

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.

**Act 1426 of the Regular Session**

*As Engrossed: S3/8/05 H3/23/05*

**A Bill**

1 State of Arkansas  
2 85th General Assembly  
3 Regular Session, 2005

SENATE BILL 593

4  
5 By: Senators Broadway, Bisbee  
6 By: Representatives Mahony, Elliott

7  
8  
9 **For An Act To Be Entitled**

10 ARKANSAS PUBLIC SCHOOL ACADEMIC FACILITIES  
11 PROGRAM ACT.

12  
13  
14 **Subtitle**

15 ARKANSAS PUBLIC SCHOOL ACADEMIC  
16 FACILITIES PROGRAM ACT.

17  
18  
19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

20  
21 SECTION 1. Arkansas Code Title 6, Chapter 21 is amended to add an  
22 additional subchapter to read as follows:

23 6-21-801. Title.

24 This subchapter is known as and may be cited as the "Arkansas Public  
25 School Academic Facilities Program Act".

26  
27 6-21-802. Intent.

28 (a) The General Assembly recognizes that:

29 (1) Intelligence and virtue are the safeguards of liberty and  
30 the bulwark of a free and good government; and

31 (2) Section 1 of Article 14 of the Arkansas Constitution  
32 requires the state to ever maintain a general, suitable, and efficient system  
33 of free public schools and to adopt all suitable means to secure the  
34 advantages and opportunities of education to the people of the State of  
35 Arkansas.



1           (b) The General Assembly finds that because of the opinions of the  
2 Arkansas Supreme Court in the matter of Lake View School District No. 25 of  
3 Phillips County, Arkansas, et al., vs. Governor Mike Huckabee, et al., it is  
4 the absolute duty of the State of Arkansas to provide all public school  
5 children with an opportunity for an adequate education, which includes access  
6 to adequate academic facilities and equipment.

7           (c) The General Assembly finds that in order to satisfy the  
8 constitutional expectations of the Arkansas Supreme Court, the state should:

9                   (1) Provide constitutionally appropriate public school academic  
10 facilities for the education of each similarly situated child in the public  
11 schools of Arkansas, regardless of where that child resides within the state;

12                   (2) Require all public school academic facilities to meet  
13 applicable facilities standards established in this subchapter and rules  
14 adopted by the Commission for Public School Academic Facilities and  
15 Transportation;

16                   (3) Provide that all public school students are educated in  
17 facilities that are suitable for teaching in accordance with:

18                           (A) Standards for accreditation adopted by the State Board  
19 of Education;

20                           (B) Curriculum frameworks adopted by the state board; and

21                           (C) Technology systems, instructional materials, and  
22 related academic equipment necessary to provide the adequate education  
23 explicated in subdivisions (c)(3)(A) and (c)(3)(B) of this section; and

24                   (4) Require school districts to conserve and protect their  
25 academic facilities in such a manner that the academic facilities remain  
26 adequate.

27           (d) It is the intent of this subchapter to provide a system of state  
28 oversight of public school academic facilities so that school districts have  
29 academic facilities that support the opportunity for each public school  
30 student in the State of Arkansas to have an adequate education.

31  
32           6-21-803. Definitions.

33           For purposes of this subchapter:

34                   (1)(A) "Academic facility" means a building or space, including  
35 related areas such as the physical plant and grounds, where public school  
36 students receive instruction that is an integral part of an adequate

1 education as described in § 6-20-2302.

2 (B) A public school building or space, including related  
3 areas such as the physical plant and grounds, used for an extracurricular  
4 activity or an organized physical activity course as defined in Act 660 of  
5 2005 shall not be considered an academic facility for the purposes of this  
6 subchapter to the extent that the building, space, or related area is used  
7 for extracurricular activities or organized physical activities courses,  
8 except for physical educational training and instruction under § 6-16-132;

9 (C) Buildings or spaces, including related areas such as  
10 the physical plant and grounds, used for pre-kindergarten education shall not  
11 be considered academic facilities for purposes of this subchapter; and

12 (D) District administration buildings and spaces,  
13 including related areas such as the physical plant and grounds, shall not be  
14 considered academic facilities for the purpose of this subchapter;

15 (2) “Annexation” means the joining of an affected school  
16 district or part of the school district with a receiving district under §§ 6-  
17 13-1401 through 6-13-1411;

18 (3) “Consolidation” means the joining of two (2) or more school  
19 districts or parts of the districts to create a new single school district  
20 under §§ 6-13-1401 through 6-13-1411;

21 (4) “Custodial activities” means routine and renovation cleaning  
22 activities related to daily operations and upkeep of academic facilities,  
23 including related supervisory and management activities;

24 (5) “Facilities distress status” means a public school district  
25 determined by the Division of Public School Academic Facilities and  
26 Transportation as being in academic facilities distress status under this  
27 subchapter;

28 (6) “Facilities improvement plan” means a remedial plan  
29 developed by a school district for a public school or school district  
30 identified as being in academic facilities distress that supplements the  
31 school district’s facilities master plan by:

32 (A) Identifying specific interventions and actions the  
33 public school or school district will undertake in order to correct deficient  
34 areas of practice with regard to custodial, maintenance, repair, and  
35 renovation activities in the school district; and

36 (B) Describing how the school district will remedy those

1 areas in which the school district is experiencing facilities distress,  
2 including the designation of the time period by which the school district  
3 will correct all deficiencies that placed the school district in facilities  
4 distress status;

5 (7) “Facilities master plan” means a ten-year plan developed by  
6 a school district that contains current enrollment projections and details  
7 the school district’s strategy for maintaining, repairing, renovating, and  
8 improving through new construction or otherwise the school district’s  
9 academic facilities and equipment;

10 (8) “Foundation funding” shall have the same meaning as in § 6-  
11 20-2303;

12 (9) “Local resources” means any moneys lawfully generated by a  
13 school district for the purpose of funding the school district’s share of  
14 financial participation in any academic facilities project for which a school  
15 district is eligible to receive state financial participation under  
16 priorities established by the Division of Public School Academic Facilities  
17 and Transportation;

18 (10) “Maintenance, repair, and renovation” means any activity or  
19 improvement to an academic facility and, if necessary, related areas, such as  
20 the physical plant and grounds, that:

21 (A) Maintains, conserves, or protects the state of  
22 condition or efficiency of the academic facility; or

23 (B) Brings the state of condition or efficiency of the  
24 academic facility up to the facility’s original condition of completeness or  
25 efficiency;

26 (11)(A) “New construction” means any improvement to an academic  
27 facility and, if necessary, related areas, such as the physical plant and  
28 grounds, that brings the state of condition or efficiency of the academic  
29 facility to a state of condition or efficiency better than the academic  
30 facility’s original condition of completeness or efficiency.

31 (B) “New construction” includes additions to existing  
32 academic facilities and new academic facilities;

33 (12) “Project” means an undertaking in which a school district  
34 engages in:

35 (A) Maintenance, repair, and renovation activities with  
36 regard to an academic facility;

1                   (B) New construction of an academic facility; or  
2                   (C) Any combination of maintenance, repair, and renovation  
3 and new construction activities with regard to an academic facility;

4                   (13) "Reconstitution" means the reorganization of the  
5 administrative unit or the governing school board of a school district,  
6 including, but not limited to, the replacement or removal of a current  
7 superintendent, the removal or replacement of a current school board, or  
8 both;

9                   (14) "School district" means a geographic area with an elected  
10 board of directors that qualifies as a taxing unit for purposes of ad valorem  
11 property taxes under Title 26 of the Arkansas Code and which board conducts  
12 the daily affairs of public schools under the supervisory authority vested in  
13 it by the General Assembly and Title 6 of the Arkansas Code; and

14                   (15) "Space utilization" means the number of gross square feet  
15 per student in a public school academic facility adjusted for academic  
16 program, school enrollment, grade configuration, and type of public school in  
17 accordance with rules promulgated by the Commission for Public School  
18 Academic Facilities and Transportation.

19

20                   6-21-804. Arkansas Public School Academic Facilities Program.

21                   (a) The Division of Public School Academic Facilities and  
22 Transportation shall develop a comprehensive Arkansas Public School Academic  
23 Facilities Program that includes the following components:

24                   (1) An Academic Facilities Master Plan Program that establishes  
25 a process by which:

26                   (A) Each school district develops and submits a facilities  
27 master plan for review and approval by the division; and

28                   (B) The division develops a comprehensive state master  
29 plan for managing state financial participation in local academic facilities  
30 projects across the state;

31                   (2) An Academic Facilities Custodial, Maintenance, Repair, and  
32 Renovation Manual that contains uniform standards to direct custodial,  
33 maintenance, repair, and renovation activities in public school academic  
34 facilities;

35                   (3) A Public School Academic Facility Manual that contains  
36 uniform standards to guide the planning, design, and construction of new

1 public school academic facilities and additions to existing public school  
2 academic facilities;

3 (4) A Public School Academic Equipment Manual that contains  
4 uniform standards for technology systems, instructional materials, and  
5 related academic equipment determined to be necessary for a public school to  
6 provide an adequate education as defined in § 6-20-2302; and

7 (5) An Academic Facilities Distress Program to assist school  
8 districts that are unable to conserve and protect their academic facilities  
9 in accordance with this subchapter and rules adopted by the Commission for  
10 Public School Academic Facilities and Transportation.

11 (b) The Commission for Public School Academic Facilities and  
12 Transportation shall promulgate rules necessary to administer the Arkansas  
13 Public School Academic Facilities Program, all its component and related  
14 programs, and the provisions of this subchapter, which shall promote the  
15 intent and purposes of this subchapter and assure the prudent and resourceful  
16 expenditure of state funds with regard to public school academic facilities  
17 throughout the state.

18  
19 6-21-805. Academic Facilities Master Plan Program - Purpose.

20 The purposes of the Academic Facilities Master Plan Program and this  
21 section are to:

22 (1) Establish a mechanism for state supervision of school  
23 district activities impacting academic facilities and equipment;

24 (2) Develop and continually update information critical to  
25 identifying academic facilities needs at the local level and across the  
26 state; and

27 (3) Allow the state to manage state financial participation in  
28 eligible local academic facilities projects.

29  
30 6-21-806. Academic Facilities Master Plan Program - School districts.

31 (a) The Academic Facilities Master Plan Program shall require each  
32 school district to:

33 (1) Develop a ten-year districtwide facilities master plan that  
34 shall be approved by the school district's board of directors for submission  
35 to and approval by the Division of Public School Academic Facilities and  
36 Transportation;

1           (2) Base its facilities master plan on the provisions of the  
2 Public School Academic Facility Manual as adopted by the Commission for  
3 Public School Academic Facilities and Transportation and on priorities  
4 indicated by statewide assessment and other pertinent data specific to the  
5 needs of the school district with regard to academic facilities and  
6 equipment;

7           (3) Present a draft of the school district's facilities master  
8 plan in a public hearing in the same locality as the school district and take  
9 public comments;

10           (4) Submit evidence of the school district's insurance coverage  
11 to the division by July 1, 2006, including coverage amounts, types of  
12 coverage, identification of buildings covered, policy renewal dates, and all  
13 riders;

14           (5) Submit the school district's facilities master plan with a  
15 summary of comments made at public hearing to the division by February 1 of  
16 each even-numbered year; and

17           (6) Submit a report to the division by February 1 of each odd-  
18 numbered year that includes a description of all projects completed in the  
19 school district since the submission of the school district's most recent  
20 facilities master plan, the school district's current enrollment projections,  
21 new or continuing needs of the school district with regard to academic  
22 facilities and equipment, and an accounting of any changes in the school  
23 district's insurance coverage from the most recent submission.

24           (b) A facilities master plan shall include, at a minimum, the  
25 following:

26           (1) A current inventory of all academic facilities, technology  
27 systems, instructional materials, and related academic equipment in the  
28 school district;

29           (2) A schedule of custodial activities for each academic  
30 facility used by a school district;

31           (3) A schedule of maintenance, repair, and renovation activities  
32 for each academic facility used by a school district;

33           (4) Documentation that describes preventive maintenance work for  
34 each academic facility and identifies the completion date of the work;

35           (5) Annual expenditures of the school district for all  
36 custodial, maintenance, repair, and renovation activities in the school

1 district;

2 (6) A projected replacement schedule for major building systems  
3 in each academic facility;

4 (7) The school district's plan for caring for and maintaining  
5 technology systems, instructional materials, and related academic equipment  
6 in each academic facility;

7 (8) A projected replacement schedule for technology systems,  
8 instructional materials, and related academic equipment;

9 (9) Identification of issues with regard to facility and program  
10 access to individuals with disabilities and, if necessary, proposed methods  
11 for improving access;

12 (10) Identification of committed projects within the school  
13 district that includes, as applicable, a breakdown of the portion of each  
14 project between maintenance, repair, and renovation and new construction;

15 (11) Annual expenditures of the school district for capital  
16 outlay;

17 (12) A description of planned new construction projects with  
18 cost estimates for each academic facility within the school district and  
19 needs prioritized as follows:

20 (A)(i) Immediate needs that the school district intends to  
21 address within three (3) years following the submission of the facilities  
22 master plan.

23 (ii) A school district shall separate the immediate  
24 needs described in the master plan submitted by February 1, 2006 into two (2)  
25 categories as follows:

26 (a) Immediate needs that the school district  
27 intends to address during the period from July 1, 2006 through June 30, 2007;  
28 and

29 (b) Immediate needs that the school district  
30 intends to address during the 2007-2009 biennium.

31 (B) Short-term needs that the school district intends to  
32 address within the four (4) to six (6) years following the submission of the  
33 facilities master plan; and

34 (C) Long-term needs that the school district intends to  
35 address within the seven (7) to ten (10) years following the submission of  
36 the facilities master plan; and



1           (13) Evidence of the school district's insurance coverage,  
2 including coverage amounts, types of coverage, identification of buildings  
3 covered, policy renewal dates, and all riders.

4           (c) The division shall establish procedures and timelines for a school  
5 district to submit a preliminary facilities master plan or a master plan  
6 outline to the division before the submission of the school district's final  
7 facilities master plan. The preliminary master plan or master plan outline  
8 shall form the basis for a consultation meeting between representatives of  
9 the district and members of the division. As soon as practicable after  
10 submission of the preliminary master plan or master plan outline, the  
11 division shall hold the consultation meeting with the school district to:

12           (1) Assure understanding of the general goals of this subchapter  
13 and the criteria by which projects will be evaluated;

14           (2) Discuss ways the facilities master plan may be structured to  
15 meet the goals of this subchapter;

16           (3) Assist districts to prepare accurate budgets and reasonable  
17 project schedules; and

18           (4) Provide for efficiency and productivity in the approval  
19 process for local academic facilities projects and state financial  
20 participation in local projects.

21           (d)(1) The division shall review and approve a school district's  
22 facilities master plan no later than May 1, 2006 with regard to academic  
23 facilities projects for which a school district intends to apply for state  
24 financial participation during fiscal year 2006-2007. The division shall  
25 notify a school district no later than July 1, 2006 that the school  
26 district's application for state financial participation during fiscal year  
27 2006-2007 in an eligible new construction project has been approved.

28           (2) Except as provided in subsection (d)(1) of this section,  
29 the division shall review and approve a school district's facilities master  
30 plan no later than September 1 of each even-numbered year and shall notify a  
31 school district no later than May 1 of each odd-numbered year that the school  
32 district's application for state financial participation during the upcoming  
33 biennium in an eligible new construction project has been approved.

34  
35           6-21-807. Academic Facilities Master Plan Program - State plan.

36           The Division of Public School Academic Facilities and Transportation

1 shall develop a comprehensive state master plan for managing state financial  
2 participation in local academic facilities projects across the state. The  
3 state academic facilities master plan shall include:

4 (1) A list of committed projects for public school academic  
5 facilities for the upcoming fiscal year categorized by program and method of  
6 state financial participation;

7 (2) The total estimated cost of each committed project and the  
8 estimated amount of state financial participation; and

9 (3) A four-year rolling forecast of planned new construction  
10 projects related to public school academic facilities.

11  
12 6-21-808. Custodial, Maintenance, Repair, and Renovation Manual.

13 (a) The purposes of the Arkansas Facilities Custodial, Maintenance,  
14 Repair, and Renovation Manual and this section are to:

15 (1) Provide for the long-term conservation and protection of  
16 public school academic facilities;

17 (2) Eliminate the deterioration of existing and future public  
18 school academic facilities;

19 (3) Provide a safe and healthy environment for students,  
20 teachers, administrators, and staff of the public schools; and

21 (4) Provide for the efficient use of state and local funds in  
22 support of academic facilities in each of the school districts in Arkansas.

23 (b)(1) The Arkansas Facilities Custodial, Maintenance, Repair, and  
24 Renovation Manual shall contain standards for custodial operations related to  
25 academic facilities.

26 (2) Standards for custodial operations in academic facilities  
27 shall include the following:

28 (A) The required contents of a custodial care plan;

29 (B) A suggested schedule for routine care and renovation  
30 cleaning;

31 (C) Levels of personnel necessary to perform custodial  
32 operations;

33 (D) Training criteria for the use and storage of supplies  
34 and equipment, with emphasis given to chemical right-to-know, indoor air  
35 quality, and other applicable standards;

36 (E) Supplies and equipment necessary to perform custodial

1 operations, including space standards for the proper storage of supplies and  
2 equipment;

3 (F) In-service training opportunities for custodial  
4 personnel;

5 (G) Designation of routine duties; and

6 (H) Designation of renovation cleaning duties.

7 (c)(1) The Arkansas Facilities Custodial, Maintenance, Repair, and  
8 Renovation Manual shall contain standards for maintenance, repair, and  
9 renovation activities related to academic facilities.

10 (2) Standards for maintenance, repair, and renovation activities  
11 shall include the following:

12 (A) The required contents of a preventive maintenance  
13 plan, which shall include guidelines for:

14 (i) Scheduling preventive maintenance activities for  
15 academic facilities; and

16 (ii) Preparing and retaining documentation that  
17 describes preventive maintenance work related to academic facilities and  
18 identifies the completion date of the work;

19 (B) Development and implementation of a work-request  
20 system to allow others to inform a public school's maintenance department of  
21 needs and to allow the responsible person to prioritize responses;

22 (C) Levels of personnel necessary to perform maintenance  
23 operations;

24 (D) Training criteria for maintenance personnel with  
25 regard to school policies, safety procedures, use of specialized equipment,  
26 compliance with federal, state, county, and municipal laws and regulations  
27 impacting academic facilities and equipment, and other applicable areas;

28 (E) In-service training opportunities for maintenance  
29 personnel;

30 (F) Inspection, cleaning, servicing, and repair of  
31 heating, ventilation, and air-conditioning systems;

32 (G) Inspection and repair of electrical systems;

33 (H) Inspection and repair of hot water boilers and  
34 heaters;

35 (I) Inspection and repair of fire alarms;

36 (J) Inspection and repair and servicing of fire sprinkler

1 systems;  
2 (K) Inspection and repair of fire extinguishers and  
3 kitchen hood vent suppression systems;  
4 (L) Inspection and repair of emergency lighting and exit  
5 light fixtures;  
6 (M) Inspection and repair of elevators and wheelchair  
7 lifts;  
8 (N) Inspection and repair of plumbing;  
9 (O) Inspection and repair of roofs;  
10 (P) Inspection and repair of stairwell areas;  
11 (Q) Inspection and repair of interior and exterior  
12 lighting;  
13 (R) Inspection and repair of doors and windows;  
14 (S) Inspection and repair of floor coverings;  
15 (T) Inspection and repair of masonry and concrete  
16 buildings' exteriors;  
17 (U) Inspection and repair of interior and exterior  
18 finishes;  
19 (V) Inspection and repair of kitchen equipment;  
20 (W) Maintenance of a pest control program;  
21 (X) Inspection and repair of sidewalks, driveways, parking  
22 areas, and paved play areas;  
23 (Y) Inspection and repair of parking lots, handicap  
24 parking spaces, driveways, fire and emergency vehicle zones, and bus and car  
25 loading and unloading areas;  
26 (Z) Inspection of playground equipment; and  
27 (AA) Grounds maintenance.  
28 (d)(1) Beginning with the 2005-2006 school year, each school district  
29 shall dedicate nine percent (9%) of its foundation funding exclusively to  
30 payment of utilities and custodial, maintenance, repair, and renovation  
31 activities and related personnel costs. If any amount of the dedicated nine  
32 percent (9%) is unspent at the end of the school district's fiscal year, the  
33 funds shall carry over and the school district shall transfer the remaining  
34 amount into an academic facilities escrow account to be released only upon  
35 approval by the Division of Public School Academic Facilities and  
36 Transportation for use in conjunction with a local academic facilities

1 project.

2 (2) A school district is not required to use funds in its  
3 academic facilities escrow account for new construction projects. New  
4 construction projects shall be funded by local resources, which may include  
5 funds in the school district's academic facilities escrow account if approved  
6 by the division. In addition, new construction projects may be eligible for  
7 state financial participation.

8  
9 6-21-809. Arkansas Public School Academic Facility Manual.

10 (a) The Arkansas Public School Academic Facility Manual shall contain  
11 uniform standards to guide the planning, design, and construction of new  
12 public school academic facilities and additions to existing public school  
13 academic facilities.

14 (b) Design and construction standards shall include provisions  
15 addressing the following areas:

16 (1) Planning concepts related to current educational best  
17 practices, special education, workforce development, and program and design  
18 capacity;

19 (2) Organizational, facility, program, and service issues,  
20 including grade configuration, school size, and class size;

21 (3) Site selection, including guidelines about site size and  
22 site amenities, such as site access, grading, drainage, drives, parking,  
23 walks, fencing, exterior security provisions, exterior lighting, mechanical  
24 yards, electrical yards, site furnishings, play fields, playgrounds, and  
25 landscaping;

26 (4) Standards for size and quantity of instruction and support  
27 spaces;

28 (5) Program space guidelines, including necessary features,  
29 loose furnishings, finishes related to identified programs and services;

30 (6) Design standards and guidelines regarding the quality of  
31 materials and systems for the following building systems:

32 (A) Fire and safety;

33 (B) Roofing;

34 (C) Structural;

35 (D) Heating, ventilation, and air conditioning;

36 (E) Plumbing;

1                   (F) Electrical;

2                   (G) Exterior;

3                   (H) Interior;

4                   (I) Technology; and

5                   (J) Specialties, including equipment and furnishings; and

6                   (7) Repair and construction cost guidelines.

7           (c) The manual shall also include provisions addressing the following  
8 areas:

9                   (1)(A) A process by which a school district may apply for a  
10 variance from applicable academic facility standards upon presenting evidence  
11 of:

12                               (i) The existence of conditions that make compliance  
13 with applicable standards impractical or unreasonably burdensome; and

14                               (ii) Other conditions determined by the Division of  
15 Public School Academic Facilities and Transportation as warranting a variance  
16 from applicable public school academic facility standards.

17                   (B) The variance provision shall address minimum standards  
18 for academic facilities that are reasonably expected to close or be replaced  
19 within three (3) years;

20                   (2) Review and approval of all plans and designs for major  
21 building systems related to new construction of academic facilities prior to  
22 preparation of final bid or other applicable procurement documents;

23                   (3) Site inspections of all major building and design systems at  
24 appropriate stages of construction;

25                   (4) Contingency plans for review and inspection by the division  
26 if appropriate state, local, or other officials are unable or unwilling to  
27 complete an appropriate plan review or site inspection;

28                   (5) Oversight by the division of a project for which the school  
29 district does not use the services of an architect; and

30                   (6) The short-term temporary use of premanufactured portable  
31 buildings.

32                   (d) The division shall review and update the Public School Academic  
33 Facility Manual on an annual basis.

34  
35           6-21-810. Public School Academic Equipment Manual.

36           (a) The Public School Academic Equipment Manual shall contain uniform

1 standards for technology systems, instructional materials, and related  
2 academic equipment determined to be necessary for a public school to provide  
3 an adequate education as described in § 6-20-2302.

4 (b)(1) The standards for technology systems, instructional materials,  
5 and related academic equipment shall address the following areas:

6 (A) Science and Mathematics;

7 (B) Library Media Center;

8 (C) English and Language Arts;

9 (D) Foreign Language;

10 (E) Social Studies;

11 (F) Health Education and Physical Education;

12 (G) Art;

13 (H) Music;

14 (I) Guidance and Health Services; and

15 (J) Workforce education.

16 (2) The standards shall account for variations in a school  
17 district's use of and need for technology systems, instructional materials,  
18 and related academic equipment, such as size of school district, grade  
19 configuration of schools with the district, number of course offerings  
20 available, and enrollment levels.

21 (3) The standards shall establish a method for creating,  
22 maintaining, and updating an inventory of public school academic equipment,  
23 including, without limitation, technology systems, instructional materials,  
24 and related academic equipment.

25  
26 6-21-811. Academic Facilities Distress Program.

27 (a) The Division of Public School Academic Facilities and  
28 Transportation shall identify a public school or school district as being in  
29 academic facilities distress if the division determines that the public  
30 school or school district has engaged in actions or inactions that result in  
31 any of the following:

32 (1) Any act or violation determined by the division to  
33 jeopardize any academic facility used by a public school or school district,  
34 including, but not limited to:

35 (A) Material failure to properly maintain academic  
36 facilities in accordance with this subchapter and rules adopted by the

1 Commission for Public School Academic Facilities and Transportation;

2 (B) Material violation of local, state, or federal fire,  
3 health, or safety code provisions or laws;

4 (C) Material violation of applicable building code  
5 provisions or law;

6 (D) Material failure to provide timely and accurate  
7 facilities master plans to the division;

8 (E) Material failure to comply with state law governing  
9 purchasing or bid requirements in relation to academic facilities projects;  
10 or

11 (F) Material default on any school district debt  
12 obligation; or

13 (2) Any other condition of an academic facility or facilities in  
14 a public school or school district that is determined by the division to have  
15 a detrimental impact on educational services provided by that public school  
16 or school district.

17 (b) The division shall provide written notice, via certified mail,  
18 return receipt requested, to the president of the school board and the  
19 superintendent of the public school or school district identified as being in  
20 facilities distress.

21 (c)(1) A public school or school district identified as being in  
22 facilities distress shall develop a facilities improvement plan within thirty  
23 (30) days from the date of receipt of the notice and promptly submit the  
24 facilities improvement plan to the division for review and approval.

25 (2) A public school or school district shall review and revise  
26 its facilities improvement plan on a periodic basis as determined by the  
27 division and submit the updated facilities improvement plan to the division  
28 in order for the division to determine whether the public school or school  
29 district is correcting its deficient areas of practice regarding academic  
30 facilities.

31 (3) A school district shall use facilities improvement plans as  
32 necessary to supplement and update its facilities master plan.

33 (d) When a school district is identified by the division to be in  
34 facilities distress, the division may:

35 (1)(A) Provide on-site technical evaluation and assistance and  
36 make recommendations to the district superintendent regarding the care and



1 maintenance of any academic facility in the district.

2 (B) Any school district identified as being in facilities  
3 distress status shall accept on-site technical evaluation and assistance from  
4 the division.

5 (C) The recommendations of the division are binding on the  
6 district, the superintendent, and the school board;

7 (2) Require the superintendent to relinquish all administrative  
8 authority with respect to the school district;

9 (3)(A) Appoint an individual in place of the superintendent to  
10 administratively operate the school district under the supervision and  
11 approval of the Director of the Division of Public School Academic Facilities  
12 and Transportation.

13 (B) The division may direct the school district to  
14 compensate from school district funds the individual appointed to operate the  
15 school district;

16 (4) Suspend or remove all of the current board of directors and  
17 call for the election of a new school board for the school district, in which  
18 case the school district shall reimburse the county board of election  
19 commissioners for election costs as otherwise required by law;

20 (5) Require the school district to operate without a local  
21 school board under the supervision of the local superintendent or an  
22 individual or panel appointed by the director of the division;

23 (6) Return the administration of the school district to the  
24 former board or place the administration of the school district in a newly  
25 elected school board;

26 (7) Require school district staff and employees to attend  
27 training in areas of concern for the public school or school district;

28 (8)(A) Require a school district to cease immediately all  
29 expenditures related to activities not described as part of an adequate  
30 education in § 6-20-2302 and place money that would have been spent on the  
31 activities into an academic facilities escrow account to be released only  
32 upon approval by the division for use in conjunction with a local academic  
33 facilities project.

34 (B) School districts shall include a clause addressing  
35 this contingency in all contracts with personnel who are involved with  
36 activities not described as part of an adequate education;

1           (9) Notify the public school or school district in writing that  
2 the deficiencies regarding academic facilities shall be corrected within a  
3 time period designated by the division;

4           (10)(A) Petition the state board at any time for the  
5 consolidation, annexation, or reconstitution of a school district in  
6 facilities distress or take other appropriate action as allowed by this  
7 subchapter in order to secure and protect the best interest of the  
8 educational resources of the state or to provide for the best interests of  
9 students in the school district.

10           (B) The state board may approve the petition or take other  
11 appropriate action as allowed by this subchapter.

12           (C) The state board shall consolidate, annex, or  
13 reconstitute any school district that fails to remove itself from the  
14 classification of a school district in facilities distress within two (2)  
15 consecutive school years of receipt of notice of identification of facilities  
16 distress status by the division. A school district may appeal the action of  
17 state board to the Commission for Public School Academic Facilities and  
18 Transportation in accordance with procedures developed by the state board.  
19 The commission may reverse the action of the state board if the commission  
20 finds that the school district could not remove itself from facilities  
21 distress due to impossibility caused by external forces beyond the school  
22 district's control; and

23           (11) Take any other action allowed by law that is deemed  
24 necessary to assist a public school or school district in removing criteria  
25 of facilities distress.

26           (e) No school district identified by the division as being in  
27 facilities distress may incur any debt without the prior written approval of  
28 the commission.

29           (f) A public school or school district in facilities distress may  
30 petition the commission for removal from facilities distress status only  
31 after the division has certified in writing that the public school or school  
32 district has corrected all criteria for being classified as in facilities  
33 distress and has complied with all division recommendations and requirements  
34 for removal from facilities distress.

35           (g) The division shall submit a written evaluation on the status of  
36 each school district in facilities distress to the commission and the state

1 board at least once every six (6) months.

2  
3 6-21-812. Facilities distress – Student transfers.

4 (a) Any student attending a public school district classified as being  
5 in facilities distress shall automatically be eligible and entitled under the  
6 Arkansas Public School Choice Act of 1989, § 6-18-206, to transfer to another  
7 geographically contiguous school district not in facilities distress during  
8 the time period that a district is classified as being in facilities  
9 distress. The student is not required to file a petition by July 1 but shall  
10 meet all other requirements and conditions of the Arkansas Public School  
11 Choice Act of 1989, § 6-18-206.

12 (b) The resident district shall pay the cost of transporting the  
13 student from the resident district to the nonresident district.

14 (c) The nonresident district shall count the student for average daily  
15 membership purposes.

16  
17 6-21-813. Inspections.

18 (a) The Division of Public School Academic Facilities and  
19 Transportation shall conduct random unannounced on-site inspections of all  
20 academic facilities that have been funded wholly or in part by moneys from  
21 the state to ensure compliance with the school district's facilities master  
22 plan and, if applicable, the school district's facilities improvement plan in  
23 order to preserve the integrity of and extend the useful life of public  
24 school academic facilities and equipment across the state.

25 (b) The division shall submit reports regarding its on-site  
26 inspections of academic facilities to the Commission for Public School  
27 Academic Facilities and Transportation within thirty (30) days of completion  
28 of the on-site inspections.

29 (c) Based on the division's on-site inspection or notification by the  
30 division to the commission that the changes or additions to a school  
31 district's facilities master plan or facilities improvement plan required by  
32 the division have not been implemented within the time period prescribed by  
33 the division, the commission shall restrict the use of the necessary funds or  
34 otherwise allocate funds from moneys appropriated by the General Assembly.

35  
36 6-21-814. Appeals.

1       (a) A school district may appeal any determination of the Division of  
2 Public School Academic Facilities and Transportation under this subchapter to  
3 the Commission for Public School Academic Facilities and Transportation in  
4 accordance with procedures developed by the commission.

5       (b) All decisions of the Commission for Public School Academic  
6 Facilities and Transportation resulting from a school district's appeal of a  
7 division determination under this subchapter shall be final and shall not be  
8 subject to further appeal or request for rehearing to the commission or  
9 petition for judicial review under the Arkansas Administrative Procedures  
10 Act, § 25-15-201 et seq.

11  
12       SECTION 2. Arkansas Code § 6-20-1402 is repealed:

13       ~~6-20-1402. Authority to borrow money.~~

14       ~~(a) For any one (1) or more of the following purposes, namely,~~  
15 ~~acquiring a site for, building, or equipping a new building, or repairing,~~  
16 ~~making additions to, or equipping a school building, any school district in~~  
17 ~~the State of Arkansas receiving any of the funds provided in this subchapter~~  
18 ~~is authorized to borrow money and to issue negotiable coupon bonds for the~~  
19 ~~repayment thereof from the funds provided in this subchapter.~~

20       ~~(b) This authority to borrow money shall be in addition to the~~  
21 ~~authorization provided by law.~~

22       ~~(c) The schedule of amortization of the loan authorized in this~~  
23 ~~subchapter shall not extend beyond ten (10) years.~~

24  
25       SECTION 3. Arkansas Code § 6-20-1406 is amended to read as follows:

26       6-20-1406. Standards for school construction.

27       (a) The State Board of Education shall establish reasonable minimum  
28 standards for schoolhouse construction, and standards may be revised from  
29 time to time as educational problems and methods of procedure develop and  
30 change.

31       (b) The standards shall include review and approval by all appropriate  
32 and applicable state agencies, boards, and local officials for, including,  
33 but not limited to, the following:

34               (1) Plumbing Code, § 17-38-101 et seq., and Heating,  
35 Ventilation, Air Conditioning, and Refrigeration (HVACR) Code, § 17-33-101 et  
36 seq., compliance;

1 (2) Fire Prevention Act, § 12-13-101 et seq., and Seismic Code,  
2 § 12-80-101 et seq., compliance;

3 (3) *Arkansas State Building Services Authority*-adopted Americans  
4 with Disabilities Act Accessibility Guidelines, 28 C.F.R. Part 36, Appx. A,  
5 compliance; and

6 (4) Arkansas Architectural Act, § 17-15-101 et seq.,  
7 Professional Engineers, § 17-30-101 et seq., and Public Works, § 22-9-101 et  
8 seq., compliance.

9 (c) As used in this section and in § 6-20-1407, "schoolhouse" means  
10 any elementary or secondary school district facility that will be used for  
11 administrative, educational, or physical education purposes.

12 (d) This section shall be repealed as of the effective date of the  
13 Public School Academic Facility Manual as adopted by the Commission for  
14 Public School Academic Facilities and Transportation.

15  
16 SECTION 4. Arkansas Code § 6-20-1407 is amended to read as follows:  
17 6-20-1407. Approval of building plans.

18 (a) No new schoolhouse shall be built except in accordance with the  
19 *plan finally approved by the State Board of Education Commission for Public*  
20 *School Academic Facilities and Transportation for all projects where the*  
21 *board commission requires its approval thereof.*

22 (b) Where so required by the board, a copy of approved plans and  
23 specifications of all new schoolhouses or additions shall be filed with and  
24 approved by the board before construction shall be commenced.

25 (c)(1) A copy of final construction documents shall be submitted to  
26 the Architectural Section of *Arkansas State Building Services Authority* for  
27 review in regard to compliance with the Arkansas-adopted Accessibility  
28 Guidelines (ADAAG-Americans with Disabilities Act Accessibility Guidelines).

29 (2) All review comments received from Arkansas State Building  
30 Services shall be in writing.

31 (3) Corrected construction documents shall be received and  
32 approved by *Arkansas State Building Services Authority*.

33 (4) No project shall be released for bidding or construction  
34 until the requirements of § 6-20-1406 and this section are met.

35 (d) Review and approval of plans under this section or otherwise shall  
36 not be a guarantee of state financial participation in any public school

1 academic facilities project.

2  
3 SECTION 5. Arkansas Code 6-41-212 is amended to read as follows:

4 6-41-212. Facilities.

5 (a) Physical aspects and specifications for buildings, classrooms, and  
6 other facilities for, or likely to be used by, children with disabilities  
7 shall be approved by ~~a designee of the State Board of Education~~ the Division  
8 of Public School Academic Facilities and Transportation or a designee.

9 (b) A The division or a designee of the board division is required to  
10 review plans for public school construction or remodeling which are designed  
11 for children with disabilities to ensure accessibility and usefulness for  
12 that purpose.

13  
14 SECTION 6. Arkansas Code § 6-11-130 is repealed.

15 ~~6-11-130. Custodial and maintenance care for school facilities.~~

16 ~~(a) The purposes of this section are to:~~

17 ~~(1) Ensure that school facilities in Arkansas are properly~~  
18 ~~maintained;~~

19 ~~(2) Eliminate the deterioration of existing and future buildings~~  
20 ~~to provide a safe and healthy environment for the students, teachers,~~  
21 ~~administrators, and staff members of the public schools; and~~

22 ~~(3) Provide the efficient use of state and local funds in each~~  
23 ~~of the school districts in Arkansas.~~

24 ~~(b)(1) The Joint Committee on Educational Facilities, in consultation~~  
25 ~~with the Department of Education, shall develop standards for custodial and~~  
26 ~~maintenance care of school facilities in the state for presentation to the~~  
27 ~~Eighty fifth General Assembly.~~

28 ~~(2) The standards shall provide for best practices in custodial,~~  
29 ~~maintenance, and preventive maintenance care.~~

30 ~~(c) For the standards for custodial care, the committee and the State~~  
31 ~~Board of Education shall consider the inclusion of the following:~~

32 ~~(1)(A) Implementation of a custodial care plan for all~~  
33 ~~facilities owned by a district.~~

34 ~~(B) This plan shall incorporate a schedule of routine care~~  
35 ~~and renovation cleaning;~~

36 ~~(2) Implementation of a training plan, including, but not~~

- 1 ~~limited to:~~
- 2                   (A) ~~Chemical right to know;~~
- 3                   (B) ~~Indoor air quality;~~
- 4                   (C) ~~Blood borne pathogens;~~
- 5                   (D) ~~Asbestos Hazard Emergency Response Act of 1986, 20~~
- 6 ~~U.S.C. § 4011, two hour asbestos, low pressure boiler operator, safety codes,~~
- 7 ~~and procedures;~~
- 8                   (E) ~~Crisis management;~~
- 9                   (F) ~~District employment policies;~~
- 10                  (G) ~~Routine care procedures;~~
- 11                  (H) ~~Renovation cleaning procedures;~~
- 12                  (I) ~~Supply procurement procedures; and~~
- 13                  (J) ~~Minor maintenance procedures and equipment use and~~
- 14 ~~care procedures;~~
- 15                  (3)(A) ~~Provisions for adequate supplies and equipment to perform~~
- 16 ~~the custodial care plan.~~
- 17                   (B) ~~Adequate space shall be provided for the proper~~
- 18 ~~storage of these supplies and equipment;~~
- 19                  (4) ~~Appropriate training for the use and storage of all supplies~~
- 20 ~~and equipment, with emphasis given to chemical right to know, indoor air~~
- 21 ~~quality, and other applicable standards;~~
- 22                  (5) ~~Opportunities for custodial employees to attend continuing~~
- 23 ~~in service training provided and held regionally by the authority of the~~
- 24 ~~Office of School Plant Services of the Department of Education;~~
- 25                  (6) ~~Establishment of routine duties, including, but not limited~~
- 26 ~~to:~~
- 27                   (A) ~~Daily duties;~~
- 28                   (B) ~~Grounds care;~~
- 29                   (C) ~~Restroom care;~~
- 30                   (D) ~~Classroom care;~~
- 31                   (E) ~~Office care;~~
- 32                   (F) ~~Entrance and corridor care;~~
- 33                   (G) ~~Cafeteria care;~~
- 34                   (H) ~~Care of special use areas;~~
- 35                   (I) ~~Care of mechanical rooms, storage rooms, and closets;~~
- 36                   (J) ~~Minor maintenance; and~~

1                   ~~(K) Custodial equipment care; and~~  
2                   ~~(7) Establishment of renovation duties, including, but not~~  
3 ~~limited to cleaning of:~~  
4                   ~~(A) Restrooms;~~  
5                   ~~(B) Classrooms;~~  
6                   ~~(C) Offices;~~  
7                   ~~(D) Entrances and corridors;~~  
8                   ~~(E) Cafeterias;~~  
9                   ~~(F) Special use areas;~~  
10                   ~~(G) Mechanical rooms, storage rooms, and closets; and~~  
11                   ~~(H) Custodial equipment.~~

12                   ~~(d) For the standards for maintenance care, the state board shall~~  
13 ~~consider the inclusion of the following:~~

14                   ~~(1)(A) Development and implementation of a scheduled preventive~~  
15 ~~maintenance plan for all facilities owned by a district.~~

16                   ~~(B) This plan shall include documentation and retention of~~  
17 ~~information defining the type of preventive maintenance work performed and~~  
18 ~~the completion date;~~

19                   ~~(2) Development and implementation of a work request system to~~  
20 ~~allow others to inform the maintenance department of needs and to allow the~~  
21 ~~responsible person to prioritize responses;~~

22                   ~~(3) Opportunities for selected maintenance employees to attend~~  
23 ~~continuing in service training provided regionally by the authority of the~~  
24 ~~office; and~~

25                   ~~(4) Compliance with federal, state, county, and municipal laws~~  
26 ~~and regulations regarding school facilities.~~

27                   ~~(e) For the standards for preventive maintenance care, the state board~~  
28 ~~shall consider the inclusion of the following:~~

29                   ~~(1) Inspection, cleaning, and servicing of heating, ventilation,~~  
30 ~~and air conditioning systems;~~

31                   ~~(2) Inspection and repair of electrical systems;~~

32                   ~~(3) Inspection of hot water boilers and heaters;~~

33                   ~~(4) Inspection of fire alarms;~~

34                   ~~(5) Inspection and servicing of fire sprinkler systems;~~

35                   ~~(6) Inspection of fire extinguishers and kitchen hood vent~~  
36 ~~suppression systems;~~



- 1           ~~(7) Inspection of emergency lighting and exit light fixtures;~~  
2           ~~(8) Inspection of elevators and wheelchair lifts;~~  
3           ~~(9) Inspection of plumbing;~~  
4           ~~(10) Inspection of roofs;~~  
5           ~~(11) Inspection of stairwell areas;~~  
6           ~~(12) Inspection of floor coverings;~~  
7           ~~(13) Inspection of masonry and concrete buildings' exteriors;~~  
8           ~~(14) Inspection of kitchen equipment;~~  
9           ~~(15) Maintenance of a pest control program;~~  
10          ~~(16) Inspection of sidewalks, driveways, parking areas, and~~  
11 ~~paved play areas;~~  
12          ~~(17) Inspection of parking lots, handicap parking spaces,~~  
13 ~~driveways, fire and emergency vehicle zones, and bus and car loading and~~  
14 ~~unloading areas;~~  
15          ~~(18) Inspection of playground equipment; and~~  
16          ~~(19) Establishment of a grounds maintenance program.~~

17  
18           SECTION 7. EMERGENCY CLAUSE. It is found and determined by the  
19 General Assembly of the State of Arkansas that the Arkansas Supreme Court has  
20 determined that current public school academic facilities in Arkansas are  
21 inadequate and inequitable; that the General Assembly established the Joint  
22 Committee on Educational Facilities to inventory the current condition of  
23 public school academic facilities and recommend methods for bringing those  
24 facilities into conformity with the court's constitutional expectations; that  
25 the programs established in this act are derived from recommendations of the  
26 joint committee and are part of a comprehensive state program for overseeing  
27 the provision of constitutionally appropriate public school academic  
28 facilities across the state; and that this program must be implemented  
29 immediately for the good of public school students in the State of Arkansas.  
30 Therefore, an emergency is declared to exist and this act being immediately  
31 necessary for the preservation of the public peace, health, and safety shall  
32 become effective on:

- 33           (1) The date of its approval by the Governor;  
34           (2) If the bill is neither approved nor vetoed by the Governor,  
35 the expiration of the period of time during which the Governor may veto the  
36 bill; or

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

*/s/ Broadway, et al*

*APPROVED: 3/30/2005*

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