

1 State of Arkansas  
2 84th General Assembly  
3 Second Extraordinary Session, 2003  
4

*As Engrossed: H1/17/04*  
**A Bill**

Call Item 4

HOUSE BILL 1123

5 By: Representatives Hathorn, Sullivan, Medley, Thyer, Scroggin  
6  
7

**For An Act To Be Entitled**

9 AN ACT TO CREATE COUNTY SCHOOL DISTRICTS FOR  
10 ADMINISTRATIVE PURPOSES; TO PRESERVE LOCAL SCHOOL  
11 DISTRICTS AS SUBDISTRICTS; TO PROVIDE FOR THE  
12 CREATION OF A COUNTY SCHOOL DISTRICT BOARD OF  
13 DIRECTORS; AND FOR OTHER PURPOSES.  
14

**Subtitle**

15 TO CREATE COUNTY SCHOOL DISTRICTS FOR  
16 ADMINISTRATIVE PURPOSES; TO PRESERVE  
17 LOCAL SCHOOL DISTRICTS AS SUBDISTRICTS;  
18 AND TO PROVIDE FOR THE CREATION OF A  
19 COUNTY SCHOOL DISTRICT BOARD OF  
20 DIRECTORS.  
21  
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23

24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
25

26 SECTION 1. Arkansas Code Title 6, Chapter 13, is amended to add an  
27 additional subchapter to read as follows:

28 6-13-1801. Purpose.

29 The purpose of this subchapter is to reorganize the administration of  
30 school districts so that the administrative functions of all school districts  
31 in a county are combined into one (1) county school district, but the  
32 boundaries and school facilities of each existing local school district are  
33 maintained separately as a subdistrict of the county school district.  
34

35 6-13-1802. Definitions.

36 For the purpose of this subchapter:



1           (1) "Average daily membership" means the total number of days  
2 attended plus the total number of days absent by students in grades  
3 kindergarten through twelve (K-12) during the first three (3) quarters of  
4 each school year divided by the number of school days actually taught in the  
5 district during that period of time rounded up to the nearest hundredth. As  
6 applied to this subchapter, students who may be counted for average daily  
7 membership are:

8           (A) Students who reside within the boundaries of the  
9 school district and who are enrolled in a public school operated by the  
10 district or a private school for special education students, with their  
11 attendance resulting from a written tuition agreement approved by the  
12 Department of Education;

13           (B) Legally transferred students living outside the  
14 district but attending a public school in the district; and

15           (C) Students who reside within the boundaries of the  
16 school district and who are enrolled in the Arkansas National Guard Youth  
17 Challenge Program, so long as the students are participants in the program;

18           (2) "Average daily membership of the subdistrict" means the  
19 total number of days attended plus the total number of days absent by  
20 students in grades kindergarten through twelve (K-12) during the first three  
21 (3) quarters of each school year divided by the number of school days  
22 actually taught in the subdistrict during that period of time rounded up to  
23 the nearest hundredth. As applied to this subchapter, students who may be  
24 counted for average daily membership are:

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

30           (B) Legally transferred students living outside the  
31 subdistrict but attending a public school in the subdistrict; and

32           (C) Students who reside within the boundaries of the  
33 subdistrict and who are enrolled in the Arkansas National Guard Youth  
34 Challenge Program, so long as the students are participants in the program;

35           (3) "Reorganization" or "reorganized" means the joining of two  
36 (2) or more school districts or parts thereof to create a new single school

1 district; and

2 (4) "State funds" means all money derived from state revenues  
3 and distributed through the Department of Education Public School Fund  
4 Account and the ad valorem property tax, up to the uniform rate of tax  
5 established under Arkansas Constitution, Amendment 74, distributed to the  
6 subdistrict.

7  
8 6-13-1803. Reorganization in county school districts.

9 (a)(1) Except as provided in subdivision (a)(2) of this section, all  
10 school districts within a county shall be reorganized into a county school  
11 district for the purpose of administration of the school districts.

12 (2) A school district shall not be reorganized into a county  
13 school district if the school district:

14 (A) Has average daily membership meeting or exceeding  
15 three thousand (3,000) for the 2003-2004 school year;

16 (B) Is the only school district with a principal  
17 administrative office in the county on June 30, 2004; or

18 (C) Is subject to an existing court-order that is  
19 construed by the office of the Attorney General to prohibit the school  
20 district from becoming part of a county school district.

21 (b) A subdistrict created by this subchapter may include areas outside  
22 the boundary of the county if those areas were a part of the school district  
23 prior to reorganization under this subchapter.

24 (c) On July 1, 2005, all school districts reorganized under this  
25 subchapter shall become subdistricts of the county school district.

26  
27 6-13-1804. County school district administration.

28 (a) A county school district created under this subchapter shall have  
29 the same prerogatives, powers, duties, and privileges as provided by law for  
30 school districts in the state.

31 (b) A county school district board of directors created under this  
32 subchapter shall have the same prerogatives, powers, duties, and privileges  
33 as provided by law for school district boards of directors.

34 (c)(1) A county school district shall have only one (1) central  
35 administrative office, one (1) board of directors, and one (1) school  
36 district superintendent.

1           (2) A subdistrict shall not have a central administrative  
2 office, a board of directors, or a superintendent that performs duties that  
3 are not subject to the direction and control of the county school district or  
4 the county school district board of directors.

5           (d)(1) A school district may have an administrator with the title  
6 "subdistrict superintendent" who shall have the powers and duties  
7 traditionally held by a principal of a school.

8           (2) No subdistrict superintendent shall perform duties that are  
9 not subject to the direction and control of the county school district  
10 superintendent.

11           (3) Nothing in this subchapter shall be construed to require the  
12 salaries of the subdistrict superintendent to exceed the salary traditionally  
13 paid to school principals with similar duties.

14           (e)(1) For purposes of this subchapter, a school district shall be  
15 considered within a county if the school district's principal administrative  
16 office is located in the county on the effective date of this subchapter.

17           (2)(A) A school district with a principal administrative office  
18 located in one (1) county and a majority of the students attending the  
19 district residing in another county may, by a majority vote of the members of  
20 the local school board of directors, elect to join the county school district  
21 of either county.

22           (B) A school district board of directors electing, under  
23 subdivision (e)(2) of this section, to join the county school district of a  
24 county in which a majority of the school district's students reside shall  
25 file a written statement with the State Board of Education and the school  
26 apportionment board of all affected counties by July 1, 2004, setting forth  
27 the election.

28           (f) Any school district that is consolidated or annexed under another  
29 law prior to July 1, 2005, and is reorganized under this subchapter shall  
30 become a subdistrict of the county school district in the county where the  
31 resulting district's principal administrative office is located.

32  
33           6-13-1805. Facilities in subdistricts.

34           (a) Except as provided under subsections (b) and (c) of this section,  
35 each subdistrict within the county school district shall continue to maintain  
36 separate boundaries, separate names, separate school facilities, and separate

1 athletic programs and other extracurricular activities, unless a closure of  
2 the subdistrict's facilities is approved by a majority of the electors of the  
3 subdistrict subject to closure.

4 (b)(1) The county school district board of directors may close the  
5 facilities of a subdistrict, with approval by a majority of the members of  
6 the county school district board of directors, if:

7 (A) The average daily membership of the subdistrict is less  
8 than three hundred fifty (350) students for the school year immediately  
9 preceding the date of proposed closure; and

10 (B) There is a distance of less than twelve (12) miles of  
11 hard-surfaced highway from the school facility subject to closure to the  
12 nearest adjacent school facility for the same grade level in an adjoining  
13 subdistrict.

14 (2) However, the county board of directors may close the  
15 subdistrict's facilities with approval of at least two-thirds (2/3) of the  
16 members of the county school district board of directors if the county school  
17 board of directors determines that the county school district will suffer  
18 unreasonable financial burden and the following conditions are met:

19 (A) The county school district continues to maintain  
20 separate facilities for a subdistrict with an average daily membership of the  
21 subdistrict that is less than five hundred (500) students for the school year  
22 immediately preceding the date of proposed closure; and

23 (B) There is less than fifteen (15) miles of hard-surfaced  
24 highway from the school facility subject to closure to the nearest adjacent  
25 school facility for the same grade level in the adjoining subdistrict.

26 (c) After July 1, 2005, the county school district board of directors  
27 may allow a subdistrict to reorganize with a subdistrict in another county if  
28 the reorganization is approved by an affirmative vote of a majority of the  
29 members of the county board of directors of each affected school district.

30 (d) In no event may a county board of directors reorganize  
31 subdistricts if there is fifteen (15) miles or more of hard-surfaced highway  
32 between the high school facilities in the affected subdistricts, unless the  
33 reorganization is approved by a majority of the electors in each of the  
34 affected subdistricts.

35 (e) Any funds collected from private donations or fundraisers to  
36 support activities of a school district prior to reorganization under this

1 act or for a subdistrict created under this subchapter shall remain the sole  
2 and separate property of the subdistrict for which it was collected.

3  
4 6-13-1806. Creation of election zones - School district apportionment  
5 committee.

6 (a)(1) There is established for each county a school district  
7 apportionment committee.

8 (2) The school district apportionment committee for each county  
9 shall be made up of:

10 (A) The president of each local school board of directors,  
11 or his or her designee who shall be a member of the local school board; and

12 (B) The county election commission.

13 (b) The Secretary of State and the school district apportionment  
14 committee shall jointly determine if the county school district shall be  
15 divided into seven (7), nine (9), or eleven (11) election zones for the  
16 election of members of the county school district board of directors.

17 (c) The Secretary of State shall be responsible for initially dividing  
18 each county into the number of election zones decided upon under subsection  
19 (b) of this section for the election of members of the county school district  
20 board of directors.

21 (d) By August 1, 2004, the Secretary of State shall deliver to each  
22 county school district apportionment committee a map or maps showing a  
23 preliminary initial districting plan, or alternative plans.

24 (e)(1) The initial election zones shall be established on the basis of  
25 population.

26 (2)(A) Each election zone shall have a population as nearly  
27 equal as practicable to the ideal population for such election zones,  
28 determined by dividing the number of election zones to be established into  
29 the population of the county and school district reported in the federal  
30 decennial census.

31 (B) Election zones shall not vary in population from the  
32 respective ideal election zone populations except as necessary to comply with  
33 one of the other standards enumerated in this section.

34 (3)(A) To the extent consistent with subdivision (e)(2) of this  
35 section, election zone boundaries shall coincide with the boundaries of  
36 political subdivisions within the county school district boundaries.

1                   (B) Census blocks may not be divided. The number of  
2 cities and towns divided among more than one (1) election zone shall be as  
3 small as possible.

4                   (4) Election zones shall be composed of convenient contiguous  
5 territory. Areas that meet only at the points of adjoining corners are not  
6 contiguous.

7                   (5) It is preferable that election zones be compact in form, but  
8 the standards established by subdivisions (e)(2) through (e)(4) of this  
9 section take precedence over compactness where a conflict arises between  
10 compactness and these standards.

11                   (6)(A) No election zone shall be drawn for the purpose of  
12 favoring a currently incumbent board member or other person or group, or for  
13 the purpose of augmenting or diluting the voting strength of a language or  
14 racial minority group.

15                   (B) In establishing districts, no use shall be made of any  
16 of the following data:

17                               (i) Addresses of incumbent board members;  
18                               (ii) Political affiliations of registered voters;  
19                               (iii) Previous election results; or  
20                               (iv) Demographic information, other than population  
21 head counts, except as required by the state or federal Constitutions and the  
22 laws of the United States.

23                   (f)(1) The school district apportionment committee shall review the  
24 plan submitted by the Secretary of State and shall call at least one (1)  
25 public hearing in a county seat city to hear public comment on the plan,  
26 pursuant to public notice published in a newspaper of general circulation in  
27 the county.

28                   (2) Not later than thirty (30) days after the receipt of the  
29 plan from the Secretary of State, each school district apportionment  
30 committee shall make a report recommending any changes it deems should be  
31 made in the plan.

32                   (g) The Secretary of State shall make any changes recommended by the  
33 school district apportionment committee that meet the criteria set out in  
34 subdivisions (e)(2) through (e)(6) of this section.

35                   (h) By January 1, 2005, the Secretary of State shall file with the  
36 county clerk of each county a certified copy of the districting plan.

1       (i)(1) Original jurisdiction to contest the plan of apportionment  
2 filed by the Secretary of State is vested in the circuit court of the  
3 affected county.

4       (2) Any such contest shall be filed within thirty (30) calendar  
5 days after the plan is filed with the county clerk.

6  
7       6-13-1807. Organization of county school districts.

8       (a)(1) The county election commission of each county with a school  
9 district reorganized under this subchapter shall call for and take all  
10 necessary actions to cause a special election to be held by the second  
11 Tuesday in April of 2005, for the purpose of electing a single resident from  
12 each election zone to serve on the county school board of directors.

13       (2) The members of each county school district board elected in  
14 the special election pursuant to subdivision (a)(1) of this section shall  
15 take office on May 1, 2005, to serve until board members are elected at the  
16 2006 annual school election.

17       (3) Members of the county school district elected during the  
18 special election pursuant to subdivision (a)(1) of this section may be  
19 reelected to continue to serve on the countywide school district board.

20       (b) The county school district board of directors shall develop a plan  
21 for the operation of the county school district and hire a superintendent for  
22 the county school district by July 1, 2005.

23       (c) If a county school district board of directors fails to comply  
24 with the requirements of this subchapter, the State Board of Education may  
25 receive and hear petitions or move on its own motion to create county school  
26 districts in such a timeframe to comply with the provisions of this  
27 subchapter.

28       (d)(1) The local school board of directors of a school district  
29 reorganized under this subchapter shall be abolished effective at midnight on  
30 June 30, 2005.

31       (2) The county school districts created under this subchapter  
32 are created effective July 1, 2005.

33       (e) The ad valorem tax rate of a county school district shall be as  
34 provided by law.

35       (f)(1) All funding received by the county school district shall follow  
36 the student for which the funding was received. This means that any funding

1 based upon average daily membership shall be distributed to the subdistrict  
2 based upon the subdistrict's average daily membership.

3 (2) The costs and expenses of the county school district  
4 administration shall be divided among the subdistricts served by the county  
5 school district in direct proportion to the amount of state funds received by  
6 each subdistrict.

7  
8 6-13-1808. Isolated subdistricts.

9 Any subdistrict that was entitled to receive funding as an isolated  
10 school district prior to reorganization under this subchapter shall continue  
11 to receive funding as a subdistrict as provided by law for school districts  
12 or subdistricts.

13  
14 6-13-1809. Reorganization with school districts in academic or fiscal  
15 distress.

16 (a) A school district reorganized into a county school district with a  
17 school district designated by the State Board of Education as being in  
18 academic or fiscal distress shall not be subject to academic or fiscal  
19 distress sanctions.

20 (b) A subdistrict that was previously designated by the State Board of  
21 Education as a school district in academic or fiscal distress shall continue  
22 to be subject to the same sanctions and provisions as if the school district  
23 had not been reorganized.

24  
25 6-13-1810. The State Board of Education shall promulgate rules and  
26 regulations necessary to implement the provisions of this subchapter.

27  
28 SECTION 2. Arkansas Code § 6-17-301, concerning employment of  
29 certified personnel, is amended to add an additional subsection to read as  
30 follows:

31 (e) Any employment contract entered into, after the effective date of  
32 this subsection, by a school board of directors or school district shall  
33 contain a provision that allows the contract to be voided by any party to the  
34 contract if the school district is consolidated or reorganized by state law  
35 and the contracting school district no longer exists as a separate legal  
36 entity after the consolidation or reorganization.

1  
2 SECTION 3. Effective July 1, 2005, Arkansas Code § 6-20-303(14),  
3 concerning definitions for school funding, is amended to read as follows:

4 (14) "Isolated funding" means the state financial aid provided  
5 to local school districts or subdistricts with an average daily membership of  
6 fewer than three hundred fifty (350) from funds made available for that  
7 purpose and which is calculated as follows:

8 (A) (350-Previous year's average daily membership) divided  
9 by eight hundred fifty (850) times previous year's average daily membership  
10 times the base local revenue per student;

11 (B) Local school districts or subdistricts with an average  
12 daily membership density of less than one and two tenths (1.2) shall receive  
13 additional funds equal to fifty percent (50%) of aid received under  
14 subdivision (14)(A) of this section;

15 (C) For the purpose of calculating isolated funding, any  
16 local school district or subdistrict that has an average daily membership  
17 density greater than 5.0 shall be excluded. Provided, however, if a local  
18 school district or subdistrict has a local revenue per student less than  
19 sixty percent (60%) of the effective average, it shall receive isolated  
20 funding;

21 (D) No school district or subdistrict shall receive less  
22 isolated funding in future years than the district received during the 1996-  
23 1997 school year because of subdivision (14)(C) of this section; and

24 (E) If the statewide amount for isolated funding  
25 calculated pursuant to this section is less than the amount appropriated for  
26 isolated funding, the state board may include a funding factor to the  
27 calculation in subdivision (14)(A) of this section in order to expend up to  
28 the appropriated amount;

29  
30 SECTION 4. Effective July 1, 2005, Arkansas Code § 6-20-601 is amended  
31 to read as follows:

32 6-20-601. Qualifications for receiving isolated funding.

33 (a) As used in this section, "isolated school district" or "isolated  
34 subdistrict" means a school district or subdistrict that meets any four (4)  
35 of the following five (5) criteria:

36 (1) There is a distance of twelve (12) miles or more by hard-

1 surfaced highway from the high school of the district or subdistrict to the  
2 nearest adjacent high school in an adjoining district or subdistrict;

3 (2) The density ratio of transported students is less than three  
4 (3) students per square mile of area;

5 (3) The total area of the district or subdistrict is ninety-five  
6 square miles (95 sq. mi.) or greater;

7 (4) Less than fifty percent (50%) of bus route miles is on hard-  
8 surfaced roads; and

9 (5) There are geographic barriers such as lakes, rivers, and  
10 mountain ranges which would impede travel to schools that otherwise would be  
11 appropriate for consolidation, cooperative programs, and shared services.

12 (b) An isolated school district or isolated subdistrict shall be  
13 eligible to receive isolated funding if:

14 (1) The district's budget or the subdistrict's budget is  
15 prepared by the local district with Department of Education approval;

16 (2) The district or the subdistrict has an average daily  
17 membership of less than three hundred fifty (350); and

18 (3) The district or the county school district in which the  
19 subdistrict is located meets the minimum standards for accreditation of  
20 public schools prescribed by law and regulation.

21 (c) Any school district or subdistrict designated as an isolated  
22 school district for the 1996-1997 fiscal year that used geographic barriers  
23 as one (1) of the four (4) criteria necessary to receive isolated funding  
24 shall be allowed to continue to use geographic barriers as a criterion for  
25 future allocations of isolated funding.

26 (d)(1) State financial aid in the form of isolated funding shall be  
27 provided to local school districts or subdistricts qualifying under this  
28 section and shall be calculated as follows:

29 (350-Previous year's average daily membership) divided by eight  
30 hundred fifty (850) times the previous year's average daily membership times  
31 the base local revenue per student.

32 (2) There shall be two (2) categories of isolated funding:

33 (A) Category I isolated funding shall be provided to all  
34 school districts or subdistricts that qualify under this section; and

35 (B) Category II isolated funding shall be further provided  
36 to those school districts or subdistricts that qualify under this section and

1 have an average daily membership density ratio of less than 1.2 students per  
2 square mile and shall be calculated at fifty percent (50%) of Category I  
3 funding.

4 (3) Those school districts or subdistricts that qualify under  
5 this section and whose local revenue per student exceeds the base local  
6 revenue per student shall receive isolated funding calculated as follows:  
7 (Category I plus Category II) minus (base local revenue per student minus  
8 local revenue per student) times the previous year's average daily  
9 membership.

10 (4) In the event that the statewide amount for isolated funding  
11 calculated pursuant to this section is less than the amount appropriated for  
12 isolated funding, the State Board of Education may include a funding factor  
13 in the calculation in § 6-20-303(14)(A) in order to expend up to the  
14 appropriated amount.

15 (e) No school district or subdistrict which may qualify under other  
16 law to receive additional state aid because its average daily membership is  
17 less than three hundred fifty (350) shall be eligible to receive funding  
18 under this section except that a district qualifying under other law for  
19 such aid and qualifying for funds under this section may elect to receive  
20 funds under this section in lieu of aid under the other.

21 (f) Any funding an isolated subdistrict receives under this section or  
22 other isolated district funding provisions shall be used solely for the  
23 isolated subdistrict.

24

25 SECTION 5. EMERGENCY CLAUSE. It is found and determined by the  
26 General Assembly of the State of Arkansas that the Arkansas Supreme Court in  
27 Lake View School District No. 25 v. Huckabee, 351 Ark. 31 (2002) declared the  
28 current system of education in the state to be unconstitutional because it is  
29 both inequitable and inadequate; the Arkansas Supreme Court set forth the  
30 test for a constitutional system to be one in which the state has an  
31 "absolute duty" to provide an "equal opportunity to an adequate education";  
32 the Arkansas Supreme Court instructed the General Assembly to undertake  
33 actions as necessary to provide an opportunity for an adequate and equitable  
34 education for the children of Arkansas; and the provisions of this act are  
35 necessary steps toward accomplishing that mandate. Therefore, an emergency  
36 is declared to exist and this act being immediately necessary for the

1 preservation of the public peace, health, and safety shall become effective  
2 on:

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

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

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

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10 */s/ Hathorn, et al*  
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