

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas
2 82nd General Assembly
3 Regular Session, 1999

A Bill

HOUSE BILL 1798

4
5 By: Representatives Hendren, T. Thomas, Duggar, Womack, Buchanan, Files, Morris, Bledsoe, Minton,
6 Milum, Elliott, Parks

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For An Act To Be Entitled

10 "AN ACT TO AUTHORIZE THE STATE HIGHWAY COMMISSION TO
11 ISSUE STATE OF ARKANSAS FEDERAL HIGHWAY GRANT
12 ANTICIPATION AND REVENUE BONDS IN A TOTAL PRINCIPAL
13 AMOUNT NOT TO EXCEED FIVE HUNDRED SEVENTY-FIVE MILLION
14 DOLLARS (\$575,000,000) FOR THE PURPOSES OF
15 CONSTRUCTING AND RENOVATING ROADS AND HIGHWAYS FOR THE
16 CITIZENS OF THE STATE OF ARKANSAS; AUTHORIZING THAT
17 THE REPAYMENT OF THE BONDS BE GUARANTEED BY THE FULL
18 FAITH AND CREDIT OF THE STATE; PRESCRIBING THE TERMS
19 AND CONDITIONS OF THE ISSUANCE OF SUCH BONDS;
20 DESCRIBING THE SOURCES OF REPAYMENT OF THE BONDS;
21 PROVIDING FOR A STATEWIDE ELECTION ON THE QUESTION OF
22 ISSUING SUCH BONDS; PRESCRIBING OTHER MATTERS
23 PERTAINING THERETO; DECLARING AN EMERGENCY; AND FOR
24 OTHER PURPOSES. "

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Subtitle

"ARKANSAS HIGHWAY FINANCING ACT OF 1999. "

30 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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32 SECTION 1. TITLE. LEGISLATIVE FINDINGS.

33 (a) This Act may be referred to and cited as the "Arkansas Highway
34 Financing Act of 1999."

35 (b) The General Assembly of the State of Arkansas has determined that
36 there is an immediate need for highway improvements as defined herein

1 throughout the State of Arkansas in order to provide for the health, safety
2 and welfare of its citizens and to promote economic development within the
3 state. The General Assembly has determined that current funding sources for
4 highway improvements are inadequate to meet the needs of the state and that
5 the best way to accomplish such improvements expeditiously is through the
6 issuance of federal highway grant anticipation and revenue bonds to finance
7 such highway improvements.

8 (c) The General Assembly has further determined that the bonds should
9 be payable from certain designated revenues, including federal highway
10 assistance funding and general revenues of the state, and that the repayment
11 of such bonds should also be guaranteed by the full faith and credit of the
12 state.

13
14 SECTION 2. DEFINITIONS. The following terms, as used in this Act,
15 shall have the meanings set forth in this section:

16 (a) "Act" shall mean this Arkansas Highway Financing Act of 1999.

17 (b) "Bonds" shall mean the "State of Arkansas Federal Highway Grant
18 Anticipation and Tax Revenue Bonds" or "GARVEE bonds," as authorized herein.

19 (c) "Commission" shall mean the Arkansas State Highway Commission,
20 created and existing pursuant to Amendment 42 to the Constitution of the State
21 of Arkansas.

22 (d) "Debt service" shall mean all amounts required for the payment of
23 principal, interest on, and premium, if any, due with respect to the bonds in
24 any fiscal year, along with all associated costs, including the fees and costs
25 of paying agents and trustees, remarketing agent fees, credit enhancement
26 costs, and other amounts necessary in connection with the bonds.

27 (e) "Designated revenues" shall mean:

28 (1) That portion designated by the Commission of funds received,
29 or to be received, from the federal government of the United States as federal
30 highway assistance funding allocated to the state designated as federal
31 highway interstate maintenance funds, and that portion of national highway
32 system funds authorized by Commission Minute Order 98-214 adopted September
33 22, 1998; and

34 (2) Ten million dollars (\$10,000,000) annually from the general
35 revenues of the state.

36 (f) "Highway improvements" or "highway improvement projects" shall mean

1 restoration and improvements to all of the interstate highway systems within
2 the state, including roadways, bridges or right-of-way under the jurisdiction
3 of the Commission, and shall also include the acquisition, construction,
4 reconstruction, and renovation of such interstate system and facilities
5 appurtenant or pertaining thereto.

6
7 SECTION 3. AUTHORIZATION - PURPOSES. The State Highway Commission is
8 hereby authorized, subject to the approval of the voters in a state-wide
9 election, to issue bonds to be known as State of Arkansas Federal Highway
10 Grant Anticipation and Revenue Bonds, in a total principal amount not to
11 exceed five hundred seventy-five million dollars (\$575,000,000) for the
12 purpose of:

13 (1) Accelerating certain highway improvement projects already underway
14 or scheduled;

15 (2) Funding new highway improvement projects;

16 (3) Financing the restoration, reconstruction, and renovation of
17 highway improvements within the State of Arkansas; and

18 (4) Paying the costs of issuance of the bonds, including the costs of
19 bond issuance or other credit enhancement.

20
21 SECTION 4. PROJECTS TO BE FINANCED.

22 (a) The Commission shall prepare and distribute to the Governor a
23 report setting forth the specific highway improvement projects which would be
24 financed if all of the authorized bonds were to be issued and the estimated
25 cost of each project. Upon receipt of the report described in the preceding
26 sentence, the Governor shall, if he deems it to be in the public interest, by
27 proclamation call an election on the question of issuing the bonds.

28 (b) The report of projects described in Section 4(a) hereof may be
29 modified by the Commission from time to time in accordance with Amendment 42
30 to the Arkansas Constitution.

31
32 SECTION 5. ELECTION.

33 (a) No bonds shall be issued under this Act unless the issuance of
34 bonds has been approved by a majority of the qualified electors of the state
35 voting on the question at a state-wide election called by proclamation of the
36 Governor. Such election may be in conjunction with a general election or it

1 may be a special election. Notice of such election shall be published by the
2 Secretary State in a newspaper of general circulation in the state at least
3 thirty (30) days prior to such election, and notice thereof shall be mailed to
4 each county board of election commissioners and the sheriff of each county at
5 least sixty (60) days prior to such election.

6 (b) The notice of election shall state that the election is to be held
7 for the purpose of submitting to the people the following proposition, in
8 substantially the form set forth herein:

9 "Authorizing the State Highway Commission to issue State of Arkansas
10 Federal Highway Grant Anticipation and Revenue Bonds (the "Bonds") in a total
11 principal amount not to exceed five hundred seventy-five million dollars
12 (\$575,000,000). If approved, such bonds will be issued in several series of
13 various principal amounts from time to time for the purpose of paying the cost
14 of constructing and renovating improvements to interstate highways and related
15 facilities in the State of Arkansas.

16 The bonds shall be general obligations of the State of Arkansas, payable
17 from certain designated revenues and also secured by the full faith and credit
18 of the State of Arkansas. Pursuant to the Arkansas Highway Financing Act of
19 1999 (the "Bond Act"), the bonds will be repaid from: (1) revenues derived
20 from federal highway assistance funding allocated to the State of Arkansas
21 designated as federal highway interstate maintenance funds, and that portion
22 of national highway system funds authorized by Commission Minute Order 98-214
23 adopted September 22, 1998, and (2) ten million dollars (\$10,000,000) annually
24 from the general revenues of the state. The bonds shall be issued pursuant to
25 the authority of and the terms set forth in the Bond Act.

26 Pursuant to the Bond Act, the specific highway improvements to be
27 financed are limited to restoration and improvements to all of the interstate
28 highway systems within the state, including roadways, bridges or rights-of-way
29 under jurisdiction of the Arkansas State Highway Commission, which shall also
30 include the acquisition, construction, reconstruction and renovation of such
31 interstate highway systems and facilities appurtenant or pertaining thereto.

32 Pursuant to the Bond Act, "designated revenues" are defined as: (1)
33 that portion designated by the Commission of all funds received or to be
34 received from the federal government of the United States as federal highway
35 interstate maintenance funds, and that portion of the national highway system
36 funds authorized by Commission Minute Order 98-214 adopted September 22, 1998,

1 and (2) ten million dollars (\$10,000,000) annually from the general revenues
2 of the state. The bonds are further secured by the full faith and credit of
3 the State of Arkansas.

4 (c) The ballot title shall be "Issuance of State of Arkansas Federal
5 Highway Grant Anticipation and Revenue Bonds and pledge of full faith and
6 credit of the State of Arkansas." On each ballot there shall be printed the
7 title, the proposition set forth in Section 5(b) hereof, and the following:

8 "FOR issuance of State of Arkansas Federal Highway Grant Anticipation
9 and Revenue Bonds in an amount not to exceed \$575,000,000 and the pledge of
10 the full faith and credit of the State of Arkansas to further secure such
11 bonds []"

12 "AGAINST issuance of State of Arkansas Federal Highway Grant
13 Anticipation and Revenue Bonds in an amount not to exceed \$575,000,000 and the
14 pledge of the full faith and credit of the State of Arkansas to further secure
15 such bonds []"

16 (d) The county boards of election commissioners in each of the several
17 counties of the state shall hold and conduct the election, and each such board
18 is hereby authorized and directed to take such action with respect to the
19 appointment of election officials and such other matters as are required by
20 the laws of the state. The vote shall be canvassed and the result thereof
21 declared in each county by such boards. The results shall, within ten (10)
22 days after the date of the election, be certified by such county boards to the
23 Secretary of State, who shall forthwith tabulate all returns so received and
24 certify to the Governor the total vote for and against the proposition
25 submitted pursuant to this Act.

26 (e) The result of the election shall be proclaimed by the Governor by
27 the publication of such proclamation one (1) time in a newspaper of general
28 circulation in the State of Arkansas, and the results as proclaimed shall be
29 conclusive unless a complaint is filed within thirty (30) days after the date
30 of such publication in the chancery court of Pulaski County challenging such
31 results.

32 (f) If a majority of the qualified electors voting on the proposition
33 vote in favor of the issuance of the Bonds, then the Commission shall proceed
34 with the issuance of bonds in the manner and on the terms set forth in this
35 Act. If a majority of the qualified electors voting on the proposition vote
36 against the issuance of the bonds, none of the bonds authorized by this Act

1 shall be issued. Subsequent elections may be called by the Governor if the
2 proposition fails, but each such subsequent election may be held no earlier
3 than six (6) months after the date of the preceding election.

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5 SECTION 6. PROCEDURE FOR ISSUING BONDS. Prior to the issuance of any
6 series of bonds, the Commission shall adopt a resolution authorizing the
7 issuance of such series of bonds. Each such resolution shall contain such
8 terms, covenants, and conditions as are deemed desirable and consistent with
9 this Act, including, without limitation, those pertaining to the establishment
10 and maintenance of funds and accounts, the deposit and investment of the
11 Federal Highway Assistance payments and bond proceeds, and the rights and
12 obligations of the state, its officers and officials, the Commission, and the
13 registered owners of the bonds. The resolutions of the Commission may provide
14 for the execution and delivery by the Commission of a trust indenture or trust
15 indentures, with one or more banks or trust companies located within or
16 without the state, containing any of the terms, covenants, and conditions
17 referred to above and such other terms and conditions deemed necessary by the
18 Commission, which trust indenture or trust indentures shall be binding upon
19 the Commission and the state, and their respective officers and officials.

20
21 SECTION 7. TERMS OF BONDS. The bonds shall be subject to the following
22 terms and conditions:

23 (a) The bonds shall be issued in series, as set forth herein, in
24 amounts sufficient to finance all or part of the costs of construction and
25 maintenance of highway improvements described in Section 4 hereof, with the
26 respective series to be designated by the year in which issued and, if more
27 than one (1) series is to be issued in a particular year, by alphabetical
28 designation.

29 (b) The bonds of each series shall have such date or dates as the
30 Commission shall determine and shall mature, or be subject to mandatory
31 sinking fund redemption, over a period ending not later than twelve (12) years
32 after the date of issue of each series.

33 (c) The bonds of each series shall bear interest at the rate or rates
34 determined by the Commission at the sale of the bonds. The bonds may bear
35 interest at either a fixed or a variable rate, or may be convertible from one
36 interest rate mode to another, and such interest shall be payable at such

1 times as the Commission shall determine.

2 (d) The bonds shall be issued in the form of bonds registered as to
3 both principal and interest without coupons; may be in such denominations; and
4 may be made exchangeable for bonds of another form or denomination, bearing
5 the same rate of interest; may be made payable at such places within or
6 without the state; may be made subject to redemption prior to maturity in such
7 manner and for such redemption prices; and may contain such other terms and
8 conditions, all as the Commission shall determine.

9 (e) Each bond shall be executed with the facsimile signatures of the
10 chairman and secretary of the Commission and shall have affixed or imprinted
11 thereon the seal of the Commission. Delivery of the bonds so executed shall
12 be valid, notwithstanding any change in the persons holding such offices
13 occurring after the bonds have been executed.

14
15 SECTION 8. SALE OF BONDS.

16 (a) The bonds may be sold in such manner, either at private or public
17 sale, and upon such terms as the Commission shall determine to be reasonable
18 and expedient for effecting the purposes of this Act. The bonds may be sold
19 at a price acceptable to the Commission, which price may include a discount or
20 a premium.

21 (b) If the bonds are to be sold at public sale, the Commission shall
22 give notice of the offering of such bonds in a manner reasonably designed to
23 notify participants in the public finance industry that such offering is being
24 made. The Commission shall set the terms and conditions of bidding, including
25 the basis on which the winning bid will be selected.

26 (c) The Commission is authorized to structure the sale of bonds
27 utilizing such financing techniques as are recommended by its professional
28 advisors in order to take advantage of market conditions and obtain the most
29 favorable interest rates consistent with the purposes of this Act. In
30 furtherance of this authorization, the Commission may enter into such
31 ancillary agreements in connection with the sale of the bonds as it deems
32 necessary and advisable, including, without limitation, bond purchase
33 agreements, remarketing agreements, and letter of credit and reimbursement
34 agreements.

35
36 SECTION 9. EMPLOYMENT OF PROFESSIONALS. The Commission is authorized

1 to retain such professionals as it deems necessary to accomplish the issuance
2 and sale of the bonds, including, without limitation, legal counsel, financial
3 advisors, underwriters, trustees, paying agents and remarketing agents.

4
5 SECTION 10. SOURCES OF REPAYMENT. The bonds shall be general
6 obligations of the State of Arkansas secured and payable from the designated
7 revenues, as defined herein. The bonds will be payable first from certain
8 designated revenues, specifically: (1) that portion designated by the
9 Commission of funds received or to be received from the federal government of
10 the United States as federal highway assistance funding allocated to the state
11 designated as federal highway interstate maintenance funds, and that portion
12 of national highway system funds authorized by Commission Minute Order 98-214
13 adopted September 22, 1998, and (2) ten million dollars (\$10,000,000) annually
14 from the general revenues of the state. In order to secure the payment of
15 debt service, any trust instrument, resolution, or other document setting
16 forth the security for the bondholders may provide for the direct payment of
17 the federal highway assistance funds that are designated revenues directly
18 into a trust fund, or to a paying agent, for the payment of debt service on
19 the bonds and it shall not be necessary for such funds to be deposited with
20 the treasury of the state.

21
22 SECTION 11. INVESTMENT OF PROCEEDS.

23 Any designated revenues, and any proceeds of bonds held pending
24 disbursement on highway improvements, shall be invested by the Commission to
25 the full extent practicable pending disbursement for the purposes intended.
26 Notwithstanding any other provision of law, such investments shall be in
27 accordance with the terms of the resolution or trust indenture authorizing or
28 securing the series of bonds to which said designated revenues or bond
29 proceeds appertain, to the extent the terms of such resolution or trust
30 indenture are applicable.

31
32 SECTION 12. REFUNDING BONDS.

33 (a) The Commission may issue bonds for the purpose of refunding bonds
34 previously issued pursuant to this Act; provided, however, that the total
35 amount of bonds outstanding after the refunding is completed does not exceed
36 the total amount authorized by this Act.

1 (b) Such refunding bonds shall be special obligations of the State of
2 Arkansas, secured as set forth herein, and shall be secured and sold in
3 accordance with the provisions of this Act.

4
5 SECTION 13. TAX EXEMPTION. All bonds issued under this Act, and
6 interest thereon, shall be exempt from all taxes of the State of Arkansas,
7 including income, inheritance, and property taxes. The bonds shall be
8 eligible to secure deposits of all public funds, and shall be legal for
9 investment of municipal, county, bank, fiduciary, insurance company and trust
10 funds.

11
12 SECTION 14. POWERS OF COMMISSION. All powers granted to the Commission
13 pursuant to this Act shall be deemed in addition to such powers as already
14 exist pursuant to Amendment 42 to the Arkansas Constitution and the laws of
15 the State of Arkansas. No member of the Commission shall be liable personally
16 for any reason arising from the issuance of bonds pursuant to this Act unless
17 such person shall have acted with corrupt intent.

18
19 SECTION 15. All provisions of this act of a general and permanent
20 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
21 Code Revision Commission shall incorporate the same in the Code.

22
23 SECTION 16. If any provision of this act or the application thereof to
24 any person or circumstance is held invalid, such invalidity shall not affect
25 other provisions or applications of the act which can be given effect without
26 the invalid provision or application, and to this end the provisions of this
27 act are declared to be severable.

28
29 SECTION 17. All laws and parts of laws in conflict with this act are
30 hereby repealed.

31
32 SECTION 18. EMERGENCY CLAUSE. It is hereby found and determined by the
33 Eighty-second General Assembly that there is an immediate need for the
34 construction, reconstruction and renovation of highways and roads comprising
35 the U.S. Interstate system within the State of Arkansas and that such a
36 program cannot be accomplished without the issuance of bonds secured by

1 federal highway assistance payments to finance the program. Therefore, an
2 emergency is declared to exist and this act being immediately necessary for
3 the preservation of the public peace, health and safety shall become effective
4 on the date of its approval by the Governor. If the bill is neither approved
5 nor vetoed by the Governor, it shall become effective on the expiration of the
6 period of time during which the Governor may veto the bill. If the bill is
7 vetoed by the Governor and the veto is overridden, it shall become effective
8 on the date the last house overrides the veto.

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