

Exhibit 36



STATE OF ARKANSAS
BUREAU OF
LEGISLATIVE RESEARCH

Tony R. Minicozzi, Jr., Director

Kim Arnall, Assistant Director
for Fiscal Services

David Ferguson, Assistant Director
for Legal Services

Richard Wilson, Assistant Director
For Research Services

MEMORANDUM

TO: Mark Hudson, Legislative Analyst
FROM: Kim Arnall, Assistant Director
DATE: August 10, 2006
RE: Updated Exhibits for the 2006 Interim Study on Educational Adequacy

We have reviewed the exhibits supplied by Kim Chavis and have provided below the outcome of our review.

<u>Exhibit Number</u>	<u>Action Taken</u>
Exhibit #98 FAF-BLR-KA-1	This exhibit has been revised and is attached
Exhibit #99 FEF-BLR-KD-1	The Dept. of Finance and Administration has revised this exhibit and it is attached
Exhibit #100 FEF-BLR-KD-1	This exhibit has been revised and is attached
Exhibit #190 FEF-BLR-KD-2	This exhibit did not require any revisions

We have copied the revised exhibits to the K:\The ADEQUACY EXHIBITS drive under the following filenames:

<u>Exhibit Number</u>	<u>Revised Filename on K:\The ADEQUACY EXHIBITS</u>
Exhibit #98 FAF-BLR-KA-1	Exhibit #98 FAF-BLR-KA-1 Rev. August 2006.doc
Exhibit #99 FEF-BLR-KD-1	Exhibit #99 FEF-BLR-KD-1 Rev. August 2006.doc
Exhibit #100 FEF-BLR-KD-1	Exhibit #100 FEF-BLR-KD-1 Rev. August 2006.doc

Please let me know if you have any questions or need any further information.

Attachments

EXHIBIT #98

FUNDING FOR PUBLIC SCHOOL ACADEMIC FACILITIES

DISCUSSION OF THE TRANSFER AUTHORITY AUTHORIZED FOR ACADEMIC FACILITIES PROGRAMS AND THE COURT'S COMMENT THAT NEITHER THE IMMEDIATE REPAIR PROGRAM OR THE TRANSITIONAL PROGRAM HAD FUNDS APPROPRIATED FOR THE 2006-07 SCHOOL YEAR.

- Public School Facility Appropriation - Act 2138 of 2005, Section 4 and Act 20 of the First Extraordinary Session of 2006, Section 6: Authorizes the following appropriation to the Department of Education - Division of Public School Academic Facilities and Transportation payable from the Educational Facilities Partnership Fund Account, for grants and aids and special programs providing academic school facility and transportation assistance to the public school districts:

Section 4 of Act 2138 of 2005:

NO.	FISCAL YEARS	
	2005-2006	2006-2007
(01) ACADEMIC FACILITIES IMMEDIATE REPAIR	\$ 20,000,000	\$ 0
(02) TRANSITIONAL ACADEMIC FACILITIES	50,000,000	0
(03) ACADEMIC FACILITIES PARTNERSHIP	<u>0</u>	<u>50,000,000</u>
TOTAL AMOUNT APPROPRIATED	<u>\$ 70,000,000</u>	<u>\$ 50,000,000</u>

Section 6 of Act 20 of the First Extraordinary Session of 2006:

NO.	FISCAL YEARS	
	2005-2006	2006-2007
(01) ACADEMIC FACILITIES CATASTROPHIC	\$ 0	\$ 0
(02) ACADEMIC FACILITIES EXTRAORDINARY CIRCUMSTANCES PROGRAM	0	0
(03) ACADEMIC FACILITIES IMMEDIATE REPAIR	0	0
(04) TRANSITIONAL ACADEMIC FACILITIES	25,000,000	0
(05) ACADEMIC FACILITIES PARTNERSHIP	<u>25,000,000</u>	<u>0</u>
TOTAL AMOUNT APPROPRIATED	<u>\$ 50,000,000</u>	<u>\$ 0</u>

- Transfer Authority: In part, Section 5 of Act 2138 states "The Director of the Department of Education - Division of Public School Academic Facilities and Transportation, with the approval of the Chief Fiscal Officer of the State and after approval by the Arkansas Legislative Council or Joint Budget Committee, is hereby authorized to request necessary appropriation transfers and any other budget related adjustments necessary for the appropriations authorized herein." Section 7 of Act 20 also provides the Division with the authority to request appropriation transfers and other budget related adjustments for the Public School Academic Facilities and Transportation Programs.

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An example of this types of transfer is the approval granted the Division by the Chief Fiscal Officer of the State and the Arkansas Legislative Council in January 2006, to transfer appropriation of \$15,000,000 from the Transitional Academic Facilities line item to the Academic Facilities Immediate Repair line item.

This transfer was determined by the Commission for Public School Academic Facilities and Transportation as the amount necessary to include in the state's share of costs for qualified repair projects.

- Carry Forward: Section 6 of Act 2138 states "The balance of the appropriations as provided in Section 4 of this Act for grants and aid and special programs providing academic school facility and transportation assistance to the public school district for Programs of the Division of Public School Academic Facilities and Transportation which remain on June 30, 2006, shall be carried forward and made available for the same purpose for the fiscal year ending June 30, 2007". Section 8 of Act 20 provides the same carry forward authority for appropriations provided for Catastrophic, Extraordinary Circumstances, Immediate Repair, Transitional and Partnership Programs in Section 6.

This provision allows for any unexpended balances of appropriation authorized for these programs during the 2005-06 fiscal year to be carried forward and made available during the 2006-07 fiscal year.

EDUCATIONAL FACILITIES PARTNERSHIP FUND ACCOUNT - FUNDING TRANSFERS AUTHORIZED

Fiscal Year 2005:

Act 2139 of 2005, Section 8, authorizes a \$20,000,000 transfer in from the General Revenue Allotment Reserve Fund.

Fiscal Year 2006:

Act 2138 of 2005, Section 9, \$1,000,000 transfer in from Public School Facilities Fund; Section 10, \$1,007,458 transfer out to Division of Public School Academic Facilities and Transportation Fund Account.

Act 2282 of 2005, Section 12 and Act 2316 of 2005, Section 12, (Duplicate Acts) provide that a total of \$84,000,000 is immediately to be set aside. Of this total, \$50,000,000 is transferred to the Educational Facilities Partnership Fund Account on July 1, 2005. On July 1, 2006, the remaining \$34,000,000 is transferred to the General Revenue Fund Account of the State Apportionment Fund, there to be distributed as other general revenues for the 2006-07 fiscal year. According to the 2006-07 Official Forecast dated May 3, 2006 by the Department of Finance and Administration, it is anticipated that the distribution of general revenue to the Educational Facilities Partnership Fund Account will total \$35,000,000 in FY2006-07.

Act 20 of the First Extraordinary Session of 2006, Section 9 authorizes \$50,000,000 of the unobligated balances of the General Improvement Fund to be set aside to be transferred, from time to time, to the Educational Facilities Partnership Fund Account.

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The transfers shall be in amounts certified by the Director of the Division of Public School Academic Facilities and Transportation, recommended by the Commission for Public School Academic Facilities and Transportation, approved by the Chief Fiscal Officer of the state, and prior approved by the Arkansas Legislative Council or Joint Budget Committee. The transfers are to be used for the Academic Facilities Immediate Repair, Transitional Academic Facilities, Academic Facilities Partnership, Academic Facilities Catastrophic, and Academic Facilities Extraordinary Circumstances Programs. The Chief Fiscal Officer of the state may not consider any transfers until the balance in the Academic Facilities Partnership Fund Account falls below \$21,280,590, which is 20% of the amount of funding required to be transferred to the Educational Facilities Partnership Fund Account by Act 2138 of 2005, Act 2139 of 2005, Act 2282 of 2005, and Section 12 of Act 20 of the First Extraordinary Session of 2006 less transfers required to be made to the Division of Public School Academic Facilities and Transportation.

Fiscal Year 2007:

Act 2138 of 2005, Section 10, \$1,039,576 transfer out to Division of Public School Academic Facilities and Transportation Fund Account.

- Educational Facilities Partnership Fund Account.- Total estimated funding for the 2005-07 Biennium after transfers: \$103,952,966 and an additional \$50,000,000 unobligated General Improvement Fund set aside.

Prepared by:
Arkansas Bureau of Legislative Research
Updated 8/9/2006

**Legislation concerning Dept. of Education-Division of Public School
Academic Facilities and Transportation
85th General Assembly of the State of Arkansas
2005 Regular Session and 1st Extraordinary Session 2006**

Act 1424 of 2005 - Academic Facilities Oversight Committee

- Establishes The Academic Facilities Oversight Committee. This committee is a group of 15 members, which will consist of 14 (7 Senators & 7 Representatives) legislators and the Director of the Division of Public School Academic Facilities and Transportation (Non voting member) that will oversee and monitor the development and implementation of the Arkansas Public School Academic Facilities Program.
- Also establishes the Advisory Committee of Public School Academic Facilities, a committee of non-legislators appointed by the Academic Facilities Oversight Committee that will assist the Div. of Public School Academic Facilities in developing the components of the Arkansas Public School Academic Facilities Program.

Act 1327 of 2005 - Division of Public School Academic Facilities and Transportation

- Revises the duties of the Div. of Public School Academic Facilities and Transportation (created in Act 90 Sec. 2 of 2003 2nd Extraordinary Session) to include developing and implementing the Arkansas Public School Academic Facilities Program and overseeing schools transportation programs.
- Creates the Commission for Arkansas Public School Academic Facilities and Transportation. This commission will oversee the division during the implementation phase of the Arkansas Public School Academic Facilities Program. The Commission expires and its powers and duties transfer to the State Board of Education effective July 1, 2007.

Act 1426 of 2005 - Academic Facilities Program

- Creates the Arkansas Public School Academic Facilities Program. There are 5 basic components of the program:
 - a) The Academic Facilities Master Plan Program – establishes the process of planning for academic facilities at the school district level and statewide.
 - b) The Academic Facilities Custodial, Maintenance, Repair and Renovation Manual- This manual will be a set of uniform standards to direct custodial, maintenance, repair and renovation activities in public school academic facilities.
 - c) The Public School Academic Facilities Manual – This manual will be a set of uniform standards to guide the planning, design and construction of new public school academic facilities and additions to existing public school academic facilities.
 - d) The Public School Academic Equipment Manual – Uniform standards for technology systems, instructional materials and related academic equipment determined necessary for a public school to provide an adequate education.
 - e) The Academic Facilities Distress Program – Program to assist school districts that are unable to conserve and protect their academic facilities in accordance with the standards established in the Arkansas Public School Academic Facilities Program.
- The Commission for Public School Academic Facilities and Transportation will make the rules necessary to administer the Arkansas Public School Academic Facilities Program and all its components and related programs.

Act 2206 of 2005 - Academic Facilities Funding

- Establishes 6 programs for the provision of state financial participation in local projects relating to academic facilities and equipment:
 1. Bonded Debt Assistance
 2. Academic Facilities Immediate Repair Program
 3. Academic Equipment Program
 4. Transitional Academic Facilities Program
 5. Academic Facilities Partnership Program
 6. Academic Facilities Catastrophic Program
- State Financial participation under any program, except Bond Debt Assistance, will be based on an academic facilities wealth index.
- The Division of Public School Academic Facilities and Transportation will establish formulas for determining basic project costs on a per student basis. The basic cost will be adjusted on a variety of factors, including the cost of local enhancements, if any.
- School Districts are encouraged to consider arrangements that have potential to improve academic facilities or transportation, or create any other efficiencies and enhanced learning opportunities.
- School districts that voluntarily consolidate will have the benefit of the lower wealth index of the two districts on the first eligible academic facilities project in the new district.
- The Div. of Public School Academic Facilities and Transportation also must develop a system to provide emergency loans to eligible high-growth school districts and report back to the General Assembly in 2007.

Act 2139 of 2005- Supplemental Appropriation for Div. of Public School Academic Fac. And Trans.

- Appropriates supplemental funding and appropriation for the Division. Provides for 15 employees, appropriation amounts of \$439, 774 for salaries and operations and \$20,000,000 for programs. \$10,000,000 for Academic Facilities Immediate Repair and \$10,000,000 for Academic Facilities Catastrophic.
- Creates the Educational Facilities Partnership Fund Account and the Division of Public School Academic Facilities and Transportation Fund Account. General Revenue distributed to the Educational Facilities Partnership Fund Account is not recoverable at year end.
- Provides funding of \$20,439,774 from the General Revenue Allotment Fund.
- Establishes transfer authority for the Division to request necessary appropriation transfers and any other budget related adjustments necessary for the appropriations in the Act.

Act 2138 of 2005 - Appropriation for Div. of Public School Academic Fac. And Trans.

- Provides an additional 10 positions for the Division. The appropriation for Salaries and Operations is \$1,772,458 for FY06 and \$1,804,576 for FY07. The appropriation for program in FY06 is \$70,000,000, with \$20,000,000 for Academic Facilities Immediate Repair and \$50,000,000 for Transitional Academic Facilities. For FY07 the appropriation for programs is \$50,000,000, with all appropriation for the Academic Facilities Partnership Program.
- Funding for programs was provided by a transfer from Public School Facilities Fund and General Allotment Reserve Fund to Facilities Partnership Fund. Funding for operations was from transfer from Facilities Partnership Fund and Public School Fund.

- Establishes transfer authority for the Division to request necessary appropriation transfers and any other budget related adjustments necessary for the appropriations in the Act.

Act 20 of the 1st Extraordinary Session 2006 - Grants and Aids and Special Programs Supplemental Appropriation

- Provides supplemental appropriation to Act 2138 of 2005 for:
 - a) Transitional Academic Facilities - \$25,000,000 for FY06
 - b) Academic Facilities Partnership - \$25,000,000 for FY06
- Adds Academic Facilities Catastrophic and Academic Facilities Extraordinary Circumstances line items for the Partnership Fund programs.
- Authorizes the Chief Fiscal Officer of the State to set aside \$50,000,000 of unobligated balances in the General Improvement Fund for transfer from time to time, to the Educational Facilities Partnership Fund.
- The \$50,000,000 of set aside funds in the General Improvement Fund can only be transferred into the Partnership Fund if the balance of the Partnership Fund falls below 20% of \$106,402,948, which is \$21,280,590 and is approved by the Legislative Council or Joint Budget Committee. The funds transferred into the Partnership Fund can only be used for those programs established in A.C.A. 6-20-2504 et seq.
- Allows for carry forward of unexpended balances of appropriations provided to the Division from FY06 to FY07.
- Authorizes the Chief Fiscal Officer of the State to transfer the balance of funds in the Public School Facilities Fund to the Educational Facilities Partnership Fund.
- Authorized one (1) additional position for the Division of Public School Academic Facilities and Transportation. The position authorized is a grade 26, Senior Transportation Manager.
- Amends Arkansas Code 19-5-1227(d), to exclude the Educational Facilities Partnership Fund Account from having to take a proportionate reduction of funding if the Chief Fiscal Officer of the State determines there are not sufficient funds to meet the state's financial obligation to provide an adequate educational system as authorized by law.

Acts 32 and 33 of the 1st Extraordinary Session 2006 - Continued Existence of the Commission for Public School Academic Facilities and Transportation (Identical Acts)

- Provides that effective date of this act, the division shall be under the Department of Education.
- Removes the expiration date of the Commission for Public School Academic Facilities and Transportation.
- Establishes that the Div. of Public School Academic Facilities and Transportation will remain under the direction, control, and supervision of the Commission for Public School Academic Facilities and Transportation and the State Board of Education will not direct, control and supervise the Division.

Acts 34 and 35 of the 1st Extraordinary Session 2006 - Extraordinary Circumstances Program (Identical Acts)

- Requires the Commission for Public School Academic Facilities and Transportation to develop by rule the Academic Facilities Extraordinary Circumstances Program under which the Division of Public School Academic Facilities and Transportation will provide state financial assistance to eligible school districts that do not have sufficient means to contribute an amount of local resources necessary to qualify for state financial

participation under the Academic Facilities Partnership Program or the Academic
Facilities Catastrophic Program.

FUNDING EDUCATIONAL ADEQUACY ARKANSAS CODE 19-5-1227

The question is "How do the requirements of Act 108 of 2003, 2nd Ex. Sess. (codified at Arkansas Code 19-5-1227), with revenue stabilization and other budgetary requirements, ensure that there is sufficient funding for education?"

In addition to creating the Educational Adequacy Fund and determining the source of revenues to the fund and transfer procedures, Arkansas Code 19-5-1227 also includes a procedure for ensuring that there is sufficient funding for education, commonly referred to as the "Doomsday Clause" as follows:

"(d) In the event the Chief Fiscal Officer of the State determines that the transfers from the Educational Adequacy Fund, when added to the other resources available to the Department of Education Public School Fund Account of the Public School Fund, are not sufficient to meet the state's financial obligation to provide an adequate educational system as authorized by law, the additional amount required shall be transferred from the other funds and fund accounts, except the Educational Facilities Partnership Fund Account, within §§ 19-5-402(a) and 19-5-404(a) based upon the proportion that each of the remaining fund and fund accounts, excluding the Educational Facilities Partnership Fund Account, bears to the total of the remaining funds and fund accounts in §§ 19-5-402(a) and 19-5-404(a). "

"§§ 19-5-402(a) and 19-5-404(a)" represent Category "A" each year of the biennium in the Revenue Stabilization Law. The "other resources available to the Department of Education Public School Fund Account" include the general revenue distribution as set out in the Revenue Stabilization Law and transfers from the Educational Excellence Trust Fund. It is assumed that the Chief Fiscal Officer of the State would consult with the Commissioner of Education concerning the financial requirements of educational adequacy at any given time and estimates of growth in the Uniform Rate of Tax. In the event the Chief Fiscal Officer of the State then determines that transfers from the Educational Adequacy Fund, when added to the two other sources do not provide enough funds for an adequate educational system, the "Doomsday Clause" would be invoked.

This means that in whatever month of the fiscal year that the additional amount to meet educational adequacy was certified, all of the fund and fund accounts in Category A, with the exception of the Department of Education Public School Fund Account of the Public School Fund and the Educational Facilities Partnership Fund Account, would be reduced proportionately monthly and transferred to the Department of Education Public School Fund Account of the Public School Fund. After fulfilling the total amount required to meet educational adequacy, then any remaining general revenues collected would continue to be distributed to the other general revenue fund accounts.

It is my understanding that Mr. Mike Stormes of the Department of Finance and Administration will be presenting an illustration of the procedures that would be followed in this process and a description of the various funds previously mentioned.