

House Bill 283 (AS PASSED HOUSE AND SENATE)

By: Representatives Coleman of the 97th, England of the 116th, Dickson of the 6th, Kaiser of the 59th, Dudgeon of the 25th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 20 of the Official Code of Georgia Annotated, relating to education, so as to
2 update and revise terminology; to delete obsolete, unused, and unnecessary provisions; to
3 provide that a local board of education member who does not comply with a local Act which
4 requires the local board to make a submission under the Voting Rights Act shall be guilty of
5 a misdemeanor; to prohibit the expenditure of public funds for defense; to require the
6 Attorney General to take certain action; to revise provisions relating to consequences under
7 an accountability contract; to revise funding weights; to revise provisions for earning funding
8 for certain personnel; to revise provisions relating to submission of available positions; to
9 provide for a grant program for technology capital; to revise provisions relating to home
10 study programs; to clarify and revise certain provisions regarding charter schools, charter
11 petitions, and charter funding; to authorize the Office of Student Achievement to establish
12 a nonprofit corporation; to amend Chapter 2A of Title 20 of the Official Code of Georgia
13 Annotated, relating to student scholarship organizations, so as to change certain provisions
14 relating to definitions; to change certain provisions relating to requirements for such
15 organizations; to change certain provisions relating to taxation reporting requirements for
16 such organizations; to amend Article 2 of Chapter 7 of Title 48 of the Official Code of
17 Georgia Annotated, relating to the imposition, rate, and computation of income taxes, so as
18 to change certain provisions relating to qualified education tax credits; to provide for
19 effective dates and applicability; to provide for related matters; to repeal conflicting laws;
20 and for other purposes.

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

22 **SECTION 1.**

23 Title 20 of the Official Code of Georgia Annotated, relating to education, is amended by
24 revising Code Section 20-2-60, relating to consolidation of county schools, as follows:

"20-2-60.

The board of education of any county shall have the right, if, in its opinion, the welfare of the schools of the county and the best interests of the pupils require, to consolidate two or more schools into one school, to be located by the county board at a place convenient to the pupils attending the consolidated school, ~~the schoolhouse to be located as near the center of the district or districts as practicable."~~

SECTION 2.

Said title is further amended by adding a new Code section to read as follows:

"20-2-75.

(a) A member of a local board of education which is required to cause a local Act relating to such local board to be submitted for preclearance under the federal Voting Rights Act of 1965 to the United States Department of Justice or filed with the appropriate court in a designated timeframe who votes against submission, votes to withdraw a submission that has already been made, or takes no action toward complying with such submission requirement within the designated timeframe shall be guilty of a misdemeanor.

(b) A local board of education shall not expend any public funds for attorney's fees or expenses of litigation relating to the defense of a criminal action against a local board member for a violation of subsection (a) of this Code section.

(c) Whenever any local board of education fails to cause a local Act relating to such local board to be submitted for preclearance under the federal Voting Rights Act of 1965 to the United States Department of Justice or filed with the appropriate court in a designated timeframe, withdraws a submission that has already been made, or takes no action toward complying with such submission requirement within the designated timeframe, the Attorney General shall either cause such submission to be made or shall bring such action or actions in his or her discretion as may be appropriate to enforce compliance with such submission requirements and to seek either civil or criminal penalties or both."

SECTION 3.

Said title is further amended by revising subsection (c) of Code Section 20-2-84, relating to accountability, flexibility, and consequences components of a contract, as follows:

"(c) The consequences component of the contract provided in Code Section 20-2-83 shall include:

- (1) Interventions or sanctions for failure to meet identified levels of achievement or for not showing specified levels of progress pursuant to Code Section 20-14-41, which may be accelerated; and

(2) Loss of governance of one or more nonperforming schools by the local school system in accordance with Code Section 20-2-84.1.

Consequences shall be incurred upon noncompliance of a local school system with the accountability component of its contract; provided, however, that if a local school system has been in compliance with the accountability component of its contract for at least three consecutive years, consequences shall not be invoked upon the fifth year of the contract, and such school system may request an extension of its contract and corresponding flexibility from the state board. If the local school system or a school within the school system meets the performance goals in its contract for such school system or school by the end of the fifth year of the contract, the school system or school shall be deemed to have met its contract performance goals. The schedule of interventions or sanctions, including loss of governance, for failure to meet identified levels of achievement or specified levels of progress shall be mutually agreed upon in the contract. If the Office of Student Achievement recommends to the state board that loss of governance not be included in a contract with respect to a high performing school, the contract may provide alternate terms with respect to that school."

SECTION 4.

Said title is further amended by revising subsection (b) of Code Section 20-2-84.1, relating to loss of governance for nonperforming schools, as follows:

"(b) Loss of governance shall be invoked upon the end of the fifth year of the contract if the school system is in noncompliance as set out in the terms of the contract."

SECTION 5.

Said title is further amended by revising Code Section 20-2-110, relating to offices for county school superintendents, as follows:

"20-2-110.

~~The county authorities of each county shall furnish the county school superintendent thereof an office in the courthouse, provided there is sufficient room in the courthouse after furnishing the county officers with offices as provided by law. Reserved.~~

SECTION 6.

Said title is further amended by revising paragraph (4) of subsection (b) of Code Section 20-2-151, relating to general and career education programs, as follows:

"(4)(A) It is the policy of this state that the primary purposes of the high school programs shall be to prepare students for the continuation of their education beyond high school and for entry into their chosen career fields as well as to prepare them to

take their places in society as young adults. The following high school programs for grades nine, ten, 11, and 12 are authorized for purposes of funding under this article:

(i) The high school education program; and

(ii) The ~~vocational~~ career, technical, and agricultural education laboratory program.

(B) As a reflection of the reduced teacher-student ratios and more extensive material and equipment needed for effective laboratory courses compared to courses with no or only limited laboratory experiences, the ~~vocational~~ career, technical, and agricultural education laboratory program shall be funded at a higher level than the high school general education program. The state board shall adopt criteria which courses must meet in order to qualify for the ~~vocational~~ career, technical, and agricultural education laboratory program."

SECTION 7.

Said title is further amended by revising subsection (h) of Code Section 20-2-154.1, relating to alternative education programs, as follows:

"(h) For the 2000-2001 and 2001-2002 school years, state funding of alternative education programs shall be based upon a full-time equivalent program count that equals 2.5 percent of the sum of the full-time equivalent program count of the middle grades program, the middle school program as defined in Code Section 20-2-290, the high school general education program (grades nine through 12), and the ~~vocational~~ career, technical, and agricultural education laboratory program (grades nine through 12). For the 2002-2003 school year and thereafter, the amount of state funds appropriated and allocated for the alternative education program provided for in this Code section shall be based on the actual count of students served during the preceding year, except that the count of students served shall not exceed 2.5 percent of the sum of the full-time equivalent program count of the middle grades program, the middle school program as defined in Code Section 20-2-290, the high school general education program (grades nine through 12), and the ~~vocational~~ career, technical, and agricultural education laboratory program (grades nine through 12). Funds earned may be expended in kindergarten and in grades one through 12."

SECTION 8.

Said title is further amended by revising subsection (a) of Code Section 20-2-160, relating to determination of enrollment by institutional program, as follows:

"(a) The State Board of Education shall designate the specific dates upon which two counts of students enrolled in each instructional program authorized under this article shall be made each school year and by which the counts shall be reported to the Department of Education. The initial enrollment count shall be made after October 1 but prior to

November 17 and the final enrollment count after March 1 but prior to May 1. The report shall indicate the student's specific assigned program for each one-sixth segment of the school day on the designated reporting date. No program shall be indicated for a student for any one-sixth segment of the school day that the student is assigned to a study hall; a noncredit course; a course recognized under this article or by state board policy as an enrichment course, except a driver education course; a course which requires participation in an extracurricular activity for which enrollment is on a competitive basis; a course in which the student serves as a student assistant to a teacher, in a school office, or in the media center, except when such placement is an approved work site of a recognized ~~career or vocational~~ career, technical, and agricultural education laboratory program; an individual study course for which no outline of course objectives is prepared in writing prior to the beginning of the course; or any other course or activity so designated by the state board. For the purpose of this Code section, the term 'enrichment course' means a course which does not dedicate a major portion of the class time toward the development and enhancement of one or more student competencies as adopted by the state board under Code Section 20-2-140. A program shall not be indicated for a student for any one-sixth segment of the school day for which the student is not enrolled in an instructional program or has not attended a class or classes within the preceding ten days; nor shall a program be indicated for a student for any one-sixth segment of the school day for which the student is charged tuition or fees or is required to provide materials or equipment beyond those authorized pursuant to Code Section 20-2-133. A student who is enrolled in a dual credit course pursuant to Code Section 20-2-159.5 shall be counted for the high school program or other appropriate program for each segment in which the student is attending such dual credit course. The state board shall adopt such regulations and criteria as necessary to ensure objective and true counts of students in state approved instructional programs. The state board shall also establish criteria by which students shall be counted as resident or nonresident students, including specific circumstances which may include, but not be limited to, students attending another local school system under court order or under the terms of a contract between two local school systems. If a local school system has a justifiable reason, it may seek authority from the state board to shift full-time equivalent program counts from the designated date to a requested alternate date."

SECTION 9.

Said title is further amended by revising subsection (b) of Code Section 20-2-161, relating to the Quality Basic Education Formula, and adding a new subsection to read as follows:

"(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,

164	state authorized instructional programs shall have the following program weights and	
165	teacher-student ratios:	
166	(1) Kindergarten program	1.6587
167		<u>1.6508</u>
168		weight and
169		1 to 15
170		ratio
171	(2) Kindergarten early intervention program	2.0496
172		<u>2.0348</u>
173		weight and
174		1 to 11
175		ratio
176	(3) Primary grades program (1-3)	1.2855
177		<u>1.2849</u>
178		weight and
179		1 to 17
180		ratio
181	(4) Primary grades early intervention program (1-3)	1.8029
182		<u>1.7931</u>
183		weight and
184		1 to 11
185		ratio
186	(5) Upper elementary grades program (4-5)	1.0323
187		<u>1.0355</u>
188		weight and
189		1 to 23
190		ratio
191	(6) Upper elementary grades early intervention program (4-5)	1.7971
192		<u>1.7867</u>
193		weight and
194		1 to 11
195		ratio
196	(7) Middle grades program (6-8)	1.0162
197		<u>1.0186</u>
198		weight and
199		1 to 23 ratio

200	(8) Middle school program (6-8) as defined in Code Section 20-2-290 . . .	1.1213
201		<u>1.1310</u>
202		weight and
203		1 to 20
204		ratio
205	(9) High school general education program (9-12)	1.0000
206		weight and
207		1 to 23
208		ratio
209	(10) Vocational <u>Career, technical, and agricultural education</u> laboratory	1.1847
210	program (9-12)	<u>1.1916</u>
211		weight and
212		1 to 20
213		ratio
214	(11) Program for persons with disabilities:	
215	Category I	2.3940
216		<u>2.3798</u>
217		weight and
218		1 to 8
219		ratio
220	(12) Program for persons with disabilities:	
221	Category II	2.8156
222		<u>2.7883</u>
223		weight and
224		1 to 6.5
225		ratio
226	(13) Program for persons with disabilities:	
227	Category III	3.5868
228		<u>3.5493</u>
229		weight and
230		1 to 5
231		ratio

232	(14) Program for persons with disabilities:	
233	Category IV	5.8176
234		<u>5.7509</u>
235		weight and
236		1 to 3
237		ratio
238	(15) Program for persons with disabilities:	
239	Category V	2.4583
240		<u>2.4511</u>
241		weight and
242		1 to 8
243		ratio
244	(16) Program for intellectually gifted students:	
245	Category VI	1.6673
246		<u>1.6589</u>
247		weight and
248		1 to 12
249		ratio
250	(17) Remedial education program	1.3128
251		<u>1.3087</u>
252		weight and
253		1 to 15
254		ratio
255	(18) Alternative education program	1.6025
256		<u>1.4711</u>
257		weight and
258		1 to 15
259		ratio
260	(19) English for speakers of other languages (ESOL) program	2.5306
261		<u>2.5049</u>
262		weight and
263		1 to 7
264		ratio
265	<u>(b.1) Notwithstanding the provisions of subsection (b) of this Code section and the</u>	
266	<u>requirements of Code Section 20-2-290, beginning July 1, 2014, a nonvirtual middle school</u>	
267	<u>shall have the funding weight included in paragraph (8) of subsection (b) of this Code</u>	

268 section for the middle school program, regardless of whether such middle school meets the
269 requirements of Code Section 20-2-290."

270 **SECTION 10.**

271 Said title is further amended by revising Code Section 20-2-165.1, relating to charter system
272 earnings for each full-time equivalent student, as follows:

273 "20-2-165.1.

274 In addition to the amounts earned by a charter system pursuant to subsection (b) of Code
275 Section 20-2-161, a charter system shall earn 3.785 percent of the base amount established
276 pursuant to subsection (a) of Code Section 20-2-161 for each full-time equivalent student
277 in each school within the charter system; provided, however, that no individual charter
278 system shall receive more than \$4.5 million in a fiscal year. Funds appropriated pursuant
279 to this Code section shall be used in accordance with recommendations of the school level
280 governing body established by the charter or to advance student achievement goals and
281 school level governance training objectives pursuant to the charter."

282 **SECTION 11.**

283 Said title is further amended by revising Code Section 20-2-181, relating to calculation of
284 program weights to reflect base school size, as follows:

285 "20-2-181.

286 The calculation of all program weights shall reflect a base size local school system of 3,300
287 full-time equivalent students. The calculation of program weights for the kindergarten
288 program, the kindergarten early intervention program, the primary grades (1-3) early
289 intervention program, the primary grades (1-3) program, the upper elementary grades (4-5)
290 early intervention program, and the upper elementary grades (4-5) program shall reflect a
291 base school size of 450 full-time equivalent students. The calculation of program weights
292 for the middle grades (6-8) program, the middle school (6-8) program, the special
293 education programs, the remedial education program, and the English for speakers of other
294 languages program shall reflect a base school size of 624 full-time equivalent students. The
295 calculation of the program weights for the high school general education program and the
296 high school ~~vocational~~ career, technical, and agricultural education laboratory program
297 shall reflect a base school size of 970 full-time equivalent students. The calculation of
298 program weights for the alternative education program shall reflect a base school size of
299 100 full-time equivalent students, except that the calculations for secretaries and media
300 personnel shall reflect a base school size of 624 full-time equivalent students."

SECTION 12.

Said title is further amended by revising subsections (c) and (g) and paragraph (2) of subsection (i) of Code Section 20-2-182, relating to program weights to reflect funds for payment of salaries and benefits, as follows:

"(c) The program weights for the kindergarten, kindergarten early intervention, primary, primary grades early intervention, upper elementary, upper elementary grades early intervention, middle grades, middle school, and alternative education programs and the program weights for the high school programs authorized pursuant to paragraph (4) of subsection (b) of Code Section 20-2-151, when multiplied by the base amount, shall reflect sufficient funds to pay the beginning salaries for ~~guidance counselors needed to provide essential guidance services to students and whose~~ at least one school counselor for every 450 full-time equivalent students. Beginning in Fiscal Year 2015 and thereafter, the program weights for the English for speakers of other languages program and the programs for persons with disabilities shall also earn school counselor funding. Further, beginning in Fiscal Year 2016 and thereafter, the program weights for the program for intellectually gifted students and the remedial education program shall also earn school counselor funding. The duties and responsibilities for such school counselors shall be established by the state board to require a minimum of five of the six full-time equivalent program count segments of the counselor's time to be spent counseling or advising students or parents."

"(g) All program weights, when multiplied by the base amount, shall reflect sufficient funds to pay the cost of sick and personal leave for teachers, the employer's portion of costs for membership in the Teachers Retirement System of Georgia and health insurance programs authorized by law, the cost of essential instructional materials, which shall include, but not be limited to, textbooks and technology, and equipment needed to operate effectively such instructional programs, and the cost of travel required of personnel in order to deliver educational services to enrolled students, subject to appropriation by the General Assembly."

"(2) The State Board of Education shall adopt for each instructional program authorized pursuant to Part 3 of this article except those programs included in paragraph (1) of this subsection the maximum number of students which may be taught by a teacher in an instructional period. For the remedial education, ~~vocational~~ career, technical, and agricultural education laboratory, alternative education, and early intervention programs, the State Board of Education shall provide for a system average maximum class size that shall not exceed the funding class size by more than 20 percent, unless specifically authorized by the State Board of Education; provided, however, that the system average maximum class size for special education, gifted, and English for speakers of other languages classes shall be set by the State Board of Education. For each instructional

program covered under this paragraph, the maximum number of students who may be taught by a teacher in an instructional period shall not exceed the system average maximum class size for the program by more than two students; provided, however, that a system average maximum class size which results in a fractional full-time equivalent shall be rounded up to the nearest whole number; provided, however, that this provision shall not apply to general education programs in mathematics, science, social studies, and language arts for grades 9 through 12. Beginning with the 2007-2008 school year, each local board of education shall be allowed to exceed maximum class sizes set by the state board pursuant to this paragraph for general education programs in mathematics, science, social studies, and language arts for grades 9 through 12 and may establish such maximum class sizes that shall not exceed the funding class size by more than 39 percent and shall annually report to the state board and to each school council in its school system such class sizes established."

SECTION 13.

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

"20-2-184.1.

(a) The program weights for the kindergarten, kindergarten early intervention, primary, primary grades early intervention, upper elementary, upper elementary grades early intervention, middle grades, middle school, and remedial programs and the program weights for the high school programs authorized pursuant to paragraph (4) of subsection (b) of Code Section 20-2-151, when multiplied by the base amount, shall reflect sufficient funds to pay the beginning salaries for instructors needed to provide 20 additional days of instruction for 10 percent of the full-time equivalent count of the respective program. Such funds shall be used for addressing the academic needs of low-performing students with programs including, but not limited to, instructional opportunities for students beyond the regular school day, Saturday classes, intersession classes, ~~and summer school classes, and~~ additional instructional programs during the regular school day. Following the midterm adjustment, the state board shall issue allotment sheets for each local school system. Each local school system shall spend 100 percent of the funds designated for additional days of instruction for such costs at the system level, which may include ~~Up to 15 percent of funds designated for additional days of instruction may be spent~~ for transportation costs incurred for transporting students who are attending the additional classes funded by these designated funds."

SECTION 14.

Said title is further amended by revising paragraph (4) of subsection (a) and subsection (b) of Code Section 20-2-186, relating to allocation of funds for local systems to pay beginning salaries of superintendents, secretaries, accountants, nurses, and certain other personnel, as follows:

"(4) Each local system shall earn funds for the 2000-2001 school year sufficient to pay the beginning salary of a principal for each school in the local school system with a principal of record for the preceding year. Thereafter, each local school system shall earn funds sufficient to pay the beginning salary of a principal for each school in the local school system that reported a principal on the October certified personnel information report; provided, however, that any school which operates as a combination school, which is defined as any of the elementary grades, kindergarten through grade five, contiguous with one or more of the middle grades, grades six through eight; or as a combination school of any of the middle grades, grades six through eight, contiguous with one or more of the elementary grades or contiguous with one or more of the high school grades, grades nine through 12; or as a combination school of any of the high school grades, contiguous with one or more of the middle grades, shall earn funds sufficient to pay the beginning salary of a principal for each of the elementary, middle, or high school combinations. For purposes of this paragraph, 'contiguous' means grade levels in sequence, regardless of whether schools operating as a combination school are on the same campus sharing facilities or at different locations. Beginning with the 2001-2002 school year, funds cannot be earned for more than one principal's salary for schools on the same campus sharing facilities unless the schools operate as a combination school as defined in this paragraph with separate facility codes issued by the Department of Education. A local school system shall earn funds in the midterm adjustment sufficient to pay the beginning salary of a principal for a new school, if not otherwise earning the funds, when the school has reported full-time equivalent program counts in the October count, has an approved new school facility code issued by the department, and has reported a principal on the October certified personnel information report under the new facility code. It is further provided that funds for the salary of a principal shall not be earned under this paragraph for an evening school or alternative school; and"

"(b) All program weights, when multiplied by the base amount, shall reflect sufficient funds to pay the beginning salaries of a visiting teacher using a base size of 2,475 full-time equivalent students, ~~and for costs of operating an administrative office for the certain local school system~~ systems as deemed warranted by the department, and for workers' compensation and employment security payments for personnel at the central office, school, and program levels, subject to appropriation by the General Assembly. Further, the

program weights for all special education programs pursuant to Code Section 20-2-152, when multiplied by the base amount, shall reflect sufficient funds to pay the beginning salaries of special education leadership personnel essential and necessary for the effective operation of such programs in a base size local school system. Further, the program weights for all programs, when multiplied by the base amount, shall reflect sufficient funds to pay the beginning salaries of school psychologists and psychometrists essential and necessary for the effective operation of such programs in a local school system using a base size of 2,475 full-time equivalent students, subject to appropriation by the General Assembly; provided, however, that beginning with Fiscal Year 2016, such base size shall be 2,420 full-time equivalent students."

SECTION 15.

Said title is further amended by revising subsection (d) of Code Section 20-2-211, relating to annual contracts, disqualifying acts, and job descriptions, as follows:

"(d) Each local school system shall have a job description for each certificated professional personnel classification, shall have policies and procedures relative to the recruitment and selection of such personnel, and shall adhere to such recruitment and selection policies and procedures. Such policies and procedures shall assure nondiscrimination on the basis of sex, race, religion, or national origin. Such policies and procedures shall also include the announcement in writing of the availability of all certificated positions ~~to the appropriate colleges and universities in the state and to the Department of Education and within the local school system~~ and the submission of such available positions to a state-wide online job data base maintained by the state. ~~A local board of education may also announce such positions to colleges and universities in other states.~~"

SECTION 16.

Said title is further amended by revising paragraph (3) of subsection (a) of Code Section 20-2-211.1, relating to clearance certificates issued by the Professional Standards Commission relating to fingerprint and criminal background checks, as follows:

"(3) 'Local unit of administration' shall have the same meaning as in Code Section 20-2-242 and shall also include state chartered special schools and ~~commission state~~ charter schools."

SECTION 17.

Said title is further amended by revising Code Section 20-2-214.1, relating to the High Performance Principals program, as follows:

442 "20-2-214.1.

443 (a) The General Assembly finds that the driving force behind attracting quality teachers
444 to a school and creating a culture of learning and respect in the school environment is the
445 school leadership, and particularly, the school principal. The General Assembly further
446 finds that teachers consider school leadership as one of the most important factors in
447 creating good working conditions in a school environment. The General Assembly further
448 finds that a school with strong leadership and teachers will be the most effective in
449 improving and maintaining the academic success of its students.

450 (b) ~~For purposes of this Code section, the term "Needs Improvement School" means a~~
451 ~~school that has not made adequate yearly progress for two or more consecutive years in the~~
452 ~~same subject, in accordance with the accountability system established pursuant to Article~~
453 ~~2 of Chapter 14 of this title. Reserved.~~

454 (c) The State Board of Education is authorized to establish a grant program to attract
455 proven leaders in school settings to accept positions as principals in secondary schools in
456 this state that have ~~been identified as a Needs Improvement School~~ received unacceptable
457 ratings by the State Board of Education, as defined in state board rules relating to the
458 accountability system. For purposes of this Code section, these individuals shall be known
459 as High Performance Principals. The grant program shall include funding, subject to
460 appropriations by the General Assembly, for grants from the state board to local boards of
461 education for salary supplements for High Performance Principals.

462 (d) The state board is authorized to develop rules and regulations to implement the grant
463 program, including requiring reports, data, or other measures of accountability. The grant
464 program shall provide that the sole criteria for designating and selecting individuals as
465 High Performance Principals shall be data based evidence of the effectiveness of a
466 proposed High Performance Principal in improving a low performing school or in taking
467 an average or excellent performing school to higher achievement within the last five years.
468 Notwithstanding this, the state board shall have the discretion, only in extenuating
469 circumstances, to consider other criteria. The state board shall be authorized to establish
470 and maintain a nonexclusive pool of preapproved eligible candidates for High Performance
471 Principals for consideration by local school systems.

472 (e) An individual selected as a High Performance Principal shall be eligible for a one-year
473 salary supplement, in an amount as determined by the state board and subject to
474 appropriations by the General Assembly. An individual grant shall not exceed \$15,000.00
475 per year and such amount shall be awarded pursuant to state board rule based on the
476 relative recruitment need of that ~~Needs Improvement School~~ school. The local school
477 system may apply for up to two additional school years for renewal of the High
478 Performance Principal designation for an individual, subject to appropriation. An

individual selected as a High Performance Principal shall be required to enter into a contract with the local board, in accordance with Code Section 20-2-211, which shall include terms and conditions relating to the designation of High Performance Principal, as required by the state board. An individual shall be required to reimburse the local board for any moneys paid to him or her relating to the High Performance Principal designation if he or she does not comply with the terms of the contract relating to the High Performance Principal designation.

(f) The local board shall be required to submit reports, as required by the state board, which quantify the effectiveness of an individual designated as a High Performance Principal and his or her impact on the improvement of the school in the school year in which he or she was designated a High Performance Principal. The state board shall use the data in the reports as the primary factor in evaluating applications for renewal of a High Performance Principal designation, as provided for in subsection (e) of this Code section.

(g) Salary supplements received by a High Performance Principal pursuant to this Code section shall not be considered regular or earnable compensation for any purpose.

(h) Nothing in this Code section shall prohibit local boards of education from providing additional salary supplements and bonuses to any principal designated as a High Performance Principal."

SECTION 18.

Said title is further amended by revising Code Section 20-2-230, relating to staff development programs, as follows:

"20-2-230.

(a) All public school officials and professional personnel certificated by the Professional Standards Commission shall be provided the opportunity to continue their development throughout their professional careers. The primary purpose of the staff development sponsored or offered by local ~~units of administration~~ boards of education and the Department of Education shall be the implementation of this policy. Two additional purposes of such staff development programs shall be to adopt into general practice the findings of scientifically designed research which has been widely replicated, particularly as it relates to teacher and school effectiveness, and to address professional needs and deficiencies identified during the process of objective performance evaluations.

(b)(1) The State Board of Education shall adopt a training program for members of local boards of education by July 1, 2011. The State Board of Education may periodically adopt revisions to such training program as it deems necessary.

(2) Within three months of adoption by the State Board of Education of a training program pursuant to paragraph (1) of this subsection, each local board of education ~~and~~

~~each governing board of other local units of administration~~ shall adopt a training program for members of such boards that includes, at a minimum, such training program and requirements established by the State Board of Education pursuant to paragraph (1) of this subsection. Each local board of education shall incorporate any revisions adopted by the State Board of Education to the training program pursuant to paragraph (1) of this subsection within three months of adoption of such revisions.

(3) All local boards of education ~~local units of administration~~ are authorized to pay such board members for attendance at a required training program the same per diem as authorized by local or general law for attendance at regular meetings, as well as reimbursement of actual expenses for travel, lodging, meals, and registration fees for such training, either before or after such board members assume office."

SECTION 19.

Said title is further amended by revising paragraph (2) of Code Section 20-2-259, relating to extended day program for students in grades nine through 12, as follows:

"(2) Multiply the amount calculated in paragraph (1) of this Code section by the sum of the full-time equivalent program count for the high school general education program (9-12) and the ~~vocational~~ career, technical, and agricultural education laboratory program (9-12)."

SECTION 20.

Said title is further amended by adding a new Code section to read as follows:

"20-2-263.

(a) The State Board of Education is authorized to establish a grant program to incentivize the adoption of digital learning using high speed internet connections across Georgia schools. The grant program shall include funding, subject to appropriations by the General Assembly, for grants to local boards of education for the purchase of technology capital, including, but not limited to, desktop computers, network equipment, wireless equipment, tablet computers, laptop computers, and any other technology devices or equipment that advances student learning.

(b) The state board is authorized to develop rules and regulations to implement the grant program, including requiring local school systems to commit to expanding and paying for high speed bandwidth for five years and a plan of use of the bandwidth in each school for instructional purposes, requiring each local school system to demonstrate that it has a technology plan that incorporates the use of new technology into student learning and includes a component for professional development for staff, and requiring local matching funds from local school systems to demonstrate long-term sustainability. The grant

program criteria may take into account the financial need and lack of existing bandwidth of a local school system and any previous grants received by the local board of education pursuant to this Code section and may provide for waiver of the matching funds requirement for local school systems that demonstrate financial need."

SECTION 21.

Said title is further amended by revising paragraph (1) of subsection (b), paragraph (5) of subsection (d), and subsection (e) of Code Section 20-2-319.3, relating to the online clearinghouse of interactive distance learning courses, as follows:

"(1) 'Charter school' means a local charter school, as defined in paragraph (7) of Code Section 20-2-2062, a state chartered special school, as defined in paragraph (16) of Code Section 20-2-2062, and a ~~commission~~ state charter school, as defined in paragraph (2) of Code Section 20-2-2081."

"(5) A student who is enrolled in a school operated by a local school system or in a charter school and who takes a course included in the clearinghouse shall be counted in the funding formula of the student's school system or the student's charter school for such course as if the student were taking the course from the student's school system or the student's charter school."

"(e)(1) The department shall set appropriate fees for one-credit and half-credit courses offered by a local school system or a charter school to another local school system or charter school pursuant to this Code section.

(2) The department shall proportionally reduce the fee for any student who withdraws from a course prior to the end of the course pursuant to paragraph (4) of subsection (d) of this Code section.

(3) For each student enrolled in a course included in the clearinghouse, and not later than the last day of that course, the department shall deduct the amount of the fee for that course from the student's school system or charter school allotment and shall pay that amount to the local school system or charter school delivering the course.

(4) From the funds received pursuant to paragraph (3) of this subsection, the local school system or charter school delivering the course shall pay the teacher conducting the course such additional amount of compensation ~~as set by the department~~ based on the number of students taking the course and the course fee."

SECTION 22.

Said title is further amended by revising paragraphs (3) and (4) of Code Section 20-2-326, relating to definitions relative to the "Building Resourceful Individuals to Develop Georgia's Economy Act," as follows:

"(3) 'Chronically low-performing high school' means a public high school in this state that has a graduation rate of less than 60 percent for three consecutive years, as determined in accordance with methodology established by the National Governors Association's Compact on High School Graduation Data, or that has ~~not made adequate yearly progress~~ received an unacceptable rating for three consecutive years, as defined by the Office of Student Achievement.

(4) 'College and career academy' means a specialized charter school established by a partnership which demonstrates a collaboration between business, industry, and community stakeholders to advance workforce development between one or more local boards of education, a private individual, a private organization, or a state or local public entity in cooperation with one or more postsecondary institutions and approved by the State Board of Education in accordance with Article 31 of this chapter or the ~~Georgia State~~ Georgia State Charter Schools Commission in accordance with Article 31A of this chapter."

SECTION 23.

Said title is further amended by revising subsection (c) of Code Section 20-2-690, relating to educational entities and requirements for private schools and home study programs, as follows:

"(c) Parents or guardians may teach their children at home in a home study program which meets the following requirements:

(1) The parent, parents, or guardian must submit within 30 days after the establishment of a home study program and by September 1 annually thereafter a declaration of intent to utilize a home study program to the Department of Education, which ~~may~~ shall provide for written or electronic submittal of such declaration of intent;

(2) The declaration shall include a list of the names and ages of the students who are enrolled in the home study program, the address where the home study program is located, and a statement of the 12 month period that is to be considered the school year for that home study program. Enrollment records and reports shall not be used for any purpose except providing necessary enrollment information, except with the permission of the parent or guardian of a child, or pursuant to the subpoena of a court of competent jurisdiction, ~~or for verification of attendance by the Department of Public Safety for the purposes set forth in subsection (a.1) of Code Section 40-5-22;~~

(3) Parents or guardians may teach only their own children in the home study program, provided the teaching parent or guardian possesses at least a high school diploma or a general educational development diploma, but the parents or guardians may employ a tutor who holds a high school diploma or a general educational development diploma to teach such children;

(4) The home study program shall provide a basic academic educational program which includes, but is not limited to, reading, language arts, mathematics, social studies, and science;

(5) The home study program must provide instruction each 12 months to home study students equivalent to 180 school days of education with each school day consisting of at least four and one-half school hours unless the child is physically unable to comply with the rule provided for in this paragraph;

~~(6) Attendance records for the home study program shall be kept and shall be submitted annually to the Department of Education and additionally, in accordance with department regulations~~ The parent or guardian shall have the authority to execute any document required by law, rule, regulation, or policy to evidence the enrollment of a child in a home study program, the student's full-time or part-time status, the student's grades, or any other required educational information. This shall include, but not be limited to, documents for purposes of verification of attendance by the Department of ~~Public Safety~~ Driver Services, for the purposes set forth in subsection (a.1) of Code Section 40-5-22, documents required pursuant to Chapter 2 of Title 39 relating to employment of minors, and any documents required to apply for the receipt of state or federal public assistance: ~~The department may provide for electronic submittal of such records. Attendance records and reports shall not be used for any purpose except providing necessary attendance information, except with the permission of the parent or guardian of a child, pursuant to the subpoena of a court of competent jurisdiction, or for verification of attendance by the Department of Public Safety for the purposes set forth in subsection (a.1) of Code Section 40-5-22;~~

(7) Students in home study programs shall be subject to an appropriate nationally standardized testing program administered in consultation with a person trained in the administration and interpretation of norm reference tests to evaluate their educational progress at least every three years beginning at the end of the third grade and records of such tests and scores shall be retained but shall not be required to be submitted to public educational authorities; and

(8) The home study program instructor shall write an annual progress assessment report which shall include the instructor's individualized assessment of the student's academic progress in each of the subject areas specified in paragraph (4) of this subsection, and such progress reports shall be retained by the parent, parents, or guardian of children in the home study program for a period of at least three years."

SECTION 24.

Said title is further amended by revising paragraph (2) of Code Section 20-2-2062, relating to definitions relative to charter schools, as follows:

"(2) 'Charter petitioner' means a local school, local board of education, private individual, private organization, or state or local public entity that submits or initiates a petition for a charter. The term 'charter petitioner' does not include home study programs or schools, sectarian schools, religious schools, private for profit schools, private educational institutions not established, operated, or governed by the State of Georgia, or existing private schools. On and after July 1, 2013, a charter for a local charter school, if approved, shall be a three-party agreement between a charter petitioner, a local board of education, and the State Board of Education, and the charter petitioner for such local charter school shall be a party other than the local board of education."

SECTION 25.

Reserved.

SECTION 26.

Said title is further amended by revising subsections (a), (b), and (c) of Code Section 20-2-2064, relating to approval or denial of a charter petition, as follows:

"20-2-2064.

(a) A charter petitioner seeking to create a conversion charter school must submit a petition to the local board of the local school system in which the proposed charter school will be located. The local board must by a majority vote approve or deny a petition no later than ~~60~~ 90 days after its submission unless the petitioner requests an extension; provided, however, that a denial of a petition by a local board shall not preclude the submission to the local board of a revised petition that addresses deficiencies cited in the denial; and provided, further, that the local board shall not act upon a petition for a conversion charter school, including, but not limited to, a conversion charter for a high school cluster, until such petition:

(1)(A) Has been freely agreed to, by secret ballot, by a majority of the faculty and instructional staff members of the petitioning local school at a public meeting called with two weeks' advance notice for the purpose of deciding whether to submit the petition to the local board for its approval; and

(B) Has been freely agreed to, by secret ballot, by a majority of the parents or guardians of students enrolled in the petitioning local school present at a public meeting called with two weeks' advance notice for the purpose of deciding whether to submit the petition to the local board for its approval; or

(2) If for a high school cluster, has been approved by a majority of the school councils in the high school cluster and has been freely agreed to, by secret ballot, by at least 60 percent of the combined vote of the faculty and instructional staff members of the high school cluster and the parents or guardians of students who reside in the attendance zone of such high school cluster present at a public meeting called with two weeks' advance notice for the purpose of deciding whether to submit the petition to the local board for its approval. Each school council within the high school cluster shall appoint two representatives to a committee that shall conduct the vote.

This subsection shall not apply to a system charter school petitioning to be a conversion charter school.

(b) A charter petitioner seeking to create a start-up charter school must submit a petition to the local board of the local school system in which the proposed charter school will be located. The local board must by a majority vote approve or deny a petition no later than ~~60~~ 90 days after its submission unless the petitioner requests an extension. A denial of a petition by a local board shall not preclude the submission to the local board of a revised petition that addresses deficiencies cited in the denial.

(c) A system charter school's school council or governing council, as applicable, may petition to become a conversion charter school. The petition shall be submitted to the local board of the charter system in which the school is located. The local board must by a majority vote approve or deny a petition no later than ~~60~~ 90 days after its submission unless the petitioner requests an extension; provided, however, that a denial of a petition by a local board shall not preclude the submission to the local board of a revised petition that addresses deficiencies cited in the denial."

SECTION 27.

Said title is further amended by revising paragraph (5) and paragraph (7) of subsection (b) of Code Section 20-2-2065, relating to waiver of provisions of Title 20, as follows:

"(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; provided, however, that if:

(A) A facility used for a charter school is owned or operated by any state agency or entity, and such facility or equipment purchased or used by the facility meets the safety standards of the state agency or entity that owns or operates such facility; or

(B) A facility used for a charter school is owned by a local educational agency and operated utilizing standards of a state agency or entity, and such facility or equipment

purchased or used by the facility meets the safety standards of the state agency or entity with respect to structural soundness and sufficient maintenance,
the facility or equipment or both shall be deemed to meet the safety requirements of this paragraph; provided, further, that in no event shall the state agency or entity or local educational agency owner or operator of a charter school with such facility or equipment be disqualified from eligibility for state grants or for federal grants awarded pursuant to state regulations due to such facility or equipment;"
 "(7) Subject to an annual financial audit conducted by the state auditor or, if specified in the charter, by an independent certified public accountant licensed in this state; provided, however, that a separate audit shall not be required for a charter school if the charter school is included in the local school system audit conducted by the state auditor pursuant to Code Section 50-6-6;"

SECTION 28.

Said title is further amended by revising subsection (a) of Code Section 20-2-2066, relating to admission, enrollment, and withdrawal of students, as follows:

"(a) A local charter school shall enroll students in the following manner:

(1)(A) A start-up charter school shall enroll any student who resides in the 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 start-up charter school may give enrollment preference 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 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; and

(v) Children who matriculate from a pre-kindergarten program which is associated with the school, including, but not limited to, programs which share common facilities or campuses with the school or programs which have established a partnership or cooperative efforts with the school; and

(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

(v) Children who matriculate from a pre-kindergarten program which is associated with the school, including, but not limited to, programs which share common facilities or campuses with the school or programs which have established a partnership or cooperative efforts with the school; and

(2) A student who resides outside the school system in which the local charter school is located may not enroll in that local charter school except pursuant to a contractual agreement between the local boards of the school system in which the student resides and the school system in which the local charter school is located. Unless otherwise provided in such contractual agreement, a local charter school may give enrollment preference to a sibling of a nonresident student currently enrolled in the local charter school."

SECTION 29.

Said title is further amended by revising subsection (c) of Code Section 20-2-2067.1, relating to the amendment of terms of charters for charter schools, as follows:

"(c) Each start-up and conversion charter school and each charter system 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, or, for a charter system, to parents and guardians of students enrolled in school within the local school system; and to the Department of Education no later than October 1 of each year. The report submitted by a charter system shall include, but not limited to, data on all of its system charter schools. The report shall contain, but is not limited to:

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

(2) Academic data for the previous year, including state academic accountability data, such as standardized test scores ~~and adequate yearly progress data;~~

- (3) Unaudited financial statements for the fiscal year ending on June 30, provided that audited statements will be forwarded to the local board and state board upon completion;
- (4) Updated contact information for the school and the administrator, and for charter systems, each system charter school and its respective administrator;
- (5) Proof of current nonprofit status, if applicable;
- (6) Any other supplemental information that the charter school or charter system chooses to include or that the state board requests that demonstrates that school or system's success; and
- (7) For charter systems,;
- (A) A description of:
- (i) The actual authority exercised by governing councils with regard to each of the components of school level governance listed in paragraph (12.1) of Code Section 20-2-2062;
- (ii) Training received by governing councils and school administrators; and
- (iii) Steps, if any, the charter system plans to take to increase school level governance in the future;
- (B) An itemization of initiatives being supported with the additional funding received by the charter system pursuant to Code Section 20-2-165.1 and how those funds have promoted school level governance or improved student achievement;
- (C) A comparison of actual performance versus the performance based goals for the charter system set forth in the charter pursuant to Code Section 20-2-2065;
- (D) The name and contact information of an employee of the charter system that can facilitate communications between the Office of Charter School Compliance and the chairpersons of the governing councils in the charter system; and
- (E) An an on-site external evaluation of the charter system at least once every five years, as determined by the state board."

SECTION 30.

Said title is further amended by revising paragraph (2) of subsection (a) of Code Section 20-2-2068, relating to termination of charters, as follows:

"(2) If, after providing reasonable notice to the charter school or charter system, as applicable, and an opportunity for a hearing, the state board finds through its own audit or through other means:

- (A) A failure to comply with any recommendation or direction of the state board with respect to Code Section 20-14-41;
- (B) A failure to adhere to any material term of the charter, including but not limited to the performance goals set forth in the charter;

833 (C) For a charter system, a failure to promote school level governance as required by
 834 the charter;
 835 ~~(C)(D)~~ A failure to meet generally accepted standards of fiscal management;
 836 ~~(D)(E)~~ A violation of applicable federal, state, or local laws or court orders;
 837 ~~(E)(F)~~ The existence of competent substantial evidence that the continued operation
 838 of the charter school or charter system would be contrary to the best interests of the
 839 students or the community; or
 840 ~~(F)(G)~~ A failure to comply with any provision of Code Section 20-2-2065; or"

841 **SECTION 31.**

842 Said title is further amended by revising Code Section 20-2-2068.2, relating to a facilities
 843 fund for charter schools, as follows:

844 "20-2-2068.2.

845 (a) From moneys specifically appropriated for such purpose, the state board shall create
 846 a facilities fund for local charter schools, state chartered special schools, and ~~commission~~
 847 state charter schools as defined in Code Section 20-2-2081 for the purpose of establishing
 848 a per pupil, need based facilities aid program.

849 (b) A charter school or ~~commission~~ state charter school may receive moneys from the
 850 facilities fund if the charter school or ~~commission~~ state charter school has received final
 851 approval from the Georgia State Charter Schools Commission or from the state board for
 852 operation during that fiscal year.

853 (c) A charter school's or ~~commission~~ state charter school's governing body may use
 854 moneys from the facilities fund for the following purposes:

- 855 (1) Purchase of real property;
- 856 (2) Construction of school facilities, including initial and additional equipment and
 857 furnishings;
- 858 (3) Purchase, lease-purchase, or lease of permanent or relocatable school facilities;
- 859 (4) Purchase of vehicles to transport students to and from the charter school or
 860 ~~commission~~ state charter school; and
- 861 (5) Renovation, repair, and maintenance of school facilities that the school owns or is
 862 purchasing through a lease-purchase or long-term lease of ~~five~~ three years or longer.

863 (d) The Department of Education shall specify procedures for submitting and approving
 864 requests for funding under this Code section and for documenting expenditures.

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

(f)(1) Prior to releasing moneys from the facilities fund, the Department of Education shall ensure that the governing board of the local charter school and the local board shall enter into a written agreement that includes a provision for the reversion of any unencumbered funds and all equipment and property purchased with public education funds to the ownership of the local board in the event the local charter school terminates operations.

(2) Prior to releasing moneys from the facilities fund, the Department of Education shall ensure that the governing board of the state chartered special school and the state board shall enter into a written agreement that includes a provision for the reversion of any unencumbered funds and all equipment and property purchased with public education funds to the ownership of the state board in the event the state chartered special school terminates operations.

(3) Prior to releasing moneys from the facilities fund, the Department of Education shall ensure that the governing board of the ~~commission~~ state charter school and the ~~Georgia~~ State Charter Schools Commission shall enter into a written agreement that includes a provision for the reversion of any unencumbered funds and all equipment and property purchased with public education funds to the ownership of the ~~Georgia~~ State Charter Schools Commission in the event the ~~commission~~ state charter school terminates operations.

(g) The reversion of property in accordance with subsection (f) of this Code section is subject to the complete satisfaction of all lawful liens or encumbrances.

(h) Each local board of education shall make its unused facilities available to local charter schools. The terms of the use of such a facility by the charter school shall be subject to negotiation between the board and the local charter school and shall be memorialized as a separate agreement. A local charter school that is allowed to use such a facility under such an agreement shall not sell or dispose of any interest in such property without the written permission of the local board. A local charter school may not be charged a rental or leasing fee for the existing facility or for property normally used by the public school which became the local charter school. A local charter school that receives property from a local board may not sell or dispose of such property without the written permission of the local board."

SECTION 32.

Said title is further amended by adding a new Code section to read as follows:

"20-14-26.1.

(a) The office shall have the power and authority to incorporate a nonprofit corporation that could qualify as a public foundation under Section 501(c)(3) of the Internal Revenue Code to aid the department in carrying out any of its powers and in accomplishing any of its purposes. Any nonprofit corporation created pursuant to this power shall be created pursuant to Chapter 3 of Title 14, the 'Georgia Nonprofit Corporation Code,' and the Secretary of State shall be authorized to accept such filing.

(b) Any nonprofit corporation created pursuant to this Code section shall be subject to the following provisions:

(1) In accordance with the Constitution of Georgia, no governmental functions or regulatory powers shall be conducted by any such nonprofit corporation;

(2) Upon dissolution of any such nonprofit corporation incorporated by the office, any assets shall revert to the office or to any successor to the office or, failing such succession, to the State of Georgia;

(3) As used in this paragraph, the term 'direct employee costs' means salary, benefits, and travel expenses. To avoid the appearance of undue influence on regulatory functions by donors, no donations to any such nonprofit corporation from private sources shall be used for direct employee costs of the office;

(4) Any such nonprofit corporation shall be subject to all laws relating to open meetings and the inspection of public records;

(5) The office shall not be liable for the action or omission to act of any such nonprofit corporation;

(6) No debts, bonds, notes, or other obligations incurred by any such nonprofit corporation shall constitute an indebtedness or obligation of the State of Georgia nor shall any act of any such nonprofit corporation constitute or result in the creation of an indebtedness of the state. No holder or holders of any such bonds, notes, or other obligations shall ever have the right to compel any exercise of the taxing power of the state nor to enforce the payment thereof against the state; and

(7) Any nonprofit corporation created pursuant to this Code section shall not acquire or hold a fee simple interest in real property by any method, including but not limited to gift, purchase, condemnation, devise, court order, and exchange.

(b.1) Pursuant to this Code section, the office may establish a nonprofit corporation to be designated as the Public Education Innovation Fund Foundation to promote Public-Private Partnerships between businesses, nonprofit organizations, institutions of higher education, local school systems, and public schools, for the purpose of improving student

937 achievement. Funds received by the foundation may be awarded through a competitive
 938 grant process administered by the office. The General Assembly may appropriate funds
 939 for purposes of this foundation beginning in Fiscal Year 2015.

940 (c) Any nonprofit corporation created pursuant to this Code section shall make public and
 941 provide an annual report showing the identity of all donors and the amount each person or
 942 entity donated as well as all expenditures or other disposal of money or property donated.
 943 Such report shall be provided to the Governor, the Lieutenant Governor, the Speaker of the
 944 House of Representatives, and the chairpersons of the House Committee on Education and
 945 the Senate Education and Youth Committee. Any such nonprofit corporation shall also
 946 provide such persons with a copy of all corporate filings with the federal Internal Revenue
 947 Service."

948 **SECTION 33.**

949 The following Code sections of the Official Code of Georgia Annotated are amended by
 950 replacing "guidance counselor" and "guidance counselors" wherever either such term occurs
 951 with "school counselor" and "school counselors", respectively:

- 952 (1) Code Section 20-2-171, relating to minimum direct classroom expenditures;
- 953 (2) Code Section 20-2-1000, relating to limitation on civil damages for disciplining
 954 students; and
- 955 (3) Code Section 20-2-1001, relating to limited immunity from criminal liability.

956 **SECTION 33A.**

957 Chapter 2A of Title 20 of the Official Code of Georgia Annotated, relating to student
 958 scholarship organizations, is amended by revising paragraph (1) of Code Section 20-2A-1,
 959 relating to definitions, as follows:

960 "(1) 'Eligible student' means a student who is a Georgia resident who, immediately prior
 961 to receiving a scholarship or tuition grant under Code Section 20-2A-2 and enrolling in
 962 a qualified school or program, was enrolled in and attended for at least six weeks a
 963 Georgia secondary or primary public school or who is eligible to enroll in a qualified first
 964 grade, kindergarten program, or pre-kindergarten program; provided, however, that if a
 965 student is deemed an eligible student pursuant to this paragraph, he or she shall continue
 966 to qualify as such until he or she graduates, reaches the age of 20, or returns to a public
 967 school, whichever occurs first; and provided, further, that the enrollment and six-week
 968 public school attendance requirements shall be waived in the case of a student who, based
 969 on the school attendance zone of his or her primary residence, is or would be assigned to
 970 a public school that the Office of Student Achievement determines to be a
 971 low-performing school, who is the subject of officially documented cases of school based

physical violence or student related verbal abuse threatening physical harm, or who was enrolled in a home study program meeting the requirements of subsection (c) of Code Section 20-2-690 for at least one year immediately prior to receiving a scholarship or tuition grant under Code Section 20-2A-2."

SECTION 33B.

Said chapter is further amended by revising Code Section 20-2A-2, relating to requirements for student scholarship organizations, as follows:

"20-2A-2.

Each student scholarship organization:

(1) ~~Must~~ With respect to the first \$1.5 million of its annual revenue received from donations for scholarships or tuition grants, must obligate for scholarships or tuition grants at least 90 percent of such ~~its annual revenue received from donations~~ for scholarships or tuition grants; with respect to its annual revenue received from donations for scholarships or tuition grants in excess of \$1.5 million and up to and including \$10 million, must obligate at least 93 percent of such revenue for scholarships and tuition grants; with respect to its annual revenue received from donations for scholarships or tuition grants in excess of \$10 million and up to and including \$20 million, must obligate at least 94 percent of such revenue for scholarships and tuition grants; and, with respect to its annual revenue received from donations for scholarships or tuition grants in excess of \$20 million, must obligate at least 95 percent of such revenue for scholarships and tuition grants ~~however, up to 25 percent of this amount may be carried forward for the next fiscal year. On or before the end of the calendar year following the calendar year in which a student scholarship organization receives revenues from donations and obligates them for the awarding of scholarships or tuition grants, the student scholarship organization shall designate the obligated revenues for specific student recipients. Once the student scholarship organization designates obligated revenues for specific student recipients, in the case of multiyear scholarships or tuition grants, the student scholarship organization may distribute the entire obligated and designated revenues to a qualified school or program to be held in accordance with Department of Revenue rules for distribution to the specified recipients during the years in which the recipients are projected in writing by the private school to be enrolled at the qualified school or program. In making a multiyear distribution to a qualified school or program, the student scholarship organization shall require that if the designated student becomes ineligible or for any other reason the qualified school or program elects not to continue disbursement of the multiyear scholarship or tuition grant to the designated student for all the projected years, then the qualified school or program shall immediately return the~~

remaining funds to the student scholarship organization. Once the student scholarship organization designates obligated revenues for specific student recipients, in the case of multiyear scholarships or tuition grants for which the student scholarship organization distributes the obligated and designated revenues to a qualified school or program annually rather than the entire amount, if the designated student becomes ineligible or for any other reason the student scholarship organization elects not to continue disbursement for all years, then the student scholarship organization shall designate any remaining previously obligated revenues for a new specific student recipient on or before the end of the following calendar year. The maximum scholarship amount given by the student scholarship organization in any given year shall not exceed the average state and local expenditures per student in fall enrollment in public elementary and secondary education for this state. The Department of Education shall determine and publish such amount annually, no later than January 1;

(1.1) In awarding scholarships or tuition grants, shall consider financial needs of students based on all sources, including the federal adjusted gross income from the federal income tax return most recently filed by the parents or guardians of such students, as adjusted for family size. If the parents or guardians of a student have not filed a federal income tax return in either of the two calendar years immediately preceding the year of application, the student scholarship organization shall consider the financial need of the student based on proof of employment income of the parents or guardians from the 30 consecutive days closest to when the applicant submitted the scholarship application and on any other sources of income, including, but not limited to, unemployment benefits, social security benefits, and child support benefits;

(2) Must maintain separate accounts for scholarship funds and operating funds. Until obligated revenues are designated for specific student recipients, the student scholarship organization shall hold the obligated revenues in a bank or investment account owned by the student scholarship organization and over which it has complete control;

(3) Must have an independent board of directors with at least three members;

(4) May transfer funds to another student scholarship organization;

(5) Must conduct an audit of its accounts by an independent certified public accountant within 120 days after the completion of the student scholarship organization's fiscal year verifying that it obligated for scholarships or tuition grants at least 90 percent of its annual revenue received from donations for scholarships or tuition grants has complied with all requirements of this Code section, including but not limited to financial requirements. Each student scholarship organization shall provide a copy of and provide such audit to the Department of Revenue in accordance with Code Section 20-2A-3. Notwithstanding Code Sections 20-2A-7, 48-2-15, 48-7-60, and 48-7-61, if the copy of

the audit submitted fails to verify that the student scholarship organization obligated its annual revenue received from donations for scholarships or tuition grants as required under paragraph (1) of this Code section; that obligated revenues were designated for specific student recipients within the time frame required by paragraph (1) of this Code section; and that all obligated and designated revenue distributed to a qualified school or program for the funding of multiyear scholarships or tuition grants complied with all applicable Department of Revenue rules, then the Department of Revenue shall post on its website the details of such failure to verify. Until any such noncompliant student scholarship organization submits an amended audit, which, to the satisfaction of the Department of Revenue, contains the verifications required under this Code section, the Department of Revenue shall not preapprove any contributions to the noncompliant student scholarship organization; and

(6) Must annually submit notice to the Department of Education in accordance with department guidelines of its participation as a student scholarship organization under this chapter."

SECTION 33C.

Said chapter is further amended by revising Code Section 20-2A-3, relating to taxation reporting requirements for student scholarship organizations, as follows:

"(a) Each student scholarship organization must report to the Department of Revenue, on a form provided by the Department of Revenue, by January 12 of each tax year the following:

(1) The total number and dollar value of individual contributions and tax credits approved. Individual contributions shall include contributions made by those filing income tax returns as a single individual or head of household and those filing joint returns;

(2) The total number and dollar value of corporate contributions and tax credits approved;

(3) The total number and dollar value of scholarships awarded to eligible students; and

(4) The total number of families of scholarship recipients who fall within each quartile of Georgia adjusted gross income as defined and reported annually by the Department of Revenue and the average number of dependents of recipients for each quartile; and

~~(4)~~(5) A list of donors, including the dollar value of each donation and the dollar value of each approved tax credit.

Such report shall also include a copy of the audit conducted pursuant to paragraph (5) of Code Section 20-2A-2. The Department of Revenue shall post on its website the

1080 information received ~~by~~ from each student scholarship organization pursuant to paragraphs
 1081 (1) through (4) of this subsection.
 1082 (b) ~~The Department of Revenue shall not require any other information from student~~
 1083 ~~scholarship organizations, except as expressly authorized in this chapter. Except for the~~
 1084 ~~information reported pursuant to paragraphs (1) through (4) of subsection (a) of this Code~~
 1085 ~~section, all~~ All information or reports provided by student scholarship organizations to the
 1086 Department of Revenue shall be confidential taxpayer information, governed by Code
 1087 Sections 48-2-15, 48-7-60, and 48-7-61, whether it relates to the donor or the student
 1088 scholarship organization."

1089 SECTION 33D.

1090 Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to the
 1091 imposition, rate, and computation of income taxes, is amended by revising Code Section
 1092 48-7-29.16, relating to qualified education tax credits, as follows:

1093 "48-7-29.16.

1094 (a) As used in this Code section, the term:

1095 (1) 'Eligible student' shall have the same meaning as in paragraph (1) of Code Section
 1096 20-2A-1.

1097 ~~(1)(2)~~ (2) 'Qualified education expense' means the expenditure of funds by the taxpayer
 1098 during the tax year for which a credit under this Code section is claimed and allowed to
 1099 a student scholarship organization operating pursuant to Chapter 2A of Title 20 which are
 1100 used for tuition and fees for a qualified school or program.

1101 ~~(2)(3)~~ (3) 'Qualified school or program' shall have the same meaning as in paragraph (2) of
 1102 Code Section 20-2A-1.

1103 ~~(3)(4)~~ (4) 'Student scholarship organization' shall have the same meaning as in paragraph (3)
 1104 of Code Section 20-2A-1.

1105 (b) An individual taxpayer shall be allowed a credit against the tax imposed by this chapter
 1106 for qualified education expenses as follows:

1107 (1) In the case of a single individual or a head of household, the actual amount expended
 1108 or \$1,000.00 per tax year, whichever is less; ~~or~~

1109 (2) In the case of a married couple filing a joint return, the actual amount expended or
 1110 \$2,500.00 per tax year, whichever is less; ~~or~~

1111 (3) Anything to the contrary contained in paragraph (1) or (2) of this subsection
 1112 notwithstanding, in the case of an individual who is a member of a limited liability
 1113 company duly formed under state law, a shareholder of a Subchapter 'S' corporation, or
 1114 a partner in a partnership, the amount expended or \$10,000.00 per tax year, whichever
 1115 is less; provided, however, that tax credits pursuant to this paragraph shall only be

allowed for the portion of the income on which such tax was actually paid by such member of the limited liability company, shareholder of a Subchapter 'S' corporation, or partner in a partnership.

(c) A corporation or other entity shall be allowed a credit against the tax imposed by this chapter for qualified education expenses in an amount not to exceed the actual amount expended or 75 percent of the corporation's income tax liability, whichever is less.

(d)(1) The tax credit shall not be allowed if the taxpayer designates the taxpayer's qualified education expense for the direct benefit of any particular individual, whether or not such individual is a dependent of the taxpayer.

(2) In soliciting contributions, a student scholarship organization shall not represent, or direct a qualified private school to represent, that, in exchange for contributing to the student scholarship organization, a taxpayer shall receive a scholarship for the direct benefit of any particular individual, whether or not such individual is a dependent of the taxpayer. The status as a student scholarship organization shall be revoked for any such organization which violates this paragraph.

(e) In no event shall the total amount of the tax credit under this Code section for a taxable year exceed the taxpayer's income tax liability. Any unused tax credit shall be allowed the taxpayer against the succeeding five years' tax liability. No such credit shall be allowed the taxpayer against prior years' tax liability.

(f)(1) In no event shall the aggregate amount of tax credits allowed under this Code section exceed ~~\$50~~ \$58 million per tax year; ~~provided, however, that this maximum amount shall be adjusted annually until January 1, 2018, which adjustment may be based on the most recent annual percentage change in the Consumer Price Index for All Urban Consumers, U.S. City Average All Items Index, published by the Bureau of Labor Statistics of the United States Department of Labor, as determined by the department.~~

(2) The commissioner shall allow the tax credits on a first come, first served basis.

(3) For the purposes of paragraph (1) of this subsection, a student scholarship organization shall notify a potential donor of the requirements of this Code section. Before making a contribution to a student scholarship organization, the taxpayer shall electronically notify the department, in a manner specified by the department, of the total amount of contributions that the taxpayer intends to make to the student scholarship organization. The commissioner shall preapprove or deny the requested amount within 30 days after receiving the request from the taxpayer and shall provide ~~written~~ notice to the taxpayer and the student scholarship organization of such preapproval or denial which shall not require any signed release or notarized approval by the taxpayer. In order to receive a tax credit under this Code section, the taxpayer shall make the contribution to the student scholarship organization within 60 days after receiving notice from the

department that the requested amount was preapproved. If the taxpayer does not comply with this paragraph, the commissioner shall not include this preapproved contribution amount when calculating the limit prescribed in paragraph (1) of this subsection. The department shall establish a ~~web-based~~ web based donation approval process to implement this subsection.

(4) Preapproval of contributions by the commissioner shall be based solely on the availability of tax credits subject to the aggregate total limit established under paragraph (1) of this subsection. The department shall maintain an ongoing, current list on its website of the amount of tax credits available under this Code section.

(5) Notwithstanding any laws to the contrary, the department shall not take any adverse action against donors to student scholarship organizations if the commissioner preapproved a donation for a tax credit prior to the date the student scholarship organization is removed from the Department of Education list pursuant to Code Section 20-2A-7, and all such donations shall remain as preapproved tax credits subject only to the donor's compliance with paragraph (3) of this subsection.

(g) In order for the taxpayer to claim the student scholarship organization tax credit under this Code section, a letter of confirmation of donation issued by the student scholarship organization to which the contribution was made shall be attached to the taxpayer's tax return. However, in the event the taxpayer files an electronic return, such confirmation shall only be required to be electronically attached to the return if the Internal Revenue Service allows such attachments when the data is transmitted to the department. In the event the taxpayer files an electronic return and such confirmation is not attached because the Internal Revenue Service does not, at the time of such electronic filing, allow electronic attachments to the Georgia return, such confirmation shall be maintained by the taxpayer and made available upon request by the commissioner. The letter of confirmation of donation shall contain the taxpayer's name, address, tax identification number, the amount of the contribution, the date of the contribution, and the amount of the credit.

(h)(1) No credit shall be allowed under this Code section with respect to any amount deducted from taxable net income by the taxpayer as a charitable contribution to a bona fide charitable organization qualified under Section 501(c)(3) of the Internal Revenue Code.

(2) The amount of any scholarship received by an eligible student or eligible pre-kindergarten student shall be excluded from taxable net income for Georgia income tax purposes.

(i) The commissioner shall be authorized to promulgate any rules and regulations necessary to implement and administer the tax provisions of this Code section."

SECTION 33E.

1189

1190 Sections 33A through 33E of this Act shall become effective upon its approval by the
1191 Governor or upon its becoming law without such approval and shall be applicable to all
1192 taxable years beginning on or after January 1, 2013. All other sections shall become effective
1193 on July 1, 2013.

SECTION 34.

1194

1195 All laws and parts of laws in conflict with this Act are repealed.