

Act 286 of the First Special Session of 1989.

Act 286

SB151

By: Joint Budget Committee

For An Act To Be Entitled  
"AN ACT TO MAKE AN APPROPRIATION TO THE DEPARTMENT OF  
EDUCATION FOR PAYING EXPENSES OF COURT-ORDERED DESEGREGATION  
FOR THE BIENNIAL PERIOD ENDING JUNE 30, 1991; AND FOR OTHER  
PURPOSES."

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

SECTION 1. FUND CREATED. There is hereby created on the books of the State Treasurer, State Auditor, and Chief Fiscal Officer of the State, a fund to be known as the "Court-Ordered Desegregation Trust Fund", which such fund shall consist of funds made available by the General Assembly and is to be used for paying expenses of court-ordered desegregation, including but not limited to the legal expenses of the Department of Education in representing the State of Arkansas and the State Board of Education in desegregation suits and additional public school costs for selected school districts, as required or ordered by a federal court to be paid by the State of Arkansas. A reporting of all expenditures by the Department of Education shall be made quarterly to the Office of the Governor, the Arkansas Legislative Council, and the Joint Interim Committee on Education.

At the end of each month, the Department of Education shall certify to the State Treasurer, the amount of obligations incurred for desegregation expenses determined to be the responsibility of the State of Arkansas by a federal court. Upon the receipt of such certification, the State Treasurer shall distribute the amount certified from the Court-Ordered Desegregation Trust Fund.

SECTION 2. (a) There is hereby appropriated, to be payable from the Court-Ordered Desegregation Trust Fund to the Department of Education for additional expenses of desegregating public schools, as required by federal court order, including expenses incurred by the Department of Education in representing the State of Arkansas and the State Board of Education in desegregation cases, the sum of \$9,360,000 for each year of the biennial period ending June 30, 1991, to be used specifically to defray the continuation of the state's legal obligations in Little Rock School District v. Pulaski County Special School District established prior to the settlement agreement.

SECTION 3. There is hereby appropriated, to be payable from the Court-Ordered Desegregation Trust Fund, to the Department of Education for loans authorized by the court to the Little Rock School District, the sum of \$6,000,000 for the 1989-91 biennium.

SECTION 4. There is hereby appropriated to the Department of Education, to be payable from the Court-Ordered Desegregation Trust Fund, to make the payments as required as follows for the biennial period ending June 30, 1989, the sum of...

\$ 5,650,350 to the Little Rock School District (LRSD)  
\$ 675,278 to the Pulaski County Special School District (PCSSD)  
\$ \_\_\_499,911 to the North Little Rock School District (NLRSD)

\$ 6,825,539 TOTAL APPROPRIATED

SECTION 5. There is hereby appropriated, to be payable from the Court-Ordered Desegregation Trust Fund, to the Department of Education for payment of the State's share of legal fees and an advance of the LRSD share of legal fees to the Legal Defense and Education Fund, Inc. the sum of \$2,750,000.

SECTION 6. There is hereby appropriated to the Department of Education to be payable from the Court-Ordered School Desegregation Trust Fund the following amounts to be paid to LRSD, PCSSD, and NLRSD:

	1989-90	1990-91
Little Rock School District	\$ 7,950,000	\$ 8,218,500
Pulaski County Special School District	3,500,000	3,500,000
North Little Rock School District	389,025	389,025
TOTAL PAYMENT	\$ 11,839,025	\$ 12,107,525

SECTION 7. The Arkansas General Assembly respectfully requests and urges the Special Master and the Court to consider removing the following items as contained in the "Pulaski County School Desegregation Settlement Agreement" executed by the parties in Little Rock School District v. Pulaski County Special School District, et. al., in March, 1989, and to be filed with the United States District Court for the Eastern District of Arkansas, as follows:

- 1) Article II, Paragraph J, Recognition of Autonomy;
- 2) Article III, Paragraph M, School Construction;
- 3) Article IV, Paragraph C, Reserved Issue; and
- 4) Article VII, Paragraph D, Housing.

SECTION 8. LEGISLATIVE INTENT. It is the intent of the General Assembly that any funds disbursed under the authority of the appropriations contained in this Act shall be in compliance with the stated reasons for which this Act was adopted, as evidenced by the Agency Requests, Executive Recommendations and Legislative Recommendations contained in the budget manuals prepared by the Department of Finance and Administration, letters, or summarized oral testimony in the official minutes of the Arkansas Legislative Council or Joint Budget Committee which relate to its passage and adoption.

SECTION 9. No funds appropriated herein shall be disbursed until such time as an order is entered by the U. S. District Court for the Eastern District of Arkansas, Western Division, in the Case of Little Rock School District v. Pulaski County Special School District, No. LR-C-82-866, which establishes the total maximum liability of the State of Arkansas to the three Pulaski County School Districts and the Joshua Intervenors pursuant to the "Pulaski County School Desegregation Case Settlement Agreement" dated March, 1989 at not more than \$131,000,000 above the amount of total state aid owed to the three Pulaski County School Districts for the 1988-89 fiscal year. The amount of required state funding for desegregation programs and payments (specifically including payments for existing magnet schools and existing magnet adjustments) ordered or determined prior to March 15, 1989, is excluded from and is not part of the calculation of the total maximum state liability of the State of Arkansas. However, the loans to the Little Rock School District set forth in the Settlement Agreement and the funds generated or saved by adjustments to state funding formulas other than magnet aid adjustments previously determined, set forth in the Settlement Agreement are included in the calculations of total maximum liability of the State of Arkansas. The order must further state that the "Pulaski County School Desegregation Case Settlement Agreement" dated March, 1989 shall not be admissible as evidence in any other desegregation case in any other county in

the State for the purpose of establishing the liability of the State of Arkansas. Provided, nothing contained herein shall obligate the state to contribute to the construction, operation or maintenance of magnet schools not in existence on the date of this legislation, and nothing contained herein obligates the state for additional magnet aid payments or adjustments which might occur after the passage of this legislation.

SECTION 10. Arkansas Code 26-52-302 is hereby amended to read as follows:

"26-52-302. Additional one percent tax levied.

(a) In addition to the excise tax levied upon the gross proceeds or gross receipts derived from all sales by the Arkansas Gross Receipts Act, \_ 26-52-101 et seq., there is levied an excise tax of one percent (1%) upon all taxable sales of property and services subject to the tax levied in that act. This tax shall be collected, reported, and paid in the same manner and at the same time as is prescribed by law for the collection, reporting, and payment of all other Arkansas gross receipts taxes. In computing gross receipts or gross proceeds as defined in \_ 26-52-103(a)(4), a deduction shall be allowed for bad debts resulting from the sale of tangible personal property.

(b) A portion of the one percent (1%) tax levied by this section shall be raised and collected for educational purposes and shall be used to finance the Court-Ordered Desegregation Trust Fund. All taxes received by the director from tax levied by this section shall be deposited in the Revenue Holding Fund Account. The total amount appropriated each fiscal year from the Court-Ordered Desegregation Trust Fund shall be determined and this amount shall be certified by the Chief Fiscal Officer of the State to the State Treasurer as special revenues from such gross receipts taxes. The State Treasurer shall transfer the funds certified as special revenues from the Revenue Holding Fund Account to the Court-Ordered Desegregation Trust Fund and the remaining funds shall be transferred to the general revenue fund account of the State Apportionment Fund."

SECTION 11. Arkansas Code 26-53-107 is hereby amended to read as follows:

"26-53-107. Additional one percent tax levied.

(a) In addition to the excise tax levied upon the privilege of storing, using, or consuming tangible personal property within this state by the Arkansas Compensating Tax Act, \_ 26-53-101 et seq., there is levied an excise tax of one percent (1%) upon all tangible personal property subject to the tax levied in that act, and the tax shall be collected, reported, and paid in the same manner and at the same time as is prescribed by law for the collection, reporting, and payment of state compensating taxes.

(b) A portion of the one percent (1%) tax levied by this section shall be raised and collected for educational purposes and shall be used to finance the Court-Ordered Desegregation Trust Fund. All taxes received by the director from tax levied by this section shall be deposited in the Revenue Holding Fund Account. The total amount appropriated each fiscal year from the Court-Ordered Desegregation Trust Fund shall be determined and this amount shall be certified by the Chief Fiscal Officer of the State to the State Treasurer as special revenues from such taxes. The State Treasurer shall transfer the funds certified as special revenues from the Revenue Holding Fund Account to the Court-Ordered Desegregation Trust Fund and the remaining funds shall be transferred to the general revenue fund account of the State Apportionment Fund."

SECTION 12. Arkansas Code 19-6-201 (1) and (2) are hereby amended to read as follows:

"(1) Sales taxes, as enacted by Act 386 of 1941, known as "The Arkansas Gross Receipts Act of 1941" and all laws supplemental or amendatory thereto, \_26-52-101 et seq. except as provided by \_26-52-302 (b).

(2) Use taxes as enacted by Act 487 of 1949, known as "The Arkansas Compensating Tax Act of 1949", Act 222 of 1971, and all laws supplemental or amendatory thereto, \_26-53-101 et seq. except as provided by \_26-53-107 (b)."

SECTION 13. All provisions of this Act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code. Act 902 of 1989 is hereby repealed.

SECTION 14. EMERGENCY CLAUSE. It is hereby found and determined by the Seventy Seventh General Assembly of the State of Arkansas that the State has been found liable for constitutional violations in Little Rock School District v. Pulaski County Special School District, et. al. LR-C-82-8656; that the State has exhausted its appeals on the issue of liability; that the State Board of Education has entered into a Settlement Agreement which will dismiss the State as a defendant in this litigation; that the Settlement Agreement is contingent on the passage of an appropriation bill to enable the State to pay the financial obligations set forth in the Settlement Agreement. Therefore, an emergency is declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.

APPROVED: June 26, 1989

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