

ARKANSAS SENATE
84th General Assembly - Regular Session, 2003
Amendment Form

Subtitle of Senate Bill No. 933

"TO ALLOW THE EIGHTH-FIFTH GENERAL ASSEMBLY THE OPPORTUNITY TO
APPROVE ANY SCHOOL DISTRICT REORGANIZATION PLAN."

Amendment No. 2 to Senate Bill No. 933.

Amend Senate Bill No. 933 as engrossed, S3/14/03:

Add Senator Capps as a cosponsor of the bill

AND

Page 1, delete line 17 and 18, and substitute the following:
"CURRENTLY IN ACADEMIC DISTRESS; TO CREATE THE PUBLIC SCHOOL REORGANIZATION
COMMITTEE; TO RETAIN THE CURRENT SYSTEM OF EDUCATIONAL COOPERATIVES; AND FOR
OTHER"

AND

Delete everything following the enacting clause and substitute the following:

"SECTION 1. Findings.

(a) The 84th General Assembly recognizes the mandate of the Arkansas
Supreme Court to ensure that the state provide an equal opportunity for
students to obtain an adequate education.

(b) The General Assembly further recognizes the important role of the
state's rural schools in educating our children and finds that:

(1) Arkansas has more students attending small rural schools
than any other state in the nation;

(2) Arkansas' large rural population and high rural poverty make
it essential that the needs of rural students be especially considered in any
adequacy study conducted;

(3) Studies from other states have solidly concluded that
smaller districts are particularly beneficial to help overcome the effects of
poverty on student achievement in poorer communities;

(4) Equal school funding does make a difference in that the
effects of poverty and the disadvantages of rural geography can be mitigated
for rural students if they have equal educational opportunity; and

(5) Small schools benefit minority and low-income students.

SECTION 2. Arkansas Code Title 6, Chapter 13, is amended to add an



additional subchapter to read as follows:

6-13-1601. Definitions:

For the purpose of this subchapter:

- (1) "Affected district" means a school district that loses territory or students as a result of annexation or consolidation;
- (2) "Annexation" and "annexed" means the joining of an affected school district or part thereof with a receiving district;
- (3) "Consolidation" and "consolidate" means the joining of two (2) or more school districts or parts thereof to create a new single school district;
- (4) "Receiving district" means a school district or districts that receive territory or students, or both, from an affected district as a result of annexation;
- (5) "Resulting district" means the new school district created from an affected district or districts as a result of consolidation; and
- (6) "Voluntary reorganization" shall mean any consolidation, annexation, or detachment that is not a result of an act of the State Board of Education without approval of the local board or electors.

6-13-1602. Standards for education.

(a)(1) Except as provided in § 6-13-1603, no school shall be required to reorganize for a period of one (1) year following completion of the adequacy study under Act 94 of 2003.

(2) The current system of local school governance with local control vesting in the local school board of directors and the employment of school district superintendents and other administrators with the authority of the local school board of directors, shall remain as in existence on January 1, 2003.

(b)(1)(A) Before January 1, 2005, school districts may voluntarily consolidate, annex, or detach under §§ 6-13-1401 through 6-13-1501, and school districts that do voluntarily consolidate, annex, or detach shall receive consolidation incentive funding as may be determined by the General Assembly.

(B)(i) Any school district that chooses to reorganize to create a countywide school district may do so without approval of the State Board of Education and shall be exempt from the requirements of §§ 6-13-1401 through 6-13-1409 and §§ 6-13-1501 through 6-13-1505.

(ii) To qualify as a countywide school under this section, three (3) or more school districts with real property located in the same shall voluntarily consolidate by a written agreement of understanding, which shall be approved by a majority of the members of the each local school board.

(iii) A countywide school district may continue to have separate local boards for each currently existing district, which may include areas outside the boundaries of the county if that area is part of a school district that has property located in the county, and may maintain the existing boundaries and separate names and legal identities of each district making up the countywide district, but must agree to share no less than three (3) major functions of the school districts which may include, but shall not be limited to:

- (a) Transportation or purchasing departments;
- (b) Development of enriched curriculum

options, which may include class sharing or vocational training options;

(c) Certain administrative functions; or

(d) Food service.

(2) School districts may continue to participate in education cooperatives and may enter into agreements with other district or districts to provide distance learning programs, alternative learning schools, services for children with disabilities, employee and class sharing programs to offer enhanced or curriculum requirements, or any other program or service as may be necessary to provide an adequate education.

(3)(A) During the regular school term or during summer months, a school district may enter into an agreement with another district or district to create vocational training centers to offer career and technical education courses or may enter into agreement with technical institutes or other post-secondary educational institutions to provide an enriched curriculum or career and technical education course.

(B)(i) Any career and technical education courses made available to students in a school district through an agreement allowed under subdivision (d)(3)(A) shall qualify as being offered and taught by a every participating school district for purposes of complying the Standards of Accreditation for Arkansas Public Schools.

(ii) Any student taking classes in a school district offered through an agreement allowed under subdivision (d)(3)(A), shall receive credit for the coursework, which shall be transferable to other public schools, for graduation purposes under the Standards of Accreditation for Arkansas Public Schools and the local school board shall adopt a policy to determine the numeric grade to be awarded for the grade received in the course.

(c)(1) Beginning one (1) year from the date of the completion of the adequacy study under Act 94 of 2003, the State Board of Education shall conduct a review of all school districts to determine if the district is providing an adequate education as defined by the General Assembly, including complying with provisions with respect to:

(A) Curricula;

(B) Teacher salaries;

(C) Facilities; and

(D) Equipment.

(2) Prior to the review conducted under subdivision (c)(1) of this section, any school district may petition the State Board of Education for an advisory opinion and advice with respect to the district's compliance with provision of state law or State Board of Education regulation.

(d)(1) Beginning July 1, 2004, school districts shall offer forty-five (45) or more curriculum units for students in grades nine through twelve (9-12) each year with an emphasis on vocational training, or additional units as may be required by the State Board of Education after the 2004-2005 school year, which shall not be increased by more than five (5) units per school year.

(2) School districts may participate in class sharing with other districts, concurrent enrollment programs with technical institutes and two-year colleges, and distance learning programs to meet additional curriculum requirements.

(e) Following the review under subsection (b) of this section, any school district that is not providing an adequate education as defined by the

General Assembly, may be consolidated or annexed as set forth under § 6-13-1604 with another school district or districts that has been determined to be providing an adequate education.

6-13-1603. Reorganization of districts in distress.

(a) The State Board of Education shall develop a plan to reorganize, by consolidation or annexation any school district declared by the State Board of Education to be in academic distress or on the State Board of Education's watch list for academic distress, as of the effective date of this act.

(b)(1) Any school district subject to consolidation under this section, may submit a declaration of intent to the State Board of Education before September 1, 2003 stating the district intention to voluntarily reorganize, by consolidation or annexation, with an existing school district.

(2) The State Board of Education shall honor and incorporate each district's declaration of intent into the State Board of Education reorganization plan if the district's declaration of intent would not cause the new district or state to be in violation of any state and or federal law.

(c) For reorganizations required under this section, the State Board of Education shall:

(1)(A) Before September 30, 2003, develop a plan for the consolidation or annexation of each school district declared by the State Board of Education to be in academic distress or on the State Board of Education's watch list for academic distress, as of the effective date of this act.

(B) The plan shall require the district to be consolidated or annexed with an existing school or district that has not been declared by the State Board of Education to be in academic distress.

(C) The Department of Education and the State Board of Education may take actions before January 1, 2004, as necessary for an orderly and efficient transition of personnel, property, and the boards of directors;

(2) Between September 30, 2003 and November 30, 2003, the State Board of Education shall hold no less than four (4) public hearings regarding its proposed consolidation plan to address citizen concerns, comments, and suggestions regarding the plan; and

(3) The State Board of Education shall finalize the reorganization plan no later than December 15, 2002, and shall effectuate the reorganization no later than January 1, 2004.

6-13-1604. Reorganization committee.

(a) There is established a committee to be known as the "Public School Reorganization Committee".

(b) The committee shall consist of nine (9) members as follows:

(1) Three (3) persons appointed by the Governor as follows:

(A) One person from the First Congressional District and one person from the Second Congressional District of the state; and

(B) One person that resides in a school district with average daily membership exceeding fifteen hundred students;

(2) Three (3) persons appointed by the Speaker of the House of Representatives as follows:

(A) One person from the Third Congressional District of

the state; and

(B) One person that resides in a school district with average daily membership between fifteen hundred and five hundred students; and

(3) Three (3) persons appointed the President Pro Tempore of the Senate as follows:

(A) One person from the Fourth Congressional District of the state; and

(B) One person who resides in a school district with less than five hundred (500) students.

(c) The appointed committee members shall:

(1) Be individuals who have demonstrated a commitment to education;

(2) Be residents of the State of Arkansas at the time of appointment and throughout his or her term;

(3) Be and have the appearance of being impartial with respect to matters to be reviewed and recommended by the committee.

(d)(1) If a vacancy occurs in an appointed position, for any reason, the vacancy shall be filled in the same manner as the original appointment.

(2) The new appointee shall serve for the remainder of the unexpired term.

(e) The Governor shall select one of his appointee to serve as chair for the purpose of calling the first organizational meeting at which time the members shall select from among themselves a chair and vice-chair.

(f)(1) The committee shall meet at times and places the chair or vice-chair deems necessary, but no meetings shall be held outside of the State of Arkansas.

(2) A majority of the members of the committee shall constitute a quorum for the purpose of transacting business.

(3) All action of the committee shall be by a majority vote of the full membership of the committee.

(g) The committee shall do all thing necessary to develop a plan for the reorganization of Arkansas public school in accordance with the provisions of this act.

(h)(1) The Bureau of Legislative Research shall provide staff to the committee.

(2)(A) Members of the committee shall serve without pay.

(B) Members of the committee may receive expense reimbursement in accordance with Arkansas Code § 25-16-902, to be paid by the Department of Higher Education to the extent money is available.

6-13-1605. Reorganization plan.

(a)(1) For consolidations and annexations required as a result of § 6-13-1602, the Public School Reorganization Committee, working with the Department of Education and the State Board of Education, shall create twenty (20) teams of no less than five (5) members each to conduct a complete review of each school district in the state.

(2) The teams shall be made up of persons who collectively have experience and expertise in at least the following areas:

(A) Curriculum and content requirements and other instructional standards including certified personnel requirements;

(B) Technology and distance learning, specifically

including the ability to conduct a hardware needs assessment;

(C) Testing review and information gathering through statistical analysis; and

(D) School facilities.

(3) Each team shall be responsible for reviewing and reporting on the condition of no more fifteen (15) school districts.

(4) The teams shall conduct hands-on, on-site reviews of each school district for the purpose of making a written report of specific needs or deficiencies found in the school district that would reflect on the district's ability to provide an adequate education based on the standards established after completion of the adequacy study under Act 94 of 2003, and recommend a method of correcting any deficiencies.

(b)(1) Any school district subject to consolidation under this section, may submit a declaration of intent to the Public School Reorganization Board before January 1, 2005, stating the district intention to voluntarily reorganize, by consolidation or annexation, with an existing school district.

(2) The State Board of Education shall honor and incorporate each district's declaration of intent into the State Board of Education reorganization plan if the district's declaration of intent would not cause the new district or state to be in violation of any state and or federal law.

(3) Any school district that has voluntarily reorganized itself to create a countywide school district as set forth under § 6-13-1602 shall be exempt from further reorganization under a plan by the Public School Reorganization Committee, but may be subject to remediation recommendations if it is determined that the district is not in compliance with adequacy standards.

(c) Based on the information gathered by the teams under subdivision (b)(2) of this section, the Public School Reorganization Committee shall:

(1) Develop a plan for the reorganization or remediation of all public school districts determine by the committee to not be in compliance with adequacy requirements;

(2) Hold no less than four (4) public hearings regarding its proposed reorganization plan to address citizen concerns, comments, and suggestions regarding the plan; and

(3)(A) Present to the General Assembly on the first day of the 85th General Assembly, a final reorganization plan, specifically stating the names of each school district proposed for reorganization and the board's recommendation for that particular district's reorganization which may include consolidation, annexation, detachment, or some form of remediation to improve the district as it currently exists.

(B) No statewide reorganization plan shall be implemented by the State Board of Education prior the adoption of a plan by the 85th General Assembly.

(C) Those school districts that voluntarily reorganize into a countywide district, shall not be subject to any reorganization action by the State Board of Education or the General Assembly.

(4) The 85th General Assembly shall approve or disapprove, with amendment, the organization plan recommended by the Public School Reorganization Committee.

SECTION 3. Arkansas Code Title 6, Chapter 13, Subchapter 14 is amended

to read as follows:

6-13-1401. Definitions.

As used in this subchapter, unless the context otherwise requires:

(1) "Affected district" means a school district that loses territory or students as a result of annexation or consolidation;

(2) "Annexation" means the joining of an affected school district or part thereof with a receiving district;

(3) "Consolidation" means the joining of two (2) or more school districts or parts thereof to create a new single school district;

(4) "Receiving district" means a school district or districts that receive territory or students, or both, from an affected district as a result of annexation;

(5) "Resulting district" means the new school district created from an affected district or districts as a result of consolidation; ~~and~~

(6) "State board" means the State Board of Education; ~~and~~

(7) "Voluntary consolidation" means a consolidation that is caused by a petition of the affected district and is not required under § 6-13-1604.

6-13-1402. Consolidation and annexation authority.

~~There~~ Except as provided under §§ 6-13-1602 and 6-13-1604, there shall not be any consolidation or annexation of any public school district with any other school district in the state without the prior consent and approval of the State Board of Education.

6-13-1403. Conditions under which the State Board of Education may annex school districts.

(a) The State Board of Education shall consider the annexation of an affected school district or districts to a receiving district or districts under the following conditions:

(1) The State Board of Education determines whether it is in the best interest of the affected district and the receiving district for a school listed in § 6-13-1603 to be annexed rather than consolidated; or

~~(1)(A)~~(2)(A) The affected district or districts file a petition with the state board requesting annexation to a particular receiving district or districts, and a copy of the petition is filed with the county clerk's office of each county where the affected district or districts are located;

(B) The county clerk's office of each county where the affected district or districts are located certifies in writing that the petition has been signed by a majority of the qualified electors of the district or districts; and

(C) The receiving district or districts provide to the state board written proof of consent to receive the affected district or districts by annexation as evidenced by either a vote to approve annexation by resolution by a majority of the members of the local receiving board of education or by vote to approve annexation by a majority of the qualified electors of the receiving district as provided for in § 6-14-122;

~~(2)(A)~~(3)(A) A majority of the qualified electors in the affected district or districts vote to approve the annexation of an affected school district or districts to a receiving district or districts as provided for in § 6-14-122; and

(B) The receiving district or districts provide to the state board written proof of consent to receive the affected district or

districts by annexation as evidenced by either a vote to approve annexation by resolution by a majority of the members of the local receiving board of education or by vote to approve annexation by a majority of the qualified electors of the receiving district as provided for in § 6-14-122; or

~~(3)(A)~~(4)(A) The local board of education of the affected district or districts vote to approve by resolution the annexation of the affected district or districts to a receiving district or districts by a majority of the members of the local board of education of the affected district or districts; and

(B) The receiving district or districts provide to the state board written proof of consent to receive the affected district or districts by annexation as evidenced by either a vote to approve annexation by resolution by a majority of the members of the local receiving board of education or by vote to approve annexation by a majority of the qualified electors of the receiving districts as provided for in § 6-14-122.

(b) The state board may vote to approve, by a majority of a quorum present of the members of the state board, the annexation of the affected districts into a receiving district:

(1) As required under § 6-13-1603; or

(2) upon Upon receipt of a valid petition for annexation and after receiving proof from the petitioning party of at least one (1) of the required conditions set forth in subsection (a) of this section and upon receipt of proof of the issuance of public notice of the intent to annex affected districts into a receiving district or districts in the local newspapers of general circulation in the affected districts for a time period of no less than once a week for two (2) consecutive weeks immediately prior to the time the petition is filed with the state board.

(c) In order for the petition for annexation to be valid, it shall be filed with the state board at least thirty (30) days prior to the next regularly scheduled state board meeting, at which time the petition will be presented for hearing before the state board, except no petition is required for the State Board of Education to annex a school district listed under § 6-13-1604.

(d)(1) Upon determination by the State Board of Education to annex rather than consolidate a school district listed under § 6-13-1604 or approval of a petition requesting annexation, the state board shall issue an order dissolving the affected districts and establishing the receiving school district or districts.

(2)(A) The state board shall issue an order establishing the boundary lines of the receiving district or districts.

(B) It shall be the duty of the Department of Education to make changes in the maps of the school districts to properly show the boundary lines of the receiving district or districts.

(e) The state board shall issue an order establishing the changed boundaries and shall file the order with the county clerk or clerks of the county or counties where the receiving district or districts are located. The county clerk shall make a permanent record of the order and, thereafter, the boundaries so established shall be boundaries of the receiving district until changes are made according to the provisions of law.

(f) The state board shall not annex affected districts that are not geographically contiguous unless the following limited conditions are determined to be valid reasons for annexation:

- (1) The annexation will result in the overall improvement in the educational benefit to students in all the school districts involved; or
- (2) The annexation will provide a significant advantage in transportation costs or service to all the school districts involved.

6-13-1404. Conditions under which the State Board of Education may consolidate school districts.

(a) The State Board of Education shall consider the consolidation of affected school districts into a new resulting school district or districts under the following conditions:

(1) The State Board of Education determines it is in the best interest of the affected district and the resulting district for a school to be consolidated rather than annexed under § 6-13-1603; or

~~(1)(A)~~(2)(A) The affected districts file a petition with the state board requesting that the affected districts be consolidated into a resulting district or districts;

(B) A copy of the petition has been filed with the county clerk's office of each county where the affected districts are located; ~~and~~

(C) The county clerk's office certifies in writing to the state board that the petition has been signed by a majority of the qualified electors of the affected districts;

~~(2)(D)~~ A majority of the qualified electors in the affected districts votes to approve consolidation of the affected districts into a resulting district or districts pursuant to a valid election as provided for in § 6-14-122; and

~~(3)(E)~~ The local board of directors votes to approve by resolution of a majority of the members of each local board of education the consolidation of the affected districts into a resulting district or districts.

(b) The state board:

(1) Shall consolidate school districts as required under § 16-13-1603; or

(2) May may vote to approve by a majority of a quorum present of the members of the state board the consolidation of the affected districts into a resulting district upon receipt of a valid petition for consolidation, after receiving proof from the petitioning party of at least one (1) of the required conditions set forth in subsection (a) of this section, and upon receipt of proof of the issuance of public notice of the intent to consolidate affected districts into a resulting district or districts in the local newspapers of general circulation in the affected districts for a time period of no less than once a week for two (2) consecutive weeks immediately prior to the time the petition is filed with the state board.

(c) In order for the petition for consolidation to be valid, it shall be filed with the state board at least thirty (30) days prior to the next regularly scheduled state board meeting, at which time the petition will be presented for hearing before the state board, except no petition is required for the State Board of Education to consolidate a school district listed under § 6-13-1603.

(d)(1) Upon consolidation of a district listed in § 6-13-1603 or approval of a petition requesting consolidation, the state board shall issue an order dissolving the affected school districts and establishing the resulting school district or districts.

(2)(A) The state board shall issue an order establishing the boundary lines of the resulting district or districts.

(B) It shall be the duty of the Department of Education to make changes in the maps of the school districts to properly show the boundary lines of the resulting district or districts.

(e)(1) The state board shall issue an order establishing the changed boundaries and shall file the order with the county clerk or clerks where the resulting district or districts are located.

(2) The county clerk shall make a permanent record of the order and, thereafter, the boundaries so established shall be boundaries of the resulting district until changes are made according to the provisions of law.

(f) The state board shall not consolidate affected districts that are not geographically contiguous unless the following limited conditions are determined to be valid reasons for consolidation:

(1) The consolidation will result in the overall improvement in the educational benefit to students in all the school districts involved; or

(2) The consolidation will provide a significant advantage in transportation costs or service to all the school districts involved.

6-13-1405. Effective date of annexation or consolidation.

(a) Upon consolidation or annexation of a school district listed in § 6-13-1603 or not in compliance with the provisions of § 6-13-1602:

(1) The effective date of the annexation or consolidation shall be as set forth under § 6-13-1603;

(2) The State Board of Education shall prescribe the number of members of the board of directors of the resulting district;

(3) The consolidation plan adopted by the State Board of Education shall be filed with the county clerk of each county that contains territory or a portion of the territory of each affected school district; and

(4) All terms and conditions of the consolidation shall be as set forth in the State Board of Education reorganization plan.

~~(a)~~(b) Upon a voluntary consolidation:

(1) Unless an agreement is reached in the consolidation or annexation agreement to be different, the effective date of the annexation or consolidation shall be the July 1 following the order of the state board directing the annexation or the consolidation;

~~(b)~~(2) Each board of directors of the affected districts by majority approval of the members of the local board may enter into a written agreement executed by the former president and secretary of each district. The agreement shall prescribe the date of the annexation of the affected district or districts to the receiving district or the formation of the resulting district from consolidation of affected districts;

~~(c)~~(3) The agreement shall also prescribe the number of members of the board of directors of the resulting district as provided for in § 6-13-1205 (repealed); and

~~(d)~~(4) An executed copy of the agreement shall be filed with the county clerk of each county that contains territory or a portion of the territory of each affected school district.

6-13-1406. Board of directors - Term - Election.

~~(a)(1) Unless the board of directors of the affected district or districts and the board of directors of the receiving district or districts~~

~~agree otherwise, the~~ The board of directors of the receiving district or districts after annexation shall be the same board of directors of the receiving district prior to annexation until the next regular school election.

~~(2) The boards of directors of the affected districts may by agreement establish a new board of directors other than the current board of directors of the receiving district composed of not fewer than five (5) nor more than seven (7) directors except for those school districts allowed to do otherwise pursuant to § 6-13-604.~~

~~(3)(2) The~~ At the next regular school election following the annexation, the board of directors of the receiving district ~~created by agreement~~ shall be elected from single-member zones of substantially equal population based upon the most recent census information and from which racial minorities may be represented on the board in proportions reflected in the district as a whole.

(b)(1) ~~Unless the boards of directors of the affected districts agree otherwise, the~~ The board of directors of the resulting district after consolidation shall be composed of seven (7) members until the next regular school election.

~~(2) The boards of directors of the affected districts may by agreement establish a board of directors of the resulting district composed of not fewer than five (5) nor more than seven (7) directors except for those school districts allowed to do otherwise pursuant to § 6-13-604.~~

~~(3)(2) The~~ At the next regular school election following the annexation, the board of directors of the resulting district shall be elected from single-member zones of substantially equal population based upon the most recent census information and from which racial minorities may be represented on the board in proportions reflected in the district as a whole.

(c) The length of the term of each member of the board of directors after annexation or consolidation shall be for a time period as allowed by law.

(d) At the first meeting of a new board after annexation or consolidation, the members shall determine their terms by lot so that no more than two (2) members' terms expire during any one (1) year.

(e) Any vacancy on the board shall be filled in the manner provided for by law.

(f) The establishment of a board of directors with an even number of members following annexation or consolidation is hereby prohibited.

6-13-1407. Creation of a district - When part of a district taken.

(a) Any receiving or resulting district created under this section or as a result of § 6-13-1604, shall become the successor in interest to the property of the district dissolved, shall become liable for the contracts and debts of such a district, and may sue and be sued therefor.

(b) When territory less than the entire district is annexed or consolidated to a district, the receiving or resulting district shall take the property of the district from which the territory was taken, as the State Board of Education shall deem proper, and shall be liable for that part of all indebtedness of the district from which the territory was taken as shall be assigned to it by the state board unless otherwise approved by a majority vote of the affected school district's or districts' board or boards of directors.

6-13-1408. Annexation or consolidation not to negatively impact state-assisted desegregation.

(a) The State Board of Education shall not order any annexation or consolidation under this subchapter or any other act or any combination of acts which hampers, delays, or in any manner negatively affects the desegregation efforts of a school district or districts in this state.

(b) Prior to the entry of any order under this subchapter or § 6-13-1604, the state board shall seek an advisory opinion from the Attorney General concerning the impact of the proposed annexation or consolidation on the effort of the state to assist a district or districts in desegregation of the public schools of this state.

(c) Any order of annexation or consolidation or combination thereof that violates the provisions of this section shall be null and void.

6-13-1409. State Board of Education.

(a) The State Board of Education shall have the following duties regarding consolidations and annexations:

(1) To form local school districts, change boundary lines of school districts, dissolve school districts and annex the territory of such districts to another district, create new school districts, and perform all other functions regarding changes in school districts in accordance with the law;

(2) To transfer funds and attach territory that is in no school district to other school districts as may seem best for the educational welfare of the children; and

(3) To enact rules and regulations regarding the consolidation and annexation of school districts under this title.

(b)(1) Any ~~person~~ any school district being a party to a proceeding before the state board concerning consolidation or annexation who feels aggrieved or that is affected by any final order or decision of the state board may file a petition for appeal from such a final order or decision, provided, within thirty (30) days from the date of the final order or decision complained of, the ~~person shall~~ board of directors of the district approve the appeal by a majority vote, and:

(A) Make an affidavit that the appeal taken from such a final order or decision of the state board is not taken for purposes of delay; and

(B) Enter into a bond with good and sufficient surety thereon in such sum as shall be ordered by the state board, not to exceed twice the amount of property tax revenues involved in the appeal.

(2) The appeal provided in this section shall be to the Circuit Court of Pulaski County.

SECTION 4. Arkansas Code Title 6, Chapter 17, Subchapter 2, is amended to add an additional section to read as follows:

6-17-210. Reduction in force – Lay-Offs.

(a) For purposes of this section the following definitions shall apply:

(1) “Certification area” means grade levels or subject area for which the state provides a license to teach;

(2) “Classified Employee” means a non-supervisory employee

holding a position that is not required by law to hold a license issued by the State Board of Education and whose salary is on a support or classified salary schedule;

(3) "Consolidation" means any reorganization of a school district effective on or before July 1, 2004, either voluntarily under Arkansas Code Title 6, Chapter 13, Subchapter 14 or involuntary under this act of 2003;

(4) "Grade Level" means:

(A) Pre-kindergarten;

(B) Elementary, which consists of grades kindergarten through grades five (5) or six (6);

(C) Middle or junior high, which consists of grade six (6) or grade seven (7) through grade eight (8) or grade nine (9); or

(D) Senior High, which consists of grades nine (9) through twelve (12);

(5) "New school district" means the resulting school district after consolidation;

(6) "Seniority" means the total number of years of employment as a teacher or as a classified employee in Arkansas public elementary and secondary schools. For purposes of this section:

(A) Teachers may not count service as classified employees towards seniority; and

(B) A semester under contract shall be counted as a year. Less than a semester shall not be recognized for seniority;

(7) "Supervisory Employee" means any individual employed by the school district having authority, in the interest of the employer, to hire, transfer, suspend, lay-off, recall, promote, discharge, assign, reward or discipline other employees, the responsibility to evaluate them, or to adjust their grievances or effectively to recommend such action; and

(8) "Teacher" means a non-supervisory employee holding a position that requires a license from the State Board of Education whose salary is determined by the teacher salary schedule as required under Arkansas Code § 6-17-1001.

(b)(1) In the event of a consolidation effective on or before July 1, 2004, including the creation of regional school districts, the school districts to be consolidated shall not implement a reduction in force and shall not nonrenew or terminate any teacher's or classified employee's contract based upon the upcoming consolidation;

(2) The new school district shall become liable for all teacher and classified employee contracts of the school districts being consolidated.

(c)(1) If during the first two (2) years following a consolidation, effective on or before July 1, 2004, the new school district determines that it is necessary to reduce its staff of teachers or classified employees, or both and that the reduction cannot be accomplished through attrition, then the new school district shall follow the provisions of this section.

(2) However, nothing in this section shall exempt a new school district from complying with the Arkansas Teacher Fair Dismissal Act, §§ 6-17-1501, et seq., as may be amended, or the Public School Employee Fair Hearing Act, §§ 6-17-1707, et seq., as may be amended, when implementing the reduction in force.

(d) For both teachers and classified employees, the reduction in force shall be accomplished through attrition as much as possible.

(e) When a new school district determines that a reduction in force is necessary, it shall approve a list of position reductions by school, grade level, certification areas, and classified job positions. All employees shall receive a copy of the necessary reductions.

(f)(1) If the reduction in force cannot be accomplished through attrition, then points will be assigned to each teacher based upon data as of July 1 of the year prior to the time in which the reduction in force is to take place as follows:

(A) One (1) point shall be given for each year of seniority;

(B) Additional points for graduate degrees, but only one (1) applies:

(i) Two (2) points shall be given for an earned Master's Degree, maximum two (2) points;

(ii) Three (3) points shall be given for a Master's Degree plus thirty (30) additional graduate level hours, maximum three (3) points;

(iii) Four (4) points shall be given for an Educational Specialist Degree, maximum four (4) points; and

(iv) Five (5) points shall be given for a Doctorate Degree, maximum five (5) points; and

(C) Six (6) points shall be given for certification by the National Board of Professional Teaching Standards.

(D) One (1) point shall be given for a trained mentor teacher;

(E) One (1) point shall be given for a certified Praxis assessor;

(F) One (1) point shall be given for two (2) or more academic content areas of endorsement as identified by the State Board of Education;

(G) One (1) point shall be given for certification or teaching in a State Board of Education approved shortage area; and

(H) One (1) point shall be given for multiple areas and levels of licensure as identified by the State Board of Education.

(2) All points assigned shall be verified by documents on file with the new school district. Each teacher's points shall be added, and teachers shall be ranked by the total points from high to low in their certification areas. All teachers in the new school district shall receive the listing of personnel and point totals.

(3) In each certification area, those with fewest points will be laid-off first with the following provisos:

(A) Full certification in a position shall prevail over greater points.

(B) If points are equal, earliest date of employment in an Arkansas public school shall prevail.

(4) If teachers are laid-off from employment under this section, they shall be offered an opportunity to fill a vacancy for which they are qualified, for a period of up to two (2) years. The laid-off teacher shall be recalled for a period of two (2) years in reverse order of the lay-off to any position for which they are qualified. A teacher's refusal of a position shall end the district's obligation to place the laid-off teacher.

(g) In the event of a necessary reduction in force under this section

of classified employees, the school district shall supply all classified employees a list of employees by length of service. The school district shall first lay-off probationary classified employees, then the classified employees with the least seniority in the identified job classification. For two (2) years following the reduction, classified employees whose positions have been eliminated due to a reduction under this section shall have the right to assume a position for which they are qualified that is held by the least senior classified employee with the same job classification and length of contract. Laid-off classified employees shall be recalled for a period of two (2) years in reverse order of the lay-off to any position for which they are qualified. Any classified employee's refusal of a job shall end the district's obligation to place that classified employee.

(h) Laid-off teachers or classified employees with skills in the area of a vacant position shall be given first consideration. If more than one (1) teacher or classified employee is qualified for the vacant position, the teacher with the greatest seniority shall be employed first.

(i) The provisions of this section shall expire on July 1, 2006, with the exception of the recall provisions in subsections (f)(4), (g), and (h) of this section.

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

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

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

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

The Amendment was read the first time, rules suspended and read the second time and _____

By: Senator J. Bookout
KAS/VJF - 040420031319
VJF876

Secretary