

1 State of Arkansas *As Engrossed: H12/17/03 H12/26/03 H1/5/04*  
2 84th General Assembly **A Bill**  
3 Second Extraordinary Session, 2003

Call Item 4

HOUSE BILL 1009

4  
5 By: Representative Pickett  
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8 **For An Act To Be Entitled**

9 AN ACT TO DIVIDE THE DEPARTMENT OF EDUCATION INTO  
10 THE *DIVISION* OF CURRICULUM AND INSTRUCTION AND  
11 THE *DIVISION* OF ACCOUNTABILITY; AND FOR OTHER  
12 PURPOSES.

13  
14 **Subtitle**

15 AN ACT TO DIVIDE THE DEPARTMENT OF  
16 EDUCATION INTO THE *DIVISION* OF  
17 CURRICULUM AND INSTRUCTION AND THE  
18 *DIVISION* OF ACCOUNTABILITY.  
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20

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
22

23 SECTION 1. (a) The Department of Education is divided into two (2)  
24 separate operating divisions as follows:

25 (1) The *Division* of Curriculum and Instruction; and

26 (2) The *Division* of Accountability.

27 (b)(1) The duties and responsibilities of the *Division* of Curriculum  
28 and Instruction shall be as assigned by law or by the State Board of  
29 Education.

30 (2) The duties and responsibilities of the *Division* of  
31 Accountability shall be to:

32 (A)(i) Monitor the Arkansas education system to ensure  
33 compliance with federal law and Arkansas statutes pertaining to education  
34 reform in Arkansas.

35 (ii) Monitoring shall include all actions taken by  
36 the *Division* of Curriculum and Instruction and local school districts;



1                   (B) Establish a continuing review of the education finance  
2 system in Arkansas at the state and district level that shall include an  
3 analysis of the level of adequacy and equity of the educational opportunity  
4 in all school districts;

5                   (C)(i) Verify the accuracy of reports of school, district,  
6 and state performance by conducting, requesting, or upon the approval of the  
7 state board, contracting for periodic program and fiscal audits as necessary.

8                   (ii) The Division of Accountability shall monitor  
9 and verify the accuracy of reports of the Division of Curriculum and  
10 Instruction and the state board, including, but not limited to, the annual  
11 fiscal conditions of grants, categorical programs, and other educational  
12 initiatives set forth by the General Assembly;

13                   (D) Conduct studies, and analyze, verify, and validate the  
14 state assessment program through other external indicators of academic  
15 progress, including, but not limited to, American College Test scores,  
16 Scholastic Assessment Test scores, National Assessment of Education Progress  
17 scores, Preliminary Scholastic Assessment Test scores, Advanced Placement  
18 Program participation, standardized test scores, college remediation rates,  
19 retention and attendance rates, dropout rates, and additional available data  
20 on the efficiency of the system of schools and whether progress is being made  
21 toward attaining the goal of providing all students with the opportunity for  
22 an equitable and adequate education;

23                   (E) Enforce the provisions of The Quality Education Act of  
24 2003, §6-15-202, et seq.; and

25                   (F)(i) Make biennial reports to the Governor and the House  
26 Committee on Education and the Senate Committee on Education of the General  
27 Assembly.

28                   (ii) The first report is due on June 1 of each year  
29 and the second report is due on December 1 of each year.

30                   (c) All appropriations, unexpended balances, and other assets of the  
31 Department of Education shall be divided between the two (2) divisions as  
32 determined by the Chief Fiscal Officer of the State.

33                   (d)(1) All rights, duties, or functions assigned to the Director  
34 of the Department of Education in the Arkansas Code shall be transferred to  
35 both the Director of the Division of Curriculum and Instruction and the  
36 Director of the Division of Accountability, unless otherwise designated by

1 the state board or this act.

2 (2) All statutory appointments of the Director of the Department  
 3 of Education to boards, committees, or commissions shall be filled by the  
 4 Director of the Division of Curriculum and Instruction, unless stated  
 5 otherwise in this act.

6 (e)(1) The Director of the Division of Accountability shall review the  
 7 functions, duties, and qualifications of the employees of the Division of  
 8 Accountability to ensure that each employee is qualified and capable of  
 9 performing his or her duties.

10 (2) The Director of the Division of Accountability may replace  
 11 or reassign any employee the Director of the Division of Accountability  
 12 determines is not qualified or capable of satisfactorily performing his or  
 13 her duties.

14  
 15 SECTION 2. Arkansas Code § 6-11-102 is amended to read as follows:

16 6-11-102. ~~Director of the Department of Education~~ Directors – State  
 17 Board of Education staff.

18 ~~(a)(1) Subject to confirmation by the Governor, the~~ The State Board of  
 19 ~~Education is empowered to employ:~~

20 (A) Shall employ, subject to the confirmation of the  
 21 Governor, a person to act as the Director of the ~~Department of Education, who~~  
 22 Division of Curriculum and Instruction;

23 (B) Shall employ a person to act as the Director of  
 24 Accountability; and

25 (C)(i) May employ staff to work directly for the state  
 26 board as may be necessary to carry out the functions of the state board.

27 (ii) Funding for employees working directly for the  
 28 board shall be provided from appropriations and funds authorized for the  
 29 state Division of Curriculum and Instruction and the Division of  
 30 Accountability in proportion to each division's share of the total  
 31 appropriation and funds authorized for both divisions for personal services  
 32 and operating expenses; and

33 (D) Shall not employ a person to serve as a director of  
 34 the Department of Education, as the Department of Education shall not have a  
 35 director, powers, duties, or functions separate from the Division of  
 36 Curriculum and Instruction or the Division of Accountability.

1        (2) All persons employed by the state board shall serve at the  
2 pleasure of the ~~Governor~~ state board.

3        (b) ~~The~~ Each director shall devote all of his or her time to the  
4 duties of his or her office, shall act as an agent of the board, and perform  
5 other duties as are designated by the board and by statute.

6        (c)(1) ~~The person selected as the director~~ Director of the Division of  
7 Curriculum and Instruction must:

8                    (A) *Be a person of good moral character, recognized as a*  
9 *leader in the field of education, and qualified technically and by experience*  
10 *to direct the work of the* ~~Department of Education~~ Division of Curriculum and  
11 Instruction;

12                    (B) *Hold the master's degree from an accredited*  
13 *institution;*

14                    (C) *Have had ten (10) years' experience as a teacher, five*  
15 *(5) of which must be of an administrative or supervisory nature; and*

16                    (D) *Hold a valid state teacher's certificate.*

17        (2) *No person who is related within the fourth degree of*  
18 *consanguinity or affinity to any member of the board shall be eligible to*  
19 *serve as* ~~director~~ Director of the Division of Curriculum and Instruction.

20        (d)(1) The person selected as the Director of the Division of  
21 Accountability shall:

22                    (A) Be a person of good moral character, and qualified  
23 technically and by experience to direct the work of the Division of  
24 Accountability;

25                    (B) Hold the master's degree or a higher level degree from  
26 an accredited institution; and

27                    (C) Have ten (10) years of experience in an  
28 administrative, supervisory, or management position.

29        (2) No person who is related within the fourth degree of  
30 consanguinity or affinity to any member of the board shall be eligible to  
31 serve as the Director of the Division of Accountability.

32        ~~(d)(e)~~ It is the specific intention of this act to define and declare  
33 ~~the~~ each director to be the employee of the State Board of Education.

34        ~~(e)(1)(f)(1)~~ The Each director, or a disbursing agent designated by  
35 him or her and approved by the state board, shall give bond to the State of  
36 Arkansas as provided by law for other disbursing agents conditioned for the

1 faithful performance of his or her duties and the faithful accounting for all  
2 the school money of the state, of any county, or of any school district that  
3 may come into his or her hands.

4 (2) The bond shall be in a solvent surety company having a right  
5 to do business in the State of Arkansas and shall be approved by the state  
6 board.

7 (3) The premium on the bond shall be paid by the state board as  
8 one of the expenses of the state board.

9 ~~(f)~~(g) The state shall furnish ~~the~~ each director and the employees of  
10 the state board with suitable offices and necessary office supplies and  
11 equipment.

12 (h)(1) Director of the Division of Curriculum and Instruction and the  
13 Division of Accountability shall agree to coordinate and share certain  
14 materials, data, and administrative, custodial, legal, internal finance and  
15 other personnel necessary to effectuate the daily operations of the  
16 divisions.

17 (2) The agreement entered into by the directors of the divisions  
18 under subdivision (h)(1) of this section shall be in writing and approved by  
19 the State Board of Education in keeping with the purpose and intent of  
20 Section 1 of this act of 2003.

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22 SECTION 3. Arkansas Code § 6-11-103 is amended to read as follows:

23 6-11-103. Officers.

24 ~~(a)~~ The State Board of Education shall elect one (1) of its number  
25 chairman, one (1) vice chairman, and such other officers as the board deems  
26 necessary to perfect its organization.

27 ~~(b) The Director of the Department of Education shall act as ex~~  
28 ~~officio secretary of the board without vote.~~

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30 SECTION 4. Arkansas Code § 6-11-104 is amended to read as follows:

31 6-11-104. Meetings.

32 (a) The State Board of Education shall meet a minimum of six (6) times  
33 annually.

34 (b) The state board will meet each December to determine the meeting  
35 dates for the following year.

36 (c)(1) Special meetings may be called by the chairman of the state

1 board with no less than twenty-four (24) hours notice to the members and the  
2 Director of the ~~Department of Education~~ Division of Curriculum and  
3 Instruction, or the Director of the Division of Accountability, and with  
4 timely responses from enough board members that they will attend the meeting  
5 so as to indicate that a quorum will be present.

6 (2) In the absence of the chairman, the ~~director~~ Director of the  
7 Division of Curriculum and Instruction or the Director of the Division of  
8 Accountability shall call a meeting on the request of three (3) members of  
9 the state board with the same notice and response requirements.

10 (3) If both the chairman and the ~~director~~ directors shall be  
11 absent or refuse to call a meeting, any three (3) members of the state board  
12 may call a meeting by utilizing the same notice and response requirements in  
13 notifying the members and the ~~office~~ offices of the ~~director~~ directors.

14  
15 SECTION 5. Arkansas Code § 6-11-105(c), concerning the powers and  
16 duties of the State Board of Education, is amended to read as follows:

17 (c) The state board may organize and, from time to time, change and  
18 alter the ~~department~~ divisions into branches or sections as may be found  
19 necessary and desirable by the Director of the ~~Department of Education~~  
20 Division of Curriculum and Instruction or the Director of the Department of  
21 Accountability to perform all proper functions and to render maximum service  
22 relating to the operation and improvement of the general education programs  
23 of the state.

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25 SECTION 6. Arkansas Code § 6-11-110 is amended to read as follows:

26 6-11-110. Uniform system of records - Reports.

27 (a) The State Board of Education shall prescribe a uniform system of  
28 records to be kept by the school directors, principals, and teachers of  
29 schools.

30 (b) All the school officials and employees listed in subsection (a) of  
31 this section shall make reports to the Director of the ~~Department of~~  
32 ~~Education~~ Division of Accountability as may be designated by the state board.

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34 SECTION 7. Arkansas Code § 6-11-111 is amended to read as follows:

35 6-11-111. Records of proceedings - Annual report.

36 (a) The State Board of Education shall keep in the office of the

1 ~~Department of Education~~ Division of Curriculum and Instruction a complete  
2 record of the minutes of its meetings and other proceedings and annually  
3 shall make a report to the Governor which shall embody the report of the  
4 director.

5 (b) The annual report of the board to the Governor shall be  
6 transmitted by him to the General Assembly at the opening of the session.

7 (c) Such reports shall be printed by the state board and distributed  
8 among the various school officers of the state.

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10 SECTION 8. Arkansas Code § 6-11-117 is amended to read as follows:

11 6-11-117. Copies of documents as evidence.

12 Copies of any papers or documents on file in the office of the  
13 ~~Department of Education~~ Director of the Division of Curriculum and  
14 Instruction or the Director of the Department of Accountability authenticated  
15 by him or her with the seal of the State Board of Education shall be  
16 admissible in evidence with the same effect as the original.

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18 SECTION 9. EMERGENCY CLAUSE. It is found and determined by the  
19 General Assembly of the State of Arkansas that the Arkansas Supreme Court in  
20 Lake View School District No. 25 v. Huckabee, 351 Ark. 31 (2002) declared the  
21 current system of education to be unconstitutional because it is both  
22 inequitable and inadequate; and the Arkansas Supreme Court set forth the test  
23 for a constitutional system to be one in which the State has an "absolute  
24 duty" to provide an "equal opportunity to an adequate education"; the  
25 Arkansas Supreme Court instructed the General Assembly to undertake actions  
26 as necessary to provide an opportunity for an adequate and equitable  
27 education for the children of Arkansas; and the provisions of this bill are  
28 necessary steps toward accomplishing that goal. Therefore, an emergency is  
29 declared to exist and this act being immediately necessary for the  
30 preservation of the public peace, health, and safety shall become effective  
31 on:

32 (1) The date of its approval by the Governor;

33 (2) If the bill is neither approved nor vetoed by the Governor,  
34 the expiration of the period of time during which the Governor may veto the  
35 bill; or

36 (3) If the bill is vetoed by the Governor and the veto is

1 overridden, the date the last house overrides the veto.

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*/s/ Pickett*

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