

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 85th General Assembly
3 Regular Session, 2005
4

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

A Bill

SENATE BILL 593

5 By: Senators Broadway, Bisbee
6 By: Representatives Mahony, Elliott
7

For An Act To Be Entitled

8
9
10 ARKANSAS PUBLIC SCHOOL ACADEMIC FACILITIES
11 PROGRAM ACT.
12

Subtitle

13
14
15 ARKANSAS PUBLIC SCHOOL ACADEMIC
16 FACILITIES PROGRAM ACT.
17

18
19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
20

21 SECTION 1. Arkansas Code Title 6, Chapter 21 is amended to add an
22 additional subchapter to read as follows:

23 6-21-801. Title.

24 This subchapter is known as and may be cited as the "Arkansas Public
25 School Academic Facilities Program Act".
26

27 6-21-802. Intent.

28 (a) The General Assembly recognizes that:

29 (1) Intelligence and virtue are the safeguards of liberty and
30 the bulwark of a free and good government; and

31 (2) Section 1 of Article 14 of the Arkansas Constitution
32 requires the state to ever maintain a general, suitable, and efficient system
33 of free public schools and to adopt all suitable means to secure the
34 advantages and opportunities of education to the people of the State of
35 Arkansas.

36 (b) The General Assembly finds that because of the opinions of the



1 Arkansas Supreme Court in the matter of Lake View School District No. 25 of
2 Phillips County, Arkansas, et al., vs. Governor Mike Huckabee, et al., it is
3 the absolute duty of the State of Arkansas to provide all public school
4 children with an opportunity for an adequate education, which includes access
5 to adequate academic facilities and equipment.

6 (c) The General Assembly finds that in order to satisfy the
7 constitutional expectations of the Arkansas Supreme Court, the state should:

8 (1) Provide constitutionally appropriate public school academic
9 facilities for the education of each similarly situated child in the public
10 schools of Arkansas, regardless of where that child resides within the state;

11 (2) Require all public school academic facilities to meet
12 applicable facilities standards established in this subchapter and rules
13 adopted by the Commission for Public School Academic Facilities and
14 Transportation;

15 (3) Provide that all public school students are educated in
16 facilities that are suitable for teaching in accordance with:

17 (A) Standards for accreditation adopted by the State Board
18 of Education;

19 (B) Curriculum frameworks adopted by the state board; and

20 (C) Technology systems, instructional materials, and
21 related academic equipment necessary to provide the adequate education
22 explicated in subdivisions (c)(3)(A) and (c)(3)(B) of this section; and

23 (4) Require school districts to conserve and protect their
24 academic facilities in such a manner that the academic facilities remain
25 adequate.

26 (d) It is the intent of this subchapter to provide a system of state
27 oversight of public school academic facilities so that school districts have
28 academic facilities that support the opportunity for each public school
29 student in the State of Arkansas to have an adequate education.

30
31 6-21-803. Definitions.

32 For purposes of this subchapter:

33 (1)(A) "Academic facility" means a building or space, including
34 related areas such as the physical plant and grounds, where public school
35 students receive instruction that is an integral part of an adequate
36 education as described in § 6-20-2302.

1 (B) A public school building or space, including related
2 areas such as the physical plant and grounds, used for an extracurricular
3 activity or an organized physical activity course as defined in Act 660 of
4 2005 shall not be considered an academic facility for the purposes of this
5 subchapter to the extent that the building, space, or related area is used
6 for extracurricular activities or organized physical activities courses,
7 except for physical educational training and instruction under § 6-16-132;

8 (C) Buildings or spaces, including related areas such as
9 the physical plant and grounds, used for pre-kindergarten education shall not
10 be considered academic facilities for purposes of this subchapter; and

11 (D) District administration buildings and spaces,
12 including related areas such as the physical plant and grounds, shall not be
13 considered academic facilities for the purpose of this subchapter;

14 (2) “Annexation” means the joining of an affected school
15 district or part of the school district with a receiving district under §§ 6-
16 13-1401 through 6-13-1411;

17 (3) “Consolidation” means the joining of two (2) or more school
18 districts or parts of the districts to create a new single school district
19 under §§ 6-13-1401 through 6-13-1411;

20 (4) “Custodial activities” means routine and renovation cleaning
21 activities related to daily operations and upkeep of academic facilities,
22 including related supervisory and management activities;

23 (5) “Facilities distress status” means a public school district
24 determined by the Division of Public School Academic Facilities and
25 Transportation as being in academic facilities distress status under this
26 subchapter;

27 (6) “Facilities improvement plan” means a remedial plan
28 developed by a school district for a public school or school district
29 identified as being in academic facilities distress that supplements the
30 school district’s facilities master plan by:

31 (A) Identifying specific interventions and actions the
32 public school or school district will undertake in order to correct deficient
33 areas of practice with regard to custodial, maintenance, repair, and
34 renovation activities in the school district; and

35 (B) Describing how the school district will remedy those
36 areas in which the school district is experiencing facilities distress,

1 including the designation of the time period by which the school district
2 will correct all deficiencies that placed the school district in facilities
3 distress status;

4 (7) "Facilities master plan" means a ten-year plan developed by
5 a school district that contains current enrollment projections and details
6 the school district's strategy for maintaining, repairing, renovating, and
7 improving through new construction or otherwise the school district's
8 academic facilities and equipment;

9 (8) "Foundation funding" shall have the same meaning as in § 6-
10 20-2303;

11 (9) "Local resources" means any moneys lawfully generated by a
12 school district for the purpose of funding the school district's share of
13 financial participation in any academic facilities project for which a school
14 district is eligible to receive state financial participation under
15 priorities established by the Division of Public School Academic Facilities
16 and Transportation;

17 (10) "Maintenance, repair, and renovation" means any activity or
18 improvement to an academic facility and, if necessary, related areas, such as
19 the physical plant and grounds, that:

20 (A) Maintains, conserves, or protects the state of
21 condition or efficiency of the academic facility; or

22 (B) Brings the state of condition or efficiency of the
23 academic facility up to the facility's original condition of completeness or
24 efficiency;

25 (11)(A) "New construction" means any improvement to an academic
26 facility and, if necessary, related areas, such as the physical plant and
27 grounds, that brings the state of condition or efficiency of the academic
28 facility to a state of condition or efficiency better than the academic
29 facility's original condition of completeness or efficiency.

30 (B) "New construction" includes additions to existing
31 academic facilities and new academic facilities;

32 (12) "Project" means an undertaking in which a school district
33 engages in:

34 (A) Maintenance, repair, and renovation activities with
35 regard to an academic facility;

36 (B) New construction of an academic facility; or

1 (C) Any combination of maintenance, repair, and renovation
2 and new construction activities with regard to an academic facility;

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

8 (14) "School district" means a geographic area with an elected
9 board of directors that qualifies as a taxing unit for purposes of ad valorem
10 property taxes under Title 26 of the Arkansas Code and which board conducts
11 the daily affairs of public schools under the supervisory authority vested in
12 it by the General Assembly and Title 6 of the Arkansas Code; and

13 (15) "Space utilization" means the number of gross square feet
14 per student in a public school academic facility adjusted for academic
15 program, school enrollment, grade configuration, and type of public school in
16 accordance with rules promulgated by the Commission for Public School
17 Academic Facilities and Transportation.

18
19 6-21-804. Arkansas Public School Academic Facilities Program.

20 (a) The Division of Public School Academic Facilities and
21 Transportation shall develop a comprehensive Arkansas Public School Academic
22 Facilities Program that includes the following components:

23 (1) An Academic Facilities Master Plan Program that establishes
24 a process by which:

25 (A) Each school district develops and submits a facilities
26 master plan for review and approval by the division; and

27 (B) The division develops a comprehensive state master
28 plan for managing state financial participation in local academic facilities
29 projects across the state;

30 (2) An Academic Facilities Custodial, Maintenance, Repair, and
31 Renovation Manual that contains uniform standards to direct custodial,
32 maintenance, repair, and renovation activities in public school academic
33 facilities;

34 (3) A Public School Academic Facility Manual that contains
35 uniform standards to guide the planning, design, and construction of new
36 public school academic facilities and additions to existing public school

1 academic facilities;

2 (4) A Public School Academic Equipment Manual that contains
3 uniform standards for technology systems, instructional materials, and
4 related academic equipment determined to be necessary for a public school to
5 provide an adequate education as defined in § 6-20-2302; and

6 (5) An Academic Facilities Distress Program to assist school
7 districts that are unable to conserve and protect their academic facilities
8 in accordance with this subchapter and rules adopted by the Commission for
9 Public School Academic Facilities and Transportation.

10 (b) The Commission for Public School Academic Facilities and
11 Transportation shall promulgate rules necessary to administer the Arkansas
12 Public School Academic Facilities Program, all its component and related
13 programs, and the provisions of this subchapter, which shall promote the
14 intent and purposes of this subchapter and assure the prudent and resourceful
15 expenditure of state funds with regard to public school academic facilities
16 throughout the state.

17
18 6-21-805. Academic Facilities Master Plan Program - Purpose.

19 The purposes of the Academic Facilities Master Plan Program and this
20 section are to:

21 (1) Establish a mechanism for state supervision of school
22 district activities impacting academic facilities and equipment;

23 (2) Develop and continually update information critical to
24 identifying academic facilities needs at the local level and across the
25 state; and

26 (3) Allow the state to manage state financial participation in
27 eligible local academic facilities projects.

28
29 6-21-806. Academic Facilities Master Plan Program - School districts.

30 (a) The Academic Facilities Master Plan Program shall require each
31 school district to:

32 (1) Develop a ten-year districtwide facilities master plan that
33 shall be approved by the school district's board of directors for submission
34 to and approval by the Division of Public School Academic Facilities and
35 Transportation;

36 (2) Base its facilities master plan on the provisions of the

1 Public School Academic Facility Manual as adopted by the Commission for
2 Public School Academic Facilities and Transportation and on priorities
3 indicated by statewide assessment and other pertinent data specific to the
4 needs of the school district with regard to academic facilities and
5 equipment;

6 (3) Present a draft of the school district's facilities master
7 plan in a public hearing in the same locality as the school district and take
8 public comments;

9 (4) Submit evidence of the school district's insurance coverage
10 to the division by July 1, 2006, including coverage amounts, types of
11 coverage, identification of buildings covered, policy renewal dates, and all
12 riders;

13 (5) Submit the school district's facilities master plan with a
14 summary of comments made at public hearing to the division by February 1 of
15 each even-numbered year; and

16 (6) Submit a report to the division by February 1 of each odd-
17 numbered year that includes a description of all projects completed in the
18 school district since the submission of the school district's most recent
19 facilities master plan, the school district's current enrollment projections,
20 new or continuing needs of the school district with regard to academic
21 facilities and equipment, and an accounting of any changes in the school
22 district's insurance coverage from the most recent submission.

23 (b) A facilities master plan shall include, at a minimum, the
24 following:

25 (1) A current inventory of all academic facilities, technology
26 systems, instructional materials, and related academic equipment in the
27 school district;

28 (2) A schedule of custodial activities for each academic
29 facility used by a school district;

30 (3) A schedule of maintenance, repair, and renovation activities
31 for each academic facility used by a school district;

32 (4) Documentation that describes preventive maintenance work for
33 each academic facility and identifies the completion date of the work;

34 (5) Annual expenditures of the school district for all
35 custodial, maintenance, repair, and renovation activities in the school
36 district;

1 (6) A projected replacement schedule for major building systems
2 in each academic facility;

3 (7) The school district's plan for caring for and maintaining
4 technology systems, instructional materials, and related academic equipment
5 in each academic facility;

6 (8) A projected replacement schedule for technology systems,
7 instructional materials, and related academic equipment;

8 (9) Identification of issues with regard to facility and program
9 access to individuals with disabilities and, if necessary, proposed methods
10 for improving access;

11 (10) Identification of committed projects within the school
12 district that includes, as applicable, a breakdown of the portion of each
13 project between maintenance, repair, and renovation and new construction;

14 (11) Annual expenditures of the school district for capital
15 outlay;

16 (12) A description of planned new construction projects with
17 cost estimates for each academic facility within the school district and
18 needs prioritized as follows:

19 (A)(i) Immediate needs that the school district intends to
20 address within three (3) years following the submission of the facilities
21 master plan.

22 (ii) A school district shall separate the immediate
23 needs described in the master plan submitted by February 1, 2006 into two (2)
24 categories as follows:

25 (a) Immediate needs that the school district
26 intends to address during the period from July 1, 2006 through June 30, 2007;
27 and

28 (b) Immediate needs that the school district
29 intends to address during the 2007-2009 biennium.

30 (B) Short-term needs that the school district intends to
31 address within the four (4) to six (6) years following the submission of the
32 facilities master plan; and

33 (C) Long-term needs that the school district intends to
34 address within the seven (7) to ten (10) years following the submission of
35 the facilities master plan; and

36 (13) Evidence of the school district's insurance coverage,

1 including coverage amounts, types of coverage, identification of buildings
2 covered, policy renewal dates, and all riders.

3 (c) The division shall establish procedures and timelines for a school
4 district to submit a preliminary facilities master plan or a master plan
5 outline to the division before the submission of the school district's final
6 facilities master plan. The preliminary master plan or master plan outline
7 shall form the basis for a consultation meeting between representatives of
8 the district and members of the division. As soon as practicable after
9 submission of the preliminary master plan or master plan outline, the
10 division shall hold the consultation meeting with the school district to:

11 (1) Assure understanding of the general goals of this subchapter
12 and the criteria by which projects will be evaluated;

13 (2) Discuss ways the facilities master plan may be structured to
14 meet the goals of this subchapter;

15 (3) Assist districts to prepare accurate budgets and reasonable
16 project schedules; and

17 (4) Provide for efficiency and productivity in the approval
18 process for local academic facilities projects and state financial
19 participation in local projects.

20 (d)(1) The division shall review and approve a school district's
21 facilities master plan no later than May 1, 2006 with regard to academic
22 facilities projects for which a school district intends to apply for state
23 financial participation during fiscal year 2006-2007. The division shall
24 notify a school district no later than July 1, 2006 that the school
25 district's application for state financial participation during fiscal year
26 2006-2007 in an eligible new construction project has been approved.

27 (2) Except as provided in subsection (d)(1) of this section,
28 the division shall review and approve a school district's facilities master
29 plan no later than September 1 of each even-numbered year and shall notify a
30 school district no later than May 1 of each odd-numbered year that the school
31 district's application for state financial participation during the upcoming
32 biennium in an eligible new construction project has been approved.

33
34 6-21-807. Academic Facilities Master Plan Program - State plan.

35 The Division of Public School Academic Facilities and Transportation
36 shall develop a comprehensive state master plan for managing state financial

1 participation in local academic facilities projects across the state. The
2 state academic facilities master plan shall include:

3 (1) A list of committed projects for public school academic
4 facilities for the upcoming fiscal year categorized by program and method of
5 state financial participation;

6 (2) The total estimated cost of each committed project and the
7 estimated amount of state financial participation; and

8 (3) A four-year rolling forecast of planned new construction
9 projects related to public school academic facilities.

10
11 6-21-808. Custodial, Maintenance, Repair, and Renovation Manual.

12 (a) The purposes of the Arkansas Facilities Custodial, Maintenance,
13 Repair, and Renovation Manual and this section are to:

14 (1) Provide for the long-term conservation and protection of
15 public school academic facilities;

16 (2) Eliminate the deterioration of existing and future public
17 school academic facilities;

18 (3) Provide a safe and healthy environment for students,
19 teachers, administrators, and staff of the public schools; and

20 (4) Provide for the efficient use of state and local funds in
21 support of academic facilities in each of the school districts in Arkansas.

22 (b)(1) The Arkansas Facilities Custodial, Maintenance, Repair, and
23 Renovation Manual shall contain standards for custodial operations related to
24 academic facilities.

25 (2) Standards for custodial operations in academic facilities
26 shall include the following:

27 (A) The required contents of a custodial care plan;

28 (B) A suggested schedule for routine care and renovation
29 cleaning;

30 (C) Levels of personnel necessary to perform custodial
31 operations;

32 (D) Training criteria for the use and storage of supplies
33 and equipment, with emphasis given to chemical right-to-know, indoor air
34 quality, and other applicable standards;

35 (E) Supplies and equipment necessary to perform custodial
36 operations, including space standards for the proper storage of supplies and

1 equipment;

2 (F) In-service training opportunities for custodial
3 personnel;

4 (G) Designation of routine duties; and

5 (H) Designation of renovation cleaning duties.

6 (c)(1) The Arkansas Facilities Custodial, Maintenance, Repair, and
7 Renovation Manual shall contain standards for maintenance, repair, and
8 renovation activities related to academic facilities.

9 (2) Standards for maintenance, repair, and renovation activities
10 shall include the following:

11 (A) The required contents of a preventive maintenance
12 plan, which shall include guidelines for:

13 (i) Scheduling preventive maintenance activities for
14 academic facilities; and

15 (ii) Preparing and retaining documentation that
16 describes preventive maintenance work related to academic facilities and
17 identifies the completion date of the work;

18 (B) Development and implementation of a work-request
19 system to allow others to inform a public school's maintenance department of
20 needs and to allow the responsible person to prioritize responses;

21 (C) Levels of personnel necessary to perform maintenance
22 operations;

23 (D) Training criteria for maintenance personnel with
24 regard to school policies, safety procedures, use of specialized equipment,
25 compliance with federal, state, county, and municipal laws and regulations
26 impacting academic facilities and equipment, and other applicable areas;

27 (E) In-service training opportunities for maintenance
28 personnel;

29 (F) Inspection, cleaning, servicing, and repair of
30 heating, ventilation, and air-conditioning systems;

31 (G) Inspection and repair of electrical systems;

32 (H) Inspection and repair of hot water boilers and
33 heaters;

34 (I) Inspection and repair of fire alarms;

35 (J) Inspection and repair and servicing of fire sprinkler
36 systems;

1 (K) Inspection and repair of fire extinguishers and
2 kitchen hood vent suppression systems;

3 (L) Inspection and repair of emergency lighting and exit
4 light fixtures;

5 (M) Inspection and repair of elevators and wheelchair
6 lifts;

7 (N) Inspection and repair of plumbing;

8 (O) Inspection and repair of roofs;

9 (P) Inspection and repair of stairwell areas;

10 (Q) Inspection and repair of interior and exterior
11 lighting;

12 (R) Inspection and repair of doors and windows;

13 (S) Inspection and repair of floor coverings;

14 (T) Inspection and repair of masonry and concrete
15 buildings' exteriors;

16 (U) Inspection and repair of interior and exterior
17 finishes;

18 (V) Inspection and repair of kitchen equipment;

19 (W) Maintenance of a pest control program;

20 (X) Inspection and repair of sidewalks, driveways, parking
21 areas, and paved play areas;

22 (Y) Inspection and repair of parking lots, handicap
23 parking spaces, driveways, fire and emergency vehicle zones, and bus and car
24 loading and unloading areas;

25 (Z) Inspection of playground equipment; and

26 (AA) Grounds maintenance.

27 (d)(1) Beginning with the 2005-2006 school year, each school district
28 shall dedicate nine percent (9%) of its foundation funding exclusively to
29 payment of utilities and custodial, maintenance, repair, and renovation
30 activities and related personnel costs. If any amount of the dedicated nine
31 percent (9%) is unspent at the end of the school district's fiscal year, the
32 funds shall carry over and the school district shall transfer the remaining
33 amount into an academic facilities escrow account to be released only upon
34 approval by the Division of Public School Academic Facilities and
35 Transportation for use in conjunction with a local academic facilities
36 project.

1 (2) A school district is not required to use funds in its
2 academic facilities escrow account for new construction projects. New
3 construction projects shall be funded by local resources, which may include
4 funds in the school district's academic facilities escrow account if approved
5 by the division. In addition, new construction projects may be eligible for
6 state financial participation.

7
8 6-21-809. Arkansas Public School Academic Facility Manual.

9 (a) The Arkansas Public School Academic Facility Manual shall contain
10 uniform standards to guide the planning, design, and construction of new
11 public school academic facilities and additions to existing public school
12 academic facilities.

13 (b) Design and construction standards shall include provisions
14 addressing the following areas:

15 (1) Planning concepts related to current educational best
16 practices, special education, workforce development, and program and design
17 capacity;

18 (2) Organizational, facility, program, and service issues,
19 including grade configuration, school size, and class size;

20 (3) Site selection, including guidelines about site size and
21 site amenities, such as site access, grading, drainage, drives, parking,
22 walks, fencing, exterior security provisions, exterior lighting, mechanical
23 yards, electrical yards, site furnishings, play fields, playgrounds, and
24 landscaping;

25 (4) Standards for size and quantity of instruction and support
26 spaces;

27 (5) Program space guidelines, including necessary features,
28 loose furnishings, finishes related to identified programs and services;

29 (6) Design standards and guidelines regarding the quality of
30 materials and systems for the following building systems:

31 (A) Fire and safety;

32 (B) Roofing;

33 (C) Structural;

34 (D) Heating, ventilation, and air conditioning;

35 (E) Plumbing;

36 (F) Electrical;

1 (G) Exterior;

2 (H) Interior;

3 (I) Technology; and

4 (J) Specialties, including equipment and furnishings; and

5 (7) Repair and construction cost guidelines.

6 (c) The manual shall also include provisions addressing the following
7 areas:

8 (1)(A) A process by which a school district may apply for a
9 variance from applicable academic facility standards upon presenting evidence
10 of:

11 (i) The existence of conditions that make compliance
12 with applicable standards impractical or unreasonably burdensome; and

13 (ii) Other conditions determined by the Division of
14 Public School Academic Facilities and Transportation as warranting a variance
15 from applicable public school academic facility standards.

16 (B) The variance provision shall address minimum standards
17 for academic facilities that are reasonably expected to close or be replaced
18 within three (3) years;

19 (2) Review and approval of all plans and designs for major
20 building systems related to new construction of academic facilities prior to
21 preparation of final bid or other applicable procurement documents;

22 (3) Site inspections of all major building and design systems at
23 appropriate stages of construction;

24 (4) Contingency plans for review and inspection by the division
25 if appropriate state, local, or other officials are unable or unwilling to
26 complete an appropriate plan review or site inspection;

27 (5) Oversight by the division of a project for which the school
28 district does not use the services of an architect; and

29 (6) The short-term temporary use of premanufactured portable
30 buildings.

31 (d) The division shall review and update the Public School Academic
32 Facility Manual on an annual basis.

33
34 6-21-810. Public School Academic Equipment Manual.

35 (a) The Public School Academic Equipment Manual shall contain uniform
36 standards for technology systems, instructional materials, and related

1 academic equipment determined to be necessary for a public school to provide
2 an adequate education as described in § 6-20-2302.

3 (b)(1) The standards for technology systems, instructional materials,
4 and related academic equipment shall address the following areas:

5 (A) Science and Mathematics;

6 (B) Library Media Center;

7 (C) English and Language Arts;

8 (D) Foreign Language;

9 (E) Social Studies;

10 (F) Health Education and Physical Education;

11 (G) Art;

12 (H) Music;

13 (I) Guidance and Health Services; and

14 (J) Workforce education.

15 (2) The standards shall account for variations in a school
16 district's use of and need for technology systems, instructional materials,
17 and related academic equipment, such as size of school district, grade
18 configuration of schools with the district, number of course offerings
19 available, and enrollment levels.

20 (3) The standards shall establish a method for creating,
21 maintaining, and updating an inventory of public school academic equipment,
22 including, without limitation, technology systems, instructional materials,
23 and related academic equipment.

24
25 6-21-811. Academic Facilities Distress Program.

26 (a) The Division of Public School Academic Facilities and
27 Transportation shall identify a public school or school district as being in
28 academic facilities distress if the division determines that the public
29 school or school district has engaged in actions or inactions that result in
30 any of the following:

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

34 (A) Material failure to properly maintain academic
35 facilities in accordance with this subchapter and rules adopted by the
36 Commission for Public School Academic Facilities and Transportation;

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

3 (C) Material violation of applicable building code
4 provisions or law;

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

7 (E) Material failure to comply with state law governing
8 purchasing or bid requirements in relation to academic facilities projects;
9 or

10 (F) Material default on any school district debt
11 obligation; or

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

16 (b) The division shall provide written notice, via certified mail,
17 return receipt requested, to the president of the school board and the
18 superintendent of the public school or school district identified as being in
19 facilities distress.

20 (c)(1) A public school or school district identified as being in
21 facilities distress shall develop a facilities improvement plan within thirty
22 (30) days from the date of receipt of the notice and promptly submit the
23 facilities improvement plan to the division for review and approval.

24 (2) A public school or school district shall review and revise
25 its facilities improvement plan on a periodic basis as determined by the
26 division and submit the updated facilities improvement plan to the division
27 in order for the division to determine whether the public school or school
28 district is correcting its deficient areas of practice regarding academic
29 facilities.

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

32 (d) When a school district is identified by the division to be in
33 facilities distress, the division may:

34 (1)(A) Provide on-site technical evaluation and assistance and
35 make recommendations to the district superintendent regarding the care and
36 maintenance of any academic facility in the district.

1 (B) Any school district identified as being in facilities
2 distress status shall accept on-site technical evaluation and assistance from
3 the division.

4 (C) The recommendations of the division are binding on the
5 district, the superintendent, and the school board;

6 (2) Require the superintendent to relinquish all administrative
7 authority with respect to the school district;

8 (3)(A) Appoint an individual in place of the superintendent to
9 administratively operate the school district under the supervision and
10 approval of the Director of the Division of Public School Academic Facilities
11 and Transportation.

12 (B) The division may direct the school district to
13 compensate from school district funds the individual appointed to operate the
14 school district;

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

19 (5) Require the school district to operate without a local
20 school board under the supervision of the local superintendent or an
21 individual or panel appointed by the director of the division;

22 (6) Return the administration of the school district to the
23 former board or place the administration of the school district in a newly
24 elected school board;

25 (7) Require school district staff and employees to attend
26 training in areas of concern for the public school or school district;

27 (8)(A) Require a school district to cease immediately all
28 expenditures related to activities not described as part of an adequate
29 education in § 6-20-2302 and place money that would have been spent on the
30 activities into an academic facilities escrow account to be released only
31 upon approval by the division for use in conjunction with a local academic
32 facilities project.

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

36 (9) Notify the public school or school district in writing that

1 the deficiencies regarding academic facilities shall be corrected within a
2 time period designated by the division;

3 (10)(A) Petition the state board at any time for the
4 consolidation, annexation, or reconstitution of a school district in
5 facilities distress or take other appropriate action as allowed by this
6 subchapter in order to secure and protect the best interest of the
7 educational resources of the state or to provide for the best interests of
8 students in the school district.

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

11 (C) The state board shall consolidate, annex, or
12 reconstitute any school district that fails to remove itself from the
13 classification of a school district in facilities distress within two (2)
14 consecutive school years of receipt of notice of identification of facilities
15 distress status by the division. A school district may appeal the action of
16 state board to the Commission for Public School Academic Facilities and
17 Transportation in accordance with procedures developed by the state board.
18 The commission may reverse the action of the state board if the commission
19 finds that the school district could not remove itself from facilities
20 distress due to impossibility caused by external forces beyond the school
21 district's control; and

22 (11) Take any other action allowed by law that is deemed
23 necessary to assist a public school or school district in removing criteria
24 of facilities distress.

25 (e) No school district identified by the division as being in
26 facilities distress may incur any debt without the prior written approval of
27 the commission.

28 (f) A public school or school district in facilities distress may
29 petition the commission for removal from facilities distress status only
30 after the division has certified in writing that the public school or school
31 district has corrected all criteria for being classified as in facilities
32 distress and has complied with all division recommendations and requirements
33 for removal from facilities distress.

34 (g) The division shall submit a written evaluation on the status of
35 each school district in facilities distress to the commission and the state
36 board at least once every six (6) months.

1
2 6-21-812. Facilities distress – Student transfers.

3 (a) Any student attending a public school district classified as being
4 in facilities distress shall automatically be eligible and entitled under the
5 Arkansas Public School Choice Act of 1989, § 6-18-206, to transfer to another
6 geographically contiguous school district not in facilities distress during
7 the time period that a district is classified as being in facilities
8 distress. The student is not required to file a petition by July 1 but shall
9 meet all other requirements and conditions of the Arkansas Public School
10 Choice Act of 1989, § 6-18-206.

11 (b) The resident district shall pay the cost of transporting the
12 student from the resident district to the nonresident district.

13 (c) The nonresident district shall count the student for average daily
14 membership purposes.

15
16 6-21-813. Inspections.

17 (a) The Division of Public School Academic Facilities and
18 Transportation shall conduct random unannounced on-site inspections of all
19 academic facilities that have been funded wholly or in part by moneys from
20 the state to ensure compliance with the school district's facilities master
21 plan and, if applicable, the school district's facilities improvement plan in
22 order to preserve the integrity of and extend the useful life of public
23 school academic facilities and equipment across the state.

24 (b) The division shall submit reports regarding its on-site
25 inspections of academic facilities to the Commission for Public School
26 Academic Facilities and Transportation within thirty (30) days of completion
27 of the on-site inspections.

28 (c) Based on the division's on-site inspection or notification by the
29 division to the commission that the changes or additions to a school
30 district's facilities master plan or facilities improvement plan required by
31 the division have not been implemented within the time period prescribed by
32 the division, the commission shall restrict the use of the necessary funds or
33 otherwise allocate funds from moneys appropriated by the General Assembly.

34
35 6-21-814. Appeals.

36 (a) A school district may appeal any determination of the Division of

1 Public School Academic Facilities and Transportation under this subchapter to
2 the Commission for Public School Academic Facilities and Transportation in
3 accordance with procedures developed by the commission.

4 (b) All decisions of the Commission for Public School Academic
5 Facilities and Transportation resulting from a school district's appeal of a
6 division determination under this subchapter shall be final and shall not be
7 subject to further appeal or request for rehearing to the commission or
8 petition for judicial review under the Arkansas Administrative Procedures
9 Act, § 25-15-201 et seq.

10
11 SECTION 2. Arkansas Code § 6-20-1402 is repealed:

12 ~~6-20-1402. Authority to borrow money.~~

13 ~~(a) For any one (1) or more of the following purposes, namely,~~
14 ~~acquiring a site for, building, or equipping a new building, or repairing,~~
15 ~~making additions to, or equipping a school building, any school district in~~
16 ~~the State of Arkansas receiving any of the funds provided in this subchapter~~
17 ~~is authorized to borrow money and to issue negotiable coupon bonds for the~~
18 ~~repayment thereof from the funds provided in this subchapter.~~

19 ~~(b) This authority to borrow money shall be in addition to the~~
20 ~~authorization provided by law.~~

21 ~~(c) The schedule of amortization of the loan authorized in this~~
22 ~~subchapter shall not extend beyond ten (10) years.~~

23
24 SECTION 3. Arkansas Code § 6-20-1406 is amended to read as follows:

25 6-20-1406. Standards for school construction.

26 (a) The State Board of Education shall establish reasonable minimum
27 standards for schoolhouse construction, and standards may be revised from
28 time to time as educational problems and methods of procedure develop and
29 change.

30 (b) The standards shall include review and approval by all appropriate
31 and applicable state agencies, boards, and local officials for, including,
32 but not limited to, the following:

33 (1) Plumbing Code, § 17-38-101 et seq., and Heating,
34 Ventilation, Air Conditioning, and Refrigeration (HVACR) Code, § 17-33-101 et
35 seq., compliance;

36 (2) Fire Prevention Act, § 12-13-101 et seq., and Seismic Code,

1 § 12-80-101 et seq., compliance;

2 (3) *Arkansas State Building Services Authority*-adopted Americans
3 with Disabilities Act Accessibility Guidelines, 28 C.F.R. Part 36, Appx. A,
4 compliance; and

5 (4) Arkansas Architectural Act, § 17-15-101 et seq.,
6 Professional Engineers, § 17-30-101 et seq., and Public Works, § 22-9-101 et
7 seq., compliance.

8 (c) As used in this section and in § 6-20-1407, "schoolhouse" means
9 any elementary or secondary school district facility that will be used for
10 administrative, educational, or physical education purposes.

11 (d) This section shall be repealed as of the effective date of the
12 Public School Academic Facility Manual as adopted by the Commission for
13 Public School Academic Facilities and Transportation.

14

15 SECTION 4. Arkansas Code § 6-20-1407 is amended to read as follows:
16 6-20-1407. Approval of building plans.

17 (a) No new schoolhouse shall be built except in accordance with the
18 *plan finally approved by the State Board of Education Commission for Public*
19 *School Academic Facilities and Transportation for all projects where the*
20 *board commission requires its approval thereof.*

21 (b) Where so required by the board, a copy of approved plans and
22 specifications of all new schoolhouses or additions shall be filed with and
23 approved by the board before construction shall be commenced.

24 (c)(1) A copy of final construction documents shall be submitted to
25 the Architectural Section of *Arkansas State Building Services Authority* for
26 review in regard to compliance with the Arkansas-adopted Accessibility
27 Guidelines (ADAAG-Americans with Disabilities Act Accessibility Guidelines).

28 (2) All review comments received from Arkansas State Building
29 Services shall be in writing.

30 (3) Corrected construction documents shall be received and
31 approved by *Arkansas State Building Services Authority*.

32 (4) No project shall be released for bidding or construction
33 until the requirements of § 6-20-1406 and this section are met.

34 (d) Review and approval of plans under this section or otherwise shall
35 not be a guarantee of state financial participation in any public school
36 academic facilities project.

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SECTION 5. Arkansas Code 6-41-212 is amended to read as follows:

6-41-212. Facilities.

(a) Physical aspects and specifications for buildings, classrooms, and other facilities for, or likely to be used by, children with disabilities shall be approved by ~~a designee of the State Board of Education~~ the Division of Public School Academic Facilities and Transportation or a designee.

(b) A The division or a designee of the board division is required to review plans for public school construction or remodeling which are designed for children with disabilities to ensure accessibility and usefulness for that purpose.

SECTION 6. Arkansas Code § 6-11-130 is repealed.

~~6-11-130. Custodial and maintenance care for school facilities.~~

~~(a) The purposes of this section are to:~~

~~(1) Ensure that school facilities in Arkansas are properly maintained;~~

~~(2) Eliminate the deterioration of existing and future buildings to provide a safe and healthy environment for the students, teachers, administrators, and staff members of the public schools; and~~

~~(3) Provide the efficient use of state and local funds in each of the school districts in Arkansas.~~

~~(b)(1) The Joint Committee on Educational Facilities, in consultation with the Department of Education, shall develop standards for custodial and maintenance care of school facilities in the state for presentation to the Eighty-fifth General Assembly.~~

~~(2) The standards shall provide for best practices in custodial, maintenance, and preventive maintenance care.~~

~~(c) For the standards for custodial care, the committee and the State Board of Education shall consider the inclusion of the following:~~

~~(1)(A) Implementation of a custodial care plan for all facilities owned by a district.~~

~~(B) This plan shall incorporate a schedule of routine care and renovation cleaning;~~

~~(2) Implementation of a training plan, including, but not limited to:~~

- 1 ~~(A) — Chemical right to know;~~
 2 ~~(B) — Indoor air quality;~~
 3 ~~(C) — Blood borne pathogens;~~
 4 ~~(D) — Asbestos Hazard Emergency Response Act of 1986, 20~~
 5 ~~U.S.C. § 4011, two hour asbestos, low pressure boiler operator, safety codes,~~
 6 ~~and procedures;~~
 7 ~~(E) — Crisis management;~~
 8 ~~(F) — District employment policies;~~
 9 ~~(G) — Routine care procedures;~~
 10 ~~(H) — Renovation cleaning procedures;~~
 11 ~~(I) — Supply procurement procedures; and~~
 12 ~~(J) — Minor maintenance procedures and equipment use and~~
 13 ~~care procedures;~~
 14 ~~(3)(A) — Provisions for adequate supplies and equipment to perform~~
 15 ~~the custodial care plan.~~
 16 ~~(B) — Adequate space shall be provided for the proper~~
 17 ~~storage of these supplies and equipment;~~
 18 ~~(4) — Appropriate training for the use and storage of all supplies~~
 19 ~~and equipment, with emphasis given to chemical right to know, indoor air~~
 20 ~~quality, and other applicable standards;~~
 21 ~~(5) — Opportunities for custodial employees to attend continuing~~
 22 ~~in-service training provided and held regionally by the authority of the~~
 23 ~~Office of School Plant Services of the Department of Education;~~
 24 ~~(6) — Establishment of routine duties, including, but not limited~~
 25 ~~to:~~
 26 ~~(A) — Daily duties;~~
 27 ~~(B) — Grounds care;~~
 28 ~~(C) — Restroom care;~~
 29 ~~(D) — Classroom care;~~
 30 ~~(E) — Office care;~~
 31 ~~(F) — Entrance and corridor care;~~
 32 ~~(G) — Cafeteria care;~~
 33 ~~(H) — Care of special use areas;~~
 34 ~~(I) — Care of mechanical rooms, storage rooms, and closets;~~
 35 ~~(J) — Minor maintenance; and~~
 36 ~~(K) — Custodial equipment care; and~~

1 ~~(7) Establishment of renovation duties, including, but not~~
2 ~~limited to cleaning of:~~

3 ~~(A) Restrooms;~~

4 ~~(B) Classrooms;~~

5 ~~(C) Offices;~~

6 ~~(D) Entrances and corridors;~~

7 ~~(E) Cafeterias;~~

8 ~~(F) Special use areas;~~

9 ~~(G) Mechanical rooms, storage rooms, and closets; and~~

10 ~~(H) Custodial equipment.~~

11 ~~(d) For the standards for maintenance care, the state board shall~~
12 ~~consider the inclusion of the following:~~

13 ~~(1)(A) Development and implementation of a scheduled preventive~~
14 ~~maintenance plan for all facilities owned by a district.~~

15 ~~(B) This plan shall include documentation and retention of~~
16 ~~information defining the type of preventive maintenance work performed and~~
17 ~~the completion date;~~

18 ~~(2) Development and implementation of a work request system to~~
19 ~~allow others to inform the maintenance department of needs and to allow the~~
20 ~~responsible person to prioritize responses;~~

21 ~~(3) Opportunities for selected maintenance employees to attend~~
22 ~~continuing in service training provided regionally by the authority of the~~
23 ~~office; and~~

24 ~~(4) Compliance with federal, state, county, and municipal laws~~
25 ~~and regulations regarding school facilities.~~

26 ~~(e) For the standards for preventive maintenance care, the state board~~
27 ~~shall consider the inclusion of the following:~~

28 ~~(1) Inspection, cleaning, and servicing of heating, ventilation,~~
29 ~~and air conditioning systems;~~

30 ~~(2) Inspection and repair of electrical systems;~~

31 ~~(3) Inspection of hot water boilers and heaters;~~

32 ~~(4) Inspection of fire alarms;~~

33 ~~(5) Inspection and servicing of fire sprinkler systems;~~

34 ~~(6) Inspection of fire extinguishers and kitchen hood vent~~
35 ~~suppression systems;~~

36 ~~(7) Inspection of emergency lighting and exit light fixtures;~~

- 1 ~~(8) Inspection of elevators and wheelchair lifts;~~
 2 ~~(9) Inspection of plumbing;~~
 3 ~~(10) Inspection of roofs;~~
 4 ~~(11) Inspection of stairwell areas;~~
 5 ~~(12) Inspection of floor coverings;~~
 6 ~~(13) Inspection of masonry and concrete buildings' exteriors;~~
 7 ~~(14) Inspection of kitchen equipment;~~
 8 ~~(15) Maintenance of a pest control program;~~
 9 ~~(16) Inspection of sidewalks, driveways, parking areas, and~~
 10 ~~paved play areas;~~
 11 ~~(17) Inspection of parking lots, handicap parking spaces,~~
 12 ~~driveways, fire and emergency vehicle zones, and bus and car loading and~~
 13 ~~unloading areas;~~
 14 ~~(18) Inspection of playground equipment; and~~
 15 ~~(19) Establishment of a grounds maintenance program.~~

16
 17 SECTION 7. EMERGENCY CLAUSE. It is found and determined by the
 18 General Assembly of the State of Arkansas that the Arkansas Supreme Court has
 19 determined that current public school academic facilities in Arkansas are
 20 inadequate and inequitable; that the General Assembly established the Joint
 21 Committee on Educational Facilities to inventory the current condition of
 22 public school academic facilities and recommend methods for bringing those
 23 facilities into conformity with the court's constitutional expectations; that
 24 the programs established in this act are derived from recommendations of the
 25 joint committee and are part of a comprehensive state program for overseeing
 26 the provision of constitutionally appropriate public school academic
 27 facilities across the state; and that this program must be implemented
 28 immediately for the good of public school students in the State of Arkansas.
 29 Therefore, an emergency is declared to exist and this act being immediately
 30 necessary for the preservation of the public peace, health, and safety shall
 31 become effective on:

- 32 (1) The date of its approval by the Governor;
 33 (2) If the bill is neither approved nor vetoed by the Governor,
 34 the expiration of the period of time during which the Governor may veto the
 35 bill; or
 36 (3) If the bill is vetoed by the Governor and the veto is

1 overridden, the date the last house overrides the veto.

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/s/ Broadway, et al

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