

**2015 - 2017 REQUEST FOR SPECIAL LANGUAGE IN APPROPRIATION ACT**

**0500 DOE - General Education**

**ACT#: 291**

**SECTION#: 22**

**CURRENT SPECIAL LANGUAGE (WITH AGENCY REQUEST)**

**EXECUTIVE RECOMMENDATION**

TURNBACK FUNDS. Any Federal Mineral Leasing Funds, Federal Forest Reserve Funds, Federal Flood Control Funds, or any similar turnback funds in the State Treasury for which the eligible county and/or school district cannot be identified may be transferred to the Department of Education Public School Fund Account and used for any lawful school purpose.

The provisions of this section shall be in effect only from July 1, ~~2014~~ 2015 through June 30, ~~2015~~ 2016.

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**EXECUTIVE RECOMMENDATION**

CARRY FORWARD. Notwithstanding any law pertaining to the transfer of year-end fund balances or any law to the contrary, any funds which remain in the Department of Education Fund Account at the end of a fiscal year shall remain in the Department of Education Fund Account and made available to fund appropriations authorized by law and made payable from the Department of Education Fund Account for the following fiscal year.

Any carry forward of unexpended balance of funding as authorized herein, may be carried forward under the following conditions:

(1) Prior to June 30, ~~2014~~ 2016 the Agency shall by written statement set forth its reason(s) for the need to carry forward said funding to the Department of Finance and Administration Office of Budget;

(2) The Department of Finance and Administration Office of Budget shall report to the Arkansas Legislative Council all amounts carried forward by the September Arkansas Legislative Council or Joint Budget Committee meeting which report shall include the name of the Agency, Board, Commission or Institution and the amount of the funding carried forward, the program name or line item, the funding source of that appropriation and a copy of the written request set forth in (1) above;

(3) Each Agency, Board, Commission or Institution shall provide a written report to the Arkansas Legislative Council or Joint Budget Committee containing all information set forth in item (2) above, along with a written statement as to the current status of the project, contract, purpose etc. for which the carry forward was originally requested no later than thirty (30) days prior to the time the Agency, Board, Commission or Institution presents its budget request to the Arkansas Legislative

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Council/Joint Budget Committee; and

(4) Thereupon, the Department of Finance and Administration shall include all information obtained in item (3) above in the budget manuals and/or a statement of non-compliance by the Agency, Board, Commission or Institution.

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**EXECUTIVE RECOMMENDATION**

SALARY OF THE COMMISSIONER OF THE DEPARTMENT OF EDUCATION. It is the intent of the General Assembly that the appropriation for the salary of the Commissioner of the Department of Education shall be the sole and exclusive authority for his or her salary. It is further the intent of the General Assembly that the Commissioner be required to devote all of his or her working time exclusively to the performance of his or her duties as Commissioner of the Department of Education. Therefore, the Commissioner of the Department of Education is hereby prohibited from accepting any additional salary from any other source (including state, federal, or private entities or persons) for the performance of his or her duties as Commissioner, and is prohibited from accepting any salary, fees or compensation from any other source (including state, federal or private entities or persons) for any other employment of any kind outside the scope of his or her duties as Commissioner, including but not limited to consulting work for any other public or private entity. This section shall not be construed to prohibit the Commissioner from accepting or receiving expense reimbursements and employee benefits as provided by State law.

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**EXECUTIVE RECOMMENDATION**

ESTABLISHMENT OF A "POSITION POOL".

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(a) To address needs emerging from statewide education issues and the necessity of recruiting and retaining qualified personnel, the Arkansas Department of Education or its successor agency is authorized for the ~~2013-2014~~ 2015-2016 fiscal year a pool of no more than five (5) Professional/Executive positions at a salary not to exceed the maximum salary for a grade N912. These positions are to be used by the Department of Education in the event that the personal services needs of the Department during the ~~2013-2014~~ 2015-2016 fiscal year require additional positions, either by title or in number, that are not authorized by the General Assembly in Section 1 of this Act. These positions may also be used to properly classify positions when the Department does not have a vacant position available with the appropriate title and salary level.

(b) To address needs emerging from statewide education issues and the necessity of recruiting and retaining qualified personnel, the Arkansas Department of Education or its successor agency is authorized for the ~~2013-2014~~ 2015-2016 fiscal year a pool of twenty-five (25) classified positions at up to a grade C130. These positions are to be used by the Department of Education in the event that the personal services needs of the Department during the ~~2013-2014~~ 2015-2016 fiscal year require additional positions, either by classification or in number, that are not authorized by the General Assembly in Section 1 of this Act. These positions may also be used to properly classify positions when the Department does not have a vacant position available with the appropriate title and grade level.

(c) Any salary determinations or adjustments administered under the

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provisions of Subsections (a) and (b) of this Section shall be made by comparing the qualifications and salary levels of similar employees in school districts or in other state education agencies.

(d) The Department of Education is authorized to access the pool positions authorized in this Section at any time when it is determined by the Commissioner that the need exists. The Commissioner shall provide a quarterly report of the justification for the need to allocate titles from this growth pool to the Chief Fiscal Officer of the State and to the Arkansas Legislative Council for review. The report shall also include an accounting of the names, titles, and salaries of personnel whose salaries have been adjusted under provisions of Subsections (a) and (b) of this Section.

(e) If the Department of Education requests continuation of any "Position Pool" position(s) as established herein during the next fiscal year, the position(s) must be requested as a new position(s) in the agency's budget request.

(f) Determining the number of personnel to be employed by a state agency is the prerogative of the General Assembly and is usually accomplished by delineating the maximum number of personnel by identifying job titles and the maximum grade or salary attached to those titles. The General Assembly has determined that the Arkansas Department of Education could be operated more efficiently if some flexibility is given to that agency. That flexibility is being accomplished by providing a position pool in Subsections (a) and (b) of this Section and since the General Assembly has granted the agency broad powers under the growth pool concept, it is both necessary and appropriate that the General Assembly

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maintain oversight of the utilization of the position pool by requiring review of the Legislative Council in the utilization of the position pool. Therefore, the requirement of review by the Legislative Council is not a severable part of this section. If the requirement of review by the Legislative Council is ruled unconstitutional by a court of competent jurisdiction, this entire section is void.

The provisions of this section shall be in effect only from July 1, ~~2013~~ 2015 through June 30, ~~2014~~ 2016.

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**EXECUTIVE RECOMMENDATION**

ARKANSAS LEADERSHIP ACADEMY - REDUCTION OF FUNDS RESTRICTION.  
Upon determination by the Department of Education that a reduction in the amount of available appropriation within the Department of Education Fund Account is required from the amount appropriated, the reduction in the available appropriation from the full amount appropriated for the Arkansas Leadership Academy shall be limited to the average percentage reduction in the other appropriations to the Department of Education from the Department of Education Fund Account.

The provisions of this section shall be in effect only from July 1, ~~2013~~ 2015 through June 30, ~~2014~~ 2016.

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**EXECUTIVE RECOMMENDATION**

LEADERSHIP ACADEMY. The funds appropriated in the "AR LEADERSHIP ACADEMY" line item in Section 3 of this Act shall be used for the School Support Program which will provide support to schools or school districts designated by the Department of Education as being in school improvement status and to provide for general operations of the Leadership Academy.

The provisions of this section shall be in effect only from July 1, ~~2013~~ 2015 through June 30, ~~2014~~ 2016.

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**EXECUTIVE RECOMMENDATION**

~~PULASKI COUNTY DESEGREGATION CASE COSTS FUND TRANSFER. The Department of Education shall retain and use any unexpended balance of funds transferred to the Department of Education Fund Account during the 2007-09 biennium for the purpose of providing funds for Pulaski County Desegregation Case Costs incurred by the Department of Education and the three (3) Pulaski County School Districts to comply with the provisions of Arkansas Code §6-20-415 and §6-20-416. These retained funds shall be used exclusively to provide funds for Pulaski County Desegregation Case Costs incurred by the Department of Education and the three (3) Pulaski County School Districts under Arkansas Code §6-20-415 and §6-20-416.~~

~~No portion of these retained funds shall be expended by the Department of Education without certification by the Commissioner of the Department of Education to the Chief Fiscal Officer of the State and prior approval by the Chief Fiscal Officer of the State.~~

~~The provisions of this section shall be in effect only from July 1, 2013 2015 through June 30, 2014 2016.~~

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**EXECUTIVE RECOMMENDATION**

STATE FUND RESTRICTIONS. No state funds shall be used for abortion referral in public schools, or for abortion services. Funds shall be expended in accordance with Arkansas Code Annotated § 6-18-703.

The provisions of this section shall be in effect only from July 1, ~~2013~~ 2015 through June 30, ~~2014~~ 2016.

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