

_____ offers the following
 substitute to SB 167:

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 address various issues impacting students in public schools in this state, including student
 3 data, student competencies, and student testing; to provide for a public process to review
 4 changes to content standards in core subjects; to provide for legislative findings; to provide
 5 for the establishment of Content Standards Advisory Councils; to authorize the councils to
 6 review content standards, assessments, and data collection policies; to provide for
 7 subcommittees; to provide for public hearings and public input; to provide for recommended
 8 changes; to provide for timelines; to prohibit the state from relinquishing any control over
 9 content standards or assessments; to provide for flexibility; to establish limitations and
 10 requirements regarding student data; to provide for definitions; to provide for limitations on
 11 the collection and disclosure of student information; to provide for penalties and
 12 enforcement; to provide for related matters; to provide for effective dates; to repeal
 13 conflicting laws; and for other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

PART I

SECTION 1-1.

17 The General Assembly finds that:

- 18 (1) The state should establish world class competencies and content standards that will
 19 provide a broad liberal arts education and lead to educated citizens equipped to preserve
 20 a self-governing republic of free people who are prepared for postsecondary education and
 21 economic self-sufficiency in a globally competitive world; and
 22 (2) In the process of determining such competencies and content standards, there should
 23 be strong citizen participation in the process; and
 24 (3) Georgians must always remain in firm control of the state's competencies and content
 25 standards.

SECTION 1-2.

Title 20 of the Official Code of Georgia Annotated, relating to education, is amended by revising Code Section 20-2-141, relating to the review of competencies and core curriculum, as follows:

"20-2-141.

(a) The State Board of Education shall review content standards in each of the four core subject areas of mathematics, English language arts, science, and social studies establish at least once every four ~~five~~ years a review of the adopted competencies and uniformly sequenced core curriculum by a task force broadly representative of educational interests and the concerned public. After considering the findings and recommendations of the task force, the state board shall make such changes in the student competencies lists and core curriculum as it deems in the best interest of the state and its citizens and shall report such proposed changes to local school systems and the General Assembly for review. The state board shall propose changes to such content standards as it deems in the best interest of students, their parents, teachers, and taxpayers.

(b) The state board shall establish and implement a process in accordance with the requirements of this Code section which includes that:

(1) The state board shall review relevant research in the core subject area under review and identify the content standards where revision is appropriate;

(2) The state board shall examine content standards for such core subject area which have been previously or are currently adopted by Georgia or by other states or countries, with preference given to states and countries with highly rated nationally or internationally competitive test results;

(3) Through an open and transparent process, the state board shall solicit interested persons who are eligible to be appointed to and serve on an advisory council convened pursuant to subsection (c) of this Code section. The state board shall submit all such names to the Governor, Lieutenant Governor, and Speaker of the House of Representatives for their consideration for appointment; and

(4) The state board shall report its proposed changes to content standards for a core subject area to such advisory council. Upon receipt of the state board's proposed changes to content standards, the Council shall immediately begin its review, which may include review of other content standards within the same subject area, state-wide criterion-referenced assessments related to the same subject area, or data collection policies; provided, however, that nothing shall preclude the Council from commencing any review as soon as the Council members are appointed.

(c)(1) On a biennial basis, a Content Standards Advisory Council ('Council') shall be convened pursuant to this subsection to review proposed changes by the state board to

63 content standards in core subject areas. Each Council convened pursuant to this
 64 subsection shall exist for a term of two years and shall review a specified subject area in
 65 each year of its two-year term. The Council shall be composed of 17 members as
 66 follows:

67 (A) Six parent or grandparent representatives, representing public school students; the
 68 Governor, the Lieutenant Governor, and the Speaker of the House of Representatives
 69 shall each appoint two parent or grandparent representatives;

70 (B) Six current or retired teacher representatives, including two elementary school
 71 teachers, two middle school teachers, and two high school teachers, appointed by the
 72 Governor;

73 (C) Two private-sector representatives with one or more children in a public school in
 74 this state, one appointed by the Lieutenant Governor and one appointed by the Speaker
 75 of the House of Representatives; and

76 (D) Three postsecondary content specialist education representatives, appointed by the
 77 Governor. As used in this subparagraph, the term 'postsecondary content specialist'
 78 means someone who is currently employed or retired, who has taught the subject
 79 content for at least five years in a postsecondary institution, and who has an advanced
 80 degree. Advanced degrees in education of the subject, such as mathematics education
 81 or science education, do not qualify for the purpose of this subparagraph.

82 (2) Council members shall possess at least a bachelor's degree in at least one of the
 83 subject areas under review during such member's two-year term or a related subject area
 84 at a minimum and have appropriate experience and credentials, as determined by the
 85 appointing official. All members of the Council shall be residents of the State of Georgia
 86 for at least six months prior to appointment. To the extent possible, the Council shall
 87 include balanced representation from urban, suburban, and rural areas and representation
 88 from each congressional district. The Council shall elect a chairperson and vice
 89 chairperson from among its membership.

90 (3) Council members shall serve a two-year term and may be reappointed once. In the
 91 event of a vacancy, such member shall be replaced within 30 days of such vacancy in the
 92 same manner as the original appointment made pursuant to paragraph (1) of this
 93 subsection.

94 (4) The Council shall establish subcommittees to help carry out its duties and
 95 responsibilities under this Code section. Such subcommittees shall include Council
 96 members and other appropriate individuals, such as current or retired educators, content
 97 specialists, and early childhood specialists, knowledgeable and experienced in the subject
 98 area under review. Each subcommittee shall elect a chairperson and co-chairperson.

99 (5) Council members and subcommittee members shall be reimbursed for per diem and
 100 travel expenses in the same manner as provided for in Code Section 45-7-21. Subject to
 101 appropriations, non-public-sector members may receive an honorarium for their services
 102 and local school systems may be reimbursed for the cost incurred in hiring substitute
 103 teachers in the absence of educators serving on a subcommittee. Council members and
 104 subcommittee members, as well as any members of their families or their business
 105 entities, shall not have conflicts of interest with regard to actions taken by the Council
 106 and shall not accept any money, meals, trips, gifts, or any other favors from any person,
 107 business, or organization that would benefit, financially or otherwise, from actions taken
 108 by the Council.

109 (6) The state board shall post on the department website the names, contact information,
 110 and credentials of each Council member and subcommittee member.

111 (d) Any and all meetings conducted by the state board, the Council, or subcommittees of
 112 the Council at which content standards are discussed or decided upon shall be subject to
 113 Chapter 14 of Title 50, relating to open and public meetings; provided, however, that this
 114 shall not apply to assessment instruments reviewed or discussed pursuant to subsection (i)
 115 of Code Section 20-2-281.

116 (e) Prior to the 90 day period provided for in subsection (f) of this Code section, the state
 117 board shall:

118 (1) Post all proposed changes to content standards on the department website;

119 (2) Submit all proposed changes to content standards to the Council, Governor,
 120 Lieutenant Governor, Speaker of the House of Representatives, chairperson of the Senate
 121 Education and Youth Committee, chairperson of the House Committee on Education, and
 122 each local school system. Upon receipt of proposed changes from the state board, each
 123 local school system shall notify the parents or guardians of its students that proposed
 124 content standards are available for review on the department website; and

125 (3) Submit all proposed changes to content standards to the president of each public
 126 postsecondary institution in this state. Upon receipt of proposed changes from the state
 127 board, the president of each public postsecondary institution in this state shall provide an
 128 electronic copy of the proposed changes to the appropriate school deans and department
 129 heads.

130 (f) The state board shall provide a 90 day period for public review and comment on its
 131 proposed content standards and on any other content standards in the same subject area.

132 Within such 90 day period:

133 (1) Each state board member shall conduct at least one public hearing and shall provide
 134 notice of such hearing by issuing a press release to print and broadcast media serving the
 135 congressional district and providing notice to each local school system within the

136 congressional district. Upon receipt of such notice, each local school system shall notify
137 parents and guardians of all students of such public hearing. The state board shall
138 provide at least one week's notice to each state legislator who represents a portion of the
139 congressional district. The state board shall cause minutes of the hearings to be taken and
140 shall distribute such minutes to all state board members and Council members within ten
141 business days of each such public hearing;

142 (2) The state board shall solicit feedback on the proposed content standards or on any
143 other content standards in the same subject area from teachers, parents, and other
144 stakeholders through the development, posting, and advertisement of an online survey
145 and shall accept any comments via e-mail or United States mail. The state board shall
146 also solicit feedback from appropriate content related organizations, associations, and
147 agencies. All feedback received by the state board shall be made available to the
148 Council; and

149 (3) The Senate Education and Youth Committee and the House Committee on Education
150 may each hold additional public hearings to provide additional opportunity for public
151 comments on the proposed changes and shall submit to the Council any public comments
152 received from the hearings.

153 All public comments received by the state board in the 90 day period shall be part of the
154 public record and shall be maintained by the department and available for review for at
155 least 12 years.

156 (g) The Council and its subcommittees shall review the proposals made by the state board
157 and the feedback received pursuant to subsection (f) of this Code section and, with any
158 needed assistance from the department, propose changes to the state board's proposed
159 content standards as it deems appropriate. Any proposed changes by the Council shall be
160 submitted to the state board by the Council in the form of a written report no later than 60
161 days after the expiration of the 90 day period for public review provided in subsection (f)
162 of this Code section. The Council and its subcommittees shall also have the discretion to
163 review and make recommendations on any related content standards in the same subject
164 area, on any state-wide assessments administered pursuant to Code Section 20-2-281 which
165 are criterion-referenced assessments relating to the subject area under review, and on any
166 data collection policies of the Department of Education or Office of Student Achievement.

167 (h) Simultaneously with submitting the written report to the state board pursuant to
168 subsection (g) of this Code section, the Council, through the department, shall provide an
169 electronic copy of the changes proposed by the Council to all members of the Senate
170 Education and Youth Committee and House Committee on Education, to each local school
171 system, and to the president of each public postsecondary institution in this state, and shall

172 make such proposed changes available to the public via Internet posting on the department
 173 website.

174 (i) After receipt of the revised proposed content standards from the Council, the state
 175 board shall take into consideration the recommendations of the Council, and the state
 176 board, in an open public meeting, shall make changes to the content standards as it deems
 177 in the best interest of students, their parents, teachers, and this state's citizens. The
 178 adoption of content standards pursuant to this Code section shall not be subject to Article
 179 1 of Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' The state board
 180 shall report such approved content standards to local school systems and the General
 181 Assembly and post such approved content standards in an easily accessible location on the
 182 department website.

183 (j) The requirements contained in this Code section shall apply to all content standards in
 184 accordance with a timetable established by the state board; provided, however, that the
 185 review of content standards in mathematics shall be completed no later than May 31, 2015,
 186 and implemented no later than the beginning of the 2016-2017 school year, and the review
 187 of content standards in English language arts shall be completed no later than May 31,
 188 2016, and implemented no later than the beginning of the 2017-2018 school year. Nothing
 189 in this subsection shall prohibit the state board from accelerating the timetable or
 190 conducting the review of two subject areas in the same year or prohibit a local board of
 191 education from implementing the revised mathematics content standards in the 2015-2016
 192 school year."

193 **SECTION 1-3.**

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

195 "20-2-141.1.

196 (a) On and after the effective date of this Code section, the State of Georgia shall retain
 197 sole control over the content standards established pursuant to Code Section 20-2-140 and
 198 no content standards shall be adopted or implemented except in accordance with the
 199 procedures required by Code Section 20-2-141; provided, however, that such required
 200 procedures shall not apply to courses developed and submitted by local boards of education
 201 for approval by the state board.

202 (b)(1) No official of the State of Georgia, whether elected or appointed or representing
 203 the state in any capacity, shall join, on behalf of the state or a state agency, any
 204 consortium, association, or entity or enter into a binding agreement, when such
 205 membership or agreement would relinquish any measure of control over standards and
 206 assessments, to any entity other than the State of Georgia.

207 (2) The Department of Education shall annually submit to the General Assembly a
208 detailed report of all grants, including federal, private, or from other sources, that the
209 department has applied for or received and of all outside funding that the department has
210 received.

211 (c) All mandated state criterion based K-12 tests and assessments shall be controlled by
212 the State of Georgia without any obligation to other entities, states, consortia, or the federal
213 government. The state shall not relinquish any binding control over testing as a condition
214 of receiving a grant or federal funding. On and after the effective date of this Code section,
215 criterion assessments developed pursuant to Code Section 20-2-281 shall be aligned with
216 the content standards revised pursuant to Code Section 20-2-141 for each subject area.
217 Until such new assessments aligned with the content standards revised pursuant to Code
218 Section 20-2-141 are developed, the state board shall use elementary, middle, and high
219 school level criterion assessments which progress toward revised content standards. This
220 subsection shall not be construed to prevent the administration of any standardized tests,
221 such as the National Assessment of Educational Progress, the Scholastic Assessment Test,
222 the ACT Assessment, the Iowa Test of Basic Skills, the COMPASS Assessment, Advanced
223 Placement tests, or other similar tests."

224 **SECTION 1-4.**

225 (a) Following the adoption of content standards pursuant to the process established in Code
226 Section 20-2-141, local school systems may sequence, expand, and enrich the content
227 standards to the extent deemed necessary and appropriate for its students and communities.

228 (b) Local school systems shall ensure strict compliance with the federal Individuals with
229 Disabilities Education Act and with other federal disabilities laws and shall fully implement
230 all Individualized Education Programs, Section 504 plans, and accommodations for English
231 Language Learners established pursuant to such federal laws and shall not construe any state
232 adopted standards to supersede the requirements of any such program, plan, or
233 accommodation.

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PART II

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SECTION 2-1.

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Title 20 of the Official Code of Georgia Annotated, relating to education, is amended by

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adding a new article to Chapter 1, relating to general provisions, to read as follows:

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"ARTICLE 3

239

20-1-30.

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(a) As used in this article, the term:

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(1) 'Department' means the Georgia Department of Education.

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(2) 'Education institution' means any public early care and learning program, elementary

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or secondary school, or governing board of a charter school in this state.

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(3) 'Local school system' means any local board of education, local school system, or

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governing board of a charter school in this state.

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(4) 'State agency' means the Georgia Department of Education, the State Board of

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Education, the Education Coordinating Council, the Office of Student Achievement, the

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Georgia Department of Early Care and Learning, the Georgia Student Finance

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Commission, the Georgia Student Finance Authority, the Georgia Professional Standards

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Commission, any regional educational service agency, or any other state pre-K through

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grade 12 education related entity, including any education related foundation or nonprofit

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entity established by Georgia statute or which derives its authority from Georgia statutes.

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(5) 'Student data base' means any computer system which houses or maintains data on

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Georgia students in pre-kindergarten through postsecondary education.

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(6) 'Written consent' means signed and dated consent in written form or by electronic

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signature given prior to the data collection or disclosure and specifically consenting to

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the collection or disclosure of specific data.

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(b) As used in this article, the terms 'disclosure,' 'education records,' 'eligible student,'

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'institution of postsecondary education,' 'parent,' 'party,' 'personally identifiable

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information,' 'record,' and 'student' shall have the same meaning as those terms are defined

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in the regulations (34 C.F.R. Part 99.3) promulgated under the Family Educational Rights

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and Privacy Act as of January 1, 2014.

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20-1-31.

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(a)(1) The State of Georgia declares that the following information is not directly related

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to the educational needs of the student and shall not be collected, entered into any student

266 data base, or maintained as student records by a state agency, local school system, or
 267 education institution:

268 (A) DNA, fingerprint, or retina or iris pattern information;

269 (B) Student or family religious affiliation, beliefs, or practices;

270 (C) Student or family political affiliation, beliefs, or practices;

271 (D) Student or family member sexual orientation or beliefs about sexual orientation;

272 or

273 (E) Student or family gun ownership or usage.

274 (2) No state agency, local school system, or education institution shall pursue or accept
 275 any grant, whether from the federal government or any public or private entity, that
 276 would require the collection or reporting of any of the student information contained in
 277 paragraph (1) of this subsection.

278 (b)(1) Except as otherwise authorized by this Code section, access to personally
 279 identifiable information in the student data base shall be restricted to the authorized
 280 representatives of the state agency, local school system, institution of postsecondary
 281 education or its governing board, or education institution who require such access to
 282 perform their assigned duties. No individual shall be designated an authorized
 283 representative for such purposes unless he or she is employed by or under contract with
 284 the designating state agency, local school system, institution of postsecondary education
 285 or its governing board, or education institution.

286 (2) Personally identifiable information stored in a student data base that is accessed over
 287 the Internet or other public network shall be protected through a secure encrypted
 288 protocol. Access through a web browser shall use at a minimum Hypertext Transfer
 289 Protocol Secure, while access through other means shall use the industry standard
 290 encryption technologies applicable to the most sensitive component of the record.

291 (3) Any state agency, local school system, education institution, vendor, contractor, or
 292 third party that houses a student data base containing personally identifiable information
 293 shall be responsible for the protection of the student data base and shall use industry
 294 standard encryption technologies applicable to the most sensitive component of the
 295 record to protect data in its custody. Any vendor, contractor, or third party that houses
 296 a student data base containing personally identifiable information shall use industry
 297 standard physical security protocols for access to hardware containing the data. Any
 298 vendor, contractor, or third party responsible for personally identifiable information may
 299 only use it for purposes explicitly authorized in their contract.

300 (4) No personally identifiable information from a student data base shall be provided by
 301 a state agency, local school system, education institution, or contractor of any such entity
 302 to any federal agency unless specifically required by federal law or federal regulation

303 promulgated under the federal Administrative Procedure Act, 5 U.S.C. Section 500, et
304 seq. For any personally identifiable information that is specifically required to be
305 disclosed, the State of Georgia shall require as a condition of disclosure that such
306 information shall not be used for any commercial or noneducational purpose, unless
307 required by court order. In any case in which personally identifiable information is
308 provided to a federal agency, the parent or eligible student shall be informed by the
309 responsible state agency, local school system, or education institution of each data
310 element of personally identifiable information provided.

311 (5) Subject to the provisions of subsection (b) of Code Section 20-2-141.1, for federal
312 education grants that require the disclosure of personally identifiable information, the
313 state agency, local school system, or education institution shall ensure that only the
314 elements of data specifically required for such grant be disclosed and that as a condition
315 of disclosure, such information shall not be used for any commercial or noneducational
316 purpose, unless required by court order.

317 (6) Nothing in this Code section shall be construed to prevent a parent or eligible student,
318 without coercion, from providing written consent to allow a state agency, local school
319 system, or education institution to disclose personally identifiable information on behalf
320 of such parent or their student; provided, however, that this shall not apply to any
321 information listed in subsection (a) of this Code section; and provided, further, that
322 nothing in this Code section shall be construed to allow any state agency, local school
323 system, or education institution to solicit, collect, or maintain any information listed in
324 subsection (a) of this Code section.

325 (c)(1) In addition to the prohibitions contained in paragraphs (4) and (5) of subsection
326 (b) of this Code section, information from education records which is not personally
327 identifiable information shall not be disclosed to any party for a commercial use or for
328 any noneducational purpose, unless required by court order.

329 (2) Nothing in this Code section shall be construed to prohibit a state agency, local
330 school system, or education institution from releasing aggregate data or data sets as long
331 as such data or data sets do not contain personally identifiable information.

332 (d) All student data shall be stored within the boundaries of the United States or Canada,
333 or in a facility owned and controlled by a United States corporation and governed by
334 United States privacy laws.

335 (e) State agencies, local school systems, and education institutions shall disclose upon
336 request from any person a description of the specific fields of data of personally
337 identifiable information from education records maintained by such state agency, local
338 school system, or education institution, directly or through contracts with outside parties.

339 (f) The Department of Education and the Office of Student Achievement shall conduct a
 340 privacy impact statement pursuant to 44 U.S.C. Section 3501, et seq. every five years on
 341 the Georgia Longitudinal Data System and any similar state data system maintaining
 342 education records. The first such privacy impact statement shall be completed by
 343 December 31, 2014, and by December 31 every five years thereafter.

344 20-1-32.

345 (a) Each violation of any provision of Code Section 20-1-31 by a contractor, consultant,
 346 or other party that has entered into a contract with a state agency, local school system, or
 347 education institution and is subject to the provisions of this article shall be punishable by
 348 a civil penalty of up to \$1,000.00 and may result in permanent disqualification by the state
 349 agency, local school system, or education institution from access to education records.
 350 Each violation involving a different individual student shall be considered a separate
 351 violation for purposes of civil penalties under this subsection.

352 (b) The Attorney General shall have the authority to enforce compliance with this article."

353 **PART III**

354 **SECTION 3-1.**

355 (a) Part I and Part III of this Act shall become effective upon its approval by the Governor
 356 or upon its becoming law without such approval.

357 (b) Part II of this Act shall become effective on July 1, 2015.

358 **SECTION 3-2.**

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