

1 State of Arkansas
2 88th General Assembly
3 Fiscal Session, 2012

SCR 5

4
5 By: Senator G. Baker
6 By: Representative Summers

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8 **SENATE CONCURRENT RESOLUTION**

9 OFFERING SUPPORT TO THE GOVERNOR AND ATTORNEY GENERAL
10 TO TAKE EVERY LAWFUL AND RESPONSIBLE ACTION WITHIN
11 THEIR RESPECTIVE AUTHORITY TO SEEK AN IMMEDIATE END
12 TO THE PULASKI COUNTY DESEGREGATION LITIGATION AND
13 THE 1989 SETTLEMENT AGREEMENT TO WHICH THE STATE OF
14 ARKANSAS IS NOW A PARTY.

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17 **Subtitle**

18 TO SUPPORT THE GOVERNOR AND ATTORNEY
19 GENERAL TO TAKE LAWFUL ACTIONS WITHIN
20 THEIR AUTHORITY FOR AN IMMEDIATE END TO
21 THE PULASKI COUNTY DESEGREGATION
22 LITIGATION AND THE 1989 SETTLEMENT
23 AGREEMENT.

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26 BE IT RESOLVED BY THE SENATE OF THE EIGHTY-EIGHTH GENERAL ASSEMBLY OF THE
27 STATE OF ARKANSAS, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

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29 WHEREAS, the case commonly referred to as the Pulaski County
30 Desegregation Case is in its thirtieth year of litigation; and

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32 WHEREAS, since the 1988-1989 school year, the State of Arkansas has
33 paid over \$1 billion in total, and approximately \$70 million dollars
34 annually, to the three (3) Pulaski County school districts in desegregation
35 funding; and



1 WHEREAS, it was found by the Federal District Court in its May 19,
2 2011, ruling in the case concerning the funding provided by the State of
3 Arkansas to the Pulaski County school districts, "...that one of the problems
4 with this case is that the State of Arkansas pays millions of dollars to
5 these districts, along with the Little Rock School District, to aid their
6 desegregation efforts."; that "The problems with this process is that it
7 results in an absurd outcome in which the districts are rewarded with extra
8 money from the state if they fail to comply with their desegregation plans
9 and they face having their funds cut by the state if they act in good faith
10 and comply"; and that "It seems that the State of Arkansas is using a carrot
11 and stick approach with these districts but that the districts are wise mules
12 that have learned how to eat the carrot and sit down on the job. The time
13 has come for all carrots to be put away. These mules must now either pull
14 their proverbial carts on their own or face a very heavy and punitive stick",
15 and ordered the cessation of such desegregation funding to the districts; and
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17 WHEREAS, in the same May 19, 2011, ruling, the Federal District Court
18 found that the Pulaski County Special School District had become unitary in
19 three (3) out of twelve (12) areas; the Little Rock School District has been
20 unitary for almost a decade; and on December 28, 2011, the United States
21 Court of Appeals for the Eighth Circuit found the North Little Rock School
22 District completely unitary; and
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24 WHEREAS, all three Pulaski County school districts have been found by
25 the Federal District Court to be unitary in the area of inter-district
26 student assignment; and
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28 WHEREAS, the State had fully performed all specific inter-district
29 remedial obligations required by the courts in the case before entering into
30 the Settlement Agreement, and the Settlement Agreement called for the release
31 and dismissal of the State from the case; and
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33 WHEREAS, the M-M Stipulation and the Magnet Stipulation in the case
34 impose race-based quotas and limit the ability of African-American children
35 in the Little Rock School District to attend magnet schools in the Little
36 Rock School District solely because of their race, in violation of the Equal

1 Protection Clause of the United States and Arkansas Constitutions; and

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3 WHEREAS, changed circumstances now exist and now is the appropriate
4 time to seek a full and complete end to the case, the Settlement Agreement,
5 and any funding from the State; and

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7 WHEREAS, the General Assembly has passed Act 395 of 2007, which
8 empowered the Department of Education and the Attorney General's Office to
9 seek a negotiated settlement to end the case and the current Settlement
10 Agreement with no substantive impact on the case; and for the districts to
11 achieve unitary status; and

12
13 WHEREAS, the General Assembly has passed three (3) additional Acts (Act
14 2 of the First Extraordinary Session of 2008, Act 242 of 2009, and Act 624 of
15 2011) extending the time for the State and the districts to negotiate a
16 settlement ending the case and stopping the State's payments; and

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18 WHEREAS, the case has become a financial drain on the State of Arkansas
19 and its taxpayers during hard economic times, with no real and substantive
20 remedial impact remaining to be achieved in the case; and

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22 WHEREAS, the Eighth Circuit's December 28, 2011, ruling, although
23 vacating the Federal District court's order ending the State's payment
24 obligations in the case, did state that "The district court's frustration is
25 understandable, and its conclusions regarding the perverse incentives created
26 by the State's funding may well have some merit", and indicated that the
27 State could move for relief from its funding obligations from the Federal
28 District Court; and

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30 WHEREAS, the case and the legal maneuvering by the Little Rock School
31 District in the case have created dysfunctional and perverse incentives that:

32 (1) Prevent a focus on quality education and educational
33 opportunities for children;

34 (2) Reward an inefficient and failing educational environment
35 for students in Pulaski County school districts;

36 (3) Prevent and frustrate educational accountability for

1 students trapped in failing schools;

2 (4) Deny quality school choice opportunities for parents with
3 students in failing schools based upon unconstitutional race-based student
4 assignment plans; and

5 (5) Are now a basis for an effort to block open-enrollment
6 public charter schools as an option for parents and students in Pulaski
7 County; and

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9 WHEREAS, as long as the case continues, the State of Arkansas and its
10 taxpayers will continue to be forced to bear the costs of supplementing an
11 educational system in the districts which is inefficient and hinders true
12 choice in freedom of education, in direct violation of the State's motto
13 "Regnat Populus" ("The People Rule") and will be frustrated in accomplishing
14 the State's high duty to provide a general, suitable, and efficient free
15 public education to all of its citizens,

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17 BE IT RESOLVED BY THE SENATE OF THE EIGHTY-EIGHTH GENERAL ASSEMBLY OF THE
18 STATE OF ARKANSAS, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN

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20 THAT the Senate and the House of Representatives offer their full
21 support for the Governor and the Attorney General to take every lawful and
22 responsible action within their respective authority to seek and litigate for
23 a court order bringing an immediate end to the Pulaski County Desegregation
24 case and the 1989 Settlement Agreement to which the State of Arkansas is now
25 a party.