

**Hall of the House of Representatives**  
84th General Assembly - Regular Session, 2003  
**Amendment Form**

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**Subtitle of House Bill No. 2697**

"THE OMNIBUS QUALITY EDUCATION ACT OF 2003."

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**Amendment No. 1 to House Bill No. 2697.**

Amend House Bill No. 2697 as originally introduced:

Page 1, delete lines 9 and 10 , and substitute the following:

"AN ACT TO CREATE THE OMNIBUS QUALITY EDUCATION ACT OF 2003; TO ESTABLISH A COMPREHENSIVE SYSTEM OF EDUCATIONAL ACCOUNTABILITY TO ENFORCE THE ARKANSAS STANDARDS OF ACCREDITATION; THE ARKANSAS COMPREHENSIVE TESTING, ASSESSMENT AND ACCOUNTABILITY PROGRAM, THE NO CHILD LEFT BEHIND ACT OF 2001; THE ARKANSAS ACADEMIC DISTRESS PROGRAM; THE ARKANSAS FISCAL DISTRESS ASSESSMENT AND ACCOUNTABILITY PROGRAM; AND FOR OTHER PURPOSES."

AND

Delete everything following the enacting clause and substitute the following:

"SECTION 1. Arkansas Code § 5-15-201 is amended to read as follows:  
6-15-201. Title.

This subchapter shall be known as and may be cited as "The Quality Education Act of ~~1983~~ 2003".

SECTION 2. Arkansas Code § 6-15-202 is amended to read as follows:

6-15-202. Accreditation - Development of regulations and standards.

(a) The State Board of Education is authorized and directed to develop comprehensive regulations, criteria, and ~~minimum~~ standards to be used by the board and the Department of Education in the accreditation of school programs in elementary and secondary public schools in this state.

(b)(1) All public schools and school districts shall meet the Standards of Accreditation for Arkansas Public Schools which shall be adopted by the State Board of Education.

(2) The State Board of Education, upon showing of just cause, may grant a waiver of any standard of accreditation for a time period of no longer than one (1) school year, except that no curricula, student performance, school performance, or any standard required by law may be waived for any time period.

(3) A school district is deemed to have failed to meet the Standards of Accreditation for Arkansas Public Schools, if on any standard applicable to the general operation of a school district as defined by the



State Board of Education, the district receives a probationary status.

(4) A school is deemed to have failed to meet the Standards of Accreditation for Arkansas Public Schools, if on any standard applicable to the specific operation of that school as defined by the State Board of Education, the school receives a probationary status.

(c) The State Board of Education shall promulgate rules and regulations setting forth:

(1) The process for identifying schools and school districts that fail to meet the Standards of Accreditation for Arkansas Public Schools;

(2) Enforcement measures the State Board of Education may apply to bring a school or school district into compliance with the Standards of Accreditation for Arkansas Public Schools, including but not limited to, annexation, consolidation, or reconstitution of the school district in accordance with § 6-13-1401 and this subchapter; and

(3) The appeal process available to a school district under this subchapter.

~~(b)~~(d) After the regulations are adopted and implemented by the board, standards and procedures shall regularly be reviewed by the House and Senate Interim Committees on Education at least once every two (2) years, and recommendations and advice in regard thereto may be filed by the committees with the board for its consideration.

SECTION 3. Arkansas Code § 6-15-203 is amended to read as follows:

6-15-203. Notification of failure to meet standards of accreditation - Appeal.

(a) The Department of Education shall annually notify all school or school districts failing to meet ~~minimum~~ standards for accreditation for elementary and secondary schools not later than ~~June 15~~ May 15 of each year of such determination.

(b)(1) In the event a school district affected by this subchapter believes the department has improperly determined that ~~the a school or school district~~ fails to meet ~~minimum~~ the standards for accreditation ~~of any school in the district~~, the school district shall have a right of appeal thereafter to the State Board of Education.

(2) Any such appeal shall be held in an open hearing, and the decision of the board shall be in open session.

(3) ~~Appeal~~ Appeals must be filed not later than ~~June 30~~ May 30 following the ~~June 15 certification~~ May 15 determination of accreditation status, and the board hearing must be held prior to ~~July 15~~ August 15 of the same calendar year.

(4) The board may confirm the classification of a local school or school district as determined by the department, or it may sustain the appeal of the district.

(5) ~~An appeal from the ruling of the board may be made by any district to a court of competent jurisdiction provided such appeal is made within ninety (90) days after the effective date of any annexation~~ An aggrieved school district may appeal the ruling of the state board to circuit court in Pulaski County pursuant to the Arkansas Administrative Procedures Act.

SECTION 4. Arkansas Code § 6-15-206 is amended to read as follows:

6-15-206. Subsequent failure to meet standards of accreditation.

(a) Any school or school district which is ~~determined to meet the minimum standards for accreditation of Arkansas public elementary and secondary schools as provided in this subchapter which subsequently falls below~~ fail to meet current minimum standards for accreditation as determined by the Department of Education shall be classified as probationary.

(b) Notice thereof shall be filed with the school district in which the school is located that the school or school district must meet minimum all standards for accreditation within no more than two (2) consecutive school years including the year the probationary status is declared or be subject to the mandates of this subchapter ~~with reference to dissolution and annexation~~ including, but not limited to, possible consolidation, annexation, or reconstitution of a school district as provided under §§ 6-13-1401 and this subchapter. The department shall prepare and promulgate regulations and guidelines for the maximum times allowable for correction of ~~particular~~ any violations of standards, provided no ~~individual~~ probationary status violation may exist for more than two (2) consecutive school years.

(c)(1) School districts shall submit annually evidence of compliance with standards for accreditation for the district and each school in the district.

(2) The department shall ~~periodically~~ review annually the educational standards of school districts for the purpose of determining whether ~~minimum~~ standards for accreditation of the schools therein are in compliance with current state standards for accreditation.

(d) ~~Review~~ An onsite review of each school's compliance shall be made at least every five (5) two (2) years and or more frequently if the department has reason to believe that the school district or any school therein has fallen below minimum standards for accreditation.

(e) The department shall cooperate with local schools and school authorities in order to assist affected school districts and schools therein to achieve compliance with the ~~minimum~~ standards for accreditation as provided in this subchapter.

SECTION 5. Arkansas Code Title 6, Chapter 15, Subchapter 2 is amended to add additional sections to read as follows:

6-15-207. Enforcement of standards.

(a) The State Board of Education may take any number of the following actions, listed in subsection (c), to address a school or school district failing to meet standards of accreditation any time after a school or school district has received notice of being placed on probationary status pursuant to § 6-15-202 and 203.

(b) The State Board of Education shall take at least one of the following actions, listed in subsection (c), to address any school or school district which has failed to meet all standards of accreditation for two (2) consecutive school years including the year the probationary status is declared pursuant to § 6-15-202 and 203, unless the State Board of Education, at its discretion, issues written findings supported by a majority of the board, that the school district could not meet current standards for the relevant time period due to impossibility caused by external forces beyond the school district's control.

(c) The State Board of Education shall be allowed to take the following actions to address any school or school district on probationary status for failing to meet the standards of accreditation:

(1) Require a school district to reorganize or reassign the administrative, instructional or support staff of a public school;

(2) Require a school or school district to institute and fully implement a curriculum that is based on State academic content and achievement standards, including providing appropriate professional development at the cost of the school district;

(3) Remove a particular school from the jurisdiction of a school district and establish alternative public governance and supervision of such school or schools;

(4) Require a school district to close down or dissolve a particular school or schools within a school district;

(5) Annex a school district or districts or parts thereof with another receiving school district or districts pursuant to the authority of § 6-13-1401 through 6-13-1409 and this subchapter;

(6) Consolidate a school district or districts or parts thereof with another school district or districts or parts thereof to form a resulting district pursuant to the authority of § 6-13-1401 et seq. and this subchapter;

(7) Reconstitute the leadership of a school district by removing permanently or suspending on a temporary basis the superintendent of the school district or any particular board members of a school district. The State Board shall have the authority to appoint an administrator or to call for the election of new school board members to administer the affairs and provide governance of the school district, or both.

(8) Take any other appropriate action allowed by law which is determined by the State Board of Education to assist and address a school or school district failing to meet the standards of accreditation.

#### 6-15-208. Publication and dissemination.

When any school of a school district or the school district is determined by the State Board of Education to be on probationary status for failure to meet the standards of accreditation that school district after exhausting its rights to appeal shall:

(1) Publish the probationary status determination and findings of the State Board to the public and the parents or care giver of each student enrolled in the school or school district determined to fail to meet the standards of accreditation;

(2) The public notice shall be in an understandable and uniform format; and

(3) The public notice shall be published or disseminated, immediately after the State Board's determination, on the web-site of the school district and published at least one (1) time a week for two (2) consecutive weeks in a local newspaper of general circulation in the affected school district.

#### 6-15-209. Rules and regulations.

The State Board of Education shall promulgate rules and regulations as necessary to set forth the:

(1) Process for identifying and addressing a school or school district that is failing to meet the Standards of Accreditation for Arkansas Public Schools;

(2) Process and measures to be applied to require a school or school district to comply with the Standards of Accreditation for Arkansas Public

Schools, including but not limited to, possible annexation, consolidation or reconstitution of a school district under § 6-13-1401 through 6-13-1409 and this subchapter;

(3) Appeals process and procedures available to a school district pursuant to this subchapter and current law; and

(4) Definitions and meaning of relevant terms governing the establishment and governance of the Standards of Accreditation for Arkansas Public Schools.

SECTION 6. Arkansas Code § 6-15-211 is repealed.

~~6-15-211. Amount of state aid to consolidated or annexed districts.~~

~~In any consolidation or annexation as the result of this subchapter, the combined districts shall not receive less state aid for each of the next two (2) school years than was received the year previous to the annexation.~~

SECTION 7. Arkansas Code § 6-15-401 is amended to read as follows:

6-15-401. Title.

~~The title of this~~ This subchapter shall be known as and may be cited as the "Arkansas Comprehensive Testing, Assessment, and Accountability Program Act".

SECTION 8. Arkansas Code § 6-15-402 is amended to read as follows:

6-15-402. Purpose.

(a)(1) The purpose of this subchapter is to provide the statutory framework necessary to ensure that all students in the public schools of this state have an equal opportunity to demonstrate grade-level academic proficiency through the application of knowledge and skills in the core academic subjects consistent with state curriculum frameworks, performance standards, and assessments. The State of Arkansas recognizes and declares that students who are not performing at grade-level standards of academic proficiency are especially harmed by social promotion because they are not equipped with the necessary academic skills to be successful and productive members of society. ~~The Department of Education is committed to having all students perform at grade level and beyond.~~ For this reason, the Arkansas Comprehensive Testing, Assessment, and Accountability Program will emphasize point-in-time intervention and remediation upon the discovery that any student is not performing at grade level.

(2) This subchapter is constructed around a system that includes statewide indicators, individual school improvement indicators, and a locally generated school accountability narrative. The total program shall be applied to each school in the state public school system.

(3) This subchapter is designed to be a multiyear commitment to assess the academic progress and performance of Arkansas' public school students.

(b) The purposes of the assessment and accountability program developed ~~pursuant to the provisions of this~~ under this subchapter shall be to:

(1) Improve student learning and classroom instruction;

(2) Provide public accountability by exemplifying expected achievement levels, ~~and by~~ reporting on school and school district performance, and applying a framework for state action for a school or school district that fails expected achievement levels as defined in the Arkansas

Comprehensive Testing, Assessment, and Accountability Program rules and regulations; and

(3) Provide evaluation data of school and school district performance in order to assist policymakers at all levels in decision making.

SECTION 9. Arkansas Code § 6-15-403 is amended to read as follows:  
6-15-403. Authority of State Board of Education.

The State Board of Education through the Department of Education is ~~hereby~~ authorized to:

(1) Develop a single comprehensive testing, assessment, and accountability program which utilizes the most current and effective testing, evaluation, and assessment research information designed to achieve the following purposes set forth in this subchapter:

- (A) Set clear academic standards;
- (B) Establish professional development;
- (C) Establish expected achievement levels;
- (D) Report on student achievement and other indicators;
- (E) Provide evaluation data;
- (F) Recognize academic excellence and failure; and
- (G) Apply awards and sanctions; and
- (H) Comply with current federal law;

(2) Promulgate such rules and regulations as may be necessary to develop and implement the comprehensive testing, assessment and accountability program; and

(3) Employ staff and enter into contracts as may be necessary to carry out the provisions of this subchapter.

SECTION 10. Arkansas Code § 6-15-404 is amended to read as follows:  
6-15-404. Program implementation.

(a) The State Board of Education will establish clear, specific, challenging academic content standards which define what students shall know and be able to do in each content area. Instruction in all public schools shall be based on these academic content standards.

(b) The State Board of Education shall establish a schedule for periodic review and revision of academic content standards to ensure Arkansas academic content standards are rigorous and equip students to compete in the global workforce.

(c) The State Board of Education shall include the following elements in the periodic review and revision of Arkansas Academic content Standards:

- (1) External review by outside content standards experts.
- (2) Review and input by higher education, workforce education, and community members.
- (3) Study and consideration of academic content standards from across the nation and international level as appropriate.
- (4) Study and consideration of evaluation from national groups or organizations as appropriate.
- (5) Revisions by committees of Arkansas teachers and instructional supervisor personnel from public schools, assisted by teachers from institutions of higher education.

(6) Public dissemination of revised academic content standards at State Board of Education meeting and Department of Education web site.

(d) The State Board of Education shall establish a clear concise

system of reporting the academic performance of each school on the state mandated criterion reference exam which conforms with the requirements of the No Child Left Behind Act of 2001.

(e) The State Board of Education shall develop and the Department of Education shall implement a developmentally appropriate uniform school readiness screening to validate a child's school readiness as part of a comprehensive evaluation design. Beginning with the 2004-2005 school year, the Department of Education shall require that all school districts administer the uniform school readiness screening to each kindergarten student in the district school system upon the student's entry into kindergarten. Children who enter public school for the first time in first grade must be administered the uniform school readiness screening developed for use in first grade.

(f)(1) The Department of Education shall select a developmentally appropriate assessment to be administered to all students in grades one (1) and two (2) in reading and mathematics.

(2) Professional development activities shall be tied to the comprehensive school improvement plan and designed to increase student learning and achievement.

(3) Longitudinal and trend data collection shall be maintained for the purposes of improving student and school performance.

(4) A public school or public school district classified as in "school improvement" shall develop and file with the Department of Education a comprehensive school improvement plan designed to ensure that all students demonstrate proficiency on all portions of state-mandated criterion-referenced assessment. The comprehensive school improvement plan shall include strategies to address the achievement gap existing for any identifiable group or subgroup as identified in the Arkansas Comprehensive, Testing, Assessment and Accountability Program and the gap of that subgroup to the academic standard.

~~(a)-(1)~~(g)(1) The Department of Education shall develop and implement testing for public school students at the primary and middle-level grades, as well as end-of-course testing, which is criterion-referenced and which measures application of knowledge and skills in reading and writing literacy, mathematics and, as funds are available, in science and social studies.

(2) The department shall test public school students in a manner and with a nationally norm-referenced test to be selected by the State Board of Education at the middle level and high school grades.

(3) The board shall establish expected levels of achievement on the criterion-referenced examinations for all areas of assessment and accountability.

(4) The State of Arkansas shall participate in the administration of the National Assessment of Educational Progress examinations.

~~(b)~~(h) Any student failing to achieve the established standard on the criterion-referenced examinations shall be evaluated by school personnel, who shall jointly develop an academic improvement plan to assist the student in achieving the expected standard in subject areas where performance is deficient.

~~(e)-(1)~~(i)(1) Each school shall develop one (1) comprehensive, long-range school improvement plan focused on student achievement.

(2)(A) Any school that fails to achieve ~~expected~~ established

levels of student performance on criterion-referenced tests, ~~norm-referenced tests,~~ and related indicators, as defined ~~in this subchapter by rule and regulation,~~ shall ~~participate in~~ implement a comprehensive school improvement plan accepted by the department. This improvement plan shall assist those students performing below grade level in achieving the ~~expected~~ established standard.

(B) This plan shall be part of each school's long-range comprehensive school improvement plan and shall be reported to the public.

(C) Progress on improved achievement shall be included as part of the school's and school district's annual report to the public.

~~(d)~~(j) The department and the local school districts shall annually compile and disseminate to the public results of ~~administering~~ all required examinations. The results of the end-of-course testing shall become a part of each student's transcript or permanent record and shall be recorded on these documents in a manner prescribed by the state board.

SECTION 11. Arkansas Code § 6-15-406 is amended to read as follows:  
6-15-406. Assessment of basic skills.

The comprehensive testing, assessment, and accountability program to be developed by the Department of Education and approved by the State Board of Education shall include, but is not limited to, the following components or characteristics:

(1) Assessment of academic achievement at grade levels selected to be tested by the department;

(2) Longitudinal and trend data collection for the purposes of improving student and school performance;

(3) A variety of assessment methods;

(4) Construction of a database composed of academic performance indicators that shall apply to every school and school district in the state that will allow the department, over time, to identify those schools and school districts that are performing at or below proficient levels established under this subchapter; ~~and~~

(5) Meaningful comparisons of Arkansas students with those of other states, regions, and the nation through the National Assessment of Educational Progress examination and norm-referenced examinations; and

(6) Review and assistance to the department in developing the comprehensive testing, assessment and accountability program by a panel of external psychometric experts.

SECTION 12. Arkansas Code § 6-15-419 is amended to read as follows:  
6-15-419. Definitions.

The following definitions shall apply in this subchapter, unless the context otherwise requires:

(1)(A) "Academic improvement plan" means a plan detailing supplemental or intervention and remedial instruction, or both, in deficient academic areas for any student who is not proficient on a portion or portions of the state-mandated criterion-referenced assessments.

(B)(i) Such a plan shall be created and implemented by appropriate teachers, counselors, and any other pertinent school personnel.

(ii) All academic improvement plans shall be annually reviewed and revised to ensure ~~effectiveness and to ensure~~ an opportunity for student demonstration of proficiency in the targeted academic areas on the



next state-mandated criterion-referenced assessments.

(iii) A cumulative review of all academic improvement plans shall be part of the data used by the school in creating and revising its comprehensive school improvement plan.

(iv) All academic improvement plans shall be subject to review by the Department of Education.

(C) In any instance where a student with disabilities identified under the Individuals with Disabilities Education Act has an individualized education program that already addresses any academic area or areas in which the student is not proficient on state-mandated criterion-referenced assessments, the individualized education program shall serve to meet the requirement of an academic improvement plan;

(2) "Annexation" means the joining of an affected school district or part of the school district with a receiving district under §§ 6-13-1401 through 6-13-1409;

~~(11)~~(3) "School improvement plan Comprehensive school plan" means the individual school's comprehensive plan based on priorities indicated by assessment and other pertinent data and designed to ensure that provide an opportunity for all students demonstrate proficiency on all portions of state-mandated criterion-referenced assessments; and

(4) "Consolidation" means the joining of two (2) or more school districts or parts of the school districts to create a new single school district under §§ 6-13-1401 through 6-13-1409;

(5) "Department" means the Department of Education;

~~(2)~~(6) "District improvement plan" means a districtwide plan coordinating the actions of the various comprehensive school improvement plans within a district. The main focus of the district improvement plan shall be to ensure that all students demonstrate proficiency on all portions of state-mandated criterion-referenced assessments;

~~(3)~~(7) "Early intervention" means short-term, intensive, focused, individualized instruction developed from ongoing, daily, systematic diagnosis that occurs while a child is in the initial, kindergarten through grade one (K-1), stages of learning early reading, writing, and mathematical strategies to ensure acquisition of the basic skills and to prevent the child from developing poor problem-solving habits which become difficult to change. The goal is to maintain a student's ability to function proficiently at grade level;

~~(4)~~(8) "End of course" means an examination taken at the completion of a course of study to determine whether a student demonstrates attainment of the knowledge and skills necessary to mastery of that subject;

~~(5)~~(9) "Grade level" means performing at the proficient or advanced level on state-mandated criterion-referenced tests;

~~(6)~~(10) "High school" means grades nine through twelve (9-12);

~~(7)~~(11) "Middle level" means grades five through eight (5-8);

~~(8)~~(12) "Point-in-time intervention and remediation" means intervention and remediation applied during the academic year upon the discovery that a student is not performing at grade level;

~~(9)~~(13) "Primary" means kindergarten through grade four (K-4);

(14) "Public school" means those schools or school districts created pursuant to Title 6 of the Arkansas Code and subject to the Arkansas Comprehensive Testing, Assessment, and Accountability Program except specifically excluding those schools or educational programs created by or

receiving authority to exist pursuant to § 6-15-501, § 9-28-205, §§ 12-29-301 through 12-29-310, or other provisions of Arkansas law;

(15) "Reconstitution" means a reorganization intervention in the administrative unit or governing body of a public school district, including but not limited to the suspension, reassignment, replacement, or removal of a current superintendent, or the suspension, removal, or replacement of some or all of the current school board members, or both;

~~(10)(A)(i)~~(16)(A)(i) "Remediation" means a process of using diagnostic instruments to provide corrective, specialized, supplemental instruction to help a student in grades two through four (2-4) overcome academic deficiencies.

(ii) For students in grades five through twelve (5-12), remediation shall be a detailed, sequential set of instructional strategies implemented to remedy any academic deficiencies indicated by below-basic or basic performance on the state-mandated criterion-referenced assessments.

(B) Remediation shall not interfere with or inhibit student mastery of current grade level academic learning expectations;

(17) "School district in academic distress" means any public school district failing to meet the minimum level of academic achievement on the state mandated criterion-referenced examinations as required by the State Board of Education in the "Arkansas Comprehensive Testing, Assessment, and Accountability Program";

~~(12)~~(18) "Social promotion" means the passage or promotion from one grade to the next of a student who has not demonstrated knowledge or skills required for grade-level academic proficiency; and

(19) "State Board" and means the State Board of Education;

(20) "Public school in school improvement" or "school district in school improvement" means any public school or public school district identified as failing to meet certain established levels of academic achievement on the state mandated criterion-referenced tests as required by the State Board of Education in the Arkansas Comprehensive Testing, Assessment, and Accountability Program;

(21) "Uniform school readiness screening" means uniform, objective evaluation procedures specifically formulated for children entering public school for the first time which are geared to either kindergarten or first grade, as appropriate, and developed by the State Board of Education; and

(22) "Adequate yearly progress" means that level of academic improvement required of public schools or school districts on the state-mandated criterion-referenced examinations and other indicators as required in the Arkansas Comprehensive Testing, Assessment, and Accountability Program, which shall comply with The Elementary and Secondary Education Act as reauthorized in The No Child Left Behind Act of 2001, 20 U.S.C. § 6301, et seq. (2002).

SECTION 13. Arkansas Code § 6-15-420 is amended to read as follows:  
6-15-420. ~~Informal standards of learning~~ Remediation and intervention.

(a)(1) In order for students to be academically prepared to achieve proficiency in reading and writing literacy and mathematics, the Department of Education shall require each public school serving students in kindergarten through grade four (K-4) to develop, select, and implement ongoing, informal assessments linked to the Arkansas frameworks.

(2) Literacy assessment training and mathematics assessment

training utilizing research-based diagnostic instruments or tools will be provided for teachers by the department. Where grant funds are available in the areas of highest need, a literacy coordinator may be trained.

(b)(1) Any student in kindergarten through grade one (K-1) failing to perform at the proficient level in reading and writing literacy or mathematics shall be evaluated as early as possible within each of the kindergarten through grade one (K-1) academic years. Those students shall be evaluated by personnel with expertise in reading and writing literacy or mathematics who shall develop and implement an academic improvement plan, using early intervention strategies sanctioned by the department, to assist the student in achieving the expected standard.

(2) Any student in grades two through four (2-4) failing to perform at the proficient level in reading and writing literacy or mathematics shall be evaluated by personnel with expertise in reading and writing literacy or mathematics who shall develop and implement an academic improvement plan, using remediation strategies sanctioned by the department, to assist the student in achieving the expected standard.

(c)(1) Upon completion of the intervention and remediation plans in subdivisions (b)(1) and (b)(2) of this section, those schools that fail to achieve expected levels of student performance at the primary level on criterion-referenced tests, as defined in this subchapter, shall participate in a comprehensive school improvement plan accepted by the department.

(2)(A) This plan shall be part of each school's long-range comprehensive school improvement plan and shall be reported to the public.

(B) Progress on improved achievement shall be included as part of the school and school district's annual report to the public.

(d)(1) As part of the comprehensive testing, assessment, and accountability program, the department shall ensure that each school and school district establishes a plan to assess whether children in the middle-level and high school grades are performing at proficient levels in reading and writing literacy, mathematics and, as funds are available, other core academic subjects.

(2) Each school and school district shall use ~~a combination of multiple~~ assessment measures, which shall include, but not be limited to, state-mandated criterion-referenced tests ~~or norm-referenced testing, or both.~~

(e) Any student failing to demonstrate a proficient level of achievement in reading and writing literacy or mathematics or, as funds are available, other core academic subjects, shall participate in an individual academic improvement plan specifically designed to achieve proficient-level performance standards in these areas.

SECTION 14. Arkansas Code § 6-15-421 is amended to read as follows: 6-15-421. Awards and sanctions.

(a)~~(1)~~ The Department of Education is authorized to develop and implement, contingent upon appropriation and funding being provided by the General Assembly, a program of rewards to recognize individual schools that demonstrate exceptional performance in levels of student achievement and to recognize schools that demonstrate significant improvement in student achievement.

(b)(1) Each school that does not attain the expected levels of student performance on state-mandated indicators and individual school improvement

indicators shall be designated by one (1) of several levels of sanction.

(2) Each level of sanction shall determine specific interventions to be provided to the ~~school~~ students of public schools or public school districts by the department. The levels of sanction developed under this subchapter shall be incorporated into the existing comprehensive school improvement plan ~~academic distress policy~~.

(c) The State Board of Education shall develop a clear, concise system of reporting the academic performance of each public school on the state-mandated, criterion-referenced tests, which conform with current state and federal law.

~~(e)~~(d) The State Board of Education through the department is hereby authorized to promulgate such rules and regulations as may be necessary to carry out the provisions of this subchapter.

SECTION 15. Arkansas Code Title 6, Chapter 15, Subchapter 4 is amended to add an additional section to read as follows:

6-15-423. Rules and regulations.

The state board shall promulgate rules and regulations as may be necessary to require the Department of Education to implement a program for identifying, evaluating, assisting, and addressing public schools or public school districts failing to meet established levels of academic achievement on the state mandated criterion-referenced tests as required in the Arkansas Comprehensive Testing, Assessment, and Accountability Program.

SECTION 16. Arkansas Code Title 6, Chapter 15, Subchapter 4 is amended to add additional sections to read as follows:

6-15-424. School improvement or academic distress.

Those public schools or public school districts identified by the Department of Education as failing to meet established levels of academic achievement shall be classified as being either in school improvement or academic distress as required by the Arkansas Comprehensive Testing, Assessment, and Accountability Program rules and regulations.

6-15-425. School improvement.

(a) The State Board of Education shall develop a single comprehensive testing, assessment, and accountability program which shall identify and address all public schools or public school districts in school improvement, or academic distress and shall be incorporated in the Arkansas Comprehensive Testing, Assessment and Accountability Program rules and regulations which shall comply with the Elementary and Secondary Education Act as reauthorized by The No Child Left Behind Act of 2001, 20 U.S.C . §6301, et seq. (2002).

(b) The school board president and the superintendent of a public school or school district identified by the Department of Education as being classified as in school improvement, shall be notified of such classification in writing by the Department, via certified mail return receipt requested, and the school district shall have a right of appeal pursuant to the Arkansas Comprehensive Testing, Assessment and Accountability Program rules and regulations which shall comply with The No Child Left Behind Act of 2001, 20 U.S.C. § 6301 et seq. (2002).

(c) The Arkansas Comprehensive Testing, Assessment and Accountability Program shall require that any public school or school district in school improvement that fails to make adequate yearly progress as required in the

Arkansas Comprehensive Testing, Assessment and Accountability Program may, after being afforded all due process rights and in a timely manner required under The No Child Left Behind Act of 2001, be advanced by the State Board of Education to the corrective action or restructuring phase of the Arkansas Comprehensive Testing, Assessment and Accountability Program adopted in the Arkansas Comprehensive Testing, Assessment and Accountability Program rules and regulations.

(d) Any public school or school district classified in school improvement shall comply with all requirements placed on a public school or school district under the Arkansas Comprehensive Testing, Assessment and Accountability Program rules and regulations as required by The No Child Left Behind Act of 2001, 20 U.S.C. § 6301, et seq. (2002).

(e) Any public school or school district classified as in school improvement shall develop and file with the Department of Education a comprehensive school improvement plan which shall be reviewed by the department and shall be designed to ensure that all students have an opportunity to demonstrate proficiency on all portions of the state mandated criterion-referenced tests. The comprehensive school improvement plan shall include strategies to address the achievement gap existing for any identifiable group or subgroup as identified in the Arkansas Comprehensive Testing, Assessment and Accountability Program and the gap of that subgroup to the academic standard.

(f) Professional development activities of a public school or public school district in school improvement shall be related to the comprehensive school improvement plan and designed to increase student learning and achievement.

6-15-426. Academic distress notification and appeal.

(a) The school board president and superintendent of a school district classified by the Department as being in academic distress shall be notified in writing by the Department, via certified mail return receipt requested, and shall have a right of appeal to the State Board of Education.

(b) Any school district classified in academic distress may appeal to the State Board of Education by filing a written appeal, with the office of the Director of the Department of Education, via certified mail return receipt requested, within thirty (30) calendar days receipt of the written notice of academic distress status from the Department.

(c) The State Board of Education shall hear the appeal of the school district within sixty (60) days receipt of the written appeal in the Director's office. The State Board of Education's determination shall be final except that a school district may appeal to the circuit court of Pulaski County under the Arkansas Administrative Procedures Act.

6-15-427. Academic distress – Required action.

(a) A public school district classified as in "academic distress" shall have no more than two (2) consecutive school years from the date of receipt of notice of classification to be removed from academic distress status.

(b) The State Board of Education may, at any time, take enforcement action on any school district in academic distress status, including but not limited to annexation, consolidation or reconstitution of a school district pursuant to § 6-13-1401 et seq. and the authority of this subchapter, except

no public school district shall be allowed to remain in academic distress status for a time period greater than two (2) consecutive school years from the date of classification of academic distress.

(c) If a public school district fails to be removed from academic distress status within the allowed two (2) year time period, the State Board of Education shall annex, consolidate or reconstitute the academic distress school district prior to July 1 of the next school year unless the State Board of Education, at its discretion, issues a written finding supported by a majority of the board, explaining in detail that the school district could not remove itself from academic distress during the relevant time period due to impossibility caused by external forces beyond the school district's control.

6-15-428. State Board of Education authority of school in academic distress.

(a) The State Board of Education shall have the following authority regarding any public school district in academic distress:

(1) Require the superintendent of the school district to relinquish all authority with respect to the district, to appoint an individual to administratively operate the district under the supervision of the Director of the Department of Education, and the cost to be paid from school district funding;

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

(3) Allow the school district to operate without the local school board under the supervision of the local school district administration or an administration chosen by the Director of the Department of Education;

(4) Waive the application of Arkansas law, with the exception of the Teacher Fair Dismissal Act of 1983, § 6-17-1501 et seq. and the Public School Employee Fair Hearing Act, § 6-17-1701 et seq. or department rules and regulations;

(5) Require the annexation, consolidation, or reconstitution of the public school district; and

(6) Take any other necessary and proper action, as determined by the State Board of Education, that is allowed by law.

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

(2) The cost of transporting the student from the resident district to the nonresident district shall be the cost of the resident district.

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

6-15-429. Academic distress rules and regulations.

(a) The State Board of Education shall promulgate rules and regulations as necessary to identify, evaluate, assist and address public school districts determined to be in academic distress.

(b) The academic distress rules and regulations shall be incorporated as part of the Arkansas Comprehensive Testing, Assessment and Accountability Program rules and regulations.

SECTION 17. Arkansas Code Title 6, Chapter 15, Subchapter 4 is amended to add an additional section to read as follows:

6-15-425. Unsafe school choice program.

(a) Any student that becomes the victim of a violent criminal offense while in or on the grounds of an Arkansas public elementary, secondary, or public charter school, or who is attending a persistently dangerous public school shall be allowed to attend a safe public school within the local educational agency pursuant to rules and regulations established by the State Board of Education and the requirements The No Child Left Behind Act of 2001, 20 U.S.C. § 7912 (2002).

(b) The State Board of Education shall promulgate rules and regulations, as necessary, to administer the Unsafe School Choice Program.

SECTION 18. Arkansas Code Title 6, Chapter 20, is amended to add a new subchapter read as follows:

6-20-1901. Title

This subchapter shall be known as and may be cited as the "Arkansas Fiscal Assessment and Accountability Program".

6-20-1902. Purpose

The purpose of this subchapter shall be to establish and implement a program by which the Department of Education shall identify, assess and address school districts in fiscal distress.

6-20-1903. Definitions

For purposes of this subchapter:

(1) "Annexation" means the joining of an affected school district or part of the school district with a receiving district pursuant to § 6-13-1401;

(2) "Consolidation" means the joining of two (2) or more school districts or parts of the districts to create a new single school district pursuant to § 6-13-1401;

(3) "Department" means the Arkansas Department of Education;

(4) "Fiscal distress status" means a public school district determined by the department and classified by the state board as being placed in fiscal distress status pursuant to this subchapter;

(5) "School district" means a public school district created or established pursuant to Title 6 of the Arkansas Code;

(6) "State Board" means the Arkansas State Board of Education;

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

(8) "Fiscal integrity" means to comply with financial management,

accounting, auditing, and reporting procedures and facilities management procedures as required by state and federal laws and regulations in a forthright and timely manner.

6-20-1904. Indicators of fiscal distress.

Any school district meeting any of the following criteria may be identified by the Department of Education to be a school district in fiscal distress upon final approval by the state board:

(1) A declining balance determined to jeopardize the fiscal integrity of a school district; or

(2) Any act or violation determined to jeopardize the fiscal integrity of a school district, including, but not limited to:

(A) Material failure to properly maintain school facilities;

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

(C) Material violation of local, state, or federal construction code provisions or law;

(D) Material state or federal audit exceptions or violations;

(E) Material failure to provide timely and accurate legally-required financial reports to the Department of Education, the Division of Legislative Audit, the General Assembly, or the Internal Revenue Service;

(F) Insufficient funds to cover payroll, salary, employment benefits, or legal tax obligations;

(G) Material failure to meet legally binding minimum teacher salary schedule obligations;

(H) Material failure to comply with state law governing purchasing or bid requirements;

(I) Material default on any school district debt obligation;

(J) Material discrepancies between budgeted and actual school district expenditures;

(K) Material failure to comply with audit requirements of § 6-20-301; or

(L) Material failure to comply with any provision of the Arkansas Code that specifically places a school district in fiscal distress based on noncompliance;

(3) Any other fiscal condition of a school district deemed to have a detrimental negative impact on the continuation of educational services by that school district.

6-20-1905. Notification and appeal.

(a) The Department of Education shall provide written notice, via certified mail return receipt requested, to the president of the school board and the superintendent of each school district identified as being in fiscal distress.

(b) Any school district identified in fiscal distress status may appeal to the State Board of Education by filing a written appeal, with the office of the Director of the Department of Education, by certified mail return receipt requested, within thirty (30) days of receipt of notice of identified fiscal distress status from the department.

(c) The state board shall hear the appeal within sixty (60) days of receipt of the written notice of appeal from the school district.

(d) The written appeal shall state, in clear terms, the reason why the



school district should not be classified as in fiscal distress.

(e) Notwithstanding any appeal rights in this subchapter, no appeal shall stay the department's authority to take action to protect the fiscal integrity of any school district identified as in fiscal distress.

(f) The decision of the State Board of Education shall be a final order and there is no further right of appeal except the school district may appeal to circuit court in Pulaski County pursuant to the Arkansas Administrative Procedures Act, § 25-15-201, et seq.

6-20-1906. Classification of fiscal distress status.

(a) Those school districts identified by the Department of Education as being in fiscal distress shall be classified as a school district in fiscal distress upon final determination by the State Board of Education.

(b) Any district classified as in fiscal distress shall be required to publish at least one (1) time for two (2) consecutive weeks in a newspaper of general circulation in the school district, the school district's classification as a school district in fiscal distress and the reasons why the school district was classified as being in fiscal distress.

(c) The provisions of subdivisions (a) and (b) of this section are effective after the school district's appeal rights have been exhausted.

6-20-1907. Deb issuance.

No school district identified in fiscal distress may incur any debt without the prior written approval of the Department of Education.

6-20-1908. Fiscal distress plan.

(a) Those school districts identified by the Department of Education as being in fiscal distress shall file, with the department within ten (10) days after the final classification by the State Board, a written fiscal distress improvement plan to address any area in which the school district is experiencing fiscal distress as identified by the department.

(b) Each school district shall seek and obtain approval of their plan from the department and shall describe how the school district will remedy those areas in which the school district is experiencing fiscal distress and shall establish the time period by which the school district will remedy all criteria which placed the school district in fiscal distress status.

(c) A school district in fiscal distress may only petition the State Board of Education for removal from fiscal distress status after the department has, certified in writing, that the school district has corrected all criteria for being classified as in fiscal distress and has complied with all department recommendations and requirements for removal from fiscal distress.

(d) No school district shall be allowed to remain in fiscal distress status for more than two (2) consecutive school years from the date the school district was classified as being in fiscal distress status.

(e) Any school district classified as being in fiscal distress status shall be required to receive on-site technical evaluation and assistance from the department.

(f)(1) The department shall evaluate and make recommendations to the district superintendent regarding staffing of the district and fiscal practices of the district.

(2) The recommendations of the department shall be binding on

the district, the superintendent, and the school board.

(g) Every six (6) months, the department shall submit a written evaluation on the status of each school district in fiscal distress to the State Board of Education.

(h)(1) The department may petition the State Board of Education, at any time, for the consolidation, annexation, or reconstitution of a school district in fiscal distress or take other appropriate action as allowed by this subchapter in order to secure and protect the best interest of the educational resources of the state or provide for the best interests of students in the school district.

(2) The State Board of Education may approve the petition or take other appropriate action as allowed by this subchapter.

(i) The State Board of Education shall consolidate, annex, or reconstitute any school district that fails to remove itself from the classification of a school district in fiscal distress within two (2) consecutive school years of notice of classification by the department unless the State Board of Education, at its discretion, issues a written finding supported by a majority of the board, explaining in detail that the school district could not meet current standards to remove itself from fiscal distress due to impossibility caused by external forces beyond the school district's control.

6-20-1909. Department fiscal distress actions.

(a) In addressing school districts in fiscal distress, the department may:

(1) Require the superintendent to relinquish all administrative authority with respect to the school district;

(2) Appoint an individual in place of the superintendent to administratively operate the school district under the supervision and approval of the Director of the Department of Education, and to compensate non-department agents operating the school district from school district funding;

(3) Call for the temporary suspension of the local school board;

(4) Require the school district to operate without a local school board under the supervision of the local superintendent or an individual or panel appointed by the Director of the Department of Education;

(5) Place the administration of the school district over to the former board or to a newly elected school board; or

(6) Take any other action allowed by law that is deemed necessary to assist a district in removing criteria of fiscal distress.

(b) The department may impose various reporting requirements on the school district.

(c) The department shall monitor the fiscal operations and accounts of the school district.

(d) The department shall require school district staff and employees to obtain fiscal instruction or training in areas of fiscal concern for the school district.

6-20-1910. State board actions.

(a) After a public hearing, the State Board of Education shall consolidate, annex, or reconstitute the school district in fiscal distress to another school district or school districts upon a majority vote of a quorum

of the members of the state board as permitted or required by this subchapter.

(b) The state board has exclusive jurisdiction to determine the boundary lines of the receiving or resulting school district and to allocate assets and liabilities of the district.

(c) The decision of the State Board of Education shall be final with no further right of appeal except a school district may appeal to circuit court in Pulaski County pursuant to the Arkansas Administrative Procedures Act, § 25-12-101, et seq.

6-20-1911. Rules and Regulations.

(a) The department shall promulgate rules and regulations as necessary to identify, evaluate, assist, and address school districts in fiscal distress.

(b) The department may promulgate rules and regulations as necessary to administer the Arkansas Fiscal Assessment and Accountability Program.

SECTION 19. Arkansas Code § 6-13-1403 through 6-13-1405 are amended to read as follows:

6-13-1403. Conditions under which the State Board of Education may annex school districts.

(a) The State Board of Education shall consider the annexation of an affected school district or districts to a receiving district or districts under the following conditions:

(1) The State Board of Education, after providing thirty (30) days written notice to the affected school districts, determines annexation is in the best interest of the affected district or districts and the receiving district based upon failure to meet standards of accreditation or failure to meet academic or fiscal distress requirements pursuant to The Quality Education Act of 2003, § 6-15-201, et seq., the Arkansas Comprehensive Testing, Assessment, and Accountability Program Act, § 6-15-401, et seq., and the Arkansas Fiscal Assessment and Accountability Program, § 6-20-1901, et seq.;

~~(1)(A)~~(2)(A) The affected district or districts file a petition with the state board requesting annexation to a particular receiving district or districts, and a copy of the petition is filed with the county clerk's office of each county where the affected district or districts are located.

(B) The county clerk's office of each county where the affected district or districts are located certifies in writing that the petition has been signed by a majority of the qualified electors of the district or districts; and

(C) The receiving district or districts provide to the state board written proof of consent to receive the affected district or districts by annexation as evidenced by either a vote to approve annexation by resolution by a majority of the members of the local receiving board of education or by vote to approve annexation by a majority of the qualified electors of the receiving district as provided for in § 6-14-122;

~~(2)(A)~~(3)(A) A majority of the qualified electors in the affected district or districts vote to approve the annexation of an affected school district or districts to a receiving district or districts as provided for in § 6-14-122; and

(B) The receiving district or districts provide to the

state board written proof of consent to receive the affected district or districts by annexation as evidenced by either a vote to approve annexation by resolution by a majority of the members of the local receiving board of education or by vote to approve annexation by a majority of the qualified electors of the receiving district as provided for in § 6-14-122; or

~~(3)(A)~~(4)(A) The local board of education of the affected district or districts vote to approve by resolution the annexation of the affected district or districts to a receiving district or districts by a majority of the members of the local board of education of the affected district or districts; and

(B) The receiving district or districts provide to the state board written proof of consent to receive the affected district or districts by annexation as evidenced by either a vote to approve annexation by resolution by a majority of the members of the local receiving board of education or by vote to approve annexation by a majority of the qualified electors of the receiving districts as provided for in § 6-14-122.

(b) The state board may vote to approve, by a majority of a quorum present of the members of the state board, the annexation of the affected districts into a receiving district:

(1) The State Board of Education, after providing thirty (30) days written notice to the affected school districts, may on its own motion based on a school district's failure to meet standards of accreditation or failure to meet academic or fiscal distress requirements pursuant to The Quality Education Act of 1983, § 6-15-201, et seq., the Arkansas Comprehensive Testing, Assessment, and Accountability Program Act, § 6-15-401, et seq., and the Arkansas Fiscal Assessment and Accountability Program, § 6-20-1901, et seq.; or

(2) ~~upon~~ Upon receipt of a valid petition for annexation and after receiving proof from the petitioning party of at least one (1) of the required conditions set forth in subsection (a) of this section and upon receipt of proof of the issuance of public notice of the intent to annex affected districts into a receiving district or districts in the local newspapers of general circulation in the affected districts for a time period of no less than once a week for two (2) consecutive weeks immediately prior to the time the petition is filed with the state board.

(c) In order for the petition for annexation to be valid, it shall be filed with the state board at least thirty (30) days prior to the next regularly scheduled state board meeting, at which time the petition will be presented for hearing before the state board. However, no petition is required for the State Board of Education to annex a school district or districts upon a motion of the board as allowed in subsection (b).

(d)(1) Upon determination by the State Board of Education to annex a school district or approval of a petition requesting annexation, the state board shall issue an order dissolving the affected districts and establishing the receiving school district or districts.

(2)(A) The state board shall issue an order establishing the boundary lines of the receiving district or districts.

(B) It shall be the duty of the Department of Education to make changes in the maps of the school districts to properly show the boundary lines of the receiving district or districts.

(e) The state board shall issue an order establishing the changed boundaries and shall file the order with the county clerk or clerks of the

county or counties where the receiving district or districts are located. The county clerk shall make a permanent record of the order and, thereafter, the boundaries so established shall be boundaries of the receiving district until changes are made according to the provisions of law.

(f) The state board shall not annex affected districts that are not geographically contiguous unless the following limited conditions are determined to be valid reasons for annexation:

(1) The annexation will result in the overall improvement in the educational benefit to students in all the school districts involved; or

(2) The annexation will provide a significant advantage in transportation costs or service to all the school districts involved.

6-13-1404. Conditions under which the State Board of Education may consolidate school districts.

(a) The State Board of Education shall consider the consolidation of affected school districts into a new resulting school district or districts under the following conditions:

(1) The State Board of Education, after providing thirty (30) days written notice to the affected school districts, determines consolidation is in the best interest of the affected district or districts and the resulting district based upon failure to meet standards of accreditation, academic or fiscal distress requirements pursuant to The Quality Education Act of 1983, § 6-15-201, et seq., the Arkansas Comprehensive Testing, Assessment, and Accountability Program Act, § 6-15-401, et seq., and the Arkansas Fiscal Assessment and Accountability Program, § 6-20-1901, et seq.; or

~~(1)(A)(2)~~ The affected districts file a petition with the state board requesting that the affected districts be consolidated into a resulting district or districts;

~~(B)(3)~~ A copy of the petition has been filed with the county clerk's office of each county where the affected districts are located; ~~and~~

~~(C)(4)~~ The county clerk's office certifies in writing to the state board that the petition has been signed by a majority of the qualified electors of the affected districts;

~~(2)(5)~~ A majority of the qualified electors in the affected districts votes to approve consolidation of the affected districts into a resulting district or districts pursuant to a valid election as provided for in § 6-14-122; ~~and~~

~~(3)(6)~~ The local board of directors votes to approve by resolution of a majority of the members of each local board of education the consolidation of the affected districts into a resulting district or districts.

(b) The state board:

(1) After providing thirty (30) days written notice to the affected school districts, may consolidate school districts upon its own motion based upon a school district's failure to meet standards of accreditation, academic or fiscal distress requirements pursuant to The Quality Education Act of 1983, § 6-15-201, et seq., the Arkansas Comprehensive Testing, Assessment, and Accountability Program Act, § 6-15-401, et seq., and the Arkansas Fiscal Assessment and Accountability Program, § 6-20-1901, et seq.; or

(2) May ~~may~~ vote to approve by a majority of a quorum present of

the members of the state board the consolidation of the affected districts into a resulting district upon receipt of a valid petition for consolidation, after receiving proof from the petitioning party of at least one (1) of the required conditions set forth in subsection (a) of this section, and upon receipt of proof of the issuance of public notice of the intent to consolidate affected districts into a resulting district or districts in the local newspapers of general circulation in the affected districts for a time period of no less than once a week for two (2) consecutive weeks immediately prior to the time the petition is filed with the state board.

(c) In order for the petition for consolidation to be valid, it shall be filed with the state board at least thirty (30) days prior to the next regularly scheduled state board meeting, at which time the petition will be presented for hearing before the state board. However, no petition is required for the State Board of Education to consolidate a school district or districts on a motion of the board as allowed in subsection (b).

(d)(1) Upon consolidation of a district by the board or approval of a petition requesting consolidation, the state board shall issue an order dissolving the affected school districts and establishing the resulting school district or districts.

(2)(A) The state board shall issue an order establishing the boundary lines of the resulting district or districts.

(B) It shall be the duty of the Department of Education to make changes in the maps of the school districts to properly show the boundary lines of the resulting district or districts.

(e)(1) The state board shall issue an order establishing the changed boundaries and shall file the order with the county clerk or clerks where the resulting district or districts are located.

(2) The county clerk shall make a permanent record of the order and, thereafter, the boundaries so established shall be boundaries of the resulting district until changes are made according to the provisions of law.

(f) The state board shall not consolidate affected districts that are not geographically contiguous unless the following limited conditions are determined to be valid reasons for consolidation:

(1) The consolidation will result in the overall improvement in the educational benefit to students in all the school districts involved; or

(2) The consolidation will provide a significant advantage in transportation costs or service to all the school districts involved.

6-13-1405. Effective date of annexation or consolidation.

(a) Upon consolidation or annexation of a school district by the State Board of Education:

(1) The effective date of the annexation or consolidation shall be the July 1 following the State Board of Education action unless otherwise determined by the state board;

(2) The State Board of Education shall prescribe the number of members of the board of directors of the resulting or receiving district, and prescribe the method of forming the board of directors of the resulting or receiving district;

(3) The consolidation or annexation plan adopted by the State Board of Education shall be filed with the county clerk of each county that contains territory or a portion of the territory of each affected school district; and

(4) All terms and conditions of the consolidation shall be as set forth by the State Board of Education and shall be binding on the school districts and the respective boards of directors.

(5) The State Board of Education shall afford the local school districts in a consolidation thirty (30) days to establish an interim local board to govern the resulting district pursuant to § 6-14-1406 until the next school election. If the local school districts fail to establish an interim board, the State Board of Education shall appoint an interim local board to serve until the next elected board assumes office. The number of interim board positions shall be set as allowed by law.

~~(a)(b)~~ Upon a petition to consolidation or annexation:

~~(1) Unless an agreement is reached in the consolidation or annexation agreement to be different, the effective date of the annexation or consolidation~~ Consolidation shall be the July 1 following the order of the state board directing the annexation or the consolidation, unless the State Board of Education determines otherwise;

~~(b)(2)~~ Each board of directors of the affected districts by majority approval of the members of the local board may enter into a written agreement executed by the former president and secretary of each district. The agreement shall prescribe the date of the annexation of the affected district or districts to the receiving district or the formation of the resulting district from consolidation of affected districts;

~~(c)(3)~~ The agreement shall also prescribe the number of members of the board of directors of the resulting district as provided for in § 6-13-1205 (repealed), as allowed by law; and

~~(d)(4)~~ An executed copy of the agreement shall be filed with the county clerk of each county that contains territory or a portion of the territory of each affected school district.

SECTION 20. Arkansas Code § 6-13-1409 is amended to read as follows:  
6-13-1409. State Board of Education.

(a) The State Board of Education shall have the following duties regarding consolidations and annexations:

(1) To form local school districts, change boundary lines of school districts, dissolve school districts and annex the territory of such districts to another district, create new school districts, and perform all other functions regarding changes in school districts in accordance with the law;

(2) To transfer funds and attach territory that is in no school district to other school districts as may seem best for the educational welfare of the children; and

(3) To enact rules and regulations regarding the consolidation and annexation of school districts under this title.

~~(b)(1) Any person being a party to a proceeding before the state board concerning consolidation or annexation who feels aggrieved by any final order or decision of the state board may file a petition for appeal from such a final order or decision, provided, within thirty (30) days from the date of the final order or decision complained of, the person shall:~~

~~(A) Make an affidavit that the appeal taken from such a final order or decision of the state board is not taken for purposes of delay; and~~

~~(B) Enter into a bond with good and sufficient surety~~

~~thereon in such sum as shall be ordered by the state board, not to exceed twice the amount of property tax revenues involved in the appeal.~~

~~(2) The appeal provided in this section shall be to the Circuit Court of Pulaski County.~~

~~(b) The millage rate of the electors of the affected district shall remain the same until an election may be held to change the rate of taxation for the resulting district or receiving district.~~

SECTION 21. Arkansas Code Title 6, Chapter 13, Subchapter 14 is amended to add an additional section to read as follows:

6-13-1410. Appeal and election.

The decision of the State Board of Education regarding a consolidation or annexation shall be final with no further right of appeal except an aggrieved school district may appeal to circuit court in Pulaski County pursuant to the Administrative Procedures Act, § 25-15-201, et seq.

SECTION 22. Arkansas Code, Title 6, Chapter 20, Subchapter 16 is repealed.

~~6-20-1601. Purpose.~~

~~The purpose of this subchapter shall be to improve the capacity of local school districts whose students are not achieving at academically desired levels and local school districts in fiscal distress through targeted assistance coordinated by the Department of Education.~~

~~6-20-1602. Definitions.~~

~~(a) For purposes of this subchapter, a "school district in academic distress" shall mean any school district whose students do not score at levels established by the Department of Education on:~~

- ~~(1) The Arkansas Writing Assessment;~~
- ~~(2) The Stanford 8 Achievement Test;~~
- ~~(3) The exit examination administered by the department; or~~
- ~~(4) Any other test approved by the department.~~

~~(b) For purposes of this subchapter, a "school district in fiscal distress" shall mean any school district that:~~

- ~~(1) Has a steadily declining balance;~~
- ~~(2) Has not complied with the audit requirements in § 6-20-301 et seq.;~~
- ~~(3) Has failed to comply with a statute that automatically places the school district in fiscal distress; or~~
- ~~(4) Has any other fiscal condition deemed to have a detrimental negative impact on continuation of educational services.~~

~~All of these determinations for fiscal distress except for subdivision (b)(3) of this section shall be as defined by the department through rules and regulations promulgated by the State Board of Education.~~

~~6-20-1603. Rules and regulations — State Board of Education.~~

~~(a) By March 1, 1996, the State Board of Education shall promulgate rules and regulations to establish and implement a program for identifying, evaluating, assisting, and addressing school districts in fiscal or academic distress.~~

~~(b)(1) The state board shall further promulgate rules and regulations by which a school district shall be classified as a Phase I, Phase II, or~~



~~Phase III district and by which a local school board may appeal to the state board any ruling by the Department of Education that is relative to classification under this subchapter.~~

~~(2) An appeal shall be made within thirty (30) days of the ruling, and the state board shall act on the appeal within sixty (60) days.~~

~~6-20-1604. Rules and regulations — Department of Education.~~

~~The Department of Education is hereby authorized to develop indicators of fiscal distress and academic distress in school districts and to promulgate the necessary rules and regulations so that the Director of the Department of Education shall provide technical assistance to school districts determined by the director to be in fiscal or academic distress and shall ensure, to the extent possible, that a fiscal crisis or an academic crisis will not interrupt the educational services provided to the students of a school district.~~

~~6-20-1605. Identification of districts in distress.~~

~~Prior to the beginning of the 1996-1997 school year and each school year thereafter, the Department of Education shall identify all school districts that are in academic or fiscal distress and shall further document any school districts that meet the criteria for academic or fiscal distress but which, after investigation, the department determines are not in academic or fiscal distress.~~

~~6-20-1606. School improvement plan.~~

~~(a) Those school districts identified by the Department of Education as being in academic or fiscal distress shall be classified as Phase I school districts.~~

~~(b)(1)(A) A district classified as a Phase I school district shall develop and file with the department a school improvement plan to address any areas in which the school district is experiencing academic or fiscal distress as identified by the department.~~

~~(B) If a district does not file a school improvement plan with the department, the district shall be immediately classified as a Phase II school district.~~

~~(2) The department shall provide technical assistance to any district classified as a Phase I district.~~

~~(A) The department shall monitor the progress of school districts in Phase I.~~

~~(B) Districts that are implementing school improvement plans shall continue to be classified as Phase I school districts for the remainder of the school year.~~

~~(C) If the department determines that a district is not implementing its school improvement plan according to department regulations, the district shall be immediately classified as a Phase II school district.~~

~~6-20-1607. Classification of school districts in distress.~~

~~(a)(1) During the 1997-1998 school year and each school year thereafter, the Department of Education shall determine which school districts shall be classified as Phase I districts or Phase II districts.~~

~~(2) A school district may be classified a Phase I district for more than one (1) year.~~

~~(b) No Phase I or Phase II district shall incur additional debt without the approval of the department.~~

~~(c)(1) During the 1997-1998 school year and each school year thereafter, only those districts classified as Phase II districts by the Director of the Department of Education shall be required to receive on-site technical assistance by a team of educators assigned by the department to work directly with the districts.~~

~~(2) During the first six (6) months of the school year in which a district is classified as a Phase II district, the department team shall evaluate and make recommendations to the district superintendent regarding the staffing of the district and concerning fiscal or academic policies or practices of the district if necessary to address the fiscal or academic distress of the district as defined by the department.~~

~~(3)(A) The recommendations of the department shall be binding on the district, the superintendent, and the school board; provided, however, that it shall be the duty of the district to follow all Arkansas laws.~~

~~(B) A district classified as a Phase II school district that fails to follow recommendations of the department shall be immediately classified as a Phase III school district.~~

~~(d) At the conclusion of the 1997-98 school year, and each year thereafter, the department shall report the progress of all districts classified as Phase II school districts to the State Board of Education.~~

~~6-20-1608. Limitation on Department of Education's authority.~~

~~The Department of Education shall not take over the operation of a Phase I or Phase II school district.~~

~~6-20-1609. Phase III school districts.~~

~~(a) Those school districts that do not meet the Department of Education's criteria for repeating procedures set forth for Phase II and those districts that did not follow the recommendations of the department for Phase II school districts shall be classified as Phase III school districts.~~

~~(b) During the 1998-1999 school year and each year thereafter until the school district is no longer classified as a Phase III district, the department shall have the following authority in dealing with any district classified as a Phase III school district:~~

~~(1) To require the superintendent to relinquish all authority with respect to the district, to appoint an individual to operate the district under the supervision of the Director of the Department of Education, and to compensate non department employees for operating the district using the salary formerly given to the district superintendent;~~

~~(2) To have all the powers and duties of the local school board under § 6-13-620;~~

~~(3) To determine that it is in the best interests of the students in the district to continue operation of the district or that annexation to an adjacent district or districts is necessary;~~

~~(4) To call for the election of a new school board for the district, in which case the district shall reimburse the county board of election commissioners for election costs as otherwise required by law;~~

~~(5) To allow the district to operate without a local school board under the supervision of the local school district administration;~~

~~(6) To turn the administration of the district over to the~~

~~former board or to a newly elected school board; and~~

~~(7) To waive the application of Arkansas law, with the exception of §§ 6-17-1501 et seq. and 6-17-1701 et seq. or department rules and regulations.~~

~~6-20-1610. Annexation — Appeals.~~

~~(a) If it is in the best interests of students in a district classified as a Phase III school district to be annexed to another district or districts, as determined by the Department of Education, the department shall hold a public hearing to discuss the annexation of the district.~~

~~(b) After the public hearing, the State Board of Education may annex the district to another district or districts upon a majority vote of the members of the state board.~~

~~(c) If the state board annexes the district, the state board shall have exclusive authority to determine the boundary lines of the new district or districts and to allocate the assets and liabilities of the district.~~

~~(d) Any district that appeals the decision of the state board in regard to annexation shall file the appeal in Pulaski County Circuit Court. Jurisdiction and venue shall not lie in any other court or the circuit court in the county where the administrative office of the district is located.~~

SECTION 23. Effective Date.

Unless otherwise provided in this act, this act shall become effective on July 1, 2003.

SECTION 24. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court in Lake View School District No. 25 v. Huckabee, 351 Ark. 31 (2002) declared the now extent system of education to be unconstitutional because it is both inequitable and inadequate; and the Arkansas Supreme Court set forth the test for a constitutional system to be one in which the State has an "absolute duty" to provide an "equal opportunity to an adequate education"; and the Arkansas Supreme Court instructed the General Assembly to define and provide what is necessary to provide an adequate and equitable education for the children of Arkansas-forthwith. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

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

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

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

The Amendment was read \_\_\_\_\_  
By: Representative Green  
KAS/VJF - 040420031414  
VJF877

\_\_\_\_\_  
Chief Clerk