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2005 Legislature Considers School Facilities Improvement

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THE ISSUE OF SCHOOL FACILITIES IMPROVEMENT

The Arkansas 85th General Assembly is working to address the recommendations of the *Arkansas Statewide Education Facilities Assessment*. The report is the culmination of 18 months of work commissioned by the 2003 General Assembly to assess the adequacy and equity of public school buildings across the state. In the ongoing effort to address the mandates of the *Lake View III* decision, made by the Arkansas Supreme Court in November 2002, the legislature's Joint Committee on Educational Facilities commissioned a task force to conduct a comprehensive survey of facilities, equipment, and technology. The 60-member task force, including legislators, school officials, and state department officials, together with architects, engineers, business leaders, and interested citizens, contracted with the DeJong Group and its partners to complete the study which was delivered to the Joint Committee in November 2004.

The report recommended repairs and improvements to school buildings in four groups, according to level of priority. Those recommendations that received top priority were "mission critical concerns," those that involve "deficiencies or conditions that directly affect the school's ability to remain open, or deliver the educational curriculum," such as health and safety concerns that require immediate attention. Secondary priority was given to "concerns with an indirect impact on mission, such as deteriorating roofs, plumbing, or electrical systems." These are deficiencies that "if not addressed in the near term, may progress to a Priority 1 item." The facilities report found that Arkansas' public school buildings need almost \$2.3 billion in repairs and improvements, including \$86.7 million in immediate needs for repairs critical to health and safety. The addition of more classroom space in crowded schools, together with future repairs, brought the total estimated cost to \$4.5 billion.

A PLAN FOR FACILITIES OVERSIGHT

Near the end of March, both the legislature and the Governor approved a package of five measures which address the recommendations of the facilities assessment. The specific measures are as follows:

ACT 1327 – ADMINISTRATIVE OVERSIGHT

This act creates a Commission on Public School Academic Facilities and Transportation and revises the responsibilities of the Division of Public School Academic Facilities and Transportation, which is part of the Arkansas Department of Education (ADE), providing administrative oversight of the program.

ACT 1424 – LEGISLATIVE OVERSIGHT

This measure provides legislative oversight of facility adequacy and equity through a newly created Academic Facilities Oversight Committee and an Advisory Committee on Public School Academic Facilities; they will monitor compliance with the mandates of the *Lake View* decisions.

ACT 1425 – DISTANCE LEARNING

This act provides for the development of a statewide Distance Learning Coordinating Council to evaluate distance learning activities for grades kindergarten through twelve (K-12) education to facilitate a collaborative process that maximizes the utilization of the state's technical and educational resources.

ACT 1368 – CONTRACTING TO MEET SCHOOL FACILITIES OBLIGATIONS

This measure authorizes the development of "public-public partnerships," enabling a school district to enter into a contractual arrangement with another governmental agency, political subdivision, or institution of higher education to meet a clearly defined need for facilities, infrastructure, or goods and services. Specifically, a school district "may use a public-public partnership as a project delivery method for the building, altering, repairing, improving,

maintaining, or demolishing of any structure, or any improvement to real property owned by the school district.”

ACT 1426 – ARKANSAS PUBLIC SCHOOL ACADEMIC FACILITIES PROGRAM ACT

This is the primary act addressing the school facilities issue. It provides a system of state oversight of public school academic facilities so that each school district has facilities that will provide the opportunity for each student to have an adequate education. The key provision of the measure requires each school district to submit a facilities improvement plan and a facilities master plan, indicating immediate, short-term, and long-term needs. Using this information, the ADE will develop a State Master Plan and will make annual recommendations concerning upcoming facility needs, projected expenses, and the state portion of these expenses based on an established formula that considers the financial resources of each district. Further, the ADE will develop manuals delineating standards for construction or purchase, maintenance, and repairs of school facilities and equipment, and will develop a plan for unannounced site visits to schools to measure compliance with these standards.

If the ADE’s Division of Public School Academic Facilities and Transportation determines that a particular school facility or district is “in distress” (that is, out of compliance with state safety and adequacy standards), the school or district must submit a facilities improvement plan within 30 days. When a school district is identified to be in facilities distress, the ADE has several options for working with the district. These include:

- Providing on-site technical evaluation and assistance regarding the distressed facility;
- Requiring the superintendent to relinquish all administrative authority with regard to the district;
- Appointing an alternative superintendent to administratively operate the district under the supervision of ADE and direct the district to pay that individual out of district funds;
- Suspending or removing the school board and call for the election of a new school board or require the district to operate under the direction of the ADE;

- Requiring additional training of district employees related to areas of concern (re: facilities);
- Requiring districts to cease immediately all expenditures on activities not directly related to educational adequacy and divert such funds to an escrow account until the facility is sufficiently repaired or improved;
- Establishing deadline by which facility deficiencies must be corrected;
- Petitioning the State Board of Education for the consolidation, annexation, or reconstitution of a school district in facility distress; also, the State Board may take these actions automatically if a district has been in facility distress for two consecutive years; or
- Taking any other action allowed by law that is deemed necessary to assist a school or district in correcting facility deficiencies.

Collectively, these measures create parameters for assuring the adequacy of school facilities and pave the way for the appropriations bills that will fund these measures.

FUNDING SCHOOL FACILITY IMPROVEMENT

Currently, lawmakers are wrestling over how to fund the cost of school improvements. They plan to finance these measures without additional tax increases, specifically, through decreasing expenses in other areas of state government. Most of the new law concerning facility management (discussed in the previous section) addresses the *future* facility needs of districts, but many districts are concerned about the cost of debt service and maintenance on *existing* facilities. minimize the disparity between higher-income and lower-income districts

Under Act 69 (§6-20-2401, et seq), passed during the 2003 Special Session, districts receive a foundational or base rate of \$101.97 per pupil to fund school facility debt. This “power equalization funding” formula was designed to minimize the disparity between higher-income and lower-income districts. With the promise of additional state revenue, many districts raised millages and assumed additional debt to build or renovate facilities, based on the 2003 measure. The facility funding proposals now under consideration by the legislature (HB2508 and SB970, which are mirroring bills) would phase out more than \$250 million in funds used for service on existing debts, redirecting them to new construction.

Specifically, the estimated need for school facilities for the biennial budget period is \$150 million, including \$45 million in debt relief for existing projects and \$104 million for new construction. At issue is the \$45 million intended to subsidize existing facility debt (\$27 million in debt service supplements and \$8 million in general facilities aid).

The current proposals from the Senate Education Committee concerning this \$45 million are as follows:

- **Keep the \$45 million in the budget** – Bryles and the Jeffresses favor this proposal as it honors the commitments made in 2003;
- **Eliminate the \$45 million and redirect it to other needs** - Argue and Wilkins favor this proposal because of their concern that some districts will spend it on operations instead of debt service; or
- **Compromise: Phase out the \$45 million** – Broadway and Bisbee favor this proposal which would hold back 10% of the power equalization funding dollars until districts can prove that they need the money for academic facilities debt; phase out the \$8 million in general facilities aid over 10 years.

The House Education Committee favors leaving the \$45 million in the budget.

Additionally, lawmakers differ over whether \$104 million will be enough to fund new facility needs.

Alongside this debate is the question of whether to leave the \$5,400 per student foundation funding as is until 2007, or raise the amount of funding paid in 2006. Also, there are concerns about whether teacher salaries should be raised for the 2006-2007 school year. The outcome of these debates may influence the outcome of the facilities debate, as lawmakers face a finite pool of available revenue without increasing taxes.

The central debate in the waning days of this legislative session continues to center on adequacy and equity: what is the best way to equalize the educational opportunities available to Arkansas children while minimizing the disparity between higher-income and lower-income districts? The

General Assembly hopes to reach an agreement on its biennial budget and adjourn by April 8, or by April 15 at the latest.

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