

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 2950

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; TO REVISE THE GROWTH FUNDING FORMULA;
16 AND FOR OTHER PURPOSES.

Subtitle

17
18
19 AN ACT TO CREATE FUNDING PROGRAMS FOR
20 PUBLIC SCHOOL ACADEMIC FACILITIES THAT
21 WILL BE BASED ON A WEALTH INDEX THAT
22 ADDRESSES GROWTH AND TEACHER SALARIES,
23 TO PROVIDE ASSISTANCE WITH BONDED DEBT
24 AND TO REVISE GROWTH FUNDING FORMULA.
25
26

27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
28

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

31 6-20-2501. Title.

32 This subchapter is known as and may be cited as the "Arkansas Public
33 School Academic Facilities Funding Act of 2005".
34

35 6-20-2502. Definitions.

36 As used in this subchapter:



1 (1)(A) "Academic facility" means a building or space, including
 2 related areas such as the physical plant and grounds, where students receive
 3 instruction that is an integral part of an adequate education as described in
 4 § 6-20-2302.

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

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

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

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

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

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

35 (ii) If the school district's average teacher salary
 36 is more than the statewide average teacher salary, then result of the

1 computation in subdivision (2)(B)(i) shall be multiplied by one (1) mill for
 2 purposes of determining the school districts academic facilities wealth
 3 index.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (C) Any combination of maintenance, repair, and renovation

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

7
 8 6-20-2503. State financial participation.

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

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

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

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

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

35
 36 6-20-2504. Bonded debt assistance.

1 (a) For purposes of this section:

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

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

9 (3) "State foundation funding aid" means the amount of state
10 financial aid provided to each school district and computed as the difference
11 between the foundation funding amount established by the General Assembly and
12 the sum of ninety-eight percent (98%) of the uniform rate of tax multiplied
13 by the property assessment of the school district plus seventy-five percent
14 (75%) of miscellaneous funds of the school district; and

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

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

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

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

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

35
36 6-20-2505. Academic Facilities Immediate Repair Program.

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

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

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

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

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

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

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

18 (B) Floors;

19 (C) Roofs;

20 (D) Sewage systems;

21 (E) Water supplies;

22 (F) Asbestos abatement;

23 (G) Fire alarm systems;

24 (H) Exterior doors;

25 (I) Emergency exit or egress passageway lighting;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (2) For tracking purposes, the school district shall account for

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

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

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

15
 16 6-20-2506. Academic Equipment Program.

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

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

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

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

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

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

32 (1) The need for the academic equipment;

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

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

36 (d) The division shall evaluate a school district's application and

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

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

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

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

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

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

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

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

26
 27 6-20-2507. Transitional Academic Facilities Program.

28 (a) There is established the Transitional Academic Facilities Program
 29 under which the Division of Public School Academic Facilities and
 30 Transportation shall provide state financial participation based on a school
 31 district's academic facilities wealth index in the form of reimbursement to a
 32 school district for eligible new construction projects for which debt is
 33 incurred or funds are spent after January 1, 2005, and on or before June 30,
 34 2006.

35 (b) Under the transitional academic facilities program, a school
 36 district may proceed with new construction of an academic facility through

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

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

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

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

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

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

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

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

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

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

36 (2) During the on-site inspection, the division shall evaluate

1 all of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (2) For tracking purposes, the school district shall account for

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

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

11
 12 6-20-2508. Academic Facilities Partnership Program.

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

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

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

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

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

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

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

35 (5) The new construction project's compliance with current
 36 academic facilities standards, including, without limitation, appropriate

1 space utilization of existing academic facilities in the district as
 2 determined by the division;

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

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

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

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

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

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

21 (C) Conformance with sound educational practices;

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

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

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

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

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

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

36 (B) Compliance with current academic facilities standards,

1 including, without limitation, appropriate space utilization of existing
 2 academic facilities in the district;

3 (C) Conformance with sound educational practices;

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

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

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

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

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

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

20 (5) The allocation and expenditure of funds in accordance with
 21 this subchapter and the Arkansas Public School Academic Facility Program Act,
 22 § 6-21-801 et seq.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 toward the new construction project as provided under the agreement.

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

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

13
 14 6-20-2509. Academic Facilities Catastrophic Program.

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

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

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

29 (1) The estimated cost of the project;

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

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

36 (d)(1) The division shall evaluate a school district's application for

1 catastrophic assistance and may conduct an on-site inspection prior to making
 2 a decision on the application as it deems necessary.

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

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

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

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

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

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

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

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

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

34
 35 6-20-2510. Project cost guidelines.

36 (a)(1) The Division of Public School Academic Facilities and

1 Transportation shall establish formulas that shall be updated annually for
 2 determining the basic project cost per student for various types of new
 3 construction projects, including, without limitation:

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

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

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

18 standards for cost per square foot.

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

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

28
 29 6-20-2511. Incentives for collaboration.

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

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

35 (2) Result in improved transportation arrangements for public
 36 school students in the state;

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

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

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

16
 17 6-20-2512. High-growth school districts.

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

23 (1) Growth trends in the district;

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

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

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

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

33
 34 6-20-2513. Regulatory authority.

35 The Commission on Public School Academic Facilities and Transportation
 36 shall promulgate rules necessary to administer this subchapter, which shall

1 promote the intent and purposes of this subchapter and assure the prudent and
2 resourceful expenditure of state funds with regard to public school academic
3 facilities throughout the state.

4
5 6-20-2514. Appeals.

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

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

15
16 SECTION 2. Effective July 1, 2005, Arkansas Code § 6-20-2303(22) is
17 amended to read as follows:

18 (22)(A) "Student growth funding" means the amount of state
19 financial aid provided to each school district from the funds made available
20 for that purpose.

21 (B) ~~For school year 2004-2005, student~~ Student growth
22 funding is calculated as five thousand four hundred dollars (\$5,400) minus
23 nine percent (9%) of five thousand four hundred dollars (\$5,400) with the sum
24 multiplied by the increase, if any, in the school district's two-quarter
25 average of the average daily membership of the current school year over the
26 ~~local~~ school district's two-quarter average of the average daily membership
27 for the previous school year, excluding any increase resulting solely from
28 consolidation or annexation with another school district;

29
30 SECTION 3. Effective July 1, 2005, Arkansas Code Title 6, Chapter 20,
31 Subchapter 24 is repealed.

32 ~~6-20-2401. Title.~~

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

35
36 ~~6-20-2402. Purpose.~~

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

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

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

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

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

~~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;~~

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

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

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

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

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

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

~~(9) "Scheduled debt payment" means the scheduled debt payment~~

1 on bonded debt issued on or before May 30, 2004, for the following calendar
 2 year, not including mandatory callable bonds on file with the Department of
 3 Education as of May 30 of the previous year. The scheduled debt payment shall
 4 be adjusted by the Department of Education as follows:

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

12 (B) If a voted refunding issue is combined with
 13 additional debt or extends the term of the original debt, the new payment
 14 schedule will be used for the purpose of calculating eligible debt service
 15 mills required; and

16 (C) A payment that a school district makes to a third
 17 party for the eventual purpose of retiring indebtedness is deposited into an
 18 escrow account pending payment to bond holders and is included as a scheduled
 19 debt payment if the school district is unable to recover the deposited funds;

20 (10) "School district assessment per student" means the total
 21 assessed valuation of property within a school district divided by the school
 22 district's average daily membership;

23 (11) "State assessment per student" means the total assessed
 24 valuation of property within the state divided by the statewide average daily
 25 membership;

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

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

36 (A) Students who reside in Arkansas and who are

1 enrolled in a public school operated by a school district or a private school
 2 for special education students, with their attendance resulting from a
 3 written tuition agreement approved by the Department of Education; and

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

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

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

13
 14 ~~6-20-2404. Debt service funding supplement.~~

15 (a)(1) ~~Beginning with school year 2004-2005, the state shall provide~~
 16 to qualified school districts from available line item funds a debt service
 17 funding supplement for the purpose of reducing bonded indebtedness if the
 18 qualified school district elects to receive the funds in accordance with § 6-
 19 20-2407.

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

25 (B) ~~The debt service funding supplement shall be~~
 26 distributed quarterly.

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

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

35 (2) ~~Before the date that the refunding bonds are sold at~~
 36 public sale, the district submits a certificate to the Director of the

1 Department of Education certifying that the yearly debt service savings will
2 be used for the purposes described in this subsection.

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

8
9 ~~6-20-2405. General facilities funding.~~

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

13 (2) A school district's general facilities funding for a
14 school year is calculated by multiplying the school district's average daily
15 membership for the previous school year by the state wealth index times a
16 rate established annually by the State Board of Education.

17 (3) General facilities funding payments shall be distributed
18 quarterly.

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

20 (A) The purchase of school buses, furniture,
21 equipment, and computer software; and

22 (B) The renovation or repair of existing facilities.

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

25
26 ~~6-20-2406. Supplemental millage incentive funding.~~

27 (a) Beginning with school year 2004-2005, the state shall provide
28 from available line item funds supplemental state funds to qualified school
29 districts that increase total school district millage in excess of the
30 twenty five (25) mills in accordance with Arkansas Constitution, Amendment
31 74, and that elect to receive the funds in lieu of funds available under §§
32 6-20-2404 and 6-20-2405.

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

36 (1) The total millage rate of ad valorem tax levied in each

1 school district as of December 31 immediately preceding the school year; and

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

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

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

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

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

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

24
 25 ~~6-20-2407. Funding election.~~

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

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

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

36 ~~(b) The election of a school district under this section shall be~~

1 ~~effective for one (1) school year.~~

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

5
6 SECTION 4. EMERGENCY CLAUSE. It is found and determined by the
7 General Assembly of the State of Arkansas that the Arkansas Supreme Court has
8 determined that current public school academic facilities in Arkansas are
9 inadequate and inequitable; that the General Assembly established the Joint
10 Committee on Educational Facilities to inventory the current condition of
11 public school academic facilities and recommend methods for bringing public
12 school academic facilities into conformity with the court's constitutional
13 expectations; that the programs established in this act are derived from
14 recommendations of the joint committee and are part of a comprehensive
15 program for overseeing the provision of constitutionally appropriate public
16 school academic facilities across the state; that this program must be
17 implemented immediately for the good of public school students in Arkansas.
18 Therefore, an emergency is declared to exist and this act being immediately
19 necessary for the preservation of the public peace, health, and safety,
20 Section 2 and Section 3 of this act shall be effective on July 1, 2005, and
21 Section 1 of this act shall become effective on:

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

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

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

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