

INTERIM STUDY PROPOSAL 2009-182

State of Arkansas
87th General Assembly
Fiscal Session, 2010

A Bill

DRAFT MBM/JXC
SENATE BILL

By: Senator Madison

Filed with: Arkansas Legislative Council
pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

AN ACT TO REPEAL THE AUTHORIZATION FOR STATE
LOTTERIES UNDER THE ARKANSAS SCHOLARSHIP LOTTERY
ACT; TO REGULATE STATE LOTTERIES BY PROVIDING
THAT NO LOTTERIES ARE ESTABLISHED OR OPERATED
UNDER ARTICLE 19, SECTION 14 OF THE ARKANSAS
CONSTITUTION; AND FOR OTHER PURPOSES.

Subtitle

PROVIDING THAT NO LOTTERIES ARE
ESTABLISHED OR OPERATED UNDER ARTICLE
19, SECTION 14 OF THE ARKANSAS
CONSTITUTION.

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

SECTION 1. Legislative intent.

(a) The General Assembly finds:

(1) Arkansas Constitution, Article 19, § 14 provides that the
General Assembly may enact laws to establish, operate, and regulate state
lotteries; and

(2) The General Assembly wishes to regulate state lotteries by
repealing the mechanism for operating state lotteries created by the Arkansas
Scholarship Lottery Act, § 23-115-101 et seq.

(b) It is the intent of this act that:

1 (1) The enactment of laws by the General Assembly to establish
2 and operate state lotteries is repealed; and

3 (2) Lotteries and the sale of lottery tickets shall be
4 prohibited under Arkansas Constitution, Article 19, § 14.

5
6 SECTION 2. TEMPORARY. DO NOT CODIFY. (a) Effective July 1, 2010, the
7 Arkansas Lottery Commission is abolished.

8 (b)(1) On July 1, 2010, except as provided in subdivision (b)(2) of
9 this section, all accounts maintained by the Arkansas Lottery Commission,
10 including without limitation the Scholarship Shortfall Reserve Trust Account
11 under § 23-115-802, shall be transferred to the trust account or trust
12 accounts under § 23-115-801(c)(2)(A)(i) to be disbursed by the Director of
13 the Department of Higher Education to fund scholarships awarded to recipients
14 under § 6-85-201 et seq.

15 (2)(A) The Arkansas Lottery Commission shall transfer to a
16 separate trust account an amount sufficient to satisfy outstanding
17 obligations of the Arkansas Lottery Commission as of July 1, 2010.

18 (B) The Chief Fiscal Officer of the State shall have
19 access to the trust account under subdivision (b)(2)(A) of this section and
20 shall use the funds within that trust account to satisfy outstanding
21 obligations on behalf of the Arkansas Lottery Commission.

22 (C) On July 1, 2011, any remaining funds transferred to
23 the trust account under subdivision (b)(2)(A) of this section to satisfy
24 outstanding obligations shall be transferred to the trust account or trust
25 accounts under § 23-115-801(c)(2)(A)(i) to be disbursed by the Director of
26 the Department of Higher Education to fund scholarships awarded to recipients
27 under § 6-85-201 et seq.

28
29 SECTION 3. Arkansas Code § 23-115-101 et seq. is repealed.

30
31 ~~TITLE 23~~

32 ~~CHAPTER 115~~

33 ~~ARKANSAS SCHOLARSHIP LOTTERY ACT~~

34
35 ~~SUBCHAPTER 1~~

36 ~~GENERAL PROVISIONS~~

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~~23-115-101. Short title.~~

~~This chapter shall be known and may be cited as the "Arkansas Scholarship Lottery Act".~~

~~23-115-102. Legislative intent.~~

~~It is found and declared by the General Assembly that:~~

~~(1) Net proceeds of lotteries conducted under this chapter shall be used to:~~

~~(A) Fund and provide for scholarships and grants to citizens of the State of Arkansas enrolled in public and private nonprofit two-year and four-year colleges and universities located within the state; and~~

~~(B) Supplement, not supplant, nonlottery educational resources;~~

~~(2) Lotteries shall be operated and managed in a manner that:~~

~~(A) Provides continuing entertainment to the public;~~

~~(B) Maximizes revenues; and~~

~~(C) Ensures that the lotteries are operated with integrity, dignity, and adequate internal controls and free of political influence; and~~

~~(3) The Arkansas Lottery Commission shall be accountable to the General Assembly and to the public through a system of audits and reports.~~

~~23-115-103. Definitions.~~

~~As used in this chapter:~~

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

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

~~(3)(A) "Casino gambling" means a location or business for the purposes of conducting illegal gambling activities, including without~~

1 ~~limitation activities under § 5-66-101 et seq. that are not authorized under~~
 2 ~~this chapter.~~

3 ~~(B) "Casino gambling" does not include the sale and~~
 4 ~~purchase of tickets or shares;~~

5 ~~(4)(A) "Compensation" means any money or anything of value~~
 6 ~~received or to be received as a claim for future services, whether in the~~
 7 ~~form of a retainer, fee, salary, expense, allowance, forbearance,~~
 8 ~~forgiveness, interest, dividend, royalty, rent, or any other form of~~
 9 ~~recompense or any combination thereof.~~

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

12 ~~(5) "Female owned business" means a business:~~

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

15 ~~(B) Either:~~

16 ~~(i) Individually owned by a female who reports as~~
 17 ~~her personal income for Arkansas income tax purposes the income of the~~
 18 ~~business;~~

19 ~~(ii) Which is a partnership in which a majority of~~
 20 ~~the ownership interest is owned by one (1) or more females who report as~~
 21 ~~their personal income for Arkansas income tax purposes more than fifty~~
 22 ~~percent (50%) of the income of the partnership; or~~

23 ~~(iii) Which is a corporation organized under the~~
 24 ~~laws of this state in which a majority of the common stock is owned by one~~
 25 ~~(1) or more females who report as their personal income for Arkansas income~~
 26 ~~tax purposes more than fifty percent (50%) of the distributed earnings of the~~
 27 ~~corporation;~~

28 ~~(6) "Gift" means any payment, entertainment, advance, services,~~
 29 ~~or anything of value, unless consideration of equal or greater value has been~~
 30 ~~given therefor;~~

31 ~~(7) "Immediate family" means the father, mother, sister,~~
 32 ~~brother, husband, wife, child, grandmother, grandfather, grandchild, father-~~
 33 ~~in-law, mother in-law, sister in-law, brother in-law, stepchild, grandmother-~~
 34 ~~in-law, grandfather in-law, stepgrandchild, or any individual acting as~~
 35 ~~parent or guardian;~~

36 ~~(8) "Incompetence" means:~~

1 ~~(A) — Gross ignorance of official duties;~~

2 ~~(B) — Gross carelessness in the discharge of official~~
 3 ~~duties; or~~

4 ~~(C) — Inability or unfitness to discharge promptly and~~
 5 ~~properly official duties because of a serious physical or mental defect that~~
 6 ~~did not exist at the time of the person's appointment;~~

7 ~~(9) — "License" means authorization granted by the Arkansas~~
 8 ~~Lottery Commission to an individual to operate as a retailer, including~~
 9 ~~without limitation the execution of a contract between the Arkansas Lottery~~
 10 ~~Commission and the individual relating to obligations and terms for operating~~
 11 ~~as a retailer;~~

12 ~~(10) — "Lobbying" means communicating directly or soliciting~~
 13 ~~others to communicate with any member of the Arkansas Lottery Commission, the~~
 14 ~~Director of the Arkansas Lottery Commission, any employee of the Arkansas~~
 15 ~~Lottery Commission, or a member of the Arkansas Lottery Commission~~
 16 ~~Legislative Oversight Committee with the purpose of influencing the actions~~
 17 ~~of the Arkansas Lottery Commission or the Arkansas Lottery Commission~~
 18 ~~Legislative Oversight Committee;~~

19 ~~(11) — "Local government" means:~~

20 ~~(A) — A county;~~

21 ~~(B) — A city of the first class or a city of the second~~
 22 ~~class;~~

23 ~~(C) — An incorporated town; or~~

24 ~~(D) — Any other district or political subdivision or any~~
 25 ~~board, commission, or agency of the political subdivisions under subdivisions~~
 26 ~~(11)(A) — (C) of this section;~~

27 ~~(12)(A) — "Lottery" means a game of chance approved by the~~
 28 ~~Arkansas Lottery Commission and operated under this chapter.~~

29 ~~(B) — "Lottery" includes without limitation:~~

30 ~~(i) — An instant ticket;~~

31 ~~(ii) — A draw game; and~~

32 ~~(iii) — Participation in a multistate or~~
 33 ~~multisovereign game.~~

34 ~~(C) — "Lottery" does not include:~~

35 ~~(i) — Casino gambling;~~

36 ~~(ii) — A video lottery;~~

1 ~~(iii) — Pari-mutuel wagering on horse racing or~~
 2 ~~greyhound racing governed by the Arkansas Horse Racing Law, § 23-110-101 et~~
 3 ~~seq., or the Arkansas Greyhound Racing Law, § 23-111-101 et seq., whether the~~
 4 ~~pari-mutuel wagering is on live racing, simulcast racing, or races conducted~~
 5 ~~in the past and rebroadcast by electronic means;~~

6 ~~(iv) — Wagering on electronic games of skill under the~~
 7 ~~Local Option Horse Racing and Greyhound Racing Electronic Games of Skill Act,~~
 8 ~~§ 23-113-101 et seq.; or~~

9 ~~(v) — Conducting or participating in charitable bingo~~
 10 ~~and raffles under the Charitable Bingo and Raffles Enabling Act, § 23-114-101~~
 11 ~~et seq.;~~

12 ~~(13) — "Lottery proceeds" means all revenue derived from the sale~~
 13 ~~of tickets or shares and all other moneys derived from a lottery, including~~
 14 ~~without limitation fees collected by the Arkansas Lottery Commission under~~
 15 ~~this chapter;~~

16 ~~(14)(A) — "Major procurement contract" means a contract for a~~
 17 ~~gaming product or service costing more than seventy five thousand dollars~~
 18 ~~(\$75,000), including without limitation:~~

- 19 ~~(i) — A major advertising contract;~~
- 20 ~~(ii) — An annuity contract;~~
- 21 ~~(iii) — A prize payment agreement;~~
- 22 ~~(iv) — A consulting service;~~
- 23 ~~(v) — Lottery equipment;~~
- 24 ~~(vi) — Tickets; and~~
- 25 ~~(vii) — Any other product and service unique to~~

26 ~~lotteries.~~

27 ~~(B) — "Major procurement contract" does not include a~~
 28 ~~material, supply, equipment, or service common to the ordinary operations of~~
 29 ~~the Arkansas Lottery Commission.~~

30 ~~(C) — When the cost of a proposed contract for a gaming~~
 31 ~~product or service is to be paid in whole or in part on a contingent basis,~~
 32 ~~the Arkansas Lottery Commission shall estimate the value of the proposed~~
 33 ~~contract to determine whether it is a major procurement contract;~~

34 ~~(15) — "Member of a minority" means a lawful permanent resident of~~
 35 ~~this state who is:~~

- 36 ~~(A) — African American;~~

1 ~~(B) — Hispanic American;~~

2 ~~(C) — American Indian;~~

3 ~~(D) — Asian American; or~~

4 ~~(E) — Pacific Islander American;~~

5 ~~(16) — "Minority owned business" means a business that is owned~~
6 ~~by;~~

7 ~~(A) — An individual who is a member of a minority who~~
8 ~~reports as his or her personal income for Arkansas income tax purposes the~~
9 ~~income of the business;~~

10 ~~(B) — A partnership in which a majority of the ownership~~
11 ~~interest is owned by one (1) or more members of a minority who report as~~
12 ~~their personal income for Arkansas income tax purposes more than fifty~~
13 ~~percent (50%) of the income of the partnership; or~~

14 ~~(C) — A corporation organized under the laws of this state~~
15 ~~in which a majority of the common stock is owned by one (1) or more members~~
16 ~~of a minority who report as their personal income for Arkansas income tax~~
17 ~~purposes more than fifty percent (50%) of the distributed earnings of the~~
18 ~~corporation;~~

19 ~~(17) — "Net proceeds" means lottery proceeds less operating~~
20 ~~expenses;~~

21 ~~(18) — "Nonlottery state educational resources" means the same as~~
22 ~~defined in § 6-85-204;~~

23 ~~(19) — "Operating expenses" means all costs of doing business,~~
24 ~~including without limitation;~~

25 ~~(A) — Prizes, commissions, and other compensation paid to~~
26 ~~retailers;~~

27 ~~(B) — Contracts for products or services necessary for the~~
28 ~~operation of the lottery, including without limitation the execution of major~~
29 ~~procurement contracts;~~

30 ~~(C) — Advertising and marketing costs;~~

31 ~~(D) — Personnel costs;~~

32 ~~(E) — Capital costs or depreciation of property and~~
33 ~~equipment;~~

34 ~~(F) — Funds for compulsive gambling education and treatment;~~

35 ~~(G) — The payment of sums to the Arkansas State Claims~~
36 ~~Commission for the reconciliation of valid claims against the Arkansas~~

1 ~~Lottery Commission;~~

2 ~~(H) — Payments for the cost of a state and federal criminal~~
 3 ~~background check;~~

4 ~~(I) — Payments to the Department of Higher Education to:~~

5 ~~(i) — Reimburse the Department of Higher Education~~
 6 ~~for the costs of administering scholarship awards funded with net proceeds;~~
 7 ~~and~~

8 ~~(ii) — Replenish nonlottery state educational~~
 9 ~~resources expended by the Department of Higher Education on scholarship~~
 10 ~~awards otherwise funded with net proceeds;~~

11 ~~(J) — Amounts annually transferred to a fidelity fund under~~
 12 ~~§ 23-115-603; and~~

13 ~~(K) — Amounts paid to governmental entities for goods or~~
 14 ~~services provided to the Arkansas Lottery Commission, including without~~
 15 ~~limitation services provided by the Division of Legislative Audit and the~~
 16 ~~Department of Finance and Administration;~~

17 ~~(20) — "Person" means any individual, corporation, partnership,~~
 18 ~~unincorporated association, or other legal entity;~~

19 ~~(21)(A) — "Public official" means:~~

20 ~~(i) — The Governor;~~

21 ~~(ii) — The Lieutenant Governor;~~

22 ~~(iii) — The Secretary of State;~~

23 ~~(iv) — The Treasurer of State;~~

24 ~~(v) — The Attorney General;~~

25 ~~(vi) — The Commissioner of State Lands;~~

26 ~~(vii) — The Auditor of State; or~~

27 ~~(viii) — A member of the General Assembly.~~

28 ~~(B) — "Public official" includes an individual during the~~
 29 ~~time between the date he or she is elected and the date he or she takes~~
 30 ~~office;~~

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

33 ~~(23) — "Share" means any intangible evidence of participation in a~~
 34 ~~lottery;~~

35 ~~(24) — "Ticket" means any tangible evidence issued by a lottery to~~
 36 ~~provide participation in a lottery;~~

1 ~~(25)(A) "Vendor" means a person who provides or proposes to~~
2 ~~provide goods or services to the Arkansas Lottery Commission under a major~~
3 ~~procurement contract.~~

4 ~~(B) "Vendor" does not include:~~

5 ~~(i) An employee of the Arkansas Lottery Commission;~~

6 ~~(ii) A retailer; or~~

7 ~~(iii) A state agency or instrumentality.~~

8 ~~(C) "Vendor" includes a corporation whose stock is~~
9 ~~publicly traded and that is the parent company of the contracting party in a~~
10 ~~major procurement contract; and~~

11 ~~(26) "Video lottery" means a lottery game that allows a game to~~
12 ~~be played using an electronic computer and an interactive computer terminal~~
13 ~~device.~~

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

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

18 ~~(C) Through which the player may receive free games,~~
19 ~~coins, tokens, or credits that may be redeemed for cash, annuitized payments~~
20 ~~over time, a noneash prize, or nothing, as may be determined wholly or~~
21 ~~predominantly by chance.~~

22
23
24 ~~SUBCHAPTER 2~~

25 ~~ARKANSAS LOTTERY COMMISSION~~

26
27 ~~23-115-201. Arkansas Lottery Commission — Creation — Venue.~~

28 ~~(a) There is created the Arkansas Lottery Commission to establish and~~
29 ~~oversee the operation of one (1) or more lotteries under this chapter.~~

30 ~~(b) The commission is a self-supporting and revenue-raising agency of~~
31 ~~the state.~~

32 ~~(c) The commission shall reimburse other governmental entities that~~
33 ~~provide goods or services to the commission.~~

34
35 ~~23-115-202. Members — Duties.~~

36 ~~(a)(1) The Arkansas Lottery Commission consists of the following~~

1 ~~members:~~

2 ~~(A) Three (3) members appointed by the Governor;~~

3 ~~(B) Three (3) members appointed by the Speaker of the~~

4 ~~House of Representatives; and~~

5 ~~(C) Three (3) members appointed by the President Pro~~

6 ~~Tempore of the Senate.~~

7 ~~(2) The members of the commission shall elect annually:~~

8 ~~(A) A chair; and~~

9 ~~(B) Other officers necessary to carry on its business.~~

10 ~~(b)(1) Of the initial appointees to the commission by the Governor:~~

11 ~~(A) One (1) member shall serve a term of two (2) years;~~

12 ~~(B) One (1) member shall serve a term of four (4) years;~~

13 ~~and~~

14 ~~(C) One (1) member shall serve a term of six (6) years.~~

15 ~~(2) Of the initial appointees to the commission by the President~~

16 ~~Pro Tempore of the Senate:~~

17 ~~(A) One (1) member shall serve a term of two (2) years;~~

18 ~~(B) One (1) member shall serve a term of four (4) years;~~

19 ~~and~~

20 ~~(C) One (1) member shall serve a term of six (6) years.~~

21 ~~(3) Of the initial appointees to the commission by the Speaker~~

22 ~~of the House of Representatives:~~

23 ~~(A) One (1) member shall serve a term of two (2) years;~~

24 ~~(B) One (1) member shall serve a term of four (4) years;~~

25 ~~and~~

26 ~~(C) One (1) member shall serve a term of six (6) years.~~

27 ~~(4) All succeeding appointments to the commission shall be for~~

28 ~~terms of six (6) years.~~

29 ~~(5) The appointing authorities shall determine the length of~~

30 ~~terms of the initial members of the commission.~~

31 ~~(6) A member of the commission shall not serve more than two (2)~~

32 ~~terms.~~

33 ~~(c) A vacancy on the commission shall be filled by the appointing~~

34 ~~authority for the unexpired portion of the term in which it occurs.~~

35 ~~(d)(1) The commission shall meet at least quarterly upon the call of~~

36 ~~the chair.~~

1 ~~(2) A majority of the total membership of the commission~~
2 ~~constitutes a quorum.~~

3 ~~(e) The following shall not be appointed as a member of the~~
4 ~~commission:~~

5 ~~(1) A member of the General Assembly; or~~

6 ~~(2) A member of the immediate family of a member of the General~~
7 ~~Assembly.~~

8 ~~(f) Members of the commission may receive expense reimbursement under~~
9 ~~§ 25-16-901 et seq.~~

10
11 ~~23-115-203. Qualifications of commission members.~~

12 ~~(a)(1) In making appointments to the Arkansas Lottery Commission, the~~
13 ~~appointing authorities under § 23-115-202 shall consider racial, gender, and~~
14 ~~geographical diversity among the membership as well as legal, financial, or~~
15 ~~marketing experience.~~

16 ~~(2) Individuals appointed to the commission shall be residents~~
17 ~~of the State of Arkansas.~~

18 ~~(b)(1) An individual considered for appointment to the commission~~
19 ~~shall apply to the Identification Bureau of the Department of Arkansas State~~
20 ~~Police for a state and federal criminal background check, to be conducted by~~
21 ~~the Identification Bureau of the Department of Arkansas State Police and the~~
22 ~~Federal Bureau of Investigation.~~

23 ~~(2) The state and federal criminal background check shall~~
24 ~~conform to the applicable federal standards and shall include the taking of~~
25 ~~fingerprints.~~

26 ~~(3) The applicant shall sign a consent to the release of~~
27 ~~information for the state and federal criminal background check.~~

28 ~~(4) The commission shall be responsible for the payment of any~~
29 ~~fee associated with the state and federal criminal background check.~~

30 ~~(5) Upon completion of the state and federal criminal background~~
31 ~~check, the Identification Bureau of the Department of Arkansas State Police~~
32 ~~shall forward to the appointing authority all releasable information obtained~~
33 ~~concerning the applicant.~~

34 ~~(c) An individual shall not be appointed as a commission member if the~~
35 ~~individual has:~~

36 ~~(1) Been convicted of a felony or a gambling offense in a state~~

1 ~~or federal court of the United States;~~

2 ~~(2) Been convicted of a crime involving moral turpitude; or~~

3 ~~(3) Entered into a plea agreement to avoid felony prosecution.~~

4 ~~(d) Each member of the commission, before entering upon the discharge~~
5 ~~of the duties of a commissioner, shall file with the Secretary of State the~~
6 ~~constitutional oath of office.~~

7 ~~(e) Upon the end of his or her term, a former member of the commission~~
8 ~~shall not:~~

9 ~~(1) Represent a vendor or retailer before the commission for a~~
10 ~~period of two (2) years after the end of the former member's term; or~~

11 ~~(2) Engage in lobbying on any matter related to the operation or~~
12 ~~conduct of lotteries under this chapter for a period of two (2) years after~~
13 ~~the end of the former member's term.~~

14
15 ~~23-115-204. Lottery Retailer Advisory Board.~~

16 ~~(a)(1) The Chair of the Arkansas Lottery Commission, subject to the~~
17 ~~approval of a majority of a quorum of the Arkansas Lottery Commission, shall~~
18 ~~appoint a Lottery Retailer Advisory Board to be composed of ten (10)~~
19 ~~retailers.~~

20 ~~(2) In making appointments to the board, the chair may consider~~
21 ~~a broad spectrum of geographical, racial, gender, and business~~
22 ~~characteristics of retailers.~~

23 ~~(3) The board shall advise the commission on retail aspects of~~
24 ~~lotteries and present the concerns of retailers throughout the state.~~

25 ~~(b)(1) Except as provided in subdivision (b)(2) of this section, each~~
26 ~~member appointed to the board shall serve a term of two (2) years.~~

27 ~~(2)(A) Five (5) of the initial appointees shall serve initial~~
28 ~~terms of one (1) year.~~

29 ~~(B) The initial appointees shall draw lots to determine~~
30 ~~which five (5) members shall serve a one-year term.~~

31 ~~(3) A member of the board shall not serve more than six (6)~~
32 ~~terms.~~

33 ~~(c)(1) The board shall provide by rule for its operating procedures.~~

34 ~~(2) Members shall serve without compensation or reimbursement of~~
35 ~~expenses.~~

36 ~~(3) The board may report to the commission and the Arkansas~~

1 ~~Lottery Commission Legislative Oversight Committee in writing at any time.~~

2 ~~(4) The commission may invite the board to make an oral~~
3 ~~presentation to the commission at any meeting of the commission.~~

4 ~~(d) The following shall not be appointed as a member of the board:~~

5 ~~(1) A member of the immediate family of a member of the~~
6 ~~commission;~~

7 ~~(2) A member of the immediate family of the director of the~~
8 ~~commission; or~~

9 ~~(3) A member of the immediate family of an employee of the~~
10 ~~commission.~~

11
12 ~~23-115-205. Commission powers.~~

13 ~~(a) The Arkansas Lottery Commission has all powers necessary or~~
14 ~~convenient to its usefulness in carrying out this chapter that are not in~~
15 ~~conflict with the Arkansas Constitution or the United States Constitution,~~
16 ~~including without limitation the following powers:~~

17 ~~(1) To adopt and alter a seal;~~

18 ~~(2) To adopt, amend, and repeal rules for the regulation of its~~
19 ~~affairs and the conduct of its business, to prescribe the duties of officers~~
20 ~~and employees of the commission, and to perform other matters as the~~
21 ~~commission determines;~~

22 ~~(3) To bring suits to enforce demands of the state under this~~
23 ~~chapter;~~

24 ~~(4) To procure or to provide insurance;~~

25 ~~(5) To hold copyrights, trademarks, and service marks and to~~
26 ~~enforce the commission's rights with respect to those copyrights, trademarks,~~
27 ~~and service marks;~~

28 ~~(6) To initiate, supervise, and administer the operation of~~
29 ~~lotteries in accordance with this chapter and rules adopted under this~~
30 ~~chapter;~~

31 ~~(7) To enter into written agreements with one (1) or more other~~
32 ~~states or sovereigns for the operation, participation in marketing, and~~
33 ~~promotion of multistate or multisovereign games;~~

34 ~~(8) To conduct market research as necessary or appropriate;~~

35 ~~(9) To acquire or lease real property and make improvements to~~
36 ~~the real property and acquire by lease or by purchase personal property;~~

1 ~~including without limitation:~~
 2 ~~(A) — Computers;~~
 3 ~~(B) — Mechanical, electronic, and online equipment and~~
 4 ~~terminals;~~
 5 ~~(C) — Intangible property, including without limitation~~
 6 ~~computer programs, computer systems, and computer software; and~~
 7 ~~(D) — Broadcast equipment;~~
 8 ~~(10) — To administer oaths, take depositions, issue subpoenas, and~~
 9 ~~compel the attendance of witnesses and the production of books, papers,~~
 10 ~~documents, and other evidence relative to any investigation or proceeding~~
 11 ~~conducted by the commission;~~
 12 ~~(11) — To employ:~~
 13 ~~(A) — The Director of the Arkansas Lottery Commission; and~~
 14 ~~(B)(i) — An internal auditor.~~
 15 ~~(ii) — The commission shall determine the duties and~~
 16 ~~responsibilities of the internal auditor.~~
 17 ~~(iii) — The internal auditor shall report directly to~~
 18 ~~the commission;~~
 19 ~~(12) — To select and contract with vendors;~~
 20 ~~(13) — To select and license retailers;~~
 21 ~~(14) — To enter into contracts or agreements with state or local~~
 22 ~~law enforcement agencies for the performance of law enforcement, background~~
 23 ~~investigations, and security checks;~~
 24 ~~(15) — To conduct background investigations and, if considered~~
 25 ~~necessary by the commission, credit investigations on each potential vendor~~
 26 ~~and retailer;~~
 27 ~~(16) — To supervise ticket or share validation and lottery~~
 28 ~~drawings;~~
 29 ~~(17) — To inspect at times determined solely by the commission the~~
 30 ~~facilities of a vendor or a retailer to determine:~~
 31 ~~(A) — The integrity of the vendor's product or the~~
 32 ~~operations of the retailer; and~~
 33 ~~(B) — Whether the vendor or the retailer is in compliance~~
 34 ~~with its contract or license;~~
 35 ~~(18) — To report any suspected violation of this chapter to the~~
 36 ~~appropriate prosecuting attorney or the Attorney General and to any law~~

1 ~~enforcement agencies having jurisdiction over the violation;~~

2 ~~(19) Upon request, to provide assistance to the Chief Fiscal~~
3 ~~Officer of the State, the Legislative Auditor, the appropriate prosecuting~~
4 ~~attorney, the Attorney General, or a law enforcement agency investigating a~~
5 ~~violation of this chapter;~~

6 ~~(20) To enter into contracts of terms and conditions that the~~
7 ~~commission determines;~~

8 ~~(21) To establish and maintain banking relationships associated~~
9 ~~with the maintenance and investment of lottery proceeds, including without~~
10 ~~limitation the establishment of checking and savings accounts and trust~~
11 ~~funds;~~

12 ~~(22)(A) To advertise and promote lotteries and scholarships and~~
13 ~~grants funded by net proceeds.~~

14 ~~(B) The commission shall seek the advice of the Department~~
15 ~~of Higher Education when advertising to promote scholarships and grants~~
16 ~~funded by net proceeds;~~

17 ~~(23) To approve, disapprove, amend, or modify the budget~~
18 ~~recommended by the director for the operation of the commission;~~

19 ~~(24) To act as a retailer and to establish and operate a sales~~
20 ~~facility to conduct promotions that involve the sale of tickets or shares and~~
21 ~~any related merchandise;~~

22 ~~(25)(A) To contract with one (1) or more independent testing~~
23 ~~laboratories to scientifically test and technically evaluate lottery games,~~
24 ~~lottery terminals, and lottery operating systems.~~

25 ~~(B) An independent testing laboratory shall:~~

26 ~~(i) Have a national reputation that is demonstrably~~
27 ~~competent; and~~

28 ~~(ii) Be qualified to scientifically test and~~
29 ~~evaluate all components of a lottery game, lottery terminal, or lottery~~
30 ~~operating system.~~

31 ~~(C) An independent testing laboratory shall not be owned~~
32 ~~or controlled by a vendor or a retailer; and~~

33 ~~(26) To adopt and amend rules necessary to carry out and~~
34 ~~implement its powers and duties, organize and operate the commission,~~
35 ~~regulate the conduct of lotteries in general, and any other matters necessary~~
36 ~~or desirable for the efficient and effective operation of lotteries for the~~

1 ~~convenience of the public.~~

2 ~~(b) The powers enumerated in subsection (a) of this section:~~

3 ~~(1) Are in addition to those powers of the commission enumerated~~
 4 ~~elsewhere in this chapter; and~~

5 ~~(2) Do not limit or restrict any other powers of the commission.~~

6 ~~(c) The commission may delegate to one (1) or more of its members, to~~
 7 ~~the director, or to any agent or employee of the commission powers and duties~~
 8 ~~as it deems proper.~~

9
 10 ~~23-115-206. Internal controls—Annual audit.~~

11 ~~(a) To ensure the financial integrity of lotteries, the Arkansas~~
 12 ~~Lottery Commission shall:~~

13 ~~(1) Establish and maintain effective internal controls over~~
 14 ~~financial reporting, including the monitoring of ongoing activities, and~~
 15 ~~comply with the Arkansas Constitution and applicable laws, rules, contracts,~~
 16 ~~agreements, and grants;~~

17 ~~(2) Establish and maintain effective internal controls to~~
 18 ~~prevent and detect fraud, including without limitation a system of internal~~
 19 ~~audits;~~

20 ~~(3) Include in any contract or license with a vendor or retailer~~
 21 ~~for data processing services or other computer services a provision~~
 22 ~~permitting the Division of Legislative Audit to have access and authority to~~
 23 ~~audit the computer systems of the vendor or retailer;~~

24 ~~(4) Notify the division of all known fraud or suspected fraud or~~
 25 ~~all known or suspected illegal acts involving management or other employees~~
 26 ~~of the commission or others with whom the commission contracts;~~

27 ~~(5) Inform the division and the Chief Fiscal Officer of the~~
 28 ~~State of any known material violations of the Arkansas Constitution,~~
 29 ~~applicable statutes, rules, contracts, agreements, or grants;~~

30 ~~(6) Prepare the financial statements, including the related~~
 31 ~~notes to the financial statements, of the commission in accordance with~~
 32 ~~generally accepted accounting principles and in accordance with guidelines~~
 33 ~~and timelines established by the Chief Fiscal Officer of the State to permit~~
 34 ~~incorporation into the state's financial statements and to permit the audit~~
 35 ~~of the state's financial statements and the commission's financial statements~~
 36 ~~in a timely manner;~~

1 ~~(7) Make all financial records and related information available~~
 2 ~~to the division, including the identification of significant vendor~~
 3 ~~relationships in which the vendor has the responsibility for program~~
 4 ~~compliance, in accordance with §§ 10-4-416 and 10-4-424;~~

5 ~~(8)(A) Submit monthly and annual reports to the Governor and the~~
 6 ~~Arkansas Lottery Commission Legislative Oversight Committee disclosing the~~
 7 ~~total lottery revenues, prize disbursements, operating expenses, net assets,~~
 8 ~~and administrative expenses of the commission during the reporting period.~~

9 ~~(B)(i) The initial annual report shall describe the~~
 10 ~~organizational structure of the commission and summarize the functions~~
 11 ~~performed by each organizational division within the commission.~~

12 ~~(ii) Future annual reports shall describe any~~
 13 ~~revisions to the organizational structure since the filing of the previous~~
 14 ~~annual report;~~

15 ~~(9) Maintain weekly or more frequent records of lottery~~
 16 ~~transactions, including without limitation:~~

17 ~~(A) The distribution of tickets or shares to retailers;~~

18 ~~(B) Revenues received;~~

19 ~~(C) Claims for lottery prizes;~~

20 ~~(D) Lottery prizes paid;~~

21 ~~(E) Lottery prizes forfeited; and~~

22 ~~(F) Other financial transactions of the commission;~~

23 ~~(10)(A) Submit to the Cochairs of the Arkansas Lottery~~
 24 ~~Commission Legislative Oversight Committee by April 30 of each year a copy of~~
 25 ~~the annual operating budget for the commission for the next fiscal year.~~

26 ~~(B) The proposed operating budget shall be accompanied by:~~

27 ~~(i) An estimate of the net proceeds to be available~~
 28 ~~for scholarships and grants during the succeeding fiscal year; and~~

29 ~~(ii) The following information for each employment~~
 30 ~~classification:~~

31 ~~(a) The total number of persons currently~~
 32 ~~employed;~~

33 ~~(b) The number of white male employees;~~

34 ~~(c) The number of white female employees;~~

35 ~~(d) The total number of Caucasian employees;~~

36 ~~(e) The number of black male employees;~~

1 ~~(f) The number of black female employees;~~
 2 ~~(g) The number of other employees who are~~
 3 ~~members of racial minorities; and~~

4 ~~(h) The total number of minorities currently~~
 5 ~~employed; and~~

6 ~~(11) Adopt the same fiscal year as that used by state~~
 7 ~~government.~~

8 ~~(b)(1)(A) The division shall annually audit the commission.~~

9 ~~(B) The division may conduct an investigation or audit or~~
 10 ~~prepare special reports regarding the commission or related entities,~~
 11 ~~scholarships, grants, vendors, retailers, or any other transactions or~~
 12 ~~relationships connected or associated with the commission or its operations,~~
 13 ~~duties, or functions upon the approval of the Legislative Joint Auditing~~
 14 ~~Committee.~~

15 ~~(2) The commission shall reimburse the division at an hourly~~
 16 ~~rate set by the Legislative Joint Auditing Committee for work performed by~~
 17 ~~the division relating to any audit, investigation, or special report~~
 18 ~~regarding the commission and related entities, scholarships, grants, vendors,~~
 19 ~~retailers, or other related matters.~~

20 ~~(3)(A) If the commission, the General Assembly, the Arkansas~~
 21 ~~Lottery Commission Legislative Oversight Committee, or the Legislative Joint~~
 22 ~~Auditing Committee requests additional audits or performance reviews of the~~
 23 ~~fiscal affairs or operations of the commission to be conducted by a private~~
 24 ~~certified public accountant or other consultant, the division shall select~~
 25 ~~and contract with appropriate certified public accountants or consultants to~~
 26 ~~provide the services.~~

27 ~~(B) The division shall contract for the services which~~
 28 ~~shall be paid directly to the contractor by the commission.~~

29 ~~(C) A copy of any report or management correspondence~~
 30 ~~prepared by the certified public accountants or consultants shall be~~
 31 ~~forwarded to the commission, the division, and the Arkansas Lottery~~
 32 ~~Commission Legislative Oversight Committee.~~

33 ~~(4) This chapter does not limit the statutory authority of the~~
 34 ~~division or the responsibilities of the commission or related entities, board~~
 35 ~~members, employees, vendors, retailers, or any other individuals or entities~~
 36 ~~to cooperate with the division or provide information or records requested by~~

1 ~~the division.~~

2
3 ~~23-115-207. Rulemaking.~~

4 ~~(a) The Arkansas Lottery Commission may adopt rules regulating the~~
5 ~~conduct of lotteries in general, including without limitation rules~~
6 ~~specifying:~~

7 ~~(1) The types of lotteries to be conducted;~~

8 ~~(2)(A) The sale price of tickets or shares and the manner and~~
9 ~~method of sale.~~

10 ~~(B)(i) All sales of tickets or shares are for cash only.~~

11 ~~(ii) Payment by checks, credit cards, charge cards,~~
12 ~~or any form of deferred payment is prohibited;~~

13 ~~(3) The number and amount of prizes;~~

14 ~~(4) The method and location of selecting or validating winning~~
15 ~~tickets or shares;~~

16 ~~(5) The manner and time of payment of prizes, including without~~
17 ~~limitation lump sum payments or installments over a period of years;~~

18 ~~(6)(A) The manner of payment of prizes to the holders of winning~~
19 ~~tickets or shares.~~

20 ~~(B) Winners of five hundred dollars (\$500) or less may~~
21 ~~claim prizes from any of the following:~~

22 ~~(i) A retailer; or~~

23 ~~(ii) The commission.~~

24 ~~(C)(i) Winners of more than five hundred dollars (\$500)~~
25 ~~shall claim prizes from the commission.~~

26 ~~(ii) The commission may establish claim centers~~
27 ~~throughout the state as it deems necessary;~~

28 ~~(7) The frequency of lotteries and drawings or selection of~~
29 ~~winning tickets or shares;~~

30 ~~(8) The means of conducting drawings;~~

31 ~~(9)(A) The method to be used in selling tickets or shares.~~

32 ~~(B) The selling of tickets or shares may include the use~~
33 ~~of electronic or mechanical devices.~~

34 ~~(C) If the commission elects to use electronic or~~
35 ~~mechanical devices to sell tickets or shares, the commission shall provide by~~
36 ~~rule.~~

1 ~~(i) Specifications and required features for~~
2 ~~electronic or mechanical devices that may be used to sell tickets or shares;~~
3 ~~and~~

4 ~~(ii) Procedures and requirements to prevent the use~~
5 ~~of electronic or mechanical devices by an individual under eighteen (18)~~
6 ~~years of age.~~

7 ~~(D) A retailer who knowingly allows a person under~~
8 ~~eighteen (18) years of age to purchase a lottery ticket from an electronic or~~
9 ~~mechanical device is subject to the penalties under § 23-115-901;~~

10 ~~(10) The manner and amount of compensation to retailers; and~~

11 ~~(11) Any other matters necessary, desirable, or convenient~~
12 ~~toward ensuring the efficient and effective operation of lotteries, the~~
13 ~~continued entertainment and convenience of the public, and the integrity of~~
14 ~~the lotteries.~~

15 ~~(b) The commission may adopt rules requiring the publication on a~~
16 ~~ticket or share of the odds of winning a particular lottery game.~~

17 ~~(c)(1)(A) Except as provided in subdivision (c)(1)(B) of this section,~~
18 ~~the promulgation of rules under this chapter shall comply with the Arkansas~~
19 ~~Administrative Procedure Act, § 25-15-201 et seq.~~

20 ~~(B) The commission shall not be required to file rules~~
21 ~~under § 10-3-309.~~

22 ~~(2)(A) The promulgation of rules by the commission shall be~~
23 ~~exempt from § 10-3-309.~~

24 ~~(B) The commission shall file its rules with the Arkansas~~
25 ~~Lottery Commission Legislative Oversight Committee for review at least thirty~~
26 ~~(30) days before the expiration of the public comment period.~~

27
28 ~~23-115-208. Sovereign immunity.~~

29 ~~(a) This chapter does not waive the sovereign immunity of the State of~~
30 ~~Arkansas.~~

31 ~~(b)(1) A claim in contract or in tort against the Arkansas Lottery~~
32 ~~Commission or its employees shall be presented to the Arkansas Lottery~~
33 ~~Commission.~~

34 ~~(2) The Arkansas Lottery Commission shall promulgate rules~~
35 ~~concerning the consideration of claims in contract or in tort presented to~~
36 ~~the Arkansas Lottery Commission, including without limitation rules~~

1 ~~concerning the conduct of hearings on claims in contract or in tort.~~

2 ~~(c)(1) A claimant may appeal the decision of the commission under~~
3 ~~subsection (b) of this section to the Arkansas State Claims Commission.~~

4 ~~(2) The claimant may:~~

5 ~~(A) Within forty (40) days after the decision is rendered,~~
6 ~~file with the Arkansas State Claims Commission a notice of appeal of the~~
7 ~~decision of the Arkansas Lottery Commission;~~

8 ~~(B) Within forty (40) days after the decision is rendered,~~
9 ~~file with the Arkansas Lottery Commission a motion for reconsideration~~
10 ~~requesting the Arkansas Lottery Commission to reconsider its decision; and~~

11 ~~(C) Within twenty (20) days after the Arkansas Lottery~~
12 ~~Commission's reconsideration or denial of the motion for reconsideration,~~
13 ~~file with the Arkansas State Claims Commission a notice of appeal of the~~
14 ~~decision of the Arkansas Lottery Commission.~~

15 ~~(3) When the Arkansas Lottery Commission notifies parties of a~~
16 ~~decision of the Arkansas Lottery Commission, it shall advise the parties of~~
17 ~~the right of appeal.~~

18 ~~(d)(1)(A) Except as provided in subdivisions (d)(2)-(4) of this~~
19 ~~section, appeals of claims in contract or in tort against the Arkansas~~
20 ~~Lottery Commission or its employees shall be conducted by the Arkansas State~~
21 ~~Claims Commission in the same manner as a claim under § 19-10-201 et seq.~~

22 ~~(B) The Arkansas State Claims Commission shall consider an~~
23 ~~appeal de novo.~~

24 ~~(2) A decision of the Arkansas State Claims Commission relating~~
25 ~~to a claim in contract or in tort against the Arkansas Lottery Commission or~~
26 ~~its employees shall not be appealed to the General Assembly.~~

27 ~~(3)(A) A valid claim in any amount against the Arkansas Lottery~~
28 ~~Commission shall not be referred to the General Assembly for an~~
29 ~~appropriation.~~

30 ~~(B) The Clerk of the Arkansas State Claims Commission~~
31 ~~shall notify the Arkansas Lottery Commission of the amount of the valid~~
32 ~~claim.~~

33 ~~(C) Upon receipt of notification from the clerk, the~~
34 ~~Arkansas Lottery Commission shall deliver a check to the clerk, who shall~~
35 ~~deposit the sum as a nonrevenue receipt into the Miscellaneous Revolving Fund~~
36 ~~from which he or she shall disburse the amount of the claim to the claimant.~~

1 ~~(4) Written reports under § 19-10-212 shall be filed with the~~
 2 ~~Arkansas Lottery Commission Legislative Oversight Committee.~~

3
 4 ~~23-115-209. Appealing administrative orders of the commission.~~

5 ~~(a) A retailer, a vendor, or an applicant for a contract or a retailer~~
 6 ~~license aggrieved by an administrative order of the Arkansas Lottery~~
 7 ~~Commission may appeal that decision to Pulaski County Circuit Court.~~

8 ~~(b) The court shall hear appeals from administrative orders of the~~
 9 ~~commission, and based upon the record of the proceedings before the~~
 10 ~~commission, may reverse the administrative order of the commission only if~~
 11 ~~the person appealing the administrative order proves the administrative order~~
 12 ~~to be:~~

13 ~~(1) Clearly erroneous;~~

14 ~~(2) Arbitrary and capricious;~~

15 ~~(3) Procured by fraud;~~

16 ~~(4) A result of substantial misconduct by the commission; or~~

17 ~~(5) Contrary to the United States Constitution, the Arkansas~~
 18 ~~Constitution, or this chapter.~~

19 ~~(c) The circuit court may remand an appeal to the commission to~~
 20 ~~conduct further hearings.~~

21 ~~(d)(1) A person who appeals the award of a contract, including without~~
 22 ~~limitation a major procurement contract, is liable for all costs of appeal~~
 23 ~~and defense if the appeal is denied or the contract award upheld.~~

24 ~~(2) If upon the motion of the commission the court finds the~~
 25 ~~appeal to have been frivolous, the cost of appeal and defense shall include~~
 26 ~~without limitation the following expenses of the commission resulting from~~
 27 ~~institution of the appeal:~~

28 ~~(A) Court costs;~~

29 ~~(B) Bond;~~

30 ~~(C) Legal fees; and~~

31 ~~(D) Loss of income.~~

32 ~~(3) A person appealing the award of a contract may be entitled~~
 33 ~~to the reasonable costs incurred in connection with the contract~~
 34 ~~solicitation, including without limitation bid preparation costs.~~

35
 36 ~~23-115-210. Removal of commission member.~~

1 ~~(a)(1) A member of the Arkansas Lottery Commission may be removed by~~
 2 ~~the appointing authority for:~~

3 ~~(A) Misconduct;~~

4 ~~(B) Incompetence; or~~

5 ~~(C) Any malfeasance in office.~~

6 ~~(2) The appointing authority shall appoint a qualified~~
 7 ~~individual to replace the removed member of the commission to serve the~~
 8 ~~remainder of his or her term.~~

9 ~~(b) An order of removal of a commission member by the appointing~~
 10 ~~authority shall:~~

11 ~~(1) Be in writing;~~

12 ~~(2) Be delivered to the removed commission member or counsel for~~
 13 ~~the removed commission member; and~~

14 ~~(3) Specifically set out the grounds relied upon for removal.~~

15 ~~(c)(1) A removed commission member may institute proceedings for~~
 16 ~~review by filing a petition in Pulaski County Circuit Court within thirty~~
 17 ~~(30) days after delivery to him or her or his or her attorney of the~~
 18 ~~appointing authority's order of removal.~~

19 ~~(2) This petition shall not supersede or stay the order of~~
 20 ~~removal, nor shall any court enter an order to this effect or one that would~~
 21 ~~impair the authority of the appointing authority to appoint a commission~~
 22 ~~member whose service begins immediately upon fulfillment of the normal~~
 23 ~~requirements for assuming office.~~

24 ~~(d)(1) When the matter is heard by the circuit court, it shall be~~
 25 ~~tried de novo without a jury.~~

26 ~~(2) The appointing authority shall have the burden of proof to~~
 27 ~~show by clear and convincing evidence that cause under subdivision (a)(1) of~~
 28 ~~this section existed for removal of the commission member.~~

29 ~~(3)(A) If the circuit court determines that cause has been~~
 30 ~~shown, it shall enter an order removing the commission member in question~~
 31 ~~from office.~~

32 ~~(B) If the circuit court determines that cause under~~
 33 ~~subdivision (a)(1) of this section has not been shown by clear and convincing~~
 34 ~~evidence, the circuit court shall order the removed commission member~~
 35 ~~reinstated to his or her position and upon request shall award a reasonable~~
 36 ~~attorney's fee and court costs to the reinstated party.~~

1 ~~(e)(1) Subject to the restrictions of subsection (e) of this section~~
2 ~~on supersedeas or stay orders, a removed commission member may appeal the~~
3 ~~decision of the circuit court to the Supreme Court.~~

4 ~~(2) The appointing authority may appeal the decision of the~~
5 ~~circuit court to the Supreme Court, but the appeal shall not preclude the~~
6 ~~circuit court, in its discretion, from entering an order reinstating the~~
7 ~~removed member.~~

8 ~~(f) A commission action in which the appointed replacement commission~~
9 ~~member participates is not void, voidable, or in any way subject to~~
10 ~~invalidation on grounds of participation of the appointed replacement~~
11 ~~commission member or lack of participation by the removed commission member~~
12 ~~if the circuit court or the Supreme Court orders the removed commission~~
13 ~~member reinstated.~~

14
15 ~~23-115-211. Certain sections inapplicable.~~

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

- 18 ~~(1) Section 19-1-211;~~
- 19 ~~(2) Section 19-1-301 et seq.;~~
- 20 ~~(3) Section 19-1-609;~~
- 21 ~~(4) Section 19-4-1802;~~
- 22 ~~(5) Section 19-5-206;~~
- 23 ~~(6) Section 19-11-301 et seq.;~~
- 24 ~~(7) Section 22-9-103;~~
- 25 ~~(8) Section 22-9-104;~~
- 26 ~~(9) Section 25-1-104;~~
- 27 ~~(10) Section 25-26-201 et seq.; and~~
- 28 ~~(11) Section 25-27-104.~~

29
30
31 ~~SUBCHAPTER 3~~
32 ~~EMPLOYEES OF ARKANSAS LOTTERY COMMISSION~~

33
34 ~~23-115-301. Director Appointment Duties.~~

35 ~~(a)(1)(A) The Arkansas Lottery Commission shall appoint the Director~~
36 ~~of the Arkansas Lottery Commission.~~

1 ~~(B) The director is an employee of the commission and shall~~
 2 ~~direct the day to day operations and management of the commission.~~

3 ~~(2) The director is vested with powers and duties as specified~~
 4 ~~by the commission and by law.~~

5 ~~(3) The director serves at the pleasure of the commission.~~

6 ~~(b)(1) An individual considered for appointment as director shall~~
 7 ~~apply to the Identification Bureau of the Department of Arkansas State Police~~
 8 ~~for a state and federal criminal background check to be conducted by the~~
 9 ~~Identification Bureau of the Department of Arkansas State Police and the~~
 10 ~~Federal Bureau of Investigation.~~

11 ~~(2) The state and federal criminal background check shall~~
 12 ~~conform to the applicable federal standards and shall include the taking of~~
 13 ~~fingerprints.~~

14 ~~(3) The applicant shall sign a consent to the release of~~
 15 ~~information for the state and federal criminal background check.~~

16 ~~(4) The commission shall be responsible for the payment of any~~
 17 ~~fee associated with the state and federal criminal background check.~~

18 ~~(5) Upon completion of the state and federal criminal background~~
 19 ~~check, the Identification Bureau of the Department of Arkansas State Police~~
 20 ~~shall forward to the commission all releasable information obtained~~
 21 ~~concerning the applicant.~~

22 ~~(c) The commission shall not employ as director an individual who has:~~

23 ~~(1) Been convicted of a felony or a gambling offense in a state~~
 24 ~~or federal court of the United States;~~

25 ~~(2) Been convicted of a crime involving moral turpitude; or~~

26 ~~(3) Entered into a plea agreement to avoid felony prosecution.~~

27
 28 ~~23-115-302. Duties of director.~~

29 ~~(a) The Director of the Arkansas Lottery Commission shall direct and~~
 30 ~~supervise all administrative and technical activities related to the~~
 31 ~~operation of a lottery in accordance with this chapter and with rules adopted~~
 32 ~~by the Arkansas Lottery Commission.~~

33 ~~(b) The director shall:~~

34 ~~(1) Facilitate the initiation and supervise and administer the~~
 35 ~~operation of the lotteries;~~

36 ~~(2) Direct personnel as deemed necessary;~~

1 ~~(3) Employ and compensate persons and firms as deemed necessary;~~
 2 ~~(4) Appoint, select, and employ officers, agents, and employees,~~
 3 ~~including professional and administrative staff and personnel and hearing~~
 4 ~~officers, and fix their compensation and pay their expenses as authorized by~~
 5 ~~Arkansas law;~~

6 ~~(5) Promote or provide for the promotion of lotteries and any~~
 7 ~~functions related to the operation of a lottery;~~

8 ~~(6) Prepare a budget for the approval of the commission;~~

9 ~~(7) Require bond from retailers and vendors in amounts as~~
 10 ~~required by the commission;~~

11 ~~(8) Report monthly to the commission and the Arkansas Lottery~~
 12 ~~Commission Legislative Oversight Committee a complete statement of lottery~~
 13 ~~revenues and expenses for the preceding month and an accompanying statement~~
 14 ~~of net assets; and~~

15 ~~(9) Perform other duties generally associated with a director of~~
 16 ~~a commission of an entrepreneurial nature.~~

17 ~~(c) The director may for good cause suspend, revoke, or refuse to~~
 18 ~~renew any contract or license entered into in accordance with this chapter~~
 19 ~~and the rules of the commission.~~

20 ~~(d) The director or his or her designee may conduct hearings and~~
 21 ~~administer oaths to persons to assure the security and integrity of lottery~~
 22 ~~operations or to determine the qualifications of or compliance by vendors and~~
 23 ~~retailers.~~

24
 25 ~~23-115-303. Employees — Background investigation.~~

26 ~~(a) As required by Arkansas Constitution, Article 16, § 4, the General~~
 27 ~~Assembly shall fix the salaries of all employees of the Arkansas Lottery~~
 28 ~~Commission, including without limitation the Director of the Arkansas Lottery~~
 29 ~~Commission.~~

30 ~~(b) A commission employee shall not have a financial interest in a~~
 31 ~~vendor doing business or proposing to do business with the commission.~~

32 ~~(c) A commission employee with decision making authority shall not~~
 33 ~~participate in a decision involving a retailer with whom the commission~~
 34 ~~employee has a financial interest.~~

35 ~~(d)(1) A commission employee who leaves the employment of the~~
 36 ~~commission shall not:~~

1 ~~(A) Represent a vendor or retailer before the commission~~
2 ~~for a period of two (2) years after leaving the employment of the commission;~~
3 ~~or~~

4 ~~(B) Engage in lobbying on any matter related to the~~
5 ~~operation or conduct of a lottery for a period of two (2) years after leaving~~
6 ~~the employment of the commission.~~

7 ~~(2)(A) Subdivision (d)(1) of this section is supplemental to §~~
8 ~~19-11-701 et seq.~~

9 ~~(B) If any provision of § 19-11-701 et seq. would impose a~~
10 ~~restriction on a specific employee greater than the restrictions under~~
11 ~~subdivision (d)(1) of this section, the provision of § 19-11-701 et seq.~~
12 ~~shall apply.~~

13 ~~(c)(1) Each person considered for employment by the commission shall~~
14 ~~apply to the Identification Bureau of the Department of Arkansas State Police~~
15 ~~for a state and federal criminal background check to be conducted by the~~
16 ~~Identification Bureau of the Department of Arkansas State Police and the~~
17 ~~Federal Bureau of Investigation.~~

18 ~~(2) The state and federal criminal background check shall~~
19 ~~conform to the applicable federal standards and shall include the taking of~~
20 ~~fingerprints.~~

21 ~~(3) The applicant shall sign a consent to the release of~~
22 ~~information for the state and federal criminal background check.~~

23 ~~(4) The commission shall be responsible for the payment of any~~
24 ~~fee associated with the state and federal criminal background check.~~

25 ~~(5) Upon completion of the state and federal criminal background~~
26 ~~check, the Identification Bureau of the Department of Arkansas State Police~~
27 ~~shall forward to the commission all releasable information obtained~~
28 ~~concerning the applicant.~~

29 ~~(f) The commission shall not employ an individual who has:~~

30 ~~(1) Been convicted of a felony or a gambling offense in a state~~
31 ~~or federal court of the United States;~~

32 ~~(2) Been convicted of a crime involving moral turpitude; or~~

33 ~~(3) Entered into a plea agreement to avoid felony prosecution.~~

34 ~~(g)(1) The commission shall bond a commission employee with access to~~
35 ~~commission funds or lottery revenue in an amount as provided by the~~
36 ~~commission and may bond other commission employees as deemed necessary.~~

~~(2) Bonds under subdivision (g)(1) of this section shall be fidelity bonds in excess of the amount provided by the Governmental Bonding Board.~~

~~23-115-304. Commission employees — Participation in Arkansas Public Employees' Retirement System.~~

~~(a) Employees of the Arkansas Lottery Commission shall be members of the Arkansas Public Employees' Retirement System.~~

~~(b) A commission employee's salary for retirement purposes shall be the amount determined by the commission as authorized by the General Assembly and shall not include any multipliers used to increase a person's salary as authorized by the General Assembly.~~

~~23-115-305. Regular salaries.~~

~~There is hereby established for the Arkansas Lottery Commission the following regular employees, the grades to be assigned to the respective positions, and the maximum annual salaries for each such position. The maximum annual salary for the positions assigned to grades shall be determined in accordance with, but shall not exceed, the maximum annual amount for the grade assigned in this section, as established in § 21-5-209. Except for the purpose of determining the maximum annual salary rate, which is to be applicable to each of the positions to which a salary grade is assigned in this section, in accordance with § 21-5-209, all positions set forth in this section shall be exempt from other provisions of the Uniform Classification and Compensation Act, § 21-5-201 et seq., but shall not be exempt from the Regular Salaries Procedures and Restrictions Act, § 21-5-101 et seq.~~

Item	Class	Title	No. of	Annual
No.	Code	Employees	Salary Rate	
(01)	LOTTERY CMSN DIRECTOR	1	—	\$141,603
(02)	LOTTERY CMSN INTERNAL	1	—	\$141,603

1	AUDITOR		
2	(03) LOTTERY CMSN CHIEF	1	——\$126,050
3	OPERATING OFFICER		
4	(04) LOTTERY CMSN INFORMATION	1	GRADE N912
5	TECH DIR		
6	(05) LOTTERY CMSN ADMIN &	1	GRADE N912
7	OPERATIONS DIR		
8	(06 LOTTERY CMSN CHIEF LEGAL	1	GRADE N910
9	COUNSEL		
10	(07) LOTTERY CMSN CHIEF FISCAL	1	GRADE N910
11	OFFICER		
12	(08) LOTTERY CMSM MARKETING &	1	GRADE N909
13	PROD DEV DIR		
14	(09) LOTTERY CMSN SALES/RETAIL	1	GRADE N909
15	RELATIONS DIR		
16	(10) LOTTERY CMSN PROCUREMENT	1	GRADE N908
17	DIRECTOR		
18	(11) LOTTERY CMSN ADMIN ANALYST	2	GRADE C115
19	(12) LOTTERY CMSN ADMIN SUPPORT	2	GRADE C113
20	SUPERVISOR		
21	(13) LOTTERY CMSN ADMIN SUPPORT	6	GRADE C112
22	SPEC III		

~~23 115 306.—Special salary allowances.~~

~~(a) The Arkansas Lottery Commission, upon approval of the Arkansas Lottery Commission Legislative Oversight Committee, may make special salary allowances authorized by this section for recruitment or retention in amounts as the commission may determine equitable in view of the exacting duties that are involved as a part of the salary of the:~~

- ~~(1) Director of the Arkansas Lottery Commission;~~
- ~~(2) Internal auditor of the commission; and~~
- ~~(3) Chief operating officer of the commission.~~

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

1 authorized by the General Assembly.

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

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

8
9 23-115-307. ~~Expansion pool.~~

10 (a) ~~The Arkansas Lottery Commission is authorized an expansion pool of~~
11 ~~sixty (60) positions not to exceed the career service grade C130 and fifteen~~
12 ~~(15) positions not to exceed the professional and executive grade N922 to be~~
13 ~~used to establish additional positions of the proper title and salary if the~~
14 ~~commission does not have sufficient positions available to address growth~~
15 ~~needs.~~

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

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

22 (d) ~~When seeking review of positions by the Arkansas Lottery~~
23 ~~Commission Legislative Oversight Committee under this section, the commission~~
24 ~~shall provide an organizational chart indicating the current structure of the~~
25 ~~commission and its employees.~~

26 (e)(1) ~~The requirement of review by the Arkansas Lottery Commission~~
27 ~~Legislative Oversight Committee before authorizing positions from the~~
28 ~~expansion pool is not a severable part of this section.~~

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

32
33 23-115-308. ~~Participation in Arkansas Administrative Statewide~~
34 ~~Information Systyem.~~

35 ~~The Arkansas Lottery Commission may participate in the Arkansas~~
36 ~~Administrative Statewide Information System.~~

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~~SUBCHAPTER 4~~

~~OPERATION OF LOTTERY~~

~~23-115-401. Minority-owned and female-owned businesses.~~

~~(a) It is the intent of the General Assembly that the Arkansas Lottery Commission encourage participation by minority-owned businesses and female-owned businesses.~~

~~(b) The commission shall adopt a plan that encourages to the greatest extent possible a level of participation by minority-owned businesses and female-owned businesses taking into account the total number of all retailers and vendors, including any subcontractors.~~

~~(c) The commission shall provide training programs and other educational activities to encourage minority-owned businesses and female-owned businesses to compete for contracts on an equal basis.~~

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

~~(e) The commission shall monitor the results of minority-owned business and female-owned business participation and shall report the results of minority-owned business and female-owned business participation to the Governor and the Arkansas Lottery Commission Legislative Oversight Committee on at least an annual basis.~~

~~23-115-402. Restriction on sales.~~

~~(a)(1) Unless authorized to do so in writing by the Director of the Arkansas Lottery Commission, a person shall not sell a ticket or share at a price other than established by the Arkansas Lottery Commission.~~

~~(2)(A) Only a retailer holding a valid certificate of authority from the commission shall sell a ticket.~~

~~(B) This subsection does not prevent an individual who may lawfully purchase tickets or shares from making a gift of tickets or shares to another individual.~~

~~(b) This chapter does not prohibit the commission from designating certain of its agents and employees to sell or give tickets or shares~~

1 ~~directly to the public.~~

2 ~~(c) Subject to prior approval by the commission, retailers may give~~
 3 ~~away tickets or shares as a means of promoting goods or services to customers~~
 4 ~~or prospective customers.~~

5 ~~(d) A retailer shall not sell a ticket or share except from the~~
 6 ~~locations evidenced by the retailer's license issued by the commission unless~~
 7 ~~the commission authorizes in writing any temporary location not listed in the~~
 8 ~~retailer's license.~~

9 ~~(e)(1) Tickets or shares shall not be sold or given to individuals~~
 10 ~~under eighteen (18) years of age.~~

11 ~~(2) An individual under eighteen (18) years of age is not~~
 12 ~~eligible to win a lottery prize.~~

13 ~~(f) An individual is not eligible to win a lottery prize while the~~
 14 ~~individual is incarcerated in:~~

15 ~~(1) The Department of Correction;~~

16 ~~(2) The Department of Community Correction; or~~

17 ~~(3) A county or municipal jail or detention facility.~~

18
 19 ~~23-115-403. Attachments, garnishments, or executions withheld from~~
 20 ~~lottery prizes—Validity of tickets or shares—Lottery prize restrictions—~~
 21 ~~Unclaimed lottery prizes.~~

22 ~~(a) Proceeds of a lottery prize are subject to Arkansas state income~~
 23 ~~tax.~~

24 ~~(b)(1) Except as otherwise provided in this chapter, attachments,~~
 25 ~~garnishments, or executions authorized and issued under Arkansas law shall be~~
 26 ~~withheld if timely served upon the Arkansas Lottery Commission.~~

27 ~~(2) Subdivision (b)(1) of this section does not apply to a~~
 28 ~~retailer.~~

29 ~~(c) The commission shall adopt rules to establish a system of~~
 30 ~~verifying the validity of tickets or shares claimed to win lottery prizes and~~
 31 ~~to effect payment of lottery prizes, except that:~~

32 ~~(1)(A) A lottery prize, any portion of a lottery prize, or any~~
 33 ~~right of any individual to a lottery prize is not assignable.~~

34 ~~(B) A lottery prize or any portion of a lottery prize~~
 35 ~~remaining unpaid at the death of a lottery prize winner shall be paid to the~~
 36 ~~estate of the deceased lottery prize winner or to the trustee of a trust~~

1 ~~established by the deceased lottery prize winner as settlor if:~~

2 ~~(i) A copy of the trust document or instrument has~~
3 ~~been filed with the commission along with a notarized letter of direction~~
4 ~~from the settlor; and~~

5 ~~(ii) No written notice of revocation has been~~
6 ~~received by the commission before the settlor's death.~~

7 ~~(C) Following a settlor's death and before any payment to~~
8 ~~a successor trustee, the commission shall obtain from the trustee a written~~
9 ~~agreement to indemnify and hold the commission harmless with respect to any~~
10 ~~claims that may be asserted against the commission arising from payment to or~~
11 ~~through the trust.~~

12 ~~(D) Under an appropriate judicial order, an individual~~
13 ~~shall be paid the lottery prize to which a winner is entitled;~~

14 ~~(2) A lottery prize shall not be paid arising from claimed~~
15 ~~tickets that are:~~

16 ~~(A) Stolen, counterfeit, altered, fraudulent, unissued,~~
17 ~~produced or issued in error, unreadable, not received, or not recorded by the~~
18 ~~commission within applicable deadlines;~~

19 ~~(B) Lacking in captions that conform and agree with the~~
20 ~~play symbols as appropriate to the particular lottery involved; or~~

21 ~~(C) Not in compliance with rules and public or~~
22 ~~confidential validation and security tests of the commission appropriate to~~
23 ~~the particular lottery involved;~~

24 ~~(3)(A) A particular lottery prize in any lottery shall not be~~
25 ~~paid more than one (1) time.~~

26 ~~(B) If there is a determination that more than one (1)~~
27 ~~claimant is entitled to a particular lottery prize, the sole remedy of the~~
28 ~~claimants is the award to each of them of an equal share in the lottery~~
29 ~~prize;~~

30 ~~(4)(A) Within one hundred eighty (180) days after the drawing in~~
31 ~~which a cash lottery prize has been won, a holder of a winning cash ticket or~~
32 ~~share from an Arkansas lottery or from a multistate or multisovereign lottery~~
33 ~~shall claim the cash lottery prize.~~

34 ~~(B)(i) In an Arkansas lottery in which a player may~~
35 ~~determine instantly if he or she has won or lost, a player who has won shall~~
36 ~~claim a cash lottery prize within ninety (90) days after the playing of the~~

1 ~~instant game.~~

2 ~~(ii) In any multistate or multisovereign~~
3 ~~lottery in which a player may determine instantly if he or she has won or~~
4 ~~lost, a player who has won shall claim a cash lottery prize within one~~
5 ~~hundred eighty (180) days after the playing of the instant game.~~

6 ~~(C) If a valid claim is not made for a cash lottery prize~~
7 ~~within the applicable period, the cash lottery prize constitutes an unclaimed~~
8 ~~lottery prize for purposes of this section.~~

9 ~~(D) The commission at any time may alter the time periods~~
10 ~~under subdivisions (4)(A) and (B) of this section by rule; and~~

11 ~~(5)(A) If practicable, an auditor chosen by the commission shall~~
12 ~~be present at a draw to determine the winners of a draw game to verify the~~
13 ~~accuracy of the results.~~

14 ~~(B) The commission may request an auditor employed by the~~
15 ~~Division of Legislative Audit for the purposes of subdivision (c)(5) of this~~
16 ~~section.~~

17 ~~(d)(1) A lottery prize shall not be paid upon a ticket or share~~
18 ~~purchased or sold in violation of this chapter.~~

19 ~~(2) A lottery prize described in subdivision (d)(1) of this~~
20 ~~section is an unclaimed lottery prize for purposes of this section.~~

21 ~~(e) The commission is discharged of all liability upon payment of a~~
22 ~~lottery prize.~~

23 ~~(f)(1) A ticket or share shall not be purchased by and a lottery prize~~
24 ~~shall not be paid to any:~~

25 ~~(A) Member of the commission;~~

26 ~~(B) Employee of the commission; or~~

27 ~~(C) Member of the immediate family of a member of the~~
28 ~~commission or an employee of the commission.~~

29 ~~(2) If an officer, employee, agent, or subcontractor of a vendor~~
30 ~~has access to confidential information that may compromise the integrity of a~~
31 ~~lottery, a ticket or share shall not be purchased by and a lottery prize~~
32 ~~shall not be paid to the:~~

33 ~~(A) Officer, employee, agent, or subcontractor of the~~
34 ~~vendor; or~~

35 ~~(B) Immediate family of the officer, employee, agent, or~~
36 ~~subcontractor of the vendor.~~

1 ~~(g)(1) Unclaimed prize money is not net lottery proceeds.~~

2 ~~(2)(A) An annual amount of at least two hundred thousand dollars~~
 3 ~~(\$200,000) shall be directed to the Department of Health for the treatment of~~
 4 ~~compulsive gambling disorder and educational programs related to compulsive~~
 5 ~~gambling disorder.~~

6 ~~(B) As part of its regulation of public health, the State~~
 7 ~~Board of Health may promulgate rules to implement subdivision (g)(2)(A) of~~
 8 ~~this section, including without limitation the creation of:~~

9 ~~(i) Programs for the treatment of compulsive~~
 10 ~~gambling disorder; and~~

11 ~~(ii) Educational programs related to compulsive~~
 12 ~~gambling disorder.~~

13 ~~(3) Unclaimed lottery prize money remaining after the payment~~
 14 ~~under subdivision (g)(2) of this section shall be:~~

15 ~~(A) Added to the pool from which future lottery prizes are~~
 16 ~~to be awarded; or~~

17 ~~(B) Used for special lottery prize promotions.~~

18
 19 23-115-404. ~~Confidential information.~~

20 ~~(a)(1) Except as provided in subdivision (a)(2) of this section, the~~
 21 ~~Arkansas Lottery Commission shall comply with the Freedom of Information Act~~
 22 ~~of 1967, § 25-19-101 et seq.~~

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

26 ~~(A) Information pertaining to the security of lottery~~
 27 ~~games and lottery operations, including without limitation:~~

28 ~~(i) Security measures, systems, or procedures; and~~

29 ~~(ii) Security reports; and~~

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

32 ~~(b) The Division of Legislative Audit shall have full access to the~~
 33 ~~records of the commission.~~

34
 35 23-115-405. ~~Intelligence sharing, reciprocal use, or restricted use~~
 36 ~~agreements.~~

1 ~~(a) The Arkansas Lottery Commission may enter into an intelligence~~
 2 ~~sharing, reciprocal use, or restricted use agreement with the United States~~
 3 ~~Government, law enforcement agencies, lottery regulation agencies, and gaming~~
 4 ~~enforcement agencies of other jurisdictions that provide for and regulate the~~
 5 ~~use of information provided and received under the agreement.~~

6 ~~(b) Records, documents, and information in the possession of the~~
 7 ~~commission received under subsection (a) of this section are exempt from the~~
 8 ~~Freedom of Information Act of 1967, § 25-19-101 et seq., and shall not be~~
 9 ~~released without the permission of the person or agency providing the~~
 10 ~~records, documents, and information.~~

11
 12 ~~23-115-406. Authority of local government.~~

13 ~~(a)(1) The authority of local government concerning all matters~~
 14 ~~relating to the operation of lotteries is preempted by this chapter.~~

15 ~~(2) Local government shall not take any action, including~~
 16 ~~without limitation the adoption of an ordinance, relating to the operation of~~
 17 ~~lotteries.~~

18 ~~(b) This section does not prohibit local government from requiring a~~
 19 ~~retailer to obtain an occupational license for any business unrelated to the~~
 20 ~~sale of tickets or shares.~~

21
 22 ~~23-115-407. Video lotteries prohibited.~~

23 ~~A video lottery shall not be used as part of a lottery under this~~
 24 ~~chapter.~~

25
 26 ~~23-115-408. Video lotteries by institution or facility governed by~~
 27 ~~other wagering laws prohibited.~~

28 ~~This chapter does not permit the use of a video lottery for any~~
 29 ~~purposes by any institution or facility governed by the:~~

30 ~~(1) Arkansas Horse Racing Law, § 23-110-101 et seq.;~~

31 ~~(2) Arkansas Greyhound Racing Law, § 23-111-101 et seq.; or~~

32 ~~(3) Local Option Horse Racing and Greyhound Racing Electronic~~
 33 ~~Games of Skill Act, § 23-113-101 et seq.~~

34
 35 ~~23-115-409. Laws under other wagering chapters not affected.~~

36 ~~This chapter does not alter wagering that may be conducted under the~~

1 ~~Arkansas Horse Racing Law, § 23-110-101 et seq., the Arkansas Greyhound~~
 2 ~~Racing Law, § 23-111-101 et seq., or the Local Option Horse Racing and~~
 3 ~~Greyhound Racing Electronic Games of Skill Act, § 23-113-101 et seq.~~

4
 5 SUBCHAPTER 5

6 VENDORS

7
 8 ~~23-115-501. Vendors—Requirements when submitting a bid, proposal, or~~
 9 ~~offer—Major procurement contract.~~

10 ~~(a) The Arkansas Lottery Commission shall investigate the financial~~
 11 ~~responsibility, security, and integrity of a vendor who is a finalist in~~
 12 ~~submitting a bid, proposal, or offer as part of a major procurement contract.~~

13 ~~(b) At the time of submitting a bid, proposal, or offer to the~~
 14 ~~commission, the commission shall require the following items:~~

15 ~~(1) A disclosure of the vendor's name and address and, as~~
 16 ~~applicable, the names and addresses of the following:~~

17 ~~(A)(i) If the vendor is a corporation, the officers,~~
 18 ~~directors, and each stockholder of more than a ten percent (10%) interest in~~
 19 ~~the corporation.~~

20 ~~(ii) However, in the case of owners of equity~~
 21 ~~securities of a publicly traded corporation, only the names and addresses of~~
 22 ~~those known to the corporation to own beneficially five percent (5%) or more~~
 23 ~~of the securities need be disclosed;~~

24 ~~(B) If the vendor is a trust, the trustee and all persons~~
 25 ~~entitled to receive income or benefits from the trust;~~

26 ~~(C) If the vendor is an association, the members,~~
 27 ~~officers, and directors; and~~

28 ~~(D) If the vendor is a partnership or joint venture, all~~
 29 ~~of the general partners, limited partners, or joint venturers;~~

30 ~~(2) A disclosure of all the states and jurisdictions in which~~
 31 ~~the vendor does business and the nature of the business for each state or~~
 32 ~~jurisdiction;~~

33 ~~(3) A disclosure of all the states and jurisdictions in which~~
 34 ~~the vendor has contracts to supply gaming goods or services, including~~
 35 ~~without limitation lottery goods and services, and the nature of the goods or~~
 36 ~~services involved for each state or jurisdiction;~~

1 ~~(4)(A) A disclosure of all the states and jurisdictions in which~~
2 ~~the vendor has applied for, has sought renewal of, has received, has been~~
3 ~~denied, has pending, or has had revoked a lottery or gaming license of any~~
4 ~~kind or had fines or penalties assessed to the vendor's license, contract, or~~
5 ~~operation and the disposition of each instance in each state or jurisdiction.~~

6 ~~(B) If any lottery or gaming license or contract has been~~
7 ~~revoked or has not been renewed or any lottery or gaming license or~~
8 ~~application has been either denied or is pending and has remained pending for~~
9 ~~more than six (6) months, all of the facts and circumstances underlying the~~
10 ~~failure to receive a license shall be disclosed.~~

11 ~~(5)(A) A disclosure of the details of any finding or plea,~~
12 ~~conviction, or adjudication of guilt in a state or federal court of the~~
13 ~~vendor for any felony or any other criminal offense other than a traffic~~
14 ~~violation committed by the persons identified under subdivision (b)(1) of~~
15 ~~this section.~~

16 ~~(B)(i) The commission may request that any or all of the~~
17 ~~persons identified under subdivision (b)(1) of this section undergo a state~~
18 ~~and federal criminal background check.~~

19 ~~(ii) If requested, a state and federal criminal~~
20 ~~background check shall be conducted in the manner under § 23-115-601(e).~~

21 ~~(6) A disclosure of the details of any bankruptcy, insolvency,~~
22 ~~reorganization, or corporate or individual purchase or takeover of another~~
23 ~~corporation, including without limitation bonded indebtedness, and any~~
24 ~~pending litigation of the vendor.~~

25 ~~(7) A disclosure of the vendor's most recent financial report,~~
26 ~~including any reports on internal control over financial reporting, and the~~
27 ~~most recent audit report of the vendor's operation as a service organization;~~
28 ~~and~~

29 ~~(8) Additional disclosures and information that the commission~~
30 ~~may determine to be appropriate for the procurement involved.~~

31 ~~(c) If any portion of a vendor's contract is subcontracted, the vendor~~
32 ~~shall disclose all of the information required by this section for the~~
33 ~~subcontractor as if the subcontractor were itself a vendor.~~

34 ~~(d)(1) The commission shall not enter into a major procurement~~
35 ~~contract with a vendor that:~~

36 ~~(A) Has not complied with the disclosure requirements~~

1 ~~described in subsection (b) of this section;~~

2 ~~(B) Has been found guilty of a felony related to the~~
 3 ~~security or integrity of a lottery in this or any other jurisdiction; or~~

4 ~~(C) Has an ownership interest in an entity that has~~
 5 ~~supplied lottery goods or services under contract to the commission regarding~~
 6 ~~the request for proposals pertaining to those particular goods or services.~~

7 ~~(2) The commission may terminate a major procurement contract~~
 8 ~~with a vendor that does not comply with requirements for periodically~~
 9 ~~updating disclosures during the tenure of the major procurement contract as~~
 10 ~~may be specified in the major procurement contract.~~

11 ~~(3) This section shall be construed broadly and liberally to~~
 12 ~~achieve full disclosure of all information necessary to allow for a full and~~
 13 ~~complete evaluation by the commission of the competence, integrity,~~
 14 ~~background, and character of vendors for major procurement contracts.~~

15 ~~(e)(1) A vendor who provides or proposes to provide goods or services~~
 16 ~~under a major procurement contract shall not provide a gift or compensation~~
 17 ~~to:~~

18 ~~(A) The Director of the Arkansas Lottery Commission, a~~
 19 ~~commission member, a commission employee, or a member of the Arkansas Lottery~~
 20 ~~Commission Legislative Oversight Committee; or~~

21 ~~(B) A member of the immediate family of the director, a~~
 22 ~~commission member, a commission employee, or a member of the Arkansas Lottery~~
 23 ~~Commission Legislative Oversight Committee.~~

24 ~~(2)(A) Any person who knowingly violates subdivision (e)(1) of~~
 25 ~~this section shall be guilty of a Class A misdemeanor.~~

26 ~~(B)(i) The Arkansas Ethics Commission shall also have the~~
 27 ~~authority to investigate and address alleged violations of subdivision (e)(1)~~
 28 ~~of this section.~~

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

32 ~~(f)(1) A public official shall not knowingly own a financial interest~~
 33 ~~in a vendor.~~

34 ~~(2)(A) If a public official becomes aware that he or she owns a~~
 35 ~~financial interest in a vendor, the public official shall divest the~~
 36 ~~financial interest as soon as possible.~~

1 ~~(B) A public official shall not divest the financial~~
 2 ~~interest to a member of his or her immediate family.~~

3
 4 ~~23-115-502. Vendor — Performance bond or letter of credit.~~

5 ~~(a)(1) At the execution of the major procurement contract with the~~
 6 ~~Arkansas Lottery Commission, each vendor shall post a performance bond or~~
 7 ~~letter of credit from a bank or credit provider acceptable to the commission~~
 8 ~~in an amount as deemed necessary by the commission for that particular bid or~~
 9 ~~major procurement contract.~~

10 ~~(2) In lieu of the bond, to assure the faithful performance of~~
 11 ~~its obligations, a vendor may deposit and maintain with the commission~~
 12 ~~securities that are:~~

13 ~~(A) Interest bearing or accruing; and~~

14 ~~(B) Rated in one (1) of the three (3) highest~~
 15 ~~classifications by an established, nationally recognized investment rating~~
 16 ~~service.~~

17 ~~(3) Securities eligible under this section are limited to:~~

18 ~~(A) Certificates of deposit in an amount fully insured by~~
 19 ~~the Federal Deposit Insurance Corporation issued by solvent banks or savings~~
 20 ~~associations, if the solvent banks or savings associations are:~~

21 ~~(i) Approved by the commission; and~~

22 ~~(ii) Organized and existing under the laws of this~~
 23 ~~state or under the laws of the United States;~~

24 ~~(B) United States Government bonds, notes, and bills for~~
 25 ~~which the full faith and credit of the United States Government is pledged~~
 26 ~~for the payment of principal and interest;~~

27 ~~(C) Federal agency securities by an agency or~~
 28 ~~instrumentality of the United States Government; and~~

29 ~~(D)(i) Corporate bonds approved by the commission.~~

30 ~~(ii) The entity that issued the bonds shall not be~~
 31 ~~an affiliate or subsidiary of the depositor.~~

32 ~~(4) The securities shall be held in trust and shall at all times~~
 33 ~~be in an amount as deemed necessary by the commission for the particular bid~~
 34 ~~or major procurement contract.~~

35 ~~(b)(1) Each vendor shall be qualified to do business in this state and~~
 36 ~~shall file appropriate tax returns as provided by the laws of this state.~~

1 ~~(2) All major procurement contracts under this section shall be~~
 2 ~~governed by the laws of this state except as provided in this chapter.~~

3
 4 ~~23-115-503. Cancellation, suspension, revocation, or termination of~~
 5 ~~major procurement contract.~~

6 ~~(a) A major procurement contract executed by the Arkansas Lottery~~
 7 ~~Commission under this chapter shall specify the reasons for which the major~~
 8 ~~procurement contract may be canceled, suspended, revoked, or terminated by~~
 9 ~~the commission. The reasons shall include without limitation:~~

10 ~~(1) Commission of a violation of this chapter or a rule of the~~
 11 ~~commission;~~

12 ~~(2) Commission of any fraud, deceit, or misrepresentation;~~

13 ~~(3) Conduct prejudicial to public confidence in a lottery;~~

14 ~~(4) The vendor's filing for or being placed in bankruptcy or~~
 15 ~~receivership; or~~

16 ~~(5) Any material change as determined in the sole discretion of~~
 17 ~~the commission in any matter considered by the commission in executing the~~
 18 ~~major procurement contract with the vendor.~~

19 ~~(b)(1) If upon approval of the commission the Director of the Arkansas~~
 20 ~~Lottery Commission or his or her designee determines that cancellation,~~
 21 ~~denial, revocation, suspension, or rejection of renewal of a major~~
 22 ~~procurement contract is in the best interest of lotteries, the public~~
 23 ~~welfare, or the State of Arkansas, the director or his or her designee may~~
 24 ~~cancel, suspend, revoke, or terminate, after notice and a right to a hearing,~~
 25 ~~a major procurement contract issued under this chapter.~~

26 ~~(2) The major procurement contract may be temporarily suspended~~
 27 ~~by the director or his or her designee without commission approval or prior~~
 28 ~~notice pending a hearing.~~

29 ~~(3) A major procurement contract may be suspended, revoked, or~~
 30 ~~terminated by the director or his or her designee for any one (1) or more of~~
 31 ~~the reasons enumerated in this section.~~

32 ~~(c) Hearings under this section shall be held in accordance with the~~
 33 ~~Arkansas Administrative Procedure Act, § 25-15-201 et seq.~~

34
 35 ~~23-115-504. Political contributions by vendors.~~

36 ~~(a) The General Assembly finds:~~

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

3 ~~(2) That the people of the State of Arkansas should have~~
 4 ~~confidence and be assured that public officials are free of any untoward~~
 5 ~~political influence by vendors.~~

6 ~~(b) A vendor awarded a major procurement contract for lottery~~
 7 ~~equipment or tickets or an officer, employee, or agent of a vendor awarded a~~
 8 ~~major procurement contract for lottery equipment or tickets shall not make a~~
 9 ~~political contribution to a public official or a candidate for election as a~~
 10 ~~public official.~~

11 ~~(c) A vendor proposing to provide goods or services under a major~~
 12 ~~procurement contract or an officer, employee, or agent of a vendor proposing~~
 13 ~~to provide goods or services under a major procurement contract shall not:~~

14 ~~(1) Make a political contribution to a public official or a~~
 15 ~~candidate for election as a public official while the award of the major~~
 16 ~~procurement contract is pending; and~~

17 ~~(2) While the award of the major procurement contract is~~
 18 ~~pending, promise to make a political contribution to a public official or a~~
 19 ~~candidate for election as a public official after the award of the major~~
 20 ~~procurement contract.~~

21
 22 **SUBCHAPTER 6**

23 **RETAILERS**

24
 25 ~~23-115-601. Retailers.~~

26 ~~(a) The General Assembly recognizes that to conduct a successful~~
 27 ~~lottery, the Arkansas Lottery Commission must develop and maintain a~~
 28 ~~statewide network of retailers that will serve the public convenience and~~
 29 ~~promote the sale of tickets or shares and the playing of lotteries while~~
 30 ~~ensuring the integrity of lottery operations, games, and activities.~~

31 ~~(b) The commission shall make every effort to provide small retailers~~
 32 ~~a chance to participate in the sales of tickets or shares.~~

33 ~~(c) The commission shall provide for compensation to retailers in the~~
 34 ~~form of commissions in an amount of not less than five percent (5%) of gross~~
 35 ~~sales of tickets and shares and may provide for other forms of compensation~~
 36 ~~for services rendered in the sale or cashing of tickets or shares.~~

1 ~~(d)(1) For purposes of display, the commission shall issue a license~~
2 ~~to each person that it licenses as a retailer.~~

3 ~~(2)(A) Every retailer shall post and keep conspicuously~~
4 ~~displayed in a location on the premises accessible to the public its license.~~

5 ~~(B) A license is not assignable or transferable.~~

6 ~~(e)(1) A person considered as a retailer shall apply to the~~
7 ~~Identification Bureau of the Department of Arkansas State Police for a state~~
8 ~~and federal criminal background check, to be conducted by the Identification~~
9 ~~Bureau of the Department of Arkansas State Police and the Federal Bureau of~~
10 ~~Investigation.~~

11 ~~(2) The state and federal criminal background check shall~~
12 ~~conform to the applicable federal standards and shall include the taking of~~
13 ~~fingerprints.~~

14 ~~(3) The applicant shall sign a consent to the release of~~
15 ~~information for the state and federal criminal background check.~~

16 ~~(4) The commission shall be responsible for the payment of any~~
17 ~~fee associated with the state and federal criminal background check.~~

18 ~~(5) Upon completion of the state and federal criminal background~~
19 ~~check, the Identification Bureau of the Department of Arkansas State Police~~
20 ~~shall forward to the commission all releasable information obtained~~
21 ~~concerning the applicant.~~

22 ~~(f)(1) The commission shall develop a list of objective criteria upon~~
23 ~~which the qualification of retailers shall be based.~~

24 ~~(2) The commission shall develop separate criteria to govern the~~
25 ~~selection of retailers of instant tickets.~~

26 ~~(3) In developing the criteria, the commission shall consider~~
27 ~~certain factors, including without limitation:~~

28 ~~(A) The applicant's financial responsibility;~~

29 ~~(B) Security of the applicant's place of business or~~
30 ~~activity;~~

31 ~~(C) Accessibility to the public;~~

32 ~~(D) The applicant's integrity; and~~

33 ~~(E) The applicant's reputation.~~

34 ~~(4) The commission shall not consider political affiliation,~~
35 ~~activities, or monetary contributions to political organizations or~~
36 ~~candidates for any public office.~~

~~(5) The criteria shall include without limitation the following:~~

~~(A)(i) The applicant shall be current in filing all applicable tax returns to the State of Arkansas and in payment of all taxes, interest, and penalties owed to the State of Arkansas, excluding items under formal appeal under applicable statutes.~~

~~(ii) The Department of Finance and Administration shall provide to the commission the information required under subdivision (f)(5)(A)(i) of this section;~~

~~(B) The commission shall not select as a retailer any person who:~~

~~(i) Has been convicted of a criminal offense related to the security or integrity of a lottery in this or any other jurisdiction;~~

~~(ii)(a) Has been convicted of any illegal gambling activity, false statements, false swearing, or perjury in this or any other jurisdiction or convicted of any crime punishable by more than one (1) year of imprisonment or a fine of more than one thousand dollars (\$1,000), or both.~~

~~(b) Subdivision (f)(5)(B)(ii)(a) of this section shall not apply if the person's civil rights have been restored and at least five (5) years have elapsed from the date of the completion of the sentence without a subsequent conviction of a crime described in subdivision (f)(5)(B)(ii)(a) of this section;~~

~~(iii) Has been found to have violated this chapter or any rule, policy, or procedure of the commission unless:~~

~~(a) Ten (10) years have passed since the violation; or~~

~~(b) The commission finds the violation both minor and unintentional in nature;~~

~~(iv) Is a vendor or an employee or agent of a vendor doing business with the commission;~~

~~(v) Is a member of the immediate family of a member of the commission;~~

~~(vi) Has made a statement of material fact to the commission knowing the statement to be false; or~~

~~(vii)(a) Is engaged exclusively in the business of selling tickets or shares.~~

1 ~~not to exceed one hundred dollars (\$100) per sales location to be deposited~~
2 ~~into the fidelity fund.~~

3 ~~(2) Moneys deposited into the fidelity fund may be:~~

4 ~~(A) Invested or deposited into one (1) or more interest-~~
5 ~~bearing accounts;~~

6 ~~(B) Used to cover losses the commission experiences due to~~
7 ~~nonfeasance, misfeasance, or malfeasance of a retailer; and~~

8 ~~(C) Used to purchase blanket bonds covering the commission~~
9 ~~against losses from all retailers.~~

10 ~~(3) At the end of each fiscal year, the commission shall pay to~~
11 ~~the trust account managed and maintained by the Department of Higher~~
12 ~~Education any amount in the fidelity fund that exceeds five hundred thousand~~
13 ~~dollars (\$500,000), and the funds shall be considered net proceeds from a~~
14 ~~lottery.~~

15 ~~(b)(1) A reserve account may be established as a general operating~~
16 ~~expense to cover amounts deemed uncollectable.~~

17 ~~(2) The commission shall establish procedures for minimizing any~~
18 ~~losses that may be deemed uncollectable and shall exercise and exhaust all~~
19 ~~available options in those procedures before writing off amounts to this~~
20 ~~account.~~

21 ~~(c)(1) The commission shall require a retailer to post an appropriate~~
22 ~~bond, as determined by the commission, using an insurance company acceptable~~
23 ~~to the commission.~~

24 ~~(2) If applicable, the amount of the bond shall not exceed the~~
25 ~~district sales average of tickets for two (2) billing periods.~~

26 ~~(d)(1) In its discretion, the commission may allow a retailer to~~
27 ~~deposit and maintain with the commission securities that are interest-bearing~~
28 ~~or accruing.~~

29 ~~(2) Securities eligible under this subsection are limited to:~~

30 ~~(A) Certificates of deposit in an amount fully insured by~~
31 ~~the Federal Deposit Insurance Corporation issued by solvent banks or savings~~
32 ~~associations organized and existing under the laws of this state or under the~~
33 ~~laws of the United States;~~

34 ~~(B) United States Government bonds, notes, and bills for~~
35 ~~which the full faith and credit of the United States Government is pledged~~
36 ~~for the payment of principal and interest; or~~

1 ~~(C) Federal agency securities by an agency or~~
2 ~~instrumentality of the United States Government.~~

3 ~~(3) The securities shall be held in trust in the name of the~~
4 ~~commission.~~

5
6 ~~23-115-604. Cancellation, suspension, revocation, or termination of~~
7 ~~retailer license.~~

8 ~~(a) A retailer license executed by the Arkansas Lottery Commission~~
9 ~~under this chapter shall specify the reasons for which the retailer license~~
10 ~~may be canceled, suspended, revoked, or terminated by the commission. The~~
11 ~~reasons shall include without limitation:~~

12 ~~(1) Commission of a violation of this chapter or a rule of the~~
13 ~~commission;~~

14 ~~(2) Failure to accurately or timely account for tickets, lottery~~
15 ~~games, revenues, or prizes as required by the commission;~~

16 ~~(3) Commission of any fraud, deceit, or misrepresentation;~~

17 ~~(4) Insufficient sales;~~

18 ~~(5) Conduct prejudicial to public confidence in a lottery;~~

19 ~~(6) The retailer's filing for or being placed in bankruptcy or~~
20 ~~receivership;~~

21 ~~(7) Any material change as determined in the sole discretion of~~
22 ~~the commission in any matter considered by the commission in executing the~~
23 ~~license with the retailer; or~~

24 ~~(8) Failure to meet any of the objective criteria established by~~
25 ~~the commission under this chapter.~~

26 ~~(b)(1) If upon approval of the commission the Director of the Arkansas~~
27 ~~Lottery Commission or his or her designee determines that cancellation,~~
28 ~~denial, revocation, suspension, or rejection of renewal of a retailer license~~
29 ~~is in the best interest of lotteries, the public welfare, or the State of~~
30 ~~Arkansas, the director or his or her designee may cancel, suspend, revoke, or~~
31 ~~terminate, after notice and a right to a hearing, a retailer license issued~~
32 ~~under this chapter.~~

33 ~~(2) The retailer license may be temporarily suspended by the~~
34 ~~director or his or her designee without commission approval or prior notice~~
35 ~~pending a hearing.~~

36 ~~(3) A retailer license may be suspended, revoked, or terminated~~

1 ~~by the director or his or her designee for any one (1) or more of the reasons~~
2 ~~enumerated in subsection (a) of this section.~~

3 ~~(4) Hearings under subsection (b) of this section shall be held~~
4 ~~in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et~~
5 ~~seq.~~

6
7 ~~23-115-605. Retailers—Fiduciary duty—Protection against loss.~~

8 ~~(a)(1) All proceeds from the sale of tickets or shares constitute a~~
9 ~~trust fund until paid to the Arkansas Lottery Commission either directly or~~
10 ~~through the commission's authorized collection representative.~~

11 ~~(2) A retailer and officers of a retailer's business have a~~
12 ~~fiduciary duty to preserve and account for retail lottery proceeds, and~~
13 ~~retailers are personally liable for all lottery proceeds.~~

14 ~~(3) For the purpose of this section, lottery proceeds include~~
15 ~~without limitation:~~

16 ~~(A) Unsold instant tickets received by a retailer;~~

17 ~~(B) Cash proceeds of the sale of any lottery products;~~

18 ~~(C) Net of allowable sales commissions; and~~

19 ~~(D) Credit for lottery prizes paid to winners by~~

20 ~~retailers.~~

21 ~~(4) Sales proceeds and unused instant tickets shall be delivered~~
22 ~~to the commission or its authorized collection representative upon demand.~~

23 ~~(b)(1) The commission shall require retailers to place all lottery~~
24 ~~proceeds due the commission in accounts in institutions insured by the~~
25 ~~Federal Deposit Insurance Corporation not later than the close of the next~~
26 ~~banking day after the date of their collection by the retailer until the date~~
27 ~~they are paid to the commission.~~

28 ~~(2) At the time of the deposit, lottery proceeds shall be deemed~~
29 ~~to be the property of the commission.~~

30 ~~(3) The commission may require a retailer to establish a single~~
31 ~~separate electronic funds transfer account when available for the purpose of:~~

32 ~~(A) Receiving moneys from ticket or share sales;~~

33 ~~(B) Making payments to the commission; and~~

34 ~~(C) Receiving payments for the commission.~~

35 ~~(4) Unless authorized in writing by the commission, each~~
36 ~~retailer shall establish a separate bank account for lottery proceeds that~~

1 shall be kept separate and apart from all other funds and assets and shall
2 not be commingled with any other funds or assets.

3 (c) When an individual who receives proceeds from the sale of tickets
4 or shares in the capacity of a retailer becomes insolvent or dies insolvent,
5 the proceeds due the commission from the individual or his or her estate have
6 preference over all debts or demands.

7 (d) If the commission determines that a retailer failed to comply with
8 subsection (b) of this section three (3) times within any consecutive twenty-
9 four month period, the commission may pursue business closure against the
10 retailer under this subchapter.

11
12 23-115-606. Retailer—Rental payments based on percentage of retail
13 sales.

14 If a retailer's rental payments for the business premises are
15 contractually computed, in whole or in part, on the basis of a percentage of
16 retail sales and the computation of retail sales is not explicitly defined to
17 include sales of tickets or shares, only the compensation received by the
18 retailer from the Arkansas Lottery Commission may be considered the amount of
19 the lottery retail sale for purposes of computing the rental payment.

20
21 23-115-607. Business closure authority—Notice.

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

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

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

32 (A) The United States Postal Service; or

33 (B) Hand delivery.

34 (c)(1) If the retailer has a third delinquency in complying with § 23-
35 115-605(b) in any consecutive twenty-four month period after the issuance of
36 the notice provided in subsection (b) of this section and the director

1 chooses to close the business, the director shall notify the retailer by
2 certified mail or by hand delivery that the business will be closed within
3 five (5) business days from the date of receipt of the notice unless the
4 retailer avoids closure of the business under subsection (d) of this section.

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

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

10 (1) Remitting the delinquent lottery proceeds; or

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

13
14 23-115-608. Administrative hearing.

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

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

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

24 (A) In person;

25 (B) By telephone;

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

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

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

32 (3) A retailer who requests an administrative hearing based upon
33 written documents is not entitled to any other administrative hearing before
34 the rendering of the administrative decision.

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

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

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

3 ~~(B) Give the retailer notice of the hearing.~~

4 ~~(2) At the administrative hearing, the retailer may:~~

5 ~~(A) Be represented by an authorized representative; and~~

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

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

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

12 ~~(h) The defense or defenses to the closure of a business under this~~
 13 ~~subchapter are:~~

14 ~~(1) Written proof that the retailer remitted the delinquent~~
 15 ~~lottery proceeds due; or~~

16 ~~(2) That the retailer has entered into a written payment~~
 17 ~~agreement, approved by the director, to satisfy the lottery proceeds~~
 18 ~~delinquency.~~

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

22
 23 ~~23-115-609. Judicial relief.~~

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

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

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

33 ~~(2)(A) If the circuit court finds that the business closure~~
 34 ~~order was appropriately issued by the director, the circuit court shall issue~~
 35 ~~an injunction against the retailer prohibiting the further operation of the~~
 36 ~~business.~~

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

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

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

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

12 (1) ~~If the retailer fails to:~~

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

14 ~~or~~

15 (B) ~~Seek judicial relief under this section; or~~

16 (2) ~~Upon the final decision of a circuit court or an appellate~~
 17 ~~court.~~

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

20 (A) ~~Upheld on appeal under this subchapter; or~~

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

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

25
 26 23-115-610. ~~Business closure procedure.~~

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

33 (1) ~~Identifies the business as being subject to a business~~
 34 ~~closure order; and~~

35 (2) ~~States that the business is prohibited from further~~
 36 ~~operation.~~

1 ~~(b) The Director of the Arkansas Lottery Commission may also direct~~
 2 ~~that the business be locked or otherwise secured so that it may not be~~
 3 ~~operated.~~

4 ~~(c) The Director of the Department of Finance and Administration may~~
 5 ~~request the assistance of the Department of Arkansas State Police or any~~
 6 ~~state or local law enforcement official to post the notice or to secure the~~
 7 ~~business as authorized in this section.~~

8 ~~(d) The commission may reimburse the Department of Finance and~~
 9 ~~Administration for the costs of administering this section after review of~~
 10 ~~the amount by the Arkansas Lottery Commission Legislative Oversight~~
 11 ~~Committee.~~

12
 13 ~~23-115-611. Revocation and suspension of business license.~~

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

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

20 ~~(c) After the decision to close the retailer's business becomes final,~~
 21 ~~the Director of the Arkansas Lottery Commission shall contact the appropriate~~
 22 ~~administrative body responsible for granting licenses to operate the business~~
 23 ~~and report the closure of the business.~~

24
 25 ~~23-115-612. Authority to promulgate rules.~~

26 ~~The Arkansas Lottery Commission may promulgate rules necessary for the~~
 27 ~~implementation and enforcement of this subchapter.~~

28
 29 ~~SUBCHAPTER 7~~

30 ~~PROCUREMENTS~~

31
 32 ~~23-115-701. Procurements—Major procurement contracts—Competitive~~
 33 ~~bidding.~~

34 ~~(a)(1) The Arkansas Lottery Commission may purchase, lease, or lease-~~
 35 ~~purchase goods or services as necessary for effectuating the purposes of this~~
 36 ~~chapter.~~

1 ~~(2) The commission may make procurements that integrate~~
 2 ~~functions, including without limitation:~~

- 3 ~~(A) Lottery design;~~
- 4 ~~(B) Ticket distribution to retailers;~~
- 5 ~~(C) Supply of goods and services; and~~
- 6 ~~(D) Advertising.~~

7 ~~(3) In all procurement decisions, the commission shall:~~

8 ~~(A) Take into account the particularly sensitive nature of~~
 9 ~~lotteries; and~~

10 ~~(B) Act to promote and ensure:~~

11 ~~(i) Security, honesty, fairness, and integrity in~~
 12 ~~the operation and administration of lotteries; and~~

13 ~~(ii) The objectives of raising net proceeds for the~~
 14 ~~benefit of scholarships and grants.~~

15 ~~(b) Except as provided in subsections (c) and (d) of this section, the~~
 16 ~~commission shall comply with the Arkansas Procurement Law, § 19-11-201 et~~
 17 ~~seq.~~

18 ~~(c)(1) The commission shall adopt rules concerning the procurement~~
 19 ~~process for major procurement contracts.~~

20 ~~(2) The commission shall arrange for the solicitation and~~
 21 ~~receipt of competitive bids for major procurement contracts.~~

22 ~~(3) Except for printing, stationery, and supplies under Arkansas~~
 23 ~~Constitution, Amendment 54, the commission is not required to accept the~~
 24 ~~lowest responsible bid for major procurement contracts but shall select a bid~~
 25 ~~that provides the greatest long term benefit to the state, the greatest~~
 26 ~~integrity for the commission, and the best service and products for the~~
 27 ~~public.~~

28 ~~(d) In any bidding process, the commission may administer its own~~
 29 ~~bidding and procurement or may utilize the services of the Department of~~
 30 ~~Finance and Administration.~~

31 ~~(e)(1) Each proposed major procurement contract shall be filed with~~
 32 ~~the Arkansas Lottery Commission Legislative Oversight Committee for review~~
 33 ~~before the execution date of the major procurement contract.~~

34 ~~(2) The Arkansas Lottery Commission Legislative Oversight~~
 35 ~~Committee shall provide the commission with its review as to the propriety of~~
 36 ~~the major procurement contract within thirty (30) days after receipt of the~~

1 ~~proposed major procurement contract.~~

3 ~~SUBCHAPTER 8~~

4 ~~LOTTERY PROCEEDS~~

6 ~~23-115-801. Lottery proceeds.~~

7 ~~(a)(1) All lottery proceeds are the property of the Arkansas Lottery~~
8 ~~Commission.~~

9 ~~(2)(A) The commission shall pay its operating expenses from its~~
10 ~~lottery proceeds.~~

11 ~~(B)(i) An amount of lottery proceeds determined by the~~
12 ~~commission to maximize net proceeds shall be made available as prize money.~~

13 ~~(ii)(a) Subdivision (a)(2)(B)(i) of this section~~
14 ~~does not create any lien, entitlement, cause of action, or other private~~
15 ~~right.~~

16 ~~(b) In setting the terms of a lottery, the~~
17 ~~commission shall determine any rights of holders of tickets or shares.~~

18 ~~(3) The percentage of lottery proceeds determined by the~~
19 ~~commission to be net proceeds shall equal an amount determined by the~~
20 ~~commission to maximize net proceeds.~~

21 ~~(b)(1) On or before the fifteenth day of each month, the commission~~
22 ~~shall deposit the net proceeds from the lottery into one (1) or more trust~~
23 ~~accounts at one (1) or more financial institutions.~~

24 ~~(2) The commission shall follow the investment policy guidelines~~
25 ~~of the State Board of Finance in selecting a financial institution and~~
26 ~~managing the net proceeds from the lottery deposited into a trust account.~~

27 ~~(c)(1) The Director of the Department of Higher Education shall~~
28 ~~certify to the commission the amount of net proceeds from the lottery needed~~
29 ~~to:~~

30 ~~(A) Fund the scholarships awarded to recipients under § 6-~~
31 ~~85-201 et seq. for an academic year; and~~

32 ~~(B) Ensure that sufficient funds remain available to pay~~
33 ~~for scholarship awards for the recipients through the anticipated completion~~
34 ~~of the degree or certificate a recipient is seeking.~~

35 ~~(2)(A)(i) The commission shall transfer the funds requested by~~
36 ~~the director under subdivision (c)(1) of this section into one (1) or more~~

1 ~~trust accounts at one (1) or more financial institutions meeting the~~
 2 ~~requirements of subdivision (b)(2) of this section maintained by the~~
 3 ~~department.~~

4 ~~(ii) The director shall disburse trust account funds~~
 5 ~~only in the name of the recipient.~~

6 ~~(a) To an approved institution of higher~~
 7 ~~education; or~~

8 ~~(b) If a recipient transfers to another~~
 9 ~~approved institution of higher education, to the approved institution of~~
 10 ~~higher education where the recipient transferred.~~

11 ~~(3) By August 1 of each year, the director shall provide to the~~
 12 ~~commission and to the Arkansas Lottery Commission Legislative Oversight~~
 13 ~~Committee for the academic year just ended an accounting of all trust~~
 14 ~~accounts maintained by the department, including without limitation:~~

15 ~~(A) Total deposits to all trust accounts;~~

16 ~~(B) Total disbursements from the trust accounts; and~~

17 ~~(C) The balance remaining in the trust accounts.~~

18 ~~(d)(1) The General Assembly finds that:~~

19 ~~(A) The administration of scholarships with proceeds from~~
 20 ~~the lottery are expenses of the commission; and~~

21 ~~(B) Because the department has the expertise and~~
 22 ~~experienced staff needed to efficiently and appropriately administer the~~
 23 ~~scholarships, the commission shall use the services of the department to~~
 24 ~~administer scholarships funded with net proceeds from the lottery.~~

25 ~~(2) The commission shall reimburse the department for the costs~~
 26 ~~of administering the scholarship awards funded with net proceeds from the~~
 27 ~~lottery after review of the reimbursement amount by the Arkansas Lottery~~
 28 ~~Commission Legislative Oversight Committee.~~

29 ~~(3) The department shall refund to the Higher Education Grants~~
 30 ~~Fund Account the amount of a reimbursement received from the commission under~~
 31 ~~this subsection for services provided and funded from the fund account.~~

32
 33 ~~23-115-802. Scholarship Shortfall Reserve Trust Account. [Effective~~
 34 ~~July 1, 2010.]~~

35 ~~(a) The Arkansas Lottery Commission shall maintain a Scholarship~~
 36 ~~Shortfall Reserve Trust Account.~~

1 ~~(b)(1) An amount equal to four percent (4%) of the total amount of net~~
2 ~~proceeds disbursed during the preceding fiscal year in the form of~~
3 ~~scholarships and grants for higher education shall be deposited from lottery~~
4 ~~proceeds each year until the amount in the account equals twenty million~~
5 ~~dollars (\$20,000,000).~~

6 ~~(2) Thereafter, only an amount necessary to maintain the account~~
7 ~~in an amount equal to twenty million dollars (\$20,000,000) shall be deposited~~
8 ~~into the account.~~

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

13 ~~(c)(1) If net proceeds in any year are not sufficient to meet the~~
14 ~~amount allocated for higher education scholarships, the account may be drawn~~
15 ~~upon to meet the deficiency.~~

16 ~~(2) If it becomes necessary to draw from the account in any~~
17 ~~fiscal year, the Department of Higher Education shall review the scholarship~~
18 ~~and grant program and shall reduce the program to accommodate available~~
19 ~~lottery proceeds, exclusive of the account.~~

20 ~~(d) This section is effective on July 1, 2010.~~

21
22 ~~23 115 803. Disposition of funds.~~

23 ~~(a)(1) To effectuate the Arkansas Lottery Commission's purposes, the~~
24 ~~commission may borrow moneys from the State of Arkansas or accept and expend~~
25 ~~moneys from the State of Arkansas and shall repay any sums borrowed from the~~
26 ~~state as soon as practicable.~~

27 ~~(2) As used in this section, "purposes" includes without~~
28 ~~limitation the payment of the initial expenses of initiation, administration,~~
29 ~~and operation of the commission and lotteries.~~

30 ~~(3) The commission shall not issue bonds for any purpose.~~

31 ~~(b)(1) The commission shall be self-sustaining and self-funded.~~

32 ~~(2)(A) Except as provided in subsection (a) of this section,~~
33 ~~moneys in the General Revenue Fund Account of the State Apportionment Fund~~
34 ~~shall not be used or obligated to pay the expenses of the commission or~~
35 ~~prizes of a lottery.~~

36 ~~(B) A claim for the payment of an expense of a lottery or~~

1 prizes of a lottery shall not be made against any moneys other than moneys
2 credited to the commission's operating account.

3
4 ~~SUBCHAPTER 9~~

5 ~~PENALTIES~~

6
7 ~~23-115-901. Sale of ticket or share to person under 18 years of age~~
8 ~~prohibited—Penalty.~~

9 ~~(a) A retailer who knowingly sells a ticket or share to a person under~~
10 ~~eighteen (18) years of age or permits a person under eighteen (18) years of~~
11 ~~age to play a lottery is guilty of a violation and subject to the following~~
12 ~~penalties:~~

13 ~~(1) A fine not to exceed two hundred fifty dollars (\$250) for a~~
14 ~~first violation within a forty-eight month period;~~

15 ~~(2) For a second violation within a forty-eight month period:~~

16 ~~(A) A fine not to exceed five hundred dollars (\$500); and~~

17 ~~(B) Suspension of the retailer license issued under § 23-~~
18 ~~115-601 et seq. for a period not to exceed two (2) days;~~

19 ~~(3) For a third violation within a forty-eight month period:~~

20 ~~(A) A fine not to exceed one thousand dollars (\$1,000);~~

21 ~~and~~

22 ~~(B) Suspension of the retailer license issued under § 23-~~
23 ~~115-601 et seq. for a period not to exceed seven (7) days;~~

24 ~~(4) For a fourth or subsequent violation within a forty-eight-~~
25 ~~month period:~~

26 ~~(A) A fine not to exceed two thousand dollars (\$2,000);~~

27 ~~and~~

28 ~~(B) Suspension of the retailer license issued under § 23-~~
29 ~~115-601 et seq. for a period not to exceed fourteen (14) days; and~~

30 ~~(5) For a fifth or subsequent violation within a forty-eight-~~
31 ~~month period, the retailer license issued under § 23-115-601 et seq. may be~~
32 ~~revoked.~~

33 ~~(b) An employee of a retailer who violates this section is subject to~~
34 ~~a fine not to exceed one hundred dollars (\$100) per violation.~~

35 ~~(c) It is an affirmative defense to a prosecution under this section~~
36 ~~that the retailer reasonably and in good faith relied upon representation of~~

1 ~~proof of age in making the sale.~~

2 ~~(d) A person convicted of violating any provision of this section~~
 3 ~~whose retailer license is suspended or revoked upon conviction shall~~
 4 ~~surrender to the court his or her retailer license and the court shall~~
 5 ~~transmit the retailer license to the Arkansas Lottery Commission and instruct~~
 6 ~~the commission.~~

7 ~~(1) To suspend or revoke the person's retailer license or to not~~
 8 ~~renew the license; and~~

9 ~~(2) Not to issue any new retailer license to that person for the~~
 10 ~~period of time determined by the court in accordance with this section.~~

11
 12 ~~23-115-902. Fraud — Penalty.~~

13 ~~(a)(1) A person who, with a purpose to defraud, falsely makes, alters,~~
 14 ~~forges, utters, passes, or counterfeits a ticket is guilty of a Class D~~
 15 ~~felony.~~

16 ~~(2) A person convicted of violating subdivision (a)(1) of this~~
 17 ~~section is subject to an additional fine of not more than fifty thousand~~
 18 ~~dollars (\$50,000).~~

19 ~~(b)(1) A person who purposely influences or attempts to influence the~~
 20 ~~winning of a lottery prize through the use of coercion, fraud, deception, or~~
 21 ~~tampering with lottery equipment or materials is guilty of a Class D felony.~~

22 ~~(2) A person convicted of violating subdivision (b)(1) of this~~
 23 ~~section is subject to an additional fine of not more than fifty thousand~~
 24 ~~dollars (\$50,000).~~

25
 26 ~~23-115-903. False statement on license application — Penalty.~~

27 ~~(a) A person shall not knowingly make:~~

28 ~~(1) A material false statement in an application for a license~~
 29 ~~or proposal to conduct a lottery; or~~

30 ~~(2) A material false entry in any book or record that is~~
 31 ~~compiled, maintained, or submitted to the Arkansas Lottery Commission.~~

32 ~~(b)(1) A person who violates this section is guilty of a Class D~~
 33 ~~felony.~~

34 ~~(2) A person convicted for violating subsection (a) of this~~
 35 ~~section is subject to an additional fine of not more than twenty-five~~
 36 ~~thousand dollars (\$25,000) or the dollar amount of the material false entry~~

~~or material false statement, whichever is greater.~~

~~23-115-904. Inconsistent statutes inapplicable.~~

~~(a) Section 5-66-101 et seq. and all other laws and parts of laws inconsistent with this chapter are expressly declared not to apply to any person engaged in, conducting, or otherwise participating in lotteries.~~

~~(b) A person is not guilty of any criminal offense set forth in § 5-66-101 et seq. or any other law relating to illegal gambling to the extent the person relied on any rule, order, finding, or other determination by the Arkansas Lottery Commission that the activity was authorized by this chapter.~~

SUBCHAPTER 10

DEBTORS OWING MONEY TO THE STATE

~~23-115-1001. Legislative intent.~~

~~(a) The purposes of this subchapter are to establish:~~

~~(1) A policy and to provide a system whereby all claimant agencies of this state in conjunction with the Arkansas Lottery Commission shall cooperate in identifying debtors who owe money to the state through its various claimant agencies or to persons on whose behalf the state and its claimant agencies act and who qualify for lottery prizes under this chapter from the commission; and~~

~~(2) Procedures for setting off against any prize the sum of any debt owed to the state or to persons on whose behalf the state and its claimant agencies act.~~

~~(b) This subchapter shall be liberally construed to effectuate the purposes stated in subsection (a) of this section.~~

~~23-115-1002. Definitions.~~

~~As used in this subchapter:~~

~~(1) "Claimant agency" means a state agency, department, board, bureau, commission, or authority:~~

~~(A) To which a person owes a debt; or~~

~~(B) That acts on behalf of a person to collect a debt;~~

~~(2) "Debt" means a:~~

1 (A) ~~Liquidated sum due and owing any claimant agency when~~
2 ~~the sum has accrued through contract, subrogation, tort, or operation of law~~
3 ~~regardless of whether there is an outstanding judgment for the sum; or~~

4 (B) ~~Sum that is due and owing any person and is~~
5 ~~enforceable by the state;~~

6 (3) ~~"Debtor" means an individual owing money to or having a~~
7 ~~delinquent account with a claimant agency when the obligation has not been;~~

8 (A) ~~Adjudicated as satisfied by court order;~~

9 (B) ~~Set aside by court order; or~~

10 (C) ~~Discharged in bankruptcy; and~~

11 (4) ~~"Prize" means the proceeds of any lottery prize awarded under this~~
12 ~~chapter.~~

13
14 23-115-1003. ~~Collection remedy.~~

15 ~~The collection remedy authorized by this subchapter is in addition to~~
16 ~~and not in substitution for any other remedy available by law.~~

17
18 23-115-1004. ~~List of debtors — Withholding winnings — Ranking of~~
19 ~~liens.~~

20 (a)(1) ~~A claimant agency may submit to the Arkansas Lottery Commission~~
21 ~~a list of the names of all debtors owing in excess of one hundred dollars~~
22 ~~(\$100) to the claimant agency or to persons on whose behalf the claimant~~
23 ~~agency is acting.~~

24 (2) ~~The full amount of the debt is collectible from any prize~~
25 ~~without regard to limitations on the amounts that may be collectible in~~
26 ~~increments through garnishment or other proceedings.~~

27 (3) ~~The list shall constitute a valid lien upon and claim of~~
28 ~~lien against the prize of any debtor named in the list.~~

29 (4) ~~The list shall contain:~~

30 (A) ~~The name of each debtor;~~

31 (B) ~~The social security number of each debtor if~~
32 ~~available; and~~

33 (C) ~~Any other information that would assist the commission~~
34 ~~in identifying each debtor named in the list.~~

35 (b)(1) ~~The commission shall withhold any prizes subject to the lien~~
36 ~~created by this section and send notice to the winner by certified mail,~~

1 ~~return receipt requested, of the action and the reason the prizes were~~
2 ~~withheld.~~

3 ~~(2)(A) However, if the winner appears and claims prizes in~~
4 ~~person, the commission shall notify the winner at that time by hand delivery~~
5 ~~of the action.~~

6 ~~(B) If the debtor does not protest the withholding of the~~
7 ~~prizes in writing within thirty (30) days of receipt of the notice, the~~
8 ~~commission shall pay the prizes to the claimant agency.~~

9 ~~(C) If the debtor protests the withholding of the prizes~~
10 ~~within thirty (30) days of receipt of the notice, the commission shall:~~

11 ~~(i) File an action in interpleader in the circuit~~
12 ~~court of the county where the debtor resides;~~

13 ~~(ii) Pay the disputed sum into the registry of the~~
14 ~~circuit court; and~~

15 ~~(iii) Give notice to the claimant agency and debtor~~
16 ~~of the initiation of the action.~~

17 ~~(e) The liens created by this section are ranked by priority as~~
18 ~~follows:~~

19 ~~(1) Taxes due the state;~~

20 ~~(2) Delinquent child support; and~~

21 ~~(3) All other judgments and liens in order of the date entered~~
22 ~~or perfected.~~

23 ~~(d) The commission is not required to deduct claimed debts from prizes~~
24 ~~paid out by retailers or entities other than the commission.~~

25 ~~(e) Any list of debt provided under this section shall be provided~~
26 ~~periodically as the commission shall provide by rule, and the commission is~~
27 ~~not obligated to retain the lists or deduct debts appearing on the lists~~
28 ~~beyond the period determined by the rules.~~

29 ~~(f) The commission may prescribe forms and promulgate rules it deems~~
30 ~~necessary to implement this section.~~

31 ~~(g) The commission and any claimant agency shall incur no civil or~~
32 ~~criminal liability for good faith adherence to this section.~~

33 ~~(h) The claimant agency shall pay the commission for all costs~~
34 ~~incurred by the commission in setting off debts in the manner provided in~~
35 ~~this subchapter.~~

36

1 ~~23-115-1005.—Confidential information.~~

2 ~~(a)(1)—Notwithstanding any other confidentiality statute, the Arkansas~~
3 ~~Lottery Commission may provide to a claimant agency all information necessary~~
4 ~~to accomplish and effectuate the intent of this subchapter.~~

5 ~~(2)—Information shall be used by a claimant agency only in the~~
6 ~~pursuit of its debt collection duties and practices.~~

7 ~~(b)—Confidential information obtained by a claimant agency from the~~
8 ~~commission under this section shall retain its confidentiality.~~

9 ~~(c)—An employee or prior employee of a claimant agency who unlawfully~~
10 ~~discloses any information for any other purpose, except as otherwise~~
11 ~~specifically authorized by law, is guilty of a Class A misdemeanor.~~

12
13 ~~23-115-1006.—Application.~~

14 ~~This subchapter applies only to prizes of more than five hundred~~
15 ~~dollars (\$500).~~

16
17 ~~SUBCHAPTER 11~~

18 ~~ARKANSAS LOTTERY COMMISSION LEGISLATIVE OVERSIGHT COMMITTEE~~

19
20 ~~23-115-1101.—Arkansas Lottery Commission Legislative Oversight~~
21 ~~Committee.~~

22 ~~(a)—The Arkansas Lottery Commission Legislative Oversight Committee is~~
23 ~~established.~~

24 ~~(b)—The Arkansas Lottery Commission Legislative Oversight Committee~~
25 ~~shall consist of the following members of the General Assembly appointed as~~
26 ~~follows:~~

27 ~~(1)—Six (6) members of the House of Representatives shall be~~
28 ~~appointed to the Arkansas Lottery Commission Legislative Oversight Committee~~
29 ~~by the Speaker of the House of Representatives; and~~

30 ~~(2)—Six (6) members of the Senate shall be appointed to the~~
31 ~~Arkansas Lottery Commission Legislative Oversight Committee by the President~~
32 ~~Pro Tempore of the Senate.~~

33 ~~(c)—In making appointments, each appointing officer shall select~~
34 ~~members who have appropriate experience and knowledge of the issues to be~~
35 ~~examined by the Arkansas Lottery Commission Legislative Oversight Committee~~
36 ~~and may consider racial, gender, and geographical diversity among the~~

1 membership.

2 ~~(d) The Arkansas Lottery Commission Legislative Oversight Committee~~
3 ~~shall:~~

4 ~~(1) Review whether expenditures of lottery proceeds have been in~~
5 ~~accordance with this chapter;~~

6 ~~(2) Review proposed rules of the Arkansas Lottery Commission;~~

7 ~~(3)(A) Review proposed contracts of twenty five thousand dollars~~
8 ~~(\$25,000) or more before the execution of the contracts.~~

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

12 ~~(4) Review reports filed with the Arkansas Lottery Commission~~
13 ~~Legislative Oversight Committee by the Department of Higher Education,~~
14 ~~including without limitation reports filed under § 6-85-205 and § 6-85-220;~~

15 ~~(5) Perform its duties under § 6-85-220; and~~

16 ~~(6) Study other lottery matters as the Arkansas Lottery~~
17 ~~Commission Legislative Oversight Committee considers necessary to fulfill its~~
18 ~~mandate.~~

19 ~~(e)(1) By November 1 of each year, the Arkansas Lottery Commission~~
20 ~~Legislative Oversight Committee shall provide to the General Assembly:~~

21 ~~(A) Any analysis or findings resulting from its activities~~
22 ~~under this section that the Arkansas Lottery Commission Legislative Oversight~~
23 ~~Committee deems relevant; and~~

24 ~~(B) Its recommendations for any changes to the:~~

25 ~~(i) Scholarship award amounts;~~

26 ~~(ii) Number or type of scholarships; and~~

27 ~~(iii) Scholarship eligibility requirements.~~

28 ~~(2) The Arkansas Lottery Commission Legislative Oversight~~
29 ~~Committee may make interim reports to the General Assembly regarding the~~
30 ~~expenditure of net lottery revenues.~~

31 ~~(f)(1) The President Pro Tempore of the Senate and the Speaker of the~~
32 ~~House of Representatives shall each designate a Cochair of the Arkansas~~
33 ~~Lottery Commission Legislative Oversight Committee.~~

34 ~~(2) The Arkansas Lottery Commission Legislative Oversight~~
35 ~~Committee shall meet at least quarterly upon the joint call of the Cochairs~~
36 ~~of the Arkansas Lottery Commission Legislative Oversight Committee.~~

1 ~~(3) Six (6) members of the Arkansas Lottery Commission~~
2 ~~Legislative Oversight Committee constitute a quorum.~~

3 ~~(4) No action may be taken by the Arkansas Lottery Commission~~
4 ~~Legislative Oversight Committee except by a majority vote at a meeting at~~
5 ~~which a quorum is present.~~

6 ~~(g) Members of the Arkansas Lottery Commission Legislative Oversight~~
7 ~~Committee are entitled to per diem and mileage at the same rate authorized by~~
8 ~~law for attendance at meetings of interim committees of the General Assembly~~
9 ~~and shall be paid from the same source.~~

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

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

17
18 ~~23-115-1102. Filing of information with Arkansas Lottery Commission~~
19 ~~Legislative Oversight Committee.~~

20 ~~(a) It is the intent of the General Assembly that the Arkansas Lottery~~
21 ~~Commission Legislative Oversight Committee perform the monitoring and~~
22 ~~oversight functions of the Legislative Council for the Arkansas Lottery~~
23 ~~Commission.~~

24 ~~(b) All contracts, rules, reports, or other information required by~~
25 ~~law to be filed by the commission with the Legislative Council:~~

26 ~~(1) Shall not be filed with the Legislative Council; and~~

27 ~~(2) Shall be filed with the Arkansas Lottery Commission~~
28 ~~Legislative Oversight Committee.~~

29 ~~(c) The Arkansas Lottery Commission Legislative Oversight Committee~~
30 ~~shall perform all duties or functions of the Legislative Council required by~~
31 ~~law concerning the contracts, rules, reports, or other information filed with~~
32 ~~the Arkansas Lottery Commission Legislative Oversight Committee under~~
33 ~~subsection (b) of this section.~~

34
35 SECTION 4. Arkansas Code § 3-4-403(19), concerning Class B violations
36 by holders of alcoholic beverages permits, is amended to read as follows:

1 (19)(A) Conducting or permitting gambling on premises.

2 (B) Conducting or permitting gambling under subdivision

3 (21)(A) of this section does not include+

4 ~~(i) Charitable charitable bingo and raffles under~~
5 the Charitable Bingo and Raffles Enabling Act, § 23-114-101 et seq.; ~~or~~

6 ~~(ii) A lottery under the Arkansas Scholarship~~
7 ~~Lottery Act, § 23-115-101 et seq.~~

8

9 SECTION 5. Arkansas Code § 3-5-221 (d)(1)(A), concerning prohibited
10 practices under laws pertaining to beer and light wine, is amended to read as
11 follows:

12 (A)(i) To suffer or permit any dice to be thrown for money
13 or for anything of value or to suffer or permit gambling with cards,
14 dominoes, raffle, or other games of chance or any form of gambling in the
15 place designated by the license or in any booth, room, yard, garden, or other
16 place appurtenant thereto.

17 (ii) Forms of gambling under subdivision

18 (d)(1)(A)(i) of this section do not include+

19 ~~(a) Charitable charitable bingo and raffles~~
20 under the Charitable Bingo and Raffles Enabling Act, § 23-114-101 et seq.; ~~or~~

21 ~~(b) A lottery under the Arkansas Scholarship~~
22 ~~Lottery Act, § 23-115-101 et seq.;~~

23

24 SECTION 6. Arkansas Code § 3-5-307(5), concerning certain prohibited
25 practices under laws pertaining to beer, is amended to read as follows:

26 (5)(A) Permit gambling or games of chance upon the licensed
27 premises.

28 (B) Permitting gambling or games of chance under

29 subdivision (5)(A) of this section does not include+

30 ~~(i) Charitable charitable bingo and raffles under~~
31 the Charitable Bingo and Raffles Enabling Act, § 23-114-101 et seq.; ~~or~~

32 ~~(ii) A lottery under the Arkansas Scholarship~~
33 ~~Lottery Act, § 23-115-101 et seq.;~~

34

35 SECTION 7. Arkansas Code § 3-9-236(15), concerning miscellaneous
36 unlawful practices by on-premises consumption permit holders, is amended to

1 read as follows:

2 (15)(A) Keep on the permitted premises a slot machine or any
3 gambling or gaming device, machine, or apparatus, except as provided in
4 subdivisions (15)(B)-(C) of this section.

5 (B)(i) An event held by a nonprofit organization that is
6 exempt from taxation under § 26 U.S.C. 501(c)(3) shall be exempt from
7 subdivision (15)(A) of this section if:

8 (a) The nonprofit organization registers the
9 event with the Alcoholic Beverage Control Division at least sixty (60) days
10 before the event;

11 (b) All proceeds of the event are for the
12 benefit of the nonprofit organization;

13 (c) The games in the event do not use money
14 but may use some form of play money;

15 (d) No cash or any other item of value is won
16 or awarded as a prize; and

17 (e) The event is for amusement and not for
18 gambling purposes in violation of Arkansas law or Arkansas Constitution,
19 Article 19, § 14.

20 (ii)(a) This section shall apply to only one (1)
21 event held by a nonprofit organization during a calendar year.

22 (b) No licensed premises shall be allowed more
23 than ten (10) events under this subdivision per calendar year.

24 (iii)(a) A violation of this subdivision (15)(B) by
25 a nonprofit organization is a violation and is punishable by a fine of one
26 thousand dollars (\$1,000).

27 (b) If a nonprofit organization commits a
28 second violation of this subdivision (15)(B), the nonprofit organization
29 shall be ineligible to sponsor an event under this subdivision (15)(B).

30 (iv) The division may promulgate appropriate rules
31 to carry out the intent of this subdivision (15)(B).

32 (C) A gambling or a gaming device, machine, or apparatus
33 under subdivision (15)(A) of this section do not include+

34 ~~(i) Charitable~~ charitable bingo and raffles under
35 the Charitable Bingo and Raffles Enabling Act, § 23-114-101 et seq., ~~or~~

36 ~~(ii) A lottery under the Arkansas Scholarship~~

1 ~~Lottery Act, § 23-115-101 et seq.~~

2
3 SECTION 8. Arkansas Code § 10-3-314 is amended to read as follows:

4 10-3-314. Report on claim filed with Arkansas State Claims Commission.

5 ~~(a) Except as provided by subsection (b) of this section, it~~ It is the
6 intent of the General Assembly that when any state agency, board, commission,
7 or institution of higher education admits liability to a claim filed with the
8 Arkansas State Claims Commission and the claim involves a contract with a
9 state agency, board, commission, or institution of higher education or the
10 claim exceeds seven thousand five hundred dollars (\$7,500) that such agency,
11 board, commission, or institution of higher education file a written report
12 thereof with the Litigation Reports Oversight Subcommittee of the Legislative
13 Council. The report shall include a concise statement of facts with an
14 explanation of the agency's liability. Provided further, such report shall be
15 filed with the litigation subcommittee within thirty (30) days after the
16 claim has been adjudicated by the Arkansas State Claims Commission.

17 ~~(b) The Arkansas Lottery Commission shall file its written report~~
18 ~~under subsection (a) of this section with the Arkansas Lottery Commission~~
19 ~~Legislative Oversight Committee.~~

20
21 SECTION 9. Arkansas Code § 19-4-201(b)(2), concerning budget requests
22 for certain agencies, is amended to read as follows:

23 (2) Budget requests for administration and operation of the
24 legislative branch, the judicial branch, the elective constitutional offices,
25 the Arkansas State Highway and Transportation Department ~~the Arkansas Lottery~~
26 ~~Commission,~~ and the Arkansas State Game and Fish Commission shall be
27 submitted directly to the Legislative Council without any recommendation by
28 the Governor.

29
30 SECTION 10. Arkansas Code § 19-4-607(a), concerning the review and
31 approval of annual operations plans, is amended to read as follows:

32 (a) Each state agency other than the elected constitutional officers,
33 the legislative branch and its staff offices, the judicial branch and its
34 staff offices, the Arkansas State Highway and Transportation Department, ~~the~~
35 ~~Arkansas Lottery Commission,~~ the state-supported institutions of higher
36 education, and the Arkansas State Game and Fish Commission shall prepare an

1 annual operations plan for the operation of each of its assigned programs for
 2 submission to the Chief Fiscal Officer of the State.

3
 4 SECTION 11. Arkansas Code § 19-4-801(2)(B), concerning the definition
 5 of "state agency" as applied to the expenditure of cash funds, is amended to
 6 read as follows:

7 (B) "State agency" shall not include the:

- 8 (i) Governor;
- 9 (ii) Secretary of State;
- 10 (iii) Attorney General;
- 11 (iv) Treasurer of State;
- 12 (v) Auditor of State;
- 13 (vi) Commissioner of State Lands;
- 14 (vii) Supreme Court and its justices;
- 15 (viii) Circuit courts and circuit judges;
- 16 (ix) Prosecuting attorneys;
- 17 (x) Arkansas State Game and Fish Commission;
- 18 (xi) Arkansas State Highway and Transportation
 19 Department;

20 ~~(xii)(a) Arkansas Lottery Commission.~~

21 ~~(b) However, the Arkansas Lottery Commission~~
 22 ~~shall be considered a state agency for the purposes of §§ 19-4-810-19-4-~~
 23 ~~816;~~

24 ~~(xiii)(xii)~~ General Assembly; and

25 ~~(xiv)(xiii)~~ Respective staffs of the officers and
 26 agencies listed in this subdivision (2)(B).

27
 28 SECTION 12. Arkansas Code § 19-4-1303 is amended to read as follows:
 29 19-4-1303. Exemptions.

30 Funds disbursed by the Arkansas State Highway and Transportation
 31 Department, and the Arkansas State Game and Fish Commission, ~~and the Arkansas~~
 32 ~~Lottery Commission~~ and the funds appropriated in the general appropriation
 33 bill provided for in the Arkansas Constitution, Article 5, § 30, shall be
 34 exempt from this subchapter.

35
 36 SECTION 13. Arkansas Code § 19-4-1415(b)(5), concerning certain

1 exemptions for the construction of buildings and facilities, is amended to
2 read as follows:

3 (5) The Board of Trustees of the University of Arkansas, and the
4 Board of Trustees of Arkansas State University, ~~and the Arkansas Lottery~~
5 ~~Commission~~ shall be exempt from review and approval by the authority and any
6 regulations promulgated by it, provided that the Board of Trustees of the
7 University of Arkansas, and the Board of Trustees of Arkansas State
8 University, ~~and the Arkansas Lottery Commission~~ have adopted policies and
9 procedures involving the awarding and oversight of the contracts for design
10 and construction services.

11

12 SECTION 14. Arkansas Code § 19-4-1612(b)(2), concerning overtime pay
13 for state employees, is amended to read as follows:

14 (2)(A) The Chief Fiscal Officer of the State will specify those
15 specific employees or groups of employees other than employees of the
16 Arkansas State Highway and Transportation Department ~~and the Arkansas Lottery~~
17 ~~Commission~~ eligible to receive overtime compensation, the circumstances under
18 which overtime pay is to be allowed, and such other matters which the Chief
19 Fiscal Officer of the State may deem appropriate and necessary to comply with
20 the federal Fair Labor Standards Act as regards the payment of overtime
21 compensation.

22 (B) The Director of the Arkansas State Highway and
23 Transportation Department shall make these determinations as to employees of
24 the Arkansas State Highway and Transportation Department.

25 ~~(C) The Director of the Arkansas Lottery Commission shall~~
26 ~~make these determinations as to employees of the Arkansas Lottery Commission.~~

27

28 SECTION 15. Arkansas Code § 19-11-203(14)(Y) and (Z), concerning the
29 definition of exempt commodities and services, are amended to read as
30 follows:

31 (Y) Capital improvements valued at less than twenty thousand
32 dollars (\$20,000), subject to minimum standards and criteria of the Arkansas
33 Building Authority; and

34 (Z) Services related to work force development, incumbent work
35 force training, or specialized business or industry training; ~~and~~

36

1 SECTION 16. Arkansas Code § 19-11-203(14)(AA) is repealed.
 2 ~~(AA) Major procurement contracts of the Arkansas Lottery~~
 3 ~~Commission Under § 23-115-103.~~

4
 5 SECTION 17. Arkansas Code § 19-11-220(a)(2), concerning agency
 6 procurement officials for the Arkansas Lottery Commission, is repealed.
 7 ~~(2) Arkansas Lottery Commission,~~

8
 9 SECTION 18. Arkansas Code § 19-11-1003(d), concerning exemptions from
 10 laws pertaining to professional and consultant services contracts, is
 11 repealed.

12 ~~(d) This subchapter does not apply to major procurement contracts of~~
 13 ~~the Arkansas Lottery Commission under § 23-115-103.~~

14
 15 SECTION 19. Arkansas Code § 19-11-1103 is repealed.
 16 ~~19-11-1103. Exemptions.~~

17 ~~This subchapter does not apply to major procurement contracts of the~~
 18 ~~Arkansas Lottery Commission under § 23-115-103.~~

19
 20 SECTION 20. Arkansas Code § 26-18-1001(e), concerning business closure
 21 authority and notice, is repealed.

22 ~~(e) After written notice delivered to a lottery retailer by the United~~
 23 ~~States Postal Service or by hand delivery, the Director of the Department of~~
 24 ~~Finance and Administration may pursue a remedy under this subchapter against~~
 25 ~~a lottery retailer as a noncompliant taxpayer upon receiving a referral from~~
 26 ~~the Arkansas Lottery Commission under § 23-115-605.~~

27
 28 SECTION 21. Arkansas Code § 25-1-110(e), concerning the cost-
 29 effectiveness of state-owned vehicles, is amended to read as follows:

30 (e) The provisions of this section do not apply to ~~the Arkansas~~
 31 ~~Lottery Commission,~~ institutions of higher education, and vocational
 32 technical institutes.

33
 34 SECTION 22. Arkansas Code § 25-1-206 is amended to read as follows:
 35 25-1-206. Definition of "state agency".

36 The term "state agency" as used in this subchapter does not include+

- 1 ~~(1) The Arkansas Lottery Commission; and~~
- 2 ~~(2) Institutions~~ institutions of higher education.

3

4 SECTION 23. Arkansas Code § 25-4-103(15), concerning the definition of

5 "state agencies" under the Arkansas Information Systems Act of 1997, is

6 amended to read as follows:

7 (15) "State agencies" means all state departments, boards, and

8 commissions but shall not include ~~the Arkansas Lottery Commission~~, the

9 elected constitutional officers and their staffs, the General Assembly and

10 its committees and staffs, or the Supreme Court and the Administrative Office

11 of the Courts, and public institutions of higher education with respect to

12 academic, research, healthcare, and existing information technology

13 applications and underlying support therefor;

14

15 SECTION 24. NOT TO BE CODIFIED. This act shall not be construed to

16 prohibit games of bingo or raffles conducted by authorized bingo and raffles

17 organizations under Arkansas Constitution, Amendment 84 and § 23-114-101 et

18 seq.

19

20 SECTION 25. EMERGENCY CLAUSE. It is found and determined by the

21 General Assembly of the State of Arkansas that this act abolishes the

22 Arkansas Lottery Commission and disburses the commission's funds; and the

23 ideal time to implement the act is at the beginning of the state's fiscal

24 year. Therefore, an emergency is declared to exist and this act being

25 necessary for the preservation of the public peace, health, and safety shall

26 become effective on July 1, 2010.

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36 Filed Date: 07/30/2009 By: MBM\BGS