

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

A Bill

HOUSE BILL 2951

5 By: Representatives Dangeau, Stovall, Ledbetter, Bond
6
7

For An Act To Be Entitled

9 AN ACT TO CREATE FUNDING PROGRAMS FOR ARKANSAS
10 PUBLIC SCHOOL ACADEMIC FACILITIES IN WHICH STATE
11 FINANCIAL PARTICIPATION IN LOCAL FACILITIES
12 PROJECTS IS BASED ON A WEALTH INDEX THAT
13 ADDRESSES GROWTH AND TEACHER SALARIES; TO ADD
14 DEBT SERVICE SUPPLEMENT FUNDS TO FOUNDATION
15 FUNDING; AND FOR OTHER PURPOSES.
16

Subtitle

17 AN ACT TO CREATE FUNDING PROGRAMS FOR
18 PUBLIC SCHOOL ACADEMIC FACILITIES THAT
19 WILL BE BASED ON A WEALTH INDEX THAT
20 ADDRESSES GROWTH AND TEACHER SALARIES
21 AND TO PROVIDE ASSISTANCE WITH BONDED
22 DEBT.
23
24
25

26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
27

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

30 6-20-2501. Title.

31 This subchapter is known as and may be cited as the "Arkansas Public
32 School Academic Facilities Funding Act of 2005".
33

34 6-20-2502. Definitions.

35 As used in this subchapter:

36 (1)(A) "Academic facility" means a building or space, including



1 related areas such as the physical plant and grounds, where students receive
 2 instruction that is an integral part of an adequate education as described in
 3 § 6-20-2302.

4 (B)(i) A public school building or space, including
 5 related areas such as the physical plant and grounds, used for an
 6 extracurricular activity or an organized physical activity course as defined
 7 in the act derived from Senate Bill 2 of 2005 shall not be considered an
 8 academic facility for the purposes of this subchapter to the extent that the
 9 building, space, or related area is used for extracurricular activities or
 10 organized physical activities courses, except for physical educational
 11 training and instruction under § 6-16-132.

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

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

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

23 (2)(A) "Academic facilities wealth index" means one (1) mill
 24 adjusted for average teacher salaries in the school district as prescribed
 25 under subdivision (2)(B) of this section with the result multiplied by the
 26 total assessed valuation of taxable real, personal, and utility property in a
 27 school district as shown by the county assessment for the most recent year
 28 with the result divided by the average daily membership of the district for
 29 the same year as the county assessment;

30 (B)(i) The division shall compute a teacher salary
 31 adjustment factor for each school district. The teacher salary adjustment
 32 factor is the average teacher salary in the school district divided by the
 33 statewide average teacher salary.

34 (ii) If the school district's average teacher salary
 35 is more than the statewide average teacher salary, then result of the
 36 computation in subdivision (2)(B)(i) shall be multiplied by one (1) mill for

1 purposes of determining the school districts academic facilities wealth
 2 index.

3 (iii) If the school district's average teacher
 4 salary is less than the statewide average teacher salary, then the teacher
 5 salary adjustment factor shall have no impact on the school district's
 6 academic facilities wealth index.

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

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

15 (i) Students who reside within the boundaries of the
 16 school district and who are enrolled in a public school operated by the
 17 school district;

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

20 (iii) Students who are eligible to attend and reside
 21 within the boundaries of a school district and who are enrolled in the
 22 Arkansas National Guard Youth Challenge Program, so long as the students are
 23 participants in the program;

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

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

32 (A) The health or safety of students, teachers,
 33 administrators, or staff;

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

36 (C) The extraordinary deterioration of the public school

1 academic facility;

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

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

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

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

17 (B) Brings the state of condition or efficiency of the
 18 academic facility up to the facility's original condition of completeness or
 19 efficiency;

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

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

28 (B) "New construction" includes additions to existing
 29 academic facilities and new academic facilities;

30 (11) "Project" means an undertaking in which a school district
 31 engages in:

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

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

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

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

6
 7 6-20-2503. State financial participation.

8 (a) The Division of Public School Academic Facilities and
 9 Transportation shall compute the academic facilities wealth index for each
 10 school district. The division shall use the academic facilities wealth index
 11 to determine the amount of the state's share of financial participation in an
 12 eligible local academic facilities project approved under priorities
 13 established by the division.

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

17 (2) The division shall divide the academic facilities wealth
 18 index rankings into percentiles with the first percentile containing the one
 19 percent (1%) of students with the lowest school district academic facilities
 20 wealth index and the one-hundredth percentile containing the one percent (1%)
 21 of students having the highest school district academic facilities wealth
 22 index.

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

29 (2) If a school district is eligible for state financial
 30 participation in a local academic facilities project under priorities
 31 established by the division, the state's share of financial participation is
 32 the percentage derived from subtracting the school district's percentage
 33 share of financial participation from one hundred percent (100%).

34
 35 6-20-2504. Bonded debt assistance.

36 (a) For purposes of this section:

1 (1) "Adjusted statewide average daily membership" means the
 2 prior year statewide average daily membership minus the total number of
 3 students counted for purposes of student growth funding under the Public
 4 School Funding Act of 2003 § 6-20-2301 et seq. during the prior year;

5 (2) "Foundation funding" means an amount of money specified by
 6 the General Assembly for each school year to be expended by school districts
 7 for the provision of an adequate education for each student;

8 (3) "State foundation funding aid" means the amount of state
 9 financial aid provided to each school district and computed as the difference
 10 between the foundation funding amount established by the General Assembly and
 11 the sum of ninety-eight percent (98%) of the uniform rate of tax multiplied
 12 by the property assessment of the school district plus seventy-five percent
 13 (75%) of miscellaneous funds of the school district; and

14 (4) "Statewide average daily membership" means the sum of the
 15 prior year average daily membership for all school districts in the state;

16 (b)(1) Beginning with the 2005-2006 school year, the Department of
 17 Education shall increase the amount of state foundation funding aid received
 18 by each school district under the Public School Funding Act of 2003, § 6-20-
 19 2301 et seq. for the purpose of assisting school districts with the reduction
 20 of bonded indebtedness and increasing the amount of local revenue available
 21 for academic facilities projects.

22 (2) In order to ascertain the amount of the state foundation
 23 funding aid increase, the total amount of moneys distributed statewide under
 24 the Supplemental School District Funding Act of 2003, § 6-20-2401 et seq.
 25 during fiscal year 2005 shall be divided by the adjusted statewide average
 26 daily membership with the result being added to the foundation funding.

27 (c)(1) The department shall hold harmless from a reduction in state
 28 supplemental funding any school district for which the amount of state
 29 supplemental funding under this section is less than the amount of state
 30 supplemental funding received under the Supplemental School District Funding
 31 Act of 2003, § 6-20-2401 et seq. for the 2004-2005 school year.

32 (2) The department shall phase-out the hold harmless payments
 33 made under subdivision (c)(1) of the section over a five-year period.

34
 35 6-20-2505. Academic Facilities Immediate Repair Program.

36 (a) There is established the Academic Facilities Immediate Repair

1 Program under which the Division of Public School Academic Facilities and
 2 Transportation shall provide school districts with state financial
 3 participation for eligible repair projects based on the school district's
 4 academic facilities wealth index.

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

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

9 (2) The condition for which the repair is needed was in
 10 existence on January 1, 2005;

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

14 (4) The repair project involves one (1) of more of the
 15 following:

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

17 (B) Floors;

18 (C) Roofs;

19 (D) Sewage systems;

20 (E) Water supplies;

21 (F) Asbestos abatement;

22 (G) Fire alarm systems;

23 (H) Exterior doors;

24 (I) Emergency exit or egress passageway lighting;

25 (J) Academic program or facility accessibility for
 26 individuals with disabilities; and

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

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

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

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

36 (B) The integrity of the public school academic facility

1 with regard to meeting minimum health and safety standards; or

2 (C) The extraordinary deterioration of the public school
3 academic facility;

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

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

9 (4) Whether or not the academic facility is reasonably expected
10 to close or be substantially replaced within three (3) years.

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

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

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

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

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

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

26 (E) The academic facilities wealth index of the school
27 district; and

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

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

35 (2) For tracking purposes, the school district shall account for
36 the funds received as state financial participation under this section as

1 restricted funds and shall account for the funds in accordance with
 2 provisions of law, including, without limitation, the Arkansas Educational
 3 Financial Accounting and Reporting Act of 2005, § 6-20-2201 et seq. and rules
 4 established by the State Board of Education and the commission.

5 (f) Every effort shall be made to conform an immediate repair project
 6 to current academic facilities standards, including, without limitation,
 7 appropriate space utilization requirements, unless in the judgment of the
 8 division it is impractical to conform the immediate repair project to current
 9 standards.

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

14
 15 6-20-2506. Academic Equipment Program.

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

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

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

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

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

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

31 (1) The need for the academic equipment;

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

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

35 (d) The division shall evaluate a school district's application and
 36 notify the school district of the division's decision on the application and,

1 if applicable, the amount of state financial participation. The division
 2 shall base its decision on several factors, including, without limitation:

3 (A) The nature of and need for the academic equipment;

4 (B) Consistency with current academic equipment standards
 5 and sound educational practices;

6 (C) The academic facilities wealth index of the school
 7 district; and

8 (D) The prudent and resourceful expenditure of state funds
 9 with regard to public school academic facilities and equipment.

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

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

21 (f) Every effort shall be made to conform the purchase of academic
 22 equipment to current academic equipment standards and sound educational
 23 practices, unless in the judgment of the division it is impractical to
 24 conform the purchase to current standards.

25
 26 6-20-2507. Transitional Academic Facilities Program.

27 (a) There is established the Transitional Academic Facilities Program
 28 under which the Division of Public School Academic Facilities and
 29 Transportation shall provide state financial participation based on a school
 30 district's academic facilities wealth index in the form of reimbursement to a
 31 school district for eligible new construction projects for which debt is
 32 incurred or funds are spent after January 1, 2005, and on or before June 30,
 33 2006.

34 (b) Under the transitional academic facilities program, a school
 35 district may proceed with new construction of an academic facility through
 36 the expenditure of local resources prior to the school district's eligibility

1 for state financial participation and may apply the expenditure of local
2 resources after January 1, 2005, and on or before June 30, 2006, toward
3 meeting the school district's share of financial participation in the cost of
4 the new construction project when, and if, the school district becomes
5 eligible for state financial participation.

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

9 (1) A new construction project for which debt was incurred or
10 funds were spent after January 1, 2005, and on or before June 30, 2006;

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

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

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

18 (B) The academic facilities standards in effect on the
19 date the plans are submitted to the Division of Public Academic Facilities
20 and Transportation are the academic facilities standards that will apply to
21 the new construction project;

22 (5) The allocation of project costs between new construction
23 activities and maintenance, repair, and renovation activities if the new
24 construction project includes improvements that could be classified as
25 maintenance, repair, and renovation; and

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

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

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

1 (A) Student health and safety, including, without
 2 limitation, critical health and safety needs;

3 (B) The new construction project’s compliance with current
 4 academic facilities standards, including, without limitation, appropriate
 5 space utilization of existing academic facilities in the district;

6 (C) The new construction project’s conformance with sound
 7 educational practices;

8 (D) Curriculum improvement and diversification, including,
 9 without limitation, the use of instructional technology, distance learning,
 10 and access to advanced courses in science, mathematics, language arts, and
 11 social studies;

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

14 (F) Reasonable travel time and practical means of
 15 addressing other demographic considerations; and

16 (G) Regularly scheduled maintenance, repair, and
 17 renovation.

18 (3) The division shall notify the school district of the
 19 division’s decision on the application and, if applicable, the amount of
 20 reimbursement from the state. The division shall base its decision, on
 21 several factors, including, without limitation:

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

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

26 (C) The academic facilities wealth index of the school
 27 district; and

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

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

35 (2) For tracking purposes, the school district shall account for
 36 the funds received as state financial participation under this section as

1 restricted funds and shall account for the funds in accordance with
 2 provisions of law, including, without limitation, the Arkansas Educational
 3 Financial Accounting and Reporting Act of 2005, § 6-20-2201 et seq. and rules
 4 established by the State Board of Education and the commission.

5 (f) Every effort shall be made to conform a new construction project
 6 to current academic facilities standards, including, without limitation,
 7 appropriate space utilization requirements, unless in the judgment of the
 8 division it is impractical to conform the new construction project to current
 9 standards.

10
 11 6-20-2508. Academic Facilities Partnership Program.

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

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

20 (1) Preparation for the new construction project as demonstrated
 21 by inclusion of the new construction project in the school district's
 22 facilities master plan;

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

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

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

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

34 (5) The new construction project's compliance with current
 35 academic facilities standards, including, without limitation, appropriate
 36 space utilization of existing academic facilities in the district as

1 determined by the division;

2 (6) The allocation of project costs between new construction
 3 activities and maintenance, repair, and renovation activities if the new
 4 construction project includes improvements that could be classified as
 5 maintenance, repair, and renovation; and

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

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

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

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

17 (B) Compliance with current academic facilities standards,
 18 including, without limitation, appropriate space utilization of existing
 19 academic facilities in the district;

20 (C) Conformance with sound educational practices;

21 (D) Curriculum improvement and diversification, including,
 22 without limitation, the use of instructional technology, distance learning,
 23 and access to advanced courses in science, mathematics, language arts, and
 24 social studies;

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

27 (F) Reasonable travel time and practical means of
 28 addressing other demographic considerations; and

29 (G) Regularly scheduled maintenance, repair, and
 30 renovation;

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

33 (A) Student health and safety, including, without
 34 limitation, critical health and safety needs;

35 (B) Compliance with current academic facilities standards,
 36 including, without limitation, appropriate space utilization of existing

1 academic facilities in the district;

2 (C) Conformance with sound educational practices;

3 (D) Curriculum improvement and diversification, including,
 4 without limitation, the use of instructional technology, distance learning,
 5 and access to advanced courses in science, mathematics, language arts, and
 6 social studies;

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

9 (F) Reasonable travel time and practical means of
 10 addressing other demographic considerations; and

11 (G) Regularly scheduled maintenance, repair, and
 12 renovation;

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

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

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

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

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

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

36 (3) The division's notice of its decision on a school district's

1 application for state financial participation in a new construction shall
2 include an explanation of the evaluative factors underlying the decision of
3 the division to provide or not provide state financial participation in
4 support of the new construction project.

5 (e)(1) If the division determines that the new construction project is
6 eligible for state financial participation, the division and the school
7 district shall enter into an agreement specifying the terms of the state's
8 financial participation and the conditions that must be satisfied by the
9 school district.

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

11 (A) Identify the estimated amount of local financial
12 participation and state financial participation in the new construction
13 project;

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

16 (C) Identify whether the new construction project includes
17 any improvements that are classified as maintenance, repair, and renovation,
18 and how the project costs will be allocated between new construction
19 activities and maintenance, repair, and renovation activities;

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

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

27 (F) Determine how risk will be allocated between the
28 school district and the state if the new construction project is not
29 completed;

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

32 (H) Specify that the agreement is void and the state will
33 have no further obligation to provide state funds to the school district for
34 the new construction project that is the subject of the agreement if the
35 school district does not raise local resources and apply local resources
36 toward the new construction project as provided under the agreement.

1 (f)(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 2005, § 6-20-2201 et seq. and rules
11 established by the State Board of Education and the commission.

12
13 6-20-2509. Academic Facilities Catastrophic Program.

14 (a) There is established the Academic Facilities Catastrophic Program
15 under which the Division of Public School Academic Facilities and
16 Transportation shall award state financial participation to a school district
17 based on a school district's academic facilities wealth index for eligible
18 catastrophic repair and new construction projects for the purpose of
19 supplementing insurance or other public or private emergency assistance
20 received by or payable to the school district.

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

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

28 (1) The estimated cost of the project;

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

31 (3) How the catastrophic project supports the prudent and
32 resourceful expenditure of state funds and improves the school district's
33 ability to deliver an adequate and equitable education to public school
34 students in the district.

35 (d)(1) The division shall evaluate a school district's application for
36 catastrophic assistance and may conduct an on-site inspection prior to making

1 a decision on the application as it deems necessary.

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

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

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

10 (C) The academic facilities wealth index of the school
 11 district; and

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

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

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

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

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

33
 34 6-20-2510. Project cost guidelines.

35 (a)(1) The Division of Public School Academic Facilities and
 36 Transportation shall establish formulas that shall be updated annually for

1 determining the basic project cost per student for various types of new
 2 construction projects, including, without limitation:

- 3 (A) New academic facilities;
- 4 (B) Additions to existing academic facilities; and
- 5 (C) Major improvements to academic facilities that bring
 6 the state of condition or efficiency of the academic facility to a state of
 7 condition or efficiency better than the facility's original condition of
 8 completeness or efficiency.

9 (2) In establishing the formulas, the division shall take into
 10 consideration:

- 11 (A) The academic programs offered;
- 12 (B) Current enrollment levels;
- 13 (C) Enrollment projections;
- 14 (D) Grade configuration;
- 15 (E) Type of public school; and
- 16 (F) Nationally recognized design and construction
 17 standards for cost per square foot.

18 (3) The division shall establish a process for determining the
 19 cost of local enhancements and shall include a mechanism in the formulas for
 20 determining basic project cost that excludes the cost of local enhancements
 21 from the adjusted project cost.

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

27
 28 6-20-2511. Incentives for collaboration.

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

- 32 (1) Improve academic facilities and equipment available to the
 33 public school students in the districts;
- 34 (2) Result in improved transportation arrangements for public
 35 school students in the state;
- 36 (3) Have the potential to create any type of efficiency for

1 school districts or enhanced learning opportunities for public school
2 students in the state; and

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

5 (b) If school districts voluntarily consolidate or if one (1) school
6 district annexes another school district, then the division shall use the
7 lowest wealth index of the participating school districts to determine the
8 amount of state financial participation in the first eligible academic
9 facilities project undertaken by the resulting school district. After the
10 completion of the first academic facilities project, the Division of Public
11 School Academic Facilities and Transportation shall compute a new wealth
12 index for the resulting district that shall be used to determine the amount
13 of state financial participation in future academic facilities projects
14 undertaken by the resulting school district.

15
16 6-20-2512. High-growth school districts.

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

22 (1) Growth trends in the district;

23 (2) The application of space utilization standards in the
24 district;

25 (3) The academic facilities wealth index of the school district;
26 and

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

29 (b) The division shall report to the General Assembly by January 15,
30 2007 on the development of the program and obtain formal legislative approval
31 and funding before implementing the program.

32
33 6-20-2513. Regulatory authority.

34 The Commission on Public School Academic Facilities and Transportation
35 shall promulgate rules necessary to administer this subchapter, which shall
36 promote the intent and purposes of this subchapter and assure the prudent and

1 resourceful expenditure of state funds with regard to public school academic
 2 facilities throughout the state.

3
 4 6-20-2514. Appeals.

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

9 (b) All decisions of the commission resulting from a school district's
 10 appeal of a division determination under this subchapter shall be final and
 11 shall not be subject to further appeal or request for rehearing to the
 12 commission or petition for judicial review under the Arkansas Administrative
 13 Procedures Act, § 25-15-201 et seq.

14
 15 SECTION 2. Effective July 1, 2005, Arkansas Code Title 6, Chapter 20,
 16 Subchapter 24 is repealed.

17 ~~6-20-2401. Title.~~

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

20
 21 ~~6-20-2402. Purpose.~~

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

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

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

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

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

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~~6-20-2403. Definitions.~~

~~As used in this subchapter:~~

~~(1) "Average daily membership" means the total number of days attended plus the total number of days absent by students in grades kindergarten through twelve (K-12) during the first three (3) quarters of each school year divided by the number of school days actually taught in the district during that period of time rounded up to the nearest hundredth.~~

~~Students who may be counted for average daily membership are:~~

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

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

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

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

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

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

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

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

5 ~~(7) "Miscellaneous funds" mean those funds received by a~~
 6 ~~local school district from federal forest reserves, federal grazing rights,~~
 7 ~~federal mineral rights, federal impact aid, federal flood control, wildlife~~
 8 ~~refuge funds, severance taxes, funds received by the district in lieu of~~
 9 ~~taxes, and local sales and use taxes dedicated to education pursuant to §§~~
 10 ~~26-74-201 et seq., 26-74-301 et seq., 26-75-301 et seq., and 14-164-301 et~~
 11 ~~seq.;~~

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

13 ~~(A) Issued bonds to finance school district projects~~
 14 ~~before May 30, 2004, and for which outstanding bonds exist as of May 30,~~
 15 ~~2004;~~

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

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

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

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

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

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

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

8 ~~(11) "State assessment per student" means the total assessed~~
9 ~~valuation of property within the state divided by the statewide average daily~~
10 ~~membership;~~

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

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

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

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

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

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

34
35 ~~6-20-2404. Debt service funding supplement.~~

36 ~~(a)(1) Beginning with school year 2004-2005, the state shall provide~~

1 to qualified school districts from available line item funds a debt service
 2 funding supplement for the purpose of reducing bonded indebtedness if the
 3 qualified school district elects to receive the funds in accordance with § 6-
 4 20-2407.

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

10 (B) The debt service funding supplement shall be
 11 distributed quarterly.

12 (b) A school district qualifying for a debt service funding
 13 supplement under this section shall not lose any debt service funding
 14 supplements as a result of debt service savings produced by refunding
 15 outstanding bonds if:

16 (1) The yearly savings produced by the refunding is deposited
 17 into a refunding savings building fund and is used by the district for the
 18 building and equipping of school buildings, for major adaptations to a
 19 facility, or for purchasing facility sites; and

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

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

29
 30 ~~6-20-2405. General facilities funding.~~

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

34 (2) A school district's general facilities funding for a
 35 school year is calculated by multiplying the school district's average daily
 36 membership for the previous school year by the state wealth index times a

1 ~~rate established annually by the State Board of Education.~~

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

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

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

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

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

10
 11 ~~6-20-2406. Supplemental millage incentive funding.~~

12 ~~(a) Beginning with school year 2004-2005, the state shall provide~~
 13 ~~from available line item funds supplemental state funds to qualified school~~
 14 ~~districts that increase total school district millage in excess of the~~
 15 ~~twenty five (25) mills in accordance with Arkansas Constitution, Amendment~~
 16 ~~74, and that elect to receive the funds in lieu of funds available under §§~~
 17 ~~6-20-2404 and 6-20-2405.~~

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

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

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

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

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

36 ~~(3) If a school district is eligible to receive supplemental~~

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

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

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

9
 10 ~~6-20-2407. Funding election.~~

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

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

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

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

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

26
 27 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the
 28 General Assembly of the State of Arkansas that the Arkansas Supreme Court has
 29 determined that current public school academic facilities in Arkansas are
 30 inadequate and inequitable; that the General Assembly established the Joint
 31 Committee on Educational Facilities to inventory the current condition of
 32 public school academic facilities and recommend methods for bringing public
 33 school academic facilities into conformity with the court's constitutional
 34 expectations; that the programs established in this act are derived from
 35 recommendations of the joint committee and are part of a comprehensive
 36 program for overseeing the provision of constitutionally appropriate public

1 school academic facilities across the state; that this program must be
2 implemented immediately for the good of public school students in Arkansas.
3 Therefore, an emergency is declared to exist and this act being immediately
4 necessary for the preservation of the public peace, health, and safety,
5 Section 2 of this act shall be effective on July 1, 2005, and Section 1 of
6 this act shall become effective on:

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

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

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

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