

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 87th General Assembly
3 Regular Session, 2009
4

As Engrossed: H3/25/09

A Bill

HOUSE BILL 2026

5 By: Representative Lindsey
6 By: Senator Madison
7
8

For An Act To Be Entitled

10 AN ACT TO AMEND THE ACADEMIC FACILITIES
11 EXTRAORDINARY CIRCUMSTANCES PROGRAM FOR PUBLIC
12 SCHOOL DISTRICTS; AND FOR OTHER PURPOSES.
13

Subtitle

14 TO AMEND THE ACADEMIC FACILITIES
15 EXTRAORDINARY CIRCUMSTANCES PROGRAM FOR
16 PUBLIC SCHOOL DISTRICTS.
17
18
19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
21

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

23 *6-20-2514. Academic Facilities Extraordinary Circumstances Program.*

24 *(a) The General Assembly finds that:*

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

31 ~~*(2) During the 2006 hearings conducted by the House Interim*~~
32 ~~*Committee on Education and Senate Interim Committee on Education after the*~~
33 ~~*2005 Arkansas Supreme Court decision in the Lake View matter, no school*~~
34 ~~*district came forward to testify that the district will be unable to*~~
35 ~~*adequately repair, renovate, or construct school buildings;*~~

36 ~~*(3) The contention in subdivision (a)(1) of this section, while*~~



1 ~~not without merit as a theory, has not been substantiated. Therefore, the~~
2 ~~implementation and funding of a program to provide additional state financial~~
3 ~~assistance to school districts with limited resources is premature; and~~
4 ~~(4) While implementation and funding may be premature, the~~
5 ~~development of a program to provide state financial assistance to eligible~~
6 ~~school districts that do not have sufficient means to contribute an amount of~~
7 ~~local resources necessary to qualify for state financial participation should~~
8 ~~be initiated immediately.~~

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

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

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

22 (b) As used in this section:

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

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

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

36 (4) "Extraordinary circumstances school district" means a school

1 district that has an expended debt service value of ten (10) or above and has
2 one (1) of the following extraordinary circumstances:

3 (A) Declining enrollment;

4 (B) Low-assessed property valuations; or

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

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

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

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

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

26
27 ~~(A) School districts with declining enrollment;~~

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

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

30 ~~(D) School districts with low assessed property~~
31 ~~valuations;~~

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

34 ~~(F) Any other circumstance deemed extraordinary by the~~
35 ~~division.~~

36 (d) The Commission for Arkansas Public School Academic Facilities and

1 Transportation shall promulgate rules necessary to implement this section.

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

5 (A) The estimated cost of the project;

6 (B) The amount of local resources available to contribute
7 to the project;

8 (C) The amount and availability of funds from school
9 district fund balances;

10 (D) The amount and availability of other public or private
11 assistance;

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

13 (F) The expended debt service indicator of the school
14 district;

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

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

21 ~~(e) The division shall report to the General Assembly by January 15,~~
22 ~~2007, on the development of the Academic Facilities Extraordinary~~
23 ~~Circumstances Program and shall obtain formal legislative approval before~~
24 ~~implementing the Academic Facilities Extraordinary Circumstances Program.~~

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

29 (g) The amount of a loan under this section shall be the amount of
30 moneys required for academic facilities under the Arkansas Public School
31 Academic Facilities Program Act, § 6-21-801 et seq., less the sum of:

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

34 (2) The state revenue received by the extraordinary
35 circumstances school district under the Academic Facilities Partnership
36 Program.

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

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

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

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

11 (A) Approve the application for the full amount of the
12 proposed loan;

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

15 (C) Disapprove the application.

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

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

21 (B) The certification of bond counsel for the
22 extraordinary circumstances school district that the expended debt service
23 required to service existing academic facilities debt and the academic
24 facilities debt needed will exceed the maximum expended debt service.

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

30 (2)(A) The extraordinary circumstances school district shall
31 make annual payments to the state in the amount of:

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

35 (ii) The revenue required to service the
36 extraordinary circumstances school district's bonded indebtedness for

1 academic facilities.

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

4 (3) During the time that the loan to the extraordinary
5 circumstances school district is in repayment, the extraordinary
6 circumstances school district:

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

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

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

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

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

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

22 (3) The repayment status of each loan;

23 (4) The extraordinary circumstances under which each loan was
24 requested; and

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

27
28
29
30
31 /s/ Lindsey
32
33
34
35
36