
Arkansas Division of Public School



Academic Facilities & Transportation

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

MEETING AGENDA

March 16, 2010

8:30 A.M.

Arkansas Department of Education Auditorium

Call to Order/Roll Call

- 1. Minutes Meeting September 23, 2009**
- 2. Draft Rule Changes: Specifications for School Bus Design**
- 3. Draft Rule Changes: M&O of School Buses and Physical Examinations of School Bus Drivers**
- 4. Draft Rule Changes: Rule for Bonded Debt**
- 5. Draft Rule Changes: Facility Master Plan**
- 6. Draft Rule Changes: Rules governing the Facility Distress Program**
- 7. Draft Rule Changes: Rules Governing Self Construction Projects by Public Education Entities**
- 8. Draft Rule Changes: Commission Appeals Rule**
- 9. Draft Rule Changes: Review Board Appeals Procedures**
- 10. Draft Rule Changes: Partnership Rule**

Minutes

Commission for Arkansas Public School Academic

Facilities and Transportation

March 16, 2010

The Commission for Arkansas Public School Academic Facilities and Transportation met on March 16, 2010, in the Auditorium of the State Education Building. Dr. Tom Kimbrell called the meeting to order at 8:30 a.m.

The following were present: Dr. Tom Kimbrell, Commissioner AR Department of Education, Mr. Mac Dodson, President Arkansas Development Authority, Mr. Richard Weiss, Director AR Dept. of Finance and Administration, Mr. Douglas Eaton, Director PSAFT, Dr. Charles Stein, Assistant Director DPSAFT, and Ms. Barbara Dobbs, Administrative Specialist DPSAFT.

Tab 1: Minutes Meeting March 16, 2010

The minutes from the Commission meeting of September 23, 2009 were approved.

Tab 2: Draft Rule Changes: Specifications for School Bus Design.

Mr. Eaton stated that Item 2 is one of a number of rules, previously reviewed in September. Having gone through the open comment period, minor necessary adjustments were made. The first of these was the bus specification rule, that the change we presented in September was a requirement that after January 1, 2011, a sign be then posted on the back of the buses. That rule went out, with little questions, and it is recommended the Commission approve the amended rules governing the school bus specifications. The next step would be to submit these to the Administrative Rules Committee in April.

Commissioner Weiss made a motion to approve to adopt the changes in the rules for specifications for bus design. The Commission approved Changes for Specifications for Bus Design.

Tab 3: Draft Rule Changes: M and O of School Buses and Physical Examinations of School Bus Drivers.

Mr. Eaton explained Tab three deals with the rule regarding examination of school bus drivers. The significant change in the rules presented to you in September would allow, other than doctors, advanced practical nurses, to conduct school bus driver examinations. This change was very well received across the state by the school districts, with the exception of one comment that did not pertain to the rule.

Mr. Eaton went on to say approval is recommended for the amended rules for physical examinations of bus drivers again, so we can proceed to the Administrative Rules Committee.

Dr. Kimbrell asked for clarification that in the comment that was made from the school district, that the rule be changed from the way it currently is, to reduce that or to leave that number above ten, and asked if we allow vans to transport students?

Mr. Eaton stated that it must be a certified yellow school bus, and that is a federal requirement.

Commissioner Weiss made the motion to approve maintenance and operation of school buses and physical examination of school bus drivers. The motion was approved by the Commission.

Tab 4: Rule for Bonded Debt:

Mr. Eaton reported item four is the bonded debt rule, and explained that when this rule was amended, only two changes were accounted for, that occurred in the legislature from last year; allowing school districts to use the bonded debt savings for capital repairs and renovations. The rule includes those definitions.

There have been some other questions raised by ADE that over the next couple of months, we will reexamine some of the procedures in this rule, because the rule was written in early 2005, and there have been some procedures and differences in the weighted wealth index and a few other things that calculated.

Commissioner Weiss stated that the change was just for new construction, when it was initially passed and asked if it has been broadened to renovation.

Mr. Eaton clarified that the change is for capital repairs and renovations. Mr. Eaton reported that the definition has to be looked at, based on some of the procedures that ADE is using in calculating wealth index and the payments.

Dr. Kimbrell stated the definition has changed, in what this money can be for. He explained further that as recent as last week, questions arose as to how the rule is written and how we're calculating debt service supplement and the reduction of those other pieces that are part of how we fund this facilities project now. Staff members at the Department of Education, were not sure how that rule is being interpreted. The definitions will go into place and how they can spend that money, but the calculation is done here, and then the money is sent back to the Facilities Division to be spent on Facilities.

Mr. Eaton clarified that they will be able to use it for capital repairs and for renovations, which they were not allowed to before.

Dr. Kimbrell stated that to adopt these rules, would allow those districts that get the money, to use it currently in this year in an expanded way, and would be a final approval for the rule that has been out for comments, approving the expansions of the definition of how they can use those dollars the

State provides, under the old 2005 law. The districts would still get debt service supplement and some of those other funding streams, but they only could use it for new renovation and acquisition of property. In this last session it was expanded to include renovations and other projects.

Commissioner Weiss made the motion and Commissioner Dodson seconded to change the rule on bonded debt. The rule was approved by the Commission.

Tab 5: Facilities Master Plan.

Mr. Eaton stated this rule was brought to you in September. I failed to mention the other ones, but the comment period ran from the 25th of September to the 5th of November for each of these rules and we had one public hearing on October 14th, where we allowed comments on all of these rules. The only changes to the Master Plan rule was to add or recognize the Custodial Maintenance Handbook and a change to the handbook, which put in a matrix of required inspections. And in order to be able to present that to the public we had it in the Master Plan rules, the one that best fit. This is also recommended that the Commission approve these rules so that we can proceed to submission to the Administrative Committee in April.

Dr. Kimbrell asked if there were several comments on this that were submitted by a couple of different groups, and if some of those were considered. Were there any substantive changes?

Mr. Eaton stated the only change was one that was a conflict in the manual, because in the manual, it said the district could use a manual system of tracking work orders, versus an automated system. When the law was passed it is not an automated system. We missed taking out that a manual system could be used. When brought to our attention, that change was made.

A motion was made and seconded to adopt the rule on Facilities Master Plan.

The Commission approved to adopt the Rule on Facilities Master Plan.

Tab 6: Facility Distress Rule

Mr. Eaton stated the Facility Distress Rule, in September, was presented to you because we had to make changes which included the definition and procedures, dealing with non-material failure. We made the changes to our rule and ADE made the same changes to their rule, dealing with fiscal distress. The changes made allows for districts to work with the Division ahead of time, if they find or we find something that can possibly lead to a distress situation. That is what the changes in our rule must do, and we took out the appeals section of the rule.

The rule prompted some comments, most were points that could be clarified in an explanation as to why the change was accomplished that may not require changes to the September submission. They are being brought back to you with the recommendation that the amended rules go forward to the Administrative Rules Committee in April.

Dr.Kimbrell stated some of the comments were not accepted and some were considered.

Dr. Kimbrell asked Mr. Eaton if he would explain the piece that was some proposed deletion of language in Section 1.02 and 4.01.1.

Mr. Eaton reported the change in 1.02 was the statement that we added that had to replace any former rules governing the Academic Facilities Distress program. The rule was revamped a little, to where it almost mirror imaged ADE's fiscal distress rule. We put it in ours, to make it perfectly clear that this would replace the other rule.

Dr. Kimbrell stated the other comment 4.01.1, was where we deal with the construction related laws or rules.

Mr. Eaton reported in the legislative session this past year, it was added to the definition that a material failure, in addition to including State law governing purchasing and bid requirements, also now includes steel construction related laws and rules. Previously omitted, it should have been included. When it was discovered, we requested the legislature put that in the bill last year.

Commissioner Weiss asked if Section 13 was some kind of guidance, not something material.

Mr. Eaton replied Section 13 is an early indicator of facility distress. That was the bulk of the change in legislation last year that was added to our rule and also to fiscal distress.

Dr. Kimbrell explained several groups worked with Representative Carmine to allow schools to have an early warning system, whether it's in fiscal or facilities distress. We found, and we ran into this just recently, where school boards were not aware that there were fiscal matter issues or facilities issues. So this requires those school districts to make this a public part of their agenda.

Mr. Eaton added that we have started using the procedure under this rule. In September of last year we notified 154 districts of a failure to meet a State inspection requirement. We did not do it as a non-material failure, but we did bring it to the district's attention. This was brought to our attention; therefore, we are bringing it to yours.

Commissioner Weiss made a motion to adopt and Commissioner Dodson seconded.

The Commission approved the Facility Distress Rule.

Tab 7: Draft Rule Changes on Governing Self-Construction Rule

Mr. Eaton stated Tab Seven deals with the self construction rule. We had to bring the authorities under the Commission from the State Board of Education. It added the definition of self construction, the definition of Commission and clarified the notification procedure.

There were a few comments with one change that we did make in paragraph 6.03. That dealt with the fact that in the rule the way it was originally written, it identified the bidding procedures. We

took that out because if the law changes, and the bidding procedure changes, the rule would have to be changed. After discussions, it was best felt to leave that the way it is, so the districts would not be mistaken as to how they had to advertise for procurement purposes. So that was the only significant change that was made as a result of the comments.

Dr. Kimbrell stated that after discussion of the deletion of that particular language, the fact was that it gave those people in those leadership positions, a way to find specifically how they were to proceed.

Dr. Kimbrell then asked if we are going to create some kind of avenue to the school districts or make available on the web site where they will have that at their fingertips. We know the law says that, but are we making sure that we're providing the schools and those leadership people that are in those positions, a way to have quick access to the procedures that you need to go through?

Dr. Kimbrell added that we had some that are not following procedure because they do not do construction very often.

Mr. Eaton agreed, explaining that it is a two part answer. One, the point that we discussed, the clarification went back in, so at least it's in the rule. They have to advertise for two weeks and so and so forth.

The overall question is one that we've wrestled with for the last couple of years, because there's a tremendous dichotomy in that we seem to have three construction processes in the state. We have the one that is used by the Department of Finance and Accounting, which deals with procurement, major purchases and commodities. And we have ABA that deals with the State buildings, and we have the school districts in the middle, which do not have clearly defined instructions for them. But if they want to buy commodities, for example, it is clear in the law exactly what they have to do. That is laid out very clearly. When you cross over into construction, it is not as clear. You have to know what you're looking for and extract what is applicable to the construction process to a school district, because the school district in and of itself, is its own entity that establishes its rules for governing construction.

Many school districts do not have rules and policies governing construction, consequently we do have a number of errors during the year with procurements and wrong advertising, and bad awards, and things of this nature.

He stated that it is confusing, and the Division long range, would like to put out a desk side reference for the superintendents and give them step-by-steps, because many of them do not know.

Dr. Kimbrell asked that if in agreement to do that, is there anyway we can move forward and get that casual reference put together?

Mr. Eaton expressed concern that some of these areas of school districts do not have a clear how-to manual. He stated we can certainly start on that, for Dr. Stein and I have wrestled with a clear how-to manual for these school districts.

Commissioner Weiss agreed it would be helpful

Dr Kimbrell noted as we see leadership change, we see a generation of school leaders leaving the business, and we're getting new people into these positions without the experience. And if they're not working with some of our Facilities people that are out there in the co-ops, and either are working independently or not, get into trouble when they do not have an architect involved that will help them with this process.

Dr. Kimbrell continued by stating to give them some guidance would be helpful. So we do have this rule then governing self construction?

Commissioner Weiss moved to approve.

Commissioner Dodson seconded.

Commission approved Draft Rule Changes on Governing Self-Construction.

Tab 8: The Appeals Rule: Appeals to the Commission and Appeals of the Review Board Determinations to the Commission.

Mr. Eaton stated here it gets confusing. In September of last year we brought you a rule which was the basic appeals rule that was written and adopted March, 2008. In the session last year they interjected an organization called the Facility Review Board. The Facility Review Board has the right to hear appeals from the school districts to the Division determinations dealing with those programs that fall under financial laws.

He reported the Review Board was set up, and it is working. We have already had some appeals. But there were also provisions, for example, that if there was an appeal made of a Review Board final determination, it's not called a decision, it is a final determination, and can be made to the Commission. So we have districts that can make appeals directly to the Commission under the program laws. Districts can make an appeal to the Review Board under the financial laws. And districts can take the final determination from the Review Board, appeal and come to the Commission.

And then after Dr. Kimbrell came aboard, he, I and the attorneys sat down, and the general consensus was the school districts might get confused and not be able to understand as easily as we would like them for. So with the help of the ADE attorney, we broke the rule apart. We took the same language that was in there and simply put it into two rules. And that is what you have in Tabs Eight and Nine.

We didn't change any of the language that was presented. We just broke it apart and have started the process for the open comment period. It was put out on January 26th and the period ends on April 9th, and the public hearing was held on February 23, 2010. We are in the open comment period now, and we have not received any. However, if we do receive comments before the April 9th deadline, we will be bringing that rule back to you for clarification.

There was no action to Appeals to the Commission and Appeals of the Review Board Determinations to the Commission.

Tab 9: Appeals to the Review Board.

Mr. Eaton reported by separating it, we still have to tie together parts A or B, because they have the same title. It makes it a little clearer to the district. When they want to appeal, they have the process. Whether they want to appeal to the Review Board or the Commission, they have the process.

The other reason that we broke it apart is to make the Review Board appeal process easier. The appeal process to the Commission is rather cumbersome, but it is very demanding with regard to schedules and things with documentation you have to submit.

The Review Board procedure we set up, was to allow it to be a lot easier, and be user friendly. We wanted the districts to feel comfortable and understand without being challenged when they have to get a Review Board hearing. And if you look at the two rules side-by-side, you'll notice that is the most significant difference; that the Review Board rule is a lot easier to implement than the Commission rule.

He stated that both Tab Eight and Tab Nine are now going through the process of reviews and that ends on April 9th.

Dr. Kimbrell asked Mr. Eaton, to please give an overview for our other two Commissioners about how this Review Board is actually set up, and how that practice or that piece is going to be working from this point forward.

Mr. Eaton reported the Review Board was established by legislation last year. It consists of five members appointed by the Governor. The Review Board consists of an architect, an engineer, a member of the construction industry, a school board member, and an appointee at large. And there were agencies that appointed those. AAEA, I think appointed one, AEA appointed the other, and the other ones were appointed by AIA, AGC, and I forget who appointed the fifth. Those five members have met. They met the first time for a general acquaintance meeting. We met with the legislator that drafted the bill, because there were some misunderstandings as to what was intended to be in the bill and what actually got into the bill. We got that clarified.

Their first charge was to put together procedures, and they did that. The very first meeting that they held officially was to hear two of the appeals that came before the Commission in September but were withdrawn, and they elected to go before the Board. And that was Wynne School District and South Conway School District.

At the very first or second official meeting of the Review Board, they approved their procedures. Note these are not rules, they approved procedures, and those were drafted with the help of our office, with the help of ADE's attorney.

Once that was done they went ahead and conducted the two hearings. They had to meet a second time to make a final decision on one of the hearings. Those meetings are concluded, the decisions were rendered. We haven't published the minutes yet, but both of those decisions have been decided by the Review Committee.

Commissioner Weiss asked what was the disposition.

Mr. Eaton reported the Review Committee ruled that the Division's decision was accurate on both dispositions.

Dr. Kimbrell asked if at this point the districts would be able to appeal the Review Board's decision to the Commission.

Mr. Eaton confirmed. They can do that, as they have 30 days from the date of the decision to submit a letter of intent to do that.

And so those will come back possibly when we look at the other rule changes.

Mr. Eaton said, hopefully, the next time we meet again we'll bring those back.

No action is required by the Commission.

Tab 10: Partnership Rule.

Mr. Eaton reported the last one is the Partnership Rule. The Partnership Rule is coming to you for the first time to present to you changes that we've been requested to make to the rule, and then to begin the open comment period.

The Partnership Rule has been in effect since basically 2005. It was modified a little bit in 2006 and modified again in March of 2008, when we changed some of the basic procedures. The request to bring it to you this time is basically founded on two things. One is the Division has the charge to ensure that its approval or projects results in the most prudent use of State funds. And as so we have been reviewing projects with that in mind and making certain determinations over which projects we think should be approved and are worthy of State money, and perhaps which projects are not as strong, and perhaps need to be revamped, weighted, or resubmitted at another date.

The second change for this rule, and I will go through each of these changes, is that we were asked to add a new category of project. That category is consolidation or annexation. So what I would like to do at this time is go through those changes, stating if you have any questions on those, please obviously feel free to ask.

The Division is proposing changes to the Partnership Rule for the following purposes:

1. To add consolidation or annexation projects as a category eligible for funding under the program.
2. To clarify the Division and its general charge to ensure the prudent use of State funds may consider alternative projects if they meet the standards of providing a facility that will support an adequate education.
3. That the limit of the State's financial participation may be governed by that alternative solution.
4. To clarify that in construction of a new school and additions to existing schools, the Division has the right to consider available space in any facility affected by grade reconfiguration, to support either the new school or the addition.

That's the ability to look back and see what space they are vacating, in order to be able to build a new school.

Specifically, to go through the changes, on page one, paragraph one, it clarifies the authorities. The old ones were deleted, the replacement ones were added. On page three, paragraph 3.07 adds the definition of consolidation/annexation project, pointing out that this applies only to voluntary consolidations, making them eligible for Partnership funds. Forced consolidations, for lack of a better term, that are brought about based on ADE recommendations and State Board of Education decisions are not eligible under this program. On page seven the term was clarified with regard to the project funding cycle. The legislature has gone to the one-year funding cycle, therefore, we had to change those words in our rules, also. Page nine, paragraph 3.30.1, allows the State to consider all existing campuses affected by a Partnership project, but adds to an existing campus if that project is tied to grade configuration on those campuses.

Occurring throughout the districts is the districts may identify a problem with a specific school And what they're doing in order to try to solve that problem, they are perhaps reconfiguring their grades, and in doing so, they're actually moving the need to another school.

For example, you may feel you have a problem with an elementary or junior high school, but you feel you can solve that problem by taking some of the children out and moving them to the middle school, or taking some of the kids out of the middle school and moving them to the high school. So in essence they're moving the process forward, but we invariably end up with the most expensive school at the end to build, which is a high school. I'm not saying that all of our high schools were built for that reason, but it was certainly a consideration.

What the State is offering is that, there may be another solution. The other solution would be addressing the issue where it occurs.

If your elementary school is too small, then perhaps we need to add to the elementary school, if it's feasible.

And then if they are going to move grades we have the right to go back and consider the space at the school the children are coming from, to subtract from the new school.

If there's a suitability issue at the high school the way it stands now, then that suitability issue will be transferred to the new school, and it would either be added to, or deducted, and the district would only receive the amount of money necessary to bring the district up to a state of suitability. That is what that change in the rule allows us to do.

On page ten, paragraph 3.30.2 allows the State to consider all existing campuses affected by a Partnership project for a new school, if that project is tied to grade configuration at those campuses.

On page 11, paragraph 4.02 requires any addition to an existing school facility in consolidation or annexation project, to add those spaces in the order stipulated in the rule.

The next change is on page 16, paragraph 5.02. This allows the State to limit the funds provided for a Partnership project to the cost of an alternative project, that would meet facility standards.

Basically the district would be given money to solve a problem, but may go back and solve it the way that they would like to. And we've done that in the past, for example, with Manila, which is the very first appeal that the Commission handled. They wanted to build a new school, we analyzed all of the things that had to be done at that school, we cost those out, and told the Manila school district here is X amount of dollars to solve that problem. They went ahead and built a new school with it, which would be perfectly acceptable.

The next one is on page 17, paragraph 5.05.2 and it adds consolidation of annexation projects as new construction. This is just to clarify the definition.

On page 18 through 21, establishes the definition and criteria for consolidation of Partnership projects, and I'd like to go through with those.

First of all, paragraph i, states that school districts identified for consolidation under Arkansas Code § 6-13-1602, the code that deals with forced consolidations, are not eligible.

Paragraph ii establishes that a school district may apply, if they are the results of two or more contiguous school districts consolidating in accordance with the terms of Arkansas Code § 6-13-1401. So two districts that are at opposite ends of the state cannot voluntarily consolidate, and the state be forced to help them make an addition or a new school.

Paragraph iii states a consolidated school district must submit an order of consolidation from the State Board of Education. That is normally required at the time the project is submitted, as they must submit it through the Partnership program. We understand that may not happen until afterwards, such as particular districts that are going through that right now. But they are required to give the Division a signed document, signed order from the State Board of Education that approves their consolidation.

Paragraph iv states that the school district must submit all required partnership documents. Since the consolidation/annexation project falls under the Partnership Rule, and it's going to be funded from Partnership money, it is required to meet all of the Partnership standards, beyond the Master Plan, plan specifications, meet the submittal date, and everything else.

Paragraph v states that projects must be listed on the Master Plan.

Paragraph vi states that the school district must submit all required partnership application requirements.

Paragraph vii require school districts to provide all information regarding facilities to be closed as a result of the consolidation. This is to ensure that an inventory which thereby increases its operational costs.

Paragraph viii establishes that new school projects that are deemed consolidation/annexation projects, will not be penalized as stipulated in paragraph 5.02. This paragraph allows the State to go back in and look at available space in other schools. Consolidation/annexation projects will not be penalized through that process, therefore, they do not fall under that process.

Paragraph ix, the Division will ensure that the location of the proposed projects represent a prudent use of State funds. We're interpreting this as working with the district to ensure that whatever they're adding to, that we have the opportunity to sit down with them and examine any and all alternatives they may have.

The final decision, would be up to the consolidated school districts and their board, but it gives us the opportunity to make sure that they're not building something in an area that would be extremely expensive or perhaps not well operated.

Paragraph x stipulates in all consolidation/annexation projects continued additions will be evaluated according to the procedure outlined in 3.30.1. Again that is the procedure, that deals with being able to look at other spaces.

Paragraph xii explains the procedure for how a numerical ranking, based on the wealth index, will be assigned consolidation/annexation projects.

It was felt that some kind of impetus that would give the consolidating districts more of an incentive to consolidate where it seemed plausible, more of an incentive to submit projects. So we are using a wealth index that would be based on the best wealth index of the ranking of the school districts.

We're doing the same for the numerical ranking dealing with population and also dealing with FCI. The FCI would be the FCI of the district, the FCI of the building, but the other ones would give them a slight edge. They don't move up, they don't bump anyone, they're just given that number with regard wealth index and past ten year growth.

Paragraph xiv explains that any Partnership funds for consolidation /annexation projects will be in addition to those funds, allotted to consolidated school districts under the Arkansas Department of Education rules governing the distribution of consolidation/annexation incentive funding. Any monies given to a school district by the Department of Education as a result of a State Board determination is not affected by the Partnership monies. They will receive those based on the law and the rules that pertain to that issuance and the Partnership money would just run parallel to that, allowing them to combine it, whatever they want with it, the end result being the Partnership project and whatever they've agreed to or presented to the State Board of Education.

Are there any questions? These are some significant changes.

Dr. Kimbrell asked to go back to page 17. Is it a change and can you give clarification on that change, 5.04.5, for those projects for each fiscal year?

Mr. Eaton responded, this year we're taking the projects that have been submitted to us, and they have already been submitted, and we're dividing them up, first of all by fiscal year. This is the year in which the district would like to begin that project. Once that has been done, we are then dividing those up into safe, dry, and healthy, and basically everything else, additions, renovations and whatever, or new schools.

We did have a two year cycle. What we found on the two-year cycle, if you remember back in September, is that all of the projects that had to wait for the second year, were the larger more expensive projects with the additions. They were the schools wrestling with suitability issues, that couldn't move forward.

In September we presented the recommendation to award all of the projects that had been identified as safe, dry and healthy down to a maximum amount of 89 million dollars, which allowed about four or five projects into the new additions. The rest of them sat there until sufficient savings was allotted.

Then, through letter, we were notified those districts could proceed with ten percent, which would cover their design and cover the State's design. The rationale behind that, was the amount of time it's going to take them to actually design that project, would have rolled us into the next year and we would have known how much money we had.

Mr. Eaton explained around November we knew what we had and turned those districts on the '09-'11 list loose. Next year we will turn loose all of the safe, dry and healthy projects, and a small number of projects that are additions, conversions or renovations. The next year for the remaining projects that do not get awarded, would roll over into that category of additions, renovations, consolidations. We will then begin by funding; all of the safe, dry and healthy, of the districts that want to begin that year.

What we found in previous Partnership years is that districts come in with a project for the future, without a date to start. We approved all of them at once, for all of our funding came at once. That money just sat there for about a year before they ever began to do something with it. So now we

are going to do it the way the legislature meets, and that is to turn those projects loose on a yearly basis. And that is the change that Dr. Kimbrell is referring to.

Commissioner Weiss asked about the reference to safe, dry and healthy, and for a brief explanation of that.

Mr. Eaton responded that when the State started down this path, they originally identified the projects into five categories, priority one, which is to be the very worst category, and the things that were deemed, had to absolutely be done now, because the buildings were not considered safe, dry and healthy. And that was the immediate repair program, transitional sort of set aside.

We are still finding that every year, we still have safe, dry and healthy projects, as the buildings deteriorate, as the life cycle items zero out roofs, electrical systems, in some case, structure, and plumbing systems. They become major deficiencies. As codes change, they become major deficiencies. In order for a district to keep up with those things and make sure the building meets the definition of being safe, dry and healthy, we will always have safe, dry and healthy projects, as long as that category of project includes re-roofing, heating/ventilation replacements and so on.

Dr. Kimbrell stated this rule change encompasses two major issues, and I anticipate lots of public comment on this rule. The alternative project approval piece, in which the Division will actually be making determinations, as to the level of funding based upon what the Division may see as written in this draft, is the most prudent sound way of using funds. The level of funding could solve the problem.

The second piece involves the addition of the consolidation incentive type of projects that allow districts that are not being forced to consolidate, to make decisions about creating better educational opportunities and fiscal operations.

The two big incentive things are the ability to use those numbers in a growth way, to help them move in that ranking, and then the available space issue. Because that's the real issue there, is you've got, in the case that we're currently looking at in Wickes-Van Cove, you've got two current school districts that have in reality three case systems. And they're looking at combining two of those high schools, building another high school to more effectively and efficiently use their funds and provide a greater level of offerings for those students. And in doing that, they're going to probably leave some space open at those other two campuses. And if they're penalized for that, there's no incentive for them to go out and create a more efficient system. And we are looking at these systems being effective for the next 30 or 40 years.

So I think the investment that the State makes, will be in the long run, a much better investment than trying to put money into those smaller systems as we have done.

Both of those issues will bring public comment and the school districts also will comment. We will bring those comments to you and hopefully we can come up with a rule that will be acceptable to the most.

Mr. Eaton stated we are voting today to take the amended rules and to proceed forward to the comment period on them.

Commissioner Weiss made a motion and it was seconded to put this out for public comment.

Committee approved to put out the amended rules for public comment.

Mr. Eaton stated that completes the items that are listed, are asked if there were other questions.

Commissioner Weiss stated in the paper the last couple of days, some school district is out there hoping to sell some of their campus so they can raise money to finance some new construction. There will be schools left over that were not being used. He asked, do we have something to encourage them to sell those and refund the money to us.

Mr. Eaton clarified the district you are referring to is the Mena School District. Mena School District is attempting to sell two of its buildings, that they don't feel meet their needs anymore. Mena decided to come forward with their custom built elementary school. We analyzed that and found that the Mena School District does not qualify for an elementary school, due to sufficient space.

So with the money they receive from the settlement, with the money they anticipate being able to get for selling those two schools, and with the money they feel that they already have in their construction program, they will build that new elementary school. They will then end up with basically a K-12 campus. They're building a high school right now and it is under construction. It was approved in the '07-'09 Partnership Program.

The issue of getting rid of school buildings is a problem that any school district faces. Having gone through it a number of times right here in Little Rock, within an SMSA as large as Little Rock is difficult but in smaller communities, it is even more so. Unless perhaps, uses, that I've seen in the past, not only in Arkansas but across the nation is, for example, rest homes, or retirement villages. Otherwise, the best they can do is offer it up for sale.

Mena is going to try to go through an auction process. Then it brought on an auction firm that will go out and publicize the building, which is part of their contract. And then once that is done, they'll hold a public auction.

I've talked to the school district, I've given them my advice on what I think they should do before they have that auction and I think they're going to heed that advice. But they're going to offer up two schools, with the intent of building another one that they wouldn't otherwise qualify for.

Commissioner Weiss thanked Mr. Eaton for the clarification.

Dr. Kimbrell explained the State has ownership of a school district right now, the Twin River School District. We have met with them and the State Board has asked us to develop a plan that we

will present in April, that we will actually dissolve that district for all practical purposes at the end of June 30th. We are in the process of getting appraisals on all of those properties that they own, buildings and real estate, and the State will be finding a solution for selling those to satisfy their debt, as we now will be splitting that district into six different contiguous districts.

It's a first for us to do that. We met with those six districts yesterday over at GIS, and we've all agreed to the split and how it will be done. Nobody wants the properties or the buildings, and so we'll utilize the proceeds from the sale of those, to satisfy their debt.

Commissioner Weiss asked the location of Twin Rivers.

Dr. Kimbrell explained it is in Randolph-Stone County. It's the old Williford School District.

Getting rid of those facilities will be difficult. The real estate land will bring some. One of them is built in the middle of nowhere, which is why one of the reasons in this rule, the Division in the State, will have some input. When a district is going to consolidate and build a new building, it needs to be sure it's in an area that is going to be vibrant and continue to have educational needs.

Dr. Kimbrell continued that this proposed rule does that.

Mr. Eaton stated if there are no further questions of any member of the Commission, that concludes the prepared agenda.

Commissioner Weiss made the motion to adjourn.

Commissioner Dodson seconded.

Dr. Kimbrell thanked all for attending.
(Off the record)