

**Stricken language would be deleted from and underlined language would be added to present law.
Act 265 of the Fiscal Session**

1 State of Arkansas
2 87th General Assembly
3 Fiscal Session, 2010
4

As Engrossed: H2/22/10

A Bill

HOUSE BILL 1163

5 By: Representatives Wills, Hyde, J. Roebuck, Tyler, Williams, Maloch, Abernathy, Adcock, Allen,
6 Baird, T. Baker, Barnett, Betts, Blount, Breedlove, J. Brown, M. Burris, J. Burris, Carnine, Carroll,
7 Carter, Cash, Cheatham, Clemmer, Cole, Cook, Cooper, L. Cowling, D. Creekmore, Dale, Davenport,
8 Davis, J. Dickinson, Dismang, Dunn, J. Edwards, English, Everett, Flowers, Garner, Gaskill, George,
9 Glidewell, R. Green, Greenberg, Hall, Hardy, Harrelson, Hawkins, Hobbs, Hopper, House, Hoyt, D.
10 Hutchinson, Ingram, Kerr, Kidd, King, Lea, W. Lewellen, Lindsey, Lovell, S. Malone, M. Martin,
11 Maxwell, McCrary, McLean, Moore, Nickels, Nix, Overbey, Patterson, Pennartz, Perry, Pierce, Powers,
12 Pyle, Ragland, Rainey, Reep, Reynolds, T. Rogers, J. Rogers, Sample, Saunders, Shelby, Slinkard, G.
13 Smith, L. Smith, Stewart, Summers, Wagner, Webb, Wells, B. Wilkins, Woods, Word
14
15

For An Act To Be Entitled

17 AN ACT TO AMEND THE ARKANSAS SCHOLARSHIP LOTTERY
18 ACT, ARKANSAS CODE § 6-85-201 ET SEQ. AND § 23-
19 115-101 ET SEQ. ; TO AMEND OTHER ARKANSAS CODE
20 PROVISIONS RELATING TO THE ADMINISTRATION OF THE
21 ARKANSAS ACADEMIC CHALLENGE SCHOLARSHIP, PART 2;
22 TO PROVIDE FOR THE WITHHOLDING OF STATE INCOME
23 TAX FROM LOTTERY PRIZE WINNINGS UNDER THE
24 ARKANSAS SCHOLARSHIP LOTTERY ACT; AND FOR OTHER
25 PURPOSES.
26

Subtitle

THE JODIE MAHONY SCHOLARSHIP ACT.
27
28
29
30

31 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
32

33 SECTION 1. Arkansas Code § 6-85-204(5) – (17), concerning definitions
34 used in the Arkansas Academic Challenge Scholarship Program – Part 2, is
35 amended to read as follows:

36 (5) "Continuously enrolled" means:

1 (A) For a traditional student, he or she completes at an
 2 approved institution of higher education twenty-seven (27) semester hours in
 3 the first academic year as a recipient and completes thirty (30) semester
 4 hours each academic year thereafter, not including any summer term;

5 (B) For a full-time nontraditional student, he or she
 6 completes at an approved institution of higher education at least fifteen
 7 (15) semester hours of courses in consecutive semesters, not including a
 8 summer term;

9 (C) For a full-time current achiever student, he or she:

10 (i) Before receiving a scholarship under this
 11 subchapter, completed at least twelve (12) semester hours of courses in
 12 consecutive semesters, not including a summer term; and

13 (ii) As a recipient of a scholarship under this
 14 subchapter, completes at an approved institution of higher education at least
 15 fifteen (15) semester hours of courses in consecutive semesters, not
 16 including a summer term; and

17 (D) For a part-time nontraditional student, he or she
 18 completes at an approved institution of higher education at least six (6)
 19 semester hours of courses in consecutive semesters, not including a summer
 20 term;

21 (6) "Current achiever student" means a student:

22 (A) Who meets the requirements of § 6-85-209; and

23 (B) Is not a traditional student or a nontraditional
 24 student.

25 ~~(5)(7)~~ "End-of-course assessment" means an examination taken at
 26 the completion of a course of study to determine whether a student
 27 demonstrates attainment of the knowledge and skills necessary for mastery of
 28 that subject;

29 ~~(6)(8)~~ "General Educational Development test" means a test
 30 measuring the knowledge and skills usually learned in high school that is
 31 administered by a state-approved institution or organization;

32 ~~(7)(9)~~ "High school grade point average" means the numbered
 33 grade average on a student's high school transcript calculated;

34 (A) For a traditional student, using the first seven (7)
 35 of the last eight (8) semesters the student completed prior to graduating
 36 high school; or

1 (B) For a nontraditional student, using the last eight (8)
2 semesters the student completed before graduating high school;

3 (C) Recognized by the United States Department of
4 Education for financial aid purposes;

5 ~~(8)-(10)~~ "Lawful permanent resident" means a non-United States
6 citizen who resides in the United States under a legally recognized and
7 lawfully recorded permanent residence and who may receive state public
8 benefits under 8 U.S.C. § 1622;

9 ~~(9)-(11)~~ "Net proceeds from the state lottery" means lottery
10 proceeds for one (1) fiscal year less the operating expenses, as defined in §
11 23-115-103 for the fiscal year;

12 ~~(10)-(12)~~ "Nonlottery state educational resources" means the
13 funding available for state-supported scholarships and grants for students
14 enrolled in ~~two-year and four-year institutions of higher~~ postsecondary
15 education in this state that:

16 (A) The General Assembly makes available from general
17 revenue to the Higher Education Grants Fund Account without consideration of
18 the availability of proceeds from the state lottery; and

19 (B) The Department of Finance and Administration estimates
20 is available for distribution to the Higher Education Grants Fund Account
21 during a fiscal year from the Educational Excellence Trust Fund;

22 ~~(11)-(13)~~ "Nontraditional student" means a student who is not a
23 traditional student or a current achiever student;

24 ~~(12)-(14)~~ "Personally identifiable student data" means any
25 information that, alone or in combination with other available information,
26 is linked or linkable to a specific student that would allow a reasonable
27 person in the student's school community to identify the student with
28 reasonable certainty;

29 ~~(13)-(15)~~ "Postsecondary grade point average" means the
30 cumulative numbered grade average for college credit courses as calculated
31 using a 4.0 scale;

32 ~~(14)-(16)~~ "Qualified certificate program" means a program ~~that is:~~

33 (A) ~~Offered~~ That is offered by an approved institution of
34 higher education; and

35 (B) ~~Shorter in duration than an associate degree for~~ For
36 which credit hours are awarded that are creditable toward an associate degree

1 or baccalaureate degree; and

2 ~~(15)~~(17) "Recipient" means an applicant awarded a scholarship
3 funded through the program;

4 ~~(16)~~(18) "State-supported student financial assistance" means a
5 state-supported scholarship, grant, tuition waiver, or tuition reimbursement
6 funded with state funds or net proceeds from the state lottery awarded by:

7 (A) The Department of Higher Education; or

8 (B) A scholarship or grant awarded by an institution of
9 higher education in this state in whole or in part by state funds, including
10 without limitation:

11 (i) Scholarships awarded on the basis of entrance
12 exam scores or high school academic achievement;

13 (ii) Tuition waivers based on age, military service,
14 occupation, or other factors;

15 (iii) Out-of-state tuition waivers for undergraduate
16 students from contiguous states in close proximity to a college or
17 university;

18 (iv) Scholarships for transfers from two-year
19 institutions;

20 (v) Performance scholarships for band, musical
21 performing groups, arts, theater, forensics, and similar activities that are
22 not awarded on the basis of entrance exam scores or high school academic
23 achievement; and

24 (vi) Any other publicly funded program under which
25 students are not charged or are reimbursed by the institution of higher
26 education for tuition, fees, books, or other costs of attendance; ~~and~~

27 (19)(A) "Supplant" means that the net proceeds from the state
28 lottery are used in place of, not in addition to, state nonlottery
29 educational resources provided for state-supported student financial
30 assistance for a specified fiscal year.

31 (B) Supplanting does not occur if the General Assembly provided
32 the state nonlottery educational resources as if the lotteries under § 23-
33 115-101 et seq. do not exist; and

34 ~~(17)~~(20)(A) "Traditional student" means a student who, beginning
35 with the 2010-2011 academic year, will enter postsecondary education as a
36 full-time first-time freshman within twelve (12) months after graduating from

1 high school and remains continuously enrolled as a full-time student.

2 (B) "Traditional student" does not include a current
3 achiever student.

4
5 SECTION 2. Arkansas Code § 6-85-205(a)(2), concerning the duties of
6 the Department of Higher Education, is amended to read as follows:

7 (2) ~~At least ten (10) business days before the date the~~
8 ~~Department of Higher Education files with the Bureau of Legislative Research~~
9 ~~under § 25-15-204~~ The Arkansas Lottery Commission Legislative Oversight
10 Committee shall perform the function of the Legislative Council required by
11 law for the review of a proposed rule or proposed change to a rule
12 promulgated by the Department of Higher Education under this subchapter, ~~the~~
13 ~~Department of Higher Education shall file a copy of the proposed rule or~~
14 ~~proposed change to a rule with the Arkansas Lottery Commission Legislative~~
15 ~~Oversight Committee.~~

16
17 SECTION 3. Arkansas Code § 6-85-205(d), concerning the duties of the
18 Department of Higher Education, is amended to read as follows:

19 (d)(1) The Department of Education and the Department of Higher
20 Education are directed to develop appropriate informational materials on the
21 Arkansas Academic Challenge Scholarship Program and to ensure distribution of
22 the materials to Arkansas students in grade seven through grade twelve (7-12)
23 each year as a part of the packet of materials on precollegiate preparation
24 distributed by the ~~Department of Education as required by § 6-61-217~~ Arkansas
25 Higher Education Coordinating Board under § 6-61-217 and by the Department of
26 Education under the Higher Education Awareness Act of 1993, § 6-5-401 et seq.

27 (2) The distribution of informational materials under this
28 section shall be accomplished through the collaboration of school counselors
29 and other appropriate public school or Department of Higher Education
30 personnel.

31 (3) The Department of Higher Education shall provide a copy of
32 the informational materials developed under this section to the Arkansas
33 Lottery Commission Legislative Oversight Committee for its review.

34
35 SECTION 4. Arkansas Code § 6-85-205(g), concerning the duties of the
36 Department of Higher Education, is amended to read as follows:

1 (g)(1)(A) ~~The~~ By July 15 of each year, the Director of the Department
2 of Higher Education shall provide a report to the General Assembly annually
3 regarding Arkansas Lottery Commission Legislative Oversight Committee on:

4 (i) ~~the~~The implementation of this subchapter;

5 (ii) The number of recipients that either:

6 (a) Dropped out during the academic year; or

7 (b) Lost the scholarship during the academic

8 year; and

9 (iii) Any additional information requested by the
10 committee.

11 (B) The committee shall include the information reported
12 under this subsection (g) in its annual report to the General Assembly under
13 § 6-85-220.

14
15 SECTION 5. Arkansas Code § 6-85-206(1), concerning basic eligibility
16 requirements for the Arkansas Academic Challenge Scholarship Program - Part
17 2, is amended to read as follows:

18 (1)(A) The applicant has been an Arkansas resident for at least
19 the twelve (12) months immediately preceding the date the applicant will
20 enroll in an approved institution of higher education, ~~and.~~

21 (B) ~~if~~ If the applicant is less than ~~eighteen (18)~~ twenty-
22 one (21) years of age, either the applicant or a parent or guardian of the
23 applicant or a combination of the applicant and a parent or guardian of the
24 applicant has shall have maintained Arkansas residency for the same period of
25 time at least the twelve (12) months immediately preceding the date the
26 applicant will enroll in an approved institution of higher education.

27 ~~(B)(C)(i)~~ (i) To be considered an Arkansas resident, an
28 applicant shall demonstrate residency by evidence deemed sufficient to the
29 Department of Higher Education, ~~.~~

30 (ii) Evidence of residency may include including
31 without limitation information provided by the applicant on the Free
32 Application for Federal Student Aid or a subsequent application required by
33 the United States Department of Education for federal financial aid;

34
35 SECTION 6. Arkansas Code § 6-85-207(2), concerning eligibility
36 requirements of traditional students for the Arkansas Academic Challenge

1 Scholarship Program - Part 2, is amended to read as follows:

2 (2) ~~Graduated~~ Effective January 1, 2011, graduated from an
 3 Arkansas public high school that in the year of the applicant's graduation is
 4 ~~annually~~ identified in the report by the Department of Education under § 6-
 5 15-421 as a school in which twenty percent (20%) or more of the students
 6 received a letter grade of "B" or higher but did not score proficiency or
 7 higher on ~~the~~ state-mandated end-of-course assessment for the related course
 8 on the first attempt, achieved a high school grade point average of at least
 9 2.5, and:

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

12 (B) Either:

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

15 (ii) Scores proficient or higher on all state-
 16 mandated end-of-course assessments, including without limitation end-of-
 17 course assessments on:

18 (a) Algebra I;

19 (b) Geometry;

20 (c) Biology; and

21 (d) Beginning with the 2013-2014 school year,
 22 literacy; or

23

24 SECTION 7. Arkansas Code § 6-85-208 is amended to read as follows:

25 6-85-208. Additional eligibility requirements for a nontraditional
 26 student.

27 ~~(a)~~ An applicant is eligible as a nontraditional student if, in
 28 addition to the requirements of § 6-85-206, the applicant:

29 (1) Graduated from an Arkansas public high school and achieved a
 30 2.5 high school grade point average; or

31 (2) Graduated from an Arkansas public high school, a private
 32 high school, an out-of-state high school, a home school high school, or
 33 obtained a General Educational Development certificate and either:

34 (A) Had a minimum composite score of nineteen (19) on the
 35 ACT or the equivalent score on an ACT equivalent; or

36 ~~(3)(B)(i)~~ Has completed at least twelve (12) semester

1 hours of courses granting three (3) or more hours of credit per course at an
 2 approved institution of higher education and earned a postsecondary grade
 3 point average of at least 2.5.

4 (ii) A course granting less than three (3) hours of
 5 credit may be counted toward the twelve (12) semester hours under this
 6 subdivision (a)(3) if it is related to a credit course required for a degree.

7 ~~(b) To be eligible, a nontraditional student applicant who graduated~~
 8 ~~from a private high school, an out-of-state high school, or a home school~~
 9 ~~high school shall have achieved a minimum composite score of nineteen (19) on~~
 10 ~~the ACT or the equivalent score on an ACT equivalent.~~

11
 12 SECTION 8. Arkansas Code § 6-85-209, is amended to read as follows:

13 6-85-209. Additional eligibility requirements for a ~~student near~~
 14 ~~completion~~ current achiever student.

15 (a) In addition to the requirements of § 6-85-206, an applicant is
 16 eligible as a ~~student near completion if at the time of applying for the~~
 17 ~~scholarship~~ current achiever student if the applicant:

18 (1) Is enrolled in a two-year or four-year approved institution
 19 of higher education; Entered postsecondary education before the 2010-2011
 20 academic year:

21 (A) As a full-time first-time freshman student; and

22 (B) Within twelve (12) months after graduating high
 23 school; and

24 (2) Is within twenty five percent (25%) of the requirements for
 25 completion of an associate degree or baccalaureate degree At the time of
 26 applying for the scholarship:

27 (A) Has been continuously enrolled at an institution of
 28 higher education as a full-time student;

29 (B)(i) Has completed at least twelve (12) semester hours of
 30 courses granting three (3) or more hours of credit per course at an approved
 31 institution of higher education.

32 (ii) A course granting less than three (3)
 33 hours of credit may be counted toward the twelve (12) semester hours under
 34 this subdivision (a)(2) if it is related to a credit course required for a
 35 degree; and

36 ~~(3)(C)~~ (C) Has achieved a postsecondary grade point average of

1 at least 2.5.

2

3 SECTION 9. Arkansas Code § 6-85-210(b)(2)(C), concerning continuing
4 eligibility for the Arkansas Academic Scholarship Program - Part 2, is
5 repealed:

6 ~~(C)(i) A traditional student recipient is continuously enrolled~~
7 ~~in an approved institution of higher education if he or she completes twenty-~~
8 ~~seven (27) semester hours in the first year as a recipient and completes~~
9 ~~thirty (30) semester hours each academic year thereafter.~~

10 ~~(ii) A nontraditional student recipient is~~
11 ~~continuously enrolled if he or she maintains at an approved institution of~~
12 ~~higher education in consecutive semesters, not including any summer term:-~~

13 ~~(a) Full time enrollment if the student~~
14 ~~receives a scholarship under this subchapter for a full time student; or~~

15 ~~(b) Part time enrollment if the student is~~
16 ~~receiving a scholarship under this subchapter for a part time student;~~

17

18 SECTION 10. Arkansas Code § 6-85-210(c)(1), concerning continuing
19 eligibility for the Arkansas Academic Scholarship Program - Part 2, is
20 amended to read as follows:

21 (c)(1) If a recipient becomes ineligible for the scholarship because
22 the recipient's postsecondary grade point average or number of completed
23 credit hours no longer meets the minimum requirement for the scholarship, the
24 recipient may regain eligibility under this subsection (c) one (1) time ~~only~~
25 in an academic year.

26

27 SECTION 11. Arkansas Code § 6-85-212 (c), concerning scholarship award
28 amounts, is amended to read as follows:

29 (c) It is the General Assembly's intent that before increasing award
30 amounts for scholarships under this subchapter, the number of scholarships
31 awarded to nontraditional students under § 6-85-208 ~~and to students near~~
32 ~~completion under § 6-85-209~~ be increased.

33

34 SECTION 12. Arkansas Code § 6-85-212 (e)(1) and (2), concerning
35 scholarship award amounts, is amended to read as follows:

36 (e)(1)(A) ~~For the 2010-2011 academic year, the General Assembly shall~~

1 ~~determine the scholarship award amount by February 28, 2010, based on the~~
2 ~~amount of net proceeds from the state lottery reasonably projected to be~~
3 ~~available for scholarships in the 2010-2011 academic year. The scholarship~~
4 ~~award amount under this subchapter for an academic year for a full-time~~
5 ~~recipient enrolled in a four-year approved institution of higher education is~~
6 ~~five thousand dollars (\$5,000).~~

7 (B)(i) The Department of Higher Education shall award an
8 aggregate amount of scholarship awards to current achiever students beginning
9 with the 2010-2011 academic year of up to forty-one million five hundred
10 thousand dollars (\$41,500,000).

11 (ii) The department shall not accept new
12 applications for scholarships under this subdivision (e)(1)(B) after June 1,
13 2012.

14 (C) After deducting the amount committed for current
15 achiever student scholarships from the amount available under subdivision
16 (e)(1)(B) of this section, the department shall use the balance to fund
17 scholarships to nontraditional students under this subchapter.

18 ~~(2)(A) The Department of Higher Education department shall award~~
19 ~~an aggregate amount of scholarship awards to nontraditional students~~
20 ~~beginning with the 2010-2011 academic year ~~up to eight million~~~~
21 ~~~~dollars (\$8,000,000).~~ of twelve million dollars (\$12,000,000), excluding any~~
22 ~~funding for nontraditional student scholarships under subdivision (e)(1)(C)~~
23 ~~of this section.~~

24 (B)(i) The department shall return to the Arkansas Lottery
25 Commission the excess funding, if any, for scholarship awards the department
26 received under § 23-115-801.

27 (ii) The commission shall deposit any funds
28 received from the department under this subdivision (e)(2)(B) into a trust
29 account established under § 23-115-801(b).

30 (C) Priority for scholarships awarded to nontraditional
31 students and current achiever students is based on the applicant's level of
32 progress toward completion of a certificate, an associate degree, nursing
33 diploma, or a baccalaureate degree, or on other criteria established by the
34 department.

35
36 SECTION 13. Arkansas Code § 6-85-212(f)-(j)(1), concerning scholarship

1 award amounts, is amended to read as follows:

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

- 5 ~~(A)(1)~~ Award amounts;
- 6 ~~(B)(2)~~ Number or type of scholarships; and
- 7 ~~(C)(3)~~ Eligibility requirements.

8 ~~(2)~~ The committee may base its recommendations for scholarship
9 award amounts on the following guidelines and any additional information the
10 committee finds relevant to making the recommendations:-

11

12 Annual 2-yr	Annual 4-yr	If net Lottery	
13 Institution	institution	proceeds are	
14 award amount	award amount	greater than	Or equal to
15 \$1,250	\$2,500	\$ 49,308,626	\$ 60,405,551
16 \$1,500	\$3,000	\$ 60,405,551	\$ 71,502,476
17 \$1,750	\$3,500	\$ 71,502,476	\$ 82,599,401
18 \$2,000	\$4,000	\$ 82,599,401	\$ 93,696,326
19 \$2,250	\$4,500	\$93,696,326	\$104,793,251
20 \$2,500	\$5,000	\$104,793,251	\$115,890,177
21 \$2,750	\$5,500	\$115,890,177	\$126,987,102
22 \$3,000	\$6,000	\$126,987,102	

23

24 ~~(g)~~ After the 2010-2011 academic year, the determination of the amount
25 of net proceeds from the state lottery available for each semester is based
26 on the commission's certification of net proceeds.-

27 ~~(h)(g)~~ The department shall ensure that It is the intent of the
28 General Assembly that in determining award amounts under this subchapter the
29 General Assembly will consider whether sufficient funds remain will be
30 available to pay for scholarship awards through the anticipated completion of
31 the degree or certificate a recipient is seeking and report the balance of
32 those funds to the General Assembly before the amount of awards under this
33 subchapter are increased by the General Assembly.

34 ~~(i)(h)~~ All awards under this subchapter are subject to the prohibition
35 under § 6-80-105 against using public funds in a student financial package in
36 excess of the recognized cost of attendance at the institution where the

1 student is enrolled.

2 ~~(j)-(1)(i)(1)~~ If the department has less than a sufficient amount from
3 net proceeds from the state lottery to provide for the scholarship
4 commitments under this subchapter, the department first shall use ~~the~~
5 ~~department's~~ funds from any Scholarships and Grants Contingency Appropriation
6 made to the department to fund the shortfall before requesting funds from the
7 Scholarship Shortfall Reserve Trust Account under § 23-115-802.

8

9 SECTION 14. Arkansas Code § 6-85-215(a), concerning the release of
10 student information, is amended to read as follows:

11 (a)(1)(A) A student receiving any state-supported student financial
12 assistance ~~for which an institution of higher education is required to~~
13 ~~provide information under this section~~ shall complete and sign a ~~consent~~ form
14 authorizing ~~the release of~~ or refusing to authorize:

15 (i) ~~the~~ The institution of higher education to
16 release the student's individual personal information to the Bureau of
17 Legislative Research ~~and authorizing;~~

18 ~~(i)(ii)~~ The institution of higher education to
19 provide the bureau with academic progress information for the scholarship
20 recipient; and

21 ~~(ii)(iii)~~ The ~~department~~ Department of Higher
22 Education to release the student's individual personal information to the
23 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 refuse to authorize the release of
28 information under this section ~~and~~ does not apply to nonindividually
29 identifiable information released under any other section of this subchapter
30 or under any other law.

31 (B) In order to provide better statistical data, each
32 institution shall report the number of students who ~~opt out~~ refuse to
33 authorize the release of information.

34 (3)(A) Before any state funds for state-supported student
35 financial assistance are released on behalf of a student, the form signed by
36 the student or the student's parent or guardian indicating either the

1 student's authorization to release or the refusal to authorize the release of
 2 information under this section shall be obtained by:

3 (i) The department if the department awards the
 4 state-supported student financial assistance; or

5 (ii) The institution of higher education if the
 6 state-supported student financial assistance is awarded solely by the
 7 institution.

8 (B) The ~~consent~~ form shall state that:

9 ~~(A)(i)~~ The purpose for the bureau's collecting data
 10 is to guide the General Assembly's evaluation of the need for adjustments to
 11 scholarship program eligibility and funding levels; and

12 ~~(B) Personally identifiable student data will not be~~
 13 ~~released by the bureau or the department; and~~

14 ~~(C)(ii) The student may opt out of the release of~~
 15 ~~information, and that opting out~~ A refusal to authorize the release of
 16 information under this section will not affect the student's eligibility for
 17 a scholarship.

18 (C) A high school student enrolled in a course for
 19 concurrent credit is exempt under this section.

20 (4) The form shall list the categories of information authorized
 21 for release under this section.

22 (5) The Director of the Bureau of Legislative Research may:

23 (A) Seek an opinion from the Family Policy Compliance
 24 Office of the United States Department of Education concerning the ~~student~~
 25 ~~consent~~ requirement ~~and opt out~~ to authorize or refuse to authorize the
 26 release of information under this section; or

27 (B) Request the Department of Higher Education to seek the
 28 opinion on behalf of the bureau.

29
 30 SECTION 15. Arkansas Code § 6-85-217(b)(3)(A), concerning the
 31 confidentiality of student data to be provided to the Bureau of Legislative
 32 Research, is amended to read as follows:

33 (3)(A) The Director of the Bureau of Legislative Research may
 34 seek an opinion from Family Policy Compliance Office of the United States
 35 Department of Education concerning the ~~department's~~ Department of Higher
 36 Education's system, any proposed modification of the system, or any request

1 for information made by the bureau under this section.

2

3 SECTION 16. Arkansas Code § 6-85-217(f), concerning the use of student
4 data, is amended to read as follows:

5 (f) The bureau's staff shall inform the Department of Higher Education
6 of any data used in the preparation of reports and provide the ~~department~~
7 Department of Higher Education at least two (2) working days to review any
8 student-related data used in preparation of reports before publicly releasing
9 that student-related data without personally identifiable student data.

10

11 SECTION 17. Arkansas Code § 6-85-218 is repealed.

12 ~~6-85-218. Advisory council.~~

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

16 ~~(b) The advisory council shall be composed of sixteen (16) members as~~
17 ~~follows:~~

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

20 ~~(2) The Commissioner of Education, or his or her designee;~~

21 ~~(3) The Executive Director of the Arkansas Association of~~
22 ~~Educational Administrators, or his or her designee;~~

23 ~~(4) The Executive Director of the Arkansas Education~~
24 ~~Association, or his or her designee;~~

25 ~~(5) The Executive Director of the Arkansas School Boards~~
26 ~~Association, or his or her designee;~~

27 ~~(6) The Director of the Bureau of Legislative Research, or his~~
28 ~~or her designee, who shall serve as an ex officio nonvoting member; and~~

29 ~~(7)(A) Ten (10) members who shall serve three-year terms,~~
30 ~~selected as follows:~~

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

33 ~~(ii) One (1) member of the Senate selected by the~~
34 ~~President Pro Tempore of the Senate;~~

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

SECTION 18. Arkansas Code § 6-80-105 is amended to read as follows:
6-80-105. Student financial aid – ~~Anti-stacking~~ Scholarship stacking.

(a) As used in this section:

(1) "Cost of attendance" means the recognized cost of attendance of an institution of higher education calculated under rules established by the Department of Higher Education;

(2) "Federal aid" means scholarships or grants awarded to a student as a result of the Free Application for Federal Student Aid, excluding the Pell grant;

(3) "Other aid" means scholarships, grants, tuition waivers, or housing waivers awarded to a student from postsecondary institutions or private sources; and

(4) "State aid" means scholarships or grants awarded to a student from public funds, including without limitation the Arkansas Academic Challenge Scholarship under § 6-85-201 et seq., the Department of Higher Education scholarship and grant programs, state general revenues, tuition, and local tax revenue; and

(5) "Student aid package" means federal aid, state aid, and other aid a student receives for postsecondary education expenses.

~~(a)(b)(1) No A~~ A postsecondary institution shall use public funds not award state aid in a student aid package which exceeds in excess of the recognized cost of attendance at the institution where the student enrolls.

~~(2) Public funds are defined to include Department of Higher Education scholarships and grants, state general revenues, tuition, or local tax revenue~~ For the purpose of stacking scholarships in a student's student aid package, the Arkansas Academic Challenge Scholarship under § 6-85-201 et seq. shall be reduced or returned first.

~~(b)(c) All A~~ A postsecondary institutions institution shall report to the department the total amount of financial federal aid, state aid, and other aid from all sources for any a student who receives if the student receives an award from a department scholarship or grant program, including the Arkansas Academic Challenge Scholarship under § 6-85-201, et. seq.

~~(c)(1)(d)(1)~~ When a student receives a total student aid package that includes public funds state aid and the student aid package exceeds the cost of attendance, the postsecondary institution shall repay public funds state aid in the amount exceeding the total cost of attendance, starting with state

1 aid received under the Arkansas Academic Challenge Scholarship under § 6-85-
 2 201 et seq.

3 ~~(2) Such~~ The department shall credit the excess state aid funds
 4 ~~repaid shall be credited to the Higher Education Grants Fund Account~~
 5 appropriate department fund or trust account.

6
 7 SECTION 19. Section 7 of Acts 605 and 606 of 2009, as amended by Act
 8 1405 of 2009, is repealed:

9 ~~(a) The Director of the Department of Higher Education shall determine~~
 10 ~~the amount of excess net proceeds from the state lottery by calculating the~~
 11 ~~difference between:-~~

12 ~~(1) The amount committed to scholarships awarded under the~~
 13 ~~Academic Challenge Scholarship Program — Part 1 and the scholarships for~~
 14 ~~traditional students and nontraditional students under the Academic Challenge~~
 15 ~~Scholarship Program — Part 2; and~~

16 ~~(2) The amount of net proceeds from the state lottery reasonably~~
 17 ~~projected for the 2010-2011 academic year as determined by the director~~
 18 ~~after consultation with the Arkansas Lottery Commission, the Legislative~~
 19 ~~Oversight Committee, the House Committee on Education, and the Senate~~
 20 ~~Committee on Education.-~~

21 ~~(b) The amount of excess net proceeds from the state lottery shall~~
 22 ~~only be available for one (1) or more of the following:-~~

23 ~~(1) Awarding scholarships to students near completion;-~~

24 ~~(2) Increasing state-supported student financial assistance~~
 25 ~~under the Higher Education Opportunities Grant Program, § 6-82-1701 et seq.,~~
 26 ~~and the Arkansas Workforce Improvement Grant Program, § 6-82-1601 et seq., or~~
 27 ~~other state-supported student financial assistance programs for~~
 28 ~~nontraditional students; or~~

29 ~~(3) Establishing a reserve fund.-~~

30 ~~(c) By July 15, 2010, the Director of the Department of Higher~~
 31 ~~Education shall prepare a report on the projected distribution of excess net~~
 32 ~~proceeds from the state lottery based on:-~~

33 ~~(1) The award amounts set by the General Assembly in February~~
 34 ~~2010 under this act;-~~

35 ~~(2) The amount of excess net proceeds from the state lottery~~
 36 ~~reasonably projected to be available for funding scholarships under this act;-~~

1 ~~(3) The number of applications accepted for the 2010-2011~~
2 ~~academic year under this act;~~

3 ~~(4) The number of applicants on the waiting lists for~~
4 ~~scholarships to be awarded under this act;~~

5 ~~(5) Of the applicants on the waiting list, whether the~~
6 ~~applicants are traditional students, nontraditional students, or students~~
7 ~~near completion;~~

8 ~~(d) The director shall provide the report to the Arkansas Lottery~~
9 ~~Commission Legislative Oversight Committee, the House Committee on Education,~~
10 ~~and the Senate Committee on Education for review.~~

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

14 ~~(2) The amount of the award per student per year shall be~~
15 ~~determined by dividing the number of hours until completion by thirty (30)~~
16 ~~and multiplying by the amount the legislature sets for the award for~~
17 ~~baccalaureate students.~~

18 ~~(3) The amount of the award for associate degree students shall~~
19 ~~be determined by dividing the number of hours until completion by fifteen~~
20 ~~(15) and multiplying by the amount the legislature sets for two-year~~
21 ~~students.~~

22
23 SECTION 20. Arkansas Code § 23-115-103(7), concerning the definition
24 of "immediate family" as used in the Arkansas Scholarship Lottery Act, is
25 amended to read as follows:

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

31
32 SECTION 21. Arkansas Code § 23-115-103(12)(B), concerning the
33 definition of "lottery" as used in the Arkansas Scholarship Lottery Act, is
34 amended to read as follows:

35 (B) "Lottery" includes without limitation:

36 (i) An instant ticket;

- 1 (ii) A draw game; ~~and~~
- 2 (iii) Participation in a multistate or
- 3 multi-sovereign game; and
- 4 (iv) A raffle.

5

6 SECTION 22. Arkansas Code § 23-115-103(13), concerning the definition

7 of "lottery proceeds", is amended to read as follows:

8 (13) "Lottery proceeds" means all revenue derived from the sale

9 of tickets or shares and all other moneys derived from or in connection with

10 the operation of a lottery, including without limitation fees, offsets,

11 reimbursements, insurance proceeds, damages, and liquidated damages collected

12 or imposed by the Arkansas Lottery Commission under this chapter;

13

14 SECTION 23. Arkansas Code § 23-115-103(19)(J) - (K), concerning the

15 definition of operating expenses of the Arkansas Lottery Commission, is

16 amended to add an additional subdivision to read as follows:

17 (J) Amounts annually transferred to a fidelity fund under § 23-

18 115-603; ~~and~~

19 (K) Amounts paid to governmental entities for goods or services

20 provided to the Arkansas Lottery Commission, including without limitation

21 services provided by the Division of Legislative Audit, the Department of

22 Human Services, and the Department of Finance and Administration; and

23 (L) Withholding and payment of income taxes from lottery prizes.

24

25 SECTION 24. Arkansas Code § 23-115-205(25)(C) and (26), concerning the

26 powers of the Arkansas Lottery Commission, is amended to add an additional

27 subdivision to read as follows:

28 (C) An independent testing laboratory shall not be owned

29 or controlled by a vendor or a retailer; ~~and~~

30 (26) To withhold state and federal income taxes as required by

31 law; and

32 (27) To adopt and amend rules necessary to carry out and

33 implement its powers and duties, organize and operate the commission,

34 regulate the conduct of lotteries in general, and any other matters necessary

35 or desirable for the efficient and effective operation of lotteries for the

36 convenience of the public.

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SECTION 25. Arkansas Code § 23-115-211 is amended to read as follows:
23-115-211. Certain sections inapplicable.

~~The~~ In addition to any provision of law expressly exempting the
Arkansas Lottery Commission, the following sections shall not apply to the
Arkansas Lottery Commission commission:

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

SECTION 26. Arkansas Code § 23-115-302(b)(8) and (9), concerning the
duties of the Director of the Arkansas Lottery Commission, is amended to read
as follows:

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

(9) By August 15, 2011, and annually thereafter, report to the
committee the following:

(A) For the immediately preceding fiscal year:

(i) The total amount of net proceeds from the state
lottery; and

(ii) The amounts deposited into and disbursed from
the Scholarship Shortfall Reserve Trust Account under § 23-115-802; and

(B) The commission's projection for net proceeds from the
state lottery for the current fiscal year; and

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

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SECTION 27. Arkansas Code § 23-115-306(b), concerning special salary allowances for employees of the Arkansas Lottery Commission, is amended to read as follows:

(b) ~~The total compensation for~~ For a position subject to ~~an~~ a special allowance under subsection (a) of this section, ~~including the sum of the~~ salary authorized by the General Assembly and ~~a~~ the special salary allowance, shall not exceed an amount equal to two and one-half (2½) times the salary for the position authorized by the General Assembly.

SECTION 28. Arkansas Code § 23-115-403(g), concerning unclaimed lottery prizes, is amended to read as follows:

(g)~~(1)~~ Unclaimed lottery prize money ~~is not~~ shall be added to net lottery proceeds.

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

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

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

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

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

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

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

SECTION 29. Arkansas Code Title 23, Chapter 115, Subchapter 4, is amended to add an additional section to read as follows:

23-115-410. Compulsive gambling disorder treatment and educational programs.

(a) The Arkansas Lottery Commission shall provide an annual amount of

1 at least two hundred thousand dollars (\$200,000) for:

2 (1) Compulsive gambling disorder treatment programs; and

3 (2) Compulsive gambling disorder educational programs.

4 (b)(1) The commission shall work together with the Department of Human
5 Services to implement the compulsive gambling disorder treatment programs and
6 the compulsive gambling disorder educational programs under this section.

7 (2) The commission may contract with the department for
8 providing all services related to and administration of the compulsive
9 gambling disorder treatment programs and the compulsive gambling disorder
10 educational programs.

11 (3) The department may promulgate rules to administer the
12 compulsive gambling disorder treatment programs and the compulsive gambling
13 disorder educational programs.

14
15 SECTION 30. Arkansas Code § 23-115-601(f)(5)(B)(v), concerning the
16 qualifications of lottery retailers, is amended to read as follows:

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

19
20 SECTION 31. Arkansas Code § 23-115-701(e), concerning major
21 procurement contracts of the Arkansas Lottery Commission, is amended to read
22 as follows:

23 (e)(1) Each proposed major procurement contract and each
24 amendment or modification to a proposed or executed major procurement
25 contract shall be filed with the Arkansas Lottery Commission Legislative
26 Oversight Committee for review at least thirty (30) days before the execution
27 date of the major procurement contract or the amendment or modification to a
28 proposed or executed major procurement contract.

29 (2) The Arkansas Lottery Commission Legislative Oversight
30 Committee shall provide the commission with its review as to the propriety of
31 the major procurement contract and each amendment or modification to a
32 proposed or executed major procurement contract within thirty (30) days after
33 receipt of the proposed major procurement contract or the amendment or
34 modification to a proposed or executed major procurement contract.

35
36 SECTION 32. Arkansas Code § 23-115-801(c)(1), concerning the use of

1 net proceeds from the state lottery, is amended to read as follows:

2 (c)(1) The Director of the Department of Higher Education shall
3 certify to the commission the amount of net proceeds from the lottery needed
4 to:

5 ~~(A) Fund~~ fund the scholarships awarded to recipients under
6 § 6-85-201 et seq. for each semester of an academic year; ~~and~~

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

10

11 SECTION 33. Arkansas Code § 23-115-802(b)(3), concerning the Shortfall
12 Reserve Trust Account of the Arkansas Lottery Commission, is amended to read
13 as follows:

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

18

19 SECTION 34. Arkansas Code § 23-115-802(c), concerning the Shortfall
20 Reserve Trust Account of the Arkansas Lottery Commission, is amended to read
21 as follows:

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

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

29

30 SECTION 35. Arkansas Code § 23-115-1101(f)(3), concerning the Arkansas
31 Lottery Commission Legislative Oversight Committee, is amended to read as
32 follows:

33 (3) ~~Six (6) members~~ A majority of the Arkansas Lottery
34 Commission Legislative Oversight Committee ~~constitute~~ constitutes a quorum.

35

36 SECTION 36. Arkansas Code § 23-115-1102(c), concerning the duties of

1 the Arkansas Lottery Commission Legislative Oversight Committee, is amended
2 to read as follows:

3 (c)(1) The Arkansas Lottery Commission Legislative Oversight Committee
4 shall perform all duties or functions of the Legislative Council required by
5 law concerning the contracts, rules, reports, or other information filed with
6 the Arkansas Lottery Commission Legislative Oversight Committee under
7 subsection (b) of this section.

8 (2) The Bureau of Legislative Research shall provide staff for
9 the Arkansas Lottery Commission Legislative Oversight Committee.

10

11 SECTION 37. Arkansas Code Title 26, Chapter 51 is amended to add a new
12 subchapter to read as follows:

13 SUBCHAPTER 23 -- LOTTERY WITHHOLDING ACT

14 26-51-2301. Title.

15 This subchapter may be cited as the "Lottery Withholding Act".

16

17 26-51-2302. Definitions.

18 As used in this subchapter:

19 (1) "Claim center" means a claim center established by the Arkansas
20 Lottery Commission under § 23-115-207;

21 (2) "Lottery" means the same as defined in § 23-115-103; and

22 (3) "Lottery winnings" means the proceeds of a lottery prize based on
23 the total amount paid from an Arkansas lottery or from a multistate or
24 multisovereign lottery without reduction for the amount paid for the lottery
25 ticket.

26

27 26-51-2303. Administration.

28 (a) This subchapter shall be administered in accordance with the
29 Arkansas Tax Procedure Act, § 26-18-101 et seq.

30 (b) The Director of the Department of Finance and Administration shall
31 make and prescribe such rules, regulations, and forms as he or she deems
32 necessary to administer this subchapter.

33

34 26-51-2304. Amount deducted and withheld – Credit.

35 (a) A claim center making a payment of lottery winnings on a single
36 lottery ticket of more than five thousand dollars (\$5,000) shall deduct and

1 withhold an amount equal to seven percent (7%) of each payment of the lottery
2 winnings.

3 (b) The amount deducted and withheld under this section from any
4 lottery winnings paid to a person during the income year shall be credited
5 against the income tax liability of that person under the Income Tax Act of
6 1929, § 26-51-101 et seq.

7
8 26-51-2305. Withholding return, reporting, and payment – Lottery.

9 (a) A claim center shall register to withhold income tax under § 26-
10 51-2304 from lottery winnings in the manner prescribed by the Director of the
11 Department of Finance and Administration.

12 (b) The withholding account used to report and remit the withholding
13 on wages shall not be used to report withholding on lottery winnings.

14 (c) A separate account for withholding on lottery winnings shall be
15 obtained from the Revenue Division of the Department of Finance and
16 Administration.

17 (d) Each claim center shall file a monthly return and remit the income
18 tax withheld from lottery winnings on or before the fifteenth day of the
19 month following the month in which the income tax was withheld.

20 (e) A claim center shall keep the following records and information
21 for six (6) years after the date the income tax becomes due or is paid,
22 whichever is later:

23 (1) The total lottery winnings paid;

24 (2) The amount of lottery winnings income tax withheld and
25 remitted;

26 (3) The name, address, social security number or taxpayer
27 identification number, and amount of lottery winnings of each person in
28 receipt of lottery winnings; and

29 (4) The name, address, and taxpayer identification number of the
30 claim center.

31 (f)(1) A claim center shall provide two (2) copies of a statement to
32 each person who received lottery winnings and had an amount withheld under §
33 26-51-2304 during the income year before January 31 following the close of
34 the income year.

35 (2) Each statement shall contain the following:

36 (A) The name, address, and social security number or

1 taxpayer identification number of the person in receipt of lottery winnings;

2 (B) The total amount of the lottery winnings subject to
3 withholding that was paid by the claim center to the recipient of the lottery
4 winnings for the income tax year;

5 (C) The total amount withheld from the recipient's lottery
6 winnings by the claim center under this subchapter for the income year;

7 (D) The name, address, and Arkansas identification number
8 of the claim center; and

9 (E) Such other information as the director shall require
10 by rule.

11
12 26-51-2306. Duties of the claim centers and payees.

13 (a)(1) The Arkansas Lottery Commission is liable for amounts required
14 to be deducted and withheld by a claim center under this subchapter
15 regardless of whether the amounts were in fact deducted or withheld.

16 (2) Any sum withheld in accordance with this subchapter is
17 deemed to be held in trust for the State of Arkansas and shall be recorded by
18 the claim center in a ledger account so as to clearly indicate the amount of
19 income tax withheld and that the amount is the property of the State of
20 Arkansas.

21 (b) Each person that is subject to this subchapter and who is to
22 receive a payment of lottery winnings or is entitled to any portion of the
23 payment of lottery winnings shall furnish the claim center making the payment
24 a statement, made under penalty of perjury, containing his or her:

25 (1) Name;

26 (2) Address; and

27 (3) Social security number or taxpayer identification number.

28
29 */s/ Willis*

30
31 **APPROVED: 2/26/2010**