

**FIFTH DAY'S PROCEEDINGS
HALL OF THE HOUSE OF REPRESENTATIVES
FIRST EXTRAORDINARY SESSION**

Little Rock, Arkansas
April 7, 2006

The House was called to order at 10:02 a.m. by Mr. Stovall, the Speaker. The following members answered to the roll call:

Abernathy, Adams, Adcock, Anderson, Berry, Blair, Blount, Bolin, Bond, Borhauer, Boyd, Bradford, Bright, Burris, Chesterfield, Childers, Clemons, Cook, Cooper, Cowling, Creekmore, Dangeau, Davenport, Davis, Dickinson, Dobbins, Dunn, Edwards, Elliott, D. Evans, L. Evans, Everett, Fite, Flowers, George, Glidewell, Goss, Green, Hardwick, Hardy, Harrelson, Harris, J. Hutchinson, T. Hutchinson, Jackson, Jeffrey, D. Johnson, J. Johnson, Kenney, Key, Kidd, Lamoureux, Ledbetter, Mack, Mahony, Maloch, J. Martin, Matayo, Mathis, Maxwell, McDaniel, Medley, Nichols, Norton, Ormond, Overbey, Pace, Pate, Petrus, Pickett, Prater, Pritchard, Pyle, Ragland, Rainey, Rankin, Reep, Roebuck, Rogers, Rosenbaum, Sample, Saunders, Schulte, Scroggin, Smith, Sullivan, Sumpter, Thomason, Thompson, Thyer, Verkamp, Walters, Wells, Willis, Wills, Wood, Wyatt, Mr. Speaker.

Total98

The following member(s) was absent and did not answer to the roll call: Lewellen, M. Martin.

Total02

A quorum was present.

Unanimous leave was granted for Representative(s) Lewellen, M. Martin.

The House stood and was led in prayer by House Chaplain, Reverend Freddie W. Stovall, Heber Springs, Arkansas.

The House stood and gave the Pledge of Allegiance to the Flag.

The reading of the Journal of yesterday's proceedings was dispensed with.

COMMITTEE REPORT

EDUCATION	April 7, 2006
	JOYCE ELLIOTT
	CHAIRPERSON
HOUSE BILL NO. 1012	DO PASS, CONCUR IN
BY REPRESENTATIVE MAHONY	SENATE AMENDMENT # 1
HOUSE BILL NO. 1012	DO PASS, CONCUR IN
BY REPRESENTATIVE MAHONY	SENATE AMENDMENT # 2
HOUSE BILL NO. 1013	DO PASS, CONCUR IN
BY REPRESENTATIVE COOK	SENATE AMENDMENT # 1
HOUSE BILL NO. 1040	DO PASS, CONCUR IN
BY REPRESENTATIVE COOK	SENATE AMENDMENT # 1
SENATE CONCURRENT RESOLUTION NO. 1	DO PASS
BY SENATOR ARGUE	WITH ATTACHED REPORT

Speaker Stovall requested that **SENATE CONCURRENT RESOLUTION NO. 1** be sent to the House Education Committee.

Morning Hour Expired.

SENATE BILL NO. 27

BY: EDUCATION COMMITTEE - SENATE

Was read the third time and placed on final passage, the question being shall the Bill pass and shall the Emergency Clause be adopted. The vote was as follows:

AFFIRMATIVE: Abernathy, Adams, Adcock, Berry, Blair, Blount, Bolin, Bond, Borhauer, Boyd, Bradford, Bright, Burris, Chesterfield, Childers, Clemons, Cook, Cooper, Cowling, Creekmore, Dangeau, Davenport, Davis, Dickinson, Dunn, Edwards, Elliott, D. Evans, L. Evans, Everett, Fite, Flowers, George, Goss, Green, Hardy, Harrelson, Jackson, Jeffrey, D. Johnson, J. Johnson, Ledbetter, Mack, Mahony, Maloch, J. Martin, Maxwell, McDaniel, Norton, Overbey, Pate, Petrus, Pickett, Prater, Pyle, Ragland, Rainey, Rankin, Reep, Roebuck, Rogers, Rosenbaum, Sample, Saunders, L. Smith, Sullivan, Sumpter, Thomason, Thompson, Thyer, Verkamp, Walters, Wells, Willis, Wills, Wood, Wyatt, Mr. Speaker.

Total79

NEGATIVE: Anderson, Glidewell, Hardwick, Harris, T. Hutchinson, Kenney, Key, Kidd, Lamoureux, Matayo, Mathis, Medley, Nichols, Ormond, Pace, Pritchard, Schulte.

Total17

ABSENT OR NOT VOTING: J. Hutchinson, Lewellen, M. Martin, Scroggin.

Total4

VOTING PRESENT:

Total0

Total number of votes cast.....96

Total number voting in the affirmative79

Necessary to the passage of the bill51

So the Bill passed and the title as read was agreed to.

Upon motion of Representative Elliott the Clincher motion prevailed.

There being an Emergency Clause attached to **SENATE BILL NO. 27**, the Speaker ordered the clerk to call the roll upon the adoption of the Emergency Clause. The vote was as follows:

EMERGENCY CLAUSE

AFFIRMATIVE: Abernathy, Adams, Adcock, Berry, Blair, Blount, Bolin, Bond, Borhauer, Boyd, Bradford, Bright, Burris, Chesterfield, Childers, Clemons, Cook, Cooper, Cowling, Creekmore, Dangeau, Davenport, Davis, Dickinson, Dunn, Edwards, Elliott, D. Evans, L. Evans, Everett, Fite, Flowers, George, Goss, Green, Hardy, Harrelson, Jackson, Jeffrey, D. Johnson, J. Johnson, Ledbetter, Mack, Mahony, Maloch, J. Martin, Maxwell, McDaniel, Norton, Overbey, Pate, Petrus, Pickett, Prater, Pyle, Ragland, Rainey, Rankin, Reep, Roebuck, Rogers, Rosenbaum, Sample, Saunders, L. Smith, Sullivan, Sumpter, Thomason, Thompson, Thyer, Verkamp, Walters, Wells, Willis, Wills, Wood, Wyatt, Mr. Speaker.

Total79

NEGATIVE: Anderson, Glidewell, Hardwick, Harris, T. Hutchinson, Kenney, Key, Kidd, Lamoureux, Matayo, Mathis, Medley, Nichols, Ormond, Pace, Pritchard, Schulte.

Total17

ABSENT OR NOT VOTING: J. Hutchinson, Lewellen, M. Martin, Scroggin.

Total4

VOTING PRESENT:

Total0

Total number of votes cast96

Total number voting in the affirmative79

Necessary to the adoption of the Emergency Clause67

So the Emergency Clause was adopted.

Upon motion of Representative Elliott the Clincher motion prevailed.

SENATE BILL NO. 21

BY: JOINT BUDGET

Was read the third time and placed on final passage, the question being shall the Bill pass and shall the Emergency Clause be adopted. The vote was as follows:

AFFIRMATIVE: Abernathy, Adams, Adcock, Berry, Blair, Blount, Bolin, Bond, Borhauer, Boyd, Bradford, Bright, Burris, Chesterfield, Childers, Clemons, Cook, Cooper, Cowling, Creekmore, Dangeau, Davenport, Davis, Dickinson, Dunn, Edwards, Elliott, D. Evans, L. Evans, Everett, Fite, Flowers, George, Glidewell, Goss, Green, Hardy, Harrelson, T. Hutchinson, Jackson, Jeffrey, D. Johnson, J. Johnson, Kenney, Kidd, Ledbetter, Mack, Mahony, Maloch, J. Martin, Maxwell, McDaniel, Norton, Overbey, Pate, Petrus, Pickett, Prater, Pyle, Ragland, Rankin, Reep, Roebuck, Rogers, Rosenbaum, Sample, Saunders, L. Smith, Sullivan, Sumpter, Thomason, Thompson, Thyer, Verkamp, Walters, Wells, Willis, Wills, Wood, Wyatt, Mr. Speaker.

Total82

NEGATIVE: Anderson, Hardwick, Harris, Key, Lamoureux, Matayo, Mathis, Medley, Nichols, Ormond, Pace, Pritchard, Schulte.

Total13

ABSENT OR NOT VOTING: J. Hutchinson, Lewellen, M. Martin, Rainey, Scroggin.

Total5

VOTING PRESENT:

Total0

Total number of votes cast.....95

Total number voting in the affirmative82

Necessary to the passage of the bill75

So the Bill passed and the title as read was agreed to.

Upon motion of Representative Ledbetter the Clincher motion prevailed.

There being an Emergency Clause attached to **SENATE BILL NO. 21**, the Speaker ordered the clerk to call the roll upon the adoption of the Emergency Clause. The vote was as follows:

EMERGENCY CLAUSE

AFFIRMATIVE: Abernathy, Adams, Adcock, Berry, Blair, Blount, Bolin, Bond, Borhauer, Boyd, Bradford, Bright, Burris, Chesterfield, Childers, Clemons, Cook, Cooper, Cowling, Creekmore, Dangeau, Davenport, Davis, Dickinson, Dunn, Edwards, Elliott, D. Evans, L. Evans, Everett, Fite, Flowers, George, Glidewell, Goss, Green, Hardy, Harrelson, T. Hutchinson, Jackson, Jeffrey, D. Johnson, J. Johnson, Kenney, Kidd, Ledbetter, Mack, Mahony, Maloch, J. Martin, Maxwell, McDaniel, Norton, Overbey, Pate, Petrus, Pickett, Prater, Pyle, Ragland, Rankin, Reep, Roebuck, Rogers, Rosenbaum, Sample, Saunders, L. Smith, Sullivan, Sumpter, Thomason, Thompson, Thyer, Verkamp, Walters, Wells, Willis, Wills, Wood, Wyatt, Mr. Speaker.

Total82

NEGATIVE: Anderson, Hardwick, Harris, Key, Lamoureux, Matayo, Mathis, Medley, Nichols, Ormond, Pace, Pritchard, Schulte.

Total13

ABSENT OR NOT VOTING: J. Hutchinson, Lewellen, M. Martin, Rainey, Scroggin.

Total5

VOTING PRESENT:

Total0

Total number of votes cast95

Total number voting in the affirmative82

Necessary to the adoption of the Emergency Clause67

So the Emergency Clause was adopted.

Upon motion of Representative Ledbetter the Clincher motion prevailed.

HOUSE MEMORIAL RESOLUTION NO.1003

BY: REPRESENTATIVE L. SMITH

CELEBRATING THE LIFE AND CONTRIBUTIONS OF RICHARD B. ATKINSON AND MOURNING HIS PASSING.

THE RESOLUTION WAS READ AND ADOPTED BY MORE THAN 51 VOTES.

HOUSE RESOLUTION NO.1009

BY: REPRESENTATIVE REEP

CONGRATULATING THE STRONG HIGH SCHOOL LADY BULLDOGS ON THEIR SECOND CONSECUTIVE CLASS AA GIRLS' STATE BASKETBALL CHAMPIONSHIP.

THE RESOLUTION WAS READ AND ADOPTED BY MORE THAN 51 VOTES.

HOUSE RESOLUTION NO.1008

BY: REPRESENTATIVE ROEBUCK

CONGRATULATING R.H. "DICK" BATSON, A LIFELONG DEMOCRAT AND RESIDENT OF ARKADELPHIA, ON HIS RETIREMENT FROM PUBLIC SERVICE IN ARKADELPHIA.

THE RESOLUTION WAS READ AND ADOPTED UNANIMOUSLY.

HOUSE CONCURRENT MEMORIAL RESOLUTION NO.1001

BY: REPRESENTATIVE SCHULTE

IN RESPECTFUL MEMORY OF MR. F. CONE MAGIE AND IN RECOGNITION OF HIS MANY CONTRIBUTIONS TO THE STATE OF ARKANSAS AND HIS LOCAL COMMUNITY.

THE RESOLUTION WAS READ AND ADOPTED BY MORE THAN 51 VOTES.

HOUSE CONCURRENT MEMORIAL RESOLUTION NO. 1002

BY: REPRESENTATIVE BLOUNT

CELEBRATING AND REMEMBERING THE LIFE AND ACCOMPLISHMENTS OF REPRESENTATIVE JOHN ALVIN EASON.

THE RESOLUTION WAS READ AND ADOPTED UNANIMOUSLY.

HOUSE RESOLUTION NO.1010

BY: REPRESENTATIVE BRIGHT

CONGRATULATING THE CENTRAL ARKANSAS CHRISTIAN LADY MUSTANGS ON THEIR SECOND CONSECUTIVE CLASS AAA GIRLS' STATE BASKETBALL CHAMPIONSHIP.

THE RESOLUTION WAS READ AND ADOPTED BY MORE THAN 51 VOTES.

HOUSE RESOLUTION NO.1003

BY: REPRESENTATIVE ORMOND

CONGRATULATING THE MORRILTON HIGH SCHOOL LADY DEVIL DOGS
ON THEIR SECOND CLASS AAAA GIRLS' STATE BASKETBALL
CHAMPIONSHIP IN FOUR YEARS.

THE RESOLUTION WAS READ AND ADOPTED BY MORE THAN 51
VOTES.

Motion was made by Representative Wood to reconsider **SENATE BILL NO.**

3.

On this motion the ayes and nays were called for and the call was sustained.

The Clerk called the roll. The vote was as follows:

AFFIRMATIVE: Abernathy, Adams, Blair, Blount, Bond, Boyd, Bradford, Burris, Clemons, Cook, Cowling, Creekmore, Dangeau, Davenport, Davis, Dickinson, Elliott, D. Evans, Fite, George, Goss, Green, Hardy, Harrelson, D. Johnson, J. Johnson, Ledbetter, Mack, Mahony, Maloch, J. Martin, McDaniel, Medley, Overbey, Pate, Prater, Rainey, Rankin, Reep, Roebuck, Saunders, L. Smith, Sumpster, Thomason, Verkamp, Walters, Wills, Wood.

Total49

NEGATIVE: Adcock, Anderson, Berry, Bolin, Borhauer, Bright, Childers, Cooper, Dunn, L. Evans, Everett, Flowers, Glidewell, Harris, J. Hutchinson, T. Hutchinson, Jeffrey, Kenney, Key, Kidd, Lamoureux, Matayo, Mathis, Maxwell, Nichols, Norton, Ormond, Pace, Petrus, Pritchard, Pyle, Ragland, Rogers, Rosenbaum, Sample, Schulte, Scroggin, Sullivan, Thyer, Wells, Willis, Wyatt.

Total42

ABSENT OR NOT VOTING: Chesterfield, Edwards, Hardwick, Jackson, Lewellen, M. Martin, Pickett, Thompson, Mr. Speaker.

Total9

VOTING PRESENT:

Total0

Total number of votes cast91

Total number voting in the affirmative49

Necessary to the adoption of the motion46

So the motion carried.

SENATE BILL NO. 3

BY: EDUCATION COMMITTEE - SENATE

Was read the third time and placed on final passage, the question being shall the Bill pass. The vote was as follows:

AFFIRMATIVE: Abernathy, Adams, Berry, Blair, Blount, Bond, Bradford, Burris, Chesterfield, Clemons, Cook, Cowling, Creekmore, Dangeau, Davenport, Davis, Dickinson, Edwards, Elliott, D. Evans, Fite, George, Goss, Green, Hardy, Harrelson, D. Johnson, J. Johnson, Ledbetter, Mack, Mahony, Maloch, J. Martin, McDaniel, Overbey, Pate, Pickett, Pyle, Rainey, Rankin, Reep, Roebuck, Saunders, L. Smith, Thomason, Verkamp, Walters, Willis, Wills.

Total49

NEGATIVE: Adcock, Anderson, Bolin, Borhauer, Bright, Childers, Cooper, Dunn, L. Evans, Everett, Flowers, Glidewell, Harris, J. Hutchinson, Jeffrey, Kenney, Key, Kidd, Lamoureux, Matayo, Mathis, Maxwell, Medley, Nichols, Norton, Ormond, Pace, Petrus, Prater, Pritchard, Ragland, Rogers, Rosenbaum, Sample, Schulte, Sullivan, Thyer, Wells, Wood, Wyatt.

Total41

ABSENT OR NOT VOTING: Boyd, Hardwick, T. Hutchinson, Jackson, Lewellen, M. Martin, Scroggin, Sumpter, Thompson, Mr. Speaker.

Total10

VOTING PRESENT:

Total0

Total number of votes cast.....90

Total number voting in the affirmative49

Necessary to the passage of the bill51

So the Bill failed.

SENATE BILL NO. 26

BY: SENATOR J. JEFFRESS

Was read the third time and placed on final passage, the question being shall the Bill pass and shall the Emergency Clause be adopted. The vote was as follows:

AFFIRMATIVE: Abernathy, Adams, Adcock, Berry, Blair, Blount, Bolin, Boyd, Bradford, Chesterfield, Childers, Clemons, Cook, Cooper, Cowling, Creekmore, Dangeau, Davenport, Davis, Dickinson, Dunn, Edwards, Elliott, D. Evans, L. Evans, Everett, Fite, George, Glidewell, Goss, Hardy, Harrelson, J. Hutchinson, Jackson, Jeffrey, J. Johnson, Key, Kidd, Ledbetter, Mack, Mahony, Maloch, J. Martin, Maxwell, McDaniel, Medley, Norton, Overbey, Pate, Petrus, Prater, Ragland, Rainey, Rankin, Reep, Roebuck, Rogers, Rosenbaum, Sample, Saunders, L. Smith, Sullivan, Sumpter, Thomason, Thompson, Thyer, Verkamp, Walters, Wells, Willis, Wills, Wood, Wyatt.

Total74

NEGATIVE: Bond, Borhauer, Green, D. Johnson, Kenney, Lamoureux, Matayo, Mathis, Nichols, Ormond, Pace, Pickett, Pritchard, Pyle, Schulte.

Total15

ABSENT OR NOT VOTING: Anderson, Bright, Burris, Flowers, Hardwick, Harris, T. Hutchinson, Lewellen, M. Martin, Scroggin, Mr. Speaker.

Total11

VOTING PRESENT:

Total0

Total number of votes cast89

Total number voting in the affirmative74

Necessary to the passage of the bill51

So the Bill passed and the title as read was agreed to.

There being an Emergency Clause attached to **SENATE BILL NO. 26**, the Speaker ordered the clerk to call the roll upon the adoption of the Emergency Clause. The vote was as follows:

EMERGENCY CLAUSE

AFFIRMATIVE: Abernathy, Adams, Adcock, Berry, Blair, Blount, Bolin, Boyd, Bradford, Chesterfield, Childers, Clemons, Cook, Cooper, Cowling, Creekmore, Dangeau, Davenport, Davis, Dickinson, Dunn, Edwards, Elliott, D. Evans, L. Evans, Everett, Fite, George, Glidewell, Goss, Hardy, Harrelson, J. Hutchinson, Jackson, Jeffrey, J. Johnson, Key, Kidd, Ledbetter, Mack, Mahony, Maloch, J. Martin, Maxwell, McDaniel, Medley, Norton, Overbey, Pate, Petrus, Prater, Ragland, Rainey, Rankin, Reep, Roebuck, Rogers, Rosenbaum, Sample, Saunders, L. Smith, Sullivan, Sumpter, Thomason, Thompson, Thyer, Verkamp, Walters, Wells, Willis, Wills, Wood, Wyatt.

Total74

NEGATIVE: Bond, Borhauer, Green, D. Johnson, Kenney, Lamoureux, Matayo, Mathis, Nichols, Ormond, Pace, Pickett, Pritchard, Pyle, Schulte.

Total15

ABSENT OR NOT VOTING: Anderson, Bright, Burris, Flowers, Hardwick, Harris, T. Hutchinson, Lewellen, M. Martin, Scroggin, Mr. Speaker.

Total11

VOTING PRESENT:

Total0

Total number of votes cast89

Total number voting in the affirmative74

Necessary to the adoption of the Emergency Clause67

So the Emergency Clause was adopted.

SENATE BILL NO. 1

BY: EDUCATION COMMITTEE - SENATE

Was read the third time and placed on final passage, the question being shall the Bill pass and shall the Emergency Clause be adopted. The vote was as follows:

AFFIRMATIVE: Abernathy, Adams, Anderson, Berry, Blair, Blount, Bolin, Bond, Borhauer, Boyd, Bradford, Bright, Burris, Chesterfield, Childers, Clemons, Cook, Cooper, Cowling, Creekmore, Dangeau, Davenport, Davis, Dickinson, Dunn, Edwards, Elliott, D. Evans, L. Evans, Everett, Fite, Flowers, George, Glidewell, Goss, Green, Hardy, Harrelson, J. Hutchinson, T. Hutchinson, Jackson, Jeffrey, D. Johnson, J. Johnson, Kenney, Kidd, Ledbetter, Mack, Mahony, Maloch, J. Martin, Matayo, Maxwell, McDaniel, Medley, Norton, Ormond, Overbey, Pace, Pate, Petrus, Pickett, Prater, Pritchard, Pyle, Ragland, Rankin, Reep, Roebuck, Rogers, Rosenbaum, Sample, Saunders, Schulte, L. Smith, Sullivan, Sumpter, Thomason, Thompson, Thyer, Verkamp, Walters, Wells, Willis, Wills, Wood, Wyatt.

Total88

NEGATIVE: Key, Lamoureux, Mathis, Nichols.

Total4

ABSENT OR NOT VOTING: Adcock, Hardwick, Harris, Lewellen, M. Martin, Rainey, Scroggin, Mr. Speaker.

Total8

VOTING PRESENT:

Total0

Total number of votes cast92

Total number voting in the affirmative88

Necessary to the passage of the bill51

So the Bill passed and the title as read was agreed to.

There being an Emergency Clause attached to **SENATE BILL NO. 1**, the Speaker ordered the clerk to call the roll upon the adoption of the Emergency Clause. The vote was as follows:

EMERGENCY CLAUSE

AFFIRMATIVE: Abernathy, Adams, Anderson, Berry, Blair, Blount, Bolin, Bond, Borhauer, Boyd, Bradford, Bright, Burris, Chesterfield, Childers, Clemons, Cook, Cooper, Cowling, Creekmore, Dangeau, Davenport, Davis, Dickinson, Dunn, Edwards, Elliott, D. Evans, L. Evans, Everett, Fite, Flowers, George, Glidewell, Goss, Green, Hardy, Harrelson, J. Hutchinson, T. Hutchinson, Jackson, Jeffrey, D. Johnson, J. Johnson, Kenney, Kidd, Ledbetter, Mack, Mahony, Maloch, J. Martin, Matayo, Maxwell, McDaniel, Medley, Norton, Ormond, Overbey, Pace, Pate, Petrus, Pickett, Prater, Pritchard, Pyle, Ragland, Rankin, Reep, Roebuck, Rogers, Rosenbaum, Sample, Saunders, Schulte, L. Smith, Sullivan, Sumpter, Thomason, Thompson, Thyer, Verkamp, Walters, Wells, Willis, Wills, Wood, Wyatt.

Total88

NEGATIVE: Key, Lamoureux, Mathis, Nichols.

Total4

ABSENT OR NOT VOTING: Adcock, Hardwick, Harris, Lewellen, M. Martin, Rainey, Scroggin, Mr. Speaker.

Total8

VOTING PRESENT:

Total0

Total number of votes cast92

Total number voting in the affirmative88

Necessary to the adoption of the Emergency Clause67

So the Emergency Clause was adopted.

SENATE BILL NO. 2

BY: SENATOR ARGUE

Was read the third time and placed on final passage, the question being shall the Bill pass and shall the Emergency Clause be adopted. The vote was as follows:

AFFIRMATIVE: Abernathy, Adams, Adcock, Anderson, Berry, Blair, Blount, Bond, Borhauer, Boyd, Bradford, Bright, Burris, Chesterfield, Childers, Clemons, Cook, Cooper, Cowling, Creekmore, Dangeau, Davenport, Davis, Dickinson, Edwards, Elliott, D. Evans, L. Evans, Everett, Fite, Flowers, George, Glidewell, Goss, Green, Hardy, Harrelson, J. Hutchinson, T. Hutchinson, Jackson, Jeffrey, D. Johnson, J. Johnson, Kidd, Lamoureux, Ledbetter, Mack, Mahony, Maloch, J. Martin, Maxwell, McDaniel, Medley, Norton, Overbey, Pate, Prater, Pyle, Ragland, Rainey, Rankin, Reep, Roebuck, Rogers, Rosenbaum, Sample, Saunders, L. Smith, Sullivan, Sumpter, Thomason, Thompson, Verkamp, Walters, Willis, Wills, Wood, Wyatt.

Total79

NEGATIVE: Bolin, Dunn, Kenney, Key, Matayo, Nichols, Ormond, Pace, Pritchard, Schulte, Thyer.

Total11

ABSENT OR NOT VOTING: Hardwick, Harris, Lewellen, M. Martin, Mathis, Petrus, Pickett, Scroggin, Wells, Mr. Speaker.

Total10

VOTING PRESENT:

Total0

Total number of votes cast.....90

Total number voting in the affirmative79

Necessary to the passage of the bill51

So the Bill passed and the title as read was agreed to.

There being an Emergency Clause attached to **SENATE BILL NO. 2**, the Speaker ordered the clerk to call the roll upon the adoption of the Emergency Clause. The vote was as follows:

EMERGENCY CLAUSE

AFFIRMATIVE: Abernathy, Adams, Adcock, Anderson, Berry, Blair, Blount, Bond, Borhauer, Boyd, Bradford, Bright, Burris, Chesterfield, Childers, Clemons, Cook, Cooper, Cowling, Creekmore, Dangeau, Davenport, Davis, Dickinson, Edwards, Elliott, D. Evans, L. Evans, Everett, Fite, Flowers, George, Glidewell, Goss, Green, Hardy, Harrelson, J. Hutchinson, T. Hutchinson, Jackson, Jeffrey, D. Johnson, J. Johnson, Kidd, Lamoureux, Ledbetter, Mack, Mahony, Maloch, J. Martin, Maxwell, McDaniel, Medley, Norton, Overbey, Pate, Prater, Pyle, Ragland, Rainey, Rankin, Reep, Roebuck, Rogers, Rosenbaum, Sample, Saunders, L. Smith, Sullivan, Sumpter, Thomason, Thompson, Verkamp, Walters, Willis, Wills, Wood, Wyatt.

Total79

NEGATIVE: Bolin, Dunn, Kenney, Key, Matayo, Nichols, Ormond, Pace, Pritchard, Schulte, Thyer.

Total11

ABSENT OR NOT VOTING: Hardwick, Harris, Lewellen, M. Martin, Mathis, Petrus, Pickett, Scroggin, Wells, Mr. Speaker.

Total10

VOTING PRESENT:

Total0

Total number of votes cast.....90

Total number voting in the affirmative79

Necessary to the adoption of the Emergency Clause67

So the Emergency Clause was adopted.

SENATE BILL NO. 4

BY: EDUCATION COMMITTEE - SENATE

Was read the third time and placed on final passage, the question being shall the Bill pass and shall the Emergency Clause be adopted. The vote was as follows:

AFFIRMATIVE: Abernathy, Adams, Adcock, Anderson, Berry, Blair, Blount, Bolin, Bond, Borhauer, Boyd, Bradford, Burris, Chesterfield, Childers, Clemons, Cook, Cooper, Cowling, Creekmore, Dangeau, Davenport, Davis, Dickinson, Dunn, Edwards, Elliott, D. Evans, L. Evans, Everett, Fite, Flowers, George, Glidewell, Goss, Green, Hardy, Harrelson, J. Hutchinson, T. Hutchinson, Jackson, Jeffrey, D. Johnson, J. Johnson, Key, Kidd, Lamoureux, Ledbetter, Mack, Mahony, Maloch, J. Martin, Matayo, Maxwell, McDaniel, Medley, Norton, Overbey, Pate, Petrus, Pickett, Prater, Pritchard, Pyle, Ragland, Rainey, Rankin, Reep, Roebuck, Rogers, Rosenbaum, Sample, Saunders, Schulte, L. Smith, Sullivan, Sumpter, Thomason, Thompson, Thyer, Verkamp, Walters, Wells, Willis, Wills, Wood, Wyatt.

Total88

NEGATIVE: Harris, Kenney, Ormond, Pace.

Total4

ABSENT OR NOT VOTING: Bright, Hardwick, Lewellen, M. Martin, Mathis, Nichols, Scroggin, Mr. Speaker.

Total8

VOTING PRESENT:

Total0

Total number of votes cast92

Total number voting in the affirmative88

Necessary to the passage of the bill51

So the Bill passed and the title as read was agreed to.

There being an Emergency Clause attached to **SENATE BILL NO. 4**, the Speaker ordered the clerk to call the roll upon the adoption of the Emergency Clause. The vote was as follows:

EMERGENCY CLAUSE

AFFIRMATIVE: Abernathy, Adams, Adcock, Anderson, Berry, Blair, Blount, Bolin, Bond, Borhauer, Boyd, Bradford, Burris, Chesterfield, Childers, Clemons, Cook, Cooper, Cowling, Creekmore, Dangeau, Davenport, Davis, Dickinson, Dunn, Edwards, Elliott, D. Evans, L. Evans, Everett, Fite, Flowers, George, Glidewell, Goss, Green, Hardy, Harrelson, J. Hutchinson, T. Hutchinson, Jackson, Jeffrey, D. Johnson, J. Johnson, Key, Kidd, Lamoureux, Ledbetter, Mack, Mahony, Maloch, J. Martin, Matayo, Maxwell, McDaniel, Medley, Norton, Overbey, Pate, Petrus, Pickett, Prater, Pritchard, Pyle, Ragland, Rainey, Rankin, Reep, Roebuck, Rogers, Rosenbaum, Sample, Saunders, Schulte, L. Smith, Sullivan, Sumpter, Thomason, Thompson, Thyer, Verkamp, Walters, Wells, Willis, Wills, Wood, Wyatt.

Total88

NEGATIVE: Harris, Kenney, Ormond, Pace.

Total4

ABSENT OR NOT VOTING: Bright, Hardwick, Lewellen, M. Martin, Mathis, Nichols, Scroggin, Mr. Speaker.

Total8

VOTING PRESENT:

Total0

Total number of votes cast92

Total number voting in the affirmative88

Necessary to the adoption of the Emergency Clause67

So the Emergency Clause was adopted.

SENATE BILL NO. 6

BY: EDUCATION COMMITTEE - SENATE

Was read the third time and placed on final passage, the question being shall the Bill pass and shall the Emergency Clause be adopted. The vote was as follows:

AFFIRMATIVE: Abernathy, Adams, Adcock, Anderson, Berry, Blair, Blount, Bolin, Bond, Boyd, Bradford, Bright, Burris, Chesterfield, Childers, Clemons, Cook, Cooper, Cowling, Creekmore, Dangeau, Davenport, Davis, Dickinson, Dunn, Edwards, Elliott, D. Evans, L. Evans, Everett, Fite, Flowers, George, Glidewell, Goss, Green, Hardy, Harrelson, Harris, J. Hutchinson, T. Hutchinson, Jackson, Jeffrey, D. Johnson, J. Johnson, Kenney, Key, Kidd, Lamoureux, Ledbetter, Mack, Mahony, Maloch, J. Martin, Matayo, Mathis, Maxwell, McDaniel, Medley, Norton, Overbey, Pace, Pate, Petrus, Pickett, Prater, Pritchard, Pyle, Ragland, Rainey, Rankin, Reep, Roebuck, Rogers, Rosenbaum, Sample, Saunders, Schulte, L. Smith, Sullivan, Sumpter, Thomason, Thompson, Thyer, Verkamp, Walters, Wells, Willis, Wills, Wood, Wyatt.

Total92

NEGATIVE: Ormond.

Total1

ABSENT OR NOT VOTING: Borhauer, Hardwick, Lewellen, M. Martin, Nichols, Scroggin, Mr. Speaker.

Total7

VOTING PRESENT:

Total0

Total number of votes cast.....93

Total number voting in the affirmative92

Necessary to the passage of the bill51

So the Bill passed and the title as read was agreed to.

There being an Emergency Clause attached to **SENATE BILL NO. 6**, the Speaker ordered the clerk to call the roll upon the adoption of the Emergency Clause. The vote was as follows:

EMERGENCY CLAUSE

AFFIRMATIVE: Abernathy, Adams, Adcock, Anderson, Berry, Blair, Blount, Bolin, Bond, Boyd, Bradford, Bright, Burris, Chesterfield, Childers, Clemons, Cook, Cooper, Cowling, Creekmore, Dangeau, Davenport, Davis, Dickinson, Dunn, Edwards, Elliott, D. Evans, L. Evans, Everett, Fite, Flowers, George, Glidewell, Goss, Green, Hardy, Harrelson, Harris, J. Hutchinson, T. Hutchinson, Jackson, Jeffrey, D. Johnson, J. Johnson, Kenney, Key, Kidd, Lamoureux, Ledbetter, Mack, Mahony, Maloch, J. Martin, Matayo, Mathis, Maxwell, McDaniel, Medley, Norton, Overbey, Pace, Pate, Petrus, Pickett, Prater, Pritchard, Pyle, Ragland, Rainey, Rankin, Reep, Roebuck, Rogers, Rosenbaum, Sample, Saunders, Schulte, L. Smith, Sullivan, Sumpter, Thomason, Thompson, Thyer, Verkamp, Walters, Wells, Willis, Wills, Wood, Wyatt.

Total92

NEGATIVE: Ormond.

Total1

ABSENT OR NOT VOTING: Borhauer, Hardwick, Lewellen, M. Martin, Nichols, Scroggin, Mr. Speaker.

Total7

VOTING PRESENT:

Total0

Total number of votes cast.....93

Total number voting in the affirmative92

Necessary to the adoption of the Emergency Clause67

So the Emergency Clause was adopted.

SENATE BILL NO. 24

BY: SENATOR WILKINS

Was read the third time and placed on final passage, the question being shall the Bill pass and shall the Emergency Clause be adopted. The vote was as follows:

AFFIRMATIVE: Abernathy, Adams, Adcock, Berry, Blair, Blount, Bolin, Bond, Borhauer, Boyd, Bradford, Bright, Burris, Chesterfield, Childers, Clemons, Cook, Cooper, Cowling, Creekmore, Dangeau, Davenport, Davis, Dickinson, Dunn, Elliott, D. Evans, L. Evans, Everett, Fite, Flowers, George, Glidewell, Goss, Green, Hardy, Harrelson, J. Hutchinson, T. Hutchinson, Jackson, Jeffrey, D. Johnson, J. Johnson, Key, Kidd, Ledbetter, Mack, Mahony, Maloch, J. Martin, Matayo, Maxwell, McDaniel, Norton, Ormond, Overbey, Pate, Petrus, Prater, Pyle, Ragland, Rainey, Rankin, Reep, Roebuck, Rogers, Rosenbaum, Sample, Saunders, Schulte, L. Smith, Sullivan, Sumpter, Thomason, Thompson, Thyer, Verkamp, Walters, Wells, Willis, Wills, Wood.

Total83

NEGATIVE: Anderson, Harris, Kenney, Lamoureux, Medley, Pace, Pickett, Pritchard.

Total8

ABSENT OR NOT VOTING: Hardwick, Lewellen, M. Martin, Mathis, Nichols, Scroggin, Wyatt, Mr. Speaker.

Total8

VOTING PRESENT: Edwards.

Total1

Total number of votes cast.....92

Total number voting in the affirmative83

Necessary to the passage of the bill51

So the Bill passed and the title as read was agreed to.

There being an Emergency Clause attached to **SENATE BILL NO. 24**, the Speaker ordered the clerk to call the roll upon the adoption of the Emergency Clause. The vote was as follows:

EMERGENCY CLAUSE

AFFIRMATIVE: Abernathy, Adams, Adcock, Berry, Blair, Blount, Bolin, Bond, Borhauer, Boyd, Bradford, Bright, Burris, Chesterfield, Childers, Clemons, Cook, Cooper, Cowling, Creekmore, Dangeau, Davenport, Davis, Dickinson, Dunn, Elliott, D. Evans, L. Evans, Everett, Fite, Flowers, George, Glidewell, Goss, Green, Hardy, Harrelson, J. Hutchinson, T. Hutchinson, Jackson, Jeffrey, D. Johnson, J. Johnson, Key, Kidd, Ledbetter, Mack, Mahony, Maloch, J. Martin, Matayo, Maxwell, McDaniel, Norton, Ormond, Overbey, Pate, Petrus, Prater, Pyle, Ragland, Rainey, Rankin, Reep, Roebuck, Rogers, Rosenbaum, Sample, Saunders, Schulte, L. Smith, Sullivan, Sumpter, Thomason, Thompson, Thyer, Verkamp, Walters, Wells, Willis, Wills, Wood.

Total83

NEGATIVE: Anderson, Harris, Kenney, Lamoureux, Medley, Pace, Pickett, Pritchard.

Total8

ABSENT OR NOT VOTING: Hardwick, Lewellen, M. Martin, Mathis, Nichols, Scroggin, Wyatt, Mr. Speaker.

Total8

VOTING PRESENT: Edwards.

Total1

Total number of votes cast.....92

Total number voting in the affirmative83

Necessary to the adoption of the Emergency Clause67

So the Emergency Clause was adopted.

SENATE BILL NO. 7

BY: EDUCATION COMMITTEE - SENATE

Was read the third time and placed on final passage, the question being shall the Bill pass and shall the Emergency Clause be adopted. The vote was as follows:

AFFIRMATIVE: Abernathy, Adcock, Anderson, Berry, Blair, Blount, Bolin, Bond, Borhauer, Boyd, Bradford, Bright, Burris, Chesterfield, Childers, Clemons, Cook, Cooper, Cowling, Creekmore, Dangeau, Davenport, Davis, Dickinson, Dunn, Edwards, Elliott, D. Evans, L. Evans, Everett, Fite, Flowers, George, Glidewell, Hardy, Harrelson, Harris, J. Hutchinson, T. Hutchinson, Jackson, Jeffrey, D. Johnson, J. Johnson, Kenney, Key, Kidd, Lamoureux, Ledbetter, Mack, Mahony, Maloch, J. Martin, Matayo, Mathis, Maxwell, McDaniel, Medley, Nichols, Norton, Ormond, Overbey, Pace, Pate, Petrus, Pickett, Prater, Pritchard, Pyle, Ragland, Rainey, Rankin, Reep, Roebuck, Rogers, Rosenbaum, Sample, Saunders, Schulte, L. Smith, Sullivan, Sumpter, Thomason, Thompson, Thyer, Verkamp, Walters, Wells, Willis, Wills, Wood, Wyatt.

Total92

NEGATIVE: Adams.

Total1

ABSENT OR NOT VOTING: Goss, Green, Hardwick, Lewellen, M. Martin, Scroggin, Mr. Speaker.

Total7

VOTING PRESENT:

Total0

Total number of votes cast93

Total number voting in the affirmative92

Necessary to the passage of the bill51

So the Bill passed and the title as read was agreed to.

There being an Emergency Clause attached to **SENATE BILL NO. 7**, the Speaker ordered the clerk to call the roll upon the adoption of the Emergency Clause. The vote was as follows:

EMERGENCY CLAUSE

AFFIRMATIVE: Abernathy, Adcock, Anderson, Berry, Blair, Blount, Bolin, Bond, Borhauer, Boyd, Bradford, Bright, Burris, Chesterfield, Childers, Clemons, Cook, Cooper, Cowling, Creekmore, Dangeau, Davenport, Davis, Dickinson, Dunn, Edwards, Elliott, D. Evans, L. Evans, Everett, Fite, Flowers, George, Glidewell, Hardy, Harrelson, Harris, J. Hutchinson, T. Hutchinson, Jackson, Jeffrey, D. Johnson, J. Johnson, Kenney, Key, Kidd, Lamoureux, Ledbetter, Mack, Mahony, Maloch, J. Martin, Matayo, Mathis, Maxwell, McDaniel, Medley, Nichols, Norton, Ormond, Overbey, Pace, Pate, Petrus, Pickett, Prater, Pritchard, Pyle, Ragland, Rainey, Rankin, Reep, Roebuck, Rogers, Rosenbaum, Sample, Saunders, Schulte, L. Smith, Sullivan, Sumpter, Thomason, Thompson, Thyer, Verkamp, Walters, Wells, Willis, Wills, Wood, Wyatt.

Total92

NEGATIVE: Adams.

Total1

ABSENT OR NOT VOTING: Goss, Green, Hardwick, Lewellen, M. Martin, Scroggin, Mr. Speaker.

Total7

VOTING PRESENT:

Total0

Total number of votes cast.....93

Total number voting in the affirmative92

Necessary to the adoption of the Emergency Clause67

So the Emergency Clause was adopted.

SENATE BILL NO. 16

BY: SENATOR MADISON

Was read the third time and placed on final passage, the question being shall the Bill pass and shall the Emergency Clause be adopted. The vote was as follows:

AFFIRMATIVE: Adams, Adcock, Anderson, Berry, Blair, Blount, Bolin, Bond, Boyd, Bradford, Bright, Chesterfield, Childers, Clemons, Cook, Cooper, Cowling, Creekmore, Dangeau, Davenport, Davis, Dickinson, Dunn, Edwards, Elliott, D. Evans, L. Evans, Everett, Fite, Flowers, George, Glidewell, Goss, Green, Hardy, Harrelson, Harris, J. Hutchinson, T. Hutchinson, Jackson, Jeffrey, D. Johnson, J. Johnson, Kenney, Key, Kidd, Lamoureux, Ledbetter, Mack, Mahony, Maloch, J. Martin, Matayo, Mathis, Maxwell, McDaniel, Ormond, Overbey, Pace, Pate, Petrus, Pickett, Prater, Pyle, Ragland, Rainey, Rankin, Reep, Roebuck, Rogers, Rosenbaum, Sample, Saunders, Schulte, Scroggin, L. Smith, Sullivan, Sumpter, Thomason, Thompson, Thyer, Verkamp, Walters, Wells, Willis, Wills, Wood, Wyatt.

Total89

NEGATIVE:

Total0

ABSENT OR NOT VOTING: Abernathy, Borhauer, Burris, Hardwick, Lewellen, M. Martin, Medley, Nichols, Norton, Pritchard, Mr. Speaker.

Total11

VOTING PRESENT:

Total0

Total number of votes cast89

Total number voting in the affirmative89

Necessary to the passage of the bill75

So the Bill passed and the title as read was agreed to.

There being an Emergency Clause attached to **SENATE BILL NO. 16**, the Speaker ordered the clerk to call the roll upon the adoption of the Emergency Clause. The vote was as follows:

EMERGENCY CLAUSE

AFFIRMATIVE: Adams, Adcock, Anderson, Berry, Blair, Blount, Bolin, Bond, Boyd, Bradford, Bright, Chesterfield, Childers, Clemons, Cook, Cooper, Cowling, Creekmore, Dangeau, Davenport, Davis, Dickinson, Dunn, Edwards, Elliott, D. Evans, L. Evans, Everett, Fite, Flowers, George, Glidewell, Goss, Green, Hardy, Harrelson, Harris, J. Hutchinson, T. Hutchinson, Jackson, Jeffrey, D. Johnson, J. Johnson, Kenney, Key, Kidd, Lamoureux, Ledbetter, Mack, Mahony, Maloch, J. Martin, Matayo, Mathis, Maxwell, McDaniel, Ormond, Overbey, Pace, Pate, Petrus, Pickett, Prater, Pyle, Ragland, Rainey, Rankin, Reep, Roebuck, Rogers, Rosenbaum, Sample, Saunders, Schulte, Scroggin, L. Smith, Sullivan, Sumpter, Thomason, Thompson, Thyer, Verkamp, Walters, Wells, Willis, Wills, Wood, Wyatt.

Total89

NEGATIVE:

Total0

ABSENT OR NOT VOTING: Abernathy, Borhauer, Burris, Hardwick, Lewellen, M. Martin, Medley, Nichols, Norton, Pritchard, Mr. Speaker.

Total11

VOTING PRESENT:

Total0

Total number of votes cast89

Total number voting in the affirmative89

Necessary to the adoption of the Emergency Clause67

So the Emergency Clause was adopted.

Representative Ledbetter addressed the House: Mr. Speaker, I move that House Rule No. 106 be suspended until Sine Die adjournment of the First Extraordinary Session of the Eighty-Fifth General Assembly. Motion received 2/3 of the quorum.

HOUSE CONCURRENT RESOLUTION NO. 1006

BY: REPRESENTATIVE COWLING

Was read the third time and placed on final passage, the question being shall the Resolution be adopted. The vote was as follows:

AFFIRMATIVE: Adams, Adcock, Anderson, Berry, Blair, Blount, Bolin, Bond, Borhauer, Boyd, Bradford, Bright, Burris, Chesterfield, Childers, Clemons, Cook, Cooper, Cowling, Creekmore, Dangeau, Davenport, Davis, Dickinson, Dunn, Edwards, Elliott, D. Evans, L. Evans, Everett, Fite, Flowers, George, Glidewell, Goss, Green, Hardy, Harrelson, Harris, J. Hutchinson, T. Hutchinson, Jackson, Jeffrey, D. Johnson, J. Johnson, Kenney, Key, Kidd, Lamoureux, Ledbetter, Mack, Mahony, Maloch, J. Martin, Matayo, Mathis, Maxwell, McDaniel, Medley, Nichols, Norton, Overbey, Pace, Pate, Petrus, Pickett, Prater, Pritchard, Pyle, Ragland, Rainey, Rankin, Reep, Roebuck, Rogers, Rosenbaum, Sample, Saunders, Schulte, Scroggin, L. Smith, Sullivan, Sumpter, Thomason, Thompson, Thyer, Verkamp, Walters, Wells, Willis, Wills, Wood, Wyatt, Mr. Speaker.

Total95

NEGATIVE:

Total0

ABSENT OR NOT VOTING: Abernathy, Hardwick, Lewellen, M. Martin, Ormond.

Total5

VOTING PRESENT:

Total0

Total number of votes cast95

Total number voting in the affirmative95

Necessary to the adoption of the resolution51

So the Resolution was adopted.

With the exception of reading Committee Reports, reading Bills across the desk, and other clerical duties, the House stood in recess at 11:37 a.m. until 1:15 p.m.

HOUSE MEMORIAL RESOLUTION NO.1004

BY: REPRESENTATIVE WILLS

IN RESPECTFUL MEMORY OF DR. JACK LOGAN AND MR. BERT ALEXANDER AND IN RECOGNITION OF THEIR SACRIFICE.

THE RESOLUTION WAS READ AND ADOPTED BY MORE THAN 51 VOTES.

Representative Cook moved that the House concur in the following Senate Amendment.

ARKANSAS SENATE

AMENDMENT NO. 1 TO HOUSE BILL NO. 1040

Amend HOUSE BILL NO. 1040 as originally introduced:

Page 1, delete lines 32 through 36 and substitute the following:

"(ii) Through June 30, 2007, the State Board of Education shall approve the use of funds by a school district to supplement salaries for classroom teachers only under the following conditions:

(a) The school district meets the minimum teacher salary schedule in § 6-17-2403 without using funds provided under subdivision (b)(4) of this section; and

(b) The school district is permitted to use funds provided under subdivision (b)(4) of this section to supplement salaries for classroom teachers only to the extent the school district was using funds provided under subdivision (b)(4) of this section to supplement salaries for classroom teacher as of January 1, 2006."

/s/Jim Argue

The Amendment was read and the vote was as follows:

AFFIRMATIVE: Abernathy, Adams, Adcock, Anderson, Berry, Blair, Blount, Bolin, Bond, Boyd, Bradford, Burris, Chesterfield, Childers, Clemons, Cook, Cooper, Cowling, Creekmore, Dangeau, Davenport, Davis, Dickinson, Dunn, Edwards, Elliott, D. Evans, L. Evans, Everett, Fite, Flowers, George, Glidewell, Goss, Green, Hardy, Harrelson, Harris, J. Hutchinson, T. Hutchinson, Jackson, Jeffrey, D. Johnson, J. Johnson, Kenney, Key, Kidd, Lamoureux, Ledbetter, Mack, Mahony, Maloch, J. Martin, Matayo, Mathis, Maxwell, Medley, Norton, Overbey, Pace, Pate, Petrus, Pickett, Prater, Pritchard, Pyle, Ragland, Rainey, Rankin, Reep, Roebuck, Rogers, Sample, Saunders, Schulte, Scroggin, L. Smith, Sullivan, Thomason, Thompson, Thyer, Verkamp, Walters, Wells, Willis, Wills, Wood, Wyatt.

Total89

NEGATIVE: Borhauer, Ormond.

Total2

ABSENT OR NOT VOTING: Bright, Hardwick, Lewellen, M. Martin, McDaniel, Nichols, Rosenbaum, Sumpter, Mr. Speaker.

Total9

VOTING PRESENT:

Total0

Total number of votes cast91

Total number voting in the affirmative89

Necessary to concur in the amendment.....51

So the Amendment was concurred in.

/s/ Ms. Jo Renshaw

Chief Clerk

Representative Cook moved that the House concur in the following Senate Amendment.

ARKANSAS SENATE

AMENDMENT NO. 1 TO HOUSE BILL NO. 1013

Amend **HOUSE BILL NO. 1013** as originally introduced:

Page 3, delete lines 16 through 24 and substitute the following:

"(2)(A) Adopt, amend, and rescind rules as necessary or desirable for the administration of the Arkansas Public School Academic Facilities Program and any other related program.

~~(B) No later than October 1, 2005, the commission shall submit to the Legislative Council for review proposed rules necessary to administer the Arkansas Public School Academic Facilities Program.~~

(B) The commission shall report to the Subcommittee on Administrative Rules and Regulations of the Legislative Council in a manner consistent with § 10-3-309 on the adoption, amendment, rescission, or repeal of any proposed rule related to the administration of the Arkansas Public School Academic Facilities Funding Act, § 6-20-2501 et seq., the Arkansas Public School Academic Facilities Program Act, § 6-21-801, or any other related program; and

~~(C) The effective date of rules developed by the commission to administer the Arkansas Public School Academic Facilities Program shall be no later than December 1, 2005; and"~~

/s/Shane Broadway

The Amendment was read and the vote was as follows:

AFFIRMATIVE: Abernathy, Adams, Adcock, Anderson, Berry, Blair, Blount, Bolin, Bond, Borhauer, Boyd, Bradford, Burris, Chesterfield, Childers, Clemons, Cook, Cooper, Cowling, Creekmore, Dangeau, Davenport, Davis, Dickinson, Dunn, Edwards, Elliott, D. Evans, L. Evans, Everett, Fite, Flowers, Glidewell, Goss, Green, Hardy, Harrelson, Harris, J. Hutchinson, T. Hutchinson, Jackson, Jeffrey, D. Johnson, J. Johnson, Kenney, Kidd, Lamoureux, Ledbetter, Mack, Mahony, Maloch, J. Martin, Matayo, Mathis, Maxwell, Medley, Norton, Ormond, Overbey, Pace, Pate, Petrus, Pickett, Prater, Pritchard, Pyle, Ragland, Rainey, Rankin, Reep, Roebuck, Rogers, Rosenbaum, Sample, Saunders, Schulte, Scroggin, L. Smith, Sullivan, Thomason, Thompson, Thyer, Verkamp, Walters, Wells, Willis, Wills, Wood, Wyatt.

Total90

NEGATIVE:

Total0

ABSENT OR NOT VOTING: Bright, George, Hardwick, Key, Lewellen, M. Martin, McDaniel, Nichols, Sumpter, Mr. Speaker.

Total10

VOTING PRESENT:

Total0

Total number of votes cast90

Total number voting in the affirmative90

Necessary to concur in the amendment.....51

So the Amendment was concurred in.

/s/ Ms. Jo Renshaw

Chief Clerk

Representative Cook moved that the House concur in the following Senate Amendment.

ARKANSAS SENATE

AMENDMENT NO. 1 TO HOUSE BILL NO. 1036

Amend **HOUSE BILL NO. 1036** as engrossed, H4/5/06 (version: 04-05-2006 16:50):
Add Representative Medley as a co-sponsor of the bill.

/s/Shane Broadway

The Amendment was read and the vote was as follows:

AFFIRMATIVE: Abernathy, Adams, Adcock, Anderson, Berry, Blair, Blount, Bolin, Bond, Borhauer, Boyd, Bradford, Bright, Burris, Chesterfield, Childers, Clemons, Cook, Cooper, Cowling, Creekmore, Dangeau, Davenport, Davis, Dickinson, Dunn, Edwards, Elliott, D. Evans, L. Evans, Everett, Fite, Flowers, George, Glidewell, Goss, Green, Hardy, Harrelson, Harris, J. Hutchinson, T. Hutchinson, Jackson, Jeffrey, D. Johnson, J. Johnson, Kenney, Key, Kidd, Lamoureux, Ledbetter, Mack, Mahony, Maloch, J. Martin, Matayo, Mathis, Maxwell, Medley, Norton, Overbey, Pace, Pate, Petrus, Pickett, Prater, Pritchard, Pyle, Ragland, Rainey, Rankin, Reep, Roebuck, Rogers, Rosenbaum, Sample, Saunders, Schulte, Scroggin, L. Smith, Sullivan, Thomason, Thompson, Thyer, Verkamp, Walters, Wells, Willis, Wills, Wood, Wyatt.

Total92

NEGATIVE:

Total0

ABSENT OR NOT VOTING: Hardwick, Lewellen, M. Martin, McDaniel, Nichols, Ormond, Sumpter, Mr. Speaker.

Total8

VOTING PRESENT:

Total0

Total number of votes cast92

Total number voting in the affirmative92

Necessary to concur in the amendment51

So the Amendment was concurred in.

/s/ Ms. Jo Renshaw
Chief Clerk

Arkansas Senate

Ann Cornwell

Secretary of the Senate

Senate Fiscal Officer

State Capitol, Room 320

Little Rock, Arkansas 72201

April 7, 2006

The Honorable Jo Renshaw

Chief Clerk

State Capitol

Little Rock, Arkansas 72201

Dear Ms. Renshaw:

The Senate respectfully requests the return to the Senate, of **HOUSE BILL NO. 1012**.

Respectfully submitted,

Ann Cornwell

Secretary of the Senate

Leave was granted to send **HOUSE BILL NO. 1012** back to the Senate.

HOUSE RESOLUTION NO.1011

BY: REPRESENTATIVE MATAYO

CONGRATULATING THE UNDEFEATED SPRINGDALE BULLDOGS ON A HISTORIC SEASON AND THE CLASS AAAAA FOOTBALL CHAMPIONSHIP.

THE RESOLUTION WAS READ AND ADOPTED BY MORE THAN 51 VOTES.

With the exception of reading Committee Reports, reading Bills across the desk, and other clerical duties, the House stood in recess at 1:35 p.m. until 3:20 p.m.

Representative Mahony moved that the House concur in the following Senate Amendment.

ARKANSAS SENATE

AMENDMENT NO. 1 TO HOUSE BILL NO. 1012

Amend HOUSE BILL NO. 1012 as originally introduced:

Page 1, line 32, delete "no fewer than"

/s/Jim Argue

The Amendment was read and the vote was as follows:

AFFIRMATIVE: Abernathy, Adams, Anderson, Berry, Blair, Blount, Bond, Borhauer, Boyd, Bradford, Bright, Burris, Chesterfield, Clemons, Cook, Cooper, Cowling, Creekmore, Dangeau, Davenport, Davis, Dickinson, Edwards, Elliott, D. Evans, Everett, Fite, George, Glidewell, Goss, Green, Hardy, Harrelson, Harris, J. Hutchinson, T. Hutchinson, Jackson, Jeffrey, D. Johnson, J. Johnson, Kenney, Kidd, Ledbetter, Mack, Maloch, J. Martin, Matayo, Maxwell, McDaniel, Norton, Overbey, Pace, Pate, Petrus, Pickett, Prater, Ragland, Rainey, Rankin, Reep, Roebuck, Rogers, Rosenbaum, Sample, Saunders, Scroggin, L. Smith, Sullivan, Thomason, Thompson, Thyer, Verkamp, Walters, Willis, Wills, Wood, Wyatt.

Total78

NEGATIVE: Adcock, Dunn, Mathis, Nichols, Schulte, Wells.

Total6

ABSENT OR NOT VOTING: Bolin, Childers, L. Evans, Hardwick, Key, Lamoureux, Lewellen, Mahony, M. Martin, Medley, Ormond, Pritchard, Pyle, Sumpster, Mr. Speaker.

Total15

VOTING PRESENT: Flowers.

Total1

Total number of votes cast85

Total number voting in the affirmative78

Necessary to concur in the amendment51

So the Amendment was concurred in.

/s/ Ms. Jo Renshaw

Chief Clerk

Representative Mahony moved that the House concur in the following Senate Amendment.

ARKANSAS SENATE

AMENDMENT NO. 2 TO HOUSE BILL NO. 1012

Amend **HOUSE BILL NO. 1012** as engrossed, S4/6/06 (version: 04-06-2006 11:02):
Add additional sections to read as follows:

“SECTION 2. NOT TO BE INCORPORATED INTO THE ARKANSAS CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. PROFESSIONAL DEVELOPMENT TRANSFERS AUTHORIZED.

(a)(1) On the effective date of this act the Chief Fiscal Officer of the State shall transfer from the unexpended balances of the Department of Education Public School Fund Account to the Department of Education Fund Account the sum of four hundred seventy-five thousand seven hundred sixty-two dollars (\$475,762) to provide funding for the personal services and operating expenses of enhanced professional development programs.

(2) The Chief Fiscal Officer of the State shall not transfer any funds under subsection (a) of Section 14 of the act that was introduced as Senate Bill 21 of the 1st Extraordinary Session of 2006 or subsection (a) of Section 14 of the act introduced as House Bill 1023 of the 1st Extraordinary Session of 2006, but the positions authorized in Section 3 and the appropriation in Section 4 of the act introduced as Senate Bill 21 of the 1st Extraordinary Session of 2006 and the positions authorized in Section 3 and the appropriation in Section 4 of House Bill 1023 of the 1st Extraordinary Session of 2006 shall be effective and funded as set forth in subdivision (a)(1) of this section.

SECTION 3. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Supreme Court declared the public school funding system to be inadequate and that the public schools are operating under a constitutional infirmity which must be corrected immediately; and that to correct the constitutional infirmity opportunities for an adequate education should be enhanced by improving professional development options for school districts and certified personnel. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the

expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

AND

If appropriate, renumber the remaining sections of the bill

/s/Jim Argue

The Amendment was read and the vote was as follows:

AFFIRMATIVE: Abernathy, Adams, Berry, Blair, Blount, Bolin, Bond, Borhauer, Boyd, Bradford, Bright, Burris, Chesterfield, Clemons, Cook, Cowling, Creekmore, Dangeau, Davenport, Davis, Dickinson, Edwards, Elliott, D. Evans, Everett, Fite, George, Goss, Hardy, Harrelson, Jackson, Jeffrey, D. Johnson, J. Johnson, Kenney, Kidd, Ledbetter, Mack, Maloch, J. Martin, Maxwell, McDaniel, Overbey, Pate, Petrus, Pickett, Prater, Rainey, Rankin, Reep, Roebuck, Rogers, Saunders, Scroggin, L. Smith, Sullivan, Thomason, Thompson, Thyer, Verkamp, Walters, Willis, Wills, Wood, Mr. Speaker.

Total66

NEGATIVE: Adcock, Anderson, Childers, Cooper, Dunn, Green, Harris, Key, Mathis, Medley, Nichols, Pace, Pritchard, Rosenbaum, Sample, Schulte, Wells, Wyatt.

Total18

ABSENT OR NOT VOTING: L. Evans, Glidewell, Hardwick, J. Hutchinson, T. Hutchinson, Lamoureux, Lewellen, Mahony, M. Martin, Matayo, Norton, Ormond, Pyle, Ragland, Sumpter.

Total15

VOTING PRESENT: Flowers.

Total1

Total number of votes cast85

Total number voting in the affirmative66

Necessary to concur in the amendment.....51

So the Amendment was concurred in.

There being an Emergency Clause attached to **AMENDMENT NO. 2 TO HOUSE BILL NO. 1012**, the Speaker ordered the clerk to call the roll upon the adoption of the Emergency Clause. The vote was as follows:

EMERGENCY CLAUSE

AFFIRMATIVE: Abernathy, Adams, Anderson, Berry, Blair, Blount, Bolin, Bond, Borhauer, Boyd, Bradford, Bright, Burris, Chesterfield, Childers, Clemons, Cook, Cowling, Creekmore, Dangeau, Davenport, Davis, Dickinson, Edwards, Elliott, D. Evans, Fite, George, Goss, Hardy, Harrelson, J. Hutchinson, Jackson, Jeffrey, D. Johnson, J. Johnson, Kenney, Kidd, Ledbetter, Mack, Maloch, J. Martin, Maxwell, McDaniel, Norton, Overbey, Pace, Pate, Petrus, Pickett, Prater, Rainey, Rankin, Reep, Roebuck, Saunders, Scroggin, L. Smith, Sullivan, Thomason, Thompson, Thyer, Verkamp, Walters, Willis, Wills, Wood, Mr. Speaker.

Total69

NEGATIVE: Adcock, Cooper, Dunn, Flowers, Glidewell, Green, Harris, T. Hutchinson, Key, Matayo, Mathis, Medley, Nichols, Pritchard, Rogers, Sample, Schulte, Wells, Wyatt.

Total19

ABSENT OR NOT VOTING: L. Evans, Hardwick, Lamoureux, Lewellen, Mahony, M. Martin, Ormond, Pyle, Ragland, Rosenbaum, Sumpter.

Total11

VOTING PRESENT: Everett.

Total1

Total number of votes cast89

Total number voting in the affirmative69

Necessary to the adoption of the Emergency Clause67

So the Emergency Clause was adopted.

/s/ Ms. Jo Renshaw
Chief Clerk

SENATE CONCURRENT RESOLUTION NO. 5

BY SENATOR: ARGUE

Was read the first time, rules suspended, read the second time, rules suspended, read the third time without objection, the question being shall the Resolution be adopted.

State of Arkansas

85th General Assembly

First Extraordinary Session, 2006

SCR 5

By: Senator Argue

SENATE CONCURRENT RESOLUTION

TO PROVIDE FOR RECESS OF THE FIRST EXTRAORDINARY SESSION OF THE EIGHTY-FIFTH GENERAL ASSEMBLY AT THE CLOSE OF BUSINESS ON APRIL 7, 2006; TO PROVIDE THAT THE SESSION SHALL BE ADJOURNED SINE DIE AT 12:00 NOON ON MAY 1, 2006 UNLESS THE PRESIDENT PRO TEMPORE OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, BY JOINT PROCLAMATION MAY RECONVENE THE GENERAL ASSEMBLY BEFORE 12:00 NOON ON MAY 1, 2006 FOR THE PURPOSE OF CONSIDERING VETOES, CORRECTING ERRORS, OVERSIGHTS, OR OMISSIONS, AND TO CLARIFY OR OTHERWISE REVISE THOSE LAWS ENACTED PRIOR TO THE RECESS, AND TO COMPLETE ACTION ON ANY AND ALL OTHER MATTERS INCLUDED IN THE GOVERNOR'S PROCLAMATION CALLING THE FIRST EXTRAORDINARY SESSION OF THE EIGHTY-FIFTY GENERAL ASSEMBLY OR ADJOURN THE FIRST EXTRAORDINARY SESSION OF THE EIGHTY-FIFTH GENERAL ASSEMBLY AT ANY TIME BEFORE THAT DATE IF THEY DETERMINE THAT THERE IS NO NEED TO RECONVENE.

Subtitle

TO PROVIDE FOR A RECESS OF THE GENERAL ASSEMBLY ON APRIL 7, 2006, UNTIL MAY 1, 2006 AND FOR ADJOURNMENT SINE DIE ON THAT DATE, EXCEPT AS MAY BE OTHERWISE

PROVIDED BY THE SPEAKER AND THE
PRESIDENT PRO TEMPORE.

NOW THEREFORE,
BE IT RESOLVED BY THE SENATE OF THE EIGHTY-FIFTH GENERAL ASSEMBLY OF THE
STATE OF ARKANSAS, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the First Extraordinary Session of the Eighty-Fifth General
Assembly of the State of Arkansas shall recess at the close of business on
April 7, 2006, until 12:00 Noon on May 1, 2006, at which time it is adjourned
sine die unless the President Pro Tempore of the Senate and the Speaker of
the House of Representatives, by joint proclamation:

- (1) Reconvene the General Assembly at a time before 12:00 Noon, May 1,
2006, for the purpose of considering vetoes, correcting errors, oversights,
or omissions, and to clarify or otherwise revise those laws enacted prior to
the recess, and to complete action on any and all other matters included in
the Governor's proclamation calling the First Extraordinary Session of the
Eighty-Fifth General Assembly; or
- (2) Adjourn the First Extraordinary Session of the Eighty-Fifth
General Assembly at any time before that date if they determine it is not
necessary to reconvene.

The vote was as follows:

AFFIRMATIVE: Abernathy, Adams, Adcock, Anderson, Berry, Blair, Blount, Bolin, Bond, Borhauer, Boyd, Bradford, Burris, Chesterfield, Childers, Clemons, Cook, Cooper, Cowling, Creekmore, Dangeau, Davis, Dickinson, Dunn, Edwards, Elliott, D. Evans, Everett, Fite, Flowers, George, Goss, Green, Hardy, Harrelson, Harris, J. Hutchinson, T. Hutchinson, Jackson, Jeffrey, D. Johnson, J. Johnson, Kenney, Key, Kidd, Ledbetter, Mack, Mahony, Maloch, J. Martin, Matayo, Maxwell, McDaniel, Medley, Nichols, Ormond, Overbey, Pace, Pate, Petrus, Pickett, Prater, Pritchard, Ragland, Rainey, Rankin, Reep, Roebuck, Rogers, Rosenbaum, Sample, Schulte, Scroggin, L. Smith, Sullivan, Thomason, Thompson, Thyer, Verkamp, Walters, Wells, Willis, Wills, Wood, Mr. Speaker.

Total86

NEGATIVE:

Total0

ABSENT OR NOT VOTING: Bright, Davenport, L. Evans, Glidewell, Hardwick, Lamoureux, Lewellen, M. Martin, Mathis, Norton, Pyle, Saunders, Sumpter, Wyatt.

Total14

VOTING PRESENT:

Total0

Total number of votes cast86

Total number voting in the affirmative86

Necessary to concur in the resolution51

So the Resolution was concurred in.

***** EXPUNGED*****04/07/06*****

Upon motion of Representative Elliott, SENATE CONCURRENT RESOLUTION NO. 1 was placed back on second reading for the purpose of amendment.

AMENDMENT NO. 1 TO SENATE CONCURRENT RESOLUTION NO. 1

Amend SENATE CONCURRENT RESOLUTION NO. 1

/s/ Joyce Elliott

The Amendment was read and adopted by more than 51 votes.

/s/ Ms. Jo Renshaw
Chief Clerk

***** EXPUNGED*****04/07/06*****

Representative Elliott moved that the record by which SENATE CONCURRENT RESOLUTION NO. 1 AMENDMENT # 1 adopted be expunged from the record, which motion prevailed by more than 67 votes.

Upon motion of Representative Elliott the rules were suspended and **SENATE CONCURRENT RESOLUTION NO. 1** was placed back on third reading.

Representative Mahony moved for the passage of **SENATE CONCURRENT RESOLUTION NO. 1**, and it be placed in the journal along with the accompanying Adequacy Report.

SENATE CONCURRENT RESOLUTION NO. 1

BY SENATOR: ARGUE

SENATE CONCURRENT RESOLUTION NO. 1 was placed on third reading, the question being shall the Resolution be concurred in. The vote was as follows:

AFFIRMATIVE: Abernathy, Adams, Anderson, Berry, Blair, Blount, Bolin, Bond, Borhauer, Boyd, Bradford, Bright, Burris, Chesterfield, Childers, Clemons, Cook, Cooper, Cowling, Creekmore, Dangeau, Davenport, Davis, Dickinson, Dunn, Edwards, Elliott, D. Evans, Everett, Fite, George, Glidewell, Goss, Green, Hardy, Harrelson, Harris, J. Hutchinson, T. Hutchinson, Jackson, Jeffrey, D. Johnson, J. Johnson, Kenney, Kidd, Ledbetter, Mack, Mahony, Maloch, J. Martin, Matayo, Mathis, Maxwell, McDaniel, Medley, Nichols, Norton, Ormond, Overbey, Pace, Pate, Petrus, Pickett, Prater, Pritchard, Ragland, Rainey, Rankin, Reep, Roebuck, Rogers, Rosenbaum, Sample, Saunders, Schulte, L. Smith, Sullivan, Thomason, Thompson, Thyer, Verkamp, Walters, Wells, Willis, Wills, Wood, Wyatt.

Total88

NEGATIVE:

Total0

ABSENT OR NOT VOTING: Adcock, L. Evans, Hardwick, Key, Lamoureux, Lewellen, M. Martin, Pyle, Scroggin, Sumpter, Mr. Speaker.

Total11

VOTING PRESENT: Flowers.

Total1

Total number of votes cast89

Total number voting in the affirmative88

Necessary to concur in the resolution51

So the Resolution was concurred in.

**A Report Responding to
the December 15, 2005, Opinion
of the Arkansas Supreme Court in *Lake View***

**Final Report and Recommendations of the
85th General Assembly**



Revised and adopted on April 7, 2006, by the
85th General Assembly meeting in the
First Extraordinary Session of 2005

A Summary of the Report Responding to
the December 15, 2005, Opinion
of the Arkansas Supreme Court in *Lake View*

Operation & Instruction

Issue	Committees' Findings for Operation & Instruction	Committees' Recommendations	New Funding
<i>1. Foundation Funding</i>			
FY 05-06	Increase foundation funding for the 2005-2006 school year due to increases in operational costs, including teachers' salaries and items included in the carry forward. <i>(See Chart "B", Inflation Adjustment Calculation)</i>	Revise law	\$38,700,000
FY 06-07	Increase foundation funding for the 2006-2007 school year due to increases in operational costs, including teachers' salaries and items included in the carry forward. <i>(See Chart "B", Inflation Adjustment Calculation)</i>	Revise law	\$55,600,000
Adjustments	Adjust the increased foundation funding amounts as a result of more accuracy in operational costs and consider the impact of the extra \$44 per student added to the matrix amount.	Revise foundation funding as necessary	
98% Collection Rate	Adopt a statewide set of instructions to establish uniformity in reporting requirements for each county.	Revise law	\$0
Declining Enrollment	School districts already have a one-year "cushion" to address budgetary issues related to declining enrollment. Additional funding should be provided for the 2006-2007 school year until further study can be conducted.	Revise law and refer to the ongoing Adequacy Update Study for further consideration by the 86t	\$10,000,000
Isolated Schools	Fully fund special needs isolated funding under Ark. Code Ann. § 6-20-604 to provide alternative funding assistance to school districts with both declining enrollment and isolated schools.	Revise law	\$3,000,000
"Double Whammy"	The reduction in funding for school districts that lose students does not create an unfair double loss in funding.	No change to current law	\$0
<i>2. Categorical Funding</i>			
Biennium 05-07	Categorical funding should not be increased or decreased without further review.	Refer to the ongoing Adequacy Update Study for further consideration by the 86th General Assembly	\$0
NSLA	A. Allow NSLA funds to continue to be used for teacher salaries until June 30, 2007, to the extent they were being used for such purpose as of January 1, 2006. B. Change the NSLA funding to provide for increased accuracy and accountability associated with negative incentives realized from the current percentage-step formula. A smoothing method should be utilized in order to alter the large steps into more and smaller steps or, if possible, a fair and logical linear function should be derived.	A. Revise law B. Refer to the ongoing Adequacy Update Study for further consideration by the 86th General Assembly	\$0

Issue	Committees' Findings for Operation & Instruction	Committees' Recommendations	New Funding
ALE	Include start-up money or current year funding for students in alternative learning environments for school districts without sufficient resources to start programs.	Refer to the ongoing Adequacy Update Study for further consideration by the 86th General Assembly	\$0
Professional Development FY 06-07	The Department of Education's leadership role in professional development should be strengthened by providing the department with additional resources to enhance professional development programs and add new employees with high levels of expertise in professional development.	Enact law	\$0
Fund Balances	Develop more detailed, uniform reporting requirements for fund balances.	Enact law	\$0
Accounting	Fund \$500,000 for professional assistance and advice for a one-time study to determine how to upgrade financial reporting systems so that school districts can provide crucial information to the General Assembly more promptly.	Enact law	\$ 500,000
<i>3. Funding Education First</i>			
Act 108 of 2nd Extraordinary Session of 2003	Act 108 provides an appropriate mechanism to ensure that education is funded first as provided by law.	No change to current law	\$0
<i>4. Teacher Salaries</i>			
Minimum Salary Schedule	The minimum teacher salary schedule should be increased by the index percentage applied to the foundation funding matrix when the foundation funding amount is increased.	Revise law and continue approach to increasing the minimum teacher salary schedule adopted in the 2005 Regular Session	\$0
Educational Excellence Trust Fund	Changes in the allowable uses of the Educational Excellence Trust Fund should not be considered without further review.	Refer to the ongoing Adequacy Update Study for further consideration by the 86th General Assembly	\$0
Superintendent Contracts	Require uniform superintendent contracts statewide to have a provision to allow terminations for cause.	Refer to the ongoing Adequacy Update Study for further consideration by the 86th General Assembly	\$0
Stipends and Supplemental Pay	Require parity in stipends and supplemental pay among certified school employees.	Refer to the ongoing Adequacy Update Study for further consideration by the 86th General Assembly	\$0
<i>5. Health Insurance</i>			
Employer Contributions	Remove the foundation funding portion that funds the employer contributions for school employee health insurance and transfer that obligation to the state.	Refer to the ongoing Adequacy Update Study for further consideration by the 86th General Assembly	\$0
Benefits Equal	Require parity in benefits and employer contributions among school employees after completing a study of the impact on classified employees.	Enact law	\$0

Issue	Committees' Findings for Operation & Instruction	Committees' Recommendations	New Funding
	The study is to be completed prior to a special session.		
<i>6. Unfunded Mandates</i>			
Retirement FY 05-06	The increase from 13% to 14% in the retirement contribution rate for school employees beginning July 1, 2005, created a need for additional funding for 2005-2006.	Foundation funding amount increased by \$42 per student to provide additional funding for teacher retirement contributions	\$19,100,000
Retirement FY 06-07	The increase from 13% to 14% in the retirement contribution rate for school employees beginning July 1, 2005 will create a need for additional funding for 2006-2007.	Foundation funding amount increased by \$42 per student to provide additional funding for teacher retirement contributions	\$19,100,000
Repeal Increase to Retirement FY 06-07	The authority of the Arkansas Teacher Retirement System to increase the contribution rate to 15% effective July 1, 2006 should be repealed preventing another \$19,100,000 increase in FY 2006-2007.	Repeal law	\$0
Study Increases to Retirement	Any future increases to the teacher retirement contribution rate or grants of additional authority to the system should not be considered without further review.	Refer for further study	\$0
Benefits Protection	The authority of the Arkansas Teacher Retirement System to reduce employee benefits should be repealed.	Refer for further study	\$0
Vision Screening	The requirement to conduct vision screenings for students creates a need for additional funding.	Additional funding needed	\$25,000
<i>OPERATION & INSTRUCTION - Total New Funding for 05-07 Biennium</i>			\$146,125,000

Facilities

Issue	Committee's Findings for Facilities	Committee Recommendations	Funding
<i>Facilities</i>			
Facilities Funding	Funding needs should continue to be reviewed and evaluated as the Division of Public School Academic Facilities and Transportation implements the Academic Facilities Master Plan Program and the Academic Facilities Partnership Program.	Refer to the Academic Facilities Oversight Committee for further consideration by the 86th General Assembly	\$0
Facilities Funding Sources	The Public School Academic Facilities Program and related funding sources are an integral part of the concept of "adequacy". However, the Educational Facilities Partnership Fund is not protected under "doomsday".	Revise law	\$0
Facilities Appropriations	The Bureau of Legislative Research should prepare a bill to authorize the transfer of unobligated balances in the General Improvement Fund to the Educational Facilities Partnership Fund Account for the Academic Facilities Partnership Program and for cost overruns in the Immediate Repair Program and Transitional Academic Facilities Program.	Revise law	0,000,000
9% Dedicated to Facilities Upkeep	The 9% of foundation funding currently dedicated to the upkeep of <i>only</i> academic facilities should be available for all facilities.	Revise law	\$0
Academic Facilities Wealth Index Formula	The possible parameters of a program to provide additional state facilities funding to school districts in extraordinary circumstances as defined by the General Assembly should be studied. The study should review and evaluate the impact of the academic facilities wealth index on all districts with a special emphasis on those with declining enrollment, districts with rapid growth, and districts above the ninety-fifth percentile on the wealth index. The study should consider various proposals to address the potential needs of school districts that might face extraordinary circumstances, including:		\$0
	Establishing an Academic Facilities Extraordinary Circumstances Revolving Loan Fund. (1) If a school district cannot meet commission-certified facilities needs with the available mills below the cap, the school district can receive a revolving loan. (2) If a school district cannot meet its commission-certified facilities needs with a combination of state financial participation based on the academic facilities wealth index and local resources, including the revenues from at least _____ * actual debt mills approved by local voters, then the school district would be eligible to borrow interest-free from the loan fund. A mechanism would be created to provide for repayment when the revenue raised by at least _____ * actual debt mills provides more revenue than is needed to make debt service payments.	A. Develop proposed legislation and refer to the Academic Facilities Oversight Committee for further consideration by the 86th General Assembly	

Issue	Committee's Findings for Facilities	Committee Recommendations	New Funding
	<p>* This language was approved by the committees but no specific determination regarding the number of debt mills was made.</p> <p>Conditioning the transfer of additional state funds on the school district's willingness to put itself under voluntary fiscal or facilities distress.</p> <p>Other proposals presented by Bureau of Legislative Research staff based on research of similar programs in other states.</p>	<p>B. Develop proposed legislation and refer to the Academic Facilities Oversight Committee for further consideration by the 86th General Assembly</p> <p>C. Develop proposed legislation and refer to the Academic Facilities Oversight Committee for further consideration by the 86th General Assembly</p>	
Fund balances	The House Interim Committee on Education and the Senate Interim Committee on Education should study and define the various types of school district funds and explore options for the consideration of fund balances in the distribution of state aid to school districts.	Revise law and refer to the ongoing Adequacy Update Study for further consideration by the 86th General Assembly	\$0
Transportation costs	The use of statewide transportation fuel contracts should be studied as a cost-saving measure.	Refer to the Academic Facilities Oversight Committee for further consideration by the 86th General Assembly	\$0
Debt Service Funding	The new program of bonded debt assistance should continue to be monitored and evaluated in light of newly available state financial assistance to school districts for academic facilities.	Refer to the Academic Facilities Oversight Committee for further consideration by the 86th General Assembly	\$0
Facilities Funding for Growth Districts	The statutory cap on a school district's bonding capability should be eliminated if further communication with key bond rating agencies insures that the state's bond rating will not be affected by the change.	Possibly revise law	\$0
Facilities Program Administration	The Commission on Arkansas Public School Academic Facilities and Transportation should be continued beyond the current sunset date of July 1, 2007.	Revise law	\$0
<i>FACILITIES - Total New Funding Need for 05-07 Biennium</i>			0,000,000

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I. Introduction

On December 15, 2005, the Arkansas Supreme Court found that the public school funding system continues to be inadequate and that public schools are operating under a constitutional infirmity that must be corrected immediately.¹ The Court further found that the House Interim Committee on Education and the Senate Interim Committee on Education should conduct a review of the adequacy needs of public schools and make a report of its findings. The Court decided to stay the issuance of its mandate until December 1, 2006, to allow time for correction of the constitutional deficiencies.

To better understand the opinion of the Arkansas Supreme Court, it is important to understand the recent history of the *Lake View* case and the significance that the General Assembly and the Court have placed on defining and funding an adequate educational opportunity for each public school student in Arkansas. In the 2001 regular legislative session, the General Assembly began to re-examine the constitutionality of public school finance in Arkansas due to the ongoing litigation in the *Lake View* case, which was pending before Judge Collins Kilgore in Pulaski County Circuit Court. In that case, the plaintiff school districts challenged the constitutionality of the Arkansas system of public education. The 2001 regular legislative session adjourned on May 14, 2001, and on May 25, 2001, Judge Kilgore issued an order and found that the Arkansas system of public education was unconstitutional. This ruling was appealed by the state to the Arkansas Supreme Court.

On November 21, 2002, the Arkansas Supreme Court upheld Judge Kilgore's ruling, which declared the school finance system of Arkansas to be both inequitable and inadequate. The Court found that the state was not meeting its constitutional commitment to "maintain a general, suitable and efficient system of free public schools."² The Court held that as part of the remedy, the state must conduct a school finance adequacy study, pointing out that such a study had been requested in the Court's rulings beginning in 1994³ and again by Judge Kilgore in his 2001 ruling in this case.⁴

¹ Exhibit #1 *Lake View School District No. 25 v. Huckabee*, No. 01-836 (Arkansas Supreme Court, December 15, 2005).

² *Lake View School District No. 25 v. Huckabee*, 351 Ark. 31, 91 S.W.3d 472 (2002), cert den. sub. nom. *Wilson, J.L., et al. v. Huckabee, Gov. of Ark., et al.*, 538 U.S. ____ (2003) (Order of May 19 at 5).

³ Exhibit #2 *Lake View School District No. 25 v. Tucker*, No. 92-5318 (Pulaski County Chancery Court, November 9, 1994, as modified December 21, 1994).

⁴ Exhibit #3 *Lake View School District No. 25 v. Huckabee*, No. 92-5318 (Pulaski County Chancery Court, May 25, 2001).

During the 2003 regular legislative session, the General Assembly created the Joint Committee on Educational Adequacy for the purpose of conducting an adequacy study as suggested by the Arkansas Supreme Court. The Joint Committee on Educational Adequacy sought the advice and expertise of school funding experts Lawrence O. Picus and Associates⁵ and contracted with Picus to help the joint committee carry out its charge to conduct the adequacy study. The Joint Committee on Educational Adequacy together with Picus devoted four (4) months to the study and review of Arkansas school finance and adequacy issues to determine the definition and cost of an adequate education in Arkansas. The result of that work was presented in a September 1, 2003, report entitled *An Evidence-Based Approach to School Finance Adequacy in Arkansas*⁶ filed with the General Assembly and the Governor.

The 2003 Picus Report recommended an evidence-based approach for school funding that is designed to ensure that “the state’s school finance system provides sufficient funding for each school in the state to deploy powerful enough educational strategies so that all students can meet the state’s student performance goals in the next 10-15 years.”⁷ The evidence-based approach recommended by Picus:

[I]dentifies a set of ingredients that are required to deliver a comprehensive set of elements of a high quality instructional program, and then determines an adequate expenditure level by placing a price (an appropriate salary level) on each ingredient and aggregating to a total cost. This approach is more explicitly based on research and extant models of comprehensive school designs (e.g., Stringfield, Ross & Smith, 1996) rather than just the professional judgment of educators on the level of resources needed to meet a pre-determined performance goal (e.g., Odden, 2002a).⁸

The evidence-based approach recommended by Picus was for the most part adopted by the General Assembly, and it was combined with the goal to have all students performing at or above the proficiency level on the state’s student testing system. According to Picus, the method adopted by the General Assembly of defining school finance adequacy “is a complex and substantive definition. . . far beyond what was expected of ‘minimum’ foundation programs in the past. Today, school finance adequacy in Arkansas requires a more direct link between the

⁵ All future references to Lawrence O. Picus and Associates in this report shall be “Picus.”

⁶ Exhibit #4 Executive Summary of “An Evidence-Based Approach to School Finance Adequacy in Arkansas,” by Allan Odden, Lawrence O. Picus, and Mark Fermanich of Lawrence O. Picus and Associates. All future references to this document in this report shall be “2003 Picus Report.”

⁷ Exhibit #4 2003 Picus Report at 1.

⁸ Exhibit #4 2003 Picus Report at 14.

funding base and the educational strategies that have [the] potential to allow Arkansas' students to meet or exceed the state's established proficiency levels."⁹

The definition of educational adequacy is a dynamic, not a static, concept. In recognizing this, the Joint Committee on Educational Adequacy adopted a definition of "educational adequacy," and that definition served as a basis for identifying the funding required for adequate resources in both the 2003 Picus Report and this 2006 report. It should be noted that the definition of educational adequacy is consistent with the statutory language quoted by the Arkansas Supreme Court in the *Lake View* case.¹⁰ The joint committee's definition of "educational adequacy" is:

- ▶ The standards included in the state's curriculum frameworks, which define what all Arkansas students are to be taught;
- ▶ The standards included in the state's testing system. The goal is to have all, or all but the most severely disabled, students perform at or above proficiency on these tests; and
- ▶ Sufficient funding to provide adequate resources as identified by the General Assembly.¹¹

During the legislative sessions in 2003, 2004, and 2005, the General Assembly solidified the state's dedication to education by providing new funding for schools and a new method for distributing the funds. Furthermore, the General Assembly, as the constitutional policymaker for the state, accepted the responsibility for improving the education system in the state by examining each issue that was raised in the *Lake View* opinions, as well as additional issues raised by the Governor, Attorney General, Department of Education, school districts, and other interested parties and individuals. As a result of the legislative examination to determine how to provide an adequate education to the children and to otherwise improve the educational system, the General Assembly implemented the following reform measures:

- ▶ Increased teacher salaries;
- ▶ Made teacher salaries more equitable across the state;
- ▶ Developed and funded the first statewide plan to improve academic facilities;
- ▶ Standardized and improved curriculum requirements;
- ▶ Implemented school accountability measures;

⁹ Exhibit #4 2003 Picus Report at 1-2.

¹⁰ Exhibit #2 See *Lake View*, 351 Ark 31 at 57-58. See also Acts 1108 and 1307 of 1997.

¹¹ Exhibit #4 2003 Picus Report at 3.

- ▶ Improved the state standards for education; and
- ▶ Increased the state funding to school districts.

Beginning in February 2006, the House Interim Committee on Education and the Senate Interim Committee on Education (hereafter “the committees”) jointly held a series of public hearings to gather information and data regarding issues raised in the most recent proceedings before the Arkansas Supreme Court in the *Lake View* case that resulted in the Arkansas Supreme Court’s December 15, 2005, opinion. The committees were dedicated to thoroughly examining the data in a focused, meaningful, and inclusive forum¹².

The committees examined many specific issues that have historically impacted the quality of the public education system in the State of Arkansas, including:

- ▶ Reviewing the average teacher salary in the state in comparison to average teacher salaries in surrounding states and member states of the Southern Regional Education Board in an effort to gather the information necessary to make recommendations for changes to teacher salaries in the State of Arkansas established by law;
- ▶ Reviewing and evaluating the costs of an adequate education for all students in the state to make recommendations for any necessary changes;
- ▶ Reviewing and evaluating the amount of per-student expenditures based on the cost of an adequate education:
- ▶ Reviewing and monitoring the amount of funding provided by the state for an education system based on need and the amount necessary to provide an adequate educational system, not on the amount of funding available, to make recommendations for funding for the school years 2005-2006 and 2006-2007.

The committees heard extensive and detailed testimony regarding: disparities in teacher salaries; the high cost of public school employee health insurance; the General Assembly’s commitment to fund education first; academic facilities; foundation and categorical funding needs; fund balances and reserves; debt service funding; and other relevant and timely issues. Experts and officials of the following state agencies provided information, data, and other assistance to the committees:

¹² Exhibit #27 List of Documents Reviewed by the Committees.

- ▶ Department of Education: Dr. Ken James, Commissioner; Dr. Don Stewart, Deputy Commissioner; Mr. John Kunkel, Associate Commissioner; and Mr. Tristan Greene, Special Assistant to the Commissioner for Research and Policy;
- ▶ Office of the Attorney General: Mr. Tim Gauger, Deputy Attorney General;
- ▶ Bureau of Legislative Research: Mr. Ken Dick, Assistant Director of Fiscal Services; Mr. Richard Wilson, Assistant Director for Research Services; Mr. Kim Arnall, Administrator of Budget and Fiscal Services; Ms. Jerri Derlikowski, Administrator of the Policy Analysis and Research Division; Ms. Sara Israel, Administrator of Statutory and Regulatory Review; Ms. Kim Chavis, Chief Counsel; and Mr. Matthew Miller, Staff Attorney;
- ▶ Division of Legislative Audit: Mr. Charles Robinson, Director; Ms. Mitzi Ferguson, Deputy Legislative Auditor; and Mr. Tim Jones, Field Auditor;
- ▶ Assessment Coordination Department: Paige Kutait, Deputy Director;
- ▶ Department of Finance and Administration: Mr. Richard Weiss, Director; Mr. Mike Stormes, Administrator of the Office of Budget; Ms. Sharon Dickerson, Executive Director of the Employee Benefits Division; and Dr. John Shelnett, Administrator for Economic Analysis and Tax Research;
- ▶ Arkansas Teacher Retirement System: Mr. David Malone, Director; and
- ▶ Arkansas Department of Workforce Education.

The following members of the General Assembly, experts and state agencies provided information, data, and other assistance to the Academic Facilities Oversight Committee:

- ▶ Senator Shane Broadway, Co-Chair, Academic Facilities Oversight Committee;
- ▶ Representative Jodie Mahony, Member, Academic Facilities Oversight Committee;
- ▶ Mr. Kim Arnall, Administrator, Budget and Fiscal Review, Bureau of Legislative Research;
- ▶ Mr. Doug Eaton, Director, Division of Public School Academic Facilities and Transportation;
- ▶ Ms. Sara Israel, Administrator, Statutory and Regulatory Review, Bureau of Legislative Research;
- ▶ Dr. Don Stewart, Deputy Commissioner, Department of Education; and
- ▶ Mr. Mike Stormes, Administrator, Office of Budget, Department of Finance and Administration;
- ▶ Mr. Tristan Greene, Special Assistant to the Commissioner for Research and Policy, Department of Education; and

▶ Mr. Jeff Altemus, Chair, Custodial and Maintenance Committee, Task Force to the Joint Committee on Educational Facilities.

The hearings were open to the public with notice of the hearings provided more than two (2) weeks in advance. Every member of the General Assembly and the public were invited to attend and participate in the hearings. Any person wishing to present testimony at the hearings was afforded the opportunity to be heard. In response to the committees' requests for comments, the following organizations provided information to the committees:

Ad Hoc Superintendents Legislative Action Committee;
 Arkansas Association of Educational Administrators (AAEA);
 Arkansas Education Association (AEA);
 Arkansas PTA;
 Arkansas School Boards Association (ASBA);
 Arkansas State Board of Education, Mr. Ben Mays, Member;
 Booker Arts Magnet School, Little Rock School District, Ms. Amy Hallum, Teacher;
 Calico Rock, Ms. Karen Haley, Teacher and AEA member;
 Craighead County Schools Superintendents;
 Danville Public Schools, Mr. Jimmy Cunningham, Superintendent;
 Forrest City School District, Mr. Lee Vent, Superintendent;
 Fort Smith Public Schools, Dr. Benny Gooden, Superintendent;
 Hall High School, Little Rock School District, Ms. Jennifer Diggs, Teacher;
 Hamburg School District, Mr. Carlton Lawrence, Superintendent;
 Lafayette County School District, Dr. Winston F. Simpson, Superintendent;
 Monticello School District Mr. Norman Hill, Superintendent;
 Rogers Public Schools, Dr. Janie Darr, Superintendent;
 Texarkana School District, Dr. Paul Dee Human, Superintendent; and
 Western Arkansas Education Service Cooperative Mr. Harvie Nichols, Distance Learning Coordinator.

The committees reviewed laws and State Board of Education rules relevant to each issue, as well as the testimony of each school district official and other plaintiffs who were deposed or who testified in the *Lake View* hearings. The committees made diligent efforts to provide copies of all reports, summaries, laws, rules, written testimony, and other information to each member of the General Assembly and the public.¹³

¹³ Since 2003 or earlier, the legislative website www.arkleg.state.ar.us provides internet access to electronic versions of reports on education to the members of the General Assembly and the public.

On March 16, 2006, the House Interim Committee on Education and the Senate Interim Committee on Education adopted A Report on Legislative Hearings Responding to the December 15, 2005, Opinion of the Arkansas Supreme Court in *Lake View* – Final Report and Recommendations to the 85th General Assembly and submitted the report to the President Pro Tempore of the Senate and the Speaker of the House of Representatives. The General Assembly greatly appreciates the hard work and dedication of the Chairs and members of the House Interim Committee on Education, the Senate Interim Committee on Education, and the Academic Facilities Oversight Committee and other members of the legislature who actively participated in the hearings. The resulting report and recommendations have provided an outstanding foundation for deliberations in the development and passage of legislation pertaining to an adequate and equitable system of public education during the First Extraordinary Session of 2005. With great respect for the work of the committees, the General Assembly has made some revisions to the report to more accurately reflect the collective intent of the entire legislative body. The final report of the General Assembly is contained herein.

II. Discussion - Instructional and Operational Issues

1. *Foundation Funding*

The Public School Funding Act of 2003, Arkansas Code §§ 6-23-2301 - 6-23-2306, established the formula for public school funding. A key component of the funding formula adopted in the 2nd Extraordinary Session of 2003 is the establishment of the foundation funding requirements for school districts. Foundation funding means "an amount of money specified by the General Assembly for each school year to be expended by school districts for the provision of an adequate education for each student." The act also provides a method for providing state foundation funding aid which is the "difference between the foundation funding amount . . . and the sum of ninety-eight percent (98%) of the uniform rate of tax multiplied by the property assessment of the school district plus seventy-five percent (75%) of miscellaneous funds of the school district." Additional funding for categorical needs such as alternative learning environment (ALE) , English-language learners (ELL), students in poverty (NSLA), and professional development is included in the funding formula.

For the 2005-2007 biennium, the Public School Funding Act of 2003 provides:

Type of Funding	FY2005-2006 (Per FTE)	FY2006-2007 (Per FTE)
Foundation Funding	\$5,400	\$5,497
Foundation Funding Aid	Varies by District	Varies by District
ALE/Vocational Programs	\$3,250	\$3,250
English-language Learners	\$195	\$195
NSLA (3 levels of funding)		
(1) (90% or more)	\$1,440	\$1,440
(2) (70% to 89%)	\$960	\$960
(3) (below 70%)	\$480	\$480
Professional Development	\$50	\$50
Total state funding that may be available per FTE	\$10,335	\$10,432

The distinction between "foundation funding" and "state foundation funding aid" made by the General Assembly in the Public School Funding Act of 2003 is based on the Arkansas Supreme Court's ruling in the 2002 *Lake View* opinion. In its 2004 *Lake View* opinion, the Court further stated:

It is clear to this Court that in *DuPree*, we concentrated on expenditures made per pupil and whether that resulted in an equal educational opportunity as the touchstone for constitutionality, not on whether the revenues doled out by the state to the school districts were equal. We were clearly interested in *DuPree*, as we are here today, on what money is actually being spent on the students. (Emphasis added). That is the measuring rod for equality. Both Judge Imber in 1994 and Judge Kilgore in 2001 concluded that that was the case. Equalizing revenues simply does not resolve the problem of gross disparities in per-student spending among the school districts. It provides an educational floor of money made available to the school districts but in no way corrects the inherent disparity between a wealthy school district that can easily raise additional school funds for educational enhancement by passing millage increases far in excess of the 25 mill uniform rate

and poorer school districts that are only offering, as we said in *DuPree*, the "barest necessities." 279 Ark. at 347, 651 S.W.2d at 93. We agree that the focus for deciding equality must be on the actual expenditures. We affirm Judge Kilgore on this point.

Looking then to the end result of expenditures actually spent on school children in different school districts, we quickly discern inequality in educational opportunities. The deficiencies in Lake View and Holly Grove have already been noted. In both those districts, the curriculum offered is barebones. Contrast the curriculum in those school districts with the rich curriculum offered in the Fort Smith School District, where advanced courses are offered and where specialty courses such as German, fashion merchandising, and marketing are available. The inequality in educational opportunity is self-evident.

Recognizing that the people, through Article 14, § 3 of the Arkansas Constitution, have provided the first level of school funding through the collection of a uniform rate of ad valorem property taxes, the General Assembly has been given a new tool¹⁴ in the task of correcting the inherent disparity between a property-wealthy school district that can easily raise substantial funds through the uniform rate of tax (URT) and a less property-wealthy school district that can only raise the funds to offer, as said in *DuPree*, the "barest necessities."

This type of funding system directly addresses the issue raised in the Court's 2004 *Lake View* opinion. School districts receive foundation funding purely from two (2) separate and distinct state pools of money – the Uniform Tax Rate Trust Fund and the Public School Fund.¹⁵ Districts that receive higher amounts of funds from the Uniform Tax Rate Trust Fund will need less revenue from the Public School Fund to meet the foundation level set by the General Assembly. As a district receives more funds from the URT, less Public School Fund aid is needed for that school district to have sufficient resources to provide an adequate education. Therefore, as assessments increase throughout the state, some districts will need less aid from the Public School Fund in order to meet the foundation funding level. However, other districts might need more aid from the Public School Fund to meet the foundation funding level.

¹⁴ Section 3(b)(3) of Article 14 of the Arkansas Constitution: "[T]he uniform rate of tax shall be remitted to the State Treasurer and distributed by the state to the school districts as provided by law." Currently, the General Assembly has decided to return the net revenue from the uniform rate of tax to the school district from which the revenues were initially generated. See Arkansas Code § 26-80-101.

¹⁵ The Uniform Tax Rate Trust Fund is funded solely by the net revenues of the uniform rate of tax. The Public School Fund is funded from a variety of sources but primarily from state's general revenues, the Educational Excellence Trust Fund, and the Educational Adequacy Fund.

The measure of equity is not whether school districts receive more money from the state or even the same amount of money, but whether every school district has sufficient funds available to provide an adequate education.

A. Property Tax Collection Rates

The formula to determine the amount of state foundation funding aid assumes a ninety-eight percent (98%) collection rate as a method to provide a stable accounting mechanism for school funding. The committees requested assistance from the Division of Legislative Audit and the Assessment Coordination Department to review the assessment and collection of local taxes for the benefit of school districts. The Division of Legislative Audit and the Assessment Coordination Department were unable to provide accurate collection rate data to the committees because there currently is no statewide standardized reporting for the property tax delinquency rate. The Division of Legislative Audit and the Assessment Coordination Department determined that there are several conflicting items of the county tax settlements between counties and school districts that should be considered when comparing the amount of funds school districts receive to assessment rates.

The Division of Legislative Audit identified the following factors, the interpretation of which could have a significant impact on the criteria used in the calculation to distribute state foundation aid:

▶ "Property assessment," as used in the school funding formula, is not defined in Arkansas Code § 6-20-2305.

(1) The abstract of property assessment, submitted by the respective counties to the Department of Education by March 15 of each year and used in the calculation to distribute state foundation aid, should equal the total original property assessment on the county tax records. Actual tax collections are not based on the original property assessment but are based on an assessment adjusted for errors, additions, and other various tax credits occurring throughout the tax year.

(2) The abstract of property assessment should equal the total original property assessment, which includes prior year delinquent real estate. As a result of our preliminary work, we have observed that the original assessment on the county tax records, utilized in preparation of the abstract of property assessment, may or may not include prior year delinquent real estate assessments. Specific instructions

should be issued so as to ensure that prior year delinquent real estate assessments are included on the abstract of property assessment submitted to the Department of Education.

► Tax collections as a result of “property assessment” can be recognized at various stages in the collection process.

- (1) Before-collection expenses;
- (2) After-collection expenses;
- (3) Before-collection expenses including delinquent taxes;
- (4) After-collection expenses including delinquent taxes; or
- (5) Pre- or post-property tax relief.¹⁶

The Assessment Coordination Department identified the following as conflicting items:

- (1) Final tax settlement issues –
 - (a) Original charge might not match the Department of Education assessment rate, which is one of the drivers in the school funding formula;
 - (b) Open for collection March 1 after the assessment year;
 - (c) December 1 list of delinquent property delivered to collector; and
 - (d) Collections of delinquent taxes, penalties, and interest can continue from previous year collection into current year.
- (2) Commissions (Prorations) not included in the county collector’s original charge –
 - (a) Collector’s commission, Arkansas Code §§ 14-86-904 and 14-317-116 up to 2%;
 - (b) Clerk’s commission, Arkansas Code § 14-86-902 up to 2%; and
 - (c) Treasurer’s commission, Arkansas Code § 6-20-221 up to 4%.
- (3) Exemptions not included in the collector’s original charge but are assessed –
 - (a) Disabled Veterans; and
 - (b) Non producing minerals < \$2.40.
- (4) Adjustments not included in the original charge or the assessed value of the funding formula –

¹⁶ Exhibit #6 02/22/2006 FF-LTCR-DLA-TJ-1. Prepared testimony of Tim Jones, Field Auditor, Division of Legislative Audit.

- (a) Added real and personal assessments;
 - (b) Errors and credits;
 - (c) Redeemed property;
 - (d) Delinquents - current, not received;
 - (e) Delinquents - previous year received in current year; and
 - (f) Late payments penalties.
- (5) Fees extracted after the original charge or the assessed value of the funding formula –
- (a) Assessor's salary and expenses. This amount varies from county to county depending on in-house or contracted reappraisal;
 - (b) Assessor's cost for real and personal collections on delinquents (advertising) are fifty cents (50¢) on each delinquent parcel; and
 - (c) County Equalization Board salaries vary by county. Several variables might have an effect on this amount.
- (6) Other things to be considered in the original charge and assessed value of the funding formula –
- (a) Many times the October 10 delinquents are considerably different from the December 31 collection rate;
 - (b) Proration percentages of original charge vary from county to county. Large counties generally have smaller proration percentages of their original charge; and
 - (c) County tax collection is based on a calendar year, and the school funds received are based on a fiscal year.

B. Gains and Losses In Students

(1) Declining Enrollment

The House Interim Committee on Education and the Senate Interim Committee on Education considered issues related to declining enrollment during hearings conducted in February and March, 2006. Generally speaking, when there is a significant reduction in the number of students, there should be a corresponding reduction in expenses and resources. However, the General Assembly notes that the loss of one (1) student does not necessarily correlate into the reduction of a teaching position. By the same token, the addition of one (1) student does not necessarily correlate into the addition of a teacher. Because foundation funding is based upon the *previous* year's three-quarter average daily membership, a school district with fewer students in the current year than the district had in the previous year still receives funding based on the *previous* year's three-quarter average daily

membership. So, for one (1) year, a school district with declining enrollment is actually being funded for students no longer enrolled in the district. This one-year offset or "cushion" for declining enrollment has been part of the Arkansas funding system for years. The cushion allows school districts to have one (1) year to plan and implement reductions in expenditures necessary to correlate to the reduction in students.

The Special Masters' Report to the Supreme Court of Arkansas raised concerns about the impact of the current formula for state foundation funding aid on school districts with declining enrollment. The Special Masters found that, when a school district loses students, the assessed property valuation per student often increases resulting in an emphasis on the URT component of the foundation funding formula and a corresponding decrease in the amount of state foundation funding aid received by the district. The Special Masters stated that this decrease in the amount of state foundation funding aid exacerbates problems stemming from local tax collection rates that are sometimes less than the ninety-eight percent (98%) collection rate upon which the foundation funding formula is based.

However, the General Assembly finds that the amount of the foundation funding received by the district on a per student basis is unchanged by this phenomenon. The problem school districts actually face is that there is no direct correlation between a reduction in students and a school district's ability to reduce expenses; therefore additional time to transition may benefit school districts facing the budgetary challenges associated with declining enrollment.

(2) Isolated Schools

The House Interim Committee on Education and the Senate Interim Committee on Education did not consider issues related to isolated schools during hearings conducted in February and March, 2006. However, the General Assembly finds that school districts with isolated schools often have declining enrollment or face difficulties consistently providing an opportunity for an adequate education with currently available resources.

C. Inflation Adjustment

The details and calculations supporting the committee recommendation associated with the inflationary adjustment to foundation funding are reflected below in "Chart B".

CHART "B"

Inflation Adjustment Calculation

5400 MODEL -- Year 1 -- FY06

Payroll-Related Components	\$3561 - \$12* =	\$3549 @ 1.0330
= \$3666		
(less insurance benefits)		

Technology	\$ 252	\$ 252 @ 0.8565 = \$
216		

Instructional Materials	\$ 252	\$ 252 @ 1.0275
= \$ 259		

Carry Forward	\$1161	\$1161 @ 1.0160
= \$1180		

Substitutes Teachers (adjusted)	<u>\$ 174</u> - \$ 9* =	\$ 165 @ 1.0000
= <u>\$ 165</u>		
& Insurance Benefits		

Totals	\$5400	\$5486
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Difference = \$86 (X ADM of 450,235) =
\$38.7 million

5400 MODEL -- Year 2 -- FY07

Payroll-Related Components	\$3666 @ 1.0355
= \$3796	
(without insurance benefits)	

Technology \$ 216 @ 0.8565 = \$
 185

Instructional Materials \$ 259 @ 1.0340
 = \$ 268

Carry Forward \$1180 @ 1.0220
 = \$1206

Substitute Teachers (adjusted) \$ 165 @ 1.0000
 = \$ 165
 & Insurance Benefits

Totals	\$5486	\$5620
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Difference = \$134 - \$97** = \$37 (X ADM of 456,869) = \$16.9
 million

Thus, the Year 2 total funding requirement is = \$55.6
 million

Both years = \$38.7 + \$55.6 = \$94.3 million

*reductions in "Teacher Continuing Education Pay" and "Substitutes" associated with matrix corrections

**the 85th General Assembly authorized \$97 per ADM estimated at 453,035

2. *Categorical Funding*

The terms "additional education categories" or "categorical funding" refer to the funds distributed to school districts under specific-purpose funding formulas for alternative learning environment (ALE), English-language learners (ELL), National School Lunch Act (NSLA) students, and professional development programs.

A. *Alternative Learning Environment (ALE)*

An alternative learning environment is a student intervention program that seeks to eliminate traditional barriers to learning for students. Every school district must establish an alternative learning environment that affords its students an environment conducive to learning. The alternative learning environment may be established by more than one (1) school district or may be operated by a public school educational cooperative. An alternative class or school should provide for:

- ▶ Student assessment either before or upon entry into the class or school; and
- ▶ Intervention services, which means activities within or outside a school that will eliminate traditional barriers to learning and that are designed to address the specific educational needs of individual students.

A student assigned to an alternative class or school for behavioral reasons must receive intervention services designed to address the student's behavioral problems. Such intervention services shall not be punitive in nature but must be designed for long-term improvement of the student's ability to control his or her behavior. No less than one (1) time every three (3) years, the Department of Education monitors each school district or cooperative to ensure that alternative learning environments have been established, are conducive to learning, and are providing intervention services designed to address the individual needs of students.

Under the Public School Funding Act of 2003, categorical funding in the amount of \$3,250 is provided for each student in an alternative learning environment. The rules of the State Board of Education specify not only which alternative learning environment programs qualify for funding, but also the characteristics of students who qualify for funding because they have been placed in an alternative learning environment program. Students in alternative learning environments are funded based on the previous year's number of full-time equivalent students in the program. A student in an alternative learning environment must be in the alternative learning environment program at least twenty (20) days to be eligible for funding. Current law

does not have an adjustment for growth in the number of students in alternative learning environments during a school year.

B. English-language Learners (ELL)

English-language learners are students identified by the State Board of Education as not proficient in the English language based upon approved English proficiency assessment instruments administered annually in the fall of each school year. These assessments measure verbal, reading, and writing proficiency. Under the Public School Funding Act of 2003, categorical funding in the amount of \$195 is provided for each student identified as an English-language learner.

During the *Lake View* hearings in 2005, there was much discussion about the sufficiency of funding for students identified as English-language learners and the practice of using National School Lunch Act (NSLA) funds to supplement English-language learner funding. In the 2003 Picus Report, a limited add-on for English-language learner students was recommended because research indicated that NSLA funding would meet the needs of most English-language learner students with the exception of having extra teachers to teach English as a second language. From its inception, the purpose of the English-language learner funding formula was to supplement NSLA funding for these students from a separate categorical source. The General Assembly never intended that English-language learner funding would be the sole source of funding for English-language learner programs. Funding for students identified as English-language learners is based on the number of students that the school district claims for the current year in Cycle 2 reporting.

C. National School Lunch Act (NSLA) Students

National School Lunch Act students are those students from low socioeconomic backgrounds as indicated by eligibility for free or reduced-price meals under the federal National School Lunch Act (NSLA) as determined on October 1 of each previous school year and submitted to the Department of Education, unless the school district is a Provision II school, as discussed below.

NSLA students receive state categorical funding based on eligibility for the federal free and reduced-priced meals program in the previous year. Use of the previous year's count for NSLA funding protects districts with declining enrollment from immediate reductions in program funds by providing a one-year "cushion." For school years 2005-2006 and 2006-2007, NSLA funding for each identified national school lunch act student was as follows:

- ▶ For school districts with ninety percent (90%) or greater NSLA students, funding is one thousand four hundred forty dollars (\$1,440) per student;
- ▶ For school districts with seventy percent (70%) to ninety percent (90%) NSLA students, funding is nine hundred sixty dollars (\$960) per student; and
- ▶ For school districts with less than seventy percent (70%) NSLA students, funding is four hundred eighty dollars (\$480) per student.

Additional NSLA student funding is provided to growing school districts if the school district has experienced a significant growth in enrolled students in the previous three (3) years. Additional funding is based on the school district's expected increase in the number of NSLA students.

The State Board of Education establishes by rule a list of approved programs and purposes for which NSLA funds may be expended. The Department of Education may direct that a school district expend available funds on specified programs. School districts are allowed to expend NSLA funds only on the approved programs or purposes, which include, but are not limited to:

- ▶ Classroom teachers, provided that the school district meets the minimum salary schedule in Arkansas Code § 6-17-2403 without using national school lunch students funds and that those teachers are used in conjunction with approved programs and purposes delineated for national school lunch students funds;
- ▶ Before-school academic programs and after-school academic programs, including transportation to and from the programs;
- ▶ Pre-kindergarten programs coordinated by the Department of Health and Human Services;
- ▶ Tutors, teacher's aides, counselors, social workers, nurses, and curriculum specialists;
- ▶ Parent education;
- ▶ Summer programs;
- ▶ Early intervention programs; and
- ▶ Materials, supplies, and equipment, including technology used in approved programs or for approved purposes.¹⁷

The practice of using national school lunch students funding for "across the board" teacher raises was discussed at the hearings. Based on the change in wording concerning the use of national school lunch students funding in Act 2283 of 2005, NSLA funds can be spent on classroom teachers if "those teachers are used for the

purposes delineated in subdivision (b)(4)"¹⁸ The Department of Education agreed that the current rules need to be revised to properly implement this intent. The General Assembly has determined that this practice should be allowed to continue for a limited time under limited circumstances while the issue continues to be studied.

D. Provision II Schools

Provision II schools participate in the special assistance certification and reimbursement alternative implemented under 42 U.S.C. § 1759a, as interpreted in 7 C.F.R. § 245.9. The special assistance certification and reimbursement alternative program allows a school to establish a base year for funding under the federal program thereby reducing the yearly recordkeeping and documentation requirements for the federal national school lunch program. In exchange for the reduction in recordkeeping and documentation, the school district provides free meals for one hundred percent (100%) of the students in the district.

For the 2004-2005 school year, the Provision II status allowed school districts to claim state NSLA funding for one hundred percent (100%) of the students in the district because the students were technically "eligible" for free lunches at the school district even though some of the students were not from low socioeconomic backgrounds. Because the state's NSLA funding was intended for students with low socioeconomic backgrounds, the Provision II anomaly resulted in an unintended distribution of poverty funds in 2004-2005 for students that did not qualify under the NSLA based on family income. It was never intended that poverty funding be provided in the same manner as funding for free and reduced-priced lunches provided by the federal government. According to "State Poverty-Based Education Funding: A Survey of Current Programs and Options for Improvement" (Center for Budget and Policy Priorities, November 7, 2002), thirty-eight (38) states distribute poverty-based education funds. Of the thirty-eight (38), twenty (20) states, including Arkansas, provide some or all of poverty funding based upon the number of students eligible for free or reduced-price meals. Ten (10) states use the number of free-lunch-eligible students only. Six (6) states rely on U.S. Bureau of Census poverty data, three (3) states use the number of children receiving Temporary Assistance for Needy Families (TANF) benefits, one (1) state uses food stamp program data, and a number of states have multiple programs that use different distribution calculations.

¹⁷ Exhibit #7 Arkansas Code § 6-20-2305(b)(4)(C)(i).

¹⁸ Exhibit #8 02152006 ACF-ADE-TG-11 Department of Education funding for poverty index and NSLA Provision II schools

Because in fiscal year 2004-2005, the Provision II school districts received funding for more students than their actual number of NSLA-eligible students, adjustments were made during the 2005 regular session to allow a Provision II school district to re-establish its base count for purposes of the federal national school lunch program.¹⁹ For fiscal year 2006, if a Provision II school district re-establishes its base count for purposes of the federal national school lunch program, then the Provision II school district was funded this year based on current year numbers and will be funded on previous year numbers in future years. In future years, Provision II school districts will be funded based on the percentage of enrolled students eligible for free and reduced-priced meals in their base count year times their October 1 enrollment count for the previous year.²⁰ This adjustment limited the impact of the revision to national school lunch students funding as it relates to Provision II schools.

Court records identified two (2) primary concerns related to Provision II schools:

First, the affected school districts were concerned with the reduction in funding that resulted from the legislative correction of an error that permitted overcounting of students for purposes of state NSLA funding for the 2004-2005 school year. Nine (9) school districts were affected by the changes enacted in 2005.²¹ The nine (9) affected school districts include: Blytheville, Brinkley, Dollarway, Eudora, Forrest City, Helena-West Helena, Lee County, Osceola, and Turrell. The impact on Blytheville was \$356,160 or eight percent (8%) of its total 04-05 NSLA funding. Further, Blytheville had \$1,846,902 of \$4,489,920 or forty-one percent (41%) unused in its NSLA fund account at the end of the 04-05 school year. The impact on Brinkley was \$69,120 or five percent (5%) of its total 04-05 NSLA funding. Brinkley had \$507,803 of \$1,366,560 or thirty-seven percent (37%) unused in its NSLA fund account at the end of the 04-05 school year. The impact on Dollarway was \$20,160 or less than one percent (1%) of its total 04-05 NSLA funding. Dollarway had \$478,487 of \$2,201,760 or twenty-two percent (22%) unused in its NSLA fund account at the end of 04-05 school year. The impact on Eudora was \$13,440 or one and one-half percent (1.5%) of its total 04-05 NSLA funding. Eudora did not show an unused balance in its NSLA fund account. The impact on Forrest City was \$ 227,520 or four percent (4%) of its total 04-05 NSLA funding. Forrest City had

Arkansas Code §§ 6-20-2303 and 6-20-2305.

¹⁹ Arkansas Code § 6-20-2303(12). See Exhibit #8 02152006 ACF-ADE-TG-11 Department of Education funding for poverty index and NSLA Provision II schools, Arkansas Code §§ 6-20-2303 and 6-20-2305.

²⁰ Exhibit #8 02152006 ACF-ADE-TG-11 Department of Education funding for poverty index and NSLA Provision II schools, Arkansas Code §§ 6-20-2303 and 6-20-2305.

²¹ Exhibit #8 02152006 ACF-ADE-TG-11 Department of Education funding for poverty index and NSLA Provision II schools, Arkansas Code §§ 6-20-2303 and 6-20-2305.

\$2,467,215 of \$5,549,760 or forty-five percent (45%) unused in its NSLA fund account at the end of the 04-05 school year. The impact on Helena-West Helena was \$1,628,160 or thirty-six percent (36%) of its total 04-05 NSLA funding. Helena-West Helena had \$200,000 of \$4,482,720 or almost five percent (5%) unused in its NSLA fund account at the end of the 04-05 school year. The impact on Lee County was \$741,120 or thirty-five percent (35%) of its total 04-05 NSLA funding. Lee County had \$773,973 of \$2,139,840 or thirty-six percent (36%) unused in its NSLA fund account at the end of 04-05 school year. The impact on Osceola was \$166,080 or seven percent (7%) of its total 04-05 NSLA funding. Osceola had \$1,500,499 of \$2,327,040 or sixty-five percent (65%) unused in its NSLA fund account at the end of the 04-05 school year. The impact on Turrell was about \$41,280 or eight percent (8%) of its total 04-05 NSLA funding. Turrell had \$428,977 of \$527,040 or eighty-one percent (81%) unused in its NSLA fund account at the end of the 04-05 school year. Four (4) Provision II school districts -- West Memphis, Hamburg, Dermott, and Lakeside -- were not impacted at all by the changes. The total impact of the changes in national school lunch students funding caused a \$3,222,720 reduction in the amount of national school lunch students funding projected for distribution in 2005-2006. This is less than two and two-tenths percent (2.2%) of the \$147,070,080 total distribution of national school lunch students funds in fiscal year 2005.²² The unused balances in the various NSLA fund accounts demonstrate that, on the whole, the school districts did not use the funds distributed; therefore, any reduction in those funds is not likely to cause hardship. Even so, Brinkley, Dollarway, Eudora, Osceola, and Turrell have applied for recertification under NSLA to minimize the effect of the statutory changes while Blytheville, Forrest City, Helen-West Helena, and Lee County have not made such application.

Second, the school districts were concerned that the change plus the loss of students has unfairly impacted poor districts. Actually, the districts received an unintended bonus in Fiscal Year 2004-2005 that was not recouped by the state. Also, districts are allowed to use the previous year's base count, which provides a one-year offset or "cushion" for declining enrollment. For one (1) year the districts are actually being funded for students they no longer have. This provides the opportunity for districts to make necessary expenditure adjustments.

E. Professional Development (PD)

²² Exhibit #9 02152006 ACF-ADE-TG-7 DOE Categorical report - English-language learners (ELL) FY05 and projected FY06.

Professional development is a coordinated set of planned learning activities for teachers, administrators, and classified employees that are standards-based and continuous. The purpose of professional development is to improve teaching and learning and to facilitate individual, school-wide, and system-wide improvements designed to ensure that all students demonstrate proficiency on state academic standards. Beginning with school year 2004-2005, each school district shall prepare a professional development plan. Professional development offerings may include approved conferences, workshops, institutes, individual learning, mentoring, peer-coaching, study groups, National Board for Professional Teaching Standards certification, distance learning, internships, and college or university course work.

Teachers and administrators are required to participate in sixty (60) hours of professional development each school year. Act 1185 of 2005 allows a teacher to earn up to twelve (12) hours of the required sixty (60) hours of professional development for time spent at the beginning of each school year planning and preparing a curriculum and other instructional materials for his or her assigned classes. Act 1183 of 2005 expanded professional development options by increasing the number of hours that a college course counts toward meeting professional development requirements. Act 2095 of 2005 reduced the professional development requirement related to Arkansas history by limiting the requirement to those actually teaching Arkansas history.

Arkansas Code § 6-17-707 creates the Arkansas Online Professional Development Initiative. Under the initiative, the Commissioner of Education shall identify teacher professional development needs in the state and prioritize the needs based on the areas of professional development most needed to improve academic and teaching knowledge and the skills of certified personnel. Based on the needs and priorities identified in the assessment, the commissioner is required to develop a statewide online professional development program that includes quality professional development courses that:

- ▶ Are aligned with the required focus areas identified in the State Board of Education rules governing professional development and the Arkansas Comprehensive Testing, Assessment, and Accountability Program;
- ▶ Are aligned with the clear, specific, and challenging academic content areas as established by the Department of Education under § 6-15-404;
- ▶ Are aligned with the state curriculum frameworks established by the Department of Education for each class level or subject area included in the respective professional development programs;

- ▶ Are research-based and available from sources with expertise in technology-delivered professional development courses;
- ▶ Are consistent with the Southern Regional Education Board Multi-State Online Professional Development Standards in existence on January 1, 2005;
- ▶ Focus on improving student academic achievement by improving a teacher's academic and teaching knowledge and skills; and
- ▶ Include an assessment at the end of the program designed to measure each certified person's level of understanding and ability to implement or apply the information presented in the program.

Under the Public School Funding Act of 2003, categorical funding in the amount of fifty dollars (\$50) per student is provided for professional development. Professional development funding is based on the district's prior year third-quarter average daily membership (ADM).

F. Funding Testimony

The committees received testimony in support of the amount of funding provided for NSLA students. Rogers School District reported "[I]t is the position of the Rogers School District that the amount of funding for NSLA amounts is appropriate for the next two years of the biennium. However, the amount of funding for ELL is significantly short." A broader perspective of categorical funding was provided by the Arkansas Education Association as follows:

[B]efore applying inflation adjustments for the categorical funding, the General Assembly should first address the question of whether the original levels of funding in the categories are adequate or perhaps more than adequate.

For the 2004-2005 school year, the Department of Education distributed the following amounts of money in each category:

National School Lunch Funds (NSLA):	\$147,070,080
Alternative Learning Environment Funds (ALE):	18,980,817
English-language Learner Funds (ELL):	3,434,340
Professional Development Funds (PD):	<u>22,335,694</u>
TOTAL	\$191,820,931

The Categorical Funds Ending Balance Report for Fiscal Year 2004-2005 shows that school districts did not spend \$40,607,421 of the NSLA funds, \$1,213,729 of the

ALE funds and \$5,118,919 of PD funds; district expenditures for ELL students were \$1,651,919 over the amount distributed for ELL programs. *Overall, \$45,288,785 or 23.6 percent of the categorical funds were unspent at the end of the 2004-2005 year.* [Emphasis added.]

Using the balance report as a guide to the adequacy of the funding, it would appear that funding for the NSLA, ALE, and PD categories was more than adequate and that there would not be a need to increase funds for those categories this year. Since expenditures for ELL programs exceeded the funding, that would appear to indicate that funding for this category was inadequate.

Before arriving at a conclusive answer to this question, it is appropriate to look at some other factors. The state does need to determine how these funds were spent by school districts and whether or not the expenditures are having a positive impact on student achievement in each category. It is also possible that some of the fund balances in these categories are a result of districts not rushing to spend money before determining the best use for the money. To the extent that this might be the case, the state needs to look at what plans, if any, districts have developed to utilize the categorical fund balances.

It is true that the categorical fund ending balances are not the same for all districts. However, only four school districts (Harrison, Midland, Ashdown and Little Rock) spent more than the combined totals of all their categorical funds, and only two of these (Midland and Little Rock) expended more than the funding in each of the four categories.

The Department of Education reports that school districts have resources available in fund balances or "reserves" at the end of the fiscal year. It appears that statewide fund balances increased by a total of \$112,222,134 following the influx of new funding provided during the 2nd Extraordinary Session of 2003 and the Regular Session of 2005. The balances from 2002 through 2005 are as follows:

FY	LEGAL BALANCE	% OF EXPEND	CAPITOL OUTLAY FUND	BUILDING FUND	TOTAL
2002-2003	\$514,719,882	19.95%	\$31,263,455	\$486,438,179	\$1,032,421,516

2003-2004	\$487,180,327	18.16%	\$29,740,590	\$512,017,442	\$1,028,938,359
2004-2005	\$572,906,585	18.50%	\$33,761,779	\$537,975,287	\$1,144,643,651
Change Since 2002-2003	\$58,186,702	11.29%	\$ 2,498,324	\$ 51,537,108	\$ 112,222,134

The Department of Education also reports that school districts have resources available in fund balances or "reserves" for the four (4) categorical funding areas. It appears that statewide a total of \$45,971,365 in available funds was not expended by the school districts on categorical needs following the influx of new funding provided during the 2nd Extraordinary Session of 2003 and the Regular Session of 2005. The balances in each area at the end of 2005 are as follows:

FY 2005	NSLA	ALE	ELL	PD	TOTAL
Beginning Balance.	-----	\$ 450,910	\$1,385,455	-----	\$ 1,836,365
State Revenues	\$147,070,080	\$18,980,817	\$3,674,392	\$22,335,694	\$192,060,983
Expenditures	\$96,932,623	\$23,458,780	\$11,371,417	\$16,728,101	\$148,490,921
Ending Balance	\$40,607,421	\$ 1,168,667	(\$1,016,637)	\$5,211,914	\$ 45,971,365
Projected 2005-2006	\$140,823,371	\$13,973,440	\$3,933,735	\$18,504,792	\$177,235,338

3. Funding Education First

Many laws are enacted by the General Assembly each session, some of which are appropriations. An appropriation, which is required under Article 16, § 12²³ and Article 5, § 29²⁴ of the Arkansas Constitution, authorizes the payment of funds out of the State Treasury.

²³ "No money shall be paid out of the treasury until the same shall have been appropriated by law; and then only in accordance with said appropriation."

²⁴ "No money shall be drawn from the treasury except in pursuance of specific appropriation made by law, the purpose of which shall be distinctly stated in the bill, and the maximum amount which may be drawn shall be specified in dollars and cents; and no appropriations shall be for a longer period than two years."

While some of the laws that are enacted do not require an appropriation and funding to be effective or operational, others do. Those laws that require an appropriation and funding to be effective or operational may or may not receive either.

Further, while some appropriations are enacted and funded, others are not. Since Article 16, § 1 prohibits the state from spending more money than it collects, an appropriation bill is only considered to be funded if the account from which it authorizes payment has sufficient funds to fulfill all or part of the appropriation. In almost all legislative sessions, the General Assembly will appropriate more than it expects to be spent during the biennium.

The mechanism that the General Assembly uses to prevent deficit spending of general revenues is the Official State Forecast of Revenues produced by the Department of Finance and Administration. The Revenue Stabilization Law, Arkansas Code § 19-5-101 *et seq.*, uses an allocation method to fund appropriations by prioritizing distributions. In each regular session, usually at the end of the session, the General Assembly adopts an amendment to the Revenue Stabilization Law²⁵ in which the priority for funding is set for the upcoming biennium.

Allocations with the highest priority for funding under the Revenue Stabilization Law are designated as “Category A” allocations. Category A allocations are codified at Arkansas Code §§ 19-5-402(a) and 19-5-404(a). These laws are amended during each regular session as discussed above. Category A allocations are a priority because they are funded first.

Allocations with the next highest priority for funding under the Revenue Stabilization Law are designated as “Category B” allocations. If there are any undistributed revenues left over when all of the Category A allocations are funded, then Category B allocations are funded next.

The lower priority allocations are designated as “Category C” allocations. Before Category C allocations are funded, all of the Category A and B allocations must be fully funded. Stated another way, Category C is only funded if all of the Category A and Category B allocations are fully funded and undistributed revenue still remains.

²⁵ The amendment to the Revenue Stabilization Law from the 2005 regular session is Act 2282 of 2005.

Mr. Mike Stormes, Administrator of the Office of Budget of the Department of Finance and Administration, reported to the committees that the funding for public schools in Arkansas comes from five (5) different sources including:

- (1) State General Revenue;
- (2) The Educational Excellence Trust Fund;
- (3) The Educational Adequacy Fund;
- (4) Federal Funds; and
- (5) The Uniform Rate of Property Tax (25 mills)²⁶.

During the 2nd Extraordinary Session of 2003, the General Assembly adopted Act 108²⁷, which established a fund in the State Treasury known as the "Educational Adequacy Fund" and defined the revenues to be credited to the fund. Act 108 also established the procedure for guaranteeing sufficient funding for an adequate educational system in the event that all sources of available revenue are not sufficient.

Specifically, Arkansas Code § 19-5-1227(d) provides that if all funding provided for the public school educational system, including the Educational Adequacy Fund, is not sufficient, then transfers will be made from the remaining fund and fund accounts within the Revenue Stabilization Law to the Department of Education Public School Fund Account. Then, each fund or fund account will be reduced proportionately as needed to provide sufficient funding for adequacy needs.

In order to provide sufficient funding for educational adequacy, the General Assembly made the unprecedented decision to create a mechanism that triggers a reduction in the general revenue allocated by the Revenue Stabilization Law to all other state agencies and programs receiving general revenue. Stated another way, the "doomsday" provisions of Act 108 are only effective if the Department of Education lacks sufficient funds to fully fund what the General Assembly has determined to be the amount necessary for an adequate education. Triggers for the "doomsday" provision include occurrences such as an unexpected economic downturn that changes the forecast of general revenues upon which the General Assembly relied during the fall budget hearings and the legislative session or other unanticipated factors that could give rise to a need for additional funding to ensure an adequate K-12 educational system.

²⁶Exhibit #11 02072006 FEF-DFA-MS-2. Act 108 Funding Mechanism.

²⁷ Exhibit #12 Arkansas Code § 19-5-1227.

Pulling all of the pieces together in a step-by-step overview, current education funding works as follows:

- ▶ Step 1: The General Assembly determines the funding needs necessary to provide an adequate education and sets the amount in law (i.e., foundation funding, categorical funding, and facilities funding).
- ▶ Step 2: The General Assembly authorizes appropriations from the Department of Education Public School Fund Account based on an amount of funds determined under Step 1. This amount is based on the previous year's student enrollment numbers and other evidence of need as established by the General Assembly and the Department of Education.
- ▶ Step 3: The General Assembly amends the Revenue Stabilization Law and authorizes allocations of general revenue to the various funds and fund accounts, such as the Department of Education Public School Fund Account.
- ▶ Step 4: As taxes are collected, the revenues are distributed into the various funds and fund accounts as prescribed by law.
- ▶ Step 5: The Department of Education distributes funding to school districts as determined by the General Assembly.
- ▶ Step 6: If there are insufficient funds available to the Department of Education to fully fund the amounts adopted by the General Assembly for educational adequacy, the Chief Fiscal Officer of the State may transfer any necessary additional funds from the Educational Adequacy Fund into the Department of Education Public School Fund Account and the Department of Education Fund Account.
- ▶ Step 7: If, after consideration of all revenues available to the Department of Education, the Chief Fiscal Officer of the State determines that sufficient funding is not available to provide school districts with the amount of funding needed to provide educational adequacy as provided by law, then the Chief Fiscal Officer of the State shall proportionately reduce the amount of state general revenue funding for all other state agencies until the education budget is fully funded.²⁸

The Director of the Department of Education and the Chief Fiscal Officer of the State have the duty to determine if there are not enough funds from all of these sources to fully fund educational adequacy before the "doomsday" provisions of Act 108 are triggered. To date, the "doomsday" provisions have not been triggered because there is sufficient funding in the Educational Adequacy Fund and the Department of Education Public School Fund Account to meet the funding level that the General

²⁸ Exhibit #13 02072006 FEF-DFA-MS-1. Funding Education First.

Assembly determined was necessary for foundation funding, categorical funding, and facilities needs currently estimated for the 2005-2007 biennium.

As to the timing of the enactment of legislation, the general rule is found in Arkansas Code § 1-2-207(b):

(b)(1) When more than one (1) act concerning the same subject matter is enacted by the General Assembly during the same session, whether or not specifically amending the same sections of the Arkansas Code or an uncodified act, all of the enactments shall be given effect except to the extent of irreconcilable conflicts in which case the conflicting provision of the last enactment shall prevail.

(2) The last enactment is the one which the Governor signed last or if the Governor does not sign one of the acts then the last enactment is the act which was last voted on by either house of the General Assembly. *Emphasis added.*

Under this general rule, it is the last enactment that has priority over earlier enactments. Furthermore, acts passed by the General Assembly early in the session can be amended by a later act.

This issue is mentioned because comments made during the *Lake View* proceedings, in the written opinion of the Arkansas Supreme Court, and in the testimony before these committees indicate that there are widespread misconceptions about the mechanics of the legal and fiscal operations of "funding education first." For example, in his deposition in the *Lake View* hearing, Mr. Lee Vent, Superintendent of the Forrest City School District stated, "It would help if one of the first bills passed during session was for the funding formula." Dr. Janie Darr, Superintendent of Rogers Public Schools, stated in her testimony to the committees, "If the amount of money necessary to provide an adequate education . . . is identified early on, appropriated, and thus set aside, the General Assembly will then know how much money remains. . . ."

Similar statements are found throughout the Court's and the committees' records. These statements indicate that there is an unfounded emphasis on the need for the General Assembly to adopt legislation to fund education early in the session instead of later. In fact the later act will prevail over the earlier act, and the earlier act can be amended later in the session.

State law gives funding for education a "super" priority status by providing that education will be the highest priority in Category A. If an economic downturn occurs

that causes all of the allocations in Category A to be under-funded, then education will receive funding at the expense of every other Category A allocation if adequacy needs cannot be met.

This means that in whatever month of the fiscal year that the Chief Fiscal Officer and the Commissioner of Education certify that an additional amount is necessary to meet educational adequacy, all of the fund and fund accounts in Category A, with the exception of the Public School Fund, will be reduced proportionately on a monthly basis. The amount of the reductions will be transferred to the Public School Fund. After fulfilling the total amount required to meet educational adequacy, then any remaining general revenues collected will continue to be distributed to the other general revenue fund accounts.

The emphasis and priority placed by the General Assembly on funding education first cannot be any higher or any more clear.

4. Teacher Salaries

Based on various reports, data, and testimony received by the committees, the average teacher salary in Arkansas ranks third when compared to the average salary in the six (6) surrounding states.²⁹ Arkansas' average teacher salary ranks eleventh among the sixteen (16) states represented by the Southern Regional Education Board.³⁰ This is an improvement from the SREB 2002-2003 comparison showing that teacher salaries in Arkansas ranked thirteenth, as well as an improvement from the SREB 2001-2002 comparison showing that teacher salaries in Arkansas ranked fourteenth³¹ among the SREB states. In comparison with SREB states, Arkansas' average teacher salary has improved, and this improvement has resulted in Arkansas teacher salaries being within \$508 of the SREB average.³²

The Annual Statistical Report (ASR) prepared by the Department of Education includes teacher salary information reported by Arkansas schools. The ASR provides the following information about actual teacher salaries for the 2004-2005 school year:

- ▶ The highest average teacher salary in a school district was \$53,491; and

²⁹ The six (6) surrounding states are Louisiana, Mississippi, Missouri, Oklahoma, Tennessee, and Texas.

³⁰ States participating in the Southern Regional Education Board (SREB) include Alabama, Arkansas, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia.

³¹ SREB comparison figures only involve states that participate in SREB.

▶ The lowest average teacher salary for a school district was \$30,092.

The Teacher Compensation Program of 2003³³, adopted by the General Assembly in the 2nd Extraordinary Session of 2003, requires the minimum starting salary for the 2005-2006 school year for a teacher with a bachelor's degree to be \$27,500. This figure represents a twenty-six percent (26%) increase in the minimum starting salary requirements which resulted in a increase of \$5,640 in the minimum starting salary. The minimum salary for each year of a teacher's experience translates into an increase from the minimum starting salary, based on the teacher's education and experience. In the 2005 regular session, the General Assembly increased the minimum teacher salary to \$27,994 for the 2006-2007 school year. This represents a continuation of the General Assembly's pursuit of improving the teacher salaries in Arkansas and improving Arkansas' rankings in the meaningful comparisons with surrounding states and SREB-participating states.

To determine if previous actions taken by the General Assembly have in fact caused a reduction in the salary disparity of teachers throughout the state, the committees reviewed a compilation of the teacher salary schedules for all school districts for the school years 2001-2002 through 2005-2006³⁴ and the report prepared by the Department of Education entitled "Average Teacher Salary Comparison over a Five-Year Period."³⁵ Dr. Don Stewart, Deputy Commissioner of the Department of Education, reported that the disparity in statewide average salaries was reduced \$2,113 in 2004-2005 when the minimum teacher salary base was increased, as noted above, by \$5,640 in the 2nd Extraordinary Session of 2005. In the same school year there was a \$2,591 reduction in the disparity between highest and lowest beginning teacher salaries.

Mr. Tim Gauger, Deputy of the Civil Division of the Office of the Attorney General, advised the committees on the constitutionality of allowing school districts to set teacher salary schedules that meet or exceed the state-mandated minimum teacher salary schedule. Mr. Gauger advised the committees that the Arkansas Constitution does not require all teacher salaries to be "equal" across the state or for all teachers

³² Exhibit #14 02072006 TS-BLR-JD-1. 2004-05 Teacher Salary Rankings. Prepared by Jerri Derlikowski with the Bureau of Legislative Research.

³³ Exhibit #15 02072006 TS-BLR-MM-1 Minimum Teacher Salary Schedules in Statutes and other Relevant Statutes and Reports.

³⁴ Exhibit #16 02072006 TS-ADE-DS-1. Description of worksheets regarding salary information for school districts in Arkansas for school years 2000-2001 through 2005-2006. Prepared by the Department of Education.

³⁵ Exhibit #17 02072006 TS-ADE-DS-11. Recap of Salary Schedules and ASR Averages for 2000-2001 through 2005-2006. Prepared by the Department of Education.

of equivalent skill, qualifications, and experience to receive the same compensation. The state's legal precedent should not be construed to mean that any disparity in teacher salaries across the state is *per se* unconstitutional. The disparity in teacher salaries raises a constitutional concern only when the disparity prevents other districts from attracting and retaining properly qualified teachers.

In testimony before the committee, Mr. Gauger provided the following specific conclusions:

Such an interpretation of *Lake View 2002* is bolstered both by the Court's subsequent statements about teacher salaries and the Court's clarification of what "substantial equality" means. As noted, in *Lake View 2004*, the Court clarified what it meant by "substantial equality" by noting that it "does not mean that if certain school districts provide more than an adequate education, all school districts must provide more than an adequate education with identical curricula, facilities, and equipment."

"Amendment 74 to the Arkansas Constitution allows for variances in school district revenues above the base millage rate of 25 mills, which may lead to enhanced curricula, facilities, and equipment which are superior to what is deemed to be adequate by the State." It follows from this interpretation of Amendment 74 and [the] definition of "substantial equality" that if school districts choose to use "local" revenue tie (revenue not derived from the Uniform Rate of Tax or other State funding sources) to enhance teacher salaries, any resulting "disparity" between those enhanced salaries and salaries paid by other districts is not of constitutional significance so long as the other districts are still able to hire and retain teachers that can provide an "adequate" education as defined by the State.

Indeed, specifically addressing teacher salaries, the Court in *Lake View 2004* noted the Masters' concern that the gap in teacher pay between poorer and wealthier school districts can ever be completely closed due to Amendment 74 and nonetheless concluded: "The General Assembly has addressed this issue in a meaningful way. Though counsel for *Lake View* advocated a uniform salary scale for teachers, while the Adequacy Study advocated an increase, we cannot say that the General Assembly has failed to address this issue."

Thus, while the Court's *Lake View* opinions cannot be read as mandating "uniformity" in teacher salaries, they can be interpreted as imposing a duty upon the

General Assembly to implement programs designed to ensure that all children receive instruction from teachers who can provide the type of instruction the State defines as “adequate.” Should the State discover that some districts are unable to attract and retain such instructional staff, it is for the General Assembly to determine, as a matter of policy, what steps can or should be taken to address the issue. Efforts to promote or require greater “equality” of teacher pay between districts may be but one of many ways in which to address such a problem, if it exists, but it is not the sole constitutionally acceptable way.³⁶

In addition to raising the state-mandated minimum teacher salary for the 2004-2005 school year, the General Assembly has created additional programs to ensure and to improve the availability of high-quality educators throughout the state. First, Act 101 of 2003 created a high-priority district teacher incentive program to begin in the 2004-2005 school year³⁷. This program provides up to a \$10,000 retention incentive bonus per teacher at the rate of \$2,000 to \$4,000 annually. This program is designed to specifically target the retention bonuses in school districts that have traditionally had difficulties recruiting and retaining teachers because of low teacher salaries and other factors.³⁸

According to the sworn testimony of superintendents in some of the high-priority school districts,³⁹ the targeted needs-based funding provided through the high-priority district teacher incentive program has enabled those schools to more effectively recruit and retain higher quality classroom teachers by providing the district with a method to provide competitive teacher salaries. This reduces the disparity in the quality of teachers throughout the state.

Other programs enacted and funded by the General Assembly to ensure and to improve the availability of high-quality teachers include:

- ▶ The Arkansas Leadership Academy School Support Program, created by Act 1229 of 2005, provides support to schools in school improvement status for the purpose of moving the schools and districts out of school improvement status;

³⁶ Exhibit #18 02072006 TS-OAG-TG-1. Memorandum on the Discussion of Arkansas Supreme Court Opinions in the *Lake View* matter regarding teacher salaries and school district's use of local funds to support higher teacher salaries. Prepared by Tim Gauger of the Attorney General's Office.

³⁷ Exhibit #19 02072006 TS-ADE-DS-13. High-priority district teacher incentive, Arkansas Code § 6-17-811 Act 101 of 2nd Extraordinary Session of 2003. Prepared by the Department of Education.

³⁸ Exhibit #20 02072006 TS-BLR-MM-1. Minimum Teacher Salary Schedules in Statutes and other Relevant Statutes and Reports.

³⁹ Exhibit #21 02072006 TS-BLR-CR-1. Summary of Testimony Regarding Teacher Salaries. Prepared by Cheryl Reinhart with the Bureau of Legislative Research.

- ▶ The Teacher Opportunity Program and the Dual Certification Incentive Program, created by Act 2196 of 2005, provide scholarships to teachers returning to college to receive an additional certification;
- ▶ The National Board of Professional Teaching Standards provides grants to allow payments of costs associated with obtaining the National Board of Professional Teaching Standards certification and a \$5,000 bonus each year for up to ten (10) years;
- ▶ The Master School Principals Program, created by Act 44 of the 2nd Extraordinary Session of 2003, provides advanced training for school principals and salary bonuses upon completion with increased bonuses to principals committed to working in school districts with the greatest need;
- ▶ The high-priority district teacher incentive program, created by Act 101 of the 2nd Extraordinary Session of 2003, provides a total of \$10,000 in bonuses per teacher to teachers teaching in high-priority areas;
- ▶ The Arkansas Teacher Housing Development Act, created by Act 39 of the 2nd Extraordinary Session of 2003, provides low interest loans and rental housing programs for teachers in high-priority areas;
- ▶ The State Teacher Assistance Resource Program, created by Act 1804 of 2003, provides loan forgiveness to students going into the teaching field and committing to teach in critical subject matter and geographical shortage areas;
- ▶ The University Assisted Teacher Recruitment and Retention Grant Program within the Department of Higher Education, created by Act 1550 of 2001;
- ▶ The Teacher Opportunity Program, created by Act 2196 of 2005;
- ▶ The Arkansas Geographical Critical Needs Minority Teacher Scholarship Program, created by Act 1731 of 2001;
- ▶ Allowing the payment of interviewing expenses for job applicants in particular regions;
- ▶ Allowing the payment of moving expenses for new employees in particular regions; and
- ▶ Establishing the Department of Education's Office of Teacher Recruitment for ensuring that the children of our state are taught by highly qualified professionals.

Act 10 of 1991 created the Educational Excellence Trust Fund and provided that the portion to be distributed to school districts "shall be utilized by school districts to provide salary increases for current certified personnel positions and for no other purposes except that required social security matching on such salary increases required to be paid by the districts may be paid from such funds." The current

statutory provision governing the use of the Educational Excellence Trust Fund found in Arkansas Code § 6-5-307 provides that:

(a) Any increase in Educational Excellence Trust Fund funds allocated for teacher salaries shall be used by school districts to provide salary increases for current certified personnel positions and for no other purpose, except that required social security and teacher retirement matching required to be paid by the school districts for certified personnel may be paid from the funds.

(b) Educational Excellence Trust Fund funds allocated for teacher salaries shall be disbursed by the Department of Education to school districts pursuant to the state foundation funding formula under § 6-20-2305.

(c) In determining whether a school district has had an increase in Educational Excellence Trust Fund funds allocated for teacher salaries, any annual increase in such trust funds must exceed the level of the highest year since 1991 to be classified as an increase.

(d) "Salary increase," as used in this section, shall not include increments for experience or advanced hours or degrees.

According to the Department of Education, in compliance with Act 10 of 1991, districts adjusted their salary schedules to increase salaries commensurate with the amount of funding received from the Educational Excellence Trust Fund. Subsequent allocations of Educational Excellence Trust Fund funding have continued to support the district salary schedule expenses. Increases in Educational Excellence Trust Fund funding have been specifically allocated to further increase the school districts' salary schedules.

In the February 7, 2006, testimony filed by Rogers Public Schools, the district contends that:

Teacher Excellence Trust Fund rules impede reaching equality of teacher salaries. The current year illustrates this point. While the \$5,400 foundation funding per student remained the same, the trust funds increased for growing districts simply as a function of new students. These growing districts were forced to increase their salary schedules, adding to the disparity between districts. (02/07/2006 AAI-RPS-JD-1 Page 40)

Arkansas Code § 6-5-307(d) effectively prohibits the use of Educational Excellence Trust Fund funding for staff salary adjustments based on years of experience or completion of advanced hours or degrees. Therefore, perhaps districts whose salary schedule is above the state average salary levels should be allowed to use

the Educational Excellence Trust Fund funding for salary increases based on the experience of, or advanced hours or degrees completed by, certified staff in a particular district rather than continuing to increase the districts' salary schedules.

It is important to note, however, that while a district's salary schedule would not be increased under this alternative, the actual average salary for the district could still be increased. This could also then be interpreted as contributing to salary disparity. It might be necessary to consider a second alternative of using the increased funding for something other than salary expenses for those districts whose salary schedules exceed state average salary levels.

5. Health Insurance

In February 2006, the Arkansas Democrat-Gazette published an article with the headline "Teachers' health insurance plan ailing - With worker premiums 4 times U.S. average, 'death spiral' looms for system." The health insurance plan's managers predicted that the high cost for employees and their families would send the plan into a "death spiral" within two (2) years. Prior to the report's publication, the General Assembly had already begun the process of overhauling and stabilizing the system. It is clear to the General Assembly that employee benefits are as important as teacher salaries in a school district's ability to recruit and retain quality teachers. A young teacher faced with paying \$611 per month for the cheapest HMO insurance family plan will be more likely to leave the teaching field for better or equal pay with less health insurance cost. Quality affordable health insurance coverage has a direct impact on the state's and a school district's ability to recruit and retain quality teachers.

A review of the history of the public school employees' health insurance program is important to understanding how the current method for funding the program evolved. Mrs. Sharon Dickerson, Executive Director of the Employee Benefits Division of the Department of Finance and Administration, provided the following summary for the committee:

The public school employees' health insurance program was created in 1977. The Department of Education was responsible for securing and paying the state contribution for the public school employee's health insurance from inception in 1977 until Act 1206 of 1995 placed the school employee's insurance program under the administration of the State and Public School Employees Life and Health Insurance Board (the Board). In the first eighteen years of the insurance program, it was fully

insured under Blue Cross Blue Shield of Arkansas. Beginning in 1996, employees were offered HMO options in addition to the traditional PPO plan. The program continued to be fully insured until 2003.

Until 2001, the Department of Education was responsible for establishing the employer match amount. Arkansas Code § 6-17-117 of 2001 specified that the school districts pay \$114 per month for each eligible employee electing to participate in the public school employee health insurance program. This amount increased in 2003 to \$122 per month and again in 2004 to the current contribution of \$131 a month per participating employee per month. As the cost of insurance continued to escalate, the \$131 was not adequate to offset the increased cost of insurance coverage.

From 1996 until 2001 the state and school employee's insurance program[s were] basically the same with the same benefits, deductibles, co-payments and co-insurances. The difference each year, however, was in the member's insurance premium cost. In 2001 the Board was faced with escalating health care costs and had to make a difficult decision. They decided to decrease the benefits available under the Public School health plan rather than face the problem of premiums so high that the program would lose a significant number of members. The Board increased the member co-payment and co-insurance and removed the preventative vision and preventative dental benefit from the school program. The insurance premiums still increased 13% that year; without the benefit changes the increase would have been over 20%.

When the school program came under the Board's purview, both state and school pharmacy benefit programs [were] self-insured by the Board. (The risk was the Board's risk.) During this time, the pharmacy benefit program built up a reserve of about \$5,000,000. At the same time in 2003, the school contribution increased by \$8.00 per member. That would generate just under \$4,000,000. This was the first time the school program would have a reserve. The Board decided to take advantage of this reserve and make the school program self-insured. By making the program self-insured, the Board would be responsible for actual claims payment and administrative costs. There was no profit margin built into the program and no tax obligation that fully insured programs are required to pay. This was a sound business decision made by the Board.

After 2003, when the reserve was being built, the overall cost increase for the school health plan was nine percent (9%). This was at a time when the rate increases were at 11.5% for HMO's and 12% for PPO's nationally.

Until the additional \$30,000,000 was provided for the 2006 plan year (from \$61 per covered employee per month given to the Department of Education to Employee Benefits Division), there was no money allocated toward the dependent portion of the premium for school employees. Currently the money is allocated in the following manner:

- \$131 per employee per month less \$11.20 per employee per month allocated for school retirees
- \$61.00 per employee per month from the State via the Department of Education; a portion of this goes to the dependents⁴⁰.

From July 2005 to October 2005, the plan gained 3,261 new enrollees into the school health plan. The average age decreased from 46 to 45. The age range of these new enrollees is as follows:

<u>Enrollees' Age</u>	<u>Number of New Enrollees</u>
Under 30	1,132
31-35	380
36-40	360
41-45	539
Over 45	<u>850</u>
Total	3,261

This demonstrates that the new enrollees into the program are younger and this is a beneficial addition to the insurance program.

The school districts' contribution amount remained constant for the majority of the school districts from 2005 to 2006. As you can see there was an overall increase of \$388.⁴¹

Prior to the 2005 regular session, the public school employees' health insurance program was funded completely with school districts' required contribution to the Employees Benefits Division in the amount of \$131 per month per participating

⁴⁰ Exhibit #22 02072006 HI-EBD-SD-2. Letter on the Fund Allocation Method for the Public School Employees and Retirees. Prepared by John W. Bauerlein of Milliman Consultants and Actuaries.

⁴¹ Exhibit #23 02072006 HI-EBD-SD-1. Public School Employee's Health Insurance Report. Prepared by Sharon Dickerson of the Employee Benefits Division.

employee. Act 1559 of 2005 provided the Employees Benefits Division an additional \$61 per participating employee. The additional \$61 per participating employee increased the employer contribution for public school employees by eighteen percent (18%). This increase raised the employer contribution to sixty percent (60%). When compared to the seventy-five percent (75%) employer contribution rate for state employees, it is evident that there is still a disparity between school employees and state employees, but the \$35,000,000 increase in funding during the 2005 Regular Session reduced the disparity considerably.

There was lengthy discussion during the 2005 Regular Session regarding the best method to infuse additional funding into the public school employees' health insurance program. To ensure the maximum financial support of the public school employees' health insurance program, the General Assembly directed the additional funds to the Department of Education for the purpose of making payments directly to the Employee Benefits Division instead of directing the additional funds to the school districts to use, perhaps, for purposes other than teacher health insurance.

The school districts collectively objected to the direct provision of funds to the Employee Benefits Division through the Department of Education, thus indicating that there was interest in having the ability to use the funds for other than the intended purpose. If the school districts intended to use the funds for the public school employees' health insurance program, then there is no basis for the school districts' objection to the manner in which the General Assembly chose to have the funds distributed.

The Court's assessment that the value to education of protecting teacher health insurance benefits is "indirect at best" is inconsistent with written testimony provided during the hearings, much of which was provided by teachers from across the state. The Court failed to recognize that increasing a teacher's health insurance costs effectively operates as a reduction in the teacher's salary; however, the Court apparently does realize, as does the General Assembly, that adequate teacher salaries are critical to providing quality teachers to public school students in Arkansas.

In conclusion, the testimony provided in the hearing does not support the Court's contention the value to education of protecting the public school employees' health

insurance program is "indirect at best". Rather, the testimony supports the policy decision made by the General Assembly to support teachers financially by ensuring that sufficient funding is available to maintain the viability of their health insurance program⁴², which is an important benefit to the very individuals who are directly responsible for the success of the state's educational system.

6. *Unfunded Mandates*

The committees undertook a thorough review of the new mandates adopted during the 2005 regular session and the cost of the new mandates for school districts.⁴³ The committees received information from Bureau of Legislative Research staff, the Department of Education, the Arkansas Teacher Retirement System, and school superintendents regarding the additional costs of the new mandates. A close analysis of the mandates imposed during the 2005 regular session discredits the plaintiff school districts' estimate of \$244 per student in "unfunded mandates," but did reveal an estimated \$19,100,000⁴⁴ in increased costs for school districts for both the 2005-2006 school year and the 2006-2007 school year due to a one percent (1%) increase in the retirement contribution rate for school employees.

Provisions under Act 1968 of 2005 add another one percent (1%) increase in retirement contributions. Implementation of Act 1438 of 2005 requiring vision screening for some students may have a fiscal impact of up to \$25,000 statewide for school year 2006-2007.⁴⁵

⁴² As stated in the previously mentioned Arkansas Democrat-Gazette article, "The Arkansas teacher in 2003-04 received on average about \$1,000 more than in Louisiana, for example. But Arkansas teachers paid about \$4,000 more per year for a family HMO plan than their counterparts in Louisiana did." See Exhibit #24.

Mr. Norman Hill, Superintendent, Monticello School District states, "I believe the lower cost of health insurance will help recruit and retain quality classroom teachers. The recruiting and retention of quality teachers is a must for education if we are to see improvement."

Ms. Karen Haley of Calico Rock writes, "... I could go to the Mountain Home district and get family coverage for that same amount. This creates a problem when small districts are trying to keep good employees."

The Arkansas Education Association states that "We believe that it is not possible to deal adequately with teacher salaries unless we also factor in the cost of employee health insurance."

Ms. Denise Halliburton, North Little Rock, writes, "The lack of funding for insurance almost always takes away from any possibility for a raise in salary when teachers are expected to do more every year!!!"

Ms. Crystal Watkins of Yellville Summit states, "Without my insurance coverage, I would be forced to move into a career with health benefits ..."

Mr. Robert Wills of Conway writes, "Concerning the statement by the Supreme Court that '\$35,000,000 for teacher health benefits was a good thing but its effect on education was indirect at best'. The \$35,000,000 was spent as a form of income subsidy. Teachers are adversely affected when their insurance costs go up and their incomes do not. This increased benefit is the same as a raise in salary. The reasoning behind the Court's remark is the same as saying that teacher salaries have no direct effect on education."

Ms. Roberta Clifton quotes the Court, "\$35,000,000 for teacher health benefits was a good thing but its effect on education was indirect at best." Then she responds, "Oh really? And just how was this determined to be an "indirect" effect? What would be a "direct" effect?"

The Arkansas School Boards Association states, "A robust health insurance program does, however, have the potential to positively benefit the recruitment, retention, and morale of the teachers and other school employees."

⁴³ Exhibit #25 Report On Analysis Of Additional Requirements For School Districts prepared by Kim Chavis, Chief Counsel, Bureau of Legislative Research.

⁴⁴ Exhibit #25 pages 6 and 99-106, in the Report On Analysis Of Additional Requirements For School Districts prepared by Kim Chavis, Chief Counsel, Bureau of Legislative Research. An Actuarial Cost Study, required by Arkansas Code § 10-3-702 for all bills amending an existing publicly supported retirement system, was prepared on February 10, 2005, for the Joint Committee on Public Retirement for the fiscal year ending June 30, 2007. A fiscal impact statement was not prepared by Bureau of Legislative Research staff prior to the adoption of the act.

⁴⁵ Exhibit #25, pages 4 and 68-75 in the Report On Analysis Of Additional Requirements For School Districts prepared by Kim Chavis, Chief Counsel, Bureau of Legislative Research. The act requires vision screening for students in pre-K, K-2, and grades 4, 6, and 8, not all students. The screenings may be done in conjunction with other required screening such as hearing and scoliosis. School districts are eligible for reimbursement in the amount of \$14 per student for vision screening on children covered by the ARKids First Program or Medicare. The fiscal impact statement prepared by Bureau of Legislative Research

A close analysis of the alleged mandates imposed during the 2005 regular session, discredits the plaintiff school districts' estimate of \$244 per student in unfunded mandates. The following chart provides a more detailed discussion of each act that was presented to the Masters as an unfunded mandate.

staff assumes 400 screening locations with no additional school nurses required. The fiscal impact was prepared prior to the adoption of any amendments.

ACT #	SUMMARY/ DESCRIPTION	BLR ESTIMATED FISCAL IMPACT FOR SCHOOL DISTRICTS
1. 245 of 2005 ⁴⁶	<p>Act 245 of 2005 amended existing law to reduce the requirements for art and music from 60 minutes to not less than 40 minutes. School districts are required to provide students in grades 1-6 with 40 minutes of instruction in visual art and 40 minutes of instruction in music each calendar week of the school year. The act became effective June 1, 2005, for the 2005-2006 school year.</p> <p>School districts have been required to provide art and music instruction to students in grades 1- 6 since June 1, 2002. School districts were provided a three (3) year transition period to fully implement the art and music requirements. During the 2nd Extraordinary Session of 2003, the General Assembly provided funding for certified art, music, and physical education teachers (during that time the requirements were anticipated to be 1 hour in art and 1 hour in music each calendar week). The funding for certified physical education, art, and music teachers is included in the foundation funding amount (\$5400). (SEE THE BISBEE MATRIX WHICH PROVIDES FOR 4.2 PAM (Physical Education, Art, and Music) TEACHERS PER 500 STUDENTS WITH AN AVERAGE SALARY OF \$48,750 PER TEACHER. THIS IS BASED ON THE PICUS REPORT'S RECOMMENDATION PROVIDING A 20%</p>	\$0, with a possible reduction in costs for school districts because of a reduction in the instruction time requirements for art and music

⁴⁶ This act is not included on the February 22, 2006, list of mandates that need to be funded prepared by the Arkansas School Boards Association.

ACT #	SUMMARY/ DESCRIPTION	BLR ESTIMATED FISCAL IMPACT FOR SCHOOL DISTRICTS
	<p>INCREASE IN THE NUMBER OF TEACHERS TO ACCOUNT FOR SPECIALIST TEACHERS.)</p> <p>Following the adoption of the foundation funding amount of \$5400 during the 2nd Extraordinary Session of 2003, the time requirements for certified art and music teachers were reduced as noted above. Although the instructional time for art and music that was anticipated and funded under the matrix was later reduced by 1/3, funding to school districts was not reduced.</p>	
	<p>The fiscal impact statement prepared by Bureau of Legislative Research staff noted that without the reduction in time for required art and music in grades 1-6, there would be a fiscal impact of approximately \$12.1 million. Please note that the January 20, 2005, fiscal impact statement was prepared prior to the adoption of the February 10, 2005 Senate Amendment.</p>	
2. 246 of 2005 ⁴⁷	<p>Act 246 of 2005 prohibits the use of a student's social security number on documents that will be released to the public.</p> <p>For years, the federal Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, often referred to as</p>	\$0

⁴⁷ This act was not included on the February 22, 2006, list of mandates that need to be funded as prepared by the Arkansas School Boards Association.

ACT #	SUMMARY/ DESCRIPTION	BLR ESTIMATED FISCAL IMPACT FOR SCHOOL DISTRICTS
	<p>FERPA, has prohibited the release of student social security numbers on records that will be made available to the public. Any school district receiving federal funds is required to comply with FERPA regulations. The provisions in Act 246 of 2005 simply enforce in state law what have been longstanding federal requirements. Because all public school districts in Arkansas receive some level of federal funding, the state adoption of these requirements should not have any fiscal impact. The state law could impact some private schools that do not receive federal funding.</p> <p>Section 4-86-107 also prohibits the use of social security numbers on public documents by any entities, including school districts.</p> <p>The fiscal impact statement prepared by Bureau of Legislative Research staff notes that the bill does not mandate the creation or replacement of student identification cards. Note that the fiscal impact statements were prepared prior to the adoption of the February 7, 2005, House Amendment.</p>	
3. 882 of 2005 ⁴⁸	Act 882 of 2005 requires the State Board of Education to cooperate and assist local school districts in establishing a program to inform students about health care coverage under the ARKids First	\$0

⁴⁸ This act was not included on the February 22, 2006, list of mandates that need to be funded as prepared by the Arkansas School Boards Association.

ACT #	SUMMARY/ DESCRIPTION	BLR ESTIMATED FISCAL IMPACT FOR SCHOOL DISTRICTS
	<p>Program. There are no specific mandates for school districts in the act and school districts are not required to undertake any specific duties. Any fiscal impact would be on the state agencies involved rather than the school districts.</p> <p>The Department of Education will develop rules and regulations to implement the program. To date, the Department of Education has not promulgated rules and regulations on the issue.</p> <p>Since the adoption of the Public School Student Services Act in 1991, school districts have been required to have a Student Services Program. Under law in existence prior to the 2005 regular session, a school district's Student Services Program should include school social work services to "serve as a liaison between the home and school by making home visits and referring students and parents to appropriate school and community agencies for assistance."</p> <p>As noted in the fiscal impact statement, the inclusion of information pertaining to the ARKids First Program could easily be integrated into existing programs at minimal cost to the school districts.</p>	
4. 1192 of 2005	Act 1192 of 2005 clarifies the amount of the stipend a school district is required to pay a K-6 classroom teacher for the purchase of supplies.	\$0, with a possible reduction in

ACT #	SUMMARY/ DESCRIPTION	BLR ESTIMATED FISCAL IMPACT FOR SCHOOL DISTRICTS
	<p>Act 1192 of 2005 was adopted as a cost-savings measure to an existing requirement. Prior to 2005, school districts were required to provide a stipend for each preK-6 grade teacher for every child in the classroom. As a result, school districts had to pay a full stipend for children who attend the class for only a small amount of time. Therefore, a music teacher teaching 4 one-hour class periods with 20 students in each class one day per week could receive an \$8000 stipend (80 X 5 X \$20) whereas the regular classroom teacher with the same 20 students all-day, all-week would receive a stipend of \$500.</p> <p>Under the new language, each teacher would receive a \$500 stipend. This would result in a savings to the school district.</p> <p>A fiscal impact statement was not prepared by Bureau of Legislative Research staff prior to the adoption of the act.</p>	<p>costs for school districts because of a reduction in the amounts that some teachers may receive under the new law</p>
5. 1255 of 2005	Act 1255 of 2005 ensures the continuity of educational services to foster children by requiring the Department of Health and Human Services to consider continuity of educational services and school stability in making foster placement decisions and allowing a foster child to remain in the child's current school and continue his or her education.	\$0

ACT #	SUMMARY/ DESCRIPTION	BLR ESTIMATED FISCAL IMPACT FOR SCHOOL DISTRICTS
	<p>Act 1255 of 2005 places the responsibility for continuity of educational services to foster children on the Department of Health and Human Services, not the school districts. The only requirement under the act for school districts is to designate a foster care liaison to ensure timely enrollment and record-keeping for children in foster care. The record keeping requirements are the same as currently required for all students, but the liaison must ensure timely processing of those records.</p> <p>The requirements of this act could fall under the requirements of the school district's existing Student Services Plan. The requirement of a more timely response to the enrolling and record keeping needs of children in foster care could easily be integrated into the existing program at little or no additional cost to the school districts.</p> <p>A fiscal impact statement was not prepared by Bureau of Legislative Research staff prior to the adoption of the act.</p>	
6. 1438 of 2005	This act requires public and charter schools to provide periodic eye and vision screenings to students; establishes procedures for providing follow-up reports to parents and guardians; and ensures that students receive comprehensive eye exams as indicated by the results of the screening.	\$25,000

ACT #	SUMMARY/ DESCRIPTION	BLR ESTIMATED FISCAL IMPACT FOR SCHOOL DISTRICTS
	<p>The act requires visions screening for students in pre-K, K-2, and grades 4, 6, and 8, not all students. The screenings may be done in conjunction with other required screening such as hearing screening, and scoliosis screening.</p> <p>School districts are eligible for reimbursement in the amount of \$14 per student for vision screening on children covered by the ARKids First Program or Medicare.</p> <p>The fiscal impact statement prepared by Bureau of Legislative Research staff assumes 400 screening locations with no additional school nurses required. The fiscal impact was prepared prior to the adoption of any amendments.</p>	
7. 1775 of 2005	<p>The act mandates a minimum number of hours of training for school board members, requires that the training comply with rules promulgated by the State Board of Education, and requires the school board to maintain records related to the training.</p> <p>School board members have been required to obtain a minimum of 6 hours of training since 1987. Training requirements for school board members are not new, but have been increased. Act 1175 of 2005 authorizes, but does not require, school districts to pay per diem and other expenses related to school board training. School districts have had the local</p>	\$0

ACT #	SUMMARY/ DESCRIPTION	BLR ESTIMATED FISCAL IMPACT FOR SCHOOL DISTRICTS
	<p>option to pay per diem and other expenses related to school board training since training requirements were first established in 1987. If school districts do not have sufficient funding or do not elect to pay the expenses of school board members, the cost would be the responsibility of the elected member.</p> <p>A fiscal impact statement was not prepared by Bureau of Legislative Research staff prior to the adoption of the act.</p>	
8. 1842 of 2005 ⁴⁹	<p>The act provides additional funding for each eligible employee of a public school district electing to participate in the public school employees' health insurance program administered by the State and Public School Life and Health Insurance Board.</p> <p>The additional funding is paid directly from the Department of Education to the Employee Benefits Division with no unfunded costs for the school districts. For school districts that are paying for 100% of the employee's health insurance costs, the additional funding would reduce the district's costs.</p> <p>With respect to any additional cost incurred by a school district because of an increase in participation, the funding formula includes funding for the school district's required contributions. There is an</p>	\$0

⁴⁹ This act was not included on the February 22, 2006, list of mandates that need to be funded as prepared by the Arkansas School Boards Association.

ACT #	SUMMARY/ DESCRIPTION	BLR ESTIMATED FISCAL IMPACT FOR SCHOOL DISTRICTS
	estimated \$29,000,000 impact for the Department of Education.	
9. 1881 of 2005	<p>The act requires that teachers receive a thirty-minute uninterrupted duty-free lunch period during each student instructional day.</p> <p>(SEE THE BISBEE MATRIX WHICH PROVIDES FOR \$35 PER STUDENT TO ACCOUNT FOR SUPERVISORY AIDES. THIS IS BASED ON THE PICUS REPORT'S RECOMMENDATION PROVIDING FOR \$35 PER STUDENT TO ACCOUNT FOR SUPERVISORY AIDES, LUNCH, PLAYGROUND, AND BUSES)</p> <p>Impact statement notes that potential increases are possible depending on how a district provides for the lunch period.</p>	\$0
10. 1943 of 2005	<p>The act requires that the teacher daily planning period occur during the student instructional day.</p> <p>The funding for a teacher daily planning period is included in the foundation funding amount (\$5400). (SEE THE BISBEE MATRIX WHICH PROVIDES FOR 25 CLASSROOM TEACHERS PER 500 STUDENTS WITH AN AVERAGE SALARY OF \$48,750 PER TEACHER. THIS IS BASED ON THE PICUS REPORT'S RECOMMENDATION PROVIDING A 20% INCREASE IN THE NUMBER</p>	\$0

ACT #	SUMMARY/ DESCRIPTION	BLR ESTIMATED FISCAL IMPACT FOR SCHOOL DISTRICTS
	<p>OF TEACHERS TO ACCOUNT FOR THE DAILY PLANNING PERIOD.)</p> <p>Staffing envisioned under this funding formula allows for a teacher planning period. The foundation funding provides \$35 per student for supervisory aides.</p>	
11. 1968 of 2005	<p>The act authorizes the Board of Trustees of the Arkansas Teacher Retirement System to increase the employer contribution rate no higher than 14% for the fiscal year ending June 30, 2006, and no higher than 1% above the rate for the previous year for the fiscal year ending June 30, 2007.</p> <p>An Actuarial Cost Study was prepared on February 10, 2005. A fiscal impact statement was not prepared by Bureau of Legislative Research staff prior to the adoption of the act.</p>	<p>\$18,000,000 based on the Actuarial Cost Study prepared for the Joint Committee on Public Retirement for the fiscal year ending June 30,</p>

ACT #	SUMMARY/ DESCRIPTION	BLR ESTIMATED FISCAL IMPACT FOR SCHOOL DISTRICTS
		2007.
12. 2130 of 2005 ⁵⁰	<p>The act adds a cost-of-living increase to the minimum teacher salary schedule for the 2006-2007 school year.</p> <p>Foundation funding was increased by \$97 for the 2006-2007 school year in anticipation of the increased cost.</p>	\$5,000,000 total for the 2006-2006 school year.
13. 2307 of 2005	<p>The act requires a school district to credit teachers for teaching experience in certain private schools and institutions of higher education for purposes of compensation levels on the district's teacher salary schedule.</p> <p>A fiscal impact statement was not prepared by Bureau of Legislative Research staff prior to the adoption of the act.</p>	\$0
14. 35 of 2003 (2 nd Ex. Sess.) ⁵¹	<p>The act requires the Department of Education to develop by July 1, 2006, the Arkansas Comprehensive Assessment Program for grades three through eight (3 - 8). The assessment program is to be tied to national norms in literacy and math. The act also requires the department to administer a comprehensive statewide system of student assessment and testing, including longitudinal</p>	\$0

⁵⁰ This act was not included on the February 22, 2006, list of mandates that need to be funded as prepared by the Arkansas School Boards Association.

⁵¹ This act was not included on the February 22, 2006, list of mandates that need to be funded as prepared by the Arkansas School Boards Association.

ACT #	SUMMARY/ DESCRIPTION	BLR ESTIMATED FISCAL IMPACT FOR SCHOOL DISTRICTS
	<p>tracking; a program of school and school district accountability with rewards and sanctions; a student transfer option for students attending underachieving schools; and a financial management practices system to promote the efficient use of financial resources.</p> <p>Act 35 of 2005 does not require any new costs for school districts. The increased costs are for the Department of Education.</p> <p>Academic Improvement Plans (AIP) have been required since at least 1993.</p> <p>A statement of the fiscal impact for school districts was not prepared by Bureau of Legislative Research staff prior to the adoption of the act.</p>	
15.§ 6-20-2303 ⁵²	<p>Annual experience salary step increase is mandated by the statewide teacher salary scale.</p> <p>The maximum salary mandated by the statewide teacher salary schedule is \$39,125 for the 2005-2006 school year and \$39,828 for the 2006-2007.</p> <p>A fiscal impact statement was not prepared by Bureau of Legislative Research staff prior to the adoption of the act.</p>	\$0

⁵² This act is not included on the February 22, 2006, list of mandates that need to be funded as prepared by the Arkansas School Boards Association.

ACT #	SUMMARY/ DESCRIPTION	BLR ESTIMATED FISCAL IMPACT FOR SCHOOL DISTRICTS
16. § 6-17-2203	<p>Requires that classified employee minimum salaries increase yearly at the increase in the consumer price index. The act only requires a 20-cent-per-hour increase to the minimum wage requirements for unclassified employees. This act does not require a COLA for all classified employees.</p> <p>A fiscal impact statement was not prepared by Bureau of Legislative Research staff prior to the adoption of the act.</p>	\$0
17. No specific law on this issue. ⁵³	<p>Inflation factor for school maintenance and operation expenses.</p> <p>Funding for maintenance and operation expenses is included in the foundation funding as part of the carry forward.</p> <p>A fiscal impact statement was not prepared by Bureau of Legislative Research staff prior to the adoption of the act.</p>	\$0

III. Discussion - Public School Academic Facilities

The Academic Facilities Oversight Committee (referred to in this section III as "the committee") conducted two (2) hearings during February 2006 to review and evaluate the implementation of the Public School Academic Facilities Program. The

⁵³ This issue was not included on the February 22, 2006, list of mandates that need to be funded as prepared by the Arkansas School Boards Association.

impetus for these hearings was the committee's desire to respond to the December 15, 2005, opinion of the Arkansas Supreme Court in *Lake View*. The Court raised the following concerns with respect to the Public School Academic Facilities Program and related funding sources:

The Immediate Repair Program received requests for \$82 million in funding with the state having a projected \$40 million share if all requests are approved, but only \$20 million was appropriated.

The Immediate Repair Program and the Transitional Academic Facilities Program had no funds appropriated for the 2006-2007 school year.

The Priority One Program for construction and repair for safe, dry, and healthy facilities was under funded.

Schools must proceed under the Transitional Academic Facilities Program without knowing whether they qualify for funding.

The Academic Facilities Wealth Index Formula could cause the facilities needs of some school districts to never be met.

In adopting the Special Masters' Report, the Court also recognized issues pertaining to limitations on the use of the nine percent (9%) of foundation funding dedicated to facilities upkeep, unexpected reductions in state assistance for debt service, and lack of specific funding for facilities in growth districts.

Every member of the General Assembly was invited to attend and participate in the hearings. The hearings were open to the public, and notice of the hearings was provided more than two (2) weeks in advance. Interested persons were given an opportunity to provide written and oral testimony about issues of concern. This report summarizes the general contents of each hearing, makes recommendations with regard to issues in need of continued monitoring or further study, and proposes legislation to address issues ripe for resolution.

Written testimony and related exhibits were made available to committee members and interested parties prior to each hearing. Additional copies were made available at the hearings.

The Academic Facilities Oversight Committee met on February 14, 2006, and February 28, 2006, to review and evaluate five (5) specific issues related to the recently enacted the Arkansas Public School Academic Facilities Program, Arkansas Code § 6-21-804, and related funding sources:

1. Funding for academic facilities,
2. Nine percent (9%) of foundation funding dedicated to facilities upkeep,
3. Academic facilities wealth index formula,
4. Debt service funding, and
5. Facilities funding for growth districts.

1. Funding for Academic Facilities

With the guidance of the Statewide Educational Facilities Assessment Report and Addendum, the General Assembly enacted multiple pieces of legislation during the 2005 Regular Session that together established a comprehensive program to address the needs of public school academic facilities. The assessment has served and will continue to serve as a valuable resource to the state and to school districts in developing a coordinated and systematic approach to the repair, renovation, and replacement of school buildings across the state.

While the assessment is an important strategic tool, cost estimates were not based on actual needs, but on a proposed set of standards and building codes for new construction. As a result, the General Assembly had to make an educated guess as to the necessary appropriation amounts for the various facilities funding programs. The "guess-timate" was based on a variety of factors, including: the assessment; actual needs as opposed to theoretical needs; and the practical ability of schools to make repairs and improvements given school schedules, available contractors, and the like.

In order to provide the financial flexibility necessary to respond to the unknown demands of a new set of statewide programs, the General Assembly provided the Commission on Arkansas Public School Academic Facilities and Transportation with authority to transfer among the separate appropriations for the various facilities programs. It also enacted provisions providing the Commission with carry forward authority for the facilities programs so that appropriations unspent at the end of the first year of the biennium will carry forward and be available for use during the second year of the biennium. This flexibility gives the Commission the ability to retain and transfer appropriations and make funds available to school districts as they are needed during this biennium.

Experience in other states indicates that new school facilities programs are more effective after comprehensive planning. However, recognizing the need for both immediate improvements and long-term comprehensive planning, the General

Assembly established two (2) programs to provide one-time state financial assistance for eligible facilities projects in advance of full implementation of the statewide planning process under the Academic Facilities Master Plan Program. These one-time programs are the Immediate Repair Program and the Transitional Academic Facilities Program.

With regard to the Immediate Repair Program, the initial appropriation level for state financial participation was established at \$20 million. The cost for all projects approved under the Immediate Repair Program totaled approximately \$34 million in state participation funds with local contributions equaling approximately \$33 million. In order to meet this need, the Commission transferred appropriations in the amount of \$15 million from the Transitional Academic Facilities Program to the Immediate Repair Program in January 2006. As a result of the transfer, the state will provide financial assistance for all approved projects under the Immediate Repair Program. It is anticipated that all Immediate Repair Program projects will be completed by September 1, 2006.

The Transitional Academic Facilities Program was designed to bridge the financial gap between state financial assistance provided for bonded debt, which is targeted at existing facilities, and state financial assistance provided under the Academic Facilities Partnership Program (a third new program), which is targeted at new or improved facilities. The idea was to provide some form of state financial support for those school districts that were planning new construction in the window of time that was not covered by state funding programs on either end of the facilities funding continuum. It was anticipated that school districts likely to qualify under the Transitional Academic Facilities Program would already be involved in the planning or construction process and would likely have made arrangements to fund the full amount of the project being undertaken. The opportunity for these districts to receive unanticipated state assistance was considered a positive enhancement to the facilities program.

The initial appropriation level for state financial participation under the Transitional Academic Facilities Program was established at \$50 million. The cost for all projects approved under the Transitional Academic Facilities Program totaled approximately \$87 million in state participation funds with local contributions of approximately \$212 million. The Commission is expected to approve a transfer in order to meet this need, and, as a result, the state will provide financial assistance for all approved projects under the Transitional Academic Facilities Program. It is anticipated that all

approved Transitional Academic Facilities Program projects will be completed by 2008.

There was no factual evidence presented to the committee or appearing in the committee record to support a conclusion that state funding for facilities is less than adequate. Despite the opportunity to do so, no school district reported to the committee that it had a facility with an existing condition that would present a hazard to the health and safety of students or teachers; and no school district complained that that it did not receive sufficient state funds for facilities under the Immediate Repair Program or the Transitional Academic Facilities Program.

2. Nine percent (9%) of Foundation Funding Dedicated to Facilities Upkeep

As part of Act 1426 of 2005, Arkansas Code § 6-21-801, et seq., the General Assembly established a requirement that a school district dedicate nine percent (9%) of foundation funding exclusively to pay for utilities and services related to custodial, maintenance, repair and renovation activities. The percentage was derived from a report submitted by the Custodial and Maintenance Committee of the Task Force to the Joint Committee on Educational Facilities. Anecdotal evidence supplied to legislators by superintendents during the 2005 Regular Session indicated that nine percent (9%) was an appropriate amount to set aside for utilities and custodial and maintenance services in order to prevent school districts from deferring necessary care and maintenance of school buildings. As Act 1426 was implemented, it became apparent that the structure of Act 1426 limited a school district's use of the nine percent (9%) to payment for utilities and custodial and maintenance services associated only with academic facilities. Mr. Jeff Altemus indicated in testimony before the committee that the nine percent (9%) was intended to apply to all facilities and not be limited to academic facilities.

3. Academic Facilities Wealth Index Formula

It is generally accepted that disparities in property wealth among school districts lead to inequities in resources available to students. In order to account for these types of disparities, the General Assembly enacted an academic facilities wealth index to equalize spending for all facilities funding programs throughout the state. Poorer districts will receive more state funding assistance per student than wealthier districts. This approach maintains an incentive for local responsibility and thus a foothold for local control, which has long been a critical component of Arkansas'

public school system. The wealth index does not consider the needs of a particular district because need is considered as part of the statewide master planning process.

Concern has been raised that some school districts might not receive any state financial participation in facilities projects because they might not have sufficient resources to raise their local share. However, there was no evidence before the committee that this concern was supported by anything other than speculation. No school district came forward to testify that it will be unable to fix or construct a school building because it cannot raise its required local contribution.

4. Debt Service Funding

Debt service funding or bonded debt assistance is often referred to as "debt service funding supplement", and the confusion over the name parallels confusion over how the program operates.

During the 2005 Regular Session, the General Assembly established a new program of state assistance with local bonded debt. As with similar programs in the past, this new program provides school districts with cash payments designed to help districts retire bonded indebtedness. 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 in existence on January 1, 2005, 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 with bonded debt under this new 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 following discussion describes the overall funding scheme for assistance under this new program.

Primary Funding: Bonded Debt Assistance (formerly known as debt service funding supplement)

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. *It must be emphasized that assistance under this primary funding stream will be phased out over the life of the bond, not over a ten-year period.*

Supplemental Funding No. 1: General Facilities Funding Phase-Out

One form of 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 2nd 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 into the Educational Facilities Partnership Fund Account for general facilities use.

Supplemental Funding No. 2: Supplement Millage Incentive Funding Phase-Out

The other form of supplemental assistance related to bonded debt will be available in an amount equal to the portion of a school 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". If a school district elected to receive supplemental millage incentive funding, then it did not receive debt service funding supplement and general facilities funding. *This supplemental funding stream 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 into the Educational Facilities Partnership Fund Account for general facilities use. It should be noted that school districts only received supplemental millage incentive funding for one (1) year.

With regard to the ten percent (10%) reduction in the primary funding stream, one hundred twelve (112) school districts submitted written appeals to have the ten

percent (10%) reduction reversed. Two (2) school districts submitted appeals after the deadline, and those appeals were not heard due to lack of timeliness. One hundred seven (107) school districts had all or a portion of the ten percent (10%) reduction reversed.

It is anticipated that approximately \$55,000,000 will be distributed to school districts during the 2005-2006 fiscal year under these three (3) funding streams.

5. Facilities Funding for Growth Districts

Current law requires the Division of Public School Academic Facilities and Transportation to develop a loan program to assist school districts experiencing rapid growth with constructing and maintaining school facilities. Mr. Eaton testified that good progress is being made toward identifying the unique needs of growth districts and structuring a program responsive to those needs. The division will report its recommendations in this regard to the 86th General Assembly in January 2007.

The committee noted that districts experiencing rapid growth were eligible to apply under any of the three (3) facilities funding programs: Immediate Repair Program, Transitional Academic Facilities Program, and Partnership Program. All applications for the Immediate Repair Program and the Transitional Academic Facilities Program that have met eligibility criteria have received approval for the receipt of state financial participation. All applications for the Partnership Program have been received and are currently being reviewed by the division. The committee also noted that the assessment numbers, used by some to defend the need for additional funds for growth districts, were based on proposed standards, some of which have changed in a manner that dramatically impacts costs. For example, the adopted classroom space standard was 850 square feet as compared to the proposed standards of 900 square feet.

Mr. Charles Dyer, Superintendent, Alma School District, discussed the impact on high growth/low property wealth school districts of the statutory limitation on district bonding capability.

Mr. Kim Arnall, Administrator, Budget and Fiscal Review, Bureau of Legislative Research, discussed a proposed method that would authorize the transfer of unobligated balances in the General Improvement Fund to the Educational Facilities

Partnership Fund Account for the Partnership Program and for cost overruns in the Immediate Repair Program and Transitional Academic Facilities Program.

IV. Findings and Recommendations

The committees agree that to ensure continued adequacy in public schools the General Assembly should continue to regularly review and update the needs of Arkansas schools and make changes that are necessary to achieve the state goals of proficiency on statewide assessments. The committees are currently working with Picus to conduct an extensive update of state adequacy needs. The Picus update is expected to be complete and provided to the General Assembly by September 1, 2006, and prior to the next regular session.

1. Foundation Funding

FY 2005-2006. An extensive and detailed analysis of school spending patterns and the programmatic impact of legislative changes made in the 2nd Extraordinary Session of 2003 and the regular session of 2005 must be conducted to provide reliable data upon which to base any decisions regarding the level of funding necessary to ensure an equal opportunity for an adequate education to public school students in the state. The General Assembly is conducting such research in a collaborative effort with Bureau of Legislative Research staff and Picus. The committees expect to have the results of that research by September 1, 2006. In the absence of sufficient data to determine whether foundation funding needs to be increased or decreased, the committees recommend an inflation adjustment based on external inflation data and the correction of errors discovered in the existing formula. The committees further find that any increase in foundation funding provided prior to completion of the Act 57 update in September 2006 may need to be adjusted by the 86th General Assembly.

RECOMMENDATION: Increase foundation funding to five thousand four hundred eighty-six dollars (\$5,486) per ADM for a total increase of \$38,700,000 for the 2005-2006 school year.

FY 2006-2007. The General Assembly finds that there is insufficient data to determine if the foundation funding amount needs to be increased or decreased for fiscal year 2006-2007. An extensive and detailed analysis of school spending patterns and the programmatic impact of legislative changes made in the 2nd Extraordinary Session of 2003 and the Regular Session of 2005 must be conducted to provide reliable data upon which to base any decisions regarding the level of funding necessary to ensure an equal opportunity for an adequate education. The

General Assembly is conducting such research in a collaborative effort with Bureau of Legislative Research staff and Picus and expects to have the results of that research by September 1, 2006. Without reliable data upon which to rely, the committee finds that school districts' costs for operation and instruction may have increased for the 2005-2006 school year and that some level of increased funding may need to be provided. However, any increase in foundation funding provided prior to completion of the Act 57 update in September 2006 may need to be adjusted by the 86th General Assembly.

RECOMMENDATION: Increase foundation funding to five thousand six hundred twenty dollars (\$5,620) per ADM for a total increase of \$55,600,000 for the 2006-2007 school year.

Adjustments. The General Assembly finds that legislative changes with respect to curriculum and operational requirements may cause a need to adjust the increased foundation funding to more accurately reflect the expected fiscal needs of school district.

RECOMMENDATION: Adjust the increased foundation funding amounts as a result of greater accuracy in calculating operational costs and consider the impact of the extra \$44 per student added to the matrix amount. Changes that may require an adjustment include, but are not limited to, reductions in class time requirements, personnel requirements, professional development costs, market costs, and other costs related to the operation of a school district.⁵⁴

98% Collection Rate. The General Assembly finds that no direct evidence supports the contention that the collection rates for property taxes significantly impact a district's ability to expend the foundation funding amount of \$5,400 per student. It is clear that the reporting requirements for county collection rates are insufficient and as such impair the state's ability to accurately determine the availability of funds for school districts.

⁵⁴ Certain acts by the General Assembly will result in a reduction in duties and costs for school districts. A partial list of those acts include:

- Act 245 of 2005 (Art and Music);
- Act 1192 of 2005 (Teacher supply stipend);
- Act 2151 of 2005 (Reduce the number of fiscal personnel needing background checks);
- Act 660 of 2005 (Allows PE credit for organized physical activities);
- Act 2325 of 2005 (Provides additional funding for distance learning for home school students);
- Act 1441 of 2005 (Expanded sales tax exemption for instructional materials);
- Act 1527 of 2005 (Provided more reimbursements from Medicaid);
- Act 1684 of 2005 (Reduces the on-site review requirements of the standards for accreditation check);
- Act 1183 of 2005 (Expands professional development credit for college courses);
- Act 1185 of 2005 (Allows up to 12 hours of professional development credit from the beginning of the year classroom prep; and)
- Act 2095 of 2005 (Limits Arkansas history professional development requirements to only those teaching Arkansas history).

RECOMMENDATION: Adopt a statewide set of instructions to establish uniformity in reporting requirements for each county.

Declining Enrollment. The General Assembly finds that the State *does not* reduce (or take away) foundation funding from school districts that have fewer students in the current year than in the previous year. A one-year offset or "cushion" has been part of the Arkansas funding system for years. The cushion allows school districts one (1) year to adjust expenditures for declining enrollment. However, even with the one-year offset or "cushion", the General Assembly finds that additional time for school districts to make budgetary adjustments related to declining enrollment is warranted for the 2006-2007 school year until further study can be conducted.

RECOMMENDATION: Establish declining enrollment funding to school districts that are losing students for the 2006-2007 school year and refer the issue to the ongoing Adequacy Update Study by Picus for further consideration by the 86th General Assembly.

Isolated Schools. Three million dollars (\$3,000,000) should be appropriated to supplement existing available funds in order to provide adequate funding for school districts that qualify as special isolated needs districts under Ark. Code Ann. § 6-20-604. It should be noted that school districts that receive special needs isolated funding under Ark. Code Ann. § 6-20-604 do not need the full amount of declining enrollment funding because the special needs isolated funding already considers the size of the school in determining funding levels. As a result, special needs isolated school districts will receive additional funding for declining enrollment only to the extent that sufficient funds are available.

RECOMMENDATION: Fully fund the special needs funding under Ark. Code Ann. § 6-20-604 to provide alternative funding assistance to school districts with isolated schools and allow additional funding for those isolated schools with declining enrollment if funds are available. The need for dual funding of isolated school with declining enrollment should be referred to the ongoing Adequacy Update Study by Picus for further consideration by the 86th General Assembly.

"Double Whammy". The General Assembly finds that a reduction in funding for a school district that loses students does not create a double loss in funding for the school district because both sources are state funds. There are two factors that work to reduce the amount of state foundation funding aid that a school receives, but the factors do not work together to cause an unfair "double whammy" loss in

funding. In one case, because school districts receive foundation funding aid on a per student basis when students move to other school districts, the funding follows the student. Therefore, a loss of a student will eventually result in a loss of funding for the district losing the student, and the district is no longer required to provide an adequate education for that student. That responsibility shifts to the new district. However, this does not change that amount of either district's per student foundation funding. Another theory that has been put forth is that a school district could also lose funding because of an increase in a property tax assessment. As a district generates more funds from the uniform rate of tax, less revenue from the Public School Fund from the state is needed for that school district to have sufficient resources to provide an adequate education.

RECOMMENDATION: No changes to existing law.

2. *Categorical Funding*

In General. The General Assembly finds that there is insufficient reliable evidence to support an increase in funding for services to students in alternative learning environments (ALE), national school lunch students (NSLA), and students who are English-language learners (ELL).⁵⁵

RECOMMENDATION: Refer to the ongoing Adequacy Update Study by Picus for further consideration by the 86th General Assembly.

NSLA. The General Assembly finds that school districts are using NSLA funds to supplement classroom teacher salaries. The General Assembly also finds that the impact of funding changes due to insignificant increases or decreases in the percentage of eligible students may be an unintended consequence of the setting arbitrary percentage-steps and that there may be a need for increased accuracy and accountability associated with negative incentives realized from the current percentage-step formula.

RECOMMENDATION: School districts should be allowed to continue to use NSLA funds for classroom teacher salaries until June 30, 2007, but only to the extent they were using them for such purpose as of January 1, 2006. This practice should be evaluated in the ongoing Adequacy Update Study by Picus for further consideration by the 86th General Assembly along with options for modifying the current percentage-step formula to a formula with several smaller steps or, if possible, a fair and logical linear formula.

⁵⁵ Exhibit #26 02152006 ACF-AEA-RN-1.

ALE. The General Assembly finds that some school districts may have problems starting new alternative learning environment programs and that the alternative learning environment funding may need to be revised to provide start-up money or current year funding for an alternative learning environment in certain districts.

RECOMMENDATION: Refer to the ongoing Adequacy Update Study by Picus for further consideration by the 86th General Assembly.

Professional Development. The General Assembly finds that the Department of Education's leadership role in professional development should be strengthened and the department should commit more time and resources to the development of instructional technology.

RECOMMENDATION: The Department of Education's leadership role in professional development should be enhanced by establishing two (2) new personnel positions for employees who will specialize in professional development enhancement.

Accounting Improvements. The General Assembly finds that current financial reporting procedures do not provide a the level of detail and accuracy that is required for the General Assembly to make the decision necessary to ensure that an equal opportunity for an adequate education is available statewide.

RECOMMENDATION: Fund *\$500,000 for professional assistance and advice following a one-time study to determine how to upgrade financial reporting systems so that school districts can provide crucial information to the General Assembly more promptly.

*This is the amount provided by the Department of Education, but the committees did not take action on the amount.

Fund Balances. The General Assembly finds the Department of Education and the General Assembly do not receive sufficiently detailed financial information regarding fund balances or reserves maintained by school district as may be necessary to more accurately evaluate school district funding needs.

RECOMMENDATION: Develop more detailed, uniform reporting requirements for fund balances.

3. *Funding Education First*

Act 108 of the 2nd Extraordinary Session of 2003. The General Assembly finds that in times of a shortfall in available funds, the provisions of Act 108 of the 2nd

Extraordinary Session of 2003 provide authority to the Chief Fiscal Officer of the State to ensure that education is funded first by proportionally reducing all other funding for state government as necessary to provide enough funding to ensure that all school children have an equal opportunity for an adequate education as provided by law. Therefore, the General Assembly finds that Act 108 of the 2nd Extraordinary Session of 2003 provides an appropriate mechanism to ensure that education is funded first.

RECOMMENDATION: No changes to exiting law.

4. *Teacher Salaries*

Comparison of Average Arkansas Teacher Salaries to Other States. The General Assembly finds that while Arkansas' ranking with its neighboring states on average teacher salaries is improving, further study should be made of the data and factors used in those comparisons to determine the impact of recent legislation and whether new legislation is needed.

RECOMMENDATION: Refer to the ongoing Adequacy Update Study by Picus for further consideration by the 86th General Assembly.

Teacher Salary Disparity. The General Assembly finds that the state is making steady progress toward resolving issues, such as disparities in teacher salaries, that affect the recruitment and retention of quality teachers. The committees recognize the importance of continuing to address the "seeming impossibility of solving the perpetual inequities of teacher salaries between poor and wealthy districts" as noted by the court and the special masters. Competitive salaries are of tremendous importance in the recruitment and retention of quality teachers; however, resolving salary disparity issues is extremely complex as evidenced by the multitude of programs currently in place to enhance the ability of school districts to recruit and retain quality teachers.⁵⁶ Due to the complexity of the issues involved, the General

⁵⁶ (1) The Arkansas Leadership Academy School Support Program, created by Act 1229 of 2005, provides support to schools in school improvement status for the purpose of moving the schools and districts out of school improvement status;
 (2) The Teacher Opportunity Program and the Dual Certification Incentive Program, created by Act 2196 of 2005, provides scholarships to teachers returning to college to receive an additional certification;
 (3) The National Board of Professional Teaching Standards provides grants to allow payments of costs associated with obtaining the National Board of Professional Teaching Standards certification and a \$5,000 bonus each year for up to ten (10) years;
 (4) The Master School Principals Program, created by Act 44 of the 2nd Extraordinary Session of 2003, provides advanced training for school principals and salary bonuses upon completion with increased bonuses to principals committed to working in school districts with the greatest need;
 (5) The high-priority district teacher incentive program, created by Act 101 of the 2nd Extraordinary Session of 2003, provides a total of \$10,000 in bonuses per teacher to teachers teaching in high-priority areas;
 (6) The Arkansas Teacher Housing Development Act, created by Act 39 of the 2nd Extraordinary Session of 2003, provides low interest loans and rental housing programs for teachers in high-priority areas;
 (7) The State Teacher Assistance Resource Program, created by Act 1804 of 2003, provides loan forgiveness to students going into the teaching field and committing to teach in critical subject matter and geographical shortage areas;
 (8) The University Assisted Teacher Recruitment and Retention Grant Program within the Department of Higher Education, created by Act 1550 of 2001;

Assembly finds that teacher recruitment and retention issues, particularly disparities in teacher salaries, need to be addressed only after a thorough review of the effectiveness of current programs and completion of a research-based analysis of possible remedies.

RECOMMENDATION: Refer to the ongoing Adequacy Update Study by Picus for further consideration by the 86th General Assembly.

Minimum Teacher Salary Schedule. The General Assembly finds that one (1) of the most effective methods of reducing teacher salary disparities is to increase the minimum teacher salary schedule in direct proportion to increases in state foundation funding and that the approach to increasing the minimum teacher salary schedule adopted in the 2005 Regular Session should be continued.

RECOMMENDATION: The minimum teacher salary schedule should be increased by the index percentage applied to the foundation funding matrix when the foundation funding amount is increased.

Educational Excellence Trust Fund. The General Assembly finds that limitations on the use of funds generated from the Educational Excellence Trust Fund may have some impact on increasing the disparity in teacher salaries, but there was insufficient evidence presented to necessitate a change.

RECOMMENDATION: Refer to the ongoing Adequacy Update Study by Picus for further consideration by the 86th General Assembly.

Superintendent Contracts. The General Assembly finds that school district contracts with superintendents may not have sufficient legal protections for the state or school districts in cases where the superintendent is not performing his or her duties.

RECOMMENDATION: Refer to the ongoing Adequacy Update Study by Picus for further consideration by the 86th General Assembly.

Stipends and Supplemental Pay. The General Assembly finds that there may be a disparity in the amount of stipends and supplemental pay among various types of certified school employees.

RECOMMENDATION: Refer to the ongoing Adequacy Update Study by Picus for further consideration by the 86th General Assembly.

(9) The Teacher Opportunity Program, created by Act 2196 of 2005;

(10) The Arkansas Geographical Critical Needs Minority Teacher Scholarship Program created by Act 1731 of 2001;

(11) Allowing the payment of interviewing expenses for job applicants in particular regions;

(12) Allowing the payment of moving expenses for new employees in particular regions; and

(13) Establishing the Department of Education's Office of Teacher Recruitment for ensuring that the children of our state are taught by highly qualified professionals.

5. Health Insurance

Employer Contributions. The General Assembly finds health insurance benefits are an important part of teacher compensation.

RECOMMENDATION: Refer to the ongoing Adequacy Update Study by Picus for further consideration by the 86th General Assembly.

Benefits. The General Assembly finds that some school districts provide different amounts of benefits and employer contributions various types of employees causing a disparity in compensation within the school district.

RECOMMENDATION: Require parity in benefits and employer contributions among certified personnel for insurance and to further study the impact of this recommendation prior to a special session.

6. Unfunded Mandates

Retirement Contribution Rates FY 05-06. The General Assembly finds that the one percent (1%) increase in the retirement contribution rate for school employees beginning with the July 1, 2005, school year creates a need for additional funding in the amount of \$19,100,000 for the 2005-2006 school year.

RECOMMENDATION: Foundation funding increased by \$42 per student to provide additional funding for teacher retirement contributions.

Retirement Contribution Rates FY 06-07. The General Assembly finds that the one percent (1%) increase in the retirement contribution rate for school employees beginning with the July 1, 2006, school year creates a need for additional funding in the amount of \$19,100,000 for the 2006-2007 school year.

RECOMMENDATION: Foundation funding increased by \$42 per student to provide additional funding for teacher retirement contributions.

Retirement Contribution Rates FY 06-07. The General Assembly finds that the authority of the Arkansas Teacher Retirement System to increase the contribution rate to fifteen percent (15%) effective July 1, 2006 should be repealed preventing another \$19,100,000 increase in 2006-2007.

RECOMMENDATION: Specify through legislation that the Arkansas Teacher Retirement System does not have the authority to increase the employer contribution rate to fifteen percent (15%) effective July 1, 2006.

Study Future Retirement Contribution Rate Increases. The General Assembly finds that increases in teacher retirement contributions have a direct impact on the funding needs of school districts.

RECOMMENDATION: General Assembly should study any future increases prior to increasing or allowing the system to increase the contribution rates.

Limit the Authority to Reduce Benefits. The General Assembly finds that changes in the contribution rates for employees covered by the Arkansas Teacher Retirement System may impact the amount and types of benefits provided to retirees and that the Arkansas Teacher Retirement System's authority to reduce benefits may need to be repealed or limited.

RECOMMENDATION: Refer to the appropriate committee for further study the issue of whether to repeal the laws granting authority to the Arkansas Teacher Retirement System to reduce benefits.

Vision Screening. The General Assembly finds that additional requirements of vision screening for students does create a need for additional funding in the amount of \$25,000 statewide.

RECOMMENDATION: Increase foundation funding as necessary to fund the increased cost of \$25,000 statewide for vision screening.

7. Academic Facilities

Academic Facilities Funding. The General Assembly finds that academic facilities funding needs should continue to be reviewed and evaluated as the Division of Public School Academic Facilities and Transportation implements the Academic Facilities Master Plan Program and the Academic Facilities Partnership Program.

RECOMMENDATION: Refer to the Academic Facilities Oversight Committee for further consideration by the 86th General Assembly.

Academic Facilities Funding Sources. The General Assembly finds that the Public School Academic Facilities Program and related funding sources are an integral part of the concept of "adequacy"; however, the Educational Facilities Partnership Fund is not protected under "doomsday".

RECOMMENDATION: Clarify legislatively that the Public School Academic Facilities Program and related funding sources are part of the concept of adequacy and protect the Educational Facilities Partnership Fund under the doomsday clause.

Academic Facilities Appropriations. The General Assembly finds that there should be a mechanism to transfer unobligated balances in the General Improvement Fund to the Educational Facilities Partnership Fund Account for the Academic Facilities Partnership Program and for cost overruns in the Immediate Repair Program and Transitional Academic Facilities Program.

RECOMMENDATION: Prepare legislation to authorize such transfers.

Nine percent (9%) Dedicated to Facilities Upkeep. The General Assembly finds that school district should be able to use the nine percent (9%) of foundation funding currently dedicated to the upkeep of academic facilities for all public school facilities .

RECOMMENDATION: Clarify the scope of the requirement that a school district dedicate nine percent (9%) of foundation funding to utilities and costs of maintenance, repair, and renovation activities so that school districts can use the dedicated nine percent (9%) for all public school facilities.

Academic Facilities Wealth Index Formula. The General Assembly finds that further study should be conducted of the possible parameters of a program to provide additional state facilities funding to school districts in extraordinary circumstances as defined by the General Assembly. The study should review and evaluate the impact of the academic facilities wealth index on all districts with a special emphasis on those with declining enrollment, those with rapid growth, and those above the ninety-fifth percentile on the academic facilities wealth index. The study should consider various proposals to address the potential needs of school districts that might face extraordinary circumstances, including:

Establishing an Academic Facilities Extraordinary Circumstances Revolving Loan Fund for a school district that cannot meet commission-certified facilities needs with a combination of state financial participation based on the academic facilities wealth index and local resources. If a school district cannot meet its commission-certified facilities needs with a combination of state financial participation based on the academic facilities wealth index and local resources, including the revenues from at least _____* debt mills approved by local voters, then the school district would be eligible to borrow interest free from the loan fund. A mechanism would be created to provide for repayment when the revenue raised by at least _____* debt mills provides more revenue than is needed to make debt service payments. *This language was approved by the committees but no specific determination regarding the number of debt mills was made.

RECOMMENDATION: Develop proposed legislation and refer to the Academic Facilities Oversight Committee for further consideration by the 86th General Assembly.

B. Conditioning the transfer of additional state funds on the school district's willingness to put itself under voluntary fiscal or facilities distress.

RECOMMENDATION: Develop proposed legislation and refer to the Academic Facilities Oversight Committee for further consideration by the 86th General Assembly.

C. Other proposals presented by Bureau of Legislative Research staff based on research of similar programs in other states.

RECOMMENDATION: Develop proposed legislation and refer to the Academic Facilities Oversight Committee for further consideration by the 86th General Assembly.

Fund Balances. The General Assembly finds that the House Interim Committee on Education and the Senate Interim Committee on Education should study and define the various types of school district funds and explore options for the consideration of fund balances in the distribution of state aid to school districts.

RECOMMENDATION: Develop more detailed, uniform reporting requirements for fund balances and refer to the ongoing Adequacy Update Study by Picus for further consideration by the 86th General Assembly.

Transportation. The General Assembly finds that further review should be conducted of the use of statewide transportation fuel contracts as a cost-saving measure.

RECOMMENDATION: Refer to the Academic Facilities Oversight Committee for further consideration by the 86th General Assembly.

Debt Service Funding. The General Assembly finds that the new program of bonded debt assistance should continue to be monitored and evaluated in light of newly available state financial assistance to school districts for academic facilities.

RECOMMENDATION: Refer to the Academic Facilities Oversight Committee for further consideration by the 86th General Assembly.

Facilities Funding for Growth Districts. The General Assembly finds that the statutory cap on a school district's bonding capability should be eliminated if further

communication with key bond rating agencies insures that the state's bond rating will not be affected by the change.

RECOMMENDATION: Possibly revise law.

Facilities Program Administration. The General Assembly finds that the Commission on Public School Academic Facilities and Transportation should continue to operate beyond its current sunset date of July 1, 2007, and that the Division of Public School Academic Facilities and Transportation should be immediately transferred to the Department of Education to facilitate administrative efficiencies.

RECOMMENDATION: Provide for the continuation of the Commission on Public School Academic Facilities and Transportation and the immediate transfer of the division to the department.

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V. Recommended Legislation

Amend the amount of foundation funding in the Public School Funding Act of 2003, Arkansas Code § 6-20-2301 et seq.

Allow the Assessment Coordination Department to create a uniform statewide set of instructions for reporting county property tax collection information.

Establish declining enrollment funding for the 2006-2007 school year and fully fund the special needs isolated funding under Ark. Code Ann. § 6-20-604.

Provide additional positions to assist the Department of Education in the development of technology-based or other enhanced professional development opportunities.

Authorize school districts to continue to use NSLA funds for classroom teachers until June 30, 2007, but only to the extent they were using them for such purpose as of January 1, 2006.

Amend the minimum teacher salary schedule.

Require parity in benefits and employer contribution for employees participating in the public school employees' health insurance program.

Provide additional appropriation and funding to offset increases in school district employer contributions to the Arkansas Teacher Retirement System.

Specify that the Arkansas Teacher Retirement System does not have the authority to increase the employer contribution rate to fifteen percent (15%) effective July 1, 2006.

Develop detailed uniform reporting requirements for school district fund balances.

Provide for a study of public school financial accounting and reporting systems.

Clarify the scope of the requirement that school districts dedicate nine percent (9%) of foundation funding to utilities and costs of maintenance, repair, and renovation activities so that school districts can use the dedicated nine percent (9%) for all public school facilities.

Provide for the continued existence of the Commission for Public School Academic Facilities and Transportation and the immediate transfer of the Division of Public School Academic Facilities and Transportation to the Department of Education.

Clarify that the Public School Academic Facilities Program and related funding sources are a part of the concept of adequacy and protect the Educational Facilities Partnership Fund Account from the doomsday clause of Act 108 of the 2nd Extraordinary Session of 2003.

Authorize the transfer of unobligated balances in the General Improvement Fund to the Educational Facilities Partnership Fund Account for the Academic Facilities Partnership Program and for cost overruns in the Immediate Repair Program and the Transitional Academic Facilities Program.

Eliminate the statutory cap on a school district's bonding capability.

VI. Issues Referred for Additional Study

The General Assembly finds that some issues regarding continued adequacy in public schools are not ripe for legislative changes. Because of the General Assembly's commitment to regularly review and update the needs of Arkansas schools, the committees recommend that several items be referred for additional study to be completed prior to the convening of the 86th General Assembly.

The following issues should be referred to the House Interim Committee on Education and the Senate Interim Committee on Education for inclusion in the ongoing Adequacy Update Study by Picus:

Schools with Declining Enrollment

Isolated Schools

Isolated Schools with Declining Enrollment

Categorical Funding

Alternative Learning Environments

Teacher Salaries

Uniform Superintendent Contracts

Educational Excellence Trust Fund

Stipends and Supplemental Pay

Health Insurance

Future Retirement Contribution Rate Increases

Authority of the Arkansas Teacher Retirement System to Reduce Benefits

Use of Fund Balances in State Aid Distribution

The following issues should be referred to the Academic Facilities Oversight Committee for further consideration and development:

Academic Facilities Funding Needs

Academic Facilities Wealth Index Formula

Establishing an Extraordinary Circumstances Funding Program for Academic Facilities

Statewide Transportation Fuel Contracts

Debt Service Funding

Facilities Funding for Growth Districts

NOTICE OF RETURN OF HOUSE BILLS

HOUSE BILL NO. 1012 BY REPRESENTATIVE MAHONY

HOUSE CONCURRENT RESOLUTIONS ADOPTED AND
ORDERED TRANSMITTED TO THE SENATE

HOUSE CONCURRENT REOLUTION NO. 1006
BY REPRESENTATIVE COWLING

HOUSE CONCURRENT MEMORIAL RESOLUTIONS ADOPTED AND
ORDERED TRANSMITTED TO THE SENATE

HOUSE CONCURRENT MEMORIAL REOLUTION NO. 1001
BY REPRESENTATIVE SCHULTE
HOUSE CONCURRENT MEMORIAL REOLUTION NO. 1002
BY REPRESENTATIVE BLOUNT

SENATE CONCURRENT RESOLUTIONS CONCURRED IN
AND ORDERED RETURNED TO THE SENATE

SENATE CONCURRENT RESOLUTION NO. 1 BY SENATOR ARGUE
WITH ATTACHED REPORT
SENATE CONCURRENT RESOLUTION NO. 5 BY SENATOR ARGUE

SENATE BILLS ORDERED RETURNED TO THE SENATE AS PASSED

SENATE BILL NO. 1 BY SENATE EDUCATION COMMITTEE
 SENATE BILL NO. 2 BY SENATOR ARGUE
 SENATE BILL NO. 4 BY SENATE EDUCATION COMMITTEE
 SENATE BILL NO. 6 BY SENATE EDUCATION COMMITTEE
 SENATE BILL NO. 7 BY SENATE EDUCATION COMMITTEE
 SENATE BILL NO. 12 BY SENATOR HIGGINBOTHOM

EMERGENCY CLAUSE HAVING FAILED

SENATE BILL NO. 16 BY SENATOR MADISON
 SENATE BILL NO. 21 BY JOINT BUDGET COMMITTEE
 SENATE BILL NO. 24 BY SENATOR WILKINS
 SENATE BILL NO. 26 BY SENATOR J. JEFFRESS
 SENATE BILL NO. 27 BY SENATE EDUCATION COMMITTEE

AS AMENDED # 1

NOTICE OF RETURN OF SENATE BILLS

SENATE BILL NO. 3 BY SENATE EDUCATION COMMITTEE
 HAVING FAILED TO PASS
 SENATE BILL NO. 5 BY SENATE EDUCATION COMMITTEE
 RULED NOT GERMANE
 SENATE BILL NO. 18 BY SENATOR J. JEFFRESS
 HAVING FAILED TO PASS

ARKANSAS SENATE

HOUSE BILLS RETURNED FROM THE SENATE AS PASSED

HOUSE BILL NO. 1012 BY REPRESENTATIVE MAHONY
 AS AMENDED # 2

NOTICE OF RETURN OF HOUSE BILLS

HOUSE BILL NO. 1036 BY REPRESENTATIVE COOK
AS PASSED, AS AMENDED # 1

ARKANSAS SENATE
SENATE CONCURRENT RESOLUTIONS ADOPTED AND
TRANSMITTED TO THE HOUSE

SENATE CONCURRENT RESOLUTION NO. 5 BY SENATOR ARGUE

ENROLLED AND DELIVERY TO GOVERNOR REPORTS

Little Rock, Arkansas

April 7, 2006

MR. SPEAKER:

We, your committee on Enrolled Bills, to whom was referred the following:

HOUSE BILL NO. 1012 BY REPRESENTATIVE MAHONY, ET AL
 HOUSE BILL NO. 1016 BY REPRESENTATIVES ABERNATHY, MAHONY
 HOUSE BILL NO. 1030 BY REPRESENTATIVE WALTERS, ET AL
 HOUSE BILL NO. 1031 BY REPRESENTATIVES J. JOHNSON, MEDLEY
 HOUSE BILL NO. 1046 BY REPRESENTATIVE MATHIS, ET AL

beg leave to report that we have carefully compared the enrolled copies with the original and we find the same correctly enrolled and have at 8:28 a.m. delivered them to the Governor for his approval.

Respectfully submitted,

/s/ Bill H. Stovall, III

Chairman

RECEIPT FROM THE GOVERNOR

RECEIVED FROM THE HOUSE:

HOUSE BILL NO. 1012 BY REPRESENTATIVE MAHONY, ET AL
 HOUSE BILL NO. 1016 BY REPRESENTATIVES ABERNATHY, MAHONY
 HOUSE BILL NO. 1030 BY REPRESENTATIVE WALTERS, ET AL
 HOUSE BILL NO. 1031 BY REPRESENTATIVES J. JOHNSON, MEDLEY
 HOUSE BILL NO. 1046 BY REPRESENTATIVE MATHIS, ET AL

/s/ Mike Huckabee - Governor

TIME: 8:28 a.m.

By: Shannon Hunter

ENROLLED AND DELIVERY TO GOVERNOR REPORTS

Little Rock, Arkansas

April 7, 2006

MR. SPEAKER:

We, your committee on Enrolled Bills, to whom was referred the following:

HOUSE BILL NO. 1013 BY REPRESENTATIVE COOK

HOUSE BILL NO. 1036 BY REPRESENTATIVES COOK, MEDLEY

HOUSE BILL NO. 1040 BY REPRESENTATIVE COOK

beg leave to report that we have carefully compared the enrolled copies with the original and we find the same correctly enrolled and have at 2:24 p.m. delivered them to the Governor for his approval.

Respectfully submitted,

/s/ Bill H. Stovall, III
Chairman

RECEIPT FROM THE GOVERNOR

RECEIVED FROM THE HOUSE:

HOUSE BILL NO. 1013 BY REPRESENTATIVE COOK

HOUSE BILL NO. 1036 BY REPRESENTATIVES COOK, MEDLEY

HOUSE BILL NO. 1040 BY REPRESENTATIVE COOK

/s/ Mike Huckabee - Governor

TIME: 2:24 p.m.

By: Sarah Agee

STATE OF ARKANSAS
MIKE HUCKABEE
GOVERNOR

April 7, 2006

TO THE SPEAKER OF THE HOUSE

Dear Mr. Speaker:

This is to inform you that on April 7, 2006, I approved the following measures from the First Extraordinary Session of the Eighty-fifth General Assembly:

HOUSE CONCURRENT RESOLUTION NO. 1002

Sincerely yours,

Mike Huckabee

STATE OF ARKANSAS
MIKE HUCKABEE
GOVERNOR

April 7, 2006

TO THE SPEAKER OF THE HOUSE

Dear Mr. Speaker:

This is to inform you that on April 7, 2006, I approved the following measures from the First Extraordinary Session of the Eighty-fifth General Assembly:

HOUSE BILL NO. 1006	ACT 1
HOUSE BILL NO. 1020	ACT 2
HOUSE BILL NO. 1001	ACT 3
HOUSE BILL NO. 1005	ACT 4
HOUSE BILL NO. 1004	ACT 5

Sincerely yours,

Mike Huckabee

STATE OF ARKANSAS
MIKE HUCKABEE
GOVERNOR

April 7, 2006

TO THE SPEAKER OF THE HOUSE

Dear Mr. Speaker:

This is to inform you that on April 7, 2006, I approved the following measures from the First Extraordinary Session of the Eighty-fifth General Assembly:

HOUSE BILL NO. 1021

ACT 9

Sincerely yours,

Mike Huckabee

HOUSE RESOLUTION NO. 1011

BY: REPRESENTATIVES MATAYO, HARRIS, KENNEY, PRITCHARD

A BILL FOR AN ACT TO BE ENTITLED CONGRATULATING THE UNDEFEATED SPRINGDALE BULLDOGS ON A HISTORIC SEASON AND THE CLASS AAAAA FOOTBALL CHAMPIONSHIP.

Was read the first time, rules suspended, read the second time and referred to the Calendar.

HOUSE RESOLUTION NO. 1004

BY: REPRESENTATIVES WILLS, PICKETT, SCROGGIN, S. PRATER

A BILL FOR AN ACT TO BE ENTITLED IN RESPECTFUL MEMORY OF DR. JACK LOGAN AND MR. BERT ALEXANDER AND IN RECOGNITION OF THEIR SACRIFICE.

Was read the first time, rules suspended, read the second time and referred to the Calendar.

In accordance with the provisions of **SENATE CONCURRENT REOLUTION NO. 5**, the First Extraordinary Session of 85th General Assembly stands in recess at 4:05 p.m., April 7, 2006, until May 1, 2006.

ATTEST:

Bill H. Stovall, III
Speaker of the House of Representatives

Jo Renshaw
Chief Clerk