



DPSAFT

Division of Public School Academic Facilities and Transportation

October 1st, 2005 Report

Statewide state of condition of academic facilities

*For the Governor, the House Committee on
Education, the Senate Committee on
Education, and the Academic Facilities
Oversight Committee*

2005 Report on condition of academic facilities statewide

Preamble “...to ensure that adequate facilities and substantially equal facilities are, and will continue to be provided for Arkansas’ school children.” -----Act 1181 of 2003

The Commission for Arkansas Public School Academic Facilities and Transportation has commissioned the preparation of an official report describing the school facilities legislation that the Commission has been charged with implementing and the Commission's efforts in that regard. This report conveys the Commission's understanding of actions taken by the General Assembly related to public school academic facilities and the Commission's efforts to implement and enforce a statewide program to maintain adequate public school facilities.

To provide the context for legislative actions, we must first review the Statewide Educational Facilities Assessment that was compiled prior to the 2005 session. This assessment was prepared by architects, engineers, and construction experts to establish baseline data for use in developing a statewide school facilities program and measuring related funding needs. It is important to note that no student, teacher, or other person is currently at risk of immediate harm or danger because of an unsafe school facility. If a building inspector identified a problem with a school facility during the initial assessment and the inspector determined that the problem posed a threat of immediate harm or danger, the condition was fixed by each school district during that initial assessment in accordance with applicable health and safety guidelines. The facilities programs and funding mechanisms outlined in this document are in place to ensure that no such condition goes unnoticed or unrepaired in the future. In order to fully understand the assessment, what it accomplished, and how it can be used, the Commission believes that the following language from the introduction to the February 22, 2005, Addendum to the Statewide Educational Facilities Assessment must be closely examined:

The intent of the assessment was to identify the condition of school facilities in Arkansas, and determine their adequacy to serve their intended purpose. The November 30, 2004, report was delivered to the Joint Committee [on Educational Facilities] with the understanding the program manager would complete individual district reviews with school officials throughout January 2005.

It should be noted that a facility assessment should not be confused with a building repair or renovation program. The focus of the assessment is to determine the current condition of school facilities. This information can be helpful in determining a repair or renovation program, but additional master planning at the building and school level is necessary.

This assessment is not a repair program or master plan. This assessment provides basic information regarding building inventories, existing deficiencies, and lifecycle data that can be used to compare the relative condition from one school to another. An assessment is needed in developing a master plan but in itself does not denote such.

A facilities condition assessment can be used for:

- Developing and maintaining an inventory of facility information that can be used for planning purposes
- Identifying needs that could impact the continued and ongoing operation of the facility
- Classifying of short and long term needs across a range of facility types and building systems
- Determining major renovations and in some cases building replacement

- Determining life cycle or replacement needs for building systems that are projected to reach the end of their useful life in the next ten years
- Identifying growing districts and the potential facility impacts
- Comparing the educational suitability of school facilities.

While a facility assessment can be used to develop an overall modernization project, the estimates include both the hard dollar construction component, as well as indirect soft costs associated with design, engineering, material testing, contingencies, and administrative expenses. As such, these assessments do not represent actual implementation plans and may identify deficiencies that are lower priority needs that could be deferred, or excluded from a high priority renovation program. Each district will have to review the needs for each facility, and make a determination on how best to address those needs under a variety of specific renovation projects.

In addition to reviewing the language quoted above, it bears repeating that the assessment was based on a set of clearly defined assumptions that have been largely unreported and widely misunderstood. These assumptions, which have the potential to dramatically alter cost estimates, are listed on page iii of the Final Report in the letter to Senator Shane Broadway and Representative Joyce Elliot from the Chairman of the Task Force to the Joint Committee on Educational Facilities. The assumptions are further developed in the introduction to the Addendum. One of the assumptions with the greatest potential to inflate cost estimates was that “[a]ll buildings would be brought up to proposed building system standards where facilities were in need of renovation.” This assumption included two parts: One, buildings were evaluated for compliance with an unofficial set of proposed educational facilities standards developed by the Task Force; and two, the condition of every public school academic facility was measured by the most current building codes as of the date of the assessment. In other words, the assessment measured every current building not on standards and building codes required by law for *existing* buildings but rather on building codes as applicable to new construction and proposed unofficial standards.

There were sound reasons for completing the assessment with these underlying assumptions. First, using a high benchmark was the only method of making an assessment of the condition of educational facilities that would result in a uniform set of data about the statewide condition of school facilities. Second, from a practical perspective, it would have been impossible to complete the assessment in a timely manner if the charge had been to determine the precise set of building codes applicable to each building and assess the condition of school facilities by using hundreds of different combinations of prior versions of building codes, some of which date back dozens of years.

Further, many of the terms used in the assessment, including the deficiency classifications, have specific definitions that can be found throughout the Final Report and the Addendum. Without a clear understanding of both the assumptions and definitions, the cost estimates become meaningless, abstract concepts. We believe that failure to take into account these underlying considerations has resulted in grossly exaggerated reports of the costs necessary to bring the state’s academic facilities into a constitutionally appropriate condition. While the assessment was designed to accomplish many purposes, it was not designed to be a work order or an invoice. It was, however, instrumental in designing a statewide strategy for the maintenance and improvement of school facilities.

With the Final Report and Addendum as a guide, the General Assembly enacted multiple pieces of legislation during the 2005 Regular Session that together establish a comprehensive program to address the needs of public school academic facilities. Act 1327 of 2005 establishes a new Division of Public School Academic Facilities and Transportation under the supervision of the newly created Commission for Public School Academic Facilities and Transportation, which is composed of the Commissioner of Education and the Directors of the Department Of Finance and Administration and the Arkansas Development Finance Authority. Act 1424 of 2005 establishes the Academic Facilities Oversight Committee, a committee of legislators that will oversee and monitor the development and implementation of the Arkansas Public School Academic Facilities Program and related funding mechanisms. Act 1424 also establishes the Educational Facilities Advisory Committee, a committee of nonlegislators appointed by the legislative oversight committee that will assist the Division of Public School Academic Facilities in developing the components of the Arkansas Public School Academic Facilities Program.

Act 1327 and Act 1424 along with Act 1426 of 2005, the Arkansas Public School Academic Facilities Program Act, and Act 2206 of 2005, the Arkansas Public School Academic Facilities Funding Act, constitute the core of the state's facilities programs, although there are many other enactments that support the improvement of academic facilities across the state.¹ The new division became operational prior to the end of the Regular Session and immediately began developing and administering facilities programs as they were adopted by the legislature.

The Academic Facilities Program includes five (5) different components designed to guide state and local management of school facilities from a variety of perspectives. The Program includes:

1. The **Academic Facilities Master Plan Program** through which each school district will develop and submit a facilities master plan for review and approval by the Division. A facilities master plan is a ten-year plan developed by a school district that contains current enrollment projections and details the school district's strategy for maintaining, repairing, renovating, and improving through new construction or otherwise the school district's academic facilities and equipment. The Division will measure each local master plan against the assessment data for the school district submitting the plan. Using the assessment data for oversight purposes will ensure that local master plans contain appropriate and reasonable content. Assessment data will be continually updated as local master plans are approved and projects completed. The Division will develop a statewide master plan from the local master plans. The statewide master plan will serve as a management tool for overseeing the progress of local academic facilities projects across the state.
2. A requirement that the Division develop an **Academic Facilities Custodial, Maintenance, Repair and Renovation Manual** that will contain uniform standards for custodial, maintenance, repair, and renovation activities in public school academic facilities at the local school district level. Beginning with the 05-06 school year, school districts must dedicate 9% of foundation funding exclusively for the payment of utilities, custodial, maintenance, repair, and renovation activities and related personnel costs.
3. A requirement that the Division develop a **Public School Academic Facilities Manual** that will provide uniform standards to guide the planning, design, and construction of new public school academic facilities and additions to existing public schools. The Task Force developed and proposed the Arkansas School Facilities Manual: Standards and Guidelines, which has been issued for public comment and is the subject of nine public hearings across the state.
4. A requirement that the Division develop a **Public School Academic Equipment Manual** that will contain uniform standards for technology systems, non-consumable instructional materials, and related unattached academic equipment.
5. The **Academic Facilities Distress Program** that is designed to provide intensive state oversight and assistance to those school districts that are unable to conserve and protect their academic facilities. A school district that fails to properly maintain its academic facilities in accordance with these laws and the related rules can be required to cease immediately all expenditures that do not relate to providing an adequate education. Those funds would be placed in an escrow account to be released only by approval of the Division for local academic facilities projects. If necessary, the Division will take over the operation of a school district in order to secure for the students of the district the opportunity for an adequate education.

Act 2208 supplements the Academic Facilities Program by establishing various mechanisms for providing state financial support for local school building projects. The interrelation of these funding mechanisms can be viewed as a three-part continuum. The first part of the continuum is designed to provide state financial support for *existing* school facilities, meaning those facilities constructed before January 1, 2005. This first part includes Bonded Debt Assistance and the Immediate Repair Program. Of course, Bonded Debt Assistance extends state financial support for school facilities into the past by assisting school districts with debt service payments related to school facilities that were built in the past. The Immediate Repair Program serves as a one-time opportunity for school districts to apply for funding to make needed improvements to certain facilities in advance of full implementation of the statewide planning process

under the Academic Facilities Master Plan Program. If an application under the Immediate Repair Program is denied, the proposed immediate repair project may be folded into the school district's master plan. Once the planning process is fully underway, it is anticipated that the types of repairs and equipment dealt with by these two one-time funding programs will be handled through the nine percent (9%) of foundation funding that a school district must dedicate to maintenance, repair, and renovation activities. Also, school districts have the flexibility to use state funds provided in support of bonded debt assistance for maintenance, repair, and renovation activities.

The second part of the continuum links the provision of financial support for *existing* facilities with the provision of *planned* financial support to school districts. The second part will provide reimbursement via the Transitional Academic Facilities Program to school districts for new facilities for which the construction process begins after January 1, 2005, and on or before June 30, 2006. The third part of the continuum, the Academic Facilities Partnership Program, is designed to be the major vehicle for state participation in local school facilities projects over the long term. The Partnership Program will provide state financial participation in advance of or over the course of a new academic facilities construction project that has been planned in accordance with the Master Plan Program. The Partnership Program applies to new construction beginning on or after July 1, 2006.

State financial support for all facilities funding programs is based on a wealth index to equalize spending throughout the state. In other words, poorer districts will receive more funding than wealthier districts. As outlined above, funding will be available to districts to meet the following needs:

1. **Bonded Debt Assistance:** This program of state assistance provides school districts with cash payments designed to help districts retire bonded indebtedness in existence on January 1, 2005. School districts may use the state assistance to make or supplement payments on bonded debt obligations, but they are not required to do so. While the amount of state assistance is based on the amount of a school district's outstanding bonded debt, no state funds are pledged as security for debt. State assistance under this program is available via three (3) separate funding streams, which should be viewed as one (1) primary funding stream and two (2) supplemental funding streams. The supplemental funding streams were designed to enhance the primary source of assistance under this program in order to make sure that no school district suffered as a result of the change in distribution of state assistance related to local bonded debt. The overall funding scheme for assistance under this program is described as follows:

- First, school districts will continue to receive state financial assistance on an annual basis to help retire outstanding bonded indebtedness, most of which was incurred to fund the construction of school buildings. The amount of financial assistance will be based on a school district's outstanding indebtedness as of January 1, 2005, the principal and interest payment schedule in effect on January 1, 2005, and a multi-step calculation. In making the calculation, the amount of a school district's annual debt payment is reduced by ten percent (10%) unless the school district can demonstrate that the ten percent (10%) is attributable to academic facilities. Assistance under the primary funding stream will be phased out over the life of the bonds.ⁱⁱ
- Second, supplemental assistance related to bonded debt will be provided in an amount equal to the amount of general facilities funding that a school district received under Act 69 of the Second Extraordinary Session of 2003. Under Act 69, general facilities funding was provided as an addition to the debt service funding supplement. School districts that did not elect to receive debt service funding supplement, but instead elected to receive supplemental millage incentive funding, did not receive general facilities funding. This supplemental funding stream will be phased out over ten (10) years. As the amount of this stream of supplemental assistance is reduced annually, an amount equal to the total amount of the reduction will be placed in the Educational Facilities Partnership Fund Account for general facilities use.
- Third, supplemental assistance related to bonded debt will also be available in an amount equal to the portion of the district's supplemental millage incentive funding that exceeded what the school district would have received under the debt service funding supplement

formula if the school district had not elected to receive supplemental millage incentive funding under Act 69. Act 69 provided school districts with an alternative to debt service funding supplement in order to raise the value of a mill at the local level; this alternative was called supplemental millage incentive funding. This secondary form of state assistance related to bonded debt will be phased out over ten (10) years. As the amount is reduced annually, an amount equal to the total amount of the reduction will be placed in the Educational Facilities Partnership Fund Account for general facilities use.

It is anticipated that approximately \$45 million will be distributed to school districts during the 2005-2006 fiscal year under these three (3) streams of funding. As noted above, school districts have the flexibility to use these funds for any purpose, including maintenance and operations.

2. **Academic Facilities Immediate Repair Program:** State financial participation is available for eligible projects designed to address the correction of deficiencies in academic facilities that present an immediate hazard to health or safety of students and staff, meeting minimum health and safety building standards, or the extraordinary deterioration of the academic facility. The deficiency must have been in existence on January 1, 2005, application must be made by July 1, 2005, and the estimated cost of the immediate repair project must be a minimum of one hundred dollars (\$100) per student or fifty thousand dollars (\$50,000).

3. **Academic Equipment Program:** State financial participation is available to purchase eligible unattached academic equipment. The need for the unattached academic equipment must have been in existence on January 1, 2005, application must be made by July 1, 2005, and the academic equipment must support an adequate education.

4. **Transitional Academic Facilities Program:** State financial participation in the form of reimbursement is available to school districts for eligible new construction projects for which debt is incurred or funds are spent after January 1, 2005, and on or before June 30, 2006.

5. **Academic Facilities Partnership Program:** State financial participation in the form of cash payments is available to a school district for eligible new construction projects. A new construction project includes any improvement to an academic facility and, if necessary, related areas, such as the physical plant and grounds, that bring the state of condition or efficiency of the academic facility to a state of condition or efficiency better than the facility's original condition of completeness or efficiency. New construction includes additions to existing academic facilities and new academic facilities.

6. **Academic Facilities Catastrophic Program:** State financial participation is available for eligible catastrophic repair and construction projects for the purpose of supplementing insurance or other public or private emergency assistance received by or payable to the school district.

Act 2208 also provides incentives for collaboration between school districts. The act encourages school districts to consider arrangements that have the potential to improve academic facilities or transportation or create other efficiencies and enhanced learning opportunities. In addition, school districts that voluntarily consolidate or annex will have the benefit of the lowest wealth index of the two districts on the first eligible academic facilities project in the new district.

In order to effectively manage state resources and maintain equity between school districts with different financial resources, the act requires that state financial participation in local building projects be based on an adjusted project cost. The Division will establish formulas for determining basic project costs on a per student basis. Then, the basic project cost will be adjusted based on a variety of factors, including the cost of local enhancements, if any. Finally, the act directs the Division to develop a special program to provide emergency loans to eligible high-growth school districts. This loan program is intended to be supplementary to other avenues of state financial participation for high-growth districts.

It must be emphasized that the commitment of the General Assembly to public school academic facilities is tremendous. We anticipate that more than \$200 million will be available to school districts during the next two years for improving school facilities beginning with \$20 million of state revenues made available on April 13, 2005, and an additional \$50 million made available on July 1, 2005. For the 2007 fiscal year, the General Assembly has provided another \$34 million for a total commitment over the biennium of \$104 million. It is anticipated that local matching funds will effectively double state funds dedicated to school facilities resulting in a total investment of over \$200 million for this biennium.ⁱⁱⁱ Because the wealth index allocates the most State aid to the poorest districts, adequacy of resources is assured across the State. Also, it is important to note that the Commission for Public School Academic Facilities and Transportation, subject to the approval of Legislative Council, may transfer between state appropriations as necessary to meet unanticipated needs for school facilities.

Since state revenue has continued to grow above initial projections, \$123.8 million in unobligated state funds became available on July 1, 2005. The \$123.8 million is expected to be supplemented by an additional \$42 million in interest earnings and miscellaneous funds to be received by the state through the 2005-07 biennium. In addition to these unobligated state funds, the July 27, 2005, revision of the Official General Revenue Forecast for the 2005-07 biennium indicates that there would be surplus general revenues totaling \$98.4 million during the fiscal year ending June 30, 2006, and \$68.7 million during the fiscal year ending June 30, 2007. By combining unobligated state funds with anticipated surplus general revenues, a total state surplus of \$333 million could be available above the \$104 million the state has currently committed for facilities. With projected local contributions doubling state funds, a supplemental appropriation, and a funding transfer, the total investment in school facilities, if needed, could increase to over \$874 million in this biennium.

When evaluating the financial resources dedicated to educational facilities by the General Assembly during the 2005 Regular Session, it is important to remember that the Division started on March 29, 2005, with two staff persons. From a practical perspective, it takes a certain amount of time to hire and train qualified staff for a newly established state agency such as the Division. Also, only so much construction can be accomplished within the current biennial period. The statewide planning process must be fully implemented before we can adequately understand and plan for facilities needs.

The Commission has been given significant authority to enforce statutory and regulatory requirements with regard to facilities. It is our objective to use assessment data as a measuring stick by which to evaluate local master plans. The Division will meet with representatives from each school district to review their plan and suggest improvements. Ultimately, the Division must approve each master plan, which will provide an ongoing stream of information with which to continually update the facilities database. Inspectors will conduct random on-site visits of school facilities to ensure that school districts are acting in accordance with their master plans and appropriately maintaining and repairing school facilities. State inspections will also be conducted to ensure that new construction complies with state standards. Inspectors will report to the Division, and problems will be addressed as through the Facilities Distress Program, which provides for state take-over of a school district if necessary to secure for the students of the district the opportunity for an adequate education.

The attached time line provides a summary of activities taken thus far in implementing a statewide school facilities program and also shows how the school facilities program is expected to cycle over each biennial period.

Condition Summary

As outlined above, the Arkansas General Assembly has created the mechanisms to build and repair the State's public school infrastructure. Programs, funding and the organizational structure needed to administer a state-wide school facilities program are being put in place. These mechanisms however, will take some time to implement.

Until these mechanisms are fully in place, it is difficult, at this time, to give an accurate report on the current state of condition of school facilities across the State. For example, district-wide facilities master plans will not be submitted to the Division until February of 2006. The data collected in these district-wide master plans will be used to create a state-wide facilities master plan which will allow the Division to accurately describe the state of condition of academic facilities.

A more current and precise indicator of the current state of condition of school facilities across Arkansas however can be found in the results of the Academic Facilities Immediate Repair Program (AFIRP) noted above. The deficiencies and the estimated costs of repair for submitted projects were grouped into the following categories:

Heating, Ventilating and Air Conditioning	\$24,150,517.14
Sewage Systems	\$1,517,677.00
Water Supplies	\$1,428,548.50
Fire Alarm Systems	\$5,913,850.75
Floors	\$3,809,284.46
Roofs	\$28,533,287.17
Exterior Doors	\$1,509,502.50
ADA Compliance	\$2,948,941.16
Asbestos Abatement	\$1,756,784.25
Egress/Emergency Exiting	\$1,476,052.69
Life Safety	\$2,261,770.00
Other Repairs	\$6,593,271.90
Total Estimated Cost of Repairs	<u>\$81,899,487.52*</u>

While some school districts continue to repair existing and build new school facilities, it would be fair to say that the current state of condition of school facilities is essentially reflected in the data collected in the state-wide school facilities assessment of 2004 and revised in February of 2005. This data is available for review on the Divisions web-site, located at <http://www.arkansasfacilities.com>.

As was consistent with the 2004 assessment report, the areas in most need of repair were roofs and HVAC systems. 64% of the repair dollars are allocated to these two systems. The next largest category, Fire Alarms, accounts for 7.2% of the repair dollars. This is fairly consistent with the assessment report. Most importantly, as noted above, the Commission on Public School Academic Facilities approved the state's portion of financial participation, via the Facilities Wealth Index, to address these immediate needs repairs.

* After review and evaluation of all applications, approximately \$10 million worth of repairs was deemed non-qualifying per Act 2206 of the 85th General assembly. The total amount of co-funded repairs was approximately \$72 million.

TIMELINE ADDENDUM TO REPORT

January 1, 2005

- Outstanding bonded indebtedness amount locked in for purpose of calculating state assistance to school districts.
- Beginning date that a school district can spend funds or incur debt with regard to an academic facilities new construction project and be eligible for state financial participation under Transitional Academic Facilities Program.

March 29, 2005

- Division of Public School Academic Facilities and Transportation operational in temporary location with Interim Director and one administrative assistant.

May 3, 2005

- First meeting of the Commission for Public School Academic Facilities and Transportation.
- Begin hiring process for seven (7) permanent positions with the Division: one (1) senior project administrator, one (1) fiscal manager, and five (5) area project managers.
- Begin process to retain architects and engineers through contractual arrangements to assist Division with implementation of the Immediate Repair Program.
- Issue emergency rules for the Catastrophic Program and Immediate Repair Program.

May 20, 2005

- Deadline for design professionals (architects and engineers) to submit applications to contract with Division to assist with Immediate Repair Program.

June 7, 2005

- Division conducts interviews with design professionals (architects and engineers) regarding assistance with Immediate Repair Program.

June 8, 2005

- Division conducts interviews with design professionals (architects and engineers) regarding assistance with Immediate Repair Program.

June 21, 2005

- Second meeting of the Commission for Public School Academic Facilities and Transportation.
- Approve contracts with design professionals (architects and engineers) for assistance with Immediate Repair Program.
- Issue for public comment proposed rule for Transitional Academic Facilities Program.
- Issue for public comment proposed rule "Arkansas School Facilities Manual: Standards and Guidelines".

June 29, 2005

- Division training of design professionals (architects and engineers) for assistance with Immediate Repair Program.
- Division hires 4 persons to serve as area project managers.

July 1, 2005

- Deadline for school districts to apply for state financial participation in eligible immediate repair projects and the purchase of academic equipment.
- First date that state financial participation for state fiscal year '05-'06 is available for eligible immediate repair projects and eligible catastrophic repair projects.
- Division activities include:
 - Hiring additional staff.
 - Evaluating applications from school districts for immediate repair projects and academic equipment.
 - Training staff (Note: Up to five (5) bus inspectors and up to five (5) bus driver trainers will be cross-trained to conduct facilities inspections. These inspectors and

trainers will be “out in the field” visiting school districts to make sure that districts are following master plans as well as custodial, maintenance, and repair guidelines.)

→Developing the following rules for official promulgation by the Commission:

- Master Plan Program.
- Custodial, Maintenance, Repair, and Renovation Manual.
- Procedures for school districts to follow with regard to dedicating nine percent (9 %) of foundation funding to custodial, maintenance, and repair activities.
- Public School Academic Facilities Manual.
- Public School Academic Equipment Manual.
- Academic Facilities Distress Program.
- Procedures for districts to follow when appealing the automatic ten percent (10 %) reduction in state assistance with "old debt" attributed to nonacademic facilities.
- Academic Facilities Immediate Repair Program.
- Academic Facilities Catastrophic Program.
- Transitional Academic Facilities Program.
- Academic Facilities Partnership Program.
- A methodology for establishing the facility condition index of an academic facility.
- Formulas for determining the basic project cost per student for various types of facilities projects. State participation for funded projects in the Transitional Academic Facilities Program has been recommended at a maximum of ninety dollars (\$90) per square foot.
- Procedures for a school district to follow when appealing a Division determination to the Commission.

→Developing recommendations for a program that would provide additional state financial assistance to high growth districts in the form of emergency loans to help finance eligible facilities projects.

- Commission activities include review and promulgation of all rules noted above and a rule for phasing out additional funding streams accompanying bonded debt assistance - general facilities funding & supplemental millage equivalent.

July 6, 2005

- First public hearing (Mountain Home) on the proposed rule “Arkansas School Facilities Manual: Standards and Guidelines”. This public hearing is the first in a series of nine hearings held across the state.

July 7, 2005

- Third meeting of the Commission for Public School Academic Facilities and Transportation.
- Permanent rules for the Catastrophic Program and the Immediate Repair Program released for public comment.
- Director of Division named.

July 14, 2005

- Second public hearing (Fayetteville) on the proposed rule “Arkansas School Facilities Manual: Standards and Guidelines”.

July 15, 2005

- School districts receive notification of specific amount of state assistance with regard to outstanding bonded indebtedness as of January 1, 2005, i.e. "old debt".
- Third public hearing (Little Rock) on the proposed rule “Arkansas School Facilities Manual: Standards and Guidelines”.

July 19, 2005

- First meeting of the legislative Facilities Oversight Committee.

July 20, 2005

- Fourth public hearing (West Memphis) on the proposed rule “Arkansas School Facilities Manual: Standards and Guidelines”.

July 21, 2005

- Fifth public hearing (Fort Smith) on the proposed rule “Arkansas School Facilities Manual: Standards and Guidelines”.

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July 25, 2005

- Division moves to permanent location.
- Sixth public hearing (Texarkana) on the proposed rule “Arkansas School Facilities Manual: Standards and Guidelines”.

August 1, 2005

- First biannual payment from state to assist school districts with old debt.

August 8, 2005

- Seventh public hearing (El Dorado) on the proposed rule “Arkansas School Facilities Manual: Standards and Guidelines”.

August 9, 2005

- Eighth public hearing (Monticello) on the proposed rule “Arkansas School Facilities Manual: Standards and Guidelines”.

August 10, 2005

- Ninth public hearing (Jonesboro) on the proposed rule “Arkansas School Facilities Manual: Standards and Guidelines”. This public hearing is the last in a series of 9 public hearings held across the state.

August 15, 2005

- Target date for contracted architects and engineers to complete final onsite evaluations of projects being considered under the Immediate Repair Program.

August 16, 2005

- Public hearing on permanent rules for the Catastrophic Program, the Immediate Repair Program, and the Transitional Academic Facilities Program.

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September 7, 2005

- Target date for division to recommend to the commission which immediate repair projects should be funded.

October 1, 2005

- Deadline for submission of proposed rule “Arkansas School Facilities Manual: Standards and Guidelines” to Legislative Council.
- Target date for release of rule governing process for a school district to appeal the automatic ten percent (10%) reduction of the amount of a school district's annual debt payment in the calculation for determining bonded debt assistance.

December 1, 2005

- Deadline for effective date of proposed rule “Arkansas School Facilities Manual: Standards and Guidelines”.
- Target date for division to inform school districts about the outcome of appeals on the automatic ten percent (10%) reduction of the amount of a school district's annual debt payment in the calculation for determining bonded debt assistance.

January 2, 2006

- Target date for school districts to appeal division determinations with regard to the automatic ten percent (10%) reduction of the amount of a school district's annual debt payment in the calculation for determining bonded debt assistance.

February 1, 2006

- Second biannual payment from state to assist school districts with old debt.
- Deadline for school districts to submit first draft of master plans to the division with requests for state financial participation for fiscal year '06-'07 and during the '07-'09 biennium in academic facilities new construction projects.

February 1 through April 30, 2006

- Consultation meetings between division staff and school district representatives to review and discuss the goals and content of each school district's master plan.

May 1, 2006

- Deadline for division to approve local master plans with regard to fiscal year '06-'07.

June 30, 2006

- End date that a school district can spend funds or incur debt with regard to an academic facilities new construction project and be eligible for state financial participation under Transitional Academic Facilities Program.

July 1, 2006

- Eligible school districts receive notification of approval of state financial participation for fiscal year '06-'07 in academic facilities new construction projects.
- First date that state financial participation is available for eligible transitional projects.
- First date that state financial participation for fiscal year '06-'07 is available for eligible academic facilities new construction projects.

July 15, 2006

- School districts receive notification of specific amount of state assistance with old debt.

August 1, 2006

- Biannual payment from state to assist school districts with old debt.

September 1, 2006

- Deadline for division to approve local master plans with regard to '07-'09 biennium.

October 1, 2006

- Division makes budget request based on state master plan to support state financial participation during the '07-'09 biennium in academic facilities new construction projects.

January 9, 2007

- Regular Session of the 86th General Assembly begins.

February 1, 2007

- Biannual payment from state to assist school districts with old debt.
- School districts submit reports to division updating master plan and describing status of academic facilities projects.

May 1, 2007

- Eligible school districts receive notification of approval of state financial participation during the '07-'09 biennium in academic facilities new construction projects.

July 1, 2007

- First date state financial participation for '07-'09 biennium available for approved academic facilities new construction projects.

July 15, 2007

- School districts receive notification of specific amount of state assistance with old debt.

August 1, 2007

- Biannual payment from state to assist school districts with old debt.

February 1, 2008

- Bi-annual payment from state to assist school districts with old debt.
- Deadline for school districts to submit updated master plans to the division with requests for state financial participation during the '09-'11 biennium.

February 1 through April 30, 2008

- Consultation meetings between division staff and school district representatives to review and discuss the goals and content of each school district's master plan.

May 1, 2008

- Deadline for division to approve local master plans with regard to '09-'11 biennium.

July 15, 2008

- School districts receive notification of specific amount of state assistance with old debt.

August 1, 2008

- Biannual payment from state to assist school districts with old debt.

September 1, 2008

- Deadline to approve local master plans with regard to '09-'11 biennium.

October 1, 2008

- Division makes budget request based on state master plan to support state financial participation during the '09-'11 biennium in academic facilities new construction projects.

January 9, 2009

- Regular Session of the 87th General Assembly begins.

February 1, 2009

- Biannual payment from state to assist school districts with old debt.
- School districts submit reports to division updating master plan and describing status of academic facilities projects.

May 1, 2009

- Eligible school districts receive notification of approval of state financial participation during the '09-'11 biennium in academic facilities new construction projects.

July 1, 2009

- First date state financial participation for '09-'11 biennium available for approved academic facilities new construction projects.

¹ Information Technology.

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REPORT ON ACADEMIC FACILITIES PROGRAM AND FUNDING

by

COMMISSION FOR PUBLIC SCHOOL ACADEMIC FACILITIES AND TRANSPORTATION

Ken James, Commissioner of Education, Chair
Richard Weiss, Director, Department of Finance and Administration
Mac Dodson, President, Arkansas Development Finance Authority

AUGUST 9, 2005

The Commission for Arkansas Public School Academic Facilities and Transportation has commissioned the preparation of an official report describing the school facilities legislation that the Commission has been charged with implementing and the Commission's efforts in that regard. This report conveys the Commission's understanding of actions taken by the General Assembly related to public school academic facilities and the Commission's efforts to implement and enforce a statewide program to maintain adequate public school facilities.

To provide the context for legislative actions, we must first review the Statewide Educational Facilities Assessment that was compiled prior to the 2005 session. This assessment was prepared by architects, engineers, and construction experts to establish baseline data for use in developing a statewide school facilities program and measuring related funding needs. It is important to note that no student, teacher, or other person is currently at risk of immediate harm or danger because of an unsafe school facility. If a building inspector identified a problem with a school facility during the initial assessment and the inspector determined that the problem posed a threat of immediate harm or danger, the condition was fixed by each school district during that initial assessment in accordance with applicable health and safety guidelines. The facilities programs and funding mechanisms outlined in this document are in place to ensure that no such condition goes unnoticed or unrepaired in the future. In order to fully understand the assessment, what it accomplished, and how it can be used, the Commission believes that the following language from the introduction to the February 22, 2005, Addendum to the Statewide Educational Facilities Assessment must be closely examined:

The intent of the assessment was to identify the condition of school facilities in Arkansas, and determine their adequacy to serve their intended purpose. The November 30, 2004, report was delivered to the Joint Committee [on Educational Facilities] with the understanding the program manager would complete individual district reviews with school officials throughout January 2005.

It should be noted that a facility assessment should not be confused with a building repair or renovation program. The focus of the assessment is to determine the current condition of school facilities. This information can be helpful in determining a repair or renovation program, but additional master planning at the building and school level is necessary. This assessment is not a repair program or master plan. This assessment provides basic information regarding building inventories, existing deficiencies, and lifecycle data that can be used to compare the relative condition from one school to another. An assessment is needed in developing a master plan but in itself does not denote such.

A facilities condition assessment can be used for:

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- Developing and maintaining an inventory of facility information that can be used for planning purposes
 - Identifying needs that could impact the continued and ongoing operation of the facility
 - Classifying of short and long term needs across a range of facility types and building systems
 - Determining major renovations and in some cases building replacement
 - Determining life cycle or replacement needs for building systems that are projected to reach the end of their useful life in the next ten years
 - Identifying growing districts and the potential facility impacts
 - Comparing the educational suitability of school facilities.

While a facility assessment can be used to develop an overall modernization project, the estimates include both the hard dollar construction component, as well as indirect soft costs associated with design, engineering, material testing, contingencies, and administrative expenses. As such, these assessments do not represent actual implementation plans and may identify deficiencies that are lower priority needs that could be deferred, or excluded from a high priority renovation program. Each district will have to review the needs for each facility, and make a determination on how best to address those needs under a variety of specific renovation projects.

In addition to reviewing the language quoted above, it bears repeating that the assessment was based on a set of clearly defined assumptions that have been largely unreported and widely misunderstood. These assumptions, which have the potential to dramatically alter cost estimates, are listed on page iii of the Final Report in the letter to Senator Shane Broadway and Representative Joyce Elliot from the Chairman of the Task Force to the Joint Committee on Educational Facilities. The assumptions are further developed in the introduction to the Addendum. One of the assumptions with the greatest potential to inflate cost estimates was that “[a]ll buildings would be brought up to proposed building system standards where facilities were in need of renovation.” This assumption included two parts: One, buildings were evaluated for compliance with an unofficial set of proposed educational facilities standards developed by the Task Force; and two, the condition of every public school academic facility was measured by the most current building codes as of the date of the assessment. In other words, the assessment measured every current building not on standards and building codes required by law for *existing* buildings but rather on building codes as applicable to new construction and proposed unofficial standards.

There were sound reasons for completing the assessment with these underlying assumptions. First, using a high benchmark was the only method of making an assessment of the condition of educational facilities that would result in a uniform set of data about the statewide condition of school facilities. Second, from a practical perspective, it would have been impossible to complete the assessment in a timely manner if the charge had been to determine the precise set of building codes applicable to each building and assess the condition of school facilities by using hundreds of different combinations of prior versions of building codes, some of which date back dozens of years.

Further, many of the terms used in the assessment, including the deficiency classifications, have specific definitions that can be found throughout the Final Report and the Addendum. Without a clear understanding of both the assumptions and definitions, the cost estimates become meaningless, abstract concepts. We believe that failure to take into account these underlying considerations has resulted in grossly exaggerated reports of the costs necessary to bring the state’s academic facilities into a constitutionally appropriate condition. While the assessment was designed to accomplish many purposes, it was not designed to be a work order or an invoice. It was, however, instrumental in designing a statewide strategy for the maintenance and improvement of school facilities.

With the Final Report and Addendum as a guide, the General Assembly enacted multiple pieces of legislation during the 2005 Regular Session that together establish a comprehensive program to address the needs of public school academic facilities. Act 1327 of 2005 establishes a new Division of Public School Academic Facilities and Transportation under the supervision of the newly created Commission for Public School Academic Facilities and Transportation, which is composed of the Commissioner of Education and the Directors of the Department Of Finance and Administration and the Arkansas Development Finance Authority. Act 1424 of 2005 establishes the Academic Facilities Oversight Committee, a committee of legislators that will oversee and monitor the development and implementation of the Arkansas Public School Academic Facilities Program and related funding mechanisms. Act 1424 also establishes the Educational Facilities Advisory Committee, a committee of nonlegislators appointed by the legislative oversight committee that will assist the Division of Public School Academic Facilities in developing the components of the Arkansas Public School Academic Facilities Program.

Act 1327 and Act 1424 along with Act 1426 of 2005, the Arkansas Public School Academic Facilities Program Act, and Act 2206 of 2005, the Arkansas Public School Academic Facilities Funding Act, constitute the core of the state's facilities programs, although there are many other enactments that support the improvement of academic facilities across the state.ⁱⁱⁱ The new division became operational prior to the end of the Regular Session and immediately began developing and administering facilities programs as they were adopted by the legislature.

The Academic Facilities Program includes five (5) different components designed to guide state and local management of school facilities from a variety of perspectives. The Program includes:

1. The **Academic Facilities Master Plan Program** through which each school district will develop and submit a facilities master plan for review and approval by the Division. A facilities master plan is a ten-year plan developed by a school district that contains current enrollment projections and details the school district's strategy for maintaining, repairing, renovating, and improving through new construction or otherwise the school district's academic facilities and equipment. The Division will measure each local master plan against the assessment data for the school district submitting the plan. Using the assessment data for oversight purposes will ensure that local master plans contain appropriate and reasonable content. Assessment data will be continually updated as local master plans are approved and projects completed. The Division will develop a statewide master plan from the local master plans. The statewide master plan will serve as a management tool for overseeing the progress of local academic facilities projects across the state.
2. A requirement that the Division develop an **Academic Facilities Custodial, Maintenance, Repair and Renovation Manual** that will contain uniform standards for custodial, maintenance, repair, and renovation activities in public school academic facilities at the local school district level. Beginning with the 05-06 school year, school districts must dedicate 9% of foundation funding exclusively for the payment of utilities, custodial, maintenance, repair, and renovation activities and related personnel costs.
3. A requirement that the Division develop a **Public School Academic Facilities Manual** that will provide uniform standards to guide the planning, design, and construction of new public school academic facilities and additions to existing public schools. The Task Force developed and proposed the Arkansas School Facilities Manual: Standards and Guidelines, which has been issued for public comment and is the subject of nine public hearings across the state.
4. A requirement that the Division develop a **Public School Academic Equipment Manual** that will contain uniform standards for technology systems, non-consumable instructional materials, and related unattached academic equipment.

5. The **Academic Facilities Distress Program** that is designed to provide intensive state oversight and assistance to those school districts that are unable to conserve and protect their academic facilities. A school district that fails to properly maintain its academic facilities in accordance with these laws and the related rules can be required to cease immediately all expenditures that do not relate to providing an adequate education. Those funds would be placed in an escrow account to be released only by approval of the Division for local academic facilities projects. If necessary, the Division will take over the operation of a school district in order to secure for the students of the district the opportunity for an adequate education.

Act 2208 supplements the Academic Facilities Program by establishing various mechanisms for providing state financial support for local school building projects. The interrelation of these funding mechanisms can be viewed as a three-part continuum. The first part of the continuum is designed to provide state financial support for *existing* school facilities, meaning those facilities constructed before January 1, 2005. This first part includes Bonded Debt Assistance and the Immediate Repair Program. Of course, Bonded Debt Assistance extends state financial support for school facilities into the past by assisting school districts with debt service payments related to school facilities that were built in the past. The Immediate Repair Program serves as a one-time opportunity for school districts to apply for funding to make needed improvements to certain facilities in advance of full implementation of the statewide planning process under the Academic Facilities Master Plan Program. If an application under the Immediate Repair Program is denied, the proposed immediate repair project may be folded into the school district's master plan. Once the planning process is fully underway, it is anticipated that the types of repairs and equipment dealt with by these two one-time funding programs will be handled through the nine percent (9%) of foundation funding that a school district must dedicate to maintenance, repair, and renovation activities. Also, school districts have the flexibility to use state funds provided in support of bonded debt assistance for maintenance, repair, and renovation activities.

The second part of the continuum links the provision of financial support for *existing* facilities with the provision of *planned* financial support to school districts. The second part will provide reimbursement via the Transitional Academic Facilities Program to school districts for new facilities for which the construction process begins after January 1, 2005, and on or before June 30, 2006. The third part of the continuum, the Academic Facilities Partnership Program, is designed to be the major vehicle for state participation in local school facilities projects over the long term. The Partnership Program will provide state financial participation in advance of or over the course of a new academic facilities construction project that has been planned in accordance with the Master Plan Program. The Partnership Program applies to new construction beginning on or after July 1, 2006.

State financial support for all facilities funding programs is based on a wealth index to equalize spending throughout the state. In other words, poorer districts will receive more funding than wealthier districts. As outlined above, funding will be available to districts to meet the following needs:

1. **Bonded Debt Assistance:** This program of state assistance provides school districts with cash payments designed to help districts retire bonded indebtedness in existence on January 1, 2005. School districts may use the state assistance to make or supplement payments on bonded debt obligations, but they are not required to do so. While the amount of state assistance is based on the amount of a school district's outstanding bonded debt, no state funds are pledged as security for debt. State assistance under this program is available via three (3) separate funding streams, which should be viewed as one (1) primary funding stream and two (2) supplemental funding streams. The supplemental funding streams were designed to enhance the primary source of assistance under this program in order to make sure that no school district suffered as a result of the change in distribution of state assistance related to local bonded debt. The overall funding scheme for assistance under this program is described as follows:

- First, school districts will continue to receive state financial assistance on an annual basis to help retire outstanding bonded indebtedness, most of which was incurred to fund the

construction of school buildings. The amount of financial assistance will be based on a school district's outstanding indebtedness as of January 1, 2005, the principal and interest payment schedule in effect on January 1, 2005, and a multi-step calculation. In making the calculation, the amount of a school district's annual debt payment is reduced by ten percent (10%) unless the school district can demonstrate that the ten percent (10%) is attributable to academic facilities. Assistance under the primary funding stream will be phased out over the life of the bonds.ⁱⁱⁱ

- Second, supplemental assistance related to bonded debt will be provided in an amount equal to the amount of general facilities funding that a school district received under Act 69 of the Second Extraordinary Session of 2003. Under Act 69, general facilities funding was provided as an addition to the debt service funding supplement. School districts that did not elect to receive debt service funding supplement, but instead elected to receive supplemental millage incentive funding, did not receive general facilities funding. This supplemental funding stream will be phased out over ten (10) years. As the amount of this stream of supplemental assistance is reduced annually, an amount equal to the total amount of the reduction will be placed in the Educational Facilities Partnership Fund Account for general facilities use.
- Third, supplemental assistance related to bonded debt will also be available in an amount equal to the portion of the district's supplemental millage incentive funding that exceeded what the school district would have received under the debt service funding supplement formula if the school district had not elected to receive supplemental millage incentive funding under Act 69. Act 69 provided school districts with an alternative to debt service funding supplement in order to raise the value of a mill at the local level; this alternative was called supplemental millage incentive funding. This secondary form of state assistance related to bonded debt will be phased out over ten (10) years. As the amount is reduced annually, an amount equal to the total amount of the reduction will be placed in the Educational Facilities Partnership Fund Account for general facilities use.

It is anticipated that approximately \$45 million will be distributed to school districts during the 2005-2006 fiscal year under these three (3) streams of funding. As noted above, school districts have the flexibility to use these funds for any purpose, including maintenance and operations.

2. **Academic Facilities Immediate Repair Program:** State financial participation is available for eligible projects designed to address the correction of deficiencies in academic facilities that present an immediate hazard to health or safety of students and staff, meeting minimum health and safety building standards, or the extraordinary deterioration of the academic facility. The deficiency must have been in existence on January 1, 2005, application must be made by July 1, 2005, and the estimated cost of the immediate repair project must be a minimum of one hundred dollars (\$100) per student or fifty thousand dollars (\$50,000).

3. **Academic Equipment Program:** State financial participation is available to purchase eligible unattached academic equipment. The need for the unattached academic equipment must have been in existence on January 1, 2005, application must be made by July 1, 2005, and the academic equipment must support an adequate education.

4. **Transitional Academic Facilities Program:** State financial participation in the form of reimbursement is available to school districts for eligible new construction projects for which debt is incurred or funds are spent after January 1, 2005, and on or before June 30, 2006.

5. **Academic Facilities Partnership Program:** State financial participation in the form of cash payments is available to a school district for eligible new construction projects. A new construction project includes any improvement to an academic facility and, if necessary, related areas, such as the physical plant and grounds, that bring the state of condition or efficiency of the academic facility to a state of condition or efficiency better than the facility's original condition of

completeness or efficiency. New construction includes additions to existing academic facilities and new academic facilities.

6. **Academic Facilities Catastrophic Program:** State financial participation is available for eligible catastrophic repair and construction projects for the purpose of supplementing insurance or other public or private emergency assistance received by or payable to the school district.

Act 2208 also provides incentives for collaboration between school districts. The act encourages school districts to consider arrangements that have the potential to improve academic facilities or transportation or create other efficiencies and enhanced learning opportunities. In addition, school districts that voluntarily consolidate or annex will have the benefit of the lowest wealth index of the two districts on the first eligible academic facilities project in the new district.

In order to effectively manage state resources and maintain equity between school districts with different financial resources, the act requires that state financial participation in local building projects be based on an adjusted project cost. The Division will establish formulas for determining basic project costs on a per student basis. Then, the basic project cost will be adjusted based on a variety of factors, including the cost of local enhancements, if any. Finally, the act directs the Division to develop a special program to provide emergency loans to eligible high-growth school districts. This loan program is intended to be supplementary to other avenues of state financial participation for high-growth districts.

It must be emphasized that the commitment of the General Assembly to public school academic facilities is tremendous. We anticipate that more than \$200 million will be available to school districts during the next two years for improving school facilities beginning with \$20 million of state revenues made available on April 13, 2005, and an additional \$50 million made available on July 1, 2005. For the 2007 fiscal year, the General Assembly has provided another \$34 million for a total commitment over the biennium of \$104 million. It is anticipated that local matching funds will effectively double state funds dedicated to school facilities resulting in a total investment of over \$200 million for this biennium.ⁱⁱⁱ Because the wealth index allocates the most State aid to the poorest districts, adequacy of resources is assured across the State. Also, it is important to note that the Commission for Public School Academic Facilities and Transportation, subject to the approval of Legislative Council, may transfer between state appropriations as necessary to meet unanticipated needs for school facilities.

Since state revenue has continued to grow above initial projections, \$123.8 million in unobligated state funds became available on July 1, 2005. The \$123.8 million is expected to be supplemented by an additional \$42 million in interest earnings and miscellaneous funds to be received by the state through the 2005-07 biennium. In addition to these unobligated state funds, the July 27, 2005, revision of the Official General Revenue Forecast for the 2005-07 biennium indicates that there would be surplus general revenues totaling \$98.4 million during the fiscal year ending June 30, 2006, and \$68.7 million during the fiscal year ending June 30, 2007. By combining unobligated state funds with anticipated surplus general revenues, a total state surplus of \$333 million could be available above the \$104 million the state has currently committed for facilities. With projected local contributions doubling state funds, a supplemental appropriation, and a funding transfer, the total investment in school facilities, if needed, could increase to over \$874 million in this biennium.

When evaluating the financial resources dedicated to educational facilities by the General Assembly during the 2005 Regular Session, it is important to remember that the Division started on March 29, 2005, with two staff persons. From a practical perspective, it takes a certain amount of time to hire and train qualified staff for a newly established state agency such as the Division. Also, only so much construction can be accomplished within the current biennial period. The statewide planning process must be fully implemented before we can adequately understand and plan for facilities needs.

The Commission has been given significant authority to enforce statutory and regulatory requirements with regard to facilities. It is our objective to use assessment data as a measuring stick by which to evaluate local master plans. The Division will meet with representatives from each school district to review their plan and suggest improvements. Ultimately, the Division must approve each master plan, which will provide an ongoing stream of information with which to continually update the facilities database. Inspectors will conduct random on-site visits of school facilities to ensure that school districts are acting in accordance with their master plans and appropriately maintaining and repairing school facilities. State inspections will also be conducted to ensure that new construction complies with state standards. Inspectors will report to the Division, and problems will be addressed as through the Facilities Distress Program, which provides for state take-over of a school district if necessary to secure for the students of the district the opportunity for an adequate education.

The attached time line provides a summary of activities taken thus far in implementing a statewide school facilities program and also shows how the school facilities program is expected to cycle over each biennial period.

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