

## Senate Bill 35

By: Senators Moody of the 56th, Carter of the 13th, Stephens of the 27th, Starr of the 44th,  
Hill of the 4th and others

**AS PASSED**

## 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 change program weights for funding purposes;  
3 to provide for the revision of certain provisions regarding education flexibility; to provide  
4 for the development of rules and regulations by the State Board of Education for specified  
5 information, including budget and expenditure information and site average class size by  
6 grade, to be provided by local boards of education to school councils and the general public;  
7 to change certain provisions relating to expenditure controls for the 2005-2006 school year;  
8 to change certain provisions regarding program weights; to revise legislative intent relative  
9 to charter schools; to add and revise definitions; to provide for charter petitions from a group  
10 of two or more local schools or local school systems; to repeal Code Section 20-2-2063.1,  
11 relating to exemption of charter schools from statutory and regulatory requirements; to  
12 provide that a charter school shall not be subject to the provisions of Title 20 and other  
13 regulations; to change certain provisions relating to operating requirements, control, and  
14 management; to change certain provisions relating to admission, enrollment, and withdrawal  
15 of students; to change certain provisions relating to the term and length of a charter; to  
16 change the provisions relating to the annual required report on the progress of the school; to  
17 revise and clarify certain provisions relating to funding for charter schools; to change certain  
18 provisions relating to purposes for which facilities funds may be used and upkeep of charter  
19 school property; to change certain provisions relating to the annual report to the General  
20 Assembly; to amend Chapter 14 of Title 20 of the Official Code of Georgia Annotated,  
21 relating to the education coordinating council, so as to change certain provisions relating to  
22 the duties of the office of student achievement; to change certain provisions relating to  
23 indicators of quality of learning in individual schools; to change certain provisions relating  
24 to school report cards; to change certain provisions relating to appropriate levels of  
25 intervention for failing schools; to change certain provisions relating to the Education  
26 Information Steering Committee; to amend Code Section 40-5-22, relating to persons not to  
27 be issued a driver's license, school attendance requirements, and driving training  
28 requirements, so as to provide for an additional exception to the school attendance

requirements to obtain a driver’s license for a minor pursuing a general educational development diploma; to change certain provisions relating to suspension of driver’s licenses of minors; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and secondary education, is amended in Code Section 20-2-161, relating to the Quality Basic Education Formula, by striking subsection (b) in its entirety and inserting in lieu thereof the following:

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

(1) Kindergarten program . . . . .	<del>1.6226</del>
	<u>1.6422</u>
	weight and
	1 to 15
	ratio
(2) Kindergarten early intervention program . . . . .	<del>1.9952</del>
	<u>2.0248</u>
	weight and
	1 to 11
	ratio
(3) Primary grades program (1-3) . . . . .	<del>1.2686</del>
	<u>1.2775</u>
	weight and
	1 to 17
	ratio
(4) Primary grades early intervention program (1-3) . . . . .	<del>1.7617</del>
	<u>1.7838</u>
	weight and
	1 to 11
	ratio

1	(5) Upper elementary grades program (4-5) . . . . .	<del>1.0258</del>
2		<u>1.0290</u>
3		weight and
4		1 to 23
5		ratio
6	(6) Upper elementary grades early intervention program (4-5) . . . . .	<del>1.7549</del>
7		<u>1.7774</u>
8		weight and
9		1 to 11
10		ratio
11	(7) Middle grades program (6-8) . . . . .	<del>1.0102</del>
12		<u>1.0134</u>
13		weight and
14		1 to 23
15		ratio
16	(8) Middle school program (6-8) as defined in Code Section 20-2-290 . . .	<del>1.1104</del>
17		<u>1.1164</u>
18		weight and
19		1 to 20
20		ratio
21	(9) High school general education program (9-12) . . . . .	1.0000
22		weight and
23		1 to 23
24		ratio
25	(10) Vocational laboratory program (9-12) . . . . .	<del>1.2010</del>
26		<u>1.1914</u>
27		weight and
28		1 to 20
29		ratio
30	(11) Program for persons with disabilities:	
31	Category I . . . . .	<del>2.3409</del>
32		<u>2.3706</u>
33		weight and
34		1 to 8
35		ratio

1	(12) Program for persons with disabilities:	
2	Category II .....	<del>2.7330</del>
3		<u>2.7773</u>
4		weight and
5		1 to 6.5
6		ratio
7	(13) Program for persons with disabilities:	
8	Category III .....	<del>3.4778</del>
9		<u>3.5356</u>
10		weight and
11		1 to 5
12		ratio
13	(14) Program for persons with disabilities:	
14	Category IV .....	<del>5.6253</del>
15		<u>5.7294</u>
16		weight and
17		1 to 3
18		ratio
19	(15) Program for persons with disabilities:	
20	Category V .....	<del>2.4233</del>
21		<u>2.4421</u>
22		weight and
23		1 to 8
24		ratio
25	(16) Program for intellectually gifted students:	
26	Category VI .....	<del>1.6340</del>
27		<u>1.6521</u>
28		weight and
29		1 to 12
30		ratio
31	(17) Remedial education program .....	<del>1.2917</del>
32		<u>1.3031</u>
33		weight and
34		1 to 15
35		ratio

1	(18) Alternative education program . . . . .	<del>1.5683</del>
2		<u>1.5871</u>
3		weight and
4		1 to 15
5		ratio
6	(19) English for speakers of other languages (ESOL) program . . . . .	<del>2.4521</del>
7		<u>2.4948</u>
8		weight and
9		1 to 7
10		ratio"

11 **SECTION 2.**

12 Said chapter is further amended in Code Section 20-2-167, relating to funding for direct  
 13 instructional, media center, and staff development costs, by adding a new subsection to the  
 14 end of such Code section to read as follows:

15 "(e) No later than October 1, 2005 the State Board of Education shall develop rules and  
 16 regulations requiring that each local board of education provide information as specified  
 17 by the state board and which is not specifically made confidential by law, including school  
 18 site budget and expenditure information and site average class size by grade, to members  
 19 of the school council and the general public."

20 **SECTION 3.**

21 Said chapter is further amended by striking Code Section 20-2-167.1, relating to the  
 22 application of Code Section 20-2-167 for the 2003-2004 and 2004-2005 school year, and  
 23 inserting in lieu thereof the following:

24 "20-2-167.1.

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

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

33 (2) Direct instruction funds for the kindergarten early intervention program, the primary  
 34 grades early intervention program, the upper elementary grades early intervention  
 35 program, the remedial education program, and the alternative education program shall be

1 expended on one or more of these programs at the system level, with no requirement that  
2 the school system spend any specific portion of such funds at the site where such funds  
3 were earned;

4 (3) Each local school system shall spend 100 percent of the funds designated for media  
5 center costs for such costs at the system level, and 100 percent of the funds designated  
6 for media materials at the system level;

7 (4) During the 2003-2004 school year, funds allocated for staff development may be  
8 spent for any program approved under the 'Quality Basic Education Act.' During the  
9 2004-2005 and 2005-2006 school ~~year~~ years, each school system shall spend 90 percent  
10 of funds allocated for professional development for such costs at the system level; and

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

15 (b) Except as otherwise provided by subsection (a) of this Code section, Code Section  
16 20-2-167 shall apply during the 2003-2004, ~~and 2004-2005,~~ and 2005-2006 school years.

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

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

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

#### 24 SECTION 4.

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

27 "(i) The State Board of Education shall adopt for each instructional program authorized  
28 pursuant to Part 3 of this article and the middle school program provided for in Code  
29 Section 20-2-290 the maximum number of students which may be taught by a teacher in  
30 an instructional period. ~~Such maximum class sizes shall be equal to or greater than the~~  
31 ~~teacher-student ratios used in the calculation of the program weights as set forth in~~  
32 ~~subsection (b) of Code Section 20-2-161 but shall not exceed the funding class size by~~  
33 ~~more than 20 percent, unless specifically authorized by the State Board of Education;~~  
34 ~~provided, however, that in no case shall the 20 percent maximum be exceeded for~~  
35 ~~mathematics, science, social studies, or English classes; provided, further, that the~~ The  
36 State Board of Education shall provide for a system average maximum class size that shall

1 not exceed the funding class size by more than 20 percent for mathematics, science, social  
2 studies, or language arts classes, unless specifically authorized by the State Board of  
3 Education. The system average maximum class size for kindergarten and grades one  
4 through three shall not exceed 20 percent over the funding ratio except for art, music, or  
5 physical education classes; provided, further, that the system average maximum class size  
6 for special education, gifted, and English for speakers of other languages classes shall be  
7 set by the State Board of Education. For each instructional program, the maximum number  
8 of students who may be taught by a teacher in an instructional period shall not exceed the  
9 system average maximum class size for the program by more than two students; provided,  
10 however, that a system average maximum class size which results in a fractional full-time  
11 equivalent shall be rounded up to the nearest whole number. For a period not to exceed ~~four~~  
12 ~~seven~~ years, beginning with the 2000-2001 school year, local school systems shall be  
13 allowed to exceed the maximum class sizes set forth in this subsection in a manner  
14 consistent with State Board of Education rules and subsection (k) of this Code section. The  
15 State Board of Education shall lower the current maximum class sizes set by state board  
16 rules in effect for the 1999-2000 school year, beginning with the 2000-2001 school year,  
17 by ~~a proportional amount each school year~~ an amount so that, beginning with the  
18 ~~2003-2004~~ 2007-2008 school year, State Board of Education rules are in compliance with  
19 this subsection ~~except as otherwise provided in subsection (k) of this Code section for the~~  
20 ~~2003-2004 and 2004-2005 school years only.~~ An aide may be used in programs to increase  
21 class size as allowed by State Board of Education rule and subsection (k) of this Code  
22 section, except that beginning with the 2007-2008 school year, an aide shall not be used  
23 to increase the maximum class size in kindergarten or grades one through three, ~~except as~~  
24 ~~otherwise provided in subsection (k) of this Code section for the 2003-2004 and 2004-2005~~  
25 ~~school years only.~~ The maximum class size for the kindergarten and primary grades  
26 programs is defined as the number of students in a physical classroom. Maximum class  
27 sizes that result in a fractional full-time equivalent shall be rounded up to the nearest whole  
28 number as needed. The middle school program shall use the teacher-student ratio of the  
29 middle grades program for the purpose of this subsection. The number of students taught  
30 by a teacher at any time after the first 15 school days of a school year may not exceed the  
31 maximum such number unless authorization for a specific larger number is requested of  
32 the state board, along with the educational justification for granting the requested  
33 exemption, and the state board has approved said request. The state board shall not reduce  
34 class sizes without the authorization of the General Assembly if this reduction necessitates  
35 added costs for facilities, personnel, and other program needs. Local boards of education  
36 may reduce class sizes, build additional facilities, and provide other resources at local cost

1 if such actions are in the best interest of the local school systems' programs as determined  
2 by the local boards of education."

3 "(k) For the 2003-2004, ~~and 2004-2005, 2005-2006, and 2006-2007~~ school years, the  
4 maximum class sizes set by the State Board of Education for the 2002-2003 school year  
5 shall apply for grades four through 12. For the 2003-2004, ~~and 2004-2005, 2005-2006, and~~  
6 ~~2006-2007~~ school years, the maximum class sizes set by the State Board of Education for  
7 the 2003-2004 school year shall apply to kindergarten and grades one through three, except  
8 that a kindergarten class may be increased to 20 students if a paraprofessional is present  
9 in addition to the certificated teacher. ~~For the 2003-2004 and 2004-2005 school years,~~  
10 ~~compliance with maximum class size requirements shall be determined by the system~~  
11 ~~average for kindergarten and for each grade and no class shall exceed the applicable~~  
12 ~~maximum size by more than two students.~~ Except as otherwise provided in this subsection,  
13 other provisions of this Code section shall apply. This subsection shall not be construed to  
14 repeal any other provision of this Code section or this chapter, or to apply to any period of  
15 time other than the ~~two~~four fiscal years beginning July 1, 2003, and ending June 30,  
16 ~~2005~~2007. This subsection shall be automatically repealed July 1, ~~2005~~2007."

## 17 SECTION 5.

18 Said chapter is further amended by striking Code Section 20-2-320, relating to the Education  
19 Information Steering Committee, identification of data to implement Quality Basic Education  
20 Program; State Data and Resource Center, and the state-wide comprehensive educational  
21 information network, and inserting in lieu thereof the following:

22 "20-2-320.

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



1 ~~Standards Commission, and postsecondary technical colleges and schools~~ for the  
2 implementation of this article. Further, the steering committee shall develop a design for  
3 a state-wide comprehensive educational information system which will provide for the  
4 accurate, seamless, and timely flow of information from local and regional education  
5 agencies, units of the University System of Georgia, and technical schools and colleges to  
6 the state. The design shall include hardware, software, data, collection methods and times,  
7 training, maintenance, communications, security of data, and installation specifications and  
8 any other relevant specifications needed for the successful implementation of this system.  
9 The state-wide comprehensive educational information system shall not use a student's  
10 social security number or an employee's social security number in violation of state or  
11 federal law to identify a student or employee. The steering committee shall present such  
12 recommendations to the Education Coordinating Council. Upon approval of the boards of  
13 the respective education agencies, ~~the steering committee~~ such boards shall issue  
14 appropriate requests for proposals to implement a state-wide comprehensive educational  
15 information system, subject to appropriation by the General Assembly. ~~The State Data and~~  
16 ~~Research Center,~~ boards of the respective education agencies, at the direction of the  
17 Education Coordinating Council and working through the steering committee, shall initiate  
18 contracts with appropriate vendors and local units of administration for the procurement  
19 of services, purchase of hardware and software, and for any other purpose as directed by  
20 the Education Coordinating Council, consistent with appropriation by the General  
21 Assembly.

22 (b) The State Board of Education, the Board of Technical and Adult Education, the Board  
23 of Regents of the University System of Georgia, and the Department of Early Care and  
24 Learning shall require an individual student record for each student enrolled which at a  
25 minimum includes the data specifications recommended by the steering committee and  
26 approved by the Education Coordinating Council. The Professional Standards Commission  
27 shall maintain an individual data record for each certificated person employed in a public  
28 school.

29 (c) For the purpose of this article, authorized educational agencies shall be the Department  
30 of Education; the Department of Early Care and Learning; the Board of Regents of the  
31 University System of Georgia; the Department of Technical and Adult Education; the  
32 Education Coordinating Council; the Professional Standards Commission; ~~the State Data~~  
33 ~~and Research Center and units under contract to the State Data and Research Center;~~ the  
34 Office of Student Achievement; the education policy and research components of the office  
35 of the Governor; the Office of Planning and Budget; the Legislative Budget Office; the  
36 House Research Office; and the Senate Research Office. Any information collected over  
37 the state-wide comprehensive educational information system, including individual student

1 records and individual personnel records, shall be accessible by authorized educational  
2 agencies, provided that any information which is planned for collection over the system but  
3 which is temporarily being collected by other means shall also be accessible by authorized  
4 educational agencies and provided, further, that adequate security provisions are employed  
5 to protect the privacy of individuals. All data maintained for this system shall be used for  
6 educational purposes only. In no case shall information be released by an authorized  
7 educational agency which would violate the privacy rights of any individual student or  
8 employee. Information released by an authorized educational agency in violation of the  
9 privacy rights of any individual student or employee shall subject the authorized  
10 educational agency to all penalties under applicable state and federal law. Any information  
11 collected over the state-wide comprehensive educational information system which is not  
12 stored in an individual student or personnel record format shall be made available to the  
13 Governor and the House and Senate Appropriations, Education, and Higher Education  
14 committees, except information otherwise prohibited by statute. Data which are included  
15 in an individual student record or individual personnel record format shall be extracted  
16 from such records and made available in nonindividual record format for use by the  
17 Governor, committees of the General Assembly, and agencies other than authorized  
18 educational agencies.

19 ~~(d) The State Data and Research Center through the Board of Regents of the University~~  
20 ~~System of Georgia Department of Education shall request sufficient funds annually for the~~  
21 ~~development, operation, training of appropriate personnel, and maintenance and~~  
22 ~~enhancements of the system. The State Data and Research Center shall submit quarterly~~  
23 ~~reports to the Education Coordinating Council that include budgetary data reflecting~~  
24 ~~expenditures related to the state-wide comprehensive educational information system.~~

25 (e) In a phased approach, the state-wide comprehensive educational information  
26 system shall be fully completed by July 1, 2003, subject to appropriation by the General  
27 Assembly for this purpose; ~~provided, however, that the steering committee shall have the~~  
28 ~~authority to specify components which, in its judgment, cannot be completed until July 1,~~  
29 ~~2004.~~ During the phased implementation of the system, highest priority shall be given to  
30 the electronic transmission of complete full-time equivalent counts, the uniform budgeting  
31 and accounting system, and complete salary data for each local school system. All  
32 pre-kindergarten programs, local units of administration for grades kindergarten through  
33 12, technical schools and colleges, public libraries, public colleges and universities, and  
34 regional educational service agencies shall provide data to the State Data and Research  
35 Center as required by their respective boards and agencies. Notwithstanding any provision  
36 of this Code section to the contrary, no local school system shall earn funds under Code

Section 20-2-186 for superintendents, assistant superintendents, or principals if the local unit of administration fails to comply with the provisions of this Code section.

(f) Notwithstanding any other provision of law, the ~~State Data and Research Center~~ Department of Education is authorized to and shall obtain and provide to the Department of Public Safety, in a form to be agreed upon between the ~~State Data and Research Center~~ Department of Education and the Department of Public Safety, enrollment, attendance, and suspension information regarding minors 15 through 17 years of age reported pursuant to Code Sections 20-2-690 and 20-2-697, to be used solely for the purposes set forth in subsection (a.1) of Code Section 40-5-22."

## SECTION 6.

Said chapter is further amended by striking Code Section 20-2-2061, relating to legislative intent, and inserting in lieu thereof the following:

"20-2-2061.

~~It is the intent of the General Assembly to provide a means whereby a petitioner may seek a performance based contract called a charter, which ties improved performance to the waiver of specifically identified state and local rules, regulations, policies, procedures, and identified provisions of this title other than the provisions of this article. In addition to specifically identified provisions of this title, a charter school shall be exempt from provisions listed in Code Section 20-2-2063.1. It is the intent of the General Assembly to increase student achievement through academic and organizational innovation by encouraging local school systems to utilize the flexibility of a performance based contract called a charter."~~

## SECTION 7.

Said chapter is further amended in Code Section 20-2-2062, relating to definitions, by inserting new paragraphs (1.1) and (5.1) to read as follows:

"(1.1) 'Charter attendance zone' means all or any portion of the local school system in which the charter school is located and may include all or any portion of other local school systems if the charter school is jointly authorized pursuant to subsection (c) of Code Section 20-2-2063."

"(5.1) 'High school cluster' means a high school and all of the middle and elementary schools which contain students who matriculate to such high school. The schools in a high school cluster may include charter schools, local schools, or a combination of both."

## SECTION 8.

Said chapter is further amended in Code Section 20-2-2062, relating to definitions, by striking paragraphs (8), (9), and (10) and inserting in lieu thereof the following:

"~~(10)~~ (8) 'Local tax revenue' means local taxes budgeted for school purposes in excess of the local five mill share, combined with any applicable equalization grant and budgeted revenues from any of the following: investment earnings, unrestricted donations, and the sale of surplus property; but exclusive of revenue from bonds issued for capital projects, revenue to pay debt service on such bonds, local option sales tax for capital projects, ~~budgeted transportation costs, budgeted central administration costs, and~~ budgeted school food service program costs. Nothing in this paragraph shall be construed to prevent a local board from including a local charter school in projects specified in the ballot language of a local option sales tax or bond referendum.

~~(8)~~ (9) 'Local school' means a public school in Georgia that is under the management and control of a local board.

~~(9)~~ (10) 'Local school system' means the system of public schools established and maintained by a local board within its limits pursuant to Article VIII, Section V, Paragraph I of the Constitution."

## SECTION 9.

Said chapter is further amended by striking Code Section 20-2-2063, relating to minimum requirements for charter petitions, and inserting in lieu thereof the following:

"20-2-2063.

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

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

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

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

1 (b) The State Board of Education shall establish rules, regulations, policies, and  
2 procedures to provide for the receipt of charter petitions from a group of two or more local  
3 schools as a single charter petitioner to convert to conversion charter school status. An  
4 existing conversion charter school may join as part of a group charter petition, and if such  
5 group charter petition is approved, the new charter shall supersede the conversion charter  
6 school's previous charter. A group charter petition may be comprised of all the schools in  
7 a high school cluster as such term is defined in Code Section 20-2-2062.  
8 (c) The State Board of Education shall establish rules, regulations, policies, and procedures  
9 to provide for charter petitions from two or more local school systems to jointly authorize  
10 a local charter school."

#### 11 **SECTION 10.**

12 Said chapter is further amended by repealing in its entirety Code Section 20-2-2063.1,  
13 relating to exemption of charter schools from statutory and regulatory requirements.

#### 14 **SECTION 11.**

15 Said chapter is further amended by striking Code Section 20-2-2064.1, relating to review of  
16 charter by state board and charters for state chartered special schools, and inserting in lieu  
17 thereof the following:

18 "20-2-2064.1.

19 (a) The state board shall approve the charter of a charter petitioner if the petition has been  
20 approved by the local board of the local school system in which the proposed charter  
21 school will be located and the state board finds that the petition complies with the rules,  
22 regulations, policies, and procedures promulgated in accordance with Code Section  
23 20-2-2063 and the provisions of this title and is in the public interest. If the state board  
24 denies a petition, it must within 60 days specifically state the reasons for the denial, list all  
25 deficiencies with regard to Code Section 20-2-2063, and provide a written statement of the  
26 denial to the charter petitioner and to the local board.

27 (b) No application for a state chartered special school may be made to the state board by  
28 a petitioner for a conversion charter school that has been denied by a local board. Upon  
29 denial of a petition for a start-up charter school by a local board and upon application to  
30 the state board by the petitioner, the state board shall approve the charter of a start-up  
31 charter petitioner for a state chartered special school if the state board finds that such  
32 petition meets the requirements set forth in Code Section 20-2-2063 and the provisions of  
33 this title, and is in the public interest."

**SECTION 12.**

Said chapter is further amended by striking Code Section 20-2-2065, relating to operating requirements, control, and management, and inserting in lieu thereof the following:

"20-2-2065.

(a) Except as provided in this article or in a charter, a charter school shall not be subject to the provisions of this title or any state or local rule, regulation, policy, or procedure relating to schools within an applicable school system regardless of whether such rule, regulation, policy, or procedure is established by the local board, the state board, or the Department of Education; provided, however, that the state board may establish rules, regulations, policies, or procedures consistent with this article relating to charter schools. In exchange for such a waiver, the charter school agrees to meet or exceed the performance based goals included in the charter and approved by the local board, including but not limited to raising student achievement.

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

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

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

(3) Subject to the supervision of the state board, as provided in the charter and in a manner consistent with the Constitution, if a state chartered special school;

(4) Organized and operated as a nonprofit corporation under the laws of this state; provided, however, that this paragraph shall not apply to ~~conversion charter schools~~ any charter petitioner who is a local school, or state or local public entity;

(5) Subject to all federal, state, and local rules, regulations, court orders, and statutes relating to civil rights; insurance; the protection of the physical health and safety of school students, employees, and visitors; conflicting interest transactions; and the prevention of unlawful conduct;

(6) Subject to all laws relating to unlawful conduct in or near a public school;

(7) Subject to an annual financial audit ~~in the manner specified in the charter~~ conducted by the state auditor, or if specified in the charter, by an independent certified public accountant licensed in this state;

(8) Subject to the provisions of Part 3 of Article 2 of Chapter 14 of this title, and such provisions shall apply with respect to charter schools whose charters are granted or renewed on or after July 1, 2000;

(9) Subject to all reporting requirements of Code Section 20-2-160, subsection (e) of Code Section 20-2-161, Code Section 20-2-320, and Code Section 20-2-740;

(10) Subject to the requirement that it shall not charge tuition or fees to its students except as may be authorized for local boards by Code Section 20-2-133; and

(11) Subject to the provisions of Code Section 20-2-1050 requiring a brief period of quiet reflection."

### SECTION 13.

Said chapter is further amended in Code Section 20-2-2066, relating to admission, enrollment, and withdrawal of students, by striking paragraph (1) of subsection (a) and inserting in lieu thereof a new paragraph (1) of subsection (a) to read as follows:

"(1)(A) A local start-up charter school shall enroll any student who resides in the school system in which the local charter school is located charter attendance zone as specified in the charter and who submits a timely application as specified in the charter unless the number of applications exceeds the capacity of a program, class, grade level, or building. In such case, all such applicants shall have an equal chance of being admitted through a random selection process unless otherwise prohibited by law; provided, however, that a local start-up charter school shall may give enrollment preference to such students who reside in the attendance zone specified in the charter and may give enrollment preference to a sibling of a resident student currently enrolled in the local charter school; applicants in any one or more of the following categories in the order of priority specified in the charter:

(i) A sibling of a student enrolled in the start-up charter school;

(ii) A sibling of a student enrolled in another local school designated in the charter;

(iii) A student whose parent or guardian is a member of the governing board of the charter school or is a full-time teacher, professional, or other employee at the charter school; and

(iv) Students matriculating from a local school designated in the charter;

(B) A conversion charter school shall enroll any student who resides in the attendance zone specified in the charter and who submits a timely application as specified in the charter. If the number of applying students who reside in the attendance zone does not exceed the capacity as specified in the charter, additional students shall be enrolled based on a random selection process; provided however, that enrollment preferences

may be given to applicants in any one or more of the following categories in the order of priority specified in the charter:

(i) A sibling of a student enrolled in the charter school or in any school in the high school cluster;

(ii) Students whose parent or guardian is a member of the governing board of the charter school or is a full-time teacher, professional, or other employee at the charter school;

(iii) Students who were enrolled in the local school prior to its becoming a charter school; and

(iv) Students who reside in the charter attendance zone specified in the charter; and"

#### SECTION 14.

Said chapter is further amended by striking Code Section 20-2-2067.1, relating to amendment of terms of charter for charter school, initial term of charter, and annual report, and inserting in lieu thereof the following:

"20-2-2067.1.

(a) The terms of a charter for a local charter school may be amended during the term of the charter upon the approval of the local board, the state board, and the charter school. The terms of a charter for a state chartered special school may be amended during the term of the charter upon the approval of the state board and the charter school.

(b) The initial term of a charter shall be for a minimum of ~~three~~ five years, unless the petitioner shall request a shorter period of time, and shall not exceed ~~five~~ ten years. The local board and the state board, in accordance with Code Section 20-2-2064.1, may renew a local charter, upon the request of the charter school, for the period of time specified in the request, not to exceed ~~five~~ ten years. The state board may renew a state chartered special school, upon the request of the school, for the period of time specified in the request, not to exceed ten years. ~~For a local charter school, approval of the local board shall also be required to renew a charter.~~

(c) ~~A charter school shall provide an annual report to parents or guardians, the community, and the state board which indicates the progress made by the charter school in the previous year in implementing its charter goals. A local charter school shall also provide an annual report to the local board.~~ A charter school shall submit an annual report outlining the previous year's progress to the authorizing local board or state board, as appropriate, to parents and guardians of students enrolled in the school, and to the Department of Education no later than October 1 of each year. The report shall contain, but is not limited to:

(1) An indication of progress towards the goals as included in the charter;



- 1 (2) Academic data for the previous year, including state academic accountability data,  
 2 such as standardized test scores and adequate yearly progress data;  
 3 (3) Unaudited financial statements for the fiscal year ending on June 30, provided that  
 4 audited statements will be forwarded to the local board and state board upon completion;  
 5 (4) Updated contact information for the school and the administrator;  
 6 (5) Proof of current nonprofit status, if applicable; and  
 7 (6) Any other supplemental information that the charter school chooses to include or that  
 8 the state board requests that demonstrates its success."

## 9 **SECTION 15.**

10 Said chapter is further amended by striking subsections (a) through (e) of Code Section  
 11 20-2-2068.1, relating to application of the Quality Basic Education Formula, grants, local  
 12 tax revenue, and funds from local bonds, and inserting in lieu thereof the following:

13 "(a) A local charter school shall be included in the allotment of QBE formula earnings,  
 14 applicable QBE grants, applicable nonQBE state grants, and applicable federal grants to  
 15 the local school system in which the local charter school is located under Article 6 of this  
 16 chapter. The local board and the state board shall treat a conversion charter school no less  
 17 favorably than other local schools located within the applicable local school system unless  
 18 otherwise provided by law. The local board and the state board shall treat a start-up charter  
 19 school no less favorably than other local schools within the applicable local system with  
 20 respect to the provision of funds for instruction and school administration and, where  
 21 feasible, transportation, food services, and building programs.

22 (b) QBE formula earnings, applicable QBE grants, applicable nonQBE state grants, and  
 23 applicable federal grants earned by a local charter school shall be distributed to the local  
 24 charter school by the local board; provided, however, that state equalization grant earnings  
 25 shall be distributed as provided in subsection (c) of this Code section. QBE formula  
 26 earnings shall include the salary portion of direct instructional costs, the adjustment for  
 27 training and experience, the nonsalary portion of direct instructional costs, and earnings for  
 28 psychologists and school social workers, school administration, facility maintenance and  
 29 operation, media centers, additional days of instruction in accordance with Code Section  
 30 20-2-184.1, and staff development. The local charter school shall report enrolled students  
 31 in a manner consistent with Code Section 20-2-160.

32 (c) In addition to the earnings set out in subsection (b) of this Code section, ~~local tax~~  
 33 ~~revenue shall be earned by~~ allocated to a local charter school on the same basis as for any  
 34 local school in the local school system. ~~and In the case of a start-up charter school, local~~  
 35 revenue earnings shall be calculated as follows:

(1) Determine the total amount of state and local five mill share funds earned by students enrolled in the local start-up charter school as calculated by the Quality Basic Education Formula pursuant to ~~Code Section 20-2-160~~ Part 4 of Article 6 of this chapter including any funds for psychologists and school social workers but excluding any system-wide funds for central administration and pupil transportation and excluding any categorical grants not applicable to the charter school;

(2) Determine the total amount of state and local five mill share funds earned by all students in the public schools of the local school system, including any charter schools that receive local ~~tax~~ revenue, as calculated by the Quality Basic Education Formula but excluding categorical grants and other nonQBE formula grants;

(3) Divide the amount obtained in paragraph (1) of this subsection by the amount obtained in paragraph (2) of this subsection; and

(4) Multiply the quotient obtained in paragraph (3) of this subsection by the school system's local ~~tax~~ revenue.

The product obtained in paragraph (4) of this subsection shall be the amount of local funds to be distributed to the local start-up charter school by the local board; provided, however, that nothing in this subsection shall preclude a charter petitioner and a local board of education from specifying in the charter a greater amount of local funds to be provided by the local board to the local start-up charter school if agreed upon by all parties to the charter. Local funds so earned shall be distributed to the local start-up charter school by the local board. Where feasible and where services are provided, funds for transportation, food service programs, and construction projects shall also be distributed to the local start-up charter school as earned. In all other fiscal matters, including applicable federal allotments, the local board shall treat the local start-up charter school no less favorably than other local schools located within the applicable school system and shall calculate and distribute the funding for the start-up charter school on the basis of its actual or projected enrollment in the current school year according to an enrollment counting procedure or projection method stipulated in the terms of the charter.

(c.1) The adjustments in each program for training and experience used in calculating the start-up charter school's QBE formula earnings shall be calculated in the same manner as for any local school within the local school system; provided, however, that the adjustments in each program for training and experience used in calculating the start-up charter school's QBE formula earnings shall not be less than one-half of the comparable percentages for the local school system in which the charter school is located.

(d) QBE formula earnings, applicable QBE grants, applicable nonQBE state grants, and applicable federal grants that are earned by a state chartered special school shall be distributed to the local board of the local school system in which the state chartered special

1 school is located which shall distribute the same amount to the state chartered special  
2 school; provided, however, that a state chartered special school shall not be included in the  
3 calculation and distribution of the local school system's equalization grant unless the voters  
4 of the local school system have approved the use of ~~local tax~~ revenue from local tax levies  
5 and funds from local bonded indebtedness to support the state chartered special school in  
6 accordance with subsection (e) of this Code section. If such approval has been given, state  
7 equalization grant earnings shall be earned for the state chartered special school and shall  
8 be distributed as provided in subsection (f) of this Code section. The local board shall not  
9 be responsible for the fiscal management, accounting, or oversight of the state chartered  
10 special school. The state chartered special school shall report enrolled students in a manner  
11 consistent with Code Section 20-2-160. Any data required to be reported by the state  
12 chartered special school shall be submitted directly by the school to the appropriate state  
13 agency. Where feasible, the state board shall treat a state chartered special school no less  
14 favorably than other public schools within the state with respect to the provision of funds  
15 for transportation and building programs.

16 (e) The state board may require a local referendum of the qualified voters in the local  
17 school system in which the ~~proposed~~ state chartered special school will be located. Such  
18 referendum shall be held at the next regularly scheduled general election or as may  
19 otherwise be authorized at an earlier date by the local board or boards of education  
20 affected. Such referendum shall be held for the purpose of deciding whether the local  
21 board of education shall provide funds from school tax levies to support such state  
22 chartered special school or incur bonded indebtedness to support such state chartered  
23 special school or both. The ballot question shall be approved by the state board."

## 24 SECTION 16.

25 Said chapter is further amended in Code Section 20-2-2068.2, relating to facilities fund for  
26 charter schools, purposes for which funds may be used, upkeep of charter school property,  
27 and receipt of surplus from board of education, by striking subsections (c) and (e) and  
28 inserting in lieu thereof new subsections (c) and (e) to read as follows:

29 "(c) A charter school's governing body may use moneys from the facilities fund for the  
30 following purposes:

- 31 (1) Purchase of real property;
- 32 (2) Construction of school facilities, including initial and additional equipment and  
33 furnishings;
- 34 (3) Purchase, lease-purchase, or lease of permanent or relocatable school facilities;
- 35 (4) Purchase of vehicles to transport students to and from the charter school; and

(5) Renovation, repair, and maintenance of school facilities that the charter school owns or is purchasing through a lease-purchase or long-term lease of five years or longer."

"(e) Local boards are required to renovate, repair, and maintain the school facilities of charter schools in the district to the same extent as other public schools in the district if the local board owns the charter school facility, unless otherwise agreed upon by the petitioner and the local board in the charter."

#### SECTION 17.

Said chapter is further amended by striking Code Section 20-2-2070, relating to annual report to the general assembly, and inserting in lieu thereof the following:

"20-2-2070.

The state board shall report to the General Assembly no later than ~~November 1~~ December 31 of each year on the status of the charter school program."

#### SECTION 18.

Chapter 14 of Title 20 of the Official Code of Georgia Annotated, relating to the education coordinating council, is amended by striking subsection (a) of Code Section 20-14-26, relating to duties of the office of student achievement, and inserting in lieu thereof the following:

"(a) The office shall have the following duties:

(1) To create, ~~with the approval of the State Board of Education, a performance-based~~ a single state-wide accountability system, establish indicators of performance, rate schools and school systems, develop annual report cards for elementary, middle, and secondary schools, and formulate a system of school ~~rewards~~ awards and interventions.

The State Board of Education shall approve ~~no later than December 31, 2004, a single state-wide~~ accountability system for local schools and school systems that incorporates federal law, rules, and regulations relating to accountability;

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

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

~~(4)~~(3) To serve as staff to the council; and

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

### SECTION 19.

Said chapter is further amended by striking subsections (a), (d), and (h) of Code Section 20-14-33, relating to indicators of quality of learning in individual schools, and inserting in their respective places the following:

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

"(d) The office shall establish individual school and school system ratings for each public school and school system in this state for annual academic performance on the assessment instruments required under Code Section 20-2-281."

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

### SECTION 20.

Said chapter is further amended by striking subsections (b) and (d) of Code Section 20-14-34, relating to school report cards, and inserting in their respective places the following:

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

(1) The individual school and school system ratings as provided for in subsection (d) of Code Section 20-14-33;

(2) The academic excellence indicators in subsection (b) of Code Section 20-14-33;

(3) Teacher-student ratios; and

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

"(d) The State Board of Education shall adopt rules requiring dissemination of appropriate student performance and school completion performance portions of school report cards annually to the parent, guardian, conservator, or other person having lawful control of each student at the school. On written request, the local school system shall provide a copy of a school report card to any other party. These reports shall be posted on the Office of Student Achievement website, the Department of Education website, and the existing website of such local school system."

**SECTION 21.**

Said chapter is further amended by striking subparagraph (D) of paragraph (6) of subsection (a) of Code Section 20-14-41, relating to appropriate levels of intervention for failing schools, and inserting in lieu thereof the following:

"(D) Mandate that the parents have the option to relocate the student to other public schools in the local school system to be chosen by the parents of the student ~~with transportation costs borne by the system~~ from a list of available options provided by the local school system. The local school system shall provide transportation for students in Title I schools in accordance with the requirements of federal law. The local school system may provide transportation for students in non-Title I schools. In any year in which the General Assembly does not appropriate funds for the provision of transportation to non-Title I students, the parent or guardian shall assume responsibility for the transportation of that student;"

**SECTION 22.**

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

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

(A) Is enrolled in and not under ~~suspension~~ expulsion from a public or private school and has satisfied relevant attendance requirements as set forth in paragraph (2) of this subsection for a period of one academic year prior to application for an instruction permit or driver's license; or

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

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

(2) The department shall forthwith notify by certified mail or statutory overnight delivery, return receipt requested, any minor issued an instruction permit or driver's

license in accordance with this subsection other than a minor who has terminated his or her secondary education and is enrolled in a postsecondary school or who is pursuing a general education development (GED) diploma that such minor's instruction permit or driver's license is suspended subject to review as provided for in this subsection if the department receives notice pursuant to Code Section 20-2-701 that indicates that such minor:

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

(B) Has ~~more than ten~~ or more school days of unexcused absences in ~~any semester or combination of two consecutive quarters~~ the current academic year or ten or more school days of unexcused absences in the previous academic year; or

(C) Has been ~~suspended from school for~~ found in violation by a hearing officer, panel, or tribunal of one of the following offenses, has received a change in placement for committing one of the following offenses, or has waived his or her right to a hearing and pleaded guilty to one of the following offenses:

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

(ii) Possession or sale of drugs or alcohol on school property or at a school sponsored event;

(iii) Possession or use of a weapon on school property or at a school sponsored event.

For purposes of this subparagraph, the term 'weapon' shall be defined in accordance with Code Section 16-11-127.1 but shall not include any part of an archeological or cultural exhibit brought to school in connection with a school project;

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

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

Notice given by certified mail or statutory overnight delivery with return receipt requested mailed to the person's last known address shall be prima-facie evidence that such person received the required notice. Such notice shall include instructions to the minor to return immediately the instruction permit or driver's license to the department and information summarizing the minor's right to request an exemption from the provisions of this subsection. The minor so notified may request in writing a hearing within ten business days from the date of receipt of notice. Within 30 days after receiving a written request for a hearing, the department shall hold a hearing as provided for in Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' After such hearing, the department shall sustain its order of suspension or rescind such order. The department shall be authorized to grant an exemption from the provisions of this subsection to a

1 minor, upon such minor's petition, if there is clear and convincing evidence that the  
2 enforcement of the provisions of this subsection upon such minor would create an undue  
3 hardship upon the minor or the minor's family or if there is clear and convincing  
4 evidence that the enforcement of the provisions of this subsection would act as a  
5 detriment to the health or welfare of the minor. Appeal from such hearing shall be in  
6 accordance with said chapter. If no hearing is requested within the ten business days  
7 specified above, the right to a hearing shall have been waived and the instruction permit  
8 or driver's license of the minor shall remain suspended. The suspension provided for in  
9 this paragraph shall be for a period of one year or shall end upon the date of such minor's  
10 eighteenth birthday or upon receipt of satisfactory proof that the minor is pursuing or has  
11 received a general educational development (GED) diploma, whichever comes first.

12 (3) The State Board of Education and the commissioner of motor vehicle safety are  
13 authorized to promulgate rules and regulations to implement the provisions of this  
14 subsection.

15 (4) The Department of Technical and Adult Education shall be responsible for  
16 compliance and noncompliance data for students pursuing a general education  
17 development (GED) diploma."

18 **SECTION 23.**

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

20 **SECTION 24.**

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