

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: S3/12/09

A Bill

SENATE BILL 26

5 By: Senators T. Smith, Salmon, Broadway, Trusty, J. Taylor, Steele, Miller, P. Malone, Bookout, B.
6 Johnson, G. Baker, Bryles, Crumbly, Elliott, Faris, Glover, Horn, J. Jeffress, G. Jeffress, Laverty,
7 Madison, Wilkinson, D. Wyatt
8 By: Representatives Wills, J. Roebuck, M. Burris, Abernathy, Reep, Maloch, Allen, T. Baker, Barnett,
9 Blount, J. Brown, Carnine, Carroll, Cash, Cheatham, Cook, Davis, J. Dickinson, Dunn, J. Edwards,
10 English, Everett, Gaskill, George, R. Green, Hardy, Harrelson, Hawkins, House, Hoyt, Hyde, Kidd, W.
11 Lewellen, Lindsey, Lovell, Lowery, Maxwell, McCrary, Moore, Nix, Overbey, Patterson, Pennartz, Perry,
12 Pierce, Ragland, Sample, Saunders, Shelby, G. Smith, L. Smith, Stewart, Summers, Tyler, Wagner, Webb,
13 Wells, B. Wilkins, Williams, Woods, Word
14
15

For An Act To Be Entitled

16
17 AN ACT TO CREATE THE ARKANSAS SCHOLARSHIP LOTTERY
18 ACT; TO ESTABLISH, OPERATE, AND REGULATE STATE
19 LOTTERIES AS AUTHORIZED BY THE ARKANSAS
20 CONSTITUTION; TO SUPPLEMENT HIGHER EDUCATION
21 SCHOLARSHIPS WITH NET PROCEEDS FROM THE STATE
22 LOTTERY; TO PROVIDE FOR THE EXCHANGE OF DATA
23 NEEDED TO EVALUATE STATE-SUPPORTED STUDENT
24 FINANCIAL ASSISTANCE; AND FOR OTHER PURPOSES.
25

Subtitle

26
27 THE ARKANSAS SCHOLARSHIP LOTTERY ACT
28
29

30 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
31

32 SECTION 1. Arkansas Code Title 23 is amended to add an additional
33 chapter to read as follows:
34

CHAPTER 115

ARKANSAS SCHOLARSHIP LOTTERY ACT

35
36



SUBCHAPTER 1
GENERAL PROVISIONS

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, 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) "Adjudication" means agency process for the formulation of an order;

(2) "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;

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

6 (A) Which is at least fifty-one percent (51%) owned and
7 controlled by one (1) or more females; and

8 (B) Whose management and daily business operations are
9 under the control of one (1) or more females;

10 (5) "Gift" means any payment, entertainment, advance, services,
11 or anything of value, unless consideration of equal or greater value has been
12 given therefore;

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

18 (7) "Incompetency" means:

19 (A) Gross ignorance of official duties;

20 (B) Gross carelessness in the discharge of official
21 duties; or

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

25 (8) "License" means authorization granted by the commission to
26 an individual to operate as a retailer, including without limitation the
27 execution of a contract between the commission and the individual relating to
28 obligations and terms for operating as a retailer;

29 (9) "Lobbying" means communicating directly or soliciting others
30 to communicate with any member of the Arkansas Lottery Commission, the
31 Director of the Arkansas Lottery Commission, any employee of the Arkansas
32 Lottery Commission, or a member of the Arkansas Lottery Commission
33 Legislative Oversight Committee with the purpose of influencing the actions
34 of the Arkansas Lottery Commission or the Arkansas Lottery Commission
35 Legislative Oversight Committee;

36 (10) "Local government" means:

1 (A) A county;

2 (B) A city of the first class or a city of the second
3 class;

4 (C) An incorporated town; or

5 (D) Any other district or political subdivision or any
6 board, commission, or agency of these political subdivisions;

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

9 (B) "Lottery" includes without limitation:

10 (i) An instant ticket;

11 (ii) A draw game; and

12 (iii) Participation in a multistate or
13 multisovereign game.

14 (C) "Lottery" does not include:

15 (i) Casino gambling;

16 (ii) A video lottery;

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

22 (iv) Wagering on electronic games of skill under the
23 Local Option Horse Racing and Greyhound Racing Electronic Games of Skill Act,
24 23-113-101 et seq.; or

25 (v) Conducting or participating in charitable bingo
26 and raffles under the Charitable Bingo and Raffles Enabling Act, 23-114-101
27 et seq.;

28 (12) "Lottery proceeds" means all revenue derived from the sale
29 of tickets or shares and all other moneys derived from a lottery, including
30 without limitation fees collected by the commission under this chapter;

31 (13)(A) "Major procurement contract" means a gaming product or
32 service costing more than seventy-five thousand dollars (\$75,000), including
33 without limitation:

34 (i) A major advertising contract;

35 (ii) An annuity contract;

36 (iii) A prize payment agreement;

1 (iv) A consulting service;
2 (v) Equipment;
3 (vi) Tickets; and
4 (vii) Any other product and service unique to
5 lotteries.

6 (B) "Major procurement contract" does not include a
7 material, supply, equipment, or service common to the ordinary operations of
8 the Arkansas Lottery Commission;

9 (14) "Member of a minority" means an individual who is a member
10 of a race that comprises less than fifty percent (50%) of the total
11 population of the state;

12 (15) "Minority business" means a business that is owned by:

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

16 (B) A partnership in which a majority of the ownership
17 interest is owned by one (1) or more members of a minority who report as
18 their personal income for Arkansas income tax purposes more than fifty
19 percent (50%) of the income of the partnership; or

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

25 (16) "Net proceeds" means lottery proceeds less operating
26 expenses;

27 (17) "Nonlottery state educational resources" means the same as
28 defined in § 6-85-204;

29 (18) "Order" means the final disposition of the Arkansas Lottery
30 Commission in any matter other than rule making, including without limitation
31 licensing, in which the Arkansas Lottery Commission is required by law to
32 make its determination after notice and hearing;

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

35 (A) Prizes, commissions, and other compensation paid to
36 retailers;

1 (B) Contracts for products or services necessary for the
2 operation of the lottery, including without limitation the execution of major
3 procurement contracts;

4 (C) Advertising and marketing costs;

5 (D) Personnel costs;

6 (E) Capital costs or depreciation of property and
7 equipment;

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

9 (G) The payment of sums to the Arkansas State Claims
10 Commission for the reconciliation of valid claims against the Arkansas
11 Lottery Commission;

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

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

15 (i) Reimburse the Department of Higher Education
16 for the costs of administering scholarship awards funded with net proceeds;
17 and

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

21 (J) Amounts annually transferred to a fidelity fund under
22 § 23-115-603; and

23 (K) Amounts paid to governmental entities for goods or
24 services provided to the Arkansas Lottery Commission, including without
25 limitation services provided by the Division of Legislative Audit;

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

28 (21)(A) "Public official" means a member of the General Assembly
29 or an elected constitutional officer.

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

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

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

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

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

6 (B) "Vendor" does not include:

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

8 (ii) A retailer; or

9 (iii) A state agency or instrumentality.

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

13 (26) "Video lottery" means a lottery game that allows a game to
14 be played using an electronic computer and an interactive computer terminal
15 device:

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

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

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

24
25 SUBCHAPTER 2

26 ARKANSAS LOTTERY COMMISSION

27
28 23-115-201. Arkansas Lottery Commission – Creation – Venue.

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

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

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

35
36 23-115-202. Members – Duties.

1 (a)(1) The Arkansas Lottery Commission consists of nine (9) members as
2 follows:

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

4 (B) Three (3) members appointed by the Speaker of the House of
5 Representatives; and

6 (C) Three (3) members appointed by the President Pro
7 Tempore of the Senate.

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

9 (A) A chair; and

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

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

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

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

14 and

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

16 (2) Of the initial appointees to the commission by the President
17 Pro Tempore of the Senate:

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

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

20 and

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

22 (3) Of the initial appointees to the commission by the Speaker
23 of the House of Representatives:

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

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

26 and

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

28 (4) All succeeding appointments to the commission shall be for
29 terms of six (6) years.

30 (5) The appointing authorities shall determine the length of
31 terms of the initial members of the commission.

32 (6) A member of the commission shall not serve more than two (2)
33 terms.

34 (c) A vacancy on the commission shall be filled by the appointing
35 authority for the unexpired portion of the term in which it occurs.

36 (d)(1) The commission shall meet as necessary upon the call of the

1 chair.

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

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

6 (1) A member of the General Assembly; or

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

9 (f) Members of the commission may receive expense reimbursement under
10 § 25-16-901 et seq.

11
12 23-115-203. Qualifications of commission members.

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

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

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

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

27 (3) The applicant shall sign a release of information.

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; 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.

13
14 23-115-204. Lottery Retailer Advisory Board.

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

18 (2) In making appointments to the commission, the Chair may
19 consider a broad spectrum of geographical, racial, gender, and business
20 characteristics of retailers.

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

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

25 (2)(A) Five (5) of the initial appointees shall serve initial
26 terms of one (1) year.

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

29 (3) No member of the board shall serve more than six (6) terms.

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

31 (2) Members shall serve without compensation or reimbursement of
32 expenses.

33 (3) The board may report to the commission and the Arkansas
34 Lottery Commission Legislative Oversight Committee in writing at any time.

35 (4) The commission may invite the board to make an oral
36 presentation to the commission at any meeting of the commission.

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

2 (1) A member of the immediate family of a member of the
3 commission;

4 (2) A member of the immediate family of the director of the
5 commission; or

6 (3) A member of the immediate family of an employee of the
7 commission.

8
9 23-115-205. Powers of Arkansas Lottery Commission.

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

14 (1) To adopt and alter a seal;

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

19 (3) To bring suits to enforce demands of the state under this
20 chapter;

21 (4) To procure or to provide insurance;

22 (5) To hold copyrights, trademarks, and service marks and
23 enforce the commission's rights with respect to those copyrights, trademarks,
24 and service marks;

25 (6) To initiate, supervise, and administer the operation of
26 lotteries in accordance with this chapter and rules adopted under this
27 chapter;

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

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

32 (9) To acquire or lease real property and make improvements to
33 the real property and acquire by lease or by purchase personal property,
34 including without limitation:

35 (A) Computers;

36 (B) Mechanical, electronic, and online equipment and

1 terminals;

2 (C) Intangible property, including without limitation
3 computer programs, computer systems, and computer software; and

4 (D) Broadcast equipment;

5 (10) To administer oaths, take depositions, issue subpoenas, and
6 compel the attendance of witnesses and the production of books, papers,
7 documents, and other evidence relative to any investigation or proceeding
8 conducted by the commission;

9 (11) To employ:

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

11 (B) An internal auditor;

12 (12) To select and contract with vendors;

13 (13) To select and license retailers;

14 (14) To enter into contracts or agreements with state or local
15 law enforcement agencies for the performance of law enforcement, background
16 investigations, and security checks;

17 (15) Conduct background investigations and, if considered
18 necessary by the commission, credit investigations on each potential vendor
19 and retailer;

20 (16) Supervise ticket or share validation and lottery drawings;

21 (17) Inspect at times determined solely by the commission the
22 facilities of a vendor or a retailer to determine:

23 (A) The integrity of the vendor's product or the
24 operations of the retailer; and

25 (B) Whether the vendor or the retailer is in compliance
26 with its contract or license;

27 (18) Report any suspected violation of this chapter to the
28 appropriate prosecuting attorney or the Attorney General and to any law
29 enforcement agencies having jurisdiction over the violation;

30 (19) Upon request, provide assistance to the Chief Fiscal
31 Officer of the State, the Legislative Auditor, the appropriate prosecuting
32 attorney, the Attorney General, or a law enforcement agency investigating a
33 violation of this chapter;

34 (20) To enter into contracts of terms and conditions that the
35 commission determines;

36 (21) To establish and maintain banking relationships associated

1 with the maintenance and investment of lottery proceeds, including without
2 limitation the establishment of checking and savings accounts and trust
3 funds;

4 (22)(A) To advertise and promote lotteries and scholarships and
5 grants funded by net proceeds.

6 (B) The commission shall seek the advice of the Department
7 of Higher Education when advertising to promote scholarships and grants
8 funded by net proceeds;

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

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

14 (25)(A) To contract with one (1) or more independent testing
15 laboratories to scientifically test and technically evaluate lottery games,
16 lottery terminals, and lottery operating systems.

17 (B) An independent testing laboratory shall:

18 (i) Have a national reputation that is demonstrably
19 competent; and

20 (ii) Be qualified to scientifically test and
21 evaluate all components of a lottery game, lottery terminal, or lottery
22 operating system.

23 (C) An independent testing laboratory shall not be owned
24 or controlled by a vendor or a retailer; and

25 (26) To adopt and amend rules necessary to carry out and
26 implement its powers and duties, organize and operate the commission,
27 regulate the conduct of lotteries in general, and any other matters necessary
28 or desirable for the efficient and effective operation of lotteries for the
29 convenience of the public.

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

31 (1) Are in addition to those powers of the commission enumerated
32 elsewhere in this chapter; and

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

34 (c) The commission may delegate to one (1) or more of its members, to
35 the Director of the Arkansas Lottery Commission, or to any agent or employee
36 of the commission powers and duties as it deems proper.

1
2 23-115-206. Internal controls – Annual audit.

3 (a) To ensure the financial integrity of lotteries, the Arkansas
4 Lottery Commission shall:

5 (1) Establish and maintain effective internal controls over
6 financial reporting, including the monitoring of ongoing activities, and
7 comply with the Arkansas Constitution and applicable laws, rules, contracts,
8 agreements, and grants;

9 (2) Establish and maintain effective internal controls to
10 prevent and detect fraud, including without limitation a system of internal
11 audits;

12 (3) Include in any contract or license with a vendor or retailer
13 for data processing services or other computer services a provision
14 permitting the Division of Legislative Audit to have access and authority to
15 audit the computer systems of the vendor or retailer;

16 (4) Notify the division of all known fraud or suspected fraud or
17 all known or suspected illegal acts involving management or other employees
18 of the commission or others with whom the commission contracts;

19 (5) Inform the division and the Chief Fiscal Officer of the
20 State of any known material violations of the Arkansas Constitution,
21 applicable statutes, rules, contracts, agreements, or grants;

22 (6) Prepare the financial statements, including the related
23 notes to the financial statements, of the commission in accordance with
24 generally accepted accounting principles and in accordance with guidelines
25 and timelines established by the Chief Fiscal Officer of the State to permit
26 incorporation into the state's financial statements and to permit the audit
27 of the state's financial statements and the commission's financial statements
28 in a timely manner;

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

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

1 (B)(i) The initial annual report shall describe the
2 organizational structure of the commission and summarize the functions
3 performed by each organizational division within the commission.

4 (ii) Future annual reports shall describe any
5 revisions to the organizational structure since the filing of the previous
6 annual report;

7 (9) Maintain weekly or more frequent records of lottery
8 transactions, including without limitation:

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

10 (B) Revenues received;

11 (C) Claims for lottery prizes;

12 (D) Lottery prizes paid;

13 (E) Lottery prizes forfeited; and

14 (F) Other financial transactions of the commission;

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

18 (B) The proposed operating budget shall be accompanied by
19 an estimate of the net proceeds to be available for scholarships and grants
20 during the succeeding fiscal year; and

21 (11) Adopt the same fiscal year as that used by state
22 government.

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

24 (B) The division may conduct an investigation or audit or
25 prepare special reports regarding the commission or related entities,
26 scholarships, grants, vendors, retailers, or any other transactions or
27 relationships connected or associated with the commission or its operations,
28 duties, or functions upon the approval of the Legislative Joint Auditing
29 Committee.

30 (2) The commission shall reimburse the division at an hourly
31 rate set by the Legislative Joint Auditing Committee for work performed by
32 the division relating to any audit, investigation, or special report
33 regarding the commission and related entities, scholarships, grants, vendors,
34 retailers, or other related matters.

35 (3)(A) If the commission, the General Assembly, the Arkansas
36 Lottery Commission Legislative Oversight Committee, or the Legislative Joint

1 Auditing Committee requests additional audits or performance reviews of the
2 fiscal affairs or operations of the commission to be conducted by a private
3 certified public accountant or other consultant, the division shall select
4 and contract with appropriate certified public accountants or consultants to
5 provide the services.

6 (B) The division shall contract for the services which
7 shall be paid directly to the contractor by the commission.

8 (C) A copy of any report or management correspondence
9 prepared by the certified public accountants or consultants shall be
10 forwarded to the commission, the division, and the Arkansas Lottery
11 Commission Legislative Oversight Committee.

12 (4) This chapter does not limit the statutory authority of the
13 Division of Legislative Audit or the responsibilities of the commission or
14 related entities, board members, employees, vendors, retailers, or any other
15 individuals or entities to cooperate with the division or provide information
16 or records requested by the division.

17
18 23-115-207. Rulemaking.

19 (a) The Arkansas Lottery Commission may adopt rules regulating the
20 conduct of lotteries in general, including without limitation rules
21 specifying:

22 (1) The types of lotteries to be conducted;

23 (2)(A) The sale price of tickets or shares and the manner and
24 method of sale.

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

26 (ii) Payment by checks, credit cards, charge cards,
27 or any form of deferred payment is prohibited;

28 (3) The number and amount of prizes;

29 (4) The method and location of selecting or validating winning
30 tickets or shares;

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

33 (6)(A) The manner of payment of prizes to the holders of winning
34 tickets or shares.

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

1 (i) A retailer; or

2 (ii) The commission.

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

5 (ii) The commission may establish claim centers
6 throughout the state as it deems necessary;

7 (7) The frequency of lotteries and drawings or selection of
8 winning tickets or shares;

9 (8) The means of conducting drawings;

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

11 (B) The selling of tickets or shares may include the use
12 of electronic or mechanical devices.

13 (C) The commission shall provide by rule:

14 (i) Specifications and required features for
15 electronic or mechanical devices which may be used to sell tickets or shares;
16 and

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

20 (D) A retailer who knowingly allows a person under
21 eighteen (18) years of age to purchase a lottery ticket from an electronic or
22 mechanical device is subject to § 23-115-901;

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

24 (11) Any other matters necessary, desirable, or convenient
25 toward ensuring the efficient and effective operation of lotteries, the
26 continued entertainment and convenience of the public, and the integrity of
27 the lotteries.

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

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

33 (B) The commission shall not be required to file rules
34 under § 10-3-309.

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

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

4
5 23-115-208. Sovereign immunity.

6 (a) This subchapter does not waive the sovereign immunity of the State
7 of Arkansas.

8 (b)(1) A claim in contract or in tort against the Arkansas Lottery
9 Commission or its employees shall be presented to the Arkansas Lottery
10 Commission.

11 (2) The Arkansas Lottery Commission shall promulgate rules
12 concerning the consideration of claims in contract or in tort presented to
13 the Arkansas Lottery Commission, including without limitation rules
14 concerning the conduct of hearings on claims in contract or in tort.

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

17 (2) The claimant may:

18 (A) Within forty (40) days after the decision is rendered,
19 file with the Arkansas State Claims Commission a notice of appeal of the
20 decision of the Arkansas Lottery Commission;

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

24 (C) Within twenty (20) days after Arkansas Lottery
25 Commission reconsideration or denial of the motion for reconsideration, file
26 with the Arkansas State Claims Commission a notice of appeal of the decision
27 of the Arkansas Lottery Commission.

28 (3) When the Arkansas Lottery Commission notifies parties of a
29 decision of the Arkansas Lottery Commission, it shall advise the parties of
30 the right of appeal.

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

35 (B) The Arkansas State Claims Commission shall consider an
36 appeal de novo.

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

4 (3)(A) An valid claim in any amount against the Arkansas Lottery
5 Commission shall not be referred to the General Assembly for an
6 appropriation.

7 (B) The Clerk of the State Claims Commission shall notify
8 the Arkansas Lottery Commission of the amount of the valid claim.

9 (C) Upon receipt of notification from the Clerk of the
10 State Claims Commission, the Arkansas Lottery Commission shall deliver a
11 check to the Clerk of the State Claims Commission, who shall deposit the sum
12 as a nonrevenue receipt into the Miscellaneous Revolving Fund from which he
13 or she shall disburse the amount of the claim to the claimant.

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

16
17 23-115-209. Appealing final adjudications of the Arkansas Lottery
18 Commission.

19 (a) A retailer, vendor, or applicant for a vendor contract or retailer
20 license aggrieved by an adjudication of the Arkansas Lottery Commission may
21 appeal that decision to Pulaski County Circuit Court.

22 (b) The court shall hear appeals from decisions of the commission, and
23 based upon the record of the proceedings before the commission, may reverse
24 the decision of the commission only if the appellant proves the decision to
25 be:

26 (1) Clearly erroneous;

27 (2) Arbitrary and capricious;

28 (3) Procured by fraud;

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

30 (5) Contrary to the United States Constitution, the Arkansas
31 Constitution, or this chapter.

32 (c) The court may remand an appeal to the commission to conduct
33 further hearings.

34 (d)(1) A person who appeals the award of a major procurement contract
35 is liable for all costs of appeal and defense if the appeal is denied or the
36 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
10 23-115-210. Removal of Arkansas Lottery Commission member.

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

13 (A) Misconduct;

14 (B) Incompetency; or

15 (C) Any malfeasance in office.

16 (2) The appointing authority shall appoint a qualified
17 individual to replace the removed member of the commission to serve the
18 remainder of his or her term.

19 (b) All orders of removal by the appointing authority shall:

20 (1) Be in writing;

21 (2) Be delivered to the removed commission member or counsel for
22 the removed commission member; and

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

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

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

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

35 (2) The appointing authority shall have the burden of proof to
36 show by clear and convincing evidence that cause under subdivision (a)(1) of

1 this section existed for removal of the commission member.

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

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

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

13 (2) The appointing authority may appeal the decision of the
14 circuit court to the Supreme Court, but the appeal shall not preclude the
15 circuit court, in its discretion, from entering an order reinstating the
16 removed member.

17 (f) A commission action in which the appointed replacement commission
18 member participates is not void, voidable, or in any way subject to
19 invalidation on grounds of participation of the appointed replacement or lack
20 of participation by the removed commission member if the circuit court or the
21 Supreme Court orders the removed commission member reinstated.

22 23 SUBCHAPTER 3

24 EMPLOYEES OF ARKANSAS LOTTERY COMMISSION

25
26 23-115-301. Director – Appointment – Duties.

27 (a)(1)(A) The Arkansas Lottery Commission shall appoint the Director
28 of the Arkansas Lottery Commission.

29 (B) The director is an employee of the commission and
30 shall direct the day-to-day operations and management of the commission.

31 (2) The director is vested with powers and duties as specified
32 by the commission and by law.

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

34 (b)(1) An individual considered for appointment as director shall
35 apply to the Identification Bureau of the Department of Arkansas State Police
36 for a state and federal criminal background check, to be conducted by the

1 Identification Bureau of the Department of Arkansas State Police and the
2 Federal Bureau of Investigation.

3 (2) The state and federal criminal background check shall
4 conform to the applicable federal standards and shall include the taking of
5 fingerprints.

6 (3) The applicant shall sign a release of information.

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

9 (5) Upon completion of the state and federal criminal background
10 check, the Identification Bureau of the Department of Arkansas State Police
11 shall forward to the commission all releasable information obtained
12 concerning the applicant.

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

14 (1) Been convicted of a felony or a gambling offense in a state
15 or federal court of the United States;

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

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

18
19 23-115-302. Duties of director.

20 (a) The Director of the Arkansas Lottery Commission shall direct and
21 supervise all administrative and technical activities related to the
22 operation of a lottery in accordance with this chapter and with rules adopted
23 by the Arkansas Lottery Commission.

24 (b) The Director of the Arkansas Lottery Commission shall:

25 (1) Facilitate the initiation and supervise and administer the
26 operation of the lotteries;

27 (2) Direct personnel as deemed necessary;

28 (3) Employ and compensate persons and firms as deemed necessary;

29 (4) Appoint, select, and employ officers, agents, and employees,
30 including professional and administrative staff and personnel and hearing
31 officers, and fix their compensation and pay their expenses as authorized by
32 Arkansas law;

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

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

36 (7) Require bond from retailers and vendors in amounts as

1 required by the commission;

2 (8) Report monthly to the commission and the Arkansas Lottery
3 Commission Legislative Oversight Committee a complete statement of lottery
4 revenues and expenses for the preceding month and an accompanying statement
5 of net assets; and

6 (9) Perform other duties generally associated with a director of
7 a commission of an entrepreneurial nature.

8 (c) The Director of the Arkansas Lottery Commission may for good cause
9 suspend, revoke, or refuse to renew any contract or license entered into in
10 accordance with this chapter and the rules of the commission.

11 (d) The Director of the Arkansas Lottery Commission or his or her
12 designee may conduct hearings and administer oaths to persons to assure the
13 security and integrity of lottery operations or to determine the
14 qualifications of or compliance by vendors and retailers.

15
16 23-115-303. Employees – Background investigation.

17 (a) As required by Article 16, Section 4 of the Arkansas Constitution,
18 the General Assembly shall fix the salaries of all employees of the Arkansas
19 Lottery Commission, including without limitation the Director of the Arkansas
20 Lottery Commission.

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

23 (c) A commission employee with decision-making authority shall not
24 participate in a decision involving a retailer with whom the commission
25 employee has a financial interest.

26 (d)(1) A commission employee who leaves the employment of the
27 commission shall not:

28 (A) Represent a vendor or retailer before the commission
29 for a period of two (2) years; or

30 (B) Engage in lobbying on any matter related to the
31 operation or conduct of a lottery for a period of two (2) years.

32 (2)(A) Subdivision (d)(1) of this section shall be supplemental
33 to § 19-11-701 et seq.

34 (B) If any provision of § 19-11-701 et seq. would impose a
35 restriction on a specific employee greater than the restrictions under
36 subdivision (d)(1) of this section, the provision of § 19-11-701 et seq.

1 shall apply.

2 (e)(1) Each person considered for employment by the commission shall
3 apply to the Identification Bureau of the Department of Arkansas State Police
4 for a state and federal criminal background check, to be conducted by the
5 Identification Bureau of the Department of Arkansas State Police and the
6 Federal Bureau of Investigation.

7 (2) The state and federal criminal background check shall
8 conform to the applicable federal standards and shall include the taking of
9 fingerprints.

10 (3) The applicant shall sign a release of information.

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

13 (5) Upon completion of the state and federal criminal background
14 check, the Identification Bureau of the Department of Arkansas State Police
15 shall forward to the commission all releasable information obtained
16 concerning the applicant.

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

18 (1) Been convicted of a felony or a gambling offense in a state
19 or federal court of the United States;

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

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

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

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

28
29 23-115-304. Commission employees – Participation in Arkansas Public
30 Employees Retirement System.

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

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

1
2 SUBCHAPTER 4
3 OPERATION OF LOTTERY
4

5 23-115-401. Minority businesses.

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

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

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

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

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

23
24 23-115-402. Restriction on sales.

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

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

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

33 (b) This chapter does not prohibit the commission from designating
34 certain of its agents and employees to sell or give tickets or shares
35 directly to the public.

36 (c) Subject to prior approval by the commission, retailers may give

1 away tickets or shares as a means of promoting goods or services to customers
2 or prospective customers.

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

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

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

11 (f) A person shall not be eligible to win a lottery prize while
12 incarcerated in:

13 (1) The Department of Correction;

14 (2) The Department of Community Correction; or

15 (3) A county or municipal jail or detention facility.

16
17 23-115-403. Attachments, garnishments, or executions withheld from
18 lottery prizes – Validity of tickets or shares – Lottery prize restrictions –
19 Unclaimed lottery prizes.

20 (a) Proceeds of a lottery prize are subject to Arkansas state income
21 tax.

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

25 (2) Subdivision (b)(1) of this section does not apply to a
26 retailer.

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

30 (1)(A) A lottery prize, any portion of a lottery prize, or any
31 right of any individual to a lottery prize is not assignable.

32 (B) A lottery prize or any portion of a lottery prize
33 remaining unpaid at the death of a lottery prize winner shall be paid to the
34 estate of the deceased lottery prize winner or to the trustee of a trust
35 established by the deceased lottery prize winner as settlor if:

36 (i) A copy of the trust document or instrument has

1 been filed with the commission along with a notarized letter of direction
2 from the settler; and

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

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

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

12 (2) A lottery prize shall not be paid arising from claimed
13 tickets that are:

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

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

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

22 (3)(A) A particular lottery prize in any lottery shall not be
23 paid more than one (1) time.

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

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

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

36 (ii) In any multistate or multisovereign lottery in

1 which a player may determine instantly if he or she has won or lost, a player
2 who has won shall claim a cash lottery prize within one hundred eighty (180)
3 days after the playing of the instant game.

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

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

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

12 (B) The commission may select an auditor employed by the
13 Division of Legislative Audit for the purposes of subdivision (c)(5) of this
14 section.

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

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

19 (e) The commission is discharged of all liability upon payment of a
20 lottery prize.

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

23 (A) Member of the commission;

24 (B) Employee of the commission; or

25 (C) Member of the immediate family of a member of the
26 commission or an employee of the commission.

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

31 (A) Officer, employee, agent, or subcontractor of the
32 vendor; or

33 (B) Immediate family of the officer, employee, agent, or
34 subcontractor of the vendor.

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

36 (2)(A) An annual amount of at least two hundred thousand dollars

1 (\$200,000) shall be directed to the Department of Health for the treatment of
2 compulsive gambling disorder and educational programs related to compulsive
3 gambling disorder.

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

7 (i) Programs for the treatment of compulsive
8 gambling disorder; and

9 (ii) Educational programs related to compulsive
10 gambling disorder.

11
12 (3) Unclaimed lottery prize money remaining after the payment
13 under subdivision (g)(2) of this section shall be:

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

16 (B) Used for special lottery prize promotions.

17
18 23-115-404. Confidential information.

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

22 (2) The following records or information in the possession of
23 the commission shall be treated as confidential and are exempt from public
24 disclosure:

25 (A) Security measures, systems, or procedures;

26 (B) Security reports; and

27 (C) Any records exempt from disclosure under the Freedom
28 of Information Act of 1967, § 25-19-101 et seq.

29 (b) The Division of Legislative Audit shall have full access to the
30 records of the commission.

31
32 23-115-405. Intelligence sharing, reciprocal use, or restricted use
33 agreements.

34 (a) The Arkansas Lottery Commission may enter into an intelligence
35 sharing, reciprocal use, or restricted use agreement with the United States
36 Government, law enforcement agencies, lottery regulation agencies, and gaming

1 enforcement agencies of other jurisdictions that provide for and regulate the
2 use of information provided and received under the agreement.

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

8
9 23-115-406. Authority of local government.

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

12 (2) Local government may not take any action, including without
13 limitation the adoption of an ordinance, relating to the operation of
14 lotteries.

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

18
19 23-115-407. Video lotteries prohibited.

20 Nothing in this chapter shall be construed to permit the use of a video
21 lottery as part of a lottery under this chapter.

22
23 23-115-408. Video lotteries prohibited.

24 Nothing in this chapter shall be construed to permit the use of a video
25 lottery for any purposes by any institution or facility governed by the:

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

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

28 (3) Local Option Horse Racing and Greyhound Racing Electronic
29 Games of Skill Act, 23-113-101 et seq.

30
31 SUBCHAPTER 5

32 VENDORS

33
34 23-115-501. Vendors – Requirements when submitting a bid, proposal, or
35 offer – Major procurement contract.

36 (a) The Arkansas Lottery Commission shall investigate the financial

1 responsibility, security, and integrity of a vendor who is a finalist in
2 submitting a bid, proposal, or offer as part of a major procurement contract.

3 (b) At the time of submitting a bid, proposal, or offer to the
4 Arkansas Lottery Commission, the commission shall require the following
5 items:

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

8 (A)(i) If the vendor is a corporation, the officers,
9 directors, and each stockholder in the corporation.

10 (ii) However, in the case of owners of equity
11 securities of a publicly traded corporation, only the names and addresses of
12 those known to the corporation to own beneficially five percent (5%) or more
13 of the securities need be disclosed;

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

16 (C) If the vendor is an association, the members,
17 officers, and directors; and

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

20 (2) A disclosure of all the states and jurisdictions in which
21 the vendor does business and the nature of the business for each state or
22 jurisdiction;

23 (3) A disclosure of all the states and jurisdictions in which
24 the vendor has contracts to supply gaming goods or services, including
25 without limitation lottery goods and services, and the nature of the goods or
26 services involved for each state or jurisdiction;

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

32 (B) If any lottery or gaming license or contract has been
33 revoked or has not been renewed or any lottery or gaming license or
34 application has been either denied or is pending and has remained pending for
35 more than six (6) months, all of the facts and circumstances underlying the
36 failure to receive a license shall be disclosed;

1 (5) A disclosure of the details of any finding or plea,
2 conviction, or adjudication of guilt in a state or federal court of the
3 vendor for any felony or any other criminal offense other than a traffic
4 violation committed by the persons identified under subdivision (b)(1) of
5 this section;

6 (6) A disclosure of the details of any bankruptcy, insolvency,
7 reorganization, or corporate or individual purchase or takeover of another
8 corporation, including without limitation bonded indebtedness, and any
9 pending litigation of the vendor;

10 (7) A disclosure of the vendor's most recent financial report,
11 including any reports on internal control over financial reporting, and the
12 most recent audit report of the vendor's operation as a service organization;
13 and

14 (8) Additional disclosures and information that the commission
15 may determine to be appropriate for the procurement involved.

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

19 (d)(1) The commission shall not enter into a major procurement
20 contract with a vendor that:

21 (A)(i) Has not complied with the disclosure requirements
22 described in subsection (b) of this section;

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

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

28 (2) At the option of the commission, the commission may void any
29 major procurement contract with a vendor.

30 (3) The commission may terminate a major procurement contract
31 with a vendor that does not comply with requirements for periodically
32 updating disclosures during the tenure of the major procurement contract as
33 may be specified in the major procurement contract.

34 (4) This section shall be construed broadly and liberally to
35 achieve full disclosure of all information necessary to allow for a full and
36 complete evaluation by the commission of the competence, integrity,

1 background, and character of vendors for major procurement contracts.

2 (e)(1) A vendor or an applicant for a major procurement contract shall
3 not provide a gift to:

4 (A) The Director of the commission, a commission member, a
5 commission employee, or a member of the Arkansas Lottery Commission
6 Legislative Oversight Committee; or

7 (B) A member of the immediate family of the Director of
8 the commission, a commission member, a commission employee, or a member of
9 the Arkansas Lottery Commission Legislative Oversight Committee.

10 (2) This subsection shall be enforced and penalties shall be
11 assessed in the same manner as § 21-8-301 et seq.

12 (f)(1) A public official shall not knowingly own a financial interest
13 in a vendor.

14 (2) If a public official becomes aware that he or she owns a
15 financial interest in a vendor, the public official shall divest the
16 financial interest as soon as possible.

17
18 23-115-502. Vendor – Performance bond or letter of credit.

19 (a)(1) At the execution of the major procurement contract with the
20 Arkansas Lottery Commission, each vendor shall post a performance bond or
21 letter of credit from a bank or credit provider acceptable to the commission
22 in an amount as deemed necessary by the commission for that particular bid or
23 major procurement contract.

24 (2) In lieu of the bond, to assure the faithful performance of
25 its obligations, a vendor may deposit and maintain with the commission
26 securities that are:

27 (A) Interest bearing or accruing; and

28 (B) Rated in one (1) of the three (3) highest
29 classifications by an established, nationally recognized investment rating
30 service.

31 (2) Securities eligible under this section are limited to:

32 (A) Certificates of deposit in an amount fully insured by
33 the Federal Deposit Insurance Corporation issued by solvent banks or savings
34 associations, if the solvent banks or savings associations are:

35 (i) Approved by the commission; and

36 (ii) Organized and existing under the laws of this

1 state or under the laws of the United States;

2 (B) United States Government bonds, notes, and bills for
3 which the full faith and credit of the United States Government is pledged
4 for the payment of principal and interest;

5 (C) Federal agency securities by an agency or
6 instrumentality of the United States Government; and

7 (D)(i) Corporate bonds approved by the commission.

8 (ii) The entity that issued the bonds shall not be
9 an affiliate or subsidiary of the depositor.

10 (3) The securities shall be held in trust and shall have at all
11 times a market value at least equal to the full amount estimated to be paid
12 annually to the vendor under contract.

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

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

17
18 23-115-503. Cancellation, suspension, revocation, or termination of
19 major procurement contract.

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

24 (1) Commission of a violation of this chapter or a rule of the
25 commission;

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

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

28 (4) The vendor's filing for or being placed in bankruptcy or
29 receivership; or

30 (5) Any material change as determined in the sole discretion of
31 the commission in any matter considered by the commission in executing the
32 major procurement contract with the vendor.

33 (b)(1) If, upon approval of the commission, the Director of the
34 Arkansas Lottery Commission or his or her designee determines that
35 cancellation, denial, revocation, suspension, or rejection of renewal of a
36 major procurement contract is in the best interest of lotteries, the public

1 welfare, or the State of Arkansas, the director or his or her designee may
2 cancel, suspend, revoke, or terminate, after notice and a right to a hearing,
3 a major procurement contract issued under this chapter.

4 (2) The major procurement contract may be temporarily suspended
5 by the director or his or her designee without commission approval or prior
6 notice pending a hearing.

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

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

12
13 23-115-504. Political contributions by vendors.

14 (a) The General Assembly finds:

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

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

20 (b) A vendor or an officer, employee, agent, or subcontractor of a
21 vendor shall not make a political contribution to a public official or a
22 candidate for election as a public official.

23
24 SUBCHAPTER 6

25 RETAILERS

26
27 23-115-601. Retailers.

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

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

35 (c) The commission shall provide for compensation to retailers in the
36 form of commissions in an amount of not less than five percent (5%) of gross

1 sales of tickets and shares and may provide for other forms of compensation
2 for services rendered in the sale or cashing of tickets or shares.

3 (d)(1) For purposes of display, the commission shall issue a license
4 to each person whom it licenses as a retailer.

5 (2)(A) Every retailer shall post and keep conspicuously
6 displayed in a location on the premises accessible to the public its
7 certificate of authority.

8 (B) A certificate of authority is not assignable or
9 transferable.

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

15 (2) The state and federal criminal background check shall
16 conform to the applicable federal standards and shall include the taking of
17 fingerprints.

18 (3) The applicant shall sign a release of information.

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

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

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

27 (2) The commission shall develop separate criteria to govern the
28 selection of retailers of instant tickets.

29 (3) In developing the criteria, the commission shall consider
30 certain factors, including without limitation:

31 (A) The applicant's financial responsibility;

32 (B) Security of the applicant's place of business or
33 activity;

34 (C) Accessibility to the public;

35 (D) The applicant's integrity; and

36 (E) The applicant's reputation.

1 (4) The commission shall not consider political affiliation,
2 activities, or monetary contributions to political organizations or
3 candidates for any public office.

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

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

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

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

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

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

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

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

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

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

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

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

36 (vi) Has made a statement of material fact to the

1 commission knowing the statement to be false; or

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

4 (b) Subdivision (e)(5)(B)(vii)(a) of this
5 section does not preclude the commission from selling or giving away tickets
6 or shares for promotional purposes;

7 (C)(i) A person applying to become a retailer shall be
8 charged a uniform application fee determined by rule for each lottery outlet.

9 (ii) The application fee shall take into account the
10 cost of a state and federal criminal background check under subsection (e) of
11 this section; and

12 (D) All retailer licenses may be renewable annually in the
13 discretion of the commission unless canceled or terminated by the commission.

14 (f)(1) A retailer or an applicant to be a retailer shall not provide a
15 gift to:

16 (A) The Director of the commission, a commission member,
17 or a commission employee; or

18 (B) A member of the immediate family of the Director of
19 the commission, a commission member, or a commission employee.

20 (2) This subsection shall be enforced and penalties shall be
21 assessed in the same manner as § 21-8-301 et seq.

22
23 23-115-602. Retailer license.

24 (a) A retailer license is not transferable or assignable.

25 (b) A retailer shall not contract with any person for lottery goods or
26 services except with the approval of the Arkansas Lottery Commission.

27 (c) Tickets and shares shall be sold only by the retailer stated on
28 the retailer's license issued by the commission under this chapter.

29
30 23-115-603. Fidelity fund – Retailer fee – Reserve account to cover
31 losses – Retailer bond.

32 (a)(1) The Arkansas Lottery Commission shall establish a fidelity fund
33 separate from all other funds and shall assess each retailer an annual fee
34 not to exceed one hundred dollars (\$100) per sales location.

35 (2) Moneys deposited into the fidelity fund may:

36 (A) Be invested or deposited into one (1) or more

1 interest-bearing accounts;

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

4 (C) Used to purchase blanket bonds covering the commission
5 against losses from all retailers.

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

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

13 (2) The commission shall establish procedures for minimizing any
14 losses that may be deemed uncollectable and shall exercise and exhaust all
15 available options in those procedures before writing off amounts to this
16 account.

17 (c)(1) The commission shall require a retailer to post an appropriate
18 bond, as determined by the commission, using an insurance company acceptable
19 to the commission.

20 (2) The amount of the bond shall not exceed the applicable
21 district sales average of tickets for two (2) billing periods.

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

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

26 (A) Certificates of deposit in an amount fully insured by
27 the Federal Deposit Insurance Corporation issued by solvent banks or savings
28 associations organized and existing under the laws of this state or under the
29 laws of the United States;

30 (B) United States Government bonds, notes, and bills for
31 which the full faith and credit of the United States Government is pledged
32 for the payment of principal and interest; or

33 (C) Federal agency securities by an agency or
34 instrumentality of the United States Government.

35 (3) The securities shall be held in trust in the name of the
36 commission.

1
2 23-115-604. Cancellation, suspension, revocation, or termination of
3 retail license.

4 (a) A retailer license executed by the Arkansas Lottery Commission
5 under this chapter shall specify the reasons for which the retailer license
6 may be canceled, suspended, revoked, or terminated by the commission. The
7 reasons shall include without limitation:

8 (1) Commission of a violation of this chapter or a rule of the
9 commission;

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

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

13 (4) Insufficient sales;

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

15 (6) The retailer's filing for or being placed in bankruptcy or
16 receivership;

17 (7) Any material change as determined in the sole discretion of
18 the commission in any matter considered by the commission in executing the
19 license with the retailer; or

20 (8) Failure to meet any of the objective criteria established by
21 the commission under this chapter.

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

29 (2)(A) The retailer license may be temporarily suspended by the
30 director or his or her designee without commission approval or prior notice
31 pending a hearing.

32 (3) A retailer license may be suspended, revoked, or terminated
33 by the director or his or her designee for any one (1) or more of the reasons
34 enumerated in subsection (a) of this section.

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

1 seq.

2
3 23-115-605. Retailers – Fiduciary duty – Protection against loss.

4 (a)(1) All proceeds from the sale of tickets or shares constitute a
5 trust fund until paid to the Arkansas Lottery Commission either directly or
6 through the commission’s authorized collection representative.

7 (2) A retailer and officers of a retailer’s business have a
8 fiduciary duty to preserve and account for retail lottery proceeds, and
9 retailers are personally liable for all lottery proceeds.

10 (3) For the purpose of this section, lottery proceeds include
11 without limitation:

12 (A) Unsold instant tickets received by a retailer;

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

14 (C) Net of allowable sales commissions; and

15 (D) Credit for lottery prizes paid to winners by
16 retailers.

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

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

24 (2) At the time of the deposit, lottery proceeds shall be deemed
25 to be the property of the commission.

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

28 (A) Receiving moneys from ticket or share sales;

29 (B) Making payments to the commission; and

30 (C) Receiving payments for the commission.

31 (4) Unless otherwise authorized in writing by the commission,
32 each retailer shall establish a separate bank account for lottery proceeds
33 that shall be kept separate and apart from all other funds and assets and
34 shall not be commingled with any other funds or assets.

35 (c) When an individual who receives proceeds from the sale of tickets
36 or shares in the capacity of a retailer becomes insolvent or dies insolvent,

1 the proceeds due the commission from the individual or his or her estate have
2 preference over all debts or demands.

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

9
10 23-115-606. Retailer – Rental payments based on percentage of retail
11 sales.

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

19
20 SUBCHAPTER 7

21 PROCUREMENTS

22
23 23-115-701. Procurements – Major procurement contracts – Competitive
24 bidding.

25 (a)(1) The Arkansas Lottery Commission may purchase, lease, or lease-
26 purchase goods or services as necessary for effectuating the purposes of this
27 chapter.

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

30 (A) Lottery design;

31 (B) Ticket distribution to retailers;

32 (C) Supply of goods and services; and

33 (D) Advertising.

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

35 (A) Take into account the particularly sensitive nature of
36 lotteries; and

1 (B) Act to promote and ensure;

2 (i) Security, honesty, fairness, and integrity in
3 the operation and administration of lotteries; and

4 (ii) The objectives of raising net proceeds for the
5 benefit of scholarships and grants.

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

9 (c)(1) The commission shall arrange for the solicitation and receipt
10 of competitive bids for major procurement contracts.

11 (2) The commission is not required to accept the lowest
12 responsible bid for major procurement contracts but shall select a bid that
13 the commission feels provides the greatest long-term benefit to the state,
14 the greatest integrity for the commission, and the best service and products
15 for the public.

16 (3) The commission shall adopt rules concerning major
17 procurement contracts.

18 (d) In any bidding process, the commission may administer its own
19 bidding and procurement or may utilize the services of the Department of
20 Finance and Administration.

21 (e)(1) Each proposed major procurement contract shall be filed with
22 the Arkansas Lottery Commission Legislative Oversight Committee for review
23 before the execution date of the major procurement contract.

24 (2) The committee shall provide the commission with its review
25 as to the propriety of the major procurement contract within thirty (30) days
26 after receipt of the proposed major procurement contract.

27
28 SUBCHAPTER 8

29 LOTTERY PROCEEDS

30
31 23-115-801. Lottery proceeds.

32 (a)(1) All lottery proceeds are the property of the Arkansas Lottery
33 Commission.

34 (2)(A) The commission shall pay its operating expenses from its
35 lottery proceeds.

36 (B)(i) An amount of lottery proceeds determined by the

1 commission to maximize net proceeds shall be made available as prize money.

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

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

7 (3) The percentage of lottery proceeds determined by the
8 commission to be net proceeds shall equal an amount determined by the
9 commission to maximize net proceeds.

10 (b)(1) On or before the fifteenth day of each month, the Arkansas
11 Lottery Commission shall deposit the net proceeds from the state lottery into
12 one (1) or more trust accounts at one (1) or more financial institutions.

13 (2) The commission shall follow the investment policy guidelines
14 of the State Board of Finance in selecting a financial institution and
15 managing the net proceeds from the state lottery deposited to a trust
16 account.

17 (c)(1) The Director of the Department of Higher Education shall
18 certify to the commission the amount of net proceeds from the state lottery
19 needed to:

20 (A) Fund the scholarships awarded to recipients under § 6-
21 85-201 et seq. for an academic year; and

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

25 (2)(A)(i) The commission shall transfer the funds requested by
26 the director under this subsection (c)(1) into one (1) or more trust accounts
27 at one (1) or more financial institutions meeting the requirements of
28 subdivision (b)(2) of this section maintained by the department.

29 (ii) The director shall disburse trust account funds
30 only in the name of the recipient:

31 (a) To an approved institution of higher
32 education; or

33 (b) If a recipient transfers to another
34 approved institution of higher education, to the approved institution of
35 higher education where the recipient transferred.

36 (3) By August 1 of each year, the director shall provide to the

1 commission and to the Arkansas Lottery Commission Legislative Oversight
2 Committee for the academic year just ended an accounting of all trust
3 accounts maintained by the department, including without limitation:

4 (A) Total deposits to all trust accounts;

5 (B) Total disbursements from the trust accounts; and

6 (C) The balance remaining in the trust accounts.

7 (d)(1) The General Assembly finds that:

8 (A) The administration of scholarships with proceeds from
9 the state lottery are expenses of the Arkansas Lottery Commission; and

10 (B) Because the department has the expertise and
11 experienced staff needed to efficiently and appropriately administer the
12 scholarships, the commission shall use the services of the department to
13 administer scholarships funded with net proceeds from the state lottery.

14 (2) The commission shall reimburse the department for the costs
15 of administering the scholarship awards funded with net proceeds from the
16 state lottery after review of the reimbursement amount by the Arkansas
17 Lottery Commission Legislative Oversight Committee.

18 (3) The department shall refund to the Higher Education Grants
19 Fund Account the amount of a reimbursement received from the Arkansas Lottery
20 Commission under this subsection (e) for services provided and funded from
21 the Higher Education Grants Fund Account.

22
23 23-115-802. Scholarship shortfall reserve trust account.

24 (a) The Arkansas Lottery Commission shall maintain a scholarship
25 shortfall reserve trust account.

26 (b)(1) An amount equal to ten percent (10%) of the total amount of net
27 proceeds disbursed during the preceding fiscal year in the form of
28 scholarships and grants for higher education shall be deposited from lottery
29 proceeds each year until the amount in the reserve trust account equals fifty
30 million dollars (\$50,000,000).

31 (2) Thereafter, only an amount necessary to maintain the
32 scholarship shortfall reserve account in an amount equal to fifty million
33 dollars (\$50,000,000) shall be deposited into the reserve trust account.

34 (c)(1) If the net proceeds paid into the net proceeds trust account in
35 any year are not sufficient to meet the amount appropriated for higher
36 education scholarships, the scholarship shortfall reserve trust account may

1 be drawn upon to meet the deficiency.

2 (2) If it becomes necessary to draw from the reserve account in
3 any fiscal year, the department shall review the scholarship and grant
4 program and shall reduce the program to accommodate available lottery
5 proceeds, exclusive of the scholarship shortfall reserve account.

6 (d) This section shall become effective on July 1, 2010.

7
8 23-115-803. Disposition of funds.

9 (a)(1) To effectuate the Arkansas Lottery Commission's purposes, the
10 commission may borrow moneys from the State of Arkansas or accept and expend
11 moneys from the State of Arkansas and shall repay any sums borrowed from the
12 state as soon as practicable.

13 (2) As used in this section, "purposes" includes without
14 limitation the payment of the initial expenses of initiation, administration,
15 and operation of the commission and lotteries.

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

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

18 (2)(A) Except as provided in subsection (a) of this section,
19 moneys in the state general fund shall not be used or obligated to pay the
20 expenses of the commission or prizes of a lottery.

21 (B) A claim for the payment of an expense of a lottery or
22 prizes of a lottery shall not be made against any moneys other than moneys
23 credited to the commission's operating account.

24
25
26 SUBCHAPTER 9

27 PENALTIES

28
29 23-115-901. Sale of ticket or share to person under 18 years of age
30 prohibited – Penalty.

31 (a) A person who knowingly sells a ticket or share to a person under
32 eighteen (18) years of age or permits a person under eighteen (18) years of
33 age to play a lottery is guilty of a Class B misdemeanor.

34 (b) It is an affirmative defense to a prosecution under this section
35 that the retailer reasonably and in good faith relied upon representation of
36 proof of age in making the sale.

1
2 23-115-902. Fraud – Penalty.

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

6 (2) A person convicted for violating subdivision (a)(1) of this
7 section is subject to an additional fine of not more than fifty thousand
8 dollars (\$50,000).

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

12 (2) A person convicted for violating subdivision (b)(1) of this
13 section is subject to an additional fine of not more than fifty thousand
14 dollars (\$50,000).

15
16 23-115-903. False statement on license application – Penalty.

17 (a) A person shall not knowingly make:

18 (1) A material false statement in an application for a license
19 or proposal to conduct a lottery; or

20 (2) A material false entry in any book or record that is
21 compiled or maintained or submitted to the Arkansas Lottery Commission.

22 (b)(1) A person who violates this section is guilty of a Class D
23 felony.

24 (2) A person convicted for violating subsection (a) of this section is
25 subject to an additional fine of not more than twenty five thousand dollars
26 (\$25,000) or the dollar amount of the material false entry or material false
27 statement, whichever is greater.

28
29 23-115-904. Inconsistent statutes inapplicable.

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

33 (b) No person shall be guilty of any criminal offense set forth in §
34 5-66-101 et seq. or any other law relating to illegal gambling to the extent
35 the person relied on any rule, order, finding, or other determination by the
36 Arkansas Lottery Commission that the activity was authorized by this chapter.

1
2 SUBCHAPTER 10

3 DEBTORS OWING MONEY TO THE STATE

4
5 23-115-1001. Legislative intent.

6 (a) The purpose of this subchapter is to establish:

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

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

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

18
19 23-115-1002. Definitions.

20 (a) As used in this subchapter:

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

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

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

25 (2) "Debt" means a:

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

29 (B) Sum that is due and owing any person and is
30 enforceable by the state;

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

33 (A) Adjudicated as satisfied by court order;

34 (B) Set aside by court order; or

35 (C) Discharged in bankruptcy; and

36 (4) "Prize" means the proceeds of any lottery prize awarded

1 under this chapter.

2
3 23-115-1003. Collection remedy.

4 The collection remedy authorized by this subchapter is in addition to
5 and not in substitution for any other remedy available by law.

6
7 23-115-1004. List of debtors – Withholding winnings – Ranking of
8 liens.

9 (a)(1) A claimant agency may submit to the Arkansas Lottery Commission
10 a list of the names of all persons owing debts in excess of one hundred
11 dollars (\$100) to the claimant agency or to persons on whose behalf the
12 claimant agency is acting.

13 (2) The full amount of the debt is collectable from any prize
14 without regard to limitations on the amounts that may be collectable in
15 increments through garnishment or other proceedings.

16 (3) The list shall constitute a valid lien upon and claim of
17 lien against the prize of any debtor named in the list.

18 (4) The list shall contain:

19 (A) The name of the each debtor;

20 (B) The social security number of each debtor if
21 available; and

22 (C) Any other information that would assist the commission
23 in identifying each debtor named in the list.

24 (b)(1) The commission shall withhold any prizes subject to the lien
25 created by this section and send notice to the winner by certified mail,
26 return receipt requested, of the action and the reason the prizes were
27 withheld.

28 (2)(A) However, if the winner appears and claims prizes in
29 person, the commission shall notify the winner at that time by hand delivery
30 of the action.

31 (B) If the debtor does not protest the withholding of the
32 prizes in writing within thirty (30) days of the notice, the commission shall
33 pay the prizes to the claimant agency.

34 (C) If the debtor protests the withholding of the prizes
35 within thirty (30) days of the notice, the commission shall:

36 (i) File an action in interpleader in the circuit

1 court of the county where the debtor resides;

2 (ii) Pay the disputed sum into the registry of the
3 circuit court; and

4 (iii) Give notice to the claimant agency and debtor
5 of the initiation of the action.

6 (c) The liens created by this section are ranked by priority as
7 follows:

8 (1) Taxes due the state;

9 (2) Delinquent child support; and

10 (3) All other judgments and liens in order of the date entered
11 or perfected.

12 (d) The commission is not required to deduct claimed debts from prizes
13 paid out by retailers or entities other than the commission.

14 (e) Any list of debt provided under this section shall be provided
15 periodically as the commission shall provide by rule, and the commission is
16 not obligated to retain the lists or deduct debts appearing on the lists
17 beyond the period determined by the rules.

18 (f) The commission may prescribe forms and promulgate rules it deems
19 necessary to implement this section.

20 (g) The commission and any claimant agency shall incur no civil or
21 criminal liability for good faith adherence to this section.

22 (h) The claimant agency shall pay the commission for all costs
23 incurred by the commission in setting off debts in the manner provided in
24 this subchapter.

25
26 23-115-1005. Confidential information.

27 (a)(1) Notwithstanding any other confidentiality statute, the Arkansas
28 Lottery Commission may provide to a claimant agency all information necessary
29 to accomplish and effectuate the intent of this subchapter.

30 (2) Information shall be used by a claimant agency only in the
31 pursuit of its debt collection duties and practices.

32 (b) Confidential information obtained by a claimant agency from the
33 commission under this section shall retain its confidentiality.

34 (c) An employee or prior employee of a claimant agency who unlawfully
35 discloses any information for any other purpose, except as otherwise
36 specifically authorized by law, is guilty of a Class A misdemeanor.

1
2 23-115-1006. Application.

3 This subchapter applies only to prizes of more than five hundred
4 dollars (\$500).

5
6 SUBCHAPTER 11

7 ARKANSAS LOTTERY COMMISSION LEGISLATIVE OVERSIGHT COMMITTEE

8
9 23-115-1101. Arkansas Lottery Commission Legislative Oversight
10 Committee.

11 (a) The Arkansas Lottery Commission Legislative Oversight Committee is
12 established.

13 (b) The Arkansas Lottery Commission Legislative Oversight Committee
14 shall consist of twelve (12) members of the General Assembly appointed as
15 follows:

16 (1) Six (6) members of the House of Representatives shall be
17 appointed to the Arkansas Lottery Commission Legislative Oversight Committee
18 by the Speaker of the House of Representatives; and

19 (2) Six (6) members of the Senate shall be appointed to the
20 Arkansas Lottery Commission Legislative Oversight Committee by the President
21 Pro Tempore of the Senate.

22 (c) In making appointments, each appointing officer shall select
23 members who have appropriate experience and knowledge of the issues to be
24 examined by the Arkansas Lottery Commission Legislative Oversight Committee
25 and may consider racial, gender, and geographical diversity among the
26 membership.

27 (d) The Arkansas Lottery Commission Legislative Oversight Committee
28 shall:

29 (1) Review whether expenditures of lottery proceeds have been in
30 accordance with this chapter;

31 (2) Review proposed rules of the Arkansas Lottery Commission;

32 (3) Review proposed major procurement contracts;

33 (4) Review reports filed with the Arkansas Lottery Commission
34 Legislative Oversight Committee by the Department of Higher Education,
35 including without limitation reports filed under § 6-85-205 and § 6-85-219;

36 (5) Perform its duties under § 6-85-220; and

1 (6) Study other lottery matters as the Arkansas Lottery
2 Commission Legislative Oversight Committee considers necessary to fulfill its
3 mandate.

4 (e)(1) By November 1 of each year, the Arkansas Lottery Commission
5 Legislative Oversight Committee shall provide to the General Assembly:

6 (A) Any analysis or findings resulting from its activities
7 under this section that the committee deems relevant; and

8 (B) Its recommendations for any changes to the:

9 (i) Scholarship award amounts;

10 (ii) Number or type of scholarships; and

11 (iii) Scholarship eligibility requirements.

12 (2) The Arkansas Lottery Commission Legislative Oversight
13 Committee may make interim reports to the General Assembly regarding the
14 expenditure of net lottery revenues.

15 (f)(1) The President Pro Tempore of the Senate and the Speaker of the
16 House of Representatives shall each designate a cochair of the committee.

17 (2) The committee shall meet at least quarterly upon the joint
18 call of the cochairs of the Arkansas Lottery Commission Legislative Oversight
19 Committee.

20 (3) Six (6) members of the committee constitute a quorum.

21 (4) No action may be taken except by a majority vote at a
22 meeting at which a quorum is present.

23 (g) Members of the Arkansas Lottery Commission Legislative Oversight
24 Committee are entitled to per diem and mileage at the same rate authorized by
25 law for attendance at meetings of interim committees of the General Assembly
26 and shall be paid from the same source.

27
28 23-115-1102. Filing of information with Arkansas Lottery Commission
29 Legislative Oversight Committee.

30 (a) It is the intent of the General Assembly that the Arkansas Lottery
31 Commission Legislative Oversight Committee perform the monitoring and
32 oversight functions of the Legislative Council for the Arkansas Lottery
33 Commission.

34 (b) All contracts, rules, reports, or other information required by
35 law to be filed by the commission with the Legislative Council:

36 (1) Shall not be filed with the Legislative Council; and

1 (2) Shall be filed with the Arkansas Lottery Commission
 2 Legislative Oversight Committee.

3 (c) The Arkansas Lottery Commission Legislative Oversight Committee
 4 shall perform all duties or functions of the Legislative Council required by
 5 law concerning the contracts, rules, reports, or other information filed with
 6 the Arkansas Lottery Commission Legislative Oversight Committee under
 7 subsection (b) of this section.

8
 9 SECTION 2. Arkansas Code 5-66-110(a), concerning the prohibition on
 10 the game of keno, is amended to read as follows:

11 (a)(1) ~~If~~ Except as provided in the Arkansas Scholarship Lottery Act,
 12 § 23-115-101 et seq., if any person sets up or exhibits, or causes to be set
 13 up or exhibited, or aids or assists in setting up or exhibiting in any
 14 county, city, or town in the state, any gaming device commonly known and
 15 designated as "keno" or any similar device, by any other name or without a
 16 name, any person so setting up or exhibiting the gaming device, or aiding or
 17 assisting in exhibiting or setting up the gaming device, is guilty of a
 18 misdemeanor.

19 (2) On indictment and conviction before the circuit court or on
 20 conviction before a justice of the peace, the person shall be fined in any
 21 sum not less than two hundred dollars (\$200) for benefit of the common school
 22 fund.

23
 24 SECTION 3. Arkansas Code Title 5, Chapter 66, Subchapter 1 is amended
 25 to add an additional section to read as follows:

26 5-66-120. Application to Arkansas Scholarship Lottery Act.
 27 This subchapter does not apply to a lottery under the Arkansas
 28 Scholarship Lottery Act, § 23-115-101 et seq.

29
 30 SECTION 4. Arkansas Code Title 6, Chapter 82, Subchapter 10 is
 31 repealed.

32 ~~6-82-1001. Legislative findings and declarations of public necessity.~~
 33 ~~The General Assembly hereby recognizes that taking the proper course~~
 34 ~~work in high school is essential for success in college. Arkansas high school~~
 35 ~~students who complete the recommended precollegiate or technical preparation~~
 36 ~~core curriculum score significantly higher on standardized preadmissions~~

1 ~~tests and are more likely to be successful in college. Because the State of~~
 2 ~~Arkansas also benefits from the academic success of well-prepared college~~
 3 ~~students, there is hereby established the Arkansas Academic Challenge~~
 4 ~~Scholarship Program, a college scholarship plan to promote academic~~
 5 ~~achievement and encourage academically prepared Arkansas high school~~
 6 ~~graduates to enroll in the state's colleges and universities and to encourage~~
 7 ~~students to enter the field of teaching for the purpose of teaching in~~
 8 ~~subject matter areas of critical teacher shortage or in geographical areas of~~
 9 ~~critical teacher shortage in the state.~~

10
 11 ~~6-82-1002. Definitions.~~

12 ~~As used in this subchapter:~~

13 ~~(1) "Approved institution" means a publicly supported or~~
 14 ~~private, nonprofit postsecondary institution with its primary headquarters~~
 15 ~~located in Arkansas that is eligible to receive Title IV federal student aid~~
 16 ~~funds or any nursing school with its primary headquarters located in Arkansas~~
 17 ~~that is eligible to participate in Title IV federal student aid programs and~~
 18 ~~has been approved by the Department of Higher Education as eligible to~~
 19 ~~participate in the Arkansas Academic Challenge Scholarship Program;~~

20 ~~(2) "Eligible student" means any student who:~~

21 ~~(A) Meets the criteria set out by this subchapter; and~~

22 ~~(B) Is deemed to be eligible by rules and regulations~~
 23 ~~authorized by this subchapter and promulgated by the Department of Higher~~
 24 ~~Education;~~

25 ~~(3) "Financial need" means the family income of program~~
 26 ~~applicants as determined by the Department of Higher Education through~~
 27 ~~evaluation of program applications and supporting documentation;~~

28 ~~(4)(A) "Full-time undergraduate student" means a resident of~~
 29 ~~Arkansas who attends an approved institution of higher education and who is~~
 30 ~~enrolled for at least twelve (12) credit hours the first semester and fifteen~~
 31 ~~(15) credit hours thereafter or the equivalent, as defined by the Department~~
 32 ~~of Higher Education, in a program of study that leads to or is creditable~~
 33 ~~toward a baccalaureate degree, an associate degree in nursing, or a nursing~~
 34 ~~school diploma.~~

35 ~~(B) A recipient receiving an Arkansas Academic Challenge~~
 36 ~~Scholarship for the eighth semester shall not be required to be enrolled in~~

1 ~~fifteen (15) hours and shall be considered a "full-time undergraduate~~
2 ~~student" if the recipient is enrolled in the appropriate number of course~~
3 ~~credit hours to earn a degree at the end of that semester;~~

4 ~~(5) "Recipient" means an applicant awarded a scholarship funded~~
5 ~~through the program;~~

6 ~~(6) "Tuition" means charges levied for attendance at an eligible~~
7 ~~institution of higher education, including mandatory fees charged to all~~
8 ~~full-time students by an approved institution; and~~

9 ~~(7) "Unemancipated child" or "unemancipated children" means a~~
10 ~~dependent child or dependent children as defined by the United States~~
11 ~~Department of Education for student aid purposes.~~

12
13 ~~6-82-1003. — Creation.~~

14 ~~There is hereby created and established the Arkansas Academic Challenge~~
15 ~~Scholarship Program.~~

16
17 ~~6-82-1004. — Authority of Department of Higher Education.~~

18 ~~(a) The Department of Higher Education is authorized by this~~
19 ~~subchapter to develop and promulgate rules and regulations for the~~
20 ~~administration of the Arkansas Academic Challenge Scholarship Program,~~
21 ~~consistent with the purposes and requirements of this subchapter.~~

22 ~~(b) The rules and regulations shall include student eligibility~~
23 ~~criteria based on the provisions of this subchapter, the method for selecting~~
24 ~~scholarship recipients, rules for determining continuing eligibility,~~
25 ~~procedures for making payment to recipients, and such other administrative~~
26 ~~procedures which may be necessary for the implementation and operation of the~~
27 ~~program.~~

28 ~~(c) The Department of Higher Education is authorized to expend each~~
29 ~~year for data processing and other administrative costs of this program up to~~
30 ~~one and five tenths percent (1.5%) of the amount appropriated for the~~
31 ~~programs.~~

32 ~~(d) Applicants must certify that they are drug-free and must pledge in~~
33 ~~writing on the application form to refrain from the use or abuse of illegal~~
34 ~~substances in order to maintain eligibility for this program.~~

35 ~~(e)(1) The Department of Education and the Department of Higher~~
36 ~~Education are directed to develop appropriate informational materials on the~~

1 ~~Arkansas Academic Challenge Scholarship Program and to ensure their~~
2 ~~distribution to Arkansas students in grades seven through twelve (7-12) each~~
3 ~~year as part of the packet of materials on precollegiate preparation~~
4 ~~distributed by the Department of Education as mandated by § 6-61-217.~~

5 ~~(2) This shall be accomplished through the use of school~~
6 ~~counselors or other appropriate school personnel.~~

7 ~~(f) The Director of the Department of Higher Education is authorized~~
8 ~~to review and evaluate the operation of the program with regard to~~
9 ~~eligibility criteria and size of the scholarship award to ensure that the~~
10 ~~program's operation meets the intent of this legislation.~~

11 ~~(g) The Department of Higher Education is authorized to determine the~~
12 ~~necessary procedures for the awarding of scholarships should the number of~~
13 ~~eligible applicants exceed the funds available.~~

14 ~~(h) The Department of Higher Education shall report to the General~~
15 ~~Assembly annually regarding the implementation of the provisions of this~~
16 ~~subchapter.~~

17
18 ~~6-82-1005. Eligibility.~~

19 ~~(a) Eligibility for the Arkansas Academic Challenge Scholarship~~
20 ~~Program shall be based on the criteria set forth in this section as well as~~
21 ~~program rules and regulations adopted pursuant to this subchapter by the~~
22 ~~Department of Higher Education.~~

23 ~~(b) An applicant shall be eligible for an award from this program if~~
24 ~~the applicant meets all of these criteria:~~

25 ~~(1) The applicant graduated from an Arkansas high school on or~~
26 ~~after March 5, 1991;~~

27 ~~(2) The applicant has been a resident of the State of Arkansas~~
28 ~~for at least twelve (12) months prior to graduation from an Arkansas high~~
29 ~~school, and the applicant's parent or parents or guardian or guardians have~~
30 ~~maintained Arkansas residency for the same period of time;~~

31 ~~(3) The applicant is a citizen of the United States or is a~~
32 ~~permanent resident alien;~~

33 ~~(4) The applicant is accepted for admission at an approved~~
34 ~~institution of higher education as a full-time first-time freshman as defined~~
35 ~~by the department and enrolls in an approved institution within twelve (12)~~
36 ~~months of the applicant's high school graduation;~~

1 ~~(5)(A)(i) Except as provided in subdivision (b)(5)(B) of this~~
2 ~~section, the applicant has successfully completed the core curriculum~~
3 ~~established by the State Board of Education and the Arkansas Higher Education~~
4 ~~Coordinating Board pursuant to § 6-61-217.~~

5 ~~(ii) An applicant who graduates from an Arkansas~~
6 ~~high school after December 31, 2001, but before December 1, 2009, and who~~
7 ~~meets the provisions of subdivisions (b)(1)-(4) of this section but who has~~
8 ~~not completed the core curriculum defined in this subdivision (b)(5)(A) by~~
9 ~~the end of the senior year of high school due to the unavailability of the~~
10 ~~courses in the applicant's high school shall have a grace period of twelve~~
11 ~~(12) months from the date of high school graduation in which to make up any~~
12 ~~course deficiencies required for program eligibility.~~

13 ~~(B) An applicant who graduates from an Arkansas high~~
14 ~~school after December 31, 2009, shall have:~~

15 ~~(i) Successfully completed the Smart Core Curriculum~~
16 ~~as established by the Department of Education; and~~

17 ~~(ii)(a) Demonstrated proficiency in the application~~
18 ~~of knowledge and skills in reading and writing literacy and mathematics by~~
19 ~~passing the end-of-course examinations as may be developed by the Department~~
20 ~~of Education and as may be designated by the Department of Higher Education~~
21 ~~for this purpose.~~

22 ~~(b) "End-of-course" examinations means those~~
23 ~~examinations defined in § 6-15-419;~~

24 ~~(6)(A) The applicant who graduates from an Arkansas high school~~
25 ~~after December 31, 2001, must have achieved the following:~~

26 ~~(i) A grade point average of 3.0 on a 4.0 scale in~~
27 ~~the set of core curriculum courses if enrolling at an approved four-year~~
28 ~~institution; or~~

29 ~~(ii) A grade point average of 2.75 on a 4.0 scale in~~
30 ~~the set of core curriculum courses if enrolling at an approved two-year~~
31 ~~institution; and~~

32 ~~(iii)(a) These revised grade point average~~
33 ~~requirements may be reduced to no lower than a 2.5 on a 4.0 scale by a rules~~
34 ~~change by the Department of Higher Education if it is determined by the~~
35 ~~department, based on the most recent evaluation of the program's operation,~~
36 ~~that the change to a 3.0 or 2.75 grade point average on a 4.0 scale would~~

1 ~~unduly reduce the number of low-income or disadvantaged students who would~~
2 ~~otherwise be eligible for the program.~~

3 ~~(b) At the Department of Higher Education's~~
4 ~~discretion, the Department of Higher Education may make such a reduction for~~
5 ~~admissions to institutions with a high percentage of students receiving full~~
6 ~~Pell Grants upon petition to the Department of Higher Education by the~~
7 ~~institution.~~

8 ~~(B) The applicant scored nineteen (19) or above on the~~
9 ~~American College Test composite or the equivalent as defined by the~~
10 ~~Department of Higher Education.~~

11 ~~(C)(i) The Department of Higher Education is authorized to~~
12 ~~develop selection criteria through program rules and regulations that combine~~
13 ~~an applicant's American College Test or equivalent score and grade point~~
14 ~~average in the core curriculum into a selection index.~~

15 ~~(ii) Notwithstanding the provisions of subdivisions~~
16 ~~(b)(6)(A) and (b)(6)(B) of this section, this selection index shall be~~
17 ~~employed as an alternative selection process for applicants who achieve a~~
18 ~~grade point average above 2.75 if attending an approved two-year institution~~
19 ~~or 3.0 if attending a four-year institution on a 4.0 scale in the set of core~~
20 ~~curriculum courses defined in subdivision (b)(5)(A) of this section or for~~
21 ~~applicants who have an American College Test composite or equivalent score~~
22 ~~greater than nineteen (19).~~

23 ~~(D)(i) The applicant demonstrates financial need as~~
24 ~~defined by the department.~~

25 ~~(ii) In calculating financial need for applicants~~
26 ~~who graduate from an Arkansas high school after December 31, 1998, but before~~
27 ~~January 1, 2001, the following criteria shall be used:~~

28 ~~(a) An applicant whose family includes one (1)~~
29 ~~unemancipated child shall have average family adjusted gross income over the~~
30 ~~previous two (2) years not exceeding seventy thousand dollars (\$70,000) per~~
31 ~~year at the time of application to the program;~~

32 ~~(b) An applicant whose family includes two (2)~~
33 ~~unemancipated children shall have average family adjusted gross income over~~
34 ~~the previous two (2) years not exceeding seventy five thousand dollars~~
35 ~~(\$75,000) per year at the time of application to the program;~~

36 ~~(c) An applicant whose family includes three~~

1 ~~(3) or more unemancipated children shall have average family adjusted gross~~
2 ~~income over the previous two (2) years not exceeding eighty thousand dollars~~
3 ~~(\$80,000) per year at the time of application to the program, plus for~~
4 ~~families with more than three (3) unemancipated children, an additional five~~
5 ~~thousand dollars (\$5,000) per year for each additional child;~~

6 ~~(d) Any applicant whose family includes more~~
7 ~~than one (1) unemancipated child enrolled full time at an approved~~
8 ~~institution of higher education shall be entitled to an additional ten~~
9 ~~thousand dollars (\$10,000) of adjusted gross income for each additional child~~
10 ~~when the department calculates financial need; and~~

11 ~~(e) If the applicant is an adopted child who~~
12 ~~was at least twelve (12) years of age at the time of adoption and if the~~
13 ~~applicant's family includes unemancipated adopted children who were at least~~
14 ~~twelve (12) years of age at the time of adoption, the adoptive family shall~~
15 ~~be entitled to an additional ten thousand dollars (\$10,000) of adjusted gross~~
16 ~~income per adopted unemancipated child.~~

17 ~~(iii) In calculating financial need for applicants~~
18 ~~who graduated from an Arkansas high school after December 31, 2000, but~~
19 ~~before December 31, 2004, the following criteria shall be used:~~

20 ~~(a) An applicant whose family includes one (1)~~
21 ~~unemancipated child shall have average family adjusted gross income over the~~
22 ~~previous two (2) years not exceeding fifty thousand dollars (\$50,000) per~~
23 ~~year at the time of application to the program;~~

24 ~~(b) An applicant whose family includes two (2)~~
25 ~~unemancipated children shall have average family adjusted gross income over~~
26 ~~the previous two (2) years not exceeding fifty five thousand dollars~~
27 ~~(\$55,000) per year at the time of application to the program;~~

28 ~~(c) An applicant whose family includes three~~
29 ~~(3) or more unemancipated children shall have average family adjusted gross~~
30 ~~income over the previous two (2) years not exceeding sixty thousand dollars~~
31 ~~(\$60,000) per year at the time of application to the program, plus for~~
32 ~~families with more than three (3) unemancipated children an additional five~~
33 ~~thousand dollars (\$5,000) per year for each additional child; and~~

34 ~~(d) Any applicant whose family includes more~~
35 ~~than one (1) unemancipated child enrolled full time at an approved~~
36 ~~institution of higher education shall be entitled to an additional ten~~

1 ~~thousand dollars (\$10,000) of adjusted gross income for each additional~~
 2 ~~unemancipated child enrolled full time at an approved institution of higher~~
 3 ~~education when the Department of Higher Education calculates financial need.~~

4 ~~(iv) In calculating financial need for applicants~~
 5 ~~who graduate from an Arkansas high school after December 31, 2006, a Free~~
 6 ~~Application for Federal Student Aid or a subsequent application required by~~
 7 ~~the United States Department of Education for federal financial aid shall be~~
 8 ~~filed by the applicant or other proof of family income as defined by the~~
 9 ~~Department of Higher Education. The following criteria shall be used:~~

10 ~~(a) An applicant whose family includes one (1)~~
 11 ~~unemancipated child shall have an average family adjusted gross income over~~
 12 ~~the previous two (2) years not exceeding sixty five thousand dollars~~
 13 ~~(\$65,000) per year at the time of application to the program;~~

14 ~~(b) An applicant whose family includes two (2)~~
 15 ~~unemancipated children shall have an average family adjusted gross income~~
 16 ~~over the previous two (2) years not exceeding seventy thousand dollars~~
 17 ~~(\$70,000) per year at the time of application to the program;~~

18 ~~(c) An applicant whose family includes three~~
 19 ~~(3) or more unemancipated children shall have an average family adjusted~~
 20 ~~gross income over the previous two (2) years not exceeding seventy five~~
 21 ~~thousand dollars (\$75,000) per year at the time of application to the~~
 22 ~~program, plus for families with more than three (3) unemancipated children,~~
 23 ~~an additional five thousand dollars (\$5,000) per year for each additional~~
 24 ~~child; and~~

25 ~~(d) Any applicant whose family includes more~~
 26 ~~than one (1) unemancipated child enrolled full time at an approved~~
 27 ~~institution of higher education shall be entitled to an additional ten~~
 28 ~~thousand dollars (\$10,000) of adjusted gross income for each additional~~
 29 ~~unemancipated child enrolled full time at an approved institution of higher~~
 30 ~~education when the Department of Higher Education calculates financial need.~~

31 ~~(e)(1) The Arkansas Higher Education Coordinating Board shall have the~~
 32 ~~authority to increase these financial need family income limitations if~~
 33 ~~sufficient additional funds become available.~~

34 ~~(2) Financial need criteria necessary for the selection of~~
 35 ~~recipients, including those defined as emancipated or independent by federal~~
 36 ~~student aid regulations, shall be established through rules and regulations~~

1 ~~issued by the department.~~

2 ~~(d) Recipients of Arkansas Governor's Distinguished Scholarships are~~
3 ~~prohibited from receiving Arkansas Academic Challenge Scholarships.~~

4 ~~(e) As an additional component to the Arkansas Academic Challenge~~
5 ~~Scholarship:~~

6 ~~(1) Each applicant for the scholarship shall agree that for each~~
7 ~~year the scholarship is awarded he or she may volunteer to serve as a~~
8 ~~literacy tutor for a minimum of twenty (20) clock hours each semester in a~~
9 ~~public school or a faith based educational institution serving students in~~
10 ~~prekindergarten through grade six (PreK-6);~~

11 ~~(2) A recipient who agrees to volunteer as a literacy tutor:~~

12 ~~(A) Shall complete the prerequisite training in literacy~~
13 ~~and college readiness skills provided under § 6-82-1006(d) before he or she~~
14 ~~begins tutoring; and~~

15 ~~(B) May receive college credit for the tutoring as~~
16 ~~determined by the institution of higher education awarding the scholarship;~~
17 ~~and~~

18 ~~(3) An enrolled college student who participates in the tutorial~~
19 ~~program and fails to meet the Arkansas Academic Challenge Scholarship~~
20 ~~academic eligibility requirement for the fall or spring semester shall be~~
21 ~~given the probationary opportunity during the subsequent spring or summer~~
22 ~~term to continue his or her education and improve academic performance prior~~
23 ~~to losing scholarship funding in the subsequent semester.~~

24
25 ~~6-82-1006. Duration—Amount.~~

26 ~~(a) A recipient who graduated from high school before January 1, 2001,~~
27 ~~shall receive a scholarship for one (1) academic year renewable for up to~~
28 ~~three (3) additional academic years if the recipient meets continuing~~
29 ~~eligibility criteria established by the Department of Higher Education and if~~
30 ~~sufficient funds are available for that purpose.~~

31 ~~(b) A recipient who graduated from high school after December 31,~~
32 ~~2000, shall receive a scholarship for one (1) academic year renewable for up~~
33 ~~to three (3) additional academic years if the recipient meets the following~~
34 ~~continuing eligibility criteria:~~

35 ~~(1) The recipient earns a cumulative grade point average of 2.75~~
36 ~~or above on a 4.0 scale at an approved institution;~~

1 ~~(2) The recipient has completed a total of at least twenty-seven~~
2 ~~(27) hours during the first full academic year and a total of at least thirty~~
3 ~~(30) hours per academic year thereafter; and~~

4 ~~(3) The recipient meets any other continuing eligibility~~
5 ~~criteria established by the department.~~

6 ~~(c)(1) For recipients who graduated from high school between January~~
7 ~~1, 1995, and December 31, 1996, the amount of the annual scholarship awarded~~
8 ~~to each recipient shall be the lesser of one thousand five hundred dollars~~
9 ~~(\$1,500) or the annual tuition charged by the approved institution in which~~
10 ~~the recipient is enrolled.~~

11 ~~(2) For recipients who graduated from high school between~~
12 ~~January 1, 1997, and December 31, 1998, the amount of the annual scholarship~~
13 ~~awarded to each recipient shall be the lesser of two thousand five hundred~~
14 ~~dollars (\$2,500) or the annual tuition charged by the approved institution in~~
15 ~~which the recipient is enrolled.~~

16 ~~(3) For recipients who graduated from high school after December~~
17 ~~31, 1998, the amount of the annual scholarship awarded to each recipient~~
18 ~~shall be two thousand five hundred dollars (\$2,500).~~

19 ~~(4) Beginning with awards made for the 2005-2006 academic year~~
20 ~~for recipients who graduated from high school after December 31, 2001, the~~
21 ~~amount of the annual scholarship awarded to each recipient shall be graduated~~
22 ~~as follows:~~

23 ~~(A) A recipient in his or her freshman year shall be~~
24 ~~awarded an amount not to exceed two thousand five hundred dollars (\$2,500);~~

25 ~~(B) A recipient in his or her sophomore year shall be~~
26 ~~awarded an amount not to exceed two thousand seven hundred fifty dollars~~
27 ~~(\$2,750);~~

28 ~~(C) A recipient in his or her junior year shall be awarded~~
29 ~~an amount not to exceed three thousand dollars (\$3,000); and~~

30 ~~(D) A recipient in his or her senior year shall be awarded~~
31 ~~an amount not to exceed three thousand five hundred dollars (\$3,500).~~

32 ~~(d)(1) A recipient who agrees to volunteer as a literacy tutor under §~~
33 ~~6-82-1005(e) shall receive the prerequisite training in literacy and college~~
34 ~~readiness from an accredited Arkansas institution of higher education.~~

35 ~~(2) The Department of Education shall develop the training~~
36 ~~modules for the prerequisite literacy training.~~

1
2 ~~6-82-1007. — Nursing school eligibility.~~

3 ~~(a)(1) — The General Assembly recognizes that the State of Arkansas is~~
4 ~~experiencing a critical shortage of nurses; and~~

5 ~~(2) — It is the intent of this section to allow the Department of~~
6 ~~Higher Education the opportunity to include associate degree granting and~~
7 ~~diploma schools of nursing in the Arkansas Academic Challenge Scholarship~~
8 ~~Program under specific circumstances.~~

9 ~~(b) — The department shall make awards to applicants attending either an~~
10 ~~associate degree or diploma school preparing registered nurses that is~~
11 ~~approved by the Arkansas State Board of Nursing and which would not otherwise~~
12 ~~be an approved institution of higher education if:~~

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

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

23 ~~(3) — The recipient meets continuing eligibility requirements in §~~
24 ~~6-82-1006.~~

25 ~~(c) — The scholarships awarded to recipients under this section shall be~~
26 ~~subject to § 6-18-1004(g).~~

27 ~~(d) — The Arkansas Higher Education Coordinating Board and the~~
28 ~~department shall promulgate regulations necessary for the implementation of~~
29 ~~this section.~~

30
31 ~~6-82-1008. — Awards not funded.~~

32 ~~(a)(1) — Any applicant who graduated after December 31, 2001, who was~~
33 ~~eligible to receive an academic challenge award but did not receive the award~~
34 ~~because of insufficient funding in the program may be eligible to receive an~~
35 ~~award to begin in a year other than the freshman year.~~

36 ~~(2) — Any student enrolled in an institution of higher education~~

1 ~~must have achieved at least a 2.0 cumulative grade point average to be~~
2 ~~eligible for a deferred award.~~

3 ~~(b) The Arkansas Higher Education Coordinating Board and the~~
4 ~~Department of Higher Education shall promulgate regulations necessary for the~~
5 ~~implementation of this section.~~

6 ~~(c) Any award made under this section shall have funding priority as~~
7 ~~follows:~~

8 ~~(1) Awards shall be made first to individuals who made~~
9 ~~application prior to the original deadline during the individual's senior~~
10 ~~year in high school, received an award letter from the department but did not~~
11 ~~receive an award because of insufficient funding, and are now eligible under~~
12 ~~this section;~~

13 ~~(2) Awards shall be made, second, to the current year high~~
14 ~~school graduates who are for the first time eligible to receive an Arkansas~~
15 ~~Academic Challenge Award; and~~

16 ~~(3) If sufficient funds are available after funding awards under~~
17 ~~subdivisions (c)(1) and (c)(2) of this section, awards may be made to~~
18 ~~individuals who did not apply during their senior year in high school but~~
19 ~~would have been eligible if the individuals had applied prior to that year's~~
20 ~~deadline and who are now eligible under this section.~~

21
22 ~~6-82-1009. Priority for teaching commitment.~~

23 ~~(a) During times of funding shortages under the Arkansas Academic~~
24 ~~Challenge Scholarship Program, the Department of Higher Education shall give~~
25 ~~a priority to awards to applicants meeting all eligibility requirements under~~
26 ~~the program who agree to accept a forgivable loan, as set forth in this~~
27 ~~section in lieu of a scholarship, and who agree to:~~

28 ~~(1) Teach, as required under § 6-82-1010, in a subject matter~~
29 ~~area designated by the Department of Education as having a critical shortage~~
30 ~~of teachers; or~~

31 ~~(2) Teach, as required under § 6-82-1010, in a geographical area~~
32 ~~of the state designated by the Department of Education as having a critical~~
33 ~~shortage of teachers.~~

34 ~~(b) The Department of Higher Education shall make awards under this~~
35 ~~subchapter as follows:~~

36 ~~(1) First, to applicants who agree to the provisions of § 6-82-~~

1 ~~1009; and~~

2 ~~(2) Second, to applicants eligible under § 6-82-1005(b),~~

3 ~~(c) Forgivable loans awarded under this section shall be paid from~~
4 ~~appropriations to the program.~~

5
6 ~~6-82-1010. Teaching requirements.~~

7 ~~(a)(1) At the beginning of the first school year in which a recipient~~
8 ~~of a forgivable loan under § 6-82-1009 is eligible for employment as a~~
9 ~~licensed teacher, that recipient shall begin to render service as a licensed~~
10 ~~teacher in a public school district in the state:~~

11 ~~(A) In a subject matter area designated by the Department~~
12 ~~of Education as having a critical shortage of teachers if the recipient's~~
13 ~~award was made under § 6-82-1009(a)(1); or~~

14 ~~(B) In a geographical area of the state designated by the~~
15 ~~Department of Education as having a critical shortage of teachers if the~~
16 ~~recipient's award was made under § 6-82-1009(a)(2).~~

17 ~~(2)(A) Any recipient receiving a forgivable loan under § 6-82-~~
18 ~~1009 who received four (4) annual awards, or the equivalent of four (4)~~
19 ~~annual awards, shall render four (4) years' service as a licensed teacher.~~

20 ~~(B) Any person who received a forgivable loan under § 6-~~
21 ~~82-1009 in an amount less than four (4) annual awards, or the equivalent of~~
22 ~~four (4) annual awards, shall render one (1) year's service as a licensed~~
23 ~~teacher for each year that the person received a full-time student forgivable~~
24 ~~loan or for the number of academic hours equivalent to one (1) school year,~~
25 ~~as determined by the Department of Higher Education, for which a part-time~~
26 ~~student received a forgivable loan.~~

27 ~~(b) Any person receiving a forgivable loan shall execute a note made~~
28 ~~payable to the Department of Higher Education for an amount equal to the~~
29 ~~scholarship award each semester that shall bear interest at a rate to be~~
30 ~~determined by the Department of Higher Education and set forth in the note~~
31 ~~after completion of the program or immediately after termination of the~~
32 ~~forgivable loan, whichever is earlier.~~

33 ~~(c) Any person failing to complete a program of study which will~~
34 ~~enable the person to become a licensed teacher shall begin repaying the note~~
35 ~~according to the terms of the note for the sum of all forgivable loan awards~~
36 ~~made to that person less the corresponding amount of any awards for which~~

1 ~~service has been rendered.~~

2 ~~(d)(1)(A) Except as provided in subdivision (d)(1)(B) of this section,~~
3 ~~any person failing to complete the teaching obligation as required by this~~
4 ~~subchapter shall become immediately liable to the Department of Higher~~
5 ~~Education for the sum of all forgivable loan awards made to that person less~~
6 ~~the corresponding amount of any awards for which service has been rendered~~
7 ~~according to the note's terms.~~

8 ~~(B) The Department of Higher Education may defer payment~~
9 ~~on the note if an employment position is not immediately available upon a~~
10 ~~teacher's completion of licensure requirements or for other just cause as~~
11 ~~determined by the Department of Education.~~

12 ~~(C) After the period of deferral, the person shall begin~~
13 ~~or resume teaching duties as required under this section or shall become~~
14 ~~liable to the Department of Higher Education under this section.~~

15 ~~(e) If a claim for payment under this section is placed in the hands~~
16 ~~of an attorney for collection, the obligor shall be liable for an additional~~
17 ~~amount equal to a reasonable attorney's fee.~~

18 ~~(f) The obligations made by the recipient of a forgivable loan under §~~
19 ~~6-82-1009 and this section shall not be voidable by reason of the age of the~~
20 ~~student at the time of receiving the forgivable loan award.~~

21
22 ~~6-82-1011. End of course assessment requirements.~~

23 ~~The Department of Higher Education may recognize a sub-score of~~
24 ~~nineteen (19) or higher in the applicable subject area on the American~~
25 ~~College Test as meeting the requirements for passing end-of-course~~
26 ~~examinations under the Arkansas Academic Challenge Scholarship Program and~~
27 ~~the Arkansas Governor's Scholars Program for a student who:~~

28 ~~(1) Has not had an opportunity to take an end-of-course~~
29 ~~examination;~~

30 ~~(2) Has not passed the end-of-course examination; or~~

31 ~~(3) Is attending a private school or home school.~~

32
33 SECTION 5. Arkansas Code Title 6 is amended to add an additional
34 chapter to read as follows:

35 CHAPTER 85

36 ARKANSAS ACADEMIC CHALLENGE SCHOLARSHIP PROGRAM

1
2 SUBCHAPTER 1

3 ARKANSAS ACADEMIC CHALLENGE SCHOLARSHIP PROGRAM – PART 1

4
5 6-85-101. Legislative findings and declarations of public necessity.

6 The General Assembly hereby recognizes that taking the proper course
7 work in high school is essential for success in college. Arkansas high school
8 students who complete the recommended precollegiate or technical preparation
9 core curriculum score significantly higher on standardized preadmissions
10 tests and are more likely to be successful in college. Because the State of
11 Arkansas also benefits from the academic success of well-prepared college
12 students, there is hereby established the Arkansas Academic Challenge
13 Scholarship Program, a college scholarship plan to promote academic
14 achievement and encourage academically prepared Arkansas high school
15 graduates to enroll in the state's colleges and universities and to encourage
16 students to enter the field of teaching for the purpose of teaching in
17 subject matter areas of critical teacher shortage or in geographical areas of
18 critical teacher shortage in the state.

19
20 6-85-102. Creation.

21 There is hereby created and established the Arkansas Academic Challenge
22 Scholarship Program – Part 1.

23
24 6-85-103. Applicability – expiration.

25 (a) This subchapter is applicable to students who:

26 (1) Applied for a scholarship under the Arkansas Academic
27 Challenge Scholarship Program, § 6-82-1001 et seq. [repealed] and maintain
28 eligibility under this subchapter; or

29 (2) Apply for a scholarship under this subchapter for the
30 academic year 2009-2010, receive the scholarship, and maintain eligibility
31 thereafter.

32 (b) Except to the extent of the award amount under § 6-85-107(b)(2), a
33 recipient of a scholarship under this subchapter shall not receive an
34 additional scholarship under the Arkansas Academic Challenge Scholarship
35 Program – Part 2, § 6-85-201 et seq.

36 (c) This subchapter will expire on June 30, 2015.

1
2 6-85-104. Definitions.

3 As used in this subchapter:

4 (1) "Approved institution" means an institution of higher
5 education approved by the Department of Higher Education to participate in
6 the Arkansas Academic Challenge Scholarship Program that is either:

7 (A) A state-supported institution of higher education;

8 (B) A private, nonprofit institution of higher education
9 with its primary headquarters located in Arkansas that is eligible to receive
10 Title IV federal student aid funds; or

11 (C) A nursing school with its primary headquarters located
12 in Arkansas that is eligible to participate in Title IV federal student aid
13 programs and has been;

14 (2) "Eligible student" means any student who:

15 (A) Meets the criteria set out by this subchapter; and

16 (B) Is deemed to be eligible by rules authorized by this
17 subchapter and promulgated by the Department of Higher Education;

18 (3) "Financial need" means the family income of program
19 applicants as determined by the Department of Higher Education through
20 evaluation of program applications and supporting documentation;

21 (4)(A) "Full-time undergraduate student" means a resident of
22 Arkansas who attends an approved institution and who is enrolled for at least
23 twelve (12) credit hours the first semester and fifteen (15) credit hours
24 thereafter or the equivalent, as defined by the Department of Higher
25 Education, in a program of study that leads to or is creditable toward a
26 baccalaureate degree, an associate degree in nursing, or a nursing school
27 diploma.

28 (B) A recipient receiving an Arkansas Academic Challenge
29 Scholarship for the eighth semester shall not be required to be enrolled in
30 fifteen (15) hours and shall be considered a "full-time undergraduate
31 student" if the recipient is enrolled in the appropriate number of course
32 credit hours to earn a degree or diploma at the end of that semester;

33 (5) "Recipient" means an applicant awarded a scholarship funded
34 through the program;

35 (6) "Tuition" means charges levied for attendance at an approved
36 institution, including mandatory fees charged to all full-time students by an

1 approved institution; and

2 (7) "Unemancipated child" means a dependent child as defined by
3 the United States Department of Education for student aid purposes.

4
5 6-85-105. Authority of Department of Higher Education.

6 (a) The Department of Higher Education is authorized by this
7 subchapter to develop and promulgate rules for the administration of the
8 Arkansas Academic Challenge Scholarship Program, consistent with the purposes
9 and requirements of this subchapter.

10 (b) The rules shall include student eligibility criteria based on the
11 provisions of this subchapter, the method for selecting scholarship
12 recipients, rules for determining continuing eligibility, procedures for
13 making payment to recipients, and such other administrative procedures which
14 may be necessary for the implementation and operation of the program.

15 (c) Until the end of fiscal year 2011, the Department of Higher
16 Education is authorized to expend each year for data processing and other
17 administrative costs of this program up to one and five-tenths percent (1.5%)
18 of the amount appropriated for the programs.

19 (d) Applicants must certify that they are drug-free and must pledge in
20 writing on the application form to refrain from the use or abuse of illegal
21 substances in order to maintain eligibility for this program.

22 (e)(1) The Department of Education and the Department of Higher
23 Education are directed to develop appropriate informational materials on the
24 Arkansas Academic Challenge Scholarship Program and to ensure their
25 distribution to Arkansas students in grades seven through twelve (7-12) each
26 year as part of the packet of materials on precollegiate preparation
27 distributed by the Department of Education as mandated by § 6-61-217.

28 (2) The distribution of information shall be accomplished
29 through the collaboration of school counselors and other appropriate school
30 personnel.

31 (f) The Director of the Department of Higher Education is authorized
32 to review and evaluate the operation of the program with regard to
33 eligibility criteria and size of the scholarship award to ensure that the
34 program's operation meets the intent of this subchapter.

35 (g) The Department of Higher Education is authorized to determine the
36 necessary procedures for the awarding of scholarships should the number of

1 eligible applicants exceed the funds available.

2 (h) The Department of Higher Education shall report to the General
3 Assembly annually regarding the implementation of the provisions of this
4 subchapter.

5
6 6-85-106. Eligibility.

7 (a) Eligibility for the Arkansas Academic Challenge Scholarship Program
8 is based on the criteria under this section and rules promulgated under this
9 subchapter by the Department of Higher Education.

10 (b) An applicant is eligible for an award from this program if the
11 applicant meets all of these criteria:

12 (1) The applicant graduated from an Arkansas high school;

13 (2) The applicant has been a resident of the State of Arkansas
14 for at least twelve (12) months before graduation from an Arkansas high
15 school, and the applicant's parent or guardian has maintained Arkansas
16 residency for the same period of time;

17 (3) The applicant is a citizen of the United States or is a
18 lawful permanent resident;

19 (4) The applicant is accepted for admission at an approved
20 institution as a full-time first-time freshman as defined by the department
21 and enrolls in an approved institution within twelve (12) months of the
22 applicant's high school graduation;

23 (5)(A)(i) Except as provided in subdivision (b)(5)(B) of this
24 section, the applicant has successfully completed the core curriculum
25 established by the State Board of Education and the Arkansas Higher Education
26 Coordinating Board pursuant to § 6-61-217.

27 (ii) An applicant who graduates from an Arkansas
28 high school on or before December 31, 2009, and who meets the provisions of
29 subdivisions (b)(1)-(4) of this section but who has not completed the core
30 curriculum defined in this subdivision (b)(5)(A) by the end of the senior
31 year of high school due to the unavailability of the courses in the
32 applicant's high school shall have a grace period of twelve (12) months from
33 the date of high school graduation in which to make up any course
34 deficiencies required for program eligibility.

35 (B) An applicant who graduates from an Arkansas high
36 school after December 31, 2009, shall have:

1 (i) Successfully completed the Smart Core Curriculum
2 as established by the Department of Education; and

3 (ii)(a) Demonstrated proficiency in the application
4 of knowledge and skills in reading and writing literacy and mathematics by
5 passing the end-of-course assessments developed by the Department of
6 Education.

7 (b) "End-of-course" assessments means those
8 assessments defined in § 6-15-419.

9 (C) All applicants shall have achieved:

10 (i) Either:

11 (a) A grade point average of 3.0 on a 4.0
12 scale in the set of core curriculum courses if enrolling at an approved four-
13 year institution; or

14 (b) A grade point average of 2.75 on a
15 4.0 scale in the set of core curriculum courses if enrolling at an approved
16 two-year institution; and

17 (ii) A minimum composite score of nineteen (19) or
18 higher on the American College Test or the equivalent as defined by the
19 Department of Higher Education.

20 (D)(i) The grade point average requirements of subdivision
21 (b)(5)(C) of this section may be reduced to no lower than a 2.5 on a 4.0
22 scale by a rules change by the Department of Higher Education if it is
23 determined by the department, based on the most recent evaluation of the
24 program's operation, that the change to a 3.0 or 2.75 grade point average on
25 a 4.0 scale would unduly reduce the number of low-income or disadvantaged
26 students who would otherwise be eligible for the program.

27 (ii) At the Department of Higher Education's
28 discretion, the Department of Higher Education may make the reduction for
29 admissions to institutions with a high percentage of students receiving full
30 Pell Grants upon petition to the Department of Higher Education by the
31 institution.

32 (E)(i) The Department of Higher Education may develop
33 selection criteria through program rules that combine an applicant's American
34 College Test or equivalent score and grade point average in the core
35 curriculum into a selection index.

36 (ii) Notwithstanding the provisions of subdivision

1 (b)(5(D) of this section, this selection index shall be employed as an
2 alternative selection process for applicants who achieve a grade point
3 average higher than 2.75 if attending an approved two-year institution or 3.0
4 if attending a four-year institution on a 4.0 scale in the set of core
5 curriculum courses defined in subdivision (b)(5)(A) of this section or for
6 applicants who have an American College Test composite or equivalent score
7 greater than nineteen (19).

8 (6)(A) An applicant shall demonstrate financial need as defined
9 by the department.

10 (B) The department shall use the following criteria in
11 calculating financial need for applicants who graduated from an Arkansas high
12 school after December 31, 2000, but before December 31, 2004:

13 (i) An applicant whose family includes one (1)
14 unemancipated child shall have average family adjusted gross income over the
15 previous two (2) years not exceeding fifty thousand dollars (\$50,000) per
16 year at the time of application to the program;

17 (ii) An applicant whose family includes two (2)
18 unemancipated children shall have average family adjusted gross income over
19 the previous two (2) years not exceeding fifty-five thousand dollars
20 (\$55,000) per year at the time of application to the program;

21 (iii) An applicant whose family includes three (3)
22 or more unemancipated children shall have average family adjusted gross
23 income over the previous two (2) years not exceeding sixty thousand dollars
24 (\$60,000) per year at the time of application to the program, plus for
25 families with more than three (3) unemancipated children an additional five
26 thousand dollars (\$5,000) per year for each additional child; and

27 (iv) Any applicant whose family includes more than
28 one (1) unemancipated child enrolled full time at an approved institution
29 shall be entitled to an additional ten thousand dollars (\$10,000) of adjusted
30 gross income for each additional unemancipated child enrolled full time at an
31 approved institution when the Department of Higher Education calculates
32 financial need.

33 (C) In calculating financial need for applicants who
34 graduate from an Arkansas high school after December 31, 2006, a Free
35 Application for Federal Student Aid or a subsequent application required by
36 the United States Department of Education for federal financial aid shall be

1 filed by the applicant or other proof of family income as defined by the
2 Department of Higher Education. The following criteria shall be used:

3 (i) An applicant whose family includes one (1)
4 unemancipated child shall have an average family adjusted gross income over
5 the previous two (2) years not exceeding sixty-five thousand dollars
6 (\$65,000) per year at the time of application to the program;

7 (ii) An applicant whose family includes two (2)
8 unemancipated children shall have an average family adjusted gross income
9 over the previous two (2) years not exceeding seventy thousand dollars
10 (\$70,000) per year at the time of application to the program;

11 (iii) An applicant whose family includes three (3)
12 or more unemancipated children shall have an average family adjusted gross
13 income over the previous two (2) years not exceeding seventy-five thousand
14 dollars (\$75,000) per year at the time of application to the program, plus
15 for families with more than three (3) unemancipated children, an additional
16 five thousand dollars (\$5,000) per year for each additional child; and

17 (iv) Any applicant whose family includes more than
18 one (1) unemancipated child enrolled full time at an approved institution of
19 higher education shall be entitled to an additional ten thousand dollars
20 (\$10,000) of adjusted gross income for each additional unemancipated child
21 enrolled full time at an approved institution of higher education when the
22 Department of Higher Education calculates financial need.

23 (c)(1) The Arkansas Higher Education Coordinating Board shall have the
24 authority to increase these financial need family income limitations if
25 sufficient additional funds become available.

26 (2) Financial need criteria necessary for the selection of
27 recipients, including those defined as emancipated or independent by federal
28 student aid regulations, shall be established through rules issued by the
29 department.

30 (d) Recipients of Arkansas Governor's Distinguished Scholarships are
31 prohibited from receiving Arkansas Academic Challenge Scholarships.

32 (e) As an additional component to the Arkansas Academic Challenge
33 Scholarship:

34 (1) Each applicant for the scholarship shall agree that for each
35 year the scholarship is awarded he or she may volunteer to serve as a
36 literacy tutor for a minimum of twenty (20) clock hours each semester in a

1 public school or a faith-based educational institution serving students in
2 prekindergarten through grade six (preK-6);

3 (2) A recipient who agrees to volunteer as a literacy tutor:

4 (A) Shall complete the prerequisite training in literacy
5 and college readiness skills provided under § 6-85-107(c) before he or she
6 begins tutoring;

7 (B) May receive college credit for the tutoring as
8 determined by the institution of higher education awarding the scholarship;
9 and

10 (C) Shall receive the prerequisite training in literacy
11 and college readiness from an accredited Arkansas institution of higher
12 education based on training modules developed by the Department of Education.

13 (3) An enrolled college student who participates in the tutorial
14 program and fails to meet the Arkansas Academic Challenge Scholarship
15 academic eligibility requirement for the fall or spring semester shall be
16 given the probationary opportunity during the subsequent spring or summer
17 term to continue his or her education and improve academic performance prior
18 to losing scholarship funding in the subsequent semester.

19
20 6-85-107. Duration – Amount.

21 (a) A recipient who graduated from high school after December 31,
22 2000, shall receive a scholarship for one (1) academic year renewable for up
23 to three (3) additional academic years if the recipient meets the following
24 continuing eligibility criteria:

25 (1) The recipient earns a cumulative grade point average of 2.75
26 or higher based on a 4.0 scale at an approved institution;

27 (2) The recipient has completed a total of at least twenty-seven
28 (27) hours during the first full academic year and a total of at least thirty
29 (30) hours per academic year thereafter; and

30 (3) The recipient meets any other continuing eligibility
31 criteria established by the Department of Higher Education.

32 (b)(1) Beginning with awards made for the 2005-2006 academic year and
33 thereafter for recipients who graduated from high school after December 31,
34 2001, the amount of the annual scholarship awarded to each recipient shall be
35 graduated as follows:

36 (A) A recipient in his or her freshman year shall be

1 awarded an amount not to exceed two thousand five hundred dollars (\$2,500);

2 (B) A recipient in his or her sophomore year shall be
3 awarded an amount not to exceed two thousand seven hundred fifty dollars
4 (\$2,750);

5 (C) A recipient in his or her junior year shall be awarded
6 an amount not to exceed three thousand dollars (\$3,000); and

7 (D) A recipient in his or her senior year shall be awarded
8 an amount not to exceed three thousand five hundred dollars (\$3,500).

9 (2) A recipient under this subchapter shall receive the greater
10 of the award under subdivision (b)(1) of this section or the award amount for
11 the same academic year for a full-time recipient under the Arkansas Academic
12 Challenge Scholarship Program – Part 2, § 6-85-201 et seq.

13
14 6-85-108. Nursing school eligibility.

15 (a)(1) The General Assembly recognizes that the State of Arkansas is
16 experiencing a critical shortage of nurses; and

17 (2) It is the intent of this section to allow the Department of
18 Higher Education the opportunity to include associate degree granting and
19 diploma schools of nursing in the Arkansas Academic Challenge Scholarship
20 Program under specific circumstances.

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

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

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

35 (3) The recipient meets continuing eligibility requirements in §
36 6-85-106.

1 (c) The scholarships awarded to recipients under this section shall be
2 subject to § 6-85-105(g).

3 (d) The Arkansas Higher Education Coordinating Board and the
4 department shall promulgate rules necessary for the implementation of this
5 section.

6
7 6-85-109. Priority for teaching commitment.

8 (a) During times of funding shortages under the Arkansas Academic
9 Challenge Scholarship Program, the Department of Higher Education shall give
10 a priority to awards to applicants meeting all eligibility requirements under
11 the program who agree to accept a forgivable loan, as set forth in this
12 section in lieu of a scholarship, and who agree to teach, as required under §
13 6-85-110, in a:

14 (1) Subject matter area designated by the Department of
15 Education as having a critical shortage of teachers; or

16 (2) Geographical area of the state designated by the Department
17 of Education as having a critical shortage of teachers.

18 (b) The Department of Higher Education shall make awards under this
19 subchapter as follows:

20 (1) First, to applicants who agree to the provisions of this
21 section; and

22 (2) Second, to applicants eligible under § 6-85-106(b).

23 (c) Forgivable loans awarded under this section shall be paid from
24 appropriations to the program.

25
26 6-85-110. Teaching requirements.

27 (a)(1) At the beginning of the first school year in which a recipient
28 of a forgivable loan under § 6-85-109 is eligible for employment as a
29 licensed teacher, that recipient shall begin to render service as a licensed
30 teacher in a public school district in the state:

31 (A) In a subject matter area designated by the Department
32 of Education as having a critical shortage of teachers if the recipient's
33 award was made under § 6-85-109(a)(1); or

34 (B) In a geographical area of the state designated by the
35 Department of Education as having a critical shortage of teachers if the
36 recipient's award was made under § 6-85-109(a)(2).

1 (2)(A) Any recipient receiving a forgivable loan under § 6-85-
2 109 who received four (4) annual awards, or the equivalent of four (4) annual
3 awards, shall render four (4) years' service as a licensed teacher.

4 (B) Any person who received a forgivable loan under § 6-
5 85-109 in an amount less than four (4) annual awards, or the equivalent of
6 four (4) annual awards, shall render one (1) year's service as a licensed
7 teacher for each year that the person received a full-time student forgivable
8 loan or for the number of academic hours equivalent to one (1) school year,
9 as determined by the Department of Higher Education, for which a part-time
10 student received a forgivable loan.

11 (b) Any person receiving a forgivable loan shall execute a note made
12 payable to the Department of Higher Education for an amount equal to the
13 scholarship award each semester that shall bear interest at a rate to be
14 determined by the Department of Higher Education and set forth in the note
15 after completion of the program or immediately after termination of the
16 forgivable loan, whichever is earlier.

17 (c) Any person failing to complete a program of study which will
18 enable the person to become a licensed teacher shall begin repaying the note
19 according to the terms of the note for the sum of all forgivable loan awards
20 made to that person less the corresponding amount of any awards for which
21 service has been rendered.

22 (d)(1) Except as provided in subdivision (d)(2) of this section, any
23 person failing to complete the teaching obligation as required by this
24 subchapter shall become immediately liable to the Department of Higher
25 Education for the sum of all forgivable loan awards made to that person less
26 the corresponding amount of any awards for which service has been rendered
27 according to the note's terms.

28 (2) The Department of Higher Education may defer payment on the
29 note if an employment position is not immediately available upon a teacher's
30 completion of licensure requirements or for other just cause as determined by
31 the Department of Education.

32 (3) After the period of deferral, the person shall begin or
33 resume teaching duties as required under this section or shall become liable
34 to the Department of Higher Education under this section.

35 (e) If a claim for payment under this section is placed in the hands
36 of an attorney for collection, the obligor shall be liable for an additional

1 amount equal to a reasonable attorney's fee.

2 (f) The obligations made by the recipient of a forgivable loan under §
3 6-85-109 and this section shall not be voidable by reason of the age of the
4 student at the time of receiving the forgivable loan award.

5
6 6-85-111. End-of-course assessment requirements.

7 The Department of Higher Education may recognize a sub-score of
8 nineteen (19) or higher in the applicable subject area on the American
9 College Test as meeting the requirements for passing end-of-course
10 assessments under the Arkansas Academic Challenge Scholarship Program and the
11 Arkansas Governor's Scholars Program for a student who:

12 (1) Has not had an opportunity to take an end-of-course
13 assessment;

14 (2) Has not passed the end-of-course assessment; or

15 (3) Is attending a private school or home school.

16
17 SUBCHAPTER 2

18 ARKANSAS ACADEMIC CHALLENGE SCHOLARSHIP PROGRAM – PART 2

19
20 6-85-201. Findings.

21 The General Assembly finds that:

22 (1) In approving Arkansas Constitution, Amendment 87, the citizens of
23 this state provided an opportunity to increase the resources provided for
24 higher education scholarships and grants through a state lottery; and

25 (2) The net proceeds from the state lottery, in addition to
26 existing nonlottery state educational resources for scholarships and grants,
27 will:

28 (A) Encourage associate degree recipients and university
29 juniors to complete a baccalaureate degree;

30 (B) Provide opportunities for students more than one (1)
31 year out of high school to enter or reenter higher education;

32 (C) Provide an improved system of communication to
33 students and parents about opportunities for higher education scholarships
34 and grants in Arkansas; and

35 (D) Provide an evaluation and analysis of all state
36 funding for scholarships and grants and how the funding advances the state's

1 goals for higher education.

2
3 6-85-202. Creation.

4 The Arkansas Academic Challenge Scholarship Program – Part 2 is hereby
5 created and established.

6
7 6-85-203. Applicability.

8 (a) This subchapter is applicable to students who apply for a
9 scholarship under the Arkansas Academic Challenge Scholarship Program – Part
10 2 for the academic year 2010-2011 and each academic year thereafter.

11 (b) Except to the extent of an award amount under § 6-85-107(b)(2), a
12 recipient of a scholarship under the Arkansas Academic Challenge Scholarship
13 Program – Part 1, § 6-85-101 et seq., is not eligible for an additional
14 scholarship under this subchapter.

15 (c) Recipients of Arkansas Governor’s Distinguished Scholarships are
16 prohibited from receiving Arkansas Academic Challenge Scholarships under this
17 subchapter.

18
19 6-85-204. Definitions.

20 As used in this subchapter:

21 (1) "ACT" means the ACT Assessment administered by ACT, Inc.;

22 (2) "ACT equivalent" means the Scholastic Aptitude Test (SAT),
23 COMPASS, Accuplacer, or other nationally normed test that is correlated with
24 the ACT and approved by the Department of Higher Education for use by
25 institutions of higher education to assess a person’s college readiness;

26 (3) "Approved institution of higher education" means an
27 institution of higher education approved by the Department of Higher
28 Education to participate in the Arkansas Academic Challenge Scholarship –
29 Part 2 and that is:

30 (A) A state-supported two-year or four-year college or
31 university; or

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

35 (4) "General Educational Development test" means a test
36 measuring the knowledge and skills usually learned in high school that is

1 administered by a state-approved institution or organization;

2 (5) "High school grade point average" means the numbered grade
3 average on a student's high school transcript calculated using the first
4 seven (7) of the last eight (8) semesters the student completed prior to
5 graduating high school;

6 (6) "Lawful permanent resident" means a non-United States
7 citizen who resides in the United States under a legally recognized and
8 lawfully recorded permanent residence and who may receive state public
9 benefits under 8 U.S.C. § 1622;

10 (7) "Net proceeds from the state lottery" means lottery proceeds
11 less operating expenses, as defined in § 23-115-103;

12 (8) "Nonlottery state educational resources" means the funding
13 available for state-supported scholarships and grants for students enrolled
14 in two-year and four-year institutions of higher education in this state
15 that:

16 (A) The General Assembly makes available from general
17 revenue to the Higher Education Grants Fund Account without consideration of
18 the availability of proceeds from the state lottery; and

19 (B) The Department of Finance and Administration estimates
20 is available for distribution to the Department of Higher Education Grants
21 Fund Account during a fiscal year from the Educational Excellence Trust Fund;

22 (9) "Nontraditional student" means a student who is not a
23 traditional student;

24 (10) "Personally identifiable student data" means any
25 information that, alone or in combination with other available information,
26 is linked or linkable to a specific student that would allow a reasonable
27 person in the school community to identify the student with reasonable
28 certainty;

29 (11) "Postsecondary grade point average" means the cumulative
30 numbered grade average for college credit courses as calculated using a 4.0
31 scale;

32 (12) "Qualified certificate program" means a program that is:

33 (A) Offered by an approved institution of higher
34 education;

35 (B) Shorter in duration than an associate degree for which
36 credit hours are awarded that are creditable toward an associate degree; and

1 (C) Recognized by the United States Department of
2 Education for financial aid purposes;

3 (13) "Recipient" means an applicant awarded a scholarship funded
4 through the program; and

5 (14) "State-supported student financial assistance" means:

6 (A) A state-supported scholarship or grant awarded by the
7 Department of Higher Education; and

8 (B) A scholarship or grant awarded by an institution of
9 higher education in whole or in part by public funds, including without
10 limitation:

11 (i) Scholarships awarded on the basis of entrance
12 exam scores or high school academic achievement;

13 (ii) Tuition waivers based on age, military service,
14 occupation, or other factors;

15 (iii) Out-of-state tuition waivers for undergraduate
16 students from contiguous states in close proximity to a college or
17 university;

18 (iv) Scholarships for transfers from two-year
19 institutions;

20 (v) Performance scholarships for band, musical
21 performing groups, arts, theater, forensics, and similar activities that are
22 not awarded on the basis of entrance exam scores or high school academic
23 achievement; and

24 (vi) Any other publicly-funded program under which
25 students are not charged by the institution of higher education for tuition,
26 fees, books, or other costs of attendance;

27 (15) "Traditional student" means a student who will enter
28 postsecondary education as a full-time first-time freshman within twelve (12)
29 months after graduating from high school and remains continuously enrolled.

30
31 6-85-205. Authority and duties of the Department of Higher Education.

32 (a)(1) The Department of Higher Education shall develop and promulgate
33 rules for the administration of the Arkansas Academic Challenge Scholarship
34 Program, consistent with the purposes and requirements of this subchapter.

35 (2) At least ten (10) business days before the date the
36 Department of Higher Education files with the Bureau of Legislative Research

1 under § 25-15-204 a proposed rule or proposed change to a rule promulgated
2 under this subchapter, the Department of Higher Education shall file a copy
3 of the proposed rule or proposed change to a rule with the Arkansas Lottery
4 Commission Legislative Oversight Committee.

5 (b) The rules developed and promulgated by the Department of Higher
6 Education under this section shall pertain to:

7 (1) Student eligibility criteria based on the provisions of this
8 subchapter

9 (2) The method for selecting scholarship recipients, rules for
10 determining continuing eligibility;

11 (3) The procedures for making payment to an approved institution
12 of higher where the recipient is enrolled; and

13 (4) Other administrative procedures that may be necessary for
14 the implementation and operation of the program.

15 (c) The Department of Higher Education shall implement a complete
16 financial aid management system that uses a single application form that may
17 be accessed as a web-based application for all Arkansas state and lottery-
18 funded student financial assistance administered by the Department of Higher
19 Education, including:

20 (1) Scholarships awarded under this subchapter or other state
21 law that are funded with net proceeds from the state lottery; and

22 (2) Scholarships, grants, or other financial assistance for
23 higher education students funded with nonlottery state educational resources.

24 (d)(1) The Department of Education and the Department of Higher
25 Education are directed to develop appropriate informational materials on the
26 Arkansas Academic Challenge Scholarship Program and to ensure distribution of
27 the materials to Arkansas students in grade seven through grade twelve (7-12)
28 each year as a part of the packet of materials on precollegiate preparation
29 distributed by the Department of Education as required by § 6-61-217.

30 (2) The distribution of materials shall be accomplished through
31 the collaboration of school counselors and other appropriate public school or
32 Department of Higher Education personnel.

33 (e) The Director of the Department of Higher Education shall review
34 and evaluate the operation of the program with regard to eligibility criteria
35 and size of the scholarship award to ensure that the program's operation
36 meets the intent of this subchapter.

1 (f) The Department of Higher Education may determine the necessary
2 procedures for the awarding of scholarships if the number of eligible
3 applicants exceed the funds available based on the criteria under this
4 subchapter.

5 (g)(1) The Department of Higher Education shall report to the General
6 Assembly annually regarding the implementation of this subchapter.

7 (2) By August 1 of each year, the Department of Higher Education
8 shall provide to the Arkansas Lottery Commission Legislative Oversight
9 Committee an unaudited financial report on the administration of the Arkansas
10 Academic Challenge Scholarship Program for the fiscal year just ended.

11
12 6-85-206. Basic eligibility requirements.

13 The basic requirements for an applicant to be eligible for an award
14 from the Arkansas Academic Challenge Scholarship Program – Part 2 are:

15 (1)(A) The applicant has been an Arkansas resident for at least
16 the twelve (12) months immediately preceding the date the applicant will
17 enroll in an approved institution of higher education, and if the applicant
18 is less than eighteen (18) years of age, the applicant's parent or guardian
19 has maintained Arkansas residency for the same period of time.

20 (B) To be considered an Arkansas resident, an applicant
21 shall demonstrate residency by evidence deemed sufficient to the Department
22 of Higher Education, including without limitation information provided by the
23 applicant on the Free Application for Federal Student Aid or a subsequent
24 application required by the United States Department of Education for federal
25 financial aid;

26 (2) The applicant is a citizen of the United States or is a
27 lawful permanent resident;

28 (3)(A) The applicant is accepted for admission at an approved
29 institution of higher education as a full-time student or part-time student
30 in a program of study that leads to or is creditable toward:

31 (i) A baccalaureate degree;

32 (ii) An associate degree;

33 (iii) A certificate from a qualified certificate
34 program; or

35 (iv) A nursing school diploma or associate degree
36 under § 6-85-213.

1 (B) A full-time student shall complete at least twelve
2 (12) semester hours the first semester and fifteen (15) semester hours
3 thereafter or the equivalent, as defined by the Department of Higher
4 Education.

5 (C) A part-time student shall complete at least six (6)
6 semester hours but fewer than the minimum number of semester hours for a
7 full-time student, as defined by the Department of Higher Education;

8 (4) The applicant has not earned a baccalaureate degree;

9 (5) The applicant does not owe a refund on a Pell Grant, a
10 Supplemental Educational Opportunity Grant, a State Student Incentive Grant,
11 or a Leveraging Educational Assistance Partnering Grant award;

12 (6) The applicant is not in default on a National Defense/Direct
13 Student Loan, Perkins Loan, Stafford Loan, Supplemental Loan for Students,
14 Parent Loan for Undergraduate Students, Income Contingent Loan, William D.
15 Ford Federal Direct Loan, or Consolidated Loans Program;

16 (7) The applicant has not borrowed, as determined by the
17 approved institution of higher education to be attended, in excess of the
18 annual loan limits under the Federal Family Educational Loan Program Systems,
19 William D. Ford Federal Direct Loan Program, Income Contingent Loan
20 Demonstration Program, Stafford Loan Program, Parent Loan for Undergraduate
21 Students Program, or Supplemental Loan for Students Program in the same
22 academic year for which the student has applied for assistance under this
23 subchapter;

24 (8) The applicant is not incarcerated at the time of the
25 application for or during the time the applicant receives a scholarship under
26 this subchapter;

27 (9) The applicant has complied with United States Selective
28 Service System requirements for registration; and

29 (10) The applicant has completed and submitted to the United
30 States Department of Education a Free Application for Federal Student Aid or
31 a subsequent application required by the United States Department of
32 Education for federal financial aid; and

33 (11) The applicant certifies that he or she is drug-free and
34 pledges in writing on the application form to refrain from the use or abuse
35 of illegal substances in order to become eligible and maintain eligibility
36 for this program.

1
2 6-85-207. Additional eligibility requirements for traditional
3 students.

4 In addition to the requirements of §6-85-206, an applicant is eligible
5 as a traditional student if the applicant:

6 (1)(A) Graduated from an Arkansas public high school and has:

7 (i) Successfully completed the Smart Core curriculum
8 established by the Department of Education; and

9 (ii) Either:

10 (a) Achieved a high school grade point average
11 of at least 2.5; or

12 (b) Had a minimum composite score of nineteen
13 (19) on the ACT or the equivalent score on an ACT equivalent.

14 (B) If the applicant did not complete the Smart Core
15 curriculum, he or she shall have:

16 (i) Achieved a high school grade point average of at
17 least 2.5 and have a minimum composite score of nineteen (19) on the ACT or
18 the equivalent score on an ACT equivalent; or

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

22 (a) Algebra I;

23 (b) Geometry;

24 (c) Biology; and

25 (4) Literacy;

26 (2) Graduated from an Arkansas public high school that is
27 annually identified in the report by the Department of Education under § 6-
28 15-421 as a school in which twenty percent (20%) or more of the students
29 received a letter grade of "B" or higher but did not pass the end-of-course
30 assessment on the first attempt, whether or not the applicant completed the
31 Smart Core curriculum, has achieved a high school grade point average of at
32 least 2.5 and either:

33 (A) Has a minimum composite score of nineteen (19) on the
34 ACT or the equivalent score on an ACT equivalent; or

35 (B) Scored proficient or higher on all state-mandated end-
36 of-course assessments, including without limitation, end-of-course

1 assessments on:

2 (i) Algebra I;

3 (ii) Geometry;

4 (iii) Biology; and

5 (iv) Literacy.

6 (3) Has a learning disability identified under the Individuals
 7 with Disabilities Education Act, 20 U.S.C. § 1400 et seq., as it existed on
 8 July 1, 2009, and graduated from an Arkansas public high school but did not
 9 complete the Smart Core curriculum because the applicant's individualized
 10 education program under § 6-41-217 did not require it and has:

11 (A) Achieved a high school grade point average of at least
 12 2.5 and has a minimum composite score of nineteen (19) on the ACT or the
 13 equivalent score on an ACT equivalent; or

14 (B) Scored proficient or higher on all state-mandated end-
 15 of-course assessments, including without limitation, end-of-course
 16 assessments on:

17 (i) Algebra I;

18 (ii) Geometry;

19 (iii) Biology; and

20 (iv) Literacy.

21 (4) An applicant who graduated from a private or out-of-state
 22 high school or completed a high school curriculum at a home school shall have
 23 achieved a minimum composite score of nineteen (19) on the ACT or the
 24 equivalent score on an ACT equivalent test.

25
 26 6-85-208. Additional eligibility requirements for a nontraditional
 27 student.

28 An applicant is eligible as a nontraditional student if, in addition to
 29 the requirements of § 6-85-206, the applicant also:

30 (1)(A) Graduated from an Arkansas high school and achieved a 2.5
 31 high school grade point average.

32 (B) A private secondary school, an out-of-state high
 33 school, and a home school do not qualify as an Arkansas high school;

34 (2) Had a minimum composite score of nineteen (19) on the ACT or
 35 the equivalent score on an ACT equivalent; or

36 (3) Completed at least twelve (12) semester hours of three-hour

1 courses for credit at an approved institution of higher education and earned
2 a postsecondary grade point average of at least 2.5.

3
4 6-85-209. Additional eligibility requirements for a student near
5 completion.

6 In addition to the requirements of § 6-85-206, an applicant is eligible
7 as a student near completion if at the time of applying for the scholarship
8 the applicant:

9 (1) Is enrolled in a two-year or four-year approved institution
10 of higher education; (2) Is within twenty-five percent (25%)
11 of the requirements for completion of an associate degree or baccalaureate
12 degree; and

13 (3) Has achieved a postsecondary grade point average of at least
14 2.5.

15
16 6-85-210. Continuing eligibility.

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

20 (1) Earns a baccalaureate degree;

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

24 (B) If the recipient's undergraduate degree requires
25 additional hours, the Department of Higher Education shall determine the
26 maximum period of time for renewal of the scholarship; or

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

30 (b) To maintain eligibility for an Arkansas Academic Challenge
31 Scholarship under this subchapter, a recipient shall meet the following
32 requirements:

33 (1) A recipient shall continue to meet the eligibility
34 requirements of §§ 6-85-204 and 6-85-205 while a recipient of a scholarship
35 under this subchapter;

36 (2)(A) A recipient shall meet the satisfactory academic progress

1 standards required to receive other financial aid at the approved institution
2 of higher education where the recipient is enrolled, as determined by the
3 rules of the Department of Higher Education.

4 (B) A recipient shall be continuously enrolled unless the
5 Department of Higher Education has approved a leave of absence for:

6 (i) A medical condition of the student or a member
7 of the student's immediate family;

8 (ii) A personal or family emergency;

9 (iii) Military service under § 6-61-112;

10 (iv) A commitment for twelve (12) months or more for
11 community, national, or global humanitarian service; or

12 (v) Any other reason approved by the Department of
13 Higher Education.

14 (C) A recipient is continuously enrolled if he or she
15 maintains enrollment at an approved institution of higher education in
16 consecutive semesters, not including any summer term, as a:

17 (i) Full-time student if the student receives a
18 scholarship under this subchapter for a full-time student; or

19 (ii) Part-time student if the student is receiving a
20 scholarship under this subchapter for a part-time student;

21 (3) A recipient who enrolls in one (1) or more remedial courses
22 shall complete all remedial courses required by the approved institution of
23 higher education by the time the student completes the first thirty (30)
24 semester hours attempted after receiving the scholarship;

25 (4) A recipient shall earn a postsecondary grade point average
26 of 2.5 or higher at an approved institution;

27 (5) A recipient shall be admitted to and enroll in a
28 baccalaureate degree program after attempting the lesser of:

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

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

34 (6) A recipient shall meet any other continuing eligibility
35 criteria established by the Department of Higher Education.

36 (c)(1) If a recipient becomes ineligible for the scholarship because

1 the recipient's postsecondary grade point average no longer meets the minimum
2 requirement for the scholarship, the recipient may regain eligibility under
3 this subsection (c) one (1) time only.

4 (2) Unless the requirements of this subsection are waived by the
5 Department of Higher Education, to regain eligibility for the scholarship:

6 (A) A full-time student shall complete at least fifteen
7 (15) semester hours of three-hour courses for credit at an approved
8 institution of higher education and achieve a 2.5 postsecondary grade point
9 average; and

10 (B) A part-time student shall complete at least six (6)
11 semester hours of three-hour courses for credit at an approved institution of
12 higher education and achieve a 2.5 postsecondary grade point average.

13 (3) If a recipient is subject to losing a scholarship under this
14 subsection due to a catastrophic event experienced by the recipient or a
15 family member of the recipient, the department may waive the requirements of
16 this subsection and determine the appropriate requirements for the recipient
17 to either retain or regain the scholarship.

18
19 6-85-211. Literacy tutoring.

20 (a) As an additional component to the Arkansas Academic Challenge
21 Scholarship:

22 (1) Each applicant for the scholarship shall agree that for each
23 year the scholarship is awarded he or she may volunteer to serve as a
24 literacy tutor for a minimum of twenty (20) clock hours each semester in a
25 public school or a faith-based educational institution serving students in
26 prekindergarten through grade six (preK-6);

27 (2) A recipient who agrees to volunteer as a literacy tutor:

28 (A) Shall complete the prerequisite training in literacy
29 and college readiness skills provided under this section before he or she
30 begins tutoring; and

31 (B) May receive college credit for the tutoring as
32 determined by the institution of higher education awarding the scholarship;
33 and

34 (3) An enrolled college student who participates in the tutorial
35 program and fails to meet the Arkansas Academic Challenge Scholarship
36 academic eligibility requirement for the fall or spring semester shall be

1 given the probationary opportunity during the subsequent spring or summer
2 term to continue his or her education and improve academic performance before
3 losing scholarship funding in the subsequent semester.

4 (b) A recipient who agrees to volunteer as a literacy tutor under this
5 section shall receive the prerequisite training in literacy and college
6 readiness from an approved institution of higher education based on training
7 modules developed by the Department of Education.

8
9 6-85-212. Scholarship award amounts.

10 (a)(1) The General Assembly may use net proceeds from the state
11 lottery to fund in whole or in part all scholarships the General Assembly
12 determines are necessary to meet the state's objective for broadening and
13 increasing access of Arkansas citizens to higher education.

14 (b) Net proceeds from the state lottery used to fund scholarships
15 under this subchapter shall:

16 (1) Be used exclusively for the purposes set out in Amendment
17 87 of the Arkansas Constitution and this subchapter; and

18 (2) Supplement and shall not supplant nonlottery state
19 educational resources.

20 (c)(1) The award amount and number and type of scholarships to be
21 awarded under this subsection shall remain in effect until changed by the
22 General Assembly.

23 (2) It is the intent of this section to first increase the
24 number of scholarships awarded to nontraditional students under § 6-85-208
25 and students near completion under § 6-85-209 before increasing award
26 amounts.

27 (d) The scholarships established under this subchapter are subject to
28 available funding and do not create for any student an entitlement to
29 financial assistance to enable the student's attendance at an approved
30 institution of higher education.

31 (e)(1) For the 2010-2011 academic year, the General Assembly shall
32 determine the scholarship award amount by February 28, 2010, based on the
33 amount of net proceeds from the state lottery reasonably projected to be
34 available for scholarships in the 2010-2011 academic year.

35 (2) The Department of Higher Education shall award an aggregate
36 amount of scholarship awards to nontraditional students beginning with the

1 2010-2011 academic year up to eight million dollars (\$8,000,000) to be
2 awarded based on the highest number of credit hours earned by the applicant
3 or on other criteria established by the Department of Higher Education.

4 (3) The scholarship award for a full-time student enrolled in a
5 two-year approved institution of higher education is one-half (1/2) of the
6 scholarship award amount for a full-time undergraduate student enrolled in a
7 four-year approved institution of higher education.

8 (4)(A) The department shall prorate the award amount for a part-
9 time recipient by multiplying the per semester hour award amount by the
10 number of semester hours a part-time recipient is enrolled in an academic
11 year.

12 (B) The per semester hour award amount is calculated as
13 the per-semester hour amount of an award to a traditional student based on
14 fifteen (15) semester hours as calculated by the Department of Higher
15 Education;

16 (c)(1) By November 1 of each year, the Arkansas Lottery Commission
17 Legislative Oversight Committee shall provide to the General Assembly its
18 recommendations for any changes to the:

19 (A) Award amounts;

20 (B) Number or type of scholarships; and

21 (C) Eligibility requirements.

22 (2) The committee may base its recommendations for scholarship
23 award amounts on the following guidelines and any additional information the
24 committee finds relevant to making the recommendations:

<u>Annual 2-yr</u>	<u>Annual 4-yr</u>	<u>If net lottery</u>	<u>Or equal to</u>
<u>institution</u>	<u>institution</u>	<u>proceeds are</u>	
<u>award amount</u>	<u>award amount</u>	<u>greater than</u>	
<u>\$1,250</u>	<u>\$2,500</u>	<u>\$ 48,873,602</u>	<u>\$ 59,883,523</u>
<u>\$1,500</u>	<u>\$3,000</u>	<u>\$ 59,883,523</u>	<u>\$ 70,893,443</u>
<u>\$1,750</u>	<u>\$3,500</u>	<u>\$ 70,893,443</u>	<u>\$ 81,903,364</u>
<u>\$2,000</u>	<u>\$4,000</u>	<u>\$ 81,903,364</u>	<u>\$ 92,913,284</u>
<u>\$2,250</u>	<u>\$4,500</u>	<u>\$ 92,913,284</u>	<u>\$103,923,205</u>
<u>\$2,500</u>	<u>\$5,000</u>	<u>\$103,923,205</u>	<u>\$114,933,125</u>
<u>\$2,750</u>	<u>\$5,500</u>	<u>\$114,933,125</u>	<u>\$125,943,046</u>
<u>\$3,000</u>	<u>\$6,000</u>	<u>\$125,943,046</u>	

1
2 (d) After the 2010-2011 academic year, the determination of the amount
3 of net proceeds from the state lottery available for each semester is based
4 on the Arkansas Lottery Commission's certification of net proceeds made in
5 July of the immediately preceding calendar year.

6 (e) The department shall ensure that sufficient funds remain available
7 to pay for scholarship awards through anticipated completion of the degree or
8 certificate a recipient is seeking and report the balance of those funds to
9 the General Assembly before the amount of awards under this subchapter are
10 increased by the General Assembly.

11 (f) All awards under this subchapter are subject to the prohibition
12 under § 6-80-105 against using public funds in a student financial package in
13 excess of the recognized cost of attendance at the institution where the
14 student is enrolled.

15 (g)(1) If the department has less than a sufficient amount to provide
16 for the scholarship commitments under this subchapter, the department first
17 shall use the department's Scholarships and Grants Contingency Appropriation
18 to fund the shortfall.

19 (2) The department then shall give priority for continued
20 financial support under this subchapter to a recipient who has continuing
21 eligibility superior to first-time applicants.

22 (3) If the funding is still insufficient to fully fund the
23 scholarships created under this subchapter, the department shall award
24 scholarships after considering:

25 (A) Applicants with the highest number of semester hours
26 completed;

27 (B) Applicants with the highest high school or
28 postsecondary grade point average, as applicable to the applicant; and

29 (C) Applicants who are enrolled in or intend to enroll in
30 an program of study that is:

31 (i) In an area of critical workforce need as
32 determined by the department; or

33 (ii) Is in a science, technology, engineering, or
34 mathematics field.

35
36 6-85-213. Nursing school eligibility.

1 (a)(1) The General Assembly recognizes that the State of Arkansas is
2 experiencing a critical shortage of nurses; and

3 (2) It is the intent of this section to allow the Department of
4 Higher Education the opportunity to include associate degree granting and
5 diploma schools of nursing in the Arkansas Academic Challenge Scholarship
6 Program under specific circumstances.

7 (b)(1) The department shall make awards to applicants attending either
8 an associate degree or diploma school preparing registered nurses that is
9 approved by the Arkansas State Board of Nursing and which would not otherwise
10 be an approved institution of higher education if:

11 (A) The applicant has qualified for an Arkansas Academic
12 Challenge Scholarship and is simultaneously enrolled in an approved two-year
13 college or a four-year college or university before or at the time of entry
14 into the nursing school and the applicant then transfers the scholarship to
15 an approved school of nursing after completing the two-year requirements
16 under the department's rules;

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

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

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

24
25 6-85-214. Accountability – Transparency – Legislative oversight.

26 (a) The General Assembly finds that:

27 (1) The continual evaluation of the Arkansas Academic Challenge
28 Scholarship Program and of all state-supported scholarship and grant programs
29 by the General Assembly is critical for maximizing the benefits to the state
30 and its citizens of state financial aid for higher education and meeting
31 state objectives for higher education; and

32 (2) Accountability and transparency in the implementation of
33 state-supported scholarship programs are fundamental to a proper evaluation
34 of the programs.

35 (b) The General Assembly finds that the collection of data and the
36 reports provided for under §§ 6-85-215 and 6-85-219 are necessary to ensure

1 accountability and transparency.

2
3 6-85-215. Student consent form.

4 (a)(1)(A) A student receiving any state-supported student financial
5 assistance for which an institution of higher education is required to
6 provide information under this section shall complete and sign a consent form
7 authorizing the release of the student's individual personal information to
8 the Bureau of Legislative Research and authorizing:

9 (i) The institution of higher education to provide
10 the bureau with academic progress information for the scholarship recipient;
11 and

12 (ii) The department to release the student's
13 individual personal information to the bureau.

14 (B) If a student is less than eighteen (18) years of age,
15 the student's parent shall complete and sign the consent form.

16 (2)(A) The student may opt out of the release of information. A
17 decision to opt out applies only to the release of information pursuant to
18 this section and does not apply to information released under any other
19 section of this subchapter or under any other law.

20 (B) In order to provide better statistical data, each
21 institution shall report the number of students who opt out.

22 (3) The consent form shall state that:

23 (i) The purpose for the bureau collecting data is to
24 guide the General Assembly's evaluation of the need for adjustments to
25 scholarship program eligibility and funding levels;

26 (ii) Personally identifiable information will not be
27 released by the bureau or the department; and

28 (iii) The student may opt out of the release of
29 information, and that opting out will not affect the student's eligibility
30 for a scholarship.

31 (4) The form shall list the categories of information authorized
32 for release under this section.

33 (5) The Director of the Bureau of Legislative Research may:

34 (A) Seek an opinion from Family Policy Compliance Office
35 of the United States Department of Education concerning the student consent
36 requirement and opt-out under this section; or

1 (B) Request the department to seek the opinion on behalf
2 of the bureau.

3 (b) The information consented to be released by the student shall
4 include:

5 (1) A unique student identifier;

6 (2) Status for PELL grant;

7 (3) Postsecondary grade point average;

8 (4) Number of semester hours attempted;

9 (5) Number of semester hours completed;

10 (6) Gender, race, ethnicity, and age;

11 (7) High school graduated from or General Educational
12 Development test score;

13 (8) High school grade point average; and

14 (9) ACT score or ACT equivalent test score, if available.

15 (c) This section does not apply to scholarships or other forms of
16 student financial assistance that are completely privately funded.

17 (d) Approved institutions of higher education shall undertake any
18 procedures necessary to ensure the collection of the information under this
19 section and shall provide it to the Bureau of Legislative Research in a
20 mutually agreed upon electronic format by November 1 of each school year for
21 students awarded for that academic year state-supported student financial
22 assistance.

23 (e)(1) The student data provided to the bureau under this section are
24 not subject to release under the Freedom of Information Act of 1967, § 25-19-
25 101 et seq.

26 (2) The bureau shall not release any personally identifiable
27 student data received under this section.

28 (f) The bureau shall inform the department of any data used in the
29 preparation of reports and provide the department at least two (2) working
30 days to review any student-related data used in preparation of reports before
31 publicly releasing that student-related data without personally identifiable
32 information.

33
34 6-85-216. Institution report to the department.

35 (a)(1) An approved institution of higher education that enrolls
36 students receiving scholarships under this subchapter annually shall provide

1 information, and semiannually provide updated information, to the Department
2 of Higher Education regarding all state-supported student financial
3 assistance whether or not awarded under this subchapter.

4 (2) The information shall be provided in the form of individual
5 student records and shall include without limitation information regarding;

6 (A) State-supported student financial assistance;

7 (B) Demographic student data; and

8 (C) Disaggregated data on remedial courses;

9 (b) The department shall establish by rule the:

10 (1) Specific data required;

11 (2) Manner of reporting the information required; and

12 (3) Technology or software required for reporting.

13 (c) The department shall use the information provided under this
14 section to conduct the research and analysis needed to support the annual
15 report of the director to the Arkansas Lottery Commission Legislative
16 Oversight Committee under § 6-85-205.

17
18 6-85-217. Information provided to the bureau by the department.

19 (a)(1) The Department of Higher Education shall provide to the Bureau
20 of Legislative Research the following data when requested for the purpose of
21 assisting the General Assembly with evaluation and analysis under this
22 subchapter:

23 (A) Existing individual student data;

24 (B) Institutional data;

25 (C) Financial data;

26 (D) Aggregate student scholarship and grant application
27 and award data; and

28 (E) Other data needed to track scholarship and grant
29 students from year to year.

30 (b)(1) To maintain confidentiality of individual student records in
31 accordance with the Family Educational Right to Privacy Act, 20 U.S.C. §
32 1232(g), the department shall establish a system for removing or recoding any
33 personally identifiable data in student records that are used by the bureau
34 for research and evaluation of scholarships and grants funded with net
35 proceeds from the state lottery and those funded with nonlottery state
36 educational resources.

1 (2) The bureau shall assist the department by providing input
2 concerning the development or modification of the system.

3 (3)(A) The Director of the Bureau of Legislative Research may
4 seek an opinion from Family Policy Compliance Office of the United States
5 Department of Education concerning the department's system, any proposed
6 modification of the system, or any request for information made by the bureau
7 under this section.

8 (B) The director may request the department to seek the
9 opinion on behalf of the bureau.

10 (c) The department shall make its staff reasonably accessible for
11 consultation with the bureau's staff in developing and responding
12 appropriately to bureau requests under this section.

13 (d)(1) The department shall provide data to the bureau in a database
14 or spreadsheet format.

15 (2) The department shall provide other information and records
16 requested by the bureau as soon as possible and in whatever reasonable form
17 requested.

18 (e)(1) The student data provided to the bureau under this section are
19 not subject to release under the Freedom of Information Act of 1967, § 25-19-
20 101 et seq.

21 (2) The bureau shall not release any personally identifiable
22 student data received under this section.

23 (f) The bureau's staff shall inform the department of any data used in
24 the preparation of reports and provide the department at least two (2)
25 working days to review any student-related data used in preparation of
26 reports before publicly releasing that student-related data without
27 personally identifiable information.

28
29 6-85-218. Reports to legislative committees.

30 (a)(1) Quarterly during fiscal years 2010 and 2011, the Department of
31 Higher Education shall report to the Arkansas Lottery Commission Legislative
32 Oversight Committee:

33 (A) The information required by subsection (b) of this
34 section to the extent the information is available;

35 (B) The costs of administering scholarships funded with net
36 proceeds from the state lottery;

1 (C) Projected levels of state funding for scholarships and
2 grants;

3 (D) Recommendations for changes to the program, including
4 without limitation, adjustments to eligibility requirements of the program
5 and award levels; and

6 (E) Other data the committee or the General Assembly may
7 require.

8 (2) The Arkansas Lottery Commission Legislative Oversight
9 Committee may specify criteria related to any item of information required by
10 this section.

11 (b)(1) Annually by July 1, the department shall report to the Arkansas
12 Lottery Commission Legislative Oversight Committee in the manner and format
13 that the committee requires on all state-supported student financial
14 assistance awarded by the department and awarded by approved institutions of
15 higher education.

16 (2) The information provided shall include without limitation:

17 (A) Current year expenditures for scholarships and grants
18 under the program;

19 (B) Projected obligations for succeeding years from each
20 scholarship or grant funding source;

21 (C) Fund balances for the:

22 (i) Higher Education Grants Fund Account; and

23 (ii) Trust account maintained by the Director of the
24 Department of Higher Education to hold the net proceeds from the state
25 lottery;

26 (D) An evaluation of whether the net proceeds from the
27 state lottery available for the program supplements and does not supplant
28 nonlottery state educational resources;

29 (F) Recommendations for changes to the program, including
30 without limitation:

31 (i) Adjustments to the eligibility requirements of
32 the program; and

33 (ii) Increases or decreases in the amounts awarded
34 for an Arkansas Academic Challenge Scholarship based on the amount of net
35 proceeds from the state lottery available; and

36 (H) Any other information that the Arkansas Lottery

1 Commission Legislative Oversight Committee or the General Assembly may
2 request.

3 (c) The department shall report to the Arkansas Lottery Commission
4 Legislative Oversight Committee, the House Committee on Education, the Senate
5 Committee on Education, and the Joint Budget Committee on the compliance with
6 § 6-85-217 by each approved institution of higher education.

7 (d) The Bureau of Legislative Research shall report to the Arkansas
8 Lottery Commission Legislative Oversight Committee, the House Committee on
9 Education, the Senate Committee on Education, and the Joint Budget Committee
10 on:

11 (1) The compliance with § 6-85-216 by approved institutions of
12 higher education; and

13 (2) The status of reporting by the department under § 6-85-218.

14
15 6-85-219. Arkansas Lottery Commission Legislative Oversight Committee -
16 Annual report.

17 (a) The Arkansas Lottery Commission Legislative Oversight Committee
18 shall:

19 (1) Oversee the development and implementation of state
20 statutory requirements with regard to the Arkansas Academic Challenge
21 Scholarship Program;

22 (2) Review whether and how the use of net state lottery proceeds
23 helps to accomplish state objectives for higher education;

24 (3) Review the ongoing data collection, research, and evaluation
25 of the program;

26 (4) Review the annual report of the Director of the Department
27 of Higher Education under this section;

28 (5) Review and recommend changes to the:

29 (A) Number of awards for each scholarship and grant;

30 (B) Award levels;

31 (C) Eligibility requirements; and

32 (D) Overall administration of the program; and

33 (6) Review and recommend policies for scholarships and grants
34 funded with nonlottery state educational resources, including without
35 limitation ways to ensure that net proceeds from the state lottery are used
36 to supplement and not supplant nonlottery state educational resources.

1 (b) By November 1 of each year, the committee shall report its
2 findings and recommendations to the Arkansas Lottery Commission, the
3 President Pro Tempore of the Senate, the Speaker of the House of
4 Representatives, the Governor, the House Committee on Education, and the
5 Senate Committee on Education.

6
7 SECTION 6. Arkansas Code Title 6, Chapter 5, Subchapter 4 is amended
8 to add an additional section to read as follows:

9 6-5-405. Professional development for higher education awareness.

10 (a) As used in this section, "state-supported student financial
11 assistance" means:

12 (1) A state-supported scholarship or grant awarded by the
13 Department of Higher Education; and

14 (2) A scholarship, grant, or tuition waiver awarded by an
15 institution of higher education funded in whole or in part with public funds.

16 (b) Beginning with the 2009 calendar year, professional development on
17 the availability of, eligibility requirements for, and the process of
18 applying for state-supported student financial assistance shall be required
19 for:

20 (1) All public school superintendents and assistant
21 superintendents; and

22 (2) The following licensed personnel at a public school where
23 students are enrolled in grade seven through grade twelve (7-12):

24 (A) Principals;

25 (B) Assistant principals; and

26 (C) Guidance counselors.

27 (c)(1) The first course shall be a three-hour course to be taken
28 within calendar year 2009, or within the first year of employment.

29 (2) After the first three-hour course is completed, a one-hour
30 course is required to be completed annually.

31 (d) The professional development hours required under this section
32 shall be counted toward the sixty (60) hours of the professional development
33 required for licensed school personnel under the Standards for Accreditation
34 of Arkansas Public Schools and School Districts.

35
36 SECTION 7. TEMPORARY. DO NOT CODIFY. The General Assembly requests

1 that:

2 (1) The Arkansas Education Association, in cooperation with the
3 Department of Higher Education, provide three (3) hours of professional
4 development on the availability of, eligibility requirements for, and the
5 process of applying for state-supported student financial assistance for
6 higher education at the association's annual convention, beginning with the
7 2009 annual convention;

8 (2) The Arkansas School Boards Association provide continuing
9 education on the availability of, eligibility requirements for, and the
10 process of applying for s state-supported student financial assistance for
11 higher education at its meetings; and

12 (3) The Arkansas Education Television Network, in coordination
13 with the Department of Higher Education, prepare a program of three (3) hours
14 of professional development to be available during 2009 covering the
15 availability, eligibility requirements for, and the process of applying for
16 state-supported student financial assistance for higher education.

17
18 **SECTION 8. TEMPORARY. DO NOT CODIFY.**

19 (a) The Director of the Department of Higher Education shall
20 determine the amount of excess net proceeds from the state lottery by
21 calculating the difference between:

22 (1) The amount committed to scholarships awarded under the
23 Academic Challenge Scholarship Program – Part 1 and the scholarships for
24 traditional students and nontraditional students under the Academic Challenge
25 Scholarship Program – Part 2; and

26 (2) The amount of net proceeds from the state lottery
27 reasonably projected for the 2010-2011 academic year as determined by the
28 director after consultation with the Arkansas Lottery Commission.
29 Legislative Oversight Committee, the House Committee on Education, and the
30 Senate Committee on Education.

31 (b) The amount of excess net proceeds from the state lottery shall
32 only be available for one (1) or more of the following:

33 (1) Awarding scholarships to students near completion;

34 (2) Increasing state-supported student financial assistance
35 under the Higher Education Opportunities Grant Program, § 6-82-1601 et seq.
36 and the Workforce Improvement Grant Program, § 6-82-1501 et seq., or other

1 state-supported student financial assistance programs for nontraditional
2 students; or

3 (3) Establishing a reserve fund.

4 (c) By July 15, 2010, the Director of the Department of Higher
5 Education shall prepare a report on the projected distribution of excess net
6 proceeds from the state lottery based on:

7 (1) The award amounts set by the General Assembly in February
8 2010 under this act;

9 (2) The amount of excess net proceeds from the state lottery
10 reasonably projected to be available for funding scholarships under this act;

11 (3) The number of applications accepted for the 2010-2011
12 academic year under this act;

13 (4) The number of applicants on the waiting lists for
14 scholarships to be awarded under this act;

15 (5) Of the applicants on the waiting list, whether the
16 applicants are traditional students, nontraditional students, or students
17 near completion;

18 (d) The director shall provide the report to the Arkansas Lottery
19 Commission Legislative Oversight Committee, the House Committee on Education,
20 and the Senate Committee on Education for review.

21 (e)(1) The department shall maintain a list of students near
22 completion and shall award scholarships first in order of those nearest
23 completion.

24 (2) The amount of the award per student per year shall be
25 determined by dividing the number of hours until completion by thirty (30)
26 and multiplying by the amount the legislature sets for the award for
27 baccalaureate students.

28 (3) The amount of the award for associate degree students shall
29 be determined by dividing the number of hours until completion by fifteen
30 (15) and multiplying by the amount the legislature sets for two-year
31 students.

32
33 SECTION 9. Arkansas Code § 6-61-220(b), concerning the reporting of
34 students who require remediation in their first year of postsecondary
35 education, is amended to add an additional subdivision to read as follows:

36 (3)(A) For the purpose of analysis by the Bureau of Legislative

1 Research to guide the General Assembly's evaluation of the need for
2 adjustments to eligibility and funding levels for state-supported student
3 financial assistance, the Office of Accountability of the Department of
4 Education shall provide annually to the bureau all individual student
5 demographic and test result data on ACT or ACT equivalent college placement
6 exams.

7 (B) The office shall provide the data in a database or
8 spreadsheet format that omits personally identifiable information.

9
10 SECTION 10. Arkansas Code § 10-3-314 is amended to read as follows:

11 10-3-314. Report on claim filed with State Claims Commission.

12 (a) ~~It~~ Except as provided by subsection (b) of this section, it is the
13 intent of the General Assembly that when any state agency, board, commission,
14 or institution of higher education admits liability to a claim filed with the
15 State Claims Commission and the claim involves a contract with a state
16 agency, board, commission, or institution of higher education or the claim
17 exceeds seven thousand five hundred dollars (\$7,500) that such agency, board,
18 commission, or institution of higher education file a written report thereof
19 with the Litigation Subcommittee of the Legislative Council. The report shall
20 include a concise statement of facts with an explanation of the agency's
21 liability. Provided further, such report shall be filed with the litigation
22 subcommittee within thirty (30) days after the claim has been adjudicated by
23 the State Claims Commission.

24 (b) The Arkansas Lottery Commission shall file its written report
25 under subsection (a) of this section with the Arkansas Lottery Commission
26 Legislative Oversight Committee.

27
28 SECTION 11. Arkansas Code § 26-18-1001 is amended to read as follows:

29 26-18-1001. Business closure authority – Notice.

30 (a) In addition to all other remedies provided by law for the
31 collection of unpaid taxes, the Director of the Department of Finance and
32 Administration may close the business of a noncompliant taxpayer as defined
33 by § 26-18-104, subject to the administrative and judicial appeal procedures
34 in this subchapter, if the noncompliant taxpayer for three (3) times within
35 any consecutive twenty-four-month period fails to either:

36 (1) Report gross receipts or compensating use tax in the manner

1 required by Arkansas law; or

2 (2) Remit gross receipts or compensating use tax for the
3 reporting period that the tax is due.

4 (b)(1) The director shall give notice to the noncompliant taxpayer
5 that the third delinquency in reporting or remitting tax in any consecutive
6 twenty-four-month period will result in the closure of the business.

7 (2) The notice must be in writing and delivered to the
8 noncompliant taxpayer by the United States Postal Service or by hand
9 delivery.

10 (c)(1) If the noncompliant taxpayer has a third delinquency in
11 reporting or remitting tax in any consecutive twenty-four-month period after
12 the issuance of the notice provided in subsection (b) of this section, the
13 director shall notify the noncompliant taxpayer by certified mail or by hand
14 delivery that the business will be closed within five (5) business days from
15 the date of the notice unless the noncompliant taxpayer makes arrangements
16 with the director to satisfy the tax delinquency.

17 (2) When the fifth day falls on a Saturday, Sunday, or legal
18 holiday, the performance of the act is considered timely if it is performed
19 on the next succeeding business day that is not a Saturday, Sunday, or legal
20 holiday.

21 (d) A noncompliant taxpayer may avoid closure of the business by:

22 (1) Filing all delinquent reports and by remitting the
23 delinquent tax including any interest and penalty; or

24 (2) Entering into a payment agreement approved by the director
25 to satisfy the tax delinquency.

26 (e) After written notice delivered to a lottery retailer by the United
27 States Postal Service or by hand delivery, the Director of the Department of
28 Finance and Administration may pursue a remedy under this subchapter against
29 a lottery retailer as a noncompliant taxpayer upon receiving a referral from
30 the Arkansas Lottery Commission under § 23-115-605.

31
32 SECTION 12. NOT TO BE CODIFIED. Initial appointments to the Arkansas
33 Lottery Commission under § 23-115-202 shall be made within thirty (30) days
34 of the effective date of this act.

35
36 SECTION 13. NOT TO BE CODIFIED. REGULAR SALARIES. There is hereby

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

<u>Item Class</u>			<u>Maximum</u>	<u>Maximum Annual</u>
<u>No.</u>	<u>Code</u>	<u>Title</u>	<u>No. of</u>	<u>Salary Rate</u>
			<u>Employees</u>	<u>Fiscal Year</u>
				<u>2009-2010</u>
<u>(01)</u>		<u>LOTTERY CMSN EXECUTIVE DIRECTOR</u>	<u>1</u>	<u>\$141,603</u>
<u>(02)</u>		<u>LOTTERY CMSN INTERNAL AUDITOR</u>	<u>1</u>	<u>\$141,603</u>
<u>(03)</u>		<u>LOTTERY CMSN CHIEF OPERATING OFFICER</u>	<u>1</u>	<u>\$126,050</u>
<u>(04)</u>		<u>LOTTERY CMSN INFORMATION TECH DIR</u>	<u>1</u>	<u>GRADE N912</u>
<u>(05)</u>		<u>LOTTERY CMSN ADMIN & OPERATIONS DIR</u>	<u>1</u>	<u>GRADE N912</u>
<u>(06)</u>		<u>LOTTERY CMSN CHIEF LEGAL COUNSEL</u>	<u>1</u>	<u>GRADE N910</u>
<u>(07)</u>		<u>LOTTERY CMSN CHIEF FISCAL OFFICER</u>	<u>1</u>	<u>GRADE N910</u>
<u>(08)</u>		<u>LOTTERY CMSM MARKETING & PROD DEV DIR</u>	<u>1</u>	<u>GRADE N909</u>
<u>(09)</u>		<u>LOTTERY CMSN SALES/RETAIL RELATIONS DIR</u>	<u>1</u>	<u>GRADE N909</u>
<u>(10)</u>		<u>LOTTERY CMSN PROCUREMENT DIRECTOR</u>	<u>1</u>	<u>GRADE N908</u>
<u>(11)</u>		<u>LOTTERY CMSN ADMIN ANALYST</u>	<u>2</u>	<u>GRADE C115</u>
<u>(12)</u>		<u>LOTTERY CMSN ADMIN SUPPORT SUPERVISOR</u>	<u>2</u>	<u>GRADE C113</u>
<u>(13)</u>		<u>LOTTERY CMSN ADMIN SUPPORT SPEC III</u>	<u>6</u>	<u>GRADE C112</u>

34 SECTION 14. NOT TO BE CODIFIED. SPECIAL SALARY ALLOWANCES – ARKANSAS
 35 LOTTERY COMMISSION ADMINISTRATION. (a) The Arkansas Lottery Commission,
 36 upon approval of the Arkansas Lottery Commission Legislative Oversight

1 Committee, may make special salary allowances authorized by this section in
2 amounts as the commission may determine equitable in view of the exacting
3 duties which are involved as a part of the salary of the:

4 (1) Executive Director of the commission;

5 (2) Internal Auditor of the commission; and

6 (3) Chief Operating Officer of the commission.

7 (b) An allowance under subsection (a) of this section shall not exceed
8 an amount equal to two and one half (2 & 1/2) times the salary for the
9 position authorized by the General Assembly.

10
11 SECTION 15. NOT TO BE CODIFIED. ARKANSAS LOTTERY COMMISSION EXPANSION
12 POSITION POOL. (a) The Arkansas Lottery Commission is authorized an
13 expansion pool of sixty (60) positions not to exceed the career service grade
14 C130 and fifteen (15) positions not to exceed the professional and executive
15 grade N922 to be used to establish additional positions of the proper title
16 and salary if the commission does not have sufficient positions available to
17 address growth needs.

18 (b) A position established under this section shall not exceed a
19 salary rate in excess of the highest rate established by grade or by line
20 item in this act.

21 (c) No position shall be authorized from the expansion pool until the
22 specific positions that are requested by the commission are reviewed by the
23 Arkansas Lottery Commission Legislative Oversight Committee.

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

28 (e)(1) The requirement of review by the committee prior to authorizing
29 positions from the expansion pool is not a severable part of this section.

30 (2) If the requirement of review by the committee is ruled
31 unconstitutional by a court of competent jurisdiction, Section 15 of this act
32 is void.

33
34 SECTION 16. NOT TO BE CODIFIED. If any provision of this act or its
35 application to any person or circumstance is held invalid, the invalidity
36 does not affect other provisions or applications of this act which can be

1 given effect without the invalid provision or application, and to this end
2 the provisions of this act are severable under § 1-2-117.

3
4 SECTION 17. EMERGENCY CLAUSE. It is found and determined by the
5 General Assembly of the State of Arkansas that the people of the State of
6 Arkansas overwhelmingly approved the establishment of state lotteries at the
7 2008 General Election, that state lotteries will provide funding for
8 scholarships to citizens of this state, and that the state lotteries should
9 be implemented as soon as possible to effectuate the will of the citizens of
10 this state and implement lottery-funded scholarships as soon as possible.
11 Therefore, an emergency is declared to exist and this act being immediately
12 necessary for the preservation of the public peace, health, and safety shall
13 become effective on:

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

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

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

20 /s/ T. Smith
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