

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 798 of the Regular Session

1 State of Arkansas  
2 87th General Assembly  
3 Regular Session, 2009  
4

As Engrossed: H3/20/09 H3/25/09

**A Bill**

HOUSE BILL 2170

5 By: Representatives Carnine, Abernathy, B. Wilkins, G. Smith, McCrary

6 By: Senator J. Jeffress  
7  
8

**For An Act To Be Entitled**

9  
10 AN ACT TO PROVIDE INTERVENTION AND PROFESSIONAL  
11 CONSULTATION UPON EARLY INDICATORS OF THE FISCAL  
12 DISTRESS OR FACILITIES DISTRESS OF A PUBLIC  
13 SCHOOL DISTRICT; AND FOR OTHER PURPOSES.  
14

**Subtitle**

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16 TO PROVIDE FOR INTERVENTION AND  
17 PROFESSIONAL CONSULTATION UPON EARLY  
18 INDICATORS OF THE FISCAL DISTRESS OR  
19 FACILITIES DISTRESS OF A PUBLIC SCHOOL  
20 DISTRICT.  
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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25 SECTION 1. Arkansas Code § 6-20-1904 is amended to read as follows:

26 6-20-1904. Indicators of fiscal distress.

27 (a) ~~Any~~ A school district meeting any of the following criteria may be  
28 identified by the Department of Education to be a school district in fiscal  
29 distress upon final approval by the State Board of Education:

30 (1)(A) A declining balance determined to jeopardize the fiscal  
31 integrity of a school district.

32 (B) However, capital outlay expenditures for academic  
33 facilities from a school district balance shall not be used to put the school  
34 district in fiscal distress;

35 (2) ~~Any~~ An act or violation determined to jeopardize the fiscal



1 integrity of a school district, ~~including, but not limited to~~ including  
2 without limitation:

3 (A) Material failure to properly maintain school  
4 facilities;

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

7 (C) Material violation of local, state, or federal  
8 construction code provisions or law;

9 (D) Material state or federal audit exceptions or  
10 violations;

11 (E) Material failure to provide timely and accurate  
12 legally required financial reports to the department, the Division of  
13 Legislative Audit, the General Assembly, or the Internal Revenue Service;

14 (F) Insufficient funds to cover payroll, salary,  
15 employment benefits, or legal tax obligations;

16 (G) Material failure to meet legally binding minimum  
17 teacher salary schedule obligations;

18 (H) Material failure to comply with state law governing  
19 purchasing or bid requirements;

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

22 (J) Material discrepancies between budgeted and actual  
23 school district expenditures;

24 (K) Material failure to comply with audit requirements; or

25 (L) Material failure to comply with any provision of the  
26 Arkansas Code that specifically places a school district in fiscal distress  
27 based on noncompliance; or

28 (3) Any other fiscal condition of a school district deemed to  
29 have a detrimental negative impact on the continuation of educational  
30 services by that school district.

31 (b)(1) By August 31 of each year, the department shall report to the  
32 superintendent of a school district if the department is aware that the  
33 school district has experienced two (2) or more indicators of fiscal distress  
34 in one (1) school year that the department deems to be at a nonmaterial  
35 level, but that without intervention could place the district in fiscal  
36 distress.

1           (2) The superintendent of a school district shall report to the  
2 department if the superintendent is aware the school district has experienced  
3 two (2) or more indicators of fiscal distress in one (1) school year that the  
4 superintendent deems to be at a nonmaterial level, but that without  
5 intervention could place the district in fiscal distress.

6           (3)(A) The department and the superintendent shall review all  
7 data related to the nonmaterial indicators of fiscal distress.

8           (B)(i) Within thirty (30) days of the department's  
9 determination that the school district may be experiencing fiscal distress at  
10 a nonmaterial level, the department shall provide a notice to the school  
11 district's superintendent and board of directors that:

12                   (a) Describes the nonmaterial indicators of  
13 fiscal distress that could jeopardize the fiscal integrity of the school  
14 district if not addressed; and

15                   (b) Identifies the support available from the  
16 department to address each nonmaterial indicator of fiscal distress.

17                   (ii) The board of directors shall place on the  
18 agenda for the next regularly scheduled meeting of the board of directors a  
19 discussion of the notice of nonmaterial indicators of fiscal distress.

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21           SECTION 2. Arkansas Code § 6-21-811(b), concerning facilities distress  
22 indicators, is amended to read as follows:

23           (b)(1) The division shall provide written notice, via certified mail,  
24 return receipt requested, to the president of the school board of directors  
25 and the superintendent of the public school or school district identified as  
26 being in facilities distress.

27           (c)(1) By August 31 of each year, the division shall notify the  
28 superintendent of a school district if the division is aware the school  
29 district has experienced two (2) or more indicators of facilities distress in  
30 one (1) school year that the division deems to be nonmaterial, but that  
31 without intervention could place the district in facilities distress.

32           (2) The superintendent of a school district shall report to the  
33 division if the superintendent is aware the school district has experienced  
34 two (2) or more indicators of facilities distress in one (1) school year that  
35 the superintendent deems to be nonmaterial, but that without intervention  
36 could place the district in facilities distress.

1 (3)(A) The division and the superintendent shall review all data  
2 related to the nonmaterial indicators of facilities distress.

3 (B)(i) Within thirty (30) days of the division's  
4 determination that the school district may be experiencing facilities  
5 distress at a nonmaterial level, the division shall provide a notice to the  
6 school district's superintendent and board of directors that:

7 (a) Describes the nonmaterial indicators of  
8 facilities distress that could have a detrimental impact on educational  
9 services provided by the affected public school or the school district if not  
10 addressed; and

11 (b) Identifies the support available from the  
12 division to address each nonmaterial indicator of facilities distress.

13 (ii) The board of directors shall place on the  
14 agenda for the next regularly scheduled meeting of the board of directors a  
15 discussion of the notice of nonmaterial indicators of facilities distress.

16 (4)(A) If any condition of an academic facility raises a  
17 significant health or safety issue, the superintendent of the school district  
18 where the academic facility is located or the person responsible for the  
19 management of the academic facility shall immediately notify the division and  
20 the board of directors of the school district.

21 (B) The board of directors shall place on the agenda for  
22 the next regularly scheduled meeting of the board of directors a discussion  
23 of the notice of the significant health or safety issue.

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25 /s/ Carnine

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27 APPROVED: 4/3/2009  
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