

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

Act 606 of the Regular Session

1 State of Arkansas

As Engrossed: H3/12/09 H3/16/09

2 87th General Assembly

A Bill

3 Regular Session, 2009

HOUSE BILL 1002

4
5 By: Representatives Wills, Reep, Maloch, J. Roebuck, M. Burris, Abernathy, Allen, T. Baker, Barnett,
6 Blount, J. Brown, Carnine, Carroll, Cash, Cheatham, Cook, Davis, J. Dickinson, Dunn, J. Edwards,
7 English, Everett, Gaskill, George, R. Green, Hardy, Harrelson, Hawkins, House, Hoyt, Hyde, Kidd, W.
8 Lewellen, Lindsey, Lovell, Lowery, Maxwell, McCrary, Moore, Nix, Overbey, Patterson, Pennartz, Perry,
9 Pierce, Ragland, Sample, Saunders, Shelby, G. Smith, L. Smith, Stewart, Summers, Tyler, Wagner, Webb,
10 Wells, B. Wilkins, Williams, Woods, Word, Cole, Powers
11 By: Senators T. Smith, Salmon, Broadway, Trusty, Bookout, B. Johnson, Steele, G. Baker, Bryles,
12 Crumbly, Elliott, Faris, Glover, Horn, J. Jeffress, G. Jeffress, Laverty, Madison, P. Malone, Miller, J.
13 Taylor, Wilkinson, D. Wyatt
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

35 CHAPTER 115



ARKANSAS SCHOLARSHIP LOTTERY ACT

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

1 Arkansas Lottery Commission in any matter other than a claim in contract or
2 in tort, including without limitation licensing, in which the Arkansas
3 Lottery Commission is required by law to make its determination after notice
4 and a hearing;

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

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

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

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

14 (B) Either:

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

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

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

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

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

35 (8) "Incompetency" means:

36 (A) Gross ignorance of official duties;

1 (B) Gross carelessness in the discharge of official
2 duties; or

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

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

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

18 (11) "Local government" means:

19 (A) A county;

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

22 (C) An incorporated town; or

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

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

28 (B) "Lottery" includes without limitation:

29 (i) An instant ticket;

30 (ii) A draw game; and

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

33 (C) "Lottery" does not include:

34 (i) Casino gambling;

35 (ii) A video lottery;

36 (iii) Pari-mutuel wagering on horse racing or

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

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

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

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

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

17 (i) A major advertising contract;

18 (ii) An annuity contract;

19 (iii) A prize payment agreement;

20 (iv) A consulting service;

21 (v) Lottery equipment;

22 (vi) Tickets; and

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

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

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

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

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

36 (A) An individual who is a member of a minority who

1 reports as his or her personal income for Arkansas income tax purposes the
2 income of the business;

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

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

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

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

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

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

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

23 (C) Advertising and marketing costs;

24 (D) Personnel costs;

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

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

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

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

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

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

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

4 (J) Amounts annually transferred to a fidelity fund under
5 § 23-115-603; and

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

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

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

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

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

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

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

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

25 (B) "Vendor" does not include:

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

27 (ii) A retailer; or

28 (iii) A state agency or instrumentality.

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

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

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

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

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

7
8 SUBCHAPTER 2

9 ARKANSAS LOTTERY COMMISSION

10
11 23-115-201. Arkansas Lottery Commission – Creation – Venue.

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

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

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

18
19 23-115-202. Members – Duties.

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

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

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

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

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

28 (A) A chair; and

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

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

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

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

33 and

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

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

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

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

3 and

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

5 (3) Of the initial appointees to the commission by the Speaker
6 of the House of Representatives:

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

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

9 and

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

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

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

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

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

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

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

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

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

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

28 (f) Members of the commission may receive expense reimbursement under
29 § 25-16-901 et seq.

30

31 23-115-203. Qualifications of commission members.

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

36 (2) Individuals appointed to the commission shall be residents

1 of the State of Arkansas.

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

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

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

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

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

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

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

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

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

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

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

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

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

34
35 23-115-204. Lottery Retailer Advisory Board.

36 (a)(1) The Chair of the Arkansas Lottery Commission, subject to the

1 approval of a majority of a quorum of the Arkansas Lottery Commission, shall
2 appoint a Lottery Retailer Advisory Board to be composed of ten (10)
3 retailers.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31
32 23-115-205. Commission powers.

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

- 1 (1) To adopt and alter a seal;
2 (2) To adopt, amend, and repeal rules for the regulation of its
3 affairs and the conduct of its business, to prescribe the duties of officers
4 and employees of the commission, and to perform other matters as the
5 commission determines;
6 (3) To bring suits to enforce demands of the state under this
7 chapter;
8 (4) To procure or to provide insurance;
9 (5) To hold copyrights, trademarks, and service marks and
10 enforce the commission's rights with respect to those copyrights, trademarks,
11 and service marks;
12 (6) To initiate, supervise, and administer the operation of
13 lotteries in accordance with this chapter and rules adopted under this
14 chapter;
15 (7) To enter into written agreements with one (1) or more other
16 states or sovereigns for the operation, participation in marketing, and
17 promotion of multistate or multisovereign games;
18 (8) To conduct market research as necessary or appropriate;
19 (9) To acquire or lease real property and make improvements to
20 the real property and acquire by lease or by purchase personal property,
21 including without limitation:
22 (A) Computers;
23 (B) Mechanical, electronic, and online equipment and
24 terminals;
25 (C) Intangible property, including without limitation
26 computer programs, computer systems, and computer software; and
27 (D) Broadcast equipment;
28 (10) To administer oaths, take depositions, issue subpoenas, and
29 compel the attendance of witnesses and the production of books, papers,
30 documents, and other evidence relative to any investigation or proceeding
31 conducted by the commission;
32 (11) To employ:
33 (A) The Director of the Arkansas Lottery Commission; and
34 (B) An internal auditor;
35 (12) To select and contract with vendors;
36 (13) To select and license retailers;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 any related merchandise;

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

5 (B) An independent testing laboratory shall:

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

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

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

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

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

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

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

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

25
26 23-115-206. Internal controls – Annual audit.

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

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

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

36 (3) Include in any contract or license with a vendor or retailer

1 for data processing services or other computer services a provision
2 permitting the Division of Legislative Audit to have access and authority to
3 audit the computer systems of the vendor or retailer;

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

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

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

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

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

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

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

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

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

34 (B) Revenues received;

35 (C) Claims for lottery prizes;

36 (D) Lottery prizes paid;

1 (E) Lottery prizes forfeited; and

2 (F) Other financial transactions of the commission;

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

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

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

9 (ii) The following information for each employment
10 classification:

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

13 (b) The number of white male employees;

14 (c) The number of white female employees;

15 (d) The total number of Caucasian employees;

16 (e) The number of black male employees;

17 (f) The number of black female employees;

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

20 (h) The total number of minorities currently
21 employed; and

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

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

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

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

36 (3)(A) If the commission, the General Assembly, the Arkansas

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

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

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

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

18
19 23-115-207. Rulemaking.

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

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

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

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

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

29 (3) The number and amount of prizes;

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

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

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

36 (B) Winners of five hundred dollars (\$500) or less may

1 claim prizes from any of the following:

2 (i) A retailer; or

3 (ii) The commission.

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

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

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

10 (8) The means of conducting drawings;

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

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

14 (C) If the commission elects to use electronic or
15 mechanical devices to sell tickets or shares, the commission shall provide by
16 rule:

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

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

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

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

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

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

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

36 (B) The commission shall not be required to file rules

1 under § 10-3-309.

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

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

7
8 23-115-208. Sovereign immunity.

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

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

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

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

20 (2) The claimant may:

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

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

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

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

34 (d)(1)(A) Except as provided in subdivisions (d)(2)-(4) of this
35 section, appeals of claims in contract or in tort against the Arkansas
36 Lottery Commission or its employees shall be conducted by the Arkansas State

1 Claims Commission in the same manner as a claim under § 19-10-201 et seq.

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

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

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

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

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

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

18
19 23-115-209. Appealing administrative orders of the commission.

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

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

29 (1) Clearly erroneous;

30 (2) Arbitrary and capricious;

31 (3) Procured by fraud;

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

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

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

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

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

8 (A) Court costs;

9 (B) Bond;

10 (C) Legal fees; and

11 (D) Loss of income.

12
13 23-115-210. Removal of commission member.

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

16 (A) Misconduct;

17 (B) Incompetence; or

18 (C) Any malfeasance in office.

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

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

24 (1) Be in writing;

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

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

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

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

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

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

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

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

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

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

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

27
28 23-115-211. Certain sections inapplicable.

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

30 (1) Section 19-1-211;

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

32 (3) Section 19-1-609;

33 (4) Section 19-4-1802;

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

35 (6) Section 19-11-301 et seq.
36

1 SUBCHAPTER 3

2 EMPLOYEES OF ARKANSAS LOTTERY COMMISSION

3
4 23-115-301. Director – Appointment – Duties.

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

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

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

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

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

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

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

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

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

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

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

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

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

33
34 23-115-302. Duties of director.

35 (a) The Director of the Arkansas Lottery Commission shall direct and
36 supervise all administrative and technical activities related to the

1 operation of a lottery in accordance with this chapter and with rules adopted
2 by the Arkansas Lottery Commission.

3 (b) The director shall:

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

6 (2) Direct personnel as deemed necessary;

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

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

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

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

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

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

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

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

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

30
31 23-115-303. Employees – Background investigation.

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

36 (b) A commission employee shall not have a financial interest in a

1 vendor doing business or proposing to do business with the commission.

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

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

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

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

13 (2)(A) Subdivision (d)(1) of this section is supplemental to §
14 19-11-701 et seq.

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

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

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

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

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

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

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

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

1 or federal court of the United States;

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

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

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

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

10
11 23-115-304. Commission employees – Participation in Arkansas Public
12 Employees’ Retirement System.

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

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

19
20 23-115-305. Regular salaries.

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

34
35 Maximum
36 Item Class No. of Maximum Annual

<u>No.</u>	<u>Code</u>	<u>Title</u>	<u>Employees</u>	<u>Salary Rate</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>

23-115-306. Special salary allowances.

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

(1) Executive Director of the Arkansas Lottery Commission;

(2) Internal auditor of the commission; and

(3) Chief operating officer of the commission.

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

23-115-307. Expansion pool.

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

(b) A position established under this section shall not exceed a

1 salary rate in excess of the highest rate established by grade or by line
2 item in this act.

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

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

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

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

14
15 SUBCHAPTER 4

16 OPERATION OF LOTTERY

17
18 23-115-401. Minority-owned and female-owned businesses.

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

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

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

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

33 (e) The commission shall monitor the results of minority-owned
34 business and female-owned business participation and shall report the results
35 of minority-owned business and female-owned business participation to the
36 Governor and the Arkansas Lottery Commission Legislative Oversight Committee

1 on at least an annual basis.

2
3 23-115-402. Restriction on sales.

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

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

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

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

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

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

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

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

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

28 (1) The Department of Correction;

29 (2) The Department of Community Correction; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (f)(1) A ticket or share shall not be purchased by and a lottery prize

1 shall not be paid to any:

2 (A) Member of the commission;

3 (B) Employee of the commission; or

4 (C) Member of the immediate family of a member of the
5 commission or an employee of the commission.

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

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

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

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

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

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

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

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

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

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

30 (B) Used for special lottery prize promotions.

31
32 23-115-404. Confidential information.

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

36 (2) The following records or information in the possession of

1 the commission shall be treated as confidential and are exempt from public
2 disclosure under the Freedom of Information Act of 1967, § 25-19-101 et seq.:

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

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

6 (ii) Security reports; and

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

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

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

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

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

24
25 23-115-406. Authority of local government.

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

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

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

34
35 23-115-407. Video lotteries prohibited.

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

1 chapter.

2
3 23-115-408. Video lotteries prohibited.

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

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

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

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

10
11 SUBCHAPTER 5

12 VENDORS

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

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

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

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

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

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

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

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

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

36 (2) A disclosure of all the states and jurisdictions in which

1 the vendor does business and the nature of the business for each state or
2 jurisdiction;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (B) A public official shall not divest the financial

1 interest to a member of his or her immediate family.

2
3 23-115-502. Vendor – Performance bond or letter of credit.

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

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

12 (A) Interest bearing or accruing; and

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

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

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

20 (i) Approved by the commission; and

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

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

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

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

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

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

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

36 (2) All major procurement contracts under this section shall be

1 governed by the laws of this state except as provided in this chapter.

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

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

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

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

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

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

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

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

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

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

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

33
34 23-115-504. Political contributions by vendors.

35 (a) The General Assembly finds:

36 (1) That the integrity of the Arkansas Lottery Commission and

1 lotteries is of utmost importance; and

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

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

8
9 SUBCHAPTER 6

10 RETAILERS

11
12 23-115-601. Retailers.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (A) The applicant's financial responsibility;

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

18 (C) Accessibility to the public;

19 (D) The applicant's integrity; and

20 (E) The applicant's reputation.

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

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

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

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

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

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

36 (ii)(a) Has been convicted of any illegal gambling

1 activity, false statements, false swearing, or perjury in this or any other
2 jurisdiction or convicted of any crime punishable by more than one (1) year
3 of imprisonment or a fine of more than one thousand dollars (\$1,000), or
4 both.

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (A) The Director of the Arkansas Lottery Commission, a

1 commission member, or a commission employee; or

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

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

6
7 23-115-602. Retailer license.

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

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

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

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

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

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

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

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

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

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

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

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

1 account.

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (4) Insufficient sales;

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

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

1 receivership;

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

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

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

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

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

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

23
24 23-115-605. Retailers – Fiduciary duty – Protection against loss.

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

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

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

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

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

35 (C) Net of allowable sales commissions; and

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

1 retailers.

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

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

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

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

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

14 (B) Making payments to the commission; and

15 (C) Receiving payments for the commission.

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

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

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

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

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

1 retailer from the Arkansas Lottery Commission may be considered the amount of
2 the lottery retail sale for purposes of computing the rental payment.

3
4 SUBCHAPTER 7

5 PROCUREMENTS

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

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

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

14 (A) Lottery design;

15 (B) Ticket distribution to retailers;

16 (C) Supply of goods and services; and

17 (D) Advertising.

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

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

21 (B) Act to promote and ensure:

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

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

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

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

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

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

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

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

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

10
11 SUBCHAPTER 8
12 LOTTERY PROCEEDS

13
14 23-115-801. Lottery proceeds.

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

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

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

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

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

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

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

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

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

1 to:

2 (A) Fund the scholarships awarded to recipients under § 6-
3 85-201 et seq. for an academic year; and

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

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

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

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

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

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

23 (A) Total deposits to all trust accounts;

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

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

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

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

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

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

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

4
5 23-115-802. Scholarship shortfall reserve trust account.

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

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

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

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

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

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

26
27 23-115-803. Disposition of funds.

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

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

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

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

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

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

8
9
10 SUBCHAPTER 9

11 PENALTIES

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

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

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

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

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

23 (B) Suspension of the retailer license issued under § 23-
24 115-601 et seq. for a period not to exceed two (2) days;

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

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

27 and

28 (B) Suspension of the retailer license issued under § 23-
29 115-601 et seq. for a period not to exceed seven (7) days;

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

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

33 and

34 (B) Suspension of the retailer license issued under § 23-
35 115-601 et seq. for a period not to exceed fourteen (14) days; and

36 (5) For a fifth or subsequent violation within a forty-eight-

1 month period, the retailer license issued under § 23-115-601 et seq. may be
2 revoked.

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

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

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

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

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

17
18 23-115-902. Fraud – Penalty.

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

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

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

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

31
32 23-115-903. False statement on license application – Penalty.

33 (a) A person shall not knowingly make:

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

36 (2) A material false entry in any book or record that is

1 compiled, maintained, or submitted to the Arkansas Lottery Commission.

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

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

8
9 23-115-904. Inconsistent statutes inapplicable.

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

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

17
18 SUBCHAPTER 10

19 DEBTORS OWING MONEY TO THE STATE

20
21 23-115-1001. Legislative intent.

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

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

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

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

34
35 23-115-1002. Definitions.

36 As used in this subchapter:

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

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

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

5 (2) "Debt" means a:

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

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

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

13 (A) Adjudicated as satisfied by court order;

14 (B) Set aside by court order; or

15 (C) Discharged in bankruptcy; and

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

18
19 23-115-1003. Collection remedy.

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

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

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

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

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

34 (4) The list shall contain:

35 (A) The name of the each debtor;

36 (B) The social security number of each debtor if

1 available; and

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

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

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

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

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

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

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

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

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

24 (1) Taxes due the state;

25 (2) Delinquent child support; and

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

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

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

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

36 (g) The commission and any claimant agency shall incur no civil or

1 criminal liability for good faith adherence to this section.

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

5
6 23-115-1005. Confidential information.

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

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

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

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

17
18 23-115-1006. Application.

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

21
22 SUBCHAPTER 11

23 ARKANSAS LOTTERY COMMISSION LEGISLATIVE OVERSIGHT COMMITTEE

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

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

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

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

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

1 Pro Tempore of the Senate.

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

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

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

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

12 (3) Review proposed major procurement contracts;

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

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

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

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

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

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

25 (i) Scholarship award amounts;

26 (ii) Number or type of scholarships; and

27 (iii) Scholarship eligibility requirements.

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

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

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

1 (3) Six (6) members of the Arkansas Lottery Commission
2 Legislative Oversight Committee constitute a quorum.

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

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

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

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

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

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

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

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

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

30 5-66-120. Application to Arkansas Scholarship Lottery Act.

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

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

36 ~~6-82-1001. Legislative findings and declarations of public necessity.~~

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

14
15 ~~6-82-1002. Definitions.~~

16 ~~As used in this subchapter:~~

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

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

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

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

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

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

1 ~~toward a baccalaureate degree, an associate degree in nursing, or a nursing~~
2 ~~school diploma.~~

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

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

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

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

16
17 ~~6-82-1003. Creation.~~

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

20
21 ~~6-82-1004. Authority of Department of Higher Education.~~

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

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

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

36 ~~(d) Applicants must certify that they are drug free and must pledge in~~

1 ~~writing on the application form to refrain from the use or abuse of illegal~~
2 ~~substances in order to maintain eligibility for this program.~~

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

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

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

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

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

21
22 ~~6-82-1005. Eligibility.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 ~~(iii)(a) These revised grade point average~~

1 ~~requirements may be reduced to no lower than a 2.5 on a 4.0 scale by a rules~~
2 ~~change by the Department of Higher Education if it is determined by the~~
3 ~~department, based on the most recent evaluation of the program's operation,~~
4 ~~that the change to a 3.0 or 2.75 grade point average on a 4.0 scale would~~
5 ~~unduly reduce the number of low-income or disadvantaged students who would~~
6 ~~otherwise be eligible for the program.~~

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

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

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

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

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

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

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

36 ~~(b) An applicant whose family includes two (2)~~

1 ~~unemancipated children shall have average family adjusted gross income over~~
2 ~~the previous two (2) years not exceeding seventy five thousand dollars~~
3 ~~(\$75,000) per year at the time of application to the program;~~

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

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

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

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

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

28 ~~(b) An applicant whose family includes two (2)~~
29 ~~unemancipated children shall have average family adjusted gross income over~~
30 ~~the previous two (2) years not exceeding fifty five thousand dollars~~
31 ~~(\$55,000) per year at the time of application to the program;~~

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

1 ~~thousand dollars (\$5,000) per year for each additional child; and~~

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

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

14 ~~(a) An applicant whose family includes one (1)~~
15 ~~unemancipated child shall have an average family adjusted gross income over~~
16 ~~the previous two (2) years not exceeding sixty five thousand dollars~~
17 ~~(\$65,000) per year at the time of application to the program;~~

18 ~~(b) An applicant whose family includes two (2)~~
19 ~~unemancipated children shall have an average family adjusted gross income~~
20 ~~over the previous two (2) years not exceeding seventy thousand dollars~~
21 ~~(\$70,000) per year at the time of application to the program;~~

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

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

35 ~~(e)(1) The Arkansas Higher Education Coordinating Board shall have the~~
36 ~~authority to increase these financial need family income limitations if~~

1 ~~sufficient additional funds become available.~~

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

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

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

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

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

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

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

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

28
29 ~~6-82-1006. Duration—Amount.~~

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

35 ~~(b) A recipient who graduated from high school after December 31,~~
36 ~~2000, shall receive a scholarship for one (1) academic year renewable for up~~

1 ~~to three (3) additional academic years if the recipient meets the following~~
2 ~~continuing eligibility criteria:~~

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

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

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

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

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

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

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

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

29 ~~(B) A recipient in his or her sophomore year shall be~~
30 ~~awarded an amount not to exceed two thousand seven hundred fifty dollars~~
31 ~~(\$2,750);~~

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

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

36 ~~(d)(1) A recipient who agrees to volunteer as a literacy tutor under §~~

1 ~~6-82-1005(e) shall receive the prerequisite training in literacy and college~~
2 ~~readiness from an accredited Arkansas institution of higher education.~~

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

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

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

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

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

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

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

27 ~~(3) The recipient meets continuing eligibility requirements in §~~
28 ~~6-82-1006.~~

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

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

34
35 ~~6-82-1008. Awards not funded.~~

36 ~~(a)(1) Any applicant who graduated after December 31, 2001, who was~~

1 ~~eligible to receive an academic challenge award but did not receive the award~~
2 ~~because of insufficient funding in the program may be eligible to receive an~~
3 ~~award to begin in a year other than the freshman year.~~

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

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

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

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

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

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

25
26 ~~6-82-1009. Priority for teaching commitment.~~

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

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

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

1 ~~shortage of teachers.~~

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

4 ~~(1) First, to applicants who agree to the provisions of § 6-82-~~
5 ~~1009; and~~

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

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

9
10 ~~6-82-1010. Teaching requirements.~~

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

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

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

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

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

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

1 ~~(c) Any person failing to complete a program of study which will~~
2 ~~enable the person to become a licensed teacher shall begin repaying the note~~
3 ~~according to the terms of the note for the sum of all forgivable loan awards~~
4 ~~made to that person less the corresponding amount of any awards for which~~
5 ~~service has been rendered.~~

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

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

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

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

22 ~~(f) The obligations made by the recipient of a forgivable loan under §~~
23 ~~6-82-1009 and this section shall not be voidable by reason of the age of the~~
24 ~~student at the time of receiving the forgivable loan award.~~

25
26 ~~6-82-1011. End of course assessment requirements.~~

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

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

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

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

36

1 SECTION 4. Arkansas Code Title 6 is amended to add an additional
2 chapter to read as follows:

3 CHAPTER 85

4 ARKANSAS ACADEMIC CHALLENGE SCHOLARSHIP PROGRAM

5
6 SUBCHAPTER 1

7 ARKANSAS ACADEMIC CHALLENGE SCHOLARSHIP PROGRAM – PART 1

8
9 6-85-101. Legislative findings and declarations of public necessity.

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

23
24 6-85-102. Creation.

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

27
28 6-85-103. Applicability – Expiration.

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

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

33 (2) Apply for a scholarship under this subchapter for the
34 academic year 2009-2010, receive the scholarship, and maintain eligibility
35 thereafter.

36 (b) Except to the extent of the award amount under § 6-85-107(b)(2), a

1 recipient of a scholarship under this subchapter shall not receive an
2 additional scholarship under the Arkansas Academic Challenge Scholarship
3 Program – Part 2, § 6-85-201 et seq.

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

5
6 6-85-104. Definitions.

7 As used in this subchapter:

8 (1) “Approved institution” means an institution of higher
9 education approved by the Department of Higher Education to participate in
10 the Arkansas Academic Challenge Scholarship Program that is either:

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

12 (B) A private, nonprofit institution of higher education
13 with its primary headquarters located in Arkansas that is eligible to receive
14 Title IV federal student aid funds; or

15 (C) A nursing school with its primary headquarters located
16 in Arkansas that is eligible to participate in Title IV federal student aid
17 programs and has been;

18 (2) “Eligible student” means any student who:

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

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

22 (3) “Financial need” means the family income of program
23 applicants as determined by the Department of Higher Education through
24 evaluation of program applications and supporting documentation;

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

32 (B) A recipient receiving an Arkansas Academic Challenge
33 Scholarship for the eighth semester shall not be required to be enrolled in
34 fifteen (15) hours and shall be considered a “full-time undergraduate
35 student” if the recipient is enrolled in the appropriate number of course
36 credit hours to earn a degree or diploma at the end of that semester;

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

3 (6) "Tuition" means charges levied for attendance at an approved
4 institution, including mandatory fees charged to all full-time undergraduate
5 students by an approved institution; and

6 (7) "Unemancipated child" means a dependent child as defined by
7 the United States Department of Education for student aid purposes.

8
9 6-85-105. Authority of Department of Higher Education.

10 (a) The Department of Higher Education is authorized by this
11 subchapter to develop and promulgate rules for the administration of the
12 Arkansas Academic Challenge Scholarship Program, consistent with the purposes
13 and requirements of this subchapter.

14 (b) The rules shall include student eligibility criteria based on the
15 provisions of this subchapter, the method for selecting scholarship
16 recipients, rules for determining continuing eligibility, procedures for
17 making payment to recipients, and other administrative procedures that may be
18 necessary for the implementation and operation of the program.

19 (c) Until the end of fiscal year 2011, the Department of Higher
20 Education is authorized to expend each year for data processing and other
21 administrative costs of this program up to one and five-tenths percent (1.5%)
22 of the amount appropriated for the programs.

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

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

32 (2) The distribution of information shall be accomplished
33 through the collaboration of school counselors and other appropriate school
34 personnel.

35 (f) The Director of the Department of Higher Education is authorized
36 to review and evaluate the operation of the program with regard to

1 eligibility criteria and size of the scholarship award to ensure that the
2 program's operation meets the intent of this subchapter.

3 (g) The Department of Higher Education is authorized to determine the
4 necessary procedures for the awarding of scholarships should the number of
5 eligible applicants exceed the funds available.

6 (h) The Department of Higher Education shall report to the General
7 Assembly annually regarding the implementation of the provisions of this
8 subchapter.

9
10 6-85-106. Eligibility.

11 (a) Eligibility for the Arkansas Academic Challenge Scholarship Program
12 is based on the criteria under this section and rules promulgated under this
13 subchapter by the Department of Higher Education.

14 (b) An applicant is eligible for an award from this program if the
15 applicant meets all of these criteria:

16 (1) The applicant graduated from an Arkansas high school;

17 (2) The applicant has been a resident of the State of Arkansas
18 for at least twelve (12) months before graduation from an Arkansas high
19 school, and the applicant's parent or guardian has maintained Arkansas
20 residency for the same period of time;

21 (3) The applicant is a citizen of the United States or is a
22 lawful permanent resident;

23 (4) The applicant is accepted for admission at an approved
24 institution as a full-time first-time freshman as defined by the department
25 and enrolls in an approved institution within twelve (12) months of the
26 applicant's high school graduation;

27 (5)(A)(i) Except as provided in subdivision (b)(5)(B) of this
28 section, the applicant has successfully completed the core curriculum
29 established by the State Board of Education and the Arkansas Higher Education
30 Coordinating Board under § 6-61-217.

31 (ii) An applicant who graduates from an Arkansas
32 high school on or before December 31, 2009, and who meets the provisions of
33 subdivisions (b)(1)-(4) of this section but who has not completed the core
34 curriculum defined in this subdivision (b)(5)(A) by the end of the senior
35 year of high school due to the unavailability of the courses in the
36 applicant's high school shall have a grace period of twelve (12) months from

1 the date of high school graduation in which to make up any course
2 deficiencies required for program eligibility.

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

5 (i) Successfully completed the Smart Core Curriculum
6 as established by the Department of Education; and

7 (ii)(a) Demonstrated proficiency in the application
8 of knowledge and skills in reading and writing literacy and mathematics by
9 passing the end-of-course assessments developed by the Department of
10 Education.

11 (b) "End-of-course" assessments means those
12 assessments defined in § 6-15-419.

13 (C) All applicants shall have achieved:

14 (i) Either:

15 (a) A grade point average of 3.0 on a 4.0
16 scale in the set of core curriculum courses if enrolling at an approved four-
17 year institution; or

18 (b) A grade point average of 2.75 on a
19 4.0 scale in the set of core curriculum courses if enrolling at an approved
20 two-year institution; and

21 (ii) A minimum composite score of nineteen (19) or
22 higher on the American College Test or the equivalent as defined by the
23 Department of Higher Education.

24 (D)(i) The grade point average requirements of subdivision
25 (b)(5)(C) of this section may be reduced to no lower than a 2.5 on a 4.0
26 scale by a rules change by the Department of Higher Education if it is
27 determined by the department, based on the most recent evaluation of the
28 program's operation, that the change to a 3.0 or 2.75 grade point average on
29 a 4.0 scale would unduly reduce the number of low-income or disadvantaged
30 students who would otherwise be eligible for the program.

31 (ii) At the Department of Higher Education's
32 discretion, the Department of Higher Education may make the reduction for
33 admissions to institutions with a high percentage of students receiving full
34 Pell Grants upon petition to the Department of Higher Education by the
35 institution.

36 (E)(i) The Department of Higher Education may develop

1 selection criteria through program rules that combine an applicant's American
2 College Test or equivalent score and grade point average in the core
3 curriculum into a selection index.

4 (ii) Notwithstanding the provisions of subdivision
5 (b)(5)(D) of this section, this selection index shall be employed as an
6 alternative selection process for applicants who achieve a grade point
7 average higher than 2.75 if attending an approved two-year institution or 3.0
8 if attending a four-year institution on a 4.0 scale in the set of core
9 curriculum courses defined in subdivision (b)(5)(A) of this section or for
10 applicants who have an American College Test composite or equivalent score
11 greater than nineteen (19).

12 (6)(A) An applicant shall demonstrate financial need as defined
13 by the Department of Higher Education.

14 (B) The department shall use the following criteria in
15 calculating financial need for applicants who graduated from an Arkansas high
16 school after December 31, 2000, but before December 31, 2004:

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

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

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

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

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

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

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

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

21 (iv) Any applicant whose family includes more than
22 one (1) unemancipated child enrolled full time at an approved institution of
23 higher education shall be entitled to an additional ten thousand dollars
24 (\$10,000) of adjusted gross income for each additional unemancipated child
25 enrolled full time at an approved institution of higher education when the
26 Department of Higher Education calculates financial need.

27 (c)(1) The Arkansas Higher Education Coordinating Board shall have the
28 authority to increase these financial need family income limitations if
29 sufficient additional funds become available.

30 (2) Financial need criteria necessary for the selection of
31 recipients, including those defined as emancipated or independent by federal
32 student aid regulations, shall be established through rules issued by the
33 department.

34 (d) Recipients of Arkansas Governor's Distinguished Scholarships are
35 prohibited from receiving Arkansas Academic Challenge Scholarships.

36 (e) As an additional component to the Arkansas Academic Challenge

1 Scholarship:

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

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

8 (A) Shall complete the prerequisite training in literacy
9 and college readiness skills provided under § 6-85-107(c) before he or she
10 begins tutoring;

11 (B) May receive college credit for the tutoring as
12 determined by the institution of higher education where the recipient is
13 enrolled and

14 (C) Shall receive the prerequisite training in literacy
15 and college readiness from an accredited Arkansas institution of higher
16 education based on training modules developed by the Department of Education.

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

23
24 6-85-107. Duration – Amount.

25 (a) A recipient who graduated from high school after December 31,
26 2000, shall receive a scholarship for one (1) academic year renewable for up
27 to three (3) additional academic years if the recipient meets the following
28 continuing eligibility criteria:

29 (1) The recipient earns a cumulative grade point average of 2.75
30 or higher based on a 4.0 scale at an approved institution;

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

34 (3) The recipient meets any other continuing eligibility
35 criteria established by the Department of Higher Education.

36 (b)(1) Beginning with awards made for the 2005-2006 academic year and

1 thereafter for recipients who graduated from high school after December 31,
2 2001, the amount of the annual scholarship awarded to each recipient shall be
3 graduated as follows:

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

6 (B) A recipient in his or her sophomore year shall be
7 awarded an amount not to exceed two thousand seven hundred fifty dollars
8 (\$2,750);

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

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

13 (2) A recipient under this subchapter shall receive the greater
14 of the award under subdivision (b)(1) of this section or the award amount for
15 the same academic year for a full-time recipient under the Arkansas Academic
16 Challenge Scholarship Program – Part 2, § 6-85-201 et seq.

17
18 6-85-108. Nursing school eligibility.

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

21 (2) It is the intent of this section to allow the Department of
22 Higher Education the opportunity to include associate degree granting and
23 diploma schools of nursing in the Arkansas Academic Challenge Scholarship
24 Program under specific circumstances.

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

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

35 (2) The nursing school has been approved by the Arkansas State
36 Board of Nursing and is specifically recognized by the department as a school

1 of nursing eligible to participate in the Arkansas Academic Challenge
2 Scholarship Program; and

3 (3) The recipient meets continuing eligibility requirements in §
4 6-85-106.

5 (c) The scholarships awarded to recipients under this section shall be
6 subject to § 6-85-105(g).

7 (d) The Arkansas Higher Education Coordinating Board and the
8 department shall promulgate rules necessary for the implementation of this
9 section.

10
11 6-85-109. Priority for teaching commitment.

12 (a) During times of funding shortages under the Arkansas Academic
13 Challenge Scholarship Program, the Department of Higher Education shall give
14 a priority to awards to applicants meeting all eligibility requirements under
15 the program who agree to accept a forgivable loan, as set forth in this
16 section in lieu of a scholarship, and who agree to teach, as required under §
17 6-85-110, in a:

18 (1) Subject matter area designated by the Department of
19 Education as having a critical shortage of teachers; or

20 (2) Geographical area of the state designated by the Department
21 of Education as having a critical shortage of teachers.

22 (b) The Department of Higher Education shall make awards under this
23 subchapter as follows:

24 (1) First, to applicants who agree to the provisions of this
25 section; and

26 (2) Then to applicants eligible under § 6-85-106(b).

27 (c) Forgivable loans awarded under this section shall be paid from
28 appropriations to the program.

29
30 6-85-110. Teaching requirements.

31 (a)(1) At the beginning of the first school year in which a recipient
32 of a forgivable loan under § 6-85-109 is eligible for employment as a
33 licensed teacher, that recipient shall begin to render service as a licensed
34 teacher in a public school district in the state:

35 (A) In a subject matter area designated by the Department
36 of Education as having a critical shortage of teachers if the recipient's

1 award was made under § 6-85-109(a)(1); or

2 (B) In a geographical area of the state designated by the
3 Department of Education as having a critical shortage of teachers if the
4 recipient's award was made under § 6-85-109(a)(2).

5 (2)(A) Any recipient receiving a forgivable loan under § 6-85-
6 109 who received four (4) annual awards, or the equivalent of four (4) annual
7 awards, shall render four (4) years' service as a licensed teacher.

8 (B) Any person who received a forgivable loan under § 6-
9 85-109 in an amount less than four (4) annual awards, or the equivalent of
10 four (4) annual awards, shall render one (1) year's service as a licensed
11 teacher for each year that the person received a full-time student forgivable
12 loan or for the number of academic hours equivalent to one (1) school year,
13 as determined by the Department of Higher Education, for which a part-time
14 student received a forgivable loan.

15 (b) Any person receiving a forgivable loan shall execute a note made
16 payable to the Department of Higher Education for an amount equal to the
17 scholarship award each semester that shall bear interest at a rate to be
18 determined by the Department of Higher Education and set forth in the note
19 after completion of the program or immediately after termination of the
20 forgivable loan, whichever is earlier.

21 (c) Any person failing to complete a program of study which will
22 enable the person to become a licensed teacher shall begin repaying the note
23 according to the terms of the note for the sum of all forgivable loan awards
24 made to that person less the corresponding amount of any awards for which
25 service has been rendered.

26 (d)(1) Except as provided in subdivision (d)(2) of this section, any
27 person failing to complete the teaching obligation as required by this
28 subchapter shall become immediately liable to the Department of Higher
29 Education for the sum of all forgivable loan awards made to that person less
30 the corresponding amount of any awards for which service has been rendered
31 according to the note's terms.

32 (2) The Department of Higher Education may defer payment on the
33 note if an employment position is not immediately available upon a teacher's
34 completion of licensure requirements or for other just cause as determined by
35 the Department of Education.

36 (3) After the period of deferral, the person shall begin or

1 resume teaching duties as required under this section or shall become liable
 2 to the Department of Higher Education under this section.

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

6 (f) The obligations made by the recipient of a forgivable loan under §
 7 6-85-109 and this section shall not be voidable by reason of the age of the
 8 student at the time of receiving the forgivable loan award.

9
 10 6-85-111. End-of-course assessment requirements.

11 The Department of Higher Education may recognize a sub-score of
 12 nineteen (19) or higher in the applicable subject area on the American
 13 College Test as meeting the requirements for passing end-of-course
 14 assessments under the Arkansas Academic Challenge Scholarship Program and the
 15 Arkansas Governor's Scholars Program for a student who:

16 (1) Has not had an opportunity to take an end-of-course
 17 assessment;

18 (2) Has not passed the end-of-course assessment; or

19 (3) Is attending a private school or home school.

20
 21 SUBCHAPTER 2

22 ARKANSAS ACADEMIC CHALLENGE SCHOLARSHIP PROGRAM – PART 2

23
 24 6-85-201. Findings.

25 The General Assembly finds that:

26 (1) In approving Arkansas Constitution, Amendment 87, the citizens of
 27 this state provided an opportunity to increase the resources provided for
 28 higher education scholarships and grants through a state lottery; and

29 (2) The net proceeds from the state lottery, in addition to existing
 30 nonlottery state educational resources for scholarships and grants, will:

31 (A) Encourage associate degree recipients and university
 32 juniors to complete a baccalaureate degree;

33 (B) Provide opportunities for students more than one (1)
 34 year out of high school to enter or reenter higher education;

35 (C) Provide an improved system of communication to
 36 students and parents about opportunities for higher education scholarships

1 and grants in Arkansas; and

2 (D) Provide an evaluation and analysis of all state
3 funding for scholarships and grants and how the funding advances the state's
4 goals for higher education.

5
6 6-85-202. Creation.

7 The Arkansas Academic Challenge Scholarship Program – Part 2 is hereby
8 created and established.

9
10 6-85-203. Applicability.

11 (a) This subchapter is applicable to students who apply for a
12 scholarship under the Arkansas Academic Challenge Scholarship Program – Part
13 2 for the academic year 2010-2011, and each academic year thereafter.

14 (b) Except to the extent of an award amount under § 6-85-107(b)(2), a
15 recipient of a scholarship under the Arkansas Academic Challenge Scholarship
16 Program – Part 1, § 6-85-101 et seq., is not eligible for an additional
17 scholarship under this subchapter.

18 (c) Recipients of Arkansas Governor's Distinguished Scholarships are
19 prohibited from receiving Arkansas Academic Challenge Scholarships under this
20 subchapter.

21
22 6-85-204. Definitions.

23 As used in this subchapter:

24 (1) "ACT" means the ACT Assessment administered by ACT, Inc.;

25 (2) "ACT equivalent" means the Scholastic Aptitude Test (SAT),
26 COMPASS, Accuplacer, or other nationally normed test that is correlated with
27 the ACT and approved by the Department of Higher Education for use by
28 institutions of higher education to assess a person's college readiness;

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

33 (A) A state-supported two-year or four-year college or
34 university; or

35 (B) A private, nonprofit two-year or four-year college or
36 university with its primary headquarters located in Arkansas that is eligible

1 to receive Title IV federal student aid funds;

2 (4) "General Educational Development test" means a test
3 measuring the knowledge and skills usually learned in high school that is
4 administered by a state-approved institution or organization;

5 (5) "High school grade point average" means the numbered grade
6 average on a student's high school transcript calculated using the first
7 seven (7) of the last eight (8) semesters the student completed prior to
8 graduating high school;

9 (6) "Lawful permanent resident" means a non-United States
10 citizen who resides in the United States under a legally recognized and
11 lawfully recorded permanent residence and who may receive state public
12 benefits under 8 U.S.C. § 1622;

13 (7) "Net proceeds from the state lottery" means lottery proceeds
14 less operating expenses, as defined in § 23-115-103;

15 (8) "Nonlottery state educational resources" means the funding
16 available for state-supported scholarships and grants for students enrolled
17 in two-year and four-year institutions of higher education in this state
18 that:

19 (A) The General Assembly makes available from general
20 revenue to the Higher Education Grants Fund Account without consideration of
21 the availability of proceeds from the state lottery; and

22 (B) The Department of Finance and Administration estimates
23 is available for distribution to the Higher Education Grants Fund Account
24 during a fiscal year from the Educational Excellence Trust Fund;

25 (9) "Nontraditional student" means a student who is not a
26 traditional student;

27 (10) "Personally identifiable student data" means any
28 information that, alone or in combination with other available information,
29 is linked or linkable to a specific student that would allow a reasonable
30 person in the school community to identify the student with reasonable
31 certainty;

32 (11) "Postsecondary grade point average" means the cumulative
33 numbered grade average for college credit courses as calculated using a 4.0
34 scale;

35 (12) "Qualified certificate program" means a program that is:

36 (A) Offered by an approved institution of higher

1 education;

2 (B) Shorter in duration than an associate degree for which
3 credit hours are awarded that are creditable toward an associate degree; and

4 (C) Recognized by the United States Department of
5 Education for financial aid purposes;

6 (13) "Recipient" means an applicant awarded a scholarship funded
7 through the program;

8 (14) "State-supported student financial assistance" means a
9 state-supported scholarship, grant, tuition waiver, or tuition reimbursement
10 funded with state funds or net proceeds from the state lottery awarded by:

11 (A) The Department of Higher Education; or

12 (B) A scholarship or grant awarded by an institution of
13 higher education in this state in whole or in part by state funds, including
14 without limitation:

15 (i) Scholarships awarded on the basis of entrance
16 exam scores or high school academic achievement;

17 (ii) Tuition waivers based on age, military service,
18 occupation, or other factors;

19 (iii) Out-of-state tuition waivers for undergraduate
20 students from contiguous states in close proximity to a college or
21 university;

22 (iv) Scholarships for transfers from two-year
23 institutions;

24 (v) Performance scholarships for band, musical
25 performing groups, arts, theater, forensics, and similar activities that are
26 not awarded on the basis of entrance exam scores or high school academic
27 achievement; and

28 (vi) Any other publicly-funded program under which
29 students are not charged or are reimbursed by the institution of higher
30 education for tuition, fees, books, or other costs of attendance; and

31 (15) "Traditional student" means a student who will enter
32 postsecondary education as a full-time first-time freshman within twelve (12)
33 months after graduating from high school and remains continuously enrolled as
34 a full-time student.

35
36 6-85-205. Authority and duties of the Department of Higher Education.

1 (a)(1) The Department of Higher Education shall develop and promulgate
2 rules for the administration of the Arkansas Academic Challenge Scholarship
3 Program consistent with the purposes and requirements of this subchapter.

4 (2) At least ten (10) business days before the date the
5 Department of Higher Education files with the Bureau of Legislative Research
6 under § 25-15-204 a proposed rule or proposed change to a rule promulgated
7 under this subchapter, the Department of Higher Education shall file a copy
8 of the proposed rule or proposed change to a rule with the Arkansas Lottery
9 Commission Legislative Oversight Committee.

10 (b) The rules developed and promulgated by the Department of Higher
11 Education under this section shall pertain to:

12 (1) Student eligibility criteria based on this subchapter;

13 (2) The method for selecting scholarship recipients and for
14 determining continuing eligibility;

15 (3) The procedures for making payment to an approved institution
16 of higher education where the recipient is enrolled; and

17 (4) Other administrative procedures that may be necessary for
18 the implementation and operation of the program.

19 (c) The Department of Higher Education shall implement a complete
20 financial aid management system that uses a single application form that may
21 be accessed as a web-based application for all Arkansas state-supported
22 student financial assistance administered by the Department of Higher
23 Education, including:

24 (1) Scholarships awarded under this subchapter or other state
25 law that are funded with net proceeds from the state lottery; and

26 (2) Scholarships, grants, or other financial assistance for
27 higher education students funded with nonlottery state educational resources.

28 (d)(1) The Department of Education and the Department of Higher
29 Education are directed to develop appropriate informational materials on the
30 Arkansas Academic Challenge Scholarship Program and to ensure distribution of
31 the materials to Arkansas students in grade seven through grade twelve (7-12)
32 each year as a part of the packet of materials on precollegiate preparation
33 distributed by the Department of Education as required by § 6-61-217.

34 (2) The distribution of materials shall be accomplished through
35 the collaboration of school counselors and other appropriate public school or
36 Department of Higher Education personnel.

1 (e) The Director of the Department of Higher Education shall review
2 and evaluate the operation of the program with regard to eligibility criteria
3 and size of the scholarship award to ensure that the program's operation
4 meets the intent of this subchapter.

5 (f) The Department of Higher Education may determine the necessary
6 procedures for the awarding of scholarships if the number of eligible
7 applicants exceeds the funds available based on the criteria under this
8 subchapter.

9 (g)(1) The Department of Higher Education shall report to the General
10 Assembly annually regarding the implementation of this subchapter.

11 (2) By August 1 of each year, the Department of Higher Education
12 shall provide to the Arkansas Lottery Commission Legislative Oversight
13 Committee an unaudited financial report on the administration of the Arkansas
14 Academic Challenge Scholarship Program for the fiscal year just ended.

15
16 6-85-206. Basic eligibility requirements.

17 The basic requirements for an applicant to be eligible for an award
18 from the Arkansas Academic Challenge Scholarship Program – Part 2 are:

19 (1)(A) The applicant has been an Arkansas resident for at least
20 the twelve (12) months immediately preceding the date the applicant will
21 enroll in an approved institution of higher education, and if the applicant
22 is less than eighteen (18) years of age, a parent or guardian of the
23 applicant or a combination of the applicant and a parent or guardian of the
24 applicant has maintained Arkansas residency for the same period of time.

25 (B) To be considered an Arkansas resident, an applicant
26 shall demonstrate residency by evidence deemed sufficient to the Department
27 of Higher Education, including without limitation information provided by the
28 applicant on the Free Application for Federal Student Aid or a subsequent
29 application required by the United States Department of Education for federal
30 financial aid;

31 (2) The applicant is a citizen of the United States or is a
32 lawful permanent resident;

33 (3)(A) The applicant is accepted for admission at an approved
34 institution of higher education as a full-time student or part-time student
35 in a program of study that leads to or is creditable toward:

36 (i) A baccalaureate degree;

1 (ii) An associate degree;

2 (iii) A certificate from a qualified certificate
3 program; or

4 (iv) A nursing school diploma or associate degree
5 under § 6-85-213.

6 (B) A full-time student shall enroll in at least twenty-
7 seven (27) semester hours the first academic year and thirty (30) semester
8 hours per academic year thereafter or the equivalent, as described in this
9 subchapter, or the equivalent as defined by the Department of Higher
10 Education.

11 (C) A part-time student shall complete at least six (6)
12 semester hours but fewer than the minimum number of semester hours for a
13 full-time student, as defined by the Department of Higher Education;

14 (4) The applicant has not earned a baccalaureate degree;

15 (5) The applicant does not owe a refund on a federal or state
16 student financial aid grant for higher education;

17 (6) The applicant is not in default on a state or federal
18 student financial aid loan for higher education;

19 (7) The applicant has not borrowed, as determined by the
20 approved institution of higher education to be attended, in excess of the
21 annual loan limits under the Federal Family Educational Loan Program Systems,
22 William D. Ford Federal Direct Loan Program, Income Contingent Loan
23 Demonstration Program, Stafford Loan Program, Parent Loan for Undergraduate
24 Students Program, or Supplemental Loan for Students Program in the same
25 academic year for which the student has applied for assistance under this
26 subchapter;

27 (8) The applicant is not incarcerated at the time of the
28 application for or during the time the applicant receives a scholarship under
29 this subchapter;

30 (9) The applicant has complied with United States Selective
31 Service System requirements for registration;

32 (10) The applicant has completed and submitted to the United
33 States Department of Education a Free Application for Federal Student Aid or
34 a subsequent application required by the United States Department of
35 Education for federal financial aid; and

36 (11) The applicant certifies that he or she is drug-free and

1 pledges in writing on the application form to refrain from the use or abuse
2 of illegal substances in order to become eligible and maintain eligibility
3 for this program.

4
5 6-85-207. Additional eligibility requirements for traditional
6 students.

7 In addition to the requirements of §6-85-206, an applicant is eligible
8 as a traditional student if the applicant:

9 (1)(A) Graduated from an Arkansas public high school and has:

10 (i) Successfully completed the Smart Core curriculum
11 established by the Department of Education; and

12 (ii) Either:

13 (a) Achieved a high school grade point average
14 of at least 2.5; or

15 (b) Had a minimum composite score of nineteen
16 (19) on the ACT or the equivalent score on an ACT equivalent.

17 (B) Graduated from an Arkansas public high school before
18 the 2013-2014 school year, but did not complete the Smart Core curriculum, he
19 or she shall have achieved a high school grade point average of at least 2.5
20 and either:

21 (i) Have a minimum composite score of nineteen (19)
22 on the ACT or the equivalent score on an ACT equivalent; or

23 (ii) Scored proficient or higher on all state-
24 mandated end-of-course assessments, including without limitation, end-of-
25 course assessments on:

26 (a) Algebra I;

27 (b) Geometry;

28 (c) Biology; and

29 (4) Literacy, beginning with the 2013-2014
30 school year;

31 (2) Graduated from an Arkansas public high school that is
32 annually identified in the report by the Department of Education under § 6-
33 15-421 as a school in which twenty percent (20%) or more of the students
34 received a letter grade of "B" or higher but did not score proficiency or
35 higher on the end-of-course assessment on the first attempt, whether or not
36 the applicant completed the Smart Core curriculum, achieved a high school

1 grade point average of at least 2.5 and either:

2 (A) Has a minimum composite score of nineteen (19) on the
3 ACT or the equivalent score on an ACT equivalent; or

4 (B) Scores proficient or higher on all state-mandated end-
5 of-course assessments, including without limitation, end-of-course
6 assessments on:

7 (i) Algebra I;

8 (ii) Geometry;

9 (iii) Biology; and

10 (iv) Literacy, beginning with the 2013-2014
11 school year.

12 (3) Has a disability identified under the Individuals with
13 Disabilities Education Act, 20 U.S.C. § 1400 et seq., as it existed on July
14 1, 2009, and graduated from an Arkansas public high school but did not
15 complete the Smart Core curriculum because the applicant's individualized
16 education program under § 6-41-217 did not require it, achieved a high school
17 grade point average of at least 2.5 and either:

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

20 (B) Scored proficient or higher on all state-mandated end-
21 of-course assessments, including without limitation, end-of-course
22 assessments on:

23 (i) Algebra I;

24 (ii) Geometry;

25 (iii) Biology; and

26 (iv) Literacy, beginning with the 2013-2014
27 school year.

28 (4) An applicant who graduated from a private or out-of-state
29 high school or completed a high school curriculum at a home school shall have
30 achieved a minimum composite score of nineteen (19) on the ACT or the
31 equivalent score on an ACT equivalent.

32
33 6-85-208. Additional eligibility requirements for a nontraditional
34 student.

35 (a) An applicant is eligible as a nontraditional student if, in
36 addition to the requirements of § 6-85-206, the applicant:

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

3 (2) Had a minimum composite score of nineteen (19) on the ACT or
4 the equivalent score on an ACT equivalent; or

5 (3) Has completed at least twelve (12) semester hours of courses
6 granting three (3) or more hours of credit at an approved institution of
7 higher education and earned a postsecondary grade point average of at least
8 2.5.

9 (b) A nontraditional student applicant who graduated from a private or
10 out-of-state high school or completed a high school curriculum at a home
11 school shall have achieved a minimum composite score of nineteen (19) on the
12 ACT or the equivalent score on an ACT equivalent.

13
14 6-85-209. Additional eligibility requirements for a student near
15 completion.

16 In addition to the requirements of § 6-85-206, an applicant is eligible
17 as a student near completion if at the time of applying for the scholarship
18 the applicant:

19 (1) Is enrolled in a two-year or four-year approved institution
20 of higher education;

21 (2) Is within twenty-five percent (25%) of the
22 requirements for completion of an associate degree or baccalaureate degree;
23 and

24 (3) Has achieved a postsecondary grade point average of at least
25 2.5.

26
27 6-85-210. Continuing eligibility.

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

31 (1) Earns a baccalaureate degree;

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

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

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

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

6 (b) To maintain eligibility for an Arkansas Academic Challenge
7 Scholarship under this subchapter, a recipient shall meet the following
8 requirements:

9 (1) A recipient shall continue to meet the eligibility
10 requirements of this subchapter while a recipient of a scholarship under this
11 subchapter;

12 (2)(A)(i) A recipient shall meet the satisfactory academic
13 progress standards required to receive other financial aid at the approved
14 institution of higher education where the recipient is enrolled, as
15 determined by the Department of Higher Education in conjunction with the
16 institution of higher education where the recipient is enrolled.

17 (ii) By accepting scholarship funds under this
18 subchapter, the receiving institution certifies that students will be
19 enrolled in courses that will meet satisfactory academic progress standards
20 leading toward a certificate, an associate degree, or a baccalaureate degree.

21 (B) A recipient shall be continuously enrolled unless the
22 Department of Higher Education has approved a leave of absence for:

23 (i) A medical condition of the student or a member
24 of the student's immediate family;

25 (ii) A personal or family emergency;

26 (iii) Military service under § 6-61-112;

27 (iv) A commitment for twelve (12) months or more for
28 community, national, or global humanitarian service; or

29 (v) Any other reason approved by the Department of
30 Higher Education.

31 (C)(i) A traditional student recipient is continuously
32 enrolled in an approved institution of higher education if he or she
33 completes twenty-seven (27) semester hours in the first year as a recipient
34 and completes thirty (30) semester hours each academic year thereafter.

35 (ii) A nontraditional student recipient is
36 continuously enrolled if he or she maintains at an approved institution of

1 higher education in consecutive semesters, not including any summer term:

2 (a) Full-time enrollment if the student
3 receives a scholarship under this subchapter for a full-time student; or

4 (b) Part-time enrollment if the student is
5 receiving a scholarship under this subchapter for a part-time student;

6 (3) A recipient who enrolls in one (1) or more remedial courses
7 shall complete all remedial courses required by the approved institution of
8 higher education by the time the student completes the first thirty (30)
9 semester hours attempted after receiving the scholarship;

10 (4) A recipient shall earn a postsecondary grade point average
11 of 2.5 or higher at an approved institution of higher education;

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

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

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

19 (6) A recipient shall meet any other continuing eligibility
20 criteria established by the Department of Higher Education.

21 (c)(1) If a recipient becomes ineligible for the scholarship because
22 the recipient's postsecondary grade point average no longer meets the minimum
23 requirement for the scholarship, the recipient may regain eligibility under
24 this subsection (c) one (1) time only.

25 (2) Except as provided under § 6-85-211(a)(3) and unless the
26 requirements of this subsection are waived by the Department of Higher
27 Education, to regain eligibility for the scholarship:

28 (A) A full-time student shall:

29 (i) Complete at least fifteen (15) semester hours of
30 courses for credit for which the approved institution of higher education
31 certifies that the courses meet the satisfactory academic progress standards
32 of the institution; and

33 (ii) Achieve a 2.5 grade point average for the
34 semester hours completed under this subdivision; and

35 (B) A part-time student shall:

36 (i) Complete at least six (6) semester hours of

1 courses for credit for which the approved institution of higher education
2 certifies that the courses meet the satisfactory academic progress standards
3 of the institution; and

4 (ii) Achieve a 2.5 grade point average for the
5 semester hours completed under this subdivision.

6 (d)(1) If a recipient becomes ineligible for the scholarship because
7 the recipient has not completed the required number of hours for continuing
8 eligibility, the recipient may regain eligibility under this subsection (d)
9 for one (1) time only.

10 (2)(A) Except as provided under § 6-85-211(a)(3) and unless the
11 requirements of this subsection are waived by the Department of Higher
12 Education, to regain eligibility for the scholarship, the recipient shall
13 complete the number of hours needed to regain eligibility.

14 (B) The recipient shall complete the required number
15 of hours during the summer term at the student's own expense.

16 (e) If a recipient is subject to losing a scholarship under subsection
17 (c) or (d) of this section due to a catastrophic event experienced by the
18 recipient or a family member of the recipient, the department may waive the
19 requirements of this subsection and determine the appropriate requirements
20 for the recipient to either retain or regain the scholarship.

21
22 6-85-211. Literacy tutoring.

23 (a) As an additional component to the Arkansas Academic Challenge
24 Scholarship:

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

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

31 (A) Shall complete the prerequisite training in literacy
32 and college readiness skills provided under this section before he or she
33 begins tutoring; and

34 (B) May receive college credit for the tutoring as
35 determined by the institution of higher education where the recipient is
36 enrolled; and

1 (3) An enrolled college student who participates in the tutorial
2 program and fails to meet the academic eligibility requirement under this
3 subchapter for the fall or spring semester shall be given the probationary
4 opportunity during the subsequent spring or summer term to continue his or
5 her education and improve academic performance before losing scholarship
6 funding in the subsequent semester.

7 (b) A recipient who agrees to volunteer as a literacy tutor under this
8 section shall receive the prerequisite training in literacy and college
9 readiness from an approved institution of higher education based on training
10 modules developed by the Department of Education.

11
12 6-85-212. Scholarship award amounts.

13 (a)(1) The General Assembly may use net proceeds from the state
14 lottery to fund the scholarships awarded under this subchapter and to
15 supplement the state-supported student financial assistance that the General
16 Assembly determines are necessary to meet the state's objective for
17 broadening and increasing access of Arkansas citizens to higher education.

18 (b) Net proceeds from the state lottery used to fund scholarships
19 under this subchapter shall:

20 (1) Be used exclusively for the purposes set out in Amendment
21 87 of the Arkansas Constitution and this subchapter; and

22 (2) Supplement and shall not supplant nonlottery state
23 educational resources.

24 (c) It is General Assembly's intent that before increasing award
25 amounts for scholarships under this subchapter, the number of scholarships
26 awarded to nontraditional students under § 6-85-208 and to students near
27 completion under § 6-85-209 be increased.

28 (d) The scholarships established under this subchapter are subject to
29 available funding and do not create for any student an entitlement to
30 financial assistance to enable the student's attendance at an approved
31 institution of higher education.

32 (e)(1) For the 2010-2011 academic year, the General Assembly shall
33 determine the scholarship award amount by February 28, 2010, based on the
34 amount of net proceeds from the state lottery reasonably projected to be
35 available for scholarships in the 2010-2011 academic year.

36 (2)(A) The Department of Higher Education shall award an

aggregate amount of scholarship awards to nontraditional students beginning with the 2010-2011 academic year up to eight million dollars (\$8,000,000).

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

(3) The scholarship award for a full-time student enrolled in a two-year approved institution of higher education is one-half (1/2) of the scholarship award amount for a full-time undergraduate student enrolled in a four-year approved institution of higher education.

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

(i) One-half of the award amount for a full-time recipient, if the recipient is enrolled in six (6) semester hours but less than nine (9) semester hours; or

(ii) Three-quarters (3/4) of the award amount for a full-time recipient, if the recipient is enrolled in nine (9) semester hours but less than the number of hours required for a full-time recipient.

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

(c)(1) By November 1 of each year, the Arkansas Lottery Commission Legislative Oversight Committee shall provide to the General Assembly its recommendations for any changes to the:

(A) Award amounts;

(B) Number or type of scholarships; and

(C) Eligibility requirements.

(2) The committee may base its recommendations for scholarship award amounts on the following guidelines and any additional information the 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>

1	<u>\$1,500</u>	<u>\$3,000</u>	<u>\$ 60,405,551</u>	<u>\$ 71,502,476</u>
2	<u>\$1,750</u>	<u>\$3,500</u>	<u>\$ 71,502,476</u>	<u>\$ 82,599,401</u>
3	<u>\$2,000</u>	<u>\$4,000</u>	<u>\$ 82,599,401</u>	<u>\$ 93,696,326</u>
4	<u>\$2,250</u>	<u>\$4,500</u>	<u>\$ 93,696,326</u>	<u>\$104,793,251</u>
5	<u>\$2,500</u>	<u>\$5,000</u>	<u>\$104,793,251</u>	<u>\$115,890,177</u>
6	<u>\$2,750</u>	<u>\$5,500</u>	<u>\$115,890,177</u>	<u>\$126,987,102</u>
7	<u>\$3,000</u>	<u>\$6,000</u>	<u>\$126,987,102</u>	

8

9 (d) After the 2010-2011 academic year, the determination of the amount
10 of net proceeds from the state lottery available for each semester is based
11 on the Arkansas Lottery Commission's certification of net proceeds made in
12 July of the immediately preceding calendar year.

13 (e) The department shall ensure that sufficient funds remain available
14 to pay for scholarship awards through anticipated completion of the degree or
15 certificate a recipient is seeking and report the balance of those funds to
16 the General Assembly before the amount of awards under this subchapter are
17 increased by the General Assembly.

18 (f) All awards under this subchapter are subject to the prohibition
19 under § 6-80-105 against using public funds in a student financial package in
20 excess of the recognized cost of attendance at the institution where the
21 student is enrolled.

22 (g)(1) If the department has less than a sufficient amount to provide
23 for the scholarship commitments under this subchapter, the department first
24 shall use the department's Scholarships and Grants Contingency Appropriation
25 to fund the shortfall.

26 (2) The department then shall give priority for continued
27 financial support under this subchapter to a recipient who has continuing
28 eligibility superior to first-time applicants.

29 (3) If the funding is still insufficient to fully fund the
30 scholarships created under this subchapter, the department shall award
31 scholarships after considering applicants:

32 (A) With the highest level of progress toward completion
33 of a certificate, an associate degree, or a baccalaureate degree;

34 (B) With the highest high school or postsecondary grade
35 point average, as applicable to the applicant; and

36 (C) Who are enrolled in or intend to enroll in an program

1 of study that is:

2 (i) In an area of critical workforce need as
3 determined by the department; or

4 (ii) Is in a science, technology, engineering, or
5 mathematics field.

6
7 6-85-213. Nursing school eligibility.

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

10 (2) It is the intent of this section to allow the Department of
11 Higher Education the opportunity, under specific circumstances, to include a
12 school of nursing that:

13 (A) Prepares students as registered nurses;

14 (B) Grants associate degrees or nursing diplomas;

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

16 and

17 (D) Would not otherwise be an approved institution of
18 higher education in the Arkansas Academic Challenge Scholarship Program.

19 (b)(1) The department shall make awards to applicants attending a
20 school of nursing under this section if:

21 (A) The applicant has qualified for an Arkansas Academic
22 Challenge Scholarship and is simultaneously enrolled in an approved two-year
23 college or a four-year college or university before or at the time of entry
24 into the nursing school and the applicant then transfers the scholarship to
25 an approved school of nursing after completing the two-year requirements
26 under the department's rules;

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

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

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

34
35 6-85-214. Accountability – Transparency – Legislative oversight.

36 (a) The General Assembly finds that:

1 (1) The continual evaluation of the Arkansas Academic Challenge
2 Scholarship Program and of all state-supported scholarship and grant programs
3 by the General Assembly is critical for maximizing the benefits to the state
4 and its citizens of state financial aid for higher education and meeting
5 state objectives for higher education; and

6 (2) Accountability and transparency in the implementation of
7 state-supported scholarship programs are fundamental to a proper evaluation
8 of the programs.

9 (b) The General Assembly finds that the collection of data and the
10 reports required under §§ 6-85-215 – 6-85-220 are necessary to ensure
11 accountability and transparency.

12
13 6-85-215. Student consent form.

14 (a)(1)(A) A student receiving any state-supported student financial
15 assistance for which an institution of higher education is required to
16 provide information under this section shall complete and sign a consent form
17 authorizing the release of the student's individual personal information to
18 the Bureau of Legislative Research and authorizing:

19 (i) The institution of higher education to provide
20 the bureau with academic progress information for the scholarship recipient;
21 and

22 (ii) The department to release the student's
23 individual personal information to the bureau.

24 (B) If a student is less than eighteen (18) years of age,
25 the student's parent or guardian shall complete and sign the consent form.

26 (2)(A) The student may opt out of the release of information. A
27 decision to opt out applies only to the release of information under this
28 section and does not apply to information released under any other section of
29 this subchapter or under any other law.

30 (B) In order to provide better statistical data, each
31 institution shall report the number of students who opt out.

32 (3) The consent form shall state that:

33 (i) The purpose for the bureau collecting data is to
34 guide the General Assembly's evaluation of the need for adjustments to
35 scholarship program eligibility and funding levels;

36 (ii) Personally identifiable student data will not be

1 released by the bureau or the department; and

2 (iii) The student may opt out of the release of
3 information, and that opting out will not affect the student's eligibility
4 for a scholarship.

5 (4) The form shall list the categories of information authorized
6 for release under this section.

7 (5) The Director of the Bureau of Legislative Research may:

8 (A) Seek an opinion from the Family Policy Compliance
9 Office of the United States Department of Education concerning the student
10 consent requirement and opt out under this section; or

11 (B) Request the Department of Higher Education to seek the
12 opinion on behalf of the bureau.

13 (b) The information consented to be released by the student shall
14 include:

15 (1) A unique student identifier;

16 (2) Status for Federal PELL grant;

17 (3) Postsecondary grade point average;

18 (4) Number of semester hours attempted;

19 (5) Number of semester hours completed;

20 (6) Gender, race, ethnicity, and age;

21 (7) High school graduated from or General Educational
22 Development test score;

23 (8) High school grade point average; and

24 (9) ACT score or ACT equivalent score, if available.

25 (c) This section does not apply to scholarships or other forms of
26 student financial assistance that are completely privately funded.

27 (d) Approved institutions of higher education shall undertake any
28 procedures necessary to ensure the collection of the information under this
29 section and shall provide it to the Bureau of Legislative Research in a
30 mutually agreed upon electronic format by November 1 of each school year for
31 students awarded for that academic year state-supported student financial
32 assistance.

33 (e)(1) The student data provided to the bureau under this section are
34 not subject to release under the Freedom of Information Act of 1967, § 25-19-
35 101 et seq.

36 (2) The bureau shall not release any personally identifiable

1 student data received under this section.

2 (f) The bureau shall inform the Department of Higher Education of any
3 data used in the preparation of reports and provide the department at least
4 two (2) working days to review any student-related data used in preparation
5 of reports before publicly releasing that student-related data without
6 personally identifiable data.

7
8 6-85-216. Institution report to the department.

9 (a)(1) An approved institution of higher education that enrolls
10 students receiving scholarships under this subchapter annually shall provide
11 information, and semiannually provide updated information, to the Department
12 of Higher Education regarding all state-supported student financial
13 assistance whether or not the state-supported student financial assistance is
14 awarded under this subchapter.

15 (2) The information shall be provided in the form of individual
16 student records and shall include without limitation information regarding:

17 (A) State-supported student financial assistance;

18 (B) Demographic student data; and

19 (C) Disaggregated data on remedial courses.

20 (b) The department shall establish by rule the:

21 (1) Specific data required;

22 (2) Manner of reporting the information required; and

23 (3) Technology or software required for reporting.

24 (c) The department shall use the information provided under this
25 section to conduct the research and analysis needed to support the annual
26 report of the Director of the Department of Higher Education to the Arkansas
27 Lottery Commission Legislative Oversight Committee under § 6-85-205.

28
29 6-85-217. Information provided to the bureau by the Department of
30 Higher Education.

31 (a)(1) The Department of Higher Education shall provide to the Bureau
32 of Legislative Research the following data when requested for the purpose of
33 assisting the General Assembly with evaluation and analysis under this
34 subchapter:

35 (A) Existing individual student data;

36 (B) Institutional data;

1 (C) Financial data;

2 (D) Aggregate student scholarship and grant application
3 and award data; and

4 (E) Other data needed to track scholarship and grant
5 students from year to year.

6 (b)(1) To maintain confidentiality of individual student records in
7 accordance with the Family Educational Right to Privacy Act, 20 U.S.C. §
8 1232g, the Department of Higher Education shall establish a system for
9 removing or recoding any personally identifiable student data in student
10 records that are used by the bureau for research and evaluation of
11 scholarships and grants funded with net proceeds from the state lottery and
12 those funded with nonlottery state educational resources.

13 (2) The bureau shall assist the Department of Higher Education
14 by providing input concerning the development or modification of the system.

15 (3)(A) The Director of the Bureau of Legislative Research may
16 seek an opinion from Family Policy Compliance Office of the United States
17 Department of Education concerning the department's system, any proposed
18 modification of the system, or any request for information made by the bureau
19 under this section.

20 (B) The director may request the Department of Higher
21 Education to seek the opinion on behalf of the bureau.

22 (c) The Department of Higher Education shall make its staff reasonably
23 accessible for consultation with the bureau's staff in developing and
24 responding appropriately to bureau requests under this section.

25 (d)(1) The Department of Higher Education shall provide data to the
26 bureau in a database or spreadsheet format.

27 (2) The Department of Higher Education shall provide other
28 information and records requested by the bureau as soon as possible and in
29 whatever reasonable form requested.

30 (e)(1) The student data provided to the bureau under this section are
31 not subject to release under the Freedom of Information Act of 1967, § 25-19-
32 101 et seq.

33 (2) The bureau shall not release any personally identifiable
34 student data received under this section.

35 (f) The bureau's staff shall inform the Department of Higher Education
36 of any data used in the preparation of reports and provide the department at

1 least two (2) working days to review any student-related data used in
2 preparation of reports before publicly releasing that student-related data
3 without personally identifiable student data.

4
5 6-85-218. Advisory council.

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

9 (b) The advisory council shall be composed of the members determined
10 under subsection (c) of this section and:

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

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

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

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

20 (1) The department;

21 (2) Institutions of higher education eligible to become approved
22 for participation in the Arkansas Academic Challenge Scholarship Program Part
23 2;

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

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

27 (d) The director or his or her designee shall serve as chair of the
28 advisory council and shall call meetings as need to fulfill the purpose of
29 the advisory council.

30 (e) Members of the advisory council shall serve without compensation
31 but may be reimbursed by the department for reasonable travel expenses
32 incurred to attend meetings.

33 (f) By August 1, 2009, and as requested thereafter, the advisory
34 council shall report its recommendations to the Arkansas Lottery Commission
35 Legislative Oversight Committee.

36

1 6-85-219. Reports to legislative committees.

2 (a)(1) Quarterly during fiscal years 2010 and 2011, the Department of
3 Higher Education shall report to the Arkansas Lottery Commission Legislative
4 Oversight Committee:

5 (A) The information required by subsection (b) of this
6 section to the extent the information is available;

7 (B) The costs of administering scholarships funded with net
8 proceeds from the state lottery;

9 (C) Projected levels of state funding for scholarships and
10 grants;

11 (D) Recommendations for changes to the program, including
12 without limitation, adjustments to eligibility requirements of the Arkansas
13 Academic Challenge Scholarship Program and award levels; and

14 (E) Other data the committee or the General Assembly may
15 require.

16 (2) The Arkansas Lottery Commission Legislative Oversight
17 Committee may specify criteria related to any item of information required by
18 this section.

19 (b)(1) Annually by July 1, the department shall report to the Arkansas
20 Lottery Commission Legislative Oversight Committee in the manner and format
21 that the committee requires on all state-supported student financial
22 assistance awarded by the department and awarded by approved institutions of
23 higher education.

24 (2) The information provided shall include without limitation:

25 (A) Current year expenditures for scholarships and grants
26 under the program;

27 (B) Projected obligations for succeeding years from each
28 scholarship or grant funding source;

29 (C) Fund balances for the:

30 (i) Higher Education Grants Fund Account; and

31 (ii) Trust accounts maintained by the Director of
32 the Department of Higher Education to hold the net proceeds from the state
33 lottery;

34 (D) An evaluation of whether the net proceeds from the
35 state lottery available for the program supplements and does not supplant
36 nonlottery state educational resources;

1 (F) Recommendations for changes to the program, including
2 without limitation:

3 (i) Adjustments to the eligibility requirements of
4 the program; and

5 (ii) Increases or decreases in the amounts awarded
6 for an Arkansas Academic Challenge Scholarship based on the amount of net
7 proceeds from the state lottery available; and

8 (H) Any other information that the Arkansas Lottery
9 Commission Legislative Oversight Committee or the General Assembly may
10 request.

11 (c) The department shall report to the Arkansas Lottery Commission
12 Legislative Oversight Committee, the House Committee on Education, the Senate
13 Committee on Education, and the Joint Budget Committee on the compliance with
14 § 6-85-216 by each approved institution of higher education.

15 (d) The Bureau of Legislative Research shall report to the Arkansas
16 Lottery Commission Legislative Oversight Committee, the House Committee on
17 Education, the Senate Committee on Education, and the Joint Budget Committee
18 on:

19 (1) The compliance with § 6-85-216 by approved institutions of
20 higher education; and

21 (2) The status of reporting by the department under § 6-85-217.

22
23 6-85-220. Arkansas Lottery Commission Legislative Oversight Committee -
24 Annual report.

25 (a) The Arkansas Lottery Commission Legislative Oversight Committee
26 shall:

27 (1) Oversee the development and implementation of Arkansas Code
28 requirements with regard to the Arkansas Academic Challenge Scholarship
29 Program;

30 (2) Review whether and how the use of net state lottery proceeds
31 helps to accomplish state objectives for higher education;

32 (3) Review the ongoing data collection, research, and evaluation
33 of the program;

34 (4) Review the annual report of the Director of the Department
35 of Higher Education under this section;

36 (5) Review and recommend changes to the:

1 (A) Number of awards for each scholarship and grant;

2 (B) Award levels;

3 (C) Eligibility requirements; and

4 (D) Overall administration of the program; and

5 (6) Review and recommend policies for scholarships and grants
6 funded with nonlottery state educational resources, including without
7 limitation ways to ensure that net proceeds from the state lottery are used
8 to supplement and not supplant nonlottery state educational resources.

9 (b) By November 1 of each year, the committee shall report its
10 findings and recommendations to the Arkansas Lottery Commission, the
11 President Pro Tempore of the Senate, the Speaker of the House of
12 Representatives, the Governor, the House Committee on Education, and the
13 Senate Committee on Education.

14
15 SECTION 5. Arkansas Code Title 6, Chapter 5, Subchapter 4 is amended
16 to add an additional section to read as follows:

17 6-5-405. Professional development for higher education awareness.

18 (a) As used in this section, "state-supported student financial
19 assistance" means:

20 (1) A state-supported scholarship or grant awarded by the
21 Department of Higher Education; and

22 (2) A scholarship, grant, or tuition waiver awarded by an
23 institution of higher education in this state funded in whole or in part with
24 state funds.

25 (b) Beginning with the 2009 calendar year, professional development on
26 the availability of, eligibility requirements for, and the process of
27 applying for state-supported student financial assistance shall be required
28 for:

29 (1) All public school superintendents and assistant
30 superintendents; and

31 (2) The following licensed personnel at a public school where
32 students are enrolled in grade seven through grade twelve (7-12):

33 (A) Principals;

34 (B) Assistant principals; and

35 (C) Guidance counselors.

36 (c)(1) The first course shall be a three-hour course to be taken

1 within calendar year 2009, or within the first year of employment.

2 (2) After the first three-hour course is completed, a one-hour
3 course is required to be completed annually.

4 (d) The professional development hours required under this section
5 shall be counted toward the sixty (60) hours of the professional development
6 required for licensed school personnel under the Standards for Accreditation
7 of Arkansas Public Schools and School Districts.

8
9 SECTION 6. TEMPORARY. DO NOT CODIFY. The General Assembly requests
10 that:

11 (1) The Arkansas Association of Educational Administrators and
12 the Arkansas Education Association, in cooperation with the Department of
13 Higher Education, each provide three (3) hours of professional development on
14 the availability of, eligibility requirements for, and the process of
15 applying for state-supported student financial assistance for higher
16 education at the respective association's annual convention, beginning with
17 the 2009 annual convention;

18 (2) The Arkansas School Boards Association provide continuing
19 education on the availability of, eligibility requirements for, and the
20 process of applying for s state-supported student financial assistance for
21 higher education at its meetings; and

22 (3) The Arkansas Education Television Network, in coordination
23 with the Department of Higher Education, prepare a program of three (3) hours
24 of professional development to be available during 2009 covering the
25 availability, eligibility requirements for, and the process of applying for
26 state-supported student financial assistance for higher education.

27
28 SECTION 7. TEMPORARY. DO NOT CODIFY.

29 (a) The Director of the Department of Higher Education shall
30 determine the amount of excess net proceeds from the state lottery by
31 calculating the difference between:

32 (1) The amount committed to scholarships awarded under the
33 Academic Challenge Scholarship Program – Part 1 and the scholarships for
34 traditional students and nontraditional students under the Academic Challenge
35 Scholarship Program – Part 2; and

36 (2) The amount of net proceeds from the state lottery

1 reasonably projected for the 2010-2011 academic year as determined by the
2 director after consultation with the Arkansas Lottery Commission.
3 Legislative Oversight Committee, the House Committee on Education, and the
4 Senate Committee on Education.

5 (b) The amount of excess net proceeds from the state lottery shall
6 only be available for one (1) or more of the following:

7 (1) Awarding scholarships to students near completion;

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

13 (3) Establishing a reserve fund.

14 (c) By July 15, 2010, the Director of the Department of Higher
15 Education shall prepare a report on the projected distribution of excess net
16 proceeds from the state lottery based on:

17 (1) The award amounts set by the General Assembly in February
18 2010 under this act;

19 (2) The amount of excess net proceeds from the state lottery
20 reasonably projected to be available for funding scholarships under this act;

21 (3) The number of applications accepted for the 2010-2011
22 academic year under this act;

23 (4) The number of applicants on the waiting lists for
24 scholarships to be awarded under this act;

25 (5) Of the applicants on the waiting list, whether the
26 applicants are traditional students, nontraditional students, or students
27 near completion;

28 (d) The director shall provide the report to the Arkansas Lottery
29 Commission Legislative Oversight Committee, the House Committee on Education,
30 and the Senate Committee on Education for review.

31 (e)(1) The department shall maintain a list of students near
32 completion and shall award scholarships first in order of those nearest
33 completion.

34 (2) The amount of the award per student per year shall be
35 determined by dividing the number of hours until completion by thirty (30)
36 and multiplying by the amount the legislature sets for the award for

1 baccalaureate students.

2 (3) The amount of the award for associate degree students shall
3 be determined by dividing the number of hours until completion by fifteen
4 (15) and multiplying by the amount the legislature sets for two-year
5 students.

6
7 SECTION 8. Arkansas Code § 6-61-220(b), concerning the reporting of
8 students who require remediation in their first year of postsecondary
9 education, is amended to add an additional subdivision to read as follows:

10 (3)(A) For the purpose of analysis by the Bureau of Legislative
11 Research to guide the General Assembly's evaluation of the need for
12 adjustments to eligibility and funding levels for state-supported student
13 financial assistance, the Office of Accountability of the Department of
14 Education shall provide annually to the bureau all individual student
15 demographic and test result data on ACT or ACT equivalent college placement
16 exams.

17 (B) The office shall provide the data in a database or
18 spreadsheet format that omits personally identifiable information.

19
20 SECTION 9. Arkansas Code § 3-4-404(21), concerning Class B violations
21 by holders of alcoholic beverages permits, is amended to read as follows:

22 (21)(A) Conducting or permitting gambling on premises.

23 (B) Conducting or permitting gambling under subdivision
24 (21)(A) of this section does not include:

25 (i) Charitable bingo and raffles under the
26 Charitable Bingo and Raffles Enabling Act, § 23-114-101 et seq.; or

27 (ii) A lottery under the Arkansas Scholarship
28 Lottery Act, § 23-115-101 et seq.;

29
30 SECTION 10. Arkansas Code § 3-5-221 (d)(1)(A), concerning prohibited
31 practices under laws pertaining to beer and light wine, is amended to read as
32 follows:

33 (d)(1) It shall be unlawful for a licensee or for any agent, servant,
34 or employee of a licensee:

35 (A)(i) To suffer or permit any dice to be thrown for money
36 or for anything of value or to suffer or permit gambling with cards,

1 dominoes, raffle, or other games of chance or any form of gambling in the
 2 place designated by the license or in any booth, room, yard, garden, or other
 3 place appurtenant thereto.

4 (ii) Forms of gambling under subdivision

5 (d)(1)(A)(i) of this section do not include:

6 (a) Charitable bingo and raffles under the
 7 Charitable Bingo and Raffles Enabling Act, § 23-114-101 et seq.; or

8 (b) A lottery under the Arkansas Scholarship
 9 Lottery Act, § 23-115-101 et seq.;

10 ;

11 SECTION 11. Arkansas Code § 3-5-307(5), concerning certain prohibited
 12 practices under laws pertaining to beer, is amended to read as follows:

13 (5)(A) Permit gambling or games of chance upon the licensed
 14 premises.

15 (B) Permitting gambling or games of chance under
 16 subdivision (5)(A) of this section does not include:

17 (i) Charitable bingo and raffles under the
 18 Charitable Bingo and Raffles Enabling Act, § 23-114-101 et seq.; or

19 (ii) A lottery under the Arkansas Scholarship
 20 Lottery Act, § 23-115-101 et seq.;

21
 22 SECTION 12. Arkansas Code § 3-9-236(15), concerning miscellaneous
 23 unlawful practices by on-premises consumption permit holders, is amended to
 24 read as follows:

25 (15)(A) Keep on the permitted premises a slot machine or any
 26 gambling or gaming device, machine, or apparatus, except as provided in
 27 ~~subdivision (15)(B)~~ subdivisions (15)(B)-(C) of this section.

28 (B)(i) An event held by a nonprofit organization that is
 29 exempt from taxation under § 26 U.S.C. 501(c)(3) shall be exempt from
 30 subdivision (15)(A) of this section if:

31 ~~(i)(a)~~ (a) The nonprofit organization registers
 32 the event with the Alcoholic Beverage Control Division at least sixty (60)
 33 days before the event;

34 ~~(ii)(b)~~ (b) All proceeds of the event are for the
 35 benefit of the nonprofit organization;

36 ~~(iii)(c)~~ (c) The games in the event do not use

1 money but may use some form of play money;

2 ~~(iv)~~(d) No cash or any other item of value is
3 won or awarded as a prize; and

4 ~~(v)~~(e) The event is for amusement and not for
5 gambling purposes in violation of Arkansas law or Arkansas Constitution,
6 Article 19, § 14.

7 ~~(C)(i)~~(ii)(a) This ~~section~~ subdivision (15)(B) shall
8 apply to only one (1) event held by a nonprofit organization during a
9 calendar year.

10 ~~(ii)~~(b) No licensed premises shall be allowed
11 more than ten (10) events under this subdivision (15)(B) per calendar year.

12 ~~(D)(i)~~(iii)(a) A violation of this ~~section~~
13 subdivision (15)(B) by a nonprofit organization is a misdemeanor violation
14 and is punishable by a fine of one thousand dollars (\$1,000).

15 ~~(ii)~~(b) If a nonprofit organization commits a
16 second violation of this subdivision (15)(B), the nonprofit organization
17 shall be ineligible to sponsor an event under this ~~section~~ subdivision
18 (15)(B).

19 ~~(E)~~(iv) The division may promulgate appropriate
20 rules to carry out the intent of this subdivision (15)(B).

21 (C) A gambling or a gaming device, machine, or apparatus
22 under subdivision (15)(A) of this section do not include:

23 (i) Charitable bingo and raffles under the
24 Charitable Bingo and Raffles Enabling Act, § 23-114-101 et seq.; or

25 (ii) A lottery under the Arkansas Scholarship
26 Lottery Act, § 23-115-101 et seq.;

27
28 SECTION 13. Arkansas Code § 10-3-314 is amended to read as follows:

29 10-3-314. Report on claim filed with State Claims Commission.

30 (a) ~~It~~ Except as provided by subsection (b) of this section, it is the
31 intent of the General Assembly that when any state agency, board, commission,
32 or institution of higher education admits liability to a claim filed with the
33 State Claims Commission and the claim involves a contract with a state
34 agency, board, commission, or institution of higher education or the claim
35 exceeds seven thousand five hundred dollars (\$7,500) that such agency, board,
36 commission, or institution of higher education file a written report thereof

1 with the Litigation Subcommittee of the Legislative Council. The report shall
2 include a concise statement of facts with an explanation of the agency's
3 liability. Provided further, such report shall be filed with the litigation
4 subcommittee within thirty (30) days after the claim has been adjudicated by
5 the State Claims Commission.

6 (b) The Arkansas Lottery Commission shall file its written report
7 under subsection (a) of this section with the Arkansas Lottery Commission
8 Legislative Oversight Committee.

9
10 SECTION 14. Arkansas Code § 19-4-201(b)(2), concerning budget requests
11 for certain agencies, is amended to read as follows:

12 (2) Budget requests for administration and operation of the
13 legislative branch, the judicial branch, the elective constitutional offices,
14 the Arkansas State Highway and Transportation Department, the Arkansas
15 Lottery Commission, and the Arkansas State Game and Fish Commission shall be
16 submitted directly to the Legislative Council without any recommendation by
17 the Governor.

18
19 SECTION 15. Arkansas Code § 19-4-607(a), concerning the review and
20 approval of annual operations plans, is amended to read as follows:

21 (a) Each state agency other than the elected constitutional officers,
22 the legislative branch and its staff offices, the judicial branch and its
23 staff offices, the Arkansas State Highway and Transportation Department, the
24 Arkansas Lottery Commission, the state-supported institutions of higher
25 education, and the Arkansas State Game and Fish Commission shall prepare an
26 annual operations plan for the operation of each of its assigned programs for
27 submission to the Chief Fiscal Officer of the State.

28
29 SECTION 16. Arkansas Code § 19-4-801(2)(B), concerning the definition
30 of "state agency" as applied to the expenditure of cash funds, is amended to
31 read as follows:

32 (B) "State agency" shall not include the:

- 33 (i) Governor;
34 (ii) Secretary of State;
35 (iii) Attorney General;
36 (iv) Treasurer of State;

1 (v) Auditor of State;
 2 (vi) Commissioner of State Lands;
 3 (vii) Supreme Court and its justices;
 4 (viii) Circuit courts and circuit judges;
 5 (ix) Prosecuting attorneys;
 6 (x) Arkansas State Game and Fish Commission;
 7 (xi) Arkansas State Highway and Transportation
 8 Department;

9 (xii)(a) Arkansas Lottery Commission.

10 (b) However, the Arkansas Lottery Commission
 11 shall be considered a state agency for the purposes of §§ 19-4-810 - 19-4-
 12 1816;

13 ~~(xii)(xiii)~~ General Assembly; and
 14 ~~(xiii)(xiv)~~ Respective staffs of ~~these~~ the officers
 15 and agencies listed in this subdivision (2)(B).

16
 17 SECTION 17. Arkansas Code § 19-4-1303 is amended to read as follows:
 18 19-4-1303. Exemptions.

19 Funds disbursed by the Arkansas State Highway and Transportation
 20 Department, ~~and~~ the Arkansas State Game and Fish Commission, and the Arkansas
 21 Lottery Commission and the funds appropriated in the general appropriation
 22 bill provided for in the Arkansas Constitution, Article 5, § 30, shall be
 23 exempt from this subchapter.

24
 25 SECTION 18. Arkansas Code § 19-4-1415(b)(5), concerning certain
 26 exemptions for the construction of buildings and facilities, is amended to
 27 read as follows:

28 (5) The Board of Trustees of the University of Arkansas, ~~and~~ the
 29 Board of Trustees of Arkansas State University, and the Arkansas Lottery
 30 Commission shall be exempt from review and approval by the authority and any
 31 regulations promulgated by it, provided that the institutions shall have
 32 adopted policies and procedures involving the awarding and oversight of the
 33 contracts for design and construction services.

34
 35 SECTION 19. Arkansas Code § 19-4-1612(b)(2), concerning overtime pay
 36 for state employees, is amended to read as follows:

1 (2)(A) The Chief Fiscal Officer of the State will specify those
2 specific employees or groups of employees other than employees of the
3 Arkansas State Highway and Transportation Department and the Arkansas Lottery
4 Commission eligible to receive overtime compensation, the circumstances under
5 which overtime pay is to be allowed, and such other matters which the Chief
6 Fiscal Officer of the State may deem appropriate and necessary to comply with
7 the Federal Fair Labor Standards Act as regards the payment of overtime
8 compensation.

9 (B) The Director of the Arkansas State Highway and
10 Transportation Department shall make these determinations as to employees of
11 the Arkansas State Highway and Transportation Department.

12 (C) The Director of the Arkansas Lottery Commission shall
13 make these determinations as to employees of the Arkansas Lottery Commission.
14

15 SECTION 20. Arkansas Code § 19-11-203(14)(Z) and (A)(A), concerning
16 the definition of exempt commodities and services, is amended to read as
17 follows:

18 (Z) Capital improvements valued at less than twenty thousand
19 dollars (\$20,000), subject to minimum standards and criteria of the Arkansas
20 Building Authority; ~~and~~

21 (AA) Services related to work force development, incumbent work
22 force training, or specialized business or industry training; and

23 (BB) Major procurement contracts of the Arkansas Lottery
24 Commission under § 23-115-103.
25

26 SECTION 21. Arkansas Code § 19-11-220(a), concerning agency
27 procurement officials, is amended to read as follows:

28 (a) In addition to any state agency authorized by regulation to have
29 an agency procurement official, each of the following state agencies may
30 elect to have such an official for commodities, technical and general
31 services, and professional and consultant services, which are not within the
32 exclusive jurisdiction of the State Procurement Director and which are not
33 under state contract:

34 (1) Arkansas State Highway and Transportation Department;

35 (2) Arkansas Lottery Commission;

36 ~~(2)~~(3) Arkansas State University-Beebe;

- 1 ~~(3)~~(4) Arkansas State University;
- 2 ~~(4)~~(5) Arkansas State University System;
- 3 ~~(5)~~(6) Arkansas Tech University;
- 4 ~~(6)~~(7) Henderson State University;
- 5 ~~(7)~~(8) Southern Arkansas University;
- 6 ~~(8)~~(9) University of Arkansas at Fayetteville;
- 7 ~~(9)~~(10) University of Arkansas Fund entities;
- 8 ~~(10)~~(11) University of Arkansas at Little Rock;
- 9 ~~(11)~~(12) University of Arkansas at Monticello;
- 10 ~~(12)~~(13) University of Arkansas at Pine Bluff;
- 11 ~~(13)~~(14) University of Arkansas for Medical Sciences;
- 12 ~~(14)~~(15) University of Central Arkansas;
- 13 ~~(15)~~(16) Arkansas State University-Mountain Home;
- 14 ~~(16)~~(17) Arkansas State University-Newport;
- 15 ~~(17)~~(18) Black River Technical College;
- 16 ~~(18)~~(19) Cossatot Community College of the University of
- 17 Arkansas;
- 18 ~~(19)~~(20) East Arkansas Community College;
- 19 ~~(20)~~(21) National Park Community College;
- 20 ~~(21)~~(22) Arkansas Northeastern College;
- 21 ~~(22)~~(23) Mid-South Community College;
- 22 ~~(23)~~(24) North Arkansas College;
- 23 ~~(24)~~(25) Northwest Arkansas Community College;
- 24 ~~(25)~~(26) Ouachita Technical College;
- 25 ~~(26)~~(27) Ozarka College;
- 26 ~~(27)~~(28) Phillips Community College of the University of
- 27 Arkansas;
- 28 ~~(28)~~(29) University of Arkansas Community College at Morrilton;
- 29 ~~(29)~~(30) Pulaski Technical College;
- 30 ~~(30)~~(31) Rich Mountain Community College;
- 31 ~~(31)~~(32) SAU-Tech;
- 32 ~~(32)~~(33) Southeast Arkansas College;
- 33 ~~(33)~~(34) South Arkansas Community College;
- 34 ~~(34)~~(35) University of Arkansas Community College at Batesville;
- 35 ~~(35)~~(36) University of Arkansas Community College at Hope;
- 36 ~~(36)~~(37) University of Arkansas at Fort Smith; and

1 ~~(37)~~(38) Department of Higher Education.

2
3 SECTION 22. Arkansas Code § 19-11-1003, concerning exemptions from
4 laws pertaining to professional and consultant services contracts, is amended
5 to add an additional subdivision to read as follows:

6 (d) This subchapter does not apply to major procurement contracts of
7 the Arkansas Lottery Commission under § 23-115-103.

8
9 SECTION 23. Arkansas Code Title 19, Chapter 11, Subchapter 11 is
10 amended to add an additional section to read as follows:

11 19-11-1103. Exemptions.

12 This subchapter does not apply to major procurement contracts of the
13 Arkansas Lottery Commission under § 23-115-103.

14
15 SECTION 24. Arkansas Code § 26-18-1001, concerning business closure
16 authority and notice, is amended to add an additional subsection to read as
17 follows:

18 (e) After written notice delivered to a lottery retailer by the United
19 States Postal Service or by hand delivery, the Director of the Department of
20 Finance and Administration may pursue a remedy under this subchapter against
21 a lottery retailer as a noncompliant taxpayer upon receiving a referral from
22 the Arkansas Lottery Commission under § 23-115-605.

23
24 SECTION 25. TEMPORARY LANGUAGE. NOT TO BE CODIFIED. (a) Initial
25 appointments to the Arkansas Lottery Commission under § 23-115-202 shall be
26 made within thirty (30) days of the effective date of this act.

27 (b) The Arkansas Lottery Commission shall hold its first meeting
28 within forty-five (45) days of the effective date of this act.

29
30 SECTION 26. NOT TO BE CODIFIED. If any provision of this act or its
31 application to any person or circumstance is held invalid, the invalidity
32 does not affect other provisions or applications of this act which can be
33 given effect without the invalid provision or application, and to this end
34 the provisions of this act are severable under § 1-2-117.

35
36 SECTION 27. EMERGENCY CLAUSE. It is found and determined by the

1 General Assembly of the State of Arkansas that the people of the State of
2 Arkansas overwhelmingly approved the establishment of lotteries at the 2008
3 General Election; that lotteries will provide funding for scholarships to the
4 citizens of this state; that the failure to immediately implement this act
5 will cause a reduction in lottery proceeds that will harm the educational and
6 economic success of potential students eligible to receive scholarships under
7 the act; and that the state lotteries should be implemented as soon as
8 possible to effectuate the will of the citizens of this state and implement
9 lottery-funded scholarships as soon as possible. Therefore, an emergency is
10 declared to exist and this act being immediately necessary for the
11 preservation of the public peace, health, and safety shall become effective
12 on:

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

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

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

19
20 /s/ Wills

21
22 **APPROVED: 3/25/2009**
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