 early intervention program as part of the full-time equivalent program count conducted
 30 pursuant to Code Section 20-2-160."

31 SECTION 2.

32 Said title is further amended by striking Code Section 20-2-167.1, relating to the application
 33 of Code Section 20-2-167 for the 2003-2004 school year, and inserting in lieu thereof the
 34 following:

35 "20-2-167.1.

1 (a) For the purposes of the 2003-2004 and 2004-2005 school year years only, the
2 following changes to Code Section 20-2-167 shall apply:

3 (1) Except as otherwise provided in paragraph (2) of this subsection, for each program
4 identified in Code Section 20-2-161, each local school system shall spend 100 percent of
5 funds designated for direct instructional costs on the direct instructional costs of such
6 program on one or more of the programs identified in Code Section 20-2-161 at the
7 system level, with no requirement that the school system spend any specific portion of
8 such funds at the site where such funds were earned;

9 (2) Direct instruction funds for the kindergarten early intervention program, the primary
10 grades early intervention program, the upper elementary grades early intervention
11 program, the remedial education program, and the alternative education program shall be
12 expended on one or more of these programs at the system level, with no requirement that
13 the school system spend any specific portion of such funds at the site where such funds
14 were earned;

15 (3) Each local school system shall spend 100 percent of the funds designated for media
16 center costs for such costs at the system level, and 100 percent of the funds designated
17 for media materials ~~for media materials~~ at the system level;

18 (4) During the 2003-2004 school year, funds Funds allocated for staff development may
19 be spent for any program approved under the 'Quality Basic Education Act.' During the
20 2004-2005 school year, each school system shall spend 90 percent of funds allocated for
21 professional development for such costs at the system level; and

22 (5) Each local school system shall report to the Department of Education its budgets and
23 expenditures in accordance with this Code section with expenditures based in the
24 preceding school year for each school site as a part of its report in October for the FTE
25 count and on March 15.

26 (b) Except as otherwise provided by subsection (a) of this Code section, Code Section
27 20-2-167 shall apply during the 2003-2004 and 2004-2005 school year years.

28 (c) No penalty shall apply for failure to comply with expenditure controls set out in Code
29 Section 20-2-167 that are contrary to this Code section, notwithstanding any law to the
30 contrary, as long as the local school system complies with this Code section.

31 (d) Nothing in this Code section shall be construed to repeal any other provision of Code
32 Section 20-2-167 or this chapter, or to apply to any time period other than the two fiscal
33 year years beginning July 1, 2003, and ending June 30, ~~2004~~ 2005.

34 (e) This Code section shall be automatically repealed July 1, ~~2004~~ 2005."

35 **SECTION 3.**

1 Said title is further amended in Code Section 20-2-182, relating to program weights,
2 maximum class sizes, reporting requirements, and the 2003-2004 school year, by striking
3 subsections (i) and (k) and inserting in lieu thereof the following:

4 "(i) The State Board of Education shall adopt for each instructional program authorized
5 pursuant to Part 3 of this article and the middle school program provided for in Code
6 Section 20-2-290 the maximum number of students which may be taught by a teacher in
7 an instructional period. Such maximum class sizes shall be equal to or greater than the
8 teacher-student ratios used in the calculation of the program weights as set forth in
9 subsection (b) of Code Section 20-2-161 but shall not exceed the funding class size by
10 more than 20 percent, unless specifically authorized by the State Board of Education;
11 provided, however, that in no case shall the 20 percent maximum be exceeded for
12 mathematics, science, social studies, or English classes; provided, further, that the
13 maximum class size for kindergarten and grades one through three shall not exceed 20
14 percent over the funding ratio except for art, music, or physical education classes;
15 provided, further, that the maximum class size for special education, gifted, and English
16 for speakers of other languages classes shall be set by the State Board of Education. For
17 a period not to exceed four years, beginning with the 2000-2001 school year, local school
18 systems shall be allowed to exceed the maximum class sizes set forth in this subsection in
19 a manner consistent with State Board of Education rules. The State Board of Education
20 shall lower the current maximum class sizes set by state board rules in effect for the
21 1999-2000 school year, beginning with the 2000-2001 school year, by a proportional
22 amount each school year so that, beginning with the 2003-2004 school year, State Board
23 of Education rules are in compliance with this subsection except as otherwise provided in
24 subsection (k) of this Code section for the 2003-2004 and 2004-2005 school year years
25 only. An aide may be used in programs to increase class size as allowed by State Board
26 of Education rule, except that an aide shall not be used to increase the maximum class size
27 in kindergarten or grades one through three, except as otherwise provided in subsection (k)
28 of this Code section for the 2003-2004 and 2004-2005 school year years only. The
29 maximum class size for the kindergarten and primary grades programs is defined as the
30 number of students in a physical classroom. Maximum class sizes that result in a fractional
31 full-time equivalent shall be rounded up to the nearest whole number as needed. The
32 middle school program shall use the teacher-student ratio of the middle grades program for
33 the purpose of this subsection. The number of students taught by a teacher at any time after
34 the first 15 school days of a school year may not exceed the maximum such number unless
35 authorization for a specific larger number is requested of the state board, along with the
36 educational justification for granting the requested exemption, and the state board has
37 approved said request. The state board shall not reduce class sizes without the

1 authorization of the General Assembly if this reduction necessitates added costs for
 2 facilities, personnel, and other program needs. Local boards of education may reduce class
 3 sizes, build additional facilities, and provide other resources at local cost if such actions are
 4 in the best interest of the local school systems' programs as determined by the local boards
 5 of education."

6 "(k) For the 2003-2004 and 2004-2005 school year years, the maximum class sizes set by
 7 the State Board of Education for the 2002-2003 school year shall apply for grades four
 8 through 12. For the 2003-2004 and 2004-2005 school year years, the maximum class sizes
 9 set by the State Board of Education for the 2003-2004 school year shall apply to
 10 kindergarten and grades one through three, except that a kindergarten class may be
 11 increased to 20 students if a paraprofessional is present in addition to the certificated
 12 teacher. For the 2003-2004 and 2004-2005 school year years, compliance with maximum
 13 class size requirements shall be determined by the system average for kindergarten and for
 14 each grade and no class shall exceed the applicable maximum size by more than two
 15 students. Except as otherwise provided in this subsection, other provisions of this Code
 16 section shall apply. This subsection shall not be construed to repeal any other provision
 17 of this Code section or this chapter, or to apply to any period of time other than the two
 18 fiscal year years beginning July 1, 2003, and ending June 30, ~~2004~~ 2005. This subsection
 19 shall be automatically repealed July 1, ~~2004~~ 2005."

20 SECTION 3A.

21 Said title is further amended in Code Section 20-2-212, relating to salaries of professional
 22 educators, by striking subsection (b) and inserting in lieu thereof the following:

23 "(b) Local units of administration may supplement the salaries of personnel subject to the
 24 schedule of minimum salaries under subsection (a) of this Code section and, in fixing the
 25 amount of those supplements, may take into consideration the nature of duties to be
 26 performed, the responsibility of the position held, the subject matter or grades to be taught,
 27 and the experience and performance of the particular employee whose salary is being
 28 supplemented. In any fiscal year in which such personnel receive an increase under the
 29 minimum salary schedule, a local unit of administration shall not decrease any local salary
 30 supplement for such personnel below the local supplement amount received in the
 31 immediately preceding fiscal year by those personnel of that local unit of administration
 32 ~~unless such local unit of administration has conducted at least one public hearing regarding~~
 33 ~~such decrease, notice of which hearing the local unit shall cause to be published in the legal~~
 34 ~~organ of the county which is the legal situs of such local unit one time at least seven days~~
 35 ~~prior to the date such hearing is to be held."~~

1 (b) The State Board of Education is not authorized to waive any federal, state, and local
2 rules, regulations, court orders, and statutes relating to civil rights; insurance; the protection
3 of the physical health and safety of school students, employees, and visitors; conflicting
4 interest transactions; the prevention of unlawful conduct; any laws relating to unlawful
5 conduct in or near a public school; or any reporting requirements pursuant to Code Section
6 20-2-320 or Chapter 14 of this title. A school or school system that has received a waiver
7 shall remain subject to the provisions of Part 3 of Article 2 of Chapter 14 of this title, the
8 requirement that it shall not charge tuition or fees to its students except as may be
9 authorized for local boards by Code Section 20-2-133, and shall remain open to enrollment
10 in the same manner as before the waiver request.

11 (c) The provisions of this Code section shall not apply to charter schools.

12 (d) The board shall require a written application for a waiver that shall include, as a
13 minimum:

14 (1) Identification of the specific state rules, regulations, policies, and procedures, or
15 provisions of this chapter that are requested for waiver;

16 (2) A description of the policies and procedures the school or school system shall
17 substitute for the waived state rules, regulations, policies, and procedures, or provisions;

18 (3) A description of how the proposed waiver will improve student performance;

19 (4) A description of the students who will be affected by the proposed waiver, including
20 their estimated number, current performance, grade level, and any common demographic
21 traits;

22 (5) A list of schools by name that will be affected by the proposed waiver, and a
23 description of each school, including current performance, grade levels, and demographic
24 traits of the students of each such school;

25 (6) Methods for collection of data, and for measuring and evaluating any change in
26 student performance resulting from the proposed waiver;

27 (7) The period of time for which the proposed waiver is requested and the proposed
28 starting date; and

29 (8) A resolution from the local school board approving the waiver request.

30 (e) The State Board of Education may grant or deny a waiver request, or grant a waiver
31 request subject to specified modifications in the waiver request.

32 (f) A waiver may be granted in accordance with this Code section for any period of time
33 not to exceed five years. The State Board of Education shall require reports regarding the
34 effect of the waiver at least annually, and may require more frequent reports if necessary
35 to monitor the effect of the waiver effectively. The State Board of Education shall report
36 annually to the General Assembly regarding the waivers granted, the effect of each waiver,
37 and any recommendations for legislative changes generated by successful waivers."

1 ~~(3) Local boards of education shall have the option of allowing scores on end-of-course~~
 2 ~~assessments to be counted as part of a student's grade in the course.~~

3 ~~(j)~~(k)(1) In addition to the assessment instruments adopted by the State Board of
 4 Education and administered by the Department of Education, a local school system may
 5 adopt and administer criterion-referenced or norm-referenced assessment instruments, or
 6 both, at any grade level. Such locally adopted assessment instruments may not replace
 7 the state's adopted assessment instruments for purposes of state accountability programs,
 8 except as otherwise provided in paragraph (2) of this subsection. A local school system
 9 shall be responsible for all costs and expenses incurred for locally adopted assessment
 10 instruments. Students with Individualized Education Programs must be included in the
 11 locally adopted assessments or provided an alternate assessment in accordance with the
 12 federal Individuals with Disabilities Education Act.

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

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

31 ~~(h)~~(m) The results of individual student performance on academic skills assessment
 32 instruments administered under this Code section shall be confidential and may be released
 33 only in accordance with the federal Family Educational Rights and Privacy Act of 1974,
 34 20 U.S.C. Section 1232g.

35 ~~(m)~~(n) Overall student performance data shall be disaggregated by ethnicity, sex,
 36 socioeconomic status, disability, language proficiency, grade level, subject area, school,
 37 and system.

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

5 ~~(o)~~(p) Teachers in grades one through 12 shall be offered the opportunity to participate
 6 annually in a staff development program on the use of tests within the instructional
 7 program designed to improve students' academic achievement. This program shall instruct
 8 teachers on curriculum alignment related to tests, disaggregated student test data to identify
 9 student academic weaknesses by subtests, and other appropriate applications as determined
 10 by the State Board of Education."

11 SECTION 6.

12 Said title is further amended by striking Code Section 20-2-285, relating to the timetable for
 13 implementation of the promotion policy, and inserting in lieu thereof new Code Sections
 14 20-2-285 and 20-2-285.1 to read as follows:

15 "20-2-285.

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

- 18 (1) The third grade beginning with the ~~2003-2004~~ 2004-2005 school year;
- 19 (2) The fifth grade beginning with the 2004-2005 school year; and
- 20 (3) The eighth grade beginning with the 2005-2006 school year.

21 20-2-285.1.

22 (a) This Code section will apply to students tested with the third grade criterion-referenced
 23 reading assessment in the 2003-2004 school year only.

24 (b) The third grade criterion-referenced reading assessment shall be given as required by
 25 other provisions of this chapter, but results of the test shall not be used in any way in
 26 determining whether any student shall be promoted or retained at the end of the 2003-2004
 27 school year. Other promotional standards and criteria established by the State Board of
 28 Education and the local school board, including but not limited to academic performance,
 29 shall be the basis for placement decisions for the 2003-2004 school year.

30 (c) Each school system shall provide remedial instruction for each student who does not
 31 pass the third grade criterion-referenced reading assessment. Each school system shall
 32 report to the Department of Education the number of students not passing the third grade
 33 criterion-referenced reading assessment and the remedial instruction provided to such
 34 students.

1 (d) Each school system shall retest each student who does not pass the third grade
2 criterion-referenced reading assessment. Each school system shall report to the Department
3 of Education the number of students who pass and fail when tested for the second time.
4 Each school system shall develop a plan of remedial instruction for each student who does
5 not pass the test the second time, whether the student is in the third grade or the fourth
6 grade for the 2004-2005 school year. Each school system shall report such plans for
7 remedial instruction to the Department of Education during the first month of the
8 2004-2005 school year.

9 (e) When reporting the results for criterion-referenced reading assessments in 2005 to the
10 Department of Education, each school system shall report test results for students who
11 failed the third grade reading assessment in the 2003-2004 school year separately.

12 (f) The Department of Education shall report to the General Assembly on the results of the
13 third grade criterion-referenced tests in the 2003-2004 school year, remedial instruction for
14 students, students who failed the reading assessment a second time, remedial instruction
15 for such students, and subsequent test results for students who failed the reading
16 assessment once or twice."

17 **SECTION 7.**

18 Said title is further amended in Code Section 20-2-320, relating to the state-wide
19 comprehensive educational information network, by striking subsections (a) and (c) and
20 inserting in lieu thereof the following:

21 "(a) The Governor shall appoint a steering committee, which shall be named the Education
22 Information Steering Committee, composed of representatives from the Department of
23 Education, the Department of Technical and Adult Education, the Board of Regents of the
24 University System of Georgia, the office of the Governor, the Office of Planning and
25 Budget, the Department of Audits and Accounts, the Georgia Technology Authority, the
26 Office of School Readiness, the Professional Standards Commission, the Office of
27 Education Accountability, the State Data and Research Center at the Georgia Institute of
28 Technology, the Georgia Public Telecommunications Commission, the Legislative Budget
29 Office, and local school systems. The steering committee shall identify the data required
30 to implement the Quality Basic Education Program on a fiscally sound basis and the data
31 required to evaluate the effectiveness of the components of public education in Georgia.
32 The steering committee shall identify data that shall be required from local units of
33 administration, public libraries, public colleges and universities through the Board of
34 Regents of the University System of Georgia, pre-kindergarten programs, the Professional
35 Standards Commission, and postsecondary technical colleges and schools for the
36 implementation of this article. Further, the steering committee shall develop a design for

1 a state-wide comprehensive educational information system which will provide for the
2 accurate, seamless, and timely flow of information from local and regional education
3 agencies, units of the University System of Georgia, and technical schools and colleges to
4 the state. The design shall include hardware, software, data, collection methods and times,
5 training, maintenance, communications, security of data, and installation specifications and
6 any other relevant specifications needed for the successful implementation of this system.
7 ~~No student shall be identifiable by name in that portion of the pre-kindergarten through~~
8 ~~grade 12 record stored at the state level, and any identification number shall be encoded to~~
9 ~~prevent unauthorized use of a student's information; provided, however, that full-time~~
10 ~~equivalent student data collected pursuant to Code Section 20-2-160 shall be identifiable~~
11 ~~for audit purposes in separate files. The state-wide comprehensive educational information~~
12 ~~system shall not use a student's social security number or an employee's social security~~
13 ~~number in violation of state or federal law to identify a student or employee.~~ The steering
14 committee shall present such recommendations to the Education Coordinating Council.
15 Upon approval of the boards of the respective education agencies, the steering committee
16 shall issue appropriate requests for proposals to implement a state-wide comprehensive
17 educational information system, subject to appropriation by the General Assembly. The
18 State Data and Research Center, at the direction of the Education Coordinating Council and
19 working through the steering committee, shall initiate contracts with appropriate vendors
20 and local units of administration for the procurement of services, purchase of hardware and
21 software, and for any other purpose as directed by the Education Coordinating Council,
22 consistent with appropriation by the General Assembly."

23 "(c) For the purpose of this article, authorized educational agencies shall be the
24 Department of Education; the Office of School Readiness; the Board of Regents of the
25 University System of Georgia; the Department of Technical and Adult Education; the
26 Education Coordinating Council; the Professional Standards Commission; the State Data
27 and Research Center and units under contract to the State Data and Research Center; the
28 Office of Education Accountability; the education policy and research components of the
29 office of the Governor; the Office of Planning and Budget; the Legislative Budget Office;
30 the House Research Office; and the Senate Research Office. Any information collected
31 over the state-wide comprehensive educational information system, including individual
32 student records and individual personnel records, shall be accessible by authorized
33 educational agencies, provided that any information which is planned for collection over
34 the system but which is temporarily being collected by other means shall also be accessible
35 by authorized educational agencies and provided, further, that adequate security provisions
36 are employed to protect the privacy of individuals. All data maintained for this system shall
37 be used for educational purposes only. In no case shall information be released by an

1 authorized educational agency which would violate the privacy rights of any individual
 2 student or employee. Information released by an authorized educational agency in violation
 3 of the privacy rights of any individual student or employee shall subject the authorized
 4 educational agency to all penalties under applicable state and federal law. Any information
 5 collected over the state-wide comprehensive educational information system which is not
 6 stored in an individual student or personnel record format shall be made available to the
 7 Governor and the House and Senate Appropriations, Education, and Higher Education
 8 committees, except information otherwise prohibited by statute. Data which are included
 9 in an individual student record or individual personnel record format shall be extracted
 10 from such records and made available in nonindividual record format for use by the
 11 Governor, committees of the General Assembly, and agencies other than authorized
 12 educational agencies."

13

SECTION 7A.

14 Said title is further amended by striking subsection (b) of Code Section 20-2-738, relating
 15 to authority of teacher over classroom, procedures following removal of student from
 16 classroom, and placement review committees, and inserting in lieu thereof the following:

17 "~~(b) On and after July 1, 2000, a~~ A teacher shall have the authority to remove from his or
 18 her class a student who repeatedly or substantially interferes with the teacher's ability to
 19 communicate effectively with the students in the class or with the ability of the student's
 20 classmates to learn, where the student's behavior is in violation of the student code of
 21 conduct, provided that the teacher has previously filed a report pursuant to Code Section
 22 20-2-737 or determines that such behavior of the student poses an immediate threat to the
 23 safety of the student's classmates or the teacher. Each school principal shall fully support,
 24 the authority of every teacher in his or her school to remove a student from the classroom
 25 under this Code section, including establishing and disseminating procedures. The teacher
 26 shall file with the principal or the principal's designee a report describing the student's
 27 behavior, in one page or less, by the end of the school day on which such removal occurs
 28 or at the beginning of the next school day. The principal or the principal's designee shall,
 29 within one school day after the student's removal from class, send to the student's parents
 30 or guardians written notification that the student was removed from class, a copy of the
 31 report filed by the teacher, and information regarding how the student's parents or
 32 guardians may contact the principal or the principal's designee."

33

SECTION 7B.

34 Said title is further amended by striking Code Section 20-2-751.5, relating to student codes
 35 of conduct, and inserting in lieu thereof the following:

1 "20-2-751.5.

2 (a) Each student code of conduct shall contain provisions that address the following
3 conduct of students during school hours, and at school related functions, and on the school
4 bus, in a manner that is appropriate to the age of the student:

5 (1) Verbal assault, including threatened violence, of teachers, administrators, and other
6 school personnel;

7 (2) Physical assault or battery of teachers, administrators, and other school personnel;

8 (3) Disrespectful conduct toward teachers, administrators, and other school personnel,
9 including use of vulgar or profane language;

10 (4) Verbal assault of other students;

11 (5) Physical assault or battery of other students;

12 (6) Disrespectful conduct toward other students, including use of vulgar or profane
13 language; and

14 (7) Verbal assault of, physical assault or battery of, and disrespectful conduct, including
15 use of vulgar or profane language, toward persons attending school related functions;:

16 (8) Failure to comply with compulsory attendance as required under Code Section
17 20-2-690.1;

18 (9) Willful or malicious damage to real or personal property of the school or to personal
19 property of any person legitimately at the school;

20 (10) Inciting, advising, or counseling of others to engage in prohibited acts;

21 (11) Marking, defacing, or destroying school property;

22 (12) Possession of a weapon, as provided for in Code Section 16-11-127.1;

23 (13) Unlawful use or possession of illegal drugs or alcohol; and

24 (14) Willful and persistent violation of the student code of conduct.

25 With regard to paragraphs (9) and (11) of this subsection, each student code of conduct
26 shall also contain provisions that address conduct of students during off-school hours.

27 (b)(1) In addition to the requirements contained in subsection (a) of this Code section,
28 each ~~Each~~ student code of conduct shall include comprehensive and specific provisions
29 prescribing and governing student conduct and safety rules on all public school buses.

30 The specific provisions shall include but not be limited to:

31 (A) Students shall be prohibited from acts of physical violence as defined by Code
32 Section 20-2-751.6, bullying as defined by subsection (a) of Code Section 20-2-751.4,
33 physical assault or battery of other persons on the school bus, verbal assault of other
34 persons on the school bus, disrespectful conduct toward the school bus driver or other
35 persons on the school bus, and other unruly behavior;

36 (B) Students shall be prohibited from using any electronic devices during the operation
37 of a school bus, including but not limited to cell phones; pagers; audible radios, tape or

1 compact disc players without headphones; or any other electronic device in a manner
2 that might interfere with the school bus communications equipment or the school bus
3 driver's operation of the school bus; and

4 (C) Students shall be prohibited from using mirrors, lasers, flash cameras, or any other
5 lights or reflective devices in a manner that might interfere with the school bus driver's
6 operation of the school bus.

7 (2) If a student is found to have engaged in physical acts of violence as defined by Code
8 Section 20-2-751.6, the student shall be subject to the penalties set forth in such Code
9 section. If a student is found to have engaged in bullying as defined by subsection (a) of
10 Code Section 20-2-751.4 or in physical assault or battery of another person on the school
11 bus, the local school board policy shall require a meeting of the parent or guardian of the
12 student and appropriate school district officials to form a school bus behavior contract for
13 the student. Such contract shall provide for progressive age-appropriate discipline,
14 penalties, and restrictions for student misconduct on the bus. Contract provisions may
15 include but shall not be not limited to assigned seating, ongoing parental involvement,
16 and suspension from riding the bus. This subsection is not to be construed to limit the
17 instances when a school code of conduct or local board of education may require use of
18 a student bus behavior contract.

19 ~~(3) No later than August 15, 2002, each local board of education shall send to the State~~
20 ~~Board of Education a copy of the provisions of its student code of conduct that address~~
21 ~~the items identified in paragraphs (1) and (2) of this subsection. The state board shall~~
22 ~~review such provisions to ensure that each of the items identified in paragraphs (1) and~~
23 ~~(2) of this subsection is addressed and shall notify a local board of education, no later~~
24 ~~than October 15, 2002, of any items which are not addressed in its submission to the state~~
25 ~~board. Nothing in this subsection shall be construed as authorizing or requiring the state~~
26 ~~board to review or approve the substance of the student code of conduct.~~

27 (c) Each student code of conduct shall also contain provisions that address any off-campus
28 behavior of a student which could result in the student being criminally charged with a
29 felony and which makes the student's continued presence at school a potential danger to
30 persons or property at the school or which disrupts the educational process.

31 (d) Local board policies relating to student codes of conduct shall provide that each local
32 school superintendent shall fully support, including establishing and disseminating
33 procedures, the authority of principals and teachers in the school system to remove a
34 student from the classroom pursuant to Code Section 20-2-738. It is the policy of this state
35 that it is preferable to reassign disruptive students to alternative educational settings rather
36 than to suspend or expel such students from school.

1 ~~(c)~~(e) Any student handbook which is prepared by a local board or school shall include a
 2 copy or summary of the student code of conduct for that school or be accompanied by a
 3 copy of the student code of conduct for that school. If a student handbook contains a
 4 summary of the student code of conduct, then a full copy of the student code of conduct
 5 shall be made available for review at the school. When distributing a student code of
 6 conduct, a local school shall include a form on which the student's parent or guardian may
 7 acknowledge his or her receipt of the code, and the local school shall request that the form
 8 be signed and returned to the school."

9 SECTION 7C.

10 Said title is further amended by striking Code Section 20-2-751.6, relating to suspension
 11 policy for students committing acts of physical violence resulting in injury to teachers, and
 12 inserting in lieu thereof the following:

13 "20-2-751.6.

14 (a) As used in this Code section, the term 'physical violence' means:

15 (1) Intentionally making physical contact of an insulting or provoking nature with the
 16 person of another; or

17 (2) Intentionally making physical contact which causes physical harm to another unless
 18 such physical contacts or physical harms were in defense of himself or herself, as
 19 provided in Code Section 16-3-21.

20 (b) Local board of education policies and student codes of conduct shall provide for the
 21 penalties to be assessed against a student found by a disciplinary hearing officer, panel, or
 22 tribunal pursuant to Code Section 20-2-752 to have committed any act of physical violence
 23 against a teacher, school bus driver, or other school official or employee. ~~The local board~~
 24 ~~shall appoint a~~ Such disciplinary hearing officer, panel, or tribunal to shall hold a any
 25 disciplinary hearing pursuant to in accordance with the provisions of Code Section
 26 20-2-754 ~~regarding the alleged act of physical violence and penalty.~~ Any student alleged
 27 to have committed an act of physical violence shall be suspended pending the hearing by
 28 the disciplinary hearing officer, panel, or tribunal. ~~The tribunal shall be composed of three~~
 29 ~~teachers or certificated education personnel, appointed by the local school board.~~ The
 30 decision of the disciplinary hearing officer, panel, or tribunal shall determine all issues of
 31 fact and intent and shall submit its findings and recommendations may be appealed to the
 32 local school board pursuant to Code Section 20-2-754 for imposition of punishment in
 33 accordance with this Code section. If appropriate under paragraph (1) of subsection (c) of
 34 this Code section, the ~~tribunal's recommendations~~ decision of the disciplinary hearing
 35 officer, panel, or tribunal shall include a recommendation as to whether a student may
 36 return to public school and, if return is recommended, a recommended time for the

1 student's return to public school. The local school board may ~~follow the recommendations~~
 2 ~~of the tribunal~~ or impose penalties not recommended by the disciplinary hearing officer,
 3 panel, or tribunal.

4 (c)(1) A student found by a disciplinary hearing officer, panel, or tribunal to have
 5 committed an act of physical violence as defined in paragraph (2) of subsection (a) of this
 6 Code section against a teacher, school bus driver, school official, or school employee
 7 shall be expelled from the public school system. The expulsion shall be for the remainder
 8 of the student's eligibility to attend public school pursuant to Code Section 20-2-150.
 9 The local school board at its discretion may permit the student to attend an alternative
 10 education program for the period of the student's expulsion. If the student who commits
 11 an act of physical violence is in kindergarten through grade eight, then the local school
 12 board at its discretion and on the recommendation of the disciplinary hearing officer,
 13 panel, or tribunal may permit such a student to reenroll in the regular public school
 14 program for grades nine through 12. If the local school board does not operate an
 15 alternative education program for students in kindergarten through grade six, the local
 16 school board at its discretion may permit a student in kindergarten through grade six who
 17 has committed an act of physical violence as defined in paragraph (2) of subsection (a)
 18 of this Code section to reenroll in the public school system;

19 (2) Any student who is found by a disciplinary hearing officer, panel, or tribunal to have
 20 committed an act of physical violence against a teacher, school bus driver, school official,
 21 or school employee as defined in paragraph (2) of subsection (a) of this Code section
 22 shall be referred to juvenile court with a request for a petition alleging delinquent
 23 behavior; and

24 (3) Any student who is found by a disciplinary hearing officer, panel, or tribunal to have
 25 committed an act of physical violence as defined in paragraph (1) of subsection (a) of this
 26 Code section against a teacher, school bus driver, school official, or school employee may
 27 be disciplined by expulsion, long-term suspension, or short-term suspension.

28 (d) The provisions of this Code section shall apply with respect to any local school system
 29 which receives state funding pursuant to Code Sections 20-2-161 and 20-2-260.

30 (e) Nothing in this Code section shall be construed to infringe on any right provided to
 31 students with Individualized Education Programs pursuant to the federal Individuals with
 32 Disabilities Education Act, Section 504 of the federal Rehabilitation Act of 1973, or the
 33 federal Americans with Disabilities Act of 1990."

34 SECTION 7D.

1 Said title is further amended by striking Code Section 20-2-753, relating to disciplinary
 2 hearings held by a disciplinary hearing officer, panel, or tribunal, and inserting in lieu thereof
 3 the following:

4 "20-2-753.

5 (a) In addition to any proceedings which are authorized in Code Section 20-2-752, local
 6 boards of education shall appoint a disciplinary hearing officer, panel, or tribunal of school
 7 officials to hold a disciplinary hearing following any instance of an alleged violation of the
 8 student code of conduct where the principal recommends a suspension or expulsion of
 9 longer than ten school days or an alleged assault or battery by a student upon any teacher
 10 or other school official or employee, if such teacher or other school official or employee
 11 so requests.:

12 (1) ~~An alleged assault or battery by a student upon any teacher, other school official, or~~
 13 ~~employee;~~

14 (2) ~~An alleged assault or battery by a student upon another student, if, in the discretion~~
 15 ~~of the school principal, the alleged assault or battery could justify the expulsion or~~
 16 ~~long-term suspension of the student; or~~

17 (3) ~~Substantial damage alleged to be intentionally caused by a student on school~~
 18 ~~premises to personal property belonging to a teacher, other school official, employee, or~~
 19 ~~student, if, in the discretion of the school principal, the alleged damage could justify the~~
 20 ~~expulsion or long-term suspension of the student.~~

21 (b) ~~The board of education shall by appropriate rule, regulation, or resolution require that~~
 22 ~~when any instance specified in subsection (a) of this Code section occurs, the teacher, other~~
 23 ~~school official, employee, or student who is subjected to the assault, battery, or damage~~
 24 ~~shall file a complaint with the school administration and with the local board of education.~~

25 (b) Nothing in this Code section shall be construed to infringe on any right provided to
 26 students with Individualized Education Programs pursuant to the federal Individuals with
 27 Disabilities Education Act, Section 504 of the federal Rehabilitation Act of 1973, or the
 28 federal Americans with Disabilities Act of 1990."

29 SECTION 7E.

30 Said title is further amended by striking subsections (b) and (c) of Code Section 20-2-754,
 31 relating to procedures to be followed by disciplinary hearing officers, panels, or tribunals,
 32 and inserting in lieu thereof the following:

33 "(b) A disciplinary officer, panel, or tribunal of school officials appointed as required by
 34 Code Section 20-2-753 shall, in addition to any other requirements imposed by rules and
 35 regulations which may have been promulgated pursuant to Code Section 20-2-752, ensure
 36 that:

1 (1) All parties are afforded an opportunity for a hearing after reasonable notice served
 2 personally or by mail. This notice shall be given to all parties and to the parent or
 3 guardian of the student or students involved and shall include a statement of the time,
 4 place, and nature of the hearing; a short and plain statement of the matters asserted; and
 5 a statement as to the right of all parties to present evidence and to be represented by legal
 6 counsel;

7 (2) The hearing is held no later than ten school days after the beginning of the suspension
 8 unless the school system and parents or guardians mutually agree to an extension;

9 ~~(2)~~(3) All parties are afforded an opportunity to present and respond to evidence and to
 10 examine and cross-examine witnesses on all issues unresolved; ~~and~~

11 (4) Any teacher called as a witness by the school system shall be given notice no later
 12 than three days prior to the hearing; and

13 ~~(3)~~(5) A verbatim electronic or written record of the hearing shall be made and shall be
 14 available to all parties.

15 (c) If appointed to review an instance ~~specified in~~ pursuant to Code Section 20-2-753, the
 16 disciplinary officer, panel, or tribunal shall conduct the hearing and, after receiving all
 17 evidence, render its decision, which decision shall be based solely on the evidence received
 18 at the hearing. The decision shall be in writing and shall be given to all parties within ten
 19 days of the close of the record. Any decision by such disciplinary officer, panel, or tribunal
 20 may be appealed to the local board of education by filing a written notice of appeal within
 21 20 days from the date the decision is rendered. Any disciplinary action imposed by such
 22 officer, panel, or tribunal may be suspended by the school superintendent pending the
 23 outcome of the appeal."

24 SECTION 7F.

25 Said title is further amended by striking subsection (b) of Code Section 20-2-690.1, relating
 26 to mandatory education for children, and inserting in lieu thereof the following:

27 "(b) Any parent, guardian, or other person residing in this state who has control or charge
 28 of a child or children and who shall violate this Code section shall be guilty of a
 29 misdemeanor and, upon conviction thereof, shall be subject to a fine ~~not to exceed~~ not less
 30 than \$25.00 and not greater than \$100.00, or imprisonment not to exceed 30 days,
 31 community service, or both any combination of such penalties, at the discretion of the court
 32 having jurisdiction. Each day's absence from school in violation of this part after the
 33 child's school system notifies the parent, guardian, or other person who has control or
 34 charge of a child of five unexcused days of absence for a child shall constitute a separate
 35 offense. Public schools shall provide to the parent, guardian, or other person having control
 36 or charge of each child enrolled in public school a written summary of possible

1 consequences and penalties for failing to comply with compulsory attendance under this
 2 Code section for children and their parents, guardians, or other persons having control or
 3 charge of children, as provided in Code Section 20-2-690.2. The parent, guardian, or other
 4 person who has control or charge of a child or children shall sign a statement indicating
 5 receipt of such written statement of possible consequences and penalties; children who are
 6 age ten years or older by September 1 shall sign a statement indicating receipt of such
 7 written statement of possible consequences and penalties. After two reasonable attempts
 8 by the school to secure such signature or signatures, the school shall be considered to be
 9 in compliance with this subsection if it sends a copy of the statement, via certified mail,
 10 return receipt requested, to such parent, guardian, other person who has control or charge
 11 of a child, or child. Public schools shall retain signed copies of statements through the end
 12 of the school year."

13 SECTION 7G.

14 Said title is further amended by inserting a new Code section to be designated Code Section
 15 20-2-690.2 to read as follows:

16 "20-2-690.2.

17 (a) The chief judge of the superior court of each county shall establish a student attendance
 18 protocol committee for its county. The purpose of the committee shall be to ensure
 19 coordination and cooperation among officials, agencies, and programs involved in
 20 compulsory attendance issues, to reduce the number of unexcused absences from school,
 21 and to increase the percentage of students present to take tests which are required to be
 22 administered under the laws of this state. The chief judge is responsible for ensuring that
 23 all members of the committee are notified of their responsibility to the committee and shall
 24 call the first meeting of the committee in each county. The committee shall elect a
 25 chairperson and may elect other officers.

26 (b) Each local board of education shall consider the recommendations of the committee
 27 as provided in this Code section. Independent school systems may participate in the
 28 committee in the county in which its system resides. Independent school systems whose
 29 geographic area resides in more than one county may select one of the counties in which
 30 it resides in which to participate. An independent school system that elects not to
 31 participate in the committee of the county in which it resides shall request that the chief
 32 judge of the superior court of a county in which it resides establish an independent student
 33 attendance protocol committee in the same manner as then established for such county.

34 (c) Each of the following agencies, officials, or programs shall designate a representative
 35 to serve on the committee:

36 (1) The chief judge of the superior court;

- 1 (2) The juvenile court judge or judges of the county;
 - 2 (3) The district attorney for the county;
 - 3 (4) The solicitor-general of state court, if the county has a state court;
 - 4 (5) The Department of Juvenile Justice, which may include representatives from area
 - 5 youth detention centers or regional youth detention centers;
 - 6 (6) The superintendent and at least one certificated personnel of each public school
 - 7 system in the county;
 - 8 (7) The sheriff of the county;
 - 9 (8) The chief of police of the county police department;
 - 10 (9) The chief of police of each municipal police department in the county;
 - 11 (10) The county department of family and children services;
 - 12 (11) The county board of health;
 - 13 (12) The county mental health organization;
 - 14 (13) The county Family Connection commission, board, or authority, or other county
 - 15 agency, board, authority, or commission having the duty and authority to study problems
 - 16 of families, children, and youth and provide services to families, children, and youth; and
 - 17 (14) The court approved community based risk reduction program established by the
 - 18 juvenile court in accordance with Code Section 15-11-10, if such a program has been
 - 19 established.
- 20 (d) The committee thus established may appoint such additional members as necessary and
- 21 proper to accomplish the purposes of the committee.
- 22 (e) Each committee shall, by June 1, 2005, adopt a written student attendance protocol for
- 23 its county school system and for each independent school system within its geographic
- 24 boundaries which shall be filed with the Department of Education. The protocol shall
- 25 outline in detail the procedures to be used in identifying, reporting, investigating, and
- 26 prosecuting cases of alleged violations of Code Section 20-2-690.1, relating to mandatory
- 27 school attendance. The protocol shall outline in detail methods for determining the causes
- 28 of failing to comply with compulsory attendance and appropriately addressing the issue
- 29 with children and their parents or guardians. The protocol shall also include
- 30 recommendations for policies relating to tardiness. The Department of Education shall
- 31 provide model school attendance protocols, if requested by the committee.
- 32 (f) A copy of the protocol shall be furnished to each agency, official, or program within
- 33 the county that has any responsibility in assisting children and their parents or guardians
- 34 in complying with Code Section 20-2-690.1.
- 35 (g) The committee shall write the summary of possible consequences and penalties for
- 36 failing to comply with compulsory attendance under Code Section 20-2-690.1 for children
- 37 and their parents, guardians, or other persons who have control or charge of children for

1 distribution by schools in accordance with Code Section 20-2-690.1. The summary of
 2 possible consequences for children shall include possible dispositions for unruly children
 3 and possible denial or suspension of a driver's license for a child in accordance with Code
 4 Section 40-5-22.

5 (h) The committee shall continue in existence after writing the student attendance protocol.
 6 The chief judge of the superior court of each county shall ensure that the committee meets
 7 at least quarterly during the first year, and twice annually thereafter, to evaluate compliance
 8 with the protocol, effectiveness of the protocol, and appropriate modifications.

9 (i) Each local board of education shall report student attendance rates to the committee and
 10 the State Board of Education at the end of each school year, according to a schedule
 11 established by the State Board of Education."

12 13 SECTION 7H.

14 Said title is further amended by striking Code Section 20-2-2061, relating to legislative intent
 15 regarding charter schools, and inserting in its place a new Code Section 20-2-2061 to read
 16 as follows:

17 "20-2-2061.

18 It is the intent of the General Assembly to provide a means whereby a petitioner may seek
 19 a performance based contract called a charter, which ~~ties improved performance to the~~
 20 ~~waiver of specifically identified state and local rules, regulations, policies, procedures, and~~
 21 ~~identified provisions of this title other than the provisions of this article~~ exempts the
 22 petitioner from the provisions of this title, except as provided in this article, or any state or
 23 local rule, regulation, policy, or procedure relating to schools within an applicable school
 24 system regardless of whether such rule, regulation, policy, or procedure is established by
 25 the local board, the State Board of Education, or the Department of Education; provided,
 26 however, that the state board may establish rules, regulations, policies, or procedures
 27 consistent with this article relating to charter schools. In exchange for such a waiver, the
 28 school agrees to meet or exceed the performance based goals included in the petition and
 29 approved by the local board, including but not limited to raising student achievement."

30 SECTION 7I.

31 Said title is further amended by striking Code Section 20-2-2063, relating to petitions to
 32 establish charter schools, and inserting in its place a new Code Section 20-2-2063 to read as
 33 follows:

1 "20-2-2063.

2 The State Board of Education shall promulgate rules, regulations, policies, and procedures
3 to govern the contents of a charter petition, ~~provided that the following shall be required~~
4 ~~at a minimum:~~

5 ~~(1) The state board shall require that a petition designate the performance to be improved~~
6 ~~and how it will be improved through the waiver of specifically identified state and local~~
7 ~~rules, regulations, policies, and procedures, or provisions of this title other than the~~
8 ~~provisions of this article;~~

9 ~~(2) The state board shall require that a petition describe how it will measure the~~
10 ~~improvement in such performance and over what period of time, provided that such~~
11 ~~requirement shall not waive the accountability provisions of Part 3 of Article 2 of Chapter~~
12 ~~14 of this title; and~~

13 ~~(3) The state board shall require that a petition demonstrate how any such waiver does~~
14 ~~not undermine and is consistent with the intent of the waived state and local rules,~~
15 ~~regulations, policies, and procedures, or the provisions of this title."~~

16 SECTION 7J.

17 Said title is further amended by striking Code Section 20-2-2065, relating to operation,
18 control, and management requirements for charter schools, and inserting in its place a new
19 Code Section 20-2-2065 to read as follows:

20 "20-2-2065.

21 (a) Except as provided in this article and in the charter, a charter school shall not be subject
22 to the provisions of this title or any state or local rule, regulation, policy, or procedure
23 relating to schools within an applicable school system regardless of whether such rule,
24 regulation, policy, or procedure is established by the local board, the state board, or the
25 Department of Education; provided, however, that the state board may establish rules,
26 regulations, policies, or procedures consistent with this article relating to charter schools.

27 (b) In determining whether to waive, as sought by the petitioner, specifically identified
28 state and local rules, regulations, policies, and procedures, and provisions of this title other
29 than the provisions of this article to approve a charter petition or renew an existing charter,
30 the local board and state board shall ensure that a charter school shall be:

31 (1) A public, nonsectarian, nonreligious, nonprofit school that is not home based,
32 provided that a charter school's nonprofit status shall not prevent the school from
33 contracting for the services of a for profit entity;

34 (2) Subject to the control and management of the local board of the local school system
35 in which the charter school is located, as provided in the charter and in a manner
36 consistent with the Constitution, if a local charter school;

- 1 (3) Subject to the supervision of the state board, as provided in the charter and in a
 2 manner consistent with the Constitution, if a state chartered special school;
- 3 (4) Organized and operated as a nonprofit corporation under the laws of this state;
 4 provided, however, that this paragraph shall not apply to conversion charter schools;
- 5 (5) Subject to all federal, state, and local rules, regulations, court orders, and statutes
 6 relating to civil rights; insurance; the protection of the physical health and safety of
 7 school students, employees, and visitors; conflicting interest transactions; and the
 8 prevention of unlawful conduct;
- 9 (6) Subject to all laws relating to unlawful conduct in or near a public school;
- 10 (7) Subject to an annual financial audit in the manner specified in the charter;
- 11 (8) Subject to the provisions of Part 3 of Article 2 of Chapter 14 of this title, and such
 12 provisions shall apply with respect to charter schools whose charters are granted or
 13 renewed on or after July 1, 2000;
- 14 (9) Subject to all reporting requirements of Code Section 20-2-160, subsection (e) of
 15 Code Section 20-2-161, Code Section 20-2-320, and Code Section 20-2-740;
- 16 (10) Subject to the requirement that it shall not charge tuition or fees to its students
 17 except as may be authorized for local boards by Code Section 20-2-133; and
- 18 (11) Subject to the provisions of Code Section 20-2-1050 requiring a brief period of
 19 quiet reflection."

20 SECTION 8.

21 Said title is further amended by inserting a new Code section to be designated Code Section
 22 20-2-323 to read as follows:

23 "20-2-323.

24 (a) Each local board of education may schedule time for all students in kindergarten and
 25 grades one through eight to have a daily break period consisting of at least 15 minutes of
 26 supervised, unstructured activity time, preferably outdoors. The break allowed by this
 27 Code section shall be considered as academic instruction, but the break shall not be part of
 28 the Quality Core Curriculum and shall not be subject to requirements for the Quality Core
 29 Curriculum. The break shall not be a replacement for physical education or structured
 30 physical activity.

31 (b) Local boards of education may establish policies to ensure that the break is a safe
 32 experience for students, that recess is scheduled so that it provides a break during academic
 33 learning, and that recess is not used as reward or punishment on a regular basis."

34 SECTION 9

1 Said title is further amended by striking subsection (a) of Code Section 20-14-26, relating
 2 to powers and duties of the Office of Education Accountability, and inserting in its place a
 3 new subsection (a) to read as follows:

4 "(a) The office shall have the following ~~powers and~~ duties:

5 ~~(1) To develop accountability systems with components that include but are not limited~~
 6 ~~to expectations of student achievement, measurement of student achievement, data bases~~
 7 ~~of such measurements, analysis of such data for trends in achievement, interventions,~~
 8 ~~awards, the intended and efficient expenditure of allotted education funds, and public~~
 9 ~~awareness of all such components; To create, with the approval of the State Board of~~
 10 ~~Education, a performance-based accountability system, establish indicators of~~
 11 ~~performance, rate schools and school systems, develop annual report cards for~~
 12 ~~elementary, middle, and secondary schools, and formulate a system of school rewards~~
 13 ~~and interventions. The State Board of Education shall approve no later than December~~
 14 ~~31, 2004, a single state-wide accountability system for local schools and school systems~~
 15 ~~that incorporates federal law, rules, and regulations relating to accountability;~~

16 ~~(2) To create, develop, and recommend to the departments, boards, and offices~~
 17 ~~represented on the council such additions, deletions, changes, or other modifications that~~
 18 ~~will improve accountability systems that exist or may be created within or among the~~
 19 ~~departments, boards, and offices represented on the council;~~

20 ~~(3)~~(2) To audit and inspect or cause to be audited or inspected for the purpose of
 21 verification, research, analysis, reporting, or for other purposes related to the performance
 22 of its powers and duties as provided in this article and for the purposes of auditing
 23 pre-kindergarten, elementary, middle grades, and secondary education, postsecondary
 24 education, and education work force programs and schools, local school systems,
 25 institutes, colleges, universities, regional educational service agencies, and other public
 26 education programs and entities as defined by the council;

27 ~~(4)~~(3) To assist the council in the development of a state-wide education student
 28 information system;

29 ~~(5)~~(4) To serve as staff to the council; and

30 ~~(6)~~(5) To exercise the powers and discharge duties of the council, as set forth in Code
 31 Section 20-14-8, under the supervision and oversight of the council."

32 SECTION 10.

33 Said title is further amended by striking Part 3 of Article 2 of Chapter 14, relating to
 34 accountability assessment, and inserting in its place a new Part 3 to read as follows:

"Part 3

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32

20-14-30.

The office shall create and implement, ~~with the approval of the council,~~ a state-wide grades kindergarten through grade 12 accountability assessment program that is performance based to ensure school accountability for the goals of improved student achievement and improved school completion.

20-14-31.

Except as otherwise provided in this article, the office shall establish the ~~level~~ levels of performance ~~considered to be satisfactory~~ on each assessment instrument administered under Code Section 20-2-281 by establishing the standard that should be achieved by students in each subject area at each grade level. Data and information regarding the establishment of the standard shall be included in the annual report provided for in paragraph (2) of subsection (a) of Code Section 20-14-27.

20-14-32.

The office's state education accountability analysis and reporting program shall obtain nationally comparative results and benchmarks for the subject areas and grade levels for which criterion-referenced and nationally normed reference assessment instruments are adopted, compare Georgia results to such results, and include the findings in the reports report required of the office in paragraph (2) of subsection (a) of Code Section 20-14-27.

20-14-33.

(a) The office shall adopt and biennially review, and revise as necessary, indicators of the quality of learning by students in an individual school.

(b) The performance indicators of student achievement and school performance must be based on information that is disaggregated with respect to ethnicity, sex, disability, language proficiency, and socioeconomic status and must include:

- (1) The results of assessment instruments required under Code Section 20-2-281, aggregated by grade level and subject area;
- (2) Dropout rates for each school;
- (3) Student attendance rates for each school;
- (4) School completion rates for each school;
- (5) The percentage of graduating students who attain scores on the Georgia high school graduation test required under Code Section 20-2-281 that are equivalent to a passing

1 score on the test instrument until such time as the Georgia high school graduation test is
2 discontinued as provided in Code Section 20-2-281;

3 (6) The percentage of graduating students who meet the course requirements established
4 for the recommended high school program by State Board of Education rule;

5 (7) The percentage of students taking end-of-course assessment instruments under Code
6 Section 20-2-281;

7 (8) The percentage of high school students who pass the end-of-course assessment
8 instrument in core subjects;

9 (9) The results of the Scholastic Assessment Test or the ACT Assessment;

10 (10) The percentage of students taking alternate assessments under subsection (d) of
11 Code Section 20-2-281;

12 (11) The average time that a student placed in an early intervention program remains
13 before attaining grade level status and returning to regular status; and

14 (12) Any other indicator the office ~~recommends, the council approves, and the State~~
15 ~~Board of Education~~ adopts.

16 (c) Performance on the indicator shall be compared to state standards, progress on
17 improved student achievement, and comparable performance. The ~~state standard~~ standards
18 for comparison shall be established by the office as provided in Code Section 20-14-31.
19 ~~Required improvement is defined as the progress necessary for the school or local school~~
20 ~~system to meet state standards and for its students to meet exit requirements as defined by~~
21 ~~the office pursuant to Code Section 20-14-31. Comparable improvement is derived by~~
22 ~~measuring schools and local school systems against a profile developed from a total state~~
23 ~~student performance data base which exhibits substantial equivalence to the characteristics~~
24 ~~of students served by the school or system, including past academic performance,~~
25 ~~socioeconomic status, ethnicity, sex, disability, mobility, and language proficiency.~~ Data
26 and information regarding the standard shall be included in the annual report provided for
27 in paragraph (2) of subsection (a) of Code Section 20-14-27.

28 (d) The office shall establish individual school ratings for each school in this state for
29 annual academic performance on the assessment instruments required under Code Section
30 20-2-281, ~~with:~~

31 (1) ~~A school grade of A, B, C, D, or F on the established absolute student achievement~~
32 ~~standard;~~

33 (2) ~~A school grade of A, B, C, D, or F for the school on the progress on improved student~~
34 ~~achievement; and~~

35 (3) ~~A school performance status on other school performance indicators as defined in~~
36 ~~subsection (b) of this Code section.~~

~~(e) Annually, the office shall define exemplary, acceptable, and unacceptable performance for each academic excellence indicator included under in paragraphs (2) through (12) of subsection (b) of this Code section and shall project the standards for each of those levels of performance for succeeding years. Data and information regarding the establishment of the standard shall be included in the annual report provided for in paragraph (2) of subsection (a) of Code Section 20-14-27.~~

~~(f)~~(e) Each school system shall provide all student performance data and all other student school completion and attendance data to the Department of Education's educational information system in accordance with rules and timelines established by the office State Board of Education.

~~(g)~~(f) The office shall develop, ~~the council shall approve,~~ and the State Board of Education shall adopt a uniform definition of 'dropout.' All schools and school systems shall report student dropout information to the Department of Education's educational information system in accordance with rules and timelines established by the state board as provided in subsection (b) of Code Section 20-2-167. Each school system shall cooperate with the office in determining whether a student is a dropout under this subsection and shall adopt the uniform definition of 'dropout.' Data and information regarding the establishment of the definition and the tracking of dropout and school completion data shall be included in the annual report provided for in paragraph (2) of subsection (a) of Code Section 20-14-27.

~~(h)~~(g) The office shall develop, ~~the council shall approve,~~ and the State Board of Education shall adopt a uniform definition of a 'below grade level' student for purposes of placing students in the early intervention program under Code Section 20-2-153 and for purposes of tracking these students for accountability purposes. Data and information regarding the establishment of the definition shall be included in the annual report provided for in paragraph (2) of subsection (a) of Code Section 20-14-27.

~~(i)~~(h) The office shall annually review the performance of each school on the indicators ~~identified~~ in subsection (b) of this Code section and determine whether a change in the school rating status of the school is warranted.

20-14-34.

(a) Each school year, the office shall prepare and distribute to each school system a report card for each school in the State of Georgia. The school report cards must be based on the most current data available disaggregated by student groups. School performance must be compared to:

- (1) Previous school and local school system performance;
- (2) Current school and local school system performance in relation to the absolute student achievement standards and progress on improved student achievement; ~~and~~

1 (3) Comparable school group performance; and

2 (4) Any other indicators adopted by the State Board of Education.

3 This report card on schools shall be the official state education performance report and
4 supersedes all other reports that may be issued by departments of the state government for
5 matters of funding, awards, and interventions.

6 (b) The report card shall include the following information, where applicable:

7 (1) The individual school ~~grades~~ ratings as ~~defined~~ provided for in subsection (d) of
8 Code Section 20-14-33;

9 (2) The academic excellence indicators ~~identified in paragraphs (2) through (12) of~~
10 subsection (b) of Code Section 20-14-33;

11 (3) Teacher-student ratios; and

12 (4) Administrative and instructional costs per student and other financial accounting
13 information as may be required.

14 (c) Each school year, the office shall prepare and distribute a state-wide report card,
15 aggregated by school systems and disaggregated by student groups, reporting on the
16 student performance and school completion results of each school in the state and a rating
17 for each school ~~based on the definitions~~ as provided for in subsection (d) of Code Section
18 20-14-33.

19 (d) The State Board of Education shall adopt rules requiring dissemination of appropriate
20 student performance and school completion performance portions of school report cards
21 annually to the parent, guardian, conservator, or other person having lawful control of each
22 student at the school. On written request, the local school system shall provide a copy of
23 a school report card to any other party. These reports shall be posted on ~~a website at both~~
24 ~~the state and~~ the Department of Education website and the existing website of such local
25 school system level.

26 20-14-35.

27 (a) The office may:

28 (1) Conduct on-site audits of any school at any time, subject to the approval of the
29 director;

30 (2) Raise or lower any performance rating as a result of the audit; and

31 (3) Review school fund accounting information and records to determine effective and
32 efficient expenditure of state funds as allocated.

33 (b) The director shall determine the frequency of on-site audits by the office according to
34 annual comprehensive analyses of student performance and equity in relation to the
35 academic excellence indicators and fund accounting assessments as adopted under
36 subsection (b) of Code Section 20-14-34.

1 (c) In making an on-site school performance audit, the auditor shall obtain information
 2 from administrators, teachers, and parents of students enrolled in the local school system.
 3 The audit may not be closed until information is obtained from each of those sources. The
 4 office shall adopt rules regarding obtaining information from parents and using that
 5 information in the auditor's report and obtaining information from teachers in a manner
 6 that prevents a school or school system from screening the information.

7 (d) The auditors shall report to the local board of education, the local school council, and
 8 appropriate school administrators and shall report findings and recommendations
 9 concerning any necessary improvements or intervention strategies. School audit reports
 10 shall be provided to the council and the State Board of Education.

11 (e) The director may authorize other school audits to be conducted under the following
 12 circumstances:

13 (1) When excessive numbers of absences of students eligible to be tested on state
 14 assessment instruments are determined; or

15 (2) When a school or school system has not provided student performance information
 16 to the Department of Education's educational information system as required under
 17 subsection (b) of Code Section 20-2-167.

18 20-14-36.

19 The office shall recommend, and the ~~council~~ State Board of Education shall adopt, written
 20 procedures for conducting on-site audits under this part. The office shall make the
 21 procedures available to the schools, school councils, local boards of education, and the
 22 public. Office staff shall be trained in audit procedures and shall follow such procedures
 23 in conducting the audit.

24 20-14-37.

25 The Office of Student Achievement shall develop and the State Board of Education shall
 26 approve a Georgia schools awards system ~~is created~~ to recognize those schools and school
 27 systems that demonstrate progress or success in achieving the education goals of the state
 28 and achieving excellence on the ~~office~~ school rating system as ~~defined~~ provided for in
 29 Code Section 20-14-33.

30 20-14-38.

31 (a) Financial awards will be provided to the schools that the ~~office~~ director determines
 32 have demonstrated the greatest improvement in achieving the education goals of improved
 33 student achievement and improved school completion, subject to appropriation by the

1 General Assembly and any limitation set by the director on the total amount that may be
2 awarded to a school or local school system.

3 (b) Financial awards will be provided to each school that is identified by the director
4 ~~achieves a grade of A or B as defined in Code Section 20-14-33~~ for performance on either
5 ~~or both the absolute student achievement standard~~ excellence in student achievement and
6 progress on student achievement. The certificated personnel in a school that ~~achieves the~~
7 ~~grade of A or B~~ is identified by the director as either a best performing school or better
8 performing school in either or both categories will be provided a bonus for the year the
9 school ~~achieved those grades~~ was identified of \$1,000.00 for each ~~grade of A~~ best
10 performing school designation and \$500.00 for each ~~grade of B~~ better performing school
11 designation. The maximum individual annual bonus for certificated personnel shall not
12 exceed \$2,000.00 and shall be provided subject to appropriation by the General Assembly
13 or as otherwise may be provided. An additional financial award will be provided to each
14 school for noncertificated personnel in the amount of \$10,000.00 for each ~~A grade for the~~
15 ~~school~~ designation of best performing school and \$5,000.00 for each ~~B grade for the school~~
16 designation of better performing school, provided that the total lump sum noncertificated
17 personnel award for an individual school shall not exceed \$20,000.00; provided, further,
18 that funds for this purpose are appropriated by the General Assembly or as otherwise may
19 be provided. ~~The local school council of the school receiving this noncertificated personnel~~
20 award shall determine the distribution of the award among such personnel of its school.
21 (c) The Governor may present proclamations or certificates to schools and school systems
22 determined to have met or exceeded the state's education goals under Code Section
23 20-14-30.

24 20-14-39.

25 The financial award system may be funded by donations, grants, or appropriation by the
26 General Assembly or as otherwise provided. The State Board of Education may solicit and
27 receive grants and donations for the purpose of making awards under this part. Award
28 funds may be used by the State Board of Education to pay for the costs associated with
29 sponsoring a ceremony to recognize or present awards to schools or school systems under
30 this part. The donations, grants, or appropriations by the General Assembly shall be
31 accounted for and distributed by the State Board of Education. The awards are subject to
32 audit requirements established by the ~~office~~ State Board of Education.

1 20-14-40.

2 All identifiable individual student performance data and information and reports received
3 by the office, the Department of Education, and the State Board of Education under this
4 part from schools or school systems shall be deemed confidential and may not be disclosed.

5 20-14-41.

6 (a) ~~If a school has a grade of D or F~~ The State Board of Education shall by policies, rules,
7 or regulations establish a coherent and sustained system of assistance and support for
8 schools not meeting identified levels of achievement or not showing specified levels of
9 progress as determined by the office. The State Board of Education shall by policies, rules,
10 or regulations specify appropriate levels of assistance and intervention for schools that
11 receive an unacceptable rating on student performance for the absolute student achievement
12 standard or on progress on improved student achievement, ~~as determined by the office, the~~
13 ~~office, in the audit report on an individual school, shall report findings and recommend~~
14 ~~appropriate levels of interventions for that school, based on a scale of increasingly severe~~
15 ~~interventions, to the State Board of Education. The~~ In specifying levels of assistance and
16 intervention, the State Board of Education shall ~~prescribe the appropriate level of~~
17 ~~intervention and~~ consider the number of years a school has received an unacceptable rating
18 and may include one or more of the following ~~increasingly severe~~ interventions:

- 19 (1) Issuing public notice of the deficiency to the local board of education;
- 20 (2) Ordering a hearing to be conducted at the school by the local board of education with
21 the participation of the school council for the purpose of notifying the public of the
22 unacceptable performance, the improvements in performance expected by the office, and
23 the interventions that may be imposed under this Code section if the performance does
24 not improve within a designated period of time and of soliciting public comment on the
25 initial steps being taken to improve performance;
- 26 (3) Ordering the preparation of an intensive student achievement improvement plan that
27 addresses each academic excellence indicator for which the school's performance is
28 unacceptable, the submission of the plan to the ~~director~~ State Board of Education for
29 approval, and implementation of the plan; or
- 30 (4) Appointing a Department of Education school improvement team to:
- 31 (A) Conduct a comprehensive on-site evaluation of each low-performing school to
32 determine the cause for the school's low performance and lack of progress that includes
33 presentations by the chairperson of the local board of education, the school principal,
34 a parent member of the local school council, and other school personnel;
- 35 (B) Recommend actions, including reallocation of resources and technical assistance,
36 changes in school procedures or operations, ~~staff development~~ professional learning

1 focused on student achievement for instructional and administrative staff, intervention
 2 for individual administrators or teachers, instructional strategies based on scientifically
 3 based research, waivers from state statutes or rules, adoption of policies and practices
 4 to ensure all groups of students meet the state's proficiency level, extended instruction
 5 time for low-performing students, strategies for parental involvement, incorporation of
 6 a teacher mentoring program, smaller class size for low-performing students, or other
 7 actions the team considers appropriate;

8 (C) Assist in the development of an intensive school improvement plan focused on
 9 student achievement required by paragraph (3) of this subsection; and

10 (D) ~~Assist the director in monitoring~~ Monitor the progress of the school in
 11 implementing the intensive school improvement plan focused on student achievement;

12 ~~(5)(b)~~ If a school has received a grade of D or F an unacceptable rating for a period of two
 13 consecutive years or more, appointing the State Board of Education shall offer the local
 14 board of education for such school the opportunity to show cause why the State Board of
 15 Education should not appoint a school master or management team for the school or
 16 impose mandated school choice. After the local board of education has had an opportunity
 17 to show cause, the State Board of Education may, in its discretion, appoint a school master
 18 or management team to oversee and direct the duties of the principal of the school in
 19 relation to the school until school performance improves and the school is released from
 20 intervention by the director, with the cost of the master or management team to be paid by
 21 the state; or may impose mandated public school choice. The State Board of Education
 22 is also authorized to impose additional restrictions or mandates on schools subject to this
 23 subsection, as deemed appropriate by the State Board of Education and in accordance with
 24 its rules and regulations.

25 ~~(6)(c)~~ If a school has received a grade of D or F an unacceptable rating for a period of
 26 three consecutive years or more, the State Board of Education shall offer the local board
 27 of education for such school the opportunity to show cause why the State Board of
 28 Education should not implement one or more of the following interventions or sanctions;
 29 in order of severity:

30 ~~(A)~~(1) Removal of school personnel on recommendation of the master or the school
 31 improvement team, including the principal and personnel whose performance has
 32 continued not to produce student achievement gains over a three-year period as a
 33 condition for continued receipt of state funds for administration;

34 ~~(B)~~(2) Allow for the implementation of a state charter school through the designation by
 35 the State Board of Education;

36 ~~(C)~~(3) Mandate the complete reconstitution of the school, removing all personnel,
 37 appointing a new principal, and hiring all new staff. Existing staff may reapply for

1 employment at the newly reconstituted school but shall not be rehired if their
 2 performance regarding student achievement has been negative for the past three years;
 3 ~~(D)~~(4) Mandate that the parents have the option to relocate the student to other public
 4 schools in the local school system to be chosen by the parents of the student with
 5 transportation costs borne by the system; or

6 ~~(E)~~(5) Mandate a monitor, master, or management team in the school that shall be paid
 7 by the district;

8 (6) Continue the intensive student achievement improvement plan provided for in
 9 paragraph (3) of subsection (a) of this Code section; or

10 (7) Mandate a complete restructuring of the school's governance arrangement and
 11 internal organization of the school.

12 After the local board of education has had an opportunity to show cause, the State Board
 13 of Education may, in its discretion, impose any of the interventions or sanctions listed in
 14 this subsection on a school subject to this subsection.

15 ~~(b)~~(d) The State Board of Education shall clearly define the powers and duties of a master
 16 or management team appointed to oversee the operations of a school.

17 ~~(c)~~(e) A school improvement team appointed under this Code section may consist of
 18 currently employed or retired teachers, principals, other educational professionals,
 19 Department of Education school improvement employees, or local school superintendents
 20 recognized for excellence in their roles and appointed by the State Board of Education to
 21 serve as members of a team.

22 ~~(d)~~(f) The State Board of Education shall annually report by June 30 of each year the status
 23 of the interventions imposed on low-performing schools to the office with
 24 recommendations regarding ending, extending, or upgrading the interventions on those
 25 schools. The director shall review and respond to the report."

26 SECTION 11.

27 The Official Code of Georgia Annotated is amended by striking from the following Code
 28 sections the name "Office of Education Accountability" wherever the same shall occur and
 29 inserting in lieu thereof the name "Office of Student Achievement":

30 (1) Code Section 20-2-86, relating to school councils;

31 (2) Code Section 20-2-154.1, relating to alternative education programs;

32 (3) Code Section 20-2-167, relating to funding, budgeting, and accounting;

33 (4) Code Section 20-2-212.3, relating to increasing teachers' salaries in areas of shortage
 34 and criteria for determining shortage;

35 (5) Code Section 20-2-281, relating to assessment of effectiveness of educational
 36 programs;

- 1 (6) Code Section 20-2-283, relating to criteria and specific requirements for the
2 development of a placement and promotion policy;
- 3 (7) Code Section 20-2-286, relating to Georgia Closing the Achievement Gap
4 Commission;
- 5 (8) Code Section 20-2-320, relating to the Education Information Steering Committee
6 and identification of data to implement the Quality Basic Education Program;
- 7 (9) Code Section 20-14-6, relating to selection of personnel to support the Education
8 Coordinating Council;
- 9 (10) Code Section 20-14-8, relating to general powers and duties of the Education
10 Coordinating Council;
- 11 (11) Code Section 20-14-20, relating to definitions regarding education accountability
12 assessment programs;
- 13 (12) Code Section 20-14-25, relating to the creation of the Office of Education
14 Accountability;
- 15 (13) Code Section 47-3-127.1, relating to employment of retired teacher as full-time
16 teacher; and
- 17 (14) Code Section 50-18-72, relating to when public disclosure of government records
18 is not required.

19 **SECTION 12.**

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

22 **SECTION 13.**

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