

ARKANSAS REGISTER

Transmittal Sheet



Sharon Priest
Secretary of State
State Capitol Rm. 01
Little Rock, Arkansas 72201-1094

For Office
Use Only: Effective Date 4/16/98 Code Number 005.04.98--003

Name of Agency Education

Department Public School Finance and Administrative Support

Contact Person Patricia Martin Phone 682-5124

Statutory Authority for Promulgating Rules A.C.A. 6-11-105, 6-20-308(b) and
6-20-1205(e) (Repl 1993, Supp. 1997)

	Date
Intended Effective Date	Legal Notice Published <u>11/13/97</u>
<input type="checkbox"/> Emergency	Final Date for Public Comment <u>12/15/97</u>
<input checked="" type="checkbox"/> 10 Days After Filing	Filed With Legislative Council <u>2/28/98</u>
<input type="checkbox"/> Other	Reviewed by Legislative Council <u>4/1/98</u>
	Adopted by State Agency <u>3/9/98</u>

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance with Act 434 of 1967 As Amended.

Theresa Waller
Signature

501-682-4227
Phone Number

Staff Attorney
Title

April 3, 1998
Date

FILED
REGISTER DIV.
98 APR 6 PM 1:15
STATE OF ARKANSAS

**ARKANSAS DEPARTMENT OF EDUCATION
AMENDING ADMINISTRATIVE REGULATION**

NUMBER: ADE 074

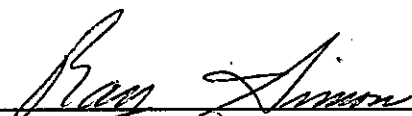
TITLE: Loans and Bonds Applications

EFFECTIVE DATE: April 3, 1998

STATUTORY AUTHORITY: Arkansas Code Annotated 6-11-105, 6-20-308(b), 6-20-1205(e) (Repl. 1993, Supp. 1997)

NECESSITY AND FUNCTION: To explicate the processes and necessary tests that must be conducted before a revolving loan or commercial bond is approved by the Arkansas State Board of Education.

PAGES FILED: ADE 074-1 through ADE 074-12



Ray Simon, Director
Arkansas Department of Education

PROMULGATION DATE: March 9, 1998

CONTACT PERSON: Patricia Martin
#4 Capitol Mall
Little Rock, AR 72201
501-682-5124

FILED
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**ARKANSAS DEPARTMENT OF EDUCATION
RULES AND REGULATIONS GOVERNING LOANS
AND BOND APPLICATIONS**

1.00 REGULATORY AUTHORITY

- 1.01 These regulations shall be known as the *Arkansas Department of Education 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. §§ 6-20-801, *et seq.*, 6-20-901, *et seq.*, 6-20-1001, *et seq.*, 6-20-1201, *et seq.*, and 6-11-105 (Repl.1993) (Supp. 1995), as amended.

2.00 PURPOSE

- 2.01 These regulations are enacted to set forth the criteria that shall be used by the Arkansas Department of Education Loan and Bond Committee in reviewing and recommending loan and bond applications from school districts and Education Service Cooperatives to the State Board of Education, and by the State Board of Education in approving loan and bond applications from school districts and Education Service Cooperatives.

3.00 APPLICATION

- 3.01 These regulations shall be applicable to all loans and bonds applications filed by school districts and Education Service Cooperatives with the Arkansas Department of Education, General Education Division (Department) for approval of any loan, bond issue, or refunding bond issue.
- 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 LOAN AND BOND COMMITTEE

- 4.01 The Arkansas Department of Education Loan and Bond Committee (Committee) shall consist of these nine members of the Department staff:
 - A. Assistant Director for Public School Finance and Administrative Support
 - B. Associate Director for Finance
 - C. Coordinator, Standards Assurance

- D. Program Manager, Loans and Bonds
- E. Coordinator, Equity Assistance Center
- F. Program Manager, School Transportation
- G. Program Manager, School Plant
- H. Coordinator, Local Fiscal Services
- I. Coordinator, Financial Accountability

- 4.02 Loan and bond applications which meet the requirements set forth in Section 9 of these regulations, will be considered by the Committee at a meeting of the Committee scheduled within thirty (30) days prior to regularly scheduled meetings of the State Board .
- 4.03 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;
 - B. the application may be forwarded to the State Board without a recommendation in conformance with these regulations;
 - C. the application may be recommended for disapproval to the State Board;
 - D. the application may be tabled pending a request for additional information; for further study by the Department staff; or for verification of information regarding the application; or
 - E. the application may be conditionally recommended for approval to the State Board .

5.00 ACCREDITATION STATUS

- 5.01 Loan or bond applications from school districts which have an accreditation status of "not accredited" at the time the application is considered by the Committee, excluding applications for refunding bond issues, shall not be recommended by the Committee to the State Board. The Committee may recommend for approval to the State Board applications for refunding bond issues from school districts "not accredited" at the time the application is considered.
- 5.02 Loan and bond applications from school districts which have an accreditation status of "not accredited" at the time the application is considered by the State Board, may be considered by the State Board, without the recommendation of the Committee, upon appearance by the superintendent, but will not be approved absent extraordinary circumstances. Refunding bond applications from such districts may be considered by the State Board upon the recommendation of the Committee and without the appearance of the school district superintendent.

- 5.03 Loan and bond applications from school districts which have an accreditation status of "probationary" at the time the application is considered, excluding applications for refunding bond issues, shall not be recommended by the Committee to the State Board unless the citation that is the cause of the probationary status will be corrected through the use of the loan or bond proceeds. In such an instance the Committee may, but is not required to, recommend the application to the State Board.
- 5.04 Loan and bond applications from school districts which have an accreditation status of "probationary" at the time the application is considered, shall be considered by the State Board upon appearance by the district's superintendent. Approval of such an application shall be discretionary with the State Board. Refunding bond applications from such school districts may be considered by the State Board upon recommendation of the Committee.
- 5.05 Loan and bond applications from school districts which have an accreditation status of "accredit cite" at the time the application is considered, which has been awarded for teacher certification violations on more than thirty percent (30%) of the district's teachers, shall not be recommended by the Committee to the State Board for approval.
- 5.06 Loan and bond applications from school districts which have an accreditation status of "accredit cite" at the time the application is considered, which has been awarded for teacher certification violations on more than thirty percent (30%) of the district's teachers, shall be considered by the State Board upon appearance by the district's superintendent. Approval of such application shall be discretionary with the State Board.
- 5.07 Loan and bond applications from districts which currently have an accreditation status of "probationary," "not accredited," or "accredit cite" (where teacher certification violations exceed thirty percent (30%) of the district's teachers), may be recommended to the State Board for approval if the violations have been cleared, and the district has provided sufficient documentation to show that the deficiency no longer exists.

6.00 EQUITY STATUS

- 6.01 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 allow the applying district to provide a better quality, desegregated education, necessary to meet the needs of its present and projected population. A detailed outline or explanation of the educational goal being met shall be included; and/or

(B) That the proposed facility project is necessary to comply with Arkansas Department of Education rules and regulations, and/or State and federal statutes and regulations.

- 6.01.1 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.
- 6.01.2 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.
- 6.01.3 Any school in any county contiguous to Pulaski County shall submit a written assurance 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 is applicable to the school district's application.
- 6.02 The Committee shall not recommend approval of any application from any district not submitting the documentation in section 6.01.
- 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.
- 6.04 The State Board shall not approve an application from any district not submitting the information required in section 6.01.
- 6.05 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 ENDING BALANCES

- 7.01 Revolving loan applications for less than five percent (5%) of a school district's projected ending balance, from school districts which have a projected ending balance exceeding fifteen percent (15%) of their total budget will not be recommended to the State Board by the Committee.
- 7.02 Revolving loan applications for less than five percent (5%) of a school district's projected ending balance, from school districts which have a projected ending balance exceeding fifteen percent (15%) of their total budget shall be considered by the State Board upon an appearance by the district superintendent. Approval of such an application shall be discretionary with the State Board.
- 7.03 Revolving loan applications from school districts or Education Service Cooperatives which project a year's ending balance less than the amount of the loan payment, including accrued interest, will not be considered by the Committee or the State Board.
- 7.04 Revolving loan applications from school districts or Education Service Cooperatives which have a negative projected ending balance will not be considered by the Committee or the State Board.

8.00 COST EFFICIENCY

- 8.01 Loan and bond applications for projects which substantially exceed the cost of similar projects will not be recommended to the State Board by the Committee without written justification by the district or Education Service Cooperative explaining the additional cost. The Department's School Plant Section will provide average cost figures on projects to school districts and Education Service Cooperatives upon request.
- 8.02 Loan and bond applications from school districts which exceed twenty-seven percent (27%) of the district's latest assessed valuation will be considered by the Committee upon written justification explaining the necessity for exceeding the percentage limit. The Committee, in making a recommendation to the State Board, may consider its recommendation upon appearance by the district's superintendent to explain the conditions underlying the request.

9.00 REFUNDING BONDS

- 9.01 A separate application must be submitted for each issue being refunded.

- 9.02 Total minimum net saving must be five percent (5%) or one hundred thousand dollars (\$100,000) (whichever is less) inclusive of Agent's fees and related costs.
- 9.03 Refunding issues may not be combined in order to achieve minimum savings. Each refunding bond must meet the savings requirement independently.
- 9.04 The amount of the new bond issue is limited to no more than the amount on the application. If there is a sudden drop in interest rates after the application has been approved, and more bonds will have to be sold to accomplish the sale, written approval must be granted by the Committee for the increased amount.
- 9.05 Once an application for a refunding issue has been approved by the State Board, the application is only effective until the following May 30. If the district has not exercised its option to refund within this time period, a new application must be submitted to be approved by the State Board.

10.00 PROCEDURAL REQUIREMENTS

- 10.01 No loan or bond application will be considered by the Committee or the State Board until the application complies with all statutory requirements.
- 10.02 All documents must be received by the Loans and Bonds Section of the Department thirty (30) days before the regularly scheduled State Board meeting to consider the applications. If thirty (30) 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.

11.00 SECURITY OF LOANS, BONDS, AND POSTDATED WARRANTS

- 11.01 In the case of default on principal or interest payments on a Commercial Bond by a school district, one of the following shall occur, depending on the following circumstances:
 - 11.01.1 If the school district board of directors has passed a resolution authorized under Ark. Code Ann. § 6-20-1212 (Supp. 1997), all moneys received by the district, with the exception of revenues derived from the uniform rate of tax, shall be used to cure the default;
 - 11.01.2 If the school district board of directors has not passed a resolution authorized under Ark. Code. Ann. § 6-20-1212 (Supp. 1997), the Director of the Department, after notification under Ark. Code. Ann. § 6-20-1204 (Supp.

1997), 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 (Supp. 1997); or,

- 11.01.3 If a school district board of directors has passed a resolution authorized under Ark. Code Ann. § 6-20-1212 (Supp. 1997), but is still unable to cure the default under Section 11.01.1; the Director of the Department 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 (Supp. 1997).
- 11.02 In the case of default on principal or interest payments on revolving loans or postdated warrants, the Department shall withhold all state aid payments in amount(s) sufficient to cure the default and use those funds to cure the default as authorized under Ark. Code. Ann. § 6-20-1204 (Supp. 1997).
- 11.03 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.

12.00 EDUCATION SERVICE COOPERATIVE APPLICATION

- 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.
- 12.02 Education Service Cooperatives shall submit an authorization signed by the Board President and Secretary pledging any or all state aid to the Education Service Cooperative securing the loan in the event of loan default.

13.00 REPORTING

- 13.01 School Districts that call bonds early must report such calls to the Department's Loans and Bonds Section prior to June 30 of the school's fiscal year. The notification must include the amount of bonds called, the price paid for the called bonds, and the series and the date the bonds were called.
- 13.02 For a school district to qualify for relief under Ark. Code Ann. § 6-20-308 (Supp. 1997), the school district must submit a certificate to the Director of the Department, prior to the date the refunding bonds are sold at public sale, certifying that the yearly debt service savings resulting from the refinancing will be used for the following purposes:
 - a) building and equipping of school buildings

- b) major adaptations to a facility
- c) purchasing of sites for school buildings.

- 13.03 The Loans and Bonds Section shall forward a copy of the certification letter in Section 13.02, as well as the annual scheduled debt payment, prior to and following the proposed sale of the refunded bonds to the Coordinator of Local Fiscal Services.
- 13.04 If a refunding bond application is determined to be permissible under Section 13.02, a copy of the file shall be forwarded to the Local Fiscal Services Section of the Department for case by case adjustments in Additional Base Funding using calculations set forth in Sections 16.00 and/or 19.00, *et seq.*
- 13.05.1 In the case that a school district applies for a second lien bond after May 30, 1997, the committee shall forward that application to the Local Fiscal Services Section of the Department before that application is considered by the Committee. The Local Fiscal Services Section of the Department, in consultation with the legal office of the Department, using criteria and calculation set forth in Section 17.00, *et seq.*, shall make a determination if the application is permissible under Ark. Code Ann. § 6-20-1205 (Supp. 1997).
- 13.05.2 If a second lien bond application is determined to be permissible under Section 13.05.1, a copy of the file shall be forwarded to the Local Fiscal Services Section of the Department for case by case adjustments in Additional Base Funding using calculations set forth in Sections 18.00 and/or 19.00, *et seq.*

14.00 TRUSTEE FEES

- 14.01 Fees assessed by Trustee Bonds 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 upon request to interested parties by contacting the Loans and Bonds Section of the Department.
- 14.02 Fees set by the State Board will be reviewed on a regular basis and adjustments will be made to reflect the current cost of service to be provided.

15.00 DEBT SERVICE PAYMENTS TO BE USED IN ALL FUNDING ADJUSTMENTS

- 15.01 In the calculations for adjustments in Additional Base Funding discussed in the following Sections the calendar year scheduled debt payment certified under Ark. Code Ann. § 26-80-201(3) (Repl. 1997) for use in Debt Service Funding Supplement calculations shall be the base data used for the entire school year.

- 15.02 In the following Sections, the calculations for adjustments in Additional Base Funding necessitated by a refunding bond issuance shall use an adjusted scheduled debt service payment which replaces the scheduled payment of a refunding bond(s) with the scheduled payment of the original refunded bond(s).
- 15.03 In the following Sections, the calculations for adjustments in Additional Base Funding necessitated by a second lien bond issuance shall use an adjusted scheduled debt service payment in which the scheduled payment for a second lien bond shall be removed from the total scheduled debt payment of the school district.

16.00 ADJUSTMENTS TO ADDITIONAL BASE FUNDING CALCULATIONS IN THE CASE OF A NORMAL REFUNDING BOND ISSUE.

- 16.01 In the event that a school district issues a bond(s) for the purpose of refunding a bond(s) which was issued on or before May 30, 1997, and which was secured, or partially secured, by a millage voted on or before February 22, 1995, that school district shall not lose any Additional Base Funding due to the issuance of that refunding bond(s); if and only if the school district has fulfilled the requirements in Section 13.02. (*See generally* Ark. Code Ann. § 6-20-308 (Supp. 1997))
- 16.02 After receiving the certification letter specified in Section 13.02 and the sale of the refunding bond(s) in 16.01, the Loans and Bonds Section of the Department shall maintain all the commercial bond payment schedule(s) of the refunded bond(s) and the refunding bond(s) until the refunding bond(s) comes to full maturity. This information, electronically stored, shall be made available to the Local Fiscal Services Section of the Department.
- 16.03 The Local Fiscal Services Section 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 done as follows:
- 16.04.1 Additional Base Funding shall be initially calculated using the scheduled debt payment in Section 15.01;
- 16.04.2 The scheduled debt service payment should then be altered by replacing the scheduled payment on the bond(s) qualifying under Section 13.02 with the scheduled payment of the original bond(s) that was refunded;

- 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 higher of the two amounts calculated in Sections 16.04.1 or 16.04.3.

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

- 17.01 For each and every application for a second lien bond issuance, the Local Fiscal Services Section of the Department shall determine whether or not the issuance of the second lien bond in question 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) (Supp. 1997).
- 17.02.1 To determine compliance with Section 17.01, the following calculations shall be made:
- 17.02.2 The calculation outlined in Ark. Code Ann. § 26-80-201, *et seq.*, (Repl. 1997) 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.
- 17.02.3 If after completing the calculation in Section 17.02.2, 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 (Supp. 1997). If the school district would still meet the minimum millage requirement, then the Local Fiscal Services Section of the Department will continue on to Section 17.03, *et seq.*
- 17.03 For each and every application for a second lien bond issuance, the Local Fiscal Services Section of the Department shall calculate Additional Base Funding for the applying school district using Section 18.00, as if the second lien bond had been issued.
- 17.04 The calculation in Section 17.03 shall be maintained as a record for future use under Section 17.05.
- 17.05.1 Whenever an application is made for a second lien bond issuance, the Local Fiscal Services Section of the Department shall compute the Federal Range Ratio statistic using the following data:

- 17.05.2 All data currently being used to calculate Additional Base Funding, with the exception that second lien bond scheduled debt payments and refunded bond scheduled debt payments, approved since May 30, 1997, and the appropriate Additional Base Funding adjustment will be used, as well as the applied for second lien bond debt payment.
- 17.05.3 The Federal Range Ratio shall be calculated as outlined in 34 C.F.R. § 222.61, *et seq.* (1994) (See Ark. Code Ann. §§ 6-20-302(20) and 6-20-308(a) (Supp. 1997) and *Lake View v. Tucker* Finding of Fact # 54)
- 17.06 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* Finding of Fact ## 54, 55), the second lien bond shall not be approved.
- 17.07 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 tenth's 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 not be approved.
- 17.08 If the test under Sections 17.06 and 17.07 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*, Finding of Fact ## 62, 63).
- 17.09.1 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, then any school district in fiscal distress shall take precedent, others shall be analyzed in Local Education Agency reference number order -- smallest to highest.
- 17.09.2 If a school district is not in fiscal distress but through compelling documentation supplied with its application, proves to the Committee that the proceeds of the second lien bond will be used to fund a project which if not done will have a detrimental effect on its accreditation status; then that school district's application shall take priority over other applications being considered in LEA number order.
- 17.10 All terms used in this section shall be read in conjunction with definitions and uses found in Ark. Code Ann. § 6-20-300, *et seq.*

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

- 18.01 In the event that a school district issues a second lien bond(s) after the process outlined in Section 13.05.1 *et seq.*, that school district shall not gain any Additional Base Funding due to the issuance of that second lien bond(s). (See Ark. Code Ann. § 6-20-1205 (Supp. 1997))
- 18.02 After receiving the approval of the second lien bond under Section 13.05.1, *et seq.* and the sale of the second lien bond(s), the Loans and Bonds Section of the Department shall maintain commercial bond payment schedule(s) of the second lien bond(s). This information, electronically stored, shall be made available to the Local Fiscal Services Section of the Department.
- 18.03 The Local Fiscal Services Section of the Department shall be responsible for the calculation of adjustment to Additional Base Funding under this Section.
- 18.04 The calculation for the adjustment in Additional Base Funding shall be done as follows:
 - 18.04.1 Additional Base Funding shall be initially calculated using the scheduled debt payment in Section 15.01;
 - 18.04.2 The scheduled debt service payment should then be altered by removing the scheduled payment on the second lien bond(s) qualifying under Section 13.05.1 *et seq.*
 - 18.04.3 Additional Base Funding shall be recalculated using the scheduled debt payment in Section 18.04.2;
 - 18.04.4 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 18.04.1 or 18.04.3.

19.00 ADJUSTMENTS TO ADDITIONAL BASE FUNDING CALCULATIONS IN THE CASE OF A REFUNDING BOND ISSUE IN COMBINATION WITH NEW DEBT OR A SECOND LIEN BOND ISSUE.

- 19.01 A school district which has issued a second lien bond after May 30, 1997, and has refunded/refinanced a bond since May 30, 1997, shall have its Additional Base Funding calculated using the scheduled debt payment that existed prior to any and all applications for refunding bonds or second lien bonds filed since May 30, 1997.

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

DEPARTMENT/AGENCY Department of Education, General Education Division
DIVISION Public School Finance and Administrative Support
DIVISION DIRECTOR Ms Patricia Martin
CONTACT PERSON Ms Patricia Martin
ADDRESS #4 State Capital Mall, Little Rock, Arkansas, 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 Capital
Little Rock, AR 72201

- 1. What is the short title of this rule?
Rules and Regulations Governing Loans and Bonds Applications
- 2. What is the subject of the proposed rule?
This proposed rule would govern the procedure followed by the Arkansas Department of Education in considering applications from school districts who wish to borrow money either through a commercial bond or a revolving loan.
- 3. Is this rule required to comply with federal statute or regulation?
Yes _____ No XXXXXX
- 4. Was this rule filed under the emergency provisions of the Administrative Procedures Act?
Yes _____ No XXXXXX

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 XXXXXXX

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

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

Is this an amendment to an existing rule? Yes XXXXXX No _____
If yes, please attach a markup showing the changes in the existing rule and a summary of the substantive changes.

6. What state law grants the authority for this proposed rule? If codified, please give Arkansas Code citation.
Arkansas Code Annotated §§ 6-11-105, 6-20-308(b), 6-20-1205(e) (Repl 1993, Supp 1997)

7. What is the purpose of the proposed rule? Why is it necessary?
The purpose of the rule is to explicate the processes and necessary tests that must be conducted before a revolving loan or commercial bond is approved by the Arkansas State Board of Education. Some of these processes and tests are required by statute.

8. Will a public hearing be held on this proposed rule? Yes XXXXXX No _____
If yes, please give the date, time, and place of the public hearing.
Nov. 25, 1997 10:30-12:00 Hope Fair Park Community Center, Hope, AR
Nov. 26, 1997 10:30-12:00 Jonesboro High School, Jonesboro, AR
Dec. 01, 1997 10:00-11:30 Springdale School District Admin. Bldg, Springdale, AR
Dec. 02, 1997 10:30-12:00 Monticello Junior High School Auditorium, Monticello, AR
Dec. 03, 1997 10:30-12:00 Teacher Retirement Bldg, 3rd fl board rm, Little Rock, AR

9. When does the public comment period expire?
December 15, 1997 (4:30 pm)

10. What is the proposed effective date of this proposed rule?
Immediately upon filing with the Secretary of State

11. Do you expect this rule to be controversial? Yes XXXXXX No _____
If yes, please explain.

The proposed rule implements a provision of law that is in itself controversial among school district superintendents. The statute, and therefore the proposed rule, deal with new requirements imposed by law limiting the availability of second lien bonds to school districts. The proposed rule also explicates the calculations for adjustments to additional base funding now required by law.

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.

See attached list of participants and summary of written comments.

List of School Districts and Interested Parties that Commented

The following parties attended the Public Hearings held to discuss the Proposed Rules and Regulations governing Loans and Bonds Applications:

<u>Date</u>	<u>Location</u>	<u>Attendees</u>
November 25, 1997	Hope Fair Park Community Center	Fouke School District Genoa Central School District Hope School District Magnolia School District Spring Hill School District Southwest Arkansas Educational Service Cooperative
November 26, 1997	Jonesboro High School Auditorium	Jonesboro School District Marion School District Paragould School District Swifton School District
December 1, 1997	Springdale School District Administrative Building	Decatur School District Rogers School District Siloam Springs School District Springdale School District Monticello School District
December 2, 1997	Monticello Junior High School Auditorium	Fort Smith School District Magnolia School District North Little Rock School District Ozark School District
December 3, 1997	Teacher Retirement Building, 3rd fl Board Rm	Pulaski County Special School District Arkansas Association of Education Administrators Morgan Keegan Stephens, Inc

The following parties have submitted written comment:

Fort Smith School District
Marion School District
Paragould School District
Raney & Beardsley
Stephens, Inc

Summary of Verbal and Written Comments

The following summary is representative of the comments made at the Public Hearings held to discuss the Proposed Rules and Regulations Governing Loans and Bonds Applications:

1. Cooperatives pointed out that they do not hold title to property. Section 12.02 instructed Cooperatives to submit an authorization pledging the transfer of title to property to secure a loan in the event of a default. This section was changed to allow the Cooperatives to pledge their State Aid as security for a loan in the event of a default.
2. Participants discussed the structuring of refunding bond issues. Section 9.05 required principal and interest payments be structured evenly. This section was deleted.
3. The amount of time the approval of an application by the State Board remains valid was discussed. Arkansas Code provides that if a bond is not issued by May 30, the school district must reapply for approval. Section 9.06 was changed to reflect this.
4. The thirty (30) day filing requirement was discussed. Language was added to Section 10.02 to clarify this requirement.
5. The seniority of the lien status of the various debt instruments used by school districts was discussed. Section 11.03 was added to clearly reflect that a bond default will be cured before the default of other types of debt.
6. The use of LEA numbers to determine the priority of applications received simultaneously was discussed. Section 17.09 was changed to give priority to school districts in fiscal distress or those submitting documentation with their application that the project would impact their accreditation status.
7. Due to the change in Section 17.09, and the reorganization of the ADE, the membership of the Loans and Bonds Committee (Section 4.01) was changed.

DEPARTMENT Arkansas Department of Education, General Division
DIVISION Public School Finance and Administrative Support
PERSON COMPLETING THIS STATEMENT Tristan D. Greene
TELEPHONE NO. 682-2007 FAX NO. 682-2591

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 Rule and Regulation Governing Loan and Bond Applications

1. Does this proposed, amended, or repealed rule or regulation have a financial impact?
Yes XXXXXX No _____
2. If you believe that the development of a financial impact statement is so speculative as to be cost prohibited, please explain.
The financial impact on local school districts is dependent upon local actions of the districts concerning the issuance and structure of commercial bonds. The financial impact on the state is not only dependent upon the local actions of the 311 school districts, but also statewide changes in property assessment and students. Therefore, it would be completely speculative to try to determine the fiscal impact on either school districts or the state.
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.

1997-98 Fiscal Year

1998-99 Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other _____
Total _____

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other _____
Total _____

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

1997-98 Fiscal Year

See response to question 2.

1998-99 Fiscal Year

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

1997-98 Fiscal Year

See response to question 2.

1998-99 Fiscal Year

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

Regulation Title: *Rule and Regulation Governing Loan and Bond Applications*

Summary Description of Regulatory Proposal:

This proposed rule would govern the procedure followed by the Arkansas Department of Education in considering applications from school districts who wish to borrow money either through a commercial bond or a revolving loan. The purpose of the rule is to explicate the processes and necessary tests that must be conducted before a revolving loan or commercial bond is approved by the Arkansas State Board of Education. Some of these processes and tests are required by statute.

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
 See below.
- B. Time Required for Implementation
 See below.
- C. Procedural Changes
 See below.
- D. Other.
 See below.

II Fiscal Impact on Local School District or Others (include whether impacts are non-recurring or recurring)

- A. Resources Required -- Personnel, equipment, office space
 See below.
- B. Time Required for Implementation
 See below.
- C. Procedural Changes
 See below.
- D. Other.
 See below.

III. Additional Comments:

The financial impact on the state is not only dependent upon the local actions of the 311 school districts, but also statewide changes in property assessment and students. The financial impact on local school districts is dependent upon local actions of the districts concerning the issuance and structure of commercial bonds. Therefore, it would be completely speculative to try to determine the fiscal impact on either school districts or the state.