

Stricken language would be deleted from and underlined language would be added to present law.
Act 1429 of the Regular Session

State of Arkansas
89th General Assembly
Regular Session, 2013

As Engrossed: S4/8/13
A Bill

SENATE BILL 1100

By: Senator J. Key

For An Act To Be Entitled

AN ACT TO AMEND PROVISIONS OF ARKANSAS LAW CONCERNING THE ARKANSAS SCHOOL RECOGNITION AND REWARD PROGRAM AND OTHER PROVISIONS CONCERNING THE SCHOOL RATING SYSTEM; TO AMEND THE ARKANSAS CODE CONCERNING SCHOOL IMPROVEMENT AND ACADEMIC DISTRESS; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND PROVISIONS OF ARKANSAS LAW CONCERNING THE ARKANSAS SCHOOL RECOGNITION AND REWARD PROGRAM, SCHOOL IMPROVEMENT, AND ACADEMIC DISTRESS.

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

*SECTION 1. Arkansas Code § 6-11-112 is amended to read as follows:
6-11-112. Power to make plans coordinating state and federal laws.*

The State Board of Education is empowered to make plans, promulgate rules, and ~~regulations~~ seek waivers for flexibility as are necessary in order for this state to meet the requirements of ~~any~~ a law enacted by Congress for general education, including without limitation the Elementary and Secondary Education Act of 1965, Publ. L. No. 89-10, as reauthorized by the No Child Left Behind Act of 2001, Pub. L. No. 107-110, or any supplementary federal regulations, directives, or decisions of the United States Department of Education pertaining to that legislation.

SECTION 2. Arkansas Code § 6-15-419(7), concerning the definition of



"annual improvement gains," is repealed.

~~(7) "Annual improvement gains" or "student learning gains" means calculating a student's academic progress from one (1) year to the next, based on a same series nationally normed assessment given in the same time frame from one (1) year to the next, used as a pre-post measure of learning for the content areas tested;~~

SECTION 3. Arkansas Code § 6-15-419(8), concerning the definition of "annual performance," is amended to read as follows:

(8) "Annual performance" means the level of academic achievement required of public schools or school districts ~~on the state-mandated augmented, criterion-referenced, or norm-referenced assessments~~ as measured by assessments and other criteria required under the rules of the State Board of Education;

SECTION 4. Arkansas Code § 6-15-430(b), concerning choice for students in academically distressed districts, is amended to read as follows:

(b)(1) ~~Any~~ A student attending a public school or public school district classified as being in academic distress ~~shall~~ is automatically ~~be~~ eligible and entitled ~~pursuant to the Arkansas Public School Choice Act of 1989, § 6-18-206,~~ under the Arkansas Opportunity Public School Choice Act of 2004, § 6-18-227, to transfer to another geographically contiguous public school or public school district not in academic distress during the time period that ~~a~~ the resident public school or public school district is classified as being in academic distress ~~and, therefore, not be required to file a petition by July 1 but shall meet all other requirements and conditions of the Arkansas Public School Choice Act of 1989, § 6-18-206.~~

(2) The cost of transporting the student from the resident district to the nonresident district shall be the cost of the resident district under the Arkansas Opportunity Public School Choice Act of 2004, § 6-18-227.

~~(3) The nonresident district shall count the student for average daily membership purposes.~~

SECTION 5. Arkansas Code § 6-15-2101 is amended to read as follows:
6-15-2101. School rating system – Annual reports.

(a)(1) The Department of Education shall prepare annual reports of the results of the statewide assessment program ~~which~~ that describe student achievement in each school district and each school in the state, ~~as well as~~ and the school performance category levels ~~pursuant to §§ 6-15-2102 and~~ under § 6-15-2103.

(2) The department shall prescribe the design and content of these reports that shall include without limitation descriptions of achievement of all schools participating in any assessment program and all of their major student populations as determined by the department, provided that the provisions of § 6-15-415 pertaining to student records apply to this section.

(3) Annual school performance reports shall be: ~~sent~~

(A) Made available in hard copy to all parents or guardians;

(B) ~~posted~~ Posted on the department's website;

(C) Posted on the local school district's website; and

(D) ~~published~~ Published by the local school district in the local newspaper.

(b)(1) The department shall provide information regarding performance of students and educational programs as required ~~pursuant to~~ under §§ 6-15-433 and 6-15-2301 and implement a system of school reports as required by statute and State Board of Education rule.

(2) Annual school performance reports shall be in an easy-to-read format and shall include both the school improvement and performance level designations.

(c) The annual report shall designate ~~two (2) category levels for each school:~~

~~(1) One (1) for the school's improvement gains, tracked longitudinally and using value-added calculations on the augmented, criterion-referenced, or norm-referenced assessments as defined in § 6-15-404(g), in the latest available test results, known as the annual improvement category level; and~~

~~(2)(A) One~~ one (1) school performance category level for each school based on:

(1) Student academic performance on state-mandated assessments as required by law or by rule of the state board;

(2) Student growth based on state-mandated assessments as required by law or by rule of the state board; and

~~(3) For a secondary school, the school's graduation rate from the prior year on the augmented, criterion-referenced, or norm-referenced assessments as defined in § 6-15-404(g) and end-of-course examinations, hereafter referred to as annual performance pursuant to § 6-15-2103.~~

~~(B) If the augmented, criterion-referenced, or norm-referenced assessments are not in compliance with § 6-15-404(g), then the department shall rely on other assessments as defined in § 6-15-404(g) for the calculation of the improvement level.~~

(d) In addition to the designation of one (1) overall school performance category for each school required by subsection (c) of this section, the annual report shall separately list the following measures by school:

(1) Student performance on state-mandated assessments as required by law or rule of the state board;

(2) Student academic growth based on state-mandated assessments as required by law or rule of the state board;

(3) For a secondary school, the school's graduation rate; and

(4) Any other criteria required by law or by rule of the state board.

SECTION 6. Arkansas Code § 6-15-2102 is repealed.

~~6-15-2102. School rating system—Annual improvement category levels.~~

~~(a) For the designation determined by annual improvement, annual improvement gains on augmented, criterion-referenced, or norm-referenced assessments, as defined in § 6-15-404(g), shall identify schools as being in one (1) of the following category levels defined according to rules of the State Board of Education:~~

~~(1) "Level 5", schools of excellence for improvement;~~

~~(2) "Level 4", schools exceeding improvement standards;~~

~~(3) "Level 3", schools meeting improvement standards;~~

~~(4) "Level 2", schools on alert; or~~

~~(5) "Level 1", schools in need of immediate improvement.~~

~~(b) The base year for improvement gains shall be established in the 2006-2007 school year, with annual improvement category levels assigned in~~

~~the 2007-2008 school year and each school year thereafter.~~

~~(c) School annual improvement category level designations shall be based on the following:~~

~~(1) A combination of student achievement scores as measured by annual academic gain scores on augmented, criterion-referenced, or norm-referenced assessments, as defined in § 6-15-404(g), or assessments in grades kindergarten through twelve (K-12); and (2) Student assessment data used to determine annual improvement category levels shall include the aggregate scores of the combined population.~~

~~(d) The state board shall adopt appropriate criteria for each school improvement category level.~~

~~(e) Schools that receive an annual improvement category level of level 5 or level 4 are eligible for school recognition awards and performance-based funding pursuant to § 6-15-2107.~~

SECTION 7. Arkansas Code § 6-15-2103 is amended to read as follows:

6-15-2103. School rating system - ~~Annual performance goals~~ - School annual performance category levels.

~~(a) The annual report shall identify schools as being in one (1) of the following category levels, based on the augmented, criterion-referenced, or norm-referenced assessments, as defined in § 6-15-404(g), and school performance category level defined according to rules of the State Board of Education.~~

~~(1) "Level 5", schools of excellence;~~

~~(2) "Level 4", schools exceeding standards;~~

~~(3) "Level 3", schools meeting standards;~~

~~(4) "Level 2", schools on alert; or~~

~~(5) "Level 1", schools in need of immediate improvement.~~

~~(b)(1) For the 2004-2005 through 2008-2009 school years, schools will not be assigned annual performance category levels unless an annual performance category level is requested by the school.~~

~~(2) For schools that receive an improvement category level of level 5 or level 4 in the 2009-2010 and 2010-2011 school years, the performance category level may be waived.~~

~~(c)(1) For all schools that have received an annual performance category level of level 1 for two (2) consecutive years, the students in~~

~~these schools shall be offered the opportunity public school choice option with transportation provided pursuant to § 6-18-227 et seq.~~

~~(2) In addition, the school district board of directors shall provide supplemental educational services, approved by the state board, to affected students.~~

~~(d) The state board shall adopt appropriate criteria for each school performance category level.~~

~~(e) Schools that receive an annual performance category level of level 5 or level 4 are eligible for school recognition awards and performance-based funding pursuant to § 6-15-2107.~~

SECTION 8. Arkansas Code § 6-15-2105 is amended to read as follows:

6-15-2105. School rating system – School ~~improvement and~~ ratings and performance category level measurement – ~~Improvement and performance rating reports~~ Publication.

(a) School ~~annual improvement and~~ performance category level designations ~~and~~ or ratings shall apply to each school's achievement for the year in which the achievement is measured.

(b)(1) Each school's designation ~~and~~ or rating shall be published annually by the Department of Education and by the school district and shall be available on the department's website.

(2) Each parent and guardian shall be entitled to an easy-to-read written report describing the designation ~~and~~ or rating of the school in which his or her child is enrolled.

SECTION 9. Arkansas Code § 6-15-2107(b)-(d), concerning the Arkansas School Recognition Program, is amended to read as follows:

(b) The Arkansas School Recognition Program is created to provide financial awards to public schools that ~~are at~~:

~~(1) A category level of level 5 or level 4 pursuant to § 6-15-2103 and at least a level 3 pursuant to § 6-15-2102; or~~

~~(2) A category level of level 5 or level 4 school pursuant to § 6-15-2102~~ experience high student performance, student academic growth, and for a secondary school, a high graduation rate.

(c)(1)(A) If funds are available, a public school or public charter school ~~meeting the requirements set out in subdivision (b)(1) or (2) of this~~

~~section shall receive performance-based funding in the amount of one hundred dollars (\$100) per student who participated in the school's assessment program of:~~

(i) One hundred dollars (\$100) per student who attends the public school or public charter school if:

(a) The public school or public charter school is in the top ten percent (10%) of all public schools in Arkansas in combined student performance, student academic growth, and for a secondary school, graduation rate under the criteria set forth by rule of the state board; or

(b) The public school or public charter school meets the criteria established by the state board to be used in lieu of the criteria set forth in subdivision (c)(1)(A)(i)(a) of this section to reward top-performing public schools; or

(ii) Fifty dollars (\$50) per student who attends the public school or public charter school if:

(a) The public school or public charter school is between the top eleven percent (11%) and top twenty percent (20%) of all public schools in Arkansas in combined student performance, student academic growth, and for a secondary school, graduation rate, under the criteria set forth by rule of the state board; or

(b) The public school or public charter school meets the criteria established by the state board to be used in lieu of the criteria set forth in subdivision (c)(1)(A)(ii)(a) of this section to reward high-performing public schools that do not meet the eligibility criteria set forth in subdivision (c)(1)(A)(i) of this section.

(B) The rewards listed in subdivision (c)(1)(A) of this section:

(i) Shall begin after the 2012-2013 state-mandated assessments; and

(ii) Shall be based upon a comparison between the results of the 2011-2012 state-mandated assessments and the 2012-2013 state-mandated assessments.

(C) Needs Improvement-Focus schools and Needs Improvement-Priority schools as defined in rules of the state board, are ineligible to receive rewards under this section.

(2) The Department of Education may disburse available

performance-based funding appropriated by the General Assembly on a pro-rata basis.

~~(3) All schools meeting both criteria shall receive rewards for both categories.~~

~~(4)~~(3) Each school that receives performance-based funding shall submit to the department a proposal for its spending of the performance-based funding ~~to the department~~.

~~(5)~~(4) The department shall:

(A) Review ~~and approve~~ each proposal received under this section; and

(B) Approve spending of performance-based funding for academic expenses only as ~~set forth in~~ provided under subsection (f) of this section.

~~(d) All public schools, including charter schools, that receive school category levels pursuant to §§ 6-15-2102 and 6-15-2103 are eligible to participate in the program.~~

SECTION 10. Arkansas Code § 6-15-2201(d)(3), concerning Department of Education training programs for schools in school improvement, is repealed.

~~(3) The department shall provide technical assistance to each school that is designated as a level 1 school or a level 2 school under § 6-15-2103 to develop a revised school improvement plan.~~

SECTION 11. Arkansas Code § 6-18-227(a)-(c), concerning the Arkansas Opportunity Public School Choice Act of 2004, is amended to read as follows:

(a)(1) This section may be referred to and cited as the "Arkansas Opportunity Public School Choice Act of 2004".

(2)(A) The purpose of this section is to provide enhanced opportunity for students in this state to gain the knowledge and skills necessary for postsecondary education, a technical education, or the world of work.

(B) The General Assembly:

(i) Recognizes that the Arkansas Constitution, as interpreted by the Arkansas Supreme Court in *Lake View School District No. 25 v. Huckabee*, 351 Ark. 31 (2002), makes education a paramount duty of the state;

(ii) Finds that the Arkansas Constitution requires the state to provide an adequate education;

(iii) Further finds that a student should not be compelled against the wishes of the parent, guardian, or the student, if the student is over eighteen (18) years of age, to remain in a school or school district designated as a level 1 school under § 6-15-2103 for two (2) or more consecutive years classified by the State Board of Education as a school or school district in academic distress under § 6-15-428; and

(iv) Shall make available a public school choice option in order to give a child the opportunity to attend a public school or school district that is performing satisfactorily not in academic distress.

~~(C) This section shall take effect with the implementation of school performance category levels.~~

(3) The General Assembly further finds that giving more options to parents and students with respect to where the students attend public school will increase the responsiveness and effectiveness of the state's schools, since teachers, administrators, and school board members will have added incentives to satisfy the educational needs of the students who reside in the district.

(4) A public school choice program is hereby established to enable any student to transfer from a ~~failing school to another~~ public school in the state or school district classified by the state board as a public school or school district in academic distress to another public school or school district in the state that is not in academic distress, subject to the restrictions contained in this section.

(b)(1) Upon the request of a parent, guardian, or the student, if the student is over eighteen (18) years of age, a student may transfer from his or her resident district or public school to another school district or public school ~~in accordance with the provisions of~~ under this section if:

(A) The resident public school or school district has been ~~designated pursuant to § 6-15-2103 as a level 1 school for two (2) or more consecutive school years~~ classified by the state board as a public school or school district in academic distress; and

(B) The parent, guardian, or the student, if the student is over eighteen (18) years of age, has notified the Department of Education and both the sending and receiving school districts of the request for a

transfer no later than July 30 of the first year in which the student intends to transfer.

(2)(A)(i) For the purposes of continuity of educational choice, the transfer shall operate as an irrevocable election for each subsequent entire school year and shall remain in force until the student completes high school or the parent, guardian, or the student, if the student is over eighteen (18) years of age, timely makes application no later than July 30 for attendance or transfer as provided for by §§ 6-18-202, 6-18-206, and 6-18-316 under a provision of law governing attendance in or transfer to another public school or school district other than the student's assigned school or resident district.

(ii) ~~Such a~~ A transfer under this section is shall be effective at the beginning of the next academic year.

(B) Application for the opportunity public school choice option shall be provided by the department, shall contain a notice that a transfer under this subsection shall operate as an irrevocable choice for at least one (1) entire school year, and shall remain in force until the student completes high school as provided in this subsection except as otherwise provided by law.

(3)(A) For each student enrolled in or assigned to a public school or school district that has been classified by the state board as a public school or school district in academic distress ~~designated as a level 1 school for two (2) or more consecutive school years~~, a school district shall:

(i) Timely notify the parent, guardian, or the student, if the student is over eighteen (18) years of age, as soon as practicable after the designation is made, of all options available ~~pursuant to~~ under this section; and

(ii)(a) Offer the parent, guardian, or the student, if the student is over eighteen (18) years of age, an opportunity to enroll the student in any public school or school district that has not been ~~designated by the state pursuant to § 6-15-2103 as a school performing higher than that in which the student is currently enrolled or to which the student has been assigned, but not less than annual performance category level 3~~ classified by the state board as a public school or school district in academic distress.

(b) The opportunity to continue attending the

~~higher performing~~ public school or school district that is not classified as a public school or school district in academic distress shall remain in force until the student graduates from high school.

(B)(i) The parent or guardian of a student enrolled in or assigned to a public school or school district that has been ~~designated as a school in level 1 under § 6-15-2103 for two (2) or more consecutive years~~ classified by the state board as a public school or school district in academic distress may choose as an alternative to enroll the student in a legally allowable ~~category level 3 or higher performing~~ public school or school district that is not classified as a public school or school district in academic distress and that is nearest to the student's legal residence.

(ii) That school or school district shall accept the student and report the student for purposes of the funding ~~pursuant to~~ under applicable state law.

(C)(i) Students with disabilities who are eligible to receive services from the school district under federal or state law, including students receiving additional funding through federal title programs specific to the Elementary and Secondary Education Act of 1965, ~~20 U.S.C. § 6301 et seq.~~ Pub. L. No. 89-10, and who participate in this program remain eligible to receive services from the school district as provided by federal or state law.

(ii) Any funding for ~~such a~~ the student shall be transferred to the public school or school district to which the student transfers.

(c)(1)(A) The receiving public school or school district ~~or charter school~~ may transport students to and from the transferring public school or school district ~~or charter school~~, and the cost of transporting students shall be the responsibility of the transferring public school or school district ~~or charter school~~ except as provided under subdivisions (c)(1)(B) and (c)(2) of this section.

(B) A transferring public school or school district ~~or charter school~~ shall not be required to spend more than four hundred dollars (\$400) per student per school year for transportation required under subdivision (c)(1)(A) of this section.

(2) Upon the transferring public school or school district's removal from classification as a public school or school district in academic

~~distress receiving a category level 3 or higher for its annual performance,~~
the transportation costs shall no longer be the responsibility of the
transferring public school or school district, and the student's
transportation and the costs of the transportation shall be the
responsibility of the ~~parents~~ parent or guardian or of the receiving public
school or school district if the receiving public school or school district
agrees to bear the transportation costs.

/s/J. Key

APPROVED: 04/22/2013