

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.

1 State of Arkansas
2 84th General Assembly
3 Regular Session, 2003
4

As Engrossed: H4/7/03 H4/11/03

A Bill

Act 1467 of 2003
HOUSE BILL 2697

5 By: Representatives Green, C. Johnson, White, Penix, King, Judy, Borhauer, J. Johnson, Haak, Mahony
6 By: Senators Gullett, Womack, Trusty, Whitaker
7

For An Act To Be Entitled

8
9
10 AN ACT TO CREATE THE OMNIBUS QUALITY EDUCATION
11 ACT OF 2003; TO ESTABLISH A COMPREHENSIVE SYSTEM
12 OF EDUCATIONAL ACCOUNTABILITY TO ENFORCE THE
13 ARKANSAS STANDARDS OF ACCREDITATION; THE ARKANSAS
14 COMPREHENSIVE TESTING, ASSESSMENT AND
15 ACCOUNTABILITY PROGRAM, THE NO CHILD LEFT BEHIND
16 ACT OF 2001; THE ARKANSAS ACADEMIC DISTRESS
17 PROGRAM; THE ARKANSAS FISCAL DISTRESS ASSESSMENT
18 AND ACCOUNTABILITY PROGRAM; AND FOR OTHER
19 PURPOSES.
20

Subtitle

21
22 THE OMNIBUS QUALITY EDUCATION ACT OF
23 2003.
24

25
26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
27

28 SECTION 1. Arkansas Code § 5-15-201 is amended to read as follows:
29 6-15-201. Title.

30 This subchapter shall be known as and may be cited as "The Quality
31 Education Act of ~~1983~~ 2003".
32

33 SECTION 2. Arkansas Code § 6-15-202 is amended to read as follows:
34 6-15-202. Accreditation - Development of regulations and standards.

35 (a) The State Board of Education is authorized and directed to develop
36 comprehensive regulations, criteria, and ~~minimum~~ standards to be used by the

1 board and the Department of Education in the accreditation of school programs
2 in elementary and secondary public schools in this state.

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

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

11 (3) A school district is deemed to have failed to meet the
12 Standards of Accreditation for Arkansas Public Schools, if on any standard
13 applicable to the general operation of a school district as defined by the
14 State Board of Education, the district receives a probationary status.

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

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

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

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

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

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

35
36 SECTION 3. Arkansas Code § 6-15-203 is amended to read as follows:

1 6-15-203. Notification of failure to meet standards of accreditation -
2 Appeal.

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

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

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

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

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

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

27
28 SECTION 4. Arkansas Code § 6-15-206 is amended to read as follows:

29 6-15-206. Subsequent failure to meet standards of accreditation.

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

35 (b) Notice thereof shall be filed with the school district in which
36 the school is located that the school or school district must meet ~~minimum~~

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

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

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

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

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

25
 26 SECTION 5. Arkansas Code Title 6, Chapter 15, Subchapter 2 is amended
 27 to add additional sections to read as follows:

28 6-15-207. Enforcement of standards.

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

34 (b) The State Board of Education shall take at least one of the
 35 following actions, listed in subsection (c), to address any school or school
 36 district which has failed to meet all standards of accreditation for two (2)

1 consecutive school years including the year the probationary status is
2 declared pursuant to § 6-15-202 and 203, unless the State Board of Education,
3 at its discretion, issues written findings supported by a majority of the
4 board, that the school district could not meet current standards for the
5 relevant time period due to impossibility caused by external forces beyond
6 the school district's control.

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

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

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

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

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

21 (5) Annex a school district or districts or parts thereof with
22 another receiving school district or districts pursuant to the authority of §
23 6-13-1401 through 6-13-1409 and this subchapter;

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

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

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

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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.~~

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

4
5 SECTION 7. Arkansas Code § 6-15-401 is amended to read as follows:
6 6-15-401. Title.

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

10
11 SECTION 8. Arkansas Code § 6-15-402 is amended to read as follows:
12 6-15-402. Purpose.

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

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

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

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

- 1 (1) Improve student learning and classroom instruction;
- 2 (2) Provide public accountability by exemplifying expected
- 3 achievement levels, ~~and~~ by reporting on school and school district
- 4 performance, and applying a framework for state action for a school or school
- 5 district that fails expected achievement levels as defined in the Arkansas
- 6 Comprehensive Testing, Assessment, and Accountability Program rules and
- 7 regulations; and
- 8 (3) Provide evaluation data of school and school district
- 9 performance in order to assist policymakers at all levels in decision making.

10

11 SECTION 9. Arkansas Code § 6-15-403 is amended to read as follows:

12 6-15-403. Authority of State Board of Education.

13 The State Board of Education through the Department of Education is

14 ~~hereby authorized to~~ shall:

- 15 (1) Develop a single comprehensive testing, assessment, and
- 16 accountability program which utilizes the most current and effective testing,
- 17 evaluation, and assessment research information designed to achieve the
- 18 following purposes set forth in this subchapter:
- 19 (A) Set clear academic standards that are periodically reviewed
- 20 and revised;
- 21 (B) Establish professional development;
- 22 (C) Establish expected achievement levels;
- 23 (D) Report on student achievement and other indicators;
- 24 (E) Provide evaluation data;
- 25 (F) Recognize academic excellence and failure; ~~and~~
- 26 (G) Apply awards and sanctions; and
- 27 (H) Comply with current federal and state law and State Board of
- 28 Education rules and regulations;
- 29 (2) Promulgate such rules and regulations as may be necessary to
- 30 develop and implement the comprehensive testing, assessment and
- 31 accountability program; ~~and~~
- 32 (3) Employ staff and enter into contracts as may be necessary to carry
- 33 out the provisions of this subchapter-;
- 34 (4) Classify school services, designate the licensure subject areas,
- 35 establish competencies, including the use of technology to enhance student
- 36 learning, and licensure requirements for all school-based personnel, and

1 prescribe rules in accordance with initial, standard and provisional
2 licenses;

3 (5) Identify critical teacher shortage areas; and

4 (6) Collect and maintain the management information databases for all
5 components of the public kindergarten through grade twelve (K-12) education
6 system.

7
8 SECTION 10. Arkansas Code § 6-15-404 is amended to read as follows:
9 6-15-404. Program implementation.

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

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

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

20 (1) External review by outside content standards experts.

21 (2) Review and input by higher education, workforce education,
22 and community members.

23 (3) Study and consideration of academic content standards from
24 across the nation and international level as appropriate.

25 (4) Study and consideration of evaluation from national groups
26 or organizations as appropriate.

27 (5) Revisions by committees of Arkansas teachers and
28 instructional supervisor personnel from public schools, assisted by teachers
29 from institutions of higher education.

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

32 (d) The State Board of Education shall establish a clear concise
33 system of reporting the academic performance of each school on the state
34 mandated criterion reference exam which conforms with the requirements of the
35 No Child Left Behind Act of 2001.

36 (e) The State Board of Education shall develop and the Department of

1 Education shall implement a developmentally appropriate uniform school
2 readiness screening to validate a child's school readiness as part of a
3 comprehensive evaluation design. Beginning with the 2004-2005 school year,
4 the Department of Education shall require that all school districts
5 administer the uniform school readiness screening to each kindergarten
6 student in the district school system upon the student's entry into
7 kindergarten. Children who enter public school for the first time in first
8 grade must be administered the uniform school readiness screening developed
9 for use in first grade.

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

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

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

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

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

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

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

1 accountability.

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

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

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

12 (2)(A) Any school that fails to achieve ~~expected~~ established
13 levels of student performance on criterion-referenced tests, ~~norm-referenced~~
14 ~~tests~~, and related indicators, as defined ~~in this subchapter~~ by rule and
15 regulation, shall ~~participate in~~ implement a comprehensive school improvement
16 plan accepted by the department. This improvement plan shall assist those
17 students performing below grade level in achieving the ~~expected~~ established
18 standard.

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

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

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

28
29 SECTION 11. Arkansas Code § 6-15-406 is amended to read as follows:
30 6-15-406. Assessment of basic skills.

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

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

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

3 (3) A variety of assessment methods;

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

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

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

15
16 SECTION 12. Arkansas Code § 6-15-419 is amended to read as follows:
17 6-15-419. Definitions.

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

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

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

26 (ii) All academic improvement plans shall be annually
27 reviewed and revised to ensure ~~effectiveness and to ensure~~ an opportunity for
28 student demonstration of proficiency in the targeted academic areas on the
29 next state-mandated criterion-referenced assessments.

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

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

35 (C) In any instance where a student with disabilities identified
36 under the Individuals with Disabilities Education Act has an individualized

1 education program that already addresses any academic area or areas in which
 2 the student is not proficient on state-mandated criterion-referenced
 3 assessments, the individualized education program shall serve to meet the
 4 requirement of an academic improvement plan;

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

8 ~~(11)(3)~~ "School improvement plan Comprehensive school improvement plan
 9 " means the individual school's comprehensive plan based on priorities
 10 indicated by assessment and other pertinent data and designed to ensure that
 11 provide an opportunity for all students demonstrate proficiency on all
 12 portions of state-mandated criterion-referenced assessments; and

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

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

17 ~~(2)(6)~~ "District improvement plan" means a districtwide plan
 18 coordinating the actions of the various comprehensive school improvement
 19 plans within a district. The main focus of the district improvement plan
 20 shall be to ensure that all students demonstrate proficiency on all portions
 21 of state-mandated criterion-referenced assessments;

22 ~~(3)(7)~~ "Early intervention" means short-term, intensive, focused,
 23 individualized instruction developed from ongoing, daily, systematic
 24 diagnosis that occurs while a child is in the initial, kindergarten through
 25 grade one (K-1), stages of learning early reading, writing, and mathematical
 26 strategies to ensure acquisition of the basic skills and to prevent the child
 27 from developing poor problem-solving habits which become difficult to change.
 28 The goal is to maintain a student's ability to function proficiently at grade
 29 level;

30 ~~(4)(8)~~ "End of course" means an examination taken at the completion of
 31 a course of study to determine whether a student demonstrates attainment of
 32 the knowledge and skills necessary to mastery of that subject;

33 ~~(5)(9)~~ "Grade level" means performing at the proficient or advanced
 34 level on state-mandated criterion-referenced tests;

35 ~~(6)(10)~~ "High school" means grades nine through twelve (9-12);

36 ~~(7)(11)~~ "Middle level" means grades five through eight (5-8);

1 ~~(8)~~(12) "Point-in-time intervention and remediation" means
 2 intervention and remediation applied during the academic year upon the
 3 discovery that a student is not performing at grade level;

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

5 (14) "Public school" means those schools or school districts created
 6 pursuant to Title 6 of the Arkansas Code and subject to the Arkansas
 7 Comprehensive Testing, Assessment, and Accountability Program except
 8 specifically excluding those schools or educational programs created by or
 9 receiving authority to exist pursuant to § 6-15-501, § 9-28-205, §§ 12-29-301
 10 through 12-29-310, or other provisions of Arkansas law;

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

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

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

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

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

31 ~~(12)~~(18) "Social promotion" means the passage or promotion from one
 32 grade to the next of a student who has not demonstrated knowledge or skills
 33 required for grade-level academic proficiency; and

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

35 (20) "Public school in school improvement" or "school district in
 36 school improvement" means any public school or public school district

1 identified as failing to meet certain established levels of academic
 2 achievement on the state mandated criterion-referenced tests as required by
 3 the State Board of Education in the Arkansas Comprehensive Testing,
 4 Assessment, and Accountability Program;

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

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

16
 17 SECTION 13. Arkansas Code § 6-15-420 is amended to read as follows:

18 6-15-420. ~~Informal standards of Learning~~ Remediation and intervention.

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

24 (2) Literacy assessment training and mathematics assessment
 25 training utilizing research-based diagnostic instruments or tools will be
 26 provided for teachers by the department. Where grant funds are available in
 27 the areas of highest need, a literacy coordinator may be trained.

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

36 (2) Any student in grades two through four (2-4) failing to

1 perform at the proficient level in reading and writing literacy or
 2 mathematics shall be evaluated by personnel with expertise in reading and
 3 writing literacy or mathematics who shall develop and implement an academic
 4 improvement plan, using remediation strategies sanctioned by the department,
 5 to assist the student in achieving the expected standard.

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

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

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

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

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

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

30
 31 SECTION 14. Arkansas Code § 6-15-421 is amended to read as follows:
 32 6-15-421. Awards and sanctions.

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

1 recognize schools that demonstrate significant improvement in student
2 achievement.

3 (b)(1) Each school that does not attain the expected levels of student
4 performance on state-mandated indicators and individual school improvement
5 indicators shall be designated by one (1) of several levels of sanction.

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

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

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

18

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

21 6-15-423. Rules and regulations.

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

28

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

31 6-15-424. School improvement or academic distress.

32 (a) Those public individual schools identified by the Department of
33 Education as failing to meet established levels of academic achievement shall
34 be classified as being in school improvement as required by the Arkansas
35 Comprehensive Testing, Assessment, and Accountability Program rules and
36 regulations.

1 (b) Those public school districts identified by the Department of
2 Education as failing to meet established levels of academic achievement shall
3 be classified as being either in school improvement or academic distress, or
4 both, as required by the Arkansas Comprehensive Testing, Assessment, and
5 Accountability Program rules and regulations.

6
7 6-15-425. School improvement.

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

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

23 (c) The Arkansas Comprehensive Testing, Assessment and Accountability
24 Program shall require that any public school or school district in school
25 improvement that fails to make adequate yearly progress as required in the
26 Arkansas Comprehensive Testing, Assessment and Accountability Program may,
27 after being afforded all due process rights and in a timely manner required
28 under The No Child Left Behind Act of 2001, be advanced by the State Board of
29 Education to the corrective action or restructuring phase of the Arkansas
30 Comprehensive Testing, Assessment and Accountability Program adopted in the
31 Arkansas Comprehensive Testing, Assessment and Accountability Program rules
32 and regulations.

33 (d) Any public school or school district classified in school
34 improvement shall comply with all requirements placed on a public school or
35 school district under the Arkansas Comprehensive Testing, Assessment and
36 Accountability Program rules and regulations as required by The No Child Left

1 Behind Act of 2001, 20 U.S.C. § 6301, et seq. (2002).

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

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

16
17 6-15-426. District testing programs.

18 Each district school board shall annually provide a written evaluation
19 of student performance and achievement within each school of the district.
20 This evaluation and suggested measures to improve performance shall be
21 presented in a public hearing in the same locality as the school district and
22 then submitted with comments made at the public hearing to the Arkansas
23 Department of Education.

24
25 6-15-427. Academic distress identification, notification,
26 classification, and appeal.

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

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

36 (c) The State Board of Education shall hear the appeal of the school

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

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

8
9 6-15-428. Academic distress – Required action.

10 (a) A public school district identified as in "academic distress"
11 shall have no more than two (2) consecutive school years from the date of
12 receipt of notice of identification from the Department of Education to be
13 removed from academic distress status.

14 (b) The State Board of Education may, at any time, take enforcement
15 action on any school district in academic distress status including, but not
16 limited to, annexation, consolidation, or reconstitution of a school district
17 pursuant to § 6-13-1401 et seq. and the authority of this subchapter, except
18 no public school district shall be allowed to remain in academic distress
19 status for a time period greater than two (2) consecutive school years from
20 the date of receipt of notice of identification of academic distress from the
21 Department of Education.

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

31
32 6-15-429. State Board of Education authority of school in academic
33 distress.

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

36 (1) Require the superintendent of the school district to

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

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

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

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

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

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

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

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

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

34
35 6-15-430. Academic distress rules and regulations.

36 (a) The State Board of Education shall promulgate rules and

1 regulations as necessary to identify, evaluate, assist and address public
2 school districts determined to be in academic distress.

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

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

9 6-15-431. Unsafe school choice program.

10 (a) Any student that becomes the victim of a violent criminal offense
11 while in or on the grounds of an Arkansas public elementary, secondary, or
12 public charter school, or who is attending a persistently dangerous public
13 school shall be allowed to attend a safe public school within the local
14 educational agency pursuant to rules and regulations established by the State
15 Board of Education and the requirements The No Child Left Behind Act of 2001,
16 20 U.S.C. § 7912 (2002).

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

19
20 SECTION 18. Arkansas Code Title 6, Chapter 20, is amended to add a new
21 subchapter read as follows:

22 6-20-1901. Title

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

25
26 6-20-1902. Purpose

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

30
31 6-20-1903. Definitions

32 For purposes of this subchapter:

33 (1) "Annexation" means the joining of an affected school district or
34 part of the school district with a receiving district pursuant to § 6-13-
35 1401;

36 (2) "Consolidation" means the joining of two (2) or more school

1 districts or parts of the districts to create a new single school district
2 pursuant to § 6-13-1401;

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

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

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

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

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

14 (8) "Fiscal integrity" means to comply with financial management,
15 accounting, auditing, and reporting procedures and facilities management
16 procedures as required by state and federal laws and regulations in a
17 forthright and timely manner.

18
19 6-20-1904. Indicators of fiscal distress.

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

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

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

27 (A) Material failure to properly maintain school facilities;

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

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

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

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

36 (F) Insufficient funds to cover payroll, salary, employment

1 benefits, or legal tax obligations;

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

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

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

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

9 (K) Material failure to comply with audit requirements of § 6-
10 20-301; or

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

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

17
18 6-20-1905. Notification and appeal.

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

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

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

30 (d) The written appeal shall state, in clear terms, the reason why the
31 school district should not be classified as in fiscal distress.

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

35 (f) The decision of the State Board of Education shall be a final
36 order and there is no further right of appeal except the school district may

1 appeal to circuit court in Pulaski County pursuant to the Arkansas
2 Administrative Procedures Act, § 25-15-201, et seq.

3
4 6-20-1906. Classification of fiscal distress status.

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

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

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

15
16 6-20-1907. Debt issuance.

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

19
20 6-20-1908. Fiscal distress plan.

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

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

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

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

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

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

10 (2) The recommendations of the department shall be binding on
11 the district, the superintendent, and the school board.

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

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

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

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

32
33 6-20-1909. Department fiscal distress actions.

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

36 (1) Require the superintendent to relinquish all administrative

1 authority with respect to the school district;

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

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

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

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

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

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

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

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

22
23 6-20-1910. State board actions.

24 (a) After a public hearing, the State Board of Education shall
25 consolidate, annex, or reconstitute the school district in fiscal distress to
26 another school district or school districts upon a majority vote of a quorum
27 of the members of the state board as permitted or required by this
28 subchapter.

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

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

36

1 6-20-1911. Rules and Regulations.

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

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

7
 8 SECTION 19. Arkansas Code § 6-13-1403 through 6-13-1405 are amended to
 9 read as follows:

10 6-13-1403. Conditions under which the State Board of Education may
 11 annex school districts.

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

15 (1) The State Board of Education, after providing thirty (30)
 16 days written notice to the affected school districts, determines annexation
 17 is in the best interest of the affected district or districts and the
 18 receiving district based upon failure to meet standards of accreditation or
 19 failure to meet academic or fiscal distress requirements pursuant to The
 20 Quality Education Act of 2003, § 6-15-201, et seq., the Arkansas
 21 Comprehensive Testing, Assessment, and Accountability Program Act, § 6-15-
 22 401, et seq., and the Arkansas Fiscal Assessment and Accountability Program,
 23 § 6-20-1901, et seq.;

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

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

32 (C) The receiving district or districts provide to the
 33 state board written proof of consent to receive the affected district or
 34 districts by annexation as evidenced by either a vote to approve annexation
 35 by resolution by a majority of the members of the local receiving board of
 36 education or by vote to approve annexation by a majority of the qualified

1 electors of the receiving district as provided for in § 6-14-122;

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

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

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

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

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

26 (1) The State Board of Education, after providing thirty (30)
27 days written notice to the affected school districts, may on its own
28 motion based on a school district's failure to meet standards of
29 accreditation or failure to meet academic or fiscal distress requirements
30 pursuant to The Quality Education Act of 1983, § 6-15-201, et seq., the
31 Arkansas Comprehensive Testing, Assessment, and Accountability Program Act, §
32 6-15-401, et seq., and the Arkansas Fiscal Assessment and Accountability
33 Program, § 6-20-1901, et seq.; or

34 (2) ~~upon~~ Upon receipt of a valid petition for annexation and
35 after receiving proof from the petitioning party of at least one (1) of the
36 required conditions set forth in subsection (a) of this section and upon

1 receipt of proof of the issuance of public notice of the intent to annex
2 affected districts into a receiving district or districts in the local
3 newspapers of general circulation in the affected districts for a time period
4 of no less than once a week for two (2) consecutive weeks immediately prior
5 to the time the petition is filed with the state board.

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

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

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

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

21 (e) The state board shall issue an order establishing the changed
22 boundaries and shall file the order with the county clerk or clerks of the
23 county or counties where the receiving district or districts are located. The
24 county clerk shall make a permanent record of the order and, thereafter, the
25 boundaries so established shall be boundaries of the receiving district until
26 changes are made according to the provisions of law.

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

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

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

34
35 6-13-1404. Conditions under which the State Board of Education may
36 consolidate school districts.

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

4 (1) The State Board of Education, after providing thirty (30)
5 days written notice to the affected school districts, determines
6 consolidation is in the best interest of the affected district or districts
7 and the resulting district based upon failure to meet standards of
8 accreditation, academic or fiscal distress requirements pursuant to The
9 Quality Education Act of 1983, § 6-15-201, et seq., the Arkansas
10 Comprehensive Testing, Assessment, and Accountability Program Act, § 6-15-
11 401, et seq., and the Arkansas Fiscal Assessment and Accountability Program,
12 § 6-20-1901, et seq.; or

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

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

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

21 ~~(2)(5)~~ A majority of the qualified electors in the affected
22 districts votes to approve consolidation of the affected districts into a
23 resulting district or districts pursuant to a valid election as provided for
24 in § 6-14-122; ~~and~~

25 ~~(3)(6)~~ The local board of directors votes to approve by
26 resolution of a majority of the members of each local board of education the
27 consolidation of the affected districts into a resulting district or
28 districts.

29 (b) The state board:

30 (1) After providing thirty (30) days written notice to the
31 affected school districts, may consolidate school districts upon its own
32 motion based upon a school district's failure to meet standards of
33 accreditation, academic or fiscal distress requirements pursuant to The
34 Quality Education Act of 1983, § 6-15-201, et seq., the Arkansas
35 Comprehensive Testing, Assessment, and Accountability Program Act, § 6-15-
36 401, et seq., and the Arkansas Fiscal Assessment and Accountability Program,

1 § 6-20-1901, et seq.; or

2 (2) May ~~may~~ vote to approve by a majority of a quorum present of
3 the members of the state board the consolidation of the affected districts
4 into a resulting district upon receipt of a valid petition for consolidation,
5 after receiving proof from the petitioning party of at least one (1) of the
6 required conditions set forth in subsection (a) of this section, and upon
7 receipt of proof of the issuance of public notice of the intent to
8 consolidate affected districts into a resulting district or districts in the
9 local newspapers of general circulation in the affected districts for a time
10 period of no less than once a week for two (2) consecutive weeks immediately
11 prior to the time the petition is filed with the state board.

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

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

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

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

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

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

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

36 (1) The consolidation will result in the overall improvement in

1 the educational benefit to students in all the school districts involved; or
 2 (2) The consolidation will provide a significant advantage in
 3 transportation costs or service to all the school districts involved.

4
 5 6-13-1405. Effective date of annexation or consolidation.

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

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

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

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

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

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

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

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

35 ~~(b)~~(2) Each board of directors of the affected districts by
 36 majority approval of the members of the local board may enter into a written

1 agreement executed by the former president and secretary of each district.
 2 The agreement shall prescribe the date of the annexation of the affected
 3 district or districts to the receiving district or the formation of the
 4 resulting district from consolidation of affected districts-;

5 ~~(c)(3)~~ The agreement shall also prescribe the number of members
 6 of the board of directors of the resulting district ~~as provided for in § 6-~~
 7 ~~13-1205 (repealed)~~ as allowed by law; and

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

11
 12 SECTION 20. Arkansas Code § 6-13-1409 is amended to read as follows:
 13 6-13-1409. State Board of Education.

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

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

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

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

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

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

34 ~~(B) Enter into a bond with good and sufficient surety~~
 35 ~~thereon in such sum as shall be ordered by the state board, not to exceed~~
 36 ~~twice the amount of property tax revenues involved in the appeal.~~

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

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

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

9 6-13-1410. Appeal and election.

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

14
15 SECTION 22. Arkansas Code, Title 6, Chapter 20, Subchapter 16 is
16 repealed.

17 ~~6-20-1601. Purpose.~~

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

22
23 ~~6-20-1602. Definitions.~~

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

27 ~~(1) The Arkansas Writing Assessment;~~

28 ~~(2) The Stanford 8 Achievement Test;~~

29 ~~(3) The exit examination administered by the department; or~~

30 ~~(4) Any other test approved by the department.~~

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

33 ~~(1) Has a steadily declining balance;~~

34 ~~(2) Has not complied with the audit requirements in § 6-20-301~~
35 ~~et seq.;~~

36 ~~(3) Has failed to comply with a statute that automatically~~

1 ~~places the school district in fiscal distress; or~~

2 ~~(4) Has any other fiscal condition deemed to have a detrimental~~
3 ~~negative impact on continuation of educational services.~~

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

7
8 ~~6-20-1603. Rules and regulations—State Board of Education.~~

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

13 ~~(b)(1) The state board shall further promulgate rules and regulations~~
14 ~~by which a school district shall be classified as a Phase I, Phase II, or~~
15 ~~Phase III district and by which a local school board may appeal to the state~~
16 ~~board any ruling by the Department of Education that is relative to~~
17 ~~classification under this subchapter.~~

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

20
21 ~~6-20-1604. Rules and regulations—Department of Education.~~

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

30
31 ~~6-20-1605. Identification of districts in distress.~~

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

1 ~~or fiscal distress.~~

2
3 ~~6-20-1606. School improvement plan.~~

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

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

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

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

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

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

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

24
25 ~~6-20-1607. Classification of school districts in distress.~~

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

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

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

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

1 ~~work directly with the districts.~~

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

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

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

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

17
18 ~~6-20-1608. Limitation on Department of Education's authority.~~

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

21
22 ~~6-20-1609. Phase III school districts.~~

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

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

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

36 ~~(2) To have all the powers and duties of the local school board~~

1 ~~under § 6-13-620;~~

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

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

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

10 ~~(6) To turn the administration of the district over to the~~
11 ~~former board or to a newly elected school board; and~~

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

15
16 ~~6-20-1610. Annexation—Appeals.~~

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

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

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

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

31
32 SECTION 23. Effective Date.

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

35
36 /s/ Green, et al

APPROVED: 04/17/2003