

1 State of Arkansas
2 91st General Assembly
3 Regular Session, 2017
4

As Engrossed: S3/20/17

A Bill

SENATE BILL 644

5 By: Senator D. Wallace
6 By: Representative Boyd
7

For An Act To Be Entitled

9 AN ACT TO TRANSFER THE ARKANSAS STUDENT LOAN
10 AUTHORITY TO THE ARKANSAS DEVELOPMENT FINANCE
11 AUTHORITY; TO AMEND THE POWERS AND DUTIES OF THE
12 ARKANSAS DEVELOPMENT FINANCE AUTHORITY; TO DECLARE AN
13 EMERGENCY; AND FOR OTHER PURPOSES.
14
15

Subtitle

16 TO TRANSFER THE ARKANSAS STUDENT LOAN
17 AUTHORITY TO THE ARKANSAS DEVELOPMENT
18 FINANCE AUTHORITY; TO AMEND THE POWERS
19 AND DUTIES OF THE ARKANSAS DEVELOPMENT
20 FINANCE AUTHORITY; AND TO DECLARE AN
21 EMERGENCY.
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25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
26

27 *SECTION 1. DO NOT CODIFY. Transfer of the Arkansas Student Loan*
28 *Authority to the Arkansas Development Finance Authority.*

29 *(a)(1) The Arkansas Student Loan Authority is transferred to the*
30 *Arkansas Development Finance Authority by a type 2 transfer under § 25-2-105.*

31 *(2) For the purposes of this act, the Arkansas Development*
32 *Finance Authority shall be considered a principal department established by*
33 *Acts 1971, No. 38.*

34 *(b) All authority, powers, duties, functions, records, personnel,*
35 *property, unexpended balances of appropriations, allocations, and other*
36 *funds, including the functions of budgeting or purchasing of the Arkansas*



1 Student Loan Authority are transferred to the Arkansas Development Finance
2 Authority, except as specified by this act.

3 (c) All powers, duties, and functions, including rulemaking,
4 regulation, licensing, promulgation of rules, rates, regulations, and
5 standards, and the rendering of findings, orders, and adjudications of the
6 Arkansas Student Loan Authority are transferred to the President of the
7 Arkansas Development Finance Authority.

8 (d) The terms of the members of the Arkansas Student Loan Authority
9 board of directors shall expire on the effective date of this act which shall
10 be on and after July 1, 2017.

11
12 SECTION 2. Arkansas Code Title 6, Chapter 81, Subchapter 1, is
13 repealed.

14 ~~6-81-101. Definitions.~~

15 ~~As used in this subchapter:~~

16 ~~(1)(A) "Education loan" means a loan made to a student or the~~
17 ~~parent, legal guardian, or sponsor of the student or to an eligible~~
18 ~~institution for the purpose of financing a student's attendance at the~~
19 ~~eligible institution.~~

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

23 ~~(2) "Eligible institution" means any public or private~~
24 ~~postsecondary educational institution whose students are eligible for~~
25 ~~guaranteed education loans, an institution of higher learning, or a~~
26 ~~vocational school, as defined by regulation of the Arkansas Student Loan~~
27 ~~Authority;~~

28 ~~(3) "Guaranteed educational loan" means a loan made in~~
29 ~~accordance with Title IV, Part B, of the Higher Education Act of 1965, 20~~
30 ~~U.S.C. § 1071 et seq., or pursuant to an alternative educational loan program~~
31 ~~undertaken by the authority and consistent with the provisions of this~~
32 ~~subchapter, to a qualified borrower for payment of educational expenses~~
33 ~~incurred by a student while attending an eligible institution, the payment of~~
34 ~~principal of and interest on which is insured by the United States Secretary~~
35 ~~of Education under the Higher Education Act of 1965, by the Student Loan~~
36 ~~Guarantee Foundation of Arkansas, or by other guarantors as the authority may~~

1 ~~approve;~~

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

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

7 ~~(A) Qualifies for a guaranteed educational loan; and~~

8 ~~(B) Is a resident of the State of Arkansas or has been~~
9 ~~accepted for enrollment at or is attending an eligible institution within the~~
10 ~~State of Arkansas or is borrowing from a lender doing business within the~~
11 ~~State of Arkansas, including the authority; and~~

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

15 ~~(B) Student includes dependent and independent~~
16 ~~undergraduate, graduate, and professional students.~~

17
18 ~~6-81-102. Arkansas Student Loan Authority — Powers and duties.~~

19 ~~(a) There is established the Arkansas Student Loan Authority.~~

20 ~~(b) The authority shall exercise the powers and duties provided under~~
21 ~~this section.~~

22 ~~(c) The authority shall be a public body politic and corporate, with~~
23 ~~corporate succession, and shall be the instrumentality of the state charged~~
24 ~~with a portion of the responsibility of the state to provide educational~~
25 ~~opportunities in keeping with all applicable state and federal laws.~~

26 ~~(d)(1) The authority shall be composed of a seven-member board of~~
27 ~~directors to be appointed by the Governor.~~

28 ~~(2) At least one (1) member of the authority shall be a~~
29 ~~representative of a bank or other private lending institution, and at least~~
30 ~~one (1) member shall be a financial aid officer from an eligible institution.~~
31 ~~At least one (1) member of the authority shall be a female, and at least one~~
32 ~~(1) member shall be a member of a racial minority.~~

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

35 ~~(f) All vacancies in membership on the authority occurring during a~~
36 ~~term shall be filled by appointment of the Governor for the unexpired portion~~

1 ~~of the term.~~

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

5 ~~(h) The members of the board of directors of the authority may receive~~
6 ~~a stipend and expense reimbursement in accordance with § 25-16-901 et seq.~~

7 ~~(i) The authority shall select from its membership a chair and~~
8 ~~secretary.~~

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

12 ~~(k) The authority may adopt such rules to be followed by the authority~~
13 ~~in conducting its business as necessary to carry out the purposes of this~~
14 ~~subchapter, including rules governing:~~

15 ~~- (1) Compliance statutes or regulations governing the guaranty,~~
16 ~~insurance, purchase, or other dealing in guaranteed educational loans or~~
17 ~~education loans by corporations or federal agencies; and~~

18 ~~(2) Standards of eligibility for educational institutions,~~
19 ~~students, and lenders.~~

20 ~~(l) Except as otherwise limited by this subchapter, the authority has~~
21 ~~the power to:~~

22 ~~(1) Sue;~~

23 ~~(2) Be sued;~~

24 ~~(3) Seal and alter the seal;~~

25 ~~(4) Make and alter bylaws for organization and internal~~
26 ~~management of the authority;~~

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

28 ~~(6) Appoint officers, agents, and employees;~~

29 ~~(7) Prescribe duties, qualifications, and compensation for~~
30 ~~officers, agents, and employees;~~

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

34 ~~(9)(A) Issue bonds to provide financing for:~~

35 ~~(i) A specific activity or project; or~~

36 ~~(ii) Activities or projects secured by and payable~~

1 ~~solely from the bonds, loan payments, lease payments, or other obligations~~
2 ~~issued by or payable to the authority and the security and sources of~~
3 ~~payments.~~

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

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

11 ~~(A) In any amount;~~

12 ~~(B) At any price; and~~

13 ~~(C) Upon any terms and conditions the authority determines~~
14 ~~necessary;~~

15 ~~(11) Sell guaranteed educational loans or education loans held~~
16 ~~by the authority to governmental or private financial institutions;~~

17 ~~(12) Borrow from governmental or private financial institutions~~
18 ~~against the security of the guaranteed educational loans or education loans:~~

19 ~~(A) In any amount;~~

20 ~~(B) At any price; and~~

21 ~~(C) Upon any terms and conditions the authority determines~~
22 ~~necessary;~~

23 ~~(13) Consent to the modification with respect to security, rate~~
24 ~~of interest, time of payment of interest or principal, or any other terms of~~
25 ~~an obligation, bond, note, contract, or agreement between the authority and~~
26 ~~the recipient or maker of the loan, obligation, bond, note holder, agency, or~~
27 ~~institution guaranteeing the repayment, purchasing, or selling of a~~
28 ~~guaranteed educational loan, when the authority determines it is necessary,~~
29 ~~subject to a contract with the holders of the bond holders, note holders, or~~
30 ~~contractees;~~

31 ~~(14) Collect fees and charges in connection with loans,~~
32 ~~commitments, and servicing, including without limitation the reimbursement of~~
33 ~~the cost of financing, as determined reasonable and approved by the~~
34 ~~authority;~~

35 ~~(15) Service student loan programs administered by the authority~~
36 ~~or in which the authority participates or make and execute contracts with an~~

1 ~~agency, financial institution, or corporation organized under the laws of any~~
2 ~~state, where the agency, financial institution, or corporation shall service~~
3 ~~student loan programs administered by the authority or in which the authority~~
4 ~~participates;~~

5 ~~(16) Enter into contracts with schools, lenders, individuals,~~
6 ~~corporations, other agencies of the state, other states, the United States~~
7 ~~Department of Education, and other agencies of the federal government to~~
8 ~~service education loans or guaranteed educational loans, regardless of where~~
9 ~~the loans originated;~~

10 ~~(17) Accept gifts, grants, loans, and other aid from the federal~~
11 ~~government, the state, a state agency, political subdivisions of the state, a~~
12 ~~person, a corporation, a foundation, or a legal entity and comply with all~~
13 ~~conditions attached to the gift, grant, loan, or other aid consistent with~~
14 ~~this subchapter;~~

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

17 ~~(19) Invest moneys of the authority, including proceeds from the~~
18 ~~sale of bonds, as agreed upon with bondholders, stated in the authorizing~~
19 ~~resolutions providing for the issuance of bonds and determined by the~~
20 ~~directors;~~

21 ~~(20) Enter into contract with and provide technical assistance~~
22 ~~and advice to the state, political subdivisions of the state, and local~~
23 ~~governing authorities;~~

24 ~~(21) Conduct studies and analyses of the student loan funding~~
25 ~~needs within the state and options for meeting student loan funding needs;~~

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

27 ~~(23) Lease, acquire, construct, sell, and deal in contracts~~
28 ~~concerning facilities;~~

29 ~~(24) Participate in federal and other governmental programs~~
30 ~~established for the purpose of the promotion and development of higher~~
31 ~~education, student loans, and related matters;~~

32 ~~(25)(A) Create one (1) or more nonprofit special purpose~~
33 ~~corporations for accomplishing the purposes under this subchapter,~~

34 ~~(B) Directors and officers of the authority may serve as~~
35 ~~directors of nonprofit corporations established under this subdivision~~

36 ~~(1)(25).~~

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

3 ~~(D) The authority may contract with a nonprofit~~
4 ~~corporation;~~

5 ~~(26) Enter into contracts to guaranty education loans, establish~~
6 ~~reserve accounts related to guaranty agreements, and adopt rules and criteria~~
7 ~~for guaranties;~~

8 ~~(27) Enter into interest rate exchange agreements or similar~~
9 ~~agreements or contracts; and~~

10 ~~(28) Perform the functions necessary to fulfill the purposes of~~
11 ~~this subchapter.~~

12
13 ~~6-81-103. [Repealed.]~~

14
15 ~~6-81-104. Rules.~~

16 ~~The Arkansas Student Loan Authority may adopt rules not inconsistent~~
17 ~~with this subchapter as necessary to carry out the purposes of this~~
18 ~~subchapter.~~

19
20 ~~6-81-105. [Repealed.]~~

21
22 ~~6-81-106. Financing authority.~~

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

28
29 ~~6-81-107. Bonds, notes, etc.—Consent of State Board of Finance.~~
30 ~~Before the issuance of any obligation or the advertisement of revenue~~
31 ~~bonds for public or private sale as provided in § 6-81-112, the obligation~~
32 ~~shall be authorized by resolution of the Arkansas Student Loan Authority, and~~
33 ~~the State Board of Finance shall first give its consent by resolution adopted~~
34 ~~at any regular or special meeting of the board to the issuance of any~~
35 ~~obligation by the authority under the authority provided herein.~~

36

1 ~~6-81-108. Bonds, notes, etc.—Governor's consent.~~

2 ~~The powers of the Arkansas Student Loan Authority created by this~~
3 ~~subchapter are limited in that no bonds that are to be issued pursuant to~~
4 ~~this subchapter shall be sold until the bond issue has the written approval~~
5 ~~of the Governor after he or she has received the approval of the State Board~~
6 ~~of Finance.~~

7
8 ~~6-81-109. Bonds, notes, etc.—Authorizing resolution—Terms and~~
9 ~~conditions.~~

10 ~~(a)(1) The obligations issued under this subchapter shall be~~
11 ~~authorized by resolution of the Arkansas Student Loan Authority.~~

12 ~~(2) The obligations may be issued as registered bonds or coupon~~
13 ~~bonds payable to bearer and, if coupon bonds, may be registerable as to~~
14 ~~principal only or as to principal and interest and may be exchangeable for~~
15 ~~obligations of another denomination or in another form.~~

16 ~~(3) The obligations may:~~

17 ~~(A) Be in such form and denomination;~~

18 ~~(B) Have such date or dates;~~

19 ~~(C) Be stated to mature at such time or times;~~

20 ~~(D) Bear interest payable at such times and at such rate~~
21 ~~or rates, including variable rates;~~

22 ~~(E) Be zero coupon or capital appreciation bonds;~~

23 ~~(F) Be payable at such places within or without the State~~
24 ~~of Arkansas;~~

25 ~~(G) Be subject to such terms of redemption in advance of~~
26 ~~maturity at such prices; and~~

27 ~~(H) Contain such terms and conditions, all as the~~
28 ~~authority shall determine.~~

29 ~~(b) The obligations shall be denominated in the currency of the United~~
30 ~~States unless the authority determines that denominating the obligations in~~
31 ~~the currency of a foreign country is in the best interest of the authority.~~

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

35 ~~(d) The authorizing resolution may contain such other terms,~~
36 ~~covenants, and conditions consistent with this subchapter that the authority~~

1 ~~deems reasonable and desirable, including without limitation those pertaining~~
2 ~~to the:~~

- 3 ~~(1) Maintenance of various funds and reserves;~~
4 ~~(2) Nature and extent of the security for payment of the~~
5 ~~obligations;~~
6 ~~(3) Issuance of additional obligations and nature of the lien~~
7 ~~and pledge, parity or priority, in that event;~~
8 ~~(4) Custody and application of the proceeds of the obligations;~~
9 ~~(5) Collection and disposition of revenues;~~
10 ~~(6) Investing for authorized purposes; and~~
11 ~~(7) Rights and duties of the authority and the holders and~~
12 ~~registered owners of the obligations.~~

13
14 ~~6-81-110. Bonds, notes, etc.—Trust indentures.~~

15 ~~The authorizing resolution may provide for the execution of a trust~~
16 ~~indenture between the Arkansas Student Loan Authority and any financial~~
17 ~~institution within or without the State of Arkansas containing any terms,~~
18 ~~covenants, and conditions that are deemed desirable by the authority,~~
19 ~~including without limitation those pertaining to the:~~

- 20 ~~(1) Maintenance of various funds and reserves;~~
21 ~~(2) Nature and extent of the security for the payment of~~
22 ~~obligations;~~
23 ~~(3) Issuance of additional obligations and the nature of the~~
24 ~~lien and pledge, parity or priority, in that event;~~
25 ~~(4) Custody and application of the proceeds of the obligations;~~
26 ~~(5) Collection and disposition of revenues;~~
27 ~~(6) Investing and reinvesting of any funds when the funds are~~
28 ~~not needed for authorized purposes; and~~
29 ~~(7) Rights, obligations, and duties of the authority, the~~
30 ~~trustee, and the holders and registered owners of the obligations.~~

31
32 ~~6-81-111. Bonds, notes, etc.—Execution and seal.~~

33 ~~(a) Obligations shall be executed by the manual or facsimile signature~~
34 ~~of the Chair of the Board of Directors of the Arkansas Student Loan Authority~~
35 ~~and the manual or facsimile signature of the Director of the Arkansas Student~~
36 ~~Loan Authority or any other director or officer authorized to do so by~~

1 ~~resolution of the board.~~

2 ~~(b) In case any of the officers whose signatures appear on the~~
3 ~~obligations or coupons shall cease to be such officers before the delivery of~~
4 ~~such obligations or coupons, their signatures nevertheless shall be valid and~~
5 ~~sufficient for all purposes.~~

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

9
10 ~~6-81-112. Bonds, notes, etc.—Sale.~~

11 ~~(a) Obligations may be sold at a public or private sale as the~~
12 ~~Arkansas Student Loan Authority determines reasonable and expedient for~~
13 ~~effectuating the purposes of the authority.~~

14 ~~(b) The obligations may be sold at a price the authority may accept,~~
15 ~~including sale at a discount.~~

16
17 ~~6-81-113. Bonds, notes, etc.—Liability.~~

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

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

20 ~~(2) The obligations shall be obligations only of the Arkansas~~
21 ~~Student Loan Authority;~~

22 ~~(3) In no event shall they constitute an indebtedness of the~~
23 ~~State of Arkansas or an indebtedness for which the faith and credit of the~~
24 ~~State of Arkansas or any of its revenues are pledged; and~~

25 ~~(4) They are not secured by a lien on or a security interest in~~
26 ~~any property of the State of Arkansas.~~

27 ~~(b) A director or officer of the authority shall not be personally~~
28 ~~liable on the obligations or for any damages sustained by anyone in~~
29 ~~connection with any contracts entered into in carrying out the purpose and~~
30 ~~intent of this subchapter unless he or she has acted with a corrupt intent.~~

31
32 ~~6-81-114. Bonds, notes, etc.—Pledge of revenues.~~

33 ~~(a) The obligations of the Arkansas Student Loan Authority shall be~~
34 ~~payable from and secured by a pledge of revenues derived from or by reason of~~
35 ~~ownership of guaranteed educational loan notes, education loan notes, and~~
36 ~~investment income after deduction of expenses of operating the authority's~~

1 ~~program.~~

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

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

9
10 ~~6-81-115. Bonds, notes, etc.—Contract between Arkansas Student Loan~~
11 ~~Authority and obligation holder.~~

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

16 ~~(b) The contract and all covenants, agreements, and duties therein~~
17 ~~shall be promptly performed in strict compliance with the terms and~~
18 ~~provisions of such contract, and the covenants, agreements, and duties of the~~
19 ~~authority may be enforced by mandamus or other appropriate proceedings at law~~
20 ~~or in equity.~~

21
22 ~~6-81-116. Bonds, notes, etc.—Tax exemption.~~

23 ~~(a) Obligations issued under the provisions of this subchapter and the~~
24 ~~interest thereon, unless specifically declared to be taxable in the~~
25 ~~authorizing resolution, shall be exempt from all state, county, and municipal~~
26 ~~taxes.~~

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

28
29 ~~6-81-117. [Repealed.]~~

30
31 ~~6-81-118. Cash funds—Sufficient redemption fund required.~~

32 ~~(a)(1) All moneys received by the Arkansas Student Loan Authority or~~
33 ~~its trustee as repayment of principal or interest on an education loan or as~~
34 ~~repayment of principal or interest on a guaranteed educational loan,~~
35 ~~including payments by the United States as subsidies, in payment of the~~
36 ~~guarantee on guaranteed educational loans made or purchased under the~~

1 ~~authority of this subchapter or as income on any other investment authorized~~
2 ~~by this subchapter are hereby specifically declared to be cash funds.~~

3 ~~(2) The moneys shall not be deposited into the State Treasury~~
4 ~~but shall be deposited as required by the agreement or trust indenture for~~
5 ~~each different series of obligations of the authority.~~

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

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

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

14 ~~(1) Making loans;~~

15 ~~(2) Purchasing loans and security interests in loan~~
16 ~~participations as authorized;~~

17 ~~(3) Paying incidental expenses in connection with loans;~~

18 ~~(4) Paying expenses of authorizing and issuing bonds;~~

19 ~~(5) Paying interest on bonds until revenues are available in~~
20 ~~sufficient amounts from the bonds; and~~

21 ~~(6) Funding reserves as necessary.~~

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

24 ~~(e) Funds of the authority shall not inure to the benefit of or be~~
25 ~~distributed to employees, officers, or directors of the authority except as~~
26 ~~authorized as reasonable compensation.~~

27 ~~(f) The revenues not deposited into the State Treasury shall be~~
28 ~~deposited into an account or accounts specified by resolution of the~~
29 ~~authority and used for carrying out the provisions of any resolution,~~
30 ~~indenture securing bonds of the authority, or other agreement of the~~
31 ~~authority under this subchapter.~~

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

34
35 ~~6-81-119. Refunding obligations.~~

36 ~~(a) Obligations may be issued for refunding, either at maturity or in~~

1 ~~advance of maturity, any obligations issued under this subchapter.~~

2 ~~(b)(1) The refunding obligations may be sold or delivered in exchange~~
3 ~~for the obligations being refunded.~~

4 ~~(2) If sold, the proceeds may be applied to the payment of the~~
5 ~~obligations being refunded or deposited into trust and there be maintained in~~
6 ~~cash or investments for the retirement of the obligations being refunded, as~~
7 ~~specified by the Arkansas Student Loan Authority and the authorizing~~
8 ~~resolution or trust indenture securing the refunding obligations.~~

9 ~~(3) The authorizing resolution or trust indenture securing the~~
10 ~~refunding obligations may provide that the refunding obligations shall have~~
11 ~~the same security for payment as provided for the obligations being refunded.~~

12 ~~(c) Refunding obligations shall be sold and secured in the manner as~~
13 ~~provided for the sale and security of the obligations under this subchapter.~~

14
15 ~~6-81-120. Obligations designated as legal and authorized investments.~~

16 ~~(a) All the obligations issued under this subchapter are legal and~~
17 ~~authorized investments for:~~

18 ~~(1) Banks;~~

19 ~~(2) Savings banks;~~

20 ~~(3) Trust companies;~~

21 ~~(4) Savings and loan associations;~~

22 ~~(5) Insurance companies;~~

23 ~~(6) Fiduciaries;~~

24 ~~(7) Trustees and guardians;~~

25 ~~(8) Any municipality or any board, commission, or other~~
26 ~~authority established by ordinance of any municipality or the boards of~~
27 ~~trustees of any municipality;~~

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

29 ~~(10) The policeman's pension and relief fund of any~~
30 ~~municipality; or~~

31 ~~(11) The board of trustees for any retirement system created by~~
32 ~~the General Assembly.~~

33 ~~(b) Obligations issued under this section shall be eligible to secure~~
34 ~~the deposit of public funds.~~

35
36 ~~6-81-121. [Repealed.]~~

1
2 ~~6-81-122. Bonds, notes, etc.—Investment of excess funds,~~
3 ~~Moneys in funds created by resolution or trust indenture of the~~
4 ~~Arkansas Student Loan Authority in excess of the amount then necessary for~~
5 ~~making education loans or guaranteed educational loans and purchasing~~
6 ~~education loan notes or guaranteed educational loan notes under this~~
7 ~~subchapter or in excess of the amount necessary to meet current debt service~~
8 ~~may be invested by the authority or on its behalf in:~~

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

11 ~~(2) Direct obligations of or participation certificates~~
12 ~~guaranteed by the Federal Financing Bank, Federal Intermediate Credit Bank,~~
13 ~~federal land banks, Federal Home Loan Bank, Government National Mortgage~~
14 ~~Association, or banks for cooperatives;~~

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

19 ~~(4) Certificates of deposit of any bank, savings and loan~~
20 ~~association, or trust company, which deposit is fully insured by the Federal~~
21 ~~Deposit Insurance Corporation;~~

22 ~~(5) Repurchase agreements sold by any bank, savings and loan~~
23 ~~association, or trust company, provided that the repurchase agreement is~~
24 ~~fully secured by a pledge of securities of any kind specified in subdivision~~
25 ~~(1) or subdivision (2) of this section;~~

26 ~~— (6) General obligations of the state or its political~~
27 ~~subdivisions;~~

28 ~~(7) Obligations, including investment agreements, of any bank,~~
29 ~~savings and loan association, trust company, or other financial institution,~~
30 ~~or a holding company thereof, whose credit is rated in either of the top two~~
31 ~~(2) rating categories by a nationally recognized credit rating service or~~
32 ~~corporation;~~

33 ~~(8) Money market funds that invest only in obligations described~~
34 ~~in subdivision (1) or subdivision (2) of this section, or which are rated in~~
35 ~~the highest two (2) categories by one (1) or more nationally recognized~~
36 ~~rating agencies; and~~

1 ~~(9) Any other investment permitted by the indenture under which~~
2 ~~such funds are held, provided that such investment is rated as investment~~
3 ~~grade by one (1) or more nationally recognized rating agencies.~~

4
5 ~~6-81-123. [Repealed.]~~

6
7 ~~6-81-124. Student loan funds.~~

8 ~~(a) All proceeds derived from a particular obligation under the~~
9 ~~provisions of this subchapter shall be deposited into a fund to be known as~~
10 ~~the proceeds fund which shall be maintained in such bank or banks as shall be~~
11 ~~determined by the Arkansas Student Loan Authority, and funds deposited into~~
12 ~~the fund shall be expended only on approval of the authority.~~

13 ~~(b) A separate and distinct proceeds fund shall be maintained for each~~
14 ~~different obligation issued by the authority.~~

15 ~~(c) Funds credited to a proceeds fund may be used for any or all of~~
16 ~~the following purposes:~~

17 ~~(1) The payment of the necessary expenses, including, without~~
18 ~~limitation, the costs of issuing the authority's obligations, incurred by the~~
19 ~~authority in carrying out its responsibilities under this subchapter;~~

20 ~~(2) The establishment of a debt service reserve account to~~
21 ~~secure the payment of obligations;~~

22 ~~(3) The making of guaranteed educational loans to qualified~~
23 ~~borrowers, so long as the authority does not compete with participating~~
24 ~~private lending institutions in the making of guaranteed educational loans;~~

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

28 ~~(5) The acquisition of an investment contract or contracts or~~
29 ~~any other investments permitted under an indenture of the authority securing~~
30 ~~its obligations. However, the income from the contract, contracts, or~~
31 ~~investments, after payment of the obligations and all expenses associated~~
32 ~~therewith, shall be used by the authority to assist in carrying out its~~
33 ~~purposes under this subchapter; and~~

34 ~~(6) The making of education loans.~~

35
36 ~~6-81-125. Contractual capacity of students—Minority defense.~~

1 ~~(a) For the purpose of this subchapter, a student who is a qualified~~
2 ~~borrower is vested with full capacity to contract and is bound by any~~
3 ~~contract executed by him or her under the provisions of this subchapter.~~

4 ~~(b) The fact that the student was a minor at the time he or she~~
5 ~~executed the note shall not be a defense in any action arising on the note.~~

6
7 ~~6-81-126. Purchase of student loan notes.~~

8 ~~Before purchasing a guaranteed educational loan note or an education~~
9 ~~loan note under this subchapter, the Arkansas Student Loan Authority shall~~
10 ~~reasonably determine that:~~

11 ~~(1) The note represents a loan actually disbursed to a qualified~~
12 ~~borrower;~~

13 ~~(2) Due diligence both in making and collecting the loan has~~
14 ~~been exercised with respect to that loan;~~

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

17 ~~(4) Other defects do not exist affecting the ability of the loan~~
18 ~~to be guaranteed.~~

19
20 ~~6-81-127 — 6-81-129. [Repealed.]~~

21
22 ~~6-81-130. Annual audit.~~

23 ~~The proceeds fund and the accounts of the Arkansas Student Loan~~
24 ~~Authority shall be audited annually by the Division of Legislative Audit of~~
25 ~~the Legislative Joint Auditing Committee.~~

26
27 ~~6-81-131. [Repealed.]~~

28
29 ~~6-81-132. Interest rate exchange agreement.~~

30 ~~(a) The Arkansas Student Loan Authority may enter into an interest~~
31 ~~rate exchange agreement or similar agreement or contract with any person on a~~
32 ~~competitive or negotiated basis under terms and conditions determined by the~~
33 ~~authority, including terms regarding:~~

34 ~~(1) Default;~~

35 ~~(2) Early termination; and~~

36 ~~(3) Indemnification for the loss of benefits.~~

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

3 ~~(1) Procuring insurance, letters of credit, or other credit~~
4 ~~enhancement;~~

5 ~~(2) Providing security for the payment or performance of~~
6 ~~obligations; and~~

7 ~~(3) Modifying, amending, or replacing an interest rate exchange~~
8 ~~agreement.~~

9 ~~(c) The authority shall not enter into an interest rate exchange~~
10 ~~agreement unless:~~

11 ~~(1) Either:~~

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

16 ~~(B) The payment obligations of the counterparty are~~
17 ~~unconditionally guaranteed by an entity with the credit ratings required by~~
18 ~~this subdivision (c)(1);~~

19 ~~(2) The written agreement or contract provides that if the~~
20 ~~rating of the counterparty or of the guarantor of the counterparty falls~~
21 ~~below the rating level stated in subdivision (c)(1) of this section during~~
22 ~~the term of the agreement, the obligation of the counterparty or guarantor~~
23 ~~shall pay the aggregate security value of the contract to the authority that~~
24 ~~shall be collateralized by the counterparty's or guarantor's investment~~
25 ~~obligations to the extent required by the authority; and~~

26 ~~(3) The authority files in its records a finding by independent~~
27 ~~financial advisors that the terms and conditions of the interest rate~~
28 ~~exchange agreement or similar agreement or contract reflect a fair market~~
29 ~~value regardless of whether the agreement was solicited on a competitive or~~
30 ~~negotiated basis.~~

31 ~~(d) Before approving a contract for an interest rate exchange~~
32 ~~agreement or similar agreement or contract, the authority shall adopt~~
33 ~~guidelines for the use of an interest rate exchange agreement or a similar~~
34 ~~agreement or contract that include without limitation the:~~

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

36 ~~(2) Standards and procedures for counterparty selection;~~

1 ~~(3) Aspects of risk exposure associated with agreements;~~
2 ~~(4) Types of agreements that may be entered into;~~
3 ~~(5) Collateralization requirements imposed upon a counterparty~~
4 ~~or guarantor in the event of a rating agency downgrade; and~~

5 ~~(6) Long term implications associated with entering into~~
6 ~~agreements, including:~~

7 ~~(A) Costs of borrowing;~~

8 ~~(B) Historical trends;~~

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

11 ~~(D) Other considerations.~~

12 ~~(e) The authority may amend guidelines for an interest rate exchange~~
13 ~~agreement or similar agreement or contract and shall make the amended~~
14 ~~guidelines available for public inspection.~~

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

19
20 SECTION 3. Arkansas Code § 15-5-207(a), concerning the rights, powers,
21 privileges, and duties of the Arkansas Development Finance Authority, is
22 amended to read as follows:

23 (a) The Arkansas Development Finance Authority shall have such rights,
24 powers, and privileges and shall be subject to such duties as provided by
25 this ~~subchapter and §§ 15-5-101—15-5-106 and 15-5-301—15-5-316~~ chapter.
26

27 SECTION 4. The introductory language of Arkansas Code § 15-5-207(b),
28 concerning the rights, powers, privileges, and duties of the Arkansas
29 Development Finance Authority, is amended to read as follows:

30 (b) Except as otherwise limited by this ~~subchapter and §§ 15-5-101—~~
31 ~~15-5-106 and 15-5-301—15-5-316~~ chapter, the authority shall have the
32 following powers:
33

34 SECTION 5. Arkansas Code § 15-5-207(b)(5), concerning the rights,
35 powers, privileges, and duties of the Arkansas Development Finance Authority,
36 is amended to read as follows:

1 (5) To make and issue such rules ~~and regulations~~ as may be
2 necessary or convenient in order to carry out the purposes of this ~~subchapter~~
3 ~~and §§ 15-5-101—15-5-106 and 15-5-301—15-5-316~~ chapter;

4
5 SECTION 6. Arkansas Code § 15-5-207(b)(15) and (16), concerning the
6 rights, powers, privileges, and duties of the Arkansas Development Finance
7 Authority, are amended to read as follows:

8 (15) To make and execute contracts for the servicing of
9 mortgages acquired by the authority pursuant to this ~~subchapter and §§ 15-5-~~
10 ~~101—15-5-106 and 15-5-301—15-5-316~~ chapter and to pay the reasonable
11 value of services rendered to the authority pursuant to those contracts;

12 (16) To accept gifts, grants, loans, and other aid from the
13 federal government, the state or any state agency, or any political
14 subdivision of the state, or any person or corporation, foundation, or legal
15 entity and to agree to and comply with any conditions attached to federal and
16 state financial assistance not inconsistent with the provisions of this
17 ~~subchapter and §§ 15-5-101—15-5-106 and 15-5-301—15-5-316~~ chapter;

18
19 SECTION 7. The introductory language of Arkansas Code § 15-5-
20 207(b)(20)(C), concerning the rights, powers, privileges, and duties of the
21 Arkansas Development Finance Authority, is amended to read as follows:

22 (C) ~~The term As used in this chapter, “permanent or~~
23 ~~perpetual relationship” is defined for purposes of this subchapter and §§ 15-~~
24 ~~5-101—15-5-106 and 15-5-301—15-5-316 as means~~ any agreement exhibiting an
25 effective duration greater than one (1) year, twelve (12) calendar months, or
26 an agreement exhibiting no fixed duration but when the apparent intent of
27 such an agreement is to establish a permanent or perpetual relationship. Such
28 intergovernmental agreements shall be authorized by ordinance or resolution
29 of the contracting party. Any intergovernmental agreement enacted may provide
30 for the contracting party to:

31
32 SECTION 8. Arkansas Code § 15-5-207(b)(26)-(28), concerning the
33 rights, powers, privileges, and duties of the Arkansas Development Finance
34 Authority, are amended to read as follows:

35 (26) To do any and all things necessary or convenient to carry
36 out its purposes and exercise the powers given and granted in this ~~subchapter~~

1 ~~and §§ 15-5-101—15-5-106 and 15-5-301—15-5-316~~ chapter;

2 (27)(A) *To assist minority businesses in obtaining loans or*
3 *other means of financial assistance.*

4 (B) *The terms and conditions of such loans or financial*
5 *assistance, including the charges for interest and other services, will be*
6 *consistent with the provisions of this ~~subchapter and §§ 15-5-101—15-5-106~~*
7 *and ~~15-5-301—15-5-316~~ chapter.*

8 (C) *In order to comply with this requirement, efforts must*
9 *be made to solicit for review and analysis proposed minority business*
10 *ventures.*

11 (D) *Be it further provided that basic loan underwriting*
12 *standards will not be waived to inconsistently favor minority persons or*
13 *businesses from the intent of the authority's lending practices;*

14 (28) *To create nonprofit corporations that shall have such*
15 *purposes and powers as the board shall determine, to assist in carrying out*
16 *the purposes of this ~~subchapter and §§ 15-5-101—15-5-106 and 15-5-301—15-~~*
17 *~~5-316~~ chapter, and to provide technical, administrative, and financial*
18 *assistance to those nonprofit corporations;*

19
20 *SECTION 9. Arkansas Code § 15-5-207(b), concerning the rights,*
21 *powers, privileges, and duties of the Arkansas Development Finance Authority,*
22 *is amended to add additional subdivisions to read as follows:*

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

26 (A) In any amount;

27 (B) At any price; and

28 (C) Upon any terms and conditions the authority determines
29 necessary;

30 (35) Sell guaranteed educational loans or educational loans held
31 by the authority to governmental or private financial institutions;

32 (36) Borrow from governmental or private financial institutions
33 against the security of the guaranteed educational loans or education loans:

34 (A) In any amount;

35 (B) At any price; and

36 (C) Upon any terms and conditions the authority determines

1 necessary;

2 (37) Consent to the modification with respect to security, rate
3 of interest, time of payment of interest or principal, or any other terms of
4 an obligation, bond, note, contract, or agreement between the authority and
5 the recipient or maker of the loan, obligation, bond, note holder, agency, or
6 institution guaranteeing the repayment, purchasing, or selling of a
7 guaranteed educational loan or education loan, when the authority determines
8 it is necessary, subject to a contract with the holders of the bond holders,
9 note holders, or contractees;

10 (38) Collect fees and charges in connection with loans,
11 commitments, and servicing, including without limitation the reimbursement of
12 the cost of financing, as determined reasonable and approved by the
13 authority;

14 (39) Service student loan programs administered by the authority
15 or in which the authority participates or make and execute contracts with an
16 agency, financial institution, or corporation organized under the laws of any
17 state, where the agency, financial institution, or corporation shall service
18 student loan programs administered by the authority or in which the authority
19 participates;

20 (40) Enter into contracts with schools, lenders, individuals,
21 corporations, other agencies of the state, other states, the United States
22 Department of Education, and other agencies of the United States government
23 to service educational loans or guaranteed educational loans, regardless of
24 where the loans originated;

25 (41) Conduct studies and analyses of student loan funding needs
26 within the state and options for meeting student loan funding needs;

27 (42) Participate in nonprofit and private programs and federal
28 and other governmental programs established for the purpose of the promotion
29 and development of higher education, student loans, and related matters;

30 (43) Enter into contracts to guaranty education loans, establish
31 reserve accounts related to guaranty agreements, and adopt rules and criteria
32 for guaranties; and

33 (44) Enter into contracts with schools, lenders, individuals,
34 corporations, other agencies of the state, other states, the United States
35 Department of Education, and other agencies of the United States government
36 for the purpose of the promotion and development of higher education, student

1 loans, and related matters.

2
3 SECTION 10. Arkansas Code § 15-5-301(a), concerning the power of the
4 Arkansas Development Finance Authority to issue bonds, is amended to read as
5 follows:

6 (a)~~(1)~~ The Arkansas Development Finance Authority is authorized and
7 empowered to issue bonds, whether or not the interest on the bonds is subject
8 to federal income taxation, either for a specific activity or for a
9 particular project or on a pooled or consolidated basis for a series of
10 related or unrelated activities or projects in such amounts as shall be
11 determined by the authority for the purpose of enhancing the Public School
12 Fund or financing qualified agricultural business enterprises, capital
13 improvement facilities, educational facilities, healthcare facilities,
14 housing developments, industrial enterprises, exports of goods and short-term
15 advance funding of local government obligations, scientific and technical
16 services businesses, technology-based enterprises, tourism enterprises,
17 nonprofit organizations, energy efficiency projects, or any combination of
18 those facilities or enterprises, or any interest in facilities, including
19 without limitation leasehold interests in and mortgages on those facilities.

20 ~~(2) The proceeds of and earnings from the bond issues, in~~
21 ~~amounts determined by the authority, may be deposited into the State Treasury~~
22 ~~to the credit of the fund.~~

23
24 SECTION 11. Arkansas Code § 15-5-303 is amended to read as follows:

25 15-5-303. Exclusive issuer of revenue bonds for public facilities.

26 It is the intention of the General Assembly that the Arkansas
27 Development Finance Authority shall be the exclusive issuer of revenue bonds
28 for public facilities acquired or constructed for the benefit of state
29 agencies, except ~~the Arkansas Student Loan Authority,~~ the respective boards
30 of trustees of state-supported institutions of higher education, the Career
31 Education and Workforce Development Board, the State Board of Finance, ~~the~~
32 ~~War Memorial Stadium Commission,~~ and the Arkansas Economic Development
33 Council when issuing bonds pursuant to §§ 15-4-604, 15-4-605, and 15-4-608,
34 and the Industrial Development Guaranty Bond Act, § 15-4-701 et seq.

35
36 SECTION 12. Arkansas Code § 15-5-305 is amended to read as follows:

1 15-5-305. Authorized investors.

2 (a) Any municipality or any board, commission, or other authority duly
3 *established by ordinance of any municipality or the boards of trustees,*
4 *respectively, of the firemen's relief and pension ~~fund~~ funds and the*
5 *policemen's pension and relief fund of any such municipality or the board of*
6 *trustees of any retirement system created by the General Assembly, in its*
7 *discretion, may invest any of its funds not immediately needed for its*
8 *purposes in bonds issued under the provisions of this subchapter and §§ 15-5-*
9 *101 – 15-5-106, 15-5-201 – 15-5-211, and 15-5-213, and bonds issued under the*
10 *provisions of this subchapter and §§ 15-5-101 – 15-5-106, 15-5-201 – 15-5-*
11 *211, and 15-5-213 shall be eligible to secure the deposit of public funds.*

12 (b) All the obligations issued under this subchapter are legal and
13 authorized investments for:

14 (1) Banks;

15 (2) Savings banks;

16 (3) Trust companies;

17 (4) Savings and loan associations;

18 (5) Insurance companies;

19 (6) Fiduciaries;

20 (7) Trustees and guardians;

21 (8) Any municipality or any board, commission, or other
22 authority established by ordinance of any municipality or the boards of
23 trustees of any municipality;

24 (9) The fireman's relief and pension funds of any municipality;

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

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

29
30 SECTION 13. Arkansas Code § 15-5-312 is amended to read as follows:

31 15-5-312. Statement on face of bond – Security.

32 (a) It shall be plainly stated on the face of each bond that it has
33 been issued under this subchapter, that the bonds shall be obligations only
34 of the Arkansas Development Finance Authority, and that in no event shall the
35 bonds constitute an indebtedness of the State of Arkansas or an indebtedness
36 for which the faith and credit of the State of Arkansas or any of its

1 revenues are pledged or an indebtedness secured by lien on or a security
2 interest in any property of the state.

3 (b) The payment of the bonds' principal, redemption premium, if any,
4 interest, and trustee's and paying agent's fees may be secured by any
5 combination of:

6 (1) A lien on any security interest in facilities financed by
7 bonds issued under this subchapter;

8 (2) A lien encumbering or pledge of loans made or mortgages
9 purchased by the authority;

10 (3) A pledge of revenues of the authority that are not derived
11 from appropriations;

12 (4) Collateral security received by the authority, including
13 without limitation, the authority's interest in and revenue derived from loan
14 agreements; ~~and~~

15 (5) A pledge of revenues derived from or by reason of ownership
16 of guaranteed educational loan notes, educational loan notes, any loan
17 agreements relating to guaranteed educational loans or educational loans, and
18 the interest and revenue from the loan agreements; and

19 ~~(5)(6)~~ A lien encumbering or pledge of the proceeds of the bonds
20 and any reserves established in connection with the bonds.

21 (c) It shall not be necessary to the perfection of the lien and pledge
22 for such purposes that the trustee in connection with the bond issue or the
23 holders of the bonds take possession of the loans, notes, loan agreements,
24 mortgages, and collateral security.

25
26 SECTION 14. Arkansas Code § 15-5-603(a), concerning aggregate
27 percentages allocated, is amended to read as follows:

28 (a) The aggregate of the state ceiling for the State of Arkansas for
29 each calendar year shall be allocated on a percentage basis as follows:

30 (1) The Arkansas Development Finance Authority is allocated for
31 calendar year 2001 and for each year thereafter the following amounts for the
32 purposes stated:

33 (A) For multifamily residential housing, ten percent (10%)
34 of the aggregate state ceiling;

35 (B) For single family residential housing, seventeen
36 percent (17%) of the aggregate state ceiling; ~~and~~

1 (C) For industrial development, thirty-three percent (33%)
2 of the aggregate state ceiling; and

3 (D) For student loan financing, ten percent (10%) of the
4 aggregate state ceiling.

5 (2) However, the ~~Arkansas Development Finance Authority~~ the
6 authority, by resolution of the Board of Directors of the Arkansas
7 Development Finance Authority, may provide that the total amount of ~~sixty~~
8 ~~percent (60%)~~ seventy percent (70%) of the aggregate state ceiling allocated
9 to the authority for calendar years 2001 and thereafter may be redistributed
10 among the purposes stated in amounts other than those set forth in this
11 subsection, ~~and.~~

12 ~~(3) The Arkansas Student Loan Authority is allocated ten percent~~
13 ~~(10%) of the aggregate state ceiling for calendar year 2001 and for each~~
14 ~~calendar year thereafter for bonds issued to provide student loans.~~

15
16 SECTION 15. Arkansas Code Title 15, Chapter 5, is amended to add an
17 additional subchapter to read as follows:

18 Subchapter 19 – Arkansas Student Loan Financing Act

19
20 15-5-1901. Title.

21 This subchapter shall be known and may be cited as the “Arkansas
22 Student Loan Financing Act”.

23
24 15-5-1902. Creation of the Student Loan Authority Division –
25 Assumption of obligations of Arkansas Student Loan Authority.

26 (a)(1) There is established the Student Loan Authority Division of the
27 Arkansas Development Finance Authority.

28 (2) The Student Loan Authority Division of the Arkansas
29 Development Finance Authority shall be the instrumentality of the state
30 charged with a portion of the responsibility of the state to provide
31 educational opportunities in keeping with all applicable state and federal
32 laws.

33 (b) The authority shall employ professional and clerical assistance,
34 including loan servicing and legal assistance, as it shall deem necessary or
35 appropriate to properly carry out the responsibilities of the division.

36 (c) The authority may adopt such rules to be followed by the division

1 in conducting business as necessary to carry out the purposes of this
2 subchapter, including rules governing:

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

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

8 (d) As the successor to the Arkansas Student Loan Authority, the
9 Student Loan Authority Division of the Arkansas Development Finance Authority
10 assumes all obligations under all contracts and debt obligations of the
11 Arkansas Student Loan Authority that are effective or outstanding as of the
12 effective date of this act.

13
14 15-5-1903. Definitions.

15 As used in this subchapter:

16 (1)(A) "Education loan" means a loan made to a student or the
17 parent, legal guardian, or sponsor of the student or to an eligible
18 institution for the purpose of financing a student's attendance at the
19 eligible institution.

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

23 (2) "Eligible institution" means any public or private
24 postsecondary educational institution whose students are eligible for
25 guaranteed educational loans, an institution of higher learning, or a
26 vocational school as defined by rule of the Arkansas Development Finance
27 Authority as implemented by the Student Loan Authority Division;

28 (3) "Guaranteed educational loan" means a loan made in
29 accordance with Title IV, Part B, of the Higher Education Act of 1965, 20
30 U.S.C. § 1071 et seq., or pursuant to an alternative educational loan program
31 undertaken by the division and consistent this subchapter, to a qualified
32 borrower for payment of educational expenses incurred by a student while
33 attending an eligible institution, the payment of principal of and interest
34 on which is insured by the United States Secretary of Education under the
35 Higher Education Act of 1965, by the Student Loan Guarantee Foundation of
36 Arkansas, its successors or assigns, or by other guarantors as the division

1 may approve;

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

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

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

8 (B) Is a resident of the State of Arkansas or has been
9 accepted for enrollment at or is attending an eligible institution within the
10 State of Arkansas or is borrowing from a lender doing business within the
11 State of Arkansas, including the division; and

12 (6)(A) "Student" means an individual who meets the enrollment
13 and satisfactory progress requirements necessary for making a guaranteed
14 educational loan or an education loan as determined by the division.

15 (B) "Student" includes a dependent and independent
16 undergraduate, graduate, and professional student.

17
18 15-5-1904. Cash funds – Sufficient redemption fund required.

19 (a)(1) All moneys received by the Student Loan Authority Division or
20 its trustee as repayment of principal or interest on an education loan or as
21 repayment of principal or interest on a guaranteed educational loan,
22 including payments by the United States as subsidies, in payment of the
23 guarantee on guaranteed educational loans made or purchased under this
24 subchapter or as income on any other investment authorized by this subchapter
25 are specifically declared to be cash funds.

26 (2) The moneys shall not be deposited into the State Treasury
27 but shall be deposited as required by the agreement or trust indenture for
28 each different series of obligations of the division.

29 (3) A sufficient amount of such money shall always be made
30 available to any redemption fund securing outstanding obligations of the
31 division to ensure their payment and interest thereon as they mature.

32 (b) All revenues received by the division, except revenues derived
33 from a state appropriation, are declared to be restricted cash funds and
34 shall be used as provided in this subchapter.

35 (c) The division may use the proceeds of any bond issues, together
36 with any other available funds, for:

1 (1) Making loans;

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

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

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

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

8 (6) Funding reserves as necessary.

9 (d) Revenues received by the division shall not be deposited into the
10 State Treasury except those revenues received by state appropriation.

11 (e) Funds of the division shall not inure to the benefit of or be
12 distributed to employees, officers, or directors of the division except as
13 authorized as reasonable compensation.

14 (f) The revenues not deposited into the State Treasury shall be
15 deposited into an account or accounts specified by resolution of the division
16 and used for carrying out the provisions of any resolution, indenture
17 securing bonds of the division, or other agreement of the division under this
18 subchapter.

19 (g) The division may establish one (1) or more special funds or
20 accounts to secure bonds issued as necessary under this subchapter.

21
22 15-5-1905. Excess funds – Allowable investments.

23 Moneys in funds created by resolution or trust indenture of the
24 Arkansas Development Finance Authority in excess of the amount then necessary
25 for making educational loans or guaranteed educational loans and purchasing
26 educational loan notes or guaranteed educational loan notes under this
27 subchapter or in excess of the amount necessary to meet current debt service
28 may be invested by the authority or on its behalf in:

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

31 (2) Direct obligations of or participation certificates
32 guaranteed by the Federal Financing Bank, Federal Intermediate Credit Bank,
33 federal land banks, Federal Home Loan Bank, Government National Mortgage
34 Association, or banks for cooperatives;

35 (3) Certificates of deposit of any bank, savings and loan
36 association, or trust company whose deposits are fully secured by a pledge of

1 securities of any kind specified in subdivision (1) or subdivision (2) of
2 this section;

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

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

10 (6) General obligations of the state or its political
11 subdivisions;

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

17 (8) Money market funds that invest only in obligations described
18 in subdivision (1) or subdivision (2) of this section, or which are rated in
19 the highest two (2) categories by one (1) or more nationally recognized
20 rating agencies; and

21 (9) Any other investment permitted by the indenture under which
22 such funds are held, provided that such investment is rated as investment
23 grade by one (1) or more nationally recognized rating agencies.

24
25 15-5-1906. Trust indenture funds and accounts.

26 (a) All proceeds derived from a particular obligation under this
27 subchapter shall be deposited into funds or accounts to be created pursuant
28 to a trust indenture with a trustee as shall be determined by the Arkansas
29 Development Finance Authority.

30 (b) Funds credited to an account or fund created by a trust indenture
31 may be used for any or all of the following purposes:

32 (1) The payment of the necessary expenses, including, without
33 limitation, the costs of issuing the authority's obligations incurred by the
34 authority in carrying out its responsibilities under this subchapter;

35 (2) The establishment of a debt service reserve account to
36 secure the payment of obligations;

1 (3) The making of guaranteed educational loans to qualified
2 borrowers;

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

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

13 (6) The making of education loans.

14
15 15-5-1907. Students – Power to contract.

16 (a) For the purpose of this subchapter, a student who is a qualified
17 borrower is vested with full capacity to contract and is bound by any
18 contract executed by him or her under this subchapter.

19 (b) The fact that the student was a minor at the time he or she
20 executed the note shall not be a defense in any action arising on the note.

21
22 15-5-1908. Purchase of student loan notes.

23 Before purchasing a guaranteed educational loan note or an educational
24 loan note under this subchapter, the Arkansas Student Loan Division of the
25 Arkansas Development Finance Authority shall reasonably determine that:

26 (1) The note represents a loan actually disbursed to a qualified
27 borrower;

28 (2) Due diligence both in making and collecting the loan has
29 been exercised with respect to that loan;

30 (3) The loan meets such other reasonable criteria as may be
31 established from time to time by the authority; and

32 (4) Other defects do not exist affecting the ability of the loan
33 to be guaranteed.

34
35 SECTION 16. Arkansas Code § 25-16-904(23), concerning stipend
36 authorization, is repealed.

1 ~~(23) Board of Directors of the Arkansas Student Loan Authority,~~

2
3 SECTION 17. Arkansas Code § 26-36-303(1)(A)(iii), concerning
4 definitions related to setoff against state tax refund, is repealed.

5 ~~(iii) The Arkansas Student Loan Authority;~~

6
7 SECTION 18. Arkansas Code § 26-51-813(f), concerning confidentiality
8 and exemptions related to tax reports and returns, is amended to read as
9 follows:

10 (f)(1) Nothing in this section shall be construed to prohibit the
11 Department of Finance and Administration from disclosing from any return or
12 other record maintained by the director to ~~the Arkansas Student Loan~~
13 ~~Authority~~ or the Student Loan Guarantee Foundation of Arkansas, the last
14 known address or whereabouts or the last known employer of any person from
15 whom ~~the Arkansas Student Loan Authority~~ and the Student Loan Guarantee
16 Foundation of Arkansas ~~are~~ is charged with collecting a student loan
17 indebtedness.

18 (2) In providing this information the Department of Finance and
19 Administration shall not allow ~~the Arkansas Student Loan Authority~~ or the
20 Student Loan Guarantee Foundation of Arkansas to examine the tax return.

21
22 SECTION 19. EMERGENCY CLAUSE. It is found and determined by the
23 General Assembly of the State of Arkansas that the Arkansas Student Loan
24 Authority may be more efficiently structured; that restructuring will result
25 in cost savings to the taxpayers of the State; and that this act is necessary
26 because the Arkansas Development Finance Authority is well positioned to
27 supervise the administration of a Student Loan Authority Division. Therefore,
28 an emergency is declared to exist, and this act being necessary for the
29 preservation of the public peace, health, and safety shall become effective
30 on July 1, 2017.

31
32 /s/D. Wallace