

**ARKANSAS SENATE**  
85th General Assembly - Regular Session, 2005  
**Amendment Form**

JBC 03/30/05 (1)

\*\*\*\*\*

**Subtitle of Senate Bill No. 457**

"AN ACT FOR THE DEPARTMENT OF EDUCATION APPROPRIATION FOR THE 2005-  
2007 BIENNIUM."

\*\*\*\*\*

**Amendment No. 6 to Senate Bill No. 457.**

Amend Senate Bill No. 457 as engrossed, S3/28/05 (version: 03-28-2005 15:39):

Add a new section immediately following Section 21 to read as follows:

"SECTION 22. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW.

ESTABLISHMENT OF A "POSITION POOL". (a) To address needs emerging from statewide education issues and the necessity of recruiting and retaining qualified personnel, the Arkansas Department of Education or its successor agency is authorized for the 2005-2007 biennium a pool of twenty five (25) non-classified positions at a maximum salary level not to exceed one hundred twenty five thousand dollars (\$125,000) per year. These positions are to be used by the Department of Education in the event that the personal services needs of the Department during the 2005-2007 biennium require additional positions, either by title or in number, that are not authorized by the General Assembly in Section 1 of this Act. These positions may also be used to properly classify positions when the Department does not have a vacant position available with the appropriate title and salary level.

(b) To address needs emerging from statewide education issues and the necessity of recruiting and retaining qualified personnel, the Arkansas Department of Education or its successor agency is authorized for the 2005-2007 biennium a pool of twenty five (25) classified positions at up to a grade twenty six (26). These positions are to be used by the Department of Education in the event that the personal services needs of the Department during the 2005-2007 biennium require additional positions, either by classification or in number, that are not authorized by the General Assembly in Section 1 of this Act. These positions may also be used to properly classify positions when the Department does not have a vacant position available with the appropriate title and grade level.

(c) Any salary determinations or adjustments administered under the provisions of Subsections (a) and (b) of this Section shall be made by comparing the qualifications and salary levels of similar employees in school districts or in other state education agencies.



(d) The Department of Education is authorized to access the pool positions authorized in this Section at any time during the biennium when it is determined by the Director that the need exists. The Director shall provide a quarterly report of the justification for the need to allocate titles from this growth pool to the Chief Fiscal Officer of the State and to the Arkansas Legislative Council for review. The report shall also include an accounting of the names, titles, and salaries of personnel whose salaries have been adjusted under provisions of Subsections (a) and (b) of this Section.

(e) If the Department of Education requests continuation of any "Position Pool" position(s) as established herein during the next biennium, the position(s) must be requested as a new position(s) in the agency's biennial budget request.

(f) Determining the number of personnel to be employed by a state agency is the prerogative of the General Assembly and is usually accomplished by delineating the maximum number of personnel by identifying job titles and the maximum grade or salary attached to those titles. The General Assembly has determined that the Arkansas Department of Education could be operated more efficiently if some flexibility is given to that agency. That flexibility is being accomplished by providing a position pool in Subsections (a) and (b) of this Section and since the General Assembly has granted the agency broad powers under the growth pool concept, it is both necessary and appropriate that the General Assembly maintain oversight of the utilization of the position pool by requiring review of the Legislative Council in the utilization of the position pool. Therefore, the requirement of review by the Legislative Council is not a severable part of this section. If the requirement of review by the Legislative Council is ruled unconstitutional by a court of competent jurisdiction, this entire section is void.

The provisions of this section shall be in effect only from July 1, 2005 through June 30, 2007."

And

Appropriately renumber the sections of the bill.

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

By: Representative Mahony  
JAD/JAD - 03-30-2005 14:22  
JAD460

\_\_\_\_\_  
Secretary