

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

State of Arkansas

As Engrossed: S3/30/09 S3/31/09

87th General Assembly

A Bill

Regular Session, 2009

SENATE BILL 814

By: Senators Broadway, Bryles

By: Representatives Cook, Betts, *Abernathy*

For An Act To Be Entitled

AN ACT TO AMEND VARIOUS PROVISIONS OF THE
ARKANSAS CODE CONCERNING PUBLIC SCHOOL EDUCATION;
AND FOR OTHER PURPOSES.

Subtitle

TO AMEND VARIOUS PROVISIONS OF THE
ARKANSAS CODE CONCERNING PUBLIC SCHOOL
EDUCATION.

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

SECTION 1. Arkansas Code § 6-10-106(d), concerning uniform dates for the beginning and end of a school year, is amended to read as follows:

(d) A school district shall adopt an academic calendar that includes five (5) make-up days, in addition to the number of student-teacher interaction days required by the Standards for Accreditation of Arkansas Public Schools and School Districts established by the State Board of Education, for days unavoidably lost due to exceptional or emergency circumstances resulting from a contagious disease outbreak, inclement weather, or other acts of God.

(e) No other waiver from the requirements of this section shall be granted.

SECTION 2. Arkansas Code § 6-14-102(c)(1), concerning annual and special school elections, is amended to read as follows:

(c)(1) In any election year, if no more than one (1) candidate for any



1 school district director position presents a petition or notice in writing to
2 the county board of election commissioners as required by § 6-14-111 and if
3 there are no other ballot issues to be submitted to school district electors
4 for consideration, with the exception of the local tax rate if that rate is
5 not being changed or restructured, the board of directors of any school
6 district, by resolution, may request the county board of election
7 commissioners to reduce the number of polling places or to open no polling
8 places on election day so that the election can be conducted by absentee
9 ballot and early voting only.

10
11 SECTION 3. Arkansas Code § 6-15-203(a), concerning appeals of
12 notifications of failure to meet standards for accreditation, is amended to
13 read as follows:

14 (a)(1) The Department of Education ~~shall annually~~ annually shall
15 notify all schools or school districts failing to meet standards for
16 accreditation for elementary and secondary schools not later than May 15 of
17 *each year of this determination.*

18 (2)(A) However, at any time, the department may immediately
19 notify a public school or school district failing to meet standards for
20 accreditation for elementary and secondary schools when the failure is
21 discovered by the department under § 6-15-202(i).

22 (B) A public school or school district notified by the
23 department of the public school's or school district's failure to meet the
24 standards for accreditation due to actions taken under § 6-15-202(i) shall
25 have the same period of time to appeal to the state board as provided under §
26 6-15-203(b)(3).

27
28 SECTION 4. Arkansas Code § 6-15-1012 is repealed.

29 ~~6-15-1012. Model learning standards in the basic core of knowledge and~~
30 ~~skills.~~

31 ~~(a) The Department of Education shall identify the learning standards~~
32 ~~needed in the basic core of knowledge and skills as required of students in~~
33 ~~the public schools by § 6-15-1003.~~

34 ~~(b)(1) Beginning with the 2000-2001 school year, the department shall~~
35 ~~develop the learning standards into a model format and issue the model~~
36 ~~standards in pamphlet form describing the standards for the basic core of~~

1 ~~knowledge and skills in kindergarten through grade eight (K-8). The model~~
2 ~~shall be prepared for each grade level.~~

3 ~~(2) The department shall develop model learning standards for~~
4 ~~the common core required for graduation in grades nine through twelve (9-12)~~
5 ~~and shall prepare them in pamphlet format for the high school level.~~

6 ~~(c) The department shall make the model standards available to every~~
7 ~~school district in Arkansas.~~

8 ~~(d) Local school districts shall prepare a report in pamphlet form~~
9 ~~describing the basic core of knowledge and skills prescribed for the schools~~
10 ~~in their school districts and publish it in enough quantity for all students.~~

11 ~~(1) A report shall be prepared for each grade kindergarten~~
12 ~~through eight (K-8); and~~

13 ~~(2) A report for the common core required for graduation from~~
14 ~~high school shall also be prepared by the local school district for parents~~
15 ~~of high school students.~~

16 ~~(e) Local school districts shall distribute the pamphlets to every~~
17 ~~parent and guardian of a child in grades kindergarten through twelve (K-12)~~
18 ~~in the public schools of Arkansas.~~

19
20 SECTION 5. Arkansas Code § 6-15-1702(b), concerning parental
21 involvement plans, is amended to read as follows:

22 (B) To encourage communication with parents, the school shall:
23 (i) ~~prepare~~ Prepare an informational packet to be
24 distributed annually to the parent of each child in the school, appropriate
25 for the age and grade of the child, describing:

26 ~~(i)(a)~~ (a) The school's parental involvement
27 program;

28 ~~(ii)(b)~~ (b) The recommended role of the parent,
29 student, teacher, and school;

30 ~~(iii)(c)~~ (c) Ways for the parent to become
31 involved in the school and his or her child's education;

32 ~~(iv)(d)~~ (d) A survey for the parent regarding his
33 or her interests concerning volunteering at the school;

34 ~~(v)(e)~~ (e) Activities planned throughout the
35 school year to encourage parental involvement; and

36 ~~(vi)(f)~~ (f) A system to allow the parents and

1 teachers to communicate in a regular, two-way, and meaningful manner with the
2 child's teacher and the school principal; and

3 (ii) Schedule no fewer than two (2) parent-teacher
4 conferences per school year.

5 (D) The school may plan and engage in other activities
6 determined by the school to be beneficial to encourage communication with
7 parents;

8
9 SECTION 6. Arkansas Code § 6-16-604(b)(1), concerning optional summer
10 programs, is amended to read as follows:

11 (b)(1) The length of the summer school term ~~is to~~ shall be five (5)
12 weeks, during which time a school shall provide not less than:

13 (A) Twenty (20) days of instruction; and

14 (B) Seventy-five (75) hours of instruction.

15
16 SECTION 7. Arkansas Code § 6-17-301 is amended to read as follows:

17 6-17-301. Employment of certified personnel.

18 ~~(a) Except as prohibited under subsections (c) and (d) of this~~
19 ~~section, school boards~~ A school board of directors may employ
20 superintendents, deputy superintendents, assistant superintendents, and high
21 school principals, as well as department heads, coaches, teachers, and other
22 certified personnel, by written contract for a period of time not more than
23 three (3) years.

24 (b) The contracts may be renewed annually.

25 ~~(c) Beginning on July 16, 2003, through July 1, 2004, notwithstanding~~
26 ~~any other provision of law except for currently binding contractual~~
27 ~~obligations or enforceable court ordered mandates, no public school board of~~
28 ~~directors or the governing board of an education service cooperative or~~
29 ~~charter school may employ or extend the employment contract of any~~
30 ~~superintendent, assistant superintendent, school principal, department head,~~
31 ~~coach, teacher, or other certified or noncertified personnel for a period of~~
32 ~~time more than one (1) fiscal year without the prior written approval of the~~
33 ~~State Board of Education or the Commissioner of Education as allowed in~~
34 ~~emergency situations.~~

35 ~~(d) No employment contract or extension to an employment contract~~
36 ~~entered on or after July 16, 2003, through July 1, 2004, may have a combined~~

~~total increase in salaries, income, and benefits of greater than seven and one-half percent (7.5%) of the immediate previous existing contract for the same or substantially similar personnel position without the prior written approval of the state board, except for salary or benefit increases legislatively approved and mandated by the General Assembly, specifically including, but not limited to, pay increases under The Educator Compensation Act of 2001, §§ 6-17-2101 et seq. [Repealed], 6-5-307(a), and 6-20-412 or any salary increase based on an increment for experience or training published in a currently approved school district salary schedule.~~

SECTION 8. Arkansas Code § 6-18-1602(2), concerning the definition of "Smart Core", is amended to read as follows:

(2) "Smart Core" means the required curriculum that is part of ~~Next Step Smart Future~~, a state initiative focused on improving Arkansas public schools for all students so they are prepared for life beyond graduation.

SECTION 9. Arkansas Code § 6-20-402(f), concerning the limitation on current indebtedness of a school district, is amended to read as follows:

(f) If the state board withholds state aid from a school district pursuant to under subsection (e) of this section, the school district shall be classified as a ~~Phase III school district in distress as described in § 6-20-1609 [repealed]~~ school district in fiscal distress under § 6-20-1906.

SECTION 10. Arkansas Code § 6-20-1201 is amended to read as follows: 6-20-1201. Authority to borrow money and issue negotiable bonds.

~~(a) Except as prohibited by subsection (b) of this section, all school districts are authorized to~~ A school district may borrow money and ~~to~~ issue negotiable bonds ~~for the repayment thereof~~ to repay borrowed moneys from school funds for:

(1) ~~the building~~ Building and equipping of school buildings;

(2) ~~for making~~ Making additions and repairs ~~thereto~~ to school buildings;

(3) ~~for purchasing sites therefor,~~ Purchasing sites for school buildings;

(4) ~~for purchasing~~ Purchasing new or used school buses;

1 ~~(5) for refurbishing~~ Refurbishing school buses;
 2 ~~(6) for the professional~~ Providing professional development and
 3 training of teachers or other programs authorized under the federally
 4 recognized Qualified Zone Academy Bond program, 26 U.S.C. § 1397E~~r~~i; and
 5 ~~(7) for paying~~ Paying off outstanding postdated warrants,
 6 installment contracts, revolving loans, and lease-purchase agreements, as
 7 provided ~~in this act~~ by law.

8 ~~(b) No school district shall have the authority to act in accordance~~
 9 ~~with the provisions of subsection (a) of this section from July 16, 2003,~~
 10 ~~through July 1, 2004, without the prior written approval of the State Board~~
 11 ~~of Education or the Commissioner of Education as allowed in emergency~~
 12 ~~situations.~~

13
 14 SECTION 11. Arkansas Code § 6-20-1905(a), concerning notification to
 15 and appeal by a school district of identification of the school district's
 16 fiscal distress, is amended to read as follows:

17 (a)(1)~~(A)~~(i) The Department of Education shall provide written notice,
 18 via certified mail, return receipt requested, to the president of the school
 19 board of directors and the superintendent of each school district identified
 20 as being in fiscal distress.

21 ~~(2)(ii) Beginning in 2008, the~~ The department shall
 22 provide the notice required under this subdivision ~~(a)(1) (a)(1)(A) of this~~
 23 ~~section~~ on or before March 30 of each year.

24 (B)(i) At any time after March 30, the department may
 25 identify a school district as being in fiscal distress if the department
 26 discovers that a fiscal condition of a school district negatively impacts the
 27 continuation of educational services by the school district.

28 (ii) The department immediately shall provide the
 29 same notice required under subdivision (a)(1)(A)(i) to the school district
 30 identified under this subdivision (a)(1)(B).

31
 32 SECTION 12. Arkansas Code § 6-20-2202(a)(1), concerning public school
 33 budget and expenditure reports, is amended to read as follows:

34 (a)(1) The board of directors of each school district, open-enrollment
 35 public charter school, and education service cooperative ~~shall annually~~
 36 ~~prepare~~ annually shall prepare a budget of expenditures and receipts that

shall be filed with the Department of Education by ~~September 15~~ September 30 of each year ~~pursuant to~~ under this subchapter.

SECTION 13. Arkansas Code § 6-20-2202(d)(1)(B)(i), concerning public school budget and expenditure reports, is amended to read as follows:

(B)(i) An annual report summarizing the information required in subdivision (d)(1)(A) of this section in a format required by the Department of Education shall be filed by ~~September 15~~ August 31 of each year with the Department of Education.

SECTION 14. Arkansas Code § 6-20-2303(3)(C), concerning the definition of "average daily membership", is amended to read as follows:

(C) As applied to this subchapter, students who may be counted for average daily membership are:

(i) *Students who:*

(a) ~~reside~~ Reside within the boundaries of the school district ~~and~~;

(b) ~~who are~~ Are enrolled in a public school operated by the school district; ~~and~~

(c) Are enrolled in a curriculum that fulfills the requirements established by the state board under the Standards for Accreditation of Arkansas Public Schools and School Districts;

(ii) Legally transferred students living outside the school district but are:

(a) ~~attending~~ Attending a public school in the school district under a provision of the Arkansas Code; and

(b) Are enrolled in a curriculum that fulfills the requirements established by the state board under the Standards for Accreditation of Arkansas Public Schools and School Districts;

(iii) Open-enrollment public charter school students who are enrolled in a curriculum that fulfills the requirements established by the state board under the Standards for Accreditation of Arkansas Public Schools and School Districts; or

~~(iii)~~(iv) Students who are eligible to attend and who reside within the boundaries of a school district and are enrolled in the Arkansas National Guard Youth Challenge Program, so long as the students are

1 *participants in the program.*

2
3 SECTION 15. Arkansas Code § 6-20-2303(11), as amended by Section 1 of
4 Act 154 of 2009, concerning the definition of miscellaneous funds used in
5 calculating foundation funding for public school districts, is amended to
6 read as follows:

7 ~~11(A)(11)(A)~~ "Miscellaneous funds" means the average of those
8 funds collected in the ~~previous~~ five (5) school years ~~and reported to the~~
9 ~~Department of Education by April 15 of each school year~~ immediately preceding
10 the previous school year:

11 (i) Consisting of:

12 (a) Funds received by a school district from
13 federal forest reserves, federal grazing rights, federal mineral rights,
14 federal impact aid, federal flood control, wildlife refuge funds, and
15 severance taxes; and

16 (b) Funds received by the school district in
17 lieu of taxes, and local sales and use taxes dedicated to education under §
18 26-74-201 et seq., § 26-74-301 et seq., § 26-75-301 et seq., and the Local
19 Government Bond Act of 1985, § 14-164-301 et seq.; and

20 (ii) *Multiplied by the ratio of the uniform rate of*
21 *tax to the school district's total millage rate* in effect as of January 1 of
22 the fiscal year prior to the current funding year.

23 (B) If the school district ~~no longer receives~~ did not
24 receive funds from a source of funds listed in subdivision (11)(A) of this
25 section during the most recent school year used to calculate the five-year
26 average, then previous collections from that source of funds shall not be
27 included in the five-year average+.

28 (C) For the purpose of calculating the amount of
29 miscellaneous funds of a school district under this subdivision (11), a
30 school year is the period beginning on July 1 of a calendar year and ending
31 on June 30 of the next calendar year.

32
33 SECTION 16. Arkansas Code § 6-20-2305(b)(4)(A) – (B)(iii), concerning
34 national school lunch state categorical funding, is amended to read as
35 follows:

36 (4)(A) Beginning with the ~~2007-2008~~ 2009-2010 school year,

1 national school lunch ~~student~~ state categorical funding for each identified
2 national school lunch student shall be as follows:

3 (i) For a school district in which ninety percent
4 (90%) or greater of the previous school year's enrolled students are national
5 school lunch students, the amount of per-student national school lunch state
6 categorical funding shall be one thousand four hundred eighty-eight dollars
7 (\$1,488);

8 (ii) For school districts in which at least seventy
9 percent (70%) but less than ninety percent (90%) of the previous school
10 year's enrolled students are national school lunch students, the amount of
11 per-student national school lunch state categorical funding shall be nine
12 hundred ninety-two dollars (\$992); and

13 (iii) For school districts in which less than
14 seventy percent (70%) of the previous school year's enrolled students are
15 national school lunch students, the amount of per student national school
16 lunch state categorical funding shall be four hundred ninety-six dollars
17 (\$496).

18 (B)(i) Funding National school lunch state categorical
19 funding under this subdivision (b)(4) for national school lunch students
20 shall be based on the percentage determined in § 6-20-2303(12) multiplied by
21 the number of the previous school year's enrolled students number of national
22 school lunch students for the immediately preceding school year determined
23 under § 6-20-2303(12)(A).

24 (b) If the school district is participating
25 under 42 U.S.C. § 1759a, funding under this subdivision (b)(4) is based on
26 the percentage determined in § 6-20-2303(12)(B) multiplied by the number of
27 enrolled students for the immediately preceding school year.

28 ~~(ii) Beginning with the 2007-2008 school year, for~~
29 ~~school districts that are to receive funding under this subdivision (b)(4)~~
30 ~~based on a different percentage than the preceding school year as determined~~
31 ~~in § 6-20-2303(12), the funding shall be paid or reduced in three (3) equal~~
32 ~~amounts over a three-year period following the year in which a school~~
33 ~~district's number of national school lunch students.~~

34 ~~(a) Meets, exceeds, or falls below ninety~~
35 ~~percent (90%); or~~

36 ~~(b) Meets, exceeds, or falls below seventy~~

1 ~~percent (70%) but is less than ninety percent (90%).~~

2 (ii)(a) Beginning with the 2009-2010 school year, if
3 a school district will receive in the current school year national school
4 lunch state categorical funding under subdivision (b)(4)(A) of this section
5 that is based on a different per-student amount of national school lunch
6 state categorical funding than the school district received in the
7 immediately preceding school year, due to a percentage change in national
8 school lunch students, the department shall adjust the funding to the school
9 district in a transitional three-year period.

10 (b) The amount of national school lunch state
11 categorical funding under this subdivision (b)(4)(B)(ii) shall be increased
12 or decreased in each year of a three-year transition period by one-third
13 (1/3) of the difference between the amount of national school lunch state
14 categorical funding per student for the current year and the amount of
15 national school lunch state categorical funding per student for the
16 immediately preceding year, adjusted for changes to the funding rates in § 6-
17 20-2305(b)(4)(A).

18 (iii)(a) The Department of Education shall establish
19 rules to implement the transitional national school lunch state categorical
20 funding provided in subdivision (b)(4)(B)(ii) of this section.

21 (b) The rules shall include a method of
22 transitional funding the methods of transition for a school district that
23 both falls below and exceeds a funding level identified in subdivision
24 (b)(4)(A) of this section within a three-year period.;

25 (1) Experiences a decrease in the amount
26 of national school lunch state categorical funding per student under
27 subdivision (b)(4)(A) of this section;

28 (2) Experiences an increase in the
29 amount of national school lunch state categorical funding per student under
30 subdivision (b)(4)(A) of this section; or

31 (3) Within a three-year transition
32 period, experiences both a decrease and an increase in the amount of national
33 school lunch state categorical funding per student under subdivision
34 (b)(4)(A) of this section;

35
36 SECTION 17. Arkansas Code § 6-20-2305(b)(4)(C)(viii)(a), concerning

school district reporting of categorical funding expenditures, is amended to read as follows:

(viii)(a) ~~By the end of each school year, each~~ By September 15 of each school year, a school district shall submit to the Department of Education a report for the immediately preceding school year listing each program upon which funds allocated under this subdivision (b)(4) were expended, the amount expended, and any other information required by the Department of Education on the use of funds allocated under this subdivision (b)(4).

SECTION 18. Arkansas Code § 6-23-103(8), concerning the definition of an "open-enrollment public charter school" is amended to read as follows:

(8)(A) "Open-enrollment public charter school" means a public school that:

~~(A)(i) That is~~ Is operating under the terms of a charter granted by the state board on the application of an eligible entity; ~~and~~

~~(B)(ii) That may~~ May draw its students from any public school district in this state; and

(iii) Is a local educational agency under the Elementary and Secondary Education Act of 1965, 20 U.S.C. § 7801, as it existed on the effective date of this subdivision (8)(A)(iii).

(B) "Open-enrollment public charter school" also possesses the same meaning as given the term "charter school" in the Elementary and Secondary Education Act of 1965, 20 U.S.C. § 7221i, as it existed on the effective date of this subdivision (8)(B);

SECTION 19. Arkansas Code § 6-23-104(a)(1), concerning requirements for the form of the charter for public charter schools, is amended to read as follows:

(a) A charter for a public charter school shall:

(1) Be in the form of a written contract signed by the ~~Commissioner of Education~~ Chair of the State Board of Education and the chief operating officer of the public charter school;

SECTION 20. Arkansas Code § 6-23-302(c)(1)(C), concerning an

1 application for an open-enrollment public charter school, is amended to read
2 as follows:

3 (C)(i) Within seven (7) calendar days following the first
4 publication of notice required under subdivision (c)(1)(B) of this section,
5 letters announcing the public hearing shall be sent to the superintendent ~~and~~
6 ~~school board members~~ of each of the public school districts from which the
7 open-enrollment public charter school is likely to draw students for the
8 purpose of enrollment and the superintendent ~~and school board members~~ of any
9 public school district that is contiguous to the public school district in
10 which the open-enrollment public charter school will be located.

11 ~~(ii) The letters to the school board members required in~~
12 ~~subdivision (c)(1)(C)(i) of this section shall only be required for each~~
13 ~~school board member whose name and mailing address is provided by the~~
14 ~~superintendent of an affected school district or by the Department of~~
15 ~~Education upon the request of the applicant.~~

16 ~~(iii)~~(ii) An affected school district may submit written
17 comments concerning the application to the state board to be considered at
18 the time of the state board's review of the application;

19
20 SECTION 21. Arkansas Code § 6-23-304(c)(6), concerning the
21 requirements for open-enrollment charter school applications, is amended to
22 read as follows:

23 (6) Therefore, any charter applicant that receives an approved
24 open-enrollment public charter may petition the state board for additional
25 licenses to establish an open-enrollment public charter school in any of the
26 various congressional districts in Arkansas provided that the applicant meets
27 the following conditions, subject to the normal application, review, and
28 approval process of the state board:

29 (A) The approved open-enrollment public charter applicant
30 has demonstrated success in student achievement gains, ~~as defined by the~~
31 ~~state board and has received in the category of annual school improvement or~~
32 annual school performance a rating of three (3), four (4), or five (5) under
33 § 6-15-2101 et seq.; and

34 (B) The approved open-enrollment public charter applicant
35 has not:

36 (i) Been subject to any disciplinary action by the

1 state board;

2 (ii) Been classified as in school improvement or
3 academic or fiscal distress; and

4 (iii) Had its open-enrollment public charter placed
5 on probation, suspended, or revoked; ~~and~~

6 (C) The approved open-enrollment public charter school has
7 operated as an open-enrollment public charter school for at least two (2)
8 consecutive school years; and

9 ~~(G)(D)~~ The state board determines in writing by majority
10 of a quorum of the state board present that the open-enrollment public
11 charter applicant has generally established the educational program results
12 and criteria set forth in this subdivision (c)(6).
13
14

15 SECTION 22. Arkansas Code § 6-23-306(6), concerning the contents of
16 the charter of an open-enrollment public charter school, is amended to read
17 as follows:

18 (6)(A) ~~Prohibit~~ Except as provided under subdivisions (6)(A)(i)
19 and (ii) of this section, prohibit discrimination in admissions policy on the
20 basis of gender, national origin, race, ethnicity, religion, disability, or
21 academic or athletic eligibility, except as follows:

22 ~~(A)(i)~~ The open-enrollment public charter may allow
23 a weighted lottery to be used in the student selection process when necessary
24 to comply with Title VI of the federal Civil Rights Act of 1964, Title IX of
25 the federal Education Amendments of 1972, the equal protection clause of the
26 Fourteenth Amendment to the United States Constitution, a court order, or a
27 federal or state law requiring desegregation; and

28 ~~(B)(ii)~~ The open-enrollment public charter may
29 provide for the exclusion of a student who has been expelled from another
30 public school district in accordance with this title~~+~~.

31 (B) Additionally, the state board may grant a charter with
32 admissions policies that are consistent with federal law or regulation;
33

34 SECTION 23. Arkansas Code § 6-23-501(a), concerning funding for open-
35 enrollment public charter schools, is amended to read as follows:

36 (a)(1) An open-enrollment public charter school shall receive funds

1 equal to the amount that a public school would receive under § 6-20-2305(a)
2 and (b) as well as any other funding that a public charter school is entitled
3 to receive under law or ~~pursuant to~~ under rules promulgated by the State
4 Board of Education.

5 ~~(2) Funding for an open enrollment public charter school shall~~
6 ~~be based upon the current year three quarter average daily membership of the~~
7 ~~open enrollment public charter school as follows:~~

8 ~~(A) The initial funding estimate for each school year~~
9 ~~shall be based on enrollment as of July 30 preceding the school year in which~~
10 ~~the students are to attend;~~

11 ~~(B) In December, funding will be adjusted based on the~~
12 ~~first quarter average daily membership; and~~

13 ~~(C) A final adjustment will be made after the current year~~
14 ~~three quarter average daily membership is established.~~

15 (2)(A) For the first year of operation and for the first year
16 the open-enrollment public charter school adds a new grade, the funding for
17 an open-enrollment public charter school is determined as follows:

18 (i) The initial funding estimate shall be based on
19 enrollment as of July 30 preceding the school year in which the students are
20 to attend classes;

21 (ii) In December, funding will be adjusted based
22 upon the first quarter average daily membership; and

23 (iii) A final adjustment will be made after the
24 current three-quarter average daily membership is established.

25 (B) For the second year and each school year thereafter,
26 the previous year's average daily membership will be used to calculate
27 foundation funding and any enhanced educational funding amounts.

28 (3) National school lunch state categorical funding under § 6-
29 20-2305(b)(4) shall be provided to an open-enrollment public charter school
30 as follows:

31 (A) For the first year of operation, free or reduced-price
32 meal eligibility data as reported by October 1 of the current school year
33 will be used to calculate the national school lunch state categorical funding
34 under the state board rules governing special needs funding; and

35 (B) For the second year and each school year of operation
36 thereafter, the previous year's October 1 national school lunch student count

1 as specified in state board rules governing special needs funding will be
2 used to calculate national school lunch state categorical funding for the
3 open-enrollment public charter school.

4 (4) Professional development funding under § 6-20-2305(b)(5)
5 shall be provided to an open-enrollment public charter school for the first
6 year of operation as follows:

7 (A)(i) In the first year of operation the open-enrollment
8 public charter school shall receive professional development funding based
9 upon the initial projected enrollment student count as of July 30 of the
10 preceding school year in which the students are to attend, multiplied by the
11 per-student professional development funding amount under § 6-20-2305(b)(5)
12 for that school year.

13 (ii) For the second year and each school year thereafter,
14 professional development funding will be based upon the previous year's
15 average daily membership multiplied by the per-student professional
16 development funding amount for that school year.

17 (5) The Department of Education shall distribute other
18 categorical funding under § 6-20-2305(a) and (b) for which an open-enrollment
19 public charter school is eligible as provided by state law and rules
20 promulgated by the state board.

21 (6) An open-enrollment public charter school shall not be denied
22 foundation funding, enhanced educational funding, or categorical funding in
23 the first year or any year of operation provided that the open-enrollment
24 public charter school submits to the department the number of students
25 eligible for funding as specified in applicable rules.

26 ~~(3)(7)~~ Funding for an open-enrollment public charter school
27 shall be paid in twelve (12) equal installments each fiscal year.

28
29 SECTION 24. Arkansas Code § 6-23-105(d)(1), concerning notice
30 procedures for placing a charter school on probation, or for modifying,
31 revoking, denying renewal of a charter, is amended to read as follows:

32 (d)(1) The procedure adopted under this section shall provide an
33 opportunity for a hearing to the persons operating the public charter school
34 ~~and to the parents of students enrolled in the public charter school.~~

35
36 SECTION 25. Arkansas Code § 6-24-120 is repealed.

1 ~~6-24-120. Penalties.~~

2 ~~(a) Any board member, administrator, employee, or nonemployee of a~~
3 ~~public school district, education service cooperative, or public charter~~
4 ~~school who knowingly and intentionally violates the provisions of § 6-13-~~
5 ~~620(b) [repealed], § 6-13-620(e) [repealed], § 6-17-301(e), § 6-17-301(d),~~
6 ~~or § 6-20-1201(b) shall be guilty of an unclassified misdemeanor and subject~~
7 ~~to a fine in the amount of one thousand dollars (\$1,000).~~

8 ~~(b) Any board member of a public school district, education service~~
9 ~~cooperative, or public charter school who shall knowingly and intentionally~~
10 ~~violate the provisions of § 6-13-620(b) [repealed], § 6-13-620(e)~~
11 ~~[repealed], § 6-17-301(e), § 6-17-301(d), or § 6-20-1201(b) be subject to~~
12 ~~removal from office under § 6-13-612.~~

13
14 SECTION 26. Arkansas Code § 6-47-201(c), concerning distance learning,
15 is amended to read as follows:

16 (c)(1) The elementary or secondary school may import courses from
17 outside the state. ~~However, the course curriculum shall be~~ if the out-of-
18 state course provider is approved by the department ~~prior to offering~~ before
19 the school offers the courses through distance learning.

20 (2) A course offered through an approved out-of-state course
21 provider under this subsection (c) shall follow department course frameworks.

22
23 SECTION 27. Arkansas Code § 6-47-302(b), concerning the implementation
24 of distance learning in elementary and secondary schools, is amended to read
25 as follows:

26 (b)(1) The elementary or secondary school may utilize courses from
27 outside the state. ~~However, the course curriculum shall be reviewed~~ if the
28 out-of-state course provider is approved by the Department of Education or
29 the Department of Workforce Education ~~prior to offering~~ before the school
30 offers the courses through distance learning.

31 (2) A course offered through an approved out-of-state course
32 provider under this subsection (b) shall follow Department of Education
33 course frameworks.

34
35 SECTION 28. Arkansas Code § 6-47-406 is amended to read as follows:

36 6-47-406. Public school district and charter school distance learning

1 program.

2 (a) Except as provided in subsection (b) of this section, a public
3 school district or open-enrollment public charter school may offer and teach
4 distance learning courses to a student enrolled in a private school or a home
5 school if:

6 (1) The student resides in the public school district where the
7 public school or open-enrollment public charter school is located;

8 (2) *The student agrees to physically attend the public school or*
9 *open-enrollment public charter school for the purposes of taking:*

10 (A) a distance learning course taught or offered through
11 the public school or ~~charter school~~ open-enrollment public charter school;
12 *and*

13 (B) State tests and assessments required for the
14 particular course or courses taken by the student; and

15 (3) The public school or open-enrollment public charter school
16 teaches or offers a distance learning course that has been approved by ~~and~~ or
17 otherwise complies with Department of Education rules and standards governing
18 distance learning courses.

19 (b) The State Board of Education shall adopt rules to allow the
20 Commissioner of Education to waive the requirements under subdivisions (a)(1)
21 and (2) of this section on an individual basis for a student who is unable to
22 attend due to conditions that prevent the child from physically attending a
23 public school or an open-enrollment public charter school.

24 (c)(1) A public school district or open-enrollment public charter
25 school that teaches or offers a distance learning course to one (1) or more
26 home-schooled or private school students who meet the conditions of
27 subsection (a) or subsection (b) of this section shall be entitled to an
28 amount equal to one-sixth (1/6) of the state foundation funding amount for
29 each course taught to a private school student or home-schooled student.

30 (2) However, under no circumstances shall a public school
31 district or open-enrollment public charter school be entitled to more than
32 the equivalent of state foundation funding for one (1) average daily
33 membership per student regardless of the number of distance learning courses
34 received by a particular home-schooled or private school student.

35 (d) A home-schooled student or a private school student enrolled in a
36 distance learning course shall not be entitled to any rights, privileges,

1 courses, activities, or services available to a public school student or
2 open-enrollment public charter school student other than receiving
3 appropriate credit for a completed distance learning course.

4 (e) This section shall not be construed to entitle a home school
5 student or private school student to participate in, enroll in, or attend any
6 other courses, activities, or services provided by a public school district
7 or an open-enrollment public charter school.

8 (f)(1) ~~Any~~ Before a public school district or public charter school
9 ~~seeking to offer or teach distance learning courses~~ offers or teaches to
10 public school students, home-schooled students, or private school students
11 distance learning courses that are not part of the curriculum required by the
12 Standards for Accreditation of Arkansas Public Schools and School Districts
13 established by the state board, the public school district or public charter
14 school must first have those course offerings approved first shall obtain
15 approval of the distance learning courses by the ~~Arkansas Distance Learning~~
16 ~~Development Program of the~~ Department of Education.

17 (2) A course offered under this subsection shall follow
18 Department of Education course frameworks.

19 (g) No public school district or open-enrollment public charter school
20 shall establish or provide a virtual school or distance learning course
21 *except as allowed by this section.*

22 (h) This section shall not be construed to require a home school
23 student or private school student to take any test or assessment not
24 specifically required for completion of the course for which the student is
25 enrolled.

26
27 SECTION 29. Arkansas Code § 19-5-921 is amended to read as follows:

28 19-5-921. Educational ~~Building Revenue Bond~~ Buildings Maintenance Fund.

29 (a) There is established on the books of the Treasurer of State, the
30 Auditor of State, and the Chief Fiscal Officer of the State a trust fund to
31 be known as the "Educational ~~Building Revenue Bond~~ Buildings Maintenance
32 Fund".

33 (b) ~~This~~ The fund shall consist of ~~special revenues as designated by~~
34 law rents and any other revenues that are made available by law.

35 (c) ~~It~~ The fund shall be used for the purposes ~~authorized by Acts~~
36 ~~1963, No. 443, which is special legislation, as amended~~ of operating

1 expenses, maintenance, renovations, and repairs.

2
3 SECTION 30. TEMPORARY. DO NOT CODIFY.

4 Any appropriation or funds payable from the former Educational Building
5 Revenue Bond Fund shall be deemed payable from the Educational Buildings
6 Maintenance Fund.

7
8 SECTION 31. Arkansas Code § 25-6-101 is amended to read as follows:
9 25-6-101. Purpose.

10 It is intended that all authority and responsibility of the State Board
11 of Education be administered through the Department of Education under the
12 direction and supervision of the ~~Director of the Department~~ Commissioner of
13 Education.

14
15 SECTION 32. Arkansas Code § 25-6-102, concerning the organization of
16 the Department of Education, is amended to read as follows:

17 25-6-102. Organization – ~~Director~~ Commissioner.

18 (a) The Department of Education shall consist of:

- 19 (1) The State Board of Education;
20 (2) The Department of Education under the direction and
21 supervision of the ~~Director of the Department~~ Commissioner of Education; and
22 (3) Any divisions or subdivisions as presently exist within the
23 Department of Education or as may be created by the State Board of Education
24 or as created by law and placed under the Department of Education.

25 (b) The State Board of Education shall continue to perform its powers
26 and duties as prescribed by law.

27 (c)(1) The ~~Director of the Department~~ Commissioner of Education shall
28 be a member of the Governor's cabinet.

29 (2) The ~~Director of the Department~~ Commissioner of Education
30 shall perform all duties and exercise all powers relating to general
31 education as may be granted by law.

32
33 SECTION 33. EMERGENCY CLAUSE. It is found and determined by the
34 General Assembly of the State of Arkansas that it is the state's
35 constitutional obligation to provide a general, suitable, and efficient free
36 system of public schools in the state; that the public school funding

1 distribution changes in this act are needed to ensure that proper funding is
2 provided to the affected public schools and school districts; and that this
3 act is immediately necessary so that the affected public schools and school
4 districts will receive the amount of funding for the school year that begins
5 on July 1, 2009. Therefore, an emergency is declared to exist and this act
6 being immediately necessary for the preservation of the public peace, health,
7 and safety shall become effective on:

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

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

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

14
15 /s/ Broadway
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