

**ARKANSAS DEPARTMENT OF EDUCATION
AMENDING ADMINISTRATIVE REGULATION**

NUMBER: ADE 127

TITLE: Loans and Bonds

EFFECTIVE DATE: September 14, 2001

STATUTORY AUTHORITY: Ark. Code Ann. § 6-11-105

NECESSITY AND FUNCTION: To set forth the criteria that shall be used by the Arkansas Department of Education Loans and Bonds Committee in reviewing and recommending loan and bond applications from school districts and revolving loan applications from Education Service Cooperatives to the State Board of Education, by the State Board of Education in reviewing loan and bond applications from school districts and revolving loan applications from Education Service Cooperatives, and by the Director of the Department of Education in consideration of certain loan and bond applications.

PAGES FILED: ADE 127-1 through ADE 127-10

Raymond Simon, Director
Arkansas Department of Education

PROMULGATION DATE: August 13, 2001

CONTACT PERSON: Cindy Chaney
#4 Capitol Mall, Room 202-A
Little Rock, AR 72201
501-682-4494

QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS
WITH THE ARKANSAS LEGISLATIVE COUNCIL AND JOINT INTERIM
COMMITTEE

DEPARTMENT/AGENCY Department of Education
DIVISION Public School Finance & Administrative Support
DIVISION DIRECTOR Patricia Martin
CONTACT PERSON Annette Berry
ADDRESS #4 Capitol Mall, Rm. 202-A – Little Rock, AR 72201
PHONE NO. 501/682-5124 FAX NO. 501/682-9035

INSTRUCTIONS

- A. Please make copies of this form for future use.
- B. Please answer each question completely using layman terms. You may use additional sheets, if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after Short Title of this Rule below.
- D. Submit two (2) copies of this questionnaire attached to the front of two (2) copies of your proposed rule and mail or deliver to:

Donna K. Davis
Subcommittee on Administrative Rules and Regulations
Arkansas Legislative Council
Bureau of Legislative Research
Room 315, State Capitol
Little Rock, AR 72201

- 1. What is the short title of this rule?
Revisions to the Rules and Regulations Governing Loans and Bond Applications
- 2. What is the subject of the proposed rule?
Set forth the criteria that shall be used by the ADE Loans and Bond Committee in reviewing Loans/Bonds applications
- 3. Is this rule required to comply with federal statute or regulations?
Yes _____ No X _____

If yes, please provide the federal regulation and/or statute citation.
- 4. Was this rule filed under the emergency provisions of the Administrative Procedures Act? Yes _____ No X _____
If yes, what is the effective date of the emergency rule?

When does the emergency rule expire?

Will this emergency rule be promulgated under the regular provisions of the Administrative Procedure Act? Yes _____ No X _____

5. Is this a new rule? Yes _____ No X _____

Does this repeal an existing rule? Yes _____ No _____
If yes, please provide a copy of the repealed rule.

Is this an amendment to an existing rule? If yes, please attach a markup showing the changes in the existing rule and a summary of the substantive changes.

These rules and regs are being revised to reflect statutory changes enacted by the 83rd General Session of the Arkansas Legislature.

6. What state law grants the authority for this proposed rule? If codified, please give Arkansas Code citation.

A.C.A. §§6-20-801, et. Seq., ~~6-20-2402-1215~~, et.seq. as amended by Act 1220 of 2001 and Act 1214 of 2001, and 6-11-105 (Repl. 1999)

7. What is the purpose of this proposed rule? Why is it necessary?

The purpose is to implement statutory changes made by the General Assembly in the 2001 Session

8. Will a public hearing be held on this proposed rule? Yes X _____ No _____

If yes, please give the date, time, and place of the public hearing.

June 7, 2001 – 2:00 PM – Arch Ford Education Rm. 201-A

9. When does the public comment period expire?

June 25, 2001

10. What is the proposed effective date of this proposed rule?

August 31, 2001

11. Do you expect this rule to be controversial? Yes _____ No X _____

If yes, please explain.

12. Please give the names of persons, groups, or organizations which you expect to comment on these rules. Please provide their position (for or against) if known.

Public School Superintendents
Public School Fiscal Agents

PLEASE ANSWER ALL QUESTIONS COMPLETELY

July 28, 1995

DEPARTMENT ___ of Education _____
DIVISION ___ Public School Finance & Administrative Support _____
PERSON COMPLETING THIS STATEMENT ___ Annette Berry _____
TELEPHONE NO. ___ 501/682-5124 _____ FAX NO. ___ 501/682-9035 _____

FINANCIAL IMPACT STATEMENT

To comply with Act 1104 of 1995, please complete the following Financial Impact Statement and file with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE _____
Revisions to the Rules and Regulations Governing Loans and Bond Applications

1. Does this proposed, amended, or repealed rule or regulation have a financial impact?
Yes _____ No X _____
2. If you believe that the development of a financial impact statement is so speculative as to be cost prohibited, please explain.
N/A
3. If the purpose of this rule or regulation is to implement a federal rule or regulation, please give the incremental cost for implementing the regulation.

<u>2001-02 Fiscal Year</u>	<u>2002-03 Fiscal Year</u>
General Revenue _____ N/A _____	General Revenue _____ N/A _____
Federal Funds _____	Federal Funds _____
Cash Funds _____	Cash Funds _____
Special Revenue _____	Special Revenue _____
Other _____	Other _____
Total _____	Total _____

4. What is the total estimated cost by fiscal year to any party subject to the proposed, amended, or repealed rule or regulation?

<u>2001-02 Fiscal Year</u>	<u>2002-03 Fiscal Year</u>
N/A	N/A

5. What is the total estimated cost by fiscal year to the agency to implement this regulation?

<u>2001-02 Fiscal Year</u>	<u>2002-03 Fiscal Year</u>
N/A	N/A

DEPARTMENT OF EDUCATION
FISCAL IMPACT STATEMENT
OF PROPOSED REGULATION
(In compliance with Acts 884 and 1253 of 1995)

Regulation Title:

Revisions to the Rules and Regulations Governing Loans and Bond Applications

Summary Description of Regulatory Proposal:

Set forth the criteria the shall be used by the ADE Loans and Bond Committee in reviewing Loans/Bonds applications.

Cite Statutory Authority for this Regulatory Proposal:

- I. Fiscal Impact on the Department: (include whether impacts are non-recurring or recurring)
 - A. Resources Required - Personnel, equipment, office space.
 - B. Time Required for Implementation.
 - C. Procedural Changes.
 - D. Other.

- II. Fiscal Impact on Local School District or Others? (Include whether impacts are non-recurring or recurring)
 - A. Resources Required - Personnel, equipment, office space.
 - B. Time Required for Implementation.
 - C. Procedural Changes.
 - D. Other.

- III. Additional Comments.

Prepared by: Patricia Martin
Assistant Director – PSF&AS
May 16, 2001

**ARKANSAS DEPARTMENT OF EDUCATION
RULES AND REGULATIONS GOVERNING LOAN
AND BOND APPLICATIONS
September 6, 2001**

1.00 REGULATORY AUTHORITY

- 1.01 These regulations shall be known as the Arkansas Department of Education Rules and Regulations Governing Loan and Bond Applications.
- 1.02 These regulations are enacted pursuant to the State Board of Education's authority under Ark. Code Ann. § 6-11-105.

2.00 PURPOSE

These regulations are enacted to set forth the criteria that shall be used by the Arkansas Department of Education Loans and Bonds Committee in reviewing and recommending loan and bond applications from school districts and revolving loan applications from Education Service Cooperatives to the State Board of Education, by the State Board of Education in reviewing loan and bond applications from school districts and revolving loan applications from Education Service Cooperatives, and by the Director of the Department of Education in consideration of certain loan and bond applications.

3.00 APPLICATION

- 1.00 These regulations shall apply to all loan and bond applications filed by school districts and revolving loan applications filed by Education Service Cooperatives with the Arkansas Department of Education (Department).
- 3.02 Loans approved as part of a court approved settlement agreement to which the Department or State Board of Education (State Board) are signatory are exempt from the general application of these regulations.

4.00 LOANS AND BONDS COMMITTEE

- 1.00 The Arkansas Department of Education Loans and Bonds Committee (Committee) shall consist of these eight members of the Department staff:
 - A. Assistant Director, Public School Finance and Administrative Support
 - B. Associate Director, Finance
 - C. Coordinator, Loans and Bonds
 - D. Program Support Manager, Equity Assistance Center
 - E. Coordinator, School Plant Services
 - F. Coordinator, Local Fiscal Services
 - A. Coordinator, Financial Accountability
 - A. Coordinator, Public School Transportation
- 1.00 Applications considered by the Committee may be acted upon in any of the following ways:
 - A. The application may be recommended for approval to the State Board;The application may be recommended for disapproval to the State Board;
The application may be tabled pending receipt of additional information, further study by the Department staff, or verification of information regarding the application.

5.00 ACCREDITATION STATUS

- 5.01 Loan or bond applications, excluding applications for non-voted refunding bond issues, from school districts with an accreditation status of "not accredited" at the time the application is considered by the Committee, shall be recommended for disapproval by the Committee to the State Board, unless extraordinary circumstances are documented by the district superintendent or designee. An application recommended for disapproval may be considered by the State Board only upon appearance, at the State Board meeting, by the superintendent or designee, but will not be approved absent extraordinary circumstances.
- 5.02 Loan or bond applications, excluding applications for non-voted refunding bond issues, from school districts with an accreditation status of "probationary" at the time the application is considered by the Committee, shall be recommended for disapproval by the Committee to the State Board unless the citation that is the cause of the probationary status is corrected prior to the State Board meeting or will be corrected through the use of the loan or bond proceeds. An application recommended for disapproval may be considered by the State Board only upon appearance, at the State Board meeting, by the superintendent or designee.
- 5.03 Loan or bond applications, excluding applications for non-voted refunding bond issues, from school districts with an accreditation status of "accredited cite" at the time the application is considered by the Committee, shall be recommended for disapproval by the Committee to the State Board if thirty percent (30%) or more of the individual teachers in a district are teaching in a discipline not designated by their certification unless the Committee receives documentation, prior to the State Board meeting, that citations have been corrected and the corrections would result in a citation-to-teacher ratio below thirty percent (30%). An application recommended for disapproval may be considered by the State Board only upon appearance, at the State Board meeting, by the superintendent or designee.
- 5.04 Loan or bond applications from school districts with an accreditation status of "not accredited", "probationary", or "accredited cite" may be recommended for approval by the Committee to the State Board if the district provides documented proof that the deficiency no longer exists.

6.00 EQUITY STATUS

- 1.00 All school districts submitting loan or bond applications to fund a proposed facility project, excluding maintenance and operation facilities, transportation facilities, and other non-instructional facilities, shall submit written documentation showing:
- A. That the proposed facility project is necessary to meet an important educational goal of the district. Completion of the proposed project should enable the applying district to provide a better quality, desegregated education, necessary to meet the needs of its present and projected population. The district must provide a desegregation impact statement showing that the proposed improvements do not have a segregative effect. A detailed outline or explanation of the educational goal to be met shall be included;
 - A. That the proposed facility project is necessary to comply with Department rules and regulations, and/or state and federal statutes and regulations; and
 - A. That the Department has received a current Annual Equity Compliance Report from the school district.

- 6.02 The applying district shall have as its goal not to establish or enlarge a school, unless the enrollment in such school is reasonably projected to be within a twenty-five percent (25%) range of its district-wide percentage of majority-minority students by organizational level, as established in the Little Rock School District v. Pulaski County Special School District case E. D. Ark. LR-C-82-866.
- 6.03 The applying district shall submit a written Assurance Impact Statement that the facility project will not, in any manner, establish, continue, or ignore segregative activities within the district.
- 6.04 Any school in any county contiguous to Pulaski County shall submit a written Assurance Impact Statement that the proposed facility project will not have a substantial negative impact on the ability of any district in Pulaski County to desegregate effectively. Upon receipt of the application, the school district shall be notified by the Department that this section applies to the school district.
- 6.05 The Committee shall not recommend approval of any application from any district not submitting the documentation required in Sections 6.01 and 6.03.

The Committee may recommend approval of any application from a district submitting the information in Section 6.01 if the Committee agrees with the documentation.

The State Board shall not approve an application from any district not submitting the information required in Section 6.01.

- 6.08 The State Board may consider a school district's application not approved by the Committee under Section 6.03 after reviewing the documentation submitted by the applying district.

7.00 REVOLVING LOAN PROGRAM

- 7.01 Revolving loan applications from school districts or Education Service Cooperatives that have a current ending funds balance of less than the total annual payments of principal and interest will be recommended for disapproval by the Committee to the State Board.
- 7.02 The district is required to submit written notification to the Loans and Bonds Unit of the Department regarding intent to prepay an outstanding revolving loan. The Notice of Intent to Prepay must be received by the Loans and Bonds Unit of the Department at least thirty-two (32) days prior to the scheduled payoff date. Revolving loans may be refunded or paid in full without penalty on any scheduled interest payment date. If a district chooses to refund or pay off a revolving loan on a date other than an interest payment date, the district will be required to pay the full interest up to the payment date.

8.00 COST EFFICIENCY

- 8.01 Loan and bond applications for projects that substantially exceed the cost of similar projects will be recommended for disapproval to the State Board by the Committee unless written justification for the excess cost is provided by the district or Education Service Cooperative. The School Plant Unit of the Department will provide average cost estimates of projects to school districts and Education Service Cooperatives upon request.

- 8.02 If approval of a loan or bond application from a school district, would cause the district's debt to exceed twenty-seven percent (27%) of its current certified assessed valuation, the application will be considered by the Committee upon receipt of a written explanation of the extraordinary circumstances causing the need to exceed the percentage limit. This explanation shall be signed by the local school board president and the superintendent or designee. The application may be considered by the State Board only upon appearance, at the State Board meeting, by the superintendent or a designated school district employee.

If approval of a loan or bond application from a school district, would cause the district's debt to exceed thirty-five percent (35%) of its current certified assessed valuation, the application will be recommended for disapproval to the State Board by the Committee and will not be approved by the State Board, as authorized by Ark. Code Ann. § 6-20-1202.

Loan or bond applications from a school district that would cause the district debt to exceed twenty-seven percent (27%) of its current assessed valuation will be analyzed by the Fiscal Distress Committee and the resulting data will be presented to the State Board.

9.00 NON-VOTED REFUNDING BONDS

- 9.01 A separate application package must be submitted for each non-voted refunding issue. The application package must include, but is not limited to, (A) the application, (B) a contract between the applying school district and its fiscal agent, (C) a preliminary Debt Service Comparison Schedule as prescribed in Section 9.02, (D) a certificate of assessment from the county clerk, and (E) a final Debt Service Comparison Schedule including the Certificate of Savings is required after the issue has been sold, as prescribed in Section 9.02.
- 9.02 Each non-voted refunding bond issue must generate minimum principal and interest savings, over the life of the refunding (new) issue, based on the existing debt schedule, of the lesser of one hundred thousand dollars (\$100,000) or five percent (5%) of total principal and interest over the life of the bond on the refunded (old) issue. This calculated savings must be reduced by agent's fees and related issuance costs. For purposes of this savings calculation, investment income earned on deposited proceeds of the refunding (new) issue shall be offset by corresponding interest charges on the refunding (new) issue. Also, principal and interest charged on the refunded (old) issue must be included in the calculation of savings until the debt is retired.
- 9.03 Non-voted refunding issues may not be combined in order to achieve required savings, as prescribed in Section 9.02. Each non-voted refunding bond must meet the minimum savings requirement independently.
- 9.04 The amount of the new bond issue shall not exceed the approved loan amount on the application. If there is a sudden drop in interest rates after the application has been approved, and more bonds must be sold to refund the outstanding bonds, written approval must be granted by the Director of the Department of Education (Director) for the increased amount prior to the sale of the refunding bonds. A revised preliminary Debt Service Comparison Schedule, as prescribed in Section 9.02, must be provided to the Director at this time.
- 9.05 This section on non-voted refunding bonds excludes non-voted refunding bonds that do not meet the savings requirement and second-lien bond refundings that do not meet the savings requirement.

10.00 PROCEDURAL REQUIREMENTS

- 10.01 No loan or bond application will be recommended for approval to the State Board by the Committee and no loan or bond application will be approved by the State Board or the Director until the application complies with all statutory requirements.
- 10.02 All documents, excluding non-voted refunding bond applications, must be received by the Loans and Bonds Unit of the Department thirty-one 31 days before the State Board meeting at which the applications will be considered. If thirty-one (31) days before the scheduled meeting date falls on a holiday or weekend, the deadline for filing shall be extended to the next business day. Loan or bond applications for which documents are received after this date will be considered in the next application cycle.
- 1.00 All loan and bond applications shall include a specific and detailed description of each intended use of the proceeds and each respective cost estimate. Bond applications shall include a declaration (date voted) of the millage being used to secure the bond. Applications that do not include this information will be tabled by the Committee pending receipt of the required information.
- 1.00 An approved second lien bond, non-voted refunding bond, or voted bond application package submitted to the Loans and Bonds Unit of the Department is only valid until the following May 30. If the district has not issued the bonds (or series of bonds within an issue) on or before May 30, an updated application and new approval are required.
- 1.00 The Director may grant a district the authority to advertise a debt issuance prior to the State Board's approval of the debt issuance, as authorized under Ark. Code Ann. § 6-20-1215.

SECURITY OF LOANS, BONDS, POSTDATED WARRANTS, INSTALLMENT CONTRACTS, AND LEASE PURCHASE AGREEMENTS

- In the case of default on principal or interest payments on a revolving loan, the Department shall withhold any and all state aid to the district in an amount sufficient to cure the default and use those funds to cure the default, as authorized under Ark. Code Ann. § 6-20-814.
- 11.02 In the case of default on principal or interest payments on a bond, depending on the circumstances, one of the following shall occur:
 - 11.02.1 If the school district board of directors has passed a resolution, as authorized under Ark. Code Ann. § 6-20-1212, all revenue received by the district, with the exception of revenue derived from the uniform rate of tax, shall be used to cure the default;
 - 11.02.2 If the school district board of directors has passed a resolution, as authorized under Ark. Code Ann. § 6-20-1212, but is still unable to cure the default under Section 11.02.1, the Director shall withhold any and all state aid to the district, in an amount sufficient to cure the default, and use those funds to cure the default, as authorized under Ark. Code. Ann. § 6-20-1204; or,
 - 11.02.3 If a school district board of directors has not passed a resolution, as authorized under Ark. Code Ann. § 6-20-1212, the Director, after notification as required under Ark. Code. Ann. § 6-20-1204, shall withhold any and all future state aid to the district in an amount sufficient

to cure the default and use those funds to cure the default, as authorized under Ark. Code. Ann. § 6-20-1204.

- 11.03 In the case of default on principal or interest payments on postdated warrants, installment contracts, or lease-purchase agreements, the Department shall withhold any and all state aid to the district in an amount sufficient to cure the default and use those funds to cure the default, as authorized under Ark. Code Ann. § 6-20-402.

If a default occurs simultaneously on a bond and another type of debt, the bond default shall be cured in its entirety before other debt payment defaults are cured.

Should the State Board and the Department be required to withhold state aid to cure the default of any school district, pursuant to Ark. Code Ann. § 6-20-1204(c)(1) and (2), then that school district shall be classified as a Phase III school district in fiscal distress, pursuant to Ark. Code Ann. § 6-20-1204(c)(3) and Ark. Code Ann. § 6-20-1609.

12.00 EDUCATION SERVICE COOPERATIVE REVOLVING LOAN APPLICATIONS

- 12.01 Education Service Cooperatives shall submit an authorization signed by the Board President and Secretary authorizing the Department to withhold state aid in case of default on a revolving loan.
- 12.02 Education Service Cooperatives shall submit an authorization signed by the Board President and Secretary pledging any or all state aid in an amount sufficient to secure the loan in the event of default.

13.00 REPORTING

- 13.01 School districts that call mandatory callable bonds or other commercial bonds must report such calls to the Loans and Bonds Unit of the Department prior to May 30 of each fiscal year. The notification must include the call date, series, face amount, and price paid for the called bonds.
- 1.00 For a school district to qualify for state aid under Ark. Code Ann. § 6-20-308, as amended, the school district must submit, to the Director, prior to the date the refunding bonds are sold at public sale, a certification that the yearly debt service savings resulting from the refinancing will be used for the following purposes:

A. Building and equipping of school buildings;
Major adaptations to a facility;
Purchasing of sites for school buildings.

- 1.00 If the Certificate as to Use of Debt Service Savings is not received by the Loans and Bonds Unit of the Department prior to the date the refunding bonds are sold, the district will not receive state aid based on the highest debt service payment. The district will receive state aid based on the new debt service payment.
- 13.04 The Loans and Bonds Unit of the Department shall forward a copy of the certificate in Section 13.02, as well as the debt schedule, to the Coordinator of Local Fiscal Services.

- 1.00 After receiving the certificate specified in Section 13.02 and after the sale of the non-voted refunding bonds in Section 9.00, the Loans and Bonds Unit of the Department shall maintain payment schedules of the refunded and non-voted refunding bonds until the non-voted refunding bonds mature. This information, electronically stored, shall be made available to the Local Fiscal Service Unit of

the Department.

13.06 If a school district applies for a second lien bond after April 30, 2001, the Committee shall forward pertinent information to the Local Fiscal Services Unit of the Department before the application is considered by the Committee. The Local Fiscal Services Unit of the Department, using criteria set forth in Section 15.00, shall make a determination if the issue is permissible under Ark. Code Ann. § 6-20-1205.

1.00 If a second lien bond issue is determined to be permissible under Section 13.06, notice of the sale of second lien bonds shall be forwarded to the Local Fiscal Services Unit of the Department for calculation of Additional Base Funding, as set forth in Sections 16.00 and/or 17.00.

14.00 TRUSTEE FEES

14.01 Fees assessed by trustee banks for acting as paying agent and for providing other services necessary to manage school district bond issues shall be approved by the State Board. A fee schedule will be provided, by the Loans and Bonds Unit of the Department, upon request.

14.02 Fees set by the State Board will be reviewed on a regular basis by the Loans and Bonds Unit of the Department for the purpose of recommending, to the State Board, adjustments reflecting current cost of services.

15.00 CRITERIA AND CALCULATIONS TO DETERMINE THE PERMISSIBILITY OF A SECOND LIEN BOND ISSUE

15.01 For each and every application for a second lien bond issuance, the Local Fiscal Services Unit of the Department shall determine whether the issuance of the second lien bond would place the school district making the application out of compliance with the uniform rate of tax under Ark. Const. Ann. Art. 14 Sec. 3 (as amended by Amendments 11, 40 and 74).

15.02 To determine compliance with Section 15.01, the following calculations shall be performed:

15.02.1 The calculation outlined in Ark. Code Ann. § 26-80-201, shall be used with the exception that the scheduled debt payment certified on May 30 shall be adjusted to include the scheduled second lien bond annual payment.

15.02.2 If after completing the calculation in Section 15.02.1, it is determined that the school district would not meet the uniform rate of tax under Ark. Const. Ann. Art. 14 Sec. 3 (as amended by Amendments 11, 40 and 74), then the application for the second lien bond shall immediately be denied under Ark. Code Ann. § 6-20-1205. The Committee shall recommend disapproval and the State Board shall not approve any application that would cause a district to not meet the uniform rate of tax requirement(s). If the school district would still meet the minimum millage requirement, the Local Fiscal Services Unit of the Department will continue on to Section 15.02.3.

15.02.3 For each and every application for a second lien bond issuance, the Local Fiscal Services Unit of the Department shall calculate Additional

Base Funding for the applying school district using Section 16.00, as if the second lien bond had been issued.

- 15.02.4 At the time the second lien bond application is received, a district that would receive Additional Base Funding is defined as a school district with total state and local revenue per average daily membership that would be within ten dollars (\$10.00) of the minimum state and local revenue per average daily membership if the second lien bond were issued under Ark. Code Ann. § 6-20-1218.
- 1.00.0 A school district that currently receives, or would receive Additional Base Funding as a result of issuing second lien bonds, shall not be authorized to issue second lien bonds except as allowed under Subsection 15.02.6 of this section.
- 15.02.6 A school district that receives Additional Base Funding or would receive Additional Base Funding, may issue second lien bonds to fund repairs or reconstruction of school facilities, damaged or destroyed by natural disasters or criminal activities for the portion of repair or reconstruction funding not reimbursed by insurance. For purposes of this rule and regulation, "natural disaster" is defined to mean an act, event, or occurrence, which is the result of natural causes including, but not limited to, fire, flood, wind, or lightning, which causes substantial physical or structural damage (not merely cosmetic) to existing real or personal property of a school district. For purposes of this rule and regulation, "criminal activity" is defined to mean an act, event, or occurrence, which is the result of a criminal offense as defined by the Arkansas Criminal Code or federal law, which causes substantial physical or structural damage (not merely cosmetic) to existing real or personal property of a school district. For damages caused by natural disaster or criminal activity, reports from licensed insurance adjusters and/or police reports shall accompany the bond application.
- 15.03 The calculations in Section 15.02 shall be maintained as a record for future use under Section 15.04.
- 15.04 Whenever an application is made for a second lien bond issuance, the Local Fiscal Services Unit of the Department shall compute the Federal Range Ratio statistic using the following data:
- 15.04.1 All data currently being used to calculate Additional Base Funding, all second lien bond scheduled debt payments approved after April 30, 2001 and the debt payment schedule for the proposed second lien bond.
- 15.04.2 The Federal Range Ratio shall be calculated as outlined in 34 C.F.R. § 222.61. (See Ark. Code Ann. §§ 6-20-303(20) and 6-20-308(a) and Lake View v. Tucker (Pul. Co. Cir. 92-5318) Order of November 9, 1994, Finding of Fact # 54).
- 15.05 If the application causes the state not to meet the court approved federal range ratio standard of twenty-five hundredths (0.25) or twenty-five percent (25%) (See Lake View v. Tucker (Pul. Co. Cir. 92-5318) Order of November 9, 1994, Finding of Fact ## 54, 55), the second lien bond application shall be recommended for disapproval to the State Board.
- 15.06 If the number of students who would receive Additional Base Funding in an amount less than the amount necessary to meet the minimum state and local

revenue per average daily membership would exceed four and seven tenths percent (4.7%) of the statewide average daily membership due to the issuance of the applied for second lien bond, the second lien bond application shall be recommended for disapproval to the State Board.

- 15.07 If the tests under Sections 15.05 and 15.06 are satisfied, it will be assumed that the state would meet the Coefficient of Variation and Gini Index of Inequality tests as well (See Lake View v. Tucker (Pul. Co. Cir. 92-5318) Order of November 9, 1994, Finding of Fact ## 62, 63).
- 15.08 Applications for second lien bonds shall be analyzed in the order in which they are received. If two or more second lien bond applications are received simultaneously, any school district in fiscal distress shall take precedence, and others shall be analyzed in Local Education Agency (LEA) reference number order from smallest to highest.
- 15.09 The application of a school district not in fiscal distress shall take priority over other applications being considered in LEA number order if the district can substantiate that the proceeds of the second lien bond will be used to fund a project which if not undertaken will have a detrimental effect on the district's accreditation status.
- 15.10 All terms used in this section shall be read in conjunction with definitions and uses found in Ark. Code Ann. § 6-20-300.

16.00 ADJUSTMENTS TO ADDITIONAL BASE FUNDING CALCULATIONS IN THE CASE OF A SECOND LIEN BOND ISSUE

- 16.01 In the event that a school district issues second lien bonds after the process outlined in Section 13.06 and Section 13.07, that school district shall not gain any Additional Base Funding due to the issuance of those second lien bonds. (See Ark. Code Ann. § 6-20-1205).
- 16.02 After receiving the approval for the second lien bond under Section 13.06, and after the sale of the second lien bonds, the Loans and Bonds Unit of the Department shall maintain the payment schedule of the second lien bonds. This information, electronically stored, shall be made available to the Local Fiscal Services Unit of the Department.
- 16.03 The Local Fiscal Services Unit of the Department shall be responsible for the calculation of adjustment to Additional Base Funding under this section.
- 16.04 The calculation for the adjustment in Additional Base Funding shall be performed as follows:
 - 16.04.1 Additional Base Funding shall be initially calculated using the scheduled debt payment in Section 17.02;
 - 16.04.2 The scheduled debt service payment shall then be altered by removing the scheduled payment on the second lien bonds qualifying under Section 15.02.6;
 - 16.04.3 Additional Base Funding shall be recalculated using the scheduled debt payment in Section 16.04.2;

16.04.4 The school district, in this scenario, shall receive Additional Base Funding in an amount equal to the lesser of the two amounts calculated in Sections 16.04.1 or 16.04.3.

17.00 ADJUSTMENTS TO STATE FUNDING CALCULATIONS IN THE CASE OF A REFUNDING BOND ISSUE IN COMBINATION WITH NEW DEBT OR A SECOND LIEN BOND ISSUE

17.01 A school district that has issued second lien bonds after April 30, 2001, and has refunded bonds since May 30, 1997, shall have its state funding calculated using the scheduled debt payment used to calculate eligible debt service mills required under Ark. Code Ann. § 6-20-303.

17.02 In the calculations for Additional Base Funding, the calendar year scheduled debt payment certified under Ark. Code Ann § 26-80-201(3) for use in Debt Service Funding Supplement calculations, shall be the base data used for the entire school year.