

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.*  
8 *Armstrong*  
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

## 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.

## 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)~~ 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