

Agenda Item No. 1  
Special Meeting of the Coordinating Board  
January 6, 2004

**ECONOMIC FEASIBILITY OF BOND ISSUE  
ARKANSAS STATE UNIVERSITY - JONESBORO**

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Arkansas State University - Jonesboro requests approval of the economic feasibility of plans to issue bonds totaling \$43.2 million with a term of 30 years at an estimated annual interest rate of 5.5 percent. Proceeds from the bond issue will be used for both educational & general (E&G) and auxiliary purposes. The Arkansas State University Board of Trustees approved this action at its meeting on December 19, 2003.

The E&G issue will be approximately \$9.2 million with annual debt service of \$630,010. Proceeds from the issue will be used to purchase property contiguous to the campus, to renovate Delta Hall from a residence hall to faculty and research space, to implement a chilled water loop for the campus and to renovate the Chickasaw building from student services offices to classrooms and faculty offices for the College of Nursing and Health Related Professions. Coordinating Board policy regarding debt service provides that a maximum of 25 percent of tuition and fee revenue may be pledged to educational and general debt service.

Relevant data follow:

<b><u>Educational and General Portion</u></b>	
Budgeted 2003-04 Tuition and Fee Revenue.....	\$40,517,494
Maximum Allowable Debt Service ( $\$40,517,494 \times 25\%$ ).....	10,129,374
Existing Debt Service.....	3,109,296
Estimated Debt Service for Proposed Issue.....	633,010
Tuition and Fee Revenue Remaining for Additional Debt Service.....	\$6,387,068

The auxiliary issue will be approximately \$34 million with annual debt service of \$2,339,383. Proceeds from this issue will be used to construct Phase II of the Family Student Housing Project and to construct a new residence hall. Phase I of the Family Student Housing Project has 100% occupancy and additional units could be leased if available. A new 840-bed residence hall will replace two residence halls where renovation into living quarters is not cost effective. Debt service for this portion of the bond issue will be covered by net profits from housing. Coordinating Board policy on debt service for auxiliary purposes states that annual net auxiliary revenues should be no less than 120 percent of the total annual auxiliary debt service.

Housing revenues were reviewed from 2002-03 to 2006-07 and the analysis is done for 2006-07 when the new dorm is expected to be on-line and providing revenue. In order to provide sufficient net housing revenue coverage ASUJ anticipates an annual increase of 7.5 percent in room rates and 4.5 percent in operating costs through 2006-07. This would allow coverage of the first two years principal and then pick up principal and interest in 2006-07. The first two years of interest will be capitalized and paid from bond proceeds.

Relevant data follow:

**Auxiliary Portion**

Projected 2006-07 Net Auxiliary Housing Revenue.. .....	\$ 4,941,595
Maximum Annual Debt Service (\$4,941,595/120%).....	4,117,996
Existing Debt Service.....	1,381,844
Estimated Debt Service for Proposed Issue.....	2,339,383
Auxiliary Revenue Remaining for Additional Debt Service.....	\$ 396,769

The above data demonstrate that Arkansas State University - Jonesboro has sufficient revenue to support a bond issue of approximately \$43.2 million with a term of 30 years at an estimated annual interest rate of 5.5 percent.

The following resolution is presented for the Board's consideration:

**RESOLVED,** That the Arkansas Higher Education Coordinating Board considers economically feasible plans for the Arkansas State University - Jonesboro to issue E&G funded bonds of approximately \$9.2 million with a term of 30 years at an estimated annual interest rate of 5.5 percent and an auxiliary funded issue of approximately \$34 million with a term of 30 years at an estimated annual interest rate of 5.5 percent.

**FURTHER RESOLVED,** That the Director of the Arkansas Department of Higher Education is authorized to notify the President and the Chair of the Board of Trustees of Arkansas State University and the Chancellor of the Arkansas State University - Jonesboro of the Coordinating Board's resolution.

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Special Meeting of the Coordinating Board  
January 6, 2004

**FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER  
IN THE MATTER OF:  
SOUTHERN COLLEGE OF NATUROPATHIC MEDICINE**

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The Arkansas Higher Education Coordinating Board (hereinafter "Board") held a hearing on October 24, 2003 and continued on December 5, 2003 to determine whether an exemption from certification pursuant to the provisions of Rule 8 of the Rules and Regulations for Institutional and Program Certification in Arkansas (hereinafter "Rules") should be granted. After listening to the testimony and reviewing the evidence, the Board makes the attached "Findings of Fact, Conclusions of Law and Order."

The following resolution is presented for the Board's consideration:

**RESOLVED**, That the Arkansas Higher Education Coordinating Board considers an exemption from certification pursuant to the provisions of Rule 8 of the Rules and Regulations for Institutional and Program Certification in Arkansas for the Southern College of Naturopathic Medicine.

**FURTHER RESOLVED**, That the Arkansas Higher Education Coordinating Board approves the "Findings of Fact, Conclusions of Law and Order" as provided beginning on page 2-2.

**DRAFT**

**BEFORE THE ARKANSAS HIGHER EDUCATION COORDINATING BOARD**

**IN THE MATTER OF:**

**SOUTHERN COLLEGE OF  
NATUROPATHIC MEDICINE**

**FINDINGS OF FACT, CONCLUSIONS OF LAW  
AND ORDER**

The Arkansas Higher Education Coordinating Board (hereinafter “Board”) held a hearing on October 24, 2003 and continued on December 5, 2003 to determine whether an exemption from certification pursuant to the provisions of Rule 8 of the Rules and Regulations for Institutional and Program Certification in Arkansas (hereinafter “Rules”) should be granted. After listening to the testimony and reviewing the evidence, the Board makes the following Findings of Fact and Conclusions of Law and enters the following Order.

**FINDINGS OF FACT**

1. A letter from Dr. Axley’s attorney dated July 9, 2003, specifically requested a hearing before the Board on the Rule 8 exemption.
2. On September 8, 2003, Southern College of Naturopathic Medicine (hereinafter “SCNM”) requested a Rule 8 exemption and submitted its catalog to the staff of the Arkansas Department of Higher Education in order for the staff to determine whether or not “SCNM” met the criteria for an exemption from certification pursuant to Rule 8 of the Rules.

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3. After a review of the catalog and other pertinent materials, it was determined that the College did not meet the criteria for an exemption and was therefore subject to certification under the Rules.
4. On October 10, 2003, a letter from Dr. Linda Beene, the Director of the Arkansas Department of Higher Education was sent to Dr. Gary Axley, the President of the College. Dr. Beene determined that the College did not meet the requirement for an exemption under Rule 8. The letter outlined the reasons for the denial of the exemption and stated that “Programs in naturopathy are offered in the academic marketplace.”

### **APPLICABLE LAW AND REGULATIONS**

Ark. Code Ann. 6-61-301 (a) (1) (C) provides:

Any postsecondary education institution in the State of Arkansas desiring to offer programs leading to a degree which is customarily granted by colleges or universities shall be required to obtain certification to grant such degree from the ... [Higher Education Coordinating Board].

Ark. Code Ann. 6-61-301 (b) provides:

The ...[Higher Education Coordinating Board] shall be empowered to establish the criteria required for certification and to promulgate rules and regulations for the purpose of carrying out the provisions of this chapter and shall be charged with the final responsibility for decisions as required by the chapter.

Rule IV of the Rules provides:

When functioning under Arkansas Code 6-61-301, the Arkansas Higher Education Coordinating Board and the Arkansas Department of Higher Education shall follow the provisions of the Administrative Procedure Act.

Rule 8 of the Rules provides:

- I. Religious Programs
  - A. Any institution desiring to offer both religious programs and college –credit courses or degree programs recognized in the academic marketplace must obtain Arkansas Higher Education Coordinating Board certification.

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- B. The Arkansas Higher Education Coordinating Board does not require certification under the following conditions:
  - 1. The predominant purposes of the courses and programs are religious in nature, transmit the theology of the religious group, and train individuals to perform the religious functions of the group.
  - 2. The limited purposes of the courses or degree programs are clearly identified so that both the recipients of the training and others evaluating the training are notified that the courses and programs are not designed for use in the academic marketplace.
- C. Any degree title approved by the Arkansas Higher Education Coordinating Board may not be used by institutions desiring an exemption under Rule 8, Section 1.
- D. The title of university may not be used by an institution desiring an exemption under Rule 8, Section 1.

### **CONCLUSIONS OF LAW**

The testimony and the evidence show that the degree offered by “SCNM” is a degree that is recognized in the academic marketplace. This alone is reason enough that a religious exemption may not be granted. *See Rule 8, I. A.*

Because the degree that is offered by “SCNM” is a degree which is granted by other accredited naturopathic colleges and is therefore a degree offered in the academic marketplace, “SCNM” must obtain Board certification. *See Rule 8, I. A.*

### **ORDER**

The Board finds that “SCNM” is not entitled to an exemption pursuant to Rule 8 of the Rules of the Board.

The Respondent may seek judicial review of the Board’s decision in circuit court within thirty (30) days of receipt of this order. No further notice of the Board’s findings will be sent and the Board’s action will be final unless a stay is issued by the circuit court in accordance with

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the Administrative Procedures Act. All appeals or reviews must be in accordance with the Administrative Procedures act, Ark. Code Ann. §25-12-201, et seq.

**ARKANSAS HIGHER EDUCATION  
COORDINATING BOARD**

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**PHIL FORD  
CHAIRMAN**

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**DATE**

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