

*As Engrossed: 2/6/91*

1 **State of Arkansas**  
2 **78th General Assembly**  
3 **Regular Session, 1991**  
4 **By: Representative Thicksten**

**A BILL ACT 102 OF 1991**  
**HOUSE BILL 1002**

**For An Act To Be Entitled**

8 "AN ACT TO CLARIFY VARIOUS PROVISIONS OF THE ARKANSAS  
9 COLLEGE SAVINGS BOND ACT OF 1989 (ACT 683 OF 1989); AND  
10 FOR OTHER PURPOSES."

11

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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14 SECTION 1. Section 3 of Act 683 of 1989 is hereby amended to read as  
15 follows:

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17 " SECTION 3. (a) The Arkansas Development Finance Authority (the  
18 "Authority") on behalf of the State of Arkansas is hereby authorized to issue  
19 bonds and to have bonds outstanding which shall be general obligations of the  
20 State of Arkansas, to be known as Arkansas College Savings General Obligation  
21 Bonds (the "Bonds") in the total principal amount of not exceeding  
22 \$300,000,000, for the purposes set forth herein.

23 (b) The total principal amount of Bonds to be issued during any fiscal  
24 biennium shall not exceed \$100,000,000 unless the General Assembly shall, by  
25 law, have authorized a greater principal amount thereof to be issued during  
26 any fiscal biennium, nor shall the principal amount of bonds outstanding at  
27 any time have debt service requirements in excess of eight million dollars  
28 (\$8,000,000) in any one fiscal year from all sources. Provided further that,  
29 before any bonds may be issued during any fiscal biennium, the State Board of  
30 Higher Education ("State Board") shall submit to the Governor a written plan  
31 for Project(s) to be performed with the proceeds derived from the sale of such  
32 bonds, the need for, the estimated benefits thereof, and the anticipated debt  
33 service requirements. None of the proceeds from the issuance of the bonds as  
34 authorized herein shall be used for athletic facilities. Upon receipt thereof,  
35 the Governor shall confer with the Chief Fiscal Officer of the State  
36 concerning the amount available in the General Improvement Fund ,which such

1 funds shall be used to defray said debt service requirements in such amounts  
2 as are determined to be available. The Chief Fiscal Officer of the State  
3 shall then determine whether the annual amount of general revenue funds  
4 required to be set aside from the "net general revenue" as such term is  
5 defined in the Revenue Stabilization Law of Arkansas, for payment of the  
6 remaining debt service requirements in connection with the Bonds during either  
7 year of the fiscal biennium in which the bonds are to be issued, would work  
8 undue hardship upon any agency or program supported from general revenues  
9 under the provisions of the Revenue Stabilization Law.

10 (c) In connection with its duties and powers hereunder, the Authority  
11 shall have the following responsibilities:

12 (1) To make recommendations to the Governor and the Chief Fiscal  
13 Officer of the State regarding the marketing of the bonds to insure, to the  
14 extent possible, their broad distribution throughout the State for educational  
15 purposes;

16 (2) To advise the Governor and the Chief Fiscal Officer of the  
17 State on an effective advertising campaign to inform the general public about  
18 the bonds and their availability;

19 (3) To advise the Governor and the Chief Fiscal Officer of the  
20 State regarding the increments in which to market the bonds and recommend  
21 maturity dates which will make funds available to purchasers at a time when  
22 such funds are needed for educational purposes;

23 (4) To advise the Governor and the Chief Fiscal Officer of the  
24 State regarding additional financial incentives as provided in this Act;

25 (5) To advise the Governor and the Chief Fiscal Officer of the  
26 State on the minimum denominations to market the bonds so that they are  
27 affordable by individuals;

28 (6) Evaluate the feasibility of staggered or periodic forms of  
29 payment for bonds, and to advise the Governor and Chief Fiscal Officer of the  
30 State regarding such evaluation;

31 (7) After the initial sale of bonds, to assess the effectiveness of  
32 the program and recommend constructive changes to the Governor and the Chief  
33 Fiscal Officer of the State regarding future bond sales;

34 (8) To study and review alternative investment instruments with  
35 respect to their suitability for a college savings program.

1           Upon conclusion of such studies, the Governor shall, if he deems the same  
2 to be in the public interest, by proclamation, authorize the State Board and  
3 the Authority to proceed with the issuance of the bonds as provided herein.

4           (d) If the Governor shall decline or refuse to give his approval for the  
5 issuance of such bonds, and shall decline to issue a proclamation approving  
6 the issuance thereof, the Governor shall promptly notify the State Board and  
7 the Authority, in writing, and the Authority shall not issue such bonds, but  
8 the State Board may resubmit a request to the Governor for the issuance  
9 thereof within one (1) year from the date of notice of the Governor's refusal  
10 to grant approval for the issuance thereof. The issue as resubmitted to the  
11 Governor shall be dealt with in the same manner as provided for the initial  
12 request for authority to issue the bonds."

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14           SECTION 2. Subsection (e) of Section 4 of Act 683 of 1989 is hereby  
15 amended to read as follows:

16           "(c) 'Debt service' means principal, interest and redemption premiums,  
17 if any, and trustees' and paying agents' and like servicing fees relative to  
18 the bonds."

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20           SECTION 3. Subsection (e) of Section 4 of Act 683 of 1989 is hereby  
21 amended to read as follows:

22           "(e)(1) 'Institution of higher education' means any public university,  
23 college and community college now or hereafter established or authorized by  
24 the General Assembly or any non-publicly supported not-for-profit college or  
25 university.

26           (2) 'State institution of higher education' means any public  
27 university, college and community college now or hereafter established or  
28 authorized by the General Assembly."

29

30           SECTION 4. Subsection (b) of Section 7 of Act 683 of 1989 is hereby  
31 amended to read as follows:

32           "(b) Any resolution or trust indenture adopted or executed under this  
33 section 7 shall provide that power is reserved to apply to the payment of debt  
34 service on the bonds issued or secured thereunder all or any part of the  
35 revenues derived from any program or project financed by such bonds, and, to

1 the extent of such revenues, to release from any requirement of such  
2 resolution or trust indenture other revenues and resources of the State,  
3 including without limitation, the 'net general revenue' required to be  
4 transferred under section 12 hereof."

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6 SECTION 5. Section 21 of Act 683 of 1989 is hereby amended to read as  
7 follows:

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9 "SECTION 21. Moneys on deposit in the Development Fund shall only be  
10 disbursed for a project when requisitioned by the Chairman of the State Board,  
11 or duly authorized designee and approved by the Chief Fiscal Officer of the  
12 State, or duly authorized designee, which requisition shall certify that the  
13 funds disbursed thereby are for the payment of project costs of a higher  
14 education project duly approved by the State Board."

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16 SECTION 6. Section 12 of Act 683 of 1989 is hereby amended to read as  
17 follows:

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19 "SECTION 12. On or before the commencement of each fiscal year, the  
20 Chief Fiscal Officer of the State shall determine the estimated amount  
21 required for payment of all or a part of debt service on the bonds issued  
22 under this Act during such fiscal year, after making deductions therefrom of  
23 estimated moneys to be available to the Authority from other sources therefor  
24 and making the necessary transfer of such moneys, and shall certify such  
25 estimated amount to the State Treasurer, who shall make monthly transfers from  
26 the State Apportionment Fund to the bond fund to provide for payment of all or  
27 part of the debt service on the bonds issued under this Act, of such amount of  
28 'net general revenue' as such term is defined in the Revenue Stabilization Law  
29 of Arkansas as shall be required to pay the maturing debt service on bonds  
30 issued under this Act.

31 The State Treasurer shall make such additional monthly transfer or  
32 transfers of 'net general revenue' as the Chief Fiscal Officer of the State  
33 shall certify to him as being required to enable the Authority to establish  
34 and thereafter maintain a Debt Service Reserve Fund, to provide a reserve or  
35 reserves for payment of debt service on the bonds. The obligation to make

1 monthly transfers of 'net general revenue' from the State Apportionment Fund  
2 to the Bond Fund and to the Debt Service Reserve Fund shall constitute a first  
3 charge against said 'net general revenue' prior to all other uses to which  
4 said 'net general revenue' are devoted, either under present law or under any  
5 laws that may be enacted in the future; provided, however, that to the extent  
6 other general obligation bonds of the State may subsequently be incurred, all  
7 such general obligation bonds shall rank on a priority of security with  
8 respect to payment from 'net general revenue'.

9 Moneys credited to the Bond Fund and the Debt Service Reserve Fund shall  
10 be used only for the purpose of paying debt service on the bonds, either at  
11 maturity or upon redemption prior to maturity, and for such purposes the State  
12 Treasurer is hereby designated Disbursing Officer to administer such funds in  
13 accordance with the provisions of this Act.

14 The Debt Service Reserve Fund shall be held and used to insure prompt  
15 payment of debt service on the bonds in such manner and pursuant to such  
16 conditions as may be specified by the Authority in the resolution or trust  
17 indenture authorizing or securing such bonds.

18 Moneys in the Bond Fund and the Debt Service Reserve Fund over and above  
19 the amount necessary to insure the prompt payment of debt service on the  
20 bonds, and the establishment and maintenance of a reserve fund, if any, may be  
21 used for the redemption of bonds prior to maturity in the manner and in  
22 accordance with the provisions pertaining to redemption prior to maturity, as  
23 set forth in the resolution or trust indenture authorizing or securing such  
24 bonds."

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26 SECTION 7. Section 22 of Act 683 of 1989 is hereby amended to read as  
27 follows:

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29 "SECTION 22. Any moneys held in any fund created under this act shall  
30 be invested by the State Board of Finance to the full extent practicable  
31 pending disbursement for the purposes intended. Notwithstanding any other  
32 provision of law, such investments shall be in accordance with the terms of  
33 the resolution or trust indenture as applicable."

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35 SECTION 3. LEGISLATIVE INTENT. It is the intent of the Arkansas

1 General Assembly that participation in the purchasing of the bonds issued  
2 under Act 683 of 1989 by many Arkansas investors should be maximized. To this  
3 end, the Arkansas Development Finance Authority is urged to issue the bonds in  
4 small denominations so that they can be purchased by individual Arkansas  
5 citizens for college-bound students.

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7 SECTION 4. CODE. All provisions of this Act of a general and permanent  
8 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas  
9 Code Revision Commission shall incorporate the same in the Code.

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11 SECTION 5. SEVERABILITY. If any provision of this Act or the  
12 application thereof to any person or circumstance is held invalid, such  
13 invalidity shall not affect other provisions or applications of the Act which  
14 can be given effect without the invalid provision or application, and to this  
15 end the provisions of this Act are declared to be severable.

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17 SECTION 6. GENERAL REPEALER. All laws and parts of laws in conflict  
18 with this Act are hereby repealed.

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20 SECTION 7. EMERGENCY CLAUSE. It is hereby found and determined by the  
21 Seventy-Eighth General Assembly, that the people of this state approved the  
22 issuance of general obligation bonds for the improvement of higher education  
23 institutions on this state; that in approving these bonds certain statements  
24 were made by various public officials concerning the use of the proceeds of  
25 the bonds issue and the costs associated with said issue; and that  
26 clarification of this act is required immediately before the bonds are made  
27 available to the public. Therefore, an emergency is hereby declared to exist  
28 and this act being necessary for the preservation of the public peace, health  
29 and safety shall be in full force and effect from and after the date of its  
30 passage and approval. /s/ Edward F. Thicksten

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32 APPROVED: 2-12-91

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