

1 State of Arkansas As Engrossed: H12/17/03 H12/26/03 H1/5/04 S1/16/04

Call Item 4

2 84th General Assembly

# A Bill

3 Second Extraordinary Session, 2003

HOUSE BILL 1009

4

5 By: Representative Pickett

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## For An Act To Be Entitled

9 AN ACT TO CREATE THE DIVISION OF PUBLIC SCHOOL  
10 ACCOUNTABILITY AND THE DIVISION OF PUBLIC SCHOOL  
11 ACADEMIC FACILITIES; TO REQUIRE THE REALIGNMENT  
12 OF THE DEPARTMENT OF EDUCATION; TO CHANGE THE  
13 TERM OF OFFICE OF MEMBERS OF THE STATE BOARD OF  
14 EDUCATION; AND FOR OTHER PURPOSES.

15

16

## Subtitle

17 AN ACT TO CREATE THE DIVISION OF PUBLIC  
18 SCHOOL ACCOUNTABILITY AND THE DIVISION  
19 OF PUBLIC SCHOOL ACADEMIC FACILITIES; TO  
20 REQUIRE THE REALIGNMENT OF THE  
21 DEPARTMENT OF EDUCATION.

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24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

25

26 SECTION 1. Creation of the Division of Public School Accountability.

27 (a)(1) To enhance the public's access to public school performance  
28 indicators and to better measure the benefits of the increasing public  
29 investment in Arkansas' schools, the General Assembly finds that a Division  
30 of Public School Accountability shall be established under the direct  
31 operational control of the State Board of Education.

32 (2) The foremost obligation of the division shall be to  
33 administer all monitoring and compliance activities dealing with academic and  
34 fiscal accountability for each school or school district and report academic  
35 progress.

36 (b) There is created a Division of Public School Accountability, which



1 shall begin operation within one hundred twenty (120) calendar days following  
2 the effective date of this act.

3 (c) The division shall be under the supervision of the state board.

4 (d)(1) The state board shall select an individual to serve as the  
5 Director of the Division of Public School Accountability and the director  
6 shall serve at the pleasure of the state board.

7 (2) The person selected as the director shall:

8 (A) Be a person of good moral character and qualified  
9 technically and by experience to direct the work of the Division of  
10 Accountability;

11 (B) Hold a master's degree or a higher level degree from  
12 an accredited institution; and

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

15 (3) No person who is related within the fourth degree of  
16 consanguinity or affinity to any member of the board shall be eligible to  
17 serve as the director.

18 (e) The director, with guidance and approval from the state board,  
19 shall be responsible for hiring all employees of the division.

20 (f) The division shall have the following responsibilities:

21 (1) Monitor schools for compliance with state and federal  
22 regulations;

23 (2) Monitor schools for compliance with legislative acts and  
24 court-ordered mandates;

25 (3) Monitor schools for compliance with all standards of  
26 learning and accreditation as established by the state board;

27 (4) Monitor schools for compliance with all rules and  
28 regulations as established by the state board;

29 (5) Coordinate the analysis, dissemination, and reporting of all  
30 criterion and norm-referenced testing information;

31 (6) Coordinate the implementation and administration of  
32 longitudinal tracking and trend data collection as established by the state  
33 board for the purposes of improving student and school performance, ensuring  
34 mastery of the curriculum, and providing comparisons between students within  
35 Arkansas and with students in other states;

36 (7) Coordinate the implementation and administration of value-

1 added assessments as established by the state board;

2 (8) Coordinate the implementation and administration of the  
3 annual school performance reports as established by the state board;

4 (9) Administer all monitoring and compliance activities dealing  
5 with academic and fiscal accountability as established by the state board;  
6 and

7 (10) Work with program approval and certification sections of  
8 the Department of Education, the Department of Higher Education, the  
9 Department of Workforce Education, and the individual colleges to provide  
10 information that will contribute to reasonable, equitable, and excellent  
11 preparation of certified personnel in the institutions, both public and  
12 private, of higher education.

13 (g)(1) The division shall provide annual reports of school performance  
14 or compliance to the Joint Interim Oversight Committee on Education Reform,  
15 the House Interim Committee on Education, and the Senate Interim Committee on  
16 Education.

17 (2) A preliminary report shall be provided by January 1 of each  
18 year and a follow-up report that includes information regarding on-site  
19 visits shall be filed by June 1 of each year.

20 (h)(1) There is created the Arkansas Public Schools Accountability  
21 Advisory Council that shall begin operation within one hundred twenty (120)  
22 calendar days following the effective date of this act. The membership of  
23 the council shall include:

24 (A) One (1) member designated as chair to be selected by  
25 the Governor, who shall be a representative of Arkansas businesses;

26 (B) One (1) member selected by the Governor, who shall be  
27 a representative of an educator's union in the State of Arkansas;

28 (C) One (1) member selected by the Governor, who shall be  
29 a parent or guardian of at least one (1) student currently enrolled in grades  
30 kindergarten through twelve (K-12) in a public school in the State of  
31 Arkansas;

32 (D) One (1) member selected by the Speaker of the House of  
33 Representatives who shall be a representative of higher education;

34 (E) One (1) member appointed by the President Pro Tempore  
35 of the Senate who shall be a representative of Arkansas businesses;

36 (F) One (1) member appointed by the Chair of the Senate

1 Committee on Education who is currently employed as a teacher in the grades  
2 kindergarten through twelve (K-12) public school system in the State of  
3 Arkansas; and

4 (G) One (1) member appointed by the Chair of the House  
5 Committee on Education who shall be a representative of the administration of  
6 a public school in the State of Arkansas.

7 (2) The council shall provide advice and consultation services  
8 for the director.

9 (3) The council may be convened by the chair of the council, by  
10 the chair of the state board, or by the director.

11 (4) Members shall not receive compensation for service on the  
12 council but may receive expense reimbursement as provided in Arkansas Code §  
13 25-16-902.

14  
15 SECTION 2. Creation of the Division of Public School Academic  
16 Facilities.

17 (a) In order to ensure that substantially equal access to adequate  
18 educational facilities and educational equipment is provided for all public  
19 school students in Arkansas, the General Assembly finds that a Division of  
20 Public School Academic Facilities should be established under the direct  
21 supervision of the State Board of Education.

22 (b) There is created a Division of Public School Academic Facilities  
23 which shall begin operation within one hundred twenty (120) calendar days  
24 following the effective date of this act.

25 (c) The Division of Public School Academic Facilities shall be under  
26 the supervision of the state board.

27 (d)(1) The state board shall select an individual to serve as the  
28 Director of the Division of Public School Academic Facilities and the  
29 Director of the Division of Public School Academic Facilities shall serve at  
30 the pleasure of the state board.

31 (2) The Director of the Division of Public School Academic  
32 Facilities shall be an architect that is licensed by the State of Arkansas.

33 (3) No person who is related within the fourth degree of  
34 consanguinity or affinity to any member of the board shall be eligible to  
35 serve as the director.

36 (e) The Director of the Division of Public School Academic Facilities,

1 with guidance and approval from the state board, shall be responsible for  
2 hiring all employees of the division.

3 (f) The Executive Chief Information Officer shall assign one (1)  
4 individual from the staff of the Office of Information Technology to serve as  
5 a technology liaison to the Division of Public School Academic Facilities.

6 (g) The Director of the Arkansas Building Authority shall assign one  
7 (1) individual from the staff of the Arkansas Building Authority to serve as  
8 a physical plant liaison to the Director of the Public School Academic  
9 Facilities.

10 (h) The Division of Public School Academic Facilities shall:

11 (1) Provide information or assistance to the Joint Committee on  
12 Educational Facilities created by Act 1181 of 2003 as requested by the joint  
13 committee;

14 (2) Use any recommendation or assessments of the joint committee  
15 or the General Assembly as a basis for establishing the policies and  
16 procedures of the Division of Public School Academic Facilities; and

17 (3) Provide assistance, as requested, to the Joint Committee on  
18 Educational Facilities in conducting an assessment of all school facilities  
19 in the state and continue to update and maintain current assessments of all  
20 school facilities after the expiration of the joint committee on December 31,  
21 2004.

22 (i)(1) The Director of the Division of Public School Academic  
23 Facilities shall create and implement a standardized reporting format and  
24 select the method to be utilized by school districts in the preparation and  
25 submission of the list to the Division of Public School Academic Facilities.

26 (2) The data gathered from the reports generated by the school  
27 districts shall be presented to the state board for compilation into an  
28 annual report to the Governor and the House Interim Committee on Education  
29 and the Senate Interim Committee on Education on the facility needs in the  
30 state.

31 (3) The Division of Public School Academic Facilities shall  
32 conduct any reviews, site visits, and other research during the year to  
33 assist in preparation of the annual report.

34 (j)(1) The Director of the Division of Public School Academic  
35 Facilities shall provide to the Governor and the House Interim Committee on  
36 Education and the Senate Interim Committee on Education reports on the status

1 of public school academic facilities including the facility and technology  
2 needs and priorities for each category.

3 (2) A preliminary report shall be provided by January 1 each  
4 year and a follow-up report that includes information regarding on-site  
5 visits shall be filed by June 1 each year.

6 (k)(1)(A) No later than September 30 of each even-numbered year of the  
7 biennium, the Division of Public School Academic Facilities shall present to  
8 the state board the list of public school facility repairs, improvements, and  
9 construction along with technology improvements that the Division of Public  
10 School Academic Facilities recommends for the next biennium.

11 (B) Copies of the list shall be provided to the Governor  
12 and the House Interim Committee on Education and the Senate Interim Committee  
13 on Education.

14 (2) The state board shall prioritize funding for public school  
15 facility repairs, improvements, and construction along with technology  
16 improvements based on the recommendations of the Division of Public School  
17 Academic Facilities.

18 (1) The state board and the Division of Public School Academic  
19 Facilities shall develop, by rule and regulation, the process for developing  
20 the list of public school facility repairs, improvements, and construction  
21 along with technology improvements necessary under this act.

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23 SECTION 3. REALIGNMENT OF THE DEPARTMENT OF EDUCATION. NOT TO BE  
24 INCORPORATED INTO THE ARKANSAS CODE NOR PUBLISHED SEPARATELY AS SPECIAL,  
25 LOCAL, AND TEMPORARY LAW.

26 (a)(1) Following the implementation of this act, the Department of  
27 Education shall realign.

28 (2) The purpose of the realignment shall be for the department  
29 and the Division of Public School Accountability and the Division of Public  
30 School Academic Facilities to maximize their role as the active senior  
31 partners with the schools and to prepare to intervene immediately rather than  
32 after the school or school district fails.

33 (3)(A) To realign, the department shall form a taskforce  
34 consisting of the Director of the Division of Public School Accountability,  
35 the Director of the Division of Public School Academic Facilities, key  
36 department personnel, school district personnel, teachers, and other

1 stakeholders to conduct a study of the department's and the divisions'  
2 delivery system and to make recommendations for the department's realignment.

3 (B) As part of the study, the taskforce shall:

4 (i) Review the functions, and responsibilities of  
5 the department, the Division of Public School Accountability, and the  
6 Division of Public School Academic Facilities to align the personnel  
7 according to these functions and responsibilities to ensure each employee is  
8 qualified and capable of performing his or her duties according to the  
9 functions and responsibilities as defined by the taskforce; and

10 (ii)(a) Conduct a comprehensive review of the  
11 salaries of individuals necessary to fulfill the department's functions as  
12 defined by the taskforce, responsibilities, and constitutional mission of the  
13 state.

14 (b) This study shall include a review of  
15 equity adjustments necessary to recognize differences in responsibility,  
16 performance, or seniority.

17 (C) Qualifications and salary levels of the department's  
18 staff shall be comparable to those of similar employees in school districts  
19 or in other state education agencies.

20 (b) Following the work of the taskforce under this section, the  
21 department shall present proposed changes in staff grades and salaries to the  
22 Joint Budget Committee at the earliest opportunity for the purpose of  
23 preparing suggested legislation to be approved by the General Assembly.

24 (c) The Director of the Department of Education may transfer any  
25 unclassified position to the Division of Public School Accountability or the  
26 Division of Public School Academic Facilities if the director of the division  
27 agrees that the position is an appropriate position to be in the division and  
28 approves the transfer.

29 (d) The restructuring of the department shall be conducted in a manner  
30 that will provide sufficient personnel within the department to provide  
31 administrative and technological support to the Division of Public School  
32 Accountability and the Division of Public School Academic Facilities at a  
33 level that is sufficient for the divisions to carry out the duties set forth  
34 in this act.

35 (e) In the restructuring of the department the director may require  
36 the department, the Division of Public School Academic Facilities, and the

1 Division of Public School Accountability to coordinate and share certain  
2 administrative, custodial, legal, internal finance, and other necessary  
3 personnel to effectuate the daily operations of those divisions and the  
4 department.

5  
6 SECTION 4. Arkansas Code § 6-11-101(b), concerning the term of office  
7 of State Board of Education members, is amended as follows:

8 (b)(1) The term of office of a member of the board, appointed prior to  
9 the effective date of subdivision (b)(2) of this section, shall be six (6)  
10 years.

11 (2)(A) The term of office of a member of the state board,  
12 appointed after the effective date of this subdivision (b)(2)(A), shall be a  
13 single nine-year term.

14 (B) Any member appointed to the state board to fill a  
15 vacancy for an uncompleted term with fewer than two (2) years remaining on  
16 the original term may be reappointed to an additional nine-year term.

17 (3) No current or new member shall be allowed to resign in order  
18 to be appointed to a new term on the board.

19 (4) Nothing in this section shall be construed to change the  
20 terms of any member of the state board that was appointed prior to the  
21 effective date of this section.

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23 SECTION 5. EMERGENCY CLAUSE. It is found and determined by the  
24 General Assembly of the State of Arkansas that the Arkansas Supreme Court in  
25 Lake View School District No. 25 v. Huckabee, 351 Ark. 31 (2002), declared  
26 the now existing system of education to be unconstitutional because it is  
27 both inequitable and inadequate; the Arkansas Supreme Court set forth the  
28 test for a constitutional system to be a system in which the state has an  
29 “absolute duty” to provide an “equal opportunity to an adequate education”;  
30 and that this act is immediately necessary because the Arkansas Supreme Court  
31 instructed the General Assembly to define and provide what is necessary to  
32 provide an adequate and equitable education for the children of Arkansas.  
33 Therefore, an emergency is declared to exist and this act being immediately  
34 necessary for the preservation of the public peace, health, and safety shall  
35 become effective on:

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



