The Senate Committee on Higher Education offered the following substitute to HB 448:

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 3 of Title 20 of the Official Code of Georgia Annotated, relating to postsecondary education, so as to require certain education and postsecondary educational institutions to qualify for exemptions with the Nonpublic Postsecondary Education Commission and the maintenance of exemptions provided for under Part 1A of Article 7 of such chapter; to provide for an exception; to provide for the promulgation of rules, regulations, and policies for the effectuation of such exemptions; to revise the membership of the Nonpublic Postsecondary Education Commission; to provide for completion of current terms of appointment to the commission; to revise the membership of the Board of Trustees of the Tuition Guaranty Trust Fund; to correct a cross-reference; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 3 of Title 20 of the Official Code of Georgia Annotated, relating to postsecondary education, is amended in Code Section 20-3-250.3, relating to educational institutions exempted from application of part, by revising subsection (a) and by adding a new subsection to read as follows:

"(a) The following education and postsecondary educational institutions shall be exempted from this part except as expressly provided to the contrary and upon qualification with the commission pursuant to subsection (e) of this Code section:

(1) Institutions exclusively offering instruction at any or all levels from preschool through the twelfth grade regardless of the age of the student;

(2) Education sponsored by a bona fide trade, business, professional, or fraternal organization, so recognized by the commission, solely for that organization's membership or offered on a no-fee basis, not granting degrees;

(3) Education solely avocational or recreational in nature, as determined by the commission, and institutions, not granting degrees, offering such education exclusively;
(4) Postsecondary educational institutions established, operated, governed, or licensed by this state, its agencies, or its political subdivisions, as determined by the commission;

(5) Any flight school which holds an applicable federal air agency certificate issued by the administrator of the Federal Aviation Administration;

(6) Nonpublic, nonprofit, postsecondary educational institutions which demonstrate annually to the satisfaction of the commission that their purposes are solely to provide programs of study in theology, divinity, religious education, and ministerial training, and that they do not grant postsecondary degrees of a nonreligious nature and that such institutions:
   (A) Accept no federal or state funds; and
   (B) Accept no student who has a federal or state education loan to attend such institutions;

(7) Subject to the requirements of subsection (c) of Code Section 20-3-250.6, any nonpublic law schools not accredited by the American Bar Association which are subject to the regulations and standards established by the Georgia Supreme Court for such schools whose principal office and campus are located in this state and which is not qualified for exemption under any other paragraph of this subsection; provided, however, that any such nonpublic law school shall be subject to the provisions of Code Section 20-3-250.14 for the purposes of satisfying the requirements of 34 C.F.R. Section 668.43(b) and shall designate the commission as the recipient of complaints from students of such nonpublic law school as a prerequisite for such nonpublic law school's acceptance of federal student financial aid funds; and provided, further, that the designation provided under this paragraph shall be provided solely to the extent necessary for institutional compliance of such nonpublic law school with the laws and regulations governing federal student financial aid and shall not affect, rescind, or supersede any preexisting authorizations, charters, or recognition;

(8) Nonpublic postsecondary educational institutions conducting postsecondary activity on the premises of military installations located in this state which are solely for military personnel stationed on active duty at such military installations, their dependents, or Department of Defense employees and other civilian employees of that installation;

(9) A school where the sole purpose of the instructional program is review or preparation for a specific occupational examination recognized by a government agency or bona fide trade, business, or fraternal organization and where the student's occupational training received from another school already makes the student eligible to sit for the examination;

(10) Subject to the requirements of subsection (c) of Code Section 20-3-250.6, any nonpublic, nonprofit college or university granting baccalaureate degrees whose principal
office and campus are located in this state and its related graduate and professional programs, which have been in existence ten or more years as a nonpublic, nonprofit college or university and is accredited by a national or regional accrediting agency recognized by the United States Department of Education; provided, however, that such nonpublic, nonprofit college or university shall be subject to the provisions of Code Section 20-3-250.14 for the purposes of satisfying the requirements of 34 C.F.R. Section 668.43(b) and shall designate the commission as the recipient of complaints from students of such nonpublic, nonprofit college or university as a prerequisite for such nonpublic, nonprofit college's or university's acceptance of federal student financial aid funds; and provided, further, that the designation provided for under this paragraph shall be provided solely to the extent necessary for institutional compliance of such nonpublic, nonprofit college or university with the laws and regulations governing federal student financial aid and shall not affect, rescind, or supersede any existing authorizations, charters, or recognition;

(11) Subject to the requirements of subsection (c) of Code Section 20-3-250.6, any liberal arts college or university whose principal office and campus are located in this state and its related graduate and professional programs, if any, which was chartered prior to 1955 as a nonpublic, nonprofit, degree-granting institution, provided that it is accredited by a regional or national accrediting agency recognized by the United States Department of Education; and provided, further, that such liberal arts college or university shall be subject to the provisions of Code Section 20-3-250.14 for the purposes of satisfying the requirements of 34 C.F.R. Section 668.43(b) and shall designate the commission as the recipient of complaints from students of such liberal arts college or university as a prerequisite for such liberal arts college's or university's acceptance of federal financial aid funds; and provided, further, that the designation provided for under this paragraph shall be provided solely to the extent necessary for institutional compliance of such liberal arts college or university with the laws and regulations governing federal student financial aid and shall not affect, rescind, or supersede any existing authorizations, charters, or recognition;

(12) Any institution offering only education or training in income tax theory or income tax return preparation when the total contract price for such education or training does not exceed $1,000.00, provided that the total charges incurred by any student for all instruction, other than instruction which is solely avocational or recreational in nature as provided in paragraph (3) of this subsection, do not exceed $1,000.00 in any one calendar year;

(13) Subject to the requirements of subsection (c) of Code Section 20-3-250.6, any nonpublic medical school accredited by the Liaison Committee on Medical Education
and a national or regional accrediting agency recognized by the United States Department of Education; and

(14) Any college or university that confers both associate and baccalaureate or higher degrees, that is accredited by the Southern Association of Colleges and Schools, College Division, that is operated in a proprietary status or that if previously exempt under this subsection as a proprietary institution has subsequently changed to operate in a nonprofit status, that provides a $200,000.00 surety bond, and that contributes to the Tuition Guaranty Trust Fund pursuant to Code Section 20-3-250.27; provided, however, that such college or university shall be subject to the provisions of Code Section 20-3-250.14 for the purposes of satisfying the requirements of 34 C.F.R. Section 668.43(b) and shall designate the commission as the recipient of complaints from students of such college or university as a prerequisite for such college's or university's acceptance of federal student financial aid funds; and provided, further, that the designation provided for under this paragraph shall be provided solely to the extent necessary for institutional compliance of such college or university with the laws and regulations governing federal student financial aid and shall not affect, rescind, or supersede any preexisting authorizations, charters, or recognition."

“(e) Except for postsecondary educational institutions exempted from this part pursuant to paragraph (4) of subsection (a) of this Code section, the commission shall establish and promulgate rules, regulations, and policies for education and postsecondary educational institutions to establish their qualifications for an exemption, or maintenance of such exemption, as provided for under subsection (a) of this Code section.”

SECTION 2.

Said chapter is further amended in Code Section 20-3-250.4, relating to the Nonpublic Postsecondary Education Commission, by revising subsections (a) and (b) and by adding a new subsection to read as follows:

“(a) There is established the Nonpublic Postsecondary Education Commission consisting of 15 members whose members shall be as provided for pursuant to subsections (b) and (b.1) of this Code section and who shall be appointed by the Governor and confirmed by the Senate. One member shall be appointed from each congressional district and the remaining member shall be appointed as an at-large member. Members serving a term of appointment on January 1, 2015, shall complete their terms of appointment; thereafter, members of the commission shall be appointed for terms of three years each. Each member shall serve for the term of office to which the person is appointed and until a successor is appointed, confirmed, and qualified, except as provided otherwise in this
Code section. Members may be appointed to succeed themselves but shall not serve for more than two full consecutive terms.

(b) At least one member of the commission shall be appointed to represent degree-granting nonpublic postsecondary educational institutions, and two members at least one member shall be appointed to represent nonpublic postsecondary educational institutions which grant certificates only, and at least one member shall be appointed to represent exempt education and postsecondary educational institutions as provided in subsection (a) of Code Section 20-3-250.3. The remaining members shall not be employed by or otherwise represent or have an interest in any nonpublic postsecondary educational institution.

(b.1)(1) Members serving a term of appointment which ended prior to or ends on July 1, 2018, shall complete their term of service on July 1, 2018.

(2) After the occurrence of paragraph (1) of this subsection, the commission shall consist of 11 members who shall be appointed pursuant to the requirements of this Code section.

SECTION 3.

Said chapter is further amended in Code Section 20-3-250.27, relating to the Tuition Guaranty Trust Fund, by revising paragraph (2) of subsection (b) and paragraph (1) of subsection (c) as follows:

"(2) The fund shall be administered by the Board of Trustees of the Tuition Guaranty Trust Fund. The board of trustees shall consist of five members of the commission designated by majority vote of the commission, but one of such members shall be a representative of a nonpublic nondegree-granting postsecondary educational institution, and one of such members shall be a representative of a nonpublic degree-granting postsecondary educational institution. The five members of the commission who are so designated shall serve for such terms of office as members of the board as the commission shall establish by rule or regulation. The commission shall appoint one of the members so designated as chairman of the board. The executive director shall also serve as executive director and secretary of the board. Three members of the board must vote in agreement in order for the board to take official action. The commission may by rule or regulation provide for another member of the commission to serve in the place of a member of the board who is absent from a meeting of the board.

(c)(1) All postsecondary educational institutions operating in this state, except those which are exempt from the provisions of this Code section pursuant to Code Section 20-3-250.3, shall participate in the tuition guaranty fund. Those postsecondary educational institutions specified in paragraphs (10) and (14) of subsection (a) of
Code Section 20-3-250.3 and in subsection (c) of Code Section 20-3-250.3 shall participate in the tuition guaranty fund."

SECTION 4.
This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 5.
All laws and parts of laws in conflict with this Act are repealed.