

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.

INTERIM STUDY PROPOSAL 2009-062

State of Arkansas

As Engrossed: H3/25/09

87th General Assembly

A Bill

Regular Session, 2009

HOUSE BILL 2026

By: Representative Lindsey

By: *Senator Madison*

Filed with: House Interim Committee on Education
pursuant to A.C.A. §10-3-217.

Re-referred to: Academic Facilities Oversight
Committee on 08-21-09.

For An Act To Be Entitled

AN ACT TO AMEND THE ACADEMIC FACILITIES
EXTRAORDINARY CIRCUMSTANCES PROGRAM FOR PUBLIC
SCHOOL DISTRICTS; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE ACADEMIC FACILITIES
EXTRAORDINARY CIRCUMSTANCES PROGRAM FOR
PUBLIC SCHOOL DISTRICTS.

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

SECTION 1. Arkansas Code § 6-20-2514 is amended to read as follows:

6-20-2514. Academic Facilities Extraordinary Circumstances Program.

(a) The General Assembly finds that:

(1) In Lake View School District No. 25 v. Huckabee, 01-836 (Ark. 12-15-2005), the Arkansas Supreme Court raised concerns that some school districts might not receive any state financial assistance with academic facilities projects because the districts might not have sufficient resources to qualify for state funds under this subchapter, which requires a local contribution based on the relative wealth of the district;



~~(2) During the 2006 hearings conducted by the House Interim Committee on Education and Senate Interim Committee on Education after the 2005 Arkansas Supreme Court decision in the Lake View matter, no school district came forward to testify that the district will be unable to adequately repair, renovate, or construct school buildings;~~

~~(3) The contention in subdivision (a)(1) of this section, while not without merit as a theory, has not been substantiated. Therefore, the implementation and funding of a program to provide additional state financial assistance to school districts with limited resources is premature; and~~

~~(4) While implementation and funding may be premature, the development of a program to provide state financial assistance to eligible school districts that do not have sufficient means to contribute an amount of local resources necessary to qualify for state financial participation should be initiated immediately.~~

(2) In 2007, the Lake View court found that the state had complied with the Arkansas Constitution in providing the funding programs for academic facilities, yet heralded the importance of continuing adjustments to academic facilities and other state funding programs for the state's system of public school education;

(3) Although the General Assembly has addressed the academic facility needs of high-growth school districts and districts with insufficient bonding capacity, there remain certain circumstances under which some school districts are unable to raise the local resources necessary for participation in the Academic Facilities Partnership Program; and

(4) The Academic Facilities Extraordinary Circumstances Program should be adjusted to provide state financial assistance to those school districts.

(b) As used in this section:

(1) "Declining enrollment" means the average daily membership for the school district in the immediately preceding school year is at least four percent (4%) lower than the school year that is two (2) years prior to the immediately preceding school year;

(2) "Expended debt service" means the amount of principal and interest required or estimated to be required to service the bonded indebtedness of the school district incurred for the construction, renovation, or maintenance of academic facilities;

1 (3) "Expended debt service indicator" means the value derived by
2 dividing the expended debt service of the school district by the revenue
3 generated by one (1) mill of school property tax enacted or expected to be
4 enacted within one (1) year of the submission of an application under this
5 section;

6 (4) "Extraordinary circumstances school district" means a school
7 district that has an expended debt service value of ten (10) or above and has
8 one (1) of the following extraordinary circumstances:

9 (A) Declining enrollment;

10 (B) Low-assessed property valuations; or

11 (C) An academic facilities wealth index that is at or
12 above the ninety-fifth percentile;

13 (5) "Low-assessed property valuation" means that the per-student
14 value of the total assessment of all real property in the school district for
15 the school year that is two (2) years prior to the current school year is in
16 the lowest decile of the school districts statewide; and

17 (6) "Maximum expended debt service" means an expended debt
18 service indicator of ten (10), representing the maximum number of mills that
19 a school district is expected to expend to service its bonded indebtedness
20 incurred for academic facilities.

21 ~~(b)(1)(c) The Commission for Arkansas Public School Academic~~
22 ~~Facilities and Transportation shall develop by rule There is established the~~
23 ~~Academic Facilities Extraordinary Circumstances Loan Program under which the~~
24 ~~Division of Public School Academic Facilities and Transportation shall~~
25 ~~provide state financial assistance an interest-free loan to eligible public~~
26 ~~school districts that do not have sufficient means to contribute an amount of~~
27 ~~local resources necessary to qualify for state financial participation under~~
28 ~~the Academic Facilities Partnership Program, § 6-20-2507, or the Academic~~
29 ~~Facilities Catastrophic Program, § 6-20-2508.~~

30 ~~(2) At a minimum, eligibility criteria for the Academic Facilities~~
31 ~~Extraordinary Circumstances Program shall address:~~

32
33 ~~(A) School districts with declining enrollment;~~

34 ~~(B) School districts with rapid enrollment growth;~~

35 ~~(C) School districts with insufficient bonding capacity;~~

36 ~~(D) School districts with low assessed property~~

1 ~~valuations;~~

2 ~~(E) School districts at or above the ninety-fifth~~
3 ~~percentile on the academic facilities wealth index; and~~

4 ~~(F) Any other circumstance deemed extraordinary by the~~
5 ~~division.~~

6 (d) The Commission for Arkansas Public School Academic Facilities and
7 Transportation shall promulgate rules necessary to implement this section.

8 ~~(3)(e) At a minimum, the~~ The application process for the Academic
9 Facilities Extraordinary Circumstances Loan Program shall require a school
10 district to provide to the division with evidence of:

11 (A) *The estimated cost of the project;*

12 (B) *The amount of local resources available to contribute*
13 *to the project;*

14 (C) *The amount and availability of funds from school*
15 *district fund balances;*

16 (D) *The amount and availability of other public or private*
17 *assistance;*

18 (E) The expended debt service of the school district;

19 (F) The expended debt service indicator of the school
20 district;

21 ~~(E)(G) Effort~~ The effort made by the school district and
22 the local community to develop and provide local resources; and

23 ~~(F)(H)~~ How state financial participation, if granted, will
24 support the prudent and resourceful expenditure of state funds and will
25 improve the school district's ability to deliver an adequate and equitable
26 education to public school students in the district.

27 ~~(e) The division shall report to the General Assembly by January 15,~~
28 ~~2007, on the development of the Academic Facilities Extraordinary~~
29 ~~Circumstances Program and shall obtain formal legislative approval before~~
30 ~~implementing the Academic Facilities Extraordinary Circumstances Program.~~

31 (f) An extraordinary circumstances school district may apply for an
32 interest-free loan under this section when the extraordinary circumstances
33 school district has either scheduled an election to raise or has raised the
34 number of mills needed to reach the maximum expended debt service.

35 (g) The amount of a loan under this section shall be the amount of
36 moneys required for academic facilities under the Arkansas Public School

1 Academic Facilities Program Act, § 6-21-801 et seq., less the sum of:

2 (1) The revenues generated by the number of mills needed to
3 reach the maximum expended debt service; and

4 (2) The state revenue received by the extraordinary
5 circumstances school district under the Academic Facilities Partnership
6 Program.

7 (h) The commission shall fund loans under this section from either or
8 both of the following sources, as it deems advisable:

9 (1) The unobligated or voluntarily deobligated portion of
10 available funding in the Educational Facilities Partnership Fund Account
11 appropriated for the Academic Facilities Partnership Program; and

12 (2) Bonds issued under the Arkansas Public School Academic
13 Facilities Financing Act of 2007, § 6-20-2601 et seq.

14 (i)(1) Within a reasonable time after receiving an application for a
15 loan under this section, the division shall examine the application and
16 recommend to the commission that the commission either:

17 (A) Approve the application for the full amount of the
18 proposed loan;

19 (B) Approve the application for a loan of a lesser amount
20 than the amount requested; or

21 (C) Disapprove the application.

22 (2) The division shall not recommend an application for approval
23 until the division receives:

24 (A) Evidence that the millage needed to reach the maximum
25 expended debt service was passed by a majority of the qualified electors of
26 the extraordinary circumstances school district; and

27 (B) The certification of bond counsel for the
28 extraordinary circumstances school district that the expended debt service
29 required to service existing academic facilities debt and the academic
30 facilities debt needed will exceed the maximum expended debt service.

31 (j)(1) When the revenue required to service the bonded indebtedness
32 incurred for the extraordinary circumstances school district's academic
33 facilities is less than the revenue generated by the number of mills needed
34 to reach the maximum expended debt service, the extraordinary circumstances
35 school district shall begin repayment of the loan.

36 (2)(A) The extraordinary circumstances school district shall

1 make annual payments to the state in the amount of:

2 (i) The revenue generated by the extraordinary
3 circumstances school district's millage up to the amount of the revenues
4 generated to meet the maximum expended debt service for the year; less

5 (ii) The revenue required to service the
6 extraordinary circumstances school district's bonded indebtedness for
7 academic facilities.

8 (B) The payments under this subsection (j) shall continue
9 until the loan is paid in full.

10 (3) During the time that the loan to the extraordinary
11 circumstances school district is in repayment, the extraordinary
12 circumstances school district:

13 (A) Shall use to repay the loan all revenues generated
14 below the amount of the maximum expended debt service;

15 (B) Shall not issue refunding bonds or refunding
16 certificates, as provided under § 6-20-815; and

17 (C) Shall not otherwise change the amount of revenues
18 available to repay the loan without the prior approval of the division.

19 (i) By August 1 of each year, the commission shall report to the House
20 Committee on Education, the Senate Committee on Education, and any joint
21 subcommittee charged with responsibility for the continuing review and
22 evaluation of the adequacy of public school funding under § 10-23-2101 et
23 seq. the following information for the immediately preceding fiscal year:

24 (1) Each school district that applied for, received, or was
25 disapproved for a loan under this section;

26 (2) The source of funds the commission used to make the loans
27 and the amount of available funds remaining;

28 (3) The repayment status of each loan;

29 (4) The extraordinary circumstances under which each loan was
30 requested; and

31 (5) Any recommendations of the commission for improvements or
32 changes to the loan program.

33
34 /s/ Lindsey

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36 Filed Date: 04/02/2009 Re-referred: 08-21-09 By: CLR\VJF