

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 2151 of the Regular Session

As Engrossed: S3/31/05 S4/1/05

A Bill

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005

SENATE BILL 1044

4
5 By: Senator Bryles
6 By: Representative Mahony

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8
9 **For An Act To Be Entitled**

10 AN ACT TO AMEND VARIOUS PROVISIONS OF LAW
11 CONCERNING TEACHER LICENSURE, LOCAL SCHOOL
12 BOARDS, BACKGROUND CHECKS ON SCHOOL DISTRICT
13 EMPLOYEES, AND CHILDREN WITH DISABILITIES; AND
14 FOR OTHER PURPOSES.

15
16 **Subtitle**

17 AN ACT TO AMEND VARIOUS PROVISIONS OF
18 LAW CONCERNING TEACHER LICENSURE, LOCAL
19 SCHOOL BOARDS, BACKGROUND CHECKS ON
20 SCHOOL DISTRICT EMPLOYEES, AND CHILDREN
21 WITH DISABILITIES.

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23
24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

25
26 SECTION 1. Arkansas Code § 6-17-401 is amended to read as follows:
27 6-17-401. Teacher's license requirement.

28 (a) ~~No~~ Except as permitted under § 6-17-309, no teacher shall be
29 employed in any public school of the state who is not licensed to teach in
30 the State of Arkansas by a license issued by the State Board of Education.

31 (b) No license shall be valid in any county until it has been
32 registered in the office of the county clerk.

33 (c) Any person who shall teach in a public school in this state
34 without a legal certificate of qualification to teach shall not be entitled
35 to receive for such services any compensation from the school funds.



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SECTION 2. Arkansas Code § 6-17-402 is amended to read as follows:
6-17-402. Rules and regulations.

(a)(1) The State Board of Education shall promulgate rules and regulations for the issuance, licensure, relicensure, and continuance of licensure of teachers in the public schools of this state.

(2) In addition to other requirements, any person applying for initial licensure as a teacher in the public schools or a licensed teacher applying for a license in an additional area shall take and complete a test recognized by the National Council for Accreditation of Teacher Education and approved by the board under §§ 6-17-601 through 6-17-603, and submit the scores to the Department of Education.

(b) No applicant for initial licensure or licensure in an additional area shall receive a license unless the applicant scores at or above the minimum level set by the board.

(c) All colleges and universities in this state shall report the results of the examinations to the department upon request.

(d) The board shall not delegate to any college or university any of the board's powers or duties pertaining to the issuance, licensure, relicensure, and continuance of licensure of teachers in public schools in this state.

(e) The board shall waive the examination requirements under subsection (a) of this section for individuals applying for licensure in Arkansas who have a valid out-of-state teaching license and three (3) years' documented teaching experience as required by the rules and regulations promulgated by the board.

(f) For purposes of this section, "certified teaching license" includes that license of a licensed classroom teacher, administrator, counselor, or librarian.

SECTION 3. Arkansas Code § 6-17-403 is amended to read as follows:
6-17-403. Provisional certification for teachers trained and certified

in other states.

(a) The State Board of Education is authorized to issue a one-year nonrenewable provisional certificate to any teacher trained in and certified by a state other than Arkansas who seeks Arkansas certification.

1 (b) Persons who have not successfully completed the National Teacher's
2 Examination or a similar examination designated by the board under §§ 6-17-
3 601 through 6-17-603 and who have not previously held an Arkansas certificate
4 but who meet degree, course work, and experience requirements for a standard
5 certificate and who otherwise qualify to teach in the public schools of this
6 state may receive a one-year nonrenewable provisional certificate and be
7 employed by any public school district in this state for a period not to
8 exceed one (1) year. Any school district which hires a teacher who has not
9 successfully completed such examination shall not be penalized by the board
10 provided that the length of employment of the teacher while noncertified does
11 not exceed one (1) year.

12
13 SECTION 4. Arkansas Code § 6-17-407 is amended to read as follows:
14 6-17-407. License revocation - Falsifying attendance records -
15 Investigating allegations of employee criminal misconduct.

16 (a)(1) The State Board of Education is directed to revoke the license
17 of any person in this state who knowingly falsifies any attendance records
18 kept by him or her that are used in computing the average daily attendance or
19 average daily membership of the school district in which the person is
20 employed, and the board is directed to revoke the license of any
21 superintendent of schools who knowingly permits or requires any person to
22 falsify such attendance records.

23 (2) Any person or superintendent of schools whose license is
24 revoked as provided in this subsection shall not thereafter be eligible to
25 receive a license to teach in this state.

26 (b)(1)(A) The superintendent of schools shall be responsible for
27 investigating and documenting allegations of criminal misconduct as
28 delineated in ~~§ 6-17-405~~ §§ 6-17-410 and 6-17-414 by a school district
29 employee and involving a student or students.

30 (B) The investigation may be conducted by the
31 superintendent's designee.

32 (2) If the superintendent finds no basis for allegations of
33 criminal misconduct, he shall not be required to place any documents relative
34 to such allegations or the subsequent investigation in the employee's
35 personnel file.

36 (3) Results of any such investigation shall not be available for

1 examination except by the employee or his or her duly authorized
2 representative or the office of the prosecuting attorney.

3 (4) Failure to comply with the requirements of this subsection
4 (b) shall be a Class C misdemeanor.

5
6 SECTION 5. Arkansas Code § 6-17-410 is amended to read as follows:

7 6-17-410. Teacher licensure - First-time applicant, renewal
8 application, revocation, suspension, and probation.

9 (a)(1)(A)(i) Each first-time applicant for a license issued by the
10 State Board of Education and each applicant for his or her first license
11 renewal on or after July 1, 1997, shall be required to apply to the ~~Bureau of~~
12 ~~Identification and Information~~ Identification Bureau of the Department of
13 Arkansas State Police for a statewide and nationwide criminal records check,
14 to be conducted by the Department of Arkansas State Police and the Federal
15 Bureau of Investigation.

16 (ii) The check shall conform to the applicable
17 federal standards and shall include the taking of fingerprints.

18 (iii) The Identification Bureau of the Department of
19 Arkansas State Police may maintain these fingerprints in the Automated
20 Fingerprint Identification System.

21 (iv) The Federal Bureau of Investigation shall
22 promptly destroy the fingerprint card of the applicant.

23 (B) The applicant shall sign a release of information to
24 the Department of Education and shall be responsible ~~to the Department of~~
25 ~~Arkansas State Police~~ for the payment of any fee associated with the criminal
26 records check.

27 (C)(i) The Department of Education shall be responsible ~~to~~
28 ~~the Department of Arkansas State Police~~ for the payment of any fee associated
29 with the criminal records check at the time of license renewal for employees
30 of Arkansas public school districts, employees of other public education
31 institutions located in Arkansas, and employees of the Department of
32 Education.

33 (ii) Funding for the fees shall come from the Public
34 School Fund.

35 (2) Upon completion of the criminal records check, the ~~Bureau of~~
36 ~~Identification and Information~~ Identification Bureau of the Department of

1 Arkansas State Police shall forward all releasable information obtained
2 concerning the applicant ~~in the commission of any offense listed in~~
3 ~~subsection (e) of this section~~ to the Department of Education.

4 ~~(3) At the conclusion of any background check required by this~~
5 ~~subsection (a), the Bureau of Identification and Information shall promptly~~
6 ~~destroy the fingerprint card of the applicant.~~

7 (b)(1) The board is authorized to issue a six-month nonrenewable
8 letter of provisional eligibility for licensure to a first-time applicant
9 pending the results of the criminal records check; provided, however, the
10 Director of the Department of Education is authorized to extend the period of
11 provisional eligibility to the end of that contract year if:

12 (A) The applicant is employed by a local school district;
13 and

14 (B) The results of the criminal records check are delayed.

15 (2) Upon receipt of information from the ~~Bureau of~~
16 ~~Identification and Information~~ Identification Bureau of the Department of
17 Arkansas State Police that the person holding a letter of provisional
18 eligibility for licensure has pleaded guilty or nolo contendere to or has
19 been found guilty of any offense listed in subsection (c) of this section,
20 the board shall immediately revoke the provisional eligibility.

21 (c) The board shall not issue a first-time license nor renew an
22 existing license and shall revoke any existing license not up for renewal of
23 any person who has pleaded guilty or nolo contendere to or has been found
24 guilty of any of the following offenses by any court in the State of Arkansas
25 or of any similar offense by a court in another state or of any similar
26 offense by a federal court but only after an opportunity for a hearing before
27 the board upon reasonable notice in writing:

28 (1) Capital murder, as prohibited in § 5-10-101;

29 (2) Murder in the first degree and second degree, as prohibited
30 in §§ 5-10-102 and 5-10-103;

31 (3) Manslaughter, as prohibited in § 5-10-104;

32 (4) Battery in the first degree and second degree, as prohibited
33 in §§ 5-13-201 and 5-13-202;

34 (5) Aggravated assault, as prohibited in § 5-13-204;

35 (6) Terroristic threatening in the first degree, as prohibited
36 in § 5-13-301;

- 1 (7) Kidnapping, as prohibited in § 5-11-102;
- 2 (8) Rape, as prohibited in § 5-14-103;
- 3 (9) Sexual assault in the first degree, second degree, third
4 degree, and fourth degree, as prohibited in § 5-14-124 - 5-14-127;
- 5 (10) Incest, as prohibited in § 5-26-202;
- 6 (11) Engaging children in sexually explicit conduct for use in
7 visual or print media, transportation of minors for prohibited sexual
8 conduct, or use of a child or consent to use of a child in a sexual
9 performance by producing, directing, or promoting a sexual performance by a
10 child, as prohibited in §§ 5-27-303, 5-27-305, 5-27-402, and 5-27-403;
- 11 (12) Distribution to minors, as prohibited in § 5-64-406;
- 12 (13) ~~The manufacture, delivery, or possession with intent to~~
13 ~~manufacture or deliver any controlled substance, as prohibited in~~ Any felony
14 in violation of the Uniform Controlled Substances Act, § 5-64-401 5-64-101 et
15 seq.;
- 16 (14) Sexual indecency with a child, as prohibited in § 5-14-110;
- 17 (15) Endangering the welfare of a minor in the first degree, as
18 prohibited in § 5-27-203;
- 19 (16) Pandering or possessing visual or print medium depicting
20 sexually explicit conduct involving a child, as prohibited by § 5-27-304;
- 21 (17) False imprisonment in the first degree, as prohibited in
22 § 5-11-103;
- 23 (18) Permanent detention or restraint, as prohibited in § 5-11-
24 106;
- 25 (19) Permitting abuse of a child, as prohibited in § 5-27-
26 221(a)(1) and (3);
- 27 (20) Negligent homicide, as prohibited by § 5-10-105(a);
- 28 (21) Assault in the first degree, as prohibited by § 5-13-205;
- 29 (22) Coercion, as prohibited by § 5-13-208;
- 30 (23) Public sexual indecency, as prohibited by § 5-14-111;
- 31 (24) Indecent exposure, as prohibited by § 5-14-112;
- 32 (25) Endangering the welfare of a minor in the second degree, as
33 prohibited by § 5-27-204;
- 34 (26) Criminal attempt, criminal solicitation, or criminal
35 conspiracy, as prohibited in §§ 5-3-201, 5-3-202, 5-3-301, and 5-3-401, to
36 commit any of the offenses listed in this subsection;

1 (27) Computer child pornography, § 5-73-603; and

2 (28) Computer exploitation of a child in the first degree, § 5-
3 27-605.

4 (d)(1) The revocation provisions of subsection (c) of this section may
5 be waived or a license may be suspended or placed on probation by the board
6 upon request by:

7 (A) The board of a local school district;

8 (B) An affected applicant for licensure; or

9 (C) The person holding a license subject to revocation.

10 (2) Circumstances for which a waiver may be granted shall
11 include, but not be limited to, the following:

12 (A) The age at which the crime was committed;

13 (B) The circumstances surrounding the crime;

14 (C) The length of time since the crime;

15 (D) Subsequent work history;

16 (E) Employment references;

17 (F) Character references; and

18 (G) Other evidence demonstrating that the applicant does
19 not pose a threat to the health or safety of school children or school
20 personnel.

21 (e)(1) For cause as set forth in subdivision (e)(2) of this section,
22 the board ~~shall~~ may revoke, suspend, or place on probation the license of any
23 person but only after an opportunity for a hearing before the board upon
24 reasonable written notice of the cause to be considered and only if a written
25 request for a hearing is received by the board no less than thirty (30) days
26 after the notice of the cause is received by the person holding the license.

27 (2) For the purposes of this subsection, "cause" means any of
28 the following:

29 (A) Pleading guilty or nolo contendere to or being found
30 *guilty of a felony not listed in subsection (c) of this section in any court*
31 *in this state or of a similar felony in a court in another state or in a*
32 *federal court;*

33 (B)(i) *Pleading guilty or nolo contendere to or being*
34 *found guilty in a court in this state of a nonfelony negligent homicide or a*
35 *misdemeanor not listed in subsection (c) of this section and involving*
36 *physical injury, mistreatment, or abuse against a child or against a*

1 household member of the licensee and not listed in subsection (e) of this
 2 section; or

3 (ii) Pleading guilty or nolo contendere to or being
 4 found guilty in a court in another state or in federal court of a crime
 5 similar to a nonfelony negligent homicide or a misdemeanor not listed in
 6 subsection (c) of this section and involving physical injury, mistreatment,
 7 or abuse against a child or against a household member of the licensee;

8 (C) Holding a license obtained by fraudulent means;

9 (D) Revocation of a license in another state;

10 (E) Intentionally compromising the validity or security of
 11 any student test or testing program administered by or required by the state
 12 board or the Department of Education;

13 (F) Having the completed examination test score of any
 14 testing program required by the board for teacher licensure declared invalid
 15 by the testing program company and so reported to the department by the
 16 testing company;

17 (G) Having an expunged or pardoned conviction for any
 18 sexual or physical abuse offense committed against a child;

19 (H) Failing to establish or maintain the necessary
 20 requirements and standards set forth in Arkansas law or state board rules and
 21 regulations for teacher licensure; ~~or~~

22 (I) ~~Having knowingly and intentionally violated the~~
 23 ~~provisions of § 6-17-301(c) and (d) or § 6-20-1201~~ Knowingly submitting or
 24 providing false or misleading information or knowingly failing to submit or
 25 provide information requested or required by law, to the Department of
 26 Education, the State Board of Education, or the Division of Legislative
 27 Audit; or

28 (J) Knowingly falsifying or directing another to falsify
 29 any grade given to a student, whether the grade was given for an individual
 30 assignment or examination or at the conclusion of a regular grading period.

31 (3) For purposes of this subsection, "child" means a person
 32 enrolled in the public schools of the State of Arkansas.

33 (f)(1) The superintendent of each school district shall report to the
 34 board the name of any person holding a license issued by the board and
 35 currently employed or employed during the two (2) previous school years by
 36 the local school district who:

1 (A) Has pleaded guilty or nolo contendere to or been found
2 guilty of a felony or any misdemeanor listed in subsection (c) of this
3 section;

4 (B) Holds a license obtained by fraudulent means;

5 (C) Has had a similar license revoked in another state;

6 (D) Has intentionally compromised the validity or security
7 of any student test or testing program administered or required by the
8 Department of Education;

9 (E) Has knowingly submitted falsified information or
10 failed to submit information requested or required by law to the Department
11 of Education, the State Board of Education, or the Division of Legislative
12 Audit; or

13 (F) Has failed to establish or maintain the necessary
14 requirements and standards set forth in Arkansas law or Department of
15 Education rules and regulations for teacher licensure.

16 (2) Failure of a superintendent to report information as
17 required by this subsection may result in sanctions imposed by the board.

18 (g) For cause as stated in subsection (e) of this section, the board
19 is authorized to:

20 (1) Revoke a license permanently;

21 (2) Suspend a license for a terminable period of time or
22 indefinitely; or

23 (3) Place a person on probationary status for a terminable
24 period of time, with the license to be revoked or suspended if the
25 probationary period is not successfully completed; ~~or~~

26 ~~(4) Accept voluntary surrender of a license.~~

27 (h) Upon notice in writing that a revocation, suspension, or probation
28 is being sought by the board for a cause set forth, a person may:

29 ~~(1) Voluntarily surrender the license;~~

30 ~~(2)~~(1) Decline to answer the notice, in which case a hearing
31 will be held before the board to establish by a preponderance of the evidence
32 that cause for the proposed action exists;

33 ~~(3)~~(2) Contest the complaint, in which case the person shall be
34 given an evidentiary hearing before the board if one is requested;

35 ~~(4)~~(3) Admit the allegations of fact and request ~~an informal a~~ a
36 hearing before the board in mitigation of any penalty which may be assessed;

1 or

2 ~~(5)~~(4) Stipulate or reach a negotiated agreement which must be
3 approved by the board.

4 (i)(1) Any information received by the Department of Education from
5 the ~~Bureau of Identification and Information~~ Identification Bureau of the
6 Department of Arkansas State Police pursuant to subsection (a) of this
7 section shall not be available for examination except by the affected
8 applicant for licensure or his or her duly authorized representative, and no
9 record, file, or document shall be removed from the custody of the
10 department.

11 (2) Any information made available to the affected applicant for
12 licensure or the person whose license is subject to revocation shall be
13 information pertaining to that applicant only.

14 (3) Rights of privilege and confidentiality established herein
15 shall not extend to any document created for purposes other than this
16 background check.

17 (j) The board shall adopt the necessary rules and regulations to fully
18 implement the provisions of this section.

19

20 SECTION 6. Arkansas Code § 6-17-411 is amended to read as follows:

21 6-17-411. Criminal records check as a condition for initial employment
22 of certified personnel.

23 (a)(1)(A) Except as provided in subdivision (a)(1)(B) of this section,
24 the board of directors of a local school district shall require as a
25 condition for initial employment by the district that any person holding a
26 license issued by the State Board of Education and making application for
27 employment authorize release to the Department of Education of the results of
28 statewide and nationwide criminal records checks by the ~~Bureau of~~
29 ~~Identification and Information~~ Identification Bureau of the Department of
30 Arkansas State Police, which conform to the applicable federal standards and
31 include the taking of the applicant's fingerprints.

32 (B)(i) The board of directors of a local school district
33 created by consolidation, annexation, or detachment may waive the
34 requirements under subdivision (a)(1)(A) of this section for personnel who
35 were employed by the affected district immediately prior to the annexation,
36 consolidation, or detachment and who had a complete criminal background check

1 conducted as a condition of the person's most recent employment with the
2 affected district as required under this section.

3 (ii) As used in this section, "affected district"
4 means a school district that loses territory or students as a result of
5 annexation, consolidation, or detachment.

6 (2) Unless the employing school district's board of directors
7 has taken action to pay for the cost of criminal background checks required
8 by this section, the employment applicant shall be responsible ~~to the~~
9 ~~Department of Arkansas State Police~~ for the payment of any fee associated
10 with the criminal records check.

11 (3) At the conclusion of the criminal records check required by
12 this section, the ~~Bureau of Identification and Information~~ Identification
13 Bureau of the Department of Arkansas State Police ~~shall promptly destroy the~~
14 ~~fingerprint card of the affected applicant~~ may maintain the fingerprints in
15 the Automated Fingerprint Identification System.

16 (4)(A) Any information received by the Department of Education
17 from the ~~Bureau of Identification and Information~~ Identification Bureau of
18 the Department of Arkansas State Police pursuant to this section shall not be
19 available for examination except by the affected applicant for employment or
20 his duly authorized representative, and no record, file, or document shall be
21 removed from the custody of the department.

22 (B) Any information made available to the affected
23 applicant for employment shall be information pertaining to that applicant
24 only.

25 (C) Rights of privilege and confidentiality established
26 herein shall not extend to any document created for purposes other than this
27 background check.

28 (5) The Department of Education shall promptly inform the board
29 of directors of the local school district whether or not the affected
30 applicant is eligible for employment as provided by subsection (b) of this
31 section.

32 (b)(1) No person holding a license from the State Board of Education
33 shall be eligible for employment by a local school district if the results of
34 the criminal records check released to the Department of Education by the
35 applicant reveal that the applicant has pleaded guilty or nolo contendere to
36 or has been found guilty of any offense that will or may result in license

1 revocation by the State Board of Education under ~~§§ 6-17-405 and~~ 6-17-410.

2 (2) Provided, however, that the board of directors of a local
3 school district is authorized to offer provisional employment to the affected
4 applicant pending receipt of eligibility information from the Department of
5 Education.

6
7 SECTION 7. Arkansas Code § 6-17-414 is amended to read as follows:

8 6-17-414. Criminal records check as a condition for initial employment
9 of noncertified personnel.

10 (a)(1)(A)(i) Except as provided in subdivision (a)(1)(C) of this
11 section, the board of directors of a local school district or an education
12 service cooperative shall require as a condition for initial employment in a
13 noncertified staff position any person making application to apply to the
14 Bureau of Identification and Information for statewide and nationwide
15 criminal records checks, the latter to be conducted by the Federal Bureau of
16 Investigation.

17 (ii) The checks shall conform to the applicable
18 federal standards and shall include the taking of fingerprints.

19 (iii) The Identification Bureau of the Department of
20 Arkansas State Police may maintain these fingerprints in the Automated
21 Fingerprint Identification System.

22 (iv) The Federal Bureau of Investigation shall
23 promptly destroy the fingerprint card of the applicant.

24 (B) The person shall sign a release of information to the
25 Department of Education. Unless the employing school district board of
26 directors has taken action to pay for the cost of criminal background checks
27 required by this section, the employment applicant shall be responsible ~~to~~
28 ~~the Department of Arkansas State Police~~ for the payment of any fee associated
29 with the criminal records checks.

30 (C)(i) The board of directors of a local school district
31 created by consolidation, annexation, or detachment may waive the
32 requirements under subdivisions (a)(1)(A) and (a)(1)(B) of this section for
33 personnel who were employed by the affected district immediately prior to the
34 annexation, consolidation, or detachment and who had complete criminal
35 background checks conducted as a condition of the person's most recent
36 employment with the affected district as required under this section.

1 (ii) As used in this section, "affected district"
 2 means a school district that loses territory or students as a result of
 3 annexation, consolidation, or detachment.

4 (2) Upon completion of the criminal records check, the ~~Bureau of~~
 5 ~~Identification and Information~~ Identification Bureau of the Department of
 6 Arkansas State Police shall forward all releasable information obtained
 7 concerning the person ~~in the commission of any offense listed in subsection~~
 8 ~~(b) of this section to the department~~ to the Department of Education, which
 9 shall promptly inform the board of directors of the local school district or
 10 education service cooperative whether or not the applicant is eligible for
 11 employment as provided by subdivision (b)(1) of this act.

12 ~~(3) At the conclusion of any background check required by this~~
 13 ~~section, the Bureau of Identification and Information shall promptly destroy~~
 14 ~~the fingerprint card of the applicant.~~

15 ~~(b)(1)~~ No person shall be eligible for employment by a local school
 16 district or education service cooperative in a noncertified staff position if
 17 that person has pleaded guilty or nolo contendere to or has been found guilty
 18 of any of the following offenses by any court in the State of Arkansas or of
 19 any similar offense by a court in another state or of any similar offense by
 20 a federal court:

- 21 ~~(A)~~(1) Capital murder, as prohibited in § 5-10-101;
 22 ~~(B)~~(2) Murder in the first degree and second degree, as
 23 prohibited in §§ 5-10-102 and 5-10-103;
 24 ~~(C)~~(3) Manslaughter, as prohibited in § 5-10-104;
 25 ~~(D)~~(4) Battery in the first degree and second degree, as
 26 prohibited in §§ 5-13-201 and 5-13-202;
 27 ~~(E)~~(5) Aggravated assault, as prohibited in § 5-13-204;
 28 ~~(F)~~(6) Terroristic threatening in the first degree, as
 29 prohibited in § 5-13-301;
 30 ~~(G)~~(7) Kidnapping, as prohibited in § 5-11-102;
 31 ~~(H)~~(8) Rape, as prohibited in § 5-14-103;
 32 ~~(I)~~(9) Sexual assault in the first degree, second degree, third
 33 degree, and fourth degree, as prohibited in § 5-14-124 - 5-14-127;
 34 ~~(J)~~(10) Incest, as prohibited in § 5-26-202;
 35 ~~(K)~~(11) Engaging children in sexually explicit conduct for use
 36 in visual or print media, transportation of minors for prohibited sexual

1 conduct, or use of a child or consent to use of a child in a sexual
2 performance by producing, directing, or promoting a sexual performance by a
3 child, as prohibited in §§ 5-27-303, 5-27-305, 5-27-402, and 5-27-403;

4 ~~(L)~~(12) Distribution to minors, as prohibited in § 5-64-406;

5 ~~(M)~~(13) ~~The manufacture, delivery, or possession with intent to~~
6 ~~manufacture or deliver any controlled substance, as prohibited in Any felony~~
7 ~~in violation of the Uniform Controlled Substances Act, § 5-64-401 § 5-64-101~~
8 ~~et seq.~~;

9 ~~(N)~~(14) Criminal attempt, criminal solicitation, or criminal
10 conspiracy, as prohibited in §§ 5-3-201, 5-3-202, 5-3-301, and 5-3-401, to
11 commit any of the offenses listed in this subsection;

12 ~~(O)~~(15) Sexual indecency with a child, as prohibited in § 5-14-
13 110;

14 ~~(P)~~(16) Endangering the welfare of a minor in the first degree,
15 as prohibited in § 5-27-203;

16 ~~(Q)~~(17) Pandering or possessing visual or print medium depicting
17 sexually explicit conduct involving a child, as prohibited by § 5-27-304;

18 ~~(R)~~(18) False imprisonment in the first degree, as prohibited in
19 § 5-11-103;

20 ~~(S)~~(19) Permanent detention or restraint, as prohibited in § 5-
21 11-106;

22 ~~(T)~~(20) Permitting abuse of a child, as prohibited in § 5-27-
23 221(a)(1) and (3);

24 ~~(U)~~(21) Negligent homicide, as prohibited by § 5-10-105(a);

25 ~~(V)~~(22) Assault in the first degree, as prohibited by § 5-13-
26 205;

27 ~~(W)~~(23) Coercion, as prohibited by § 5-13-208;

28 ~~(X)~~(24) Public sexual indecency, as prohibited by § 5-14-111;

29 ~~(Y)~~(25) Indecent exposure, as prohibited by § 5-14-112;

30 ~~(Z)~~(26) Endangering the welfare of a minor in the second degree,
31 as prohibited by § 5-27-204;

32 ~~(AA)~~(27) Computer child pornography, § 5-73-603; and

33 ~~(BB)~~(28) Computer exploitation of a child in the first degree, §
34 5-27-605.

35 ~~(2)~~(c) Provided, however, that the board of directors of a local
36 school district or education service cooperative is authorized to offer

1 provisional employment to an applicant pending receipt of eligibility
2 information from the Department of Education.

3 ~~(e)~~(d)(1) Any information received by the Department of Education from
4 the ~~Bureau of Identification and Information~~ Identification Bureau of the
5 Department of Arkansas State Police pursuant to this act shall not be
6 available for examination except by the affected applicant for employment or
7 his duly authorized representative, and no record, file, or document shall be
8 removed from the custody of the Department of Education.

9 (2) Any information made available to the affected applicant for
10 employment shall be information pertaining to that applicant only.

11 (3) Rights of privilege and confidentiality established herein
12 shall not extend to any document created for purposes other than this
13 background check.

14 ~~(d)~~(e) As used in this ~~act~~ section, "noncertified staff position"
15 means any job that does not require the person to hold a license issued by
16 the State Board of Education and is either a full-time job, a full-time part-
17 time job, or is a job as a substitute teacher for thirty (30) days or more
18 during a school year.

19 ~~(e)~~(f)(1) The employment eligibility provisions of subdivision (b)(1)
20 of this section may be waived by the state board upon request by:

21 (A) The board of a local school district; or

22 (B) An affected applicant for employment.

23 (2) Circumstances for which a waiver may be granted shall
24 include, but not be limited to, the following:

25 (A) The age at which the crime was committed;

26 (B) The circumstances surrounding the crime;

27 (C) The length of time since the crime;

28 (D) Subsequent work history;

29 (E) Employment references;

30 (F) Character references; and

31 (G) Other evidence demonstrating that the applicant does
32 not pose a threat to the health or safety of school children or school
33 personnel.

34 (3) No waiver shall be granted if the state board determines
35 that the offense was a violent, physical, or sexual offense.

36 (g) The state board may determine that an applicant for employment

1 with a school district in a noncertified staff position is ineligible for
2 employment if the applicant:

3 (1) Has pleaded guilty or nolo contendere to or was found guilty
4 of a felony not listed in subsection (b) of this section;

5 (2)(A) Pleads guilty or nolo contendere to or has been found
6 guilty in a court in this state of a nonfelony negligent homicide or a
7 misdemeanor not listed in subsection (b) of this section and involving
8 physical injury, mistreatment, or abuse against a child or against a
9 household member of the licensee; or

10 (B) Pleads guilty or nolo contendere to or has been found
11 guilty in a court in another state or in federal court of a crime similar to
12 a nonfelony negligent homicide or a misdemeanor not listed in subsection (b)
13 of this section and involving physical injury, mistreatment, or abuse against
14 a child or against a household member of the licensee;

15 (3) Is required to pass an examination as a requirement of his
16 or her position and the applicant's completed examination test score was
17 declared invalid because of the applicant's improper conduct;

18 (4) Has an expunged or pardoned conviction for any sexual or
19 physical abuse offense committed against a child;

20 (5) Knowingly submits or provides false or misleading
21 information or knowingly fails to submit or provide information requested or
22 required by law to the Department of Education, the State Board of Education,
23 or the Division of Legislative Audit; or

24 (6) Knowingly falsifies or directs another to falsify any grade
25 given to a student, whether the grade was given for an individual assignment
26 or examination or at the conclusion of a regular grading period.

27
28 SECTION 8. Arkansas Code § 6-17-417 is amended to read as follows:

29 6-17-417. Fingerprint or name check.

30 In any instance where an individual must apply to the ~~Bureau of~~
31 ~~Identification and Information~~ Identification Bureau of the Department of
32 Arkansas State Police for a statewide and nationwide criminal records check
33 as a condition for a license issued by the State Board of Education or as a
34 condition for employment by a local school district and where a legible set
35 of fingerprints, as determined by the bureau, cannot be obtained after a
36 minimum of three (3) attempts, the Department of Education or the local

1 school district shall determine eligibility for licensure or employment based
2 upon a name check by the bureau and the Federal Bureau of Investigation.

3
4 SECTION 9. Arkansas Code § 6-17-419 is amended to read as follows:

5 6-17-419. Expired license renewal requirements.

6 (a)(1) Any person who held a valid teaching license prior to
7 January 1, 1988, shall be allowed to renew that teaching license by meeting
8 the general renewal requirements that are applicable to renewal for all other
9 license holders and shall not be required ~~to comply with §§ 6-17-601 et seq.,~~
10 to take a basic skills test, to take the National Teacher's Exam, or to
11 fulfill any other requirement that is not also required of all other teachers
12 for license renewal.

13 (2) Any person who held a valid teaching license prior to
14 January 1, 1988, shall be entitled to a provisional license by meeting the
15 general requirements that are applicable to all other persons seeking a
16 provisional license.

17 (b) This section does not allow a person whose license was revoked
18 under ~~§§ 6-17-405 (repealed), 6-17-406—6-17-408~~ § 6-17-410 to renew his or
19 her license.

20
21 SECTION 10. Arkansas Code § 6-17-421(a) and (b) are amended to read as
22 follows:

23 (a) For purposes of this section:

24 (1) "Applicant" means an individual who is applying for initial
25 employment as a fiscal officer of a school district; and

26 (2) "Fiscal officer" means any certified or noncertified
27 employee of a school district or education service cooperative who has any
28 right, duty, or responsibility to access funds of a school district in excess
29 of ~~two hundred dollars (\$200)~~ five thousand dollars (\$5,000), specifically
30 including, but not limited to, superintendents, fiscal officers, and
31 bookkeepers; ~~and~~

32 (3) "~~Fraudulent act~~" means ~~an act involving fraud or breach of~~
33 ~~fiduciary trust which is punishable under the criminal code in the~~
34 ~~jurisdiction within which the act occurred~~ an act:

35 (A) Performed willfully and with the specific intent to
36 deceive or cheat for the purpose of either causing some financial loss to

1 another or bringing about some financial gain to the actor; and
2 (B) For which the actor has pleaded guilty or nolo
3 contendere to or has been found guilty by any court in this state, by a court
4 in another state, or by a federal court.

5 (b)(1)(A) Upon making application for employment in a position as a
6 fiscal officer of a school district, the board of directors of a school
7 district shall require the employment applicant to authorize release to the
8 Department of Education the results of statewide and nationwide criminal
9 records checks by the ~~Bureau of Identification and Information~~ Identification
10 Bureau of the Arkansas State Police.

11 (B) Unless the employing school district's board of
12 directors has taken action to pay for the cost of criminal background checks
13 required by this section, the employment applicant shall be responsible ~~to~~
14 ~~the Department of Arkansas State Police~~ for the payment of any fee associated
15 with the criminal records check.

16 (2)(A) The criminal background check shall conform to the
17 applicable federal standards and include the taking of the employment
18 applicant's or currently employed fiscal officer's fingerprints.

19 (B) At the conclusion of the criminal records check
20 ~~required by this section, the bureau shall promptly destroy the fingerprint~~
21 ~~card of the affected employment applicant or fiscal officer~~ may maintain the
22 fingerprints in the Automated Fingerprint Identification System.

23 (3)(A) Any information received by the Department of Education
24 from the bureau pursuant to this section shall not be available for
25 examination except by the affected employment applicant or fiscal officer or
26 his or her duly authorized representative, and no record, file, or document
27 shall be removed from the custody of the Department of Education.

28 (B) Any information made available to the affected
29 employment applicant or fiscal officer shall be information pertaining to
30 that applicant only.

31 (C) Rights of privilege and confidentiality established
32 under this section shall not extend to any document created for purposes
33 other than the background check.

34 (4) The Department of Education shall promptly inform the board
35 of directors of the local school district whether or not the affected
36 employment applicant is eligible for employment as provided in this

1 subsection (b).

2

3 SECTION 11. Arkansas Code § 6-13-604 is amended to read as follows:

4 6-13-604. Districts with five or more directors - Increase in number.
5 [Effective July 1, 2000.]

6 (a) The board of directors of any school district in this state which
7 now has or which is authorized to have five (5) or more directors may file a
8 petition with the State Board of Education requesting an increase in the
9 number of directors for such district to ~~any number not to exceed~~ seven (7).
10 Provided, in any school district in the state having an average daily
11 attendance of twenty-four thousand (24,000) or more, the petition may request
12 that the board of directors for the district be increased to nine (9)
13 members.

14 (b) Notice of the filing of such petition shall be published within
15 ten (10) days thereafter for one (1) insertion in some newspaper having a
16 general circulation in the district.

17 (c) Upon a showing that the increase will be for the benefit of the
18 district petitioning for it, the State Board of Education is authorized to
19 increase the number of directors for such district to ~~any number not to~~
20 ~~exceed~~ seven (7) or ~~not to exceed~~ nine (9) in the case of a school district
21 having an average daily attendance of twenty-four thousand (24,000) or more.

22 (d) The order directing such increase shall be entered not more than
23 sixty (60) days after the publication of notice.

24 (e) The additional directors shall be appointed in the manner
25 prescribed by law to serve until the next regular school election.

26 (f) All directors so appointed shall serve until their successors are
27 elected and qualified.

28 (g) The additional directors authorized by this section shall be
29 elected for the same term as other directors on the respective boards.

30 (h) All boards of directors shall be made up of five (5), seven (7),
31 or nine (9) members as allowed by law.

32 (i) No board of directors shall have an even number of directors
33 whether or not the number of directors of a school district's board of
34 directors was established by an agreement between or among the former school
35 districts which comprise the school district incident to a consolidation or
36 annexation of the former school districts.

1 (j) Any change in the number of directors serving on the local school
2 board of directors required under this act shall be effective upon the
3 directors' taking office following the 2005 annual school election.

4 (k)(1) Except as otherwise provided by law, any school district which
5 elects its board members from single-member zones shall be subject to the
6 requirements of this section.

7 (2) For those school districts which are subject to this
8 subsection (k), "next regular school election" as used in subsection (e) of
9 this section means the 2005 annual school election.

10
11 SECTION 12. Arkansas Code § 6-13-606 is amended to read as follows:

12 6-13-606. Districts with more than five directors - Decrease in
13 number. [Effective July 1, 2000.]

14 (a) The board of directors of any school district in this state which
15 now has or which is authorized to have ~~more than five (5)~~ seven (7) or nine
16 (9) directors may file a petition with the State Board of Education
17 requesting a decrease in the number of directors for that district to ~~any~~
18 ~~number not fewer than~~ five (5) or seven (7).

19 (b) Notice of the filing of the petition shall be published within ten
20 (10) days thereafter by one (1) insertion in some newspaper having a general
21 circulation in the district.

22 (c) Upon a showing that such decrease will not be detrimental to the
23 district petitioning for it, the state board is authorized to decrease the
24 number of directors for the district to ~~any number not fewer than~~ five (5) or
25 seven (7).

26 (d) The order directing such decrease shall be entered not more than
27 sixty (60) days after the publication of notice.

28 (e) Pursuant to the order and as soon as possible thereafter, the
29 members of the board of directors shall draw by lot for the number of
30 positions determined.

31 (f) The remaining directors shall continue to serve their unexpired
32 terms.

33 (g) All boards of directors shall be made up of five (5), seven (7),
34 or nine (9) members as allowed by law.

35 (h)(1) No board of directors shall have an even number of directors
36 whether or not the number of directors of a school district's board of

1 directors was established by an agreement between or among the former school
2 districts which comprise the school district incident to a consolidation or
3 an annexation of the former school districts.

4 (2) No less than ninety (90) days prior to the next annual
5 school election, any school district with an even number of directors shall
6 file a petition with the State Board of Education to establish the requisite
7 odd number of directors.

8 (3) If the number of board members needs to be reduced to create
9 a required odd number of directors and the members cannot agree on the method
10 of reduction, the board of directors in office on the effective date of this
11 subsection (h) shall draw lots to determine which board positions will be
12 eliminated.

13 (i) Any change in the number of directors serving on the local school
14 board of directors required under this act shall be effective upon the
15 directors' taking office following the 2005 annual school election.

16 (j)(1) Except as otherwise provided by law, any school district which
17 elects its board members from single-member zones shall be subject to the
18 requirements of this section.

19 (2) For those school districts which are subject to this
20 subsection (j), "next annual school election" as used in subsection (h)(2) of
21 this section means the 2005 annual school election.

22
23 SECTION 13. Arkansas Code § 6-13-634 is amended to read as follows:

24 6-13-634. School district board of directors - Size. [Effective
25 July 1, 2000.]

26 (a) ~~As of July 1, 2000, all~~ All school districts shall have a board of
27 directors with ~~no fewer than~~ five (5) members, ~~and no more than~~ seven (7)
28 members, or ~~no more than~~ nine (9) members in the case of a school district
29 having an average daily attendance of twenty-four thousand (24,000) or more.

30 (b) Subsection (a) of this section shall not apply to those school
31 districts which have a board of directors of ~~more than~~ seven (7) members, or
32 ~~no more than~~ nine (9) members in the case of a school district having an
33 average daily attendance of twenty-four thousand (24,000) or more, if that
34 school district is operating under a court order or a consolidation agreement
35 that provides for a board of directors.

36 (c)(1) No board of directors shall have an even number of directors.

1 (2) No less than ninety (90) days prior to the next annual
2 school election, any school district with a even number of directors shall
3 file a petition with the State Board of Education to establish the requisite
4 odd number of directors.

5 (3) If the number of board members needs to be reduced to create
6 an odd number of directors, the board of directors in office on the effective
7 date of this subsection (c) shall draw lots to determine which board
8 positions will be eliminated.

9 (d) Any change in the number of directors serving on the local school
10 board of directors required under this act shall be effective upon the
11 directors' taking office following the 2005 annual school election.

12
13 SECTION 14. Arkansas Code § 6-15-902(d), concerning the uniform
14 grading scale for high school students, is repealed.

15 ~~(d) A notation shall be made on a student's transcript to indicate~~
16 ~~each special education class included on the transcript.~~

17
18 SECTION 15. Arkansas Code § 6-16-102(a), pertaining to the definition
19 of "school day", is amended to read as follows:

20 (a)(1) As used in this section, unless the context otherwise requires,
21 "school day" shall mean a day in which classes are in session and students
22 receive ~~fewer than~~ at least six (6) hours of instructional time.

23 (2) Any day in which fewer than six (6) hours of instructional
24 time ~~is~~ are provided to students shall be counted as one-half (1/2) of a
25 school day if at least three (3) hours of instructional time ~~is~~ are provided
26 to students.

27 (3) Any day in which fewer than three (3) hours of instructional
28 time ~~is~~ are provided to students shall not be counted as any part of a school
29 day.

30 (4) A school district may include as part of the school day the
31 travel time between public schools or other educational programs of those
32 students attending classes or programs authorized by law.

33
34 SECTION 16. Arkansas Code § 6-17-309 is amended to read as follows:

35 6-17-309. Certification – Waiver.

36 (a)(1) No class of students shall be under the instruction of a

1 teacher who is not certified to teach the grade level or subject matter of
2 the class for more than thirty (30) consecutive school days in the same class
3 during a school year.

4 (2) This provision shall not apply to:

5 (A) ~~nondegreeed~~ Nondegreeed vocational-technical teachers
6 and those;

7 (B) Those persons approved by the Department of Education
8 to teach the grade level or subject matter of the class in the department's
9 distance learning program;

10 (C) Those persons teaching concurrent credit courses or
11 advanced placement courses who:

12 (i) Are employed by a postsecondary institution;

13 (ii) Meet the qualification requirements of that
14 institution or the Department of Workforce Education; and

15 (iii) Are teaching in a course in which credit is
16 offered by an institution of higher education or a technical institute;

17 (D) Licensed teachers teaching in the following settings:

18 (i) An alternative learning environment;

19 (ii) A juvenile detention facility;

20 (iii) A residential and day alcohol, drug, and
21 psychiatric facility program;

22 (iv) An emergency youth shelter;

23 (v) A facility of the Division of Youth Services of
24 the Department of Human Services; or

25 (vi) A facility of the Division of Developmental
26 Disabilities Services of the Department of Human Services; and

27 (E) A licensed special education teacher teaching two (2)
28 or more core academic subjects exclusively to children with disabilities.

29 (b)(1) If this requirement imposes an undue hardship on a school
30 district, the district may apply to the State Board of Education for a
31 waiver.

32 (2) The board shall develop rules and regulations for granting a
33 waiver.

34 (3) Any school district that obtains a waiver shall send written
35 notice of the assignment to the parent or guardian of each student in the
36 classroom no later than the thirtieth school day after the date of the

1 assignment.

2

3 SECTION 17. Arkansas Code § 6-17-409 is amended to read as follows:

4 6-17-409. ~~Grants for alternative teacher~~ Nontraditional licensure
5 certification.

6 (a) The Department of Education may offer and operate a nontraditional
7 licensure program.

8 ~~(a)(b)~~ The Department of Education department is hereby authorized to
9 provide grants of financial assistance, ~~not to exceed five hundred dollars~~
10 ~~(\$500), to entities that train~~ individuals seeking to obtain ~~alternative~~
11 ~~teacher~~ nontraditional licensure certification through the ~~alternative~~
12 nontraditional certification process administered by the department. The
13 ~~grants shall be paid by the department~~ shall pay the grants from funds
14 appropriated by the General Assembly to the department for such purpose.

15 ~~(b)(c)~~ The department is hereby authorized to promulgate rules and
16 regulations to determine eligibility for and amount of awards of the grants
17 concerning the operation of the nontraditional licensure program authorized
18 by this section, and for such other purposes as may be necessary in carrying
19 out the intent of this section.

20

21 SECTION 18. Arkansas Code § 6-18-215 is amended to read as follows:

22 6-18-215. School enrollment census - Determining student dropout
23 rates.

24 (a)(1)(A) On or before October 1 of each school year, a public school
25 shall conduct a census of all students enrolled at the school to arrive at a
26 school enrollment census total for each grade.

27 (B) The number of students transferring into the school
28 after October 1 ~~but before the end of the school year~~ through September 30 of
29 the following school year shall be added to the October 1 school enrollment
30 census total for each grade.

31 (C) The number of students transferring out of the school
32 after October 1 ~~but before the end of the school year~~ through September 30 of
33 the following school year shall be subtracted from the October 1 school
34 enrollment census total for each grade.

35 (2) The number of students *transferring* ~~into or~~ out of a school
36 shall be based on the number of official transcripts ~~received from other~~

1 ~~schools and the number of transcripts~~ requested by other schools.

2 (3) Each school shall maintain separate records regarding
3 students who ~~after October 1 of each school year~~ leave the public school
4 system to be home-schooled under § 6-15-503.

5 (b) The school enrollment census total as calculated and adjusted
6 under subsection (a) of this section shall be used to determine the dropout
7 rate for each school as follows:

8 (1) For grades ~~kindergarten through eleven (K-11)~~ two through
9 twelve (2-12), the school enrollment census total for the current school year
10 is compared to the school enrollment census total for each of the previous
11 grades of the previous school year; and

12 (2) For grade ~~twelve (12)~~ one (1), the school enrollment census
13 total for the current school year ~~school enrollment census total for grade~~
14 ~~twelve (12)~~ is compared to the school enrollment census total for ~~grade~~
15 ~~eleven (11)~~ the kindergarten class of the previous year.

16 (c) The graduation rates, as defined by the Department of Education,
17 shall be tracked for students in grades nine through twelve (9-12).

18 (d) The department shall use this section for in-state reporting
19 purposes related to school dropout rates.

20 (e) The State Board of Education shall promulgate rules to require
21 school districts to report graduation and dropout ~~rates~~ data each year in
22 accordance with this section.

23
24 SECTION 19. Arkansas Code § 6-20-2002 is amended to read as follows:
25 6-20-2002. Definitions.

26 As used in this subchapter:

27 (1) "Athletic expenditures" means all direct and indirect
28 expenses related to interschool athletic programs, prorated if necessary,
29 including, but not limited to:

30 (A) Salaries or supplemental pay for staff for interschool
31 athletic programs, excluding salaries received for duties as a classroom
32 teacher;

33 (B) All fringe benefits, including, but not limited to,
34 medical and dental insurance, workers' compensation, pension plans, and any
35 other costs associated with employment of staff for interschool athletic
36 programs;

1 (C) Travel, including bus-related operation and
 2 maintenance;
 3 (D) Equipment;
 4 (E) Meals;
 5 (F) Supplies;
 6 (G) Property and medical insurance;
 7 (H) Medical expenses;
 8 (I) Utilities; and
 9 (J) Maintenance of facilities related to interschool
 10 athletic teams and spirit groups, excluding bands;

11 (2) "Classroom teacher" means an individual who is required to
 12 hold a teaching license from the Department of Education and who is engaged
 13 directly in instruction with students in a classroom setting for more than
 14 seventy percent (70%) of the individual's contracted time;

15 (3) "Interschool athletic program" means+

16 ~~(A) Any~~ any athletic program which is organized primarily
 17 for the purpose of competing with other schools, public or private; ~~or~~

18 ~~(B) Any athletic program which is subject to regulation by~~
 19 ~~the Arkansas Activities Association; and~~

20 (4) "State funds" means all money derived from state revenues,
 21 specifically including, but not limited to, distributions from the Department
 22 of Education Public School Fund Account and ad valorem property taxes
 23 distributed to a public school or school district.
 24

25 SECTION 20. Arkansas Code Title 25, Chapter 6, Subchapter 1 is amended
 26 to add an additional section to read as follows:

27 25-6-107. Local education agency – Numbers.

28 (a)(1) The Department of Education is the sole and official issuer of
 29 local education agency numbers to educational entities in the state.

30 (2) These numbers shall be issued, activated, deactivated, or
 31 changed according to the annual schedule and in a format established by the
 32 Department of Education.

33 (b) Notwithstanding any other provision of law, an educational entity
 34 shall not be recognized as a public school district or entitled to the rights
 35 and privileges of a school district solely because the educational entity has
 36 been assigned a local educational number.

1 (c) The State Board of Education shall adopt the necessary rules to
2 fully implement this section.

3
4 SECTION 21. Arkansas Code § 6-13-1601 is amended to read as follows:

5 6-13-1601. Definitions.

6 As used in this subchapter:

7 (1) "Administrative annexation" means the joining of an affected
8 school district or a part of the school district with a receiving district;

9 (2) "Administrative consolidation" means the joining of two (2)
10 or more school districts to create a new single school district with one (1)
11 administrative unit and one (1) board of directors that is not required to
12 close school facilities;

13 (3) "Affected district" means a school district that loses
14 territory or students as a result of administrative annexation or
15 consolidation;

16 (4)(A) "Average daily membership" means the total number of days
17 attended plus the total number of days absent by students in grades
18 kindergarten through twelve (K-12) during the first three (3) quarters of
19 each school year divided by the number of school days actually taught in the
20 district during that period of time rounded up to the nearest hundredth.

21 (B) Students who may be counted for average daily
22 membership are:

23 (i) Students who reside within the boundaries of the
24 school district and who are enrolled in a public school operated by the
25 district or a private school for special education students, with their
26 attendance resulting from a written tuition agreement approved by the
27 Department of Education;

28 (ii) Legally transferred students living outside the
29 district but attending a public school in the district; and

30 (iii) Students who reside within the boundaries of
31 the school district and who are enrolled in the Arkansas National Guard Youth
32 Challenge Program, so long as the students are participants in the program;

33 ~~(5) "Consolidated average daily membership" means the sum of the~~
34 ~~average daily membership for each school district included in a consolidation~~
35 ~~if the average daily membership for the school district was five hundred~~
36 ~~(500) or fewer for the school year immediately preceding the school year for~~

1 ~~which the consolidation becomes effective;~~

2 ~~(6) "Consolidated national school lunch student total" means the~~
 3 ~~sum of national school lunch students in each school district included in a~~
 4 ~~consolidation if the average daily membership for the school district was~~
 5 ~~five hundred (500) or fewer for the school year immediately preceding the~~
 6 ~~school year for which the consolidation becomes effective;~~

7 ~~(7) "National school lunch students" means those students from~~
 8 ~~low socioeconomic backgrounds as indicated by the eligibility for free or~~
 9 ~~reduced-price meals under the National School Lunch Act as calculated on~~
 10 ~~October 1 of each year and submitted to the Department of Education;~~

11 ~~(8)(5) "Receiving district" means a school district or districts~~
 12 ~~that receive territory or students, or both, from an affected district as a~~
 13 ~~result of administrative annexation; and~~

14 ~~(9)(6) "Resulting district" means the new school district~~
 15 ~~created from an affected district or districts as a result of administrative~~
 16 ~~consolidation.~~

17
 18 SECTION 22. Arkansas Code § 6-13-1602 is amended to read as follows:
 19 6-13-1602. Administrative consolidation list.

20 By February 1, 2004, and each ~~February 1~~ January 1 thereafter, the
 21 Department of Education shall publish a consolidation list that includes all
 22 school districts with fewer than three hundred fifty (350) students according
 23 to the district's average daily membership in each of the two (2) school
 24 years immediately preceding the current school year.

25
 26 SECTION 23. Arkansas Code § 6-13-1603 is amended to read as follows:
 27 6-13-1603. Administrative reorganization.

28 (a)(1) Any school district included in the Department of Education's
 29 consolidation list ~~pursuant to~~ under § 6-13-1602 may voluntarily agree to
 30 administratively consolidate with or be annexed to another district or
 31 districts in accordance with the requirements and limitations of this
 32 section.

33 (2)(A) Any school district on the consolidation list choosing to
 34 voluntarily administratively consolidate or annex shall submit a petition for
 35 approval to the State Board of Education by ~~April 1~~ March 1 immediately
 36 following publication of the list and shall set forth the terms of the

1 administrative consolidation or annexation agreement in the plan.

2 (B) If the petition is approved by the state board, the
3 administrative consolidation or annexation shall be completed by ~~June 1~~
4 May 1, to be effective the July 1 immediately following the publication of
5 the list required under § 6-13-1602.

6 (3) Any school district on the consolidation list that does not
7 submit a petition ~~pursuant to~~ under subdivision (a)(2)(A) of this section or
8 that does not receive approval by the state board for a voluntary
9 consolidation or annexation petition shall be administratively consolidated
10 by the state board with or into one (1) or more school districts by ~~June 1~~
11 May 1, to be effective the July 1 immediately following the publication of
12 the list required under § 6-13-1602.

13 (4) The state board shall promptly consider petitions or move on
14 its own motion to administratively consolidate a school district on the
15 consolidation list in order to enable the affected school districts to
16 reasonably accomplish any resulting administrative consolidation or
17 annexation by July 1 immediately following the publication of the list
18 required under § 6-13-1602.

19 (5) The state board shall not deny the petition for voluntary
20 administrative consolidation or annexation of any two (2) or more school
21 districts unless:

22 (A) The provisions contained in the articles of
23 administrative consolidation or annexation would violate state or federal
24 law; or

25 (B) The voluntary consolidation or annexation would not
26 contribute to the betterment of the education of students in the districts.

27 (b) Any school district required to be administratively consolidated
28 under this subchapter shall be administratively consolidated in such a manner
29 as to create a resulting district with an average daily membership meeting or
30 exceeding three hundred fifty (350).

31 (c) All administrative consolidations or annexations under this
32 section shall be accomplished so as not to create a school district that
33 hampers, delays, or in any manner negatively affects the desegregation of
34 another school district in this state.

35 (d) In the administratively consolidated or annexed school districts
36 created under this subchapter, the ad valorem tax rate shall be determined as

1 set forth under § 6-13-1409.

2 (e) Nothing in this section shall be construed to require the closing
3 of any school or school facility.

4 ~~(f) No school facility in a school district included in the~~
5 ~~consolidation list required by § 6-13-1602 shall be closed by the state board~~
6 ~~or a local school board until after completion of an assessment of public~~
7 ~~school facilities by the Joint Committee on Educational Facilities as~~
8 ~~required by Act 1181 of 2003, but in no event shall any be closed prior to~~
9 ~~June 1, 2005.~~

10 ~~(g)~~(f) No administratively consolidated or annexed school district
11 shall have more than one (1) superintendent.

12 ~~(h)~~(g) No Any school district not designated as being in academic or
13 fiscal distress for the current school year and previous two (2) school years
14 that administratively consolidated with receives by consolidation or
15 annexation a school district designated by the state board as being in
16 academic or fiscal distress at the time of consolidation or annexation shall
17 not be subject to academic or fiscal distress sanctions for a period of three
18 (3) years from the effective date of consolidation unless:

19 (1) The school district fails to meet minimum teacher salary
20 requirements; or

21 (2) The school district fails to comply with the Standards for
22 Accreditation of Arkansas Public Schools issued by the department.

23 ~~(i)~~(h) Noncontiguous school districts may voluntarily consolidate if
24 the facilities and physical plant of each school district:

25 (1) Are within the same county, and the state board approves the
26 administrative consolidation; or

27 (2) Are not within the same county, and the state board approves
28 the administrative consolidation or annexation and finds that:

29 (A) The consolidation or annexation will result in the
30 overall improvement in the educational benefit to students in all of the
31 school districts involved; or

32 (B) The consolidation or annexation will provide a
33 significant advantage in transportation costs or service to all of the school
34 districts involved.

35 ~~(j)~~(i) Contiguous districts may administratively consolidate even if
36 they are not in the same county.

1 ~~(k)~~(j) The state board shall promulgate rules to facilitate the
2 administration of this subchapter.

3 ~~(l)~~(k) The provisions of § 6-13-1406 shall govern the board of
4 directors of each resulting or receiving school district created under this
5 subchapter.

6
7 SECTION 24. Arkansas Code § 6-13-1604 is repealed.

8 ~~6-13-1604. Administrative consolidation assistance funds. [Effective~~
9 ~~until June 3, 2004.]~~

10 ~~(a) The state shall pay administrative consolidation assistance funds~~
11 ~~to each school district that:~~

12 ~~(1) Is administratively consolidated or annexed by the State~~
13 ~~Board of Education under § 6-13-1603 by July 1, 2005; or~~

14 ~~(2) Has an average daily membership of at least three hundred~~
15 ~~fifty (350) and no more than five hundred (500) for each of the two (2)~~
16 ~~school years preceding the school year in which the administrative~~
17 ~~consolidation or annexation petition is filed and voluntarily petitions and~~
18 ~~receives approval from the state board to administratively consolidate or~~
19 ~~annex prior to July 1, 2004.~~

20 ~~(b) Administrative consolidation assistance funds shall be paid in an~~
21 ~~amount equal to:~~

22 ~~(1) Eight hundred dollars (\$800) multiplied by the consolidated~~
23 ~~average daily membership; plus~~

24 ~~(2) Seven hundred dollars (\$700) multiplied by the consolidated~~
25 ~~national school lunch student total.~~

26 ~~(c)(1) Administrative consolidation assistance funds may be used by~~
27 ~~the school districts for any purpose.~~

28 ~~(2) However, the state board by rule may require funds to be~~
29 ~~expended on the construction or improvement of school facilities.~~

30 ~~(d) The funds shall be paid to the resulting administratively~~
31 ~~consolidated or annexed school district during the first year of the~~
32 ~~consolidated or annexed district's existence.~~

33
34 SECTION 25. Arkansas Code § 6-13-1604 is repealed.

35 ~~6-13-1604. Administrative consolidation assistance funds. [Effective~~
36 ~~June 3, 2004.]~~

1 ~~(a)(1) The state shall pay administrative consolidation assistance~~
2 ~~funds to each school district that:~~

3 ~~(A) Is administratively consolidated or annexed by the~~
4 ~~State Board of Education under § 6-13-1603 by July 1, 2004; or~~

5 ~~(B) Has an average daily membership of at least three~~
6 ~~hundred fifty (350) and no more than five hundred (500) for each of the two~~
7 ~~(2) school years preceding the school year in which the administrative~~
8 ~~consolidation or annexation petition is filed and voluntarily petitions and~~
9 ~~receives approval from the state board to administratively consolidate or~~
10 ~~annex prior to July 1, 2004.~~

11 ~~(2) Administrative consolidation assistance funds provided under~~
12 ~~subsection (a) of this section shall be paid in an amount equal to:~~

13 ~~(A) Eight hundred dollars (\$800) multiplied by the~~
14 ~~consolidated average daily membership, but the consolidated average daily~~
15 ~~membership number used in this calculation shall not exceed seven hundred~~
16 ~~(700) students; plus~~

17 ~~(B) Seven hundred dollars (\$700) multiplied by the~~
18 ~~consolidated national school lunch student total, but the consolidated~~
19 ~~national school lunch student total used in this calculation shall not exceed~~
20 ~~seven hundred (700) national school lunch students.~~

21 ~~(b)(1) To the extent that funding is available after the~~
22 ~~administrative consolidation assistance funds allowed under subsection (a) of~~
23 ~~this section are provided to all eligible school districts, the state shall~~
24 ~~pay administrative consolidation assistance funds to each school district~~
25 ~~that:~~

26 ~~(A) Has an average daily membership of more than five~~
27 ~~hundred (500) for each of the two (2) school years preceding the school year~~
28 ~~in which the administrative consolidation or annexation petition is filed;~~
29 ~~and~~

30 ~~(B) Administratively consolidates or annexes with another~~
31 ~~school district by July 1, 2004.~~

32 ~~(2)(A) Administrative consolidation assistance funds under~~
33 ~~subsection (c) of this section shall be paid in an amount equal to:~~

34 ~~(i) Eight hundred dollars (\$800) multiplied by the~~
35 ~~resulting district's average daily membership, but the resulting district's~~
36 ~~average daily membership number used in this calculation shall not exceed~~

1 ~~seven hundred (700) students; and~~

2 ~~(ii) Seven hundred dollars (\$700) multiplied by the~~
3 ~~resulting district's national school lunch student total, but the resulting~~
4 ~~district's national school lunch student total used in this calculation shall~~
5 ~~not exceed seven hundred (700) national school lunch students.~~

6 ~~(B) If there is insufficient funding available to pay the~~
7 ~~amounts under this subsection, those amounts shall be reduced by the~~
8 ~~Department of Education in such a manner as to provide equal administrative~~
9 ~~consolidation assistance funds per student to the school districts that are~~
10 ~~eligible for funding under subsection (c) of this section.~~

11 ~~(c) A school district that is eligible to receive funding under both~~
12 ~~subsection (a) and subsection (b) of this section shall first receive funding~~
13 ~~under subsection (a) of this section and then shall receive funding under~~
14 ~~subsection (b) of this section, but a school district shall not receive total~~
15 ~~funding for more than seven hundred (700) students under both subsections (a)~~
16 ~~and (b) of this section.~~

17 ~~(d)(1) Administrative consolidation assistance funds may be used by~~
18 ~~the school districts for any purpose.~~

19 ~~(2) However, the state board by rule may require funds to be~~
20 ~~expended on the construction or improvement of school facilities.~~

21 ~~(e) The funds shall be paid to the resulting administratively~~
22 ~~consolidated or annexed school district during the first year of the~~
23 ~~consolidated or annexed district's existence.~~

24
25 SECTION 26. Arkansas Code § 6-13-1605 is repealed:

26 ~~6-13-1605. Charter schools.~~

27 ~~The provisions of § 6-13-1601-1604 shall not apply to charter schools~~
28 ~~in existence on January 29, 2004, or to schools achieving charter status by~~
29 ~~June 1, 2005.~~

30
31 SECTION 27. Arkansas Code § 6-41-202 is amended to read as follows:

32 6-41-202. Policy and purposes.

33 (a) It shall be the policy of this state to provide and to require
34 school districts to provide, as an integral part of the public schools, a
35 free appropriate public education for students with disabilities. The State
36 Board of Education is therefore expressly authorized to assign responsibility

1 for providing free appropriate public education of any child with a
2 disability to an appropriate school district.

3 (b)(1) One of the purposes of this subchapter is to cooperate in any
4 reasonable way with programs now in operation for children with disabilities
5 in any state institution or treatment facility.

6 (2) It shall be a primary purpose of this subchapter to
7 cooperate ~~fully~~ with the institutions and treatment facilities to the end
8 that the ~~best~~ educational interests of children with disabilities shall be
9 served.

10
11 SECTION 28. Arkansas Code § 6-41-211 is amended to read as follows:

12 6-41-211. Advisory Council for the Education of Children with
13 Disabilities.

14 (a)(1) There shall be an Advisory Council for the Education of
15 Children with Disabilities, which shall advise and consult with the Director
16 of Education of the Department of Education and the Associate Director of the
17 Special Education Section of the Department of Education, and which shall
18 engage in such other activities as are set forth in this section.

19 (2) The advisory council shall be advisory only and shall have
20 no administrative responsibility or authority.

21 (b)(1) The advisory council shall be composed of individuals involved
22 in, or concerned with, the education of children with disabilities,
23 including:

24 (A) Parents of ~~children~~ persons from birth to age twenty-
25 six (26) with disabilities;

26 (B) Individuals with disabilities;

27 (C) Teachers;

28 (D) Representatives of institutions of higher education
29 that prepare special education and related services personnel;

30 (E) State and local education officials, including
31 officials who carry out activities under subtitle B of title VII of the
32 McKinney-Vento Homeless Assistance Act, 42 U.S.C. 11431 et seq.;

33 (F) Administrators of programs for children with
34 disabilities;

35 (G) Representatives of other state agencies involved in
36 the financing or delivery of related services to children with disabilities;

1 (H) Representatives of private schools and public charter
2 schools;

3 (I) ~~One~~ Not less than one (1) representative of a
4 vocational, community, or business organization concerned with the provision
5 of transitional services to children with disabilities; ~~and~~

6 (J) Representatives from the state juvenile and adult
7 corrections agencies; and

8 (K) A representative from the Arkansas child welfare
9 agency responsible for foster care.

10 (2) A majority of the members of the panel shall be individuals
11 with disabilities or parents of ~~children~~ persons from birth to age twenty-
12 six (26) with disabilities.

13 (c)(1) The director shall appoint the members of the advisory council
14 for three-year terms.

15 (2) Appointees may be eligible for reappointment for one (1)
16 term.

17 (d) Vacancies which leave unexpired terms shall be filled in the
18 regular manner for the unexpired period of time, and vacancies as a result of
19 expiration of terms shall be filled in the regular manner for three-year
20 periods.

21 (e) The advisory council annually shall elect its own chairman and
22 vice chairman.

23 (f) The associate director shall meet with and act as secretary to the
24 advisory council and, subject to the availability of personnel, facilities,
25 and appropriations, shall furnish meeting facilities and staff services for
26 the advisory council.

27 (g) The advisory council shall:

28 (1) Advise the Department of Education of unmet needs within the
29 state in the education of children with disabilities;

30 (2) Comment publicly on any rules or regulations proposed by the
31 state regarding the education of children with disabilities;

32 (3) Advise the department in developing evaluations and
33 reporting on data to the Secretary of Education under 20 U.S.C. § 1418;

34 (4) Advise the department in developing corrective action plans
35 to address findings identified in federal monitoring reports under this part;
36 and

1 (5) Advise the department in developing and implementing
2 policies relating to the coordination of services for children with
3 disabilities.

4
5 SECTION 29. Arkansas Code § 6-41-216 is amended to read as follows:

6 6-41-216. Tests and Evaluations – Change of child’s status – Hearings.

7 (a) All decisions pertaining to change in the educational status of a
8 child shall follow due process procedures established by the State Board of
9 Education.

10 (b) Due process shall include:

11 (1) Providing for prior notification to parents of testing and
12 provision of special education services;

13 (2) The right to request educational evaluation and special
14 education services; and

15 (3) The right to hearing and appeal of educational decisions.

16 (c)(1) The board shall prescribe rules and regulations governing
17 hearings and appeals.

18 (2) Hearings shall be conducted by individuals hereinafter
19 referred to as "hearing officers".

20 (3)(A) The ~~board~~ Special Education Section of the Department of
21 Education shall establish standards and qualifications for individuals to
22 serve as hearing officers.

23 (B) Neither an employee of the Department of Education nor
24 an employee of the local school district involved in a particular hearing may
25 serve as a hearing officer.

26 (C) Professional service contracts with individuals made
27 for the purpose of compensating them for services rendered in connection with
28 hearings shall not constitute employment.

29 (d) An individual serving as a qualified hearing officer at an
30 assigned hearing shall be immune from civil suit brought by either party for
31 the consequences of actions required of a hearing officer.

32 (e)(1) An individual serving as a qualified hearing officer under this
33 section shall have the power to issue subpoenas and to bring before him or
34 her as a witness any person in this state.

35 (2) The hearing officer shall issue a subpoena upon the request
36 of any party to a pending proceeding.

1 (3) The writ shall be directed to the sheriff of the county
2 where the witness resides or may be found.

3 (4) The writ may require the witness to bring with him or her
4 any book, writing, or other thing under his control which he or she is bound
5 by law to produce in evidence.

6 (5) Service of the writ shall be in the manner as provided by
7 law for the service of subpoenas in civil cases.

8 (f)(1) A witness who has been served by subpoena in the manner
9 provided by law and who shall have been paid or tendered the legal fees for
10 travel and attendance as provided by law shall be obligated to attend for
11 examination of the trial of the cause pending before the board.

12 (2) In the event a witness shall have been served with subpoenas
13 as herein provided and fails to attend the hearing in obedience to the
14 subpoena, the hearing officer may apply to the circuit court of the county
15 wherein the hearing officer is having the hearing for an order causing the
16 arrest of the witness and directing that the witness be brought before the
17 court.

18 (3) The court shall have the power to punish the disobedient
19 witness for contempt as provided by law in the trial of civil cases.

20 (4) The disobedient witness shall be liable in damages for
21 nonattendance to the trial or hearing as provided by law.

22 (g) Any party aggrieved by the findings and final decision made by the
23 hearing officer ~~has the right to bring a civil action~~ shall have ninety (90)
24 days from the date of the decision of the hearing officer to bring a civil
25 action with respect to the complaint presented in either federal district
26 court or a state court of competent jurisdiction pursuant to the Individuals
27 with Disabilities Education Act ~~within three (3) years after the date on~~
28 ~~which the hearing officer's final decision is rendered in the hearing, as~~
29 amended, without regard to the amount, if any, in controversy.

30
31 SECTION 30. Arkansas Code § 6-41-217 is amended to read as follows:
32 6-41-217. Individualized Education Program.

33 (a) Before any action is taken with respect to the initial placement
34 of a child with disabilities in a special education program, a full and
35 individual evaluation of the child's educational needs must be conducted.

36 (b)(1) Prior to placement in special education services, each child

1 must have an individualized education program.

2 (2) The term "individualized education program" ~~or "IEP"~~ means a
3 written statement for each child with disabilities that is developed,
4 reviewed, and revised in a meeting consistent accordance with the
5 requirements of the Individuals with Disabilities Education Act.

6 (3) The individualized education program shall include:

7 (A) A statement of the child's present levels of
8 ~~educational~~ academic achievement and functional performance including:

9 (i) How the child's disability affects the child's
10 involvement and progress in the general education curriculum; ~~or~~

11 (ii) For preschool children, as appropriate, how the
12 disability affects the child's participation in appropriate activities; and

13 (iii) For children with disabilities who take
14 alternate assessments aligned to alternate achievement standards, a
15 description of benchmarks or short-term objectives;

16 (B) A statement of measurable annual goals, including
17 ~~benchmarks or short-term objectives, related~~ academic and functional goals,
18 designed to+;

19 (i) ~~Meeting~~ Meet the child's needs that result from
20 the child's disability in order to enable the child to be involved in and to
21 make progress in the general education curriculum; and

22 (ii) ~~Meeting~~ Meet each of the child's other
23 educational needs that result from the child's disability;

24 (C) A description of how the child's progress toward
25 meeting the annual goals described in subdivisions (b)(3)(B)(i) and
26 (b)(3)(B)(ii) of this section will be measured and when periodic reports will
27 be provided on the progress the child is making toward meeting the annual
28 goals, including, but not limited to, the use of quarterly or other periodic
29 reports, concurrent with the issuance of report cards;

30 ~~(G)(D)~~ (D) A statement of the special education and related
31 services and supplementary aids and services, based on peer-reviewed research
32 to the extent practicable, to be provided to the child, or on behalf of the
33 child, and a statement of the program modifications or supports for school
34 personnel that will be provided for the child+;

35 (i) To advance appropriately toward attaining the
36 annual goals;

1 (ii) To be involved in and to make progress in the
2 general education curriculum in accordance with this section and to
3 participate in extracurricular and other nonacademic activities; and

4 (iii) To be educated and to participate with other
5 children with disabilities and nondisabled children in the activities
6 described in this section;

7 ~~(D)~~(E) An explanation of the extent, if any, to which the
8 child will not participate with nondisabled children in the regular class and
9 in the activities described in this section;

10 ~~(E)(i)~~(F)(i) A statement of any individual ~~modifications~~
11 ~~in the administration of statewide or district wide assessments of student~~
12 ~~achievement that are needed in order for the child to participate in such~~
13 ~~assessment; and~~ appropriate accommodations that are necessary to measure the
14 academic achievement and functional performance of the child on state and
15 district wide assessments consistent with § 612(a)(16)(A) of P.L. 105-17,
16 regarding participation in assessments of students with disabilities in all
17 general statewide and districtwide assessment programs.

18 (ii) If the individualized education program team
19 determines that the child shall take an alternative assessment ~~will not~~
20 ~~participate in~~ on a particular statewide or ~~district wide~~ districtwide
21 assessment of student achievement ~~or part of such an assessment~~, a statement
22 of why:

23 (a) The child cannot participate in the
24 regular assessment; and

25 (b) The particular alternate assessment
26 selected is appropriate for the child;

27 ~~(a) Why that assessment is not appropriate for~~
28 ~~the child; and~~

29 ~~(b) How the child will be assessed;~~

30 ~~(F)~~(G) The projected date for the beginning of the
31 services and modifications described in this section, and the anticipated
32 frequency, location, and duration of those services and modifications;

33 ~~(G)(i)~~(H)(i)(a) ~~Beginning at age fourteen (14), and~~
34 ~~updated annually, a statement of the transitional service needs of the child~~
35 ~~under the applicable components of the child's individualized education~~
36 ~~program that focus on the child's courses of study such as participation in~~

1 ~~advanced placement courses or a vocational education program;~~ Beginning not
 2 later than the first individualized education plan to be in effect when the
 3 child is sixteen (16) years of age and updated annually thereafter,
 4 appropriate measurable postsecondary goals based upon age-appropriate
 5 transition assessments related to training, education, employment, and where
 6 appropriate, independent living skills.

7 (b) The transition services, including courses
 8 of study, needed to assist the child in reaching those goals.

9 ~~(ii) Beginning at age sixteen (16) or younger, if~~
 10 ~~determined appropriate by the individualized education program team, a~~
 11 ~~statement of needed transitional services for the child, including, when~~
 12 ~~appropriate, a statement of the interagency responsibilities or any needed~~
 13 ~~linkages; and~~

14 ~~(iii)~~(ii) Beginning at least no later than one (1)
 15 year before the child reaches the age of majority under state law, a
 16 statement that the child has been informed of his or her rights under Title 6
 17 of this Code, if any, that will transfer to the child on reaching the age of
 18 majority under the Individuals with Disabilities Education Act; ~~and.~~

19 ~~(H) A statement of:~~

20 ~~(i) How the child's progress toward the annual goals~~
 21 ~~described in this section will be measured; and~~

22 ~~(ii) How the child's parents will be regularly~~
 23 ~~informed by such means as periodic report cards, at least as often as parents~~
 24 ~~are informed of their nondisabled children's progress, of;~~

25 ~~(a) Their child's progress toward the annual~~
 26 ~~goals described in this section; and~~

27 ~~(b) The extent to which that progress is~~
 28 ~~sufficient to enable the child to achieve the goals by the end of the year.~~

29 (c) Nothing in this section shall be construed to require the
 30 individualized education program team to include information under one (1)
 31 component of a child's individualized education program that is already
 32 contained under another component of such individualized education program.

33
 34 *SECTION 31. Arkansas Code § 6-17-811 is amended to read as follows:*

35 *6-17-811. Incentives for teacher recruitment and retention in high-*
 36 *priority districts.*

1 (a)(1) For purposes of this section:

2 (A) "High-priority district" means a district of one
3 thousand (1,000) or fewer students in which eighty percent (80%) or more of
4 public school students are eligible for the free or reduced-price lunch
5 program under the National School Lunch Act and have a three-quarter average
6 daily membership of one thousand (1,000) or fewer for the 2003-2004 school
7 year;

8 (B) "Previous year" means the school year immediately
9 preceding the present school year; and

10 (C)(i) "Teacher" or ~~"Teachers"~~ "teachers" means those
11 certified personnel who spend seventy percent (70%) of their time ~~interacting~~
12 working directly with students in a classroom setting teaching all grade-
13 level or subject-matter appropriate classes.

14 (ii) "Teacher" or "teachers" includes guidance
15 counselors and librarians.

16 (2) The State Board of Education shall promulgate rules to
17 determine high-priority districts of the state.

18 (b) Beginning in the 2004-2005 school year, a teacher licensed by the
19 state board who teaches in a school in a high-priority district shall receive
20 in addition to all other salary and benefits:

21 (1)(A) For new teachers, a one-time signing bonus to work in any
22 high-priority district to be paid as follows:

23 (i) Four thousand dollars (\$4,000) at the time a
24 teacher not currently employed by the district signs a new contract to teach
25 in a high-priority district; and

26 (ii) Three thousand dollars (\$3,000) at the
27 beginning of each of the next two (2) subsequent years if the teacher
28 continues teaching in the same high-priority district.

29 (B)(i) If a teacher has received bonus pay under the
30 subdivision (b)(1)(A) of this section and leaves the high-priority district
31 before the end of the three-year bonus pay period, the teacher shall pay back
32 the amount of the bonus received in the previous year.

33 (ii) If the teacher leaves the district during the
34 school year, the teacher shall pay back the previous year's bonus and the
35 current year's bonus; and

36 (2)(A) For all teachers not newly signed to work in the

1 district, a retention bonus of two thousand dollars (\$2,000) shall be paid:

2 (i) For the 2004-2005 school year; and

3 (ii) ~~at~~ At the beginning of each of the next two (2)
4 subsequent years if the teacher continues to work in a high-priority
5 district.

6 (B)(i) If a teacher has received bonus pay under
7 subdivision (b)(2)(A) of this section and voluntarily leaves the high-
8 priority district before the end of the three-year bonus pay period, the
9 teacher shall pay back on a pro-rata basis the amount of the bonus received
10 in the previous ~~year~~ years.

11 (ii) If the teacher voluntarily leaves the district
12 during the school year, the teacher shall pay back the previous year's bonus
13 and the current year's bonus.

14 (iii)(a) If a full-time equivalent teacher is
15 reassigned involuntarily to a position that is not eligible for bonus pay
16 under this section or is dismissed involuntarily by a school district, the
17 teacher shall not be required to repay the applicable bonus pay.

18 (b) The school district shall provide
19 documentation to the Department of Education of the involuntary assignment or
20 dismissal.

21 (iv) If a teacher qualified to receive bonus pay
22 under this section leaves the district due to a serious medical emergency,
23 the teacher shall not be obligated to repay the bonus if the teacher provides
24 a written statement from a licensed physician stating that the teacher is
25 unable to work and must terminate his or her employment.

26 (c) Any bonus pay awarded under this section to eligible full-time
27 equivalent teachers who do not work the entire school year shall be pro-rated
28 based on the portion of the school year that the eligible teacher was
29 employed by the high priority school district.

30 ~~(e)~~(d) The department shall:

31 (1) Monitor the implementation of the incentive program
32 established by this section; and

33 (2) Collect data to be used to evaluate the incentive program's
34 effectiveness.

35
36 SECTION 32. Arkansas Code § 6-14-120 is repealed.

1