

Act 2 of the Second Special Session of 1989.

Act 2

HB1002

By: Representative Mahony

CALL ITEM 1

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 following payments, 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. Consent order authorized. The State Board of Education is hereby authorized to enter into a consent order which directs the Arkansas Department of Education to make payments to the three Pulaski County School Districts and the Joshua Intervenors in the case pending in the United States District Court, Eastern District of Arkansas, Western Division, styled Little Rock School District vs. Pulaski County Special School District, et al., No. LR-C-82-866, of not more than \$131,000,000 (excluding required state funding for the existing magnet schools, magnet adjustments, and majority to minority students ordered prior to June 28, 1989) above the amount of total state aid owed to the three Pulaski County School Districts for the 1988-89 fiscal year. Any such consent order must provide that such amounts shall be the total maximum liability of the state in the case. Any such consent order must also provide that the state shall not be obligated to contribute to the construction, renovation or operation of magnet schools not in existence on the effective date of this legislation.

SECTION 9. Funds appropriated by this act shall not be disbursed unless and until a consent order as authorized and limited by Section 8 hereof 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, et al., No. LR-C-82-866.

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 and required 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 and required 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. There is hereby appropriated to the Department of Education to be payable from the Court-Ordered Desegregation Trust Fund, to reimburse the Public School Fund in such amounts as are required to ensure that the per student dollar amount of minimum foundation program aid paid to the Little Rock School District will not be reduced below the per student dollar amount paid to the Little Rock School District during the 1988-89 school year and for other formula adjustment provisions of the settlement agreement, in a sum not

to exceed \$3,000,000 each fiscal year of the biennial period ending June 30, 1991.

SECTION 14. In the event two or more acts are enacted at the Second Extraordinary Session of the Seventy-Seventh General Assembly providing different methods of funding payments to be made to the three Pulaski County school districts and the Joshua Intervenors in the case pending in the U. S. District Court, Eastern District of Arkansas, Western Division, styled Little Rock School District v. Pulaski County Special School District, et al., No. LR-C-82-866, the provisions of Sections 1 through 13 of this act shall take effect only in the event that the other act or acts are declared invalid by a federal court, the Arkansas Supreme Court, or by order of a lower state court, if such order is not appealed or if appealed, is not reversed on appeal. Unless such event occurs, the provisions of Sections 1 through 13 of this act shall have no force or effect.

SECTION 15. Act 902 of 1989 and Act 286 of the First Extraordinary Session of the Seventy-Seventh General Assembly are hereby repealed.

SECTION 16. 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.

SECTION 17. EMERGENCY. It is hereby found and determined by the General Assembly that the court in Little Rock School District v. Pulaski County Special School District has found that the state of Arkansas is responsible for payment of a portion of the cost of desegregation in the three school districts in Pulaski County; that the Board of Education and the respective boards of directors of the three school districts have entered into a settlement agreement which specifically defines and limits the state's liability; that the effectiveness of the settlement agreement is contingent on the enactment of legislation to fund the state's financial obligations as set forth in the agreement; that under the terms of the agreement, if funds are provided to meet the state's obligations under the settlement agreement, the state will be dismissed as a defendant in the litigation; that it is urgent that monies be made available as soon as possible to meet the state's financial obligations as prescribed in the settlement agreement and to thereby fix and limit the state's liability in this matter. Therefore, an emergency is hereby declared to exist and this Act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.

APPROVED: July 28, 1989
