

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 798 of the Regular Session

As Engrossed: H3/20/09 H3/25/09

A Bill

1 State of Arkansas
2 87th General Assembly
3 Regular Session, 2009

HOUSE BILL 2170

4
5 By: Representatives Carnine, Abernathy, B. Wilkins, G. Smith, McCrary
6 By: Senator J. Jeffress

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9 **For An Act To Be Entitled**

10 AN ACT TO PROVIDE INTERVENTION AND PROFESSIONAL
11 CONSULTATION UPON EARLY INDICATORS OF THE FISCAL
12 DISTRESS OR FACILITIES DISTRESS OF A PUBLIC
13 SCHOOL DISTRICT; AND FOR OTHER PURPOSES.

14
15 **Subtitle**

16 TO PROVIDE FOR INTERVENTION AND
17 PROFESSIONAL CONSULTATION UPON EARLY
18 INDICATORS OF THE FISCAL DISTRESS OR
19 FACILITIES DISTRESS OF A PUBLIC SCHOOL
20 DISTRICT.

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

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25 SECTION 1. Arkansas Code § 6-20-1904 is amended to read as follows:
26 6-20-1904. Indicators of fiscal distress.

27 (a) ~~Any~~ A school district meeting any of the following criteria may be
28 identified by the Department of Education to be a school district in fiscal
29 distress upon final approval by the State Board of Education:

30 (1)(A) A declining balance determined to jeopardize the fiscal
31 integrity of a school district.

32 (B) However, capital outlay expenditures for academic
33 facilities from a school district balance shall not be used to put the school
34 district in fiscal distress;

35 (2) ~~Any~~ An act or violation determined to jeopardize the fiscal



1 integrity of a school district, ~~including, but not limited to~~ including
2 without limitation:

3 (A) Material failure to properly maintain school
4 facilities;

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

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

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

11 (E) Material failure to provide timely and accurate
12 legally required financial reports to the department, the Division of
13 Legislative Audit, the General Assembly, or the Internal Revenue Service;

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

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

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

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

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

24 (K) Material failure to comply with audit requirements; or

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

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

31 (b)(1) By August 31 of each year, the department shall report to the
32 superintendent of a school district if the department is aware that the
33 school district has experienced two (2) or more indicators of fiscal distress
34 in one (1) school year that the department deems to be at a nonmaterial
35 level, but that without intervention could place the district in fiscal
36 distress.

1 (2) The superintendent of a school district shall report to the
2 department if the superintendent is aware the school district has experienced
3 two (2) or more indicators of fiscal distress in one (1) school year that the
4 superintendent deems to be at a nonmaterial level, but that without
5 intervention could place the district in fiscal distress.

6 (3)(A) The department and the superintendent shall review all
7 data related to the nonmaterial indicators of fiscal distress.

8 (B)(i) Within thirty (30) days of the department's
9 determination that the school district may be experiencing fiscal distress at
10 a nonmaterial level, the department shall provide a notice to the school
11 district's superintendent and board of directors that:

12 (a) Describes the nonmaterial indicators of
13 fiscal distress that could jeopardize the fiscal integrity of the school
14 district if not addressed; and

15 (b) Identifies the support available from the
16 department to address each nonmaterial indicator of fiscal distress.

17 (ii) The board of directors shall place on the
18 agenda for the next regularly scheduled meeting of the board of directors a
19 discussion of the notice of nonmaterial indicators of fiscal distress.

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21 SECTION 2. Arkansas Code § 6-21-811(b), concerning facilities distress
22 indicators, is amended to read as follows:

23 (b)(1) The division shall provide written notice, via certified mail,
24 return receipt requested, to the president of the school board of directors
25 and the superintendent of the public school or school district identified as
26 being in facilities distress.

27 (c)(1) By August 31 of each year, the division shall notify the
28 superintendent of a school district if the division is aware the school
29 district has experienced two (2) or more indicators of facilities distress in
30 one (1) school year that the division deems to be nonmaterial, but that
31 without intervention could place the district in facilities distress.

32 (2) The superintendent of a school district shall report to the
33 division if the superintendent is aware the school district has experienced
34 two (2) or more indicators of facilities distress in one (1) school year that
35 the superintendent deems to be nonmaterial, but that without intervention
36 could place the district in facilities distress.

1 (3)(A) The division and the superintendent shall review all data
2 related to the nonmaterial indicators of facilities distress.

3 (B)(i) Within thirty (30) days of the division's
4 determination that the school district may be experiencing facilities
5 distress at a nonmaterial level, the division shall provide a notice to the
6 school district's superintendent and board of directors that:

7 (a) Describes the nonmaterial indicators of
8 facilities distress that could have a detrimental impact on educational
9 services provided by the affected public school or the school district if not
10 addressed; and

11 (b) Identifies the support available from the
12 division to address each nonmaterial indicator of facilities distress.

13 (ii) The board of directors shall place on the
14 agenda for the next regularly scheduled meeting of the board of directors a
15 discussion of the notice of nonmaterial indicators of facilities distress.

16 (4)(A) If any condition of an academic facility raises a
17 significant health or safety issue, the superintendent of the school district
18 where the academic facility is located or the person responsible for the
19 management of the academic facility shall immediately notify the division and
20 the board of directors of the school district.

21 (B) The board of directors shall place on the agenda for
22 the next regularly scheduled meeting of the board of directors a discussion
23 of the notice of the significant health or safety issue.

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25 /s/ Carnine

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27 APPROVED: 4/3/2009