

1 State of Arkansas  
2 90th General Assembly  
3 Regular Session, 2015  
4

# A Bill

HOUSE BILL 1605

5 By: Representatives Tucker, C. Douglas, Lowery, Murdock, Sabin, Blake, Bennett, Johnson, E.  
6 Armstrong  
7 By: Senators L. Chesterfield, Elliott, K. Ingram, D. Johnson  
8

## For An Act To Be Entitled

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10 AN ACT TO PROMOTE TRANSPARENCY BY THE STATE BOARD OF  
11 EDUCATION OR THE DEPARTMENT OF EDUCATION WHEN A  
12 SCHOOL DISTRICT IS TAKEN OVER BY THE STATE; TO  
13 DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.  
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## Subtitle

16  
17 TO PROMOTE TRANSPARENCY BY THE STATE  
18 BOARD OF EDUCATION OR THE DEPARTMENT OF  
19 EDUCATION WHEN A SCHOOL DISTRICT IS TAKEN  
20 OVER BY THE STATE; AND TO DECLARE AN  
21 EMERGENCY.  
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24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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26 SECTION 1. Arkansas Code § 6-13-112(a), concerning the  
27 responsibilities of the State Board of Education and Commissioner of  
28 Education regarding school districts under state authority, is amended to  
29 read as follows:

30 (a) Within ten (10) days of the meeting of the State Board of Education  
31 at which the state board assumes authority of a school district or within ten  
32 (10) days of the date upon which the Commissioner of Education assumes  
33 authority of a school district, the commissioner shall provide the following  
34 information to the chairs of the House Committee on Education and the Senate  
35 Committee on Education and to each member of the General Assembly that  
36 represents the area in which the school district is located:



1           (1) ~~A clear statement of the reasons the district~~ Reasons the  
2 school district has been placed under the authority of the state board or the  
3 commissioner; and

4           (2) ~~A clear statement of the steps~~ Steps necessary for the school  
5 district to remove itself from the authority of the state board or the  
6 commissioner.

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8           SECTION 2. Arkansas Code § 6-13-112, concerning the responsibilities  
9 of the State Board of Education and the Commissioner of Education regarding  
10 school districts under state authority, is amended to add an additional  
11 subsection to read as follows:

12           (f)(1) As used in this section, "documents" means writings, recorded  
13 sounds, films, tapes, electronic or computer-based information, data,  
14 compilations, and communications received or initiated by a public entity or  
15 third-party person or entity, including the agents or employees of the public  
16 entity or third-party person or entity.

17           (2)(A) If the state board assumes authority of a public school  
18 or school district classified in academic distress under § 6-15-430, fiscal  
19 distress under § 6-13-1029, or facilities distress under § 6-21-811 and  
20 enters into a contract, agreement, memorandum of understanding, or other  
21 instrument for services with a third-party person or entity for consultation,  
22 evaluation, information, or any other purpose related to the administration  
23 or operation of a public school or school district that is under the  
24 administrative control of the state, then the contract, agreement, memorandum  
25 of understanding, or other instrument for services and all documents related  
26 to or produced as a result of the contract, agreement, memorandum of  
27 understanding, or other instrument for services shall be made open and  
28 available to the public upon request, as provided by the procedures and  
29 exemptions under § 25-19-105.

30           (B) Subdivision (f)(2)(A) of this section applies to  
31 documents created or maintained by a subcontractor or affiliate of a third-  
32 party person or entity if the documents relate to the educational policy or  
33 procedures of a public school or school district under the administrative  
34 control of the state.

35           (C) Subdivision (f)(2)(A) of this section shall be  
36 included as a provision in and is applicable to all contracts, agreements,

1 memorandums of understanding, or other instruments for services regardless of  
2 whether or not the contract, agreement, memorandum of understanding, or other  
3 instrument for services is supported wholly or partially with public funds,  
4 including those supported without public funds.

5 (3) The documents identified under subdivision (f)(2) of this  
6 section are subject to public disclosure regardless of whether or not the  
7 documents:

8 (A) Originated with the third-party person or entity or  
9 elsewhere; or

10 (B) Are in the possession, custody, or control of the  
11 third-party person or entity, commissioner, state board, or department.

12 (4) The commissioner is responsible for providing public access  
13 for the examination and copying of documents requested by the public.

14 (5) Within ten (10) days of the commissioner, state board, or  
15 department entering into a contract, agreement, memorandum of understanding,  
16 or other instrument for services with a third-party person or entity for  
17 consultation, evaluation, information, or any other purpose related to the  
18 administration or operation of a public school or school district that is  
19 under the administrative control of the state, the commissioner, state board,  
20 or department shall provide the following information to the chairs of the  
21 House Committee on Education and the Senate Committee on Education and to  
22 each member of the General Assembly who represents the area in which the  
23 public school or school district is located:

24 (A) The identity of the third-party person or entity, and  
25 any subcontractors or affiliates of the third-party person or entity;

26 (B) The financial terms agreed to between the third-party  
27 person or entity and the commissioner, state board, or department;

28 (C) The scope of work of the third-party person or entity;

29 (D) Any other material terms, in writing or otherwise,  
30 agreed to between the third-party person or entity and the commissioner,  
31 state board, or department, that related in any way to the public school or  
32 school district under state authority and

33 (E) All documents identified under subdivision (f)(2) of  
34 this section in existence at the time of the communication made under  
35 subdivisions (f)(5)(A)-(D) of this section

36 (6) Nothing in subsection (f) applies to a third-party person or

1 entity or to the documents, contracts, agreements, memorandums of  
2 understanding, or instruments for services in connection with a third-party  
3 person or entity providing a grant or other unilateral funding to a public  
4 school or school district unless the third-party person or entity has  
5 otherwise entered into a contract, agreement, memorandum of understanding, or  
6 other instrument for services with the state board for consultation,  
7 evaluation, information, or any other purpose related to the operation or  
8 administration of a public school or school district under the administrative  
9 control of the state, in which case subsection (f) applies.

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11 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the  
12 General Assembly of the State of Arkansas that the state is assuming  
13 authority of more school districts every year; that transparency over the  
14 steps taken by the state to aid school districts under state authority is  
15 necessary; and that this act is immediately necessary to ensure that the  
16 public is aware of what is being done to aid school districts under state  
17 authority and the information being used as a basis for decision making.  
18 Therefore, an emergency is declared to exist, and this act being immediately  
19 necessary for the preservation of the public peace, health, and safety shall  
20 become effective on:

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

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

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