

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

State of Arkansas
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As Engrossed: H3/11/13
A Bill

HOUSE BILL 1770

By: Representatives Perry, D. Altes, Branscum, Carnine, Catlett, Clemmer, Collins, Copenhaver, Dale, Deffenbaugh, J. Dickinson, Eubanks, Farrer, Fielding, Hobbs, Hodges, Holcomb, Jett, Lampkin, Leding, Lowery, Magie, McCrary, Ratliff, Richey, T. Thompson, Wardlaw, D. Whitaker, Word, Wren, *E. Armstrong*

By: Senators J. Key, Bledsoe, E. Cheatham, J. Dismang, J. English, Hester, Holland, Irvin, D. Johnson, U. Lindsey, Maloch, B. Pierce, Rapert, B. Sample, Teague, R. Thompson, E. Williams, *Bookout, Caldwell, Files, J. Hutchinson, B. King, D. Sanders, G. Stubblefield, J. Woods, D. Wyatt*

For An Act To Be Entitled

AN ACT TO EXTEND THE TIME FOR WHICH A PUBLIC SCHOOL OR SCHOOL DISTRICT MAY BE CLASSIFIED AS IN ACADEMIC, FISCAL, OR FACILITIES DISTRESS; TO ALLOW A PUBLIC SCHOOL TO BE CLASSIFIED AS IN ACADEMIC DISTRESS; TO MODIFY THE CRITERIA, SANCTIONS, AND PROCEDURES FOR A PUBLIC SCHOOL OR SCHOOL DISTRICT IN ACADEMIC, FISCAL, OR FACILITIES DISTRESS; TO PROVIDE FOR CAPACITY BUILDING AND INTERIM LEADERSHIP IN A PUBLIC SCHOOL OR SCHOOL DISTRICT IN ACADEMIC, FISCAL, OR FACILITIES DISTRESS; TO AMEND THE ARKANSAS OPPORTUNITY PUBLIC SCHOOL CHOICE ACT OF 2004; TO CLARIFY THE TERMINOLOGY OF THE ACADEMIC FACILITIES DISTRESS PROGRAM; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

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

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



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

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

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

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

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

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

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

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

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

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

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

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

notice of academic distress status from the department.

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

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

(d) ~~Those school districts~~ A school district or public school identified by the department as being in academic distress shall be classified as a school district or public school in academic distress upon final determination by the state board.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

authority with respect to the public school;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

district under this section.

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

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

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

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

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

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

(B) The General Assembly:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

district;

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

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

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

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

(8) Otherwise reconstitute the school district; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

/s/Perry

APPROVED: 04/04/2013