

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

# A Bill

**SENATE BILL 365**

## For An Act To Be Entitled

8 "AN ACT AUTHORIZING THE BOARD OF TRUSTEES OF A TECHNICAL  
9 OR A COMMUNITY COLLEGE TO ISSUE REVENUE BONDS FOR THE  
10 PURPOSE OF FINANCING CAPITAL IMPROVEMENTS AND SETTING  
11 FORTH THE MANNER IN WHICH SUCH BONDS MAY BE ISSUED AND  
12 SECURED; TO REPEAL ARKANSAS CODE ANNOTATED §§ 6-61-604  
13 THROUGH 6-61-612; TO DECLARE AN EMERGENCY; AND FOR OTHER  
14 PURPOSES."

## Subtitle

16  
17 "TO AUTHORIZE AND SET FORTH THE MANNER BY WHICH TECHNICAL  
18 AND COMMUNITY COLLEGES MAY ISSUE REVENUE BONDS FOR  
19 FINANCING CAPITAL IMPROVEMENTS."

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

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23 SECTION 1. This act shall be known as and may be cited as the  
24 "Technical College and Community College Capital Improvement Act of 1993."

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26 SECTION 2. As used in this act, unless the context otherwise requires:

27 (1) "Board of trustees" means the local board of trustees of a  
28 technical or a community college that is a member of the Arkansas Technical  
29 and Community College System under the coordination of the State Board of  
30 Higher Education;

31 (2) "Bonds" means any evidences of indebtedness issued by a board of  
32 trustees pursuant to this act;

33 (3) "Capital improvements" means the construction, repair, or  
34 renovation of buildings, including without limitation, laboratories,  
35 libraries, portable classrooms, special events centers, training facilities,

1 student housing, parking facilities, theaters, meeting halls, dining  
2 facilities, and administrative offices; the purchase of existing buildings or  
3 structures; the renovation or demolition of existing structures; the purchase  
4 of sites for the construction of capital improvements; the purchase of  
5 equipment, apparatus, or library materials for any facilities used by the  
6 technical college or the community college; any improvement that may be the  
7 subject of a "capital outlay expense" as defined in Arkansas Code Annotated §  
8 6-53-103(2); or any other improvements that a board of trustees deems  
9 reasonable and necessary for the development of the technical college or the  
10 community college;

11 (4) "Community college" means a two-year institution of higher  
12 education established pursuant to Act 560 of 1977, codified in Title 6,  
13 Chapter 61 of the Arkansas Code Annotated, and Act 1244 of 1991, Arkansas Code  
14 Annotated §§ 6-53-101 et seq., and a member of the Arkansas Technical and  
15 Community College System under the coordination of the State Board of Higher  
16 Education;

17 (5) "Costs of issuance" means all costs associated with the issuance of  
18 bonds, including without limitation, printing, publication, and notice  
19 expenses; the fees and expenses of trustees and paying agents; and the fees  
20 and expenses of financial advisers, underwriters, attorneys, consultants, and  
21 other professionals engaged to assist a board of trustees in issuing bonds;

22 (6) "Debt service" means the payment of principal, interest,  
23 redemption premiums, if any, and the fees of trustees and paying agents, and  
24 servicing fees relating to the bonds;

25 (7) "Project" means the development, construction, or acquisition of  
26 any capital improvement authorized by this act;

27 (8) "Project costs" means all or any part of the costs of developing  
28 any project hereunder, and all or any part of costs incidental thereto,  
29 including without limitation, planning, design, and engineering fees and  
30 expenses, payment of capitalized interest, and the funding of appropriate  
31 reserves;

32 (9) "State" means the State of Arkansas;

33 (10) "State Board" means the State Board of Higher Education;

34 (11) "Technical college" means a two-year institution of higher  
35 education established pursuant to Act 1244 of 1991, Arkansas Code Annotated §§

1 6-53-101 et seq., or Act 617 of 1991, Arkansas Code Annotated §§ 6-54-101 et  
2 seq. and a member of the Arkansas Technical and Community College System under  
3 the coordination of the State Board of Higher Education.

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5 SECTION 3. The board of trustees is authorized and empowered to enter  
6 into the necessary contracts for the borrowing of all or any part of the funds  
7 that the board may determine will be required in connection with the financing  
8 of a project.

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10 SECTION 4. The board of trustees is authorized to utilize any funds  
11 available to finance temporarily all or any part of the project and to make  
12 reimbursement of the funds from the proceeds of the sale of any bonds issued  
13 to finance a project permanently.

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15 SECTION 5. The board of trustees is authorized and empowered to issue  
16 its bonds with a specific pledge for the payment of debt service and costs of  
17 issuance thereof, all or any part of the following:

18 (1) The gross tolls, fees, rents, and other charges to be derived as  
19 income from the project;

20 (2) Any surplus not pledged of the gross tolls, fees, rents, and other  
21 charges to be derived from other projects financed in whole or in part by  
22 bonds issued by the board;

23 (3) All or any part of revenues derived from any auxiliary enterprise  
24 authorized by law;

25 (4) Tuition and fees collected from students;

26 (5) All or any part of the proceeds of any tax or special millage now  
27 or hereafter approved by the General Assembly for the accomplishment of the  
28 purposes of this act;

29 (6) All or any part of the revenues described in § 6-53-207(d) and (e)  
30 and § 6-61-603(b); and

31 (7) (A) Any funds received from the United States of America, or any  
32 department or agency thereof, pursuant to any act of Congress, providing for  
33 grants or payments to educational institutions in connection with, or in any  
34 way pertaining to, the financing of acquiring lands and constructing and  
35 equipping buildings and improvements thereon.

1           (B) In regard to the funds referred to in (7) (A), the board of  
2 trustees is authorized to take such action, comply with such terms and  
3 conditions, and execute such agreements as may be necessary to apply for,  
4 receive, pledge, or use such funds for the purposes specified in this act or  
5 any other lawful purpose.

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7           SECTION 6. (a) The board of trustees shall not issue any bonds under  
8 the provisions of this act unless, prior to the issuance of such notes or  
9 bonds, the board shall have obtained the advice of the State Board of Higher  
10 Education as to the economic feasibility of the particular project to be  
11 financed, in whole or in part, by those bonds.

12           (b) The board of trustees shall submit to the State Board of Higher  
13 Education information pertaining to the proposed project and other information  
14 deemed pertinent to and requested by the State Board of Higher Education.

15           (c) The State Board of Higher Education shall notify the board of  
16 trustees, within thirty (30) days from the date the information is submitted  
17 to the State Board, of the State Board's advice with respect to the economic  
18 feasibility of the particular project.

19           (d) The advice of the State Board of Higher Education under this  
20 section shall not be binding on the board of trustees.

21           (e) The authority conferred upon the State Board of Higher Education by  
22 this section shall not extend to the feasibility of the bonds proposed to be  
23 issued by the board of trustees or to any of the terms, conditions, and  
24 provisions thereof, and this section shall not be construed to impair in any  
25 way the validity of any bonds issued by the board of trustees under this act  
26 or impair or affect in any way the obligations of the board of trustees or the  
27 rights of any holder or registered owner of the bonds.

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29           SECTION 7. (a) The bonds shall be authorized by resolution of the  
30 board of trustees of the technical college or the community college.

31           (b) The authorizing resolution may contain terms, covenants, and  
32 conditions that are deemed desirable by the board of trustees, including,  
33 without limitation, provisions:

34           (1) Authorizing the issuance of bonds in series from time to  
35 time;

- 1           (2) Pertaining to the custody and application of bond proceeds;
- 2           (3) Pertaining to the maintenance of various funds and reserves;
- 3           (4) Pertaining to the collection, depositing, securing, and
- 4 disbursing of tax proceeds and other revenues;
- 5           (5) Pertaining to the nature and extent of the security; and
- 6           (6) Pertaining to the rights, duties, and obligations of the
- 7 board and the holders and registered owners of the bonds.

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9           SECTION 8. The bonds shall be registrable as to principal and interest;

10 and the bonds may be in such form and denominations; may have such date or

11 dates; may mature at such time or times, not exceeding thirty (30) years from

12 their date of issuance; may bear interest payable on such dates and at such

13 rate or rates not exceeding the maximum rate allowed by law; may be payable at

14 such place or places within or without the State of Arkansas; may be subject

15 to such terms of redemption in advance of maturity at such prices, including

16 such premiums; and may contain such terms and provisions, all as the board of

17 trustees of the technical college or the community college shall specify in

18 the authorizing resolution or in the trust indenture authorized by Section 9.

19

20           SECTION 9. (a) The authorizing resolution may provide for the

21 execution by the board of trustees of the technical college or the community

22 college with a bank or trust company within or without the State of Arkansas

23 of a trust indenture.

24           (b) The trust indenture may contain such terms, covenants, and

25 conditions that are deemed desirable by the board of trustees, including,

26 without limitation, provisions:

- 27           (1) Authorizing the issuance of bonds in series from time to
- 28 time;
- 29           (2) Pertaining to the custody and application of bond proceeds;
- 30           (3) Pertaining to the maintenance of various funds and reserves;
- 31           (4) Pertaining to the collection, depositing, securing, and
- 32 disbursing of other revenues;
- 33           (5) Pertaining to the nature and extent of the security; and
- 34           (6) Pertaining to the rights, duties, and obligations of the
- 35 local board, the trustee, and the holders and registered owners of the bonds.

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2 SECTION 10. Bonds shall be executed by the manual or facsimile  
3 signature of the chairman and secretary of the board of trustees of a  
4 technical college or a community college. In case any of the officers whose  
5 signatures appear on the bonds shall cease to be an officer before the  
6 delivery date of the bonds, his or her signature shall nevertheless be valid  
7 and sufficient for all purposes.

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9 SECTION 11. (a) Bonds issued pursuant to this act may be sold by  
10 negotiation or at public sale, as shall be determined by the board of  
11 trustees.

12 (b) If the bonds are sold by negotiation, the board of trustees is  
13 authorized to enter a bond purchase agreement upon such terms regarding  
14 discount and underwriting fees and at such interest rates as the board shall  
15 determine in the exercise of its reasonable discretion.

16 (c) If the bonds are sold at public sale, notice of such public sale  
17 shall be published in a newspaper of general circulation throughout the state  
18 at least twenty (20) days prior to the date of sale, and the sale of the bonds  
19 shall be awarded to the bidder whose bid results in the lowest net interest  
20 cost, taking into account any premium or discount contained in such bid.

21

22 SECTION 12. (a) The bonds shall be revenue bonds secured solely by the  
23 revenues pledged thereto, and in no event shall they be considered a debt for  
24 which the faith and credit of the State of Arkansas or any of its revenues are  
25 pledged.

26 (b) No member of any board shall be personally liable for the notes or  
27 bonds, or for any damages sustained by anyone in connection with contracts for  
28 loans or the construction of the buildings, unless it shall be made to appear  
29 that he has acted with a corrupt intent.

30

31 SECTION 13. (a) For the purpose of and in connection with the issuance  
32 of bonds, the board of trustees may execute such documents and enter into such  
33 agreements as it may deem necessary or proper in connection therewith.

34 (b)(1) Any agreement entered into by the board of trustees shall be  
35 binding in all respects upon the board of trustees and their successors from

1 time to time in accordance with the terms and all of the provisions of the  
2 agreement.

3           (2) The terms and provisions shall be enforceable by appropriate  
4 proceedings at law or in equity, or otherwise, provided no mortgage or other  
5 lien shall be executed on any of the lands or buildings belonging to the State  
6 of Arkansas.

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8           SECTION 14. (a) The board of trustees has the power and is authorized  
9 to refinance, in whole or in part, from time to time, its valid outstanding  
10 obligations issued under this act and any amendments thereto.

11           (b)(1) To that end, the board of trustees may issue refunding bonds.

12           (2) This power may be exercised successively, and any obligations  
13 which have once been refunded may thereafter from time to time be refunded.

14           (3) Refunding bonds shall be issued in the same manner as  
15 provided in this act for original obligations.

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17           SECTION 15. *Arkansas Code § 6-61-603(b) is hereby amended to read as*  
18 *follows:*

19           "*(b) While capital outlay expenses may not be paid from funds from the*  
20 *general operating budget, such as state funds, capital outlay expenses may be*  
21 *paid from funds from outside of the general operating budget, such as gifts,*  
22 *grants, or profits from auxiliary enterprises."*

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24           SECTION 16. Arkansas Code §§ 6-61-604 through -612 are hereby repealed.

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26           SECTION 17. All provisions of this act of a general and permanent  
27 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas  
28 Code Revision Commission shall incorporate the same in the Code.

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30           SECTION 18. If any provision of this act or the application thereof to  
31 any person or circumstance is held invalid, such invalidity shall not affect  
32 other provisions or applications of the act which can be given effect without  
33 the invalid provision or application, and to this end the provisions of this  
34 act are declared to be severable.

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1 SECTION 19. All laws and parts of laws in conflict with this act are  
2 hereby repealed.

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4 SECTION 20. EMERGENCY. It is hereby found and determined by the  
5 Seventy-Ninth General Assembly that technical colleges and community colleges  
6 are necessary components of higher education in Arkansas in order for quality  
7 educational programs to be available in all areas of the state and to all  
8 people; that the technical and community colleges must achieve accreditation  
9 from the North Central Association - Commission on Institutions of Higher  
10 Education by 1997 or they will be abolished by the State Board of Higher  
11 Education; that in order to achieve accreditation, new sources for funding  
12 capital outlay expenses for technical colleges, as well as an improvement in  
13 the method whereby community colleges can issue bonds, must be found at once;  
14 that it is necessary for this act to become effective immediately so that  
15 Arkansas technical and community colleges can be fully accredited before the  
16 1997 deadline. Therefore, an emergency is hereby declared to exist and this  
17 act being necessary for the immediate preservation of the public peace,  
18 health, and safety shall be in full force and effect from and after its  
19 passage and approval.

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*/s/ Senator Hoofman*

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