

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 2538

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

For An Act To Be Entitled

10 AN ACT CONCERNING FUNDING PROGRAMS FOR ARKANSAS
11 PUBLIC SCHOOL ACADEMIC FACILITIES IN WHICH STATE
12 FINANCIAL PARTICIPATION IN LOCAL FACILITIES
13 PROJECTS IS BASED ON A WEALTH INDEX; AND FOR
14 OTHER PURPOSES.

Subtitle

16 AN ACT CONCERNING FUNDING PROGRAMS FOR
17 ARKANSAS PUBLIC SCHOOL ACADEMIC
18 FACILITIES IN WHICH STATE FINANCIAL
19 PARTICIPATION IN LOCAL FACILITIES
20 PROJECTS IS BASED ON A WEALTH INDEX.
21

22
23
24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
25

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

28 6-20-2501. Title.

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

31
32 6-20-2502. Definitions.

33 As used in this subchapter:

34 (1)(A) "Academic facility" means a building or space, including
35 related areas such as the physical plant and grounds, where students receive
36 instruction that is an integral part of an adequate education as described in



1 § 6-20-2302.

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

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

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

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

21 (2) "Academic facilities wealth index" means the total assessed
 22 valuation of taxable real, personal, and utility property in a school
 23 district as shown by the county assessment for the most recent year
 24 multiplied by one (1) mill with the result divided by the average daily
 25 membership of the district as computed on an annual basis;

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

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

34 (i) Students who reside within the boundaries of the
 35 school district and who are enrolled in a public school operated by the
 36 school district;

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

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

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

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

15 (A) The health or safety of students, teachers,
 16 administrators, or staff;

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

19 (C) The extraordinary deterioration of the public school
 20 academic facility;

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

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

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

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

36 (B) Brings the state of condition or efficiency of the

1 academic facility up to the facility's original condition of completeness or
 2 efficiency;

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

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

11 (B) "New construction" includes additions to existing
 12 academic facilities and new academic facilities;

13 (11) "Project" means an undertaking in which a school district
 14 engages in:

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

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

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

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

25
 26 6-20-2503. State financial participation.

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

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

36 (2) The division shall divide the academic facilities wealth

1 index rankings into percentiles with the first percentile containing the one
 2 percent (1%) of students with the lowest school district academic facilities
 3 wealth index and the one-hundredth percentile containing the one percent (1%)
 4 of students having the highest school district academic facilities wealth
 5 index.

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

12 (2) If a school district is eligible for state financial
 13 participation in a local academic facilities project under priorities
 14 established by the division, the state's share of financial participation is
 15 the percentage derived from subtracting the school district's percentage
 16 share of financial participation from one hundred percent (100%).

17
 18 6-20-2504. Bonded debt assistance.

19 (a) The state will assist with retiring the outstanding bonded
 20 indebtedness issued as of January 1, 2005 of all school districts eligible
 21 for state financial participation under this section by providing an annual
 22 cash payment to each eligible school district in an amount determined by the
 23 Commission on Public School Academic Facilities and Transportation under
 24 subsection (b) of this section. The amount of the state's annual cash
 25 payment is based on the school district's bonded debt schedule as of January
 26 1, 2005 and the academic facilities wealth index for the district as computed
 27 on an annual basis.

28 (b)(1) By June 1, 2005, the commission shall determine:

29 (A) The total amount required to satisfy the outstanding
 30 bonded indebtedness sold as of January 1, 2005 for each school district;

31 (B) The annual amount due on a fiscal year basis from each
 32 school district in accordance with the principal and interest payment
 33 schedule in effect on January 1, 2005 for the outstanding bonded
 34 indebtedness; and

35 (C) The date each school district is expected to satisfy
 36 the outstanding bonded indebtedness.

1 (2) The commission shall determine the amount of the state’s
 2 annual cash payment by multiplying the annual principal and interest payment
 3 for the school district as established under subdivision (b)(1)(B) of this
 4 subsection by the district’s academic facilities wealth index. The
 5 commission shall determine the amount of the state’s annual cash payment for
 6 each eligible school district no later than July 15 of each year. The
 7 commission shall certify the amount to the Department of Education for
 8 payment.

9 (c)(1) The state’s annual cash payment is payable to each eligible
 10 school district in two equal installments. The department shall pay the
 11 first installment by August 1 of each year and the second installment by
 12 February 1 of each year.

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

19 (d)(1) If a school district qualifies for state financial
 20 participation under this section, the amount of state financial participation
 21 shall not be reduced as a result of debt service savings produced by
 22 refunding outstanding bonds if:

23 (A) The annual savings produced by the refunding is
 24 deposited into a bond refunding savings fund to be used by the district
 25 solely for the new construction of academic facilities or the purchase of
 26 academic equipment; and

27 (B) Before the date that the refunding bonds are sold at
 28 public sale, the school district certifies to the commission that the yearly
 29 debt services saving will be used solely for the purposes described in
 30 subdivision (d)(1) of this section.

31 (2) Nothing in this section shall prohibit a school district
 32 from issuing second lien bonds. However, the amount of state financial
 33 participation under this section shall not be altered or reduced as a result
 34 of the issuance of second lien bonds.

35 (3) Nothing in subsection (d) of this section shall prevent the
 36 annual adjustment of state financial participation under this section in

1 accordance with annual variations in a school district's academic facilities
 2 wealth index and the school district's principal and interest payment
 3 schedule in effect on January 1, 2005.

4 (e) The state shall not assume any debt of a school district or incur
 5 any obligation with regard to a school district's bonded indebtedness by
 6 providing the financial assistance described in this section. The school
 7 district receiving cash assistance is and will remain independently liable
 8 for all outstanding indebtedness.

9
 10 6-20-2505. Academic Facilities Immediate Repair Program.

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

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

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

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

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

25 (4) The repair project involves one (1) of more of the
 26 following:

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

28 (B) Floors;

29 (C) Roofs;

30 (D) Sewage systems;

31 (E) Water supplies;

32 (F) Asbestos abatement;

33 (G) Fire alarm systems;

34 (H) Exterior doors;

35 (I) Emergency exit or egress passageway lighting;

36 (J) Academic program or facility accessibility for

1 individuals with disabilities; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 (F) 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 an immediate repair project
 17 to current academic facilities standards, including, without limitation,
 18 appropriate space utilization requirements, unless in the judgment of the
 19 division it is impractical to conform the immediate repair project to current
 20 standards.

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

25
 26 6-20-2506. Academic Equipment Program.

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

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

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

36 (2) The need for the academic equipment was in existence on

1 January 1, 2005; and

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

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

6 (1) The need for the academic equipment;

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

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

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

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

15 (B) Consistency with current academic equipment standards
16 and sound educational practices;

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 and equipment.

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 the purchase of academic
33 equipment to current academic equipment standards and sound educational
34 practices, unless in the judgment of the division it is impractical to
35 conform the purchase to current standards.

36

1 6-20-2507. Transitional Academic Facilities Program.

2 (a) There is established the Transitional Academic Facilities Program
 3 under which the Division of Public School Academic Facilities and
 4 Transportation shall provide state financial participation based on a school
 5 district's academic facilities wealth index in the form of reimbursement to a
 6 school district for eligible new construction projects for which debt is
 7 incurred or funds are spent after January 1, 2005, and on or before June 30,
 8 2006.

9 (b) Under the transitional academic facilities program, a school
 10 district may proceed with new construction of an academic facility through
 11 the expenditure of local resources prior to the school district's eligibility
 12 for state financial participation and may apply the expenditure of local
 13 resources after January 1, 2005, and on or before June 30, 2006, toward
 14 meeting the school district's share of financial participation in the cost of
 15 the new construction project when, and if, the school district becomes
 16 eligible for state financial participation.

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

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

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

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

25 (4)(A) 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 (B) The academic facilities standards in effect on the
 30 date the plans are submitted to the Division of Public Academic Facilities
 31 and Transportation are the academic facilities standards that will apply to
 32 the new construction project;

33 (5) The allocation of project costs between new construction
 34 activities and maintenance, repair, and renovation activities if the new
 35 construction project includes improvements that could be classified as
 36 maintenance, repair, and renovation; and

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

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

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

12 (A) Student health and safety, including, without
 13 limitation, critical health and safety needs;

14 (B) 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;

17 (C) The new construction project's conformance with sound
 18 educational practices;

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

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

25 (F) Reasonable travel time and practical means of
 26 addressing other demographic considerations; and

27 (G) Regularly scheduled maintenance, repair, and
 28 renovation.

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

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

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

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 new construction project
17 to current academic facilities standards, including, without limitation,
18 appropriate space utilization requirements, unless in the judgment of the
19 division it is impractical to conform the new construction project to current
20 standards.

21
22 6-20-2508. Academic Facilities Partnership Program.

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

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

31 (1) Preparation for the new construction project as demonstrated
32 by inclusion of the new construction project in the school district's
33 facilities master plan;

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

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

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

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

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

13 (6) 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 (7) 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 (c) The division shall use criteria to evaluate a school district's
 22 application for state financial participation in a new construction project,
 23 which shall include, without limitation, the following:

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

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

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

31 (C) Conformance with sound educational practices;

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

36 (E) Multischool, multidistrict, and regional planning to

1 achieve the most effective and efficient instructional delivery system;

2 (F) Reasonable travel time and practical means of
3 addressing other demographic considerations; and

4 (G) Regularly scheduled maintenance, repair, and
5 renovation;

6 (2) How the school district’s facilities master plan and any new
7 construction project under the facilities master plan address the following:

8 (A) Student health and safety, including, without
9 limitation, critical health and safety needs;

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

13 (C) Conformance with sound educational practices;

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

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

20 (F) Reasonable travel time and practical means of
21 addressing other demographic considerations; and

22 (G) Regularly scheduled maintenance, repair, and
23 renovation;

24 (3) How the new construction project supports the prudent and
25 resourceful expenditure of state funds and improves the school district’s
26 ability to deliver an adequate and equitable education to public school
27 students in the district;

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

30 (5) The allocation and expenditure of funds in accordance with
31 this subchapter and the Arkansas Public School Academic Facility Program Act,
32 § 6-21-801 et seq.

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

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

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

11 (3) The division's notice of its decision on a school district's
12 application for state financial participation in a new construction shall
13 include an explanation of the evaluative factors underlying the decision of
14 the division to provide or not provide state financial participation in
15 support of the new construction project.

16 (e)(1) If the division determines that the new construction project is
17 eligible for state financial participation, the division and the school
18 district shall enter into an agreement specifying the terms of the state's
19 financial participation and the conditions that must be satisfied by the
20 school district.

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

22 (A) Identify the estimated amount of local financial
23 participation and state financial participation in the new construction
24 project;

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

27 (C) Identify whether the new construction project includes
28 any improvements that are classified as maintenance, repair, and renovation,
29 and how the project costs will be allocated between new construction
30 activities and maintenance, repair, and renovation activities;

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

33 (E) Provide that the division or any person acting on
34 behalf of the division may conduct on-site inspections of the new
35 construction project as frequently as the division deems necessary to assure
36 the prudent and resourceful expenditure of state funds with regard to public

1 school academic facilities;

2 (F) Determine how risk will be allocated between the
 3 school district and the state if the new construction project is not
 4 completed;

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

7 (H) Specify that the agreement is void and the state will
 8 have no further obligation to provide state funds to the school district for
 9 the new construction project that is the subject of the agreement if the
 10 school district does not raise local resources and apply local resources
 11 toward the new construction project as provided under the agreement.

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

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

23
 24 6-20-2509. Academic Facilities Catastrophic Program.

25 (a) There is established the Academic Facilities Catastrophic Program
 26 under which the Division of Public School Academic Facilities and
 27 Transportation shall award state financial participation to a school district
 28 based on a school district's academic facilities wealth index for eligible
 29 catastrophic repair and new construction projects for the purpose of
 30 supplementing insurance or other public or private emergency assistance
 31 received by or payable to the school district.

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

36 (c) As part of its application for state financial participation in a

1 catastrophic project, the school district shall provide the division with
 2 evidence of:

3 (1) The estimated cost of the project;

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

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

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

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

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

21 (C) The academic facilities wealth index of the school
 22 district; and

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

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

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

36 (f) Every effort shall be made to conform a catastrophic project to

1 current academic facilities standards, including appropriate space
 2 utilization requirements, unless in the judgment of the division it is
 3 impractical to conform the catastrophic project to current standards.

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

8
 9 6-20-2510. Project cost guidelines.

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

14 (A) New academic facilities;

15 (B) Additions to existing academic facilities; and

16 (C) Major improvements to academic facilities that bring
 17 the state of condition or efficiency of the academic facility to a state of
 18 condition or efficiency better than the facility's original condition of
 19 completeness or efficiency.

20 (2) In establishing the formulas, the division shall take into
 21 consideration:

22 (A) The academic programs offered;

23 (B) Current enrollment levels;

24 (C) Enrollment projections;

25 (D) Grade configuration;

26 (E) Type of public school; and

27 (F) Nationally recognized design and construction
 28 standards for cost per square foot.

29 (3) The division shall establish a process for determining the
 30 cost of local enhancements and shall include a mechanism in the formulas for
 31 determining basic project cost that excludes the cost of local enhancements
 32 from the adjusted project cost.

33 (b) When a school district applies for state financial participation,
 34 the division shall use the appropriate formula to compute an adjusted project
 35 cost. The division shall determine the estimated amount of the state's share
 36 of financial participation based on the adjusted project cost and the school

1 district's wealth index as determined under § 6-20-2502.

2
3 6-20-2511. Incentives for collaboration.

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

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

9 (2) Result in improved transportation arrangements for public
10 school students in the state;

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

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

16 (b) If school districts voluntarily consolidate or if one (1) school
17 district annexes another school district, then the division shall use the
18 lowest wealth index of the participating school districts to determine the
19 amount of state financial participation in the first eligible academic
20 facilities project undertaken by the resulting school district. After the
21 completion of the first academic facilities project, the Division of Public
22 School Academic Facilities and Transportation shall compute a new wealth
23 index for the resulting district that shall be used to determine the amount
24 of state financial participation in future academic facilities projects
25 undertaken by the resulting school district.

26
27 6-20-2512. High-growth school districts.

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

33 (1) Growth trends in the district;

34 (2) The application of space utilization standards in the
35 district;

36 (3) The academic facilities wealth index of the school district;

1 and

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

4 (b) The division shall report to the General Assembly by January 15,
 5 2007 on the development of the program and obtain formal legislative approval
 6 and funding before implementing the program.

7

8 6-20-2513. Appeals.

9 The Commission on Public School Academic Facilities and Transportation
 10 shall promulgate rules necessary to administer this subchapter, which shall
 11 promote the intent and purposes of this subchapter and assure the prudent and
 12 resourceful expenditure of state funds with regard to public school academic
 13 facilities throughout the state.

14

15 6-20-2514. Appeals.

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

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

25

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

28 ~~6-20-2401. Title.~~

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

31

32 ~~6-20-2402. Purpose.~~

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

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

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

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

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

12
 13 ~~6-20-2403. Definitions.~~

14 ~~As used in this subchapter:~~

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

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

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

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

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

35 ~~(3) "Eligible debt service millage required" means the debt~~
 36 ~~service millage required for bonds issued before May 30, 2004, that is~~

1 computed by dividing the scheduled debt payment by the total property
 2 assessment in the school district and then adding the result to the millage
 3 for mandatory callable bonds;

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

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

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

16 (7) ~~"Miscellaneous funds" mean those funds received by a~~
 17 ~~local school district from federal forest reserves, federal grazing rights,~~
 18 ~~federal mineral rights, federal impact aid, federal flood control, wildlife~~
 19 ~~refuge funds, severance taxes, funds received by the district in lieu of~~
 20 ~~taxes, and local sales and use taxes dedicated to education pursuant to §§~~
 21 ~~26-74-201 et seq., 26-74-301 et seq., 26-75-301 et seq., and 14-164-301 et~~
 22 ~~seq.;~~

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

24 (A) ~~Issued bonds to finance school district projects~~
 25 ~~before May 30, 2004, and for which outstanding bonds exist as of May 30,~~
 26 ~~2004;~~

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

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

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

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

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

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

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

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

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

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

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

36 (B) ~~Students who reside in Arkansas and who are~~

1 enrolled in the Arkansas National Guard Youth Challenge Program, so long as
 2 the students are participants in the program;

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

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

9
 10 ~~6-20-2404. Debt service funding supplement.~~

11 (a)(1) ~~Beginning with school year 2004-2005, the state shall provide~~
 12 ~~to qualified school districts from available line item funds a debt service~~
 13 ~~funding supplement for the purpose of reducing bonded indebtedness if the~~
 14 ~~qualified school district elects to receive the funds in accordance with § 6-~~
 15 ~~20-2407.~~

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

21 (B) ~~The debt service funding supplement shall be~~
 22 ~~distributed quarterly.~~

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

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

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

35 (c) ~~If the Department of Education determines that an overpayment has~~
 36 ~~been made to a local school district in any appropriation authorized by this~~

1 ~~subchapter, the department shall withhold the overpayment from state funding~~
 2 ~~and shall transfer the amount withheld for the overpayment to the line item~~
 3 ~~appropriation from which the overpayment was initially made.~~

4
 5 ~~6-20-2405. General facilities funding.~~

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

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

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

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

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

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

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

21
 22 ~~6-20-2406. Supplemental millage incentive funding.~~

23 ~~(a) Beginning with school year 2004-2005, the state shall provide~~
 24 ~~from available line item funds supplemental state funds to qualified school~~
 25 ~~districts that increase total school district millage in excess of the~~
 26 ~~twenty five (25) mills in accordance with Arkansas Constitution, Amendment~~
 27 ~~74, and that elect to receive the funds in lieu of funds available under §§~~
 28 ~~6-20-2404 and 6-20-2405.~~

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

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

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

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

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

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

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

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

20
 21 ~~6-20-2407. Funding election.~~

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

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

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

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

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

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SECTION 3. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court has determined that current public school academic facilities in Arkansas are inadequate and inequitable; that the General Assembly established the Joint Committee on Educational Facilities to inventory the current condition of public school academic facilities and recommend methods for bringing public school academic facilities into conformity with the court’s constitutional expectations; that the programs established in this act are derived from recommendations of the joint committee and are part of a comprehensive program for overseeing the provision of constitutionally appropriate public school academic facilities across the state; that this program must be implemented immediately for the good of public school students in Arkansas. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety, Section 2 of this act shall be effective on July 1, 2005, and Section 1 of this act shall become effective on:

- (1) The date of its approval by the Governor;
- (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or
- (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.