

1 **State of Arkansas**  
2 **78th General Assembly**  
3 **Regular Session, 1991**

# A Bill

**SENATE BILL**

4 **By: Senators Hopkins, Walters and Lewellen**

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## **For An Act To Be Entitled**

8 "AN ACT TO CREATE A PROFESSIONAL EDUCATORS STANDARDS AND  
9 PRACTICES BOARD; AND FOR OTHER PURPOSES."

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

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13 SECTION 1. Purpose. (a) The General Assembly of the State of Arkansas  
14 hereby recognizes that teaching, school administration and the rendering of  
15 other professional educational services in the schools of this state affect  
16 the public interest. The General Assembly further recognizes that in order to  
17 achieve the highest possible educational standards in the schools, licensed  
18 professional educators must be attracted and retained.

19 (b) It is hereby declared as the policy of this state to improve  
20 continually the quality of preparation programs for professional educators; to  
21 involve professional educators directly in establishing and maintaining the  
22 standards of their profession; to safeguard the welfare of students by  
23 preventing the utilization and continued employment of unlicensed personnel to  
24 assure fair treatment to applicants for licensure; and to safeguard the  
25 public's interest in effective expenditure of tax dollars for quality  
26 education in the public schools. This policy can be accomplished most  
27 effectively if the preparation and licensure of professional educators is  
28 under the control of an autonomous state agency, composed in substantial part  
29 of professional educators.

30 (c) The General Assembly has determined that the provisions of this act  
31 will advance the policy described herein by allowing persons with relevant  
32 expertise to oversee the preparation, certification and recertification of  
33 professional educators.

34 (d) The provisions of this act shall be liberally construed so as to  
35 advance the foregoing policy.

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SECTION 2. Board Created. (a) The Arkansas Professional Educators Standards and Practices Board is hereby created.

(b) The board shall be composed of fifteen (15) voting members.

(1)(A) Eight (8) members of the board shall be licensed classroom teachers or other licensed, non-supervisory professional public school personnel, to be appointed in the following manner:

(i) One (1) member from each of the four (4) United States Congressional districts to be appointed by the governor;

(ii) two (2) at-large members to be appointed by the governor;

(iii) two (2) members to be elected by the Arkansas Education Association;

(B) At least one (1) of these two (2) members elected by the Arkansas Education Association shall be a Non-Caucasian member.

(C) Candidates for the teacher positions must be licensed for the position to which currently assigned and have at least five (5) years of teaching experience, including two (2) years in Arkansas immediately preceding the election.

(2)(A) Two (2) members of the board shall be school administrators with one (1) administrator elected by the Arkansas Association of Educational Administrators and one (1) appointed by the governor.

(B) Candidates for the administrator position must be licensed for the position to which currently assigned and have at least five (5) years of administrative experience, including two (2) years in Arkansas immediately preceding the election.

(3)(A) Three (3) members of the board shall be from a faculty or teacher education division of Arkansas colleges and universities with one (1) to be elected by the Arkansas Association of Teacher Educators, one (1) to be elected by the Arkansas Association of Colleges of Teacher Education and one (1) to be appointed by the governor.

(B) Candidates for the teacher educator positions shall have at least five (5) years of professional experience, including two (2) years in Arkansas immediately preceding election.

(4) One (1) member of the board shall represent the public and

1 shall be appointed by the governor. He or she shall not be, or ever have  
2 been, employed as a teacher, administrator or in a professional position in  
3 any institution of post-secondary education.

4 (5) One (1) member shall be the director of the General Education  
5 Division of the Department of Education or his designee.

6 (c) Two (2) teachers and one (1) teacher educator on the initial board  
7 shall serve one (1) year terms; three (3) teachers, one (1) administrator, and  
8 one (1) teacher educator on the initial board shall serve two (2) year terms;  
9 three (3) teachers, one (1) administrator, one (1) teacher educator and the  
10 lay representative on the initial board shall serve three (3) year terms. The  
11 initial terms shall be determined by lot. Thereafter, board members shall  
12 serve three (3) year terms, provided that no person, except the Director of  
13 General Education, shall serve more than two (2) full terms. Service for two  
14 (2) years or more shall count as a full term.

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16 SECTION 3. Vacancies. (a) Any member of the board who through change  
17 of employment status or residence, or for other reasons, no longer meets the  
18 criteria for the position to which he or she was appointed or elected shall no  
19 longer be eligible to serve in that position, and the position shall become  
20 vacant thirty (30) days following notice to the board of the member's change  
21 in circumstances. Vacancies shall be filled for the remainder of the  
22 unexpired term by appointment by the remainder of the board.

23 (b) The board shall establish rules for the removal of any member from  
24 the board for just cause.

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26 SECTION 4. Compensation. (a) All members of the board shall serve  
27 without compensation but shall be reimbursed for actual and necessary expenses  
28 incurred in the performance of board business.

29 (b) A member of the board who is an employee of this state or any of  
30 its subdivisions, including a school district, shall be permitted to attend  
31 board meetings and perform other board business without loss of income or  
32 other benefits.

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34 SECTION 5. Officers. The board shall annually elect from its own  
35 number a chairperson and vice-chairperson. They shall hold office for a one

1 (1) year term and may be re-elected up to two (2) times. No member may serve  
2 as chairperson or vice-chairperson for more than three (3) consecutive years.

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4 SECTION 6. Meetings. (a) The board shall hold at least six (6)  
5 meetings annually. The chairperson may call a special meeting at any time and  
6 shall call a special meeting upon the written request of five (5) or more  
7 members of the board.

8 (b) The presence of a majority of the members of the board shall  
9 constitute a quorum for transaction of business.

10 (c) Written and oral presentations may be made to the board in  
11 accordance with procedures promulgated by the board.

12 (d) No member of the board shall participate in any matter before the  
13 board in which he or she has a pecuniary interest or other conflict of  
14 interest. The board shall adopt regulations defining what constitutes a  
15 conflict of interest.

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17 SECTION 7. Staff. (a) The board shall employ an executive director  
18 who shall perform and discharge under the direction and control of the board  
19 those duties and responsibilities vested in the board and delegated to the  
20 executive director by the board. The executive director may be dismissed by a  
21 majority vote of the members.

22 (b) The executive director, with the approval of the board, may employ  
23 additional professional and clerical personnel as may be necessary to carry  
24 out his or her duties and responsibilities. The board shall be an equal  
25 opportunity employer.

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27 SECTION 8. Issuance and Revocation of License. (a) The board shall  
28 have the exclusive authority to issue, revoke, or suspend licenses of teachers  
29 and administrators. The board shall adopt regulations setting forth the types  
30 and requirements for licensure within one (1) year after the effective date of  
31 this act and shall modify or supplement these regulations as appropriate. The  
32 board's regulations should be responsive to new developments in the field of  
33 education. The board shall establish such rules and regulations for the  
34 revocation, suspension and issuance of a license.

35 (b) A certificate which was issued pursuant to the laws and regulations

1 of this state prior to the effective date of this act shall remain in force as  
2 long as it continues to be valid under the laws and regulations pursuant to  
3 which it was issued. Any person who holds such a valid certificate shall,  
4 upon proper application, be granted a license of the type most nearly  
5 equivalent to the type of certificate held at the time of application,  
6 notwithstanding any other provision of this act.

7 (c) Any person whose application for the issuance of a license is  
8 denied shall be entitled to a hearing before the board as a whole, in  
9 accordance with this act.

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11 SECTION 9. Grounds for Suspension or Revocation of License. The board  
12 shall have the authority to suspend for a specified period of time or revoke a  
13 license granted pursuant to this act on the following grounds:

- 14 (1) Conviction of a crime which renders the person convicted unfit to  
15 perform the duties for which he or she has been licensed;
- 16 (2) Violation of ethical standards which renders the person unfit to  
17 perform the duties for which he or she has been licensed. The board by  
18 resolution shall maintain a published list of ethical standards;
- 19 (3) Failure to meet licensure requirements; or
- 20 (4) Fraud or misrepresentation in obtaining a license; or
- 21 (5) Any other cause.

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23 SECTION 10. Complaint - Investigation - and Notice. (a) This section  
24 shall supplement and be an addition to the procedures set out in the  
25 Administrative Procedure Act, Ark. Code Ann. §§25-15-201, et seq.

26 (b) A proceeding to suspend or revoke a license by filing a complaint  
27 with the executive director. The complaint shall be in a form prescribed by  
28 the board. It shall specify the nature and character of the charges. It  
29 shall be verified under oath by the complaining party.

30 (c) Upon receipt of the complaint, the executive director shall give  
31 notice by certified mail, return receipt requested, to the person against whom  
32 the complaint has been lodged and the basis upon which the facts or conduct  
33 may result in the suspension or revocation of that person's license. The  
34 notice shall also require the person against whom the complaint is lodged to  
35 forward to the executive director a written response to the charges in the

1 complaint within twenty (20) days.

2 (d) The executive director shall then present the complaint and the  
3 response to the board. The board shall determine whether on the basis of the  
4 complaint and response, if a response is provided, whether the board desires  
5 to proceed further and hold a hearing to determine whether grounds for  
6 suspension or revocation exist. If the board determines not to hold a  
7 hearing, then it shall inform the party charged that it has decided not to  
8 take any action on the complaint. If the board decides to hold a hearing then  
9 it shall follow the procedures set out in the Administrative Procedure Act.

10 (e) If the board decides to hold a hearing, the board may ask the  
11 executive director or other non-voting representative of the board to conduct  
12 further investigation regarding all of the facts.

13 (f) The board is authorized to issue subpoenas for the attendance and  
14 testimony of witnesses and the production of documents or other pertinent  
15 information.

16 (g) The hearing shall be closed, unless the affected professional  
17 educator requests that it be open.

18 (h) If the hearing is not scheduled to take place within one hundred  
19 twenty (120) days after the time the affected professional educator is first  
20 notified of the allegations, the board shall order the investigation  
21 discontinued and the complaint dismissed.

22 (i) If, after the hearing, the board determines to take some  
23 disciplinary action, it may (1) issue a public reprimand; (2) suspend the  
24 license for a period of time to be determined by the board; and/or (3) revoke  
25 the license.

26 (j) Any person whose certificate has been suspended or revoked may  
27 apply to the board for a lifting of the suspension or a reinstatement of the  
28 certificate. The board may order such a lifting or reinstatement based upon  
29 standards prescribed by the board and regulations.

30 (k) The person against whom a complaint is lodged shall have the right  
31 to representation of his or her choice throughout the hearing process.

32 (l) A complainant who is found by the board to have filed a frivolous  
33 charge(s) shall bear the cost of expenses relevant to the frivolous charge(s)  
34 incurred.

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1           SECTION 11. Approval of Teacher Preparation Program.

2           (a) The board shall have the exclusive authority to approve, renew  
3 approval, and withdraw approval of teacher preparation programs. The board  
4 shall adopt by regulation the standards governing the approval and withdrawal  
5 of approval of teacher preparation programs and shall modify or supplement  
6 these regulations as appropriate.

7           (b) Whenever the board denies approval to or withdraws approval from a  
8 teacher preparation program, the institution of higher education offering said  
9 program shall be entitled to appeal such denial or withdrawal in the manner  
10 prescribed in this act. Approval may not be denied to or withdrawn from a  
11 teacher preparation program except by a majority vote of the board.

12           (c) The board may enter into agreements with the agencies of other  
13 states for reciprocal approval of teacher preparation programs in accordance  
14 with resolutions adopted by the board.

15           (d) Any approval of a teacher preparation program which was granted  
16 pursuant to the laws or regulations of this state prior to effective date of  
17 this act shall remain in force until the time for renewing approval under this  
18 act.

19           (e) Applications for licensure from persons who were enrolled and  
20 participating in a teacher preparation program when that program lost its  
21 approval or who entered an unapproved teacher preparation program that  
22 subsequently received its approval while they were still enrolled and  
23 participating shall be dealt with individually by the board in accordance with  
24 regulations adopted by the board.

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26           SECTION 12. Annual Report. The board shall submit to the State Board  
27 of Education and the General Assembly and publish an annual report of its  
28 activities. Said report shall include specific findings and conclusions with  
29 regard to licensure and teacher preparation program approval, an official  
30 audit of all board expenditures, and such additional information as the board  
31 deemed appropriate. The board shall publish, from time to time, such other  
32 reports as it deems appropriate. The board shall develop and recommend to the  
33 General Assembly for its consideration any necessary or desirable legislation  
34 with regard to the matters covered by this act. The board shall appoint such  
35 committees as is deemed appropriate to assist it in an advisory capacity.

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SECTION 13. Delegation. Except as otherwise provided in this act, the board may delegate to one (1) or more of its members, staff, or other agents the authority to perform any of the functions to be performed by the board itself under this act, and performance by said delegates shall for purposes of this act be deemed an action of the board.

SECTION 14. Transition. (a) All rules, regulations, procedures and practices in effect upon the adoption of this act shall continue in effect until the board issues regulations to the contrary.

(b) All powers, duties and functions pertaining to the licensure of educators, including but not limited to determining qualifications for licensure and suspension and revocation of licenses are transferred from the State Board of Education and the Department of Education at such time as the board determines that it is prepared and capable of carrying out those functions.

(c) Members of the board may be appointed or elected any time after the date of enactment of this act, except that time spent by a member in office prior to the effective date of this act shall not be considered as part of the term of such members for purposes of Section 3 of this act.

SECTION 15. Funding. The board shall have the authority to establish its operating budget. The legislature shall provide an annual appropriation which shall be used to pay costs incurred in administering this act.

SECTION 16. The board shall have the exclusive authority to establish fees to be charged for obtaining and renewing licenses. These fees shall not be deposited in the state treasury, but shall be deposited in one (1) or more financial institutions located in this state. These revenues shall not be subject to the cash funds restrictions of Arkansas Code §19-4-801 et seq., or any other law pertaining to cash funds and shall not be subject to appropriation by the General Assembly.

SECTION 17. Penalties. The board may impose fines or other monetary penalty on school districts for employing a nonlicensed person or assigning a



1 licensed educator to perform duties outside the terms of his or her license.  
2 The board shall forward any monies received pursuant to this section to the  
3 State Treasurer for deposit in the general treasury of this state.

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5 SECTION 18. All provisions of this act of a general and permanent  
6 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas  
7 Code Revision Commission shall incorporate the same in the Code.

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9 SECTION 19. If any provision of this act or the application thereof to  
10 any person or circumstance is held invalid, such invalidity shall not affect  
11 other provisions or applications of the act which can be given effect without  
12 the invalid provision or application, and to this end the provisions of this  
13 act are declared to be severable.

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15 SECTION 20. All laws and parts of laws in conflict with this act are  
16 hereby repealed.

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