

House Bill 192 (AS PASSED HOUSE AND SENATE)

By: Representatives Coleman of the 97th, England of the 108th, Carter of the 175th, Abrams of the 84th, Kaiser of the 59th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to
2 elementary and secondary education, so as to implement various measures to address current
3 funding needs and to examine current funding mechanisms; to establish the State Education
4 Finance Study Commission to evaluate the Quality Basic Education Formula and education
5 funding for public schools; to provide for legislative findings; to provide for composition,
6 compensation, duties and powers, and support staff of the commission; to provide for a
7 timeline; to provide for automatic repeal; to extend the date by which school systems must
8 notify the department of their intention to request flexibility or remain status quo; to
9 temporarily extend certain expenditure control waivers; to provide for automatic repeal; to
10 temporarily extend flexibility in maximum class size requirements in kindergarten through
11 grade eight; to temporarily extend certain deadlines relating to annual teacher contracts; to
12 revise certain provisions relating to organization of schools, middle school programs, and
13 scheduling; to provide for related matters; to provide an effective date; to repeal conflicting
14 laws; and for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

16 **SECTION 1.**

17 Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and
18 secondary education, is amended by adding a new part to Article 6, relating to the "Quality
19 Basic Education Act," to read as follows:

20 "Part 17

21 20-2-330.

22 The General Assembly passed the Quality Basic Education Act (QBE) in 1985 by
23 unanimous vote. The legislation was the culmination of two years of work by the
24 Education Review Commission, a body made up of business leaders, parents, teachers,

25 education experts, and other community leaders, which was charged with developing a
 26 comprehensive educational reform package for Georgia. The QBE Formula, along with
 27 several other formula related components, has served as the method of calculating the
 28 funding needs of Georgia school systems for the past 25 years. The General Assembly has
 29 now determined that it is in the best interests of the state and its citizenry to undertake a
 30 comprehensive study of the method of funding schools in Georgia.

31 20-2-331.

32 (a) The State Education Finance Study Commission is hereby created to evaluate the
 33 Quality Basic Education Formula and any other program or matter relative to education
 34 funding in Georgia as provided in this part. Members of the commission should have good
 35 working knowledge of education and education finance. Members must be willing to
 36 commit time to actively participate in full committee meetings and subcommittee meetings
 37 and must agree to balance the educational needs of children and the resources provided by
 38 the citizens of Georgia. The commission shall be composed of 20 members as follows:

39 (1) The following members, appointed by the Governor:

40 (A) A local school superintendent;

41 (B) A principal or other administrator;

42 (C) A teacher;

43 (D) A member of a local board of education;

44 (E) A member of the State Board of Education;

45 (F) A representative from the System Office of the University System of Georgia;

46 (G) A representative from the Technical College System of Georgia;

47 (H) A representative from the Professional Standards Commission;

48 (I) A school finance officer; and

49 (J) One representative from the business community;

50 (2) The State School Superintendent;

51 (3) The chief financial officer of the Department of Education;

52 (4) Four members of the House of Representatives, appointed by the Speaker of the
 53 House of Representatives, including the chairperson of the House Committee on
 54 Education; and

55 (5) Four members of the Senate, appointed by the Lieutenant Governor, including the
 56 chairperson of the Senate Education and Youth Committee.

57 (b) The chairpersons of the House Committee on Education and the Senate Education and
 58 Youth Committee shall serve as cochairpersons of the commission. The commission may
 59 elect other officers as deemed necessary. The cochairpersons may designate and appoint
 60 subcommittees from among the membership of the commission as well as appoint other

61 persons to perform such functions as they may determine to be necessary as relevant to and
62 consistent with this part. The cochairpersons shall only vote to break a tie.

63 (c) The commission may engage additional ad hoc nonvoting members as needed to
64 address certain issues in subcommittee. This may include, but not be limited to, input from
65 various personnel experienced in the Quality Basic Education Formula, such as counselors,
66 pre-K personnel, special education teachers, social workers, psychologists, art teachers,
67 music teachers, physical education teachers, foreign language teachers, agriculture and
68 career-technical education teachers, media specialists, school nutrition managers, and
69 transportation managers.

70 (d) The cochairpersons shall be authorized to appoint a steering committee composed of
71 members of the commission to monitor the progress of the commission, to ensure timelines
72 are being met, and to mediate differences that might arise in the course of the study.

73 20-2-332.

74 (a) The commission shall hold meetings at the call of the cochairpersons. The commission
75 shall meet at least quarterly and subcommittees shall meet as often as needed to complete
76 tasks.

77 (b) A quorum for transacting business shall be a majority of the members of the
78 commission.

79 (c) Any legislative members of the commission shall receive the allowances provided for
80 in Code Section 28-1-8. Citizen members shall receive a daily expense allowance in the
81 amount specified in subsection (b) of Code Section 45-7-21 as well as the mileage or
82 transportation allowance authorized for state employees. Any members of the commission
83 who are state officials, other than legislative members, and state employees shall receive
84 no compensation for their services on the commission, but they shall be reimbursed for
85 expenses incurred by them in the performance of their duties as members of the
86 commission in the same manner as they are reimbursed for expenses in their capacities as
87 state officials or employees. The funds necessary for the reimbursement of the expenses
88 of state officials, other than legislative members, and state employees shall come from
89 funds appropriated to or otherwise available to their respective departments. All other
90 funds necessary to carry out the provisions of this part shall come from funds appropriated
91 to the House of Representatives and the Senate.

92 20-2-333.

93 (a) The commission shall study and evaluate the cost and resources needed to educate a
94 child through review of the following core issues relating to education financing;

- 95 **(1) QBE Formula:**
- 96 (A) Evaluate the various components of the formula, including teacher salaries,
- 97 maintenance and operations, and textbooks, and determine whether there needs to be
- 98 adjustments;
- 99 (B) Consider whether new components should be added to the formula, such as
- 100 technology;
- 101 (C) Consider whether other programs that have been proven successful should be
- 102 added to the formula, such as graduation coaches; and
- 103 (D) Review other areas within the QBE Act that relate to or impact school funding,
- 104 such as maximum class sizes and expenditure controls, and whether local school
- 105 systems should continue to be given flexibility in these areas;
- 106 **(2) State and local funding partnership:** Examine the requirement that school systems
- 107 must levy 5 mills in order to draw down state QBE funding and whether the current
- 108 method should continue or whether school systems should be required to pay a certain
- 109 percentage of the formula or for certain expenditures;
- 110 **(3) Equalization:** Examine the equalization grant to determine if the purpose of the grant
- 111 is being met and whether revisions are needed;
- 112 **(4) Student transportation:**
- 113 (A) Review the current formula for student transportation; and
- 114 (B) Review other safety issues related to student transportation, such as funding bus
- 115 monitors and seat belts;
- 116 **(5) State schools funding:** Examine funding for the three schools for blind and deaf
- 117 children operated by the state to identify needed changes in the funding method, whether
- 118 additional funding for residential, medical, and other costs unique to the schools should
- 119 be provided, and whether local school systems should be contributing to the cost of
- 120 educating these children; and
- 121 **(6) Capital outlay:**
- 122 (A) Review the capital outlay programs for which school systems may be eligible to
- 123 ensure that each program is effective and adequately funded; and
- 124 (B) Because the program is currently scheduled to sunset on June 30, 2015,
- 125 recommend whether and how long the program should be extended.
- 126 (b) The commission is encouraged, if time permits, to study and evaluate the following
- 127 issues relating to education financing;
- 128 **(1) Charter schools:**
- 129 (A) Review Georgia's charter laws and determine what changes may need to be made
- 130 to streamline the chartering process and provide fair funding for the various types of
- 131 charter schools; and

- 132 (B) Examine the issue of funding for operations and facilities;
- 133 **(2) Career, Technical, and Agriculture Education, dual enrollment, virtual schools:**
- 134 (A) Review the various funding mechanisms for each of these nontraditional programs;
- 135 and
- 136 (B) Consider the costs of administering these types of programs and the appropriate
- 137 funding mechanism;
- 138 **(3) Teacher pay:**
- 139 (A) Review the issue of whether performance pay should be implemented;
- 140 (B) Determine how such a program could be sustained long-term; and
- 141 (C) Review the requirements of the federal Race to the Top initiative and how the state
- 142 may be required to implement performance pay;
- 143 **(4) Non-QBE grants:**
- 144 (A) Review other grant programs available to school systems, including but not limited
- 145 to school nutrition, sparsity grants, migrant education, preschool disabled, the severely
- 146 and emotionally disturbed program, and school nurses; and
- 147 (B) Make recommendations on funding updates that are needed; and
- 148 **(5) Other Title 20 revisions:** Review all key statutes and provisions of this title to
- 149 ensure laws are updated and whether any laws which represent an unfunded mandate
- 150 should be eliminated.
- 151 **(c) The commission shall have the following powers:**
- 152 (1) To request and receive data from and review the records of appropriate agencies and
- 153 entities to the greatest extent allowed by state and federal law;
- 154 (2) To accept public or private grants, devises, and bequests;
- 155 (3) To enter into all contracts or agreements necessary or incidental to the performance
- 156 of its duties; and
- 157 (4) To conduct studies, collect data, or take any other action the commission deems
- 158 necessary to fulfill its responsibilities.
- 159 **(d) The commission shall be authorized to retain the services of auditors, attorneys,**
- 160 **financial consultants, education experts, economists, and other individuals or firms as**
- 161 **determined appropriate by the commission.**
- 162 20-2-333.1.
- 163 **(a) Staff support for the commission shall be provided by the Department of Education,**
- 164 **the Governor's office, the Office of Planning and Budget, the House of Representatives,**
- 165 **the Senate, and the Office of Legislative Counsel. The cochairpersons of the commission**
- 166 **shall designate an individual to serve as staff director for the commission.**

167 (b) The commission may request assistance and input from agencies and organizations as
 168 needed, including the University System of Georgia, the Technical College System of
 169 Georgia, the Professional Standards Commission, the Georgia Student Finance
 170 Commission, the Department of Early Care and Learning, the Office of Student
 171 Achievement, the Georgia Partnership for Excellence in Education, the Georgia School
 172 Superintendents Association, the Georgia School Boards Association, the Georgia
 173 Association of Educational Leaders, the Georgia Association of Educators, the Professional
 174 Association of Georgia Educators, the Southern Regional Education Board, the Georgia
 175 Charter Schools Association, private corporations, and other organizations willing to
 176 participate.

177 20-2-333.2.

178 (a) The commission shall perform its work in accordance with the following:

179 (1) No later than May 15, 2011: Commission members appointed;

180 (2) No later than June 30, 2011: First commission meeting conducted;

181 (3) September 30, 2011: Interim recommendations completed;

182 (4) December 31, 2011: Proposed legislation for interim recommendations completed;

183 (5) September 30, 2012: Final recommendations completed; and

184 (6) December 31, 2012: Proposed legislation for final recommendations completed.

185 (b) Such recommendations and proposed legislation shall be submitted by the commission
 186 in accordance with the schedule in subsection (a) of this Code section to the Governor and
 187 the General Assembly; provided, however, that the commission may modify these dates
 188 if necessary.

189 (c) The final recommendations shall include a prioritization of all recommendations,
 190 including those that do and do not require additional funding. Such final recommendations
 191 shall include a proposed timeline for implementation of recommendations, an estimated
 192 cost of each recommendation, and the target year for including in the state budget.

193 20-2-333.3.

194 The commission shall stand abolished and this part shall be repealed on March 31, 2013."

195 **SECTION 2.**

196 Said chapter is further amended by revising subsection (b) of Code Section 20-2-84.3,
 197 relating to flexibility contracts, as follows:

198 "(b) No later than June 30, ~~2013~~ 2015, each local school system shall either notify the
 199 department of its intention to request increased flexibility pursuant to this article or shall
 200 comply with subsection (b) of Code Section 20-2-80."

SECTION 3.

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Said chapter is further amended by revising subsection (f) of Code Section 20-2-167, relating to funding for direct instructional, media center, and staff development costs, as follows:

"(f)(1) For school years 2009-2010, 2010-2011, 2011-2012, ~~and 2012-2013~~, 2013-2014, and 2014-2015 only, the expenditure controls contained in subsection (a) of this Code section relating to direct instructional costs, media center costs, and staff and professional development costs shall be waived and shall not apply to nor be enforceable against a local school system.

(2) Each local school system shall report to the Department of Education its budgets and expenditures of the funds received pursuant to this Code section as a part of its report in October for the FTE count and on March 15.

(3) No penalty shall be applied to a local school system for failure to comply with expenditure controls set out in subsection (a) of this Code section, notwithstanding any law to the contrary, as so long as such local school system complies with this subsection.

(4) Nothing in this Code section shall be construed to repeal any other provision of this Code section or this chapter.

(5) This subsection shall be automatically repealed on July 1, ~~2013~~ 2015."

SECTION 4.

Said chapter is further amended by revising paragraph (1) of subsection (i) of Code Section 20-2-182, relating to maximum class size, as follows:

"(i)(1) It is the intent of this paragraph to provide a clear expectation to parents and guardians as to the maximum number of students that may be in their child's classroom in kindergarten through eighth grade. Beginning with the 2006-2007 school year, for the following regular education programs, the maximum individual class size for mathematics, science, social studies, and language arts classes shall be:

- (A) Kindergarten program (without full-time aide) 18
- (B) Kindergarten program (with full-time aide) 20
- (C) Primary grades program (1-3) 21
- (D) Upper elementary grades program (4-5) 28
- (E) Middle grades program (6-8) and middle school program (6-8) as defined in Code Section 20-2-290 28

For school years 2010-2011, 2011-2012, ~~and 2012-2013~~, 2013-2014, and 2014-2015 only, the system average maximum class size for each instructional program covered under this paragraph shall be the same as the maximum individual class size for each such program, and local boards of education shall be considered in compliance with this paragraph as so

236 long as the system average maximum class size is not exceeded; provided, however, that
 237 if the State Board of Education approves a blanket waiver or variance pursuant to
 238 subsection (h) of Code Section 20-2-244, such maximum individual class sizes shall be the
 239 system average maximum class sizes for purposes of this paragraph."

240 **SECTION 5.**

241 Said chapter is further amended by revising subsection (b) of Code Section 20-2-184.1,
 242 relating to funding for additional days of instruction, as follows:

243 "(b)(1) For school years 2010-2011, 2011-2012, ~~and 2012-2013, 2013-2014, and~~
 244 2014-2015 only, the expenditure controls contained in subsection (a) of this Code section
 245 relating to additional days of instruction shall be waived and shall not apply to nor be
 246 enforceable against a local school system.

247 (2) Each local school system shall report to the Department of Education its budgets and
 248 expenditures of the funds received pursuant to this Code section as a part of its report in
 249 October for the FTE count and its report on March 15.

250 (3) No penalty shall be applied to a local school system for failure to comply with
 251 expenditure controls set out in subsection (a) of this Code section, notwithstanding any
 252 law to the contrary, as so long as such local school system complies with this subsection.

253 (4) Nothing in this Code section shall be construed to repeal any other provision of this
 254 Code section or this chapter.

255 (5) This subsection shall be automatically repealed on July 1, ~~2013~~ 2015."

256 **SECTION 6.**

257 Said chapter is further amended by revising subsection (b) of Code Section 20-2-211, relating
 258 to annual contracts for teachers, as follows:

259 "(b) Any other provisions of this article or any other laws to the contrary notwithstanding,
 260 each local governing board shall, by not later than April 15 of the current school year,
 261 tender a new contract for the ensuing school year to each teacher and other professional
 262 employee certificated by the Professional Standards Commission on the payroll of the local
 263 unit of administration at the beginning of the current school year, except those who have
 264 resigned or who have been terminated as provided in Part 7 of Article 17 of this chapter,
 265 or shall notify in writing each such teacher or other certificated professional employee of
 266 the intention of not renewing his or her contract for the ensuing school year; provided,
 267 however, that for school years 2010-2011, 2011-2012, ~~and 2012-2013, 2013-2014, and~~
 268 2014-2015 only, each local governing board shall have until May 15 of the current school
 269 year to tender such new contracts or provide such written notice. Such contracts when
 270 tendered to each teacher or other professional employee shall be complete in all terms and

271 conditions of the contract, including the amount of compensation to be paid to such teacher
 272 or other professional employee during the ensuing school year, and shall not contain blanks
 273 or leave any terms and conditions of the contract open. A letter of intent or similar
 274 document shall not constitute a contract and shall not be construed to require or otherwise
 275 legally bind the teacher or other professional employee to return to such school system.
 276 Upon request, a written explanation for failure to renew such contract shall be made
 277 available to such certificated personnel by the executive officer. When such notice of
 278 intended termination has not been given by April 15, or by May 15 for school years
 279 2010-2011, 2011-2012, and 2012-2013, 2013-2014, and 2014-2015 only, the employment
 280 of such teacher or other certificated professional employee shall be continued for the
 281 ensuing school year unless the teacher or certificated professional employee elects not to
 282 accept such employment by notifying the local governing board or executive officer in
 283 writing not later than May 1, or by June 1 for school years 2010-2011, 2011-2012, and
 284 2012-2013, 2013-2014, and 2014-2015 only."

285 **SECTION 7.**

286 Said chapter is further amended by revising Code Section 20-2-290, relating to the
 287 organization of schools, middle school programs, and scheduling, as follows:

288 "20-2-290.

289 (a)(1) The board of education of any local school system is authorized to organize or
 290 reorganize the schools and fix the grade levels to be taught at each school in its
 291 jurisdiction. ~~Local school systems which have organized their schools in such a manner~~
 292 ~~that facilities~~ Schools which house grades six, seven, ~~and eight or grades seven and or~~
 293 eight, or any combination thereof, shall qualify for the middle school program for
 294 students ~~in grade levels so housed. A school which houses grades other than six, seven,~~
 295 ~~or eight shall only be eligible if it has a full-time principal for grades seven and eight or~~
 296 ~~six, seven, and eight and another full-time principal for grades above or below the middle~~
 297 ~~school grades; provided, however, that such schools also meet all other provisions of this~~
 298 Code section and criteria and standards prescribed by the State Board of Education.
 299 ~~Schools with students in the sixth grade shall not be eligible for the middle school~~
 300 ~~program if the sixth grades are not housed in middle schools which also contain both~~
 301 ~~grades seven and eight.~~ Further, two or more adjacent local school systems shall qualify
 302 for the middle school program if through their contractual arrangement they jointly meet
 303 the requirements of this Code section and the criteria and standards prescribed by the
 304 state board.

305 (2) The board of education of any local school system shall be authorized to employ
 306 school administrative managers in lieu of or in addition to assistant principals. Such

307 school administrative managers shall not be required to be certificated by the Professional
 308 Standards Commission but shall have such qualifications as determined by the local
 309 board with a minimum requirement of a bachelor's degree. The duties of school
 310 administrative managers shall be to oversee and manage the financial and business affairs
 311 of the school. The principal shall retain authority over the curriculum and instructional
 312 areas. The school administrative manager shall report directly to the principal. In the
 313 event that a local board considers hiring or utilizing school administrative managers
 314 pursuant to this subsection, it shall receive and give all due consideration to
 315 recommendations by the school council as to whether or not to utilize such position and
 316 as to selection of the manager. Existing employees of the local board shall be eligible to
 317 serve as school administrative managers if they meet other qualifications and
 318 requirements established by the local board for such position. For purposes of earning
 319 funds for such positions, school administrative managers shall be treated in all respects
 320 the same as assistant principals.

321 ~~(b) Except as otherwise provided in subsection (c) of this Code section, local Local boards~~
 322 of education shall schedule each middle school so as to provide the following:

323 (1) A minimum of five hours of instruction in English and language arts, reading,
 324 mathematics, science, social studies, and such other academic subjects as the State Board
 325 of Education shall prescribe. ~~For students not performing on grade level, as defined by~~
 326 ~~the Office of Student Achievement, the minimum of five hours shall include such~~
 327 ~~remedial academic instruction in English and language arts, reading, mathematics,~~
 328 ~~science, or social studies as required to bring such students to grade level performance~~
 329 ~~with the priority for such remediation being placed on reading and mathematics or as~~
 330 ~~otherwise determined by the student's team of academic teachers, provided that, in~~
 331 ~~making such a determination the team shall consider the student's performance on the~~
 332 ~~criterion-referenced assessments authorized in Code Section 20-2-181;~~

333 (2) Beyond the minimum of five hours of academic instruction, the local board shall
 334 have the authority to schedule for the remainder of the day such academic or exploratory
 335 classes as the State Board of Education shall prescribe; provided, however, that a student
 336 shall be allowed to take additional academic classes instead of exploratory classes if the
 337 parent or guardian of such a student requests such assignment, subject to availability; and

338 (3) An interdisciplinary team of academic teachers with common planning time of a
 339 minimum of 55 minutes.

340 ~~(c) Local schools may apply to the state board for an exception to the schedule set out in~~
 341 ~~subsection (b) of this Code section in order to schedule a minimum of 4.5 hours of~~
 342 ~~academic instruction. If the local school has achieved an acceptable rating for the~~
 343 ~~preceding year, the state board shall grant the application for an exception.~~

344 ~~(d)~~(c) Local school systems shall comply with subsection (b) ~~or (e)~~ of this Code section
345 in order to qualify for the middle school program.

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

349 **SECTION 8.**

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

352 **SECTION 9.**

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