

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**
4 **By: Representative Wagner**

A Bill

HOUSE BILL

For An Act To Be Entitled

8 "AN ACT TO AMEND ARKANSAS CODE TITLE 6, CHAPTER 62 TO ADD
9 A NEW SUBCHAPTER TO PROVIDE FOR THE SALE OF TUITION
10 CREDITS AND SUPPLEMENTAL TUITION CREDITS; AND FOR OTHER
11 PURPOSES."

Subtitle

14 "AN ACT TO PROVIDE FOR THE SALE OF TUITION CREDITS AND
15 SUPPLEMENTAL TUITION CREDITS."

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

19 SECTION 1. Arkansas Code Title 6, Chapter 62 is amended to add the
20 following new subchapter:

22 "SUBCHAPTER 9.

23 6-62-901. As used in this subchapter:

24 (1) Authority means the Arkansas Tuition Trust Authority as created
25 by this subchapter.

26 Beneficiary means a resident of this state designated in a tuition
27 payment contract as the individual entitled to apply:

28 (A) Tuition credits purchased under the contract to the payment of
29 that individual_s undergraduate tuition; and

30 (B) Supplemental tuition credits purchased under the contract to
31 the payment of other educational costs that individual may incur.

32 (2) Tuition credit means a credit of the Arkansas Tuition Trust
33 Authority purchased under this subchapter on behalf of a beneficiary.

34 (3) Institution of higher education means a state institution of
35 higher education or an accredited college or university, regardless of where

1 it is located, that is accredited by an accrediting organization or
2 professional association recognized by the authority.

3 (4) _Supplemental tuition credit_ means any tuition credit purchased on
4 behalf of a beneficiary in excess of four hundred (400) credits.

5 (5) _Tuition_ means the charges imposed to attend an institution of
6 higher education as an undergraduate and all fees required as a condition of
7 enrollment, as determined by the Arkansas Tuition Trust Authority. _Tuition_
8 does not include fees charged to out-of-state residents by state institutions
9 of higher education, laboratory fees, room and board, or other similar fees
10 and charges.

11 (6) _Weighted average tuition_ means the tuition cost resulting from
12 the following calculation:

13 (A) Add the products of the annual undergraduate tuition at each
14 state supported four-year institutions of higher education multiplied by that
15 institution_s total number of undergraduate fiscal year equated students; and

16 (B) Divide the gross total of the product from subdivision (6) (A)
17 of this section by the total number of undergraduate fiscal year equated
18 students attending four-year state universities.

19 (7) _State institution of higher education_ includes the state
20 supported two-year or four-year institution of higher education, community
21 colleges, and technical colleges.

22 (8) _Principal amount_ refers to the initial offering price to the
23 public of an obligation, exclusive of the accrued interest, if any.
24 _Principal amount_ does not refer to the aggregate accredited amount payable
25 at maturity or redemption of an obligation.

26

27 6-62-902. In order to help make higher education affordable and
28 accessible to all citizens of Arkansas, to maintain state institutions of
29 higher education by helping to provide a stable financial base to these
30 institutions, to provide the citizens of Arkansas with financing assistance
31 for higher education and protection against rising tuition costs, to encourage
32 saving to enhance the ability of citizens of Arkansas to obtain financial
33 access to institutions of higher education, to encourage elementary and
34 secondary students in this state to achieve academic excellence, and to
35 promote a well educated and financially secure population to the ultimate

1 benefit of all citizens of the state of Arkansas, there is hereby created the
2 Arkansas College Savings Program. The program shall consist of the sale of
3 tuition credits and supplemental tuition credits.

4

5 6-62-903. (a) There is hereby created the Arkansas Tuition Trust
6 Authority, which shall have the powers enumerated in this subchapter. The
7 exercise by the Authority of its powers shall be and is hereby declared an
8 essential state governmental function. The Authority is subject to all
9 provisions of law generally applicable to state agencies which do not conflict
10 with the provisions of this subchapter.

11 (b) (1) The Arkansas Tuition Trust Authority shall consist of thirteen
12 (13) members. Seven (7) members shall be appointed by the Governor with the
13 advice and consent of the Senate as follows: two (2) shall represent state
14 institutions of higher education, two (2) shall represent private nonprofit
15 colleges and universities located in Arkansas, and three (3) shall have
16 experience in the field of banking, investment banking, marketing, insurance
17 or law. Three (3) members of the House of Representatives shall be appointed
18 by the Speaker of the House of Representatives and three (3) members of the
19 Senate shall be appointed by the President Pro Tempore of the Senate. The
20 director of the Department of Higher Education or the director's designee
21 shall be an ex-officio voting member.

22 (2) Initial gubernatorial appointees to the Authority shall serve
23 staggered terms, with one (1) member serving a term of one (1) year, two (2)
24 members serving a term of two (2) years, two (2) members serving a term of
25 three (3) years, and two (2) members serving a term of four (4) years.
26 Thereafter, terms of office for gubernatorial appointees shall be for four (4)
27 years.

28 (3) Members appointed by the Speaker of the House of
29 Representatives and the President Pro Tempore of the Senate shall serve two
30 (2) year terms, provided that legislative members may continue to serve on the
31 Authority only if they remain members of the General Assembly.

32 (4) Any vacancy of the Authority shall be filled in the same
33 manner as the original appointment, except that any person appointed to fill a
34 vacancy shall be appointed to the remainder of the unexpired term.

35 (5) Any member is eligible for reappointment.

1 (c) Any member may be removed by the appointing Authority for
2 misfeasance, malfeasance, or willful neglect of duty or for other cause after
3 notice and public hearing, unless the notice and hearing are waived in writing
4 by the member. Members shall serve without compensation but shall receive
5 their reasonable and necessary expenses incurred in the conduct of Authority
6 business. Members of the General Assembly serving on the Authority shall be
7 entitled to per diem and mileage allowances for attendance at meetings at the
8 same rate authorized by law for legislators_ attendance at meetings of joint
9 interim committees of the General Assembly.

10 (d) The Speaker of the House of Representatives and the President Pro
11 Tempore of the Senate shall each designate a member of the Authority to serve
12 as co-chairmen.

13 (e) The co-chairmen of the Authority, the seven (7) gubernatorial
14 appointees, and the director of the Department of Higher Education or his
15 designee shall serve as the executive committee of the Authority, and shall
16 elect an executive chairman from among the executive committee members. The
17 Authority and the executive committee may elect such other officers as
18 determined by the Authority or the executive committee respectively.

19 (f) The Authority shall meet at least annually at the call of either co-
20 chairman and at such other times as either co-chairman or the Authority
21 determines necessary. In the absence of both co-chairmen, the executive
22 chairman shall serve as the presiding officer of the Authority. The executive
23 committee shall meet at the call of the executive chairman or as the executive
24 committee determines necessary.

25 (g) The Authority may delegate to the executive committee such duties
26 and responsibilities as the Authority determines appropriate, except that the
27 Authority shall not delegate to the executive committee the final
28 determination of the annual price of a tuition credit or the employment of an
29 executive director of the Authority. Upon such delegation, the executive
30 committee shall have the authority to act pursuant to such delegation without
31 further approval or action by the Authority.

32 (h) A majority of the Authority shall constitute a quorum of the
33 Authority, the affirmative vote of which shall be necessary for any action
34 taken by the Authority. A majority of the executive committee shall
35 constitute a quorum of the executive committee, the affirmative vote of which

1 shall be necessary for any action taken by the executive committee. No
2 vacancy in the membership of the Authority or the executive committee shall
3 impair the rights of a quorum to exercise all rights and perform all duties of
4 the Authority or the executive committee respectively.

5

6 6-62-904. (a) The Arkansas Tuition Trust Authority shall develop a
7 plan for the sale of tuition credits and supplemental tuition credits. The
8 Arkansas Student Loan Authority and the State Board of Higher Education shall
9 cooperate with the Authority and provide technical assistance upon request.

10 (b) On or before the thirtieth day of November in 1994 and each year
11 thereafter, the Authority shall determine the weighted average tuition of
12 four-year state universities and colleges in the academic year that began on
13 or after the first day of August of the current calendar year, and shall
14 establish the price of a tuition credit purchased on behalf of a beneficiary
15 in the ensuing calendar year. Such price shall be based on sound actuarial
16 principles, and shall, to the extent actuarially possible, reasonably
17 approximate one percent (1%) of the weighted average tuition for that academic
18 year plus the costs of administering the tuition credit program.

19

20 6-62-905. In addition to any other powers conferred by this subchapter,
21 the Arkansas Tuition Trust Authority may do any of the following:

22 (1) Impose reasonable residency requirements for beneficiaries of
23 tuition credits;

24 (2) Impose reasonable limits on the number of tuition credit
25 participants;

26 (3) Impose and collect administrative fees and charges in connection
27 with any transaction under this subchapter;

28 (4) Purchase insurance from insurers licensed to do business in this
29 state providing for coverage against any loss in connection with the
30 Authority's property, assets, or activities or to further ensure the value of
31 tuition credits;

32 (5) Indemnify or purchase policies of insurance on behalf of members,
33 officers, and employees of the Authority from insurers licensed to do business
34 in this state providing for coverage for any liability incurred in connection
35 with any civil action, demand, or claim against a director, officer, or

1 employee by reason of an act or omission by the director, officer, or employee
2 that was not manifestly outside the scope of his employment or official duties
3 or with malicious purpose, in bad faith, or in a wanton or reckless manner;

4 (6) Make, execute, and deliver contracts, conveyances, and other
5 instruments necessary to the exercise and discharge of the powers and duties
6 of the Authority;

7 (7) Promote, advertise, and publicize the college savings program;

8 (8) Adopt reasonable rules and regulations pursuant to the
9 Administrative Procedure Act, § 25-15-201 et seq., for the implementation of
10 the college savings program;

11 (9) Contract, for the provision of all or part of the services
12 necessary for the management and operation of the college savings program,
13 with a bank, trust company, savings and loan association, insurance company,
14 or licensed dealer in securities if the bank, company, association, or dealer
15 is authorized to do business in this state;

16 (10) Contract for other services, or for goods, needed by the Authority
17 in the conduct of its business, including but not limited to credit card
18 services;

19 (11) Employ an executive director and other personnel as necessary to
20 carry out its responsibilities under this subchapter, and fix the compensation
21 of these persons. All employees of the Authority shall be in the unclassified
22 civil service, and shall be eligible for membership in the public employees
23 retirement system;

24 (12) Contract with financial consultants, actuaries, auditors, and
25 other consultants as necessary to carry out its responsibilities under this
26 subchapter;

27 (13) Enter into agreements with any agency of the state or its
28 political subdivisions or with private employers under which an employee may
29 agree to have a designated amount deducted in each payroll period from the
30 wages or salary due him for the purpose of purchasing tuition credits and
31 supplemental tuition credits pursuant to a tuition payment contract;

32 (14) Enter into an agreement with the Treasurer of State under which
33 the Treasurer of State will receive, and credit to the Arkansas tuition trust
34 fund, from any bank or savings and loan association authorized to do business
35 in this state, amounts that a depositor of the bank or association authorizes

1 the bank or association to withdraw periodically from his account for the
2 purpose of purchasing tuition credits or supplemental tuition credits pursuant
3 to a tuition payment contract;

4 (15) Solicit and accept gifts, grants, and loans from any person or
5 governmental agency and participate in any governmental program;

6 (16) Impose limits on the number of credits which may be purchased on
7 behalf of any beneficiary, so long as such limits do not exceed the limits set
8 forth in § 6-62-906;

9 (17) Impose restrictions on the substitution of another individual for
10 the original beneficiary;

11 (18) Perform all acts necessary and proper to carry out the duties and
12 responsibilities of the Authority pursuant to this subchapter.

13

14 6-62-906. (a) The Arkansas Tuition Trust Authority may enter into a
15 tuition payment contract with any person for the purchase of tuition credits
16 on behalf of a beneficiary. A tuition payment contract shall allow any person
17 to purchase tuition credits on behalf of a beneficiary at the price determined
18 by the Authority pursuant to § 6-62-904 or § 6-62-909 for the year in which
19 the tuition credit is purchased.

20 (1) Each tuition credit purchased on behalf of a beneficiary, up
21 to a maximum of four hundred (400) tuition credits, shall entitle the
22 beneficiary to an amount equal to one percent (1%) of the tuition charged for
23 a full-time student during an academic year by the state institution of higher
24 education in which the beneficiary is enrolled as an undergraduate student, or
25 one percent (1%) of the weighted average tuition if the student is enrolled as
26 an undergraduate student in an institution of higher education other than a
27 state institution of higher education. Tuition credits purchased on behalf of
28 a beneficiary in excess of four hundred (400) shall automatically be
29 designated as supplemental tuition credits pursuant to subsection (b) of this
30 section.

31 (2) Nothing in this subchapter or in any tuition payment contract
32 entered into pursuant to this subchapter shall be construed as a guarantee by
33 the state, the Authority, or any institution of higher education that a
34 beneficiary of a tuition payment contract will be admitted to an institution
35 of higher education, or, upon admission to an institution of higher education,

1 will be permitted to continue to attend or will receive a degree from an
2 institution of higher education. Nothing in this subchapter or in any tuition
3 payment contract entered into pursuant to this subchapter shall be considered
4 a guarantee that the beneficiary_s cost of tuition at an institution of higher
5 education other than a state institution of higher education will be covered
6 in full by the proceeds of the beneficiary_s tuition credits.

7 (b) Tuition credits in excess of four hundred (400) purchased on behalf
8 of a beneficiary shall be designated as supplemental tuition credits. Each
9 supplemental tuition credit purchased on behalf of a beneficiary shall entitle
10 the beneficiary to a payment equal to the amount paid for the supplemental
11 tuition credit, plus the investment earnings on the credit, minus the
12 administrative costs of the program as determined by the Authority.
13 Supplemental tuition credits may be used by the beneficiary for the payment of
14 charges for college room and board, textbooks, laboratory and other
15 educational fees not included in tuition or not otherwise covered by tuition
16 credits, and other similar educational expenses as defined by the Authority.
17 Not more than four hundred (400) supplemental tuition credits may be purchased
18 on behalf of any beneficiary.

19 (c) The following information shall be disclosed in writing to each
20 purchaser of tuition credits and supplemental tuition credits:

21 (1) The terms and conditions for purchasing tuition credits and
22 supplemental tuition credits;

23 (2) Any restrictions on the substitution of another individual
24 for the original beneficiary;

25 (3) The person entitled to terminate the contract;

26 (4) The terms and conditions under which the contract may be
27 terminated and the amount of the refund, if any, to which the person
28 terminating the contract, or that person_s designee, is entitled upon
29 termination;

30 (5) The obligation of the Authority to make payments to a
31 beneficiary, or an institution of higher education on behalf of a beneficiary,
32 under subsection (a) of this section based upon the number of tuition credits
33 purchased on behalf of the beneficiary;

34 (6) The method by which tuition credits shall be applied toward
35 payment of tuition if in any academic term the beneficiary is a part-time

1 student;

2 (7) The obligation of the Authority to make payments to the
3 beneficiary, or an institution of higher education on behalf of a beneficiary,
4 under subsection (b) of this section based upon the number of supplemental
5 tuition credits purchased on behalf of the beneficiary;

6 (8) The period of time during which the beneficiary may receive
7 benefits under the contract;

8 (9) The terms and conditions under which money may be wholly or
9 partially withdrawn from the program, including, but not limited to, any
10 reasonable charges and fees that may be imposed for withdrawal;

11 (10) All other rights and obligations of the purchaser and the
12 Authority, including the provisions of subsection (a) of section § 6-62-909,
13 and any other terms, conditions, and provisions the Authority considers
14 necessary and appropriate.

15 (d) A tuition payment contract may provide that the Authority will pay
16 directly to the institution of higher education in which the beneficiary is
17 enrolled during a term the amount represented by the tuition credits being
18 used that term.

19 (e) A tuition payment contract may provide that if the contract has not
20 been terminated or the beneficiary designated in the contract has not used
21 credits purchased under the contract within a specified period of time, the
22 Authority may, after making a reasonable effort to locate the purchaser of the
23 tuition credits and supplemental tuition credits, the beneficiary, and any
24 person designated in the contract to act on behalf of the purchaser of the
25 credits or the beneficiary, terminate the contract and retain the amounts
26 payable under the contract.

27 (f) If, at any time after tuition credits and supplemental tuition
28 credits are purchased on behalf of a beneficiary, the beneficiary becomes a
29 nonresident of this state, credits purchased while the beneficiary was a
30 resident may be applied by the beneficiary toward the payment of tuition at an
31 institution of higher education and other educational expenses in the manner
32 specified in subsection (a) or (b) of this section, except that if the
33 beneficiary enrolls in a state institution of higher education, the
34 beneficiary shall be responsible for payment of all nonresident fees charged
35 to out-of-state residents by the institution at which the beneficiary is

1 enrolled.

2

3 6-62-907. (a) Unless otherwise provided for in the contract, a tuition
4 payment contract may be terminated by the person entering into the contract,
5 the beneficiary, or by any person or combination of persons designated in the
6 contract. A tuition payment contract may be terminated under any of the
7 following circumstances:

8 (1) Upon the death of the beneficiary;

9 (2) Upon notification to the Arkansas Tuition Trust Authority in
10 writing that the beneficiary has decided not to attend an institution of
11 higher education and requests that the tuition payment contract be terminated;

12 (3) Upon completion of the degree requirements at a state
13 institution of higher education;

14 (4) Upon completion of the bachelor_s degree requirements at an
15 institution of higher education in fewer than twelve (12) quarters, eight (8)
16 semesters, or their equivalent;

17 (5) Upon the occurrence of other circumstances determined by the
18 Authority to be grounds for termination.

19 (b) The Authority shall determine the method and schedule for payment
20 of refunds upon termination of a tuition payment contract. The amount of the
21 refund to which the person designated in the contract is entitled shall be
22 equal to the lesser of the following:

23 (1) One percent of the lowest tuition charged by a four-year
24 state university or college in the academic year the contract is terminated,
25 multiplied by the number of tuition credits and supplemental tuition credits
26 purchased and not used, minus any reasonable charges and fees provided for by
27 the Authority; or

28 (2) The total purchase price of all tuition credits and
29 supplemental tuition credits purchased pursuant to the contract, reduced by a
30 percentage of that total price that is equal to the percentage of the total
31 number of tuition credits and supplemental tuition credits purchased and used
32 as of the date the contract is terminated, plus a share of the investment
33 earnings on the credits proportionate to the percentage of unused credits,
34 minus a pro rata share of the costs of administering the program as determined
35 by the Authority, and minus any reasonable charges and fees provided for by

1 the Authority.

2 (c) If the beneficiary is the recipient of a scholarship, waiver of
3 tuition, or similar subvention that the Authority determines cannot be
4 converted into money by the beneficiary, the Authority shall, during each
5 academic term that the beneficiary furnishes the Authority such information
6 about the scholarship, waiver, or similar subvention as the Authority
7 requires, refund to the person designated in the contract an amount equal to
8 the value that the tuition credits that are not needed on account of the
9 scholarship, waiver, or similar subvention would otherwise have to him that
10 term at the institution of higher education where he is enrolled. The
11 Authority may, at its sole option, designate the institution of higher
12 education at which the beneficiary is enrolled as the agent of the Authority
13 for purposes of refunds pursuant to this division.

14 (d) If, in any academic term for which tuition credits have been used
15 to pay all or part of a beneficiary_s tuition, the beneficiary withdraws from
16 the institution of higher education at which the beneficiary is enrolled prior
17 to the end of the academic term, a pro rata share of any refund of tuition as
18 a result of the withdrawal equal to that portion of the tuition paid with
19 tuition credits shall be made to the Authority, unless the Authority
20 designates a different procedure. The Authority shall credit any refund
21 received, less any reasonable charges and fees provided for by the Authority,
22 to the appropriate tuition payment contract account.

23

24 6-62-908. (a) The assets of the Arkansas Tuition Trust Authority
25 reserved for payment of the obligations of the Authority pursuant to tuition
26 payment contracts shall be placed in a fund which is hereby created, and shall
27 be known as the Arkansas tuition trust fund. The fund shall be in the custody
28 of the treasurer of state but shall not be part of the state treasury. That
29 portion of payments received by the Authority or the treasurer of state from
30 persons purchasing tuition credits and supplemental tuition credits under
31 tuition payment contracts which the Authority determines is actuarially
32 necessary for the payment of obligations of the Authority pursuant to tuition
33 payment contracts, all interest and investment income earned by the fund, and
34 all other receipts of the Authority from any other source which the Authority
35 determines appropriate, shall be deposited in the fund. Any claim for payment

1 pursuant to a tuition payment contract shall be solely against the assets of
2 the fund. No purchaser or beneficiary of tuition credits or supplemental
3 tuition credits shall have any claim against the general revenue or other
4 funds of the Authority or the state, or against the funds of any state
5 institution of higher education. All investment fees and other costs incurred
6 in connection with the exercise of the investment powers of the Authority
7 pursuant to subsections (d) and (e) of this section shall be paid from the
8 assets of the fund.

9 (b) Unless otherwise provided by the Authority, the assets of the
10 Arkansas Tuition Trust Fund shall be expended in the following order:

11 (1) To make payments to beneficiaries, or institutions of higher
12 education on behalf of beneficiaries, under subdivision (a)(1) of § 6-62-906;

13 (2) To make payments to beneficiaries under subsection (b) of §
14 6-62-906;

15 (3) To make refunds as provided in subsections (b) and (c) of §
16 6-62-907;

17 (4) To pay the investment fees and other costs of administering
18 the fund.

19 (c)(1) All disbursements from the Arkansas Tuition Trust Fund shall be
20 made by the Treasurer of State on order of a designee of the Authority.

21 (2) The Treasurer of State shall deposit any portion of the
22 Arkansas Tuition Trust Fund not needed for immediate use in the same manner as
23 state funds are deposited.

24 (d) The Authority is the trustee of the Arkansas Tuition Trust Fund.
25 Assets of the fund shall be administered by the Authority in a manner designed
26 to be actuarially sound so that the assets of the fund will be sufficient to
27 satisfy the obligations of the Authority pursuant to tuition payment contracts
28 and defray the reasonable expenses of administering the fund. The Authority
29 may invest the assets of the fund in:

30 (1) Direct obligations or obligations whose principal and
31 interest are guaranteed by the United States; and

32 (2) Direct obligations of or participation certificates
33 guaranteed by the Federal Financing Bank, Federal Intermediate Credit Bank,
34 Federal Land Banks, Federal Home Loan Bank, Government National Mortgage
35 Association, or Banks for Cooperatives; and

1 (3) Certificates of deposit of any bank, savings and loan
2 association, or trust company whose deposits are fully secured by a pledge of
3 securities of any kind specified in subdivision (1) or subdivision (2) of this
4 subsection; and

5 (4) Certificates of deposit of any bank, savings and loan
6 association, or trust company, which deposit is fully insured by the Federal
7 Deposit Insurance Corporation (FDIC); and

8 (5) Repurchase agreements sold by any bank, savings and loan
9 association, or trust company, provided the repurchase agreement is fully
10 secured by a pledge of securities of any kind specified in subdivision (1) or
11 subdivision (2) of this subsection; and

12 (6) General obligations of the state or its political
13 subdivisions; and

14 (7) Obligations, including investment agreements, of any bank,
15 savings and loan association, trust company, or other financial institution,
16 or a holding company thereof, whose credit is rated in either of the top two
17 (2) rating categories by a nationally recognized credit rating service or
18 corporation.

19 (e) The State Board of Finance shall, with the approval of the
20 Authority, exercise the investment powers of the Authority as set forth in
21 subsection (d) of this section until the Authority determines that assumption
22 and exercise by the Authority of such investment powers is financially and
23 administratively feasible. Such investment powers shall be exercised by the
24 State Board of Finance in a manner agreed upon by the Authority which
25 maximizes the return on investment and minimizes the administrative expenses.

26 (f) The Authority shall maintain an individual account for each tuition
27 payment contract showing the beneficiary of that contract and the number of
28 tuition credits and supplemental tuition credits purchased pursuant to that
29 contract. Upon request of any beneficiary or person who has entered into a
30 tuition payment contract, the Authority shall provide a statement indicating,
31 in the case of a beneficiary, the number of tuition credits and supplemental
32 tuition credits purchased on behalf of the beneficiary, or in the case of a
33 person who has entered into a tuition payment contract, the number of tuition
34 credits and supplemental tuition credits purchased, used, or refunded pursuant
35 to that contract. A beneficiary and person that have entered into a tuition

1 payment contract each may file only one (1) request under this division in any
2 year.

3 (g) In addition to the Arkansas Tuition Trust Fund, there is hereby
4 established a reserve fund which shall be in the custody of the Treasurer of
5 State but shall not be part of the State Treasury, and shall be known as the
6 Arkansas Tuition Trust Reserve Fund, and an operating fund which shall be a
7 part of the State Treasury, and shall be known as the Arkansas Tuition Trust
8 Operating Fund. That portion of payments received by the Authority or the
9 Treasurer of State from persons purchasing tuition credits or supplemental
10 tuition credits under tuition payment contracts which the Authority determines
11 is not actuarially necessary for the payment of obligations of the Authority
12 pursuant to tuition payment contracts, any interest and investment income
13 earned by the reserve fund, any administrative charges and fees imposed by the
14 Authority on transactions under this subchapter or on purchasers or
15 beneficiaries of tuition credits, and all other receipts from any other source
16 which the Authority determines appropriate, shall be deposited in the reserve
17 fund to pay the operating expenses of the Authority and the costs of
18 administering the program. The assets of the reserve fund may be invested in
19 the same manner and subject to the same limitations set forth in subsections
20 (d) and (e) of this section. All investment fees and other costs incurred in
21 connection with the exercise of such investment powers shall be paid from the
22 assets of the reserve fund. Except as otherwise provided for in this
23 subchapter, all operating expenses of the Authority and costs of administering
24 the program shall be paid from the operating fund. The treasurer shall, upon
25 request of the Authority, transfer funds from the reserve fund to the
26 operating fund as the Authority determines appropriate to pay those current
27 operating expenses of the Authority and costs of administering the program as
28 the Authority designates. Any interest or investment income earned on the
29 assets of the operating fund shall be deposited in the operating fund.

30 (h) In January of each year the Authority shall report to each person
31 who received any payments or refunds from the Authority during the preceding
32 year information relative to the value of such payments or refunds to assist
33 in determining that person's tax liability.

34 (i) The Authority shall report to the Revenue Commissioner such
35 information, and at such times, as the Revenue Commissioner requires to

1 determine any tax liability that a person may have incurred during the
2 preceding year as a result of having received any payments or refunds from the
3 Authority.

4 (j) All records of the Authority indicating the identity of purchasers
5 and beneficiaries of tuition credits and supplemental tuition credits, and the
6 number of tuition credits and supplemental tuition credits purchased, used, or
7 refunded under a tuition payment contract are not public records within the
8 meaning of the Freedom of Information Act, §§ 25-19-101 et seq.

9

10 6-62-909. Notwithstanding anything to the contrary in § 6-62-904 and §
11 6-62-906:

12 (1) Annually, the Arkansas Tuition Trust Authority shall have the
13 actuarial soundness of the Arkansas Tuition Trust Fund evaluated by a
14 nationally recognized actuary and shall determine whether additional assets
15 are necessary to defray the obligations of the Authority. If the assets of
16 the fund are insufficient to ensure the actuarial soundness of the fund, the
17 Authority shall adjust the price of subsequent purchases of tuition credits
18 and supplemental tuition credits.

19 (2) The Authority may, in its sole discretion, provide for a greater
20 benefit than that described in § 6-62-906 for beneficiaries enrolled in any
21 specific state institution of higher education or group of state institutions
22 of higher education if such determination is based on sound actuarial
23 principles and will not jeopardize the actuarial soundness of the Arkansas
24 Tuition Trust Fund or the ability of the Authority to otherwise meet its
25 obligations.

26 (3) Upon termination of the program or liquidation of the Arkansas
27 Tuition Trust Fund, the Arkansas Tuition Trust Reserve Fund and the Arkansas
28 Tuition Trust Operating Fund, any remaining assets of the fund after all
29 obligations of the funds have been satisfied pursuant to subsection (b) of §
30 6-62-908 shall be transferred to the general revenue fund of the state.

31 (4) The Authority shall prepare and cause to have audited an annual
32 financial report on all financial activity of the Arkansas Tuition Trust
33 Authority within ninety (90) days of the end of the fiscal year. The
34 Authority shall transmit a copy of the financial report to the Governor, the
35 President Pro Tempore of the Senate, and the Speaker of the House of

1 Representatives. Copies of the audited financial report also shall be made
2 available, upon request, to the persons entering into contracts with the
3 Authority and to prospective purchasers of tuition credits and supplemental
4 tuition credits."

5

6 SECTION 2. All provisions of this act of a general and permanent
7 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
8 Code Revision Commission shall incorporate the same in the Code.

9

10 SECTION 3. If any provision of this act or the application thereof to
11 any person or circumstance is held invalid, such invalidity shall not affect
12 other provisions or applications of the act which can be given effect without
13 the invalid provision or application, and to this end the provisions of this
14 act are declared to be severable.

15

16 SECTION 4. All laws and parts of laws in conflict with this act are
17 hereby repealed.

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