

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

1 State of Arkansas

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

2 85th General Assembly

A Bill

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

1