

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

A Bill

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:

13

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

16

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

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

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

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

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

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

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

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

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

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

35 (8) To study and review alternative investment instruments with

1 respect to their suitability for a college savings program.

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

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

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

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

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

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

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

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

33 "(b) Any resolution or trust indenture adopted or executed under this
34 section 7 shall provide that power is reserved to apply to the payment of debt
35 service on the bonds issued or secured thereunder all or any part of the

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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