

State of Arkansas

77th General Assembly

Regular Session, 1989

HOUSE BILL 1311

By: Representatives Thicksten, Stephens, and Mahony

"AN ACT AUTHORIZING THE ARKANSAS DEVELOPMENT FINANCE AUTHORITY TO ISSUE STATE OF ARKANSAS COLLEGE SAVINGS GENERAL OBLIGATION BONDS IN THE TOTAL PRINCIPAL AMOUNT OF NOT EXCEEDING \$300,000,000 IN SERIES FROM TIME TO TIME, IN PRINCIPAL AMOUNTS NOT TO EXCEED, WITHOUT PRIOR APPROVAL OF THE GENERAL ASSEMBLY, \$100,000,000 IN ANY FISCAL BIENNIUM, FOR THE PURPOSE OF FINANCING HIGHER EDUCATION PROJECTS TO SERVE THE INHABITANTS OF THE STATE OF ARKANSAS; PRESCRIBING OTHER MATTERS RELATING THERETO; AND FOR OTHER PURPOSES."

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

SECTION 1. This act may be referred to and cited as the "Arkansas College Savings Bond Act of 1989."

SECTION 2. LEGISLATIVE FINDINGS AND DECLARATION OF PUBLIC NECESSITY.

The General Assembly hereby finds:

(a) The availability of higher educational opportunities for families in the state with school age children has become increasingly necessary in order to preserve and protect the health, welfare, and prosperity of the state and its citizens and the increasing competitiveness and technological sophistication of today's products, services and markets and the growing importance of our dynamic economy requires a highly educated and well-trained work force in order for the state to preserve, protect and promote employment opportunities.

(b) A strong system of higher education has been and will continue to be not only a well spring for the enhancement of the state's cultural well-being, but also a substantial contributing factor to the growth of the state's economy by stimulating the development of new products and services, and the

ability of families who are residents of the state to provide the means to afford the cost of higher education for the children in the family is a matter of highest concern to those families.

(c) The state has made a substantial investment in higher education through direct support of public higher education through appropriation grants, subsidies and loans, through support of student assistance; and its citizens, through charitable and philanthropic support to public and private institutions of higher education from individuals and organizations within the state. As a result of this investment, the state has a major financial interest in assisting families in providing themselves with the means to bear the cost of higher education.

(d) In recent years tuition and other costs, such as required fees and charges, room and board, and similar expenses have increased at rates in excess of the average inflation rate, while available sources of student assistance have not kept pace with those costs. Families have not found convenient and simple methods to make secure investments which meet the rising cost of higher education. The state would benefit from a program which would decrease families' reliance on borrowed funds and increase their opportunity to invest and save to meet college expenses.

(e) There is a growing need for the state to undertake projects to renew and expand the state's higher education facilities and physical plant, including the construction, repair, expansion and renewal of various education facilities, and to provide for the acquisition of teaching and research equipment and library assets.

(f) As a consequence of the importance to the state in providing an appropriate vehicle for state residents in which to invest for the cost of higher education at a time when there is a present and growing need for the state to finance major improvements for its state institutions of higher education, an opportunity exists to address those combined and interrelated objectives of the state through a program which provides for the financing of a portion of the state institutions' higher education needs through a financing program also designed to meet the needs of families who desire a suitable investment to provide against the rising costs of higher education.

(g) The General Assembly therefore finds that the public policies and responsibilities of the state as set in this section cannot be fully obtained without the use of public financing and that such public financing can only be

provided by the adoption of this act by the General Assembly and its approval by the electors of the state.

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

(b) The total principal amount of bonds to be issued during any fiscal biennium shall not exceed \$100,000,000, unless the General Assembly shall, by law, have authorized a greater principal amount thereof to be issued during any fiscal biennium. Provided further that, before any bonds may be issued during any fiscal biennium, the State Board of Higher Education (the "State Board") shall submit to the Governor a written plan for Project(s) to be performed with the proceeds derived from the sale of such bonds, the need for, and the estimated benefits thereof. Upon receipt thereof, the Governor shall confer with the Chief Fiscal Officer of the State concerning whether the annual amount of general revenue funds required to be set aside from the "general revenues," as such term is defined in the Revenue Stabilization Law of Arkansas, for payment of debt service requirements in connection with the bonds during either year of the fiscal biennium in which the bonds are to be issued, would require moneys from the "general revenues for allocation" that would work undue hardship upon any agency or program supported from general revenues under the provisions of the Revenue Stabilization Law.

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

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

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

(3) To advise the Governor and the Chief Fiscal Officer of the State regarding the increments in which to market the bonds and recommend

maturity dates which will make funds available to purchasers at a time when such funds are needed for educational purposes;

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

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

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

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

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

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

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

SECTION 4. In this act, unless the context otherwise requires,

(a) "Authority" means the Arkansas Development Finance Authority.

(b) "Cost of higher education" shall include, but not be limited to, the cost of tuition, room and board related to instruction, books, laboratory materials, tools and other supplies necessary and related to a course of instruction at an institution of higher education.

(c) "Debt service" means principal, interest and redemption premiums, if any.

(d) "Develop" means to construct, acquire (by purchase or, as set forth herein, by eminent domain), install or equip any lands, buildings, improvements, machinery, equipment, or other properties of whatever nature, real, personal or mixed.

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

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

(f) "Person" means any individual, partnership or corporation, or any county, municipality or school district or the State of Arkansas, or agency thereof, or any agency of the State of Arkansas.

(g) "Project" means any lands, building, improvements, machinery, equipment, or other property, real, personal or mixed, or any combination thereof, developed in pursuance of all or any of the purposes of this act.

(h) "Project costs" means all or any part of the costs of developing any project hereunder, costs incidental or appropriate thereto and costs incidental or appropriate to the financing thereof (including, without limitation, capitalized interest, appropriate reserves and fees and costs for engineering, legal, and other administrative and consultant services).

(i) "State" means the State of Arkansas.

(j) "State Board" means the State Board of Higher Education.

SECTION 5. (a) The bonds shall be issued whether or not the interest is subject to Federal income taxation, in series, as set forth herein, in amounts sufficient to finance all or any part of project costs with the respective series to be designated in alphabetical order and/or by the year in which issued.

(b) The bonds of each series shall have such date as the Authority shall determine and shall mature semiannually or annually (or be subject to mandatory sinking fund redemption) over a period ending not later than thirty (30) years after the date of the bonds of each series so as to provide annual debt service of approximately equal amounts (insofar as practicable) each year throughout the term of the bonds, as determined by the Authority. Pending the

issuance of bonds hereunder, the Authority may issue temporary notes, to be exchanged for or paid from the proceeds of bonds at such time as bonds may be issued.

(c) The bonds of each series shall bear interest at the rate or rates accepted by the Authority at the sale of the bonds. Interest shall be payable at such times and in such manner as the Authority shall determine, including the utilization of zero coupon or capital appreciation bonds.

(d) The bonds may be issued in the form of coupon bonds, payable to bearer, or as bonds registered as to principal only with interest coupons, or as bonds registered as to both principal and interest without coupons; may be in such denominations; and may be made exchangeable for bonds of another form or denomination, bearing the same rate of interest and date of maturity; principal and interest may be made payable at such places within or without the State; may be made subject to redemption prior to maturity in such manner and for such redemption prices; and may contain such other terms and conditions, all as the Authority shall determine.

(e) The bonds, of each series, shall have all the qualities of negotiable instruments under the laws of the State of Arkansas, subject to the provisions regarding registration of ownership set forth above.

SECTION 6. Bonds issued under this act shall be issued for the purpose of financing the development of higher education projects at State institutions of higher education, and the proceeds of any bonds issued under this act shall be applied for the payment of project costs or the refunding of bonds outstanding as authorized in section 20 hereof.

SECTION 7. (a) All bonds issued hereunder shall be authorized by resolution of the Authority. Each such resolution shall contain such terms, covenants and conditions as are deemed desirable, including, without limitation, those pertaining to the establishment and maintenance of funds and accounts, to the deposit and investment of revenues and of bond proceeds and to the rights and obligations of the State, its officers and officials, the Authority and the holders and registered owners of the bonds. All bonds issued under this act shall be on a parity as to security. The resolution of the Authority may provide for the execution and delivery by the Authority of a trust indenture or trust indentures, with a bank or banks located within or

without the State, containing any of the terms, covenants and conditions referred to above, which trust indenture or trust indentures shall be binding upon the State, and its officers and officials, to the extent set forth in this act.

(b) Any resolution or trust indenture adopted or executed under this section 7 shall provide that power is reserved to apply to the payment of debt service on the bonds issued or secured thereunder all or any part of the revenues derived from any program or project financed by such bonds, and, to the extent of such revenues, to release from any requirement of such resolution or trust indenture other revenues and resources of the State, including without limitation, the "general revenues for allocation" required to be transferred under section 11 hereof.

(c) Any resolution or trust indenture adopted or executed under this section 7 may provide for the retirement and defeasance of the bonds by the depositing in trust of cash or investments maintained for that purpose, and when the provisions of such resolution or trust indenture are complied with such bonds being refunded shall not be deemed to be bonds outstanding for the purposes of this act.

(d) The State Board may select projects for financing and development under this act which offer reasonable and realistic prospects for the production of revenues, whether by direct user fees, sales, royalties, program or gate receipts, or otherwise.

SECTION 8. Each bond shall be signed with the facsimile signatures of the Governor, the Secretary of State and the Chairman of the Authority and by the manual or facsimile signature of the Treasurer of State or by a deputy of the Treasurer of State, and shall have affixed or imprinted thereon the Great Seal of the State. Interest coupons attached to the Bonds, if any shall be signed with the facsimile signature of the Treasurer of State. Delivery of bonds and coupons so executed shall be valid, notwithstanding any change in persons holding such offices occurring after the bonds have been executed.

SECTION 9. The bonds may be sold in such manner, either at public or private sale, and upon such terms as the Authority shall determine to be reasonable and expedient for effectuating the purposes of the act. The bonds may be sold at such prices as the Authority may accept, including, but not

limited to, sale at a discount or a premium.

(a) If the bonds are sold at public sale, such public sale shall be on sealed bids, after notice published by the Chairman of the Authority for at least one (1) insertion not less than twenty (20) days before the date of sale in a newspaper published in the City of Little Rock, Arkansas, and in a financial newspaper or journal published in the Borough of Manhattan, City and State of New York, which notice shall contain such other terms and provisions as the Authority determines to be desirable. The Authority shall award the sale to the bidder offering to purchase the bonds at a price which results in the lowest net interest cost or true interest cost to the State of Arkansas (determined by computing the total interest cost from date of the issue to maturity, and deducting therefrom any premium bid and adding thereto the amount of any discount bid); provided, however, the Authority shall reserve the right to reject all bids tendered at such public sale.

(b) If the bonds are sold at a private or negotiated sale, within ninety (90) days following the close of such bond issue, the Authority shall file with the Legislative Council a written report of the details of the bond sale, which report shall include a listing of the firms to whom the sale was made, the rate or rates of interest paid for the bonds, the underwriting fee or discount and other details of the underwriting of the bonds.

The Authority may employ administrative agents, fiscal agents and legal counsel and may pay them reasonable compensation out of the proceeds of the bonds. The costs of publication of notices, bond printing, official statements, other documents and other costs associated with the sale, issuance and delivery of the bonds shall be paid from the proceeds of the bonds.

SECTION 10. The proceeds from the sale of the bonds, together with all revenues derived from any project financed under this act shall be deposited by the Authority, as received, into trust funds in the State Treasury, to accomplish the purposes of this act, specifically, in amounts or portions as may be set forth in the resolution or trust indenture authorizing or securing the bonds issued to finance the development of such project, into trust funds created hereby and designated as follows:

(a) Into the Higher Education Projects Development Fund ("Development Fund"), to provide for the development of projects at State institutions of higher education and the payment of project costs and expenses of the issuance

of the bonds;

(b) Into the College Savings Bond Fund (the "Bond Fund"), to provide for payment of all or a part of debt service on bonds issued under this act;

(c) Into the College Savings Debt Service Reserve Fund (the "Reserve Fund"), to provide a reserve or reserves for payment of debt service on the bonds;

The Treasurer of State is authorized and directed to establish separate accounts within such funds to correspond to the applicable series of bonds. In addition, there may be created in the State Treasury such other funds, accounts, or any accounts as the Authority may determine in said resolution or trust indenture to be necessary to accomplish the purposes of this act.

SECTION 11. The bonds shall be direct general obligations of the State of Arkansas, for the payment of the debt service on which the full faith and credit of the State of Arkansas are hereby irrevocably pledged so long as any such bonds are outstanding. The bonds shall be payable from the "general revenues" of the State as such term is defined in the Revenue Stabilization Law of Arkansas, and such amount of "general revenues" as is necessary is hereby pledged to the payment of debt service on the bonds, and shall be and remain pledged for such purposes.

SECTION 12. On or before the commencement of each fiscal year, the Chief Fiscal Officer of the State shall determine the estimated amount required for payment of all or a part of debt service on the bonds issued under this act during such fiscal year, after making deductions therefrom of estimated moneys to be available to the Authority from other sources therefor, and shall certify such estimated amount to the State Treasurer, who shall make monthly transfers from the State Apportionment Fund to the bond fund to provide for payment of all or part of the debt service on the bonds issued under this act, of such amount of "general revenues for allocation," as such term is defined in the Revenue Stabilization Law of Arkansas as shall be required to pay the maturing debt service on bonds issued under this act.

The State Treasurer shall make such additional monthly transfer or transfers of "general revenues for allocation" as the Chief Fiscal Officer of the State shall certify to him as being required to enable the Authority to establish and thereafter maintain a Debt Service Reserve Fund, to provide a

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

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

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

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

SECTION 13. All bonds issued under this act, and interest thereon, shall be exempt from all taxes of the State of Arkansas, including income, inheritance and property taxes. The bonds shall be eligible to secure deposits of all public funds, and shall be legal for investment of municipal, county, bank, fiduciary, insurance company, and trust funds.

SECTION 14. The Authority and the State Board, jointly, in addition to powers conferred under other laws, shall have the power under this act:

- (a) to construct or cause to be constructed with proceeds of the bonds

or loans by the Authority and the State Board, lease as lessee, and in any manner acquire, own, hold, maintain, operate, sell, dispose of, lease as lessor, exchange, mortgage, or lend with respect to all or any part of any project;

(b) to acquire, own, hold, use, exercise, sell, mortgage, pledge, hypothecate, and in any manner to dispose of franchises, rights, privileges, licenses, rights-of-way and easements necessary, useful, or appropriate for the exercise of the powers or implementation of the purposes set forth in this act;

(c) to sell and convey, mortgage, pledge, lease as lessor, and otherwise dispose of all or any part of any project or other properties, tangible or intangible, including, without limitation, franchises, rights, privileges, licenses, rights-of-way and easements;

(d) to have and exercise the right of eminent domain for the purpose of acquiring lands (the fee title thereto or any easement, right-of-way or other interest or estate therein) for projects or portions thereof, by the procedure now provided for condemnation by railroads by Act No. 123 of 1873, as amended;

(e) to provide loans from bond proceeds to State institutions of higher education, or agencies and instrumentalities of the State for payment of project costs;

(f) to make or accept gifts or grants of moneys, services, franchises, rights, privileges, licenses, rights-of-way, easements or other property, real or personal or mixed;

(g) to make any and all contracts necessary or convenient for the exercise of the powers or implementation of the purposes set forth in this act;

(h) to fix, regulate and collect rates, fees, rents or other charges for the use of any properties or services furnished by the Authority or the State Board;

(i) to require audits of any or all accounts related to construction, operation, or maintenance of any project funded by this act;

(j) to take reasonable actions necessary to insure that Debt Service Requirements are met; and

(k) to take such other action as may be appropriate to accomplish the purposes of this act.

SECTION 15. This act shall constitute a contract between the State of Arkansas and the holders and registered owners of all bonds issued hereunder which shall never be impaired, and any violation of its terms, whether under purported legislative authority or otherwise, shall be enjoined by the courts at the suit of any bondholder or of any taxpayer. The courts shall, in like suit against the Authority or the State Board, the Treasurer of State, or other appropriate officer or official of the State, prevent a diversion of any revenues pledged hereunder and shall compel the restoration of diverted revenues, by injunction or mandamus. Also and without limitation as to any other appropriate remedy at law or in equity, any bondholder may, by an appropriate action, including without limitation, injunction or mandamus, compel the performance of all covenants and obligations of the State, its officers and officials, hereunder.

SECTION 16. This act shall not create any right of any character and no right of any character shall arise under or pursuant to it, unless and until the first series of bonds authorized by this act shall have been sold and delivered.

SECTION 17. No bonds shall be issued under this act except by and with the consent of a majority of the qualified electors of the State voting on the question at the general election of 1990 unless the Governor shall, by proclamation, call a special election to be conducted prior thereto. If the question is presented at the general election of 1990, notice thereof shall be published by the Secretary of State in a newspaper of general circulation in the State at least sixty (60) days prior to the general election, and notice thereof shall be mailed to the County Board of Election Commissioners and the Sheriff of each county at least sixty (60) days prior to the general election.

The special election shall be called by the Governor, by proclamation made at least sixty (60) days prior to the date fixed by such proclamation for the election, and notice of the special election shall be given by Publication of the proclamation for one insertion in one newspaper of general circulation published in each county in the State not less than thirty (30) days prior to the date of such election. If there is no such newspaper regularly published in a county, the proclamation may be published in any newspaper having a

general circulation in the county. It shall not be necessary, in the case of the notice for the general election or proclamation of special election, to publish this act itself, but the notice or proclamation shall state that it is issued for the purpose of having the people vote on substantially the following question:

Shall the Arkansas Development Finance Authority be authorized to issue College Savings General Obligation Bonds under the authority of the Arkansas College Savings Bond Act of 1989 in the total Principal amount of not exceeding \$300,000,000, in series from time to time in principal amounts not to exceed without prior approval of the General Assembly, \$100,000,000, in any fiscal biennium, which bonds shall be secured by a pledge of the full faith and credit of the State of Arkansas?

Whether the question is presented at special election or at the general election of 1990, the title of this act shall be the ballot title, and there shall be printed on the ballot the proposition as stated above, and the following:

FOR Issuance of Arkansas College Savings
General Obligation Bonds...../___/
AGAINST Issuance of Arkansas College Savings
General Obligation Bonds...../___/

The county boards of election commissioners of the several counties of this State shall hold and conduct the election, and each such board is hereby authorized and directed to take such action with respect to the appointment of election officials and such other matters as the law requires; and the vote shall be canvassed and the result thereof declared in each county by such several county boards. The results shall within ten (10) days after the date of the election be certified by such county boards to the Secretary of State who shall forthwith tabulate all returns so received by him and certify to the Governor the total vote for and against the proposition submitted as in this section provided.

The result of the election shall be proclaimed by the Governor by publication one time in a newspaper published in the City of Little Rock, Arkansas, and the result as proclaimed shall be conclusive unless attacked in the courts within thirty (30) days after the date of such publication.

SECTION 18. If a majority of the qualified electors voting on the

proposition shall vote for the issuance of the bonds, the Authority and the State Board shall proceed with the sale and the issuance of the bonds as provided in this act. If a majority of the qualified electors voting on the proposition voter against the issuance of the bonds, none of the bonds authorized by this act shall ever be sold and issued, and all provisions of this act shall be of no further effect.

SECTION 19. The proceedings of the State Board, the Authority and the Governor authorizing the issuance of bonds may also provide for additional financial incentives to be provided to holders of such bonds to encourage the enrollment of students at institutions of higher education located within the State. Such financial incentives shall be in the form as recommended by the State Board and approved by the Governor and Chief Fiscal Officer of the State at the time of the authorization of such bonds and may include, among others, supplemental payments to the holders of such bonds at maturity when such proceeds are to be applied to the cost of higher education as defined herein at an institution of higher education located within the State. Such financial incentives shall be provided only if, in the sole judgment of the Governor and the Chief Fiscal Officer of the State that the cost of such incentives shall not cause the cost to the State of the proceeds of the bonds being sold to be increased by more than one-half of one percent. No such financial incentives shall be paid to assist in the financing of an education of a student (1) in a school or department of divinity for any religious denomination or (2) pursuing a course of study consisting of training to become a minister, priest, rabbi or professional person in the field of religion.

SECTION 20. (a) Bonds may also be issued for the purpose of refunding, either at maturity or in advance of maturity, any bonds issued under this act. Such refunding bonds may either be sold or delivered in exchange for the bonds being refunded. If sold, the proceeds may either be applied to the payment of the bonds being refunded or deposited in trust and there maintained in cash or investments for the retirement of the bonds refunded, as shall be specified by the Authority and the authorizing resolution or trust indenture securing such refunding bonds. The authorizing resolution or trust indenture securing the refunding bonds may provide that the refunding bonds shall have the same

security for their payment as provided for the bonds being refunded. Refunding bonds shall be sold and secured in accordance with provisions of this act pertaining to the sale and security of the bonds.

(b) In computing bonds outstanding for the purpose of section 3 hereof, there shall be deducted from the amount of bonds outstanding the amounts of moneys and investments credited to or on deposit for bonds outstanding which is specifically designated for the retirement of such bonds.

(c) If the Authority causes direct government obligations of the United States to be placed irrevocably in escrow in an amount calculated to be sufficient to pay principal and interest on outstanding bonds issued by the Authority as they mature or shall have been irrevocably called for prior redemption, the amounts of money and investments credited to or on deposit for the payment of such outstanding bonds shall be deducted from the amount of outstanding bonds in computing bonds outstanding for the purpose of section 3 hereof. Bonds for which direct government obligations of the United States have been so deposited will no longer be deemed to be outstanding and the requirements of this act with respect to the bonds will be discharged and of no further force and effect.

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

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

SECTION 23. In evaluating the financial situation of a student, proceeds of bonds or accumulated bonds and interest in an amount not in excess of \$5,000 annually for undergraduate students, and not in excess of \$7,500 for post-graduate students shall not be deemed a financial resource of or a form

of financial aid or assistance to such student, for the purposes of determining the eligibility of such student for any scholarship, grant or monetary assistance awarded by the State or any agency thereof, nor shall such annual amounts of proceeds of any bond or accumulated bonds and interest provided for a qualified student under this act reduce the amount of any scholarship, grant or monetary assistance that such student is entitled to be awarded by the State or any agency thereof in accordance with the provisions of any other section of this act or any other law of this State.

SECTION 24. The Authority, with the assistance of the State Board, shall develop and implement an educational program with marketing strategies designed to inform parents of the options available for financing a college education and the need to accumulate financial resources necessary to pay for a college education. The Authority shall report to the Governor and the General Assembly on the program developed and its operation no later than September 30, 1991.

SECTION 25. The State Board and the Authority are authorized to promulgate rules and regulations with respect to their powers and duties pursuant to this act.

SECTION 26. If, for any reason any section or provision of this act shall be held to be unconstitutional or invalid for any reason, such holding shall not affect the remainder of this act, but this act, insofar as it is not in conflict with the Constitution of this State or the Constitution of the United States, shall be permitted to stand, and the various provisions of this act are hereby declared to be severable for that purpose. All cases involving the validity of this act or any portion thereof, or in any way arising under this act or involving the bonds issued hereunder, shall be deemed of public interest and shall be advanced by all courts and heard as a preferred cause, and all appeals from judgments or decrees rendered in such cases must be taken within thirty (30) days after the rendition of such judgment or decree.

SECTION 27. (a) This act shall be liberally construed to accomplish the purposes thereof. This act shall constitute the sole authority necessary to

accomplish the purposes hereof, and to this end it shall not be necessary that the provisions of other laws pertaining to the development of public facilities and properties and the financing thereof be complied with.

(b) This act shall be interpreted to supplement existing laws conferring rights and powers upon the Authority and the State Board, and the rights and powers set forth herein shall be regarded as alternative methods for the accomplishment of the purposes of this act.

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

SECTION 29. EMERGENCY. It has been found and it is hereby declared by the General Assembly that there is an immediate need for the development of the State's higher education resources and to further assist the higher education goals and aspirations of its inhabitants, and other essential purposes. For these reasons, it is declared necessary for the preservation of the public peace, health, and safety that this act become effective without delay. It is therefore, declared that an emergency exists, and this Act shall take effect from the date of its passage and approval.