

\_\_\_\_\_ offers the following  
substitute to SB 167:

A BILL TO BE ENTITLED  
AN ACT

To amend Title 20 of the Official Code of Georgia Annotated, relating to education, so as to address various issues impacting students in public schools in this state, including student data, student competencies, and student testing; to provide for a public process to review changes to content standards in core subjects; to provide for legislative findings; to provide for the establishment of Content Standards Advisory Councils; to authorize the councils to review content standards, assessments, and data collection policies; to provide for subcommittees; to provide for public hearings and public input; to provide for recommended changes; to provide for timelines; to prohibit the state from relinquishing any control over content standards or assessments; to provide for flexibility; to establish limitations and requirements regarding student data; to provide for definitions; to provide for limitations on the collection and disclosure of student information; to provide for penalties and enforcement; to provide for related matters; to provide for effective dates; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

PART I  
**SECTION 1-1.**

The General Assembly finds that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### **SECTION 1-3.**

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

"20-2-141.1.

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

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

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

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

#### **SECTION 1-4.**

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

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

## PART II

## SECTION 2-1.

Title 20 of the Official Code of Georgia Annotated, relating to education, is amended by adding a new article to Chapter 1, relating to general provisions, to read as follows:

"ARTICLE 320-1-30.

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

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

(2) 'Education institution' means any public early care and learning program, elementary or secondary school, or governing board of a charter school in this state.

(3) 'Local school system' means any local board of education, local school system, or governing board of a charter school in this state.

(4) 'State agency' means the Georgia Department of Education, the State Board of Education, the Education Coordinating Council, the Office of Student Achievement, the Georgia Department of Early Care and Learning, the Georgia Student Finance Commission, the Georgia Student Finance Authority, the Georgia Professional Standards Commission, any regional educational service agency, or any other state pre-K through grade 12 education related entity, including any education related foundation or nonprofit entity established by Georgia statute or which derives its authority from Georgia statutes.

(5) 'Student data base' means any computer system which houses or maintains data on Georgia students in pre-kindergarten through postsecondary education.

(6) 'Written consent' means signed and dated consent in written form or by electronic signature given prior to the data collection or disclosure and specifically consenting to the collection or disclosure of specific data.

(b) As used in this article, the terms 'disclosure,' 'education records,' 'eligible student,' 'institution of postsecondary education,' 'parent,' 'party,' 'personally identifiable information,' 'record,' and 'student' shall have the same meaning as those terms are defined in the regulations (34 C.F.R. Part 99.3) promulgated under the Family Educational Rights and Privacy Act as of January 1, 2014.

20-1-31.

(a)(1) The State of Georgia declares that the following information is not directly related to the educational needs of the student and shall not be collected, entered into any student



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

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

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

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

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

or

(E) Student or family gun ownership or usage.

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

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

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

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

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

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

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

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

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

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

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

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

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

20-1-32.

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

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

### PART III

#### SECTION 3-1.

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

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

#### SECTION 3-2.

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