

Stricken language would be deleted from and underlined language would be added to present law.
Act 600 of the Regular Session

1 State of Arkansas
2 89th General Assembly
3 Regular Session, 2013
4

As Engrossed: H3/11/13
A Bill

HOUSE BILL 1770

5 By: Representatives Perry, D. Altes, Branscum, Carnine, Catlett, Clemmer, Collins, Copenhaver, Dale,
6 Deffenbaugh, J. Dickinson, Eubanks, Farrer, Fielding, Hobbs, Hodges, Holcomb, Jett, Lampkin, Leding,
7 Lowery, Magie, McCrary, Ratliff, Richey, T. Thompson, Wardlaw, D. Whitaker, Word, Wren, *E.*
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9 By: Senators J. Key, Bledsoe, E. Cheatham, J. Dismang, J. English, Hester, Holland, Irvin, D. Johnson, U.
10 Lindsey, Maloch, B. Pierce, Rapert, B. Sample, Teague, R. Thompson, E. Williams, *Bookout, Caldwell,*
11 *Files, J. Hutchinson, B. King, D. Sanders, G. Stubblefield, J. Woods, D. Wyatt*
12

13 **For An Act To Be Entitled**

14 AN ACT TO EXTEND THE TIME FOR WHICH A PUBLIC SCHOOL
15 OR SCHOOL DISTRICT MAY BE CLASSIFIED AS IN ACADEMIC,
16 FISCAL, OR FACILITIES DISTRESS; TO ALLOW A PUBLIC
17 SCHOOL TO BE CLASSIFIED AS IN ACADEMIC DISTRESS; TO
18 MODIFY THE CRITERIA, SANCTIONS, AND PROCEDURES FOR A
19 PUBLIC SCHOOL OR SCHOOL DISTRICT IN ACADEMIC, FISCAL,
20 OR FACILITIES DISTRESS; TO PROVIDE FOR CAPACITY
21 BUILDING AND INTERIM LEADERSHIP IN A PUBLIC SCHOOL OR
22 SCHOOL DISTRICT IN ACADEMIC, FISCAL, OR FACILITIES
23 DISTRESS; TO AMEND THE ARKANSAS OPPORTUNITY PUBLIC
24 SCHOOL CHOICE ACT OF 2004; TO CLARIFY THE TERMINOLOGY
25 OF THE ACADEMIC FACILITIES DISTRESS PROGRAM; TO
26 DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

27
28
29 **Subtitle**

30 TO AMEND PROVISIONS OF LAW CONCERNING
31 ACADEMIC, FISCAL, AND FACILITIES DISTRESS
32 OF PUBLIC SCHOOLS AND SCHOOL DISTRICTS;
33 AND TO DECLARE AN EMERGENCY.
34

35
36 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:



1
2 SECTION 1. Arkansas Code § 6-15-419(32), concerning the definition of
3 "school district in academic distress" is amended to read as follows:

4 (32) "School or school district in academic distress" means any
5 public school or school district failing to meet the minimum level of
6 academic achievement on the state-mandated augmented, criterion-referenced,
7 or norm-referenced assessments as required by the state board in the program;

8
9 SECTION 2. Arkansas Code § 6-15-425 is amended to read as follows:

10 6-15-425. School improvement or academic distress.

11 ~~(a) Those public individual schools~~ A public school or school district
12 identified by the Department of Education as failing to meet established
13 levels of academic achievement shall be classified as being in:

14 (1) ~~school~~ School improvement as required by the Arkansas
15 Comprehensive Testing, Assessment, and Accountability Program, § 6-15-401, et
16 seq., rules and regulations;

17 (2) Academic distress as required under § 6-15-428 – 6-15-431;
18 or

19 ~~(b)(3) Those public school districts identified by the~~
20 ~~department as failing to meet established levels of academic achievement~~
21 ~~shall be classified as being either in school improvement or academic~~
22 ~~distress, or both, Both,~~ Both, as required by the applicable program rules and
23 regulations.

24
25 SECTION 3. Arkansas Code § 6-15-428 is amended to read as follows:

26 6-15-428. Academic distress identification, notification,
27 classification, and appeal.

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

33 (b) Any school district identified or in which a public school is
34 identified in academic distress may appeal to the state board by filing a
35 written appeal with the Commissioner of Education via certified mail, return
36 receipt requested, within thirty (30) calendar days of receipt of the written

1 notice of academic distress status from the department.

2 (c)(1) The state board shall hear the appeal of the school district
3 within sixty (60) days of receipt of the written appeal in the commissioner's
4 office.

5 (2) The state board's determination shall be final except that a
6 school district may appeal to Pulaski County Circuit Court under the Arkansas
7 Administrative Procedure Act, § 25-15-201 et seq.

8 ~~Those school districts~~ A school district or public school
9 identified by the department as being in academic distress shall be
10 classified as a school district or public school in academic
11 distress upon final determination by the state board.

12
13 SECTION 4. Arkansas Code § 6-15-429 is amended to read as follows:

14 6-15-429. Academic distress – Required action.

15 (a) ~~A Except as provided under subdivision (b)(3)(B) of this section~~
16 and § 6-15-430(d), a public school or school district identified as in
17 “academic distress” shall have no more than ~~two (2)~~ five (5) consecutive
18 school years from the date of ~~receipt of notice of identification from the~~
19 ~~Department of Education~~ classification of academic distress status to be
20 removed from academic distress status.

21 (b)(1) The State Board of Education may at any time take enforcement
22 action on any school district in academic distress status, ~~including, but not~~
23 ~~limited to,~~ including without limitation annexation, consolidation, or
24 reconstitution of a school district pursuant to § 6-13-1401 et seq. and the
25 authority of this subchapter, ~~except no.~~

26 (2) The state board may take enforcement action at any time on a
27 public school in academic distress under this subchapter.

28 (3)(A) Except as provided under subdivision (b)(3)(B) of this
29 section and § 6-15-430(d), a public school or school district shall not be
30 allowed to remain in academic distress status for a time period greater than
31 ~~two (2)~~ five (5) consecutive school years from the date of ~~receipt of notice~~
32 ~~of identification~~ classification of academic distress ~~from the department~~
33 status.

34 (B) The state board may grant additional time for a public
35 school or school district to remove itself from academic distress by issuing
36 a written finding supported by a majority of the state board explaining in

1 detail that the public school or school district could not remove itself from
 2 academic distress during the relevant time period due to impossibility caused
 3 by external forces beyond the control of the public school or school
 4 district.

5 (c) If a public school or school district classified as being in
 6 academic distress fails to be removed from academic distress status within
 7 the allowed ~~two-year~~ five-year time period and has not been granted
 8 additional time under subdivision (b)(3)(B) of this section, the state board
 9 shall annex, consolidate, or reconstitute the ~~academic distress public school~~
 10 or school district prior to before July 1 of the next school year ~~unless the~~
 11 ~~state board, at its discretion, issues a written finding supported by a~~
 12 ~~majority of the state board explaining in detail that the school district~~
 13 ~~could not remove itself from academic distress during the relevant time~~
 14 ~~period due to impossibility caused by external forces beyond the school~~
 15 ~~district's control.~~

16
 17 SECTION 5. Arkansas Code § 6-15-430 is amended to read as follows:

18 6-15-430. State Board of Education authority over ~~school~~ a public
 19 school or school district in academic distress.

20 ~~The State Board of Education shall have the following authority~~
 21 ~~regarding any public~~ If a school district is classified as being in academic
 22 distress, the State Board of Education may:

23 (1) ~~To require the superintendent of the school district to~~
 24 ~~relinquish all authority with respect to the school district and to appoint~~
 25 ~~an individual to administratively operate the school district under the~~
 26 ~~supervision of the Commissioner of Education, with the cost to be paid from~~
 27 ~~school district funding~~ Remove permanently, reassign, or suspend on a
 28 temporary basis the superintendent of the school district and:

29 (A) Appoint an individual in place of the superintendent
 30 to administratively operate the school district under the supervision and
 31 approval of the Commissioner of Education; and

32 (B) Compensate from school district funds the individual
 33 appointed to operate the school district;

34 (2) ~~To suspend~~ Suspend or remove some or all of the current
 35 board of directors and call for the election of a new school board of
 36 directors for the school district, in which case the school district shall

1 reimburse the county board of election commissioners for election costs as
2 otherwise required by law;

3 (3) ~~To allow~~ Require the school district to operate without ~~the~~
4 ~~local school~~ a board of directors under the supervision of the local school
5 ~~district administration~~ superintendent or an ~~administration-chosen~~ individual
6 or panel appointed by the ~~Commissioner of Education~~ commissioner;

7 (4) ~~To waive~~ Waive the application of Arkansas law, with the
8 exception of the Teacher Fair Dismissal Act of 1983, § 6-17-1501 et seq., and
9 the Public School Employee Fair Hearing Act, § 6-17-1701 et seq., or the
10 ~~Department of Education~~ corresponding state board rules and regulations;

11 (5) ~~To require~~ Require the annexation, consolidation, or
12 reconstitution of the ~~public~~ school district; ~~and~~

13 (6) In the absence of a board of directors, direct the
14 commissioner to assume all authority of the board of directors as may be
15 necessary for the day-to-day governance of the school district;

16 (7) Return the administration of the school district to the
17 former board of directors or to a newly elected board of directors if:

18 (A) The department certifies in writing to the state board
19 and to the school district that the school district has corrected all issues
20 that caused the classification of academic distress; and

21 (B) The state board determines that the school district
22 has corrected all issues that caused the classification of academic distress;
23 and

24 ~~(6)-(8)~~ To take Take any other necessary and proper action, as
25 determined by the state board, that is allowed by law.

26 (b) If a public school is classified as being in academic distress,
27 the state board may:

28 (1) Require the reorganization of the public school or
29 reassignment of the administrative, instructional, or support staff of the
30 public school;

31 (2) Require the public school to institute and fully implement a
32 student curriculum and professional development for teachers and
33 administrators that are based on state academic content and achievement
34 standards, with the cost to be paid by the school district in which the
35 public school is located;

36 (3) Require the principal of the public school to relinquish all

1 authority with respect to the public school;

2 (4) Waive the application of Arkansas law or the corresponding
3 state board rules, with the exception of:

4 (A) The Teacher Fair Dismissal Act of 1983, § 6-17-1501 et
5 seq.; and

6 (B) The Public School Employee Fair Hearing Act, § 6-17-
7 1701 et seq.;

8 (5) Under The Teacher Fair Dismissal Act of 1983, § 6-17-1501 et
9 seq., reassign or remove some or all of the licensed personnel of the public
10 school and replace them with licensed personnel assigned or hired under the
11 supervision of the commissioner;

12 (6) Remove the public school from the jurisdiction of the school
13 district in which the public school is located and establish alternative
14 public governance and supervision of the public school;

15 (7) Require closure or dissolution of the public school;

16 (8)(A) Remove permanently, reassign, or suspend on a temporary
17 basis the superintendent of the school district in which the public school is
18 located.

19 (B) If the state board takes an action under subdivision
20 (b)(8)(A), it may appoint an individual in place of the superintendent to
21 administratively operate the school district under the supervision and
22 approval of the commissioner and compensate the appointed individual;

23 (9) Take one (1) or more of the actions under subsection (a) of
24 this section concerning the public school district where the school is
25 located;

26 (10) Return the administration of the school district to the
27 former board of directors or to a newly elected board of directors if:

28 (A) The department certifies in writing to the state board
29 and to the school district that the public school has corrected all issues
30 that caused the classification of academic distress and that no public school
31 within the school district is classified as being in academic distress; and

32 (B) The state board determines the public school has
33 corrected all issues that caused the classification of academic distress and
34 that no public school within the school district is classified as being in
35 academic distress; and

36 (11) Take any other appropriate action allowed by law that the

1 state board determines is needed to assist and address a public school
2 classified as being in academic distress.

3 ~~(b)(1)(c)~~ Any A student attending a public school or school district
4 classified as being in academic distress ~~shall~~ is automatically ~~be~~ eligible
5 and entitled pursuant to the ~~Arkansas Public School Choice Act of 1989, § 6-~~
6 ~~18-206~~ Arkansas Opportunity Public School Choice Act of 2004, § 6-18-227, to
7 transfer to another ~~geographically contiguous~~ public school or public school
8 district not in academic distress during the time period that ~~a~~ the resident
9 public school or public school district is classified as being in academic
10 distress and, ~~therefore, not be required to file a petition by July 1 but~~
11 ~~shall meet all other requirements and conditions of the Arkansas Public~~
12 ~~School Choice Act of 1989, § 6-18-206.~~

13 (2) The cost of transporting the student from the resident
14 district to the nonresident district shall be the cost of the resident
15 district under § 6-18-227.

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

18 (d) If the state board or the commissioner assumes authority over a
19 public school district in academic distress under subsection (a) or
20 subsection (b) of this section, the state board may pursue the following
21 process for returning a public school district to the local control of its
22 residents:

23 (1) During the second school year following a public school's or
24 school district's classification of academic distress status, the state board
25 shall determine the extent of the public school's or school district's
26 progress toward correcting all criteria for being classified as in academic
27 distress;

28 (2)(A) If the state board determines that sufficient progress
29 has been made by a public school or school district in academic distress
30 toward correcting all issues that caused the classification of academic
31 distress, but the public school or school district has not yet resolved all
32 issues that caused the classification of academic distress, the commissioner,
33 with the approval of the state board, may appoint a community advisory board
34 of either five (5) or seven (7) members to serve under the supervision and
35 direction of the commissioner.

36 (B) The members of the community advisory board shall be

1 residents of the school district and shall serve on a voluntary basis without
2 compensation.

3 (C) the department shall cause to be provided to the
4 community advisory board technical assistance and training in, at a minimum,
5 the areas required in § 6-13-629.

6 (D) The duties of a community advisory board include
7 without limitation:

8 (i) Meeting monthly during a regularly scheduled
9 public meeting with the state-appointed administrator regarding the progress
10 of the public school or school district toward correcting all issues that
11 caused the classification of academic distress;

12 (ii) Seeking community input from the residents of
13 the school district regarding the progress of the public school or school
14 district toward correcting all issues that caused the classification of
15 academic distress;

16 (iii) Conducting hearings and making recommendations
17 to the commissioner regarding personnel and student discipline matters under
18 the appropriate district policies;

19 (iv) Working to build community capacity for the
20 continued support of the school district; and

21 (v) Submitting quarterly reports to the commissioner
22 and the state board regarding the progress of the public school or school
23 district toward correcting all issues that caused the classification of
24 academic distress.

25 (E) The members of the community advisory board shall
26 serve at the pleasure of the commissioner until:

27 (i) The school district is returned to local control
28 and a permanent board of directors is elected and qualified; or

29 (ii) The state board annexes, consolidates, or
30 reconstitutes the school district under this section or under another
31 provision of law;

32 (3)(A) By April 1 of each year following the appointment of a
33 community advisory board under subdivision (d)(2) of this section, the state
34 board shall determine the extent of the public school's or school district's
35 progress toward correcting all issues that caused the classification of
36 academic distress and shall:

1 (i) Allow the community advisory board to remain in
2 place for one (1) additional year;

3 (ii) Return the school district to local control by
4 calling for the election of a newly elected board of directors if:

5 (a) The department certifies in writing to the
6 state board and to the school district that the public school or school
7 district has corrected all issues that caused the classification of academic
8 distress and that no public school within the school district is classified
9 as being in academic distress; and

10 (b) The state board determines the public
11 school or school district has corrected all issues that caused the
12 classification of academic distress and that no public school within the
13 school district is classified as being in academic distress; or

14 (iii) Annex, consolidate, or reconstitute the school
15 district pursuant to this title.

16 (B) If the state board calls for an election of a new
17 school district board of directors, the school district shall reimburse the
18 county board of election commissioners for election costs as otherwise
19 required by law.

20 (4) If the state board calls for an election of a new school
21 district board of directors pursuant to subdivision (d)(3)(A)(ii) of this
22 section, the commissioner, with the approval of the state board, may appoint
23 an interim board of directors to govern the school district until a permanent
24 school district board of directors is elected and qualified.

25 (A) The interim board of directors shall consist of either
26 five (5) or seven (7) members.

27 (B) The members of the interim board of directors shall be
28 residents of the school district and otherwise eligible to serve as school
29 board members under applicable law.

30 (C) The members of the interim board of directors shall
31 serve on a voluntary basis without compensation.

32 (e)(1) If, by the end of the fifth school year following the public
33 school's or school district's classification of academic distress status, the
34 public school or school district in academic distress has not corrected all
35 issues that caused the classification of academic distress, the state board,
36 after a public hearing, shall consolidate, annex, or reconstitute the school

1 district under this section.

2 (2) The state board may grant additional time for a public
3 school or school district to remove itself from academic distress by issuing
4 a written finding supported by a majority of the state board explaining in
5 detail that the public school or school district could not remove itself from
6 academic distress during the relevant time period due to impossibility caused
7 by external forces beyond the control of the public school or school
8 district.

9 (f) Nothing in this section shall be construed to prevent the
10 department or the state board from taking any of the actions listed in this
11 section at any time to address public schools and school districts in
12 academic distress.

13
14 SECTION 6. Arkansas Code § 6-15-431(a), concerning academic distress
15 rules and regulations, is amended to read as follows:

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

19
20 SECTION 7. Arkansas Code § 6-18-227(a)(2), concerning the Arkansas
21 Opportunity Public School Choice Act of 2004, is amended to read as follows:

22 (2)(A) The purpose of this section is to provide enhanced
23 opportunity for students in this state to gain the knowledge and skills
24 necessary for postsecondary education, a technical education, or the world of
25 work.

26 (B) The General Assembly:

27 (i) Recognizes that the Arkansas Constitution, as
28 interpreted by the Arkansas Supreme Court in Lake View School District No. 25
29 v. Huckabee, 351 Ark. 31 (2002), makes education a paramount duty of the
30 state;

31 (ii) Finds that the Arkansas Constitution requires
32 the state to provide an adequate education;

33 (iii) Further finds that a student should not be
34 compelled against the wishes of the parent, guardian, or the student, if the
35 student is over eighteen (18) years of age, to remain in a public school or
36 school district designated as a level 1 school under § 6-15-2103 for two (2)

1 ~~or more consecutive years~~ classified by the State Board of Education as a
2 public school or school district in academic distress under § 6-15-428; and

3 (iv) Shall make available a public school choice
4 option in order to give a child the opportunity to attend a public school or
5 school district that is ~~performing satisfactorily~~ not in academic distress.

6 ~~(C) This section shall take effect with the implementation~~
7 ~~of school performance category levels.~~

8
9 SECTION 8. Arkansas Code § 6-18-227(a)(4), concerning the Arkansas
10 Opportunity Public School Choice Act of 2004, is amended to read as follows:

11 (4) A public school choice program is hereby established to
12 enable any student to transfer from a ~~failing school to another public school~~
13 ~~in the state~~ public school or school district classified by the state board
14 as in academic distress to another public school or school district in the
15 state that is not in academic distress, subject to the restrictions contained
16 in this section.

17
18 SECTION 9. Arkansas Code § 6-18-227(b)(1), concerning the Arkansas
19 Opportunity Public School Choice Act of 2004, is amended to read as follows:

20 (b)(1) Upon the request of a parent, guardian, or the student, if the
21 student is over eighteen (18) years of age, a student may transfer from his
22 or her resident district or public school to another district or public
23 school in accordance with the provisions of this section if:

24 (A) The resident public school or school district has been
25 ~~designated pursuant to § 6-15-2103 as a level 1 school for two (2) or more~~
26 ~~consecutive school years~~ classified by the state board as a public school or
27 school district in academic distress; and

28 (B) The parent, guardian, or the student, if the student
29 is over eighteen (18) years of age, has notified the Department of Education
30 and both the sending and receiving school districts of the request for a
31 transfer no later than July 30 of the first year in which the student intends
32 to transfer.

33
34 SECTION 10. Arkansas Code § 6-18-227(b)(3)(A) and (B), concerning the
35 Arkansas Opportunity Public School Choice Act of 2004, is amended to read as
36 follows:

1 (3)(A) For each student enrolled in or assigned to a public
2 school or school district that has been classified by the state board as
3 being in academic distress ~~designated as a level 1 school for two (2) or more~~
4 ~~consecutive school years~~, a school district shall:

5 (i) Timely notify the parent, guardian, or the
6 student, if the student is over eighteen (18) years of age, as soon as
7 practicable after the designation is made, of all options available pursuant
8 to this section; and

9 (ii) Offer the parent, guardian, or the student, if
10 the student is over eighteen (18) years of age, an opportunity to enroll the
11 student in any public school or school district that has not been ~~designated~~
12 ~~by the state pursuant to § 6-15-2103 as a school performing higher than that~~
13 ~~in which the student is currently enrolled or to which the student has been~~
14 ~~assigned, but not less than annual performance category level 3~~ classified by
15 the state board as being in academic distress. The opportunity to continue
16 attending the ~~higher performing~~ public school or school district that is not
17 in academic distress shall remain in force until the student graduates from
18 high school.

19 (B)(i) The parent or guardian of a student enrolled in or
20 assigned to a public school or school district that has been ~~designated as a~~
21 ~~school in level 1 under § 6-15-2103 for two (2) or more consecutive years~~
22 classified by the state board as being in academic distress may choose as an
23 alternative to enroll the student in a legally allowable ~~category level 3 or~~
24 ~~higher performing~~ public school not in academic distress that is nearest to
25 the student's legal residence.

26 (ii) That school or school district shall accept the
27 student and report the student for purposes of the funding pursuant to
28 applicable state law.

29
30 SECTION 11. Arkansas Code § 6-18-227(c)(2), concerning the Arkansas
31 Opportunity Public School Choice Act of 2004, is amended to read as follows:

32 (2) Upon the transferring public school or school district's
33 removal from academic distress status ~~receiving a category level 3 or higher~~
34 ~~for its annual performance~~, the transportation costs shall no longer be the
35 responsibility of the transferring district, and the student's transportation
36 and the costs of the transportation shall be the responsibility of the

1 parents or the receiving school district if the receiving school district
2 agrees to bear the transportation costs.

3
4 SECTION 12. Arkansas Code § 6-18-227(i), concerning the Arkansas
5 Opportunity Public School Choice Act of 2004, is amended to read as follows:

6 (i) For purposes of determining a school district's state ~~equalization~~
7 ~~aid~~ funding, the nonresident student shall be counted as a part of the
8 average daily membership of the district to which the student has
9 transferred.

10
11 SECTION 13. Arkansas Code § 6-20-1908(d) through (f), concerning the
12 fiscal distress improvement plans, is amended to read as follows:

13 (d) ~~No~~ Except under § 6-20-1910(d), a school district shall not be
14 allowed to remain in fiscal distress status for more than ~~two (2)~~ five (5)
15 consecutive school years from the date that the school district was
16 classified as being in fiscal distress status.

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

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

23 (2) The written recommendations of the department shall be
24 binding on the school district, the superintendent, and the school district
25 board of directors.

26
27 SECTION 14. Arkansas Code § 6-20-1908(i), concerning the fiscal
28 distress improvement plans, is amended to read as follows:

29 (i) ~~The~~ Except under § 6-20-1910(d), the state board shall
30 consolidate, annex, or reconstitute any school district that fails to remove
31 itself from the classification of a school district in fiscal distress within
32 ~~two (2)~~ five (5) consecutive school years of ~~receipt of notice of~~
33 ~~identification~~ classification of fiscal distress status ~~by the department~~
34 unless the state board, at its discretion, issues a written finding supported
35 by a majority of the state board, explaining in detail that the school
36 district could not remove itself from fiscal distress due to impossibility

1 caused by external forces beyond the school district's control.

2
3 SECTION 15. Arkansas Code § 6-20-1909(a), concerning department fiscal
4 distress actions, is amended to read as follows:

5 (a) In addressing school districts in fiscal distress, the ~~Department~~
6 Commissioner of Education may:

7 (1) ~~Require the superintendent to relinquish all administrative~~
8 ~~authority with respect to the school district; Remove permanently, reassign,~~
9 or suspend on a temporary basis the superintendent of the school district
10 and:

11 ~~(2)(A)~~ (A) Appoint an individual in place of the superintendent to
12 administratively operate the school district under the supervision and
13 approval of the ~~Commissioner of Education~~ commissioner; and

14 ~~(B) to compensate~~ Compensate nondepartment agents
15 operating the school district from school district funding;

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

21 ~~(3) Call for the temporary suspension of the local school board~~
22 ~~of directors;~~

23 ~~(4)(3)~~ (3) Require the school district to operate without a ~~local~~
24 ~~school~~ board of directors under the supervision of the local superintendent
25 or an individual or panel appointed by the commissioner;

26 (4) Waive the application of Arkansas law or the corresponding
27 state board rules, with the exception of:

28 (A) The Teacher Fair Dismissal Act of 1983, § 6-17-1501 et
29 seq.; and

30 (B) The Public School Employee Fair Hearing Act, § 6-17-
31 1701 et seq.;

32 (5) Petition the State Board of Education for the annexation,
33 consolidation, or reconstitution of the school district;

34 (6) In the absence of a school district board of directors,
35 assume all authority of the board of directors as designated by the state
36 board as may be necessary for the day-to-day governance of the school

1 district;

2 ~~(5)~~(7)(A) Place Return the administration of the school district
3 ~~over~~ to the former board of directors or to a newly elected ~~school~~ board of
4 directors; ~~or~~ if:

5 (i) The department certifies in writing to the state
6 board and to the school district that the school district has corrected all
7 issues that caused the classification of fiscal distress; and

8 (ii) The state board determines the school district
9 has corrected all issues that caused the classification of fiscal distress.

10 (B) If the commissioner calls for an election of a new
11 school district board of directors, the school district shall reimburse the
12 county board of election commissioners for election costs as otherwise
13 required by law;

14 (8) Otherwise reconstitute the school district; or

15 ~~(6)~~(9) Take any other action allowed by law that is deemed
16 necessary to assist a school district in removing ~~criteria~~ the classification
17 of fiscal distress.

18

19 SECTION 16. Arkansas Code § 6-20-1910, concerning State Board of
20 Education fiscal distress actions, is amended to add a new subsection to read
21 as follows:

22 (d) If the Commissioner of Education assumes authority over a public
23 school district in fiscal distress under subsection (a) of this section, the
24 state board may pursue the following process for returning a public school
25 district to the local control of its residents:

26 (1) During the second school year following a school district's
27 classification as being in fiscal distress status, the state board shall
28 determine the extent of the school district's progress toward correcting all
29 issues that caused the classification of fiscal distress;

30 (2)(A) If the state board determines that sufficient progress
31 has been made by a school district toward correcting all issues that caused
32 the classification of fiscal distress, but the school district has not yet
33 resolved all issues that caused the classification of fiscal distress, the
34 commissioner, with the approval of the state board, may appoint a community
35 advisory board of either five (5) or seven (7) members to serve under the
36 supervision and direction of the commissioner.

1 (B) The members of the community advisory board shall be
2 residents of the school district and shall serve on a voluntary basis without
3 compensation.

4 (C) The Department of Education shall cause to be provided
5 to the community advisory board technical assistance and training in, at a
6 minimum, the areas required in § 6-13-629.

7 (D) The duties of the community advisory board include
8 without limitation:

9 (i) Meeting monthly during a regularly scheduled
10 public meeting with the state-appointed administrator regarding the progress
11 of the public school or school district toward correcting all issues that
12 caused the classification of fiscal distress;

13 (ii) Seeking community input from the patrons of the
14 school district regarding the progress of the public school or school
15 district toward correcting all issues that caused the classification of
16 fiscal distress;

17 (iii) Conducting hearings and making recommendations
18 to the commissioner regarding personnel and student discipline matters under
19 the appropriate district policies;

20 (iv) Working to build community capacity for the
21 continued support of the school district; and

22 (v) Submitting quarterly reports to the commissioner
23 and the state board regarding the progress of the public school or school
24 district toward correcting all issues that caused the classification of
25 fiscal distress.

26 (E) The members of the community advisory board shall
27 serve at the pleasure of the commissioner until:

28 (i) The school district is returned to local control
29 and a permanent board of directors is elected and qualified; or

30 (ii) The state board annexes, consolidates, or
31 reconstitutes the school district under this section or under another
32 provision of law;

33 (3)(A) By April 1 of each year following the appointment of a
34 community advisory board under subdivision (d)(2) of this section, the state
35 board shall determine the extent of the school district's progress toward
36 correcting all issues that caused the classification of fiscal distress and

1 shall:

2 (i) Allow the community advisory board to remain in
3 place for one (1) additional year;

4 (ii) Return the school district to local control by
5 calling for the election of a newly elected board of directors if:

6 (a) The department certifies in writing to the
7 state board and to the school district that the school district has corrected
8 all criteria for being placed into fiscal distress; and

9 (b) The state board determines the school
10 district has corrected all criteria for being placed into fiscal distress; or

11 (iii) Annex, consolidate, or reconstitute the school
12 district pursuant to this title.

13 (B) If the state board or commissioner calls for an
14 election of a new school district board of directors, the school district
15 shall reimburse the county board of election commissioners for election costs
16 as otherwise required by law;

17 (4) If the state board calls for an election of a new school
18 district board of directors pursuant to subdivision (d)(3)(A)(ii) of this
19 section, the commissioner, with the approval of the state board, may appoint
20 an interim board of directors to govern the school district until a permanent
21 school district board of directors is elected and qualified.

22 (A) The interim board of directors shall consist of either
23 five (5) or seven (7) members.

24 (B) The members of the interim board of directors shall be
25 residents of the school district and otherwise eligible to serve as school
26 board members under applicable law.

27 (C) The members of the interim board of directors shall
28 serve on a voluntary basis without compensation.

29 (e)(1) If, by the end of the fifth school year following the school
30 district's classification of fiscal distress status, the school district in
31 fiscal distress has not corrected all issues that caused the classification
32 of fiscal distress, the state board, after a public hearing, shall
33 consolidate, annex, or reconstitute the school district under this section.

34 (2) The state board may grant additional time for a public
35 school or school district to remove itself from fiscal distress by issuing a
36 written finding supported by a majority of the state board explaining in

1 detail that the public school or school district could not remove itself from
2 fiscal distress during the relevant time period due to impossibility caused
3 by external forces beyond the control of the public school or school
4 district.

5 (f) Nothing in this section shall be construed to prevent the
6 department or the state board from taking any of the actions listed in § 6-
7 20-1909 or this section at any time to address a school district in fiscal
8 distress.

9
10 SECTION 17. Arkansas Code § 6-21-803(5) and (6), concerning the
11 definition of "facilities distress status", is amended to read as follows:

12 (5) "Facilities distress status" means a public school district
13 ~~determined~~ identified by the Division of Public School Academic Facilities
14 and Transportation as being in academic facilities distress status and
15 classified by the Commission for Arkansas Public School Academic Facilities
16 and Transportation as being in academic facilities distress status under this
17 subchapter;

18 (6) "Facilities improvement plan" means a remedial plan
19 developed by a school district for a public school or school district
20 ~~identified~~ classified as being in academic facilities distress that
21 supplements the school district's facilities master plan by:

22 (A) Identifying specific interventions and actions the
23 public school or school district will undertake in order to correct deficient
24 areas of practice with regard to custodial, maintenance, repair, and
25 renovation activities with regard to academic facilities in the school
26 district; and

27 (B) Describing how the school district will remedy those
28 areas in which the school district is experiencing facilities distress,
29 including the designation of the time period by which the school district
30 will correct all deficiencies that placed the school district in facilities
31 distress status;

32
33 SECTION 18. Arkansas Code § 6-21-811(a) and (b), concerning the
34 academic facilities distress program, is amended to read as follows:

35 (a) The Commission for Arkansas Public School Academic Facilities and
36 Transportation shall ~~identify~~ classify a public school or school district as

1 being in academic facilities distress if the Division of Public School
2 Academic Facilities and Transportation recommends and the commission concurs
3 that the public school or school district has engaged in actions or inactions
4 that result in any of the following:

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

8 (A) Material failure to properly maintain academic
9 facilities in accordance with this subchapter and rules adopted by the
10 commission;

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

13 (C) Material violation of applicable building code
14 provisions or law;

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

17 (E) Material failure to comply with state law governing
18 purchasing, bid requirements, or school-construction-related laws or rules in
19 relation to academic facilities projects;

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

22 (G) Material failure to plan and progress satisfactorily
23 toward accomplishing the priorities established by the division and the
24 approved school district's facilities master plan; and

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

29 (b) The division shall provide written notice, via certified mail,
30 return receipt requested, to the president of the ~~school~~ board of directors
31 and the superintendent of the ~~public school or~~ school district identified or
32 containing a school identified by the division as being in facilities
33 distress.

34

35 SECTION 19. Arkansas Code § 6-21-811(d) and (e), concerning the
36 academic facilities distress program, is amended to read as follows:

1 (d)(1) A public school or school district ~~identified~~ classified by the
2 commission as being in facilities distress shall develop a facilities
3 improvement plan within thirty (30) days from the date of ~~receipt of the~~
4 ~~notice~~ classification and promptly submit the facilities improvement plan to
5 the division for review and approval.

6 (2) A public school or school district shall review and revise
7 its facilities improvement plan on a periodic basis as determined by the
8 division and submit the updated facilities improvement plan to the division
9 in order for the division to determine whether the public school or school
10 district is correcting its deficient areas of practice regarding academic
11 facilities.

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

14 (e)(1) Every two (2) years ~~beginning February 1, 2009~~, the division
15 shall determine whether the progress of each school district complies with
16 the school district's facilities master plan and shall notify the school
17 district of any noncompliance.

18 (2) ~~Beginning on February 1, 2008, and each biennium thereafter~~
19 Every two (2) years, the division shall review the applications made for the
20 Academic Facilities Partnership Program established under § 6-20-2507, to
21 identify any school district that did not apply for state funding for
22 necessary facilities to meet adequacy requirements and shall notify the
23 school district of any deficiencies.

24 (3) Within thirty (30) days of receiving the notice provided
25 under subdivision (e)(1) or (e)(2) of this section, the school district shall
26 submit a facilities improvement plan to the division for its review and
27 approval that states how the school district will address the noncompliance
28 issues contained in the notice.

29 (4) If the division does not approve the facilities improvement
30 plan submitted by the school district, it shall identify the school district
31 as being in facilities distress.

32 (5) A school district may appeal the ~~decision~~ identification of
33 the division under this subsection to the commission pursuant to the
34 procedures established by the commission;

35
36 SECTION 20. Arkansas Code § 6-21-811(f)(1)(A)(ii), concerning the

1 academic facilities distress program, is amended to read as follows:

2 (ii) Thoroughly discuss and explain the sanctions
3 and requirements that are available to the commission if the school district
4 or a school within the district is identified classified by the commission as
5 being in facilities distress under this section and § 6-21-812.

6
7 SECTION 21. Arkansas Code § 6-21-811(g), concerning the academic
8 facilities distress program, is amended to read as follows:

9 (g) When a school district is ~~identified~~ classified by the commission
10 to be in facilities distress, the division may with the approval of the
11 commission:

12 (1)(A) Provide on-site technical evaluation and assistance and
13 make written recommendations to the school district superintendent regarding
14 the care and maintenance of any academic facility in the school district.

15 (B) Any school district ~~identified~~ classified as being in
16 facilities distress status shall accept on-site technical evaluation and
17 assistance from the division.

18 (C) The written recommendations of the division are
19 binding on the school district, the superintendent, and the ~~school~~ board of
20 directors;

21 (2) ~~Require the superintendent to relinquish all administrative~~
22 ~~authority with respect to the school district~~ Remove permanently, reassign,
23 or suspend on a temporary basis the superintendent of the school district,
24 and:

25 (A) Appoint an individual in place of the superintendent
26 to administratively operate the school district under the supervision and
27 approval of the Commissioner of Education; and

28 (B) Compensate from school district funds the individual
29 appointed to operate the school district;

30 ~~(3)(A) Appoint an individual in place of the superintendent to~~
31 ~~administratively operate the school district under the supervision and~~
32 ~~approval of the Commissioner of Education, or his or her designee.~~

33 ~~(B) The division may direct the school district to~~
34 ~~compensate from school district funds the individual appointed to operate the~~
35 ~~school district;~~

36 ~~(4)(3) Suspend or remove any some or all ~~members~~ of the current~~

1 board of directors and call for the election of a new ~~school~~ board of
2 directors for the school district, in which case the school district shall
3 reimburse the county board of election commissioners for election costs as
4 otherwise required by law;

5 ~~(5)(4)~~ Require the school district to operate without a ~~local~~
6 ~~school~~ board of directors under the supervision of the ~~local~~ superintendent
7 or an individual or panel appointed by the commissioner;

8 ~~(6)~~ ~~Require the school district to operate without a local~~
9 ~~school board of directors under the supervision of an individual or panel~~
10 ~~appointed by the Commissioner of Education;~~

11 (5) Waive the application of Arkansas law or the corresponding
12 state board rules and regulations, with the exception of:

13 (A) The Teacher Fair Dismissal Act of 1983, § 6-17-1501 et
14 seq.; and

15 (B) The Public School Employee Fair Hearing Act, § 6-17-
16 1701 et seq.;

17 (6) In the absence of a school district board of directors,
18 direct the commissioner to assume all authority of the board of directors as
19 may be necessary for the day-to-day governance of the school district;

20 (7)(A) Return the administration of the school district to the
21 former board of directors or place the administration of the school district
22 in a newly elected ~~school~~ board of directors if:

23 (i) The division certifies in writing to the
24 commission and to the school district that the school district has corrected
25 all issues that caused the classification of facilities distress; and

26 (ii) The commission determines the school district
27 has corrected all issues that caused the classification of facilities
28 distress.

29 (B) If the division calls for an election of a new school
30 district board of directors, the school district shall reimburse the county
31 board of election commissioners for election costs as otherwise required by
32 law;

33 (8) Require school district staff and employees to attend
34 training in areas of concern for the public school or school district;

35 (9)(A) Require a school district to cease all expenditures
36 related to activities not described as part of an adequate education in § 6-

1 20-2302 and place money that would have been spent on the activities into an
2 academic facilities escrow account to be released only upon approval by the
3 division for use in conjunction with a local academic facilities project.

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

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

10 (11)(A) Petition the State Board of Education at any time for
11 the consolidation, annexation, or reconstitution of a school district in
12 facilities distress or take other appropriate action as allowed by this
13 subchapter in order to secure and protect the best interest of the
14 educational resources of the state or to provide for the best interest of
15 students in the school district.

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

18 (C) The Except as set forth in subsection (m) or
19 subdivision (g)(11)(D) of this section, the state board shall consolidate,
20 annex, or reconstitute any school district that fails to remove itself from
21 the classification of a school district in facilities distress within ~~two (2)~~
22 five (5) consecutive school years of ~~receipt of notice of identification~~
23 classification of facilities distress status ~~by the division.~~

24 (D) The state board may grant additional time for a public
25 school or school district to remove itself from facilities distress by
26 issuing a written finding supported by a majority of the state board
27 explaining in detail that the public school or school district could not
28 remove itself from facilities distress during the relevant time period due to
29 impossibility caused by external forces beyond the control of the public
30 school or school district;

31 (12) Correct the failure of a school district to complete its
32 agreed plan or to pass the millage in the special election under subdivision
33 (f)(2) of this section by contracting for and completing the necessary
34 improvements under the agreed plan;

35 (13)(A) If the division recommends and the commission concurs
36 that the academic facilities in the public school district in facilities

1 distress are inadequate to provide an adequate education, the state board may
2 dissolve the school district and transfer students to public schools in other
3 public school districts.

4 (B) The state board shall assign the public school
5 district's territory, property, and debt; and

6 (14) Take any other action allowed by law that is deemed
7 necessary to assist a public school or school district in ~~removing criteria~~
8 correcting the issues that the classification of facilities distress, to
9 secure and protect the best interest of the educational resources of the
10 state, or to provide for the best interest of students in the school
11 district.

12
13 SECTION 22. Arkansas Code § 6-21-811(k)(1)(A), concerning the academic
14 facilities distress program, is amended to read as follows:

15 (k)(1)(A) If a school district is ~~identified~~ classified by the
16 commission as being in facilities distress and has immediate repairs, growth,
17 or suitability improvement issues, the division, in addition to any other
18 remedy under this section and § 6-21-812, may provide a loan to the school
19 district to be repaid from any funds available that are not required to
20 provide an adequate education.

21
22 SECTION 23. Arkansas Code § 6-21-811, concerning the academic
23 facilities distress program, is amended to add two new subsections as
24 follows:

25 (m) If the division or commissioner assumes authority over a public
26 school district in facilities distress under subsection (g) of this section,
27 the commission may pursue the following process for returning a public school
28 district to the local control of its residents:

29 (1) During the second school year following a school district's
30 classification as being in facilities distress status, the commission shall
31 determine the extent of the school district's progress toward correcting all
32 issues that caused the classification of facilities distress;

33 (2)(A) If the commission determines that sufficient progress has
34 been made by a school district toward correcting all criteria for being
35 classified as in facilities distress, but the school district has not yet
36 resolved all issues that caused the classification of facilities distress,

1 the commissioner, with the approval of the commission, may appoint a
2 community advisory board of either five (5) or seven (7) members to serve
3 under the supervision and approval of the commissioner.

4 (B) The members of the community advisory board shall be
5 residents of the school district and shall serve on a voluntary basis without
6 compensation.

7 (C) The Department of Education shall cause to be provided
8 to the community advisory board technical assistance and training in, at a
9 minimum, the areas required in § 6-13-629.

10 (D) The duties of the community advisory board include
11 without limitation:

12 (i) Meeting monthly during a regularly scheduled
13 public meeting with the state-appointed administrator regarding the progress
14 of the school or school district toward correcting all issues that caused the
15 classification of facilities distress;

16 (ii) Seeking community input from the residents of
17 the school district regarding the progress of the school or school district
18 toward correcting all issues that caused the classification of facilities
19 distress;

20 (iii) Conducting hearings and making recommendations
21 to the commissioner regarding personnel and student discipline matters as set
22 forth in the appropriate district policies;

23 (iv) Working to build community capacity for the
24 continued support of the school district; and

25 (v) Submitting quarterly reports to the commissioner
26 and the commission regarding the progress of the school or school district
27 toward correcting all issues that caused the classification of facilities
28 distress.

29 (E) The members of the community advisory board shall
30 serve at the pleasure of the commissioner until:

31 (i) The school district is returned to local control
32 and a permanent school district board of directors is elected and qualified;
33 or

34 (ii) The state board, upon petition of the
35 commission or division annexes, consolidates or reconstitutes the school
36 district pursuant to this title or under another provision of law;

1 (3) By April 1 of each year following the appointment of a
2 community advisory board pursuant to subdivision (m)(2) of this section, the
3 commission shall determine the extent of the school district's progress
4 toward correcting all criteria for being classified as in facilities distress
5 and shall:

6 (A) Allow the community advisory board to remain in place
7 for an additional year;

8 (B) Return the school district to local control by calling
9 for the election of a newly elected school district board of directors if:

10 (i) The division certifies in writing to the
11 commission and to the school district that the school district has corrected
12 all issues that caused the classification of facilities distress; and

13 (ii) The commission determines the school district
14 has corrected all issues that caused the classification of facilities
15 distress.

16 (iii) If the division or commission calls for an
17 election of a new school district board of directors, the school district
18 shall reimburse the county board of election commissioners for election costs
19 as otherwise required by law; or

20 (C) Petition the state board for the annexation,
21 consolidation, or reconstitution of the school district under this section;

22 (4)(A) If the division, with the approval of the commission,
23 calls for an election of a new school district board of directors pursuant to
24 subdivision (g)(7) of this section, the commissioner, with the approval of
25 the commission, may appoint an interim board of directors to govern the
26 school district until a permanent school district board of directors is
27 elected and qualified.

28 (B) The interim board of directors shall consist of either
29 five (5) or seven (7) members.

30 (C) The members of the interim board of directors shall be
31 residents of the school district and otherwise eligible to serve as board
32 members under applicable law.

33 (D) The members of the interim board of directors shall
34 serve on a voluntary basis without compensation.

35 (n)(1) If, by the end of the fifth school year following the school
36 district's classification of facilities distress status, the school district

1 in facilities distress has not corrected all issues that caused the
2 classification of facilities distress, the state board, upon petition from
3 the commission or division and after a public hearing, shall consolidate,
4 annex, or reconstitute the school district under this section.

5 (2) The state board may grant additional time for a public
6 school or school district to remove itself from facilities distress by
7 issuing a written finding supported by a majority of the state board
8 explaining in detail that the public school or school district could not
9 remove itself from facilities distress during the relevant time period due to
10 impossibility caused by external forces beyond the control of the public
11 school or school district.

12 (o) This section does not prevent the division, commission, or state
13 board from taking any of the actions listed in this section at any time to
14 address a public school or school district in facilities distress.

15
16 SECTION 24. EMERGENCY CLAUSE. It is found and determined by the
17 General Assembly of the State of Arkansas that it is the state's
18 constitutional obligation to provide a general, suitable, and efficient free
19 system of public schools in the state; that state oversight and intervention
20 into distressed school districts is critical to the delivery of a
21 constitutionally adequate education; and that the changes made in this act
22 are immediately necessary for the state to meet this constitutional
23 obligation. Therefore, an emergency is declared to exist, and this act being
24 immediately necessary for the preservation of the public peace, health, and
25 safety shall become effective on:

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

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

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

32
33 */s/Perry*

34
35
36 **APPROVED: 04/04/2013**