

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

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

As Engrossed: H3/31/09

# A Bill

HOUSE BILL 2243

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

## For An Act To Be Entitled

8  
9  
10 AN ACT TO AMEND THE ARKANSAS ACADEMIC CHALLENGE  
11 SCHOLARSHIP PROGRAM; TO AMEND THE ARKANSAS  
12 SCHOLARSHIP LOTTERY ACT WHICH SUPPLEMENTS FUNDING  
13 FOR THE ARKANSAS ACADEMIC CHALLENGE SCHOLARSHIP  
14 PROGRAM; AND FOR OTHER PURPOSES.  
15

## Subtitle

16  
17 TO AMEND THE ARKANSAS ACADEMIC CHALLENGE  
18 SCHOLARSHIP PROGRAM AND THE ARKANSAS  
19 SCHOLARSHIP LOTTERY ACT.  
20  
21

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

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

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

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



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

5           ~~(3)(2)~~ The recipient meets continuing eligibility requirements  
 6 in § 6-85-106.

7  
 8           SECTION 2. Arkansas Code § 6-85-204(3), as enacted by Acts 605 and 606  
 9 of 2009, concerning the definition of an approved institution of higher  
 10 education, is amended to read as follows:

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

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

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

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

22  
 23           SECTION 3. Arkansas Code § 6-85-204, as enacted by Acts 605 and 606 of  
 24 2009, concerning definitions for the Arkansas Academic Challenge Scholarship  
 25 Program - Part 2, is amended to add two (2) additional subdivisions to read  
 26 as follows:

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

29                           (i) Prepares students as registered nurses;

30                           (ii) Grants nursing diplomas;

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

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

35                           (v) Has been approved by the Department of Higher  
 36 Education as eligible to participate in the Arkansas Academic Challenge

1 Scholarship Program; and

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

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

8  
9 SECTION 4. Arkansas Code § 6-85-206(3)(A), as enacted by Acts 605 and  
10 606 of 2009, concerning basic eligibility for the Arkansas Academic Challenge  
11 Scholarship Program - Part 2, is amended to read as follows:

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

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

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

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

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

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

24  
25 SECTION 5. Arkansas Code § 6-85-207(1)(B)(ii), as enacted by Acts 605  
26 and 606 of 2009, concerning eligibility requirements for traditional students  
27 under the Arkansas Academic Challenge Scholarship Program - Part 2, is  
28 amended to read as follows:

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

32 (a) Algebra I;

33 (b) Geometry; and

34 (c) Biology; ~~and~~

35 ~~(4) Literacy, beginning with the 2013-2014~~  
36 ~~school year;~~

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

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

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

15                   ~~(A)(B)~~ Either:

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

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

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

22                                   ~~(ii)(b)~~ Geometry;

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

24                                   ~~(iv)(d)~~ Literacy, beginning Beginning  
25 with the 2013-2014 school year, literacy+;

26  
27           SECTION 7. Arkansas Code § 6-85-207(3)(B)(iv), as enacted by Acts 605  
28 and 606 of 2009, concerning eligibility requirements for traditional students  
29 under the Arkansas Academic Challenge Scholarship Program - Part 2, is  
30 amended to read as follows:

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

33  
34           SECTION 8. Arkansas Code § 6-85-207(4), as enacted by Acts 605 and 606  
35 of 2009, concerning eligibility requirements for traditional students under  
36 the Arkansas Academic Challenge Scholarship Program - Part 2, is amended to

1 read as follows:

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

7

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

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

14

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

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

24

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

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

31 (1) Earns a baccalaureate degree;

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

35 (B) If the recipient's undergraduate degree requires  
36 additional hours, the Department of Higher Education, in conjunction with the

1 institution of higher education where the recipient is enrolled, shall  
2 determine the maximum period of time for renewal of the scholarship; or

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

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

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

16  
17 SECTION 13. Arkansas Code § 6-85-210(b)(5), as enacted by Acts 605 and  
18 606 of 2009, concerning continuing eligibility for the Arkansas Academic  
19 Challenge Scholarship Program - Part 2, is amended to read as follows:

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

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

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

27  
28 SECTION 14. Arkansas Code § 6-85-210(c)(1), as enacted by Acts 605 and  
29 606 of 2009, concerning continuing eligibility for the Arkansas Academic  
30 Challenge Scholarship Program - Part 2, is amended to read as follows:

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

35  
36 SECTION 15. Arkansas Code § 6-85-212(a)(1), as enacted by Acts 605 and

1 606 of 2009, concerning scholarship award amounts for the Arkansas Academic  
2 Challenge Scholarship Program - Part 2, is amended to read as follows:

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

8  
9 SECTION 16. Arkansas Code § 6-85-212(e)(2)(B), as enacted by Acts 605  
10 and 606 of 2009, concerning the priority for scholarships under the Arkansas  
11 Academic Challenge Scholarship Program - Part 2, is amended to read as  
12 follows:

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

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

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

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

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

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

35  
36 SECTION 18. Arkansas Code § 6-85-212(c) (second numbered subsection

1 (c)), as enacted by Acts 605 and 606 of 2009, concerning scholarship award  
2 amounts for the Arkansas Academic Challenge Scholarship Program - Part 2, is  
3 amended to correct the numbering of the subsection and to read as follows:

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

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

10  
11 SECTION 19. Arkansas Code § 6-85-212(d) (second numbered subsection  
12 (d)), as enacted by Acts 605 and 606 of 2009, concerning scholarship award  
13 amounts for the Arkansas Academic Challenge Scholarship Program - Part 2, is  
14 amended to correct the numbering of the subsection and to read as follows:

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

19  
20 SECTION 20. Arkansas Code § 6-85-212(e) (second numbered subsection  
21 (e)), as enacted by Acts 605 and 606 of 2009, concerning sufficient funds  
22 available for scholarship award amounts under the Arkansas Academic Challenge  
23 Scholarship Program - Part 2, is amended to correct the numbering of the  
24 subsection and to read as follows:

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

30  
31 SECTION 21. Arkansas Code § 6-85-212(f) and (g)(1), as enacted by Acts  
32 605 and 606 of 2009, concerning scholarship award amounts for the Arkansas  
33 Academic Challenge Scholarship Program - Part 2, are amended to correct the  
34 numbering of the subsections and to read as follows:

35 ~~(f)~~(i) All awards under this subchapter are subject to the prohibition  
36 under § 6-80-105 against using public funds in a student financial package in



1 excess of the recognized cost of attendance at the institution where the  
2 student is enrolled.

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

7  
8 SECTION 22. Arkansas Code § 6-85-212, as enacted by Acts 605 and 606  
9 of 2009 and concerning scholarship award amounts for the Arkansas Academic  
10 Challenge Scholarship Program - Part 2, is amended to add an additional  
11 subsection to read as follows:

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

18  
19 SECTION 23. Arkansas Code § 6-85-213, as enacted by Acts 605 and 606  
20 of 2009, is amended to read as follows:

21 6-85-213. Nursing school eligibility.

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

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

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

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

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

30 ~~and~~

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

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

35 ~~(A) The applicant has qualified for an Arkansas Academic~~  
36 ~~Challenge Scholarship and is simultaneously enrolled in an approved two-year~~

~~college or a four-year college or university before or at the time of entry into the nursing school and the applicant then transfers the scholarship to an approved school of nursing after completing the two-year requirements under the department's rules;~~

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

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

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

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

6-85-218. Advisory council.

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

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

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

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

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

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

~~(1) The department;~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35                   (i) Shall have initial terms that are staggered  
36 evenly between two (2) and three (3) years as determined by lot at the

1 advisory council's first meeting; and

2 (ii) May be reappointed to successive terms.

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

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

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

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

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

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

22  
 23 SECTION 25. Arkansas Code § 19-4-801(2)(B)(xii)(b), as amended by Acts  
 24 605 and 606 of 2009 and concerning the definition of "state agency" as  
 25 applied to the expenditure of cash funds, is amended to read as follows:

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

29  
 30 SECTION 26. Arkansas Code § 19-4-1415(b)(5), as amended by Acts 605  
 31 and 606 of 2009 and concerning certain exemptions for the construction of  
 32 buildings and facilities, is amended to read as follows:

33 (5) The Board of Trustees of the University of Arkansas, the  
 34 Board of Trustees of Arkansas State University, and the Arkansas Lottery  
 35 Commission shall be exempt from review and approval by the authority and any  
 36 regulations promulgated by it, provided that the ~~institutions shall~~ Board of

1 Trustees of the University of Arkansas, the Board of Trustees of Arkansas  
2 State University, and the Arkansas Lottery Commission have adopted policies  
3 and procedures involving the awarding and oversight of the contracts for  
4 design and construction services.

5  
6 SECTION 27. Arkansas Code § 23-115-103, as enacted by Acts 605 and 606  
7 of 2009, is amended to read as follows:

8 23-115-103. Definitions.

9 As used in this chapter:

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

12 ~~(2)(1)~~ "Administrative expenses" means operating expenses,  
13 excluding amounts set aside for prizes, regardless of whether the prizes are  
14 claimed and excluding amounts held as a fidelity fund under § 23-115-603;

15 ~~(3)(2)~~ "Administrative order" means the final disposition of the  
16 Arkansas Lottery Commission in any matter other than a claim in contract or  
17 in tort, including without limitation licensing, in which the Arkansas  
18 Lottery Commission is required by law to make its determination after notice  
19 and a hearing;

20 ~~(4)(3)(A)~~ "Casino gambling" means a location or business for the  
21 purposes of conducting illegal gambling activities, including without  
22 limitation activities under § 5-66-101 et seq. that are not authorized under  
23 this chapter.

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

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

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

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

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

36 (B) Either:

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

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

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

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

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

21                 (8) ~~"Incompetency"~~ "Incompetence" means:

22                         (A) Gross ignorance of official duties;

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

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

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

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

1 *Legislative Oversight Committee with the purpose of influencing the actions*  
2 *of the Arkansas Lottery Commission or the Arkansas Lottery Commission*  
3 *Legislative Oversight Committee;*

4 (11) "Local government" means:

5 (A) A county;

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

8 (C) An incorporated town; or

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

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

14 (B) "Lottery" includes without limitation:

15 (i) An instant ticket;

16 (ii) A draw game; and

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

19 (C) "Lottery" does not include:

20 (i) Casino gambling;

21 (ii) A video lottery;

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

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

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

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

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

4                     (i) A major advertising contract;

5                     (ii) An annuity contract;

6                     (iii) A prize payment agreement;

7                     (iv) A consulting service;

8                     (v) Lottery equipment;

9                     (vi) Tickets; and

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

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

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

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

25                             (A) African American;

26                             (B) Hispanic American;

27                             (C) American Indian;

28                             (D) Asian American; or

29                             (E) Pacific Islander American;;

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

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

34                             (B) A partnership in which a majority of the ownership  
35 interest is owned by one (1) or more members of a minority who report as  
36 their personal income for Arkansas income tax purposes more than fifty



1 percent (50%) of the income of the partnership; or

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

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

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

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

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

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

18 (C) Advertising and marketing costs;

19 (D) Personnel costs;

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

22 (F) Funds for compulsive gambling education and treatment;

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

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

28 (I) Payments to the Department of Higher Education to:

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

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

35 (J) Amounts annually transferred to a fidelity fund under  
36 § 23-115-603; and

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

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

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

9 (i) The Governor;

10 (ii) The Lieutenant Governor;

11 (iii) The Secretary of State;

12 (iv) The Treasurer of State;

13 (v) The Attorney General;

14 (vi) The Commissioner of State Lands;

15 (vii) The Auditor of State; or

16 (viii) A member of the General Assembly.

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

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

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

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

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

29 (B) "Vendor" does not include:

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

31 (ii) A retailer; or

32 (iii) A state agency or instrumentality.

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

36 (26) "Video lottery" means a lottery game that allows a game to

1 be played using an electronic computer and an interactive computer terminal  
2 device:

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

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

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

11

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

15 (11) To employ:

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

17 (B)(i) An internal auditor.

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

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

22

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

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

30

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

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

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

- 5 (A) Court costs;  
6 (B) Bond;  
7 (C) Legal fees; and  
8 (D) Loss of income.

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

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

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

32 23-115-305. Regular salaries.

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

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

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

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

31 23-115-306. Special salary allowances.

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

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

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

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

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

16  
 17           SECTION 34. Arkansas Code § 23-115-307, as enacted by Acts 605 and 606  
 18 of 2009, is amended to read as follows:

19           23-115-307. Expansion pool.

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

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

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

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

36           (e)(1) The requirement of review by the ~~committee prior to~~ Arkansas

1 Lottery Commission Legislative Oversight Committee before authorizing  
2 positions from the expansion pool is not a severable part of this section.

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

6  
7 SECTION 35. Arkansas Code § 23-115-401(d), as enacted by Acts 605 and  
8 606 of 2009 and concerning certain staff employed by the Arkansas Lottery  
9 Commission, is amended to read as follows:

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

14  
15 SECTION 36. Arkansas Code § 23-115-403(c)(5)(B), as enacted by Acts  
16 605 and 606 of 2009 and concerning auditors present at lottery drawings, is  
17 amended to read as follows:

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

21  
22 SECTION 37. Arkansas Code § 23-115-404(a)(2), concerning certain  
23 information exempt from public disclosure, is amended to read as follows:

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

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

29 (i) Security measures, systems, or procedures; and

30 (ii) Security reports; and

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

33  
34 SECTION 38. Arkansas Code Title 23, Chapter 115, Subchapter 4, as  
35 enacted by Acts 605 and 606 of 2009, is amended to add an additional section  
36 to read as follows:

1 23-115-409. Laws under other wagering chapters not affected.

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

6  
7 SECTION 39. Arkansas Code § 23-115-501(e), as enacted by Acts 605 and  
8 606 of 2009 and concerning certain ethics restrictions on vendors and  
9 applicants for major procurement contracts, is amended to read as follows:

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

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

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

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

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

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

29  
30 SECTION 40. Arkansas Code § 23-115-502(a)(3), as enacted by Acts 605  
31 and 606 of 2009 and concerning securities maintained with the Arkansas  
32 Lottery Commission, is amended to read as follows:

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



1  
2 SECTION 41. Arkansas Code § 23-115-504, as enacted by Acts 605 and 606  
3 of 2009, is amended to read as follows:

4 23-115-504. Political contributions by vendors.

5 (a) The General Assembly finds:

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

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

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

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

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

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

26  
27 SECTION 42. Arkansas Code § 23-115-601(g), as enacted by Acts 605 and  
28 606 of 2009 and concerning certain ethics restrictions on retailers and  
29 retailer applicants, is amended to read as follows:

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

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

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

36 (2)(A) ~~This subsection shall be enforced and penalties shall be~~

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

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

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

10  
 11 SECTION 43. Arkansas Code § 23-115-605(d), enacted by Acts 605 and 606  
 12 of 2009 and concerning the failure to promptly remit lottery proceeds to the  
 13 Arkansas Lottery Commission, is amended to read as follows:

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

20  
 21 SECTION 44. Arkansas Code Title 23, Chapter 115, Subchapter 6, as  
 22 enacted by Acts 605 and 606 of 2009, is amended to add additional sections to  
 23 read as follows:

24 23-115-607. Business closure authority – Notice.

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

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

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

35 (A) The United States Postal Service; or

36 (B) Hand delivery.

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

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

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

13 (1) Remitting the delinquent lottery proceeds; or

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

16  
17 23-115-608. Administrative hearing.

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

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

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

27 (A) In person;

28 (B) By telephone;

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

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

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

35 (3) A retailer who requests an administrative hearing based upon  
36 written documents is not entitled to any other administrative hearing before

1 the rendering of the administrative decision.

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

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

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

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

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

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

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

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

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

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

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

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

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

25  
26 23-115-609. Judicial relief.

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

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

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

36 (2)(A) If the circuit court finds that the business closure

1 order was appropriately issued by the director, the circuit court shall issue  
2 an injunction against the retailer prohibiting the further operation of the  
3 business.

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

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

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

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

15 (1) If the retailer fails to:

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

17 or

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

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

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

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

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

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

28  
29 23-115-610. Business closure procedure.

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

36 (1) Identifies the business as being subject to a business

1 closure order; and

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

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

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

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

15  
16 23-115-611. Revocation and suspension of business's license.

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

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

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

27  
28 23-115-612. Authority to promulgate rules.

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

31  
32 SECTION 45. Arkansas Code § 23-115-701(c)(3), as enacted by Acts 605  
33 and 606 of 2009 and concerning major procurement contracts of the Arkansas  
34 Lottery Commission, is amended to read as follows:

35 (3) ~~The~~ Except for printing, stationery, and supplies under  
36 Arkansas Constitution, Amendment 54, the commission is not required to accept

1 the lowest responsible bid for major procurement contracts but shall select a  
2 bid that provides the greatest long-term benefit to the state, the greatest  
3 integrity for the commission, and the best service and products for the  
4 public.

5  
6 SECTION 46. Arkansas Code § 23-115-802(b), as enacted by Acts 605 and  
7 606 of 2009 and concerning the scholarship shortfall reserve trust account,  
8 is amended to read as follows:

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

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

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

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

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

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

33  
34 SECTION 48. Arkansas Code § 23-115-1101, as enacted by Acts 605 and  
35 606 of 2009, is amended to add an additional subsection to read as follows:

36 (h)(1) With the consent of both the President Pro Tempore of the

1 Senate and the Speaker of the House of Representatives, the Arkansas Lottery  
 2 Commission Legislative Oversight Committee may meet during a session of the  
 3 General Assembly to perform its duties under this chapter.

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

7  
 8 SECTION 49. Arkansas Code § 25-1-110(e), concerning the cost-  
 9 effectiveness of state-owned vehicles, is amended to read as follows:

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

13  
 14 SECTION 50. Arkansas Code § 25-1-206 is amended to read as follows:

15 25-1-206. Definition of "state agency".

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

17 (1) The Arkansas Lottery Commission; and

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

19  
 20 SECTION 51. Arkansas Code § 25-4-103(16), concerning the definition of  
 21 "state agencies" under the Arkansas Information Systems Act of 1997, is  
 22 amended to read as follows:

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

30  
 31 SECTION 52. Section 7, subdivision (a)(2) of Acts 605 and 606 of 2009  
 32 is amended to read as follows:

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



1 Senate Committee on Education.

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

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

10  
11 SECTION 54. Section 7, subdivision (e)(1) of Acts 605 and 606 of 2009  
12 is amended to read as follows:

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

16  
17 SECTION 55. The Arkansas Lottery Commission may participate in the  
18 Arkansas Administrative Statewide Information System.

19  
20 SECTION 56. TEMPORARY LANGUAGE. NOT TO BE CODIFIED.

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

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

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

31  
32 SECTION 57. EMERGENCY CLAUSE. It is found and determined by the  
33 General Assembly of the State of Arkansas that the people of the State of  
34 Arkansas overwhelmingly approved the establishment of lotteries at the 2008  
35 General Election; that the Eighty-seventh General Assembly adopted Acts 605  
36 and 606 of 2009 that implemented lotteries and made corresponding revisions

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

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

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

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

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18 /s/ Wills  
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