

The Senate Education and Youth Committee offered the following substitute to SB 35:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to  
2 elementary and secondary education, so as to provide for the revision of certain provisions  
3 regarding education flexibility; to change certain provisions relating to expenditure controls  
4 for the 2005-2006 school year; to change certain provisions regarding program weights; to  
5 amend Code Section 40-5-22, relating to persons not to be issued a driver's license, school  
6 attendance requirements, and driving training requirements, so as to provide for an additional  
7 exception to the school attendance requirements to obtain a driver's license for a minor  
8 pursuing a general educational development diploma; to provide for an additional offense to  
9 prohibit a suspended student from maintaining a driver's license; to provide for related  
10 matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

12 Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and  
13 secondary education, is amended by striking Code Section 20-2-167.1, relating to the  
14 application of Code Section 20-2-167 for the 2003-2004 and 2004-2005 school year, and  
15 inserting in lieu thereof the following:  
16

17 "20-2-167.1.

18 (a) For the purposes of the 2003-2004, ~~and 2004-2005,~~ and 2005-2006 school years only,  
19 the following changes to Code Section 20-2-167 shall apply:

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

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

7 (3) Each local school system shall spend 100 percent of the funds designated for media  
 8 center costs for such costs, for any direct instruction expense, or for a combination of  
 9 both, provided that each local school system shall report to the Department of Education  
 10 by March 15, 2006, its expenditures for media center costs, identifying expenditures for  
 11 media center personnel and media materials; at the system level, and 100 percent of the  
 12 funds designated for media materials at the system level;

13 (4) During the 2003-2004 school year, funds allocated for staff development may be  
 14 spent for any program approved under the 'Quality Basic Education Act.' During the  
 15 2004-2005 and 2005-2006 school year years, each school system shall spend 90 percent  
 16 of funds allocated for professional development for such costs at the system level; and

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

21 (b) Except as otherwise provided by subsection (a) of this Code section, Code Section  
 22 20-2-167 shall apply during the 2003-2004, and 2004-2005, and 2005-2006 school years.

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

26 (d) Nothing in this Code section shall be construed to repeal any other provision of Code  
 27 Section 20-2-167 or this chapter, or to apply to any time period other than the ~~two~~ three  
 28 fiscal years beginning July 1, 2003, and ending June 30, ~~2005~~ 2006.

29 (e) This Code section shall be automatically repealed July 1, ~~2005~~ 2006."

## 30 SECTION 2.

31 Said chapter is further amended by striking subsections (i) and (k) of Code Section 20-2-182,  
 32 relating to program weights, and inserting in lieu thereof the following:

33 "(i) The State Board of Education shall adopt for each instructional program authorized  
 34 pursuant to Part 3 of this article and the middle school program provided for in Code  
 35 Section 20-2-290 the maximum number of students which may be taught by a teacher in  
 36 an instructional period. ~~Such maximum class sizes shall be equal to or greater than the~~

1 ~~teacher-student ratios used in the calculation of the program weights as set forth in~~  
2 ~~subsection (b) of Code Section 20-2-161 but shall not exceed the funding class size by~~  
3 ~~more than 20 percent, unless specifically authorized by the State Board of Education;~~  
4 ~~provided, however, that in no case shall the 20 percent maximum be exceeded for~~  
5 ~~mathematics, science, social studies, or English classes; provided, further, that the The~~  
6 ~~State Board of Education shall provide for a system average maximum class size that shall~~  
7 ~~not exceed the funding class size by more than 20 percent for mathematics, science, social~~  
8 ~~studies, or language arts classes, unless specifically authorized by the State Board of~~  
9 ~~Education. The system average~~ maximum class size for kindergarten and grades one  
10 through three shall not exceed 20 percent over the funding ratio except for art, music, or  
11 physical education classes; provided, further, that the system average maximum class size  
12 for special education, gifted, and English for speakers of other languages classes shall be  
13 set by the State Board of Education. For each instructional program, the maximum number  
14 of students who may be taught by a teacher in an instructional period shall not exceed the  
15 system average maximum class size for the program by more than two students; provided,  
16 however, that a system average maximum class size which results in a fractional full-time  
17 equivalent shall be rounded up to the nearest whole number. For a period not to exceed four  
18 seven years, beginning with the 2000-2001 school year, local school systems shall be  
19 allowed to exceed the maximum class sizes set forth in this subsection in a manner  
20 consistent with State Board of Education rules and subsection (k) of this Code section. The  
21 State Board of Education shall lower the current maximum class sizes set by state board  
22 rules in effect for the 1999-2000 school year, beginning with the 2000-2001 school year,  
23 by a ~~proportional amount each school year~~ an amount so that, beginning with the  
24 ~~2003-2004~~ 2007-2008 school year, State Board of Education rules are in compliance with  
25 this subsection ~~except as otherwise provided in subsection (k) of this Code section for the~~  
26 ~~2003-2004 and 2004-2005 school years only.~~ An aide may be used in programs to increase  
27 class size as allowed by State Board of Education rule and subsection (k) of this Code  
28 section, except that beginning with the 2007-2008 school year, an aide shall not be used  
29 to increase the maximum class size in kindergarten or grades one through three, ~~except as~~  
30 ~~otherwise provided in subsection (k) of this Code section for the 2003-2004 and 2004-2005~~  
31 ~~school years only.~~ The maximum class size for the kindergarten and primary grades  
32 programs is defined as the number of students in a physical classroom. Maximum class  
33 sizes that result in a fractional full-time equivalent shall be rounded up to the nearest whole  
34 number as needed. The middle school program shall use the teacher-student ratio of the  
35 middle grades program for the purpose of this subsection. The number of students taught  
36 by a teacher at any time after the first 15 school days of a school year may not exceed the  
37 maximum such number unless authorization for a specific larger number is requested of

1 the state board, along with the educational justification for granting the requested  
 2 exemption, and the state board has approved said request. The state board shall not reduce  
 3 class sizes without the authorization of the General Assembly if this reduction necessitates  
 4 added costs for facilities, personnel, and other program needs. Local boards of education  
 5 may reduce class sizes, build additional facilities, and provide other resources at local cost  
 6 if such actions are in the best interest of the local school systems' programs as determined  
 7 by the local boards of education."

8 "(k) For the 2003-2004, ~~and 2004-2005~~, 2005-2006, and 2006-2007 school years, the  
 9 maximum class sizes set by the State Board of Education for the 2002-2003 school year  
 10 shall apply for grades four through 12. For the 2003-2004, ~~and 2004-2005~~, 2005-2006, and  
 11 2006-2007 school years, the maximum class sizes set by the State Board of Education for  
 12 the 2003-2004 school year shall apply to kindergarten and grades one through three, except  
 13 that a kindergarten class may be increased to 20 students if a paraprofessional is present  
 14 in addition to the certificated teacher. ~~For the 2003-2004 and 2004-2005 school years,~~  
 15 ~~compliance with maximum class size requirements shall be determined by the system~~  
 16 ~~average for kindergarten and for each grade and no class shall exceed the applicable~~  
 17 ~~maximum size by more than two students.~~ Except as otherwise provided in this subsection,  
 18 other provisions of this Code section shall apply. This subsection shall not be construed to  
 19 repeal any other provision of this Code section or this chapter, or to apply to any period of  
 20 time other than the ~~two~~four fiscal years beginning July 1, 2003, and ending June 30,  
 21 ~~2005~~2007. This subsection shall be automatically repealed July 1, ~~2005~~2007."

### 22 SECTION 3.

23 Code Section 40-5-22 of the Official Code of Georgia Annotated, relating to persons not to  
 24 be issued a driver's license, school attendance requirements, and driving training  
 25 requirements, is amended by striking subsection (a.1) and inserting in lieu thereof the  
 26 following:

27 "(a.1)(1) The department shall not issue an instruction permit or driver's license to a  
 28 person who is younger than 18 years of age unless at the time such minor submits an  
 29 application for an instruction permit or driver's license the applicant presents acceptable  
 30 proof that he or she has received a high school diploma, a general educational  
 31 development (GED) diploma, a special diploma, or a certificate of high school  
 32 completion, or has terminated his or her secondary education and is enrolled in a  
 33 postsecondary school, pursuing a general educational development (GED) diploma, or  
 34 the records of the department indicate that said applicant:

35 (A) Is enrolled in and not under suspension from a public or private school and has  
 36 satisfied relevant attendance requirements as set forth in paragraph (2) of this

1 subsection for a period of one academic year prior to application for an instruction  
2 permit or driver's license; or

3 (B) Is enrolled in a home education program that satisfies the requirements of all state  
4 laws governing such courses.

5 The department shall notify such minor of his or her ineligibility for an instruction permit  
6 or driver's license at the time of such application.

7 (2) The department shall forthwith notify by certified mail or statutory overnight  
8 delivery, return receipt requested, any minor issued an instruction permit or driver's  
9 license in accordance with this subsection other than a minor who has terminated his or  
10 her secondary education and is enrolled in a postsecondary school or who is pursuing a  
11 general education development (GED) diploma that such minor's instruction permit or  
12 driver's license is suspended subject to review as provided for in this subsection if the  
13 department receives notice pursuant to Code Section 20-2-701 that indicates that such  
14 minor:

15 (A) Has dropped out of school without graduating and has remained out of school for  
16 ten consecutive school days;

17 (B) Has more than ten school days of unexcused absences in any semester or  
18 combination of two consecutive quarters; or

19 (C) Has been suspended from school for:

20 (i) Threatening, striking, or causing bodily harm to a teacher or other school  
21 personnel;

22 (ii) Possession or sale of drugs or alcohol on school property;

23 (iii) Possession or use of a weapon on school property. For purposes of this  
24 subparagraph, the term 'weapon' shall be defined in accordance with Code Section  
25 16-11-127.1 but shall not include any part of an archeological or cultural exhibit  
26 brought to school in connection with a school project;

27 (iv) Any sexual offense prohibited under Chapter 6 of Title 16; or

28 (v) Causing substantial physical or visible bodily harm to or seriously disfiguring  
29 another person, including another student; or

30 (D) Has been suspended from school, for any reason, for more than ten cumulative  
31 days.

32 Notice given by certified mail or statutory overnight delivery with return receipt  
33 requested mailed to the person's last known address shall be prima-facie evidence that  
34 such person received the required notice. Such notice shall include instructions to the  
35 minor to return immediately the instruction permit or driver's license to the department  
36 and information summarizing the minor's right to request an exemption from the  
37 provisions of this subsection. The minor so notified may request in writing a hearing

1 within ten business days from the date of receipt of notice. Within 30 days after receiving  
2 a written request for a hearing, the department shall hold a hearing as provided for in  
3 Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' After such hearing,  
4 the department shall sustain its order of suspension or rescind such order. The department  
5 shall be authorized to grant an exemption from the provisions of this subsection to a  
6 minor, upon such minor's petition, if there is clear and convincing evidence that the  
7 enforcement of the provisions of this subsection upon such minor would create an undue  
8 hardship upon the minor or the minor's family or if there is clear and convincing  
9 evidence that the enforcement of the provisions of this subsection would act as a  
10 detriment to the health or welfare of the minor. Appeal from such hearing shall be in  
11 accordance with said chapter. If no hearing is requested within the ten business days  
12 specified above, the right to a hearing shall have been waived and the instruction permit  
13 or driver's license of the minor shall remain suspended. The suspension provided for in  
14 this paragraph shall be for a period of one year or shall end upon the date of such minor's  
15 eighteenth birthday, whichever comes first.

16 (3) The State Board of Education and the commissioner of motor vehicle safety are  
17 authorized to promulgate rules and regulations to implement the provisions of this  
18 subsection."

19 **SECTION 4.**

20 This Act shall become effective on July 1, 2005.

21 **SECTION 5.**

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