

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

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005
4

As Engrossed: H3/24/05

A Bill

HOUSE BILL 2508

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

For An Act To Be Entitled

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

Subtitle

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

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

20 SECTION 1. Arkansas Code Title 6, Chapter 20 is amended to add an
21 additional subchapter to read as follows:

22 6-20-2501. Title.

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

26 6-20-2502. Definitions.

27 As used in this subchapter:

28 (1)(A) "Academic facility" means a building or space, including
29 related areas such as the physical plant and grounds, where students receive
30 instruction that is an integral part of an adequate education as described in
31 § 6-20-2302.

32 (B)(i) A public school building or space, including
33 related areas such as the physical plant and grounds, used for an
34 extracurricular activity or an organized physical activity course as defined
35 in Act 660 of 2005 shall not be considered an academic facility for the
36 purposes of this subchapter to the extent that the building, space, or



1 related area is used for extracurricular activities or organized physical
2 activities courses, except for physical educational training and instruction
3 under § 6-16-132.

4 (ii) The Division of Public School Academic
5 Facilities and Transportation shall determine the extent to which a building,
6 space, or related area is used for extracurricular activities or organized
7 physical activities courses based on information supplied by the school
8 district and, if necessary, on-site inspection.

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

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

15 (2) "Academic facilities wealth index" means the value of one
16 (1) mill multiplied by the total assessed valuation of taxable real,
17 personal, and utility property in the school district as shown by the county
18 assessment for the most recent year with the result divided by the greater of
19 the prior year average daily membership of the school district or the prior
20 three-year average of the school district's average daily membership;

21 (3)(A) "Average daily membership" means the total number of days
22 of school attended plus the total number of days absent by students in grades
23 kindergarten through twelve (K-12) during the first three (3) quarters of
24 each school year divided by the number of school days actually taught in the
25 school district during that period of time rounded up to the nearest
26 hundredth.

27 (B) As applied to this subchapter, students who may be
28 counted for average daily membership are:

29 (i) Students who reside within the boundaries of the
30 school district and who are enrolled in a public school operated by the
31 school district;

32 (ii) Legally transferred students living outside the
33 school district but attending a public school in the school district; and

34 (iii) Students who are eligible to attend and reside
35 within the boundaries of a school district and who are enrolled in the
36 Arkansas National Guard Youth Challenge Program, so long as the students are

1 participants in the program;

2 (4) "Facility condition index" means a methodology established
3 by the Division of Public School Academic Facilities and Transportation for
4 comparing the cost of repairing the condition of a public school academic
5 facility to the cost of replacing the public school academic facility with a
6 public school academic facility containing the same amount of square footage;

7 (5) "Immediate repair project" means a project involving a
8 public school academic facility necessary to resolve a deficiency that
9 presents an immediate hazard to:

10 (A) The health or safety of students, teachers,
11 administrators, or staff;

12 (B) The integrity of the public school academic facility
13 with regard to meeting minimum health and safety standards; or

14 (C) The extraordinary deterioration of the public school
15 academic facility;

16 (6) "Local enhancements" means the portion of any maintenance,
17 repair, or renovation project or new construction project that is designed to
18 bring an academic facility or related areas, such as the physical plant or
19 grounds, to a state of condition or efficiency that exceeds state academic
20 facilities standards;

21 (7) "Local resources" means any moneys lawfully generated by a
22 school district for the purpose of funding the school district's share of
23 financial participation in any academic facilities project for which a school
24 district is eligible to receive state financial participation under
25 priorities established by the division;

26 (8) "Maintenance, repair, and renovation" means any activity or
27 improvement to an academic facility and, if necessary, related areas such as
28 the physical plant and grounds, that:

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

31 (B) Brings the state of condition or efficiency of the
32 academic facility up to the facility's original condition of completeness or
33 efficiency;

34 (9) "Millage rate" means the millage rate listed in the most
35 recent tax ordinance approved by the county quorum court under the authority
36 of § 14-14-904;

1 (10)(A) "New construction" means any improvement to an academic
2 facility and, if necessary, related areas such as the physical plant and
3 grounds, that brings the state of condition or efficiency of the academic
4 facility to a state of condition or efficiency better than the academic
5 facility's original condition of completeness or efficiency.

6 (B) "New construction" includes additions to existing
7 academic facilities and new academic facilities;

8 (11) "Project" means an undertaking in which a school district
9 engages in:

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

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

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

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

20
21 6-20-2503. State financial participation.

22 (a) The Division of Public School Academic Facilities and
23 Transportation shall compute the academic facilities wealth index for each
24 school district. The division shall use the academic facilities wealth index
25 to determine the amount of the state's share of financial participation in an
26 eligible local academic facilities project approved under priorities
27 established by the division.

28 (b)(1) The division shall rank all school districts according to their
29 academic facilities wealth index in order of the lowest wealth index per
30 student to the highest wealth index per student.

31 (2) The division shall divide the academic facilities wealth
32 index rankings into percentiles with the first percentile containing the one
33 percent (1%) of students with the lowest school district academic facilities
34 wealth index and the one-hundredth percentile containing the one percent (1%)
35 of students having the highest school district academic facilities wealth
36 index.

1 (c)(1) If a school district is eligible for state financial
2 participation in a local academic facilities project under priorities
3 established by the division, the school district's share of financial
4 participation is the percentage derived from dividing the school district's
5 academic facilities wealth index by the amount corresponding to the ninety-
6 fifth percentile of the academic facilities wealth index.

7 (2) If a school district is eligible for state financial
8 participation in a local academic facilities project under priorities
9 established by the division, the state's share of financial participation is
10 the percentage derived from subtracting the school district's percentage
11 share of financial participation from one hundred percent (100%).

12
13 6-20-2504. Pre-January 1, 2005, academic facilities assistance.

14 (a) For purposes of this section, "statewide average daily membership"
15 means the sum of the prior year average daily memberships for all school
16 districts in the state.

17 (b)(1) Beginning with the 2005-2006 school year, the Department of
18 Education shall provide pre-January 1, 2005, academic facilities assistance
19 to school districts for the purpose of increasing the amount of revenue
20 available for academic facilities, academic equipment, and related projects.

21 (2) In order to ascertain the amount of state financial
22 assistance to be distributed to each school district under this section, the
23 total amount of moneys distributed statewide under the Supplemental School
24 District Funding Act of 2003, § 6-20-2401 et seq. during fiscal year 2005
25 shall be divided by the prior year statewide average daily membership with
26 the result multiplied by the school district's prior year average daily
27 membership.

28 (3) A school district shall use state financial assistance under
29 this section only for maintenance, repair, and renovation of an academic
30 facility, new construction of an academic facility, the purchase of academic
31 equipment, debt service, or other appropriate purposes.

32 (4) The department shall distribute state financial assistance
33 under this section on a schedule in accordance with rules promulgated by the
34 State Board of Education.

35 (5) The department shall phase-out pre-January 1, 2005, academic
36 facilities assistance over a fifteen-year period by reducing the amount of

1 state financial assistance received by a school district by one-fifteenth
2 (1/15) in each year of the fifteen-year period with the savings distributed
3 through the Educational Facilities Partnership Fund Account in accordance
4 with rules promulgated by the Commission for Public School Academic
5 Facilities and Transportation.

6 (c)(1) If the amount of a school district's state financial assistance
7 under this section is less than the amount of state financial assistance the
8 school district received under the Supplemental School District Funding Act
9 of 2003, § 6-20-2401 et seq. for the 2004-2005 school year, then the state
10 shall provide the school district with a supplemental payment so that the
11 school district receives the same amount of state financial assistance as it
12 received in the 2004-2005 school year, except as provided in subdivision
13 (c)(2) of this section.

14 (2) The department shall eliminate supplemental payments under
15 subdivision (c)(1) over a five-year period by reducing the amount of the
16 supplemental payment by twenty percent (20%) in each year of the five-year
17 period with the savings distributed through the Educational Facilities
18 Partnership Fund Account in accordance with rules promulgated by the
19 commission.

20 (d) If any provision of this section or the application thereof to any
21 person or circumstance is held invalid, the invalidity shall not affect other
22 provisions of this act which can be given effect without this section or the
23 application thereof, and to this end the provisions of this section are
24 declared to be severable from the remainder of this act.

25
26 6-20-2505. Academic Facilities Immediate Repair Program.

27 (a) There is established the Academic Facilities Immediate Repair
28 Program under which the Division of Public School Academic Facilities and
29 Transportation shall provide school districts with state financial
30 participation for eligible repair projects based on the school district's
31 academic facilities wealth index.

32 (b) A school district may apply for state financial participation in
33 an immediate repair project if:

34 (1) The school district's application is received by the
35 division no later than July 1, 2005;

36 (2) The condition for which the repair is needed was in

1 existence on January 1, 2005;

2 (3) The facility condition index of the academic facility
3 involved in the proposed repair project is less than a threshold amount
4 determined by the division; and

5 (4) The repair project involves one (1) of more of the
6 following:

7 (A) Heating, ventilation, and air conditioning systems;

8 (B) Floors;

9 (C) Roofs;

10 (D) Sewage systems;

11 (E) Water supplies;

12 (F) Asbestos abatement;

13 (G) Fire alarm systems;

14 (H) Exterior doors;

15 (I) Emergency exit or egress passageway lighting;

16 (J) Academic program or facility accessibility for
17 individuals with disabilities; and

18 (K) Any other repair to a building system necessary to
19 satisfy life-safety code requirements as determined by the division.

20 (c) As part of its application for state financial participation in an
21 immediate repair project, a school district shall provide the division with
22 evidence of:

23 (1) The deficiency in need of correction and how it presents an
24 immediate hazard to:

25 (A) The health or safety of students, teachers,
26 administrators, or staff of a school district;

27 (B) The integrity of the public school academic facility
28 with regard to meeting minimum health and safety standards; or

29 (C) The extraordinary deterioration of the public school
30 academic facility;

31 (2) The estimated cost of the immediate repair project, which
32 shall be a minimum of one hundred dollars (\$100) per student or fifty
33 thousand dollars (\$50,000), whichever is less;

34 (3) The availability of insurance and any other public or
35 private emergency assistance to pay for the immediate repair project; and

36 (4) Whether or not the academic facility is reasonably expected

1 to close or be substantially replaced within three (3) years.

2 (d)(1) The division shall evaluate a school district's immediate
3 repair application and may conduct an on-site inspection prior to making a
4 decision on the application as it deems necessary.

5 (2) The division shall notify the school district of the
6 division's decision on the application and, if applicable, the amount of
7 state financial participation. The division shall base its decision on
8 several factors, including, without limitation:

9 (A) The seriousness of the deficiency that the immediate
10 repair project is intended to correct;

11 (B) Compliance with current academic facility standards,
12 including, without limitation, appropriate space utilization;

13 (C) The amount and availability of insurance and any other
14 public or private emergency assistance;

15 (D) Whether the academic facility is reasonably expected
16 to close or be substantially replaced within three (3) years;

17 (E) The academic facilities wealth index of the school
18 district; and

19 (F) The prudent and resourceful expenditure of state funds
20 with regard to public school academic facilities.

21 (e)(1) If a school district qualifies for state financial
22 participation under this section, the division shall certify the amount of
23 state financial participation to the Commission on Public School Academic
24 Facilities and Transportation for oversight purposes. The commission shall
25 certify the amount to the Department of Education for payment.

26 (2) For tracking purposes, the school district shall account for
27 the funds received as state financial participation under this section as
28 restricted funds and shall account for the funds in accordance with
29 provisions of law, including, without limitation, the Arkansas Educational
30 Financial Accounting and Reporting Act of 2005, § 6-20-2201 et seq. and rules
31 established by the State Board of Education and the commission.

32 (f) Every effort shall be made to conform an immediate repair project
33 to current academic facilities standards, including, without limitation,
34 appropriate space utilization requirements, unless in the judgment of the
35 division it is impractical to conform the immediate repair project to current
36 standards.

1 (g) A school district shall use state financial participation in an
2 immediate repair project to pay the cost of only the portion of an immediate
3 repair project that is not covered by insurance or other public or private
4 emergency assistance received by or payable to the school district.

5
6 6-20-2506. Academic Equipment Program.

7 (a) There is established the Academic Equipment Program under which
8 the Division of Public School Academic Facilities and Transportation shall
9 provide school districts with state financial participation to support the
10 purchase of eligible academic equipment based on the school district's
11 academic facilities wealth index.

12 (b) A school district may apply for state financial participation to
13 support the purchase of academic equipment if:

14 (1) The school district's application is received by the
15 division no later than July 1, 2005;

16 (2) The need for the academic equipment was in existence on
17 January 1, 2005; and

18 (3) The academic equipment supports an adequate education as
19 described in § 6-20-2302.

20 (c) As part of its application for state financial participation under
21 this section, a school district shall provide the division with evidence of:

22 (1) The need for the academic equipment;

23 (2) The estimated cost of the academic equipment; and

24 (3) Any additional information determined by the division to be
25 necessary to evaluate the school district's application.

26 (d) The division shall evaluate a school district's application and
27 notify the school district of the division's decision on the application and,
28 if applicable, the amount of state financial participation. The division
29 shall base its decision on several factors, including, without limitation:

30 (1) The nature of and need for the academic equipment;

31 (2) Consistency with current academic equipment standards and
32 sound educational practices;

33 (3) The academic facilities wealth index of the school district;
34 and

35 (4) The prudent and resourceful expenditure of state funds with
36 regard to public school academic facilities and equipment.

1 (e)(1) If a school district qualifies for state financial
2 participation under this section, the division shall certify the amount of
3 state financial participation to the Commission on Public School Academic
4 Facilities and Transportation for oversight purposes. The commission shall
5 certify the amount to the Department of Education for payment.

6 (2) For tracking purposes, the school district shall account for
7 the funds received as state financial participation under this section as
8 restricted funds and shall account for the funds in accordance with
9 provisions of law, including, without limitation, the Arkansas Educational
10 Financial Accounting and Reporting Act of 2004, § 6-20-2201 et seq. and rules
11 established by the State Board of Education and the commission.

12 (f) Every effort shall be made to conform the purchase of academic
13 equipment to current academic equipment standards and sound educational
14 practices, unless in the judgment of the division it is impractical to
15 conform the purchase to current standards.

16
17 6-20-2507. Transitional Academic Facilities Program.

18 (a) There is established the Transitional Academic Facilities Program
19 under which the Division of Public School Academic Facilities and
20 Transportation shall provide state financial participation based on a school
21 district's academic facilities wealth index in the form of reimbursement to a
22 school district for eligible new construction projects for which debt is
23 incurred or funds are spent after January 1, 2005, and on or before June 30,
24 2006.

25 (b) Under the transitional academic facilities program, a school
26 district may proceed with new construction of an academic facility through
27 the expenditure of local resources prior to the school district's eligibility
28 for state financial participation and may apply the expenditure of local
29 resources after January 1, 2005, and on or before June 30, 2006, toward
30 meeting the school district's share of financial participation in the cost of
31 the new construction project when, and if, the school district becomes
32 eligible for state financial participation.

33 (c) In order to apply for state financial participation under the
34 transitional academic facilities program, the school district shall provide
35 the division with evidence of:

36 (1) A new construction project for which debt was incurred or

1 funds were spent after January 1, 2005, and on or before June 30, 2006;

2 (2) The total cost of the new construction project;

3 (3) The new construction project's conformance with sound
4 educational practices;

5 (4)(A) The new construction project's compliance with current
6 academic facilities standards, including, without limitation, appropriate
7 space utilization of existing academic facilities in the district as
8 determined by the division.

9 (B) The academic facilities standards in effect on the
10 date the plans are submitted to the Division of Public Academic Facilities
11 and Transportation are the academic facilities standards that will apply to
12 the new construction project;

13 (5) The allocation of project costs between new construction
14 activities and maintenance, repair, and renovation activities if the new
15 construction project includes improvements that could be classified as
16 maintenance, repair, and renovation; and

17 (6) How the new construction project supports the prudent and
18 resourceful expenditure of state funds and improves the school district's
19 ability to deliver an adequate and equitable education to public school
20 students in the district.

21 (d)(1) The division shall evaluate a school district's application for
22 state financial participation under the transitional academic facilities
23 program and shall conduct an on-site inspection prior to making a
24 determination of the new construction project's eligibility for reimbursement
25 from the state.

26 (2) During the on-site inspection, the division shall evaluate
27 all of the following:

28 (A) Student health and safety, including, without
29 limitation, critical health and safety needs;

30 (B) The new construction project's compliance with current
31 academic facilities standards, including, without limitation, appropriate
32 space utilization of existing academic facilities in the district;

33 (C) The new construction project's conformance with sound
34 educational practices;

35 (D) Curriculum improvement and diversification, including,
36 without limitation, the use of instructional technology, distance learning,

1 and access to advanced courses in science, mathematics, language arts, and
2 social studies;

3 (E) Multischool, multidistrict, and regional planning to
4 achieve the most effective and efficient instructional delivery system;

5 (F) Reasonable travel time and practical means of
6 addressing other demographic considerations; and

7 (G) Regularly scheduled maintenance, repair, and
8 renovation.

9 (3) The division shall notify the school district of the
10 division's decision on the application and, if applicable, the amount of
11 reimbursement from the state. The division shall base its decision, on
12 several factors, including, without limitation:

13 (A) The reasonableness and necessity of the features of
14 the academic facility according to criteria developed by the division;

15 (B) Compliance with current academic facility standards,
16 including, without limitation, appropriate space utilization;

17 (C) The academic facilities wealth index of the school
18 district; and

19 (D) The prudent and resourceful expenditure of state funds
20 with regard to public school academic facilities.

21 (e)(1) If a school district qualifies for state financial
22 participation under this section, the division shall certify the amount of
23 state financial participation to the Commission on Public School Academic
24 Facilities and Transportation for oversight purposes. The commission shall
25 certify the amount to the Department of Education for payment.

26 (2) For tracking purposes, the school district shall account for
27 the funds received as state financial participation under this section as
28 restricted funds and shall account for the funds in accordance with
29 provisions of law, including, without limitation, the Arkansas Educational
30 Financial Accounting and Reporting Act of 2005, § 6-20-2201 et seq. and rules
31 established by the State Board of Education and the commission.

32 (f) Every effort shall be made to conform a new construction project
33 to current academic facilities standards, including, without limitation,
34 appropriate space utilization requirements, unless in the judgment of the
35 division it is impractical to conform the new construction project to current
36 standards.

1
2 6-20-2508. Academic Facilities Partnership Program.

3 (a) There is established the Academic Facilities Partnership Program
4 under which the Division of Public School Academic Facilities and
5 Transportation shall provide state financial participation based on a school
6 district's academic facilities wealth index in the form of cash payments to a
7 school district for eligible new construction projects.

8 (b) In order to apply for state financial participation in a new
9 construction project, a school district shall provide the division with a
10 copy of the design plans for the project and evidence of:

11 (1) Preparation for the new construction project as demonstrated
12 by inclusion of the new construction project in the school district's
13 facilities master plan;

14 (2)(A) The adoption of a resolution certifying to the division
15 the school district's dedication of local resources to meet the school
16 district's share of financial participation in the new construction project.

17 (B) The resolution shall specify the approximate date that
18 the board of directors of the school district intends to seek elector
19 approval of any bond or tax measures or to apply other local resources to pay
20 the school district's share of financial participation in the new
21 construction project;

22 (3) The total estimated cost of the new construction project;

23 (4) The new construction project's conformance with sound
24 educational practices;

25 (5) The new construction project's compliance with current
26 academic facilities standards, including, without limitation, appropriate
27 space utilization of existing academic facilities in the district as
28 determined by the division;

29 (6) The allocation of project costs between new construction
30 activities and maintenance, repair, and renovation activities if the new
31 construction project includes improvements that could be classified as
32 maintenance, repair, and renovation; and

33 (7) How the new construction project supports the prudent and
34 resourceful expenditure of state funds and improves the school district's
35 ability to deliver an adequate and equitable education to public school
36 students in the district.

1 (c) The division shall use criteria to evaluate a school district's
2 application for state financial participation in a new construction project,
3 which shall include, without limitation, the following:

4 (1) How the school district's facilities master plan and current
5 academic facilities do not address the following:

6 (A) Student health and safety, including, without
7 limitation, but not limited to, critical health and safety needs;

8 (B) Compliance with current academic facilities standards,
9 including, without limitation, appropriate space utilization of existing
10 academic facilities in the district;

11 (C) Conformance with sound educational practices;

12 (D) Curriculum improvement and diversification, including,
13 without limitation, the use of instructional technology, distance learning,
14 and access to advanced courses in science, mathematics, language arts, and
15 social studies;

16 (E) Multischool, multidistrict, and regional planning to
17 achieve the most effective and efficient instructional delivery system;

18 (F) Reasonable travel time and practical means of
19 addressing other demographic considerations; and

20 (G) Regularly scheduled maintenance, repair, and
21 renovation;

22 (2) How the school district's facilities master plan and any new
23 construction project under the facilities master plan address the following:

24 (A) Student health and safety, including, without
25 limitation, critical health and safety needs;

26 (B) Compliance with current academic facilities standards,
27 including, without limitation, appropriate space utilization of existing
28 academic facilities in the district;

29 (C) Conformance with sound educational practices;

30 (D) Curriculum improvement and diversification, including,
31 without limitation, the use of instructional technology, distance learning,
32 and access to advanced courses in science, mathematics, language arts, and
33 social studies;

34 (E) Multischool, multidistrict, and regional planning to
35 achieve the most effective and efficient instructional delivery system;

36 (F) Reasonable travel time and practical means of

1 addressing other demographic considerations; and

2 (G) Regularly scheduled maintenance, repair, and
3 renovation;

4 (3) How the new construction project supports the prudent and
5 resourceful expenditure of state funds and improves the school district's
6 ability to deliver an adequate and equitable education to public school
7 students in the district;

8 (4) How the new construction project has been prioritized by the
9 school district; and

10 (5) The allocation and expenditure of funds in accordance with
11 this subchapter and the Arkansas Public School Academic Facility Program Act,
12 § 6-21-801 et seq.

13 (d)(1) State financial participation under the academic facilities
14 partnership program is not available until July 1, 2006. The division shall
15 give priority in state financial participation to school district proposals
16 relating to academic facilities with the highest facilities condition index.

17 (2)(A) With regard to an academic facilities project for which a
18 school district intends to apply for state financial participation during
19 fiscal year 2006-2007, the division shall notify the school district of the
20 division's decision on the application and, if applicable, the estimated
21 amount of state financial participation in the new construction project no
22 later than May 1, 2006.

23 (B) Beginning in 2007, the division shall notify the
24 school district of the division's decision on the application and, if
25 applicable, the estimated amount of state financial participation in the new
26 construction project no later than May 1 of each odd-numbered year.

27 (3) The division's notice of its decision on a school district's
28 application for state financial participation in a new construction shall
29 include an explanation of the evaluative factors underlying the decision of
30 the division to provide or not provide state financial participation in
31 support of the new construction project.

32 (e)(1) If the division determines that the new construction project is
33 eligible for state financial participation, the division and the school
34 district shall enter into an agreement specifying the terms of the state's
35 financial participation and the conditions that must be satisfied by the
36 school district.

1 (2) At a minimum, the agreement shall:

2 (A) Identify the estimated amount of local financial
3 participation and state financial participation in the new construction
4 project;

5 (B) Define the method of and schedule for transferring
6 state financial participation funds to the school district;

7 (C) Identify whether the new construction project includes
8 any improvements that are classified as maintenance, repair, and renovation,
9 and how the project costs will be allocated between new construction
10 activities and maintenance, repair, and renovation activities;

11 (D) Provide that changes to the plans for the new
12 construction project shall be made in consultation with the division;

13 (E) Provide that the division or any person acting on
14 behalf of the division may conduct on-site inspections of the new
15 construction project as frequently as the division deems necessary to assure
16 the prudent and resourceful expenditure of state funds with regard to public
17 school academic facilities;

18 (F) Determine how risk will be allocated between the
19 school district and the state if the new construction project is not
20 completed;

21 (G) Describe how changes in the school district's wealth
22 index over the course of the new construction project will be treated; and

23 (H) Specify that the agreement is void and the state will
24 have no further obligation to provide state funds to the school district for
25 the new construction project that is the subject of the agreement if the
26 school district does not raise local resources and apply local resources
27 toward the new construction project as provided under the agreement.

28 (f)(1) If a school district qualifies for state financial
29 participation under this section, the division shall certify the amount of
30 state financial participation to the Commission on Public School Academic
31 Facilities and Transportation for oversight purposes. The commission shall
32 certify the amount to the Department of Education for payment.

33 (2) For tracking purposes, the school district shall account for
34 the funds received as state financial participation under this section as
35 restricted funds and shall account for the funds in accordance with
36 provisions of law, including, without limitation, the Arkansas Educational

1 Financial Accounting and Reporting Act of 2005, § 6-20-2201 et seq. and rules
2 established by the State Board of Education and the commission.

3
4 6-20-2509. Academic Facilities Catastrophic Program.

5 (a) There is established the Academic Facilities Catastrophic Program
6 under which the Division of Public School Academic Facilities and
7 Transportation shall award state financial participation to a school district
8 based on a school district's academic facilities wealth index for eligible
9 catastrophic repair and new construction projects for the purpose of
10 supplementing insurance or other public or private emergency assistance
11 received by or payable to the school district.

12 (b) A school district may apply for state financial participation in a
13 catastrophic project if an academic facility in the district is damaged due
14 to an act of God or violence that could not have been prevented by reasonable
15 maintenance, repair, or renovation of the building.

16 (c) As part of its application for state financial participation in a
17 catastrophic project, the school district shall provide the division with
18 evidence of:

19 (1) The estimated cost of the project;

20 (2) The availability of insurance and any other public or
21 private emergency assistance to pay for the project; and

22 (3) How the catastrophic project supports the prudent and
23 resourceful expenditure of state funds and improves the school district's
24 ability to deliver an adequate and equitable education to public school
25 students in the district.

26 (d)(1) The division shall evaluate a school district's application for
27 catastrophic assistance and may conduct an on-site inspection prior to making
28 a decision on the application as it deems necessary.

29 (2) The division shall notify the school district of the
30 division's decision on the application and, if applicable, the amount of
31 state financial participation. The division shall base its decision, on
32 several factors, including, without limitation:

33 (A) Compliance with appropriate academic facility
34 standards, including, without limitation, appropriate space utilization;

35 (B) The amount and availability of insurance or other
36 public or private emergency assistance;

1 (C) The academic facilities wealth index of the school
2 district; and

3 (D) The prudent and resourceful expenditure of state funds
4 with regard to public school academic facilities.

5 (e)(1) If a school district qualifies for state financial
6 participation under this section, the division shall certify the amount of
7 state financial participation to the Commission on Public School Academic
8 Facilities and Transportation for oversight purposes. The commission shall
9 certify the amount to the Department of Education for payment.

10 (2) For tracking purposes, the school district shall account for
11 the funds received as state financial participation under this section as
12 restricted funds and shall account for the funds in accordance with
13 provisions of law, including without limitation, the Arkansas Educational
14 Financial Accounting and Reporting Act of 2005, § 6-20-2201 et seq. and rules
15 established by the State Board of Education and the commission.

16 (f) Every effort shall be made to conform a catastrophic project to
17 current academic facilities standards, including appropriate space
18 utilization requirements, unless in the judgment of the division it is
19 impractical to conform the catastrophic project to current standards.

20 (g) A school district shall use state financial participation in a
21 catastrophic program to pay the cost of only the portion of a catastrophic
22 project that is not covered by insurance or other public or private emergency
23 assistance received by or payable to the school district.

24
25 6-20-2510. Project cost guidelines.

26 (a)(1) The Division of Public School Academic Facilities and
27 Transportation shall establish formulas that shall be updated annually for
28 determining the basic project cost per student for various types of new
29 construction projects, including, without limitation:

30 (A) New academic facilities;

31 (B) Additions to existing academic facilities; and

32 (C) Major improvements to academic facilities that bring
33 the state of condition or efficiency of the academic facility to a state of
34 condition or efficiency better than the facility's original condition of
35 completeness or efficiency.

36 (2) In establishing the formulas, the division shall take into

1 consideration:

2 (A) The academic programs offered;

3 (B) Current enrollment levels;

4 (C) Enrollment projections;

5 (D) Grade configuration;

6 (E) Type of public school; and

7 (F) Nationally recognized design and construction

8 standards for cost per square foot.

9 (3) The division shall establish a process for determining the
10 cost of local enhancements and shall include a mechanism in the formulas for
11 determining basic project cost that excludes the cost of local enhancements
12 from the adjusted project cost.

13 (b) When a school district applies for state financial participation,
14 the division shall use the appropriate formula to compute an adjusted project
15 cost. The division shall determine the estimated amount of the state's share
16 of financial participation based on the adjusted project cost and the school
17 district's wealth index as determined under § 6-20-2502.

18
19 6-20-2511. Incentives for collaboration.

20 (a) It is the intent of the General Assembly to encourage school
21 districts to explore and consider arrangements with other districts that have
22 the potential to:

23 (1) Improve academic facilities and equipment available to the
24 public school students in the districts;

25 (2) Result in improved transportation arrangements for public
26 school students in the state;

27 (3) Have the potential to create any type of efficiency for
28 school districts or enhanced learning opportunities for public school
29 students in the state; and

30 (4) Facilitate the highest and best use of state funds in
31 support of public school academic facilities.

32 (b) If school districts voluntarily consolidate or if one (1) school
33 district annexes another school district, then the division shall use the
34 lowest wealth index of the participating school districts to determine the
35 amount of state financial participation in the first eligible academic
36 facilities project undertaken by the resulting school district. After the

1 completion of the first academic facilities project, the Division of Public
2 School Academic Facilities and Transportation shall compute a new wealth
3 index for the resulting district that shall be used to determine the amount
4 of state financial participation in future academic facilities projects
5 undertaken by the resulting school district.

6
7 6-20-2512. High-growth school districts.

8 (a) The Division of Public School Academic Facilities and
9 Transportation shall develop a program to provide state financial
10 participation in the form of emergency loans to eligible high-growth school
11 districts for assistance with excess debt service requirements. The amount
12 of an emergency loan shall be based on:

13 (1) Growth trends in the district;

14 (2) The application of space utilization standards in the
15 district;

16 (3) The academic facilities wealth index of the school district;
17 and

18 (4) The prudent and resourceful expenditure of state funds with
19 regard to public school academic facilities.

20 (b) The division shall report to the General Assembly by January 15,
21 2007 on the development of the program and obtain formal legislative approval
22 and funding before implementing the program.

23
24 6-20-2513. Regulatory Authority.

25 The Commission on Public School Academic Facilities and Transportation
26 shall promulgate rules necessary to administer this subchapter, which shall
27 promote the intent and purposes of this subchapter and assure the prudent and
28 resourceful expenditure of state funds with regard to public school academic
29 facilities throughout the state.

30
31 6-20-2514. Appeals.

32 (a) A school district may appeal any determination of the Division of
33 Public School Academic Facilities and Transportation under this subchapter to
34 the Commission on Public School Academic Facilities and Transportation in
35 accordance with procedures developed by the commission.

36 (b) All decisions of the commission resulting from a school district's

1 appeal of a division determination under this subchapter shall be final and
2 shall not be subject to further appeal or request for rehearing to the
3 commission or petition for judicial review under the Arkansas Administrative
4 Procedures Act, § 25-15-201 et seq.

5
6 SECTION 2. Effective July 1, 2005, Arkansas Code Title 6, Chapter 20,
7 Subchapter 24 is repealed.

8 ~~6-20-2401. Title.~~

9 ~~This subchapter shall be known and may be cited as the "Supplemental~~
10 ~~School District Funding Act of 2003".~~

11
12 ~~6-20-2402. Purpose.~~

13 ~~(a) The General Assembly finds that:~~

14 ~~(1) The debt service funding supplement and general~~
15 ~~facilities funding have been an integral part of school financing for a~~
16 ~~number of school districts;~~

17 ~~(2) Elimination of these sources of funds could adversely~~
18 ~~affect the ability of those districts to continue to operate in a fiscally~~
19 ~~prudent manner; and~~

20 ~~(3) School districts that voluntarily raise school district~~
21 ~~millage beyond the twenty five (25) mills required by Arkansas Constitution,~~
22 ~~Amendment 74, should receive incentive funding to encourage local financial~~
23 ~~support of schools.~~

24 ~~(b) The purpose of this subchapter is to allow eligible school~~
25 ~~districts to elect to either continue receiving the debt service funding~~
26 ~~supplement and general facilities funding or to receive supplemental millage~~
27 ~~incentive funding.~~

28
29 ~~6-20-2403. Definitions.~~

30 ~~As used in this subchapter:~~

31 ~~(1) "Average daily membership" means the total number of days~~
32 ~~attended plus the total number of days absent by students in grades~~
33 ~~kindergarten through twelve (K-12) during the first three (3) quarters of~~
34 ~~each school year divided by the number of school days actually taught in the~~
35 ~~district during that period of time rounded up to the nearest hundredth.~~
36 ~~Students who may be counted for average daily membership are:~~

1 ~~(A) Students who reside within the boundaries of the~~
2 ~~school district and who are enrolled in a public school operated by the~~
3 ~~district or a private school for special education students with their~~
4 ~~attendance resulting from a written tuition agreement approved by the~~
5 ~~Department of Education;~~

6 ~~(B) Legally transferred students living outside the~~
7 ~~district but attending a public school in the district; and~~

8 ~~(C) Students who reside within the boundaries of the~~
9 ~~school district and who are enrolled in the Arkansas National Guard Youth~~
10 ~~Challenge Program, so long as the students are participants in the program;~~

11 ~~(2) "Debt service funding supplement" means the state~~
12 ~~financial aid provided to qualifying local school districts for the purpose~~
13 ~~of reducing existing debt service burdens and increasing the amount of local~~
14 ~~revenue available for maintenance and operations expenditures;~~

15 ~~(3) "Eligible debt service millage required" means the debt~~
16 ~~service millage required for bonds issued before May 30, 2004, that is~~
17 ~~computed by dividing the scheduled debt payment by the total property~~
18 ~~assessment in the school district and then adding the result to the millage~~
19 ~~for mandatory callable bonds;~~

20 ~~(4) "General facilities funding" means the state financial~~
21 ~~aid provided to each school district from line item funds made available for~~
22 ~~that purpose;~~

23 ~~(5) "Local revenue" means in each school year ninety eight~~
24 ~~percent (98%) of the amount of revenue available, whether or not collected,~~
25 ~~in a local school district solely from the levy of the uniform rate of tax~~
26 ~~plus seventy five percent (75%) of the average miscellaneous funds collected~~
27 ~~in the previous five (5) years or the previous year, whichever is less;~~

28 ~~(6) "Mandatory callable bonds" means a bond issue in which~~
29 ~~all net proceeds from debt service millage used to secure the issuance of~~
30 ~~that bond must be applied to payment of the issue and cannot be used for any~~
31 ~~other purpose;~~

32 ~~(7) "Miscellaneous funds" mean those funds received by a~~
33 ~~local school district from federal forest reserves, federal grazing rights,~~
34 ~~federal mineral rights, federal impact aid, federal flood control, wildlife~~
35 ~~refuge funds, severance taxes, funds received by the district in lieu of~~
36 ~~taxes, and local sales and use taxes dedicated to education pursuant to §§~~

1 ~~26-74-201 et seq., 26-74-301 et seq., 26-75-301 et seq., and 14-164-301 et~~
2 ~~seq.;~~

3 ~~(8) "Qualified school district" means a school district that:~~

4 ~~(A) Issued bonds to finance school district projects~~
5 ~~before May 30, 2004, and for which outstanding bonds exist as of May 30,~~
6 ~~2004;~~

7 ~~(B) Was approved by the Department of Education to~~
8 ~~issue bonds on or before December 31, 2003; and~~

9 ~~(C) Received debt service funding supplements~~
10 ~~pursuant to §§ 6-20-303 and 6-20-308 during school year 2003-2004 in~~
11 ~~accordance with regulations promulgated by the Department of Education;~~

12 ~~(9) "Scheduled debt payment" means the scheduled debt payment~~
13 ~~on bonded debt issued on or before May 30, 2004, for the following calendar~~
14 ~~year, not including mandatory callable bonds on file with the Department of~~
15 ~~Education as of May 30 of the previous year. The scheduled debt payment shall~~
16 ~~be adjusted by the Department of Education as follows:~~

17 ~~(A) In the case of a nonvoted refunding bond issue,~~
18 ~~the payment schedule of the issue being refunded will be compared to the~~
19 ~~payment schedule of the refunding issue. The schedule with the higher annual~~
20 ~~debt payment will be used for the purposes of calculating eligible debt~~
21 ~~service mills required if the district has provided to the Department of~~
22 ~~Education a signed certificate concerning the use of the debt service savings~~
23 ~~in conformity with § 6-20-2404;~~

24 ~~(B) If a voted refunding issue is combined with~~
25 ~~additional debt or extends the term of the original debt, the new payment~~
26 ~~schedule will be used for the purpose of calculating eligible debt service~~
27 ~~mills required; and~~

28 ~~(C) A payment that a school district makes to a third~~
29 ~~party for the eventual purpose of retiring indebtedness is deposited into an~~
30 ~~eserow account pending payment to bond holders and is included as a scheduled~~
31 ~~debt payment if the school district is unable to recover the deposited funds;~~

32 ~~(10) "School district assessment per student" means the total~~
33 ~~assessed valuation of property within a school district divided by the school~~
34 ~~district's average daily membership;~~

35 ~~(11) "State assessment per student" means the total assessed~~
36 ~~valuation of property within the state divided by the statewide average daily~~

1 membership;

2 ~~(12) "State wealth index" means the result of one (1) minus~~
3 ~~the ratio of local revenue for a school year divided by the amount of state~~
4 ~~funds allocated to the school district from the Public School Fund for~~
5 ~~unrestricted general support of the school district;~~

6 ~~(13) "Statewide average daily membership" means the total~~
7 ~~number of days attended plus the total number of days absent by all students~~
8 ~~in grades kindergarten through twelve (K-12) in all school districts during~~
9 ~~the first three (3) quarters of each school year divided by the total state~~
10 ~~average daily membership and rounded up to the nearest hundredth. Students~~
11 ~~who may be counted for average daily membership are:~~

12 ~~(A) Students who reside in Arkansas and who are~~
13 ~~enrolled in a public school operated by a school district or a private school~~
14 ~~for special education students, with their attendance resulting from a~~
15 ~~written tuition agreement approved by the Department of Education; and~~

16 ~~(B) Students who reside in Arkansas and who are~~
17 ~~enrolled in the Arkansas National Guard Youth Challenge Program, so long as~~
18 ~~the students are participants in the program;~~

19 ~~(14) "Supplemental millage incentive funding" means state~~
20 ~~funding paid to school districts who levy ad valorem taxes in excess of the~~
21 ~~twenty five (25) mills required by Arkansas Constitution, Amendment 74; and~~

22 ~~(15) "Supplemental millage incentive funding base" means the~~
23 ~~state assessment per student less the school district assessment per student~~
24 ~~multiplied by one one thousandth (.001).~~

25
26 ~~6-20-2404. Debt service funding supplement.~~

27 ~~(a)(1) Beginning with school year 2004-2005, the state shall provide~~
28 ~~to qualified school districts from available line item funds a debt service~~
29 ~~funding supplement for the purpose of reducing bonded indebtedness if the~~
30 ~~qualified school district elects to receive the funds in accordance with § 6-~~
31 ~~20-2407.~~

32 ~~(2)(A) A school district's debt service funding supplement is~~
33 ~~calculated by multiplying the district's eligible debt service millage~~
34 ~~required times an amount established annually by the State Board of~~
35 ~~Education, but no less than twelve dollars (\$12.00) per average daily~~
36 ~~membership times the state wealth index.~~

1 ~~(B) The debt service funding supplement shall be~~
2 ~~distributed quarterly.~~

3 ~~(b) A school district qualifying for a debt service funding~~
4 ~~supplement under this section shall not lose any debt service funding~~
5 ~~supplements as a result of debt service savings produced by refunding~~
6 ~~outstanding bonds if:~~

7 ~~(1) The yearly savings produced by the refunding is deposited~~
8 ~~into a refunding savings building fund and is used by the district for the~~
9 ~~building and equipping of school buildings, for major adaptations to a~~
10 ~~facility, or for purchasing facility sites; and~~

11 ~~(2) Before the date that the refunding bonds are sold at~~
12 ~~public sale, the district submits a certificate to the Director of the~~
13 ~~Department of Education certifying that the yearly debt service savings will~~
14 ~~be used for the purposes described in this subsection.~~

15 ~~(c) If the Department of Education determines that an overpayment has~~
16 ~~been made to a local school district in any appropriation authorized by this~~
17 ~~subchapter, the department shall withhold the overpayment from state funding~~
18 ~~and shall transfer the amount withheld for the overpayment to the line item~~
19 ~~appropriation from which the overpayment was initially made.~~

20
21 ~~6-20-2405. General facilities funding.~~

22 ~~(a)(1) Beginning with school year 2004-2005, the state shall provide~~
23 ~~from available line item funds general facilities funding to school districts~~
24 ~~that elect to receive the funds in accordance with § 6-20-2407.~~

25 ~~(2) A school district's general facilities funding for a~~
26 ~~school year is calculated by multiplying the school district's average daily~~
27 ~~membership for the previous school year by the state wealth index times a~~
28 ~~rate established annually by the State Board of Education.~~

29 ~~(3) General facilities funding payments shall be distributed~~
30 ~~quarterly.~~

31 ~~(b)(1) General facilities funding shall be used only for:~~

32 ~~(A) The purchase of school buses, furniture,~~
33 ~~equipment, and computer software; and~~

34 ~~(B) The renovation or repair of existing facilities.~~

35 ~~(2) Unused funds may be carried forward and shall be used~~
36 ~~exclusively for the purposes stated in subdivision (b)(1) of this section.~~

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~~6-20-2406. Supplemental millage incentive funding.~~

~~(a) Beginning with school year 2004-2005, the state shall provide from available line item funds supplemental state funds to qualified school districts that increase total school district millage in excess of the twenty five (25) mills in accordance with Arkansas Constitution, Amendment 74, and that elect to receive the funds in lieu of funds available under §§ 6-20-2404 and 6-20-2405.~~

~~(b) For each school year beginning with school year 2004-2005, the Department of Education shall determine by July 31 immediately preceding the school year:~~

~~(1) The total millage rate of ad valorem tax levied in each school district as of December 31 immediately preceding the school year; and~~

~~(2) The number of mills, if any, by which the total millage rate exceeds the twenty five (25) mills required by Arkansas Constitution, Amendment 74.~~

~~(c)(1) A school district's supplemental millage incentive funding shall be equal to the result of multiplying the lesser of the number ten (10) or the result of subdivision (b)(2) of this section by the school district's supplemental millage incentive funding base multiplied by the school district's average daily membership times a funding factor to be determined by the department.~~

~~(2) The supplemental millage incentive funding base shall be computed based upon property values as of December 31 immediately preceding the school year and the average daily membership for the previous school year.~~

~~(3) If a school district is eligible to receive supplemental millage incentive funding and is also eligible to receive a debt service funding supplement or general facilities funding, or both, then the school district shall make its funding election in accordance with § 6-20-2407.~~

~~(4) A school district shall not receive supplemental millage incentive funding along with a debt service funding supplement or general facilities funding, or both.~~

~~(d) Supplemental millage incentive funding shall be distributed quarterly.~~

1 ~~6-20-2407. Funding election.~~

2 ~~(a) By July 31 immediately preceding the school year, a school~~
3 ~~district that is eligible for supplemental millage incentive funding shall~~
4 ~~provide the Department of Education with a written election indicating~~
5 ~~whether for the school year the school district:~~

6 ~~(1) Elects to receive only supplemental millage incentive~~
7 ~~funding in lieu of a debt service funding supplement or general facilities~~
8 ~~funding, or both; or~~

9 ~~(2) Elects to receive a debt service funding supplement or~~
10 ~~general facilities funding, or both, in lieu of supplemental millage~~
11 ~~incentive funding.~~

12 ~~(b) The election of a school district under this section shall be~~
13 ~~effective for one (1) school year.~~

14 ~~(c) The department shall provide necessary data to each school~~
15 ~~district prior to July 15 to enable each school district to make its funding~~
16 ~~election.~~

17
18 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the
19 General Assembly of the State of Arkansas that the Arkansas Supreme Court has
20 determined that current public school academic facilities in Arkansas are
21 inadequate and inequitable; that the General Assembly established the Joint
22 Committee on Educational Facilities to inventory the current condition of
23 public school academic facilities and recommend methods for bringing public
24 school academic facilities into conformity with the court's constitutional
25 expectations; that the programs established in this act are derived from
26 recommendations of the joint committee and are part of a comprehensive
27 program for overseeing the provision of constitutionally appropriate public
28 school academic facilities across the state; that this program must be
29 implemented immediately for the good of public school students in Arkansas.
30 Therefore, an emergency is declared to exist and this act being immediately
31 necessary for the preservation of the public peace, health, and safety,
32 shall become effective on:

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

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

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

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4 */s/ Mahony, et al*
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