

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas  
93rd General Assembly  
Regular Session, 2021

# A Bill

SENATE BILL 690

By: Senator Hickey

## For An Act To Be Entitled

AN ACT TO REPEAL OBSOLETE STATE ENTITIES; TO ABOLISH THE COMMISSION ON CLOSING THE ACHIEVEMENT GAP IN ARKANSAS; TO ABOLISH THE NUTRIENT WATER QUALITY TRADING ADVISORY PANEL; TO ABOLISH THE ACADEMIC FACILITIES OVERSIGHT COMMITTEE; AND FOR OTHER PURPOSES.

## Subtitle

TO ABOLISH THE COMMISSION ON CLOSING THE ACHIEVEMENT GAP IN ARKANSAS, THE NUTRIENT WATER QUALITY TRADING ADVISORY PANEL, AND THE ACADEMIC FACILITIES OVERSIGHT COMMITTEE.

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

SECTION 1. Arkansas Code § 6-15-1601 is repealed.

~~6-15-1601. Establishment of Commission on Closing the Achievement Gap in Arkansas—Members.~~

~~(a) There is established a commission to be known as the “Commission on Closing the Achievement Gap in Arkansas”.~~

~~(b) The commission shall consist of eleven (11) members representing the racial and ethnic diversity of Arkansas as follows:~~

~~(1)(A) Five (5) persons appointed by the Governor.~~

~~(B)(i) One (1) of the Governor’s appointees shall be a representative of business and industry in Arkansas, a representative of health and human services, or a public school teacher.~~



~~(ii)(a) Four (4) of the Governor's appointees shall be minority or low income parents concerned about the achievement gap with one (1) representative from each of the four (4) congressional districts.~~

~~(b) A minimum of two (2) of the individuals appointed under subdivision (b)(1)(B)(ii)(a) of this section shall be African American.~~

~~(c) A minimum of one (1) of the individuals appointed under subdivision (b)(1)(B)(ii)(a) of this section shall be Hispanic;~~

~~(2)(A) Three (3) persons appointed by the President Pro Tempore of the Senate.~~

~~(B)(i) One (1) of the President Pro Tempore of the Senate's appointees shall be a member of the school of education faculty of an historically black college in the state with an accredited school of education.~~

~~(ii) One (1) of the President Pro Tempore of the Senate's appointees shall be a minority who has demonstrated a commitment to education.~~

~~(iii) One (1) of the President Pro Tempore of the Senate's appointees shall be a public school teacher with a special expertise in closing the achievement gap; and~~

~~(3)(A) Three (3) persons appointed by the Speaker of the House of Representatives.~~

~~(B)(i) One (1) of the appointees of the Speaker of the House of Representatives shall be a person who has experience working with children from low income families.~~

~~(ii) One (1) of the appointees of the Speaker of the House of Representatives shall be a minority who has demonstrated a commitment to education.~~

~~(iii) One (1) of the appointees of the Speaker of the House of Representatives shall be a public school administrator with a special expertise in closing the achievement gap.~~

~~(c)(1) Upon taking office, the initial members shall draw lots to determine the length of their terms.~~

~~(2) The term of office shall be for no more than four (4) years.~~

~~(3) Appointments shall be for a term of four (4) years.~~

~~(d)(1) If a vacancy occurs in an appointed position for any reason, the vacancy shall be filled in the same manner as the original appointment.~~

~~(2) The new appointee shall serve for the remainder of the unexpired term.~~

~~(e)(1) The Governor shall designate one (1) of his or her appointees to serve as chair for the first year.~~

~~(2) Thereafter, the commission members shall annually elect a chair from among themselves.~~

~~(f)(1) The commission shall meet at times and places the chair deems necessary but no fewer than four (4) times per calendar year.~~

~~(2)(A) Commission members shall attend all meetings with no more than two (2) unexcused absences in a period of eighteen (18) months.~~

~~(B) Commission members with more than two (2) unexcused absences in a period of eighteen (18) months shall be automatically removed from the commission, and the original nominating entity for the position shall be notified to fill the vacancy.~~

~~(3) No meetings shall be held outside the State of Arkansas.~~

~~(4) A majority of the members of the commission shall constitute a quorum for the purpose of transacting business.~~

~~(5) All actions of the commission shall be by a majority vote of the full membership of the commission.~~

~~(6) A minimum of one (1) meeting shall be held in each of the four (4) congressional districts every thirty-six (36) months.~~

~~(g) The commission shall:~~

~~(1) Develop a plan for the state designed to enable all public school students to meet the state's student academic achievement standards while working toward the goal of narrowing the achievement gaps in public schools for the following subgroups:~~

~~(A) Economically disadvantaged students; and~~

~~(B) Students from major racial and ethnic groups;~~

~~(2) Monitor the Division of Elementary and Secondary Education's efforts to comply with federal guidelines on improving the academic achievement of the disadvantaged, specifically including without limitation the Elementary and Secondary Education Act of 1965, Pub. L. No. 89-10, as reauthorized by the Every Student Succeeds Act, Pub. L. No. 114-95;~~

~~(3)(A) Monitor the division's identification of population~~

~~groups to be motivated in closing the achievement gap efforts.~~

~~(B) The commission may expand the role and scope of the commission to cover specific population groups as identified by the division as target groups for closing the achievement gaps;~~

~~(4) Receive national school lunch data and reports biennially from the division;~~

~~(5) Interface with local school district achievement gap task forces created under § 6-15-1603 to provide data on the achievement gap and achievement gap intervention strategies;~~

~~(6) Present a report to the House Committee on Education, the Senate Committee on Education, the Governor, and the State Board of Education no later than November 1 of each year, which shall include without limitation:~~

~~(A) Profiles of underachieving students;~~

~~(B) Profiles of schools identified as in need of comprehensive support and improvement, additional targeted support, or targeted support and improvement under the Elementary and Secondary Education Act, Pub. L. No. 89-10, as reauthorized by the Every Student Succeeds Act, Pub. L. No. 114-95;~~

~~(C) A review of policies and programs approved by the division for national school lunch expenditures on closing the achievement gap;~~

~~(D) Child poverty statistics in the state and the impact poverty has on education;~~

~~(E) Successful strategies with students of poverty;~~

~~(F) Best practices for teacher preparation for student and language diversity;~~

~~(G) A review of leadership challenges in closing the achievement gap; and~~

~~(H) Suggested policy changes to improve the achievement gap at the legislative, division, school district, and other levels; and~~

~~(7) Create a website that contains without limitation:~~

~~(A) Notices of upcoming meetings;~~

~~(B) The state plan for closing the achievement gap;~~

~~(C) A school district plan for closing the achievement gap from each school district;~~

~~(D) The membership and contact information for members of the commission and each local school district achievement gap task force;~~

~~(E) The minutes from commission meetings;~~

~~(F) A clearinghouse for research and other information the commission identifies as important or useful for understanding the achievement gap in the state; and~~

~~(G) Other information that the commission deems appropriate.~~

~~(h) At the discretion of the Commissioner of Elementary and Secondary Education, the state shall provide resources necessary for the following:~~

~~(1) Relevant training for commission members in research-based strategies to close the achievement gap;~~

~~(2) Relevant technical experts to assist in drafting and monitoring the division's efforts to comply with federal guidelines on improving the academic achievement of the disadvantaged, specifically including without limitation the Elementary and Secondary Education Act of 1965, Pub. L. No. 89-10, as reauthorized by the Every Student Succeeds Act, Pub. L. No. 114-95;~~

~~(3) Travel reimbursements for meetings;~~

~~(4) Space and resources to conduct public forums; and~~

~~(5) Printing and copying costs.~~

~~(i) The commission may study and address topics, including, but not limited to:~~

~~(1) Understanding children of poverty;~~

~~(2) Successful strategies with students of poverty;~~

~~(3) Teacher preparation for student diversity;~~

~~(4) Response to language diversity;~~

~~(5) Methods of closing the achievement gap;~~

~~(6) Success stories;~~

~~(7) Obstacles to overcome in closing the achievement gap;~~

~~(8) Alternative intervention strategies for closing the achievement gap;~~

~~(9) Leadership challenges in closing the achievement gap;~~

~~(10) The role of parents, families, and caregivers in closing the achievement gap;~~

~~(11) Parental and community diversity;~~

- ~~(12) The relationship of school to environment and student;~~
- ~~(13) The role of school and class size in achievement;~~
- ~~(14) Conditional barriers to student access to additional learning opportunities; and~~
- ~~(15) The profile of underachieving students.~~

~~(j) The commission may fund a study on research based and proven strategies that close achievement gaps among racial, ethnic, and high poverty groups.~~

~~(k)(1) The division shall provide meeting space and clerical support as needed by the commission.~~

~~(2)(A) Members of the commission shall serve without pay.~~

~~(B) Members of the commission may receive expense reimbursement in accordance with § 25-16-902, to be paid with funds allocated by the state for that purpose.~~

~~(l) The commission may accept gifts, grants, and donations for use in carrying out the purpose and duties of the commission.~~

SECTION 2. Arkansas Code § 6-17-310(e)(2), concerning the duties of the Office for the Purpose of Teacher Recruitment, is amended to read as follows:

(2) Unacceptably wide achievement gaps as determined by the Division of Elementary and Secondary Education ~~in conjunction with the Commission on Closing the Achievement Gap in Arkansas.~~

SECTION 3. Arkansas Code § 6-21-112(f), concerning the Division of Public School Academic Facilities and Transportation, is amended to read as follows:

(f) The Division of Public School Academic Facilities and Transportation shall:

~~(1) Provide information or assistance to the Academic Facilities Oversight Committee as requested;~~

~~(2) Use recommendations or assessments of the Academic Facilities Oversight Committee or the General Assembly as a basis for establishing the policies and procedures of the Division of Public School Academic Facilities and Transportation;~~

~~(3)(2) Develop and implement the Arkansas Public School Academic~~

Facilities Program Act, § 6-21-801 et seq.;

~~(4)~~(3) Administer the various programs of state financial participation in support of local academic facilities;

~~(5)~~(A)~~(4)~~(A) Develop and implement an ongoing uniform process for collecting, inventorying, and updating information on the condition of all public school academic facilities in the state.

(B) If the process developed is an automated statewide system, it shall encompass all school districts;

~~(6)~~(5) Develop and implement an ongoing process for collecting records from state agencies of all lawfully required inspections of public school academic facilities conducted by state agencies and commissions;

~~(7)~~(6) Develop a facility cost index that provides a methodology for comparing the cost of repairing the condition of a public school academic facility to the cost of replacing the public school academic facility with a facility containing the same amount of square footage;

~~(8)~~(7) Conduct unannounced random on-site inspections of public school academic facilities;

~~(9)~~(8) Enforce through planning minimum standards for accessibility to public school academic facilities and programs for individuals with disabilities;

~~(10)~~(9) Develop guidelines for competitive bidding, competitive negotiation, and other methods of procurement for public school academic facilities projects;

~~(11)~~(10) Develop incentive programs to reward school districts for innovative, effective, and efficient use of local and state resources with regard to public school academic facilities;

~~(12)~~(11) Review applicable statutes and rules for conflicts with or omission of energy-related content;

~~(13)~~(12) Administer the school transportation program in the various school districts of Arkansas, including without limitation:

(A) The training of school bus drivers; and

(B) The inspection of school buses, as defined in § 6-19-110;

~~(14)~~(13) Keep records showing the location of the academic facilities in the state by school district;

~~(15)~~(A)~~(14)~~(A) Report by October 1 of each year to the Governor,

the House Committee on Education, and the Senate Committee on Education, ~~and the Academic Facilities Oversight Committee~~ on the status of implementation of the Arkansas Public School Academic Facilities Program Act, § 6-21-801 et seq.

(B) The report also shall include summary results of lawfully required inspections of public school academic facilities by state agencies and commissions;

~~(16)~~(15) Report by October 1 of each even-numbered year to the Governor, the House Committee on Education, and the Senate Committee on Education, ~~and the Academic Facilities Oversight Committee~~ on the state academic facilities master plan;

~~(17)~~(16) Maintain a public access website dedicated to public school academic facilities; and

~~(18)~~(17) Develop and implement a statewide facilities needs priority list that provides a methodology for:

(A) Prioritization of state school district facility needs; and

(B) Comparing the school district advancement of improving facility conditions with school district master plans.

SECTION 4. Arkansas Code § 6-21-114(f), concerning the creation of the Commission for Arkansas Public School Academic Facilities and Transportation, is amended to read as follows:

(f) The commission shall report annually on its activities to the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Governor, the House Committee on Education, the Senate Committee on Education, and the State Board of Education, ~~and the Academic Facilities Oversight Committee.~~

SECTION 5. Arkansas Code § 6-21-811(1), concerning the Academic Facilities Distress Program, is amended to read as follows:

(1) The commission ~~in conjunction with the Academic Facilities Oversight Committee~~ shall:

(1) Reexamine the role and function of the State Facility Assessment of 2004;

(2) Assess the progress made by the state in the mandates of the

Supreme Court in Lake View School District No. 25 v. Huckabee, 351 Ark. 31, 91 S.W.3d 472 (2002); and

(3) Make needed changes in the implementation of the academic facilities program by modifying the commission's rules.

SECTION 6. Arkansas Code § 8-4-233 is repealed.

~~8-4-233. Nutrient Water Quality Trading Advisory Panel—Creation—Members—Duties.~~

~~(a) The Nutrient Water Quality Trading Advisory Panel is created, consisting of nine (9) members as follows:~~

~~(1) One (1) member appointed by the President Pro Tempore of the Senate;~~

~~(2) One (1) member appointed by the Speaker of the House of Representatives; and~~

~~(3) Seven (7) members appointed by the Governor as follows:~~

~~(A) One (1) member to represent agricultural interests;~~

~~(B) One (1) member to represent forestry interests;~~

~~(C) One (1) member to represent municipal wastewater treatment facility interests;~~

~~(D) One (1) member to represent public drinking water supply interests;~~

~~(E) One (1) member to represent the interests of industries that hold point source wastewater discharge permits; and~~

~~(F) Two (2) members to represent the interests of environmental organizations regarding water quality.~~

~~(b)(1) A member shall serve a term of two (2) years or until a successor is appointed.~~

~~(2) A member may serve successive terms without limitation.~~

~~(3) If a vacancy occurs, the officer who made the original appointment for that position shall appoint a person who represents the same constituency as the member being replaced.~~

~~(c)(1) A majority of the members shall constitute a quorum for the transaction of business.~~

~~(2) Meetings may be conducted with members participating via telephonic or other electronic conferencing methods.~~

~~(d)(1) The panel shall elect a chair and vice chair.~~

~~(2) The panel may adopt rules relating to the conduct of its meetings.~~

~~(e) Members shall serve without compensation but may be reimbursed for expenses in accordance with § 25-16-902, if funds are available.~~

~~(f) The Division of Environmental Quality shall provide meeting space and administrative services for the panel.~~

~~(g) The panel may:~~

~~(1) Advise the division and the Arkansas Natural Resources Commission regarding the desirability, design, and operation of nutrient water quality trading programs; and~~

~~(2) Advise the Arkansas Pollution Control and Ecology Commission and the Arkansas Natural Resources Commission regarding the promulgation of rules involving nutrient water quality trading programs.~~

~~(h) The Arkansas Pollution Control and Ecology Commission shall not initiate a rulemaking proceeding to adopt a rule that authorizes or governs nutrient water quality trading unless:~~

~~(1) The proposed rule has been recommended by the panel; or~~

~~(2) A copy of the proposed rule has been delivered to the panel at least sixty (60) calendar days before the date the request to initiate the rulemaking is filed with the Arkansas Pollution Control and Ecology Commission.~~

~~(i) Subsection (h) of this section does not limit the authority of the Arkansas Pollution Control and Ecology Commission to:~~

~~(1) Alter a proposed rule at any time during the rulemaking proceeding; or~~

~~(2) Initiate a rulemaking proceeding if:~~

~~(A) The members of the panel have not been appointed; or~~

~~(B) The panel lacks an actively serving quorum.~~

SECTION 7. Arkansas Code Title 10, Chapter 3, Subchapter 22, is repealed.

~~Subchapter 22 — Academic Facilities Oversight Committee~~

~~10-3-2201. Academic Facilities Oversight Committee.~~

~~(a) There is created a legislative committee to be known as the Academic Facilities Oversight Committee.~~

~~(b) The Academic Facilities Oversight Committee shall consist of fifteen (15) members as follows:~~

~~(1)(A) Seven (7) members of the Senate as follows:~~

~~(i) One (1) member who is the Chair of the Senate Committee on Education or his or her designee;~~

~~(ii) Two (2) members of the Senate Committee on Education appointed by the Chair of the Senate Committee on Education; and~~

~~(iii) Four (4) members of the Senate appointed by the President Pro Tempore of the Senate.~~

~~(B) In the event that the Chair of the Senate Committee on Education and the President Pro Tempore of the Senate are the same person, the Vice Chair of the Senate Committee on Education shall make the appointments under subdivision (b)(1)(A)(ii) of this section;~~

~~(2)(A) Seven (7) members of the House of Representatives as follows:~~

~~(i) One (1) member who is the Chair of the House Committee on Education or his or her designee;~~

~~(ii) Two (2) members of the House Committee on Education to be appointed by the Chair of the House Committee on Education; and~~

~~(iii) Four (4) members of the House to be appointed by the Speaker of the House of Representatives.~~

~~(B) In the event that the Chair of the House Committee on Education and the Speaker of the House of Representatives are the same person, the Vice Chair of the House Committee on Education shall make the appointments under subdivision (b)(2)(A)(ii) of this section; and~~

~~(3) The Director of the Division of Public School Academic Facilities and Transportation who shall serve as a nonvoting ex officio member.~~

~~(c) The Chair of the Senate Committee on Education or the chair's designee and the Chair of the House Committee on Education or the chair's designee shall serve as cochairs of the committee.~~

~~(d) If a vacancy occurs in an appointed position for any reason, the vacancy shall be filled in the same manner as the original appointment.~~

~~(e)(1) The Academic Facilities Oversight Committee shall meet upon the call of either or both of the cochairs of the Academic Facilities Oversight~~

Committee.

~~(2) Eight (8) members of the Academic Facilities Oversight Committee shall constitute a quorum for the purpose of transacting business.~~

~~(3) A quorum is required for any action of the Academic Facilities Oversight Committee.~~

~~10-3-2202. Powers and duties.~~

~~(a) The Academic Facilities Oversight Committee shall:~~

~~(1) Oversee development and implementation of state statutory requirements with regard to providing constitutionally appropriate public school academic facilities and related equipment for all public schools in the State of Arkansas as necessary to provide an equal opportunity for an adequate education for all public school students in Arkansas;~~

~~(2) [Repealed.]~~

~~(3) Review and recommend policies and criteria for the repair, maintenance, renovation, remodeling, replacement, and construction of public school academic facilities;~~

~~(4) Oversee local and state expenditures related to providing constitutionally appropriate public school academic facilities and related equipment;~~

~~(5) Review the effectiveness of methods used to fund the cost of constitutionally appropriate public school academic facilities and equipment;~~

~~(6) Review the ongoing assessment, evaluation, and inspection of public school academic facilities to provide that constitutionally appropriate public school academic facilities are, and will continue to be, provided for public school students in Arkansas; and~~

~~(7) Use the opinions of the Supreme Court in the matter of Lake View School District No. 25 v. Huckabee, 351 Ark. 31, 91 S.W.3d 472 (2002) and other legal precedent relevant to public school academic facilities.~~

~~(b)(1)(A) The Academic Facilities Oversight Committee shall report its findings and recommendations to the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Governor, the House Committee on Education, and the Senate Committee on Education no later than October 1 before each regular session of the General Assembly.~~

~~(B) Upon motion of the Academic Facilities Oversight Committee and approval by a quorum of the committee, the October 1 report~~

~~deadline may be extended for a period to be determined by the Academic Facilities Oversight Committee.~~

~~(2) The report shall include for each recommendation, proposed implementation schedules with timelines, specific steps, agencies and persons responsible, and resources needed.~~

~~(3) When feasible, the Academic Facilities Oversight Committee shall propose plans, measures, and initiatives as recommendations for legislation or rules.~~

~~10-3-2203. Committee assistance.~~

~~(a) The Division of Elementary and Secondary Education, the Division of Career and Technical Education, the Division of Higher Education, the Division of Public School Academic Facilities and Transportation, and the Division of Public School Accountability shall provide the Academic Facilities Oversight Committee with assistance as requested by the Academic Facilities Oversight Committee.~~

~~(b) The Academic Facilities Oversight Committee may hire or contract with individuals or entities, both within the state and from out of state, for the purpose of obtaining staff or otherwise performing the duties of the Academic Facilities Oversight Committee to the extent funding is appropriated and available for that purpose.~~

~~(c) The Bureau of Legislative Research shall furnish reasonable staff assistance to the Academic Facilities Oversight Committee as may be requested by the Academic Facilities Oversight Committee.~~

~~10-3-2204. Meetings — Reimbursement of expenses.~~

~~(a) The Academic Facilities Oversight Committee shall function during the interim between regular session, fiscal sessions, or special sessions of the General Assembly, while the General Assembly is in session, and while the General Assembly is in recess.~~

~~(b) If the Academic Facilities Oversight Committee meets at a time when the General Assembly is not in session, the legislative members of the Academic Facilities Oversight Committee are entitled to per diem and mileage reimbursement at the rate for attending meetings of the Legislative Council. The per diem or mileage reimbursement shall be paid from funds appropriated for the payment of per diem and mileage for attendance at meetings of interim~~

~~committees of the General Assembly.~~

SECTION 8. Arkansas Code § 25-43-602(a)(6), concerning state entities transferred to the Department of Energy and Environment, is repealed.

~~(6) The Nutrient Water Quality Trading Advisory Panel, created under § 8-4-233, and~~