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2 88th General Assembly
3 Regular Session, 2011

A Bill

HOUSE BILL 1489

4
5 By: Representative T. Steele

For An Act To Be Entitled

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7
8 AN ACT CLARIFY THE PURPOSES, DUTIES, AND OPERATIONS
9 OF THE ARKANSAS STUDENT LOAN AUTHORITY; AND FOR OTHER
10 PURPOSES.

Subtitle

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13
14 TO CLARIFY THE PURPOSES, DUTIES, AND
15 OPERATIONS OF THE ARKANSAS STUDENT LOAN
16 AUTHORITY.

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

20
21 SECTION 1. Arkansas Code § 6-81-101 is amended to read as follows:
22 6-81-101. Definitions.

23 As used in this subchapter:

24 (1)(A) "Education loan" means a loan made to a student or the
25 parent, legal guardian, or sponsor of the student or to an eligible
26 institution for the purpose of financing a student's attendance at the
27 eligible institution.

28 (B) The loan may provide that the student or parent, legal
29 guardian, sponsor of the student, or eligible institution may be held jointly
30 and severally liable for the education loan;

31 (2) "Eligible institution" means any public or private
32 postsecondary educational institution whose students are eligible for
33 guaranteed education loans, an institution of higher learning, or a
34 vocational school, as defined by regulation of the authority;

35 (3) "Guaranteed educational loan" means a loan made in
36 accordance with Title IV, Part B, of the Higher Education Act of 1965 or



1 pursuant to an alternative educational loan program undertaken by the
 2 authority and consistent with the provisions of this subchapter, to a
 3 qualified borrower for payment of educational expenses incurred by a student
 4 while attending a ~~participating~~ an eligible institution, the payment of
 5 principal of and interest on which is insured by the United States Secretary
 6 of Education under the Higher Education Act of 1965, by the Student Loan
 7 Guarantee Foundation of Arkansas, or by other guarantors as the authority may
 8 approve;

9 (4) "Obligation", or "bond", or "bonds" means any bond, note,
 10 certificate, or other evidence of indebtedness, whether or not the interest
 11 on the obligation shall be subject to federal income taxation;

12 ~~(5) "Participating institution" means any post-high school~~
 13 ~~educational institution, public or private, whose students are eligible for~~
 14 ~~guaranteed educational loans; and~~

15 (5) "Qualified borrower" means a student, or the parent, legal
 16 guardian, or sponsor of a student, who:

17 (A) Qualifies for a guaranteed educational loan; and

18 (B) Is a resident of the State of Arkansas or has been
 19 accepted for enrollment at or is attending a ~~participating~~ an eligible
 20 institution within the State of Arkansas or is borrowing from a lender doing
 21 business within the State of Arkansas, including the authority; and

22 (6)(A) "Student" means an individual who meets the enrollment
 23 and satisfactory progress requirements necessary for making a guaranteed
 24 education loan or an education loan as determined by the authority.

25 (B) Student includes dependent and independent
 26 undergraduate, graduate, and professional students.

27
 28 SECTION 2. Arkansas Code § 6-81-102 is amended to read as follows:

29 6-81-102. Arkansas Student Loan Authority -- Powers and duties.

30 ~~(a) At the request of the Department of Higher Education to the~~
 31 ~~Governor, by Governor's proclamation, there~~ There is authorized to be
 32 established ~~an authority to be known as~~ the Arkansas Student Loan Authority.

33 (b) ~~The authority authorized to be established is created for the~~
 34 ~~purpose of making guaranteed educational loans and dealing in, by buying or~~
 35 ~~selling, guaranteed educational loan notes~~ shall exercise the powers and
 36 duties provided under this section.

1 (c) ~~The authority shall operate solely and exclusively to exercise~~
 2 ~~those powers enacted in this subchapter and shall devote any income after~~
 3 ~~payment of expenses, debt service, and the creation of reserves for the~~
 4 ~~above-mentioned to the making of guaranteed educational loans and the purchase~~
 5 ~~of guaranteed educational loan notes.~~

6 (d) The authority shall be a public body politic and corporate, with
 7 corporate succession, and shall be the instrumentality of the state charged
 8 with a portion of the responsibility of the state to provide educational
 9 opportunities in keeping with all applicable state and federal laws, ~~and its~~
 10 ~~scope and purpose shall be complementary and supplementary to the authority~~
 11 ~~of the Student Loan Guarantee Foundation of Arkansas, as established by § 6-~~
 12 ~~81-201 et seq.~~

13 ~~(e)~~(d)(1) The authority shall be composed of a seven (7) members
 14 member board of directors to be appointed by the Governor.

15 (2) At least one (1) member of the authority shall be a
 16 representative of a bank or other private lending institution, and at least
 17 one (1) member shall be a financial aid officer from ~~a participating an~~
 18 eligible institution. At least one (1) member of the authority shall be a
 19 female, and at least one (1) member shall be a member of a racial minority.

20 ~~(f)~~(e) All appointments shall be for a term of four (4) years each or
 21 until a successor is appointed.

22 ~~(g)~~(f) All vacancies in membership on the authority occurring during a
 23 term shall be filled by appointment of the Governor for the unexpired portion
 24 of the term.

25 ~~(h)~~(g) The authority shall meet at such times and at such places and
 26 shall remain in session for such periods of time as the authority shall deem
 27 necessary to properly carry out its responsibilities under this subchapter.

28 ~~(i)~~(h) The members of the board of directors of the authority ~~shall~~
 29 ~~serve without compensation but~~ may receive a stipend and expense
 30 reimbursement in accordance with § 25-16-901 et seq.

31 ~~(j)~~(i) The authority shall select from its membership a chair and
 32 secretary.

33 ~~(k)~~(j) The authority shall employ a director and such other
 34 professional and clerical assistance, including legal assistance, as it shall
 35 deem necessary or appropriate to properly carry out its responsibilities.

36 ~~(l)~~(k) The authority ~~shall~~ may adopt such rules ~~and regulations~~ to be

1 followed by the authority in conducting its business as ~~it deems appropriate,~~
2 necessary to carry out the purposes of this subchapter, including rules
3 governing:

4 (1) Compliance statutes or regulations governing the guaranty,
5 insurance, purchase, or other dealing in guaranteed educational loans or
6 education loans by corporations or federal agencies; and

7 (2) Standards of eligibility for educational institutions,
8 students, and lenders.

9 (1) Except as otherwise limited by this subchapter, the authority has
10 the power to:

11 (1) Sue;

12 (2) Be Sued;

13 (3) Seal and alter the seal;

14 (4) Make and alter bylaws for organization and internal
15 management of the authority;

16 (5) Acquire, hold, and dispose of real and personal property;

17 (6) Appoint officers, agents, and employees;

18 (7) Prescribe duties, qualifications, and compensation for
19 officers, agents, and employees;

20 (8) Borrow money and issue notes, bonds, and other obligations,
21 whether or not the interest is subject to federal income taxation and whether
22 or not on a pooled or consolidated basis;

23 (9)(A) Issue bonds to provide financing for:

24 (i) A specific activity or project; or

25 (ii) Activities or projects secured by and payable solely
26 from the bonds, loan payments, lease payments, or other obligations issued by
27 or payable to the authority and the security and sources of payments.

28 (B) The authority may request proposals for services
29 before selecting a financial institution to serve as trustee or paying agent,
30 or in any fiduciary capacity in connection with any program, indenture, or
31 general resolution of the authority;

32 (10) Make, acquire, take, or purchase guaranteed education loans
33 and education loans with the proceeds of bonds, notes, or any other funds of
34 the authority available or any interest or participation in it:

35 (A) In any amount;

36 (B) At any price; and

1 (C) Upon any terms and conditions the authority determines
2 necessary;

3 (11) Sell guaranteed educational loans or education loans held
4 by the authority to governmental or private financial institutions;

5 (12) Borrow from governmental or private financial institutions
6 against the security of the guaranteed educational loans or education loans:

7 (A) In any amount;

8 (B) At any price; and

9 (C) Upon any terms and conditions the authority determines
10 necessary;

11 (13) Consent to the modification with respect to security, rate
12 of interest, time of payment of interest or principal, or any other terms of
13 an obligation, bond, note, contract, or agreement between the authority and
14 the recipient or maker of the loan, obligation, bond, note holder, agency, or
15 institution guaranteeing the repayment, purchasing, or selling of a
16 guaranteed educational loan, when the authority determines it is necessary,
17 subject to a contract with the holders of the bond holders, note holders, or
18 contractees;

19 (14) Collect fees and charges in connection with loans,
20 commitments, and servicing, including without limitation the reimbursement of
21 the cost of financing, as determined reasonable and approved by the
22 authority;

23 (15) Service student loan programs administered by the authority
24 or in which the authority participates or make and execute contracts with an
25 agency, financial institution, or corporation organized under the laws of any
26 state, where the agency, financial institution, or corporation shall service
27 student loan programs administered by the authority or in which the authority
28 participates;

29 (16) Enter into contracts with schools, lenders, individuals,
30 corporations, other agencies of the state, other states, the United States
31 Department of Education, and other agencies of the federal government to
32 service education loans or guaranteed educational loans, regardless of where
33 the loans originated;

34 (17) Accept gifts, grants, loans, and other aid from the federal
35 government, state, state agency, political subdivisions of the state, person,
36 corporation, foundation, or legal entity and comply with all conditions

1 attached to the gift, grant, loan, or other aid consistent with this
2 subchapter;

3 (18) Procure insurance against any loss in connection with the
4 programs, property, and assets of the authority;

5 (19) Invest moneys of the authority, including proceeds from the
6 sale of bonds, as agreed upon with bondholders, stated in the authorizing
7 resolutions providing for the issuance of bonds and determined by the
8 directors;

9 (20) Enter into contract with and provide technical assistance
10 and advice to, the state, political subdivisions of the state, and local
11 governing authorities;

12 (21) Conduct studies and analyses of the student loan funding
13 needs within the state and options for meeting student loan funding needs;

14 (22) Establish accounts in one (1) or more depositories;

15 (23) Lease, acquire, construct, sell, and deal in contracts
16 concerning facilities;

17 (24) Participate in federal and other governmental programs
18 established for the purpose of the promotion and development of higher
19 education, student loans, and related matters;

20 (25)(A) Create one (1) or more nonprofit special purpose
21 corporations for accomplishing the purposes under this subchapter.

22 (B) Directors and officers of the authority may serve as
23 directors of nonprofit corporations established under this subdivision.

24 (C) Obligations issued by a nonprofit corporation are
25 subject to §§ 6-81-107 and 6-81-108.

26 (D) The authority may contract with a nonprofit
27 corporation;

28 (26) Enter into contracts to guaranty education loans, establish
29 reserve accounts related to guaranty agreements, and adopt rules and criteria
30 for guaranties;

31 (27) Enter into interest rate exchange agreements, or similar
32 agreements or contracts; and

33 (28) Perform the functions necessary to fulfill the purposes of
34 this subchapter.

35
36 SECTION 3. Arkansas Code § 6-81-103 is repealed.

~~6-81-103. Nonprofit corporation in lieu of authority allowed.~~

~~(a) In lieu of establishing an authority under the provisions of this subchapter, the Department of Higher Education may make a request to the Governor, who, by proclamation, may authorize the organization of a nonprofit corporation to exercise the powers enumerated and provided for in this subchapter for and on its behalf.~~

~~(b) A corporation agreeing to exercise these powers shall also be charged with the obligations of the authority under the provisions of this subchapter.~~

~~(c) The board of directors of the nonprofit corporation shall have the same composition as the Arkansas Student Loan Authority as established in § 6-81-102.~~

SECTION 4. Arkansas Code § 6-81-104 is amended to read as follows:

6-81-104. ~~Regulations~~ Rules.

The Arkansas Student Loan Authority may adopt ~~such regulations~~ rules, not inconsistent with this subchapter, as ~~it shall deem necessary and proper in carrying to carry~~ to carry out the purposes ~~and intentions~~ of this subchapter.

SECTION 5. Arkansas Code § 6-81-105 is repealed.

~~6-81-105. Cooperation by Student Loan Guarantee Foundation of Arkansas.~~

~~The director and staff of the Student Loan Guarantee Foundation of Arkansas shall cooperate with and assist the Arkansas Student Loan Authority in carrying out its responsibilities under this subchapter.~~

SECTION 6. Arkansas Code § 6-81-106 is amended to read as follows:

6-81-106. Financing authority.

In order to provide the necessary funds to carry out the purposes of this subchapter, the Arkansas Student Loan Authority ~~is authorized and empowered to~~ may issue obligations from time to time, regardless of whether the interest on the bonds is subject to federal income taxation, in such principal amounts as it may deem necessary.

SECTION 7. Arkansas Code § 6-81-107 is amended to read as follows:

6-81-107. Bonds, notes, etc. – Consent of State Board of Finance –

1 ~~Maximum amount of outstanding obligations.~~

2 ~~Prior to~~ Before the issuance of any obligation or the advertisement of
 3 revenue bonds for public or private sale as provided in § 6-81-112, the
 4 obligation shall be authorized by resolution of the Arkansas Student Loan
 5 Authority, and the State Board of Finance shall first give its consent by
 6 resolution adopted at any regular or special meeting of the board to the
 7 issuance of any obligation by the ~~Arkansas Student Loan Authority~~ authority
 8 under the authority provided herein.

9
 10 SECTION 8. Arkansas Code § 6-81-108 is amended to read as follows:

11 6-81-108. Bonds, notes, etc. – Governor’s consent.

12 The powers of the Arkansas Student Loan Authority created by this
 13 subchapter are limited in that no bonds ~~which~~ that are to be issued pursuant
 14 to this subchapter shall be sold until the bond issue has the written
 15 approval of the Governor after he or she has received the ~~advice~~ approval of
 16 the ~~Legislative Council~~ State Board of Finance.

17
 18 SECTION 9. Arkansas Code § 6-81-109 is amended to read as follows:

19 6-81-109. Bonds, notes, etc. – Authorizing resolution – Terms and
 20 conditions.

21 (a)(1) The obligations ~~of each series~~ issued under this subchapter
 22 shall be authorized by resolution of the Arkansas Student Loan Authority.

23 (b)(2) The obligations ~~may have coupons attached and~~ may be
 24 issued as registered bonds or coupon bonds payable to bearer ~~or~~ and, if
 25 coupon bonds, may be ~~registrable~~ registerable as to principal only or as to
 26 principal and interest, and may be ~~made~~ exchangeable for obligations of
 27 another denomination, or in another form.

28 (3) The obligations may:

29 (A) ~~be~~ Be in such form and denomination, ~~may have;~~

30 (B) Have such date or dates, ~~may be;~~

31 (C) Be stated to mature at such time or times, ~~may bear;~~

32 (D) Bear interest payable at such times and at such rate
 33 or rates, including variable rates;

34 (E) Be zero coupon or capital appreciation bonds; ~~may be~~
 35 ~~made~~

36 (F) Be payable at such places within or without the State

1 of Arkansas, ~~may be made;~~

2 (G) Be subject to such terms of redemption in advance of
3 maturity at such prices, ~~;~~ and ~~may contain~~

4 (H) Contain such terms and conditions, all as the
5 authority shall determine.

6 (b) The obligations shall be denominated in the currency of the United
7 States unless the authority determines that denominating the obligations in
8 the currency of a foreign country is in the best interest of the authority.

9 (c) The obligations shall have all the qualities of and are deemed to
10 be negotiable instruments under the laws of the State of Arkansas, subject to
11 provisions as to registration as set forth in subsection ~~(b)~~(a) of this
12 section.

13 (d) The authorizing resolution may contain such other terms,
14 covenants, and conditions ~~not inconsistent~~ consistent with this subchapter
15 that ~~are deemed desirable by~~ the authority deems reasonable and desirable,
16 including, without limitation, those pertaining to the:

17 (1) ~~The maintenance~~ Maintenance of various funds and reserves;

18 (2) ~~The nature~~ Nature and extent of the security for payment of
19 the obligations;

20 (3) ~~The issuance~~ Issuance of additional obligations and nature
21 of the lien and pledge, parity or priority, in that event;

22 (4) ~~The custody~~ Custody and application of the proceeds of the
23 obligations;

24 (5) ~~The collection~~ Collection and disposition of revenues;

25 (6) ~~The investing in securities specified by the authority of~~
26 ~~any funds during periods of time when the funds are not needed~~ Investing for
27 authorized purposes; and

28 (7) ~~The rights~~ Rights and duties of the authority and the
29 holders and registered owners of the obligations.

31 SECTION 10. Arkansas Code § 6-81-110 is amended to read as follows:

32 6-81-110. Bonds, notes, etc. – Trust indentures.

33 The authorizing resolution may provide for the execution ~~by~~ of a trust
34 indenture between the Arkansas Student Loan Authority ~~with a bank or trust~~
35 ~~department~~ and any financial institution within or without the State of
36 Arkansas ~~of a trust indenture~~ containing such any terms, covenants, and

1 conditions ~~not inconsistent with this subchapter as that~~ are deemed desirable
 2 by the authority, including, without limitation, those pertaining to the:

3 (1) ~~The maintenance~~ Maintenance of various funds and reserves,
 4 ~~the nature and extent of the security;~~

5 (2) Nature and extent of the security for the payment of
 6 obligations; ~~The issuance~~

7 (3) Issuance of additional obligations and the nature of the
 8 lien and pledge, parity or priority, in that event;

9 ~~(3) The custody~~ (4) Custody and application of the proceeds of
 10 the obligations;

11 ~~(4) The collection~~ (5) Collection and disposition of revenues;

12 ~~(5) The investing~~ (6) Investing and reinvesting ~~in securities~~
 13 ~~specified by the authority~~ of any funds ~~during periods of time~~ when the funds
 14 are not needed for authorized purposes; and

15 ~~(6) The rights~~ (7) Rights, obligations, and duties of the
 16 authority, ~~of~~ the trustee, and ~~of~~ the holders and registered owners of the
 17 obligations.

18
 19 SECTION 11. Arkansas Code § 6-81-111 is amended to read as follows:
 20 6-81-111. Bonds, notes, etc. – Execution and seal.

21 (a)~~(1)~~ Obligations shall be executed by the manual or facsimile
 22 signature of the ~~chair~~ Chair of the Board of Directors of the Arkansas
 23 Student Loan Authority and the manual or facsimile signature of the ~~secretary~~
 24 Director of the Arkansas Student Loan Authority or any other director or
 25 officer authorized to do so by resolution of the board.

26 ~~(2) Coupons attached to obligations shall be executed by the~~
 27 ~~manual or facsimile signature of the chair of the authority.~~

28 (b) In case any of the officers whose signatures appear on the
 29 obligations or coupons shall cease to be such officers before the delivery of
 30 such obligations or coupons, their signatures shall, nevertheless, be valid
 31 and sufficient for all purposes.

32 (c) The authority shall adopt and use a seal in the execution and
 33 issuance of obligations, and each obligation shall be ~~sealed~~ impressed or
 34 imprinted with the seal of the authority or a facsimile thereof.

35
 36 SECTION 12. Arkansas Code § 6-81-112 is amended to read as follows:

1 6-81-112. Bonds, notes, etc. – Sale.

2 (a) Obligations may be sold ~~at public sale on sealed bids or by~~
3 ~~negotiation~~ at a public or private sale as the Arkansas Student Loan
4 Authority determines reasonable and expedient for effectuating the purposes
5 of the authority.

6 ~~(b)(1) If obligations are sold at public sale, notice of the sale~~
7 ~~shall be published at least once in a newspaper published in Little Rock,~~
8 ~~Arkansas, and having a general circulation through the State of Arkansas,~~
9 ~~with the first publication to be at least ten (10) days prior to the date of~~
10 ~~sale. Notice may be published in such other publications as the Arkansas~~
11 ~~Student Loan Authority may determine.~~

12 ~~(2) If obligations are sold at a negotiated sale, the authority~~
13 ~~shall solicit proposals from prospective purchasers after reasonable public~~
14 ~~notice of the solicitation. Requests for proposals may be solicited from~~
15 ~~prospective purchasers upon the advice of the authority's financial advisor.~~

16 ~~(c) All~~ The obligations may be sold at ~~such a~~ a price ~~as~~ the authority
17 may accept, including sale at a discount.

18 ~~(d) The authority shall have the right to reject any and all bids at a~~
19 ~~public sale and the right to reject any and all proposals for a negotiated~~
20 ~~sale.~~

21
22 SECTION 13. Arkansas Code § 6-81-113 is amended to read as follows:

23 6-81-113. Bonds, notes, etc. – Liability.

24 (a) It shall be plainly stated on the face of each obligation that:

25 (1) It has been issued under the provisions of this subchapter;

26 (2) The obligations shall be obligations only of the Arkansas
27 Student Loan Authority;

28 (3) In no event shall they constitute an indebtedness of the
29 State of Arkansas or an indebtedness for which the faith and credit of the
30 State of Arkansas or any of its revenues are pledged; and

31 (4) They are not secured by a ~~mortgage or lien on any land or~~
32 ~~buildings belonging to~~ lien on or a security interest in any property of the
33 State of Arkansas.

34 ~~No member~~ A director or officer of the authority shall not be
35 personally liable on the obligations or for any damages sustained by anyone
36 in connection with any contracts entered into in carrying out the purpose and

1 intent of this subchapter unless he or she has acted with a corrupt intent.

2
3 SECTION 14. Arkansas Code § 6-81-114 is amended to read as follows:

4 6-81-114. Bonds, notes, etc. – Pledge of revenues.

5 (a) The obligations of the Arkansas Student Loan Authority shall be
6 payable from and secured by a pledge of revenues derived from or by reason of
7 ownership of guaranteed educational loan notes, education loan notes, and
8 investment income after deduction of expenses of operating the authority's
9 program.

10 (b)(1) The payment of the principal, redemption premium, if any, and
11 interest on the trustee's and paying agent's fees in connection with the
12 obligations may be secured by a lien on any collateral security received by
13 the authority, including with limitation, the authority's interest in any
14 loan agreements and the interest and revenue from the loan agreements.

15 (2) The trustee or holders of the bond are not required to take
16 possession of the loans and collateral security to perfect the lien.

17
18 SECTION 15. Arkansas Code § 6-81-115 is amended to read as follows:

19 6-81-115. Bonds, notes, etc. – Contract between Arkansas Student Loan
20 Authority and obligation holder.

21 (a) Any authorizing resolution by the Arkansas Student Loan Authority
22 and any trust indenture or other loan agreement ~~shall~~, together with this
23 subchapter, shall constitute a contract between the authority and the holders
24 ~~of any obligation and registered owners~~ of the authority obligations.

25 (b) The contract and all covenants, agreements, and duties therein
26 shall be promptly performed in strict compliance with the terms and
27 provisions of such contract, and the covenants, agreements, and duties of the
28 authority may be enforced by mandamus or other appropriate proceedings at law
29 or in equity.

30
31 SECTION 16. Arkansas Code § 6-81-116 is amended to read as follows:

32 6-81-116. Bonds, notes, etc. – Tax exemption.

33 (a) Obligations issued under the provisions of this subchapter and the
34 interest thereon, unless specifically declared to be taxable in the
35 authorizing resolution, shall be exempt from all state, county, and municipal
36 taxes; ~~and.~~

1 (b) The exemption shall include income, inheritance, and estate taxes.

2
3 SECTION 17. Arkansas Code § 6-81-118 is amended to read as follows:
4 6-81-118. Cash funds – Sufficient redemption fund required.

5 (a)(1) All moneys received by the ~~authority of Arkansas Student Loan~~
6 Authority or its trustee as repayment of principal or interest on an
7 education loan or as repayment of principal or interest on a guaranteed
8 educational loan, including payments by the United States as subsidies, in
9 payment of the guarantee on guaranteed educational loans made or purchased
10 under the authority of this subchapter or as income on any other investment
11 authorized by this subchapter are hereby specifically declared to be cash
12 funds.

13 ~~(b)(2)~~ The moneys shall not be deposited ~~in~~ into the State
14 Treasury but shall be deposited as required by the agreement or trust
15 indenture for each different series of obligations of the ~~Arkansas Student~~
16 ~~Loan Authority~~ authority.

17 ~~(c)(3)~~ A sufficient amount of such money shall always be made
18 available to any redemption fund securing outstanding obligations of the
19 authority to ensure their payment and interest thereon as they mature.

20 (b) All revenues received by the authority, except revenues derived
21 from a state appropriation, are declared to be restricted cash funds and
22 shall be used as provided in this subchapter.

23 (c) The authority may use the proceeds of any bond issues, together
24 with any other available funds, for:

25 (1) Making loans;

26 (2) Purchasing loans and security interests in loan
27 participations as authorized;

28 (3) Paying incidental expenses in connection with loans;

29 (4) Paying expenses of authorizing and issuing bonds;

30 (5) Paying interest on bonds until revenues are available in
31 sufficient amounts from the bonds; and

32 (6) Funding reserves as necessary.

33 (d) Revenues received by the authority shall not be deposited into the
34 State Treasury except those revenues received by state appropriation.

35 (e) Funds of the authority shall not inure to the benefit of or be
36 distributed to employees, officers, or directors of the authority except as

1 authorized as reasonable compensation.

2 (f) The revenues not deposited into the State Treasury shall be
3 deposited into an account or accounts specified by resolution of the
4 authority and used for carrying out the provisions of any resolution,
5 indenture securing bonds of the authority, or other agreement of the
6 authority under this subchapter.

7 (g) The authority may establish one (1) or more special funds or
8 accounts to secure bonds issued as necessary under this subchapter.

9
10 SECTION 18. Arkansas Code § 6-81-119 is amended to read as follows:

11 6-81-119. Refunding obligations.

12 ~~(a) The Arkansas Student Loan Authority may, by resolution, provide~~
13 ~~for the issuance of refunding obligations to refund any outstanding~~
14 ~~obligations~~ Obligations may be issued for refunding, either at maturity or in
15 advance of maturity, any obligations issued under this subchapter ~~together~~
16 ~~with accrued interest thereon.~~

17 ~~(b)(1) Provisions governing the issuance and sale of obligations under~~
18 ~~this subchapter shall govern the issuance and sale of~~ The refunding
19 ~~obligations hereunder insofar as such provisions are applicable~~ may be sold
20 or delivered in exchange for the obligations being refunded.

21 (2) If sold, the proceeds may be applied to the payment of the
22 obligations being refunded or deposited in trust and there be maintained in
23 cash or investments for the retirement of the obligations being refunded, as
24 specified by the Arkansas Student Loan Authority and the authorizing
25 resolution or trust indenture securing the refunding obligations.

26 (3) The authorizing resolution or trust indenture securing the
27 refunding obligations may provide that the refunding obligations shall have
28 the same security for payment as provided for the obligations being refunded.

29 ~~(c) Refunding obligations may be exchanged for the outstanding~~
30 ~~obligations or may be sold and the proceeds used to retire the outstanding~~
31 ~~obligations~~ shall be sold and secured in the manner as provided for the sale
32 and security of the obligations under this subchapter.

33
34 SECTION 19. Arkansas Code § 6-81-120 is amended to read as follows:

35 6-81-120. Obligations designated as legal and authorized investments.

36 (a) All the obligations issued under this subchapter are legal and

1 authorized investments for:

2 (1) banks, Banks;

3 (2) savings Savings banks;

4 (3) trust Trust companies; ;

5 (4) savings Savings and loan associations; ;

6 (5) insurance Insurance companies;

7 (6) fiduciaries, Fiduciaries;

8 (7) trustees Trustees and guardians;

9 (8) any public funds of the State of Arkansas or its political
 10 subdivisions, and Any municipality or any board, commission, or other
 11 authority established by ordinance of any municipality or the boards of
 12 trustees of any municipality;

13 (9) The fireman's relief and pension fund of any municipality;

14 (10) The policeman's pension and relief fund of any
 15 municipality; or

16 (11) The board of trustees for any retirement system created by
 17 the General Assembly.

18 (b) Obligations issued under this section shall be eligible to secure
 19 the deposit of public funds.

20
 21 SECTION 20. Arkansas Code § 6-81-121 is repealed.

22 ~~6-81-121. Bonds, notes, etc.—Sufficient security for state and local~~
 23 ~~funds.~~

24 ~~When accompanied by unmatured coupons appurtenant thereto, if any, the~~
 25 ~~obligations issued pursuant to this subchapter are sufficient security for~~
 26 ~~all deposits of state funds or funds of political subdivisions of this state~~
 27 ~~at the par value of the obligations.~~

28
 29 SECTION 21. Arkansas Code § 6-81-122(1), concerning investment of
 30 excess funds, is amended to read as follows:

31 Moneys in funds created by resolution or trust indenture of the
 32 Arkansas Student Loan Authority in excess of the amount then necessary for
 33 making education loans or guaranteed educational loans and purchasing
 34 education loan notes or guaranteed educational loan notes under this
 35 subchapter or in excess of the amount necessary to meet current debt service
 36 may be invested by the authority or on its behalf in:

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

3
4 SECTION 22. Arkansas Code § 6-81-124(4) and (5), concerning student
5 loan funds, is amended to read as follows:

6 (4) The purchase, either directly or acting through a bank with
7 trust powers for its account, of guaranteed educational loan notes executed
8 after March 30, 1977, by qualified borrowers or of education loan notes; ~~and~~

9 (5) The acquisition of an investment contract or contracts or
10 any other investments permitted under an indenture of the authority securing
11 its obligations. However, the income from the contract, contracts, or
12 investments, after payment of the obligations and all expenses associated
13 therewith, shall be used by the authority to assist in carrying out its
14 purposes under this subchapter-; and

15 (6) The making of education loans.

16
17 SECTION 23. Arkansas Code § 6-81-126 is amended to read as follows:

18 6-81-126. Purchase of student loan ~~note~~ notes.

19 ~~Prior to~~ Before purchasing a guaranteed educational loan note or an
20 education loan note under ~~the provisions of~~ this subchapter, the Arkansas
21 Student Loan Authority shall reasonably determine that:

22 (1) ~~That the~~ The note represents a loan actually disbursed to a
23 qualified borrower;

24 (2) ~~That due~~ Due diligence both in making and collecting the
25 loan has been exercised with respect to that loan;

26 (3) ~~That such~~ The loan meets such other reasonable criteria as
27 may be established from time to time by the authority; and

28 (4) ~~That no other~~ Other defects do not exist affecting the
29 ability of the loan to be guaranteed.

30
31 SECTION 24. Arkansas Code § 6-81-127 - 6-81-129 is repealed.

32 ~~6-81-127. Students of proprietary institutions—Reports—~~

33 ~~(a) No more than twenty five percent (25%) of the funds available to~~
34 ~~the Arkansas Student Loan Authority for the purchase of guaranteed student~~
35 ~~loan notes and for making original student loans shall be used to purchase~~
36 ~~guaranteed student loan notes or to make original student loans to students~~

1 attending proprietary institutions, as defined by 20 U.S.C. § 1088(b).

2 ~~(b) The authority shall annually file a report with the House Interim~~
3 ~~Committee on Education and the Senate Interim Committee on Education showing~~
4 ~~the aggregate amount of student loans originated or acquired by the authority~~
5 ~~during the preceding year to students attending four-year, two-year, and~~
6 ~~vocational schools.~~

7
8 ~~6-81-128. Collection of defaulted loans.~~

9 ~~The state-supported institutions of higher education are authorized to~~
10 ~~employ collection agencies or use other means to collect defaulted loans or~~
11 ~~to transfer to the United States Department of Education those defaulted and~~
12 ~~uncollectible loans which were made under the National Defense Student Loan~~
13 ~~Program and the National Direct Student Loan Program.~~

14
15 ~~6-81-129. Contracts with entities for certain services authorized.~~

16 ~~(a) The Arkansas Student Loan Authority may contract with an agency,~~
17 ~~financial institution, or corporation, whether organized under the laws of~~
18 ~~this state or otherwise, whereby such agency, financial institution, or~~
19 ~~corporation shall provide certain billing, accounting, reporting, or~~
20 ~~administrative services required for guaranteed educational loan programs~~
21 ~~administered by the authority or in which the authority participates.~~

22 ~~(b)(1) The authority may form one (1) or more nonprofit special~~
23 ~~purpose corporations for accomplishing the purposes set forth in this~~
24 ~~subchapter.~~

25 ~~(2) Members of the board and officers of the authority may serve~~
26 ~~as directors of any such nonprofit corporation.~~

27 ~~(3) Obligations issued by such nonprofit corporation shall be~~
28 ~~subject to the approvals contained in §§ 6-81-107 and 6-81-108.~~

29 ~~(4) The authority may contract with any such nonprofit~~
30 ~~corporation, as set forth in subsection (a) of this section.~~

31
32 SECTION 25. Arkansas Code § 6-81-131 is repealed.

33 ~~6-81-131. Administration of existing programs.~~

34 ~~(a) The Arkansas Higher Education Coordinating Board may continue the~~
35 ~~administration of the Southern Regional Education Board Doctoral Scholars~~
36 ~~Program under authority granted to it by Section 8 of Act 1259 of 1993.~~

1 ~~(b) The provisions of this section are contingent on the availability~~
 2 ~~of funding for the programs.~~

3 ~~(c) The board is authorized to promulgate regulations as necessary to~~
 4 ~~carry out the requirements of this section.~~

5
 6 SECTION 26. Arkansas Code Title 6, Chapter 81, Subchapter 1 is amended
 7 to add an additional section to read as follows:

8 6-81-132. Interest rate exchange agreement.

9 (a) The Arkansas Student Loan Authority may enter into an interest
 10 rate exchange agreement or similar agreement or contract with any person on a
 11 competitive or negotiated bases under terms and conditions determined by the
 12 authority, including terms regarding:

13 (1) Default;

14 (2) Early termination; and

15 (3) Indemnification for the loss of benefits.

16 (b) The authority may exercise the means necessary to manage an
 17 interest rate exchange agreement, including without limitation:

18 (1) Procuring insurance, letters of credit, or other credit
 19 enhancement;

20 (2) Providing security for the payment or performance of
 21 obligations; and

22 (3) Modifying, amending, or replacing an interest rate exchange
 23 agreement.

24 (c) The authority shall not enter into an interest rate exchange
 25 agreement unless:

26 (1) Either:

27 (A) The counterparty to the agreement has obtained a
 28 credit rating from one (1) or more nationally recognized statistical rating
 29 agencies that is at least equal to the lowest investment grade rating of any
 30 of the authority's bonds by a rating agency; or

31 (B) The payment obligations of the counterparty are
 32 unconditionally guaranteed by an entity with the credit ratings required by
 33 this subdivision;

34 (2) The written agreement or contract provides that if the
 35 rating of the counterparty or of the guarantor of the counterparty falls
 36 below the rating level stated in subdivision (c)(1) of this section during

1 the term of the agreement, the obligation of the counterparty or guarantor
2 shall pay the aggregate security value of the contract to the authority which
3 shall be collateralized by the counterparty's or guarantor's investment
4 obligations to the extent required by the authority; and

5 (3) The authority files in its records a finding by independent
6 financial advisors that the terms and conditions of the interest rate
7 exchange agreement or similar agreement or contract reflect a fair market
8 value regardless of whether the agreement was solicited on a competitive or
9 negotiated basis.

10 (d) Before approving a contract for an interest rate exchange
11 agreement or similar agreement or contract, the authority shall adopt
12 guidelines for the use of an interest rate exchange agreement or a similar
13 agreement or contract that include without limitation the:

14 (1) Methods for solicitation and procurement of an agreement;

15 (2) Standards and procedures for counterparty selection;

16 (3) Aspects of risk exposure associated with agreements;

17 (4) Types of agreements that may be entered into;

18 (5) Collateralization requirements imposed upon a counterparty
19 or guarantor in the event of a rating agency downgrade; and

20 (6) Long-term implications associated with entering into
21 agreements, including:

22 (A) Costs of borrowing;

23 (B) Historical trends;

24 (C) Potential impact on the future ability to redeem
25 bonds, including opportunities to refund related debt obligations; and

26 (D) Other considerations.

27 (e) The authority may amend guidelines for an interest rate exchange
28 agreement or similar agreement or contract and shall make the amended
29 guidelines available for public inspection.

30 (f) The authority shall disclose each interest rate exchange agreement
31 or similar agreement or contract in which the authority is a party to the
32 Governor and the State Board of Finance within thirty (30) days of becoming a
33 party to the agreement or contract.

34
35 SECTION 27. Arkansas Code § 25-16-904(23) and (24), concerning
36 stipends, is amended to read as follows:

- 1 (23) The Final Act Board of Directors; ~~and~~
- 2 (24) The Social Work Licensing Board; and
- 3 (25) Board of Directors of the Arkansas Student Loan Authority.
- 4
- 5

6 APPROVED: 03/21/2011

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