substitute to SB 472: _____ offers the following

A BILL TO BE ENTITLED

AN ACT

To amend Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and secondary education, so as to provide for the suspension of members of local boards of education following certain audit findings or findings by the state auditor of financial mismanagement or misconduct; to provide for employment contract terms, conditions, and limitations for local school superintendents under certain conditions; to provide for a cap on the total amount of advance distributions of state allotted funds that may be made by the State Board of Education to local units of administration; to provide for plans for monitoring, supports, and intervention; to provide for the authority of the state auditor relative to such plans; to provide that a petition signed by 10 percent of the qualified voters in an independent school system shall be required in order to hold an election to determine whether to annul the special law of the independent school system so that it becomes a part of the respective county school system or systems in which the territory of the independent school system is located; to repeal outdated terms and provisions; to make conforming changes; to amend Chapter 6 of Title 50 of the Official Code of Georgia Annotated, relating to the Department of Audits and Accounts, so as to revise provisions for financial audits of local school systems and state charter schools by and on behalf of the Department of Audits and Accounts; to require the Department of Audits and Accounts to develop and implement a program of progressive monitoring, supports, and interventions to local school systems and

state charter schools; to provide for investigations of local school systems by the state auditor; to provide for an effective date; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to elementary and secondary education, is amended in Article 3, relating to local boards of education, by revising Code Section 20-2-73, relating to suspension and removal of local school board members upon potential loss of accreditation or when schools in system are turnaround eligible schools, procedures, petition for reinstatement, prohibition on use of public funds for litigation expenses, and reimbursement of expenses, as follows:

"20-2-73.

(a)(1) Notwithstanding Code Section 20-2-54.1 or any other provisions of law to the contrary, if:

(A) A local school system or school is placed on the level of accreditation immediately preceding loss of accreditation for any reason or reasons by one or more accrediting agencies included in subparagraph (A) of paragraph (6) of Code Section 20-3-519, the local board of education shall notify the State Board of Education in writing within three business days of such placement and the State Board of Education shall conduct a hearing in not less than ten days of such notice nor more than 90 days and recommend to the Governor whether to suspend all eligible members of the local board of education with pay; ~~or~~

(B) One-half or more of the schools in a local school system are turnaround eligible schools, as defined in subsection (a) of Code Section 20-14-45, for the fifth or more consecutive year, the Department of Education shall notify the State Board of

Education in writing within three business days of the publication of the list of turnaround eligible schools by the Office of Student Achievement, and the State Board of Education with input from the State School Superintendent shall conduct a hearing in not less than ten days of such notice nor more than 90 days and recommend to the Governor whether to suspend all eligible members of the local board of education with pay; provided, however, that this subparagraph shall be tolled for a local board of education while under a contract amendment or intervention contract pursuant to Code Section 20-14-45 so long as such local board of education is in substantial compliance with the terms of such contract amendment or intervention contract; or

(C)(i) A local school system is designated by the state auditor as requiring the highest level of monitoring, supports, and interventions promulgated by the Department of Audits and Accounts pursuant to Code Section 50-6-6, the local school superintendent shall notify the State Board of Education in writing within three business days of receiving such designation, and the State Board of Education shall, upon a recommendation of the audit committee of the State Board of Education followed by a majority vote of the State Board of Education, conduct a hearing in not less than ten days of such vote nor more than 90 days and recommend to the Governor whether to suspend any eligible members of the local board of education with pay.

(ii) A local board of education, a member thereof, a local school system, or a local school superintendent is the subject of a finding by the state auditor of financial mismanagement or misconduct following an investigation made pursuant to Code Section 50-6-28, the state auditor shall notify the State Board of Education in writing within three business days of such finding, and the State Board of Education shall, upon a recommendation of the audit committee of the State Board of Education followed by a majority vote of the State Board of Education, conduct a hearing in not less than ten days of such vote nor more than 90 days and recommend to the Governor whether to suspend any eligible members of the local board of education with pay.

(2) A majority of the members of a local board of education may petition the State Board of Education to continue any hearing scheduled under this subsection. Upon a showing of good cause, the ~~state board~~ State Board of Education may in its sound discretion continue any such hearing. Notwithstanding any other provision of law, deliberations held by the State Board of Education pursuant to this subsection to formulate its recommendation to the Governor shall not be open to the public; provided, however, that testimony shall be taken in an open meeting and a vote on the recommendation shall be taken in an open meeting following the hearing or at the next regularly scheduled meeting. If the State Board of Education makes such recommendation, the Governor may, in his or her discretion, suspend all eligible members of the local board of education with pay and, in consultation with the State Board of Education, appoint temporary replacement members who shall be otherwise qualified to serve as members of such board.

(b) Any local board of education member suspended under this Code section may petition the Governor for reinstatement no earlier than 30 days following suspension and no later than 60 days following suspension. In the event that a suspended member does not petition for reinstatement within the allotted time period, his or her suspension shall be converted into permanent removal, and the temporary replacement member shall become a permanent member and serve out the remainder of the term of the removed member.

(c) Upon petition for reinstatement by a suspended local board of education member, the Governor or his or her designated agent shall conduct a hearing for the purpose of receiving evidence relative to whether the local board of education member's continued service on the local board of education is more likely than not to improve the ability of the local school system or school to retain or reattain its accreditation; ~~or~~ to improve the ratings of the schools in the local school system so that less than one-half of the schools in such local school system are on the turnaround eligible schools list in subsequent years; to no longer be designated by the state auditor as requiring the highest level of monitoring, supports,

and interventions promulgated by the Department of Audits and Accounts pursuant to Code Section 50-6-6; or to remediate or mitigate the state auditor's finding of financial mismanagement or misconduct. The appealing member shall be given at least 30 days' notice prior to such hearing. Such hearing shall be held not later than 90 days after the petition is filed and in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' except that the individual conducting the hearing shall have the power to call witnesses and request documents on his or her own initiative. For purposes of said chapter and any hearing conducted pursuant to this Code section, the Governor shall be considered the agency, and the Attorney General or his or her designee shall represent the interests of the Governor in the hearing. If it is determined that it is more likely than not that the local board of education member's continued service on the local board of education improves the ability of the local school system or school to retain or reattain its accreditation; ~~or~~ to improve the ratings of the schools in the local school system so that less than one-half of the schools in such local school system are on the turnaround eligible schools list in subsequent years; to no longer be designated by the state auditor as requiring the highest level of monitoring, supports, and interventions promulgated by the Department of Audits and Accounts pursuant to Code Section 50-6-6; or to remediate or mitigate the state auditor's finding of financial mismanagement or misconduct, the member shall be immediately reinstated; otherwise, the member shall be permanently removed, and the temporary replacement member shall become a permanent member and serve out the remainder of the term of the removed member or until the next general election which is at least six months after the member was permanently removed, whichever is sooner. Judicial review of any such decision shall be in accordance with Chapter 13 of Title 50.

(d)(1) Subparagraph ~~(B) of paragraph (1) of subsection (a)~~ (a)(1)(A) of this Code section shall apply to a local school system or school which is placed on the level of accreditation immediately preceding loss of accreditation on or after April 20, 2011.

(2) Subparagraph ~~(B) of paragraph (1) of subsection (a)~~ (a)(1)(B) of this Code section shall apply to a local school system which, on or after July 1, 2017, has one-half or more of the schools in the local school system on the turnaround eligible schools list for the fifth or more consecutive year.

(3) Subparagraph (a)(1)(C) of this Code section shall apply to a local school system on or after July 1, 2026, if:

(A) Such local school system is designated by the state auditor as requiring the highest level of monitoring, supports, and interventions promulgated by the Department of Audits and Accounts pursuant to Code Section 50-6-6; or

(B) Such local school system, the local board of education or a member thereof, or the local school superintendent is the subject of a finding of financial mismanagement or misconduct.

(e) For purposes of this Code section, an eligible member of a local board of education shall mean a board member who:

(1) Was serving on the local board of education at the time the accrediting agency placed the local school system or school on the level of accreditation immediately preceding loss of accreditation; ~~or~~

(2) Was serving on the local board of education at the time the local school system had one-half or more of the schools in the local school system on the turnaround eligible schools list for the fifth or more consecutive year and had served on the local board of education for at least the immediately preceding two years;

(3) Was serving on the local board of education at the time the local school system was designated by the state auditor as requiring the highest level of monitoring, supports, and interventions promulgated by the Department of Audits and Accounts pursuant to Code Section 50-6-6; or

(4) Was serving on the local board of education at the time the local board of education or a member thereof, the local school system, or the local school superintendent was the subject of a finding of financial mismanagement or misconduct.

(f) A local board of education shall not expend any public funds for attorney's fees or expenses of litigation relating to proceedings initiated pursuant to this Code section except to the extent such fees and expenses are incurred prior to and through the recommendation of the ~~state board~~ State Board of Education as provided for in subsection (a) of this Code section; provided, however, that nothing in this subsection shall be construed to prohibit an insurance provider from covering attorney's fees or expenses of litigation under an insurance policy.

(g) Any suspended board member who is reinstated by the Governor pursuant to this Code section may be reimbursed by the local board of education for his or her reasonable attorney's fees and related expenses incurred in pursuing such reinstatement."

SECTION 2.

Said chapter is further amended in Article 5, relating to local school superintendents, by revising Code Section 20-2-101, relating to appointment of school superintendents, as follows:

"20-2-101.

(a)(1) Except as provided in paragraph (2) of this subsection, each local school superintendent ~~Superintendents of each school system~~ shall be employed by the local board of education under written contracts for a term of not less than one year and not more than three years. Any provision of any such contract which provides for an extension of the duration of employment thereunder, whether automatic or contingent upon the occurrence of one or more events, shall be void if that extension would result in employment under the contract, as extended, for a period which exceeds three years.

(2) At any time a local school system is designated as a high-risk local school system by the Department of Audits and Accounts pursuant to Code Section 20-2-67, the local school superintendent's contract of employment shall not be extended for a term which exceeds 12 months. Any such term which exceeds 12 months shall be void.

(3) Any contract by which a local school superintendent is employed by a local board of education that is entered into or renewed on or after July 1, 2026, shall include terms and conditions that shall have the following effect:

(A) It shall be an act of default for the local school superintendent to be the subject of a finding by the state auditor of financial mismanagement or misconduct following an investigation made pursuant to Code Section 50-6-28;

(B) It shall be an act of default for the local school superintendent to be the subject of a finding by the state auditor that the local school superintendent has knowingly failed or refused to comply with a material requirement of a plan for intervention or other corrective action plan put in place in conjunction with the local school system being designated by the state auditor as requiring the highest level of monitoring, supports, and interventions promulgated by the Department of Audits and Accounts pursuant to Code Section 50-6-6; and

(C) In the event of an act of default provided for in subparagraph (A) or (B) of this paragraph, the local board of education shall be authorized to terminate the employment contract of the local school superintendent for cause.

(b)(1) No person shall be eligible to be appointed or employed or to serve as a local school superintendent ~~of schools of any county or independent school system~~ unless such person is of good moral character, has never been convicted of any crime involving moral turpitude, and possesses acceptable business or management experience as specified by the Professional Standards Commission or the minimum valid certificate or a letter of eligibility for said certificate required by the Professional Standards Commission.

(2) No person shall be eligible to be appointed or employed~~;~~ or to serve as a local school superintendent ~~of schools of any county or independent school system~~ who has an immediate family member sitting on the local board of education for ~~such~~ the local school system or who has an immediate family member hired as or promoted to a principal, assistant principal, or system administrative staff on or after July 1, 2009, by ~~that~~ such local school system. As used in this ~~subsection~~ paragraph, the term 'immediate family member' means a spouse, child, sibling, or parent or the spouse of a child, sibling, or parent whose term as a member of the local board of education or whose employment as a principal, assistant principal, or system administrative staff in the local school system began on or after January 1, 2010. Nothing in this ~~Code section~~ paragraph shall affect the employment of any person who is employed by a local school system on or before July 1, 2009, or who is employed by a local school system when an immediate family member becomes the local school superintendent for ~~that~~ such local school system.

(c) Local school superintendents ~~Superintendents~~ shall have such additional qualifications as may be prescribed by local law or policies of the local board of education ~~for that school district~~, not inconsistent with the provisions of this chapter.

(d) At any time during the 12 months immediately preceding the expiration of an appointed local school superintendent's contract or term of office, or when a vacancy in the office of local school superintendent occurs, the local board of education may appoint and employ a successor local school superintendent in accordance with the above provisions of this Code section, notwithstanding that the terms of some or all of the local board of education members will expire before ~~the employment of the superintendent so appointed and employed~~ such employment begins.

(e) A local school superintendent may concurrently serve as a principal, teacher, or in another staff position as directed by the local board of education in its sole discretion and in accordance with the terms of the contract between the local school superintendent and the local board of education. A local school superintendent may also serve concurrently

as local school superintendent of one or more local school systems in accordance with the terms of his or her respective contracts and upon approval by each affected local school system.

(f) No substantive or procedural right regarding employment or termination of employment of a local school superintendent by a local school system shall be created by this Code section. Rather, the terms and conditions of employment of a local school superintendent by a local school system shall be determined exclusively by the contract between those parties and may include, without being limited to, the conditions under and procedures by which ~~that~~ such contract may be terminated prior to the end of the term of ~~that~~ such contract."

SECTION 3.

Said chapter is further amended in Part 4 of Article 6, relating to financing under the "Quality Basic Education Act," by revising subsection (b) of Code Section 20-2-166, relating to state funds, calculation, allotment, and distribution, as follows:

"(b)(1) The State Board of Education shall, by regulation, provide for distribution of state funds allotted to local units of administration under this article and budgets approved by the ~~state board~~ State Board of Education. The state board is authorized to provide for distribution of such state allotted funds to local units of administration at such times and in such manner as will most likely meet the periodic needs of local units for the state allotted funds, except as provided in paragraph (2) of this subsection. In determining the time and manner for distribution of state allotted funds, the ~~state board~~ State Board of Education may consider the time at which local school tax funds shall be collected and made available to local units of administration. State allotted funds to be distributed to local units under this article shall be withdrawn from the state treasury on requisitions to be signed by the State School Superintendent, which shall be signed in accordance with such regulations and directions of the ~~state board~~ State Board of Education.

(2)(A) Except as provided for in subparagraph (B) of this paragraph, the aggregate of state allotted funds distributed by the State Board of Education to a local unit of administration in advance of the routine periodic allotments established by the Office of Planning and Budget shall not exceed an amount that is equal to 50 percent of the total of such local unit's state allotted funds for the preceding fiscal year.

(B) In the event that a local unit of administration requests or, in the opinion of the state auditor, requires an advance distribution by the State Board of Education of state allotted funds that would exceed the limit provided for in subparagraph (A) of this paragraph, the State Board of Education shall be authorized to make advance distributions that exceed the limit provided for in subparagraph (A) of this paragraph only under the following conditions:

(i) The state auditor shall provide a written opinion to the State Board of Education that such advance distribution is necessary and appropriate to improve the conditions of the financial operations of the local unit of administration and shall include with such opinion a plan for monitoring, supports, and intervention for the local unit of administration developed by the Department of Audits and Accounts in consultation with the Department of Education and the local unit of administration to the extent the local unit of administration participates in such consultation. The local unit of administration shall have the opportunity to request modification of the proposed plan; provided, however, that the plan to be implemented shall be determined by the state auditor;

(ii) Within 30 days of the date of such proposed plan, the local board of education or other governing body of the local unit of administration shall adopt a resolution stating that the local board of education or other governing body of the local unit of administration and the officers, employees, and agents of such local unit of administration shall strictly comply with the plan for the duration of such plan;

(iii) The State Board of Education shall not authorize an advance distribution of any state allotted funds to the local unit of administration without a recommendation in writing from the state auditor;

(iv) The plan may be modified by the state auditor upon written notice to the State Board of Education and the local unit of administration; and

(v) The plan shall remain in effect until concluded in writing by the state auditor."

SECTION 4.

Said chapter is further amended in Article 8, relating to consolidation of independent and county school systems, by revising Code Section 20-2-370, relating to referendum on repeal of special school law and consolidation of systems, as follows:

"20-2-370.

Whenever the ~~citizens of a municipality or~~ qualified voters of the territory included in an independent school system ~~district authorized by law to establish and maintain a system of schools by local taxation in whole or in part are operating a system of public schools independent of the county school system and~~ wish to annul ~~their special school~~ the local law establishing such independent school system and become a part of ~~the~~ each respective county school system in which such territory is located, they shall present and file with the governing authority of the city in which such independent school system is located a petition signed by ~~one-fourth~~ 10 percent of the qualified voters of ~~their~~ the territory included in the independent school system; and ~~the~~ such governing authority shall then submit the question at an election to be held in accordance with Chapter 2 of Title 21. A majority of those voting shall be necessary to carry the election. Only qualified voters residing within the ~~municipality or district~~ territory included in the independent school system for six months prior to the election shall vote. An election shall not be held for the same purpose more often than every 12 months."

SECTION 5.

Said chapter is further amended in said article by revising Code Section 20-2-371, relating to proceedings when vote favors repeal and consolidation, as follows:

"20-2-371.

When the results of an election held under Code Section 20-2-370 are declared and published in favor of repealing such independent school system, making the territory included in the independent school system thereby to become a part of ~~the~~ each respective county school system in which such territory is located, such independent ~~or local~~ school system shall continue to function under its local laws, organizations, and regulations until ~~the~~ each respective county board of education shall arrange for the operation by them of such ~~school or schools within the local~~ independent school system as a part of ~~their public~~ each respective county school system in which such territory is located."

SECTION 6.

Said chapter is further amended in said article by revising Code Section 20-2-372, relating to effect of repeal and consolidation, as follows:

"20-2-372.

Where any ~~local or~~ independent school system is repealed by and in the manner provided for in Code Sections 20-2-370 and 20-2-371, the territory formerly included in such independent school system shall become and constitute a ~~school district~~ part of ~~the~~ each county school system in which ~~it~~ such territory is located and shall enjoy the same privileges and shall be governed by the same laws as ~~other school districts in~~ the existing parts of such county school system or systems~~, including the authority to levy local taxes for school purposes; provided, however, that the rate for such taxation shall not exceed the rate allowed by law to other similar school districts~~."

SECTION 7.

Chapter 6 of Title 50 of the Official Code of Georgia Annotated, relating to the Department of Audits and Accounts, is amended by revising Code Section 50-6-6, relating to audit of school and university systems, additional audits authorized, standards, and reports, as follows:

"50-6-6.

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

(1) 'Local school system' means and includes each local school system and each completion special school, as provided for in Article 31C of this chapter, in this state.

(2) 'State charter school' shall have the same meaning as set forth in Code Section 20-2-2081.

(a.1) It shall be the duty of the Department of Audits and Accounts ~~thoroughly to audit and check the books and accounts of the county superintendents of schools and treasurers of local school systems, of municipal systems, of the~~ to:

(1) Perform or cause to be performed an annual financial and compliance audit of financial transactions and accounts of:

(A) Each local school system and state charter school; and

(B) The several units of the University System of Georgia, and of all other schools receiving state aid ~~and making regular and annual reports to the State School Superintendent, showing the amount received, for what purpose received, and for what purposes expended. All such~~; and

(2) Issue in conjunction with each such audit required under paragraph (1) of this subsection suitable reports that comply with state and federal rules and regulations for such audits.

(a.2) By July 1, 2026, the Department of Audits and Accounts shall develop and begin implementing a program, the purpose of which is to:

(1) Monitor the fiscal condition of each local school system and state charter school in this state;

(2) Provide progressive levels of monitoring, supports, and interventions to local school systems and state charter schools, ranging from technical assistance and audit services to significant interventions including strict compliance requirements; and

(3) Provide reports of the fiscal condition of local school systems and state charter schools at appropriate intervals.

(a.3) No state aid or public funds of any kind shall be held by ~~officials must be kept in banks separate from their~~ any official or employee of any local board of education or other public school governing body, local school system, state charter school, institution of the University System of Georgia, or any other school receiving state aid for any length of time in one or more of his or her individual bank accounts.

(b) Notwithstanding any other provisions of this chapter, ~~the local boards~~ each local board of education ~~of the several county, independent, and area public school systems of this state~~ or other public school governing body shall be authorized to have an additional audit made of the ~~books, records, and accounts~~ financial affairs and transactions of all funds and activities of the public ~~school system~~ schools over which any such board or governing body has jurisdiction. ~~The local boards of education~~; provided, however, that such additional audit authorized under this subsection shall not be relied upon by a local school system or state charter school in lieu of the audit by the Department of Audits and Accounts required under subsection (a.1) of this Code section, nor shall such additional audit be deemed to satisfy the requirements of subsection (a.1) of this Code section, except as provided for in subsection (e) of this Code section. Such boards and governing bodies shall be authorized to employ certified public accountants of this state to make the additional audits authorized under this subsection and to expend funds for ~~the~~ such audits which are received by any such board or governing body for educational purposes. Each report of any audit conducted as provided for in this subsection shall be completed and a copy of such report

shall be forwarded to the Department of Audits and Accounts within ten days of such report being issued to the local school system.

(c) All audits ~~of such public school systems~~ provided for in subsections (a.1), (b), and (e) of this Code section shall be conducted in ~~conformity with generally accepted standards and principles of governmental accounting and auditing and~~ accordance with generally accepted governmental auditing standards over financial statements in conformity with generally accepted accounting principles of governmental accounting or other basis of accounting authorized by this Code section and shall include tests of the accounting records and other auditing procedures as considered necessary in the circumstances of such audit. Such audits shall be subject to the standards, rules, and ethics promulgated by the Georgia Society of Certified Public Accountants and the American Institute of Certified Public Accountants. The ~~audit~~ report of each such audit shall include the auditor's ~~unqualified~~ opinion upon the presentation of the financial position and the results of the operations of the ~~public~~ local school system or state charter school which is audited. ~~If the auditor is unable to express an unqualified opinion, he shall so state and shall further detail the reasons for qualification or disclaimer of opinion including recommendations necessary to make possible future unqualified opinions.~~

(d) The Department of Audits and Accounts shall establish minimum audit readiness requirements and audit scheduling priorities based on risk assessment, readiness, and available resources. The Department of Audits and Accounts shall be authorized to delay the commencement of an audit when minimum readiness requirements are not met. Repeated failure to meet audit readiness requirements in a timely manner may be deemed by the Department of Audits and Accounts to constitute a deficiency in internal control or governance and may be reported as such in audit findings. The Department of Audits and Accounts shall report chronic audit readiness failures to the State Board of Education and the General Assembly.

(e)(1) The state auditor shall have discretionary authority to engage certified public accountants of this state to perform audits required under subsection (a.1) of this Code section and to authorize local school systems and state charter schools to engage certified public accountants to perform audits required under subsection (a.1) of this Code section; provided, however, that such certified public accountants shall comply with requirements set forth by the Department of Audits and Accounts as it relates to scope, methodology, state compliance procedures, and risk assessment; and, provided, further, that no local school system or state charter school shall engage a certified public accountant or any other person or organization to perform such an audit without written authorization from the state auditor.

(2) The state auditor shall annually submit a written report to the State Board of Education of the local school systems and state charter schools that were audited by certified public accountants pursuant to this subsection.

(f) The Department of Audits and Accounts shall adopt rules, regulations, guidance, and procedures necessary to implement this Code section."

SECTION 8.

Said chapter is further amended by revising Code Section 50-6-28, relating to investigatory duties generally, as follows:

"50-6-28.

(a) It shall be the duty of the state auditor to make an investigation as a part of his or her audit of each and every department of the state government. When there are facts, records, circumstances, or information that indicate mismanagement or misconduct on the part of any official or employee of any department of the state government during either a past or present administration, it shall be the duty of the state auditor to make the full investigation, as provided in Code Section 50-6-29, of the department, official, or employee.

(b) The state auditor shall be authorized to make an investigation of any local school system or state charter school, as such terms are defined in Code Section 50-6-6, in the state. When there are facts, records, circumstances, or information that indicate mismanagement or misconduct on the part of any official or employee of any local school system in the state during either a past or present administration of the local school system, it shall be the duty of the state auditor to make the full investigation, as provided in Code Section 50-6-29, of the local school system, official, or employee."

SECTION 9.

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

SECTION 10.

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