

Chapter 115

Arkansas Scholarship Lottery Act

- Subchapter 1 — General Provisions
- Subchapter 2 — Office of the Arkansas Lottery
- Subchapter 3 — Employees of Office of the Arkansas Lottery
- Subchapter 4 — Operation of Lottery
- Subchapter 5 — Vendors
- Subchapter 6 — Retailers
- Subchapter 7 — Procurements
- Subchapter 8 — Lottery Proceeds
- Subchapter 9 — Penalties
- Subchapter 10 — Debtors Owning Money to the State
- Subchapter 11 — Arkansas Lottery Legislative Oversight

Effective Dates. Identical Acts 2009, Nos. 605 and 606, § 27: Mar. 25, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the people of the State of Arkansas overwhelmingly approved the establishment of lotteries at the 2008 General Election; that lotteries will provide funding for scholarships to the citizens of this state; that the failure to immediately implement this act will cause a reduction in lottery proceeds that will harm the educational and economic success of potential students eligible to receive scholarships under the act; and that the state lotteries should be implemented as soon as possible to effectuate the will of the citizens of this state and implement lottery-funded scholarships as soon as possible. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Subchapter 1

— General Provisions

- 23-115-101. Short title.
- 23-115-102. Legislative intent.
- 23-115-103. Definitions.
- 23-115-104. Fiscal impact statement.

Effective Dates. Acts 2009, No. 1405, § 57: Apr. 9, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the people of the State of Arkansas overwhelmingly approved the establishment of lotteries at the 2008 General Election; that the Eighty-seventh General Assembly adopted Acts 605 and 606 of 2009 that implemented lotteries and made corresponding revisions to the Arkansas Academic Challenge Scholarship Program; that this bill amends provisions of Acts 605 and 606 of 2009 pertaining to lotteries and the Arkansas Academic

Challenge Scholarship Program; and that the failure to immediately implement this act will cause a reduction in lottery proceeds that will harm the educational and economic success of potential students eligible to receive scholarships under the act. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2011, No. 20, § 5: Feb. 9, 2011. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Public Employees’ Retirement System currently requires that retirement contributions be based on a member’s base salary plus any multipliers; that retirement contributions and benefits should be determined based on a member’s base salary and not any multipliers or special salary allowances; and that this act is immediately necessary to clarify the meaning of the term ‘compensation’ for purposes of the Arkansas Public Employees’ Retirement System. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2011, No. 207, § 31: Mar. 8, 2011. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that increasing the number of Arkansans obtaining postsecondary credentials is critical to the economic health of the state and its citizens; that the Arkansas Scholarship Lottery provides the opportunity for tens of thousands of Arkansans to obtain postsecondary education; that the deadline for scholarship applications is June 1; that the financial integrity of the Arkansas Scholarship Lottery is critical to the continued existence of the scholarships; that the reporting and research provisions of this act are critical for timely decisions by the General Assembly on scholarship awards; and that this act is immediately necessary because the Department of Higher Education must promulgate rules to implement this act well before June 1, 2011, in order to provide eligible Arkansans the opportunity to apply for the scholarship. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2011, No. 1180, § 4: Apr. 4, 2011. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that increasing the number of Arkansans who obtain postsecondary credentials is critical to the economic health of the state and its citizens; that the Arkansas Scholarship Lottery provides the opportunity for tens of thousands of Arkansans to obtain postsecondary education; that the deadline for scholarship applications is June 1; that the financial integrity of the Arkansas Scholarship Lottery is critical to the continued existence of the scholarships; that the reporting and research provisions of this act are critical for timely decisions by the General Assembly on scholarship awards; and that this act is immediately necessary because the Department of Higher Education must promulgate rules to implement this act well before June 1, 2011, in order to provide eligible Arkansans the opportunity to apply for the scholarship. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Identical Acts 2014 (2nd Ex. Sess.), Nos. 4 and 8, § 3: July 3, 2014. Emergency clause provided: “It

is found and determined by the General Assembly of the State of Arkansas that the expansion of the lottery to include multidraw screen-based lottery games goes beyond the intent of the constitutional amendment; that voters did not anticipate such multidraw screen-based lottery games to be used as a part of the scholarship lottery program; and that this act is immediately necessary to prohibit the implementation of multidraw screen-based lottery games and to ensure the integrity of the lottery as envisioned by Arkansas citizens. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2015, No. 218, § 34: Feb. 26, 2015. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the stability of the Arkansas Scholarship Lottery is critical to the success of the Arkansas Academic Challenge Scholarship Program; that changes to the operational structure of the lottery are needed to improve the creditability and function of the lottery; and that this act is immediately necessary to ensure that the transition of lottery administration is as undistruptive as possible. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2017, No. 613, § 7: Mar. 23, 2017. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this state is in need of a more educated and skilled workforce; that the Arkansas Workforce Challenge Scholarships available under this act will allow more Arkansans to pursue higher education in order to obtain a skill or better education that will lead to employment in a high-needs occupation in Arkansas; and that this act is immediately necessary to allow the funding to be in place so that Arkansas Workforce Challenge Scholarships can be awarded to Arkansans as soon as possible. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

23-115-101. Short title.

This chapter shall be known and may be cited as the “Arkansas Scholarship Lottery Act”.

History. Acts 2009, No. 605, § 1; 2009, No. 606, § 1; 2015, No. 218, § 25.

Amendments. The 2015 amendment made no changes to this section.

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 for scholarships; and

(C) Ensures that the lotteries are operated with integrity, dignity, and adequate internal controls and free of political influence; and

(3) The Office of the Arkansas Lottery shall be accountable to the General Assembly and to the public through a system of audits and reports.

History. Acts 2009, No. 605, § 1; 2009, No. 606, § 1; 2015, No. 218, § 25.

Amendments. The 2015 amendment inserted “for scholarships” in (2)(B); and substituted “Office of the Arkansas Lottery” for “Arkansas Lottery Commission” in (3).

23-115-103. Definitions.

As used in this chapter:

(1) “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;

(2) “Administrative order” means the final disposition of the Office of the Arkansas Lottery in any matter other than a claim in contract or in tort, including without limitation licensing, in which the office is required by law to make its determination after notice and a hearing;

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

(B) “Casino gambling” does not include the sale and purchase of tickets or shares;

(4)(A) “Compensation” means any money or anything of value received or to be received as a claim for future services, whether in the form of a retainer, fee, salary, expense,

allowance, forbearance, forgiveness, interest, dividend, royalty, rent, or any other form of recompense or any combination thereof.

(B) “Compensation” includes without limitation a payment made under obligation for services or other value received.

(C) Subdivisions (4)(A) and (B) of this section do not apply to “compensation” as used in § 23-115-304;

(5) “Female-owned business” means a business:

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

(B) Either:

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

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

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

(6) “Fiscal impact statement” means a realistic written statement of the:

(A) Purpose of a proposed law or proposed amendment to a law under this chapter; and

(B) Estimated financial cost to the office, the lottery, and this state of implementing or complying with the proposed law or proposed rule;

(7) “Gift” means any payment, entertainment, advance, services, or anything of value, unless consideration of equal or greater value has been given therefor;

(8) “Immediate family” means the father, mother, sister, brother, husband, wife, child, grandmother, grandfather, grandchild, father-in-law, mother-in-law, sister-in-law, brother-in-law, daughter-in-law, son-in-law, stepchild, grandmother-in-law, grandfather-in-law, step-grandchild, or any individual acting as parent or guardian;

(9) “Incompetence” means:

(A) Gross ignorance of official duties;

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

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

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

(11) "Lobbying" means communicating directly or soliciting others to communicate with the Director of the Office of the Arkansas Lottery, the Director of the Department of Finance and Administration, any employee of the office, or a member of the Legislative Council with the purpose of influencing the actions of the office or the Legislative Council;

(12) "Local government" means:

(A) A county;

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

(C) An incorporated town; or

(D) Any other district or political subdivision or any board, commission, or agency of the political subdivisions under subdivisions (12)(A)-(C) of this section;

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

(B) "Lottery" includes without limitation:

(i) An instant ticket;

(ii) A draw game;

(iii) Participation in a multistate or multisovereign game; and

(iv) A raffle.

(C) "Lottery" does not include:

(i) Casino gambling;

(ii) A video lottery;

(iii) Pari-mutuel wagering on horse racing or greyhound racing governed by the Arkansas Horse Racing Law, § 23-110-101 et seq., or the Arkansas Greyhound Racing Law, § 23-111-101 et seq., whether the pari-mutuel wagering is on live racing, simulcast racing,

or races conducted in the past and rebroadcast by electronic means;

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

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

(14) “Lottery proceeds” means all revenue derived from the sale of tickets or shares and all other moneys derived from or in connection with the operation of a lottery, including without limitation fees, offsets, reimbursements, insurance proceeds, damages, and liquidated damages collected or imposed by the office under this chapter;

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

- (i) A major advertising contract;
- (ii) An annuity contract;
- (iii) A prize payment agreement;
- (iv) A consulting service;
- (v) Lottery equipment;
- (vi) Tickets; and
- (vii) Any other product and service unique to lotteries.

(B) “Major procurement contract” does not include a material, supply, equipment, or service common to the ordinary operations of the office.

(C) When the cost of a proposed contract for a gaming product or service is to be paid, in whole or in part, on a contingent basis, the office shall estimate the value of the proposed contract to determine whether it is a major procurement contract;

(16) “Member of a minority” means a lawful permanent resident of this state who is:

- (A) African American;
- (B) Hispanic American;
- (C) American Indian;
- (D) Asian American; or
- (E) Pacific Islander American;

(17) “Minority-owned business” means a business that is owned by:

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

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

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

(18) “Multidraw screen-based lottery game” means a lottery game that:

(A) Is played in real time at regular intervals throughout a single day; and

(B) Uses a video screen or monitor to display lottery game information or lottery game results for players;

(19)(A) “Multistate or multisoovereign lottery” and “multistate or multisoovereign game” mean a lottery or game:

(i) Provided by an association or group of state-operated or sovereign-operated lotteries that is:

(a) Organized for the purpose of government benefit; and

(b) Wholly owned and operated by the member lotteries under a mutual agreement, contract, or compact; and

(ii) Operated pursuant to the terms of the association's or group's rules governing the operation and the payment of prizes of the game.

(B) “Multistate or multisoovereign lottery” and “multistate or multisoovereign game” do not include a lottery prohibited or excluded under this chapter;

(20) “Net proceeds” means lottery proceeds less:

(A) Operating expenses;

(B) The amount of fidelity fund revenue under § 23-115-603 that exceeds five hundred thousand dollars (\$500,000);

(C) The undepreciated amount of capital assets; and

(D) Accruals that will not result in a cash outflow;

(21) “Nonlottery state educational resources” means the same as defined in § 6-85-204;

(22) “Operating expenses” means all costs of doing business, including without limitation:

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

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

(C) Advertising and marketing costs;

(D) Personnel costs;

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

(F) Funds for compulsive gambling education and treatment;

(G) The payment of sums to the Arkansas State Claims Commission for the reconciliation of valid claims against the office;

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

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

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

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

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

(K) Amounts paid to governmental entities for goods or services provided to the office, including without limitation services provided by Arkansas Legislative Audit, the Department of Human Services, and the Department of Finance and Administration;

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

(M) Management fees charged by a financial institution to manage a trust account or fund maintained by the Department of Higher Education or the office;

(23) “Person” means any individual, corporation, partnership, unincorporated association, or other legal entity;

(24) “Prize promotion” means an action taken to enhance the play for an individual game by one (1) or more of the following:

- (A)** Funding player affinity programs to promote play of a particular instant or online game;
- (B)** Enriching the prize for an instant or online game;
- (C)** Instituting player incentives for an individual game;
- (D)** Instituting retailer commission incentives for an individual game; or
- (E)** Funding supplemental advertising expenses related to enhancing the promotion of an individual game;

(25)(A) “Public official” means:

- (i)** The Governor;
- (ii)** The Lieutenant Governor;
- (iii)** The Secretary of State;
- (iv)** The Treasurer of State;
- (v)** The Attorney General;
- (vi)** The Commissioner of State Lands;
- (vii)** The Auditor of State; or
- (viii)** A member of the General Assembly.

(B) “Public official” includes an individual during the time between the date he or she is elected and the date he or she takes office;

(26) “Retailer” means a person who sells tickets or shares on behalf of the office under a license;

(27) “Share” means any intangible evidence of participation in a lottery;

(28) “Ticket” means any tangible evidence issued by a lottery to provide participation in a lottery;

(29)(A) “Unclaimed lottery prize money” means a lottery prize expense on the financial books of the office that is released from the expense category when a lottery prize is not claimed within the required claim period for the game during a fiscal year.

(B) With respect to a multistate or multisovereign game, “unclaimed lottery prize money”:

- (i)** Includes any unclaimed prize money returned to the office from a

multistate or multisovereign game; and

(ii) Does not include unclaimed prize money from a multistate or multisovereign game that under the agreement of the states participating in the multistate or multisovereign game is not returned to the participating states but is applied under the terms of the agreement;

(30)(A) “Vendor” means a person who provides or proposes to provide goods or services to the office under a major procurement contract.

(B) “Vendor” does not include:

(i) An employee of the office;

(ii) A retailer; or

(iii) A state agency or instrumentality.

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

(31) “Video lottery” means a lottery game that allows a game to be played using an electronic computer and an interactive computer terminal device:

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

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

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

History. Acts 2009, No. 605, § 1; 2009, No. 606, § 1; 2009, No. 1405, § 27; 2010, No. 265, §§ 20-23; 2010, No. 294, §§ 20-23; 2011, No. 20, § 1; 2011, No. 207, § 20; 2011, No. 1173, § 1; 2011, No. 1180, § 2; 2014 (2nd Ex. Sess.), No. 4, § 1; 2014 (2nd Ex. Sess.) No. 8, § 1; 2015, No. 218, § 25; 2015, No. 1258, § 20; 2017, No. 613, § 4.

A.C.R.C. Notes. Acts 2015, No. 1258, § 1, provided: “LEGISLATIVE FINDINGS. The General Assembly finds:

“(1) Amendment 92 to the Arkansas Constitution states in part: ‘The General Assembly may provide by law for the review by a legislative committee of administrative rules promulgated by a state agency before the administrative rules become effective; and that administrative rules promulgated by a

state agency shall not become effective until reviewed and approved by the legislative committee charged by law with the review of administrative rules under subdivision (a)(1) of this section’;

“(2) As Amendment 92 does not define the term ‘state agency’, the General Assembly may establish a definition by law as part of its implementation of Amendment 92;

“(3) The General Assembly at this time wishes to exclude the Arkansas State Game and Fish Commission, the State Highway Commission, the Arkansas State Highway and Transportation Department, and institutions of higher education from the definition of ‘state agency’ applied to the implementation of Amendment 92; and

“(4) The General Assembly or the Legislative Council reserve the right to amend the definition of ‘state agency’ in the future to include one (1) or all of the Arkansas State Game and Fish Commission, the State Highway Commission, the Arkansas State Highway and Transportation Department, and institutions of higher education.”

Publisher’s Notes. Acts 2015, No. 1258, § 20, specifically amended this section as amended by Acts 2015, No. 218.

Amendments. The 2009 amendment by No. 1405 deleted former (1); redesignated (2) through (4) as (1) through (3); inserted (4); substituted “Incompetence” for “Incompetency” in the introductory language of (8); substituted “(11)(A)–(C)” for (10)(A)–(C) in (11); substituted “Arkansas Lottery Commission” for “commission” in (13); inserted “contract for a” in the introductory language of (14)(A); rewrote (14)(C), (15), and (21); and inserted “the Department of Finance and Administration” in (19)(K).

The 2010 amendment by identical acts Nos. 265 and 294 inserted “daughter-in-law, son-in-law” in (7); added (12)(B)(iv); in (13), inserted “or in connection with the operation of,” “offsets, reimbursements, insurance proceeds, damages, and liquidated damages,” and “or imposed”; inserted “the Department of Human Services” in (19)(K); and added (19)(L).

The 2011 amendment by No. 20 added (4)(C).

The 2011 amendment by No. 207 redesignated former (17) as (17)(A); and added (17)(B) through (17)(D).

The 2011 amendment by No. 1173 added (27).

The 2011 amendment by No. 1180 added (28) through (30).

The 2014 (2nd Ex. Sess.) amendment by identical acts Nos. 4 and 8 added (18).

The 2015 amendment by No. 218 substituted “Office of the Arkansas Lottery” or “office” for “Arkansas Lottery Commission” throughout the section; and, in (11), substituted “the Director of the Office of the Arkansas Lottery” for “any member of the Arkansas Lottery Commission,” substituted “Director of the Department of Finance and Administration” for “Director of the Arkansas Lottery Commission,” and substituted “Arkansas Lottery Legislative Oversight Committee” for “Arkansas Lottery Commission Legislative Oversight Committee” twice.

The 2015 amendment by No. 1258 substituted “Legislative Council” for “Arkansas Lottery Legislative Oversight Committee” twice in (11).

The 2017 amendment added (22)(M).

23-115-104. Fiscal impact statement.

(a) The author of a bill filed in the House of Representatives or the Senate shall have a fiscal impact statement prepared if the bill:

- (1) Amends this chapter; or
- (2) Will impose a new or increased cost to:
 - (A) The Office of the Arkansas Lottery; or
 - (B) A lottery.

(b) The author of the bill shall file the fiscal impact statement with the chair of the committee to which the bill is referred:

(1) At least three (3) days before the bill may be called up for final action in the committee during a regular session of the General Assembly;

(2) At least three (3) days before the bill may be called up for final action in the committee during a fiscal session of the General Assembly; and

(3) At least one (1) day before the bill may be called up for final action in the committee during an extraordinary session of the General Assembly.

(c)(1) A fiscal impact statement under this section shall be developed by the Bureau of Legislative Research within the guidelines adopted by the Legislative Council.

(2) The Department of Higher Education or the office, as applicable, shall assist in the preparation of the fiscal impact statement.

(d)(1)(A) If a bill requiring a fiscal impact statement under this section is called up for final passage in the House of Representatives or the Senate and a fiscal impact statement has not been provided by the author of the bill or by the committee to which the bill was referred, any member of the House of Representatives or the Senate may object to the bill's being called up for final passage until a fiscal impact statement is prepared and made available on the desk of each member of the House of Representatives or the Senate at least one (1) day before the bill's being called up for final passage.

(B) An affirmative vote of two-thirds (2/3) of a quorum present and voting shall override the objection.

(2) If an objection is made without override, the presiding officer of the House of Representatives or the Senate shall cause the bill to be referred to the bureau for the preparation of a fiscal impact statement that shall be filed with the presiding officer of the House of Representatives or the Senate not later than five (5) days from the date of the request.

History. Acts 2011, No. 1173, § 2; 2015, No. 218, § 25; 2015, No. 1258, § 21.

A.C.R.C. Notes. Acts 2015, No. 1258, § 1, provided: “LEGISLATIVE FINDINGS. The General Assembly finds:

“(1) Amendment 92 to the Arkansas Constitution states in part: ‘The General Assembly may provide by law for the review by a legislative committee of administrative rules promulgated by a state agency before the administrative rules become effective; and that administrative rules promulgated by a state agency shall not become effective until reviewed and approved by the legislative committee charged by law with the review of administrative rules under subdivision (a)(1) of this section’;

“(2) As Amendment 92 does not define the term ‘state agency’, the General Assembly may establish a definition by law as part of its implementation of Amendment 92;

“(3) The General Assembly at this time wishes to exclude the Arkansas State Game and Fish Commission, the State Highway Commission, the Arkansas State Highway and Transportation Department, and institutions of higher education from the definition of ‘state agency’ applied to the implementation of Amendment 92; and

“(4) The General Assembly or the Legislative Council reserve the right to amend the definition of ‘state agency’ in the future to include one (1) or all of the Arkansas State Game and Fish Commission, the State Highway Commission, the Arkansas State Highway and Transportation Department, and institutions of higher education.”

Publisher’s Notes. Acts 2015, No. 1258, § 21, specifically amended this section as amended by Acts 2015, No. 218.

Amendments. The 2015 amendment by No. 218 substituted “Office of the Arkansas Lottery” for “Arkansas Lottery Commission” in (a)(2)(A); substituted “Arkansas Lottery Legislative Oversight Committee” for “Arkansas Lottery Commission Legislative Oversight Committee” in (c)(1); and substituted “office” for “commission” in (c)(2).

The 2015 amendment by No. 1258 substituted “Legislative Council” for “Arkansas Lottery Legislative Oversight Committee” in (c)(1).

Subchapter 2

— Office of the Arkansas Lottery

23-115-201. Office of the Arkansas Lottery — Creation — Venue.

23-115-202, 23-115-203. [Repealed.]

23-115-204. Lottery Retailer Advisory Board.

23-115-205. Office of the Arkansas Lottery powers.

23-115-206. Internal controls — Annual audit.

23-115-207. Rulemaking.

23-115-208. Sovereign immunity.

23-115-209. Appealing administrative orders of the Office of the Arkansas Lottery.

23-115-210. [Repealed.]

23-115-211. Certain sections inapplicable.

23-115-212. Duties and responsibilities of internal auditor.

A.C.R.C. Notes. Acts 2015, No. 218, § 1, provided: “Arkansas Lottery Commission abolished — Type 3 transfer to Department of Finance and Administration.

“(a) The Arkansas Lottery Commission, created by § 23-115-201, is abolished and its powers and duties are transferred to the Office of the Arkansas Lottery within the Management Services Division of the Department of Finance and Administration by a type 3 transfer under § 25-2-106.

“(b) For purposes of this act, the Department of Finance and Administration shall be considered a principal department established by Acts 1971, No. 38.”

Acts 2015, No. 218, § 33, provided: “Lobbying or representing vendor or retailer by former Arkansas Lottery Commission member or employee prohibited for two (2) years.

“(a) A former member of the Arkansas Lottery Commission shall not for a period of two (2) years beginning on the date the member’s service on the commission ended:

“(1) Engage in lobbying on any matter related to the operation or conduct of a lottery; or

“(2) Represent a vendor or retailer before the Office of the Arkansas Lottery.

“(b) A former employee of the commission shall not for a period of two (2) years beginning on the date the employee’s employment by the commission ended:

“(1) Engage in lobbying on any matter related to the operation or conduct of a lottery; or

“(2) Represent a vendor or retailer before the office.”

Publisher’s Notes. Acts 2015, No. 218, § 25, substituted “Office of the Arkansas Lottery” for “Arkansas Lottery Commission” in the subchapter heading.

Effective Dates. Acts 2009, No. 1405, § 57: Apr. 9, 2009. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the people of the State of Arkansas overwhelmingly approved the establishment of lotteries at the 2008 General Election; that the Eighty-seventh General Assembly adopted Acts 605 and 606 of 2009 that implemented lotteries and made corresponding revisions to the Arkansas Academic Challenge Scholarship Program; that this bill amends provisions of Acts 605 and 606 of 2009 pertaining to lotteries and the Arkansas Academic Challenge Scholarship Program; and that the failure to immediately implement this act will cause a reduction in lottery proceeds that will harm the educational and economic success of potential students eligible to receive scholarships under the act. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2011, No. 207, § 31: Mar. 8, 2011. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that increasing the number of Arkansans obtaining postsecondary credentials is critical to the economic health of the state and its citizens; that the Arkansas Scholarship Lottery provides the opportunity for tens of thousands of Arkansans to obtain postsecondary education; that the deadline for scholarship applications is June 1; that the financial integrity of the Arkansas Scholarship Lottery is critical to the continued existence of the scholarships; that

the reporting and research provisions of this act are critical for timely decisions by the General Assembly on scholarship awards; and that this act is immediately necessary because the Department of Higher Education must promulgate rules to implement this act well before June 1, 2011, in order to provide eligible Arkansans the opportunity to apply for the scholarship. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2015, No. 218, § 34: Feb. 26, 2015. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the stability of the Arkansas Scholarship Lottery is critical to the success of the Arkansas Academic Challenge Scholarship Program; that changes to the operational structure of the lottery are needed to improve the creditability and function of the lottery; and that this act is immediately necessary to ensure that the transition of lottery administration is as undistruptive as possible. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

23-115-201. Office of the Arkansas Lottery — Creation — Venue.

(a) There is created within the Management Services Division of the Department of Finance and Administration the Office of the Arkansas Lottery to establish and oversee the operation of one (1) or more lotteries under this chapter.

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

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

History. Acts 2009, No. 605, § 1; 2009, No. 606, § 1; 2015, No. 218, § 25.

Amendments. The 2015 amendment, substituted “Office of the Arkansas Lottery” for “Arkansas Lottery Commission” in the section heading and in (a); inserted “within the Management Services Division of the Department of Finance and Administration” in (a); and substituted “office” for “commission” throughout (b) and (c).

23-115-202, 23-115-203. [Repealed.]

Publisher's Notes. These sections, concerning commission members and their duties and qualifications of commission members, were repealed by Acts 2015, No. 218, § 25. The sections were derived from the following sources:

23-115-202. Acts 2009, No. 605, § 1; 2009, No. 606, § 1.

23-115-203. Acts 2009, No. 605, § 1; 2009, No. 606, § 1.

23-115-204. Lottery Retailer Advisory Board.

(a)(1) The Director of the Office of the Arkansas Lottery shall appoint a Lottery Retailer Advisory Board to be composed of ten (10) retailers.

(2) In making appointments to the board, the Director of the Office of the Arkansas Lottery may consider a broad spectrum of geographical, racial, gender, and business characteristics of retailers.

(3) The board shall advise the Office of the Arkansas Lottery on retail aspects of lotteries and present the concerns of retailers throughout the state.

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

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

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

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

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

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

(3) The board may report to the office and the Legislative Council in writing at any time.

(4) The Director of the Office of the Arkansas Lottery may invite the board to make an oral presentation to the office at any time.

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

(1) A member of the immediate family of the Director of the Department of Finance and Administration;

(2) A member of the immediate family of the Director of the Office of the Arkansas Lottery; or

(3) A member of the immediate family of an employee of the office.

History. Acts 2009, No. 605, § 1; 2009, No. 606, § 1; 2015, No. 218, § 25; 2015, No. 1258, § 22.

A.C.R.C. Notes. Acts 2015, No. 1258, § 1, provided: “LEGISLATIVE FINDINGS. The General Assembly finds:

“(1) Amendment 92 to the Arkansas Constitution states in part: ‘The General Assembly may provide by law for the review by a legislative committee of administrative rules promulgated by a state agency before the administrative rules become effective; and that administrative rules promulgated by a state agency shall not become effective until reviewed and approved by the legislative committee charged by law with the review of administrative rules under subdivision (a)(1) of this section’;

“(2) As Amendment 92 does not define the term ‘state agency’, the General Assembly may establish a definition by law as part of its implementation of Amendment 92;

“(3) The General Assembly at this time wishes to exclude the Arkansas State Game and Fish Commission, the State Highway Commission, the Arkansas State Highway and Transportation Department, and institutions of higher education from the definition of ‘state agency’ applied to the implementation of Amendment 92; and

“(4) The General Assembly or the Legislative Council reserve the right to amend the definition of ‘state agency’ in the future to include one (1) or all of the Arkansas State Game and Fish Commission, the State Highway Commission, the Arkansas State Highway and Transportation Department, and institutions of higher education.”

Publisher's Notes. Acts 2015, No. 1258, § 22, specifically amended this section as amended by Acts 2015, No. 218.

Amendments. The 2015 amendment by No. 218 substituted “Director of the Office of the Arkansas Lottery” for “Chair of the Arkansas Lottery Commission” in (a)(1) and for “chair” in (a)(2); deleted “subject to the approval of a majority of a quorum of the Arkansas Commission” preceding “shall appoint” in (a)(1); substituted “Office of the Arkansas Lottery” for “commission” in (a)(3); in (c)(3), substituted “office” for “commission” and “Arkansas Lottery Legislative Oversight Committee” for “Arkansas Lottery Commission Legislative Oversight Committee”; in (c)(4), substituted “Director of the Office of the Arkansas Lottery” for “commission” and “office at any time” for “commission at any meeting of the commission”; substituted “the Director of the Department of Finance and Administration” for “a member of the commission” in (d)(1); substituted “Director of the Office of the Arkansas Lottery” for “director of the commission” in (d)(2); and substituted “office” for “commission” in (d)(3).

The 2015 amendment by No. 1258 substituted “Legislative Council” for “Arkansas Lottery Legislative Oversight Committee” in (c)(3).

23-115-205. Office of the Arkansas Lottery powers.

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

(1) To adopt and alter a seal;

(2) To adopt, amend, and repeal rules for the regulation of its affairs and the conduct of its business, to prescribe the duties of officers and employees of the office, and to perform other

matters as the office determines;

- (3) To bring suits to enforce demands of the state under this chapter;
- (4) To procure or to provide insurance;
- (5) To hold copyrights, trademarks, and service marks and to enforce the office's rights with respect to those copyrights, trademarks, and service marks;
- (6) To initiate, supervise, and administer the operation of lotteries in accordance with this chapter and rules adopted under this chapter;
- (7) To enter into written agreements with one (1) or more other states or sovereigns for the operation, participation in marketing, and promotion of multistate or multisovereign games;
- (8) To conduct market research as necessary or appropriate;
- (9) To acquire or lease real property and make improvements to the real property and acquire by lease or by purchase personal property, including without limitation:
 - (A) Computers;
 - (B) Mechanical, electronic, and online equipment and terminals;
 - (C) Intangible property, including without limitation computer programs, computer systems, and computer software; and
 - (D) Broadcast equipment;
- (10) To administer oaths, take depositions, issue subpoenas, and compel the attendance of witnesses and the production of books, papers, documents, and other evidence relative to any investigation or proceeding conducted by the office;
- (11) To employ an internal auditor to perform the duties and responsibilities required under § 23-115-212;
- (12) To select and contract with vendors;
- (13) To select and license retailers;
- (14) To enter into contracts or agreements with state or local law enforcement agencies for the performance of law enforcement, background investigations, and security checks;
- (15) To conduct background investigations and, if considered necessary by the Director of the Office of the Arkansas Lottery, credit investigations on each potential vendor and retailer;
- (16) To supervise ticket or share validation and lottery drawings;
- (17) To inspect at times determined solely by the office the facilities of a vendor or a

retailer to determine:

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

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

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

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

(20) To enter into contracts of terms and conditions that the office determines;

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

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

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

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

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

(B) An independent testing laboratory shall:

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

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

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

(25) To withhold state and federal income taxes as required by law; and

(26) To adopt and amend rules necessary to carry out and implement the office's powers and duties, organize and operate the office, regulate the conduct of lotteries in general, and any

other matters necessary or desirable for the efficient and effective operation of lotteries for the convenience of the public.

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

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

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

History. Acts 2009, No. 605, § 1; 2009, No. 606, § 1; 2009, No. 1405, § 28; 2010, No. 265, § 24; 2010, No. 294, § 24; 2011, No. 207, § 21; 2015, No. 218, § 25.

Amendments. The 2009 amendment rewrote (a)(11)(B).

The 2010 amendment by identical acts Nos. 265 and 294 inserted present (26) and redesignated former (26) as (27).

The 2011 amendment rewrote (a)(11)(B).

The 2015 amendment substituted “Office of the Arkansas Lottery” for “Commission” in the section heading; substituted “Office of the Arkansas Lottery” for “Arkansas Lottery Commission” and “office” for “commission” throughout the section; deleted (a)(11)(A) and deleted the (a)(11)(B) designation; substituted “Director of the Office of the Arkansas Lottery” for “commission” in (a)(15); deleted (a)(23) and redesignated the remaining subdivisions accordingly; substituted “the office’s” for “its” in (a)(26); and deleted (c).

23-115-206. Internal controls — Annual audit.

(a) To ensure the financial integrity of lotteries, the Office of the Arkansas Lottery shall:

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

(2)(A) Establish and maintain effective internal controls to prevent and detect fraud, including without limitation a system of internal audits.

(B) The Director of the Office of the Arkansas Lottery shall:

(i) By July 1, 2015, approve a formal, written three-year audit plan; and

(ii) Annually review the audit plan.

(C) The Director of the Office of the Arkansas Lottery shall review and take action to approve or reject a recommendation from the internal auditor to amend the audit plan;

(3) Include in any contract or license with a vendor or retailer for data processing

services or other computer services a provision permitting Arkansas Legislative Audit to have access and authority to audit the computer systems of the vendor or retailer;

(4) Notify Arkansas Legislative Audit of all known fraud or suspected fraud or all known or suspected illegal acts involving management or other employees of the office or others with whom the office contracts;

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

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

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

(8)(A) Submit monthly reports to the Governor and the Legislative Council disclosing the following budgeted and actual information for the reporting period and cumulatively for the fiscal year:

- (i)** Total lottery revenues;
- (ii)** Prize disbursements;
- (iii)** Operating expenses;
- (iv)** Net assets; and
- (v)** Administrative expenses.

(B) The Director of the Office of the Arkansas Lottery shall submit a comprehensive annual financial report to the Governor and to the Legislative Council by placing the report on the office's website and providing notice of its availability to the Governor and to the Legislative Council.

(C)(i) The comprehensive annual financial report shall comply with Governmental Accounting Standards Board Statement 34 and follow the guidelines of the Certificate of Achievement for Excellence in Financial Reporting Program of the Government Finance Officers Association.

(ii) The Legislative Council shall identify the statistical data required for compliance with this subdivision (a)(8)(C).

(D) The comprehensive annual financial report shall include without limitation:

(i) Information concerning the Director of the Office of the Arkansas Lottery;

(ii) A current organizational chart;

(iii) Information on each type of lottery game offered by the Arkansas Scholarship Lottery, game promotions, or other activities related to games during the fiscal year;

(iv) The annual financial audit report made to the Legislative Joint Auditing Committee;

(v) A statement of revenue, expenses, and changes in net assets for each fiscal year since inception of the Arkansas Scholarship Lottery;

(vi) Separate reports from each component or department of the office or the Arkansas Scholarship Lottery, including without limitation sales, marketing, retailers, gaming operations, players, and security;

(vii) A fiscal year-end report on any information required to be reported by the office on a monthly basis, including without limitation:

(a) Unclaimed lottery prize money under § 23-115-403;

(b) The Scholarship Shortfall Reserve Trust Account under § 23-115-802; and

(c) Minority-owned business and female-owned business participation under § 23-115-401;

(viii) Information concerning the Arkansas Scholarship Lottery's industry standings or rankings;

(ix) Information concerning the scholarships awarded from net lottery proceeds, including without limitation:

(a) Demographic reports from the Department of Higher Education for each full semester during the fiscal year on accessibility to scholarships, award amounts for each approved institution of higher education; and

(b) The Department of Higher Education's report to the Legislative Council required by § 6-85-219;

(x) A report from the Lottery Retailer Advisory Board, if a report was received during the fiscal year;

(xi) Where to find information on gambling disorder treatment and education programs;

(xii) Where to find website information on rules, gaming, and frequently asked questions; and

(xiii) Contact information for the Arkansas Scholarship Lottery and key employees of the office;

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

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

(B) Revenues received;

(C) Claims for lottery prizes;

(D) Lottery prizes paid;

(E) Lottery prizes forfeited; and

(F) Other financial transactions of the office;

(10)(A) Submit to the cochairs of the Legislative Council by April 30 of each year the estimated annual operating budget for the office for the next fiscal year.

(B) At a minimum, the estimated annual operating budget submitted for the Legislative Council's review shall:

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

(ii) Compare the:

(a) Actual revenues and expenditures for the last completed fiscal year;

(b) Budgeted revenues and expenditures for the current fiscal year; and

(c) Estimated revenues and expenditures for the next fiscal year;

(iii) Contain an explanation of increases or decreases in revenues and expenditures shown in the estimated annual operating budget for the next fiscal year compared to the budgeted revenues and expenditures for the current fiscal year;

(iv) Classify all revenues and expenditures by specific purpose instead of

“miscellaneous” or “other”;

(v) Contain a schedule of the total amounts of regular salaries, extra help compensation, overtime compensation, and personal services matching as defined in § 19-4-521; and

(vi) For each position title authorized under §§ 23-115-305 — 23-115-307, contain a schedule of the annual salary, special allowance, or grade and include:

(a) The total number of persons currently employed;

(b) The number of Caucasian male employees;

(c) The number of Caucasian female employees;

(d) The total number of Caucasian employees;

(e) The number of African-American male employees;

(f) The number of African-American female employees;

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

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

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

(b)(1)(A) Arkansas Legislative Audit shall annually audit the office.

(B) Arkansas Legislative Audit may conduct an investigation or audit or prepare special reports regarding the office or related entities, scholarships, grants, vendors, retailers, or any other transactions or relationships connected or associated with the office or its operations, duties, or functions upon the approval of the Legislative Joint Auditing Committee.

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

(3)(A) If the office, the General Assembly, the Legislative Council, or the Legislative Joint Auditing Committee requests additional audits or performance reviews of the fiscal affairs or operations of the office to be conducted by a private certified public accountant or other consultant, the Director of the Department of Finance and Administration shall select and contract with appropriate certified public accountants or consultants to provide the services.

(B) The Director of the Department of Finance and Administration shall contract for the services which shall be paid directly to the contractor by the office.

(C) A copy of any report or management correspondence prepared by the certified public accountants or consultants shall be forwarded to Arkansas Legislative Audit, the Director of the Department of Finance and Administration, and the Legislative Council.

(4) This chapter does not limit the statutory authority of Arkansas Legislative Audit or the responsibilities of the office or related entities, members of the Lottery Retailer Advisory Board, employees, vendors, retailers, or any other individuals or entities to cooperate with Arkansas Legislative Audit or provide information or records requested by Arkansas Legislative Audit.

History. Acts 2009, No. 605, § 1; 2009, No. 606, § 1; 2011, No. 207, §§ 22, 23; 2011, No. 1057, §§ 1, 2; 2015, No. 218, § 25; 2015, No. 1258, § 23.

A.C.R.C. Notes. Pursuant to § 1-2-207, subdivision (a)(10) is set out as amended by Acts 2011, No. 1057, § 2. Acts 2011, No. 207, § 23 amended subdivision (a)(10) to read as follows:

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

“(B) At a minimum, the estimated annual operating budget submitted for the Arkansas Lottery Commission Legislative Oversight Committee’s review shall:

“(i) Contain an estimate of the net proceeds to be available for scholarships and grants during the succeeding fiscal year;

“(ii) Compare the:

“(a) Actual revenues and expenditures for the last completed fiscal year;

“(b) Budgeted revenues and expenditures for the current fiscal year; and

“(c) Estimated revenues and expenditures for the next fiscal year;

“(iii) Contain an explanation of increases or decreases in revenues and expenditures shown in the estimated annual operating budget for the next fiscal year compared to the budgeted revenues and expenditures for the current fiscal year;

“(iv) Classify all revenues and expenditures by specific purpose, instead of ‘miscellaneous’ or ‘other’;

“(v) Contain a schedule of the total amounts of regular salaries, extra-help compensation, overtime compensation, and personal services matching as defined in § 19-4-521; and

“(vi) For each position title authorized under §§ 23-115-305 - 23-115-307, contain a schedule that includes the:

“(a) Annual salary, special allowance, or grade;

“(b) Total number of persons currently employed;

- “(c) Estimated revenues and expenditures for the next fiscal year;
- “(d) Number of Caucasian female employees;
- “(e) Total number of Caucasian employees;
- “(f) Number of black male employees;
- “(g) Number of black female employees;
- “(h) Number of other employees who are members of racial minorities; and
- “(i) Total number of minorities currently employed; and”

Acts 2015, No. 1258, § 1, provided: “LEGISLATIVE FINDINGS. The General Assembly finds:

“(1) Amendment 92 to the Arkansas Constitution states in part: ‘The General Assembly may provide by law for the review by a legislative committee of administrative rules promulgated by a state agency before the administrative rules become effective; and that administrative rules promulgated by a state agency shall not become effective until reviewed and approved by the legislative committee charged by law with the review of administrative rules under subdivision (a)(1) of this section’;

“(2) As Amendment 92 does not define the term ‘state agency’, the General Assembly may establish a definition by law as part of its implementation of Amendment 92;

“(3) The General Assembly at this time wishes to exclude the Arkansas State Game and Fish Commission, the State Highway Commission, the Arkansas State Highway and Transportation Department, and institutions of higher education from the definition of ‘state agency’ applied to the implementation of Amendment 92; and

“(4) The General Assembly or the Legislative Council reserve the right to amend the definition of ‘state agency’ in the future to include one (1) or all of the Arkansas State Game and Fish Commission, the State Highway Commission, the Arkansas State Highway and Transportation Department, and institutions of higher education.”

Publisher’s Notes. Acts 2015, No. 1258, § 23, specifically amended this section as amended by Acts 2015, No. 218.

Amendments. The 2011 amendment by No. 207 redesignated former (a)(2) as present (a)(2)(A); inserted (a)(2)(B) and (a)(2)(C); substituted “the estimated annual” for “a copy of the annual” in (a)(10)(A); and rewrote (a)(10)(B).

The 2011 amendment by No. 1057 rewrote (a)(8); substituted “the estimated annual operating budget” for “a copy of the annual operating budget” in (a)(10)(A); and rewrote (a)(10)(B).

The 2015 amendment by No. 218 substituted “Office of the Arkansas Lottery” for “Arkansas Lottery Commission” and “office” for “commission” throughout the section; substituted “Arkansas Lottery Legislative Oversight Committee” for “Arkansas Lottery Commission Legislative Oversight Committee” throughout the section; substituted “Director of the Office of the Arkansas Lottery” for “commission” in (a)(2)(B); substituted “2015” for “2011” in (a)(2)(B)(i); substituted “director” for “commission or a subcommittee of the commission” in (a)(2)(C) and for “commission” in (a)(8)(B); substituted “director” for “commissioners of the Arkansas Lottery Commission” in (a)(8)(D)(i); substituted “by § 6-85-219” for

“under § 6-85-219(b)” in (a)(8)(D)(ix)(b); substituted “Director of the Department of Finance and Administration” for “division” in (b)(3)(A) and (B); in (b)(3)(C), deleted “the commission” following “forwarded to” and inserted “the director”; and inserted “retail, advisory” in (b)(4).

The 2015 amendment by No. 1258 substituted “Legislative Council” for “Arkansas Lottery Legislative Oversight Committee” throughout the section; and substituted “Director of the Office of the Arkansas Lottery” for “director” in (a)(8)(D)(i).

23-115-207. Rulemaking.

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

(1) The types of lotteries to be conducted;

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

(B) [Repealed.]

(3) The number and amount of prizes;

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

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

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

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

(i) A retailer; or

(ii) The office.

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

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

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

(8) The means of conducting drawings;

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

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

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

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

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

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

(E) The office shall publish a notice on the office's public website that provides the location, including without limitation the street address, of each self-service lottery ticket vending machine in operation in this state;

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

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

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

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

(B) The office is not required to file rules under § 10-3-309.

(2)(A) The promulgation of rules by the office is exempt from § 10-3-309.

(B) The office shall file its rules with the Legislative Council for review and approval at least thirty (30) days before the expiration of the public comment period.

History. Acts 2009, No. 605, § 1; 2009, No. 606, § 1; 2011, No. 1192, § 1; 2015, No. 218, § 25; 2015, No. 1258, § 24; 2017, No. 876, § 1.

A.C.R.C. Notes. Acts 2015, No. 1258, § 1, provided: "LEGISLATIVE FINDINGS. The General Assembly finds:

“(1) Amendment 92 to the Arkansas Constitution states in part: ‘The General Assembly may

provide by law for the review by a legislative committee of administrative rules promulgated by a state agency before the administrative rules become effective; and that administrative rules promulgated by a state agency shall not become effective until reviewed and approved by the legislative committee charged by law with the review of administrative rules under subdivision (a)(1) of this section’;

“(2) As Amendment 92 does not define the term ‘state agency’, the General Assembly may establish a definition by law as part of its implementation of Amendment 92;

“(3) The General Assembly at this time wishes to exclude the Arkansas State Game and Fish Commission, the State Highway Commission, the Arkansas State Highway and Transportation Department, and institutions of higher education from the definition of ‘state agency’ applied to the implementation of Amendment 92; and

“(4) The General Assembly or the Legislative Council reserve the right to amend the definition of ‘state agency’ in the future to include one (1) or all of the Arkansas State Game and Fish Commission, the State Highway Commission, the Arkansas State Highway and Transportation Department, and institutions of higher education.”

Publisher’s Notes. Acts 2015, No. 1258, § 24, specifically amended this section as amended by Acts 2015, No. 218.

Amendments. The 2011 amendment inserted (a)(9)(E).

The 2015 amendment by No. 218 substituted “Office of the Arkansas Lottery” for “Arkansas Lottery Commission” and “office” for “commission” throughout the section; and substituted “Arkansas Lottery Legislative Oversight Committee” for “Arkansas Lottery Commission Legislative Oversight Committee” in (c)(2)(B).

The 2015 amendment by No. 1258, in (c)(2)(B), substituted “Legislative Council” for “Arkansas Lottery Legislative Oversight Committee” and inserted “and approval.”

The 2017 amendment repealed (a)(2)(B).

23-115-208. Sovereign immunity.

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

(b)(1) A claim in contract or in tort against the Office of the Arkansas Lottery or its employees shall be presented to the office.

(2) The office shall promulgate rules concerning the consideration of claims in contract or in tort presented to the office, including without limitation rules concerning the conduct of hearings on claims in contract or in tort.

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

(2) The claimant may:

(A) Within forty (40) days after the decision is rendered, file with the commission a notice of appeal of the decision of the office;

(B) Within forty (40) days after the decision is rendered, file with the office a motion for reconsideration requesting the office to reconsider its decision; and

(C) Within twenty (20) days after the office's reconsideration or denial of the motion for reconsideration, file with the commission a notice of appeal of the decision of the office.

(3) When the office notifies parties of a decision of the office, it shall advise the parties of the right of appeal.

(d)(1)(A) Except as provided in subdivisions (d)(2)-(4) of this section, appeals of claims in contract or in tort against the office or its employees shall be conducted by the commission in the same manner as a claim under § 19-10-201 et seq.

(B) The commission shall consider an appeal de novo.

(2) A decision of the commission relating to a claim in contract or in tort against the office or its employees shall not be appealed to the General Assembly.

(3)(A) A valid claim in any amount against the office shall not be referred to the General Assembly for an appropriation.

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

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

(4) Written reports under § 19-10-212 shall be filed with the Legislative Council.

History. Acts 2009, No. 605, § 1; 2009, No. 606, § 1; 2015, No. 218, § 25; 2015, No. 1258, § 25.

A.C.R.C. Notes. Acts 2015, No. 1258, § 1, provided: "LEGISLATIVE FINDINGS. The General Assembly finds:

"(1) Amendment 92 to the Arkansas Constitution states in part: 'The General Assembly may provide by law for the review by a legislative committee of administrative rules promulgated by a state agency before the administrative rules become effective; and that administrative rules promulgated by a state agency shall not become effective until reviewed and approved by the legislative committee charged by law with the review of administrative rules under subdivision (a)(1) of this section';

"(2) As Amendment 92 does not define the term 'state agency', the General Assembly may establish a definition by law as part of its implementation of Amendment 92;

“(3) The General Assembly at this time wishes to exclude the Arkansas State Game and Fish Commission, the State Highway Commission, the Arkansas State Highway and Transportation Department, and institutions of higher education from the definition of ‘state agency’ applied to the implementation of Amendment 92; and

“(4) The General Assembly or the Legislative Council reserve the right to amend the definition of ‘state agency’ in the future to include one (1) or all of the Arkansas State Game and Fish Commission, the State Highway Commission, the Arkansas State Highway and Transportation Department, and institutions of higher education.”

Publisher’s Notes. Acts 2015, No. 1258, § 25, specifically amended this section as amended by Acts 2015, No. 218.

Amendments. The 2015 amendment by No. 218 substituted “Office of the Arkansas Lottery” or “office” for “Arkansas Lottery Commission” throughout the section; substituted “commission” for “Arkansas State Claims Commission” throughout the section; and substituted “Arkansas Lottery Legislative Oversight Committee” for “Arkansas Lottery Commission Legislative Oversight Committee” in (d)(4).

The 2015 amendment by No. 1258 substituted “Legislative Council” for “Arkansas Lottery Legislative Oversight Committee” in (d)(4).

Research References

ALR.

State Lotteries: Actions by Ticketholders or Other Claimants against State or Contractor for State. 48 A.L.R.6th 243.

Case Notes

Immunity.

Immunity.

Because a judgment for the marketer would operate to control the action of the state or subject it to liability, the suit was one against the state and was barred by the doctrine of sovereign immunity. Arkansas Lottery Comm’n v. Alpha Mktg., 2013 Ark. 232, 428 S.W.3d 415 (2013).

23-115-209. Appealing administrative orders of the Office of the Arkansas Lottery.

(a) A retailer, a vendor, or an applicant for a contract or a retailer license aggrieved by an administrative order of the Office of the Arkansas Lottery may appeal that decision to Pulaski County Circuit Court.

(b) The circuit court shall hear appeals from administrative orders of the office, and based upon the record of the proceedings before the office, may reverse the administrative order of the office only if the person appealing the administrative order proves the administrative order to be:

(1) Clearly erroneous;

- (2) Procured by fraud;
- (3) A result of substantial misconduct by the office; or
- (4) Contrary to the United States Constitution, the Arkansas Constitution, or this chapter.

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

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

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

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

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

History. Acts 2009, No. 605, § 1; 2009, No. 606, § 1; 2009, No. 1405, §§ 29, 30; 2015, No. 218, § 25.

Amendments. The 2009 amendment deleted “major procurement” preceding “contract” in (a); and added (d)(3).

The 2015 amendment substituted “Office of the Arkansas Lottery” for “commission” in the section heading; and “office” for “commission” throughout the section; inserted “circuit” in (b) and (d)(2); and deleted former (b)(2) and redesignated the remaining subdivisions accordingly.

23-115-210. [Repealed.]

Publisher's Notes. This section, concerning the removal of a commission member, was repealed by Acts 2015, No. 218, § 25. The section was derived from Acts 2009, No. 605, § 1; 2009, No. 606, § 1.

23-115-211. Certain sections inapplicable.

In addition to any provision of law expressly exempting the Office of the Arkansas Lottery, the following sections shall not apply to the office:

- (1) Section 19-1-301 et seq.;
- (2) Section 19-4-1802;
- (3) Section 19-5-206;
- (4) Section 22-9-103;
- (5) Section 22-9-104; and
- (6) Section 25-27-104.

History. Acts 2009, No. 605, § 1; 2009, No. 606, § 1; 2009, No. 1405, § 31; 2010, No. 265, § 25; 2010, No. 294, § 25; 2015, No. 218, § 25.

Amendments. The 2009 amendment inserted “to” in the introductory language; added (7) through (11); and made related changes.

The 2010 amendment by identical acts Nos. 265 and 294, in the introductory language, added “In addition to any provision of law expressly exempting the Arkansas Lottery Commission” and substituted “commission” for “Arkansas Lottery Commission”; and deleted former (10) and redesignated former (11) as present (10).

The 2015 amendment substituted “Office of the Arkansas Lottery “ for “Arkansas Lottery Commission” and “office” for “commission”; deleted former (1), (3), (6) and (9) and redesignated the remaining subdivisions accordingly.

23-115-212. Duties and responsibilities of internal auditor.

(a) The internal auditor employed by the Office of the Arkansas Lottery shall report directly to the Director of the Department of Finance and Administration.

(b) The director shall determine the duties and responsibilities of the internal auditor that:

- (1) Assist the office in the office's obligations under § 23-115-206; and
- (2) Are consistent with the suggested standards for the professional practice of internal auditing as adopted by the Institute of Internal Auditors, including without limitation:
 - (A) Preparing a formal written three-year audit plan and presenting it to the director for the director's approval;
 - (B) Conducting ongoing reviews of the internal procedures, records, and operating procedures of the office and the lotteries to:

(i) Verify compliance with established policies, procedures, and control systems;

(ii) Assure compliance with regulatory and statutory conditions; and

(iii) Assure adherence to generally accepted accounting principles; and

(C) Advising the director of inconsistencies within or improvements needed to the internal controls, operating procedures, or accounting procedures of the office or the lotteries.

(c)(1) The internal auditor shall report to the Legislative Council one (1) time per month to:

(A) Advise the Legislative Council concerning current issues and problems reported to the director under subsection (b) of this section; and

(B) Update the Legislative Council concerning the resolution of any audit findings of Arkansas Legislative Audit.

(2) The internal auditor is not required to file a report but shall include a statement in the monthly report of the office if:

(A) There are no current issues or problems reported to the office; and

(B) The office and Arkansas Legislative Audit agree that all audit findings are resolved.

History. Acts 2011, No. 207, § 24; 2015, No. 218, § 25; 2015, No. 1258, § 26.

A.C.R.C. Notes. Acts 2015, No. 1258, § 1, provided: "LEGISLATIVE FINDINGS. The General Assembly finds:

"(1) Amendment 92 to the Arkansas Constitution states in part: 'The General Assembly may provide by law for the review by a legislative committee of administrative rules promulgated by a state agency before the administrative rules become effective; and that administrative rules promulgated by a state agency shall not become effective until reviewed and approved by the legislative committee charged by law with the review of administrative rules under subdivision (a)(1) of this section';

"(2) As Amendment 92 does not define the term 'state agency', the General Assembly may establish a definition by law as part of its implementation of Amendment 92;

"(3) The General Assembly at this time wishes to exclude the Arkansas State Game and Fish Commission, the State Highway Commission, the Arkansas State Highway and Transportation Department, and institutions of higher education from the definition of 'state agency' applied to the implementation of Amendment 92; and

"(4) The General Assembly or the Legislative Council reserve the right to amend the definition of

'state agency' in the future to include one (1) or all of the Arkansas State Game and Fish Commission, the State Highway Commission, the Arkansas State Highway and Transportation Department, and institutions of higher education."

Publisher's Notes. Acts 2015, No. 1258, § 26, specifically amended this section as amended by Acts 2015, No. 218.

Amendments. The 2015 amendment by No. 218 substituted "Office of the Arkansas Lottery" for "Arkansas Lottery Commission" and "office" for "commission" throughout the section; substituted "Director of the Department of Finance and Administration" for "commission" in (a); substituted "director" for "commission" in the introductory language of (b) and in (b)(2)(A), (b)(2)(C), and (c)(1)(A); substituted "Arkansas Lottery Legislative Oversight Committee" for "Arkansas Lottery Commission Legislative Oversight Committee" throughout (c)(1); and, in (c)(1)(B), inserted "any audit" and deleted "in the annual financial report for the commission" at the end.

The 2015 amendment by No. 1258 substituted "Legislative Council" for "Arkansas Lottery Legislative Oversight Committee" throughout (c)(1).

Subchapter 3 **— Employees of Office of the Arkansas Lottery**

23-115-301. Director — Appointment — Duties.

23-115-302. Duties of director.

23-115-303. Employees — Background investigation.

23-115-304. Office of the Arkansas Lottery employees — Participation in Arkansas Public Employees' Retirement System.

23-115-305. Regular salaries.

23-115-306. Special salary allowances.

23-115-307. Expansion pool.

23-115-308. Participation in Arkansas Administrative Statewide Information System.

Publisher's Notes. Acts 2015, No. 218, § 25, substituted "Office of the Arkansas Lottery" for "Arkansas Lottery Commission" in the subchapter heading.

Effective Dates. Acts 2009, No. 1405, § 57: Apr. 9, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the people of the State of Arkansas overwhelmingly approved the establishment of lotteries at the 2008 General Election; that the Eighty-seventh General Assembly adopted Acts 605 and 606 of 2009 that implemented lotteries and made corresponding revisions to the Arkansas Academic Challenge Scholarship Program; that this bill amends provisions of Acts 605 and 606 of 2009 pertaining to lotteries and the Arkansas Academic Challenge Scholarship Program; and that the failure to immediately implement this act will cause a reduction in lottery proceeds that will harm the educational and economic success of potential students eligible to receive scholarships under the act. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2011, No. 20, § 5: Feb. 9, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Public Employees' Retirement System currently requires that retirement contributions be based on a member's base salary plus any multipliers; that retirement contributions and benefits should be determined based on a member's base salary and not any multipliers or special salary allowances; and that this act is immediately necessary to clarify the meaning of the term 'compensation' for purposes of the Arkansas Public Employees' Retirement System. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2011, No. 207, § 31: Mar. 8, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that increasing the number of Arkansans obtaining postsecondary credentials is critical to the economic health of the state and its citizens; that the Arkansas Scholarship Lottery provides the opportunity for tens of thousands of Arkansans to obtain postsecondary education; that the deadline for scholarship applications is June 1; that the financial integrity of the Arkansas Scholarship Lottery is critical to the continued existence of the scholarships; that the reporting and research provisions of this act are critical for timely decisions by the General Assembly on scholarship awards; and that this act is immediately necessary because the Department of Higher Education must promulgate rules to implement this act well before June 1, 2011, in order to provide eligible Arkansans the opportunity to apply for the scholarship. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2013, No. 1173, § 18: Apr. 12, 2013. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that increasing the number of Arkansans obtaining postsecondary credentials is critical to the economic health of the state and its citizens; that the Arkansas Scholarship Lottery provides the opportunity for tens of thousands of Arkansans to obtain postsecondary education; that the deadline for scholarship applications is June 1; that the financial integrity of the Arkansas Scholarship Lottery is critical to the continued existence of the scholarships; and that this act is immediately necessary because the Department of Higher Education must promulgate rules to implement this act well before June 1, 2013, in order to provide eligible Arkansans the opportunity to apply for the scholarship. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2015, No. 218, § 34: Feb. 26, 2015. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the stability of the Arkansas Scholarship Lottery is critical to the success of the Arkansas Academic Challenge Scholarship Program; that changes to the operational structure of the lottery are needed to improve the creditability and function of the lottery; and that this act is immediately necessary to ensure that the transition of lottery administration is as undistruptive as possible. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

23-115-301. Director — Appointment — Duties.

(a)(1)(A) The Governor shall appoint the Director of the Office of the Arkansas Lottery.

(B) The director is an employee of the Office of the Arkansas Lottery and shall direct the day-to-day operations and management of the office.

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

(3) The director serves at the pleasure of the Governor.

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

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

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

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

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

(c) The Governor shall not appoint as director an individual who has:

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

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

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

History. Acts 2009, No. 605, § 1; 2009, No. 606, § 1; 2015, No. 218, § 25.

Amendments. The 2015 amendment, in (a)(1)(A), substituted “Governor” for “Arkansas Lottery Commission” and “Office of the Arkansas Lottery” for “Arkansas Lottery Commission”; in (a)(1)(B), substituted “Office of the Arkansas Lottery” for “Arkansas Lottery Commission” and “office” for “commission”; deleted “by the commission and” preceding “by law” in (a)(2); substituted “Governor” for “commission” in (a)(3); substituted “office” for “commission” in (b)(4); substituted “Governor and the office” for “commission” in (b)(5); and, in the introductory language of (c), substituted “Governor” for

“commission” and “appoint” for “employ.”

23-115-302. Duties of director.

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

(b) The director shall:

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

(2) Direct personnel as deemed necessary;

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

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

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

(6)(A) Prepare a budget of the office with the information and in the form and manner required by the Chief Fiscal Officer of the State.

(B) The budget shall be presented to the Legislative Council before each regular session for pre-session budget meetings with Joint Budget Committee members attending under § 10-3-507;

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

(8) Report monthly to the office and the Legislative Council a complete statement of lottery revenues and expenses for the preceding month and an accompanying statement of net assets;

(9) Annually by November 15, report to the Legislative Council 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 office'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 an organization of an entrepreneurial nature.

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

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

History. Acts 2009, No. 605, § 1; 2009, No. 606, § 1; 2010, No. 265, § 26; 2010, No. 294, § 26; 2011, No. 207, § 25; 2015, No. 218, § 25; 2015, No. 1258, § 27.

A.C.R.C. Notes. Acts 2015, No. 1258, § 1, provided: "LEGISLATIVE FINDINGS. The General Assembly finds:

"(1) Amendment 92 to the Arkansas Constitution states in part: 'The General Assembly may provide by law for the review by a legislative committee of administrative rules promulgated by a state agency before the administrative rules become effective; and that administrative rules promulgated by a state agency shall not become effective until reviewed and approved by the legislative committee charged by law with the review of administrative rules under subdivision (a)(1) of this section';

"(2) As Amendment 92 does not define the term 'state agency', the General Assembly may establish a definition by law as part of its implementation of Amendment 92;

"(3) The General Assembly at this time wishes to exclude the Arkansas State Game and Fish Commission, the State Highway Commission, the Arkansas State Highway and Transportation Department, and institutions of higher education from the definition of 'state agency' applied to the implementation of Amendment 92; and

"(4) The General Assembly or the Legislative Council reserve the right to amend the definition of 'state agency' in the future to include one (1) or all of the Arkansas State Game and Fish Commission, the State Highway Commission, the Arkansas State Highway and Transportation Department, and institutions of higher education."

Publisher's Notes. Acts 2015, No. 1258, § 27, specifically amended this section as amended by Acts 2015, No. 218.

Amendments. The 2010 amendment by identical acts Nos. 265 and 294 inserted present (b)(9) and redesignated former (b)(9) as (b)(10).

The 2011 amendment substituted "Annually by November 15" for "By August 15, 2011, and annually thereafter" in the introductory language of (b)(9).

The 2015 amendment by No. 218 substituted "Office of the Arkansas Lottery" for "Arkansas Lottery Commission" and "office" for "commission" throughout the section; redesignated (b)(6) as (b)(6)(A); substituted "of the office with the information and in the form and manner required by the Chief Fiscal Officer of the State" for "for the approval of the commission" in (b)(6)(A); added (b)(6)(B); substituted

“Arkansas Lottery Legislative Oversight Committee” for “Arkansas Lottery Commission Legislative Oversight Committee” in (b)(8) and the introductory language of (b)(9); and substituted “an organization” for “a commission” in (b)(10).

The 2015 amendment by No. 1258 substituted “Legislative Council” for “Arkansas Lottery Legislative Oversight Committee” in (b)(8) and the introductory language of (b)(9).

23-115-303. Employees — Background investigation.

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

(b) An office employee shall not have a financial interest in a vendor doing business or proposing to do business with the office.

(c) An office employee with decision-making authority shall not participate in a decision involving a retailer with whom the office employee has a financial interest.

(d)(1) An office employee who leaves the employment of the office shall not:

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

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

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

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

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

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

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

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

(5) Upon completion of the state and federal criminal background check, the

Identification Bureau of the Department of Arkansas State Police shall forward to the office all releasable information obtained concerning the applicant.

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

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

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

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

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

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

History. Acts 2009, No. 605, § 1; 2009, No. 606, § 1; 2015, No. 218, § 25.

Amendments. The 2015 amendment substituted "Office of the Arkansas Lottery" for "Arkansas Lottery Commission" and "office" for "commission" throughout the section.

23-115-304. Office of the Arkansas Lottery employees — Participation in Arkansas Public Employees' Retirement System.

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

(b) An office employee's compensation for retirement purposes includes the base salary of the employee under § 23-115-305 and any special salary allowances under § 23-115-306.

History. Acts 2009, No. 605, § 1; 2009, No. 606, § 1; 2011, No. 20, § 2; 2011, No. 207, § 26; 2013, No. 1173, § 15; 2015, No. 218, § 25; 2017, No. 693, § 1.

Amendments. The 2011 amendment by No. 20 rewrote (b)(1); and added (b)(2).

The 2011 amendment by No. 207, in (b), substituted "under §§ 23-115-305 and 23-115-307" for "as authorized by the General Assembly," "a special salary allowance under § 23-115-306" for "any multipliers," and "the employee's salary" for "a person's salary as authorized by the General Assembly."

The 2013 amendment substituted "includes only the base salary of the employee under § 23-115-305" for "shall be the amount determined by the commission under §§ 23-115-305 and 23-115-307 and shall not include a special salary allowance under § 23-115-306 used to increase the employee's salary" in (b)(1).

The 2015 amendment substituted "Office of the Arkansas Lottery" for "Commission" in the section heading and in (a); and "office" for "commission" throughout the section.

The 2017 amendment deleted (b)(2); redesignated former (b)(1) as (b); and added "and any special salary allowances under § 23-115-306" at the end of (b).

23-115-305. Regular salaries.

There are established for the Office of the Arkansas Lottery the following titles and grades for each position. The salary for the positions assigned to grades shall be determined in accordance with the pay level for the grade assigned in this section, as established in § 21-5-209.

Click to view table.

History. Acts 2009, No. 605, § 1; 2009, No. 606, § 1; 2009, No. 1405, § 32; 2015, No. 218, § 25; 2017, No. 693, § 2.

Amendments. The 2009 amendment by No. 1405 deleted "or its successor" following "et seq." twice in the second sentence; deleted "EXECUTIVE" in the first row of the table; and made minor stylistic changes throughout.

The 2015 amendment substituted "OFFC" for "CMSN" throughout the table; and, in the introductory language, substituted "Office of the Arkansas Lottery" for "Arkansas Lottery Commission" and deleted "Except for the purpose of determining the maximum annual salary rate, which is to be applicable to each of the positions to which a salary grade is assigned in this section, in accordance with § 21-5-209, all positions set forth in this section shall be exempt from other provisions of the Uniform Classification and Compensation Act, § 21-5-201 et seq., but shall not be exempt from the Regular Salaries Procedures and Restrictions Act, § 21-5-101 et seq."

The 2017 amendment rewrote the section.

23-115-306. Special salary allowances.

(a) With the approval of the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee, the Governor may establish the salary of the Director of the Office of the Arkansas Lottery, the salary of the office's gaming director, and the salary of the office's internal auditor, that is up to fifty percent (50%) above the maximum pay level for the grade assigned to the title.

(b) With the approval of the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee, the Director of the Office of the Arkansas Lottery may establish salaries that exceed the maximum pay level for the grade assigned to the title by no more than twenty-five percent (25%) for no more than ten percent (10%) of the positions authorized in §

23-115-305.

(c) Salaries established under this section above the maximum pay level for the grade assigned to the title shall be approved by the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee.

(d)(1) The requirement of approval by the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee, before granting a special salary allowance under this section is not a severable part of this section.

(2) If the requirement of approval by the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee, is ruled unconstitutional by a court of competent jurisdiction, this section is void.

History. Acts 2009, No. 605, § 1; 2009, No. 606, § 1; 2009, No. 1405, § 33; 2010, No. 265, § 27; 2010, No. 294, § 27; 2015, No. 218, § 25; 2015, No. 1258, § 28; 2017, No. 693, § 2.

A.C.R.C. Notes. Acts 2015, No. 1258, § 1, provided: "LEGISLATIVE FINDINGS. The General Assembly finds:

"(1) Amendment 92 to the Arkansas Constitution states in part: 'The General Assembly may provide by law for the review by a legislative committee of administrative rules promulgated by a state agency before the administrative rules become effective; and that administrative rules promulgated by a state agency shall not become effective until reviewed and approved by the legislative committee charged by law with the review of administrative rules under subdivision (a)(1) of this section';

"(2) As Amendment 92 does not define the term 'state agency', the General Assembly may establish a definition by law as part of its implementation of Amendment 92;

"(3) The General Assembly at this time wishes to exclude the Arkansas State Game and Fish Commission, the State Highway Commission, the Arkansas State Highway and Transportation Department, and institutions of higher education from the definition of 'state agency' applied to the implementation of Amendment 92; and

"(4) The General Assembly or the Legislative Council reserve the right to amend the definition of 'state agency' in the future to include one (1) or all of the Arkansas State Game and Fish Commission, the State Highway Commission, the Arkansas State Highway and Transportation Department, and institutions of higher education."

Publisher's Notes. Acts 2015, No. 1258, § 28, specifically amended this section as amended by Acts 2015, No. 218.

Amendments. The 2009 amendment by No. 1405 inserted "for recruitment or retention" in the introductory language of (a); deleted "Executive" at the beginning of (a)(1); rewrote (b); added (c); and made a stylistic change.

The 2010 amendment by identical acts Nos. 265 and 294, in (b), deleted "The total compensation" from the beginning, substituted "a special" for "an" preceding "allowance," substituted "the sum of" for

“including,” and inserted “the” preceding “special salary.”

The 2015 amendment by No. 218 rewrote the introductory language of (a); substituted “Office of the Arkansas Lottery” for “Arkansas Lottery Commission” in (a)(1) and for “commission” in (a)(2); substituted “office” for “commission” in (a)(3); substituted “one and one-half (1½)” for “two and one-half (2½)” in (b); and substituted “Arkansas Lottery Legislative Oversight Committee” for “Arkansas Lottery Commission Legislative Oversight Committee” in (c)(1) and (2).

The 2015 amendment by No. 1258 substituted “Legislative Council” for “Arkansas Lottery Legislative Oversight Committee” in the introductory language of (a), and in (c)(1), and (c)(2).

The 2017 amendment rewrote former (a) and (b); redesignated former (c)(1) and (c)(2) as present (d)(1) and (d)(2); added present (c); inserted “or, if the General Assembly is in session, the Joint Budget Committee” in (d)(1) and (d)(2); and made stylistic changes.

23-115-307. Expansion pool.

(a) The Office of the Arkansas Lottery is authorized a pool of ten (10) positions to be used to establish additional positions with the proper title and pay grade if the office does not have sufficient positions available to address growth needs.

(b) A position established under this section may exceed the highest salary rate established for the grade in this subchapter.

(c) A position shall not be authorized from the expansion pool until the specific position that is requested by the office is reviewed by the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee.

(d) When seeking review of a position by the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee, under this section, the office shall provide an organizational chart indicating the current structure of the office and its employees.

(e)(1) The requirement of review by the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee, before authorizing a position from the expansion pool is not a severable part of this section.

(2) If the requirement of review by the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee, is ruled unconstitutional by a court of competent jurisdiction, this section is void.

History. Acts 2009, No. 605, § 1; 2009, No. 606, § 1; 2009, No. 1405, § 34; 2015, No. 218, § 25; 2015, No. 1258, § 29; 2017, No. 693, § 2.

A.C.R.C. Notes. Acts 2015, No. 1258, § 1, provided: “LEGISLATIVE FINDINGS. The General Assembly finds:

“(1) Amendment 92 to the Arkansas Constitution states in part: ‘The General Assembly may provide by law for the review by a legislative committee of administrative rules promulgated by a state agency before the administrative rules become effective; and that administrative rules promulgated by a state agency shall not become effective until reviewed and approved by the legislative committee charged by law with the review of administrative rules under subdivision (a)(1) of this section’;

“(2) As Amendment 92 does not define the term ‘state agency’, the General Assembly may establish a definition by law as part of its implementation of Amendment 92;

“(3) The General Assembly at this time wishes to exclude the Arkansas State Game and Fish Commission, the State Highway Commission, the Arkansas State Highway and Transportation Department, and institutions of higher education from the definition of ‘state agency’ applied to the implementation of Amendment 92; and

“(4) The General Assembly or the Legislative Council reserve the right to amend the definition of ‘state agency’ in the future to include one (1) or all of the Arkansas State Game and Fish Commission, the State Highway Commission, the Arkansas State Highway and Transportation Department, and institutions of higher education.”

Publisher's Notes. Acts 2015, No. 1258, § 29, specifically amended this section as amended by Acts 2015, No. 218.

Amendments. The 2009 amendment by No. 1405 substituted “subchapter” or “act” in (b); and substituted “Arkansas Lottery Commission Legislative Oversight Committee” for “committee prior to” in (e)(1) and for “committee” in (e)(2).

The 2015 amendment by No. 218 substituted “Office of the Arkansas Lottery” for “Arkansas Lottery Commission” and “office” for “commission” throughout the section; substituted “Arkansas Lottery Legislative Oversight Committee” for “Arkansas Lottery Commission Legislative Oversight Committee” throughout the section; in (b), substituted “the highest salary rate” for “a salary rate in excess of the highest rate”; and made stylistic changes.

The 2015 amendment by No. 1258 substituted “Legislative Council” for “Arkansas Lottery Legislative Oversight Committee” in (c), (d), (e)(1), and (e)(2).

The 2017 amendment inserted “or, if the General Assembly is in session, the Joint Budget Committee” throughout the section; in (a), substituted “a pool of ten (10)” for “an expansion pool of sixty (60)”, deleted “not to exceed the career service grade C130 and fifteen (15) positions not to exceed the professional and executive grade N922” preceding “to be used”, and substituted “with the proper title and pay grade” for “of the proper title and salary”; and, in (b), substituted “may” for “shall not” and “for the grade” for “by grade or by line item”.

23-115-308. Participation in Arkansas Administrative Statewide Information System.

(a) The Office of the Arkansas Lottery may participate in the Arkansas Administrative Statewide Information System.

(b) The Department of Finance and Administration shall be reimbursed under § 23-115-201 for services it provides to the office under subsection (a) of this section.

History. Acts 2009, No. 1405, § 55; 2015, No. 218, § 25.

Amendments. The 2015 amendment substituted “Office of the Arkansas Lottery” for “Arkansas Lottery Commission” in (a); and added (b).

Subchapter 4 **— Operation of Lottery**

- 23-115-401. Minority-owned businesses and female-owned businesses.
- 23-115-402. Restriction on sales — Definition.
- 23-115-403. Attachments, garnishments, or executions withheld from lottery prizes — Validity of tickets or shares — Lottery prize restrictions — Unclaimed lottery prizes.
- 23-115-404. Confidential information.
- 23-115-405. Intelligence sharing, reciprocal use, or restricted use agreements.
- 23-115-406. Authority of local government.
- 23-115-407. Video lotteries prohibited.
- 23-115-408. Video lotteries by institution or facility governed by other wagering laws prohibited.
- 23-115-409. Laws under other wagering chapters not affected.
- 23-115-410. [Repealed.]
- 23-115-411. Multidraw screen-based lottery game prohibited.

Effective Dates. Acts 2009, No. 1405, § 57: Apr. 9, 2009. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the people of the State of Arkansas overwhelmingly approved the establishment of lotteries at the 2008 General Election; that the Eighty-seventh General Assembly adopted Acts 605 and 606 of 2009 that implemented lotteries and made corresponding revisions to the Arkansas Academic Challenge Scholarship Program; that this bill amends provisions of Acts 605 and 606 of 2009 pertaining to lotteries and the Arkansas Academic Challenge Scholarship Program; and that the failure to immediately implement this act will cause a reduction in lottery proceeds that will harm the educational and economic success of potential students eligible to receive scholarships under the act. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2011, No. 207, § 31: Mar. 8, 2011. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that increasing the number of Arkansans obtaining postsecondary credentials is critical to the economic health of the state and its citizens; that the Arkansas Scholarship Lottery provides the opportunity for tens of thousands of Arkansans to obtain postsecondary education; that the deadline for scholarship applications is June 1; that the financial integrity of the Arkansas Scholarship Lottery is critical to the continued existence of the scholarships; that the reporting and research provisions of this act are critical for timely decisions by the General Assembly on scholarship awards; and that this act is immediately necessary because the Department of Higher Education must promulgate rules to implement this act well before June 1, 2011, in order to provide eligible Arkansans the opportunity to apply for the scholarship. Therefore, an emergency is declared to

exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2011, No. 1180, § 4: Apr. 4, 2011. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that increasing the number of Arkansans who obtain postsecondary credentials is critical to the economic health of the state and its citizens; that the Arkansas Scholarship Lottery provides the opportunity for tens of thousands of Arkansans to obtain postsecondary education; that the deadline for scholarship applications is June 1; that the financial integrity of the Arkansas Scholarship Lottery is critical to the continued existence of the scholarships; that the reporting and research provisions of this act are critical for timely decisions by the General Assembly on scholarship awards; and that this act is immediately necessary because the Department of Higher Education must promulgate rules to implement this act well before June 1, 2011, in order to provide eligible Arkansans the opportunity to apply for the scholarship. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Identical Acts 2014 (2nd Ex. Sess.), Nos. 4 and 8, § 3: July 3, 2014. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the expansion of the lottery to include multidraw screen-based lottery games goes beyond the intent of the constitutional amendment; that voters did not anticipate such multidraw screen-based lottery games to be used as a part of the scholarship lottery program; and that this act is immediately necessary to prohibit the implementation of multidraw screen-based lottery games and to ensure the integrity of the lottery as envisioned by Arkansas citizens. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2015, No. 218, § 34: Feb. 26, 2015. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the stability of the Arkansas Scholarship Lottery is critical to the success of the Arkansas Academic Challenge Scholarship Program; that changes to the operational structure of the lottery are needed to improve the creditability and function of the lottery; and that this act is immediately necessary to ensure that the transition of lottery administration is as undisruptive as possible. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

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

(a) It is the intent of the General Assembly that the Office of the Arkansas Lottery encourage participation by minority-owned businesses and female-owned businesses in one (1) or more of the lotteries under this chapter.

(b) The office shall adopt a plan that encourages to the greatest extent possible a level of participation in the lotteries by minority-owned businesses and female-owned businesses and takes into account the total number of all retailers and vendors that may participate, including any subcontractors.

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

(d) The office shall employ staff to develop and implement the plans and programs under subsections (b) and (c) of this section and to assist prospective vendors and retailers in entering into and competing for contracts.

(e) The office shall monitor the results of minority-owned business and female-owned business participation and shall report the results of minority-owned business and female-owned business participation to the Governor and the Legislative Council on at least an annual basis.

History. Acts 2009, No. 605, § 1; 2009, No. 606, § 1; 2009, No. 1405, § 35; 2015, No. 218, § 25; 2015, No. 1258, § 30.

A.C.R.C. Notes. Acts 2015, No. 1258, § 1, provided: "LEGISLATIVE FINDINGS. The General Assembly finds:

"(1) Amendment 92 to the Arkansas Constitution states in part: 'The General Assembly may provide by law for the review by a legislative committee of administrative rules promulgated by a state agency before the administrative rules become effective; and that administrative rules promulgated by a state agency shall not become effective until reviewed and approved by the legislative committee charged by law with the review of administrative rules under subdivision (a)(1) of this section';

"(2) As Amendment 92 does not define the term 'state agency', the General Assembly may establish a definition by law as part of its implementation of Amendment 92;

"(3) The General Assembly at this time wishes to exclude the Arkansas State Game and Fish Commission, the State Highway Commission, the Arkansas State Highway and Transportation Department, and institutions of higher education from the definition of 'state agency' applied to the implementation of Amendment 92; and

"(4) The General Assembly or the Legislative Council reserve the right to amend the definition of 'state agency' in the future to include one (1) or all of the Arkansas State Game and Fish Commission, the State Highway Commission, the Arkansas State Highway and Transportation Department, and institutions of higher education."

Publisher's Notes. Acts 2015, No. 1258, § 30, specifically amended this section as amended by Acts 2015, No. 218.

Amendments. The 2009 amendment substituted "staff" for "procurement officials" in (d).

The 2015 amendment by No. 218 substituted "Office of the Arkansas Lottery" for "Arkansas Lottery Commission" and "office" for "commission" throughout the section; added "in one (1) or more of the lotteries under this chapter" at the end of (a); in (b), inserted "in the lotteries" and "that may participate"; rewrote (d); and substituted "Arkansas Lottery Legislative Oversight Committee" for "Arkansas Lottery Commission Legislative Oversight Committee" in (e).

The 2015 amendment by No. 1258 substituted "Legislative Council" for "Arkansas Lottery Legislative Oversight Committee" in (e).

23-115-402. Restriction on sales — Definition.

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

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

(B) This subsection does not prevent an individual who may lawfully purchase a ticket or share from making a gift of the ticket or share to another individual.

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

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

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

(e)(1) A ticket or share shall not be sold or given to an individual under eighteen (18) years of age.

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

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

(1) The Department of Correction;

(2) The Department of Community Correction; or

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

(g)(1) A ticket or share shall not be sold by use of in-store credit, credit cards, charge cards, checks, or any form of deferred payment.

(2)(A) A retailer may choose whether to accept as a form of payment:

(i) Cash; or

(ii) Noncash, noncredit methods of payment, including without limitation debit cards or other electronic transfer of funds of the consumer to the retailer.

(B) A retailer that chooses to accept noncash, noncredit methods of payment is responsible for any costs, fees, or charge-backs that may be incurred with the noncash, noncredit transaction.

(3) As used in this subsection, “debit card” means any card issued by a financial institution to a consumer for use in initiating an electronic fund transfer from the account of the consumer at the financial institution for the purpose of transferring money between accounts or obtaining money, property, labor, or services.

History. Acts 2009, No. 605, § 1; 2009, No. 606, § 1; 2015, No. 218, § 25; 2017, No. 876, § 2.

Amendments. The 2015 amendment substituted “Office of the Arkansas Lottery” for “Arkansas Lottery Commission” and “office” for “commission” throughout the section; inserted “the price” in (a)(1); and substituted “a ticket or share” for “tickets or shares” in (a)(2)(B) and (e)(1).

The 2017 amendment added (g).

23-115-403. Attachments, garnishments, or executions withheld from lottery prizes — Validity of tickets or shares — Lottery prize restrictions — Unclaimed lottery prizes.

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

(b)(1) Except as otherwise provided in this chapter, attachments, garnishments, or executions served upon the Office of the Arkansas Lottery that are authorized and issued under Arkansas law shall be honored if timely served upon the office.

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

(c)(1)(A) The office shall adopt rules to establish a system of verifying the validity of tickets or shares claimed to win lottery prizes and to effect payment of lottery prizes.

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

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

(a) A copy of the trust document or instrument has been filed with the office along with a notarized letter of direction from the settlor; and

(b) A written notice of revocation has not been received by the office before the settlor's death.

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

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

(2) A lottery prize shall not be paid for a claim ticket that is:

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

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

(C) Not in compliance with rules and public or confidential validation and security tests of the office appropriate to the particular lottery involved.

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

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

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

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

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

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

(D) The office at any time may alter the time periods under subdivisions (c)(4)(A) and (B) of this section by rule.

(5) If practicable, an auditor chosen by the office shall be present at a draw to determine

the winners of a draw game to verify the accuracy of the results.

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

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

(e) The office is discharged of all liability upon payment of a lottery prize.

(f)(1) The office shall not pay a lottery prize that exceeds the amount of five hundred dollars (\$500) to any:

(A) Employee of the office; or

(B) Member of the immediate family of an employee of the office living in the same household as the employee.

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

(A) The officer, employee, agent, or subcontractor of the vendor; or

(B) A member of the immediate family of the officer, employee, agent, or subcontractor of the vendor.

(g)(1) During a fiscal year, the office may expend up to two million five hundred thousand dollars (\$2,500,000) of unclaimed lottery prize money for one (1) or more of the following:

(A) Increasing the pool from which future lottery prizes are to be awarded;

(B) Maintaining online game reserves at a fiscally sound level; or

(C) Prize promotion.

(2) On the last day of each fiscal year, the office shall deposit into the trust account for net lottery proceeds the amount of unclaimed lottery prize money existing at the end of the fiscal year less one million dollars (\$1,000,000).

(3) The office shall include in its monthly reports to the Legislative Council the following monthly and year-to-date amounts:

(A) Unclaimed lottery prize money;

(B) Expenditures from unclaimed lottery prize money; and

(C) Deposits to net lottery proceeds from unclaimed lottery prize money.

History. Acts 2009, No. 605, § 1; 2009, No. 606, § 1; 2009, No. 1405, § 36; 2010, No. 265, § 28; 2010, No. 294, § 28; 2011, No. 207, § 27; 2011, No. 1180, § 3; 2015, No. 218, § 25; 2015, No. 1258, § 31.

A.C.R.C. Notes. Acts 2015, No. 1258, § 1, provided: “LEGISLATIVE FINDINGS. The General Assembly finds:

“(1) Amendment 92 to the Arkansas Constitution states in part: ‘The General Assembly may provide by law for the review by a legislative committee of administrative rules promulgated by a state agency before the administrative rules become effective; and that administrative rules promulgated by a state agency shall not become effective until reviewed and approved by the legislative committee charged by law with the review of administrative rules under subdivision (a)(1) of this section’;

“(2) As Amendment 92 does not define the term ‘state agency’, the General Assembly may establish a definition by law as part of its implementation of Amendment 92;

“(3) The General Assembly at this time wishes to exclude the Arkansas State Game and Fish Commission, the State Highway Commission, the Arkansas State Highway and Transportation Department, and institutions of higher education from the definition of ‘state agency’ applied to the implementation of Amendment 92; and

“(4) The General Assembly or the Legislative Council reserve the right to amend the definition of ‘state agency’ in the future to include one (1) or all of the Arkansas State Game and Fish Commission, the State Highway Commission, the Arkansas State Highway and Transportation Department, and institutions of higher education.”

Publisher’s Notes. Acts 2015, No. 1258, § 31, specifically amended this section as amended by Acts 2015, No. 218.

Amendments. The 2009 amendment by No. 1405 substituted “request” for “select” in (c)(5)(B).

The 2010 amendment by identical acts Nos. 265 and 294 deleted (g)(2) and (3); and, in (g), inserted “lottery” and substituted “shall be added to” for “is not.”

The 2011 amendment by No. 207 rewrote (f)(1); and added “living in the same . . . commission or the employee” at the end of (f)(1)(C).

The 2011 amendment by No. 1180 rewrote (g).

The 2015 amendment by No. 218 substituted “office” for “commission” throughout the section; in (b)(1), inserted “served upon the Office of the Arkansas Lottery that are,” substituted “honored” for “withheld,” and substituted “office” for “Arkansas Lottery Commission”; redesignated the introductory language of (c) as (c)(1)(A) and redesignated the subdivisions in (c)(1); substituted “for a claim ticket that is” for “arising from claimed tickets that are” in the introductory language of (c)(2); redesignated (c)(5)(A) as (c)(5) and deleted (c)(5)(B); deleted (f)(1)(A) and redesignated the remaining subdivisions accordingly; rewrote (f)(1)(B); and substituted “Arkansas Lottery Legislative Oversight Committee” for “Arkansas Lottery Commission Legislative Oversight Committee” in (g)(3).

The 2015 amendment by No. 1258 substituted “Legislative Council” for “Arkansas Lottery Legislative Oversight Committee” in (g)(3).

23-115-404. Confidential information.

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

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

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

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

(ii) Security reports; and

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

(b) Arkansas Legislative Audit shall have full access to the records of the office.

History. Acts 2009, No. 605, § 1; 2009, No. 606, § 1; 2009, No. 1405, § 37; 2015, No. 218, § 25.

Amendments. The 2009 amendment deleted “in the possession of the commission” preceding “shall” in the introductory language of (a)(2).

The 2015 amendment substituted “Office of the Arkansas Lottery” for “Arkansas Lottery Commission” in (a)(1); and substituted “office” for “commission” in (b).

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

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

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

History. Acts 2009, No. 605, § 1; 2009, No. 606, § 1; 2015, No. 218, § 25.

Amendments. The 2015 amendment substituted “Office of the Arkansas Lottery” for “Arkansas Lottery Commission” in (a); and substituted “office” for “commission” in (b).

23-115-406. Authority of local government.

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

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

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

History. Acts 2009, No. 605, § 1; 2009, No. 606, § 1; 2015, No. 218, § 25.

Amendments. The 2015 amendment made no changes to this section.

23-115-407. Video lotteries prohibited.

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

History. Acts 2009, No. 605, § 1; 2009, No. 606, § 1; 2015, No. 218, § 25.

Amendments. The 2015 amendment made no changes to this section.

23-115-408. Video lotteries by institution or facility governed by other wagering laws prohibited.

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

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

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

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

History. Acts 2009, No. 605, § 1; 2009, No. 606, § 1; 2015, No. 218, § 25.

Amendments. The 2015 amendment made no changes to this section.

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

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

History. Acts 2009, No. 1405, § 38; 2015, No. 218, § 25.

Amendments. The 2015 amendment made no changes to this section.

23-115-410. [Repealed.]

A.C.R.C. Notes. Acts 2015, No. 1262, § 1, repealed this section in its entirety. This section was also amended by Acts 2015, Nos. 218 and 1258.

Publisher's Notes. This section, concerning compulsive gambling disorder treatment and educational programs, was repealed by Acts 2015, No. 1262, § 1. This section was derived from Acts 2010, No. 265, § 29; 2010, No. 294, § 29; 2011, No. 207, § 28; 2011, No. 1179, § 2; 2015, No. 218, § 25; 2015, No. 1258, § 32.

23-115-411. Multidraw screen-based lottery game prohibited.

(a)(1) A multidraw screen-based lottery game shall not be used as part of a lottery under this chapter except as provided under subdivision (a)(2) of this section.

(2) All lottery games operated by the Office of the Arkansas Lottery on or before June 29, 2014, are permitted and may continue as a part of the Arkansas Scholarship Lottery.

(b) The prohibition of multidraw screen-based lottery games shall expire on March 13, 2015.

History. Acts 2014 (2nd Ex. Sess.) No. 4; 2014 (2nd Ex. Sess.) No. 8; 2015, No. 218, § 25.

Amendments. The 2015 amendment substituted "Office of the Arkansas Lottery" for "Arkansas Lottery Commission" in (a)(2).

Subchapter 5

— Vendors

23-115-501. Vendors — Requirements when submitting bid, proposal, or offer — Major procurement contract.

23-115-502. Vendor — Performance bond or letter of credit.

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

23-115-504. Political contributions by vendors — Legislative findings.

Effective Dates. Acts 2009, No. 1405, § 57: Apr. 9, 2009. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the people of the State of Arkansas overwhelmingly approved the establishment of lotteries at the 2008 General Election; that the Eighty-seventh General Assembly adopted Acts 605 and 606 of 2009 that implemented lotteries and made corresponding revisions to the Arkansas Academic Challenge Scholarship Program; that this bill amends provisions of Acts 605 and 606 of 2009 pertaining to lotteries and the Arkansas Academic Challenge Scholarship Program; and that the failure to immediately implement this act will cause a reduction in lottery proceeds that will harm the educational and economic success of potential students eligible to receive scholarships under the act. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2015, No. 218, § 34: Feb. 26, 2015. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the stability of the Arkansas Scholarship Lottery is critical to the success of the Arkansas Academic Challenge Scholarship Program; that changes to the operational structure of the lottery are needed to improve the creditability and function of the lottery; and that this act is immediately necessary to ensure that the transition of lottery administration is as undistruptive as possible. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

23-115-501. Vendors — Requirements when submitting bid, proposal, or offer — Major procurement contract.

(a) The Office of the Arkansas Lottery shall investigate the financial responsibility, security, and integrity of a vendor who is a finalist in submitting a bid, proposal, or offer to perform a major procurement contract.

(b) At the time of submitting a bid, proposal, or offer to the office, a vendor shall include:

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

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

holding more than a ten percent (10%) interest in the corporation.

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

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

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

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

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

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

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

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

(5)(A) A disclosure of the details of a finding or plea, conviction, or adjudication of guilt in a state, federal, foreign, or international court or tribunal for a criminal offense other than a traffic violation committed by the vendor or a person identified under subdivision (b)(1) of this section.

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

(ii) If requested, a state and federal criminal background check shall be conducted under § 23-115-601(e);

(6) A disclosure of the details of a vendor's:

(A) Bankruptcy, insolvency, or reorganization;

(B) Corporate or individual purchase or takeover of another corporation,

including without limitation the assumption of bonded indebtedness or other debts or liabilities; and

(C) Pending litigation;

(7) The vendor's most recent financial statement, the most recent audit report of the vendor's operations, and a disclosure of the vendor's internal financial controls and procedures for financial reporting; and

(8) Additional disclosures and information that the office determines is appropriate for the major procurement contract involved.

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

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

(A) Has not complied with the disclosure requirements of this section;

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

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

(2) The office may terminate a major procurement contract with a vendor that does not comply with requirements for periodically updating disclosures during the term of a major procurement contract as specified in the major procurement contract.

(3) This section shall be construed broadly and liberally to achieve full disclosure of all information necessary to allow for a full and complete evaluation by the office of the competence, integrity, background, and character of a vendor for a major procurement contract.

(e)(1) A vendor who provides or proposes to provide goods or services under a major procurement contract shall not provide a gift or compensation to:

(A) The Director of the Office of the Arkansas Lottery, an employee of the Office of the Arkansas Lottery, the Director of the Department of Finance and Administration, the Deputy Director of the Department of Finance and Administration, or a member of the Legislative Council; or

(B) A member of the immediate family of the Director of the Office of the Arkansas Lottery, an employee of the office, the Director of the Department of Finance and Administration, the Deputy Director of the Department of Finance and Administration, or a member of the Legislative Council.

(2)(A) A person who knowingly violates subdivision (e)(1) of this section shall be guilty of a Class A misdemeanor.

(B) The Arkansas Ethics Commission may investigate and enforce alleged violations of subdivision (e)(1) of this section under the authority granted by §§ 7-6-217 and 7-6-218.

(f)(1) A public official, the Director of the Department of Finance and Administration, and the Deputy Director of the Department of Finance and Administration shall not knowingly own a financial interest in a vendor.

(2)(A) If a public official, the Director of the Department of Finance and Administration, or the Deputy Director of the Department of Finance and Administration becomes aware that he or she owns a financial interest in a vendor, the public official, the Director of the Department of Finance and Administration, or the Deputy Director of the Department of Finance and Administration shall divest the financial interest as soon as possible.

(B) A public official, the Director of the Department of Finance and Administration, or the Deputy Director of the Department of Finance and Administration shall not divest the financial interest to a member of his or her immediate family.

History. Acts 2009, No. 605, § 1; 2009, No. 606, § 1; 2009, No. 1405, § 39; 2015, No. 218, § 25; 2015, No. 1258, § 33.

A.C.R.C. Notes. Acts 2015, No. 1258, § 1, provided: "LEGISLATIVE FINDINGS. The General Assembly finds:

"(1) Amendment 92 to the Arkansas Constitution states in part: 'The General Assembly may provide by law for the review by a legislative committee of administrative rules promulgated by a state agency before the administrative rules become effective; and that administrative rules promulgated by a state agency shall not become effective until reviewed and approved by the legislative committee charged by law with the review of administrative rules under subdivision (a)(1) of this section';

"(2) As Amendment 92 does not define the term 'state agency', the General Assembly may establish a definition by law as part of its implementation of Amendment 92;

"(3) The General Assembly at this time wishes to exclude the Arkansas State Game and Fish Commission, the State Highway Commission, the Arkansas State Highway and Transportation Department, and institutions of higher education from the definition of 'state agency' applied to the implementation of Amendment 92; and

"(4) The General Assembly or the Legislative Council reserve the right to amend the definition of 'state agency' in the future to include one (1) or all of the Arkansas State Game and Fish Commission, the State Highway Commission, the Arkansas State Highway and Transportation Department, and institutions of higher education."

Publisher's Notes. Acts 2015, No. 1258, § 33, specifically amended this section as amended by Acts 2015, No. 218.

Amendments. The 2009 amendment by No. 1405 rewrote the introductory language of (e)(1) and (e)(2).

The 2015 amendment by No. 218 substituted "Office of the Arkansas Lottery" for "Arkansas Lottery Commission" and "office" for "commission" throughout the section; substituted "to perform" for "as part of" in (a); substituted "a vendor shall include" for "the commission shall require the following items" in the introductory language of (b); substituted "holding" for "of" in (b)(1)(A)(i); rewrote (b)(5)(A), (b)(6), and (b)(7); substituted "major procurement contract" for "procurement" in (b)(8); substituted "term" for "tenure" in (d)(2); rewrote (e)(1)(A) and (B) and (e)(2)(B); and inserted "the Director of the Department of Finance and Administration, and the Deputy Director of the Department of Finance and Administration" in (f)(1) and inserted similar language in (f)(2) and (3).

The 2015 amendment by No. 1258 substituted "Legislative Council" for "Arkansas Lottery Legislative Oversight Committee" in (e)(1)(A) and (B).

23-115-502. Vendor — Performance bond or letter of credit.

(a)(1) At the time of execution of a major procurement contract between the Office of the Arkansas Lottery and a vendor, the vendor shall post a performance bond or letter of credit from a bank or credit provider acceptable to the office in an amount deemed necessary by the office to assure the performance of the major procurement contract.

(2) In lieu of the bond, the vendor may deposit and maintain with the office securities acceptable to the office that are:

(A) Interest bearing or accruing; and

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

(3) Securities eligible under this section are limited to:

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

(i) Approved by the office; and

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

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

(C) Federal agency securities by an agency or instrumentality of the United

States Government; and

(D)(i) Corporate bonds approved by the office.

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

(4) The securities shall be held in trust and shall at all times be in an amount as deemed necessary by the office for the major procurement contract.

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

(2) A major procurement contract under this section shall be governed by the laws of this state except as provided in this chapter.

History. Acts 2009, No. 605, § 1; 2009, No. 606, § 1; 2009, No. 1405, § 40; 2015, No. 218, § 25.

Amendments. The 2009 amendment by No. 1405 rewrote (a)(4).

The 2015 amendment substituted "Office of the Arkansas Lottery" for "Arkansas Lottery Commission" and "office" for "commission" throughout the section; rewrote (a)(1); in the introductory language of (a)(2), deleted "to assure the faithful performance of its obligations" following "bond" and inserted "acceptable to the office"; and deleted "particular bid or" preceding "major" in (a)(4).

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

(a) A major procurement contract executed by the Office of the Arkansas Lottery under this chapter shall specify the reasons for which the major procurement contract may be canceled, suspended, revoked, or terminated by the office. The reasons shall include without limitation:

(1) Commission of a violation of this chapter or a rule of the office;

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

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

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

(5) Any material change as determined in the sole discretion of the office in any matter considered by the office in entering into the major procurement contract with the vendor.

(b)(1) If the Director of the Office of the Arkansas Lottery or his or her designee determines that cancellation, denial, revocation, suspension, or the failure to renew a major procurement

contract is in the best interest of the Arkansas Scholarship Lottery, the public welfare, or the State of Arkansas, the director or his or her designee may:

(A) Subject to notice and a right to a hearing, cancel, suspend, revoke, or terminate a major procurement contract issued under this chapter; or

(B) Fail to renew a major procurement contract issued under this chapter.

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

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

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

History. Acts 2009, No. 605, § 1; 2009, No. 606, § 1; 2015, No. 218, § 25; 2017, No. 334, § 8.

Amendments. The 2015 amendment substituted “Office of the Arkansas Lottery” for “Arkansas Lottery Commission” and “office” for “commission” throughout the section; substituted “entering into” for “executing” in (a)(5); rewrote (b)(1); and deleted “commission approval or” preceding “prior notice” in (b)(2).

The 2017 amendment subdivided former (b)(1) into present (b)(1), (b)(1)(A), and (b)(1)(B); substituted “Subject to notice and a right to a hearing, cancel, suspend, revoke, or terminate a major procurement contract issued under this chapter; or” for “cancel, suspend, revoke, or terminate subject to notice and a right to a hearing or” in (b)(1)(A); and made stylistic changes.

23-115-504. Political contributions by vendors — Legislative findings.

(a) The General Assembly finds:

(1) That the integrity of the Office of the Arkansas Lottery and the Arkansas Scholarship Lottery is of utmost importance; and

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

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

(c) A vendor proposing to provide goods or services under a major procurement contract or an officer, employee, or agent of a vendor proposing to provide goods or services under a major

procurement contract shall not make or promise to make a political contribution or future political contribution to a public official or a candidate for election as a public official while the award of the major procurement contract is pending.

History. Acts 2009, No. 605, § 1; 2009, No. 606, § 1; 2009, No. 1405, § 41; 2015, No. 218, § 25.

Amendments. The 2009 amendment by No. 1405 rewrote (b); and added (c).

The 2015 amendment added “Legislative findings” to the section heading; substituted “Office of the Arkansas Lottery and the Arkansas Scholarship Lottery” for “Arkansas Lottery Commission and lotteries” in (a)(1); substituted “improper” for “untoward” in (a)(2); redesignated (c)(1) as part of (c) and deleted (c)(2); and substituted “make or promise to make a political contribution or future political contribution” for “Make a political contribution” in (c).

Subchapter 6 **— Retailers**

23-115-601. Retailers.

23-115-602. Retailer license.

23-115-603. Fidelity fund — Retailer fee — Reserve account to cover losses — Retailer bond.

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

23-115-605. Retailers — Fiduciary duty — Protection against loss.

23-115-606. Retailer — Rental payments based on percentage of retail sales.

23-115-607. Business closure authority — Notice.

23-115-608. Administrative hearing.

23-115-609. Judicial relief.

23-115-610. Business closure procedure.

23-115-611. Revocation and suspension of business license.

23-115-612. Authority to promulgate rules.

Effective Dates. Acts 2009, No. 1405, § 57: Apr. 9, 2009. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the people of the State of Arkansas overwhelmingly approved the establishment of lotteries at the 2008 General Election; that the Eighty-seventh General Assembly adopted Acts 605 and 606 of 2009 that implemented lotteries and made corresponding revisions to the Arkansas Academic Challenge Scholarship Program; that this bill amends provisions of Acts 605 and 606 of 2009 pertaining to lotteries and the Arkansas Academic Challenge Scholarship Program; and that the failure to immediately implement this act will cause a reduction in lottery proceeds that will harm the educational and economic success of potential students eligible to receive scholarships under the act. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2013, No. 1173, § 18: Apr. 12, 2013. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that increasing the number of Arkansans obtaining postsecondary credentials is critical to the economic health of the state and its citizens; that the Arkansas Scholarship Lottery provides the opportunity for tens of thousands of Arkansans to obtain postsecondary education; that the deadline for scholarship applications is June 1; that the financial integrity of the Arkansas Scholarship Lottery is critical to the continued existence of the scholarships; and that this act is immediately necessary because the Department of Higher Education must promulgate rules to implement this act well before June 1, 2013, in order to provide eligible Arkansans the opportunity to apply for the scholarship. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2015, No. 218, § 34: Feb. 26, 2015. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the stability of the Arkansas Scholarship Lottery is critical to the success of the Arkansas Academic Challenge Scholarship Program; that changes to the operational structure of the lottery are needed to improve the creditability and function of the lottery; and that this act is immediately necessary to ensure that the transition of lottery administration is as undisruptive as possible. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

23-115-601. Retailers.

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

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

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

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

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

(B) A license is not assignable or transferable.

(e)(1) A person seeking to be a retailer shall apply to the Identification Bureau of the

Department of Arkansas State Police for a state and federal criminal background check, to be conducted by the Identification Bureau of the Department of Arkansas State Police and the Federal Bureau of Investigation.

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

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

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

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

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

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

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

(A) The applicant's financial responsibility;

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

(C) Accessibility to the public;

(D) The applicant's integrity; and

(E) The applicant's reputation.

(g) The office shall not consider political affiliation, activities, or monetary contributions to political organizations or candidates for any public office.

(h) The office shall not select a person to be a retailer that:

(1)(A) Is not current in filing all applicable tax returns to the State of Arkansas and in payment of all taxes, interest, and penalties owed to the State of Arkansas, excluding items under formal appeal under applicable statutes.

(B) The Department of Finance and Administration shall provide to the office the information required to verify compliance with subdivision (h)(1)(A) of this section;

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

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

(B) Subdivision (h)(3)(A) of this section shall not apply if the person's civil rights have been restored and at least five (5) years have elapsed from the date of the completion of the sentence without a subsequent conviction of a crime described in subdivision (h)(3)(A) of this section;

(4) Has been found to have violated this chapter or any rule, policy, or procedure of the office unless:

(A) Ten (10) years have passed since the violation; or

(B) The office finds the violation both minor and unintentional in nature;

(5) Is a vendor or an employee or agent of a vendor doing business with the office;

(6) Is an employee of the office or a member of the immediate family of an employee of the office;

(7) Has made a statement of material fact to the office knowing the statement to be false; or

(8)(A) Is engaged exclusively in the business of selling tickets or shares.

(B) Subdivision (h)(8)(A) of this section does not preclude the office from selling or giving away tickets or shares for promotional purposes.

(i)(1) A person applying to become a retailer shall be charged a uniform application fee determined by rule for each lottery outlet.

(2) A retailer license may be renewable annually in the discretion of the office unless canceled or terminated by the office.

(3) The office may establish by rule a reasonable fee for the issuance, reissuance, fine, or penalty associated with the process, procedures, or enforcement necessary to issue or maintain a retailer license, including without limitation to cover the cost of:

(A) An initial and any subsequent state and federal criminal background check under this subchapter; and

(B) The reporting, communications technology, and banking processes necessary

to implement and enforce this subchapter.

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

(A) The Director of the Office of the Arkansas Lottery, an employee of the Office of the Arkansas Lottery, the Director of the Department of Finance and Administration, or the Deputy Director of the Department of Finance and Administration; or

(B) A member of the immediate family of the Director of the Office of the Arkansas Lottery, an employee of the Office of the Arkansas Lottery, the Director of the Department of Finance and Administration, or the Deputy Director of the Department of Finance and Administration.

(2)(A) A person who knowingly violates subdivision (j)(1) of this section shall be guilty of a Class A misdemeanor.

(B) The Arkansas Ethics Commission shall have the authority to investigate and enforce alleged violations of subdivision (j)(1) of this section granted by §§ 7-6-217 and 7-6-218.

History. Acts 2009, No. 605, § 1; 2009, No. 606, § 1; 2009, No. 1405, § 42; 2010, No. 265, § 30; 2010, No. 294, § 30; 2013, No. 1173, § 16; 2015, No. 218, § 25; 2017, No. 334, § 9.

Amendments. The 2009 amendment by No. 1405 inserted “or compensation” in the introductory language of (g)(1); and rewrote (g)(2).

The 2010 amendment by identical acts Nos. 265 and 294 inserted “member of the commission, or a” in (f)(5)(B)(v).

The 2013 amendment deleted (f)(5)(C)(ii); added “and” at the end of (f)(5)(D); and added (f)(5)(E).

The 2015 amendment substituted “Office of the Arkansas Lottery” for “Arkansas Lottery Commission” and “office” for “commission” throughout the section; substituted “seeking to be” for “considered as” in (e)(1); redesignated former (f)(4) as (g); redesignated and rewrote former (f)(5)(A) and (B) as (h); redesignated former (f)(5)(C)-(E) as (i); and redesignated and rewrote former (g) as (j).

The 2017 amendment substituted “its license and keep the license conspicuously displayed in a location on the premises accessible to the public” for “and keep conspicuously displayed in a location on the premises accessible to the public its license” in (d)(2)(A).

23-115-602. Retailer license.

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

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

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

History. Acts 2009, No. 605, § 1; 2009, No. 606, § 1; 2015, No. 218, § 25.

Amendments. The 2015 amendment substituted "Office of the Arkansas Lottery" for "Arkansas Lottery Commission" in (b); and substituted "office for "commission" in (c).

23-115-603. Fidelity fund — Retailer fee — Reserve account to cover losses — Retailer bond.

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

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

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

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

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

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

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

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

(c)(1) The office shall require a retailer to post an appropriate bond, as determined by the office.

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

(d)(1) In its discretion, the office may allow a retailer to deposit and maintain with the office

securities that are interest bearing or accruing.

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

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

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

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

(3) The securities shall be held in trust in the name of the office.

History. Acts 2009, No. 605, § 1; 2009, No. 606, § 1; 2015, No. 218, § 25; 2015, No. 1076, § 1.

Amendments. The 2015 amendment by No. 218 substituted "Office of the Arkansas Lottery" for "Arkansas Lottery Commission" and "office" for "commission" throughout the section.

The 2015 amendment by No. 1076 deleted "using an insurance company acceptable to the commission" at the end of (c)(1).

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

(a) A retailer license executed by the Office of the Arkansas Lottery under this chapter shall specify the reasons for which the retailer license may be canceled, suspended, revoked, or terminated by the office. The reasons shall include without limitation:

(1) Commission of a violation of this chapter or a rule of the office;

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

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

(4) Insufficient sales;

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

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

(7) Any material change as determined in the sole discretion of the office in any matter considered by the office in granting the license of the retailer; or

(8) Failure to meet any of the objective criteria established by the office under this

chapter.

(b)(1) If the Director of the Office of the Arkansas Lottery or his or her designee determines that cancellation, denial, revocation, suspension, or the failure to renew a retailer license is in the best interest of the Arkansas Scholarship Lottery, the public welfare, or the State of Arkansas, the director or his or her designee may:

(A) Subject to notice and a right to a hearing, cancel, suspend, revoke, or terminate a retailer license issued under this chapter; or

(B) Fail to renew a retailer license issued under this chapter.

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

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

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

History. Acts 2009, No. 605, § 1; 2009, No. 606, § 1; 2015, No. 218, § 25; 2017, No. 334, § 10.

Amendments. The 2015 amendment substituted “Office of the Arkansas Lottery” for “Arkansas Lottery Commission” and “office” for “commission” throughout the section; substituted “granting the license of” for “executing the license with” in (a)(7); rewrote (b)(1); and deleted “commission approval or” preceding “prior notice” in (b)(2).

The 2017 amendment subdivided former (b)(1) into present (b)(1), (b)(1)(A), and (b)(1)(B); substituted “Subject to notice and a right to a hearing, cancel, suspend, revoke, or terminate a retailer license issued under this chapter; or” for “cancel, suspend, revoke, or terminate subject to notice and a right to a hearing or” in (b)(1)(A); and made stylistic changes.

23-115-605. Retailers — Fiduciary duty — Protection against loss.

(a)(1) Proceeds from the sale of tickets or shares shall be held in trust until paid to the Office of the Arkansas Lottery either directly or through the office's authorized collection representative.

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

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

(A) Unsold instant tickets received by a retailer;

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

(C) Net of allowable sales commissions; and

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

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

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

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

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

(A) Receiving moneys from ticket or share sales;

(B) Making payments to the office; and

(C) Receiving payments for the office.

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

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

(d) If the office determines that a retailer failed to comply with subsection (b) of this section three (3) times within any consecutive twenty-four-month period, the office may pursue business closure against the retailer under this subchapter.

History. Acts 2009, No. 605, § 1; 2009, No. 606, § 1; 2009, No. 1405, § 43; 2015, No. 218, § 25.

A.C.R.C. Notes. Pursuant to § 1-2-207, this section is set out above as amended by Acts 2009, No. 1405. Former subsection (d) of this section was enacted by Acts 2009, Nos. 605 and 606 to read as follows:

“(d) If the commission determines that a retailer failed to comply with subsection (b) of this section three (3) times within any consecutive twenty-four-month period, the commission may refer the retailer to the Department of Finance and Administration with a recommendation that the department pursue

business closure against the retailer as a noncompliant taxpayer as provided in § 26-18-1001 et seq.”.

Amendments. The 2009 amendment by No. 1405 rewrote (d).

Amendments. The 2015 amendment substituted “office” for “commission” throughout the section; and, in (a)(1), substituted “Proceeds” for “All proceeds,” “shall be held in trust” for “constitute a trust fund,” and “Office of the Arkansas Lottery” for “Arkansas Lottery Commission.”

23-115-606. Retailer — Rental payments based on percentage of retail sales.

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

History. Acts 2009, No. 605, § 1; 2009, No. 606, § 1; 2015, No. 218, § 25.

Amendments. The 2015 amendment substituted “Office of the Arkansas Lottery” for “Arkansas Lottery Commission.”

23-115-607. Business closure authority — Notice.

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

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

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

(A) The United States Postal Service; or

(B) Hand delivery.

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

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

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

(1) Remitting the delinquent lottery proceeds; or

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

History. Acts 2009, No. 1405, § 44; 2015, No. 218, § 25.

Amendments. The 2015 amendment substituted "Office of the Arkansas Lottery" for "Arkansas Lottery Commission" twice in (a); and substituted "closure of the business" for "business closure" in (c)(2).

23-115-608. Administrative hearing.

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

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

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

(A) In person;

(B) By telephone;

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

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

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

(3) A retailer who requests an administrative hearing based upon written documents is not entitled to any other administrative hearing before the rendering of the administrative decision.

(d) The administrative hearing shall be conducted by a hearing officer appointed by the

director.

(e)(1) The hearing officer shall:

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

(B) Give the retailer notice of the hearing.

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

(A) Be represented by an authorized representative; and

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

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

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

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

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

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

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

History. Acts 2009, No. 1405, § 44; 2015, No. 218, § 25.

Amendments. The 2015 amendment substituted "Office of the Arkansas Lottery" for "Arkansas Lottery Commission" in (a).

23-115-609. Judicial relief.

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

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

(b)(1) Jurisdiction for a suit under this section to contest a determination of the Director of the Office of the Arkansas Lottery shall be in Pulaski County Circuit Court, where the matter shall be tried de novo.

(2)(A) If the circuit court finds that the business closure order was appropriately issued by the director, the circuit court shall issue an injunction against the retailer prohibiting the further operation of the business.

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

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

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

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

(1) If the retailer fails to:

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

(B) Seek judicial relief under this section; or

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

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

(A) Upheld on appeal under this subchapter; or

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

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

History. Acts 2009, No. 1405, § 44; 2015, No. 218, § 25.

Amendments. The 2015 amendment substituted “Office of the Arkansas Lottery” for “Arkansas Lottery Commission” in (b)(1).

23-115-610. Business closure procedure.

(a) If a retailer fails to timely seek administrative or judicial review of a business closure decision or if the business closure decision is affirmed after administrative or judicial review, the

Director of the Office of the Arkansas Lottery shall direct the Department of Finance and Administration to affix a written notice to all entrances of the business that:

- (1) Identifies the business as being subject to a business closure order; and
- (2) States that the business is prohibited from further operation.

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

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

(d) The Office of the Arkansas Lottery may reimburse the Department of Finance and Administration for the costs of administering this section after review of the amount by the Legislative Council.

History. Acts 2009, No. 1405, § 44; 2015, No. 218, § 25; 2015, No. 1258, § 34.

A.C.R.C. Notes. Acts 2015, No. 1258, § 1, provided: "LEGISLATIVE FINDINGS. The General Assembly finds:

"(1) Amendment 92 to the Arkansas Constitution states in part: 'The General Assembly may provide by law for the review by a legislative committee of administrative rules promulgated by a state agency before the administrative rules become effective; and that administrative rules promulgated by a state agency shall not become effective until reviewed and approved by the legislative committee charged by law with the review of administrative rules under subdivision (a)(1) of this section';

"(2) As Amendment 92 does not define the term 'state agency', the General Assembly may establish a definition by law as part of its implementation of Amendment 92;

"(3) The General Assembly at this time wishes to exclude the Arkansas State Game and Fish Commission, the State Highway Commission, the Arkansas State Highway and Transportation Department, and institutions of higher education from the definition of 'state agency' applied to the implementation of Amendment 92; and

"(4) The General Assembly or the Legislative Council reserve the right to amend the definition of 'state agency' in the future to include one (1) or all of the Arkansas State Game and Fish Commission, the State Highway Commission, the Arkansas State Highway and Transportation Department, and institutions of higher education."

Publisher's Notes. Acts 2015, No. 1258, § 34, specifically amended this section as amended by Acts 2015, No. 218.

Amendments. The 2015 amendment by No. 218 substituted "Office of the Arkansas Lottery" for "Arkansas Lottery Commission" in (a) and (b); and, in (d), substituted "Office of the Arkansas Lottery" for "commission" and substituted "Arkansas Lottery Legislative Oversight Committee" for "Arkansas Lottery

Commission Legislative Oversight Committee.”

The 2015 amendment by No. 1258 substituted “Legislative Council” for “Arkansas Lottery Legislative Oversight Committee” in (d).

23-115-611. Revocation and suspension of business license.

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

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

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

History. Acts 2009, No. 1405, § 44; 2015, No. 218, § 25.

Amendments. The 2015 amendment substituted “Office of the Arkansas Lottery” for “Arkansas Lottery Commission” in (c).

23-115-612. Authority to promulgate rules.

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

History. Acts 2009, No. 1405, § 44; 2015, No. 218, § 25.

Amendments. The 2015 amendment substituted “Office of the Arkansas Lottery” for “Arkansas Lottery Commission.”

Subchapter 7 **— Procurements**

23-115-701. Procurements — Major procurement contracts — Competitive bidding.

Effective Dates. Acts 2009, No. 1405, § 57: Apr. 9, 2009. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the people of the State of Arkansas overwhelmingly approved the establishment of lotteries at the 2008 General Election; that the Eighty-seventh General Assembly adopted Acts 605 and 606 of 2009 that implemented lotteries and made corresponding revisions to the Arkansas Academic Challenge Scholarship Program; that this bill

amends provisions of Acts 605 and 606 of 2009 pertaining to lotteries and the Arkansas Academic Challenge Scholarship Program; and that the failure to immediately implement this act will cause a reduction in lottery proceeds that will harm the educational and economic success of potential students eligible to receive scholarships under the act. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2015, No. 218, § 34: Feb. 26, 2015. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the stability of the Arkansas Scholarship Lottery is critical to the success of the Arkansas Academic Challenge Scholarship Program; that changes to the operational structure of the lottery are needed to improve the creditability and function of the lottery; and that this act is immediately necessary to ensure that the transition of lottery administration is as undisruptive as possible. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

23-115-701. Procurements — Major procurement contracts — Competitive bidding.

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

(2) The office may make procurements that integrate functions, including without limitation:

- (A)** Lottery design;
- (B)** Ticket distribution to retailers;
- (C)** Supply of goods and services; and
- (D)** Advertising.

(3) In all procurement decisions, the office shall:

- (A)** Take into account the particularly sensitive nature of lotteries; and
- (B)** Act to promote and ensure:
 - (i)** Security, honesty, fairness, and integrity in the operation and administration of lotteries; and
 - (ii)** The objectives of raising net proceeds for the benefit of scholarships and grants.

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

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

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

(3) Except for printing, stationery, and supplies under Arkansas Constitution, Amendment 54, the office is not required to accept the lowest responsible bid for major procurement contracts but shall select a bid that provides the greatest long-term benefit to the state, the greatest integrity for the office, and the best service and products for the public.

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

(e)(1) Each proposed major procurement contract and each amendment or modification to a proposed or executed major procurement contract shall be filed with the Legislative Council for review at least thirty (30) days before the execution date of the major procurement contract or the amendment or modification to a proposed or executed major procurement contract.

(2) The Legislative Council shall provide the office with its review as to the propriety of the major procurement contract and each amendment or modification to a proposed or executed major procurement contract within thirty (30) days after receipt of the proposed major procurement contract or the amendment or modification to a proposed or executed major procurement contract.

History. Acts 2009, No. 605, § 1; 2009, No. 606, § 1; 2009, No. 1405, § 45; 2010, No. 265, § 31; 2010, No. 294, § 31; 2015, No. 218, § 25; 2015, No. 1258, § 35.

A.C.R.C. Notes. Acts 2015, No. 1258, § 1, provided: "LEGISLATIVE FINDINGS. The General Assembly finds:

"(1) Amendment 92 to the Arkansas Constitution states in part: 'The General Assembly may provide by law for the review by a legislative committee of administrative rules promulgated by a state agency before the administrative rules become effective; and that administrative rules promulgated by a state agency shall not become effective until reviewed and approved by the legislative committee charged by law with the review of administrative rules under subdivision (a)(1) of this section';

"(2) As Amendment 92 does not define the term 'state agency', the General Assembly may establish a definition by law as part of its implementation of Amendment 92;

"(3) The General Assembly at this time wishes to exclude the Arkansas State Game and Fish Commission, the State Highway Commission, the Arkansas State Highway and Transportation Department, and institutions of higher education from the definition of 'state agency' applied to the implementation of Amendment 92; and

“(4) The General Assembly or the Legislative Council reserve the right to amend the definition of ‘state agency’ in the future to include one (1) or all of the Arkansas State Game and Fish Commission, the State Highway Commission, the Arkansas State Highway and Transportation Department, and institutions of higher education.”

Publisher’s Notes. Acts 2015, No. 1258, § 35, specifically amended this section as amended by Acts 2015, No. 218.

Amendments. The 2009 amendment by No. 1405 substituted “Except for printing, stationery, and supplies under Arkansas Constitution, Amendment 54, the” for “The” in (c)(3).

The 2010 amendment by identical acts Nos. 265 and 294, in (e)(1) and (2), inserted “and each amendment or modification to a proposed or executed major procurement contract” and added “or the amendment or modification to a proposed or executed major procurement contract” at the end; and inserted “at least thirty (30) days” in (e)(1).

The 2015 amendment by No. 218 substituted “Office of the Arkansas Lottery” for “Arkansas Lottery Commission” and “office” for “commission” throughout the section; and substituted “Arkansas Lottery Legislative Oversight Committee” for “Arkansas Lottery Commission Legislative Oversight Committee” in (e)(1) and (2).

The 2015 amendment by No. 1258 substituted “Legislative Council” for “Arkansas Lottery Legislative Oversight Committee” in (e)(1) and (2).

Subchapter 8 **— Lottery Proceeds**

23-115-801. Lottery proceeds.

23-115-802. Scholarship Shortfall Reserve Trust Account.

23-115-803. Disposition of funds — Definition.

Effective Dates. Acts 2009, No. 1405, § 57: Apr. 9, 2009. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the people of the State of Arkansas overwhelmingly approved the establishment of lotteries at the 2008 General Election; that the Eighty-seventh General Assembly adopted Acts 605 and 606 of 2009 that implemented lotteries and made corresponding revisions to the Arkansas Academic Challenge Scholarship Program; that this bill amends provisions of Acts 605 and 606 of 2009 pertaining to lotteries and the Arkansas Academic Challenge Scholarship Program; and that the failure to immediately implement this act will cause a reduction in lottery proceeds that will harm the educational and economic success of potential students eligible to receive scholarships under the act. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2013, No. 1173, § 18: Apr. 12, 2013. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that increasing the number of Arkansans obtaining postsecondary credentials is critical to the economic health of the state and its citizens; that the Arkansas Scholarship Lottery provides the opportunity for tens of thousands of Arkansans to obtain postsecondary

education; that the deadline for scholarship applications is June 1; that the financial integrity of the Arkansas Scholarship Lottery is critical to the continued existence of the scholarships; and that this act is immediately necessary because the Department of Higher Education must promulgate rules to implement this act well before June 1, 2013, in order to provide eligible Arkansans the opportunity to apply for the scholarship. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2015, No. 218, § 34: Feb. 26, 2015. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the stability of the Arkansas Scholarship Lottery is critical to the success of the Arkansas Academic Challenge Scholarship Program; that changes to the operational structure of the lottery are needed to improve the creditability and function of the lottery; and that this act is immediately necessary to ensure that the transition of lottery administration is as undistruptive as possible. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2015, No. 1105, § 8: Apr. 6, 2015. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Scholarship Lottery is undergoing dramatic change; that the financial stability of the Arkansas Scholarship Lottery is in question; and that this act is immediately necessary to ensure that there are appropriate mechanisms in place to fund scholarship recipients should there be a shortfall in lottery proceeds. Therefore, an emergency is declared to exist, and Sections 6 and 7 of this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2017, No. 613, § 7: Mar. 23, 2017. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this state is in need of a more educated and skilled workforce; that the Arkansas Workforce Challenge Scholarships available under this act will allow more Arkansans to pursue higher education in order to obtain a skill or better education that will lead to employment in a high-needs occupation in Arkansas; and that this act is immediately necessary to allow the funding to be in place so that Arkansas Workforce Challenge Scholarships can be awarded to Arkansans as soon as possible. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

23-115-801. Lottery proceeds.

(a)(1) Lottery proceeds are the property of the Office of the Arkansas Lottery.

(2)(A) The office shall pay its operating expenses from its lottery proceeds.

(B)(i) An amount of lottery proceeds determined by the office to maximize net

proceeds for scholarships shall be made available as prize money.

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

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

(3) The percentage of lottery proceeds determined by the office to be net proceeds shall equal an amount determined by the office to maximize net proceeds for scholarships.

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

(B)(i) The office shall establish a trust account for the Arkansas Workforce Challenge Scholarship Program, § 6-85-301 et seq., in a financial institution into which the office shall transfer:

(a) Excess funding returned to the office under § 6-85-212(e)(2)(B)(i) from the previous academic year; and

(b) Net proceeds remaining from the previous academic year after the office:

(1) Transfers under subdivision (c)(2) of this section the funds requested by the Department of Higher Education; and

(2) Deposits the amount necessary into the Scholarship Shortfall Reserve Trust Account under § 23-115-802 to maintain an amount equal to twenty million dollars (\$20,000,000).

(ii) The funds transferred by the office into the trust account for the Arkansas Workforce Challenge Scholarship Program, § 6-85-301 et seq., established under subdivision (b)(1)(B)(i) of this section shall be used for:

(a) Arkansas Workforce Challenge Scholarships; and

(b) Any management fees charged by the financial institution to manage the trust account for scholarship award supplements.

(iii) Annually, the office shall transfer to the Department of Higher Education the funds from the previous academic year, if any, that were transferred by the office into the trust account for the Arkansas Workforce Challenge Scholarship Program, § 6-85-301 et seq., under subdivision (b)(1)(B)(i) of this section for distribution of Arkansas Workforce Challenge Scholarships.

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

(c)(1) The Director of the Department of Higher Education shall certify to the office the amount of net proceeds from the lottery needed to fund the scholarships awarded to recipients under § 6-85-201 et seq. for each semester of an academic year.

(2)(A) The office shall transfer the funds requested by the Director of the Department of Higher Education under subdivision (c)(1) of this section into one (1) or more trust accounts at one (1) or more financial institutions meeting the requirements of subdivision (b)(2) of this section maintained by the Department of Higher Education.

(B) The Director of the Department of Higher Education shall disburse trust account funds only in the name of the recipient:

(i) To an approved institution of higher education; or

(ii) If a recipient transfers to another approved institution of higher education, to the approved institution of higher education where the recipient transferred.

(3) By August 1 of each year, the Director of the Department of Higher Education shall provide to the Director of the Department of Finance and Administration and to the Legislative Council for the academic year just ended an accounting of all trust accounts maintained by the Department of Higher Education, including without limitation:

(A) Total deposits to all trust accounts;

(B) Total disbursements from the trust accounts; and

(C) The balance remaining in the trust accounts.

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

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

(B) Because the Department of Higher Education has the expertise and experienced staff needed to efficiently and appropriately administer the scholarships, the office shall use the services of the Department of Higher Education to administer scholarships funded with net proceeds from the lottery.

(2)(A) Annually by April 1, the Department of Higher Education shall provide to the office and to the Legislative Council the Department of Higher Education's budget for the administrative expenditures allowed under this subsection.

(B) Annually by October 31, the Department of Higher Education shall provide

an invoice to the office for reimbursement of the administrative expenditures allowed under this subsection, including without limitation:

(i) For each employee the:

(a) Type of position, whether full-time, part-time, permanent, or temporary; and

(b) Salary paid;

(ii) A description of other expenditures requested in the invoice; and

(iii) An explanation of the increase, if any, of actual expenditures over the budgeted expenditures.

(C) Only direct expenditures of the department to administer scholarship funding with net proceeds from the lottery may be invoiced to the office under subdivision (d)(2)(B) of this section.

(3)(A) Annually by November 1, the office shall file a copy of the invoice with the Legislative Council for its review.

(B) The Legislative Council shall review the invoice and forward its comments, if any, to the office.

(C) The office shall reimburse the Department of Higher Education for the costs of administering the scholarship awards funded with net proceeds from the lottery after the Legislative Council's review under this subsection.

History. Acts 2009, No. 605, § 1; 2009, No. 606, § 1; 2010, No. 265, § 32; 2010, No. 294, § 32; 2013, No. 1173, § 17; 2015, No. 218, § 25; 2015, No. 1258, § 36; 2015, No. 1262, § 2; 2017, No. 613, § 5.

A.C.R.C. Notes. The 2013 amendment by Act 1173 omitted the following language from (d) without striking through the language to indicate its repeal: "(4) The department shall refund to the Higher Education Grants Fund Account the amount of a reimbursement received from the commission under this subsection for services provided and funded from the fund account."

Acts 2015, No. 1258, § 1, provided: "LEGISLATIVE FINDINGS. The General Assembly finds:

"(1) Amendment 92 to the Arkansas Constitution states in part: 'The General Assembly may provide by law for the review by a legislative committee of administrative rules promulgated by a state agency before the administrative rules become effective; and that administrative rules promulgated by a state agency shall not become effective until reviewed and approved by the legislative committee charged by law with the review of administrative rules under subdivision (a)(1) of this section';

“(2) As Amendment 92 does not define the term ‘state agency’, the General Assembly may establish a definition by law as part of its implementation of Amendment 92;

“(3) The General Assembly at this time wishes to exclude the Arkansas State Game and Fish Commission, the State Highway Commission, the Arkansas State Highway and Transportation Department, and institutions of higher education from the definition of ‘state agency’ applied to the implementation of Amendment 92; and

“(4) The General Assembly or the Legislative Council reserve the right to amend the definition of ‘state agency’ in the future to include one (1) or all of the Arkansas State Game and Fish Commission, the State Highway Commission, the Arkansas State Highway and Transportation Department, and institutions of higher education.”

Publisher’s Notes. Acts 2015, No. 1258, § 36, specifically amended this section as amended by Acts 2015, No. 218.

Amendments. The 2010 amendment by identical acts Nos. 265 and 294 deleted the (c)(1)(A) designation and (c)(1)(B); and inserted “each semester of” near the end of (c)(1).

The 2013 amendment added present (d)(2), (d)(3)(A) and (d)(3)(B); redesignated former (d)(2) as present (d)(3)(C); substituted “the Arkansas Lottery Commission Legislative Oversight Committee’s review under this subsection” for “review of the reimbursement amount by the Arkansas Lottery Commission Legislative Oversight Committee” in (d)(3)(C).

The 2015 amendment by No. 218 substituted “Office of the Arkansas Lottery” for “Arkansas Lottery Commission” and “office” for “commission” throughout the section; inserted “for scholarships” in (a)(2)(B)(i) and (a)(3); redesignated the subdivisions in (c)(2); substituted “Director of the Department of Higher Education” for “director” throughout (c)(2) and (3); substituted “Director of the Department of Finance and Administration” for “commission” in (c)(3); substituted “Department of Higher Education” for “department” in (c)(3) and throughout (d); and substituted “Arkansas Lottery Legislative Oversight Committee” for “Arkansas Lottery Commission Legislative Oversight Committee” in (c)(3) and throughout (d).

The 2015 amendment by No. 1258 substituted “Legislative Council” for “Arkansas Lottery Legislative Oversight Committee” in (c)(3), (d)(2)(A), and (d)(3)(A) through (d)(3)(C).

The 2015 amendment by No. 1262 inserted (d)(2)(C).

The 2017 amendment redesignated former (b)(1) as (b)(1)(A); added (b)(1)(B); and substituted “the trust accounts” for “a trust account” in (b)(2).

23-115-802. Scholarship Shortfall Reserve Trust Account.

(a) The Office of the Arkansas Lottery shall maintain a Scholarship Shortfall Reserve Trust Account.

(b)(1) An amount equal to four percent (4%) of the total amount of net proceeds disbursed during the preceding fiscal year in the form of scholarships and grants for higher education shall be deposited from lottery proceeds each year until the amount in the account equals twenty million dollars (\$20,000,000).

(2)(A) Thereafter, only the amount necessary to maintain the account in an amount equal to twenty million dollars (\$20,000,000) shall be deposited into the account after the repayment of any loan made from the Executive Discretionary Division Section 3(d) of the General Improvement Distribution Act of 2015, identical Acts 2015, Nos. 1146 and 1147, before June 30, 2016, to the Department of Higher Education for the Arkansas Academic Challenge Scholarship Program — Part 2 has been satisfied.

(B) A loan made from the Executive Discretionary Division Section 3(d) of the General Improvement Distribution Act of 2015, identical Acts 2015, Nos. 1146 and 1147, to the Department of Higher Education for the Arkansas Academic Challenge Scholarship Program — Part 2 shall not exceed one million five hundred thousand dollars (\$1,500,000).

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

(c)(1) Except as provided in subdivision (c)(2) of this section, if net proceeds in any year are not sufficient to meet the amount allocated for higher education scholarships, the account may be drawn upon to meet the deficiency.

(2) The account shall not be drawn upon to fund Arkansas Workforce Challenge Scholarships under the Arkansas Workforce Challenge Scholarship Program, § 6-85-301 et seq.

History. Acts 2009, No. 605, § 1; 2009, No. 606, § 1; 2009, No. 1405, § 46; 2010, No. 265, §§ 33, 34; 2010, No. 294, §§ 33, 34; 2015, No. 218, § 25; 2015, No. 1105, § 7; 2017, No. 613, § 6.

A.C.R.C. Notes. As enacted, this section included the following language: “(d) This section is effective on July 1, 2010.”

Amendments. The 2009 amendment by No. 1405 substituted “four percent (4%)” for “ten percent (10%)” in (b)(1); substituted “twenty million dollars (\$20,000,000)” for “fifty million dollars (\$50,000,000)” in (b)(1) and (b)(2); and added (b)(3).

The 2010 amendment by identical acts Nos. 265 and 294 substituted “account” for “fund” in (b)(3); and deleted (c)(2).

The 2015 amendment by No. 218 substituted “Office of the Arkansas Lottery” for “Arkansas Lottery Commission” in (a); and deleted “trust” preceding “account” in (b)(3).

The 2015 amendment by No. 1105 redesignated and rewrote (b)(2) as (b)(2)(A); and added (b)(2)(B).

The 2017 amendment redesignated former (c) as (c)(1); added “Except as provided in subdivision (c)(2) of this section” to (c)(1); added (c)(2); and made a stylistic change.

23-115-803. Disposition of funds — Definition.

(a)(1) To effectuate the purposes of the Office of the Arkansas Lottery, the office may borrow moneys from the State of Arkansas or accept and expend moneys from the State of Arkansas and shall repay any sums borrowed from the state as soon as practicable.

(2) As used in this section, “purposes” includes without limitation the payment of the initial expenses of initiation, administration, and operation of the office and lotteries.

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

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

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

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

History. Acts 2009, No. 605, § 1; 2009, No. 606, § 1; Acts 2015, No. 218, § 25.

A.C.R.C. Notes. The 2015 amendment did not correctly indicate through markup the changes being made in (a)(1).

Amendments. The 2015 amendment substituted “purposes of the Office of the Arkansas Lottery” for “Arkansas Lottery Commission's purposes” in (a)(1); and substituted “office” for “commission” throughout the section.

Subchapter 9 **— Penalties**

23-115-901. Sale of ticket or share to person under 18 years of age prohibited — Penalty.

23-115-902. Fraud — Penalty.

23-115-903. False statement on license application — Penalty.

23-115-904. Inconsistent statutes inapplicable.

Effective Dates. Acts 2011, No. 207, § 31: Mar. 8, 2011. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that increasing the number of Arkansans obtaining postsecondary credentials is critical to the economic health of the state and its citizens; that the Arkansas Scholarship Lottery provides the opportunity for tens of thousands of Arkansans to obtain postsecondary education; that the deadline for scholarship applications is June 1; that the financial integrity of the Arkansas Scholarship Lottery is critical to the continued existence of the scholarships; that the reporting and research provisions of this act are critical for timely decisions by the General Assembly on scholarship awards; and that this act is immediately necessary because the Department of Higher Education must promulgate rules to implement this act well before June 1, 2011, in order to provide eligible Arkansans the opportunity to apply for the scholarship. Therefore, an emergency

is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2015, No. 218, § 34: Feb. 26, 2015. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the stability of the Arkansas Scholarship Lottery is critical to the success of the Arkansas Academic Challenge Scholarship Program; that changes to the operational structure of the lottery are needed to improve the creditability and function of the lottery; and that this act is immediately necessary to ensure that the transition of lottery administration is as undisruptive as possible. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

23-115-901. Sale of ticket or share to person under 18 years of age prohibited — Penalty.

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

- (1) A fine not to exceed two hundred fifty dollars (\$250) for a first violation;
- (2) For a second violation within a forty-eight-month period:
 - (A) A fine not to exceed five hundred dollars (\$500); and
 - (B) Suspension of the retailer license issued under § 23-115-601 et seq. for a period not to exceed two (2) days;
- (3) For a third violation within a forty-eight-month period:
 - (A) A fine not to exceed one thousand dollars (\$1,000); and
 - (B) Suspension of the retailer license issued under § 23-115-601 et seq. for a period not to exceed seven (7) days;
- (4) For a fourth or subsequent violation within a forty-eight-month period:
 - (A) A fine not to exceed two thousand dollars (\$2,000); and
 - (B) Suspension of the retailer license issued under § 23-115-601 et seq. for a period not to exceed fourteen (14) days; and
- (5) For a fifth or subsequent violation within a forty-eight-month period, the retailer license issued under § 23-115-601 et seq. may be revoked.

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

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

(d) A person convicted of violating any provision of this section whose retailer license is suspended or revoked upon conviction shall surrender to the court his or her retailer license, and the court shall transmit the retailer license to the Office of the Arkansas Lottery and instruct the office:

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

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

History. Acts 2009, No. 605, § 1; 2009, No. 606, § 1; 2015, No. 218, § 25; 2017, No. 334, § 11.

Amendments. The 2015 amendment, in (d), substituted "Office of the Arkansas Lottery" for "Arkansas Lottery Commission" and "office" for "commission."

The 2017 amendment deleted "within a forty-eight-month period" following "violation" from the end of (a)(1).

23-115-902. Fraud — Penalty.

The offense of lottery fraud and penalties for a conviction of lottery fraud are provided under § 5-55-501.

History. Acts 2009, No. 605, § 1; 2009, No. 606, § 1; 2011, No. 207, § 29; 2015, No. 218, § 25.

Amendments. The 2011 amendment rewrote the section.

The 2015 amendment made no changes to this section.

23-115-903. False statement on license application — Penalty.

(a) A person shall not knowingly make:

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

(2) A material false entry in any book or record that is compiled, maintained, or submitted to or for the benefit of the Office of the Arkansas Lottery.

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

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

History. Acts 2009, No. 605, § 1; 2009, No. 606, § 1; 2015, No. 218, § 25.

Amendments. The 2015 amendment, in (a)(2), inserted “or for the benefit of” and substituted “Office of the Arkansas Lottery” for “Arkansas Lottery Commission.”

23-115-904. Inconsistent statutes inapplicable.

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

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

History. Acts 2009, No. 605, § 1; 2009, No. 606, § 1; 2015, No. 218, § 25.

Amendments. The 2015 amendment, in (b), inserted “or the Office of the Arkansas Lottery” and “during the time that the rule, order, finding, or other determination was in effect” at the end.

Subchapter 10 **— Debtors Owing Money to the State**

23-115-1001. Legislative intent.

23-115-1002. Definitions.

23-115-1003. Collection remedy not exclusive.

23-115-1004. List of debtors — Withholding winnings — Ranking of liens.

23-115-1005. Confidential information.

23-115-1006. Applicability.

Effective Dates. Acts 2015, No. 218, § 34: Feb. 26, 2015. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the stability of the Arkansas Scholarship Lottery is critical to the success of the Arkansas Academic Challenge Scholarship Program;

that changes to the operational structure of the lottery are needed to improve the creditability and function of the lottery; and that this act is immediately necessary to ensure that the transition of lottery administration is as undisruptive as possible. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

23-115-1001. Legislative intent.

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

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

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

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

History. Acts 2009, No. 605, § 1; 2009, No. 606, § 1; 2015, No. 218, § 25.

Amendments. The 2015 amendment, in (a)(1), substituted “Office of the Arkansas Lottery” for “Arkansas Lottery Commission” and “office” for “commission.”

23-115-1002. Definitions.

As used in this subchapter:

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

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

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

(2) “Debt” means a:

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

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

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

(A) Adjudicated as satisfied by court order;

(B) Set aside by court order; or

(C) Discharged in bankruptcy; and

(4) “Prize” means the proceeds of any lottery prize awarded under this chapter.

History. Acts 2009, No. 605, § 1; 2009, No. 606, § 1; 2015, No. 218, § 25.

Amendments. The 2015 amendment made no changes to this section.

23-115-1003. Collection remedy not exclusive.

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

History. Acts 2009, No. 605, § 1; 2009, No. 606, § 1; 2015, No. 218, § 25.

Amendments. The 2015 amendment added “not exclusive” to the end of the section heading.

23-115-1004. List of debtors — Withholding winnings — Ranking of liens.

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

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

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

(4) The list shall contain:

(A) The name of each debtor;

(B) The Social Security number of each debtor if available; and

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

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

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

(B) If the debtor does not protest the withholding of the prizes in writing within thirty (30) days of receipt of the notice, the office shall pay the prizes subject to the lien to the claimant agency.

(C) If the debtor protests the withholding of the prizes subject to the lien within thirty (30) days of receipt of the notice, the office shall:

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

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

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

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

(1) Taxes due the state;

(2) Delinquent child support; and

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

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

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

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

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

(h) The claimant agency shall pay the office for all costs incurred by the office in setting off

debts in the manner provided in this subchapter.

History. Acts 2009, No. 605, § 1; 2009, No. 606, § 1; 2015, No. 218, § 25.

Amendments. The 2015 amendment substituted “office” for “commission” throughout the section; substituted “Office of the Arkansas Lottery” for “Arkansas Lottery Commission” in (a)(1); and inserted “subject to the lien” in (b)(2)(B) and (C).

23-115-1005. Confidential information.

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

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

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

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

History. Acts 2009, No. 605, § 1; 2009, No. 606, § 1; 2015, No. 218, § 25.

Amendments. The 2015 amendment substituted “Office of the Arkansas Lottery” for “Arkansas Lottery Commission” in (a)(1); and substituted “office” for “commission” in (b).

23-115-1006. Applicability.

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

History. Acts 2009, No. 605, § 1; 2009, No. 606, § 1; 2015, No. 218, § 25.

Amendments. The 2015 amendment substituted “Applicability” for “Application” in the section heading; and substituted “only applies” for “applies only” in the section text.

Subchapter 11 **— Arkansas Lottery Legislative Oversight**

23-115-1101. Duties of Legislative Council.

23-115-1102. [Repealed.]

Effective Dates. Acts 2009, No. 1405, § 57: Apr. 9, 2009. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the people of the State of Arkansas overwhelmingly approved the establishment of lotteries at the 2008 General Election; that the Eighty-seventh General Assembly adopted Acts 605 and 606 of 2009 that implemented lotteries and made corresponding revisions to the Arkansas Academic Challenge Scholarship Program; that this bill amends provisions of Acts 605 and 606 of 2009 pertaining to lotteries and the Arkansas Academic Challenge Scholarship Program; and that the failure to immediately implement this act will cause a reduction in lottery proceeds that will harm the educational and economic success of potential students eligible to receive scholarships under the act. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2011, No. 207, § 31: Mar. 8, 2011. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that increasing the number of Arkansans obtaining postsecondary credentials is critical to the economic health of the state and its citizens; that the Arkansas Scholarship Lottery provides the opportunity for tens of thousands of Arkansans to obtain postsecondary education; that the deadline for scholarship applications is June 1; that the financial integrity of the Arkansas Scholarship Lottery is critical to the continued existence of the scholarships; that the reporting and research provisions of this act are critical for timely decisions by the General Assembly on scholarship awards; and that this act is immediately necessary because the Department of Higher Education must promulgate rules to implement this act well before June 1, 2011, in order to provide eligible Arkansans the opportunity to apply for the scholarship. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2015, No. 218, § 34: Feb. 26, 2015. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the stability of the Arkansas Scholarship Lottery is critical to the success of the Arkansas Academic Challenge Scholarship Program; that changes to the operational structure of the lottery are needed to improve the creditability and function of the lottery; and that this act is immediately necessary to ensure that the transition of lottery administration is as undisruptive as possible. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

23-115-1101. Duties of Legislative Council.

(a) The Legislative Council shall:

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

(2) Review and approve proposed rules of the Office of the Arkansas Lottery under § 10-3-309;

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

(B) The office shall provide a list of all contracts less than twenty-five thousand dollars (\$25,000) to the Legislative Council on a monthly basis;

(4) Review reports filed with the Legislative Council by the Department of Higher Education, including without limitation reports filed under §§ 6-85-205 and 6-85-220;

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

(6) Study other lottery matters as the Legislative Council considers necessary to fulfill its mandate.

(b)(1) Annually by December 15, the Legislative Council shall provide to the General Assembly:

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

(B) Its recommendations for any changes to the:

(i) Scholarship award amounts;

(ii) Number or type of scholarships; and

(iii) Scholarship eligibility requirements.

(2) The Legislative Council may make interim reports to the General Assembly regarding the expenditure of net lottery revenues.

(c)(1) During a regular, fiscal, or extraordinary session of the General Assembly, the Joint Budget Committee shall perform the functions assigned to the Legislative Council under:

(A) This chapter;

(B) Section 6-60-902;

(C) Section 6-60-903;

(D) Section 6-85-205;

(E) Section 6-85-212;

(F) Section 6-85-216;

(G) Section 6-85-219;

(H) Section 6-85-220; and

(I) Section 19-10-212.

(2) This subsection does not limit the authority of the Legislative Council to meet during a recess as authorized by § 10-2-223 or § 10-3-211.

(d) The Legislative Council and the Joint Budget Committee may:

(1) Establish or utilize one (1) or more subcommittees to assist in their duties under this chapter;

(2) Assign information filed with the Legislative Council under this subchapter to one (1) or more subcommittees of the Legislative Council, including without limitation a subcommittee created under subdivision (d)(1) of this section; and

(3) Delegate their duties under this chapter to one (1) or more subcommittees of the Legislative Council, subject to the final approval of the Legislative Council or the Joint Budget Committee.

History. Acts 2009, No. 605, § 1; 2009, No. 606, § 1; 2009, No. 1405, §§ 47, 48; 2010, No. 265, § 35; 2010, No. 294, § 35; 2011, No. 207, § 30; 2015, No. 218, § 25; 2015, No. 1258, § 37.

A.C.R.C. Notes. Acts 2015, No. 1258, § 1, provided: “LEGISLATIVE FINDINGS. The General Assembly finds:

“(1) Amendment 92 to the Arkansas Constitution states in part: ‘The General Assembly may provide by law for the review by a legislative committee of administrative rules promulgated by a state agency before the administrative rules become effective; and that administrative rules promulgated by a state agency shall not become effective until reviewed and approved by the legislative committee charged by law with the review of administrative rules under subdivision (a)(1) of this section’;

“(2) As Amendment 92 does not define the term ‘state agency’, the General Assembly may establish a definition by law as part of its implementation of Amendment 92;

“(3) The General Assembly at this time wishes to exclude the Arkansas State Game and Fish Commission, the State Highway Commission, the Arkansas State Highway and Transportation Department, and institutions of higher education from the definition of ‘state agency’ applied to the implementation of Amendment 92; and

“(4) The General Assembly or the Legislative Council reserve the right to amend the definition of ‘state agency’ in the future to include one (1) or all of the Arkansas State Game and Fish Commission, the State Highway Commission, the Arkansas State Highway and Transportation Department, and institutions of higher education.”

Publisher's Notes. Acts 2015, No. 1258, § 37, specifically amended this section as amended by Acts 2015, No. 218.

Amendments. The 2009 amendment by No. 1405 rewrote (d)(3); and added (h).

The 2010 amendment by identical acts Nos. 265 and 294, in (f)(3), substituted "A majority" for "Six (6) members" and "constitutes" for "constitute."

The 2011 amendment substituted "Annually by December 15" for "By November 1 of each year" in the introductory language of (e)(1).

The 2015 amendment by No. 218 substituted "Arkansas Lottery Legislative Oversight Committee" for "Arkansas Lottery Commission Legislative Oversight Committee" throughout the section; substituted "Office of the Arkansas Lottery" for "Arkansas Lottery Commission" in (d)(2); substituted "office" for "commission" in (d)(3)(B); and inserted "membership of the" in (f)(3).

The 2015 amendment by No. 1258 rewrote the section.

23-115-1102. [Repealed.]

Publisher's Notes. This section, concerning filing of information with Arkansas Lottery Legislative Oversight Committee, was repealed by Acts 2015, No. 1258, § 38. This section was derived from Acts 2009, No. 605, § 1; 2009, No. 606, § 1; 2010, No. 265, § 36; 2010, No. 294, § 36; 2015, No. 218, § 25.

The repeal of this section by Acts 2015, No. 1258 by its own terms superseded the amendment by Acts 2015, Act 218, § 25.

Subchapter 2

— Arkansas Academic Challenge Scholarship Program — Part 2

- 6-85-201. Findings.
- 6-85-202. Creation.
- 6-85-203. Applicability.
- 6-85-204. Definitions.
- 6-85-205. Authority and duties of the Department of Higher Education.
- 6-85-206. Basic eligibility requirements.
- 6-85-207. Additional eligibility requirements for traditional students.
- 6-85-208. Additional eligibility requirements for a nontraditional student.
- 6-85-209. Additional eligibility requirements for a current achiever student.
- 6-85-210. Continuing eligibility.
- 6-85-211. Literacy tutoring.
- 6-85-212. Scholarship award amounts.
- 6-85-213. Nursing school eligibility.
- 6-85-214. Accountability — Transparency — Legislative oversight.
- 6-85-215. [Repealed.]
- 6-85-216. Institution report to the department.
- 6-85-217. Information provided to the Bureau of Legislative Research by the Department of Higher Education.
- 6-85-218. [Repealed.]
- 6-85-219. Reports to legislative committees.
- 6-85-220. Legislative Council — Annual report.
- 6-85-221. Scholarship hold.

A.C.R.C. Notes. Acts 2015, No. 978, § 43, provided: “NONTRADITIONAL STUDENT SCHOLARSHIPS AGGREGATE AMOUNT.

Aggregate amounts of scholarships awarded to nontraditional students, under the provisions of the Arkansas Academic Challenge Scholarship Program - Part 2, ACA6-85-201 et seq., for the 2015-16 fiscal year shall be limited to thirteen million dollars (\$13,000,000).

“The provisions of this section shall be in effect only from July 1, 2015 through June 30, 2016.”

Effective Dates. Acts 2009, Nos. 605 and 606, § 27: Mar. 25, 2009. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the people of the State of Arkansas overwhelmingly approved the establishment of lotteries at the 2008 General Election; that lotteries will provide funding for scholarships to the citizens of this state; that the failure to immediately implement this act will cause a reduction in lottery proceeds that will harm the educational and economic success of potential students eligible to receive scholarships under the act; and that the state lotteries should be implemented as soon as possible to effectuate the will of the citizens of this state and implement lottery-funded scholarships as soon as possible. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall

become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2009, No. 1405, § 57: Apr. 9, 2009. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the people of the State of Arkansas overwhelmingly approved the establishment of lotteries at the 2008 General Election; that the Eighty-seventh General Assembly adopted Acts 605 and 606 of 2009 that implemented lotteries and made corresponding revisions to the Arkansas Academic Challenge Scholarship Program; that this bill amends provisions of Acts 605 and 606 of 2009 pertaining to lotteries and the Arkansas Academic Challenge Scholarship Program; and that the failure to immediately implement this act will cause a reduction in lottery proceeds that will harm the educational and economic success of potential students eligible to receive scholarships under the act. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2011, No. 207, § 31: Mar. 8, 2011. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that increasing the number of Arkansans obtaining postsecondary credentials is critical to the economic health of the state and its citizens; that the Arkansas Scholarship Lottery provides the opportunity for tens of thousands of Arkansans to obtain postsecondary education; that the deadline for scholarship applications is June 1; that the financial integrity of the Arkansas Scholarship Lottery is critical to the continued existence of the scholarships; that the reporting and research provisions of this act are critical for timely decisions by the General Assembly on scholarship awards; and that this act is immediately necessary because the Department of Higher Education must promulgate rules to implement this act well before June 1, 2011, in order to provide eligible Arkansans the opportunity to apply for the scholarship. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2011, No. 1180, § 4: Apr. 4, 2011. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that increasing the number of Arkansans who obtain postsecondary credentials is critical to the economic health of the state and its citizens; that the Arkansas Scholarship Lottery provides the opportunity for tens of thousands of Arkansans to obtain postsecondary education; that the deadline for scholarship applications is June 1; that the financial integrity of the Arkansas Scholarship Lottery is critical to the continued existence of the scholarships; that the reporting and research provisions of this act are critical for timely decisions by the General Assembly on scholarship awards; and that this act is immediately necessary because the Department of Higher Education must promulgate rules to implement this act well before June 1, 2011, in order to provide eligible Arkansans the opportunity to apply for the scholarship. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2011, No. 1195, § 3: Apr. 4, 2011. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that increasing the number of Arkansans who obtain

postsecondary credentials is critical to the economic health of the state and its citizens; that the Arkansas Scholarship Lottery provides the opportunity for tens of thousands of Arkansans to obtain postsecondary education; that the continual evaluation of the Arkansas Academic Challenge Scholarship Program and of all state-supported scholarship and grant programs by the General Assembly is critical for maximizing the benefits to the state and its citizens of state financial aid for higher education and meeting state objectives for higher education; that accountability and transparency in the implementation of state-supported scholarship programs are fundamental to a proper evaluation of the programs; that the collection of data and access to that data by the Bureau of Legislative Research are necessary to ensure proper legislative oversight for that accountability and transparency; and that this act is immediately necessary for the Department of Higher Education to begin developing the direct read and report only access to the data warehouse of the Arkansas Higher Education Information System, and for the Arkansas Higher Education Coordinating Board to promulgate rules to implement this act. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2013, No. 234, § 4: Mar. 1, 2013. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that increasing the number of Arkansans obtaining postsecondary credentials is critical to the economic health of the state and its citizens; that the Arkansas Scholarship Lottery provides the opportunity for tens of thousands of Arkansans to obtain postsecondary education; that the deadline for scholarship applications is June 1; that the financial integrity of the Arkansas Scholarship Lottery is critical to the continued existence of the scholarships; and that this act is immediately necessary because the Department of Higher Education must promulgate rules to implement this act well before June 1, 2013, in order to provide eligible Arkansans the opportunity to apply for the scholarship. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2013, No. 1173, § 18: Apr. 12, 2013. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that increasing the number of Arkansans obtaining postsecondary credentials is critical to the economic health of the state and its citizens; that the Arkansas Scholarship Lottery provides the opportunity for tens of thousands of Arkansans to obtain postsecondary education; that the deadline for scholarship applications is June 1; that the financial integrity of the Arkansas Scholarship Lottery is critical to the continued existence of the scholarships; and that this act is immediately necessary because the Department of Higher Education must promulgate rules to implement this act well before June 1, 2013, in order to provide eligible Arkansans the opportunity to apply for the scholarship. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2015, No. 218, § 34: Feb. 26, 2015. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the stability of the Arkansas Scholarship Lottery is critical to the success of the Arkansas Academic Challenge Scholarship Program; that changes to the operational structure of the lottery are needed to improve the creditability and function of the lottery; and that this act is immediately necessary to ensure that the transition of lottery administration is as undisruptive as possible. Therefore, an emergency is declared to exist, and this act being immediately

necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2015, No. 1105, § 8: July 1, 2016. Effective date clause provided: “Sections 1 through 5 of this act are effective on July 1, 2016.”

Acts 2015, No. 1105, § 9: Apr. 6, 2015. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the Arkansas Scholarship Lottery is undergoing dramatic change; that the financial stability of the Arkansas Scholarship Lottery is in question; and that this act is immediately necessary to ensure that there are appropriate mechanisms in place to fund scholarship recipients should there be a shortfall in lottery proceeds. Therefore, an emergency is declared to exist, and Sections 6 and 7 of this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2017, No. 613, § 7: Mar. 23, 2017. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this state is in need of a more educated and skilled workforce; that the Arkansas Workforce Challenge Scholarships available under this act will allow more Arkansans to pursue higher education in order to obtain a skill or better education that will lead to employment in a high-needs occupation in Arkansas; and that this act is immediately necessary to allow the funding to be in place so that Arkansas Workforce Challenge Scholarships can be awarded to Arkansans as soon as possible. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

6-85-201. Findings.

The General Assembly finds that:

(1) In approving Arkansas Constitution, Amendment 87, the citizens of this state provided an opportunity to increase the resources provided for higher education scholarships and grants through a state lottery;

(2) The net proceeds from the state lottery, in addition to existing nonlottery state educational resources for scholarships and grants, will:

(A) Encourage associate degree, certificate of proficiency program, and technical certificate program recipients and university juniors to complete a baccalaureate degree;

(B) Provide opportunities for students more than one (1) year out of high school to enter or reenter higher education;

(C) Provide an improved system of communication to students and parents about opportunities for higher education scholarships and grants in Arkansas; and

(D) Provide an evaluation and analysis of all state funding for scholarships and grants and how the funding advances the state's goals for higher education; and

(3) Changes to the Arkansas Academic Challenge Scholarship Program — Part 2 may be necessary from time to time to ensure the solvency of the program by spreading the program liabilities over a period of time while ensuring that there are scholarship dollars available for students who successfully complete their courses.

History. Acts 2009, No. 605, § 4; 2009, No. 606, § 4; 2015, No. 1105, § 1.

Amendments. The 2015 amendment inserted “certificate of proficiency program, and technical certificate program” in (2)(A); and added (3).

Effective Dates. Acts 2015, No. 1105, § 8: July 1, 2016. Effective date clause provided: “Sections 1 through 5 of this act are effective on July 1, 2016.”

6-85-202. Creation.

The Arkansas Academic Challenge Scholarship Program — Part 2 is hereby created and established.

History. Acts 2009, No. 605, § 4; 2009, No. 606, § 4.

6-85-203. Applicability.

(a) This subchapter is applicable to students who apply for a scholarship under the Arkansas Academic Challenge Scholarship Program — Part 2 for the academic year 2010-2011 and each academic year thereafter.

(b) Except to the extent of an award amount under § 6-85-107(b)(2), a recipient of a scholarship under the Arkansas Academic Challenge Scholarship Program — Part 1, § 6-85-101 et seq., is not eligible for an additional scholarship under this subchapter.

(c) Recipients of Arkansas Governor's Distinguished Scholarships are prohibited from receiving Arkansas Academic Challenge Scholarships under this subchapter.

History. Acts 2009, No. 605, § 4; 2009, No. 606, § 4.

6-85-204. Definitions.

As used in this subchapter:

(1) “ACT” means the ACT Assessment administered by ACT, Inc.;

(2) “ACT equivalent” means the Scholastic Aptitude Test (SAT), COMPASS, Accuplacer, or other nationally normed test that is correlated with the ACT and approved by the Department of Higher Education for use by institutions of higher education to assess a person's college readiness;

(3) “Approved institution of higher education” means an institution of higher education approved by the Department of Higher Education to participate in the Arkansas Academic Challenge Scholarship Program — Part 2 and that is:

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

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

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

(4) “Approved school of nursing” means a school of nursing with its primary headquarters located in Arkansas that:

(A) Prepares students as registered nurses;

(B) Grants nursing diplomas;

(C) Is eligible to participate in the Higher Education Act of 1965, Title IV federal student aid programs;

(D) Is approved by the Arkansas State Board of Nursing;

(E) Has been approved by the Department of Higher Education as eligible to participate in the Arkansas Academic Challenge Scholarship Program; and

(F) Is not a two-year or four-year college or university;

(5) “Arkansas resident” means a natural person who provides evidence deemed sufficient by the Department of Higher Education that:

(A) For the twelve-month period required under § 6-85-206(1), the person:

(i) Maintained a permanent home in Arkansas where the person resides for an average of no less than four (4) days and nights per calendar week; and

(ii) Either:

(a) Is an Arkansas registered voter;

(b) Holds a valid Arkansas motor vehicle driver's license;

(c) Receives benefits under an Arkansas public assistance program;

(d) Uses an Arkansas residence address for federal or state tax purposes; or

(e) Claims Arkansas as a residence to hold public office or for judicial actions; or

(B) Before the deadline for filing a scholarship application under this subchapter the applicant:

(i) Is on active military status;

(ii) Qualifies for in-state tuition and fees under § 6-60-205; and

(iii) Meets one (1) of the conditions under subdivision (5)(A)(ii) of this section;

(6) “Continuously enrolled” means:

(A) For a traditional student, he or she successfully completes at an approved institution of higher education twenty-seven (27) semester hours in the first academic year as a recipient and, except as provided in § 6-85-212(e)(1)(A)(iv)(c) , successfully completes thirty (30) semester hours each academic year thereafter;

(B) For a full-time nontraditional student, he or she successfully completes at an approved institution of higher education at least fifteen (15) semester hours of courses in consecutive semesters;

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

(i) Before receiving a scholarship under this subchapter, successfully completed at least twelve (12) semester hours of courses in consecutive semesters; and

(ii) As a recipient of a scholarship under this subchapter, successfully completes at an approved institution of higher education at least fifteen (15) semester hours of courses in consecutive semesters;

(D) For a part-time nontraditional student, he or she successfully completes at an approved institution of higher education at least six (6) semester hours of courses in consecutive semesters; and

(E) For a student who is enrolled in a degree plan that has a maximum number of semester hours in a semester that is less than the requirements of subdivisions (6)(A)-(D) of this section, he or she successfully completes at an approved institution of higher education the maximum number of hours required by the degree plan for the semester;

(7) “Current achiever student” means a student:

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

(B) Is not a traditional student or a nontraditional student;

(8) “End-of-course assessment” means an examination taken at the completion of a course of study to determine whether a student demonstrates attainment of the knowledge and skills necessary for mastery of that subject;

(9) “Enrolled” means that the approved institution of higher education where the student is attending class counts the student as enrolled for the hours claimed on the last day to add or drop a class at the approved institution of higher education;

(10) “High school equivalency test” means a test measuring the knowledge and skills usually learned in high school that is administered by a state-approved institution or organization;

(11) “High school grade point average” means the numbered grade average on a student's high school transcript calculated:

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

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

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

(13) “Net proceeds from the state lottery” means lottery proceeds for one (1) fiscal year less the operating expenses defined in § 23-115-103 for the fiscal year;

(14) “Nonlottery state educational resources” means the funding available for state-supported scholarships and grants for students enrolled in postsecondary education in this state that:

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

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

(15) “Nontraditional student” means a student who is not a traditional student or a

current achiever student;

(16) “Personally identifiable student data” means any information that, alone or in combination with other available information, is linked or linkable to a specific student that would allow a reasonable person in the student's school community to identify the student with reasonable certainty;

(17) “Postsecondary grade point average” means the cumulative numbered grade average for college credit courses as calculated using a 4.0 scale;

(18) “Qualified certificate program” means a program:

(A) That is offered by an approved institution of higher education;

(B) For which credit hours are awarded that are creditable toward an associate degree or baccalaureate degree; and

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

(19) “Recipient” means an applicant awarded a scholarship funded through the program;

(20) “Scholarship hold” means the temporary suspension of a scholarship award to a traditional student under this subchapter approved by the Department of Higher Education under § 6-85-221;

(21) “Semester” means one-half ($\frac{1}{2}$) of a traditional academic year at an institution of higher education, or an equivalent approved by the Department of Higher Education, in which a student enrolls for not less than:

(A) Fifteen (15) credit hours as a full-time student, except that in the first semester as a first-time full-time freshman, a traditional student shall enroll in not less than twelve (12) credit hours; or

(B) Six (6) credit hours as a part-time student;

(22) “Smart Core” means:

(A) The college and career readiness curriculum by that name under rules of the State Board of Education; or

(B) A college and career readiness curriculum that is:

(i) Established by rules of the state board in coordination with the Department of Higher Education; and

(ii) Substituted for the curriculum named “Smart Core”;

(23) “State-supported student financial assistance” means a state-supported scholarship, grant, tuition waiver, or tuition reimbursement funded with state funds or net proceeds from the state lottery awarded by:

(A) The Department of Higher Education; or

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

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

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

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

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

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

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

(24) “Successfully completed” means that a student completed a course at an institution of higher education and received the equivalent of a minimum letter grade of “D”;

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

(B) Supplanting does not occur if the General Assembly provided the state nonlottery educational resources as if the lotteries under the Arkansas Scholarship Lottery Act, § 23-115-101 et seq., do not exist; and

(26)(A) “Traditional student” means a student who:

(i) Will enter postsecondary education as a full-time first-time freshman on or before the fall semester of the academic year that begins immediately following:

(a) The student's graduation from high school; or

(b) The last day of the school year:

(1) That would have been the student's junior or senior year of high school; and

(2) In which the student completes the requirements for high school graduation and obtains a Certificate of General Educational Development instead of receiving a diploma; and

(ii) Remains continuously enrolled as a full-time student.

(B) “Traditional student” includes a student who otherwise meets this definition but delays entering postsecondary education under a scholarship hold approved by the Department of Higher Education.

(C) “Traditional student” does not include a current achiever student.

History. Acts 2009, No. 605, § 4; 2009, No. 606, § 4; 2009, No. 1405, §§ 2, 3; 2010, No. 265, § 1; 2010, No. 294, § 1; 2011, No. 207, §§ 4, 5; 2013, No. 1173, §§ 3, 4; 2013, No. 1263, § 1; 2015, No. 1115, § 18; 2017, No. 597, § 1; 2017, No. 719, § 1.

Amendments. The 2009 amendment added (3)(C), (16), and (17); and made related changes.

The 2010 amendment by identical acts Nos. 265 and 294 inserted present (5), (6), and (19) and redesignated the remaining subdivisions accordingly; added (9)(B); inserted “For a traditional student” in (9)(A); rewrote (11); substituted “postsecondary” for “two year and four year institutions of higher” in (12); added “or a current achiever student” at the end of (13); inserted “student’s” preceding “school” in (14); deleted “that is” from the end of the introductory language of (16); added “That is” at the beginning of (16)(A); in (16)(B), deleted “Shorter in duration than an associate degree” and inserted “or baccalaureate degree”; added (20)(B); and inserted “beginning with the 2010-2011 academic year” in (20)(A).

The 2011 amendment inserted “successfully” throughout subdivision (5); inserted (18) and (20) and redesignated the remaining subdivisions accordingly; and rewrote present (22).

The 2013 amendment by No. 1173 inserted present (5) and redesignated the remaining subdivisions accordingly; and added (5)(E).

The 2013 amendment by No. 1263 rewrote (22)(A).

The 2015 amendment substituted “High school equivalency” for “General Educational Development” in (10).

The 2017 amendment by No. 597 inserted “except as provided in § 6-85-212(e)(1)(A)(iv)(c)” in (6)(A).

The 2017 amendment by No. 719 deleted “not including any summer term” following “thereafter” at the end of (6)(A); deleted “not including a summer term” following “semesters” at the end of (6)(B), (6)(C)(i), (6)(C)(ii), and (6)(D).

6-85-205. Authority and duties of the Department of Higher Education.

(a) The Department of Higher Education shall develop and promulgate rules for the administration of the Arkansas Academic Challenge Scholarship Program consistent with the purposes and requirements of this subchapter.

(b) The rules developed and promulgated by the Department of Higher Education under this section shall pertain to:

(1) Student eligibility criteria based on this subchapter;

(2) The method for selecting scholarship recipients and for determining continuing eligibility;

(3) The procedures for making payment to an approved institution of higher education where the recipient is enrolled; and

(4) Other administrative procedures that may be necessary for the implementation and operation of the program.

(c) The Department of Higher Education shall implement a complete financial aid management system that uses a single application form that may be accessed as a web-based application for all Arkansas state-supported student financial assistance administered by the Department of Higher Education, including:

(1) Scholarships awarded under this subchapter or other state law that are funded with net proceeds from the state lottery; and

(2) Scholarships, grants, or other financial assistance for higher education students funded with nonlottery state educational resources.

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

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

(3) The Department of Higher Education shall provide a copy of the informational materials developed under this section to the Legislative Council for review.

(e) The Director of the Department of Higher Education shall review and evaluate the operation of the program with regard to eligibility criteria and size of the scholarship award to ensure that the program's operation meets the intent of this subchapter.

(f) The Department of Higher Education may determine the necessary procedures for the awarding of scholarships if the number of eligible applicants exceeds the funds available based on the criteria under this subchapter.

(g)(1)(A) By July 15 of each year, the Director of the Department of Higher Education shall provide a report to the Legislative Council on:

- (i) The implementation of this subchapter;
- (ii) The number of recipients that either:
 - (a) Dropped out during the academic year; or
 - (b) Lost the scholarship during the academic year; and
- (iii) Any additional information requested by the Legislative Council.

(B) The Legislative Council shall include the information reported under this subsection in its annual report to the General Assembly under § 6-85-220.

(2) By August 1 of each year, the Department of Higher Education shall provide to the Legislative Council an unaudited financial report on the administration of the Arkansas Academic Challenge Scholarship Program for the fiscal year just ended.

History. Acts 2009, No. 605, § 4; 2009, No. 606, § 4; 2010, No. 265, §§ 2-4; 2010, No. 294, §§ 2-4; 2015, No. 218, §§ 5-7; 2015, No. 1258, §§ 5-7.

A.C.R.C. Notes. Acts 2015, No. 1258, § 1, provided: “LEGISLATIVE FINDINGS.

The General Assembly finds:

“(1) Amendment 92 to the Arkansas Constitution states in part: ‘The General Assembly may provide by law for the review by a legislative committee of administrative rules promulgated by a state agency before the administrative rules become effective; and that administrative rules promulgated by a state agency shall not become effective until reviewed and approved by the legislative committee charged by law with the review of administrative rules under subdivision (a)(1) of this section’;

“(2) As Amendment 92 does not define the term ‘state agency’, the General Assembly may establish a definition by law as part of its implementation of Amendment 92;

“(3) The General Assembly at this time wishes to exclude the Arkansas State Game and Fish Commission, the State Highway Commission, the Arkansas State Highway and Transportation Department, and institutions of higher education from the definition of ‘state agency’ applied to the implementation of Amendment 92; and

“(4) The General Assembly or the Legislative Council reserve the right to amend the definition of ‘state agency’ in the future to include one (1) or all of the Arkansas State Game and Fish Commission, the State Highway Commission, the Arkansas State Highway and Transportation Department, and institutions of higher education.”

Publisher's Notes. Acts 2015, No. 1258, §§ 5-7 specifically amended this section as amended by Acts 2015, No. 218.

Amendments. The 2010 amendment by identical acts Nos. 265 and 294 rewrote (a)(2); substituted "Arkansas Higher Education Coordinating Board under § 6-61-217 and by the Department of Education under the Higher Education Awareness Act of 1993, § 6-5-401 et seq." for "Department of Education as required by § 6-61-217" in (d)(1); substituted "informational materials under this section" for "materials" in (d)(2); added (d)(3); added (g)(1)(B); and rewrote (g)(1)(A).

The 2015 amendment by No. 218 substituted "Arkansas Lottery Legislative Oversight Committee" for "Arkansas Lottery Commission Legislative Oversight Committee" in (a)(2), (d)(3), and throughout (g).

The 2015 amendment by No. 1258 deleted former (a)(2); and substituted "Legislative Council" for "Arkansas Lottery Legislative Oversight Committee" in (d)(3), and throughout (g).

6-85-206. Basic eligibility requirements.

The basic requirements for an applicant to be eligible for an award from the Arkansas Academic Challenge Scholarship Program — Part 2 are:

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

(B) If the applicant is less than twenty-one (21) years of age, either the applicant or a parent or guardian of the applicant shall have maintained Arkansas residency for at least the twelve (12) months immediately preceding the date the applicant will enroll in an approved institution of higher education.

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

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

(D) During the twelve (12) months immediately preceding the date an applicant will enroll in an approved institution of higher education if the person for whom the twelve-month period is calculated under subdivision (1)(A) or subdivision (1)(B) of this section is deployed outside of Arkansas under military orders, the Department of Higher Education shall calculate the twelve (12) months by:

(i) Excluding months of military deployment outside of Arkansas that are within the twelve (12) months immediately preceding the date the applicant will enroll in an approved institution of higher education; and

(ii) Including months the person maintained Arkansas residency immediately preceding the military deployment outside of Arkansas;

(2) The applicant is a citizen of the United States or is a lawful permanent resident;

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

(i) An approved institution of higher education in a program of study that leads to or is creditable toward:

(a) A baccalaureate degree;

(b) An associate degree;

(c) A certificate from a qualified certificate program; or

(d) A graduate-level or professional degree; or

(ii) An approved school of nursing in a program of study that leads to a nursing diploma under § 6-85-213.

(B) A full-time student shall enroll in at least twenty-seven (27) semester hours the first academic year and thirty (30) semester hours per academic year thereafter or the equivalent, as described in this subchapter, or the equivalent as defined by the Department of Higher Education.

(C) A part-time student shall complete at least six (6) semester hours but less than the minimum number of semester hours for a full-time student, as defined by the Department of Higher Education;

(4) The applicant has not met the maximum continuing education eligibility requirements under § 6-85-210;

(5) The applicant does not owe a refund on a federal or state student financial aid grant for higher education;

(6) The applicant is not in default on a state or federal student financial aid loan for higher education;

(7) The applicant has not borrowed, as determined by the approved institution of higher education to be attended, in excess of the annual loan limits under the Federal Family Educational Loan Program Systems, William D. Ford Federal Direct Loan Program, Income Contingent Loan Demonstration Program, Stafford Loan Program, Parent Loan for Undergraduate Students Program, or Supplemental Loan for Students Program in the same academic year for which the student has applied for assistance under this subchapter;

(8) The applicant is not incarcerated at the time of the application for or during the time the applicant receives a scholarship under this subchapter;

(9) The applicant has complied with United States Selective Service System requirements for registration;

(10) The applicant has completed and submitted to the United States Department of Education a Free Application for Federal Student Aid (FAFSA) or a subsequent application required by the United States Department of Education for federal financial aid; and

(11) The applicant certifies that he or she is drug-free and pledges in writing on the application form to refrain from the use or abuse of illegal substances in order to become eligible and maintain eligibility for this program.

History. Acts 2009, No. 605, § 4; 2009, No. 606, § 4; 2009, No. 1405, § 4; 2010, No. 265, § 5; 2010, No. 294, § 5; 2011, No. 207, § 6; 2013, No. 1173, §§ 5, 6; 2017, No. 597, § 2.

Amendments. The 2009 amendment rewrote (3)(A).

The 2010 amendment by identical acts Nos. 265 and 294 redesignated former (1)(B) as (1)(C)(i) and (ii); redesignated part of former (1)(A) as present (1)(B); rewrote (1)(B); and substituted “Evidence of residency may include” for “including” in (1)(C)(ii).

The 2011 amendment redesignated former (4) as (4)(A) and (4)(A)(i); and added (4)(A)(ii) and (4)(B).

The 2013 amendment added (1)(D) and rewrote (4).

The 2017 amendment added (3)(A)(i)(d) .

6-85-207. Additional eligibility requirements for traditional students.

In addition to the requirements of § 6-85-206, an applicant is eligible as a traditional student if the applicant:

(1) Graduated from an Arkansas public high school and has a minimum composite score of nineteen (19) on the ACT or the equivalent score on an ACT equivalent;

(2) Has a disability identified under the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq., as it existed on July 1, 2009, and graduated from an Arkansas public high school, and either:

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

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

- (i) Algebra I;
- (ii) Geometry;
- (iii) Biology; and
- (iv) Literacy;

(3) Achieved a minimum composite score of nineteen (19) on the ACT or the equivalent score on an ACT equivalent and:

(A) Graduated from a private high school, an out-of-state high school, or a home school high school; or

(B) In the year in which the student would have been a junior or senior in high school, completed the requirements for high school graduation and obtained a high school equivalency diploma approved by the Department of Career Education instead of receiving a diploma; or

(4) Meets the following criteria:

(A) Was enrolled at an institution of higher education in the immediately preceding academic year as a full-time, first-time freshman;

(B) Did not receive a scholarship under this subchapter as a full-time, first-time freshman;

(C) Successfully completed at least twenty-seven (27) semester hours of courses as a full-time, first-time freshman; and

(D) Achieved a postsecondary grade point average of at least 2.5 on a 4.0 scale as a full-time, first-time freshman.

History. Acts 2009, No. 605, § 4; 2009, No. 606, § 4; 2009, No. 1405, §§ 5-8; 2010, No. 265, § 6; 2010, No. 294, § 6; 2011, No. 207, § 7; 2013, No. 1263, § 2; 2015, No. 1105, § 2; 2015, No. 1115, § 19; 2017, No. 315, § 1; 2017, No. 719, § 2.

Publisher's Notes. Acts 2017, No. 719, § 2 specifically amended this section as amended by Acts 2017, No. 315, § 1.

Amendments. The 2009 amendment deleted (1)(B)(ii)(4); in (2), deleted “whether or not 12 the applicant completed the Smart Core curriculum” following “first attempt” and “either” at the end; added present (2)(A); redesignated (2)(A) as (2)(B); rewrote (2)(B), (3)(B)(iv), and (4); and made punctuation changes.

The 2010 amendment by identical acts Nos. 265 and 294, in the introductory language of (2), added “Effective January 1, 2011” at the beginning, inserted “in the year of the applicant’s graduation,” deleted

“annually” preceding “identified,” substituted “state-mandated” for “the,” and inserted “for the related course.”

The 2011 amendment deleted former (2) and redesignated the remaining subdivisions accordingly.

The 2013 amendment rewrote (3).

The 2015 amendment by No. 1105 rewrote (1); deleted “but did not complete the Smart Core curriculum because the applicant’s individualized education program under § 6-41-217 did not require it, achieved a high school grade point average of at least 2.5” following “public high school” in the introductory language of (2); and deleted “Beginning with the 2013-2014 school year” at the beginning of (2)(B)(iv).

The 2015 amendment by No. 1115 substituted “high school equivalency diploma approved by the Department of Career Education” for “Certificate of General Educational Development” in (3)(B).

The 2017 amendment by No. 315 added (4) and made stylistic changes.

The 2017 amendment by No. 719 deleted “in consecutive semesters, not including a summer term” following “courses” in (4)(C).

Effective Dates. Acts 2015, No. 1105, § 8: July 1, 2016. Effective date clause provided: “Sections 1 through 5 of this act are effective on July 1, 2016.”

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

An applicant is eligible as a nontraditional student if, in addition to the requirements of § 6-85-206, the applicant meets one (1) of the following requirements:

(1) If the applicant has not been enrolled in an approved institution of higher education, has either:

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

(B) Graduated from an Arkansas public high school, a private high school, an out-of-state high school, a home school high school, or obtained a high school equivalency diploma approved by the Department of Career Education and had a minimum composite score of nineteen (19) on the ACT or the equivalent score on an ACT equivalent; or

(2) If the applicant has been enrolled in an approved institution of higher education, has earned a postsecondary grade point average of at least 2.5.

History. Acts 2009, No. 605, § 4; 2009, No. 606, § 4; 2009, No. 1405, §§ 9, 10; 2010, No. 265, § 7; 2010, No. 294, § 7; 2011, No. 207, § 8; 2015, No. 1115, § 20; 2017, No. 1008, § 5.

Amendments. The 2009 amendment rewrote (b).

The 2010 amendment by identical acts Nos. 265 and 294 deleted (b); inserted “public” in (1); added

present (2); redesignated former (2) and (3) as (2)(A) and (2)(B)(i), respectively; added (2)(B)(ii); and inserted “per course” following “credit” in (2)(B)(i).

The 2011 amendment added “but has not successfully...subdivision (2)(B) of this section” following “grade point average” in (1); in (2)(B)(i), inserted “successfully” and deleted “approved” preceding “institution.”

The 2015 amendment substituted “high school equivalency diploma approved by the Department of Career Education” for “Certificate of General Educational Development” in (2).

The 2017 amendment rewrote the section.

6-85-209. Additional eligibility requirements for a current achiever student.

(a) In addition to the requirements of § 6-85-206, an applicant is eligible as a current achiever student if the applicant:

(1) Entered postsecondary education before the 2010-2011 academic year:

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

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

(2) At the time of applying for the scholarship:

(A)(i) Has been continuously enrolled at an institution of higher education as a full-time student.

(ii) In calculating continuous enrollment under this section, the Department of Higher Education may include one (1) or more courses taken during the summer that meet the criteria for a course under subdivision (a)(2)(B)(ii) of this section;

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

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

(C) Has achieved a postsecondary grade point average of at least 2.5.

(b) The department may waive the requirements of subdivision (a)(1)(B) or (a)(2) for eligibility under this section if an applicant does not meet those eligibility requirements due to the applicant's full-time duty in the active uniformed service of the United States, including members of the National Guard and reserve components of the United States Armed Forces on active duty orders.

(c) This section also applies to an applicant who:

(1) Applied for a scholarship as a current achiever in the 2010-2011 academic year;

(2) Did not meet the eligibility requirements for a current achiever based on the continuous enrollment requirement of subdivision (a)(2) of this section as it existed on June 1, 2010; and

(3) Either:

(A) Received a scholarship under § 6-85-208 as a nontraditional student; or

(B) Did not receive a scholarship under this subchapter.

History. Acts 2009, No. 605, § 4; 2009, No. 606, § 4; 2010, No. 265, § 8; 2010, No. 294, § 8; 2011, No. 207, § 9.

Amendments. The 2010 amendment by identical acts Nos. 265 and 294 rewrote the section.

The 2011 amendment added the (a) designation; added the (a)(2)(A)(i) designation; inserted (a)(2)(A)(ii); inserted “successfully” in (a)(2)(B)(i); and added (b) and (c).

6-85-210. Continuing eligibility.

(a)(1)(A) A recipient who meets continuing eligibility criteria under this subchapter shall receive a scholarship for one (1) academic year renewable annually until the recipient has earned one hundred twenty (120) semester credit hours.

(B) A recipient may continue to receive a scholarship after he or she has earned one hundred twenty (120) semester credit hours, but not more than one hundred thirty (130) semester credit hours, if the student is enrolled in a baccalaureate degree program that requires more than one hundred twenty (120) semester credit hours as provided under § 6-61-232.

(2) A semester in which a student withdraws or fails to complete the number of credit hours for which the student first enrolled is counted toward the maximum number of semesters for which the student may receive a scholarship award under this subchapter.

(3) The maximums under this subsection apply to any degree program, regardless of whether or not the degree program requires additional semesters.

(4) A recipient may attend summer terms at the student's own expense to earn credit hours necessary to maintain eligibility for a scholarship under this subchapter.

(b) To maintain eligibility for an Arkansas Academic Challenge Scholarship under this subchapter, a recipient shall meet the following requirements:

(1) A recipient shall continue to meet the eligibility requirements of this subchapter while a recipient of a scholarship under this subchapter;

(2)(A)(i) A recipient shall meet the satisfactory academic progress standards required to receive other financial aid at the approved institution of higher education where the recipient is enrolled, as determined by the Department of Higher Education in conjunction with the institution of higher education where the recipient is enrolled.

(ii)(a) A recipient who does not successfully complete any credit hours toward degree completion in a semester in which he or she received a scholarship under this subchapter immediately forfeits the remainder of the scholarship award for that academic year.

(b) The department shall notify the recipient of the loss of eligibility under this subdivision (b)(2)(A)(ii).

(iii) By accepting scholarship funds under this subchapter, the receiving institution certifies that students will be enrolled in courses that will meet satisfactory academic progress standards leading toward a certificate, an associate degree, a nursing diploma, a baccalaureate degree, or a graduate-level or professional degree.

(B) The department may approve a leave of absence for a reason that includes without limitation:

(i) A medical condition of the student or a member of the student's immediate family that, on the basis of a physician's good-faith judgment, necessitates the student or the student's immediate family member to be hospitalized or receive outpatient or home-based medical care or recuperation until released by the attending physician;

(ii) A personal or family emergency that requires the student to:

(a) Attend the funeral of an immediate family member; or

(b) Visit a relative of the student if the relative has a medical condition in which death is possible or imminent;

(iii) Military service under § 6-61-112;

(iv)(a) A commitment for twelve (12) to twenty-four (24) months of service in a national or international humanitarian project sponsored by a nonprofit corporation organized with a charitable or educational purpose.

(b) The student's commitment shall be expressed in a written agreement with the nonprofit organization including the terms of completion for the student's service on the related project.

(c) The department shall release a scholarship hold if the

department determines that the student did not complete the commitment under the written agreement; or

(v) Any other reason approved by the department;

(3) A recipient who enrolls in one (1) or more remedial courses shall complete all remedial courses required by the approved institution of higher education by the time the student completes the first thirty (30) semester hours attempted after receiving the scholarship;

(4) A recipient shall earn a postsecondary grade point average of 2.5 or higher at an approved institution of higher education;

(5) A recipient shall enroll in courses that lead toward a baccalaureate degree or graduate-level or professional degree after attempting the lesser of:

(A) Five (5) semesters; or

(B) The completion of an associate degree program; and

(6) A recipient shall meet any other continuing eligibility criteria established by the department.

(c)(1) A traditional student recipient who loses eligibility for a scholarship may apply as a first-time nontraditional student.

(2) A recipient under subdivision (c)(1) of this section who loses eligibility for the nontraditional student scholarship is not eligible to apply for a scholarship under any eligibility provision of this subchapter.

(d) If a recipient is subject to losing a scholarship under subsection (c) of this section due to a catastrophic event experienced by the recipient or a family member of the recipient, the department may waive the requirements of this section and determine the appropriate requirements for the recipient to either retain or regain the scholarship.

History. Acts 2009, No. 605, § 4; 2009, No 606, § 4; 2009, No. 1405, §§ 11-14; 2010, No. 265, §§ 9, 10; 2010, No. 294, §§ 9, 10; 2011, No. 207, §§ 10, 11; 2013, No. 1106, § 1; 2013, No. 1173, §§ 7-9; 2015, No. 1250, § 1; 2017, No. 597, §§ 3-5; 2017, No. 719, §§ 3, 4.

A.C.R.C. Notes. Acts 2013, No. 1106, § 1, omitted subdivision (b)(2)(B) of this section without specifically repealing it.

Amendments. The 2009 amendment inserted “transcript” in (a)(2)(A) and (a)(3); inserted “a nursing diploma” in (b)(2)(A)(ii); deleted “be” following “shall” in the introductory language of (b)(5); and inserted “or number of completed credit hours” in (c)(1).

The 2010 amendment by identical acts Nos. 265 and 294 repealed (b)(2)(C); and substituted “in an academic year” for “only” at the end of (c)(1).

The 2011 amendment rewrote (b)(2)(B); and inserted “successfully” throughout (c) and (d); and substituted “Successfully complete” for “Complete” in (c)(2)(A)(i) and (c)(2)(B)(i).

The 2013 amendment by No. 1106 subdivided and rewrote (b)(2)(A)(ii) and redesignated the remaining subdivisions accordingly.

The 2013 amendment by No. 1173, in (a), redesignated subdivisions; deleted former (a)(2)(B); substituted “Has enrolled in” for “Attempts a transcript total of one hundred thirty (130) semester hours in” twice; and added current subdivisions (2) and (3); in (b)(5)(A), substituted “Five (5) semesters” for “Sixty six (66) semester hours”; deleted “unless the number of hours required to complete the associate degree program exceeds sixty six (66) semester hours, in which case the higher number of hours for completion shall be used for this subdivision (b)(5)” from the end of (b)(5)(B); redesignated (c)(1) as (c)(1)(A) and added “only” and “in which the student became ineligible” in the first sentence of (c)(1)(A); added (c)(1)(B) through (c)(3) and redesignated the remaining subdivisions accordingly; substituted “department under subsection (d) of this section” for “Department of Higher Education” in (c)(4); inserted “As a traditional or nontraditional” and “the student” in (c)(4)(A)(i); added (c)(4)(A)(ii); inserted “As a nontraditional” and “the student” in (c)(4)(B); and deleted former (d), redesignated former (e) as present (d) and deleted the reference to former subsection (d).

The 2015 amendment rewrote (a)(1).

The 2017 amendment by No. 597 rewrote (a)(1); added “or a graduate-level or professional degree” at the end of (b)(2)(A)(iii); and substituted “degree or graduate-level or professional degree” for “degree program” in (b)(5).

The 2017 amendment by No. 719 added (a)(4); and rewrote (c).

6-85-211. Literacy tutoring.

(a) As an additional component to the Arkansas Academic Challenge Scholarship Program:

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

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

(A) Shall complete the prerequisite training in literacy and college readiness skills provided under this section before he or she begins tutoring; and

(B) May receive college credit for the tutoring as determined by the institution of higher education where the recipient is enrolled; and

(3) An enrolled college student who participates in the tutorial program and fails to meet the academic eligibility requirement under this subchapter for the fall or spring semester shall be given the probationary opportunity during the subsequent spring or summer term to continue his or her education and improve academic performance before losing scholarship funding in the subsequent semester.

(b) A recipient who agrees to volunteer as a literacy tutor under this section shall receive the prerequisite training in literacy and college readiness from an approved institution of higher education based on training modules developed by the Department of Education.

History. Acts 2009, No. 605, § 4; 2009, No. 606, § 4.

6-85-212. Scholarship award amounts.

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

(b) Net proceeds from the state lottery used to fund scholarships under this subchapter shall:

(1) Be used exclusively for the purposes set out in Arkansas Constitution, Amendment 87, and this subchapter; and

(2) Supplement and shall not supplant nonlottery state educational resources.

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

(d) The scholarships established under this subchapter are subject to available funding and do not create for any student an entitlement to financial assistance to enable the student's attendance at an approved institution of higher education.

(e)(1)(A) Beginning with the 2016-2017 academic year, the scholarship award amount under this subchapter for an academic year for a full-time recipient enrolled in a four-year approved institution of higher education is:

(i) One thousand dollars (\$1,000) for a recipient who has earned less than twenty-seven (27) semester credit hours;

(ii) Four thousand dollars (\$4,000) for a recipient who has earned at least twenty-seven (27) semester credit hours but less than fifty-seven (57) semester credit hours;

(iii) Four thousand dollars (\$4,000) for a recipient who has earned at least fifty-seven (57) semester credit hours but less than eighty-seven (87) semester credit hours; and

(iv)(a) Five thousand dollars (\$5,000) for a recipient who has earned at least eighty-seven (87) semester credit hours but no more than one hundred twenty (120) semester credit hours unless the recipient is enrolled in a baccalaureate degree program that requires more than one hundred twenty (120) semester credit hours, but not more than one hundred thirty (130) semester credit hours, as provided under § 6-61-232, then up to the number

of credit hours required to complete the baccalaureate program.

(b) A recipient shall receive no more than one (1) year of the scholarship provided under subdivision (e)(1)(A)(iv)(a) of this section unless the recipient is enrolled in a baccalaureate degree program that requires more than one hundred twenty (120) semester credit hours as provided under § 6-61-232.

(c)(I) A recipient who is eligible to receive the scholarship under subdivision (e)(1)(A)(iv)(a) of this section may receive the scholarship while enrolled in a semester as a part-time student if the recipient is enrolled in the number of credit hours necessary to complete the recipient's degree program.

(2) The scholarship amount for the semester in which a recipient is enrolled as a part-time student under subdivision (e)(1)(A)(iv)(c)(I) of this section shall be prorated by the number of credit hours in which the recipient is enrolled.

(B) The Department of Higher Education shall not accept new applications for scholarships for current achiever students under § 6-85-209 after June 1, 2012.

(C)(i) To determine the correct scholarship award amount based on credit hours, a first-time recipient shall submit a current college or university transcript if the first-time recipient has earned any semester credit hours to the Department of Higher Education no later than a date determined by the Department of Higher Education prior to the academic year for which the first-time recipient will receive an initial scholarship award.

(ii) A first-time recipient who does not submit a transcript to the Department of Higher Education on or before June 1 shall receive the award amount under subdivision (e)(1)(A)(i) of this section.

(D)(i) An applicant may elect for the earned semester credit hours under subdivision (e)(1)(A) of this section to be only those semester credit hours earned after graduating from high school or obtaining a high school equivalency diploma approved by the Department of Career Education.

(ii) If an applicant makes the election under subdivision (e)(1)(D)(i) of this section, any semester credit hours earned through concurrent credit or any other method before graduating high school or obtaining a high school equivalency diploma approved by the Department of Career Education shall not be counted as earned semester credit hours for the purposes of determining a recipient's scholarship award amount under subdivision (e)(1)(A) of this section.

(2)(A) The Department of Higher Education shall award an aggregate amount of scholarship awards to nontraditional students beginning with the 2017-2018 academic year of up to twelve million dollars (\$12,000,000).

(B)(i) The Department of Higher Education shall return to the Office of the

Arkansas Lottery the excess funding, if any, for scholarship awards under this subchapter the Department of Higher Education received under § 23-115-801.

(ii) The office shall deposit any funds received from the Department of Higher Education under this subdivision (e)(2)(B) into a trust account established under § 23-115-801(b).

(C) Priority for scholarships awarded to nontraditional students and current achiever students is based on:

(i) The applicant's level of progress toward completion of a certificate, an associate degree, a nursing diploma, a baccalaureate degree, or a graduate-level or professional degree; or

(ii) Other criteria established by the Department of Higher Education.

(3) The scholarship award for an academic year for a full-time student enrolled in one (1) of the following institutions of higher education is one thousand dollars (\$1,000) for the first year and three thousand dollars (\$3,000) for the second year:

(A) A two-year approved institution of higher education;

(B) A branch campus of a four-year approved institution of higher education; or

(C) An approved nursing school.

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

(A) One-half ($\frac{1}{2}$) of the award amount for a full-time student recipient, if the recipient is enrolled in at least six (6) semester hours but less than nine (9) semester hours; or

(B) Three-quarters ($\frac{3}{4}$) of the award amount for a full-time student recipient, if the recipient is enrolled in at least nine (9) semester hours but less than the number of hours required for a full-time student recipient.

(5) A current recipient who maintains eligibility for the scholarship under this subchapter shall continue to receive the scholarship award amount first awarded to the recipient.

(6) The Department of Higher Education shall give priority for a scholarship award to a full-time or part-time student:

(A) Who meets the eligibility requirements under this subchapter; and

(B) Whose parent, by birth or legal adoption:

(i) Was a resident of the State of Arkansas at the time that person entered the service of the United States Armed Forces or whose official residence is in Arkansas; and

(ii) Was a member of the United States Armed Forces who was killed while performing military duty:

(a) In a status identified under 32 U.S.C. § 101 et seq. or 10 U.S.C. § 101 et seq. as they existed on January 1, 2011; or

(b) In state active duty status.

(f) Annually by December 15, the Legislative Council shall provide to the General Assembly its recommendations for any changes to the:

(1) Award amounts;

(2) Number or type of scholarships; and

(3) Eligibility requirements.

(g) It is the intent of the General Assembly that in determining award amounts under this subchapter the General Assembly will consider whether sufficient funds will be available to pay for scholarship awards through the anticipated completion of the degree or certificate a recipient is seeking.

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

(i)(1) If the Department of Higher Education has less than a sufficient amount from net proceeds from the state lottery to provide for the scholarship commitments under this subchapter, the Department of Higher Education shall give priority for continued financial support under this subchapter to a student with continuing eligibility superior to first-time applicants.

(2) If the funding is insufficient to fully fund the scholarships for students with continuing eligibility created under this subchapter, the Department of Higher Education shall award scholarships based upon the following criteria to students with continuing eligibility as follows:

(A) First, to students who have the highest level of progress toward completion of a certificate, an associate degree, a baccalaureate degree, or a graduate-level or professional degree, and who are enrolled in a program of study that is:

(i) In an area of critical workforce need as determined by the Department of Higher Education; or

(ii) In a science, technology, engineering, or mathematics field;

(B) Second, to students who have the highest level of progress toward completion of a certificate, an associate degree, a baccalaureate degree, or a graduate-level or

professional degree, and who are enrolled in a program of study other than those listed in subdivision (i)(2)(A) of this section; and

(C) Last, in the event funding is insufficient to fully fund students under subdivision (i)(2)(A) or subdivision (i)(2)(B) of this section, to students who have the highest postsecondary grade point average.

(3)(A) If after funding all students with continuing eligibility under this section funding is insufficient to fund all qualified first-time applicants, the Department of Higher Education shall award scholarships to first-time applicants in order of priority based upon the applicants' highest ACT or ACT equivalent scores.

(B) If after prioritizing first-time applicants based upon the applicants' ACT or ACT equivalent scores funding is insufficient to fund all applicants with like ACT or ACT equivalent scores, the Department of Higher Education shall determine who receives an award by random drawing.

(j) [Repealed.]

History. Acts 2009, No. 605, § 4; 2009, No. 606, § 4; 2009, No. 1405, §§ 15-22; 2010, No. 265, §§ 11-13; 2010, No. 294, §§ 11-13; 2011, No. 207, §§ 12-14; 2011, No. 825, § 1; 2011, No. 1180, § 1; 2013, No. 234, §§ 1-3; 2015, No. 218, §§ 8-10; 2015, No. 1105, §§ 3-6; 2015, No. 1250, §§ 2, 3; 2015, No. 1258, §§ 8, 9; 2017, No. 597, §§ 6-12; 2017, No. 613, §§ 1, 2; 2017, No. 1008, § 6; 2017, No. 1041, § 1.

A.C.R.C. Notes. Pursuant to § 1-2-207, subdivision (e)(1) of this section is set out above as amended by Acts 2015, No. 1250, §§ 2, 3. Subdivision (e)(1) of this section was also amended by Acts 2015, No. 1105, § 3 to read as follows:

(e)(1)(A) Beginning with the 2016-2017 academic year, the scholarship award amount under this subchapter for an academic year for a full-time recipient enrolled in a four-year approved institution of higher education is:

“(i) One thousand dollars (\$1,000) for a recipient in his or her freshman year;

“(ii) Four thousand dollars (\$4,000) for a recipient in his or her sophomore year;

“(iii) Four thousand dollars (\$4,000) for a recipient in his or her junior year; and

“(iv) Five thousand dollars (\$5,000) for a recipient in his or her senior year.

(B) The Department of Higher Education shall not accept new applications for scholarships for current achiever students under § 6-85-209 after June 1, 2012.”

Acts 2015, No. 1250, § 4, provided: “For the 2015-2016 school year, a student participating in the Arkansas Academic Challenge Scholarship Program — Part 2 may elect to be subject to the provisions of § 6-85-212(e)(1)(A) in effect for the 2016-2017 school year and thereafter.”

Acts 2015, No. 1258, § 1, provided: “LEGISLATIVE FINDINGS.

The General Assembly finds:

“(1) Amendment 92 to the Arkansas Constitution states in part: ‘The General Assembly may provide by law for the review by a legislative committee of administrative rules promulgated by a state agency before the administrative rules become effective; and that administrative rules promulgated by a state agency shall not become effective until reviewed and approved by the legislative committee charged by law with the review of administrative rules under subdivision (a)(1) of this section’;

“(2) As Amendment 92 does not define the term ‘state agency’, the General Assembly may establish a definition by law as part of its implementation of Amendment 92;

“(3) The General Assembly at this time wishes to exclude the Arkansas State Game and Fish Commission, the State Highway Commission, the Arkansas State Highway and Transportation Department, and institutions of higher education from the definition of ‘state agency’ applied to the implementation of Amendment 92; and

“(4) The General Assembly or the Legislative Council reserve the right to amend the definition of ‘state agency’ in the future to include one (1) or all of the Arkansas State Game and Fish Commission, the State Highway Commission, the Arkansas State Highway and Transportation Department, and institutions of higher education.”

Publisher’s Notes. Acts 2015, No. 1258, §§ 8, 9 specifically amended this section as amended by Acts 2015, No. 218.

Acts 2017, No. 1041, § 1 specifically amended this section as amended by Acts 2017, No. 597, § 8.

Amendments. The 2009 amendment deleted the (a)(1) designation; made a grammatical correction in (a); inserted “nursing diploma” in (e)(2)(B); rewrote (e)(4); redesignated the second occurrences of (c) through (g) as (f) through (j); deleted “made in July of the immediately preceding calendar year” at the end of (g); and added (k).

The 2010 amendment by identical acts Nos. 265 and 294 deleted “and to students near completion under § 6-85-209” near the end of (c); added (e)(1)(B) and (C); rewrote (e)(1)(A); inserted present (e)(2)(B) and redesignated former (e)(2)(B) as (e)(2)(C); in (e)(2)(A), substituted “department” for “Department of Higher Education” and “of twelve million dollars (\$12,000,000), excluding any funding for nontraditional student scholarships under subdivision (e)(1)(C) of this section” for “up to eight million dollars (8,000,000)”; inserted “and current achiever students” in (e)(2)(C); redesignated former (f)(1)(A)-(C) as (f)(1)-(3); deleted former (f)(2) and (g); redesignated former (h)-(k) as present (g)-(j); in (g), substituted “It is the intent of the General Assembly that in determining award amounts under this subchapter the General Assembly will consider whether” for “The department shall ensure that,” substituted “will be” for “remain,” and deleted “and report the balance of those funds to the General Assembly before the amount of awards under this subchapter are increased by the General Assembly” from the end; and, in (i)(1), inserted “from net proceeds from the state lottery,” substituted “funds from any” for “the department’s,” inserted “made to the department,” and added “before requesting funds from the Scholarship Shortfall Reserve Trust Account under § 23-115-802” at the end.

The 2011 amendment by No. 207 substituted “one (1) of the following institutions” for “a two-year approved institution” in (e)(3); added (e)(3)(A) through (e)(3)(C); substituted “Annually by December 15” for “By November 1 of each year” in the introductory language of (f); deleted “first shall use funds from any Scholarships and Grants Contingency Appropriation made to the department to fund the shortfall before requesting funds from the Scholarship Shortfall Reserve Trust Account under § 23-115-802” at the end of (i)(1); and redesignated former (i)(3) as present (i)(2).

The 2011 amendment by No. 825 added (e)(5).

The 2011 amendment by No. 1180, in (e)(1)(A), inserted "Beginning with the 2011-2012 academic year" and substituted "four thousand five hundred dollars (\$4,500)" for "five thousand dollars (\$5,000)"; deleted former (e)(1)(B) and (e)(1)(C); deleted "excluding any funding for nontraditional student scholarships under subdivision (e)(1)(C) of this section" at the end of (e)(2)(A); and inserted (e)(5).

The 2013 amendment, in the introductory language of (e)(1)(A), substituted "2013-2014" for "2011-2012" and deleted "four thousand five hundred dollars (\$4,500)" at the end; added (e)(1)(A)(i) through (e)(1)(A)(iv); redesignated former (e)(2)(A) as (e)(2)(A)(i), and added (e)(2)(A)(ii); and rewrote the introductory language of (e)(3).

The 2015 amendment by No. 218 substituted "Office of the Arkansas Lottery" for "Arkansas Lottery Commission" in (e)(2)(B)(i); substituted "office" for "commission" in (e)(2)(B)(ii); substituted "Arkansas Lottery Legislative Oversight Committee" for "Arkansas Lottery Commission Legislative Oversight Committee" in the introductory language of (f) and in (j); and, in (j), deleted "there exist" preceding "sufficient" and inserted "exist" following "proceeds."

The 2015 amendment by No. 1105, §§ 4-6, inserted "up to" preceding "sixteen million" in (e)(2)(A)(ii); substituted "one thousand dollars (\$1,000) for the first year and three thousand dollars (\$3,000) for the second year" for "two thousand dollars (\$2,000)" in (e)(3); substituted "student with" for "recipient who has" in (i)(1); rewrote (i)(2); and added (i)(3).

The 2015 amendment by No. 1250 rewrote (e)(1)(A); and added (e)(1)(C).

The 2015 amendment by No. 1258 substituted "Legislative Council" for "Arkansas Lottery Legislative Oversight Committee" in the introductory language of (f) and in (j).

The 2017 amendment by No. 597 substituted "the scholarship" for "a five-thousand-dollar scholarship" in (e)(1)(A)(iv)(b); added (e)(1)(A)(iv)(c) and (e)(1)(D); rewrote (e)(2)(C); added "or a graduate-level or professional degree" in (i)(2)(A) and (i)(2)(B); substituted "Department of Higher Education" for "department" in (e)(2)(C)(ii); deleted (j); and made stylistic changes.

The 2017 amendment by No. 613 rewrote (e)(2)(A); inserted "under this subchapter" in (e)(2)(B)(i); and deleted (j).

The 2017 amendment by No. 1008, in (e)(1)(C)(i), inserted "first-time", substituted "college or university transcript if the first-time recipient has earned any semester credit hours" for "transcript", and substituted "a date determined by the department prior to the academic year for which the first-time recipient will receive an initial scholarship award" for "June 1 each year" at the end.

The 2017 amendment by No. 1041, in (e)(1)(D)(i), added "An applicant may elect for" at the beginning and substituted "to be only those" for "are those" in the middle; and added "If an applicant makes the election under subdivision (e)(1)(D)(i) of this section" at the beginning of (e)(1)(D)(ii); and made stylistic changes.

Effective Dates. Acts 2015, No. 1105, § 8: July 1, 2016. Effective date clause provided: "Sections 1 through 5 of this act are effective on July 1, 2016."

The amendment to subsection (i) of this section by Acts 2015, No. 1105, § 6 is effective April 6, 2015, pursuant to § 9 of Act 1105. The amendments to subsection (e) of this section by Act 1105, §§ 4, 5 are effective July 1, 2016, pursuant to § 8 of Act 1105.

6-85-213. Nursing school eligibility.

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

(2) It is the intent of this section to allow the Department of Higher Education the opportunity, under specific circumstances, to include an approved school of nursing that would not otherwise be an approved institution of higher education in the Arkansas Academic Challenge Scholarship Program.

(b) The department shall make awards to applicants attending an approved school of nursing under this section if the recipient meets continuing eligibility requirements in § 6-85-210.

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

History. Acts 2009, No. 605, § 4; 2009, No 606, § 4; 2009, No. 1405, § 23.

Amendments. The 2009 amendment rewrote the section.

6-85-214. Accountability — Transparency — Legislative oversight.

(a) The General Assembly finds that:

(1) The continual evaluation of the Arkansas Academic Challenge Scholarship Program and of all state-supported scholarship and grant programs by the General Assembly is critical for maximizing the benefits to the state and its citizens of state financial aid for higher education and meeting state objectives for higher education; and

(2) Accountability and transparency in the implementation of state-supported scholarship programs are fundamental to a proper evaluation of the programs.

(b) The General Assembly finds that the collection of data and the reports required under §§ 6-85-216 — 6-85-220 and § 6-60-901 et seq. are necessary to ensure accountability and transparency.

History. Acts 2009, No. 605, § 4; 2009, No. 606, § 4; 2013, No. 1173, § 10.

Amendments. The 2013 amendment in (b) substituted “6-85-216” for “6-85-215” and added “and § 6-60-901 et seq.”

6-85-215. [Repealed.]

Publisher's Notes. This section, concerning student consent form, was repealed by Acts 2013, No. 1173, § 11. The section was derived from Acts 2009, No. 605, § 4; 2009, No. 606, § 4; 2010, No. 265, § 14; 2010, No. 294, § 14; 2011, No. 207, §§ 15, 16; 2011, No. 635, § 1.

6-85-216. Institution report to the department.

(a)(1) An approved institution of higher education that enrolls students receiving scholarships under this subchapter annually shall provide information and semiannually provide updated information to the Department of Higher Education regarding all state-supported student financial assistance whether or not the state-supported student financial assistance is awarded under this subchapter.

(2) The information shall be provided in the form of individual student records and shall include without limitation information regarding:

(A) State-supported student financial assistance;

(B) Demographic student data; and

(C) Disaggregated data on remedial courses.

(3)(A) An approved institution of higher education shall undertake the procedures necessary to ensure the collection and reporting of student information under this section.

(B) An approved institution of higher education may lose its approved status for receiving scholarship funds on behalf of a recipient under this subchapter if it fails to make a good-faith effort to comply with this section.

(C) In addition to the provisions of subdivision (a)(3)(B) of this section, an institution of higher education that does not comply with this section shall not be eligible to accept state aid from the Higher Education Grants Fund Account on behalf of a student.

(b) The department shall establish by rule the:

(1) Specific data required;

(2) Manner of reporting the information required; and

(3) Technology or software required for reporting.

(c) The department shall use the information provided under this section to conduct the research and analysis needed to support the annual report of the Director of the Department of Higher Education to the Legislative Council under § 6-85-205.

History. Acts 2009, No. 605, § 4; 2009, No. 606, § 4; 2013, No. 1173, § 12; 2015, No. 218, §

11; 2015, No. 1258, § 10.

A.C.R.C. Notes. Acts 2015, No. 1258, § 1, provided: “LEGISLATIVE FINDINGS.

The General Assembly finds:

“(1) Amendment 92 to the Arkansas Constitution states in part: ‘The General Assembly may provide by law for the review by a legislative committee of administrative rules promulgated by a state agency before the administrative rules become effective; and that administrative rules promulgated by a state agency shall not become effective until reviewed and approved by the legislative committee charged by law with the review of administrative rules under subdivision (a)(1) of this section’;

“(2) As Amendment 92 does not define the term ‘state agency’, the General Assembly may establish a definition by law as part of its implementation of Amendment 92;

“(3) The General Assembly at this time wishes to exclude the Arkansas State Game and Fish Commission, the State Highway Commission, the Arkansas State Highway and Transportation Department, and institutions of higher education from the definition of ‘state agency’ applied to the implementation of Amendment 92; and

“(4) The General Assembly or the Legislative Council reserve the right to amend the definition of ‘state agency’ in the future to include one (1) or all of the Arkansas State Game and Fish Commission, the State Highway Commission, the Arkansas State Highway and Transportation Department, and institutions of higher education.”

Publisher’s Notes. Acts 2015, No. 1258, § 10 specifically amended this section as amended by Acts 2015, No. 218.

Amendments. The 2013 amendment added (a)(3).

The 2015 amendment by No. 218 substituted “Arkansas Lottery Legislative Oversight Committee” for “Arkansas Lottery Commission Legislative Oversight Committee” in (c).

The 2015 amendment by No. 1258 substituted “Legislative Council” for “Arkansas Lottery Legislative Oversight Committee” in (c).

6-85-217. Information provided to the Bureau of Legislative Research by the Department of Higher Education.

The Department of Higher Education shall provide the following data to the Bureau of Legislative Research through the Arkansas Higher Education Information System under § 6-60-901 et seq., for the purpose of assisting the General Assembly with evaluation and analysis under this subchapter:

- (1) Existing individual student data;
- (2) Institutional data;
- (3) Financial data;

(4) Aggregate student scholarship and grant application and award data;

(5) Remedial course data; and

(6) Other data needed to track scholarship and grant students receiving state-supported student financial assistance from year to year.

History. Acts 2009, No. 605, § 4; 2009, No. 606, § 4; 2010, No. 265, §§ 15, 16; 2010, No. 294, §§ 15, 16; 2011, No. 207, § 17; 2013, No. 1173, § 13.

A.C.R.C. Notes. The 2013 amendment omitted subsections (c) through (f) without striking through the language to indicate its repeal.

Amendments. The 2010 amendment by identical acts Nos. 265 and 294 substituted “Department of Higher Education’s” for “department’s” in (b)(3)(A); and substituted “Department of Higher Education” for “department” in (f).

The 2011 amendment inserted “receiving state-supported student financial assistance” in (a)(1)(E); and inserted (a)(2) through (a)(5).

The 2013 amendment rewrote the section.

6-85-218. [Repealed.]

Publisher’s Notes. This section, concerning the creation of the advisory council, was repealed by Acts 2010, Nos. 265 and 294, § 17. The section was derived from Acts 2009, No. 605, § 4; 2009, No. 606, § 4; 2009, No. 1405, § 24.

6-85-219. Reports to legislative committees.

(a)(1) Annually by November 1, the Department of Higher Education shall report to the Legislative Council in the manner and format that the Legislative Council requires on all state-supported student financial assistance awarded by the department and awarded by approved institutions of higher education.

(2) The information provided shall include without limitation:

(A) Current year expenditures for scholarships and grants under the Arkansas Academic Challenge Scholarship Program — Part 2;

(B) Projected obligations for succeeding years from each scholarship or grant funding source;

(C) Fund balances for the:

(i) Higher Education Grants Fund Account; and

(ii) Trust accounts maintained by the Director of the Department of Higher Education to hold the net proceeds from the state lottery;

(D) An evaluation of whether the net proceeds from the state lottery available for the program supplement and do not supplant nonlottery state educational resources; and

(E) Other information that the Legislative Council or the General Assembly requests.

(b) Annually by December 1, the department shall report to the Legislative Council its recommendations for changes to the program, including without limitation:

(1) Adjustments to the eligibility requirements of the program; and

(2) Increases or decreases in the amounts awarded for a scholarship under the program based on the amount of net proceeds from the state lottery available.

(c) Annually by December 31, the department shall report to the Legislative Council the following information on recipients of the Arkansas Academic Challenge Scholarship Program — Part 2 who applied as of June 1:

(1) Race;

(2) Grade point average;

(3) Composite score on the ACT or the equivalent score on an ACT equivalent; and

(4) Family or individual income as reported on the student's Free Application for Federal Student Aid (FAFSA).

History. Acts 2009, No. 605, § 4; 2009, No. 606, § 4; 2013, No. 1173, § 14; 2013, No. 1269, § 1; 2015, No. 218, § 12; 2015, No. 1258, § 11; 2017, No. 868, § 1.

A.C.R.C. Notes. Act 1173 of 2013 omitted subsections (c) and (d) without striking through the language to indicate its repeal.

Acts 2015, No. 1258, § 1, provided: "LEGISLATIVE FINDINGS.

The General Assembly finds:

"(1) Amendment 92 to the Arkansas Constitution states in part: 'The General Assembly may provide by law for the review by a legislative committee of administrative rules promulgated by a state agency before the administrative rules become effective; and that administrative rules promulgated by a state agency shall not become effective until reviewed and approved by the legislative committee charged by law with the review of administrative rules under subdivision (a)(1) of this section';

“(2) As Amendment 92 does not define the term ‘state agency’, the General Assembly may establish a definition by law as part of its implementation of Amendment 92;

“(3) The General Assembly at this time wishes to exclude the Arkansas State Game and Fish Commission, the State Highway Commission, the Arkansas State Highway and Transportation Department, and institutions of higher education from the definition of ‘state agency’ applied to the implementation of Amendment 92; and

“(4) The General Assembly or the Legislative Council reserve the right to amend the definition of ‘state agency’ in the future to include one (1) or all of the Arkansas State Game and Fish Commission, the State Highway Commission, the Arkansas State Highway and Transportation Department, and institutions of higher education.”

Publisher’s Notes. Acts 2015, No. 1258, § 11 specifically amended this section as amended by Acts 2015, No. 218.

Amendments. The 2013 amendment by No. 1173 rewrote the section.

The 2013 amendment by No. 1269 added (c).

The 2015 amendment by No. 218 substituted “Arkansas Lottery Legislative Oversight Committee” for “Arkansas Lottery Commission Legislative Oversight Committee” or “committee” throughout the section; substituted “Arkansas Academic Challenge Scholarship Program — Part 2” for “program” in (a)(2)(A); substituted “a scholarship under the program” for “an Arkansas Academic Challenge Scholarship” in (b)(2); and substituted “department” for “Department of Higher Education” in (c).

The 2015 amendment by No. 1258 substituted “Legislative Council” for “Arkansas Lottery Legislative Oversight Committee” throughout the section.

The 2017 amendment substituted “November” for “August” in (a)(1).

6-85-220. Legislative Council — Annual report.

(a) The Legislative Council shall:

(1) Oversee the development and implementation of Arkansas Code requirements with regard to the Arkansas Academic Challenge Scholarship Program;

(2) Review whether and how the use of net state lottery proceeds helps to accomplish state objectives for higher education;

(3) Review the ongoing data collection, research, and evaluation of the program;

(4) Review the annual report of the Director of the Department of Higher Education under § 6-85-219;

(5) Review and recommend changes to the:

(A) Number of awards for each scholarship and grant;

(B) Award levels;

(C) Eligibility requirements; and

(D) Overall administration of the program; and

(6) Review and recommend policies for scholarships and grants funded with nonlottery state educational resources, including without limitation ways to ensure that net proceeds from the state lottery are used to supplement and not supplant nonlottery state educational resources.

(b) Annually by December 15, the Legislative Council shall report its findings and recommendations to the Office of the Arkansas Lottery, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Governor, the House Committee on Education, and the Senate Committee on Education.

History. Acts 2009, No. 605, § 4; 2009, No. 606, § 4; 2011, No. 207, § 18; 2015, No. 218, § 12; 2015, No. 1258, § 11.

A.C.R.C. Notes. Acts 2015, No. 1258, § 1, provided: “LEGISLATIVE FINDINGS.

The General Assembly finds:

“(1) Amendment 92 to the Arkansas Constitution states in part: ‘The General Assembly may provide by law for the review by a legislative committee of administrative rules promulgated by a state agency before the administrative rules become effective; and that administrative rules promulgated by a state agency shall not become effective until reviewed and approved by the legislative committee charged by law with the review of administrative rules under subdivision (a)(1) of this section’;

“(2) As Amendment 92 does not define the term ‘state agency’, the General Assembly may establish a definition by law as part of its implementation of Amendment 92;

“(3) The General Assembly at this time wishes to exclude the Arkansas State Game and Fish Commission, the State Highway Commission, the Arkansas State Highway and Transportation Department, and institutions of higher education from the definition of ‘state agency’ applied to the implementation of Amendment 92; and

“(4) The General Assembly or the Legislative Council reserve the right to amend the definition of ‘state agency’ in the future to include one (1) or all of the Arkansas State Game and Fish Commission, the State Highway Commission, the Arkansas State Highway and Transportation Department, and institutions of higher education.”

Publisher’s Notes. Acts 2015, No. 1258, § 11 specifically amended this section as amended by Acts 2015, No. 218.

Amendments. The 2011 amendment substituted “Annually by December 15” for “By November 1 of each year” in (b).

The 2015 amendment by No. 218 substituted “Arkansas Lottery Legislative Oversight Committee” for “Arkansas Lottery Commission Legislative Oversight Committee” in the section heading, in the introductory language of (a), and in (b); and substituted “Office of the Arkansas Lottery” for “Arkansas Lottery Commission” in (b).

The 2015 amendment by No. 1258 substituted "Legislative Council" for "Arkansas Lottery Legislative Oversight Committee" in the section heading, in the introductory language of (a), and in (b).

6-85-221. Scholarship hold.

(a)(1) The Department of Higher Education may approve a scholarship hold for a traditional student for a period of twenty-four (24) months or less.

(2) The reasons for a scholarship hold may include without limitation:

(A) A medical condition of the student or a member of the student's immediate family that, on the basis of a physician's good-faith judgment, necessitates the student or the student's immediate family member to be hospitalized or receive outpatient or home-based medical care or to recuperate until released by the attending physician;

(B) A personal or family emergency that requires the student to:

(i) Attend the funeral of an immediate family member; or

(ii) Visit a relative of the student if the relative has a medical condition in which death is possible or imminent;

(C) Military service under § 6-61-112; or

(D)(i) A commitment of twelve (12) to twenty-four (24) months for service in a national or international humanitarian project sponsored by a nonprofit corporation organized with a charitable or educational purpose.

(ii) The student's commitment shall be expressed in a written agreement with the nonprofit organization including the terms of completion for the student's service on the related project.

(iii) The department shall release a scholarship hold if the department determines that the student did not complete the commitment under the written agreement.

History. Acts 2011, No. 207, § 19.