

---

Arkansas Division of Public School

---



---

Academic Facilities & Transportation

---

**COMMISSION FOR PUBLIC SCHOOL ACADEMIC FACILITIES  
AND TRANSPORTATION**

**Dr. Ken James, Chair**

**MEETING AGENDA**

**January 12, 2007**

**9:00 a.m.**

**Arkansas Department of Education Auditorium**

Call to Order/Roll Call

1. October 13, 2006 Minutes
2. Academic Facilities new rules update
3. Transitional Academic Facilities Program status report
4. Academic Facilities Partnership Program status report
5. Report on Division 2007-2009 budget submission *NOT DISCUSSED*
6. Partnership Program Project Agreement modifications
7. Academic Facilities Immediate Repair Program status report
8. Special report on Cabot Middle School
9. School Bus Inspection Handbook modifications
10. Master plan update and training report
11. Advisory Committee on Public School Academic Facilities status report

MINUTES OF  
COMMISSION FOR PUBLIC SCHOOL ACADEMIC  
FACILITIES AND TRANSPORTATION

Date: January 12, 2007

Place: ADE Auditorium, Little Rock, AR

Attendees: Dr. Ken James, Director, Arkansas Department of Education

Richard Weiss, Director, Arkansas Department of Finance and Administration

Mac Dodson, President, Arkansas Development Authority

**Call to Order/Roll Call:** Dr. Ken James called the fifteenth meeting of the Commission for Public School Academic Facilities and Transportation to order at 9:10 a.m. Dr. Ken James "Let the record show that all commission members are present. We turn the meeting over to Mr. Eaton."

**1. Approval of October 13, 2006 Commission Meeting Minutes:** Mr. Doug Eaton "Yes, sir. I am following the agenda in the book that I presented to you. The first item that I would ask the commission is to consider is the minutes from the October 13, 2006 meeting." Mr. Richard Weiss made a motion to approve minutes. Mr. Mac Dodson seconded the motion. Dr. Ken James "We have a motion and a second to approve the minutes that were submitted, all those in favor say Aye, motion approved." **Minutes of the January 12, 2007 Commission meeting were approved unanimously.**

**2. Academic Facilities New Rules Update:** Mr. Ken James "item #2 Mr. Doug Eaton" Mr. Doug Eaton "yes sir" Item 2 deals with the academic facilities new rules update. Presented to you were two pieces of legislation that passed, House Bill 2508 in the Session of 2005 and Senate Bill 22 of the Special Session of 2006. Each of these required that the Division begin two new programs by rule. One of these had to do with assistance to high growth districts, the other one passed 2006 had to do with providing the possibility of a financial program, to assist with extraordinary circumstances. What I have done is address it in two different ways. I have had the opportunity to discuss this with Senator Broadway and Mr. Cook, some other legislators, Don Stewart, and several different people and we are finding this to be a very argues task. I broke it apart for the purpose of explanation. The first has to do with the high growth program, which is House Bill 2508. As of the discussions that we have had to date, we feel that a loan program can be established to assist high growth districts. Specifically in that law it said "a loan program, not a revolving loan program, just a loan program." We came to the conclusion of what we would like to do would be rather than work on a separate loan program administered by the Division solely for this purpose, that we would prefer to somehow have it appropriated with the laws that deal with loan programs now that are presently administered by Mrs. Bobbie Davis of ADE. That's the path we are taking, what we have done to date is that we have drafted some rules, but what we are asking for is that the Commission allow us to hold that in abeyance until such time as we present this to the General Assembly. In the law it said that by January 15<sup>th</sup> we had to present to the General Assembly the status of the program. Not the rules, not the work, simply the status. My suggested method of doing that, since I am not quite clear on the protocol, would be at Dr. James suggestion would be to work with Senator Broadway and Mr. Cook and try to go back through the Facilities Oversight Committee, if that is do-able. Have other people be able to look at what we're proposing, besides the Commission, to ask questions on how we would implement the program and why, and the perimeters and so on. What we have come up with we believe is a program that would allow us to assist districts that were classified as being high growth, by the way there are 41 districts in the state that we classify as being high growth, but for those districts that have unexpected change in their high growth status which they've already identified and if they had to build a facility quickly to solve that problem other than a temporary solution that there would be a way that the state could assist them and loan them their portion of the partnership program until such time as they could come up with permanent financing and repay the state. That is the path that we are taking, that's what we are looking at. The second which is Senate Bill 22 is a little bit more complicated. It had five or six different definitions of what constituted as being a district with extraordinary circumstances it assumes that the school district had a tremendously important need that must be met now and can not participate in the partnership funding program. It goes on to then explain what the definitions are of a district with extraordinary circumstances.

What I have chosen to do was open a discussion with the Commission as we have broken those five definitions apart and we would like to address them in a different way. Again, these are only recommendations this is just to get us talking about how we could do this and give further guidance to me and my Division and Dr. Davis and her folks who I am relying on to help me put these rules together. The first of these had to do with school districts with declining enrollment. These districts were not clearly defined in this law. We're asking that further legislation guidance be provided prior to being able to establish an additional facility program to assist districts who are already receiving funding under current legislation, if they have declining enrollments. My concern here is, are we using the same definition for both? There is an established definition for declining enrollments for whatever reason that funding is available that we have the same definition here, which I assume, is left up to us since they were not defined in legislation. That is a question that we need to ask. The second has to do with school districts with rapid enrollment growth. We are recommending that, that section of the law be changed; and that these districts be deleted from this Act as we believe that we could include them in the high growth program that we would establish above under the house bill 2508. They were put in both cases, I think if there is going to be parameters under which a high growth district could apply for money that the parameters ought to be the same and if they are going to be the same why put them in two laws just put them in one. That is the recommendation we are making there. School districts with insufficient bonding capacity. It is recommended that this section of the law also be considered to be changed. During the Special Session of 2006 the bonded debt ratio was eliminated which we believe was the basis for the addition of this category within the law. Since there is no ceiling as to the amount of the level of debt that a district can go into, why do we have to provide a separate funding if they can determine that they can not go any further into debt. Again, we want to bring this question forward to have answered. School districts with low assessed property valuations. These districts again are not clearly defined in the law. Further legislation and guidance is necessary to define the parameters for low assessed property valuation districts. I don't have the foggiest notion on which way to go to determine whether or not a district has a low valuation. It's got to be against some type of standard. We need the guidance as to what that standard should be so that we can classify districts that are low, high or meeting. School districts at or above the 95<sup>th</sup> percentile in academic facilities wealth index. As you know districts at or above the 95<sup>th</sup> percentile receive no state funding or no state financial participation under the partnership program. Consideration is being given to assist those districts. We took an arbitrary percent of 2%, it's open for discussion, it is not a recommendation, it was just to bring the point forward that said we would recommend that we amend the partnership rule that no school district would receive less than 2% of the recommended project cost under the partnership program for each district whose wealth index is at or greater than 98%. All of the districts would receive the wealth index as applied under the old calculation the 98% does not refer to the 98 % standing but to the percentage received when you are placed on the facilities wealth index. Right now, for example Bentonville is at 1, and there are 11 districts above that. There are two districts below 1 that are above 98 percent. What I am saying in round about way is that no district would receive less than the percent 2% is the suggestion, it could be 3 or 4, and everyone else can receive the percent of funding that they would normally get through based on their wealth index standing. Mr. Weiss "does the effect of that mean that districts that do not otherwise receive any money under the wealth index now receive some according to the percentage?" Mr. Eaton "Yes sir, 2% percent of the approved project value. Mr. Weiss "what is the thinking, and or justification behind that?" Mr. Eaton "The justification of 2% or of funding?" Mr. Weiss "of any assistance to a district who is sufficiently wealthy that can finance through their own resources why would we assist them?" Mr. Eaton "2% is number that I pulled out of the air. Secondly, in the law apparently consideration was desired to be given to districts that said that we can not participate in your partnership program simply because we do not get any money; we are too wealthy. We researched this, and contacted about 8 different states that have the same programs. No state has a program that allows a district to receive funding under a similar partnership program. What they do have is the ability for any district, for any circumstance what so ever to apply for a loan from their state treasurer, or state comp troller, or yourself or any mechanism within the state for a loan. The district has the right to do that as long as they meet the parameters of that application. There is no program that says you are too wealthy based on the wealth index therefore we will help you. I feel the question was raised, in an attempt to assist districts. I must refer to Senator Broadway and Rep David Cook. I am now looking for a way to answer that question since it was in the legislation. Dr. Ken James "Is that tied to the standards, is it because if you did not get any money from the state you don't have to adhere to the standards?" Mr. Eaton "no, sir you have to adhere to the standards whether you have a state funded project or not that's a separate issue. Dr. Ken James

“Senator Broadway do you have words” Senator Broadway “thank you members of the Commission and I appreciate the work that the Division has done on this and the way I see this report is now at the beginning of the discussion and that’s what the legislation asked for was just some guidance direction or ideas. I’ll come back to high growth in a moment but in terms of extraordinary circumstances there were issues presented to us after the Lakeview rulings in our hearings that we held that a potential could exist for districts in certain situations that could not participate if their level matched their wealth index or their share of projects could be presented. Doug Eaton “To my knowledge there have not been any issues of districts not able to meet their match expect for the failure to pass a millage election. That’s the only circumstances that we are am aware of now, I think what the General Assembly was trying to be is proactive in looking for any potential issues that could happen down the road. There is nothing out there right now that we are aware of but there could be something potentially in the future. So we want to look at these and go through each one and take a look. I think in terms of the districts above the 95<sup>th</sup> percentile Mr. Weiss, that is more of an argument that is still before the court and will made by the little Rock school district and some of the other districts above the 95<sup>th</sup> percentile. That’s if they are not established the 95<sup>th</sup> percentile as the basis of the wealth index and are not able to participate we had to set something. You did not want to use 100 percentile because go all the way from 100 per kid to 330 dollars per kid with Eureka springs at the top of that. That would not work, so I think that’s more in the line of trying to address the issue in the court any number we choose if we decide that it is a prudent issue that we have to address is the districts above 95<sup>th</sup> percentile. We would have to have a sound rational basis for what ever percent we chose, I recommend that we strongly consider that as we move that way. In regard to the high growth program I think that this is where we are going to see the potential for something out of the ordinary situation.” I think that thought would be as Doug stated to use existing program and the thought I had Mr. Weiss kind of centered around a trust loan however this borrow from and pay back to because if a district finds themselves in a situation of having to build a building immediately they will in the next year or next re assessment as those kids come back into the property tax bases of that district they will have the money and be able to pay the loan back because their assessment will go up based on the number of kids in that district and should be able to pay us back if they is an extraordinary circumstances were they had to build something immediately to house kids. Their assessment should rise to the level to pay us back. Someone better at math and property assessment and taxable to help us with that. I think that’s probably where we are going to see the most issues with extraordinary circumstances. There may be a few out there, I think that’s what we were trying to do be proactive in trying to look for and welcome in any comments that they have. I apologize that I have to leave but Rep. David Cook is here, look forward to working with you. I know we are trying to work through all of the projects and many requests have been made all are at base level in terms of facilities as the Division continues to sort through the project list I think that it is important for us to continue to work together to come up with what we think a recommended dollar figure of need will be for the next biennium. We are also working on a clean up bill; we are in that process right now. We will go back and analyze what the last two years have been like. Some of us could write a very large book. We are trying to go back and look at those things and try to see what we need to change in statues and see what we need to change in rule and try to give more help to the division. As we recall we wrote all of the legislation we left a lot to be decided through the Division and that’s placed the Division in a lot of bad spots sometimes and we knew that going into the job that this Division and this man would be the most hated man in several sectors of Arkansas. We put him in that position and that’s what I told superintendents the other day don’t blame him blame us. That’s the only real way to get it off the ground was to put the director in a position where they would have to make some tough decisions. What we hope to do now is analyze that decision and get legislative guidance and perspective and keep the director out of that having to make so many difficult decisions that impact many different sectors throughout this process. Mr. Richard Weiss “thank you and no decision will be made today.”

Dr. Ken James “this is report as requested by legislation.”

Dr. Ken James “Senator what are your thoughts about declining enrollments?”

Senator Broadway gave his definition of declining enrollment and Cabot examples.

Mr. Tristan Greene gave revolving loan history, purpose and proposed outline.

Mr. Richard Weiss “I encourage you to get the attorney Generals comments.

Dr. Bobbie Davis gave proposed numbers.

Mr. Richard Weiss “Why do we have to have a program that if the district is the one that makes the determination as to the level of their debt?” Dr. Ken James “That is my question as well because the cap is off and will we be able to fight that, I don’t know that we can change it at least it is off. If we develop this

issue, bring it back to us in terms of what a school did it before the legislation is drafted. One consideration is to look at is that this needs to be deleted versus changed since they can't embrace opposition from that. So I mean that is one question, I had got out of that one. In, what I am hearing did you put that point in motion Mr. Weiss? In terms that developing each one of these that we have seen here and to make sure that when I am correct in your earlier comments that we want to make sure that as you develop this that is brought back and shared with us in terms that understanding of what direction it was going to be before it gets to go to the legislative.

Dr. Ken James "Mr. Weiss, you restated my motion exactly the way I would have. Do we have a second to that motion?"

Mr. Mac Dodson "Second."

Okay, we have a motion on the floor and a second,

Dr. Ken James "Doug, are you clear on the motion in what the expectations are? With the respect each one of these items."

Mr. Doug Eaton "Yes sir, will be allowed to proceed the way I suggested where we, want to remove B, C, and E. We want to narrow it down to A and D, B, C, and E for the reasons we said here. We can make that the point of our recommendation. Which is to remove B, C and E which is to develop a program to suit the districts for the remaining two. Then we would come back to you. One of the things we were trying to do, is according to the house bill 2508 and senate bill 22 ask us to develop a program by rule, which I interrupt as meaning we are going to have to get back to legislation. Until I had this discussion, well she just left out, with Dr. Davis who said we don't want to touch the revolving loan fund lets change that one more to include this fund under the same law that meant it had to be a legislative change, and then the rule would determine the guide lines we would give the district. But, we were trying to do this via a rule through the commission.

Okay, what Doug is asking for we would delete.

Dr. Ken James "Okay, I just want to make sure that when we leave here that Doug has the understanding, we are all understanding what it is that is going to come forth."

Mr. Doug Eaton "Yes, sir."

Dr. Ken James "Okay, so the motion is on the floor as presented as what is being recommended here is that the division move forward and with removal items B, C, and E."

Mr. Doug Eaton "Yes, sir."

Dr. Ken James "Then, to come back and share with the commission in terms of the development of what you have got, and we will go from there."

Mr. Doug Eaton "Absolutely, absolutely."

Dr. Ken James "All right, any further questions?"

Mr. Richard Weiss "By removing item C, or E I mean, this is the one I was concerned about. Putting money into the wealth index, by removing this we may be taking this off." Well, I don't know. Maybe, I didn't explain this completely. I was going to take the information I presented to you today with your approval list of recommendation and then sit down with Representative Cook, and set up all this and say how do I present this to the over sight committee with everything I have told you right here. I want to tell them everything I've said and this is what the commission is asking us to do. Our recommendation is as I've stated to A, B, C D and E. Now, E is open for discussion, as per discussion with Senator Broadway just told me, like where did the two percent come from. I know where it came from, because I came up with it. But, that is something that I wanted the over site committee who will probably ask the same question that Mr. Weiss did as to why we are doing this and if we are doing it then what is the percent, and that is the guidance that I get back from them. I come back to you with the amended rule based on what they tell me and that is what goes to the general legislature.

So we still, let's clarify, so we won't have to make sure it was something we don't understand.

So, I ask this, Doug? You are going to develop E, D C and E and F?"

Doug Eaton "Yes, sir just like you see them here."

So, we are not removing anything?

Doug Eaton "No, sir."

Okay, that, that is I think was caused our concern.

Okay, so the motion on the floor, is that you are going to continue to developing A,B,C,D,E and F and then you will come back and share with the commission as to the development of those four and then we will go from there.

After I get the guidance of the over sight committee.

Right.

Mr. Doug Eaton "That is exactly right, that is exactly what I would like to do."

Dr. Ken James "Every body okay with that?"

Dr. Ken James "All those in favor, say aye."

"Aye" from each commissioner.

Motion passes.

**3. Transitional Academic Facilities Program status report:** Dr. Ken James "Is there a next item?"

Doug Eaton "Yes, sir, I know, I don't know if it is appropriate to mention but every high growth district has participated in most all of our programs. So they are out there planning and doing what is necessary to compensate for their growth which is good news. Item 3 has to do with an update in the Transitional Academic Facilities Program. In March, a reminder that we published and you approved a list. As of this date we have no additional fund transfers necessary for the transitional program. It is fine, it is going okay. However, I remind you at the commission meeting held October 13, 2006 the commission agreed to a settlement in the Transitional Program with Siloam Springs. Once we did that we had to put that money, or that debt into the overall project listing for the transitional program which puts us 1.3 million dollars over the amount of money we have in that program. I am not asking for any money what so ever, I am not asking that we move the money what so ever. I feel that because of the remaining projects that we have to go, the fact that program is going to run another year and a half and that to date we have been making money by saving it that we just let us continue status quo in cash flow this out. When we get to the point where we are down to the last remaining projects, and we know exactly what they cost, we would then come back to the commission and say this is our recommendation to make up that deficits if it is there we can move the surplus, but, I think it would be premature to do it at this time. So, I have no recommendations this is solely to give you a general information. As of the last report that we made as a reminder we have completed a 101 projects out of 218 for 22.5 million dollars, that is what we reported in October. Now, we have completed 121 projects out of 222 for 49.7 million dollars. So, the expenditure rate is going up. The districts have completed the projects now in a faster rate which we anticipated but we are still going to run to March 2009 cause we have projects that we know will not be done until March 2009. So I am thinking latter part of the summer we will come back to you and say gentleman this is where we stand financially, this is what we recommend to you.

If you were to come back and have to do that, then just for the record everything, those funds that the recommendation transfer funds would come from immediate repair or partnership program?

Mr. Eaton "Probably immediate repair, yes sir. I think I put that expended funds in the immediate repair program or from the partnership program."

Questions from the commissioners?

Doug Eaton "No sir there is no recommendation at this time."

Dr. Ken James "Go onto the next item."

**4. Academic Facilities Partnership Program status report:** Mr. Doug Eaton "item four is to give you an update on the partnership program, as we stand as of today. The list that I presented to you is the partnership list that you have seen for 2006. We are not prepared to give or release the 2007-2008 partnership list, because that is determined on the amount of money appropriated by the legislature and we have until one May to finish our reviews and to view that list."

I will tell you that the 2006 partner ship programs projects have started. Some of them began before July and many of them began after July. A lot of them are in the planning stage. We do not expect the bulk of the appropriation to be spent until the second and third year which is 2007/2008, so it appears to have a slow start but we knew that was going to happen. We still have a little over twelve hundred projects in 2006. The 2007 and 2008 submissions which were due to us in November of 2006 were 1,428 projects in addition to the 1200 we already have. It does not include 2006 failed mileage projects. There were projects that districts requested in 2006 to which their mileage did not pass we have worked with those districts and told them we will hold those projects in abeyance. We will keep the money in the 2006 program until you make your final decision as to whether our not you are going to have a special mileage election in the fall. If you do and it is successful, fine, we have already agreed the project is there and we have to funds. If they decide not to, then later on as we start to balance these funds we will be coming back making a recommendation to move that money from 2006 into 2007 and also wait to see what the mileage elections, the results are in the fall of this year. It is interesting to note this is out of my book of gee whiz facts. Of

the 1,428 projects that we received one hindered forty three of those are over a million dollars. This means, we have 1290 below a million. The bulk of those, 900 of them, are below one hundred thousand dollars. And half of that is below twenty thousand dollars. I don't have any recommendations to make you at this time accept to bring this to your attention, that were are getting inundated with a lot of very small request for districts who are seeking state financial participation for valid projects but they are very small.

It's interesting to note, that about ninety percent of the money that we are looking at is in the top one hundred forty one projects because they are new schools and major additions. Once you fund those, that are the bulk of your money everything is in smaller projects. I just thought I would tell you that right now we are wrestling with about twenty nine hundred projects. First ones are done in a priority of sequence. We are beginning with the second group right now. Our time line right now is we receive the projects November 2006; the districts are required to submit to us amended Master Plans, by February 2007, if the project is not on the 2006 Master Plan. There were a hundred sixty two projects submitted to us in November that were not on the 2006 Master Plan that totaled over two hundred millions dollars. Those districts are required to update their Master Plan completely. That will come in November once we have that from sixty two districts for a hundred sixty projects, we will evaluate those, determine the cost, and then we will be able to start putting together a final list in March in preparation to bring back to the commission before we are able to tie dollar amount to it. So we are looking at March before we can come up with a dollar amount that will be needed to fund those projects. That's where we are with the partnership program. Dr. Ken James "Question's from the commissioners? I'm not hearing any questions." Doug if you will, walk us through, I think I heard you correctly that I think that is the importance piece, you said for districts that are not those that are failed millage. Doug Eaton "Failed millage, yes sir." Dr. Ken James "So we are waiting to hear from them now about whether they are going to go forward in terms of another millage election this year?" Mr. Doug Eaton "Well, yes and no, we have contacted every one of those eighteen districts and have talked to them personally. About half of them have said we are going to try again in the fall. So, all we have done is just sit. Some of them have said "no" we are going to withdraw our project, so we pulled it out. We told them if you want to consider 07, you have to submit it and tell us you want it considered in 07. You don't automatically get approval and you don't get the money if the project moved; you start again in competition with every other project. We have about half the districts, I believe, that are waiting to see what they do in the fall with regard to their millage. Once we know we will pull those from the 06 program where the money is. The rest of them we will find out the districts points considered in 07. Mr. Doug Eaton "Yes sir we contacted every district that had a millage election the morning after and found everyone that was successful and contacted everyone that was not to see what they wanted to do." Dr. Ken James "this again is for the commission this is just a report there is no action needed on these particular items." Mr. Doug Eaton "Yes sir." Dr. Ken James "If there are no more questions we will move onto the next item."

**5. Report on Division 2007-2009 budget submission:** Mr. Doug Eaton "we are going to request that this be pulled and not be considered at this time. Because of the status report I just gave you with regard to the process of the partnership projects, we would be very premature to tell you any of the numbers that we have given the ADE financial people, or Mr. Weiss people in regard to next years budget. We are not prepared to change and not provide any further justification other than what we have already explained. So until we get a chance to finish the projects I would like with you permission I would like to just pull this item. Dr. Ken James "That's fine at this point go onto item six."

**6. Partnership Program Project Agreement modifications:** Mr. Doug Eaton "Item six deals with further changes to the partnership program agreements. Back in October we came forward with a number of changes with partnership agreements. This came about by our opportunity to speak with districts, speak with architects to speak with engineers, etc. Two agencies were contacted independently the AIA and the AGC and a matter of fact they were contacted by us and also by Senator Broadway and ask for them to do reviews. Since the installation of the advisory committee we have gone back in and made additional changes to those agreements and those changes are here and I will be glad to explain them to you. The one that appears the most is we changed the word architect to architect engineer. This allows the district to use the same contract for both, either way. There were also very minor changes in the reference to various clauses that the AIA and AGC requested. They don't change the basic agreement they simply allow the district to put a substitute clause that I have agreed to if they elect to use another contractor, otherwise this

is being signed again all over the state, it is going it is working very well. But, for those agencies which specifically requested to submit changes to us they came to us through the advisory group. Mr. Copas worked with the AGC and Mr. See worked with the AIA and we brought the changes back into their organization. So, our recommendation to the commission is that we go ahead make the changes to the agreement and that we proceed from there. I really hope that this is the last time that we make changes to this; I think we have finally got this wrestled to the ground.

Dr. Ken James "Now you have heard Mr. Eaton explanation and he is recommending that we approve the changes as requested. Do you have any questions?" Mr. Richard Weiss "We are not opening ourselves up to, I guess where I am going is, the architects, having separate architects and engineers there is some kind of oversight function that would remove to adopt this new language we are not opening our selves up. Mr. Doug Eaton "No sir, the reason we are doing this is there is the AIA contracts were developed by the American Institute of Architects and they are centered primarily on the function and organization of architects. There are no separate contracts for engineers, but, the engineer firms, in my experience over the last umpteen years is, they use the AIA contracts. I may be using this to notify the districts, that do not have that background, to say you can use the same contractor or engineer and we will accept it." Thank you, sir.

Dr. Ken James "Next, We have a motion and a second to include this as submitted. You have heard the questions, hearing none. All those in favor say Aye. Aye, motion approved to accept the changes in the partnership agreement as submitted."

**7. Academic Facilities Immediate Repair Program status report:** Dr. Ken James "Item seven Mr. Eaton." Mr. Doug Eaton "Item seven deals with an update and request for approval of changes to the Academic Facilities Immediate Repair Program. The purpose of this submittal is to present to you an updated list of the Academic Facilities Immediate Repair Program. It is expected that there will be additional changes as invoices are received. I remind the commission that the academic facilities immediate repair program was to reimburse districts based on the bid price of what was approved project at the time that the bid was received so, subsequently as the project is completed and the bids are received the numbers are going up and down. We are maintaining pluses and minuses and what we have done, because the legislations you will reimburse them of the states share we are reimbursing them up to the dollar amount that we told them we would at the time that they submitted the bid. But, because we have to meet the tenet of the law of meeting our share we then have to go back then and recommend that certain districts whose cost went over be reimbursed and districts whose cost went under that we get to use that as our surplus. I direct your attention to the printout and if you will go to the last page of the print out you will see that to date there was three hundred and three projects on the list we have two hundred and three that are presently ongoing and one hundred that have not started. It also shows you that the funded amount of this program is thirty five (35) million dollars. As of January 2007 the program is expect to cost thirty one (31) million three hundred ninety thousand which leaves us a surplus of 3.6 million. That surplus is including, if you agree to my recommendation, to meet the short falls of the existing districts. So what I am saying I can meet the short falls of the existing districts and still have a surplus of 3.6 million dollars in this fund. No recommendation with regard to the surplus. Let us run this program now. That remaining surplus is what I intend to tap into if I allow the deficit in the transitional and then move the money into partnership. This is the same motion that was made to you on three other occasions we have requested that we be able to fund the districts that the funds went over and that we maintain the balance. Mr. Richard Weiss, "The funds that have gone over let me make sure I understand this. It is not because of the change of the scope, it is just the timing, timing lag and cost of material and what have you that are required for the work?"

Mr. Doug Eaton, "It's a combination of all of them. It is not going to change the scope or in regards to the scope or add on to something that the commission doesn't have to vote on. There has been a couple of change scope slightly to what it is safe for example to do something at the same time, and we said yes. But this is what you ask of the state and this is what we estimate and this is what we agree to. You can see we are having more come in under cost. We really thought that a lot of these projects would be completed this summer. We still have a hundred that are not already." Mr. Richard Weiss, "I would like at least the opportunity to come back to the commission and say we need to do something about this that money is just sitting there not being used." Mr. Doug Eaton, "Right now we would like to leave it just status quo, let us meet the short falls and go from there." Mr. Richard Weiss "Is that decided on a case by case basis whether it is appropriately funded or is some real project that is only 10% that is overdue?" Mr. Doug Eaton, "No, sir there is a limit per project that we agreed with the district based on our estimate of cost. If they go over,

whether one dollar or 1% or fifty percent, they are over. We are paying them the agreed upon amount with the proviso that we would come to the commission and request the difference or short fall. If the commission so agrees, you get the money. If the commission does not agree, you don't get the money. The Immediate Repair Program is slightly different, what the state's obligation is to pay their share of the bid price and you have to sit back and wait to see what bid price is and then compare the bid price on the scope to what they ask you to do in the first place. If it is the same or slightly higher, it just cost us more and we just have to understand that. If it is changed and it is higher, all bets are off. I think that is a key point that has been mentioned, and we have to make sure as a commission that we don't create the expectation that if we go over that we are always going to have to have a safety net here. But, by comparison sir, we didn't have this conversation with Transitional because the law in Transitional says that the district had to be prepared to fund the full amount if the state couldn't. So, if they go over this is not a discussion we have, they are out on their own in Transitional.

Mr. Richard Weiss, "Okay, we need a motion to go ahead and raise this level to get this construction started." Dr. Ken James "So be it, we have a motion to support the recommendation from the division to raise the new required level of cost for construction projects, and we accept the change of the Immediate Repair Program change as submitted." Dr. Ken James "Any further questions? All that is in favor say aye, Motion approved.

**8. Special report on Cabot Middle School:** Dr. Ken James, "Mr. Eaton next item." Mr. Doug Eaton, "Yes sir, item number eight is to give the commission an update on the situation at Cabot Junior High School. If you remember back on August 10<sup>th</sup>, if I remember correctly, Cabot had a fire about three days before the start of school. The situation at Cabot has not been resolved as of this date. In fact as soon as we are done here, I'm going to the state commissioner where there is a meeting with the insurance company and the state and Cabot to try and resolve the issue. The situation that we have right now in Cabot as reported to you before is that all the children are in class. Cabot did that in three weeks. I know they are up and running. I know they have been in contact with ADE. I know they have all the waivers necessary if they have to miss days or what ever. I am not involved in that part of it but everything is on go in Cabot. The unfortunate part about it is we have not saw a positive action to replace the school because the district has been unable to come to a meeting of the minds with the insurance company over the amount of money the state would receive as a settlement. That is what the purpose of the discussion is. It is unfortunate, that the Cabot is in this situation and for a number of different reasons that are really up to Cabot superintendent and school board. The bottom line is it doesn't look like they will be completely reimbursed for their loss. So, what we have done and we have been over and visited with Cabot a number of occasions, we have advised them about the Catastrophic Program. Cabot also wants to put the school back larger because Cabot is one of the forty one growth districts. We have talked to them about the partnership program, so I think we stand ready to assist Cabot under Catastrophic and the Partnership once they come to the meetings of the minds with the insurance company, on what they are entitled to and what they are going to receive. A question was raised by Dr. James this week about the standards to which the school could be replaced. The law that deals with Catastrophic says that every endeavor will be made for the replacement project to go back in at the approved state standards to include space, unless in the discretion (for the lack of a better term) of the division it is impracticable to do so. Now, we have not come to that point at Cabot, but we have discussed it because the insurance company is making it very clear to Cabot that they are not going to pay to put the building back at the new approved standards and they are going to require them to keep part of the building that is already standing. That is where the discussion of being impractical comes up. If Cabot loses that battle and they are forced to retain part of that building, it is virtually impractical to put the building back to new state standards. So, we can work with them under the same guidance that the state would participate only in the facility cost beyond putting that school back. Now, the rules and the way they are written are to sustain the cost of putting back at the new state standard. If Cabot puts it back at the old standard, because it is impractical for them to put at the new state standard, I feel our responsibility ends at that point and we don't have to assist them in Catastrophic monies. They are on their own. We would assist them with the addition of the building to take care of the other three hundred students that the district would like to add there. So right now we are in limbo. We are simply waiting to see what the insurance company is going to do. This instance at Cabot, as compared to the instance at Marmaduke and the instance I will talk to you very quickly at Holly Grove lead us to make a recommendation that legislation be enacted next year that outlines what we consider to be the basic elements of insurance plan to cover schools. Now that is not under our purview, of course it is under rules and legislation that is administered

by the insurance, except that in the rules and laws that were passed by the division it says that the districts are required to notify us once a year as to their coverage. They are required to report in July of each year and they are required to present master plan updates in February both even and odd years to also to give us an update on the insurance. I am not looking for additional things to do but, Roger tells me that was being reported to us for a reason. The reason I believe is to insure the districts are increasing their insurance to cover the building for which we are paying, thereby protecting the state's investment. It also gives us the opportunity to possibly go back to the district and say we might want to suggest that you re-look at your coverage. It is your call. It is your decision and the school board's decision; we just simply bring this to your attention. So, there is legislation that is going, not to mandate the coverage, the limit, but simply to outline what we think you should have. Cabot unfortunately did not have extra expense coverage. That meant that all the expense they incurred for temporary measures to put the school's children back in school is being absorbed by Cabot to the tune of three million dollars. They have to come up with that. Other policies across the state in ninety or ninety five percent of the districts that is not a problem. It is only problem in a very small number of districts unfortunately. Some of them are high growth districts, which means they have big schools, which means they can have big losses. So, we stepped in and this is what our recommendation is for the insurance commission. That is where we are with Cabot. I would also like to mention since it was already introduced by Senator Broadway this morning, we unfortunately had another catastrophic loss at Holly Grove Elementary School in Clarendon School District, and I will tell you that is a situation like night and day. Clarendon has already met with the board and the board has agreed they are not going to rebuild the Holly Grove School; they are going to add on to the Clarendon Elementary school. The board has agreed to that course of action, the insurance company has agreed to that course of action, and we have agreed to that course of action. They have an architect on board who will soon start the design to rebuild the Holly Grove space at the Clarendon school and include their projects that they requested for the 07-08 partnership program at the same time. It is a great holistic campus attitude where we went to Clarendon Elementary school and will walk away where they have got all the space they need based on growth and based on reconfiguration, with all the space they need based on the loss of Holly Grove Elementary school and will have the bulk of their main suitability problems solved. Sorry, the object of this is just to give you an update on target and I will be glad to send you something after I go over and meet with the insurance commission this morning to see where Mr. Holloman and the school board are." Dr. Ken James "Any questions on Cabot situation?" Mr. Richard Weiss "I have a question here. I have a first or second meeting with the board that I was, I was asked about issues around mandating your government coverage. I know that we have not mandated it. I would hope that we have lessons learned I guess out of the insurance coverage. I would hope that we would look to the issue of mandating the school district's coverage. I mean we do that for when you go to a revenue office to buy car tags you have got to have coverage to show proof of insurance. I can't imagine why we can't require the school districts to have basic insurance, if the state is to be involved in all this. But, I would like to have maybe private education myself or a strong look at including whatever legislation we have." Mr. Doug Eaton, "That, is the approach we took. One of the first things I did was to sit down with the State Board of Education and the state insurance commissioner. Between those two agencies they have almost all of the districts in the state insured. Their policies are almost identical. I meet with them and I told them what we wanted to do. We wanted to establish a litany of thing that should be in the policy, but not name the coverage. I think that is the board's responsibility. They are the ones that should determine what the value and what their coverage should be because they are the ones that can self fund and so on. But, certainly to say you must have this, this and this under the policy, I don't really see that the school districts arguing against because the bulk of them already have it in their policies. I am going back to the agencies that have the bulk of the districts covered, for the ones that are not covered and I was called yesterday by a large school district that is on the same policy as Cabot and they are starting to sweat bullets. That is when the answer is quite simple when your policy come up for renewal, find yourself another agent. Go to the state or go to any agency that has a policy or if you are comfortable with yours, have it reviewed as an extra coverage. You can do that. Many of the districts may tend to take the best premium value and when they do they may short change themselves. That could still happen, even if we are successful with the legislation that could still happen. Because if we leave the value up to the school districts, and I believe that is what I feel should happen, they could under insure themselves." Mr. Richard Weiss, "Well, I guess my concern is just using my car title analogy you can choose what level of deductible you are going to have. I think, I am not sure we should mandate, but I don't want the state to be looked at as the fall back for the district. I guess my biggest fear I can't believe we require the reason they will be insured for some kind of mark where the state is not

moving back out there with some big disaster. There is no way we can do that without a big tax increase of some kind. I don't know that is just a concern that I would sure like to see addressed. I just think you could require that they provide proof of insurance or they be self insured. They can give us an explanation of that to prove to us that you know that they don't need it. You put the burden on them." Mr. Doug Eaton "Yes sir, I feel it should be on the school district. We are asking for a proof of insurance and statement of values which is a listing of all their property and what it is insured for. I wasn't on the task force, but I think this came about because when the count was made in the state of the number of buildings on public school property we were off by eight hundred. Which meant that there were eight hundred buildings out there which were not covered by insurance and not on the rules and it is still happening. The school districts are constructing buildings, and you don't find out about them until you drive down the street and see it. But, what we are trying to do is like trying to keep the inventory of the campus updated and see what their statement of value is so we can at least go back and say you have six buildings on the campus, you have only got five insured and all I can tell you that it is our recommendation that you are under insured. The replacement value of those buildings is this, you are insured of this, just know it. Cause, if the school board had a catastrophic loss here, could come up with a million dollars? Fine that is up to you. If you can't, you need to increase the value and we understand you will pay a higher premium. That is why I believe some districts may feel some districts may back down, we don't want to pay the higher premium fine, go visit Cabot. This is a definite issue; there is no doubt about it. I have talked about this and I know he is going to be talking to the superintendents about this in a meeting and he is probably not sure most of the superintendents are looking at this and handling this. It is an issue and often times what happens is the school districts is that they don't go through on a regular basis or they may not go through on a regular basis looking at those actual cash values and upgrading. It is something we definitely need to look at. Again, my attempt to suggest is to update the commission on Cabot School District." Dr. Ken James, "Go onto the next item."

**9. School Bus Inspection Handbook modifications:** Mr. Doug Eaton, "Yes, sir item number nine has to do with the recommendation that we want to make changes to the Arkansas School Bus Inspection Hand Book. We feel our system is set up so that we have the right to make changes to any of our handbooks, custodial manuals, and certainly the bus inspection manual without having to go through the open process. We are not making rule changes; we are not making legislative changes. I have got Mr. Simmons here with me today. We have gone back in there with Mike's staff and with the assistance of some folks out in at the state and said we can make the manual better. This is what we would like to do. Rather than include this whole manual, which is like the New York telephone directory, we have included a couple of sample pages so that you can see what the current manual says and what the new manual says. I would ask Mike to address any questions or concerns and give any explanation that is necessary with regard to this. Mr. Mike Simmons" Mr. Mike Simmons, "Thank you, what we found over that first year of inspections was that the manual was good but all it did was list what they were inspecting and the out of service criteria. What we were finding were things that fell into that out service criteria. But, we were also finding a lot of deficiencies that didn't quite fall into that and it kind of left us in a gray area and we felt like it opened us up to a little bit of liability there. You know, if we found a deficiency on a bus, but it wasn't a groundable offense. So, what this new hand book does, and I want to thank Alabama and South Carolina both, (we stole a lot of this from them or used a lot of their manuals). It gives you repair criteria as well. It is just a much more comprehensive manual for my inspectors and also the mechanics in the district." Dr. Ken James, "Has any of this been shared with folks out in the field? Have they seen this?" Mr. Mike Simmons, "No, sir we have not at this time." Dr. Ken James, "Do you anticipate that this is going to cause any issues out there in the districts?" Mr. Mike Simmons, "No sir, it shouldn't, in fact it actually gives them more opportunity. What is does, if it is not a grounding offense and it is a repair offense we can give them thirty days. We put that bus on a thirty day notice and it gives them thirty days to get it repaired before we come back. So, actually it is giving them more leeway than what they had before. An example of one of these situations would be a break line which is worn that is a serious thing, but it gives us a little lead way to say look, it is not really that bad yet but it is fixing to be, you need to get it fixed. Where before we would say, this bus is out of service and you can't use it today. Questions?" Dr. Ken James, "The only thing I would say, and you mentioned this yourself, is that we have got to be very careful because if it is a situation to where we get conservative, we could increase liability for ourselves. We have got to pull that trigger. I know you know this but I think that it is important to say.

Dr. Ken James, "We have a motion to approve this and a second and do we have any other questions? The hearing now is clear I motion approved."

**10. Master Plan update and training report:** Mr. Doug Eaton, "Number Ten the master plan. In the fall of 2006 the division made some significant changes to the master plan, updating the process to meet the requirement of the submission made in February 2007. When the master plan process went into effect, it was determined that having the districts submit a ten year master plan in February 2006, having been notified in November 2005 was an impossible task. So the decision was made at that time to split the master plan in two phases. Phase one was a three year submission and a listing of projects and the justification for the master plan itself and phase two an update in February 2007 which would list the projects for the next seven years. It was originally intended at that time that all other aspects of the original master plan would be submitted in 2007. I want you to know that I changed that, I didn't think that was good to do simply because we didn't have all the other pieces in place. So, the 2007 master plan is to be an update and list the projects that the district feels it would like to do over the next seven years. To aid in that we have gone in and taken the base data base that we use for the assessments of all the school districts and we have opened that up to where the districts now have access to it so the districts can sit down and write it right at their home office. They can go into the data base and update it, they can show us what projects they have completed, they can also list every other project in the year which they would like to have it, with the dollar amount, and all they have to do is download it. So the districts do not have to turn in a big excel spread sheet which is what they had to do in 2006. We have also gone out training across the state at every one of the co-ops, and we have had two and getting ready for a third make up session to explain to the districts exactly how to do this and walk them through it and train them through it. So far it has been slow starting, and we hope it will be picked up cause the district have to have it done by February 1, 2007. The remaining portions of the master plan as mandated by the law will be required to be submitted by the district with a ten year master plan, in February of 2008. I just wanted to let the division know that yes, we have made those changes. The intended purpose was to make the submission process easier for the districts and we have gone out there and we have had training to go along with this. Is this just a report to the commission? Any questions?" Dr. Ken James, "Doug, I just have one, I know we are on a short timeline here but, is says it is hopeful we will meet the deadline for February 1, 2007, in the last paragraph. My question is what happens if they don't?" Mr. Doug Eaton, "Very interesting, let's put it that way. First of all if they don't meet the February 1 deadline, I am going to line up a big fight, because the February deadline is also the update on the master plan. If the master plan isn't updated, to support the Partnership projects that were submitted in November of 2006, for 2007 and 2008, in my estimation they have not met the requirements. I will pull that project and then some of the districts will be livid. They will have to wait two more years. But, what they are doing is submitting incomplete applications and the last part of that application is the updated master plan. Some of the districts have caught on very well. Some of them are doing it, some of them haven't started it, some of them we still have to go back there and teach again. Hopefully we made this so it will be much more, much more user friendly for them to be able to put in the data. I am hopeful as of February 1 that day hits and that all the districts are in because we are not going to have the time to go back and run those down, because we will have to complete and all our effort is going toward that partnership list of 07/08 that has got to be required for the legislature to make their budget decision and we simply with the loss of an area manager this last month we are behind and we are just barley able to keep up with what we have.

Dr. Ken James "Okay, I understand that is a key issue there and I think the committee and it will be good information for the commission to have as of February 1, to show them where you are at once you get that information let us know how you are getting along." Mr. Doug Eaton, "Yes, sir. Absolutely." Dr. Ken James, "Because we have an understanding where that is." Mr. Doug Eaton, "I will do that."

**11. Advisory Committee on Public School Academic Facilities and Transportation:** Mr. Doug Eaton, "Item eleven is to give an update to the commission on the advisory committee. Act 1426 of the regular session of 2005 created the Academic Facility oversight committee and the Advisory Committee of Public School Academic Facilities and Transportation. The intent was to provide an organization outside my organization to provide us assistance in those areas that we felt we did not have the expertise in. The Oversight Committee appointed the advisory committee many of whom were members of the task force. They have met five times. Some of the products from the advisory committee have been great, one of which being the change of the partnership agreement and including the latest laws. We have brought

consultants back on board to address the key issue that the advisory committee is dealing with and that is to clarify and update the Arkansas School facility Manual. We know the manual went out quickly and did not have everything in it necessary to have the districts be able to feel very comfortable using it. So we have divided the manual revision up between things that the consultants should address and things the Advisory Committee should address and we are proceeding down that path. I would suspect that the advisory committee will probably meet maybe two or three more times and then end and then pick up in one more year because by law they have to meet. The list of committee members is here and I know you are familiar with some of the gentlemen and ladies that are on the rooster, many of which were on the task force. I think we are fortunate to have them. It's just been a process to get in place. Now, that is in place hopefully it is going to be able to assist us. So, I have no further items that were here unless the commission thinks we should address something." Dr. Ken James. "Any quick questions? All right, thank you for the report, can I get a motion to adjourn?" Mr. Richard Weiss, "That is a good move, I will second the motion."