

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 S3/16/09

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, Cole, Powers
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) "Administrative order" means the final disposition of the Arkansas Lottery Commission in any matter other than a claim in contract or

1 in tort, including without limitation licensing, in which the Arkansas
2 Lottery Commission is required by law to make its determination after notice
3 and a hearing;

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

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

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

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

13 (B) Either:

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

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

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

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

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

34 (8) "Incompetency" means:

35 (A) Gross ignorance of official duties;

36 (B) Gross carelessness in the discharge of official

1 duties; or

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

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

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

17 (11) "Local government" means:

18 (A) A county;

19 (B) A city of the first class or a city of the second
20 class;

21 (C) An incorporated town; or

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

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

27 (B) "Lottery" includes without limitation:

28 (i) An instant ticket;

29 (ii) A draw game; and

30 (iii) Participation in a multistate or
31 multisovereign game.

32 (C) "Lottery" does not include:

33 (i) Casino gambling;

34 (ii) A video lottery;

35 (iii) Pari-mutuel wagering on horse racing or
36 greyhound racing governed by the Arkansas Horse Racing Law, § 23-110-101 et

1 seq., or the Arkansas Greyhound Racing Law, § 23-111-101 et seq., whether the
2 pari-mutuel wagering is on live racing, simulcast racing, or races conducted
3 in the past and rebroadcast by electronic means;

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

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

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

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

16 (i) A major advertising contract;

17 (ii) An annuity contract;

18 (iii) A prize payment agreement;

19 (iv) A consulting service;

20 (v) Lottery equipment;

21 (vi) Tickets; and

22 (vii) Any other product and service unique to
23 lotteries.

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

27 (C) If the commission executes a contract in which the
28 cost of the contract is calculated on a contingent basis, the commission
29 shall estimate the value of the contract to determine if it is a major
30 procurement contract;

31 (15) "Member of a minority" means an individual who is a member
32 of a race that comprises less than fifty percent (50%) of the total
33 population of the state;

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

35 (A) An individual who is a member of a minority who
36 reports as his or her personal income for Arkansas income tax purposes the

1 income of the business;

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

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

11 (17) "Net proceeds" means lottery proceeds less operating
12 expenses;

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

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

17 (A) Prizes, commissions, and other compensation paid to
18 retailers;

19 (B) Contracts for products or services necessary for the
20 operation of the lottery, including without limitation the execution of major
21 procurement contracts;

22 (C) Advertising and marketing costs;

23 (D) Personnel costs;

24 (E) Capital costs or depreciation of property and
25 equipment;

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

27 (G) The payment of sums to the Arkansas State Claims
28 Commission for the reconciliation of valid claims against the Arkansas
29 Lottery Commission;

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

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

33 (i) Reimburse the Department of Higher Education
34 for the costs of administering scholarship awards funded with net proceeds;
35 and

36 (ii) Replenish nonlottery state educational

1 resources expended by the Department of Higher Education on scholarship
2 awards otherwise funded with net proceeds;

3 (J) Amounts annually transferred to a fidelity fund under
4 § 23-115-603; and

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

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

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

12 (B) "Public official" includes an individual during the
13 time between the date he or she is elected and the date he or she takes
14 office;

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

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

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

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

24 (B) "Vendor" does not include:

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

26 (ii) A retailer; or

27 (iii) A state agency or instrumentality.

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

31 (26) "Video lottery" means a lottery game that allows a game to
32 be played using an electronic computer and an interactive computer terminal
33 device:

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

36 (B) Into which the player inserts coins, currency,

1 vouchers, or tokens as consideration in order for play to be available; and
2 (C) Through which the player may receive free games,
3 coins, tokens, or credits that may be redeemed for cash, annuitized payments
4 over time, a noncash prize, or nothing, as may be determined wholly or
5 predominantly by chance.

6
7 SUBCHAPTER 2

8 ARKANSAS LOTTERY COMMISSION

9
10 23-115-201. Arkansas Lottery Commission – Creation – Venue.

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

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

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

17
18 23-115-202. Members – Duties.

19 (a)(1) The Arkansas Lottery Commission consists of the following
20 members:

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

22 (B) Three (3) members appointed by the Speaker of the House of
23 Representatives; and

24 (C) Three (3) members appointed by the President Pro
25 Tempore of the Senate.

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

27 (A) A chair; and

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

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

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

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

32 and

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

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

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

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

3 (C) One (1) member shall serve a term of six (6) years.
4 (3) Of the initial appointees to the commission by the Speaker
5 of the House of Representatives:

6 (A) One (1) member shall serve a term of two (2) years;
7 (B) One (1) member shall serve a term of four (4) years;
8 and

9 (C) One (1) member shall serve a term of six (6) years.
10 (4) All succeeding appointments to the commission shall be for
11 terms of six (6) years.

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

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

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

18 (d)(1) The commission shall meet at least quarterly upon the call of
19 the chair.

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

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

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

25 (2) A member of the immediate family of a member of the General
26 Assembly.

27 (f) Members of the commission may receive expense reimbursement under
28 § 25-16-901 et seq.

29
30 23-115-203. Qualifications of commission members.

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

35 (2) Individuals appointed to the commission shall be residents
36 of the State of Arkansas.

1 (b)(1) An individual considered for appointment to the commission
2 shall apply to the Identification Bureau of the Department of Arkansas State
3 Police for a state and federal criminal background check, to be conducted by
4 the Identification Bureau of the Department of Arkansas State Police and the
5 Federal Bureau of Investigation.

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

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

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 appointing authority all releasable information obtained
16 concerning the applicant.

17 (c) An individual shall not be appointed as a commission member if the
18 individual has:

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

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

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

23 (d) Each member of the commission, before entering upon the discharge
24 of the duties of a commissioner, shall file with the Secretary of State the
25 constitutional oath of office.

26 (e) Upon the end of his or her term, a former member of the commission
27 shall not:

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

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

33
34 23-115-204. Lottery Retailer Advisory Board.

35 (a)(1) The Chair of the Arkansas Lottery Commission, subject to the
36 approval of a majority of a quorum of the Arkansas Lottery Commission, shall

1 appoint a Lottery Retailer Advisory Board to be composed of ten (10)
2 retailers.

3 (2) In making appointments to the board, the chair may consider
4 a broad spectrum of geographical, racial, gender, and business
5 characteristics of retailers.

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

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

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

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

14 (3) A member of the board shall not serve more than six (6)
15 terms.

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

17 (2) Members shall serve without compensation or reimbursement of
18 expenses.

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

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

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

24 (1) A member of the immediate family of a member of the
25 commission;

26 (2) A member of the immediate family of the director of the
27 commission; or

28 (3) A member of the immediate family of an employee of the
29 commission.

30
31 23-115-205. Commission powers.

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

36 (1) To adopt and alter a seal;

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

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

7 (4) To procure or to provide insurance;

8 (5) To hold copyrights, trademarks, and service marks and
9 enforce the commission's rights with respect to those copyrights, trademarks,
10 and service marks;

11 (6) To initiate, supervise, and administer the operation of
12 lotteries in accordance with this chapter and rules adopted under this
13 chapter;

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

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

18 (9) To acquire or lease real property and make improvements to
19 the real property and acquire by lease or by purchase personal property,
20 including without limitation:

21 (A) Computers;

22 (B) Mechanical, electronic, and online equipment and
23 terminals;

24 (C) Intangible property, including without limitation
25 computer programs, computer systems, and computer software; and

26 (D) Broadcast equipment;

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

31 (11) To employ:

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

33 (B) An internal auditor;

34 (12) To select and contract with vendors;

35 (13) To select and license retailers;

36 (14) To enter into contracts or agreements with state or local

1 law enforcement agencies for the performance of law enforcement, background
2 investigations, and security checks;

3 (15) To conduct background investigations and, if considered
4 necessary by the commission, credit investigations on each potential vendor
5 and retailer;

6 (16) To supervise ticket or share validation and lottery
7 drawings;

8 (17) To inspect at times determined solely by the commission the
9 facilities of a vendor or a retailer to determine:

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

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

14 (18) To report any suspected violation of this chapter to the
15 appropriate prosecuting attorney or the Attorney General and to any law
16 enforcement agencies having jurisdiction over the violation;

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

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

23 (21) To establish and maintain banking relationships associated
24 with the maintenance and investment of lottery proceeds, including without
25 limitation the establishment of checking and savings accounts and trust
26 funds;

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

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

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

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

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

4 (B) An independent testing laboratory shall:

5 (i) Have a national reputation that is demonstrably
6 competent; and

7 (ii) Be qualified to scientifically test and
8 evaluate all components of a lottery game, lottery terminal, or lottery
9 operating system.

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

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

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

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

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

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

24
25 23-115-206. Internal controls – Annual audit.

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

28 (1) Establish and maintain effective internal controls over
29 financial reporting, including the monitoring of ongoing activities, and
30 comply with the Arkansas Constitution and applicable laws, rules, contracts,
31 agreements, and grants;

32 (2) Establish and maintain effective internal controls to
33 prevent and detect fraud, including without limitation a system of internal
34 audits;

35 (3) Include in any contract or license with a vendor or retailer
36 for data processing services or other computer services a provision

1 permitting the Division of Legislative Audit to have access and authority to
2 audit the computer systems of the vendor or retailer;

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

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

9 (6) Prepare the financial statements, including the related
10 notes to the financial statements, of the commission in accordance with
11 generally accepted accounting principles and in accordance with guidelines
12 and timelines established by the Chief Fiscal Officer of the State to permit
13 incorporation into the state's financial statements and to permit the audit
14 of the state's financial statements and the commission's financial statements
15 in a timely manner;

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

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

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

27 (ii) Future annual reports shall describe any
28 revisions to the organizational structure since the filing of the previous
29 annual report;

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

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

33 (B) Revenues received;

34 (C) Claims for lottery prizes;

35 (D) Lottery prizes paid;

36 (E) Lottery prizes forfeited; and

1 (F) Other financial transactions of the commission;
2 (10)(A) Submit to the Cochairs of the Arkansas Lottery
3 Commission Legislative Oversight Committee by April 30 of each year a copy of
4 the annual operating budget for the commission for the next fiscal year.

5 (B) The proposed operating budget shall be accompanied by:
6 (i) An estimate of the net proceeds to be available
7 for scholarships and grants during the succeeding fiscal year; and
8 (ii) The following information for each employment
9 classification:

10 (a) The total number of persons currently
11 employed;

12 (b) The number of white male employees;

13 (c) The number of white female employees;

14 (d) The total number of Caucasian employees;

15 (e) The number of black male employees;

16 (f) The number of black female employees;

17 (g) The number of other employees who are
18 members of racial minorities; and

19 (h) The total number of minorities currently
20 employed; 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 or the responsibilities of the commission or related entities, board
14 members, employees, vendors, retailers, or any other individuals or entities
15 to cooperate with the division or provide information or records requested by
16 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) If the commission elects to use electronic or
14 mechanical devices to sell tickets or shares, the commission shall provide by
15 rule:

16 (i) Specifications and required features for
17 electronic or mechanical devices that may be used to sell tickets or shares;
18 and

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

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

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

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

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

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

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

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

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

6
7 23-115-208. Sovereign immunity.

8 (a) This chapter does not waive the sovereign immunity of the State of
9 Arkansas.

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

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

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

19 (2) The claimant may:

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

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

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

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

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

1 (B) The Arkansas State Claims Commission shall consider an
2 appeal de novo.

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

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

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

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

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

17
18 23-115-209. Appealing administrative orders of the commission.

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

23 (b) The court shall hear appeals from administrative orders of the
24 commission, and based upon the record of the proceedings before the
25 commission, may reverse the administrative order of the commission only if
26 the person appealing the administrative order proves the administrative order
27 to be:

28 (1) Clearly erroneous;

29 (2) Arbitrary and capricious;

30 (3) Procured by fraud;

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

32 (5) Contrary to the United States Constitution, the Arkansas
33 Constitution, or this chapter.

34 (c) The circuit court may remand an appeal to the commission to
35 conduct further hearings.

36 (d)(1) A person who appeals the award of a contract, including without

1 limitation a major procurement contract, is liable for all costs of appeal
2 and defense if the appeal is denied or the contract award upheld.

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

7 (A) Court costs;

8 (B) Bond;

9 (C) Legal fees; and

10 (D) Loss of income.

11
12 23-115-210. Removal of commission member.

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

15 (A) Misconduct;

16 (B) Incompetence; or

17 (C) Any malfeasance in office.

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

21 (b) An order of removal of a commission member by the appointing
22 authority shall:

23 (1) Be in writing;

24 (2) Be delivered to the removed commission member or counsel for
25 the removed commission member; and

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

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

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

36 (d)(1) When the matter is heard by the circuit court, it shall be

1 tried de novo without a jury.

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

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

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

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

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

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

26
27 23-115-211. Certain sections inapplicable.

28 The following sections shall not apply the Arkansas Lottery Commission:

29 (1) Section 19-1-211;

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

31 (3) Section 19-1-609;

32 (4) Section 19-4-1802;

33 (5) Section 19-5-206; and

34 (6) Section 19-11-301 et seq.

35
36 SUBCHAPTER 3

1 EMPLOYEES OF ARKANSAS LOTTERY COMMISSION

2
3 23-115-301. Director – Appointment – Duties.

4 (a)(1)(A) The Arkansas Lottery Commission shall appoint the Director
5 of the Arkansas Lottery Commission.

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

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

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

11 (b)(1) An individual considered for appointment as director shall
12 apply to the Identification Bureau of the Department of Arkansas State Police
13 for a state and federal criminal background check to be conducted by the
14 Identification Bureau of the Department of Arkansas State Police and the
15 Federal Bureau of Investigation.

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

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

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

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

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

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

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

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

32
33 23-115-302. Duties of director.

34 (a) The Director of the Arkansas Lottery Commission shall direct and
35 supervise all administrative and technical activities related to the
36 operation of a lottery in accordance with this chapter and with rules adopted

1 by the Arkansas Lottery Commission.

2 (b) The director shall:

3 (1) Facilitate the initiation and supervise and administer the
4 operation of the lotteries;

5 (2) Direct personnel as deemed necessary;

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

7 (4) Appoint, select, and employ officers, agents, and employees,
8 including professional and administrative staff and personnel and hearing
9 officers, and fix their compensation and pay their expenses as authorized by
10 Arkansas law;

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

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

14 (7) Require bond from retailers and vendors in amounts as
15 required by the commission;

16 (8) Report monthly to the commission and the Arkansas Lottery
17 Commission Legislative Oversight Committee a complete statement of lottery
18 revenues and expenses for the preceding month and an accompanying statement
19 of net assets; and

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

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

25 (d) The director or his or her designee may conduct hearings and
26 administer oaths to persons to assure the security and integrity of lottery
27 operations or to determine the qualifications of or compliance by vendors and
28 retailers.

29
30 23-115-303. Employees – Background investigation.

31 (a) As required by Arkansas Constitution Article 16, § 4, the General
32 Assembly shall fix the salaries of all employees of the Arkansas Lottery
33 Commission, including without limitation the Director of the Arkansas Lottery
34 Commission.

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

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

4 (d)(1) A commission employee who leaves the employment of the
5 commission shall not:

6 (A) Represent a vendor or retailer before the commission
7 for a period of two (2) years after leaving the employment of the commission;
8 or

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

12 (2)(A) Subdivision (d)(1) of this section is supplemental to §
13 19-11-701 et seq.

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

18 (e)(1) Each person considered for employment by the commission shall
19 apply to the Identification Bureau of the Department of Arkansas State Police
20 for a state and federal criminal background check to be conducted by the
21 Identification Bureau of the Department of Arkansas State Police and the
22 Federal Bureau of Investigation.

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

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

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

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

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

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

- (2) Been convicted of a crime involving moral turpitude; or
- (3) Entered into a plea agreement to avoid felony prosecution.

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

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

23-115-304. Commission employees – Participation in Arkansas Public Employees’ Retirement System.

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

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

23-115-305. Regular salaries.

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

<u>Item Class</u>	<u>Maximum</u>	<u>Maximum Annual</u>
<u>No. Code Title</u>	<u>No. of</u>	<u>Salary Rate</u>
	<u>Employees</u>	

1	<u>(01)</u>	<u>LOTTERY CMSN EXECUTIVE DIRECTOR</u>	<u>1</u>	<u>\$141,603</u>
2	<u>(02)</u>	<u>LOTTERY CMSN INTERNAL AUDITOR</u>	<u>1</u>	<u>\$141,603</u>
3	<u>(03)</u>	<u>LOTTERY CMSN CHIEF OPERATING OFFICER</u>	<u>1</u>	<u>\$126,050</u>
4	<u>(04)</u>	<u>LOTTERY CMSN INFORMATION TECH DIR</u>	<u>1</u>	<u>GRADE N912</u>
5	<u>(05)</u>	<u>LOTTERY CMSN ADMIN & OPERATIONS DIR</u>	<u>1</u>	<u>GRADE N912</u>
6	<u>(06)</u>	<u>LOTTERY CMSN CHIEF LEGAL COUNSEL</u>	<u>1</u>	<u>GRADE N910</u>
7	<u>(07)</u>	<u>LOTTERY CMSN CHIEF FISCAL OFFICER</u>	<u>1</u>	<u>GRADE N910</u>
8	<u>(08)</u>	<u>LOTTERY CMSM MARKETING & PROD DEV DIR</u>	<u>1</u>	<u>GRADE N909</u>
9	<u>(09)</u>	<u>LOTTERY CMSN SALES/RETAIL RELATIONS DIR</u>	<u>1</u>	<u>GRADE N909</u>
10	<u>(10)</u>	<u>LOTTERY CMSN PROCUREMENT DIRECTOR</u>	<u>1</u>	<u>GRADE N908</u>
11	<u>(11)</u>	<u>LOTTERY CMSN ADMIN ANALYST</u>	<u>2</u>	<u>GRADE C115</u>
12	<u>(12)</u>	<u>LOTTERY CMSN ADMIN SUPPORT SUPERVISOR</u>	<u>2</u>	<u>GRADE C113</u>
13	<u>(13)</u>	<u>LOTTERY CMSN ADMIN SUPPORT SPEC III</u>	<u>6</u>	<u>GRADE C112</u>

14

15 23-115-306. Special salary allowances.

16 (a) The Arkansas Lottery Commission, upon approval of the Arkansas
 17 Lottery Commission Legislative Oversight Committee, may make special salary
 18 allowances authorized by this section in amounts as the commission may
 19 determine equitable in view of the exacting duties which are involved as a
 20 part of the salary of the:

21 (1) Executive Director of the Arkansas Lottery Commission;22 (2) Internal auditor of the commission; and23 (3) Chief operating officer of the commission.

24 (b) An allowance under subsection (a) of this section shall not exceed
 25 an amount equal to two and one half (2 1/2) times the salary for the position
 26 authorized by the General Assembly.

27

28 23-115-307. Expansion pool.

29 (a) The Arkansas Lottery Commission is authorized an expansion pool of
 30 sixty (60) positions not to exceed the career service grade C130 and fifteen
 31 (15) positions not to exceed the professional and executive grade N922 to be
 32 used to establish additional positions of the proper title and salary if the
 33 commission does not have sufficient positions available to address growth
 34 needs.

35 (b) A position established under this section shall not exceed a
 36 salary rate in excess of the highest rate established by grade or by line

1 item in this act.

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

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

9 (e)(1) The requirement of review by the committee prior to authorizing
10 positions from the expansion pool is not a severable part of this section.

11 (2) If the requirement of review by the committee is ruled
12 unconstitutional by a court of competent jurisdiction, this section is void.

13
14 SUBCHAPTER 4

15 OPERATION OF LOTTERY

16
17 23-115-401. Minority-owned and female-owned businesses.

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

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

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

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

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

1
2 23-115-402. Restriction on sales.

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

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

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

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

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

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

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

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

25 (f) An individual is not eligible to win a lottery prize while the
26 individual is incarcerated in:

27 (1) The Department of Correction;

28 (2) The Department of Community Correction; or

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

30
31 23-115-403. Attachments, garnishments, or executions withheld from
32 lottery prizes – Validity of tickets or shares – Lottery prize restrictions –
33 Unclaimed lottery prizes.

34 (a) Proceeds of a lottery prize are subject to Arkansas state income
35 tax.

36 (b)(1) Except as otherwise provided in this chapter, attachments,

1 garnishments, or executions authorized and issued under Arkansas law shall be
2 withheld if timely served upon the Arkansas Lottery Commission.

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

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

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

10 (B) A lottery prize or any portion of a lottery prize
11 remaining unpaid at the death of a lottery prize winner shall be paid to the
12 estate of the deceased lottery prize winner or to the trustee of a trust
13 established by the deceased lottery prize winner as settlor if:

14 (i) A copy of the trust document or instrument has
15 been filed with the commission along with a notarized letter of direction
16 from the settlor; and

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

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

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

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

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

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

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

36 (3)(A) A particular lottery prize in any lottery shall not be

1 paid more than one (1) time.

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

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

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

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

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

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

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

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

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

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

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

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

1 (A) Member of the commission;
2 (B) Employee of the commission; or
3 (C) Member of the immediate family of a member of the
4 commission or an employee of the commission.

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

9 (A) Officer, employee, agent, or subcontractor of the
10 vendor; or

11 (B) Immediate family of the officer, employee, agent, or
12 subcontractor of the vendor.

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

14 (2)(A) An annual amount of at least two hundred thousand dollars
15 (\$200,000) shall be directed to the Department of Health for the treatment of
16 compulsive gambling disorder and educational programs related to compulsive
17 gambling disorder.

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

21 (i) Programs for the treatment of compulsive
22 gambling disorder; and

23 (ii) Educational programs related to compulsive
24 gambling disorder.

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

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

29 (B) Used for special lottery prize promotions.

30

31 23-115-404. Confidential information.

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

35 (2) The following records or information in the possession of
36 the commission shall be treated as confidential and are exempt from public

1 disclosure under the Freedom of Information Act of 1967, § 25-19-101 et seq.:

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

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

5 (ii) Security reports; and

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

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

10
11 23-115-405. Intelligence sharing, reciprocal use, or restricted use
12 agreements.

13 (a) The Arkansas Lottery Commission may enter into an intelligence
14 sharing, reciprocal use, or restricted use agreement with the United States
15 Government, law enforcement agencies, lottery regulation agencies, and gaming
16 enforcement agencies of other jurisdictions that provide for and regulate the
17 use of information provided and received under the agreement.

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

23
24 23-115-406. Authority of local government.

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

27 (2) Local government shall not take any action, including
28 without limitation the adoption of an ordinance, relating to the operation of
29 lotteries.

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

33
34 23-115-407. Video lotteries prohibited.

35 A video lottery shall not be used as part of a lottery under this
36 chapter.

1
2 23-115-408. Video lotteries prohibited.

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

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

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

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

9
10 SUBCHAPTER 5

11 VENDORS

12
13 23-115-501. Vendors – Requirements when submitting a bid, proposal, or
14 offer – Major procurement contract.

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

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

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

22 (A)(i) If the vendor is a corporation, the officers,
23 directors, and each stockholder of more than a ten percent (10%) interest in
24 the corporation.

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

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

31 (C) If the vendor is an association, the members,
32 officers, and directors; and

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

35 (2) A disclosure of all the states and jurisdictions in which
36 the vendor does business and the nature of the business for each state or

1 jurisdiction;

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

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

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

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

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

24 (ii) If requested, a state and federal criminal
25 background check shall be conducted in the manner under 23-115-601(e);

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

30 (7) A disclosure of the vendor's most recent financial report,
31 including any reports on internal control over financial reporting, and the
32 most recent audit report of the vendor's operation as a service organization;
33 and

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

36 (c) If any portion of a vendor's contract is subcontracted, the vendor

1 shall disclose all of the information required by this section for the
2 subcontractor as if the subcontractor were itself a vendor.

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

5 (A) Has not complied with the disclosure requirements
6 described in subsection (b) of this section;

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

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

12 (2) The commission may terminate a major procurement contract
13 with a vendor that does not comply with requirements for periodically
14 updating disclosures during the tenure of the major procurement contract as
15 may be specified in the major procurement contract.

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

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

22 (A) The Director of the Arkansas Lottery Commission, a
23 commission member, a commission employee, or a member of the Arkansas Lottery
24 Commission Legislative Oversight Committee; or

25 (B) A member of the immediate family of the director, a
26 commission member, a commission employee, or a member of the Arkansas Lottery
27 Commission Legislative Oversight Committee.

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

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

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

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

1
2 23-115-502. Vendor – Performance bond or letter of credit.

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

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

11 (A) Interest bearing or accruing; and

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

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

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

19 (i) Approved by the commission; and

20 (ii) Organized and existing under the laws of this
21 state or under the laws of the United States;

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

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

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

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

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

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

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

1
2 23-115-503. Cancellation, suspension, revocation, or termination of
3 major procurement contract.

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

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

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

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

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

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

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

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

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

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

32
33 23-115-504. Political contributions by vendors.

34 (a) The General Assembly finds:

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

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

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

7
 8 SUBCHAPTER 6

9 RETAILERS

10
 11 23-115-601. Retailers.

12 (a) The General Assembly recognizes that to conduct a successful
 13 lottery, the Arkansas Lottery Commission must develop and maintain a
 14 statewide network of retailers that will serve the public convenience and
 15 promote the sale of tickets or shares and the playing of lotteries while
 16 ensuring the integrity of lottery operations, games, and activities.

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

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

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

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

27 (B) A license is not assignable or transferable.

28 (e)(1) A person considered as a retailer shall apply to the
 29 Identification Bureau of the Department of Arkansas State Police for a state
 30 and federal criminal background check, to be conducted by the Identification
 31 Bureau of the Department of Arkansas State Police and the Federal Bureau of
 32 Investigation.

33 (2) The state and federal criminal background check shall
 34 conform to the applicable federal standards and shall include the taking of
 35 fingerprints.

36 (3) The applicant shall sign a consent to the release of

1 information for the state and federal criminal background check.

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

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

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

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

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

14 (A) The applicant's financial responsibility;

15 (B) Security of the applicant's place of business or
16 activity;

17 (C) Accessibility to the public;

18 (D) The applicant's integrity; and

19 (E) The applicant's reputation.

20 (4) The commission shall not consider political affiliation,
21 activities, or monetary contributions to political organizations or
22 candidates for any public office.

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

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

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

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

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

35 (ii)(a) Has been convicted of any illegal gambling
36 activity, false statements, false swearing, or perjury in this or any other

1 jurisdiction or convicted of any crime punishable by more than one (1) year
2 of imprisonment or a fine of more than one thousand dollars (\$1,000), or
3 both.

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

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

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

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

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

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

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

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

23 (b) Subdivision (f)(5)(B)(vii)(a) of this
24 section does not preclude the commission from selling or giving away tickets
25 or shares for promotional purposes;

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

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

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

33 (g)(1) A retailer or an applicant to be a retailer shall not provide a
34 gift to:

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

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

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

5
6 23-115-602. Retailer license.

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

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

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

12
13 23-115-603. Fidelity fund – Retailer fee – Reserve account to cover
14 losses – Retailer bond.

15 (a)(1) The Arkansas Lottery Commission shall establish a fidelity fund
16 separate from all other funds and shall assess each retailer an annual fee
17 not to exceed one hundred dollars (\$100) per sales location to be deposited
18 into the fidelity fund.

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

20 (A) Invested or deposited into one (1) or more interest-
21 bearing accounts;

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

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

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

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

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

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

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

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

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

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

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

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

19 (3) The securities shall be held in trust in the name of the
20 commission.

21
22 23-115-604. Cancellation, suspension, revocation, or termination of
23 retailer license.

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

28 (1) Commission of a violation of this chapter or a rule of the
29 commission;

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

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

33 (4) Insufficient sales;

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

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

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

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

6 (b)(1) If upon approval of the commission the Director of the Arkansas
7 Lottery Commission or his or her designee determines that cancellation,
8 denial, revocation, suspension, or rejection of renewal of a retailer license
9 is in the best interest of lotteries, the public welfare, or the State of
10 Arkansas, the director or his or her designee may cancel, suspend, revoke, or
11 terminate, after notice and a right to a hearing, a retailer license issued
12 under this chapter.

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

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

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

22
23 23-115-605. Retailers – Fiduciary duty – Protection against loss.

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

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

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

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

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

34 (C) Net of allowable sales commissions; and

35 (D) Credit for lottery prizes paid to winners by
36 retailers.

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

3 (b)(1) The commission shall require retailers to place all lottery
4 proceeds due the commission in accounts in institutions insured by the
5 Federal Deposit Insurance Corporation not later than the close of the next
6 banking day after the date of their collection by the retailer until the date
7 they are paid to the commission.

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

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

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

13 (B) Making payments to the commission; and

14 (C) Receiving payments for the commission.

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

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

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

29
30 23-115-606. Retailer – Rental payments based on percentage of retail
31 sales.

32 If a retailer's rental payments for the business premises are
33 contractually computed, in whole or in part, on the basis of a percentage of
34 retail sales and the computation of retail sales is not explicitly defined to
35 include sales of tickets or shares, only the compensation received by the
36 retailer from the Arkansas Lottery Commission may be considered the amount of

1 the lottery retail sale for purposes of computing the rental payment.

2
3 SUBCHAPTER 7

4 PROCUREMENTS

5
6 23-115-701. Procurements – Major procurement contracts – Competitive
7 bidding.

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

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

13 (A) Lottery design;

14 (B) Ticket distribution to retailers;

15 (C) Supply of goods and services; and

16 (D) Advertising.

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

18 (A) Take into account the particularly sensitive nature of
19 lotteries; and

20 (B) Act to promote and ensure:

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

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

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

28 (c)(1) The commission shall adopt rules concerning the procurement
29 process for major procurement contracts.

30 (2) The commission shall arrange for the solicitation and
31 receipt of competitive bids for major procurement contracts.

32 (3) The commission is not required to accept the lowest
33 responsible bid for major procurement contracts but shall select a bid that
34 provides the greatest long-term benefit to the state, the greatest integrity
35 for the commission, and the best service and products for the public.

36 (d) In any bidding process, the commission may administer its own

1 bidding and procurement or may utilize the services of the Department of
2 Finance and Administration.

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

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

9
10 SUBCHAPTER 8

11 LOTTERY PROCEEDS

12
13 23-115-801. Lottery proceeds.

14 (a)(1) All lottery proceeds are the property of the Arkansas Lottery
15 Commission.

16 (2)(A) The commission shall pay its operating expenses from its
17 lottery proceeds.

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

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

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

25 (3) The percentage of lottery proceeds determined by the
26 commission to be net proceeds shall equal an amount determined by the
27 commission to maximize net proceeds.

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

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

34 (c)(1) The Director of the Department of Higher Education shall
35 certify to the commission the amount of net proceeds from the lottery needed
36 to:

1 (A) Fund the scholarships awarded to recipients under § 6-
2 85-201 et seq. for an academic year; and

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

6 (2)(A)(i) The commission shall transfer the funds requested by
7 the director under subdivision (c)(1) of this section into one (1) or more
8 trust accounts at one (1) or more financial institutions meeting the
9 requirements of subdivision (b)(2) of this section maintained by the
10 department.

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

13 (a) To an approved institution of higher
14 education; or

15 (b) If a recipient transfers to another
16 approved institution of higher education, to the approved institution of
17 higher education where the recipient transferred.

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

22 (A) Total deposits to all trust accounts;

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

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

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

26 (A) The administration of scholarships with proceeds from
27 the lottery are expenses of the commission; and

28 (B) Because the department has the expertise and
29 experienced staff needed to efficiently and appropriately administer the
30 scholarships, the commission shall use the services of the department to
31 administer scholarships funded with net proceeds from the lottery.

32 (2) The commission shall reimburse the department for the costs
33 of administering the scholarship awards funded with net proceeds from the
34 lottery after review of the reimbursement amount by the Arkansas Lottery
35 Commission Legislative Oversight Committee.

36 (3) The department shall refund to the Higher Education Grants

1 Fund Account the amount of a reimbursement received from the commission under
2 this subsection for services provided and funded from the fund account.

3
4 23-115-802. Scholarship shortfall reserve trust account.

5 (a) The Arkansas Lottery Commission shall maintain a scholarship
6 shortfall reserve trust account.

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

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

16 (c)(1) If net proceeds in any year are not sufficient to meet the
17 amount allocated for higher education scholarships, the scholarship shortfall
18 reserve trust account may be drawn upon to meet the deficiency.

19 (2) If it becomes necessary to draw from the scholarship
20 shortfall reserve trust account in any fiscal year, the Department of Higher
21 Education shall review the scholarship and grant program and shall reduce the
22 program to accommodate available lottery proceeds, exclusive of the
23 scholarship shortfall reserve trust account.

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

25
26 23-115-803. Disposition of funds.

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

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

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

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

36 (2)(A) Except as provided in subsection (a) of this section,

1 moneys in the General Revenue Fund Account of the State Apportionment Fund
2 shall not be used or obligated to pay the expenses of the commission or
3 prizes of a lottery.

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

7
8
9 SUBCHAPTER 9

10 PENALTIES

11
12 23-115-901. Sale of ticket or share to person under 18 years of age
13 prohibited – Penalty.

14 (a) A retailer who knowingly sells a ticket or share to a person under
15 eighteen (18) years of age or permits a person under eighteen (18) years of
16 age to play a lottery is guilty of a violation and subject to the following
17 penalties:

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

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

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

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

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

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

26 and

27 (B) Suspension of the retailer license issued under § 23-
28 115-601 et seq. for a period not to exceed seven (7) days;

29 (4) For a fourth or subsequent violation within a forty-eight-
30 month period:

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

32 and

33 (B) Suspension of the retailer license issued under § 23-
34 115-601 et seq. for a period not to exceed fourteen (14) days; and

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

1 revoked.

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

4 (c) It is an affirmative defense to a prosecution under this section
5 that the retailer reasonably and in good faith relied upon representation of
6 proof of age in making the sale.

7 (d) A person convicted of violating any provision of this section
8 whose retailer license is suspended or revoked upon conviction shall
9 surrender to the court his or her retailer license and the court shall
10 transmit the retailer license to the Arkansas Lottery Commission and instruct
11 the commission:

12 (1) To suspend or revoke the person's retailer license or to not
13 renew the license; and

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

16
17 23-115-902. Fraud – Penalty.

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

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

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

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

30
31 23-115-903. False statement on license application – Penalty.

32 (a) A person shall not knowingly make:

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

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

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

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

7
8 23-115-904. Inconsistent statutes inapplicable.

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

12 (b) A person is not guilty of any criminal offense set forth in § 5-
13 66-101 et seq. or any other law relating to illegal gambling to the extent
14 the person relied on any rule, order, finding, or other determination by the
15 Arkansas Lottery Commission that the activity was authorized by this chapter.

16
17 SUBCHAPTER 10

18 DEBTORS OWING MONEY TO THE STATE

19
20 23-115-1001. Legislative intent.

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

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

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

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

33
34 23-115-1002. Definitions.

35 As used in this subchapter:

36 (1) "Claimant agency" means a state agency, department, board,

1 bureau, commission, or authority:

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

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

4 (2) "Debt" means a:

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

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

10 (3) "Debtor" means an individual owing money to or having a
11 delinquent account with a claimant agency when the obligation has not been:

12 (A) Adjudicated as satisfied by court order;

13 (B) Set aside by court order; or

14 (C) Discharged in bankruptcy; and

15 (4) "Prize" means the proceeds of any lottery prize awarded
16 under this chapter.

17
18 23-115-1003. Collection remedy.

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

21
22 23-115-1004. List of debtors – Withholding winnings – Ranking of
23 liens.

24 (a)(1) A claimant agency may submit to the Arkansas Lottery Commission
25 a list of the names of all debtors owing in excess of one hundred dollars
26 (\$100) to the claimant agency or to persons on whose behalf the claimant
27 agency is acting.

28 (2) The full amount of the debt is collectible from any prize
29 without regard to limitations on the amounts that may be collectible in
30 increments through garnishment or other proceedings.

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

33 (4) The list shall contain:

34 (A) The name of the each debtor;

35 (B) The social security number of each debtor if
36 available; and

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

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

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

10 (B) If the debtor does not protest the withholding of the
11 prizes in writing within thirty (30) days of receipt of the notice, the
12 commission shall pay the prizes to the claimant agency.

13 (C) If the debtor protests the withholding of the prizes
14 within thirty (30) days of receipt of the notice, the commission shall:

15 (i) File an action in interpleader in the circuit
16 court of the county where the debtor resides;

17 (ii) Pay the disputed sum into the registry of the
18 circuit court; and

19 (iii) Give notice to the claimant agency and debtor
20 of the initiation of the action.

21 (c) The liens created by this section are ranked by priority as
22 follows:

23 (1) Taxes due the state;

24 (2) Delinquent child support; and

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

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

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

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

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

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

4
5 23-115-1005. Confidential information.

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

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

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

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

16
17 23-115-1006. Application.

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

20
21 SUBCHAPTER 11

22 ARKANSAS LOTTERY COMMISSION LEGISLATIVE OVERSIGHT COMMITTEE

23
24 23-115-1101. Arkansas Lottery Commission Legislative Oversight
25 Committee.

26 (a) The Arkansas Lottery Commission Legislative Oversight Committee is
27 established.

28 (b) The Arkansas Lottery Commission Legislative Oversight Committee
29 shall consist of the following members of the General Assembly appointed as
30 follows:

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

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

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

6 (d) The Arkansas Lottery Commission Legislative Oversight Committee
7 shall:

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

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

11 (3) Review proposed major procurement contracts;

12 (4) Review reports filed with the Arkansas Lottery Commission
13 Legislative Oversight Committee by the Department of Higher Education,
14 including without limitation reports filed under § 6-85-205 and § 6-85-220;

15 (5) Perform its duties under § 6-85-221; and

16 (6) Study other lottery matters as the Arkansas Lottery
17 Commission Legislative Oversight Committee considers necessary to fulfill its
18 mandate.

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

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

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

24 (i) Scholarship award amounts;

25 (ii) Number or type of scholarships; and

26 (iii) Scholarship eligibility requirements.

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

30 (f)(1) The President Pro Tempore of the Senate and the Speaker of the
31 House of Representatives shall each designate a Cochair of the Arkansas
32 Lottery Commission Legislative Oversight Committee.

33 (2) The Arkansas Lottery Commission Legislative Oversight
34 Committee shall meet at least quarterly upon the joint call of the Cochairs
35 of the Arkansas Lottery Commission Legislative Oversight Committee.

36 (3) Six (6) members of the Arkansas Lottery Commission

1 Legislative Oversight Committee constitute a quorum.

2 (4) No action may be taken by the Arkansas Lottery Commission
3 Legislative Oversight Committee except by a majority vote at a meeting at
4 which a quorum is present.

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

9
10 23-115-1102. Filing of information with Arkansas Lottery Commission
11 Legislative Oversight Committee.

12 (a) It is the intent of the General Assembly that the Arkansas Lottery
13 Commission Legislative Oversight Committee perform the monitoring and
14 oversight functions of the Legislative Council for the Arkansas Lottery
15 Commission.

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

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

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

21 (c) The Arkansas Lottery Commission Legislative Oversight Committee
22 shall perform all duties or functions of the Legislative Council required by
23 law concerning the contracts, rules, reports, or other information filed with
24 the Arkansas Lottery Commission Legislative Oversight Committee under
25 subsection (b) of this section.

26
27 SECTION 2. Arkansas Code Title 5, Chapter 66, Subchapter 1 is amended
28 to add an additional section to read as follows:

29 5-66-120. Application to Arkansas Scholarship Lottery Act.

30 This chapter does not apply to a lottery under the Arkansas Scholarship
31 Lottery Act, § 23-115-101 et seq.

32
33 SECTION 3. Arkansas Code Title 6, Chapter 82, Subchapter 10 is
34 repealed.

35 ~~6-82-1001. Legislative findings and declarations of public necessity.~~
36 ~~The General Assembly hereby recognizes that taking the proper course~~

~~work in high school is essential for success in college. Arkansas high school students who complete the recommended precollegiate or technical preparation core curriculum score significantly higher on standardized preadmissions tests and are more likely to be successful in college. Because the State of Arkansas also benefits from the academic success of well-prepared college students, there is hereby established the Arkansas Academic Challenge Scholarship Program, a college scholarship plan to promote academic achievement and encourage academically prepared Arkansas high school graduates to enroll in the state's colleges and universities and to encourage students to enter the field of teaching for the purpose of teaching in subject matter areas of critical teacher shortage or in geographical areas of critical teacher shortage in the state.~~

~~6-82-1002. Definitions.~~

~~As used in this subchapter:~~

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

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

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

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

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

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

1 ~~school diploma.~~

2 ~~(B) A recipient receiving an Arkansas Academic Challenge~~
3 ~~Scholarship for the eighth semester shall not be required to be enrolled in~~
4 ~~fifteen (15) hours and shall be considered a "full-time undergraduate~~
5 ~~student" if the recipient is enrolled in the appropriate number of course~~
6 ~~credit hours to earn a degree at the end of that semester;~~

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

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

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

15
16 ~~6-82-1003. Creation.~~

17 ~~There is hereby created and established the Arkansas Academic Challenge~~
18 ~~Scholarship Program.~~

19
20 ~~6-82-1004. Authority of Department of Higher Education.~~

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

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

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

35 ~~(d) Applicants must certify that they are drug free and must pledge in~~
36 ~~writing on the application form to refrain from the use or abuse of illegal~~

1 ~~substances in order to maintain eligibility for this program.~~

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

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

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

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

17 ~~(h) The Department of Higher Education shall report to the General~~
18 ~~Assembly annually regarding the implementation of the provisions of this~~
19 ~~subchapter.~~

20
21 ~~6-82-1005. Eligibility.~~

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

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

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

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

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

36 ~~(4) The applicant is accepted for admission at an approved~~

1 ~~institution of higher education as a full-time first-time freshman as defined~~
2 ~~by the department and enrolls in an approved institution within twelve (12)~~
3 ~~months of the applicant's high school graduation;~~

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

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

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

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

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

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

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

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

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

35 ~~(iii)(a) These revised grade point average~~
36 ~~requirements may be reduced to no lower than a 2.5 on a 4.0 scale by a rules~~

1 ~~change by the Department of Higher Education if it is determined by the~~
2 ~~department, based on the most recent evaluation of the program's operation,~~
3 ~~that the change to a 3.0 or 2.75 grade point average on a 4.0 scale would~~
4 ~~unduly reduce the number of low-income or disadvantaged students who would~~
5 ~~otherwise be eligible for the program.~~

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

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

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

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

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

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

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

35 ~~(b) An applicant whose family includes two (2)~~
36 ~~unemancipated children shall have average family adjusted gross income over~~

1 ~~the previous two (2) years not exceeding seventy five thousand dollars~~
2 ~~(\$75,000) per year at the time of application to the program;~~

3 ~~(c) An applicant whose family includes three~~
4 ~~(3) or more unemancipated children shall have average family adjusted gross~~
5 ~~income over the previous two (2) years not exceeding eighty thousand dollars~~
6 ~~(\$80,000) per year at the time of application to the program, plus for~~
7 ~~families with more than three (3) unemancipated children, an additional five~~
8 ~~thousand dollars (\$5,000) per year for each additional child;~~

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

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

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

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

27 ~~(b) An applicant whose family includes two (2)~~
28 ~~unemancipated children shall have average family adjusted gross income over~~
29 ~~the previous two (2) years not exceeding fifty five thousand dollars~~
30 ~~(\$55,000) per year at the time of application to the program;~~

31 ~~(c) An applicant whose family includes three~~
32 ~~(3) or more unemancipated children shall have average family adjusted gross~~
33 ~~income over the previous two (2) years not exceeding sixty thousand dollars~~
34 ~~(\$60,000) per year at the time of application to the program, plus for~~
35 ~~families with more than three (3) unemancipated children an additional five~~
36 ~~thousand dollars (\$5,000) per year for each additional child; and~~

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

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

13 ~~(a) An applicant whose family includes one (1)~~
14 ~~unemancipated child shall have an average family adjusted gross income over~~
15 ~~the previous two (2) years not exceeding sixty five thousand dollars~~
16 ~~(\$65,000) per year at the time of application to the program;~~

17 ~~(b) An applicant whose family includes two (2)~~
18 ~~unemancipated children shall have an average family adjusted gross income~~
19 ~~over the previous two (2) years not exceeding seventy thousand dollars~~
20 ~~(\$70,000) per year at the time of application to the program;~~

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

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

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

1 ~~(2) Financial need criteria necessary for the selection of~~
2 ~~recipients, including those defined as emancipated or independent by federal~~
3 ~~student aid regulations, shall be established through rules and regulations~~
4 ~~issued by the department.~~

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

7 ~~(e) As an additional component to the Arkansas Academic Challenge~~
8 ~~Scholarship:~~

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

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

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

18 ~~(B) May receive college credit for the tutoring as~~
19 ~~determined by the institution of higher education awarding the scholarship;~~
20 ~~and~~

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

27
28 ~~6-82-1006. Duration—Amount.~~

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

34 ~~(b) A recipient who graduated from high school after December 31,~~
35 ~~2000, shall receive a scholarship for one (1) academic year renewable for up~~
36 ~~to three (3) additional academic years if the recipient meets the following~~

1 ~~continuing eligibility criteria:~~

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

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

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

9 ~~(c)(1) For recipients who graduated from high school between January~~
10 ~~1, 1995, and December 31, 1996, the amount of the annual scholarship awarded~~
11 ~~to each recipient shall be the lesser of one thousand five hundred dollars~~
12 ~~(\$1,500) or the annual tuition charged by the approved institution in which~~
13 ~~the recipient is enrolled.~~

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

19 ~~(3) For recipients who graduated from high school after December~~
20 ~~31, 1998, the amount of the annual scholarship awarded to each recipient~~
21 ~~shall be two thousand five hundred dollars (\$2,500).~~

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

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

28 ~~(B) A recipient in his or her sophomore year shall be~~
29 ~~awarded an amount not to exceed two thousand seven hundred fifty dollars~~
30 ~~(\$2,750);~~

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

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

35 ~~(d)(1) A recipient who agrees to volunteer as a literacy tutor under §~~
36 ~~6-82-1005(e) shall receive the prerequisite training in literacy and college~~

1 ~~readiness from an accredited Arkansas institution of higher education,~~

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

4
5 ~~6-82-1007. Nursing school eligibility.~~

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

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

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

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

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

26 ~~(3) The recipient meets continuing eligibility requirements in §~~
27 ~~6-82-1006.~~

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

30 ~~(d) The Arkansas Higher Education Coordinating Board and the~~
31 ~~department shall promulgate regulations necessary for the implementation of~~
32 ~~this section.~~

33
34 ~~6-82-1008. Awards not funded.~~

35 ~~(a)(1) Any applicant who graduated after December 31, 2001, who was~~
36 ~~eligible to receive an academic challenge award but did not receive the award~~

1 ~~because of insufficient funding in the program may be eligible to receive an~~
2 ~~award to begin in a year other than the freshman year.~~

3 ~~(2) Any student enrolled in an institution of higher education~~
4 ~~must have achieved at least a 2.0 cumulative grade point average to be~~
5 ~~eligible for a deferred award.~~

6 ~~(b) The Arkansas Higher Education Coordinating Board and the~~
7 ~~Department of Higher Education shall promulgate regulations necessary for the~~
8 ~~implementation of this section.~~

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

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

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

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

24
25 ~~6-82-1009. Priority for teaching commitment.~~

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

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

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

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

3 ~~(1) First, to applicants who agree to the provisions of § 6-82-~~
4 ~~1009; and~~

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

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

8
9 ~~6-82-1010. Teaching requirements.~~

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

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

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

20 ~~(2)(A) Any recipient receiving a forgivable loan under § 6-82-~~
21 ~~1009 who received four (4) annual awards, or the equivalent of four (4)~~
22 ~~annual awards, shall render four (4) years' service as a licensed teacher.~~

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

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

36 ~~(c) Any person failing to complete a program of study which will~~

1 ~~enable the person to become a licensed teacher shall begin repaying the note~~
 2 ~~according to the terms of the note for the sum of all forgivable loan awards~~
 3 ~~made to that person less the corresponding amount of any awards for which~~
 4 ~~service has been rendered.~~

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

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

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

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

21 ~~(f) The obligations made by the recipient of a forgivable loan under §~~
 22 ~~6-82-1009 and this section shall not be voidable by reason of the age of the~~
 23 ~~student at the time of receiving the forgivable loan award.~~

24
 25 ~~6-82-1011. End of course assessment requirements.~~

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

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

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

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

35
 36 SECTION 4. Arkansas Code Title 6 is amended to add an additional

1 chapter to read as follows:

2 CHAPTER 85

3 ARKANSAS ACADEMIC CHALLENGE SCHOLARSHIP PROGRAM

4
5 SUBCHAPTER 1

6 ARKANSAS ACADEMIC CHALLENGE SCHOLARSHIP PROGRAM – PART 1

7
8 6-85-101. Legislative findings and declarations of public necessity.

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

22
23 6-85-102. Creation.

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

26
27 6-85-103. Applicability – Expiration.

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

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

32 (2) Apply for a scholarship under this subchapter for the
33 academic year 2009-2010, receive the scholarship, and maintain eligibility
34 thereafter.

35 (b) Except to the extent of the award amount under § 6-85-107(b)(2), a
36 recipient of a scholarship under this subchapter shall not receive an

1 additional scholarship under the Arkansas Academic Challenge Scholarship
2 Program – Part 2, § 6-85-201 et seq.

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

4
5 6-85-104. Definitions.

6 As used in this subchapter:

7 (1) “Approved institution” means an institution of higher
8 education approved by the Department of Higher Education to participate in
9 the Arkansas Academic Challenge Scholarship Program that is either:

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

11 (B) A private, nonprofit institution of higher education
12 with its primary headquarters located in Arkansas that is eligible to receive
13 Title IV federal student aid funds; or

14 (C) A nursing school with its primary headquarters located
15 in Arkansas that is eligible to participate in Title IV federal student aid
16 programs and has been;

17 (2) “Eligible student” means any student who:

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

19 (B) Is deemed to be eligible by rules authorized by this
20 subchapter and promulgated by the Department of Higher Education;

21 (3) “Financial need” means the family income of program
22 applicants as determined by the Department of Higher Education through
23 evaluation of program applications and supporting documentation;

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

31 (B) A recipient receiving an Arkansas Academic Challenge
32 Scholarship for the eighth semester shall not be required to be enrolled in
33 fifteen (15) hours and shall be considered a “full-time undergraduate
34 student” if the recipient is enrolled in the appropriate number of course
35 credit hours to earn a degree or diploma at the end of that semester;

36 (5) “Recipient” means an applicant awarded a scholarship funded

1 through the program;

2 (6) "Tuition" means charges levied for attendance at an approved
3 institution, including mandatory fees charged to all full-time undergraduate
4 students by an approved institution; and

5 (7) "Unemancipated child" means a dependent child as defined by
6 the United States Department of Education for student aid purposes.

7
8 6-85-105. Authority of Department of Higher Education.

9 (a) The Department of Higher Education is authorized by this
10 subchapter to develop and promulgate rules for the administration of the
11 Arkansas Academic Challenge Scholarship Program, consistent with the purposes
12 and requirements of this subchapter.

13 (b) The rules shall include student eligibility criteria based on the
14 provisions of this subchapter, the method for selecting scholarship
15 recipients, rules for determining continuing eligibility, procedures for
16 making payment to recipients, and other administrative procedures that may be
17 necessary for the implementation and operation of the program.

18 (c) Until the end of fiscal year 2011, the Department of Higher
19 Education is authorized to expend each year for data processing and other
20 administrative costs of this program up to one and five-tenths percent (1.5%)
21 of the amount appropriated for the programs.

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

25 (e)(1) The Department of Education and the Department of Higher
26 Education are directed to develop appropriate informational materials on the
27 Arkansas Academic Challenge Scholarship Program and to ensure their
28 distribution to Arkansas students in grades seven through twelve (7-12) each
29 year as part of the packet of materials on precollegiate preparation
30 distributed by the Department of Education as mandated by § 6-61-217.

31 (2) The distribution of information shall be accomplished
32 through the collaboration of school counselors and other appropriate school
33 personnel.

34 (f) The Director of the Department of Higher Education is authorized
35 to review and evaluate the operation of the program with regard to
36 eligibility criteria and size of the scholarship award to ensure that the

1 program's operation meets the intent of this subchapter.

2 (g) The Department of Higher Education is authorized to determine the
3 necessary procedures for the awarding of scholarships should the number of
4 eligible applicants exceed the funds available.

5 (h) The Department of Higher Education shall report to the General
6 Assembly annually regarding the implementation of the provisions of this
7 subchapter.

8
9 6-85-106. Eligibility.

10 (a) Eligibility for the Arkansas Academic Challenge Scholarship Program
11 is based on the criteria under this section and rules promulgated under this
12 subchapter by the Department of Higher Education.

13 (b) An applicant is eligible for an award from this program if the
14 applicant meets all of these criteria:

15 (1) The applicant graduated from an Arkansas high school;

16 (2) The applicant has been a resident of the State of Arkansas
17 for at least twelve (12) months before graduation from an Arkansas high
18 school, and the applicant's parent or guardian has maintained Arkansas
19 residency for the same period of time;

20 (3) The applicant is a citizen of the United States or is a
21 lawful permanent resident;

22 (4) The applicant is accepted for admission at an approved
23 institution as a full-time first-time freshman as defined by the department
24 and enrolls in an approved institution within twelve (12) months of the
25 applicant's high school graduation;

26 (5)(A)(i) Except as provided in subdivision (b)(5)(B) of this
27 section, the applicant has successfully completed the core curriculum
28 established by the State Board of Education and the Arkansas Higher Education
29 Coordinating Board under § 6-61-217.

30 (ii) An applicant who graduates from an Arkansas
31 high school on or before December 31, 2009, and who meets the provisions of
32 subdivisions (b)(1)-(4) of this section but who has not completed the core
33 curriculum defined in this subdivision (b)(5)(A) by the end of the senior
34 year of high school due to the unavailability of the courses in the
35 applicant's high school shall have a grace period of twelve (12) months from
36 the date of high school graduation in which to make up any course

1 deficiencies required for program eligibility.

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

4 (i) Successfully completed the Smart Core Curriculum
5 as established by the Department of Education; and

6 (ii)(a) Demonstrated proficiency in the application
7 of knowledge and skills in reading and writing literacy and mathematics by
8 passing the end-of-course assessments developed by the Department of
9 Education.

10 (b) "End-of-course" assessments means those
11 assessments defined in § 6-15-419.

12 (C) All applicants shall have achieved:

13 (i) Either:

14 (a) A grade point average of 3.0 on a 4.0
15 scale in the set of core curriculum courses if enrolling at an approved four-
16 year institution; or

17 (b) A grade point average of 2.75 on a
18 4.0 scale in the set of core curriculum courses if enrolling at an approved
19 two-year institution; and

20 (ii) A minimum composite score of nineteen (19) or
21 higher on the American College Test or the equivalent as defined by the
22 Department of Higher Education.

23 (D)(i) The grade point average requirements of subdivision
24 (b)(5)(C) of this section may be reduced to no lower than a 2.5 on a 4.0
25 scale by a rules change by the Department of Higher Education if it is
26 determined by the department, based on the most recent evaluation of the
27 program's operation, that the change to a 3.0 or 2.75 grade point average on
28 a 4.0 scale would unduly reduce the number of low-income or disadvantaged
29 students who would otherwise be eligible for the program.

30 (ii) At the Department of Higher Education's
31 discretion, the Department of Higher Education may make the reduction for
32 admissions to institutions with a high percentage of students receiving full
33 Pell Grants upon petition to the Department of Higher Education by the
34 institution.

35 (E)(i) The Department of Higher Education may develop
36 selection criteria through program rules that combine an applicant's American

1 College Test or equivalent score and grade point average in the core
2 curriculum into a selection index.

3 (ii) Notwithstanding the provisions of subdivision
4 (b)(5)(D) of this section, this selection index shall be employed as an
5 alternative selection process for applicants who achieve a grade point
6 average higher than 2.75 if attending an approved two-year institution or 3.0
7 if attending a four-year institution on a 4.0 scale in the set of core
8 curriculum courses defined in subdivision (b)(5)(A) of this section or for
9 applicants who have an American College Test composite or equivalent score
10 greater than nineteen (19).

11 (6)(A) An applicant shall demonstrate financial need as defined
12 by the Department of Higher Education.

13 (B) The department shall use the following criteria in
14 calculating financial need for applicants who graduated from an Arkansas high
15 school after December 31, 2000, but before December 31, 2004:

16 (i) An applicant whose family includes one (1)
17 unemancipated child shall have average family adjusted gross income over the
18 previous two (2) years not exceeding fifty thousand dollars (\$50,000) per
19 year at the time of application to the program;

20 (ii) An applicant whose family includes two (2)
21 unemancipated children shall have average family adjusted gross income over
22 the previous two (2) years not exceeding fifty-five thousand dollars
23 (\$55,000) per year at the time of application to the program;

24 (iii) An applicant whose family includes three (3)
25 or more unemancipated children shall have average family adjusted gross
26 income over the previous two (2) years not exceeding sixty thousand dollars
27 (\$60,000) per year at the time of application to the program, plus for
28 families with more than three (3) unemancipated children, an additional five
29 thousand dollars (\$5,000) per year for each additional child; and

30 (iv) Any applicant whose family includes more than
31 one (1) unemancipated child enrolled full time at an approved institution
32 shall be entitled to an additional ten thousand dollars (\$10,000) of adjusted
33 gross income for each additional unemancipated child enrolled full time at an
34 approved institution when the Department of Higher Education calculates
35 financial need.

36 (C) In calculating financial need for applicants who

1 graduate from an Arkansas high school after December 31, 2006, a Free
2 Application for Federal Student Aid or a subsequent application required by
3 the United States Department of Education for federal financial aid shall be
4 filed by the applicant or other proof of family income as defined by the
5 Department of Higher Education. The following criteria shall be used:

6 (i) An applicant whose family includes one (1)
7 unemancipated child shall have an average family adjusted gross income over
8 the previous two (2) years not exceeding sixty-five thousand dollars
9 (\$65,000) per year at the time of application to the program;

10 (ii) An applicant whose family includes two (2)
11 unemancipated children shall have an average family adjusted gross income
12 over the previous two (2) years not exceeding seventy thousand dollars
13 (\$70,000) per year at the time of application to the program;

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

20 (iv) Any applicant whose family includes more than
21 one (1) unemancipated child enrolled full time at an approved institution of
22 higher education shall be entitled to an additional ten thousand dollars
23 (\$10,000) of adjusted gross income for each additional unemancipated child
24 enrolled full time at an approved institution of higher education when the
25 Department of Higher Education calculates financial need.

26 (c)(1) The Arkansas Higher Education Coordinating Board shall have the
27 authority to increase these financial need family income limitations if
28 sufficient additional funds become available.

29 (2) Financial need criteria necessary for the selection of
30 recipients, including those defined as emancipated or independent by federal
31 student aid regulations, shall be established through rules issued by the
32 department.

33 (d) Recipients of Arkansas Governor's Distinguished Scholarships are
34 prohibited from receiving Arkansas Academic Challenge Scholarships.

35 (e) As an additional component to the Arkansas Academic Challenge
36 Scholarship:

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

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

7 (A) Shall complete the prerequisite training in literacy
8 and college readiness skills provided under § 6-85-107(c) before he or she
9 begins tutoring;

10 (B) May receive college credit for the tutoring as
11 determined by the institution of higher education where the recipient is
12 enrolled and

13 (C) Shall receive the prerequisite training in literacy
14 and college readiness from an accredited Arkansas institution of higher
15 education based on training modules developed by the Department of Education.

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

22
23 6-85-107. Duration – Amount.

24 (a) A recipient who graduated from high school after December 31,
25 2000, shall receive a scholarship for one (1) academic year renewable for up
26 to three (3) additional academic years if the recipient meets the following
27 continuing eligibility criteria:

28 (1) The recipient earns a cumulative grade point average of 2.75
29 or higher based on a 4.0 scale at an approved institution;

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

33 (3) The recipient meets any other continuing eligibility
34 criteria established by the Department of Higher Education.

35 (b)(1) Beginning with awards made for the 2005-2006 academic year and
36 thereafter for recipients who graduated from high school after December 31,

1 2001, the amount of the annual scholarship awarded to each recipient shall be
2 graduated as follows:

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

5 (B) A recipient in his or her sophomore year shall be
6 awarded an amount not to exceed two thousand seven hundred fifty dollars
7 (\$2,750);

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

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

12 (2) A recipient under this subchapter shall receive the greater
13 of the award under subdivision (b)(1) of this section or the award amount for
14 the same academic year for a full-time recipient under the Arkansas Academic
15 Challenge Scholarship Program – Part 2, § 6-85-201 et seq.

16
17 6-85-108. Nursing school eligibility.

18 (a)(1) The General Assembly recognizes that the State of Arkansas is
19 experiencing a critical shortage of nurses; and

20 (2) It is the intent of this section to allow the Department of
21 Higher Education the opportunity to include associate degree granting and
22 diploma schools of nursing in the Arkansas Academic Challenge Scholarship
23 Program under specific circumstances.

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

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

34 (2) The nursing school has been approved by the Arkansas State
35 Board of Nursing and is specifically recognized by the department as a school
36 of nursing eligible to participate in the Arkansas Academic Challenge

1 Scholarship Program; and

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

4 (c) The scholarships awarded to recipients under this section shall be
5 subject to § 6-85-105(g).

6 (d) The Arkansas Higher Education Coordinating Board and the
7 department shall promulgate rules necessary for the implementation of this
8 section.

9
10 6-85-109. Priority for teaching commitment.

11 (a) During times of funding shortages under the Arkansas Academic
12 Challenge Scholarship Program, the Department of Higher Education shall give
13 a priority to awards to applicants meeting all eligibility requirements under
14 the program who agree to accept a forgivable loan, as set forth in this
15 section in lieu of a scholarship, and who agree to teach, as required under §
16 6-85-110, in a:

17 (1) Subject matter area designated by the Department of
18 Education as having a critical shortage of teachers; or

19 (2) Geographical area of the state designated by the Department
20 of Education as having a critical shortage of teachers.

21 (b) The Department of Higher Education shall make awards under this
22 subchapter as follows:

23 (1) First, to applicants who agree to the provisions of this
24 section; and

25 (2) Then to applicants eligible under § 6-85-106(b).

26 (c) Forgivable loans awarded under this section shall be paid from
27 appropriations to the program.

28
29 6-85-110. Teaching requirements.

30 (a)(1) At the beginning of the first school year in which a recipient
31 of a forgivable loan under § 6-85-109 is eligible for employment as a
32 licensed teacher, that recipient shall begin to render service as a licensed
33 teacher in a public school district in the state:

34 (A) In a subject matter area designated by the Department
35 of Education as having a critical shortage of teachers if the recipient's
36 award was made under § 6-85-109(a)(1); or

1 (B) In a geographical area of the state designated by the
2 Department of Education as having a critical shortage of teachers if the
3 recipient's award was made under § 6-85-109(a)(2).

4 (2)(A) Any recipient receiving a forgivable loan under § 6-85-
5 109 who received four (4) annual awards, or the equivalent of four (4) annual
6 awards, shall render four (4) years' service as a licensed teacher.

7 (B) Any person who received a forgivable loan under § 6-
8 85-109 in an amount less than four (4) annual awards, or the equivalent of
9 four (4) annual awards, shall render one (1) year's service as a licensed
10 teacher for each year that the person received a full-time student forgivable
11 loan or for the number of academic hours equivalent to one (1) school year,
12 as determined by the Department of Higher Education, for which a part-time
13 student received a forgivable loan.

14 (b) Any person receiving a forgivable loan shall execute a note made
15 payable to the Department of Higher Education for an amount equal to the
16 scholarship award each semester that shall bear interest at a rate to be
17 determined by the Department of Higher Education and set forth in the note
18 after completion of the program or immediately after termination of the
19 forgivable loan, whichever is earlier.

20 (c) Any person failing to complete a program of study which will
21 enable the person to become a licensed teacher shall begin repaying the note
22 according to the terms of the note for the sum of all forgivable loan awards
23 made to that person less the corresponding amount of any awards for which
24 service has been rendered.

25 (d)(1) Except as provided in subdivision (d)(2) of this section, any
26 person failing to complete the teaching obligation as required by this
27 subchapter shall become immediately liable to the Department of Higher
28 Education for the sum of all forgivable loan awards made to that person less
29 the corresponding amount of any awards for which service has been rendered
30 according to the note's terms.

31 (2) The Department of Higher Education may defer payment on the
32 note if an employment position is not immediately available upon a teacher's
33 completion of licensure requirements or for other just cause as determined by
34 the Department of Education.

35 (3) After the period of deferral, the person shall begin or
36 resume teaching duties as required under this section or shall become liable

1 to the Department of Higher Education under this section.

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

5 (f) The obligations made by the recipient of a forgivable loan under §
6 6-85-109 and this section shall not be voidable by reason of the age of the
7 student at the time of receiving the forgivable loan award.

8
9 6-85-111. End-of-course assessment requirements.

10 The Department of Higher Education may recognize a sub-score of
11 nineteen (19) or higher in the applicable subject area on the American
12 College Test as meeting the requirements for passing end-of-course
13 assessments under the Arkansas Academic Challenge Scholarship Program and the
14 Arkansas Governor's Scholars Program for a student who:

15 (1) Has not had an opportunity to take an end-of-course
16 assessment;

17 (2) Has not passed the end-of-course assessment; or

18 (3) Is attending a private school or home school.

19
20 SUBCHAPTER 2

21 ARKANSAS ACADEMIC CHALLENGE SCHOLARSHIP PROGRAM – PART 2

22
23 6-85-201. Findings.

24 The General Assembly finds that:

25 (1) In approving Arkansas Constitution, Amendment 87, the citizens of
26 this state provided an opportunity to increase the resources provided for
27 higher education scholarships and grants through a state lottery; and

28 (2) The net proceeds from the state lottery, in addition to existing
29 nonlottery state educational resources for scholarships and grants, will:

30 (A) Encourage associate degree recipients and university
31 juniors to complete a baccalaureate degree;

32 (B) Provide opportunities for students more than one (1)
33 year out of high school to enter or reenter higher education;

34 (C) Provide an improved system of communication to
35 students and parents about opportunities for higher education scholarships
36 and grants in Arkansas; and

1 (D) Provide an evaluation and analysis of all state
2 funding for scholarships and grants and how the funding advances the state's
3 goals for higher education.

4
5 6-85-202. Creation.

6 The Arkansas Academic Challenge Scholarship Program – Part 2 is hereby
7 created and established.

8
9 6-85-203. Applicability.

10 (a) This subchapter is applicable to students who apply for a
11 scholarship under the Arkansas Academic Challenge Scholarship Program – Part
12 2 for the academic year 2010-2011, and each academic year thereafter.

13 (b) Except to the extent of an award amount under § 6-85-107(b)(2), a
14 recipient of a scholarship under the Arkansas Academic Challenge Scholarship
15 Program – Part 1, § 6-85-101 et seq., is not eligible for an additional
16 scholarship under this subchapter.

17 (c) Recipients of Arkansas Governor's Distinguished Scholarships are
18 prohibited from receiving Arkansas Academic Challenge Scholarships under this
19 subchapter.

20
21 6-85-204. Definitions.

22 As used in this subchapter:

23 (1) "ACT" means the ACT Assessment administered by ACT, Inc.;

24 (2) "ACT equivalent" means the Scholastic Aptitude Test (SAT),
25 COMPASS, Accuplacer, or other nationally normed test that is correlated with
26 the ACT and approved by the Department of Higher Education for use by
27 institutions of higher education to assess a person's college readiness;

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

32 (A) A state-supported two-year or four-year college or
33 university; or

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

1 (4) "General Educational Development test" means a test
2 measuring the knowledge and skills usually learned in high school that is
3 administered by a state-approved institution or organization;

4 (5) "High school grade point average" means the numbered grade
5 average on a student's high school transcript calculated using the first
6 seven (7) of the last eight (8) semesters the student completed prior to
7 graduating high school;

8 (6) "Lawful permanent resident" means a non-United States
9 citizen who resides in the United States under a legally recognized and
10 lawfully recorded permanent residence and who may receive state public
11 benefits under 8 U.S.C. § 1622;

12 (7) "Net proceeds from the state lottery" means lottery proceeds
13 less operating expenses, as defined in § 23-115-103;

14 (8) "Nonlottery state educational resources" means the funding
15 available for state-supported scholarships and grants for students enrolled
16 in two-year and four-year institutions of higher education in this state
17 that:

18 (A) The General Assembly makes available from general
19 revenue to the Higher Education Grants Fund Account without consideration of
20 the availability of proceeds from the state lottery; and

21 (B) The Department of Finance and Administration estimates
22 is available for distribution to the Higher Education Grants Fund Account
23 during a fiscal year from the Educational Excellence Trust Fund;

24 (9) "Nontraditional student" means a student who is not a
25 traditional student;

26 (10) "Personally identifiable student data" means any
27 information that, alone or in combination with other available information,
28 is linked or linkable to a specific student that would allow a reasonable
29 person in the school community to identify the student with reasonable
30 certainty;

31 (11) "Postsecondary grade point average" means the cumulative
32 numbered grade average for college credit courses as calculated using a 4.0
33 scale;

34 (12) "Qualified certificate program" means a program that is:

35 (A) Offered by an approved institution of higher
36 education;

1 (B) Shorter in duration than an associate degree for which
2 credit hours are awarded that are creditable toward an associate degree; and

3 (C) Recognized by the United States Department of
4 Education for financial aid purposes;

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

7 (14) "State-supported student financial assistance" means a
8 state-supported scholarship, grant, tuition waiver, or tuition reimbursement
9 funded with state funds or net proceeds from the state lottery awarded by:

10 (A) The Department of Higher Education; or

11 (B) A scholarship or grant awarded by an institution of
12 higher education in this state in whole or in part by state funds, including
13 without limitation:

14 (i) Scholarships awarded on the basis of entrance
15 exam scores or high school academic achievement;

16 (ii) Tuition waivers based on age, military service,
17 occupation, or other factors;

18 (iii) Out-of-state tuition waivers for undergraduate
19 students from contiguous states in close proximity to a college or
20 university;

21 (iv) Scholarships for transfers from two-year
22 institutions;

23 (v) Performance scholarships for band, musical
24 performing groups, arts, theater, forensics, and similar activities that are
25 not awarded on the basis of entrance exam scores or high school academic
26 achievement; and

27 (vi) Any other publicly-funded program under which
28 students are not charged or are reimbursed by the institution of higher
29 education for tuition, fees, books, or other costs of attendance; and

30 (15) "Traditional student" means a student who will enter
31 postsecondary education as a full-time first-time freshman within twelve (12)
32 months after graduating from high school and remains continuously enrolled as
33 a full-time student.

34
35 6-85-205. Authority and duties of the Department of Higher Education.

36 (a)(1) The Department of Higher Education shall develop and promulgate

1 rules for the administration of the Arkansas Academic Challenge Scholarship
2 Program consistent with the purposes and requirements of this subchapter.

3 (2) At least ten (10) business days before the date the
4 Department of Higher Education files with the Bureau of Legislative Research
5 under § 25-15-204 a proposed rule or proposed change to a rule promulgated
6 under this subchapter, the Department of Higher Education shall file a copy
7 of the proposed rule or proposed change to a rule with the Arkansas Lottery
8 Commission Legislative Oversight Committee.

9 (b) The rules developed and promulgated by the Department of Higher
10 Education under this section shall pertain to:

11 (1) Student eligibility criteria based on this subchapter;

12 (2) The method for selecting scholarship recipients and for
13 determining continuing eligibility;

14 (3) The procedures for making payment to an approved institution
15 of higher education where the recipient is enrolled; and

16 (4) Other administrative procedures that may be necessary for
17 the implementation and operation of the program.

18 (c) The Department of Higher Education shall implement a complete
19 financial aid management system that uses a single application form that may
20 be accessed as a web-based application for all Arkansas state-supported
21 student financial assistance administered by the Department of Higher
22 Education, including:

23 (1) Scholarships awarded under this subchapter or other state
24 law that are funded with net proceeds from the state lottery; and

25 (2) Scholarships, grants, or other financial assistance for
26 higher education students funded with nonlottery state educational resources.

27 (d)(1) The Department of Education and the Department of Higher
28 Education are directed to develop appropriate informational materials on the
29 Arkansas Academic Challenge Scholarship Program and to ensure distribution of
30 the materials to Arkansas students in grade seven through grade twelve (7-12)
31 each year as a part of the packet of materials on precollegiate preparation
32 distributed by the Department of Education as required by § 6-61-217.

33 (2) The distribution of materials shall be accomplished through
34 the collaboration of school counselors and other appropriate public school or
35 Department of Higher Education personnel.

36 (e) The Director of the Department of Higher Education shall review

1 and evaluate the operation of the program with regard to eligibility criteria
2 and size of the scholarship award to ensure that the program's operation
3 meets the intent of this subchapter.

4 (f) The Department of Higher Education may determine the necessary
5 procedures for the awarding of scholarships if the number of eligible
6 applicants exceeds the funds available based on the criteria under this
7 subchapter.

8 (g)(1) The Department of Higher Education shall report to the General
9 Assembly annually regarding the implementation of this subchapter.

10 (2) By August 1 of each year, the Department of Higher Education
11 shall provide to the Arkansas Lottery Commission Legislative Oversight
12 Committee an unaudited financial report on the administration of the Arkansas
13 Academic Challenge Scholarship Program for the fiscal year just ended.

14
15 6-85-206. Basic eligibility requirements.

16 The basic requirements for an applicant to be eligible for an award
17 from the Arkansas Academic Challenge Scholarship Program – Part 2 are:

18 (1)(A) The applicant has been an Arkansas resident for at least
19 the twelve (12) months immediately preceding the date the applicant will
20 enroll in an approved institution of higher education, and if the applicant
21 is less than eighteen (18) years of age, a parent or guardian of the
22 applicant or a combination of the applicant and a parent or guardian of the
23 applicant has maintained Arkansas residency for the same period of time.

24 (B) To be considered an Arkansas resident, an applicant
25 shall demonstrate residency by evidence deemed sufficient to the Department
26 of Higher Education, including without limitation information provided by the
27 applicant on the Free Application for Federal Student Aid or a subsequent
28 application required by the United States Department of Education for federal
29 financial aid;

30 (2) The applicant is a citizen of the United States or is a
31 lawful permanent resident;

32 (3)(A) The applicant is accepted for admission at an approved
33 institution of higher education as a full-time student or part-time student
34 in a program of study that leads to or is creditable toward:

35 (i) A baccalaureate degree;

36 (ii) An associate degree;

1 (iii) A certificate from a qualified certificate
2 program; or

3 (iv) A nursing school diploma or associate degree
4 under § 6-85-213.

5 (B) A full-time student shall enroll in at least twenty-
6 seven (27) semester hours the first academic year and thirty (30) semester
7 hours per academic year thereafter or the equivalent, as described in this
8 subchapter, or the equivalent as defined by the Department of Higher
9 Education.

10 (C) A part-time student shall complete at least six (6)
11 semester hours but fewer than the minimum number of semester hours for a
12 full-time student, as defined by the Department of Higher Education;

13 (4) The applicant has not earned a baccalaureate degree;

14 (5) The applicant does not owe a refund on a federal or state
15 student financial aid grant for higher education;

16 (6) The applicant is not in default on a state or federal
17 student financial aid loan for higher education;

18 (7) The applicant has not borrowed, as determined by the
19 approved institution of higher education to be attended, in excess of the
20 annual loan limits under the Federal Family Educational Loan Program Systems,
21 William D. Ford Federal Direct Loan Program, Income Contingent Loan
22 Demonstration Program, Stafford Loan Program, Parent Loan for Undergraduate
23 Students Program, or Supplemental Loan for Students Program in the same
24 academic year for which the student has applied for assistance under this
25 subchapter;

26 (8) The applicant is not incarcerated at the time of the
27 application for or during the time the applicant receives a scholarship under
28 this subchapter;

29 (9) The applicant has complied with United States Selective
30 Service System requirements for registration;

31 (10) The applicant has completed and submitted to the United
32 States Department of Education a Free Application for Federal Student Aid or
33 a subsequent application required by the United States Department of
34 Education for federal financial aid; and

35 (11) The applicant certifies that he or she is drug-free and
36 pledges in writing on the application form to refrain from the use or abuse

1 of illegal substances in order to become eligible and maintain eligibility
2 for this program.

3
4 6-85-207. Additional eligibility requirements for traditional
5 students.

6 In addition to the requirements of §6-85-206, an applicant is eligible
7 as a traditional student if the applicant:

8 (1)(A) Graduated from an Arkansas public high school and has:

9 (i) Successfully completed the Smart Core curriculum
10 established by the Department of Education; and

11 (ii) Either:

12 (a) Achieved a high school grade point average
13 of at least 2.5; or

14 (b) Had a minimum composite score of nineteen
15 (19) on the ACT or the equivalent score on an ACT equivalent.

16 (B) Graduated from an Arkansas public high school before
17 the 2013-2014 school year, but did not complete the Smart Core curriculum, he
18 or she shall have achieved a high school grade point average of at least 2.5
19 and either:

20 (i) Have a minimum composite score of nineteen (19)
21 on the ACT or the equivalent score on an ACT equivalent; or

22 (ii) Scored proficient or higher on all state-
23 mandated end-of-course assessments, including without limitation, end-of-
24 course assessments on:

25 (a) Algebra I;

26 (b) Geometry;

27 (c) Biology; and

28 (4) Literacy, beginning with the 2013-2014
29 school year;

30 (2) Graduated from an Arkansas public high school that is
31 annually identified in the report by the Department of Education under § 6-
32 15-421 as a school in which twenty percent (20%) or more of the students
33 received a letter grade of "B" or higher but did not score proficiency or
34 higher on the end-of-course assessment on the first attempt, whether or not
35 the applicant completed the Smart Core curriculum, achieved a high school
36 grade point average of at least 2.5 and either:

1 (A) Has a minimum composite score of nineteen (19) on the
 2 ACT or the equivalent score on an ACT equivalent; or

3 (B) Scores proficient or higher on all state-mandated end-
 4 of-course assessments, including without limitation, end-of-course
 5 assessments on:

6 (i) Algebra I;

7 (ii) Geometry;

8 (iii) Biology; and

9 (iv) Literacy, beginning with the 2013-2014
 10 school year.

11 (3) Has a disability identified under the Individuals with
 12 Disabilities Education Act, 20 U.S.C. § 1400 et seq., as it existed on July
 13 1, 2009, and graduated from an Arkansas public high school but did not
 14 complete the Smart Core curriculum because the applicant's individualized
 15 education program under § 6-41-217 did not require it, achieved a high school
 16 grade point average of at least 2.5 and either:

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

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

22 (i) Algebra I;

23 (ii) Geometry;

24 (iii) Biology; and

25 (iv) Literacy, beginning with the 2013-2014
 26 school year.

27 (4) An applicant who graduated from a private or out-of-state
 28 high school or completed a high school curriculum at a home school shall have
 29 achieved a minimum composite score of nineteen (19) on the ACT or the
 30 equivalent score on an ACT equivalent.

31
 32 6-85-208. Additional eligibility requirements for a nontraditional
 33 student.

34 (a) An applicant is eligible as a nontraditional student if, in
 35 addition to the requirements of § 6-85-206, the applicant:

36 (1)(A) Graduated from an Arkansas high school and achieved a 2.5

1 high school grade point average; or

2 (2) Had a minimum composite score of nineteen (19) on the ACT or
3 the equivalent score on an ACT equivalent; or

4 (3) Has completed at least twelve (12) semester hours of courses
5 granting three (3) or more hours of credit at an approved institution of
6 higher education and earned a postsecondary grade point average of at least
7 2.5.

8 (b) A nontraditional student applicant who graduated from a private or
9 out-of-state high school or completed a high school curriculum at a home
10 school shall have achieved a minimum composite score of nineteen (19) on the
11 ACT or the equivalent score on an ACT equivalent.

12
13 6-85-209. Additional eligibility requirements for a student near
14 completion.

15 In addition to the requirements of § 6-85-206, an applicant is eligible
16 as a student near completion if at the time of applying for the scholarship
17 the applicant:

18 (1) Is enrolled in a two-year or four-year approved institution
19 of higher education;

20 (2) Is within twenty-five percent (25%) of the
21 requirements for completion of an associate degree or baccalaureate degree;
22 and

23 (3) Has achieved a postsecondary grade point average of at least
24 2.5.

25
26 6-85-210. Continuing eligibility.

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

30 (1) Earns a baccalaureate degree;

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

34 (B) If the recipient's undergraduate degree requires
35 additional hours, the Department of Higher Education, in conjunction with the
36 institution of higher education where the recipient is enrolled, shall

1 determine the maximum period of time for renewal of the scholarship; or

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

5 (b) To maintain eligibility for an Arkansas Academic Challenge
6 Scholarship under this subchapter, a recipient shall meet the following
7 requirements:

8 (1) A recipient shall continue to meet the eligibility
9 requirements of this subchapter while a recipient of a scholarship under this
10 subchapter;

11 (2)(A)(i) A recipient shall meet the satisfactory academic
12 progress standards required to receive other financial aid at the approved
13 institution of higher education where the recipient is enrolled, as
14 determined by the Department of Higher Education in conjunction with the
15 institution of higher education where the recipient is enrolled.

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

20 (B) A recipient shall be continuously enrolled unless the
21 Department of Higher Education has approved a leave of absence for:

22 (i) A medical condition of the student or a member
23 of the student's immediate family;

24 (ii) A personal or family emergency;

25 (iii) Military service under § 6-61-112;

26 (iv) A commitment for twelve (12) months or more for
27 community, national, or global humanitarian service; or

28 (v) Any other reason approved by the Department of
29 Higher Education.

30 (C)(i) A traditional student recipient is continuously
31 enrolled in an approved institution of higher education if he or she
32 completes twenty-seven (27) semester hours in the first year as a recipient
33 and completes thirty (30) semester hours each academic year thereafter.

34 (ii) A nontraditional student recipient is
35 continuously enrolled if he or she maintains at an approved institution of
36 higher education in consecutive semesters, not including any summer term:

1 (a) Full-time enrollment if the student
2 receives a scholarship under this subchapter for a full-time student; or

3 (b) Part-time enrollment if the student is
4 receiving a scholarship under this subchapter for a part-time student;

5 (3) A recipient who enrolls in one (1) or more remedial courses
6 shall complete all remedial courses required by the approved institution of
7 higher education by the time the student completes the first thirty (30)
8 semester hours attempted after receiving the scholarship;

9 (4) A recipient shall earn a postsecondary grade point average
10 of 2.5 or higher at an approved institution of higher education;

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

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

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

18 (6) A recipient shall meet any other continuing eligibility
19 criteria established by the Department of Higher Education.

20 (c)(1) If a recipient becomes ineligible for the scholarship because
21 the recipient's postsecondary grade point average no longer meets the minimum
22 requirement for the scholarship, the recipient may regain eligibility under
23 this subsection (c) one (1) time only.

24 (2) Except as provided under § 6-85-211(a)(3) and unless the
25 requirements of this subsection are waived by the Department of Higher
26 Education, to regain eligibility for the scholarship:

27 (A) A full-time student shall:

28 (i) Complete at least fifteen (15) semester hours of
29 courses for credit for which the approved institution of higher education
30 certifies that the courses meet the satisfactory academic progress standards
31 of the institution; and

32 (ii) Achieve a 2.5 grade point average for the
33 semester hours completed under this subdivision; and

34 (B) A part-time student shall:

35 (i) Complete at least six (6) semester hours of
36 courses for credit for which the approved institution of higher education

1 certifies that the courses meet the satisfactory academic progress standards
2 of the institution; and

3 (ii) Achieve a 2.5 grade point average for the
4 semester hours completed under this subdivision.

5 (d)(1) If a recipient becomes ineligible for the scholarship because
6 the recipient has not completed the required number of hours for continuing
7 eligibility, the recipient may regain eligibility under this subsection (d)
8 for one (1) time only.

9 (2)(A) Except as provided under § 6-85-211(a)(3) and unless the
10 requirements of this subsection are waived by the Department of Higher
11 Education, to regain eligibility for the scholarship, the recipient shall
12 complete the number of hours needed to regain eligibility.

13 (B) The recipient shall complete the required number
14 of hours during the summer term at the student's own expense.

15 (e) If a recipient is subject to losing a scholarship under subsection
16 (c) or (d) of this section due to a catastrophic event experienced by the
17 recipient or a family member of the recipient, the department may waive the
18 requirements of this subsection and determine the appropriate requirements
19 for the recipient to either retain or regain the scholarship.

20
21 6-85-211. Literacy tutoring.

22 (a) As an additional component to the Arkansas Academic Challenge
23 Scholarship:

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

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

30 (A) Shall complete the prerequisite training in literacy
31 and college readiness skills provided under this section before he or she
32 begins tutoring; and

33 (B) May receive college credit for the tutoring as
34 determined by the institution of higher education where the recipient is
35 enrolled; and

36 (3) An enrolled college student who participates in the tutorial

1 program and fails to meet the academic eligibility requirement under this
2 subchapter for the fall or spring semester shall be given the probationary
3 opportunity during the subsequent spring or summer term to continue his or
4 her education and improve academic performance before losing scholarship
5 funding in the subsequent semester.

6 (b) A recipient who agrees to volunteer as a literacy tutor under this
7 section shall receive the prerequisite training in literacy and college
8 readiness from an approved institution of higher education based on training
9 modules developed by the Department of Education.

10
11 6-85-212. Scholarship award amounts.

12 (a)(1) The General Assembly may use net proceeds from the state
13 lottery to fund the scholarships awarded under this subchapter and to
14 supplement the state-supported student financial assistance that the General
15 Assembly determines are necessary to meet the state's objective for
16 broadening and increasing access of Arkansas citizens to higher education.

17 (b) Net proceeds from the state lottery used to fund scholarships
18 under this subchapter shall:

19 (1) Be used exclusively for the purposes set out in Amendment
20 87 of the Arkansas Constitution and this subchapter; and

21 (2) Supplement and shall not supplant nonlottery state
22 educational resources.

23 (c) It is General Assembly's intent that before increasing award
24 amounts for scholarships under this subchapter, the number of scholarships
25 awarded to nontraditional students under § 6-85-208 and to students near
26 completion under § 6-85-209 be increased.

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)(A) The Department of Higher Education shall award an
36 aggregate amount of scholarship awards to nontraditional students beginning

1 with the 2010-2011 academic year up to eight million dollars (\$8,000,000).

2 (B) Priority for scholarships awarded to nontraditional
3 students is based on the applicant's level of progress toward completion of a
4 certificate, an associate degree, or a baccalaureate degree, or on other
5 criteria established by the Department of Higher Education.

6 (3) The scholarship award for a full-time student enrolled in a
7 two-year approved institution of higher education is one-half (1/2) of the
8 scholarship award amount for a full-time undergraduate student enrolled in a
9 four-year approved institution of higher education.

10 (4)(A) The scholarship award amount for a part-time recipient
11 shall be:

12 (i) One-half of the award amount for a full-time
13 recipient, if the recipient is enrolled in six (6) semester hours but less
14 than nine (9) semester hours; or

15 (ii) Three-quarters (3/4) of the award amount for a
16 full-time recipient, if the recipient is enrolled in nine (9) semester hours
17 but less than the number of hours required for a full-time recipient.

18 (B) The per semester hour award amount is calculated as
19 the per-semester hour amount of an award to a traditional student based on
20 fifteen (15) semester hours as calculated by the Department of Higher
21 Education;

22 (c)(1) By November 1 of each year, the Arkansas Lottery Commission
23 Legislative Oversight Committee shall provide to the General Assembly its
24 recommendations for any changes to the:

25 (A) Award amounts;

26 (B) Number or type of scholarships; and

27 (C) Eligibility requirements.

28 (2) The committee may base its recommendations for scholarship
29 award amounts on the following guidelines and any additional information the
30 committee finds relevant to making the recommendations:

<u>Annual 2-yr</u>	<u>Annual 4-yr</u>	<u>If net lottery</u>	
<u>institution</u>	<u>institution</u>	<u>proceeds are</u>	
<u>award amount</u>	<u>award amount</u>	<u>greater than</u>	<u>Or equal to</u>
<u>\$1,250</u>	<u>\$2,500</u>	<u>\$ 49,308,626</u>	<u>\$ 60,405,551</u>
<u>\$1,500</u>	<u>\$3,000</u>	<u>\$ 60,405,551</u>	<u>\$ 71,502,476</u>

1	<u>\$1,750</u>	<u>\$3,500</u>	<u>\$ 71,502,476</u>	<u>\$ 82,599,401</u>
2	<u>\$2,000</u>	<u>\$4,000</u>	<u>\$ 82,599,401</u>	<u>\$ 93,696,326</u>
3	<u>\$2,250</u>	<u>\$4,500</u>	<u>\$ 93,696,326</u>	<u>\$104,793,251</u>
4	<u>\$2,500</u>	<u>\$5,000</u>	<u>\$104,793,251</u>	<u>\$115,890,177</u>
5	<u>\$2,750</u>	<u>\$5,500</u>	<u>\$115,890,177</u>	<u>\$126,987,102</u>
6	<u>\$3,000</u>	<u>\$6,000</u>	<u>\$126,987,102</u>	

7

8 (d) After the 2010-2011 academic year, the determination of the amount
9 of net proceeds from the state lottery available for each semester is based
10 on the Arkansas Lottery Commission's certification of net proceeds made in
11 July of the immediately preceding calendar year.

12 (e) The department shall ensure that sufficient funds remain available
13 to pay for scholarship awards through anticipated completion of the degree or
14 certificate a recipient is seeking and report the balance of those funds to
15 the General Assembly before the amount of awards under this subchapter are
16 increased by the General Assembly.

17 (f) All awards under this subchapter are subject to the prohibition
18 under § 6-80-105 against using public funds in a student financial package in
19 excess of the recognized cost of attendance at the institution where the
20 student is enrolled.

21 (g)(1) If the department has less than a sufficient amount to provide
22 for the scholarship commitments under this subchapter, the department first
23 shall use the department's Scholarships and Grants Contingency Appropriation
24 to fund the shortfall.

25 (2) The department then shall give priority for continued
26 financial support under this subchapter to a recipient who has continuing
27 eligibility superior to first-time applicants.

28 (3) If the funding is still insufficient to fully fund the
29 scholarships created under this subchapter, the department shall award
30 scholarships after considering applicants:

31 (A) With the highest level of progress toward completion
32 of a certificate, an associate degree, or a baccalaureate degree;

33 (B) With the highest high school or postsecondary grade
34 point average, as applicable to the applicant; and

35 (C) Who are enrolled in or intend to enroll in an program
36 of study that is:

1 (i) In an area of critical workforce need as
2 determined by the department; or

3 (ii) Is in a science, technology, engineering, or
4 mathematics field.

5
6 6-85-213. Nursing school eligibility.

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

9 (2) It is the intent of this section to allow the Department of
10 Higher Education the opportunity, under specific circumstances, to include a
11 school of nursing that:

12 (A) Prepares students as registered nurses;

13 (B) Grants associate degrees or nursing diplomas;

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

15 and

16 (D) Would not otherwise be an approved institution of
17 higher education in the Arkansas Academic Challenge Scholarship Program.

18 (b)(1) The department shall make awards to applicants attending a
19 school of nursing under this section if:

20 (A) The applicant has qualified for an Arkansas Academic
21 Challenge Scholarship and is simultaneously enrolled in an approved two-year
22 college or a four-year college or university before or at the time of entry
23 into the nursing school and the applicant then transfers the scholarship to
24 an approved school of nursing after completing the two-year requirements
25 under the department's rules;

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

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

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

33
34 6-85-214. Accountability – Transparency – Legislative oversight.

35 (a) The General Assembly finds that:

36 (1) The continual evaluation of the Arkansas Academic Challenge

1 Scholarship Program and of all state-supported scholarship and grant programs
2 by the General Assembly is critical for maximizing the benefits to the state
3 and its citizens of state financial aid for higher education and meeting
4 state objectives for higher education; and

5 (2) Accountability and transparency in the implementation of
6 state-supported scholarship programs are fundamental to a proper evaluation
7 of the programs.

8 (b) The General Assembly finds that the collection of data and the
9 reports required under §§ 6-85-215 – 6-85-220 are necessary to ensure
10 accountability and transparency.

11
12 6-85-215. Student consent form.

13 (a)(1)(A) A student receiving any state-supported student financial
14 assistance for which an institution of higher education is required to
15 provide information under this section shall complete and sign a consent form
16 authorizing the release of the student's individual personal information to
17 the Bureau of Legislative Research and authorizing:

18 (i) The institution of higher education to provide
19 the bureau with academic progress information for the scholarship recipient;
20 and

21 (ii) The department to release the student's
22 individual personal information to the bureau.

23 (B) If a student is less than eighteen (18) years of age,
24 the student's parent or guardian shall complete and sign the consent form.

25 (2)(A) The student may opt out of the release of information. A
26 decision to opt out applies only to the release of information under this
27 section and does not apply to information released under any other section of
28 this subchapter or under any other law.

29 (B) In order to provide better statistical data, each
30 institution shall report the number of students who opt out.

31 (3) The consent form shall state that:

32 (i) The purpose for the bureau collecting data is to
33 guide the General Assembly's evaluation of the need for adjustments to
34 scholarship program eligibility and funding levels;

35 (ii) Personally identifiable student data will not be
36 released by the bureau or the department; and

1 (iii) The student may opt out of the release of
2 information, and that opting out will not affect the student's eligibility
3 for a scholarship.

4 (4) The form shall list the categories of information authorized
5 for release under this section.

6 (5) The Director of the Bureau of Legislative Research may:

7 (A) Seek an opinion from the Family Policy Compliance
8 Office of the United States Department of Education concerning the student
9 consent requirement and opt out under this section; or

10 (B) Request the Department of Higher Education to seek the
11 opinion on behalf of the bureau.

12 (b) The information consented to be released by the student shall
13 include:

14 (1) A unique student identifier;

15 (2) Status for Federal PELL grant;

16 (3) Postsecondary grade point average;

17 (4) Number of semester hours attempted;

18 (5) Number of semester hours completed;

19 (6) Gender, race, ethnicity, and age;

20 (7) High school graduated from or General Educational
21 Development test score;

22 (8) High school grade point average; and

23 (9) ACT score or ACT equivalent score, if available.

24 (c) This section does not apply to scholarships or other forms of
25 student financial assistance that are completely privately funded.

26 (d) Approved institutions of higher education shall undertake any
27 procedures necessary to ensure the collection of the information under this
28 section and shall provide it to the Bureau of Legislative Research in a
29 mutually agreed upon electronic format by November 1 of each school year for
30 students awarded for that academic year state-supported student financial
31 assistance.

32 (e)(1) The student data provided to the bureau under this section are
33 not subject to release under the Freedom of Information Act of 1967, § 25-19-
34 101 et seq.

35 (2) The bureau shall not release any personally identifiable
36 student data received under this section.

1 (f) The bureau shall inform the Department of Higher Education of any
2 data used in the preparation of reports and provide the department at least
3 two (2) working days to review any student-related data used in preparation
4 of reports before publicly releasing that student-related data without
5 personally identifiable data.

6
7 6-85-216. Institution report to the department.

8 (a)(1) An approved institution of higher education that enrolls
9 students receiving scholarships under this subchapter annually shall provide
10 information, and semiannually provide updated information, to the Department
11 of Higher Education regarding all state-supported student financial
12 assistance whether or not the state-supported student financial assistance is
13 awarded under this subchapter.

14 (2) The information shall be provided in the form of individual
15 student records and shall include without limitation information regarding:

16 (A) State-supported student financial assistance;

17 (B) Demographic student data; and

18 (C) Disaggregated data on remedial courses.

19 (b) The department shall establish by rule the:

20 (1) Specific data required;

21 (2) Manner of reporting the information required; and

22 (3) Technology or software required for reporting.

23 (c) The department shall use the information provided under this
24 section to conduct the research and analysis needed to support the annual
25 report of the Director of the Department of Higher Education to the Arkansas
26 Lottery Commission Legislative Oversight Committee under § 6-85-205.

27
28 6-85-217. Information provided to the bureau by the Department of
29 Higher Education.

30 (a)(1) The Department of Higher Education shall provide to the Bureau
31 of Legislative Research the following data when requested for the purpose of
32 assisting the General Assembly with evaluation and analysis under this
33 subchapter:

34 (A) Existing individual student data;

35 (B) Institutional data;

36 (C) Financial data;

1 (D) Aggregate student scholarship and grant application
2 and award data; and

3 (E) Other data needed to track scholarship and grant
4 students from year to year.

5 (b)(1) To maintain confidentiality of individual student records in
6 accordance with the Family Educational Right to Privacy Act, 20 U.S.C. §
7 1232g, the Department of Higher Education shall establish a system for
8 removing or recoding any personally identifiable student data in student
9 records that are used by the bureau for research and evaluation of
10 scholarships and grants funded with net proceeds from the state lottery and
11 those funded with nonlottery state educational resources.

12 (2) The bureau shall assist the Department of Higher Education
13 by providing input concerning the development or modification of the system.

14 (3)(A) The Director of the Bureau of Legislative Research may
15 seek an opinion from Family Policy Compliance Office of the United States
16 Department of Education concerning the department's system, any proposed
17 modification of the system, or any request for information made by the bureau
18 under this section.

19 (B) The director may request the Department of Higher
20 Education to seek the opinion on behalf of the bureau.

21 (c) The Department of Higher Education shall make its staff reasonably
22 accessible for consultation with the bureau's staff in developing and
23 responding appropriately to bureau requests under this section.

24 (d)(1) The Department of Higher Education shall provide data to the
25 bureau in a database or spreadsheet format.

26 (2) The Department of Higher Education shall provide other
27 information and records requested by the bureau as soon as possible and in
28 whatever reasonable form requested.

29 (e)(1) The student data provided to the bureau under this section are
30 not subject to release under the Freedom of Information Act of 1967, § 25-19-
31 101 et seq.

32 (2) The bureau shall not release any personally identifiable
33 student data received under this section.

34 (f) The bureau's staff shall inform the Department of Higher Education
35 of any data used in the preparation of reports and provide the department at
36 least two (2) working days to review any student-related data used in

1 preparation of reports before publicly releasing that student-related data
2 without personally identifiable student data.

3
4 6-85-218. Advisory council.

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

8 (b) The advisory council shall be composed of the members determined
9 under subsection (c) of this section and:

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

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

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

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

19 (1) The department;

20 (2) Institutions of higher education eligible to become approved
21 for participation in the Arkansas Academic Challenge Scholarship Program Part
22 2;

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

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

26 (d) The director or his or her designee shall serve as chair of the
27 advisory council and shall call meetings as need to fulfill the purpose of
28 the advisory council.

29 (e) Members of the advisory council shall serve without compensation
30 but may be reimbursed by the department for reasonable travel expenses
31 incurred to attend meetings.

32 (f) By August 1, 2009, and as requested thereafter, the advisory
33 council shall report its recommendations to the Arkansas Lottery Commission
34 Legislative Oversight Committee.

35
36 6-85-219. Reports to legislative committees.

1 (a)(1) Quarterly during fiscal years 2010 and 2011, the Department of
2 Higher Education shall report to the Arkansas Lottery Commission Legislative
3 Oversight Committee:

4 (A) The information required by subsection (b) of this
5 section to the extent the information is available;

6 (B) The costs of administering scholarships funded with net
7 proceeds from the state lottery;

8 (C) Projected levels of state funding for scholarships and
9 grants;

10 (D) Recommendations for changes to the program, including
11 without limitation, adjustments to eligibility requirements of the Arkansas
12 Academic Challenge Scholarship Program and award levels; and

13 (E) Other data the committee or the General Assembly may
14 require.

15 (2) The Arkansas Lottery Commission Legislative Oversight
16 Committee may specify criteria related to any item of information required by
17 this section.

18 (b)(1) Annually by July 1, the department shall report to the Arkansas
19 Lottery Commission Legislative Oversight Committee in the manner and format
20 that the committee requires on all state-supported student financial
21 assistance awarded by the department and awarded by approved institutions of
22 higher education.

23 (2) The information provided shall include without limitation:

24 (A) Current year expenditures for scholarships and grants
25 under the program;

26 (B) Projected obligations for succeeding years from each
27 scholarship or grant funding source;

28 (C) Fund balances for the:

29 (i) Higher Education Grants Fund Account; and

30 (ii) Trust accounts maintained by the Director of
31 the Department of Higher Education to hold the net proceeds from the state
32 lottery;

33 (D) An evaluation of whether the net proceeds from the
34 state lottery available for the program supplements and does not supplant
35 nonlottery state educational resources;

36 (F) Recommendations for changes to the program, including

1 without limitation:

2 (i) Adjustments to the eligibility requirements of
3 the program; and

4 (ii) Increases or decreases in the amounts awarded
5 for an Arkansas Academic Challenge Scholarship based on the amount of net
6 proceeds from the state lottery available; and

7 (H) Any other information that the Arkansas Lottery
8 Commission Legislative Oversight Committee or the General Assembly may
9 request.

10 (c) The department shall report to the Arkansas Lottery Commission
11 Legislative Oversight Committee, the House Committee on Education, the Senate
12 Committee on Education, and the Joint Budget Committee on the compliance with
13 § 6-85-216 by each approved institution of higher education.

14 (d) The Bureau of Legislative Research shall report to the Arkansas
15 Lottery Commission Legislative Oversight Committee, the House Committee on
16 Education, the Senate Committee on Education, and the Joint Budget Committee
17 on:

18 (1) The compliance with § 6-85-216 by approved institutions of
19 higher education; and

20 (2) The status of reporting by the department under § 6-85-217.

21
22 6-85-220. Arkansas Lottery Commission Legislative Oversight Committee -
23 Annual report.

24 (a) The Arkansas Lottery Commission Legislative Oversight Committee
25 shall:

26 (1) Oversee the development and implementation of Arkansas Code
27 requirements with regard to the Arkansas Academic Challenge Scholarship
28 Program;

29 (2) Review whether and how the use of net state lottery proceeds
30 helps to accomplish state objectives for higher education;

31 (3) Review the ongoing data collection, research, and evaluation
32 of the program;

33 (4) Review the annual report of the Director of the Department
34 of Higher Education under this section;

35 (5) Review and recommend changes to the:

36 (A) Number of awards for each scholarship and grant;

1 (B) Award levels;
2 (C) Eligibility requirements; and
3 (D) Overall administration of the program; and
4 (6) Review and recommend policies for scholarships and grants
5 funded with nonlottery state educational resources, including without
6 limitation ways to ensure that net proceeds from the state lottery are used
7 to supplement and not supplant nonlottery state educational resources.

8 (b) By November 1 of each year, the committee shall report its
9 findings and recommendations to the Arkansas Lottery Commission, the
10 President Pro Tempore of the Senate, the Speaker of the House of
11 Representatives, the Governor, the House Committee on Education, and the
12 Senate Committee on Education.

13
14 SECTION 5. Arkansas Code Title 6, Chapter 5, Subchapter 4 is amended
15 to add an additional section to read as follows:

16 6-5-405. Professional development for higher education awareness.

17 (a) As used in this section, "state-supported student financial
18 assistance" means:

19 (1) A state-supported scholarship or grant awarded by the
20 Department of Higher Education; and

21 (2) A scholarship, grant, or tuition waiver awarded by an
22 institution of higher education in this state funded in whole or in part with
23 state funds.

24 (b) Beginning with the 2009 calendar year, professional development on
25 the availability of, eligibility requirements for, and the process of
26 applying for state-supported student financial assistance shall be required
27 for:

28 (1) All public school superintendents and assistant
29 superintendents; and

30 (2) The following licensed personnel at a public school where
31 students are enrolled in grade seven through grade twelve (7-12):

32 (A) Principals;

33 (B) Assistant principals; and

34 (C) Guidance counselors.

35 (c)(1) The first course shall be a three-hour course to be taken
36 within calendar year 2009, or within the first year of employment.

1 (2) After the first three-hour course is completed, a one-hour
2 course is required to be completed annually.

3 (d) The professional development hours required under this section
4 shall be counted toward the sixty (60) hours of the professional development
5 required for licensed school personnel under the Standards for Accreditation
6 of Arkansas Public Schools and School Districts.

7
8 SECTION 6. TEMPORARY. DO NOT CODIFY. The General Assembly requests
9 that:

10 (1) The Arkansas Association of Educational Administrators and
11 the Arkansas Education Association, in cooperation with the Department of
12 Higher Education, each provide three (3) hours of professional development on
13 the availability of, eligibility requirements for, and the process of
14 applying for state-supported student financial assistance for higher
15 education at the respective association's annual convention, beginning with
16 the 2009 annual convention;

17 (2) The Arkansas School Boards Association provide continuing
18 education on the availability of, eligibility requirements for, and the
19 process of applying for s state-supported student financial assistance for
20 higher education at its meetings; and

21 (3) The Arkansas Education Television Network, in coordination
22 with the Department of Higher Education, prepare a program of three (3) hours
23 of professional development to be available during 2009 covering the
24 availability, eligibility requirements for, and the process of applying for
25 state-supported student financial assistance for higher education.

26
27 SECTION 7. TEMPORARY. DO NOT CODIFY.

28 (a) The Director of the Department of Higher Education shall
29 determine the amount of excess net proceeds from the state lottery by
30 calculating the difference between:

31 (1) The amount committed to scholarships awarded under the
32 Academic Challenge Scholarship Program – Part 1 and the scholarships for
33 traditional students and nontraditional students under the Academic Challenge
34 Scholarship Program – Part 2; and

35 (2) The amount of net proceeds from the state lottery
36 reasonably projected for the 2010-2011 academic year as determined by the

1 director after consultation with the Arkansas Lottery Commission.
2 Legislative Oversight Committee, the House Committee on Education, and the
3 Senate Committee on Education.

4 (b) The amount of excess net proceeds from the state lottery shall
5 only be available for one (1) or more of the following:

6 (1) Awarding scholarships to students near completion;

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

12 (3) Establishing a reserve fund.

13 (c) By July 15, 2010, the Director of the Department of Higher
14 Education shall prepare a report on the projected distribution of excess net
15 proceeds from the state lottery based on:

16 (1) The award amounts set by the General Assembly in February
17 2010 under this act;

18 (2) The amount of excess net proceeds from the state lottery
19 reasonably projected to be available for funding scholarships under this act;

20 (3) The number of applications accepted for the 2010-2011
21 academic year under this act;

22 (4) The number of applicants on the waiting lists for
23 scholarships to be awarded under this act;

24 (5) Of the applicants on the waiting list, whether the
25 applicants are traditional students, nontraditional students, or students
26 near completion;

27 (d) The director shall provide the report to the Arkansas Lottery
28 Commission Legislative Oversight Committee, the House Committee on Education,
29 and the Senate Committee on Education for review.

30 (e)(1) The department shall maintain a list of students near
31 completion and shall award scholarships first in order of those nearest
32 completion.

33 (2) The amount of the award per student per year shall be
34 determined by dividing the number of hours until completion by thirty (30)
35 and multiplying by the amount the legislature sets for the award for
36 baccalaureate students.

1 (3) The amount of the award for associate degree students shall
2 be determined by dividing the number of hours until completion by fifteen
3 (15) and multiplying by the amount the legislature sets for two-year
4 students.

5
6 SECTION 8. Arkansas Code § 6-61-220(b), concerning the reporting of
7 students who require remediation in their first year of postsecondary
8 education, is amended to add an additional subdivision to read as follows:

9 (3)(A) For the purpose of analysis by the Bureau of Legislative
10 Research to guide the General Assembly's evaluation of the need for
11 adjustments to eligibility and funding levels for state-supported student
12 financial assistance, the Office of Accountability of the Department of
13 Education shall provide annually to the bureau all individual student
14 demographic and test result data on ACT or ACT equivalent college placement
15 exams.

16 (B) The office shall provide the data in a database or
17 spreadsheet format that omits personally identifiable information.

18
19 SECTION 9. Arkansas Code § 3-4-404(21), concerning Class B violations
20 by holders of alcoholic beverages permits, is amended to read as follows:

21 (21)(A) Conducting or permitting gambling on premises.

22 (B) Conducting or permitting gambling under subdivision
23 (21)(A) of this section does not include:

24 (i) Charitable bingo and raffles under the
25 Charitable Bingo and Raffles Enabling Act, § 23-114-101 et seq.; or

26 (ii) A lottery under the Arkansas Scholarship
27 Lottery Act, § 23-115-101 et seq.;

28
29 SECTION 10. Arkansas Code § 3-5-221 (d)(1)(A), concerning prohibited
30 practices under laws pertaining to beer and light wine, is amended to read as
31 follows:

32 (d)(1) It shall be unlawful for a licensee or for any agent, servant,
33 or employee of a licensee:

34 (A)(i) To suffer or permit any dice to be thrown for money
35 or for anything of value or to suffer or permit gambling with cards,
36 dominoes, raffle, or other games of chance or any form of gambling in the

1 place designated by the license or in any booth, room, yard, garden, or other
2 place appurtenant thereto.

3 (ii) Forms of gambling under subdivision

4 (d)(1)(A)(i) of this section do not include:

5 (a) Charitable bingo and raffles under the
6 Charitable Bingo and Raffles Enabling Act, § 23-114-101 et seq.; or

7 (b) A lottery under the Arkansas Scholarship
8 Lottery Act, § 23-115-101 et seq.;

9 ;

10 SECTION 11. Arkansas Code § 3-5-307(5), concerning certain prohibited
11 practices under laws pertaining to beer, is amended to read as follows:

12 (5)(A) Permit gambling or games of chance upon the licensed
13 premises.

14 (B) Permitting gambling or games of chance under
15 subdivision (5)(A) of this section does not include:

16 (i) Charitable bingo and raffles under the
17 Charitable Bingo and Raffles Enabling Act, § 23-114-101 et seq.; or

18 (ii) A lottery under the Arkansas Scholarship
19 Lottery Act, § 23-115-101 et seq.;

20
21 SECTION 12. Arkansas Code § 3-9-236(15), concerning miscellaneous
22 unlawful practices by on-premises consumption permit holders, is amended to
23 read as follows:

24 (15)(A) Keep on the permitted premises a slot machine or any
25 gambling or gaming device, machine, or apparatus, except as provided in
26 ~~subdivision (15)(B)~~ subdivisions (15)(B)-(C) of this section.

27 (B)(i) An event held by a nonprofit organization that is
28 exempt from taxation under § 26 U.S.C. 501(c)(3) shall be exempt from
29 subdivision (15)(A) of this section if:

30 ~~(i)~~(a) The nonprofit organization registers
31 the event with the Alcoholic Beverage Control Division at least sixty (60)
32 days before the event;

33 ~~(ii)~~(b) All proceeds of the event are for the
34 benefit of the nonprofit organization;

35 ~~(iii)~~(c) The games in the event do not use
36 money but may use some form of play money;

1 ~~(iv)~~(d) No cash or any other item of value is
2 won or awarded as a prize; and

3 ~~(v)~~(e) The event is for amusement and not for
4 gambling purposes in violation of Arkansas law or Arkansas Constitution,
5 Article 19, § 14.

6 ~~(C)(i)~~(ii)(a) This ~~section~~ subdivision (15)(B) shall
7 apply to only one (1) event held by a nonprofit organization during a
8 calendar year.

9 ~~(ii)~~(b) No licensed premises shall be allowed
10 more than ten (10) events under this subdivision (15)(B) per calendar year.

11 ~~(D)(i)~~(iii)(a) A violation of this ~~section~~
12 subdivision (15)(B) by a nonprofit organization is a ~~misdemeanor~~ violation
13 and is punishable by a fine of one thousand dollars (\$1,000).

14 ~~(ii)~~(b) If a nonprofit organization commits a
15 second violation of this subdivision (15)(B), the nonprofit organization
16 shall be ineligible to sponsor an event under this ~~section~~ subdivision
17 (15)(B).

18 ~~(E)~~(iv) The division may promulgate appropriate
19 rules to carry out the intent of this subdivision (15)(B).

20 (C) A gambling or a gaming device, machine, or apparatus
21 under subdivision (15)(A) of this section do not include:

22 (i) Charitable bingo and raffles under the
23 Charitable Bingo and Raffles Enabling Act, § 23-114-101 et seq.; or

24 (ii) A lottery under the Arkansas Scholarship
25 Lottery Act, § 23-115-101 et seq.;

26
27 SECTION 13. Arkansas Code § 10-3-314 is amended to read as follows:

28 10-3-314. Report on claim filed with State Claims Commission.

29 (a) ~~It~~ Except as provided by subsection (b) of this section, it is the
30 intent of the General Assembly that when any state agency, board, commission,
31 or institution of higher education admits liability to a claim filed with the
32 State Claims Commission and the claim involves a contract with a state
33 agency, board, commission, or institution of higher education or the claim
34 exceeds seven thousand five hundred dollars (\$7,500) that such agency, board,
35 commission, or institution of higher education file a written report thereof
36 with the Litigation Subcommittee of the Legislative Council. The report shall

1 include a concise statement of facts with an explanation of the agency's
2 liability. Provided further, such report shall be filed with the litigation
3 subcommittee within thirty (30) days after the claim has been adjudicated by
4 the State Claims Commission.

5 (b) The Arkansas Lottery Commission shall file its written report
6 under subsection (a) of this section with the Arkansas Lottery Commission
7 Legislative Oversight Committee.

8
9 SECTION 14. Arkansas Code § 19-4-201(b)(2), concerning budget requests
10 for certain agencies, is amended to read as follows:

11 (2) Budget requests for administration and operation of the
12 legislative branch, the judicial branch, the elective constitutional offices,
13 the Arkansas State Highway and Transportation Department, the Arkansas
14 Lottery Commission, and the Arkansas State Game and Fish Commission shall be
15 submitted directly to the Legislative Council without any recommendation by
16 the Governor.

17
18 SECTION 15. Arkansas Code § 19-4-607(a), concerning the review and
19 approval of annual operations plans, is amended to read as follows:

20 (a) Each state agency other than the elected constitutional officers,
21 the legislative branch and its staff offices, the judicial branch and its
22 staff offices, the Arkansas State Highway and Transportation Department, the
23 Arkansas Lottery Commission, the state-supported institutions of higher
24 education, and the Arkansas State Game and Fish Commission shall prepare an
25 annual operations plan for the operation of each of its assigned programs for
26 submission to the Chief Fiscal Officer of the State.

27
28 SECTION 16. Arkansas Code § 19-4-801(2)(B), concerning the definition
29 of "state agency" as applied to the expenditure of cash funds, is amended to
30 read as follows:

31 (B) "State agency" shall not include the:

- 32 (i) Governor;
33 (ii) Secretary of State;
34 (iii) Attorney General;
35 (iv) Treasurer of State;
36 (v) Auditor of State;

1 (vi) *Commissioner of State Lands;*
 2 (vii) *Supreme Court and its justices;*
 3 (viii) *Circuit courts and circuit judges;*
 4 (ix) *Prosecuting attorneys;*
 5 (x) *Arkansas State Game and Fish Commission;*
 6 (xi) *Arkansas State Highway and Transportation*
 7 *Department;*

8 (xii)(a) Arkansas Lottery Commission.

9 (b) However, the Arkansas Lottery Commission
 10 shall be considered a state agency for the purposes of §§ 19-4-810 - 19-4-
 11 1816;

12 ~~(xii)(xiii)~~ *General Assembly; and*
 13 ~~(xiii)(xiv)~~ *Respective staffs of ~~these~~ the officers*
 14 *and agencies listed in this subdivision (2)(B).*

15
 16 SECTION 17. *Arkansas Code § 19-4-1303 is amended to read as follows:*
 17 19-4-1303. *Exemptions.*

18 *Funds disbursed by the Arkansas State Highway and Transportation*
 19 *Department, ~~and~~ the Arkansas State Game and Fish Commission, and the Arkansas*
 20 *Lottery Commission and the funds appropriated in the general appropriation*
 21 *bill provided for in the Arkansas Constitution, Article 5, § 30, shall be*
 22 *exempt from this subchapter.*

23
 24 SECTION 18. *Arkansas Code § 19-4-1415(b)(5), concerning certain*
 25 *exemptions for the construction of buildings and facilities, is amended to*
 26 *read as follows:*

27 (5) *The Board of Trustees of the University of Arkansas, ~~and~~ the*
 28 *Board of Trustees of Arkansas State University, and the Arkansas Lottery*
 29 *Commission shall be exempt from review and approval by the authority and any*
 30 *regulations promulgated by it, provided that the institutions shall have*
 31 *adopted policies and procedures involving the awarding and oversight of the*
 32 *contracts for design and construction services.*

33
 34 SECTION 19. *Arkansas Code § 19-4-1612(b)(2), concerning overtime pay*
 35 *for state employees, is amended to read as follows:*

36 (2)(A) *The Chief Fiscal Officer of the State will specify those*

1 *specific employees or groups of employees other than employees of the*
 2 *Arkansas State Highway and Transportation Department and the Arkansas Lottery*
 3 *Commission eligible to receive overtime compensation, the circumstances under*
 4 *which overtime pay is to be allowed, and such other matters which the Chief*
 5 *Fiscal Officer of the State may deem appropriate and necessary to comply with*
 6 *the Federal Fair Labor Standards Act as regards the payment of overtime*
 7 *compensation.*

8 *(B) The Director of the Arkansas State Highway and*
 9 *Transportation Department shall make these determinations as to employees of*
 10 *the Arkansas State Highway and Transportation Department.*

11 *(C) The Director of the Arkansas Lottery Commission shall*
 12 *make these determinations as to employees of the Arkansas Lottery Commission.*

13
 14 *SECTION 20. Arkansas Code § 19-11-203(14)(Z) and (A)(A), concerning*
 15 *the definition of exempt commodities and services, is amended to read as*
 16 *follows:*

17 *(Z) Capital improvements valued at less than twenty thousand*
 18 *dollars (\$20,000), subject to minimum standards and criteria of the Arkansas*
 19 *Building Authority; ~~and~~*

20 *(AA) Services related to work force development, incumbent work*
 21 *force training, or specialized business or industry training; and*

22 *(BB) Major procurement contracts of the Arkansas Lottery*
 23 *Commission under § 23-115-103.*

24
 25 *SECTION 21. Arkansas Code § 19-11-220(a), concerning agency*
 26 *procurement officials, is amended to read as follows:*

27 *(a) In addition to any state agency authorized by regulation to have*
 28 *an agency procurement official, each of the following state agencies may*
 29 *elect to have such an official for commodities, technical and general*
 30 *services, and professional and consultant services, which are not within the*
 31 *exclusive jurisdiction of the State Procurement Director and which are not*
 32 *under state contract:*

33 *(1) Arkansas State Highway and Transportation Department;*

34 *(2) Arkansas Lottery Commission;*

35 *~~(2)~~(3) Arkansas State University-Beebe;*

36 *~~(3)~~(4) Arkansas State University;*

- 1 ~~(4)~~(5) *Arkansas State University System;*
2 ~~(5)~~(6) *Arkansas Tech University;*
3 ~~(6)~~(7) *Henderson State University;*
4 ~~(7)~~(8) *Southern Arkansas University;*
5 ~~(8)~~(9) *University of Arkansas at Fayetteville;*
6 ~~(9)~~(10) *University of Arkansas Fund entities;*
7 ~~(10)~~(11) *University of Arkansas at Little Rock;*
8 ~~(11)~~(12) *University of Arkansas at Monticello;*
9 ~~(12)~~(13) *University of Arkansas at Pine Bluff;*
10 ~~(13)~~(14) *University of Arkansas for Medical Sciences;*
11 ~~(14)~~(15) *University of Central Arkansas;*
12 ~~(15)~~(16) *Arkansas State University-Mountain Home;*
13 ~~(16)~~(17) *Arkansas State University-Newport;*
14 ~~(17)~~(18) *Black River Technical College;*
15 ~~(18)~~(19) *Cossatot Community College of the University of*
16 *Arkansas;*
17 ~~(19)~~(20) *East Arkansas Community College;*
18 ~~(20)~~(21) *National Park Community College;*
19 ~~(21)~~(22) *Arkansas Northeastern College;*
20 ~~(22)~~(23) *Mid-South Community College;*
21 ~~(23)~~(24) *North Arkansas College;*
22 ~~(24)~~(25) *Northwest Arkansas Community College;*
23 ~~(25)~~(26) *Ouachita Technical College;*
24 ~~(26)~~(27) *Ozarka College;*
25 ~~(27)~~(28) *Phillips Community College of the University of*
26 *Arkansas;*
27 ~~(28)~~(29) *University of Arkansas Community College at Morrilton;*
28 ~~(29)~~(30) *Pulaski Technical College;*
29 ~~(30)~~(31) *Rich Mountain Community College;*
30 ~~(31)~~(32) *SAU-Tech;*
31 ~~(32)~~(33) *Southeast Arkansas College;*
32 ~~(33)~~(34) *South Arkansas Community College;*
33 ~~(34)~~(35) *University of Arkansas Community College at Batesville;*
34 ~~(35)~~(36) *University of Arkansas Community College at Hope;*
35 ~~(36)~~(37) *University of Arkansas at Fort Smith; and*
36 ~~(37)~~(38) *Department of Higher Education.*

1
2 SECTION 22. Arkansas Code § 19-11-1003, concerning exemptions from
3 laws pertaining to professional and consultant services contracts, is amended
4 to add an additional subdivision to read as follows:

5 (d) This subchapter does not apply to major procurement contracts of
6 the Arkansas Lottery Commission under § 23-115-103.

7
8 SECTION 23. Arkansas Code Title 19, Chapter 11, Subchapter 11 is
9 amended to add an additional section to read as follows:

10 19-11-1103. Exemptions.

11 This subchapter does not apply to major procurement contracts of the
12 Arkansas Lottery Commission under § 23-115-103.

13
14 SECTION 24. Arkansas Code § 26-18-1001, concerning business closure
15 authority and notice, is amended to add an additional subsection to read as
16 follows:

17 (e) After written notice delivered to a lottery retailer by the United
18 States Postal Service or by hand delivery, the Director of the Department of
19 Finance and Administration may pursue a remedy under this subchapter against
20 a lottery retailer as a noncompliant taxpayer upon receiving a referral from
21 the Arkansas Lottery Commission under § 23-115-605.

22
23 SECTION 25. TEMPORARY LANGUAGE. NOT TO BE CODIFIED. (a) Initial
24 appointments to the Arkansas Lottery Commission under § 23-115-202 shall be
25 made within thirty (30) days of the effective date of this act.

26 (b) The Arkansas Lottery Commission shall hold its first meeting
27 within forty-five (45) days of the effective date of this act.

28
29 SECTION 26. NOT TO BE CODIFIED. If any provision of this act or its
30 application to any person or circumstance is held invalid, the invalidity
31 does not affect other provisions or applications of this act which can be
32 given effect without the invalid provision or application, and to this end
33 the provisions of this act are severable under § 1-2-117.

34
35 SECTION 27. EMERGENCY CLAUSE. It is found and determined by the
36 General Assembly of the State of Arkansas that the people of the State of

1 Arkansas overwhelmingly approved the establishment of lotteries at the 2008
2 General Election; that lotteries will provide funding for scholarships to the
3 citizens of this state; that the failure to immediately implement this act
4 will cause a reduction in lottery proceeds that will harm the educational and
5 economic success of potential students eligible to receive scholarships under
6 the act; and that the state lotteries should be implemented as soon as
7 possible to effectuate the will of the citizens of this state and implement
8 lottery-funded scholarships as soon as possible. Therefore, an emergency is
9 declared to exist and this act being immediately necessary for the
10 preservation of the public peace, health, and safety shall become effective
11 on:

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

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

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

18 /s/ T. Smith
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