

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 1405 of the Regular Session

1 State of Arkansas
2 87th General Assembly
3 Regular Session, 2009
4

As Engrossed: H3/31/09

A Bill

HOUSE BILL 2243

5 By: Representative Wills
6 By: Senator T. Smith
7

8
9 **For An Act To Be Entitled**

10 AN ACT TO AMEND THE ARKANSAS ACADEMIC CHALLENGE
11 SCHOLARSHIP PROGRAM; TO AMEND THE ARKANSAS
12 SCHOLARSHIP LOTTERY ACT WHICH SUPPLEMENTS FUNDING
13 FOR THE ARKANSAS ACADEMIC CHALLENGE SCHOLARSHIP
14 PROGRAM; AND FOR OTHER PURPOSES.
15

16 **Subtitle**

17 TO AMEND THE ARKANSAS ACADEMIC CHALLENGE
18 SCHOLARSHIP PROGRAM AND THE ARKANSAS
19 SCHOLARSHIP LOTTERY ACT.
20
21

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
23

24 SECTION 1. Arkansas Code § 6-85-108(b), as enacted by Acts 605 and 606
25 of 2009, concerning the nursing school eligibility of the Arkansas Academic
26 Challenge Scholarship Program - Part 1, is amended to read as follows:

27 (b) The department shall make awards to applicants attending either an
28 associate degree or diploma school preparing registered nurses that is
29 approved by the Arkansas State Board of Nursing and which would not otherwise
30 be an approved institution if:

31 ~~(1) The applicant has qualified for an Arkansas Academic~~
32 ~~Challenge Scholarship and is simultaneously enrolled in an approved two-year~~
33 ~~college or a four-year college or university prior to or at the time of entry~~
34 ~~into the nursing school and the applicant then transfers the scholarship to~~
35 ~~an approved school of nursing after completing the two-year requirements as~~



1 ~~set forth by the department's rules and regulations;~~

2 ~~(2)(1) The nursing school has been approved by the Arkansas~~
 3 ~~State Board of Nursing and is specifically recognized by the department as a~~
 4 ~~school of nursing eligible to participate in the Arkansas Academic Challenge~~
 5 ~~Scholarship Program; and~~

6 ~~(3)(2) The recipient meets continuing eligibility requirements~~
 7 ~~in § 6-85-106.~~

8
 9 SECTION 2. Arkansas Code § 6-85-204(3), as enacted by Acts 605 and 606
 10 of 2009, concerning the definition of an approved institution of higher
 11 education, is amended to read as follows:

12 (3) "Approved institution of higher education" means an
 13 institution of higher education approved by the Department of Higher
 14 Education to participate in the Arkansas Academic Challenge Scholarship
 15 Program – Part 2 and that is:

16 (A) A state-supported two-year or four-year college or
 17 university; ~~or~~

18 (B) A private, nonprofit two-year or four-year college or
 19 university with its primary headquarters located in Arkansas that is eligible
 20 to receive Title IV federal student aid funds; or

21 (C) An approved school of nursing, subject to the
 22 provisions of § 6-85-213(c).

23
 24 SECTION 3. Arkansas Code § 6-85-204, as enacted by Acts 605 and 606 of
 25 2009, concerning definitions for the Arkansas Academic Challenge Scholarship
 26 Program - Part 2, is amended to add two (2) additional subdivisions to read
 27 as follows:

28 (16)(A) "Approved school of nursing" means a school of nursing
 29 with its primary headquarters located in Arkansas that:

30 (i) Prepares students as registered nurses;

31 (ii) Grants nursing diplomas;

32 (iii) Is eligible to participate in Title IV federal
 33 student aid programs;

34 (iv) Is approved by the Arkansas State Board of
 35 Nursing;

36 (v) Has been approved by the Department of Higher

1 Education as eligible to participate in the Arkansas Academic Challenge
 2 Scholarship Program; and

3 (vi) Is not a two-year or four-year college or
 4 university; and

5 (17) "End-of-course assessment" means an examination taken at
 6 the completion of a course of study to determine whether a student
 7 demonstrates attainment of the knowledge and skills necessary for mastery of
 8 that subject.

9
 10 SECTION 4. Arkansas Code § 6-85-206(3)(A), as enacted by Acts 605 and
 11 606 of 2009, concerning basic eligibility for the Arkansas Academic Challenge
 12 Scholarship Program - Part 2, is amended to read as follows:

13 (3)(A) The applicant is accepted for admission as a full-time
 14 student or part-time student at:

15 (i) ~~an~~ An approved institution of higher education
 16 as a full-time student or part-time student in a program of study that leads
 17 to or is creditable toward:

18 ~~(i)(a)~~ (a) A baccalaureate degree;

19 ~~(ii)(b)~~ (b) An associate degree;

20 ~~(iii)(c)~~ (c) A certificate from a qualified
 21 certificate program; or

22 ~~(iv)(ii)~~ (ii) ~~A nursing school~~ An approved school of
 23 nursing in a program of study that leads to a nursing diploma ~~or associate~~
 24 degree under § 6-85-213.

25
 26 SECTION 5. Arkansas Code § 6-85-207(1)(B)(ii), as enacted by Acts 605
 27 and 606 of 2009, concerning eligibility requirements for traditional students
 28 under the Arkansas Academic Challenge Scholarship Program - Part 2, is
 29 amended to read as follows:

30 (ii) Scored proficient or higher on all state-
 31 mandated end-of-course assessments, including without limitation, end-of-
 32 course assessments on:

33 (a) Algebra I;

34 (b) Geometry; and

35 (c) Biology; ~~and~~

36 ~~(4) Literacy, beginning with the 2013-2014~~

1 ~~school year;~~

2
3 SECTION 6. Arkansas Code § 6-85-207(2), as enacted by Acts 605 and 606
4 of 2009, concerning eligibility requirements for traditional students under
5 the Arkansas Academic Challenge Scholarship Program - Part 2, is amended to
6 read as follows:

7 (2) Graduated from an Arkansas public high school that is
8 annually identified in the report by the Department of Education under § 6-
9 15-421 as a school in which twenty percent (20%) or more of the students
10 received a letter grade of "B" or higher but did not score proficiency or
11 higher on the end-of-course assessment on the first attempt, ~~whether or not~~
12 ~~the applicant completed the Smart Core curriculum,~~ achieved a high school
13 grade point average of at least 2.5, and either:

14 (A) Completed the Smart Core curriculum if graduating from
15 an Arkansas high school in the 2013-2014 school year or later; and

16 ~~(A)(B) Either:~~

17 (i) Has a minimum composite score of nineteen (19)
18 on the ACT or the equivalent score on an ACT equivalent; or

19 ~~(B)(ii) Scores proficient or higher on all state-~~
20 ~~mandated end-of-course assessments, including without limitation, end-of-~~
21 ~~course assessments on:~~

22 ~~(i)(a) Algebra I;~~

23 ~~(ii)(b) Geometry;~~

24 ~~(iii)(c) Biology; and~~

25 ~~(iv)(d) Literacy, beginning Beginning~~

26 ~~with the 2013-2014 school year, literacy;~~

27
28 SECTION 7. Arkansas Code § 6-85-207(3)(B)(iv), as enacted by Acts 605
29 and 606 of 2009, concerning eligibility requirements for traditional students
30 under the Arkansas Academic Challenge Scholarship Program - Part 2, is
31 amended to read as follows:

32 (iv) ~~Literacy, beginning Beginning~~ with the
33 ~~2013-2014 school year, literacy;~~ or

34
35 SECTION 8. Arkansas Code § 6-85-207(4), as enacted by Acts 605 and 606
36 of 2009, concerning eligibility requirements for traditional students under

1 the Arkansas Academic Challenge Scholarship Program - Part 2, is amended to
2 read as follows:

3 (4) ~~An applicant who graduated~~ Graduated from a private high
4 school, ~~or an out-of-state high school,~~ or ~~completed a high school curriculum~~
5 ~~at a home school~~ high school shall have and achieved a minimum composite
6 score of nineteen (19) on the ACT or the equivalent score on an ACT
7 equivalent.

8

9 SECTION 9. Arkansas Code § 6-85-208(a)(1)(A) , as enacted by Acts 605
10 and 606 of 2009, concerning additional eligibility requirements for
11 nontraditional students under the Arkansas Academic Challenge Scholarship
12 Program - Part 2, is amended to read as follows:

13 (1)(A) ~~Graduated from an Arkansas high school and achieved a 2.5~~
14 ~~high school grade point average; or~~

15

16 SECTION 10. Arkansas Code § 6-85-208(b), as enacted by Acts 605 and
17 606 of 2009, concerning additional eligibility requirements for
18 nontraditional students under the Arkansas Academic Challenge Scholarship
19 Program - Part 2, is amended to read as follows:

20 (b) A To be eligible, nontraditional student applicant who graduated
21 from a private high school, ~~or an out-of-state high school,~~ or ~~completed a~~
22 ~~high school curriculum~~ at a home school high school shall have achieved a
23 minimum composite score of nineteen (19) on the ACT or the equivalent score
24 on an ACT equivalent.

25

26 SECTION 11. Arkansas Code § 6-85-210(a), as enacted by Acts 605 and
27 606 of 2009, concerning continuing eligibility for the Arkansas Academic
28 Challenge Scholarship Program - Part 2, is amended to read as follows:

29 (a) A recipient who meets continuing eligibility criteria under this
30 subchapter shall receive a scholarship for one (1) academic year renewable
31 annually until the recipient first:

32 (1) Earns a baccalaureate degree;

33 (2)(A) Attempts a transcript total of one hundred thirty (130)
34 semester hours in eight (8) semesters at any approved institution of higher
35 education as an undergraduate full-time student.

36 (B) If the recipient's undergraduate degree requires

1 additional hours, the Department of Higher Education, in conjunction with the
2 institution of higher education where the recipient is enrolled, shall
3 determine the maximum period of time for renewal of the scholarship; or

4 (3) Attempts a transcript total of one hundred thirty (130)
5 semester hours in sixteen (16) semesters at any approved institution of
6 higher education as an undergraduate part-time student.

7
8 SECTION 12. Arkansas Code § 6-85-210(b)(2)(A)(ii), as enacted by Acts
9 605 and 606 of 2009, concerning continuing eligibility for the Arkansas
10 Academic Challenge Scholarship Program - Part 2, is amended to read as
11 follows:

12 (ii) By accepting scholarship funds under this
13 subchapter, the receiving institution certifies that students will be
14 enrolled in courses that will meet satisfactory academic progress standards
15 leading toward a certificate, an associate degree, a nursing diploma, or a
16 baccalaureate degree.

17
18 SECTION 13. Arkansas Code § 6-85-210(b)(5), as enacted by Acts 605 and
19 606 of 2009, concerning continuing eligibility for the Arkansas Academic
20 Challenge Scholarship Program - Part 2, is amended to read as follows:

21 (5) A recipient shall ~~be~~ enroll in courses that lead toward a
22 baccalaureate degree program after attempting the lesser of:

23 (A) Sixty-six (66) semester hours; or

24 (B) The completion of an associate degree program, unless
25 the number of hours required to complete the associate degree program exceeds
26 sixty-six (66) semester hours, in which case, the higher number of hours for
27 completion shall be used for this subdivision (b)(5); and

28
29 SECTION 14. Arkansas Code § 6-85-210(c)(1), as enacted by Acts 605 and
30 606 of 2009, concerning continuing eligibility for the Arkansas Academic
31 Challenge Scholarship Program - Part 2, is amended to read as follows:

32 (c)(1) If a recipient becomes ineligible for the scholarship because
33 the recipient's postsecondary grade point average or number of completed
34 credit hours no longer meets the minimum requirement for the scholarship, the
35 recipient may regain eligibility under this subsection (c) one (1) time only.

36

1 SECTION 15. Arkansas Code § 6-85-212(a)(1), as enacted by Acts 605 and
2 606 of 2009, concerning scholarship award amounts for the Arkansas Academic
3 Challenge Scholarship Program - Part 2, is amended to read as follows:

4 ~~(a)(1)~~ The General Assembly may use net proceeds from the state
5 lottery to fund the scholarships awarded under this subchapter and to
6 supplement the state-supported student financial assistance that the General
7 Assembly determines ~~are~~ is necessary to meet the state's objective for
8 broadening and increasing access of Arkansas citizens to higher education.

9
10 SECTION 16. Arkansas Code § 6-85-212(e)(2)(B), as enacted by Acts 605
11 and 606 of 2009, concerning the priority for scholarships under the Arkansas
12 Academic Challenge Scholarship Program - Part 2, is amended to read as
13 follows:

14 (B) Priority for scholarships awarded to nontraditional
15 students is based on the applicant's level of progress toward completion of a
16 certificate, an associate degree, nursing diploma, or a baccalaureate degree,
17 or on other criteria established by the Department of Higher Education.

18
19 SECTION 17. Arkansas Code § 6-85-212(e)(4), as enacted by Acts 605 and
20 606 of 2009, concerning scholarship award amounts for part-time recipients
21 under the Arkansas Academic Challenge Scholarship Program - Part 2, is
22 amended to read as follows:

23 ~~(4)(A)~~ The scholarship award amount for a part-time student
24 recipient shall be:

25 ~~(i)~~(A) One-half of the award amount for a full-time
26 student recipient, if the recipient is enrolled in at least six (6) semester
27 hours but less than nine (9) semester hours; or

28 ~~(ii)~~(B) Three-quarters (3/4) of the award amount for a
29 full-time student recipient, if the recipient is enrolled in at least nine
30 (9) semester hours but less than the number of hours required for a full-time
31 student recipient;

32 ~~(B)~~ ~~The per semester hour award amount is calculated as~~
33 ~~the per semester hour amount of an award to a traditional student based on~~
34 ~~fifteen (15) semester hours as calculated by the Department of Higher~~
35 ~~Education;~~

36

1 SECTION 18. Arkansas Code § 6-85-212(c) (second numbered subsection
2 (c)), as enacted by Acts 605 and 606 of 2009, concerning scholarship award
3 amounts for the Arkansas Academic Challenge Scholarship Program - Part 2, is
4 amended to correct the numbering of the subsection and to read as follows:

5 ~~(e)~~(f)(1) By November 1 of each year, the Arkansas Lottery
6 Commission Legislative Oversight Committee shall provide to the General
7 Assembly its recommendations for any changes to the:

- 8 (A) Award amounts;
9 (B) Number or type of scholarships; and
10 (C) Eligibility requirements.

11
12 SECTION 19. Arkansas Code § 6-85-212(d) (second numbered subsection
13 (d)), as enacted by Acts 605 and 606 of 2009, concerning scholarship award
14 amounts for the Arkansas Academic Challenge Scholarship Program - Part 2, is
15 amended to correct the numbering of the subsection and to read as follows:

16 ~~(d)~~(g) After the 2010-2011 academic year, the determination of the
17 amount of net proceeds from the state lottery available for each semester is
18 based on the Arkansas Lottery Commission's certification of net proceeds ~~made~~
19 ~~in July of the immediately preceding calendar year.~~

20
21 SECTION 20. Arkansas Code § 6-85-212(e) (second numbered subsection
22 (e)), as enacted by Acts 605 and 606 of 2009, concerning sufficient funds
23 available for scholarship award amounts under the Arkansas Academic Challenge
24 Scholarship Program - Part 2, is amended to correct the numbering of the
25 subsection and to read as follows:

26 ~~(e)~~(h) The department shall ensure that sufficient funds remain
27 available to pay for scholarship awards through the anticipated completion of
28 the degree or certificate a recipient is seeking and report the balance of
29 those funds to the General Assembly before the amount of awards under this
30 subchapter are increased by the General Assembly.

31
32 SECTION 21. Arkansas Code § 6-85-212(f) and (g)(1), as enacted by Acts
33 605 and 606 of 2009, concerning scholarship award amounts for the Arkansas
34 Academic Challenge Scholarship Program - Part 2, are amended to correct the
35 numbering of the subsections and to read as follows:

36 ~~(f)~~(i) All awards under this subchapter are subject to the prohibition

1 under § 6-80-105 against using public funds in a student financial package in
 2 excess of the recognized cost of attendance at the institution where the
 3 student is enrolled.

4 ~~(g)(1)(j)(1)~~ If the department has less than a sufficient amount to
 5 provide for the scholarship commitments under this subchapter, the department
 6 first shall use the department's Scholarships and Grants Contingency
 7 Appropriation to fund the shortfall.

8
 9 SECTION 22. Arkansas Code § 6-85-212, as enacted by Acts 605 and 606
 10 of 2009 and concerning scholarship award amounts for the Arkansas Academic
 11 Challenge Scholarship Program - Part 2, is amended to add an additional
 12 subsection to read as follows:

13 (k) When the General Assembly determines that there exists sufficient
 14 net lottery proceeds to fund students enrolling in certificate, associate
 15 degree, and baccalaureate degree programs, the department shall submit
 16 recommendations to the Arkansas Lottery Commission Legislative Oversight
 17 Committee for the award of scholarships and grants to certain graduate and
 18 professional programs at approved institutions of higher education.

19
 20 SECTION 23. Arkansas Code § 6-85-213, as enacted by Acts 605 and 606
 21 of 2009, is amended to read as follows:

22 6-85-213. Nursing school eligibility.

23 (a)(1) The General Assembly recognizes that the State of Arkansas is
 24 experiencing a critical shortage of nurses.

25 (2) It is the intent of this section to allow the Department of
 26 Higher Education the opportunity, under specific circumstances, to include a
 27 ~~school of nursing that~~ an approved school of nursing that

28 ~~(A) Prepares students as registered nurses;~~

29 ~~(B) Grants associate degrees or nursing diplomas;~~

30 ~~(C) Is approved by the Arkansas State Board of Nursing;~~

31 ~~and~~

32 ~~(D) Would~~ would not otherwise be an approved institution
 33 of higher education in the Arkansas Academic Challenge Scholarship Program.

34 (b)~~(1)~~ The department shall make awards to applicants attending a an
 35 approved school of nursing under this section if*

36 ~~(A) The applicant has qualified for an Arkansas Academic~~

1 ~~Challenge Scholarship and is simultaneously enrolled in an approved two-year~~
 2 ~~college or a four-year college or university before or at the time of entry~~
 3 ~~into the nursing school and the applicant then transfers the scholarship to~~
 4 ~~an approved school of nursing after completing the two-year requirements~~
 5 ~~under the department's rules;~~

6 ~~(B) The nursing school has been approved by the board and~~
 7 ~~is specifically recognized by the department as a school of nursing eligible~~
 8 ~~to participate in the Arkansas Academic Challenge Scholarship Program; and~~

9 ~~(C) The the recipient meets continuing eligibility~~
 10 ~~requirements in § 6-85-210.~~

11 ~~(2)(c) The department shall pay scholarship awards under this section~~
 12 ~~only from nonlottery state educational resources.~~

13
 14 SECTION 24. Arkansas Code § 6-85-218, as enacted by Acts 605 and 606
 15 of 2009, is amended to read as follows:

16 6-85-218. Advisory council.

17 (a) An advisory council is created to provide recommendations to the
 18 Department of Higher Education and the Arkansas Lottery Commission
 19 Legislative Oversight Committee for the implementation of this subchapter.

20 (b) The advisory council shall be composed of ~~the members determined~~
 21 ~~under subsection (c) of this section and sixteen (16) members as follows:~~

22 ~~(1) One (1) member of the House of Representatives selected by~~
 23 ~~the Speaker of the House of Representatives;~~

24 ~~(2) One (1) member of the Senate selected by the Speaker Pro~~
 25 ~~Tempore of the Senate; and~~

26 ~~(3) The Director of the Bureau of Legislative Research, or his~~
 27 ~~or her designee.~~

28 ~~(c) The Department of Higher Education shall determine the remaining~~
 29 ~~composition of the advisory council, which shall include without limitation~~
 30 ~~representation from:~~

31 ~~(1) The department;~~

32 ~~(2) Institutions of higher education eligible to become approved~~
 33 ~~for participation in the Arkansas Academic Challenge Scholarship Program—~~
 34 ~~Part 2;~~

35 ~~(3) Professional associations for student financial aid~~
 36 ~~administration and student services officers; and~~

~~(4) Any other group the department deems advisable.~~

(1) The Director of the Department of Higher Education, or his or her designee;

(3) The Commissioner of Education, or his or her designee;

(4) The Executive Director of the Arkansas Association of Educational Administrators, or his or her designee;

(5) The Executive Director of the Arkansas Education Association, or his or her designee;

(6) The Executive Director of the Arkansas School Boards Association, or his or her designee;

(7) The Director of the Bureau of Legislative Research, or his or her designee, who shall serve as an ex officio nonvoting member; and

(8)(A) Nine (9) members who shall serve three-year terms, selected as follows:

(i) One (1) member of the House of Representatives selected by the Speaker of the House of Representatives;

(ii) One (1) member of the Senate selected by the Speaker Pro Tempore of the Senate;

(iii) Two (2) members selected by the Director of the Department of Higher Education who are employed at the department;

(iv) Two (2) members selected by the Director of the Department of Higher Education who are presidents or chancellors of two-year approved institutions of higher education, or the designee of the president selected;

(v) Two (2) members selected by the Director of the Department of Higher Education who are presidents or chancellors of four-year approved institutions of higher education or the designee of the president or chancellor selected;

(vi) One (1) member selected by the Director of the Department of Higher Education who is a financial aid administrator at an approved institution of higher education, or his or her designee; and

(vii) One (1) member selected by the Director of the Department of Higher Education who is a student services administrator at an approved institution of higher education, or his or her designee.

(B) Members appointed under this subdivision (b)(8):

(i) Shall have initial terms that are staggered

1 evenly between two (2) and three (3) years as determined by lot at the
 2 advisory council's first meeting; and

3 (ii) May be reappointed to successive terms.

4 (C) A vacancy under this subdivision (b)(8) shall be
 5 filled by appointment by the appointing authority effective until the
 6 expiration of the regular term.

7 (d) The advisory council shall be staffed by the department.

8 ~~(d)(e)~~ The director or his or her designee legislator members of the
 9 advisory council shall serve as chair cochairs of the advisory council and
 10 shall call meetings as ~~need~~ needed to fulfill the purpose of the advisory
 11 council.

12 ~~(e)(f)(1)~~ Legislative members are entitled to reimbursement for
 13 expenses and per diem at the same rate and from the same source as provided
 14 by law for members of the General Assembly attending meetings of interim
 15 committees.

16 (2) ~~Members~~ Nonlegislative members of the advisory council shall
 17 serve without compensation but may be reimbursed by the Department of Higher
 18 Education for reasonable travel expenses incurred to attend meetings if
 19 funding is available.

20 ~~(f)(g)~~ By August 1, 2009, and as requested thereafter, the advisory
 21 council shall report its recommendations to the Arkansas Lottery Commission
 22 Legislative Oversight Committee.

23
 24 SECTION 25. Arkansas Code § 19-4-801(2)(B)(xii)(b), as amended by Acts
 25 605 and 606 of 2009 and concerning the definition of "state agency" as
 26 applied to the expenditure of cash funds, is amended to read as follows:

27 (b) However, the Arkansas Lottery Commission
 28 shall be considered a state agency for the purposes of §§ 19-4-810 - ~~19-4-~~
 29 ~~1816~~ 19-4-816;

30
 31 SECTION 26. Arkansas Code § 19-4-1415(b)(5), as amended by Acts 605
 32 and 606 of 2009 and concerning certain exemptions for the construction of
 33 buildings and facilities, is amended to read as follows:

34 (5) The Board of Trustees of the University of Arkansas, the
 35 Board of Trustees of Arkansas State University, and the Arkansas Lottery
 36 Commission shall be exempt from review and approval by the authority and any

1 regulations promulgated by it, provided that the ~~institutions shall~~ Board of
 2 Trustees of the University of Arkansas, the Board of Trustees of Arkansas
 3 State University, and the Arkansas Lottery Commission have adopted policies
 4 and procedures involving the awarding and oversight of the contracts for
 5 design and construction services.

6
 7 SECTION 27. Arkansas Code § 23-115-103, as enacted by Acts 605 and 606
 8 of 2009, is amended to read as follows:

9 23-115-103. Definitions.

10 As used in this chapter:

11 ~~(1) "Adjudication" means agency process for the formulation of~~
 12 ~~an order;~~

13 ~~(2)(1)~~ "Administrative expenses" means operating expenses,
 14 excluding amounts set aside for prizes, regardless of whether the prizes are
 15 claimed and excluding amounts held as a fidelity fund under § 23-115-603;

16 ~~(3)(2)~~ "Administrative order" means the final disposition of the
 17 Arkansas Lottery Commission in any matter other than a claim in contract or
 18 in tort, including without limitation licensing, in which the Arkansas
 19 Lottery Commission is required by law to make its determination after notice
 20 and a hearing;

21 ~~(4)(3)(A)~~ "Casino gambling" means a location or business for the
 22 purposes of conducting illegal gambling activities, including without
 23 limitation activities under § 5-66-101 et seq. that are not authorized under
 24 this chapter.

25 (B) "Casino gambling" does not include the sale and
 26 purchase of tickets or shares;

27 (4)(A) "Compensation" means any money or anything of value
 28 received or to be received as a claim for future services, whether in the
 29 form of a retainer, fee, salary, expense, allowance, forbearance,
 30 forgiveness, interest, dividend, royalty, rent, or any other form of
 31 recompense or any combination thereof.

32 (B) "Compensation" includes without limitation a payment
 33 made under obligation for services or other value received;

34 (5) "Female-owned business" means a business:

35 (A) Whose management and daily business operations are
 36 under the control of one (1) or more females; and

1 (B) *Either:*

2 (i) *Individually owned by a female who reports as*
3 *her personal income for Arkansas income tax purposes the income of the*
4 *business;*

5 (ii) *Which is a partnership in which a majority of*
6 *the ownership interest is owned by one (1) or more females who report as*
7 *their personal income for Arkansas income tax purposes more than fifty*
8 *percent (50%) of the income of the partnership; or*

9 (iii) *Which is a corporation organized under the*
10 *laws of this state in which a majority of the common stock is owned by one*
11 *(1) or more females who report as their personal income for Arkansas income*
12 *tax purposes more than fifty percent (50%) of the distributed earnings of the*
13 *corporation;*

14 (6) *“Gift” means any payment, entertainment, advance, services,*
15 *or anything of value, unless consideration of equal or greater value has been*
16 *given therefor;*

17 (7) *“Immediate family” means the father, mother, sister,*
18 *brother, husband, wife, child, grandmother, grandfather, grandchild, father-*
19 *in-law, mother-in-law, sister-in-law, brother-in-law, stepchild, grandmother-*
20 *in-law, grandfather-in-law, stepgrandchild, or any individual acting as*
21 *parent or guardian;*

22 (8) ~~*“Incompetency”*~~ *“Incompetence” means:*

23 (A) *Gross ignorance of official duties;*

24 (B) *Gross carelessness in the discharge of official*
25 *duties; or*

26 (C) *Inability or unfitness to discharge promptly and*
27 *properly official duties because of a serious physical or mental defect that*
28 *did not exist at the time of the person’s appointment;*

29 (9) *“License” means authorization granted by the Arkansas*
30 *Lottery Commission to an individual to operate as a retailer, including*
31 *without limitation the execution of a contract between the Arkansas Lottery*
32 *Commission and the individual relating to obligations and terms for operating*
33 *as a retailer;*

34 (10) *“Lobbying” means communicating directly or soliciting*
35 *others to communicate with any member of the Arkansas Lottery Commission, the*
36 *Director of the Arkansas Lottery Commission, any employee of the Arkansas*

1 Lottery Commission, or a member of the Arkansas Lottery Commission
 2 Legislative Oversight Committee with the purpose of influencing the actions
 3 of the Arkansas Lottery Commission or the Arkansas Lottery Commission
 4 Legislative Oversight Committee;

5 (11) "Local government" means:

6 (A) A county;

7 (B) A city of the first class or a city of the
 8 second class;

9 (C) An incorporated town; or

10 (D) Any other district or political subdivision or
 11 any board, commission, or agency of the political subdivisions under
 12 subdivisions ~~(10)~~(11)(A)-(C) of this section;

13 (12) (A) "Lottery" means a game of chance approved by the
 14 Arkansas Lottery Commission and operated under this chapter.

15 (B) "Lottery" includes without limitation:

16 (i) An instant ticket;

17 (ii) A draw game; and

18 (iii) Participation in a multistate or
 19 multisovereign game.

20 (C) "Lottery" does not include:

21 (i) Casino gambling;

22 (ii) A video lottery;

23 (iii) Pari-mutuel wagering on horse racing or
 24 greyhound racing governed by the Arkansas Horse Racing Law, § 23-110-101 et
 25 seq., or the Arkansas Greyhound Racing Law, § 23-111-101 et seq., whether the
 26 pari-mutuel wagering is on live racing, simulcast racing, or races conducted
 27 in the past and rebroadcast by electronic means;

28 (iv) Wagering on electronic games of skill under the
 29 Local Option Horse Racing and Greyhound Racing Electronic Games of Skill Act,
 30 § 23-113-101 et seq.; or

31 (v) Conducting or participating in charitable bingo
 32 and raffles under the Charitable Bingo and Raffles Enabling Act, § 23-114-101
 33 et seq.;

34 (13) "Lottery proceeds" means all revenue derived from the sale
 35 of tickets or shares and all other moneys derived from a lottery, including
 36 without limitation fees collected by the ~~commission~~ Arkansas Lottery

1 Commission under this chapter;

2 (14)(A) "Major procurement contract" means a contract for a
3 gaming product or service costing more than seventy-five thousand dollars
4 (\$75,000), including without limitation:

5 (i) A major advertising contract;

6 (ii) An annuity contract;

7 (iii) A prize payment agreement;

8 (iv) A consulting service;

9 (v) Lottery equipment;

10 (vi) Tickets; and

11 (vii) Any other product and service unique to
12 lotteries.

13 (B) "Major procurement contract" does not include a
14 material, supply, equipment, or service common to the ordinary operations of
15 the Arkansas Lottery Commission.

16 (C) ~~If the commission executes a contract in which the~~
17 ~~cost of the contract is calculated on a contingent basis, the commission~~
18 ~~shall estimate the value of the contract to determine if it is a major~~
19 ~~procurement contract~~ When the cost of a proposed contract for a gaming
20 product or service is to be paid in whole or in part on a contingent basis,
21 the Arkansas Lottery Commission shall estimate the value of the proposed
22 contract to determine whether it is a major procurement contract;

23 (15) "Member of a minority" means ~~an individual who is a member~~
24 ~~of a race that comprises less than fifty percent (50%) of the total~~
25 ~~population of the state~~ a lawful permanent resident of this state who is:

26 (A) African American;

27 (B) Hispanic American;

28 (C) American Indian;

29 (D) Asian American; or

30 (E) Pacific Islander American;;

31 (16) "Minority-owned business" means a business that is owned by:

32 (A) An individual who is a member of a minority who
33 reports as his or her personal income for Arkansas income tax purposes the
34 income of the business;

35 (B) A partnership in which a majority of the ownership
36 interest is owned by one (1) or more members of a minority who report as

1 *their personal income for Arkansas income tax purposes more than fifty*
2 *percent (50%) of the income of the partnership; or*

3 *(C) A corporation organized under the laws of this state*
4 *in which a majority of the common stock is owned by one (1) or more members*
5 *of a minority who report as their personal income for Arkansas income tax*
6 *purposes more than fifty percent (50%) of the distributed earnings of the*
7 *corporation;*

8 *(17) "Net proceeds" means lottery proceeds less operating*
9 *expenses;*

10 *(18) "Nonlottery state educational resources" means the same as*
11 *defined in § 6-85-204;*

12 *(19) "Operating expenses" means all costs of doing business,*
13 *including without limitation:*

14 *(A) Prizes, commissions, and other compensation paid to*
15 *retailers;*

16 *(B) Contracts for products or services necessary for the*
17 *operation of the lottery, including without limitation the execution of major*
18 *procurement contracts;*

19 *(C) Advertising and marketing costs;*

20 *(D) Personnel costs;*

21 *(E) Capital costs or depreciation of property and*
22 *equipment;*

23 *(F) Funds for compulsive gambling education and treatment;*

24 *(G) The payment of sums to the Arkansas State Claims*
25 *Commission for the reconciliation of valid claims against the Arkansas*
26 *Lottery Commission;*

27 *(H) Payments for the cost of a state and federal criminal*
28 *background check;*

29 *(I) Payments to the Department of Higher Education to:*

30 *(i) Reimburse the Department of Higher Education*
31 *for the costs of administering scholarship awards funded with net proceeds;*
32 *and*

33 *(ii) Replenish nonlottery state educational*
34 *resources expended by the Department of Higher Education on scholarship*
35 *awards otherwise funded with net proceeds;*

36 *(J) Amounts annually transferred to a fidelity fund under*

1 § 23-115-603; and

2 (K) Amounts paid to governmental entities for goods or
3 services provided to the Arkansas Lottery Commission, including without
4 limitation services provided by the Division of Legislative Audit and the
5 Department of Finance and Administration;

6 (20) "Person" means any individual, corporation, partnership,
7 unincorporated association, or other legal entity;

8 (21)(A) "Public official" means: ~~a member of the General~~
9 ~~Assembly or an elected constitutional officer~~

10 (i) The Governor;

11 (ii) The Lieutenant Governor;

12 (iii) The Secretary of State;

13 (iv) The Treasurer of State;

14 (v) The Attorney General;

15 (vi) The Commissioner of State Lands;

16 (vii) The Auditor of State; or

17 (viii) A member of the General Assembly.

18 (B) "Public official" includes an individual during the
19 time between the date he or she is elected and the date he or she takes
20 office;

21 (22) "Retailer" means a person who sells tickets or shares on
22 behalf of the Arkansas Lottery Commission under a license;

23 (23) "Share" means any intangible evidence of participation in a
24 lottery;

25 (24) "Ticket" means any tangible evidence issued by a lottery to
26 provide participation in a lottery;

27 (25)(A) "Vendor" means a person who provides or proposes to
28 provide goods or services to the Arkansas Lottery Commission under a major
29 procurement contract.

30 (B) "Vendor" does not include:

31 (i) An employee of the Arkansas Lottery Commission;

32 (ii) A retailer; or

33 (iii) A state agency or instrumentality.

34 (C) "Vendor" includes a corporation whose stock is
35 publicly traded and that is the parent company of the contracting party in a
36 major procurement contract; and

1 (26) "Video lottery" means a lottery game that allows a game to
2 be played using an electronic computer and an interactive computer terminal
3 device:

4 (A) That is equipped with a video screen and keys and a
5 keyboard or other equipment allowing input by an individual player;

6 (B) Into which the player inserts coins, currency,
7 vouchers, or tokens as consideration in order for play to be available; and

8 (C) Through which the player may receive free games,
9 coins, tokens, or credits that may be redeemed for cash, annuitized payments
10 over time, a noncash prize, or nothing, as may be determined wholly or
11 predominantly by chance.

12
13 SECTION 28. Arkansas Code § 23-115-205(a)(11), as enacted by Acts 605
14 and 606 of 2009 and concerning the powers of the Arkansas Lottery Commission,
15 is amended to read as follows:

16 (11) To employ:

17 (A) The Director of the Arkansas Lottery Commission; and

18 (B) (i) An internal auditor.

19 (ii) The commission shall determine the duties and
20 responsibilities of the internal auditor.

21 (iii) The internal auditor shall report directly to
22 the commission;

23
24 SECTION 29. Arkansas Code § 23-115-209(a), as enacted by Acts 605 and
25 606 of 2009 and concerning appealing administrative orders of the Arkansas
26 Lottery Commission, is amended to read as follows:

27 (a) A retailer, a vendor, or an applicant for a ~~major procurement~~
28 contract or a retailer license aggrieved by an administrative order of the
29 Arkansas Lottery Commission may appeal that decision to Pulaski County
30 Circuit Court.

31
32 SECTION 30. Arkansas Code § 23-115-209(d), as enacted by Acts 605 and
33 606 of 2009 and concerning certain appeals of administrative orders of the
34 Arkansas Lottery Commission, is amended to read as follows:

35 (d)(1) A person who appeals the award of a contract, including without
36 limitation a major procurement contract, is liable for all costs of appeal

1 and defense if the appeal is denied or the contract award upheld.

2 (2) If upon the motion of the commission the court finds the
3 appeal to have been frivolous, the cost of appeal and defense shall include
4 without limitation the following expenses of the commission resulting from
5 institution of the appeal:

6 (A) Court costs;

7 (B) Bond;

8 (C) Legal fees; and

9 (D) Loss of income.

10 (3) A person appealing the award of a contract may be entitled
11 to the reasonable costs incurred in connection with the contract
12 solicitation, including without limitation bid preparation costs.
13

14 SECTION 31. Arkansas Code § 23-115-211, as enacted by Acts 605 and 606
15 of 2009, is amended to read as follows:

16 23-115-211. Certain sections inapplicable.

17 The following sections shall not apply to the Arkansas Lottery
18 Commission:

19 (1) Section 19-1-211;

20 (2) Section 19-1-301 et seq.;

21 (3) Section 19-1-609;

22 (4) Section 19-4-1802;

23 (5) Section 19-5-206; ~~and~~

24 (6) Section 19-11-301 et seq.;

25 (7) Section 22-9-103;

26 (8) Section 22-9-104;

27 (9) Section 25-1-104;

28 (10) Section 25-26-201 et seq.; and

29 (11) Section 25-27-104.
30

31 SECTION 32. Arkansas Code § 23-115-305, as enacted by Acts 605 and 606
32 of 2009, is amended to read as follows:

33 23-115-305. Regular salaries.

34 There is ~~hereby~~ established for the Arkansas Lottery Commission the
35 following regular employees, the grades to be assigned to the respective
36 positions, and the maximum annual salaries for each such position. The

1 maximum annual salary for the positions assigned to grades shall be
 2 determined in accordance with, but shall not exceed, the maximum annual
 3 amount for the grade assigned ~~herein~~ in this section, as established in § 21-
 4 5-209. Except for the purpose of determining the maximum annual salary rate,
 5 which is to be applicable to each of the positions to which a salary grade is
 6 assigned ~~hereinafter~~ in this section, in accordance with § 21-5-209, all
 7 positions set forth ~~herein~~ in this section shall be exempt from other
 8 provisions of the Uniform Classification and Compensation Act, § 21-5-201 et
 9 seq., ~~or its successor~~, but shall not be exempt from ~~the provisions of the~~
 10 Regular Salaries Procedures and Restrictions Act, § 21-5-101 et seq. ~~or its~~
 11 ~~successor.~~

Item Class			Maximum	
No.	Code	Title	No. of Employees	Maximum Annual Salary Rate
(01)		LOTTERY CMSN EXECUTIVE DIRECTOR	1	\$141,603
(02)		LOTTERY CMSN INTERNAL AUDITOR	1	\$141,603
(03)		LOTTERY CMSN CHIEF OPERATING OFFICER	1	\$126,050
(04)		LOTTERY CMSN INFORMATION TECH DIR	1	GRADE N912
(05)		LOTTERY CMSN ADMIN & OPERATIONS DIR	1	GRADE N912
(06)		LOTTERY CMSN CHIEF LEGAL COUNSEL	1	GRADE N910
(07)		LOTTERY CMSN CHIEF FISCAL OFFICER	1	GRADE N910
(08)		LOTTERY CMSM MARKETING & PROD DEV DIR	1	GRADE N909
(09)		LOTTERY CMSN SALES/RETAIL RELATIONS DIR	1	GRADE N909
(10)		LOTTERY CMSN PROCUREMENT DIRECTOR	1	GRADE N908
(11)		LOTTERY CMSN ADMIN ANALYST	2	GRADE C115
(12)		LOTTERY CMSN ADMIN SUPPORT SUPERVISOR	2	GRADE C113
(13)		LOTTERY CMSN ADMIN SUPPORT SPEC III	6	GRADE C112

30 SECTION 33. Arkansas Code § 23-115-306, as enacted by Acts 605 and 606
 31 of 2009, is amended to read as follows:

32 23-115-306. Special salary allowances.

33 (a) The Arkansas Lottery Commission, upon approval of the Arkansas
 34 Lottery Commission Legislative Oversight Committee, may make special salary
 35 allowances authorized by this section for recruitment or retention in amounts
 36 as the commission may determine equitable in view of the exacting duties

1 ~~which~~ that are involved as a part of the salary of the:

2 (1) ~~Executive~~ Director of the Arkansas Lottery Commission;

3 (2) Internal auditor of the commission; and

4 (3) Chief operating officer of the commission.

5 (b) ~~An allowance under subsection (a) of this section~~ The total
6 compensation for a position subject to an allowance under subsection (a) of
7 this section, including the salary authorized by the General Assembly and a
8 special salary allowance, shall not exceed an amount equal to two and one
9 half (2 1/2) times the salary for the position authorized by the General
10 Assembly.

11 (c)(1) The requirement of approval by the Arkansas Lottery Commission
12 Legislative Oversight Committee before granting a special salary allowance
13 under this section is not a severable part of this section.

14 (2) If the requirement of approval by the Arkansas Lottery
15 Commission Legislative Oversight Committee is ruled unconstitutional by a
16 court of competent jurisdiction, this section is void.

17
18 SECTION 34. Arkansas Code § 23-115-307, as enacted by Acts 605 and 606
19 of 2009, is amended to read as follows:

20 23-115-307. Expansion pool.

21 (a) The Arkansas Lottery Commission is authorized an expansion pool of
22 sixty (60) positions not to exceed the career service grade C130 and fifteen
23 (15) positions not to exceed the professional and executive grade N922 to be
24 used to establish additional positions of the proper title and salary if the
25 commission does not have sufficient positions available to address growth
26 needs.

27 (b) A position established under this section shall not exceed a
28 salary rate in excess of the highest rate established by grade or by line
29 item in this ~~act~~ subchapter.

30 (c) A position shall not be authorized from the expansion pool until
31 the specific positions that are requested by the commission are reviewed by
32 the Arkansas Lottery Commission Legislative Oversight Committee.

33 (d) When seeking review of positions by the Arkansas Lottery
34 Commission Legislative Oversight Committee under this section, the commission
35 shall provide an organizational chart indicating the current structure of the
36 commission and its employees.

1 (e)(1) The requirement of review by the ~~committee prior to~~ Arkansas
2 Lottery Commission Legislative Oversight Committee before authorizing
3 positions from the expansion pool is not a severable part of this section.

4 (2) If the requirement of review by the ~~committee~~ Arkansas
5 Lottery Commission Legislative Oversight Committee is ruled unconstitutional
6 by a court of competent jurisdiction, this section is void.

7
8 SECTION 35. Arkansas Code § 23-115-401(d), as enacted by Acts 605 and
9 606 of 2009 and concerning certain staff employed by the Arkansas Lottery
10 Commission, is amended to read as follows:

11 (d) The commission shall employ ~~procurement officials~~ staff to assist
12 prospective vendors and retailers with entering into and competing for
13 contracts, including without limitation the development and implementation of
14 the plans and programs under subsections (b) and (c) of this section.

15
16 SECTION 36. Arkansas Code § 23-115-403(c)(5)(B), as enacted by Acts
17 605 and 606 of 2009 and concerning auditors present at lottery drawings, is
18 amended to read as follows:

19 (B) The commission may ~~select~~ request an auditor employed
20 by the Division of Legislative Audit for the purposes of subdivision (c)(5)
21 of this section.

22
23 SECTION 37. Arkansas Code § 23-115-404(a)(2), concerning certain
24 information exempt from public disclosure, is amended to read as follows:

25 (2) The following records or information ~~in the possession of~~
26 ~~the commission~~ shall be treated as confidential and are exempt from public
27 disclosure under the Freedom of Information Act of 1967, § 25-19-101 et seq.:

28 (A) Information pertaining to the security of lottery
29 games and lottery operations, including without limitation:

- 30 (i) Security measures, systems, or procedures; and
31 (ii) Security reports; and

32 (B) Any records exempt from disclosure under the Freedom
33 of Information Act of 1967, § 25-19-101 et seq.

34
35 SECTION 38. Arkansas Code Title 23, Chapter 115, Subchapter 4, as
36 enacted by Acts 605 and 606 of 2009, is amended to add an additional section

1 to read as follows:

2 23-115-409. Laws under other wagering chapters not affected.

3 This chapter does not alter wagering that may be conducted under the
4 Arkansas Horse Racing Law, § 23-110-101 et seq., the Arkansas Greyhound
5 Racing Law, § 23-111-101 et seq., or the Local Option Horse Racing and
6 Greyhound Racing Electronic Games of Skill Act, § 23-113-101 et seq.

7
8 SECTION 39. Arkansas Code § 23-115-501(e), as enacted by Acts 605 and
9 606 of 2009 and concerning certain ethics restrictions on vendors and
10 applicants for major procurement contracts, is amended to read as follows:

11 (e)(1) A vendor ~~or an applicant for~~ who provides or proposes to
12 provide goods or services under a major procurement contract shall not
13 provide a gift or compensation to:

14 (A) The Director of the Arkansas Lottery Commission, a
15 commission member, a commission employee, or a member of the Arkansas Lottery
16 Commission Legislative Oversight Committee; or

17 (B) A member of the immediate family of the director, a
18 commission member, a commission employee, or a member of the Arkansas Lottery
19 Commission Legislative Oversight Committee.

20 ~~(2)(A) This subsection shall be enforced and penalties shall be~~
21 ~~assessed in the same manner as § 21-8-301 et seq. Any person who knowingly~~
22 ~~violates subsection (e)(1) of this section shall be guilty of a Class A~~
23 ~~misdemeanor.~~

24 (B)(i) The Arkansas Ethics Commission shall also have the
25 authority to investigate and address alleged violations of subsection (e)(1)
26 of this section.

27 (ii) The Arkansas Ethics Commission shall have the
28 same power and authority to enforce the provisions of subsection (e)(1) of
29 this section as granted to it under §§ 7-6-217 and 7-6-218.

30
31 SECTION 40. Arkansas Code § 23-115-502(a)(3), as enacted by Acts 605
32 and 606 of 2009 and concerning securities maintained with the Arkansas
33 Lottery Commission, is amended to read as follows:

34 (3) The securities shall be held in trust and shall ~~have~~ at all
35 ~~times a market value at least equal to the full amount estimated to be paid~~
36 ~~annually to the vendor under contract~~ be in an amount as deemed necessary by

1 the commission for the particular bid or major procurement contract.

2
3 SECTION 41. Arkansas Code § 23-115-504, as enacted by Acts 605 and 606
4 of 2009, is amended to read as follows:

5 23-115-504. Political contributions by vendors.

6 (a) The General Assembly finds:

7 (1) That the integrity of the Arkansas Lottery Commission and
8 lotteries is of utmost importance; and

9 (2) That the people of the State of Arkansas should have
10 confidence and be assured that public officials are free of any untoward
11 political influence by vendors.

12 (b) A vendor awarded a major procurement contract for lottery
13 equipment or tickets or an officer, employee, or agent,~~or subcontractor~~ of a
14 vendor awarded a major procurement contract for lottery equipment or tickets
15 shall not make a political contribution to a public official or a candidate
16 for election as a public official.

17 (c) A vendor proposing to provide goods or services under a major
18 procurement contract or an officer, employee, or agent of a vendor proposing
19 to provide goods or services under a major procurement contract shall not:

20 (1) Make a political contribution to a public official or a
21 candidate for election as a public official while the award of the major
22 procurement contract is pending; and

23 (2) While the award of the major procurement contract is
24 pending, promise to make a political contribution to a public official or a
25 candidate for election as a public official after the award of the major
26 procurement contract.

27
28 SECTION 42. Arkansas Code § 23-115-601(g), as enacted by Acts 605 and
29 606 of 2009 and concerning certain ethics restrictions on retailers and
30 retailer applicants, is amended to read as follows:

31 (g)(1) A retailer or an applicant to be a retailer shall not provide a
32 gift or compensation to:

33 (A) The Director of the Arkansas Lottery Commission, a
34 commission member, or a commission employee; or

35 (B) A member of the immediate family of the director, a
36 commission member, or a commission employee.

1 (2)(A) ~~This subsection shall be enforced and penalties shall be~~
2 ~~assessed in the same manner as § 21-8-301 et seq.~~ Any person who knowingly
3 violates subsection (e)(1) of this section shall be guilty of a Class A
4 misdemeanor.

5 (B)(i) The Arkansas Ethics Commission shall also have the
6 authority to investigate and address alleged violations of subsection (e)(1)
7 of this section.

8 (ii) The Arkansas Ethics Commission shall have the
9 same power and authority to enforce the provisions of subsection (e)(1) of
10 this section as granted to it under §§ 7-6-217 and 7-6-218.

11
12 SECTION 43. Arkansas Code § 23-115-605(d), enacted by Acts 605 and 606
13 of 2009 and concerning the failure to promptly remit lottery proceeds to the
14 Arkansas Lottery Commission, is amended to read as follows:

15 (d) ~~If the commission determines that a retailer failed to comply with~~
16 ~~subsection (b) of this section three (3) times within any consecutive twenty-~~
17 ~~four-month period, the commission may refer the retailer to the Department of~~
18 ~~Finance and Administration with a recommendation that the department pursue~~
19 ~~business closure against the retailer as a noncompliant taxpayer as provided~~
20 ~~in § 26-18-1001 et seq under this subchapter.~~

21
22 SECTION 44. Arkansas Code Title 23, Chapter 115, Subchapter 6, as
23 enacted by Acts 605 and 606 of 2009, is amended to add additional sections to
24 read as follows:

25 23-115-607. Business closure authority – Notice.

26 (a) In addition to all other remedies provided by law for failure to
27 remit lottery proceeds due the commission, the Director of the Arkansas
28 Lottery Commission may close the business of a retailer if the retailer fails
29 to comply with § 23-115-605(b) three (3) times within any consecutive twenty-
30 four-month period

31 (b)(1) The director shall give notice to the retailer that the third
32 delinquency in complying with § 23-115-605(b) in any consecutive twenty-four-
33 month period may result in the closure of the business.

34 (2) The notice shall be in writing and delivered to the retailer
35 by:

36 (A) The United States Postal Service; or

1 (B) Hand delivery.

2 (c)(1) If the retailer has a third delinquency in complying with § 23-
3 115-605(b) in any consecutive twenty-four-month period after the issuance of
4 the notice provided in subsection (b) of this section and the director
5 chooses to close the business, the director shall notify the retailer by
6 certified mail or by hand delivery that the business will be closed within
7 five (5) business days from the date of receipt of the notice unless the
8 retailer avoids closure of the business under subsection (d) of this section.

9 (2) If the fifth day falls on a Saturday, Sunday, or legal
10 holiday, the performance of an act to avoid business closure under subsection
11 (d) of this section is timely when performed on the next succeeding business
12 day that is not a Saturday, Sunday, or legal holiday.

13 (d) A retailer may avoid closure of the business by:

14 (1) Remitting the delinquent lottery proceeds; or

15 (2) Entering into a written payment agreement approved by the
16 director to satisfy the lottery proceeds delinquency.

17
18 23-115-608. Administrative hearing.

19 (a) A retailer may request an administrative hearing concerning the
20 decision of the Director of the Arkansas Lottery Commission to close the
21 retailer's business.

22 (b) Within five (5) business days after the delivery or attempted
23 delivery of the notice required by § 23-115-607(c), the retailer may file a
24 written protest, signed by the retailer or his or her authorized agent, with
25 the director stating the reasons for opposing the closure of the business and
26 requesting an administrative hearing.

27 (c)(1) A retailer may request that an administrative hearing be held:

28 (A) In person;

29 (B) By telephone;

30 (C) Upon written documents furnished by the retailer; or

31 (D) Upon written documents and any evidence to be produced
32 by the retailer at an administrative hearing.

33 (2) The director may determine whether an administrative hearing
34 at which testimony is to be presented will be conducted in person or by
35 telephone.

36 (3) A retailer who requests an administrative hearing based upon

1 written documents is not entitled to any other administrative hearing before
2 the rendering of the administrative decision.

3 (d) The administrative hearing shall be conducted by a hearing officer
4 appointed by the director.

5 (e)(1) The hearing officer shall:

6 (A) Set the time and place for a hearing; and

7 (B) Give the retailer notice of the hearing.

8 (2) At the administrative hearing, the retailer may:

9 (A) Be represented by an authorized representative; and

10 (B) Present evidence in support of his or her position.

11 (f) The administrative hearing shall be held within fourteen (14)
12 calendar days of receipt by the director of the request for hearing.

13 (g) The administrative hearing and determinations made by the hearing
14 officer under this subchapter are subject to the Arkansas Administrative
15 Procedure Act, § 25-15-201 et seq.

16 (h) The defense or defenses to the closure of a business under this
17 subchapter are:

18 (1) Written proof that the retailer remitted the delinquent
19 lottery proceeds due; or

20 (2) That the retailer has entered into a written payment
21 agreement, approved by the director, to satisfy the lottery proceeds
22 delinquency.

23 (i) The decision of the hearing officer shall be in writing with
24 copies delivered to the retailer and the director by the United States Postal
25 Service or by hand delivery.

26
27 23-115-609. Judicial relief.

28 (a)(1) If the decision of the hearing officer under § 23-115-608 is to
29 affirm the closure of the business, the decision shall be submitted in
30 writing and delivered by the United States Postal Service or by hand to the
31 retailer.

32 (2) The retailer may seek judicial relief from the decision by
33 filing suit within twenty (20) calendar days of the date of the decision.

34 (b)(1) Jurisdiction for a suit under this section to contest a
35 determination of the director shall be in Pulaski County Circuit Court, where
36 the matter shall be tried de novo.

1 (2)(A) If the circuit court finds that the business closure
2 order was appropriately issued by the director, the circuit court shall issue
3 an injunction against the retailer prohibiting the further operation of the
4 business.

5 (B) If a business subject to an injunction issued by the
6 circuit court as provided in this subchapter continues in operation, upon
7 conviction, any person responsible for the decision to operate the business
8 after the issuance of the injunction shall be guilty of a Class A
9 misdemeanor.

10 (3) An appeal may be made from the circuit court to the
11 appropriate appellate court, as provided by law.

12 (c) The procedures established by § 23-115-608 and this section are
13 the sole methods for seeking relief from a written decision to close the
14 business of a retailer for failure to comply with § 23-115-605(b).

15 (d) The decision to close the business of a retailer shall be final:

16 (1) If the retailer fails to:

17 (A) Request an administrative hearing under § 23-115-608;

18 or

19 (B) Seek judicial relief under this section; or

20 (2) Upon the final decision of a circuit court or an appellate
21 court.

22 (e)(1) It is unlawful for a business to continue in operation after a
23 business closure order is issued that is:

24 (A) Upheld on appeal under this subchapter; or

25 (B) Not appealed by the retailer under this subchapter.

26 (2) Upon conviction, any person responsible for the decision to
27 operate the business in violation of this subchapter shall be guilty of a
28 Class A misdemeanor.

29
30 23-115-610. Business closure procedure.

31 (a) If a retailer fails to timely seek administrative or judicial
32 review of a business closure decision or if the business closure decision is
33 affirmed after administrative or judicial review, the Director of the
34 Arkansas Lottery Commission shall direct the Department of Finance and
35 Administration to affix a written notice to all entrances of the business
36 that:

1 (1) Identifies the business as being subject to a business
2 closure order; and

3 (2) States that the business is prohibited from further
4 operation.

5 (b) The Director of the Arkansas Lottery Commission may also direct
6 that the business be locked or otherwise secured so that it may not be
7 operated.

8 (c) The Director of the Department of Finance and Administration may
9 request the assistance of the Department of Arkansas State Police or any
10 state or local law enforcement official to post the notice or to secure the
11 business as authorized in this section.

12 (d) The commission may reimburse the Department of Finance and
13 Administration for the costs of administering this section after review of
14 the amount by the Arkansas Lottery Commission Legislative Oversight
15 Committee.

16
17 23-115-611. Revocation and suspension of business's license.

18 (a) The closure of a business under this subchapter shall be grounds
19 for cancellation, suspension, revocation, or termination of a retailer
20 license under § 23-115-604.

21 (b) The closure of a business under this subchapter shall be grounds
22 for the suspension or revocation of any business license granted under the
23 laws of the State of Arkansas, excluding professional licenses.

24 (c) After the decision to close the retailer's business becomes final,
25 the Director of the Arkansas Lottery Commission shall contact the appropriate
26 administrative body responsible for granting licenses to operate the business
27 and report the closure of the business.

28
29 23-115-612. Authority to promulgate rules.

30 The Arkansas Lottery Commission may promulgate rules necessary for the
31 implementation and enforcement of this subchapter.

32
33 SECTION 45. Arkansas Code § 23-115-701(c)(3), as enacted by Acts 605
34 and 606 of 2009 and concerning major procurement contracts of the Arkansas
35 Lottery Commission, is amended to read as follows:

36 (3) ~~The~~ Except for printing, stationery, and supplies under

1 Arkansas Constitution, Amendment 54, the commission is not required to accept
2 the lowest responsible bid for major procurement contracts but shall select a
3 bid that provides the greatest long-term benefit to the state, the greatest
4 integrity for the commission, and the best service and products for the
5 public.

6
7 SECTION 46. Arkansas Code § 23-115-802(b), as enacted by Acts 605 and
8 606 of 2009 and concerning the scholarship shortfall reserve trust account,
9 is amended to read as follows:

10 (b)(1) An amount equal to ~~ten percent (10%)~~ four percent (4%) of the
11 total amount of net proceeds disbursed during the preceding fiscal year in
12 the form of scholarships and grants for higher education shall be deposited
13 from lottery proceeds each year until the amount in the scholarship shortfall
14 reserve trust account equals ~~fifty million dollars (\$50,000,000)~~ twenty
15 million dollars (\$20,000,000).

16 (2) Thereafter, only an amount necessary to maintain the
17 scholarship shortfall reserve trust account in an amount equal to ~~fifty~~
18 ~~million dollars (\$50,000,000)~~ twenty million dollars (\$20,000,000) shall be
19 deposited into the scholarship shortfall reserve trust account.

20 (3) Any amount in the trust fund exceeding twenty million
21 dollars (\$20,000,000) shall be considered net proceeds and shall be deposited
22 annually into one (1) or more trust accounts at one (1) or more financial
23 institutions by July 1 of each year.

24
25 SECTION 47. Arkansas Code § 23-115-1101(d)(3), as enacted by Acts 605
26 and 606 of 2009 and concerning the duties of the Arkansas Lottery Commission
27 Legislative Oversight Committee, is amended to read as follows:

28 (3)(A) Review proposed ~~major procurement~~ contracts of twenty-
29 five thousand dollars (\$25,000) or more before the execution of the
30 contracts.

31 (B) The commission shall provide a list of all contracts
32 less than twenty-five thousand dollars (\$25,000) to the Arkansas Lottery
33 Commission Legislative Oversight Committee on a monthly basis;

34
35 SECTION 48. Arkansas Code § 23-115-1101, as enacted by Acts 605 and
36 606 of 2009, is amended to add an additional subsection to read as follows:

1 (h)(1) With the consent of both the President Pro Tempore of the
 2 Senate and the Speaker of the House of Representatives, the Arkansas Lottery
 3 Commission Legislative Oversight Committee may meet during a session of the
 4 General Assembly to perform its duties under this chapter.

5 (2) This subsection (h) does not limit the authority of the
 6 Arkansas Lottery Commission Legislative Oversight Committee to meet during a
 7 recess as authorized by § 10-3-211 or § 10-2-223.

8
 9 SECTION 49. Arkansas Code § 25-1-110(e), concerning the cost-
 10 effectiveness of state-owned vehicles, is amended to read as follows:

11 (e) The provisions of this section do not apply to the Arkansas
 12 Lottery Commission, institutions of higher education, and vocational
 13 technical institutes.

14
 15 SECTION 50. Arkansas Code § 25-1-206 is amended to read as follows:
 16 25-1-206. Definition of "state agency".

17 The term "state agency" as used in this subchapter does not include:

18 (1) The Arkansas Lottery Commission; and

19 (2) ~~institutions~~ Institutions of higher education.

20
 21 SECTION 51. Arkansas Code § 25-4-103(16), concerning the definition of
 22 "state agencies" under the Arkansas Information Systems Act of 1997, is
 23 amended to read as follows:

24 (16) "State agencies" means all state departments, boards, and
 25 commissions but shall not include the Arkansas Lottery Commission, the
 26 elected constitutional officers and their staffs, the General Assembly and
 27 its committees and staffs, or the Supreme Court and the Administrative Office
 28 of the Courts, and public institutions of higher education with respect to
 29 academic, research, healthcare, and existing information technology
 30 applications and underlying support therefor;

31
 32 SECTION 52. Section 7, subdivision (a)(2) of Acts 605 and 606 of 2009
 33 is amended to read as follows:

34 (2) The amount of net proceeds from the state lottery
 35 reasonably projected for the 2010-2011 academic year as determined by the
 36 director, after consultation with the Arkansas Lottery Commission, the

1 *Legislative Oversight Committee, the House Committee on Education, and the*
2 *Senate Committee on Education.*

3
4 *SECTION 53. Section 7, subdivision (b)(2) of Acts 605 and 606 of 2009*
5 *is amended to read as follows:*

6 *(2) Increasing state-supported student financial assistance*
7 *under the Higher Education Opportunities Grant Program, § 6-82-1701 et seq.*
8 *and the Arkansas Workforce Improvement Grant Program, § 6-82-1601 et seq., or*
9 *other state-supported student financial assistance programs for*
10 *nontraditional students; or*

11
12 *SECTION 54. Section 7, subdivision (e)(1) of Acts 605 and 606 of 2009*
13 *is amended to read as follows:*

14 *(e)(1) The department shall maintain a list of nontraditional students*
15 *and students near completion and shall award scholarships under this*
16 *subchapter first in order of those nearest completion.*

17
18 *SECTION 55. The Arkansas Lottery Commission may participate in the*
19 *Arkansas Administrative Statewide Information System.*

20
21 *SECTION 56. TEMPORARY LANGUAGE. NOT TO BE CODIFIED.*

22 *(a) The General Assembly recognizes that the Arkansas Lottery*
23 *Commission will experience staffing needs before it is able to hire staff*
24 *necessary to assist the commission with its implementation of the Arkansas*
25 *Scholarship Lottery Act, § 23-115-101 et seq.*

26 *(b) Upon request of the commission, the Director of the Bureau of*
27 *Legislative Research may provide staff to assist the commission with its*
28 *duties in a manner and at times determined by the director until the*
29 *commission hires sufficient staff to assist the commission with its*
30 *implementation of the Arkansas Scholarship Lottery Act, § 23-115-101 et seq.*

31 *(c) This section shall expire on September 1, 2009.*

32
33 *SECTION 57. EMERGENCY CLAUSE. It is found and determined by the*
34 *General Assembly of the State of Arkansas that the people of the State of*
35 *Arkansas overwhelmingly approved the establishment of lotteries at the 2008*
36 *General Election; that the Eighty-seventh General Assembly adopted Acts 605*

1 and 606 of 2009 that implemented lotteries and made corresponding revisions
2 to the Arkansas Academic Challenge Scholarship Program; that this bill amends
3 provisions of Acts 605 and 606 of 2009 pertaining to lotteries and the
4 Arkansas Academic Challenge Scholarship Program; and that the failure to
5 immediately implement this act will cause a reduction in lottery proceeds
6 that will harm the educational and economic success of potential students
7 eligible to receive scholarships under the act. Therefore, an emergency is
8 declared to exist and this act being immediately necessary for the
9 preservation of the public peace, health, and safety shall become effective
10 on:

11 (1) The date of its approval by the Governor;

12 (2) If the bill is neither approved nor vetoed by the Governor,
13 the expiration of the period of time during which the Governor may veto the
14 bill; or

15 (3) If the bill is vetoed by the Governor and the veto is
16 overridden, the date the last house overrides the veto.

17
18
19 /s/ Wills

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21 APPROVED: 4/9/2009
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