

Stricken language would be deleted from and underlined language would be added to present law.
Act 218 of the Regular Session

State of Arkansas *As Engrossed: S1/15/15 S1/27/15 S2/3/15*
90th General Assembly
Regular Session, 2015

A Bill

SENATE BILL 7

By: Senator Hickey

By: Representative Lundstrum

For An Act To Be Entitled

AN ACT TO ABOLISH THE ARKANSAS LOTTERY COMMISSION; TO ESTABLISH THE OFFICE OF THE ARKANSAS LOTTERY WITHIN THE MANAGEMENT SERVICES DIVISION OF THE DEPARTMENT OF FINANCE AND ADMINISTRATION BY A TYPE 3 TRANSFER TO ADMINISTER THE ARKANSAS LOTTERY; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO ABOLISH THE ARKANSAS LOTTERY COMMISSION; TO ESTABLISH THE OFFICE OF THE ARKANSAS LOTTERY WITHIN THE DEPARTMENT OF FINANCE AND ADMINISTRATION TO ADMINISTER THE ARKANSAS LOTTERY; AND TO DECLARE AN EMERGENCY.

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

SECTION 1. DO NOT CODIFY. 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.



SECTION 2. Arkansas Code § 5-55-501(b)(1), concerning lottery fraud, is amended to read as follows:

(1) Falsely makes, alters, forges, utters, passes, or counterfeits a ticket or share in a lottery with a purpose to defraud the Office of the Arkansas Lottery Commission; or

SECTION 3. Arkansas Code § 6-60-902(b)(2)(B)(ii), concerning the Arkansas Higher Education Information System, is amended to read as follows:

(ii) Disclose to the bureau and to the Arkansas Lottery ~~Commission~~ Legislative Oversight Committee the method of electronic blocking or redaction the Department of Higher Education will use under this subsection.

SECTION 4. Arkansas Code § 6-60-903(b), concerning compliance by institutions of higher education, is amended to read as follows:

(b) Within two (2) weeks of an institution of higher education's failure to comply with the requirements for submission of data published by the department, the department shall report to the Arkansas Lottery ~~Commission~~ Legislative Oversight Committee:

(1) The name of an institution of higher education that has not complied with the deadline;

(2) The type of data the institution of higher education failed to submit;

(3) The length of time of noncompliance; and

(4) Any additional information requested by the ~~committee~~ Arkansas Lottery Legislative Oversight Committee.

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

(2) The Arkansas Lottery ~~Commission~~ Legislative Oversight Committee shall perform the function of the Legislative Council required by law for the review of a proposed rule or proposed change to a rule promulgated by the Department of Higher Education under this subchapter.

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

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

SECTION 7. Arkansas Code § 6-85-205(g), concerning the authority and duties of the Department of Higher Education, is amended to read as follows:

(g)(1)(A) By July 15 of each year, the Director of the Department of Higher Education shall provide a report to the Arkansas Lottery ~~Commission~~ Legislative Oversight Committee 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 Arkansas Lottery ~~Commission~~ Legislative Oversight Committee.

(B) The Arkansas Lottery ~~Commission~~ Legislative Oversight Committee 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 Arkansas Lottery ~~Commission~~ Legislative Oversight Committee an unaudited financial report on the administration of the Arkansas Academic Challenge Scholarship Program for the fiscal year just ended.

SECTION 8. Arkansas Code § 6-85-212(e)(2)(B), concerning scholarship award amounts, is amended to read as follows:

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

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

SECTION 9. Arkansas Code § 6-85-212(f), concerning scholarship award amounts, is amended to read as follows:

(f) Annually by December 15, the Arkansas Lottery ~~Commission~~ Legislative Oversight Committee 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.*

SECTION 10. Arkansas Code § 6-85-212(j), concerning scholarship award amounts, is amended to read as follows:

(j) When the General Assembly determines that ~~there exist~~ sufficient net lottery proceeds exist to fund students enrolling in certificate, associate degree, and baccalaureate degree programs, the department shall submit recommendations to the Arkansas Lottery ~~Commission~~ Legislative Oversight Committee for the award of scholarships and grants to certain graduate and professional programs at approved institutions of higher education.

SECTION 11. Arkansas Code § 6-85-216(c), concerning an institution report to the Department of Higher Education, is amended to read as follows:

(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 Arkansas Lottery ~~Commission~~ Legislative Oversight Committee under § 6-85-205.

SECTION 12. Arkansas Code § 6-85-219 and 6-85-220 are amended to read as follows:

6-85-219. Reports to legislative committees.

(a)(1) Annually by August 1, the Department of Higher Education shall report to the Arkansas Lottery ~~Commission~~ Legislative Oversight Committee in the manner and format that the ~~committee~~ Arkansas Lottery Legislative Oversight Committee 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 ~~program~~ 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 Arkansas Lottery ~~Commission~~ Legislative Oversight Committee or the General Assembly requests.

(b) Annually by December 1, the department shall report to the Arkansas Lottery ~~Commission~~ Legislative Oversight Committee 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 ~~an Arkansas Academic Challenge Scholarship~~ a scholarship under the program based on the amount of net proceeds from the state lottery available.

(c) Annually by December 31, the ~~Department of Higher Education~~ department shall report to the Arkansas Lottery ~~Commission~~ Legislative Oversight Committee 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.

6-85-220. Arkansas Lottery ~~Commission~~ Legislative Oversight Committee – Annual report.

(a) The Arkansas Lottery ~~Commission~~ Legislative Oversight Committee

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 Arkansas Lottery ~~Commission~~ Legislative Oversight Committee shall report its findings and recommendations to the Office of the Arkansas Lottery Commission, 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.*

SECTION 13. Arkansas Code § 19-4-201(b)(2), concerning the authority of the Governor, is amended to read as follows:

- (2) *Budget requests for administration and operation of the legislative branch, the judicial branch, the elective constitutional offices, the Arkansas State Highway and Transportation Department, the Office of the Arkansas Lottery Commission, and the Arkansas State Game and Fish Commission shall be submitted directly to the Legislative Council without any recommendation by the Governor.*

SECTION 14. Arkansas Code § 19-4-607(a), concerning review and approval of annual operations plans, is amended to read as follows:

(a) Each state agency other than the elected constitutional officers, the legislative branch and its staff offices, the judicial branch and its staff offices, the Arkansas State Highway and Transportation Department, the Office of the Arkansas Lottery Commission, the state-supported institutions of higher education, and the Arkansas State Game and Fish Commission shall prepare an annual operations plan for the operation of each of its assigned programs for submission to the Chief Fiscal Officer of the State.

SECTION 15. Arkansas Code § 19-4-801(2)(B)(xii), concerning definitions, is amended to read as follows:

(xii)(a) Office of the Arkansas Lottery Commission.

(b) However, the ~~Arkansas Lottery Commission~~ office shall be considered a state agency for the purposes of §§ 19-4-810—~~19-4-816 et seq.~~;

SECTION 16. Arkansas Code § 19-4-1303 is amended to read as follows:
19-4-1303. Exemptions.

Funds disbursed by the Arkansas State Highway and Transportation Department, the Arkansas State Game and Fish Commission, and the Office of the Arkansas Lottery Commission and the funds appropriated in the general appropriation bill provided for in Arkansas Constitution, Article 5, § 30, shall be exempt from this subchapter.

SECTION 17. Arkansas Code § 19-4-1415(b)(5), concerning projects exceeding five million dollars, is amended to read as follows:

(5) The Board of Trustees of the University of Arkansas, and the Board of Trustees of Arkansas State University, ~~and the Arkansas Lottery Commission~~ shall be exempt from review and approval by the authority and any regulations promulgated by it, provided that the Board of Trustees of the University of Arkansas, and the Board of Trustees of Arkansas State University, ~~and the Arkansas Lottery Commission~~ have adopted policies and procedures involving the awarding and oversight of the contracts for design and construction services.

SECTION 18. Arkansas Code § 19-4-1612(b)(2), concerning overtime pay, is amended to read as follows:

(2)(A) *The Chief Fiscal Officer of the State will specify those specific employees or groups of employees other than employees of the Arkansas State Highway and Transportation Department ~~and the Arkansas Lottery Commission~~ eligible to receive overtime compensation, the circumstances under which overtime pay is to be allowed, and such other matters which the Chief Fiscal Officer of the State may deem appropriate and necessary to comply with the federal Fair Labor Standards Act as regards the payment of overtime compensation.*

(B) *The Director of State Highways and Transportation shall make these determinations as to employees of the Arkansas State Highway and Transportation Department.*

~~(C) The Director of the Arkansas Lottery Commission shall make these determinations as to employees of the Arkansas Lottery Commission.~~

*SECTION 19. Arkansas Code § 19-5-1138 is amended to read as follows:
19-5-1138. Lottery ~~Commission~~ Trust Fund.*

(a) *There is hereby created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a trust fund to be known as the "Lottery ~~Commission~~ Trust Fund".*

(b) *The Lottery ~~Commission~~ Trust Fund shall consist of funds transferred from the Budget Stabilization Trust Fund.*

(c) *The Lottery ~~Commission~~ Trust Fund shall also consist of other moneys as may be authorized by law.*

(d) *The Lottery ~~Commission~~ Trust Fund shall be used for personal services and operating expenses associated with the Office of the Arkansas Lottery Commission.*

SECTION 20. Arkansas Code § 19-10-212(b), concerning reports of state agency liability, is amended to read as follows:

(b) *The Office of the Arkansas Lottery Commission shall file its report under subsection (a) of this section with the Arkansas Lottery ~~Commission~~ Legislative Oversight Committee.*

SECTION 21. Arkansas Code § 19-11-203(14)(AA), concerning Arkansas Procurement Law definitions, is repealed.

~~(AA) Major procurement contracts of the Arkansas Lottery~~

~~Commission under § 23-115-103;~~

SECTION 22. Arkansas Code § 19-11-220(a)(2), concerning the authority to designate an agency procurement official, is repealed.

~~(2) Arkansas Lottery Commission;~~

SECTION 23. Arkansas Code § 19-11-1003(d), concerning the Arkansas Lottery Commission exemption for major procurement contracts, is repealed.

~~(d) This subchapter does not apply to major procurement contracts of the Arkansas Lottery Commission under § 23-115-103.~~

SECTION 24. Arkansas Code § 19-11-1103, concerning the procurement of certain technology contracts, is repealed.

~~19-11-1103. Exemptions.~~

~~This subchapter does not apply to major procurement contracts of the Arkansas Lottery Commission under § 23-115-103.~~

SECTION 25. Arkansas Code Title 23, Chapter 115, is amended to read as follows:

CHAPTER 115

ARKANSAS SCHOLARSHIP LOTTERY ACT

Subchapter 1 – General Provisions

23-115-101. Short title.

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

23-115-102. Legislative intent.

It is found and declared by the General Assembly that:

(1) Net proceeds of lotteries conducted under this chapter shall be used to:

(A) Fund and provide for scholarships and grants to citizens of the State of Arkansas enrolled in public and private nonprofit two-year and four-year colleges and universities located within the state; and

(B) Supplement, not supplant, nonlottery educational resources;

(2) Lotteries shall be operated and managed in a manner that:

(A) Provides continuing entertainment to the public;

(B) Maximizes revenues 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 Commission shall be accountable to the General Assembly and to the public through a system of audits and reports.

23-115-103. Definitions.

As used in this chapter:

(1) "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 Commission in any matter other than a claim in contract or in tort, including without limitation licensing, in which the ~~Arkansas Lottery Commission~~ 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 ~~Arkansas Lottery Commission~~ 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, ~~stepgrandchild~~ 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 ~~Arkansas Lottery Commission~~ office to an individual to operate as a retailer, including without limitation the execution of a contract between the ~~Arkansas Lottery Commission~~ 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 ~~any member~~ the Director of the Office of the Arkansas Lottery Commission, the Director of the Arkansas Lottery Commission Department of Finance and Administration, any employee of the Arkansas Lottery Commission office, or a member of the Arkansas Lottery Commission Legislative Oversight Committee with the purpose of influencing the actions of the ~~Arkansas Lottery Commission~~ office or the Arkansas Lottery Commission Legislative Oversight Committee;

(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 ~~Arkansas Lottery Commission~~ 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 ~~Arkansas Lottery Commission~~ 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 ~~Arkansas Lottery Commission~~ 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 ~~Arkansas Lottery Commission~~ 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 multisovereign lottery" and "multistate or multisovereign 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 multisovereign lottery" and "multistate or multisovereign 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 Lottery Commission~~ 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 ~~Arkansas Lottery Commission~~ office, including without limitation services provided by the Division of Legislative Audit, the Department of Human Services, and the Department of Finance and Administration; and

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

(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 ~~Arkansas Lottery Commission~~ 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 ~~Arkansas Lottery Commission~~ 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 ~~Arkansas Lottery Commission~~ 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 ~~Arkansas Lottery Commission~~ office under a major procurement contract.

(B) "Vendor" does not include:

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

(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.

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 Commission; 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 Arkansas Lottery ~~Commission~~ Legislative Oversight Committee.

(2) The Department of Higher Education or the ~~commission~~ 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.

Subchapter 2 – Office of the Arkansas Lottery Commission

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

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

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

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

~~23-115-202. Members – Duties.~~

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

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

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

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

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

~~(A) A chair; and~~

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

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

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

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

and

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

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

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

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

and

~~(C) One (1) member shall serve a term of six (6) years,
(3) Of the initial appointees to the commission by the Speaker of the House of Representatives;~~

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

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

and

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(b)(1) An individual considered for appointment to the commission~~

~~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 commission 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 appointing authority all releasable information obtained concerning the applicant.~~

~~(c) An individual shall not be appointed as a commission member if the individual 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.~~

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

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

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

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

23-115-204. Lottery Retailer Advisory Board.

~~(a)(1) The Chair Director of the Office of the Arkansas Lottery Commission, subject to the approval of a majority of a quorum of the Arkansas Lottery Commission, shall appoint a Lottery Retailer Advisory Board to be~~

composed of ten (10) retailers.

(2) In making appointments to the board, the ~~chair~~ 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 ~~commission~~ 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 ~~commission~~ office and the Arkansas Lottery ~~Commission~~ Legislative Oversight Committee in writing at any time.

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

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

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

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

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

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

(a) The Office of the Arkansas Lottery ~~Commission~~ 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 ~~commission~~ office, and to perform other matters as the ~~commission~~ 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 ~~commission's~~ 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 ~~commission~~ office;*
- (11) To employ+

 - ~~*(A) The Director of the Arkansas Lottery Commission; and*~~
 - ~~*(B) An 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 ~~commission~~ 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 ~~commission~~ 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 ~~commission~~ 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 ~~commission~~ office shall seek the advice of the Department of Higher Education when advertising to promote scholarships and grants funded by net proceeds;

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

~~(24)~~(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;

~~(25)(A)~~(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;

~~(26)~~(25) To withhold state and federal income taxes as required by law; and

~~(27)~~(26) To adopt and amend rules necessary to carry out and implement ~~its~~ the office's powers and duties, organize and operate the ~~commission~~ 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 ~~commission~~ office enumerated elsewhere in this chapter; and

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

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

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

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

(i) By July 1, ~~2011~~ 2015, approve a formal, written three-year audit plan; and

(ii) Annually review the audit plan.

(C) ~~The commission or a subcommittee of the commission~~ director 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 the Division of Legislative Audit to have access and authority to audit the computer systems of the vendor or retailer;

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

(5) Inform the division 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 ~~commission~~ 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 ~~commission's~~ office's financial statements in a timely manner;

(7) Make all financial records and related information available to the division, 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 Arkansas Lottery ~~Commission~~ Legislative Oversight Committee 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 ~~commission~~ director shall submit a comprehensive annual financial report to the Governor and to the Arkansas Lottery ~~Commission~~ Legislative Oversight Committee by placing the report on the ~~commission's~~ office's website and providing notice of its availability to the Governor and to the Arkansas Lottery ~~Commission~~ Legislative Oversight Committee.

(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 Arkansas Lottery ~~Commission~~ Legislative Oversight Committee 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 ~~commissioners~~ director of the Arkansas Lottery ~~Commission~~;

(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 ~~commission~~ office or 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 ~~commission~~ 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's report to the Arkansas Lottery ~~Commission~~ Legislative Oversight Committee required ~~under § 6-85-219(b)~~ 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 ~~commission~~ 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 ~~commission~~ office;

(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~~ office 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 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) The division shall annually audit the ~~commission~~ office.

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

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

(3)(A) If the ~~commission~~ office, the General Assembly, the Arkansas Lottery ~~Commission~~ Legislative Oversight Committee, or the Legislative Joint Auditing Committee requests additional audits or performance reviews of the fiscal affairs or operations of the ~~commission~~ office to be conducted by a private certified public accountant or other consultant, the ~~division~~ 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 ~~division~~ Director of the Department of Finance and Administration shall contract for the services which shall be paid directly to the contractor by the ~~commission~~ office.

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

(4) This chapter does not limit the statutory authority of the division or the responsibilities of the ~~commission~~ office or related

entities, retail, advisory board members, employees, vendors, retailers, or any other individuals or entities to cooperate with the division or provide information or records requested by the division.

23-115-207. Rulemaking.

(a) The Office of the Arkansas Lottery ~~Commission~~ 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)(i) All sales of tickets or shares are for cash only.

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

(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 ~~commission~~ office.

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

(ii) The ~~commission~~ 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 ~~commission~~ office elects to use electronic or

mechanical devices to sell tickets or shares, the ~~commission~~ 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 ~~commission~~ office shall publish a notice on the ~~commission's~~ 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 ~~commission~~ 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 ~~commission shall~~ office is not ~~be~~ required to file rules under § 10-3-309.

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

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

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 Commission of the Management Services Division of the Department of Finance and Administration or its employees shall be presented to the Arkansas Lottery Commission office.

(2) The Arkansas Lottery Commission office shall promulgate rules concerning the consideration of claims in contract or in tort presented to the Arkansas Lottery Commission 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 Arkansas Lottery Commission 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 Arkansas State Claims Commission commission a notice of appeal of the decision of the Arkansas Lottery Commission office;

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

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

(3) When the Arkansas Lottery Commission office notifies parties of a decision of the Arkansas Lottery Commission 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 Arkansas Lottery Commission office or its employees shall be conducted by the Arkansas State Claims Commission commission in the same manner as a claim under § 19-10-201 et seq.

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

(2) A decision of the Arkansas State Claims Commission commission relating to a claim in contract or in tort against the Arkansas Lottery Commission office or its employees shall not be appealed to the

General Assembly.

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

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

(C) Upon receipt of notification from the clerk, the ~~Arkansas Lottery Commission~~ 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 Arkansas Lottery ~~Commission~~ Legislative Oversight Committee.

23-115-209. Appealing administrative orders of the ~~commission~~ 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 ~~Commission~~ may appeal that decision to Pulaski County Circuit Court.

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

- (1) Clearly erroneous;
- (2) ~~Arbitrary and capricious;~~
- ~~(3)~~ Procured by fraud;

~~(4)~~(3) A result of substantial misconduct by the ~~commission~~ office; or

~~(5)~~(4) Contrary to the United States Constitution, the Arkansas Constitution, or this chapter.

(c) The circuit court may remand an appeal to the ~~commission~~ 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 ~~commission~~ 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 ~~commission~~ 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.

~~23-115-210.—Removal of commission member.~~

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

- ~~(A) Misconduct;~~
- ~~(B) Incompetence; or~~
- ~~(C) Any malfeasance in office.~~

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

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

- ~~(1) Be in writing;~~
- ~~(2) Be delivered to the removed commission member or counsel for the removed commission member; and~~
- ~~(3) Specifically set out the grounds relied upon for removal.~~

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

~~(2) This petition shall not supersede or stay the order of removal, nor shall any court enter an order to this effect or one that would impair the authority of the appointing authority to appoint a commission member whose service begins immediately upon fulfillment of the normal~~

~~requirements for assuming office.~~

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

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

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

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

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

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

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

23-115-211. Certain sections inapplicable.

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

- ~~(1) Section 19-1-211;~~
- ~~(2) Section 19-1-301 et seq.;~~
- ~~(3) Section 19-1-609;~~
- ~~(4)(2) Section 19-4-1802;~~

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

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

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

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

(1) Assist the ~~commission~~ office in the ~~commission's~~ 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 ~~commission~~ director for ~~commission~~ the director's approval;

(B) Conducting ongoing reviews of the internal procedures, records, and operating procedures of the ~~commission~~ 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 ~~commission~~ director of inconsistencies within or improvements needed to the internal controls, operating procedures, or accounting procedures of the ~~commission~~ office or the lotteries.

(c)(1) The internal auditor shall report to the Arkansas Lottery ~~Commission~~ Legislative Oversight Committee one (1) time per month to:

(A) Advise the Arkansas Lottery ~~Commission~~ Legislative

Oversight Committee concerning current issues and problems reported to the ~~commission~~ director under subsection (b) of this section; and

(B) Update the Arkansas Lottery ~~Commission~~ Legislative Oversight Committee concerning the resolution of any audit findings of the Division of Legislative Audit ~~in the annual financial report for the~~ ~~commission~~.

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

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

(B) The ~~commission~~ office and the division agree that all audit findings are resolved.

Subchapter 3 – Employees of Office of the Arkansas Lottery Commission

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

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

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

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

(3) The director serves at the pleasure of the ~~commission~~ 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 ~~commission~~ 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 ~~commission~~ Governor and the office all releasable information obtained concerning the applicant.

(c) The ~~commission~~ Governor shall not ~~employ~~ 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.

23-115-302. Duties of director.

(a) The Director of the Office of the Arkansas Lottery ~~Commission~~ 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 ~~Commission~~.

(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 ~~for the approval of the commission 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 ~~commission~~ office;

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

(9) Annually by November 15, report to the Arkansas Lottery ~~Commission~~ Legislative Oversight Committee the following:

(A) For the immediately preceding fiscal year:

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

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

(B) The ~~commission's~~ 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 ~~a commission~~ 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 ~~commission~~ 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.

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 ~~Commission~~, including without limitation the Director of the Office of the Arkansas Lottery ~~Commission~~.

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

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

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

(A) Represent a vendor or retailer before the ~~commission~~ office for a period of two (2) years after leaving the employment of the ~~commission~~ 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 ~~commission~~ 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 ~~commission~~ 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 ~~commission~~ 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 ~~commission~~ office all releasable information obtained concerning the applicant.

(f) The ~~commission~~ 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 ~~commission~~ office shall bond a ~~commission~~ an office employee with access to ~~commission~~ office funds or lottery revenue in an amount as provided by the ~~commission~~ office and may bond other ~~commission~~

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.

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

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

(b)(1) ~~A commission~~ An office employee's compensation for retirement purposes includes only the base salary of the employee under § 23-115-305.

(2) ~~A commission~~ An office employee's compensation for retirement purposes does not include a multiplier or other special salary allowance used to increase the employee's salary as authorized by the General Assembly, including without limitation the special salary allowances authorized under § 23-115-306.

23-115-305. Regular salaries.

There is established for the Office of the Arkansas Lottery ~~Commission~~ the following regular employees, the grades to be assigned to the respective positions, and the maximum annual salaries for each such position. The maximum annual salary for the positions assigned to grades shall be determined in accordance with, but shall not exceed, the maximum annual amount for the grade assigned in this section, as established in § 21-5-209. ~~Except for the purpose of determining the maximum annual salary rate, which is to be applicable to each of the positions to which a salary grade is assigned 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.~~

Item

Class

No.	Code	Title	Maximum No. of Employees	Maximum Annual Salary Rate
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(01)	LOTTERY CMSN <u>OFFC</u> DIRECTOR	1	\$141,603
(02)	LOTTERY CMSN <u>OFFC</u> INTERNAL AUDITOR	1	\$141,603
(03)	LOTTERY CMSN <u>OFFC</u> CHIEF OPERATING OFFICER	1	\$126,050
(04)	LOTTERY CMSN <u>OFFC</u> INFORMATION TECH DIR	1	GRADE N912
(05)	LOTTERY CMSN <u>OFFC</u> ADMIN & OPERATIONS DIR	1	GRADE N912
(06)	LOTTERY CMSN <u>OFFC</u> CHIEF LEGAL COUNSEL	1	GRADE N910
(07)	LOTTERY CMSN <u>OFFC</u> CHIEF FISCAL OFFICER	1	GRADE N910
(08)	LOTTERY CMSN <u>OFFC</u> MARKETING & PROD DEV DIR	1	GRADE N909
(09)	LOTTERY CMSN <u>OFFC</u> SALES/RETAIL RELATIONS DIR	1	GRADE N909
(10)	LOTTERY CMSN <u>OFFC</u> PROCUREMENT DIRECTOR	1	GRADE N908
(11)	LOTTERY CMSN <u>OFFC</u> ADMIN ANALYST	2	GRADE C115
(12)	LOTTERY CMSN <u>OFFC</u> ADMIN SUPPORT SUPERVISOR	2	GRADE C113
(13)	LOTTERY CMSN <u>OFFC</u> ADMIN SUPPORT SPEC III	6	GRADE C112

23-115-306. Special salary allowances.

(a) ~~The Arkansas Lottery Commission, upon approval of the Arkansas Lottery Commission Legislative Oversight Committee, Governor~~ may make special salary allowances authorized by this section for recruitment or retention in amounts ~~as the commission may determine~~ determined by the Arkansas Lottery Legislative Oversight Committee to be equitable, in view of the exacting duties that are involved, as a part of the salary of the:

- (1) Director of the Office of the Arkansas Lottery Commission;
- (2) Internal auditor of the ~~commission~~ Office of the Arkansas Lottery; and

(3) Chief operating officer of the ~~commission~~ office.

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

(c)(1) The requirement of approval by the Arkansas Lottery ~~Commission~~ Legislative Oversight 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 Arkansas Lottery ~~Commission~~ Legislative Oversight Committee is ruled unconstitutional by a court of competent jurisdiction, this section is void.

23-115-307. Expansion pool.

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

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

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

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

(e)(1) The requirement of review by the Arkansas Lottery ~~Commission~~ Legislative Oversight Committee before authorizing ~~positions~~ a position from the expansion pool is not a severable part of this section.

(2) If the requirement of review by the Arkansas Lottery ~~Commission~~ Legislative Oversight Committee is ruled unconstitutional by a

court of competent jurisdiction, this section is void.

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

(a) The Office of the Arkansas Lottery Commission 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.

Subchapter 4 – Operation of Lottery

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 Commission encourage participation by minority-owned businesses and female-owned businesses in one (1) or more of the lotteries under this chapter.

(b) The ~~commission~~ 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 ~~taking and takes~~ into account the total number of all retailers and vendors that may participate, including any subcontractors.

(c) The ~~commission~~ 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 commission shall employ staff to assist prospective vendors and retailers with entering into and competing for contracts, including without limitation the development and implementation of the plans and programs under subsections (b) and (c) of this section~~ 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 ~~commission~~ 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 Arkansas Lottery ~~Commission~~ Legislative Oversight Committee

on at least an annual basis.

23-115-402. Restriction on sales.

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

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

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

(b) This chapter does not prohibit the commission 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 commission 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 commission office unless the commission office authorizes in writing any temporary location not listed in the retailer's license.

(e)(1) ~~Tickets or shares~~ A ticket or share shall not be sold or given to ~~individuals~~ 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.

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 withheld honored if timely served upon the Arkansas Lottery Commission office.

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

(c)(1)(A) The ~~commission~~ 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, ~~except that.~~

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

~~(B)(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:

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

~~(ii)(b)~~ No A written notice of revocation has not been received by the ~~commission~~ office before the settlor's death.

~~(G)~~ (ii) Following a settlor's death and before any payment to a successor trustee, the ~~commission~~ office shall obtain from the trustee a written agreement to indemnify and hold the ~~commission~~ office harmless with respect to any claims that may be asserted against the ~~commission~~ 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 ~~arising from claimed tickets that are~~ 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 ~~commission~~ 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 ~~commission~~ 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 ~~commission~~ office at any time may alter the time periods under subdivisions (c)(4)(A) and (B) of this section by rule~~+~~ and~~+~~.

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

~~(B) The commission may request an auditor employed by the Division of Legislative Audit for the purposes of this subdivision (e)(5).~~

(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 ~~commission~~ office is discharged of all liability upon payment of a lottery prize.

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

(A) ~~Member of the commission;~~
~~(B) Employee of the commission office; or~~
~~(C)(B) Member of the immediate family of a member of the commission or an employee of the commission office living in the same household as the member of the commission or 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 ~~the~~:

(A) ~~Officer~~ The officer, employee, agent, or subcontractor of the vendor; or
 (B) ~~Immediate~~ A member of the immediate family of the officer, employee, agent, or subcontractor of the vendor.

(g)(1) During a fiscal year, the ~~commission~~ 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 ~~commission~~ 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 ~~commission~~ office shall include in its monthly reports to the Arkansas Lottery ~~Commission~~ Legislative Oversight Committee 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.

23-115-404. Confidential information.

(a)(1) Except as provided in subdivision (a)(2) of this section, the Office of the Arkansas Lottery Commission 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) The Division of Legislative Audit shall have full access to the records of the ~~commission~~ office.

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

(a) The Office of the Arkansas Lottery Commission 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 ~~commission~~ 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.

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.

23-115-407. Video lotteries prohibited.

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

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.

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.

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

(a) The Office of the Arkansas Lottery Commission shall provide an annual amount of at least two hundred thousand dollars (\$200,000) for:

- (1) Compulsive gambling disorder treatment programs; and
- (2) Compulsive gambling disorder educational programs.

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

(2) The ~~commission~~ office may contract with the department for ~~providing all services related to and administering of~~ provide and administer the compulsive gambling disorder treatment programs and the compulsive gambling disorder educational programs.

(3) As part of its compulsive gambling disorder treatment ~~and educational programs~~ programs and compulsive gambling disorder educational programs, the department shall make available a toll-free helpline telephone number ~~providing to provide~~ information and referral services concerning compulsive gambling disorders.

(4) The department may promulgate rules to administer the compulsive gambling disorder treatment programs and the compulsive gambling disorder educational programs.

(c) The ~~commission~~ office and the department shall provide a joint report to the Arkansas Lottery ~~Commission~~ Legislative Oversight Committee that includes without limitation:

(1) An annual summary of the amount of funding disbursed under this section and expenditures from the funding;

(2) A summary of what the compulsive gambling disorder treatment programs and compulsive gambling disorder educational programs provide; and

(3) The recommendations of the ~~commission~~ office and the department for changes in the programs or funding the programs.

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 ~~Commission~~ 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.

Subchapter 5 – Vendors

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

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

(b) *At the time of submitting a bid, proposal, or offer to the ~~commission office, the commission~~ a vendor shall ~~require the following items~~ 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 ~~of~~ 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 ~~any~~ 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 ~~any~~ a finding or plea,*

conviction, or adjudication of guilt in a state, ~~or federal, foreign, or international~~ court ~~or tribunal of the vendor for any felony or any other a~~ criminal offense other than a traffic violation committed by the ~~persons~~ vendor or a person identified under subdivision (b)(1) of this section.

(B)(i) The ~~commission~~ 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 ~~in the manner~~ under § 23-115-601(e);

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

(A) ~~bankruptcy~~ Bankruptcy, insolvency, or reorganization, ~~or~~;

(B) ~~corporate~~ Corporate or individual purchase or takeover of another corporation, including without limitation the assumption of bonded indebtedness or other debts or liabilities; and

(C) ~~any pending~~ Pending litigation ~~of the vendor~~;

(7) ~~A disclosure of the~~ The vendor's most recent financial report, ~~including any reports on internal control over financial reporting, and statement,~~ the most recent audit report of the vendor's ~~operation as a service organization~~ operations, and a disclosure of the vendor's internal financial controls and procedures for financial reporting; and

(8) Additional disclosures and information that the ~~commission~~ 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 ~~commission~~ office shall not enter into a major procurement contract with a vendor that:

(A) Has not complied with the disclosure requirements ~~described in subsection (b)~~ 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 ~~commission~~ office regarding the request for proposals pertaining to those particular goods or

services.

(2) The ~~commission~~ office may terminate a major procurement contract with a vendor that does not comply with requirements for periodically updating disclosures during the ~~tenure~~ term of ~~the~~ a major procurement contract as ~~may be~~ 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 ~~commission~~ office of the competence, integrity, background, and character of ~~vendors~~ a vendor for a major procurement ~~contracts~~ 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 Commission, ~~a commission member, a commission~~ 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 Arkansas Lottery ~~Commission~~ Legislative Oversight Committee; or

(B) A member of the immediate family of the ~~director, a commission member, a commission~~ 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 Arkansas Lottery ~~Commission~~ Legislative Oversight Committee.

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

~~(B)(i) The Arkansas Ethics Commission shall also have the authority to~~ may investigate and ~~address~~ enforce alleged violations of subdivision (e)(1) of this section-

~~(ii) The Arkansas Ethics Commission shall have the same power and~~ under the authority to ~~enforce the provisions of subdivision (e)(1) of this section as granted to it under~~ 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.*

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

(a)(1) *At the time of execution of ~~the~~ a major procurement contract ~~with~~ between the Office of the Arkansas Lottery Commission and a vendor, ~~each~~ the vendor shall post a performance bond or letter of credit from a bank or credit provider acceptable to the ~~commission~~ office in an amount ~~as~~ deemed necessary by the ~~commission for that particular bid or~~ office to assure the performance of the major procurement contract.*

(2) *In lieu of the bond, ~~to assure the faithful performance of its obligations,~~ the vendor may deposit and maintain with the ~~commission~~ 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 ~~commission~~ 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 ~~commission~~ 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 ~~commission~~ office for the ~~particular bid or~~ 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) ~~All~~ A major procurement ~~contracts~~ contract under this section shall be governed by the laws of this state except as provided in this chapter.

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 ~~Commission~~ under this chapter shall specify the reasons for which the major procurement contract may be canceled, suspended, revoked, or terminated by the ~~commission~~ office. The reasons shall include without limitation:

(1) ~~Commission~~ of a violation of this chapter or a rule of the ~~commission~~ 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 ~~commission~~ office in any matter considered by the ~~commission~~ office in ~~executing~~ entering into the major procurement contract with the vendor.

(b)(1) If ~~upon approval of the commission~~ the Director of the Office of the Arkansas Lottery ~~Commission~~ or his or her designee determines that cancellation, denial, revocation, suspension, or ~~rejection of renewal of the~~ failure to renew a major procurement contract is in the best interest of ~~lotteries~~ the Arkansas Scholarship Lottery, the public welfare, or the State of Arkansas, the director or his or her designee may cancel, suspend, revoke,

or terminate, ~~after~~ subject to notice and a right to a hearing, or 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 ~~commission approval or~~ 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.

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 Commission and ~~lotteries~~ 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 ~~unwanted~~ 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 ~~+~~

~~(1) Make~~ 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; ~~and~~

~~(2) While the award of the major procurement contract is pending, promise to make a political contribution to a public official or a candidate for election as a public official after the award of the major procurement contract.~~

*Subchapter 6 – Retailers**23-115-601. Retailers.*

(a) *The General Assembly recognizes that to conduct a successful lottery, the Office of the Arkansas Lottery Commission 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 ~~commission~~ office shall make every effort to provide small retailers a chance to participate in the sales of tickets or shares.*

(c) *The ~~commission~~ 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 ~~commission~~ office shall issue a license to each person that it licenses as a retailer.*

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

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

(e)(1) *A person ~~considered as~~ 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 ~~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 ~~commission~~ 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 ~~commission~~ office all releasable information obtained*

concerning the applicant.

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

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

(3) In developing the criteria, the ~~commission~~ 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.

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

~~(5)(h)~~ The ~~criteria~~ office shall ~~include without limitation the following~~ not select a person to be a retailer that:

~~(i)(1)(A)~~ The applicant shall be 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.

~~(ii)(B)~~ The Department of Finance and Administration shall provide to the ~~commission~~ office the information required ~~under~~ to verify compliance with subdivision ~~(f)(5)(A)(i)(h)(1)(A)~~ of this section;

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

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

~~(ii)(a)(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)(B)~~ Subdivision ~~(f)(5)(B)(ii)(a)(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 ~~(f)(5)(B)(ii)(a)~~ (h)(3)(A) of this section;

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

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

~~(b)(B)~~ (B) The ~~commission~~ office finds the violation both minor and unintentional in nature;

~~(iv)(5)~~ (5) Is a vendor or an employee or agent of a vendor doing business with the ~~commission~~ office;

~~(v)(6)~~ (6) Is ~~a member~~ an employee of the ~~commission~~ office or a member of the immediate family of ~~a member~~ an employee of the ~~commission~~ office;

~~(vi)(7)~~ (7) Has made a statement of material fact to the ~~commission~~ office knowing the statement to be false; or

~~(vii)(a)(8)(A)~~ (8)(A) Is engaged exclusively in the business of selling tickets or shares.

~~(b)(B)~~ (B) Subdivision ~~(f)(5)(B)(vii)(a)~~ (h)(8)(A) of this section does not preclude the ~~commission~~ office from selling or giving away tickets or shares for promotional purposes;

~~(G)(i)(1)~~ (1) A person applying to become a retailer shall be charged a uniform application fee determined by rule for each lottery outlet.

~~(D)(2)~~ (2) ~~All A~~ A retailer ~~licenses~~ license may be renewable annually in the discretion of the ~~commission~~ office unless canceled or terminated by the ~~commission~~ office; ~~and~~.

~~(E)(3)~~ (3) The ~~commission~~ 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:

~~(i)(A)~~ (A) An initial and any subsequent state and federal criminal background check under this subchapter; and

~~(ii)(B)~~ (B) The reporting, communications technology, and banking processes necessary to implement and enforce this subchapter.

~~(g)(1)(j)(1)~~ (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

~~Commission, a commission member, or a commission, an employee of the office, the Director of the Department of Finance and Administration, or the Deputy Director of the Department of the Finance and Administration; or~~

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

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

(B)(~~i~~) The Arkansas Ethics Commission shall ~~also~~ have the authority to investigate and ~~address~~ enforce alleged violations of subdivision ~~(g)(1)(j)(1)~~ of this section.

~~(ii) The Arkansas Ethics Commission shall have the same power and authority to enforce the provisions of subdivision (g)(1) of this section as granted to it under by §§ 7-6-217 and 7-6-218.~~

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 Commission.

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

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

(a)(1) The Office of the Arkansas Lottery Commission 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 ~~commission~~ office experiences due to nonfeasance, misfeasance, or malfeasance of a retailer; and

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

(3) At the end of each fiscal year, the ~~commission~~ 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 ~~commission~~ 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 ~~commission~~ office shall require a retailer to post an appropriate bond, as determined by the ~~commission~~ office, using an insurance company acceptable to the ~~commission~~ 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 ~~commission~~ office may allow a retailer to deposit and maintain with the ~~commission~~ 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 ~~commission~~ office.

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

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

- (1) Commission of a violation of this chapter or a rule of the commission office;
- (2) Failure to accurately or timely account for tickets, lottery games, revenues, or prizes as required by the commission 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 commission office in any matter considered by the commission office in executing granting the license with of the retailer; or
- (8) Failure to meet any of the objective criteria established by the commission office under this chapter.

(b)(1) If ~~upon approval of the commission~~ the Director of the Office of the Arkansas Lottery Commission or his or her designee determines that cancellation, denial, revocation, suspension, or rejection of renewal of the failure to renew a retailer license is in the best interest of ~~lotteries~~ the Arkansas Scholarship Lottery, the public welfare, or the State of Arkansas, the director or his or her designee may cancel, suspend, revoke, or terminate, ~~after~~ subject to notice and a right to a hearing, or 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 ~~commission approval or~~ 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.

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

(a)(1) ~~All proceeds~~ Proceeds from the sale of tickets or shares ~~constitute a~~ shall be held in trust fund until paid to the Office of the Arkansas Lottery Commission either directly or through the ~~commission's~~ 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 ~~any~~ 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 ~~commission~~ office or its authorized collection representative upon demand.

(b)(1) The ~~commission~~ office shall require retailers to place all lottery proceeds due the ~~commission~~ 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 ~~commission~~ office.

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

(3) The ~~commission~~ 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 ~~commission~~ office; and
- (C) Receiving payments for the ~~commission~~ office.

(4) Unless authorized in writing by the ~~commission~~ 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 ~~commission~~ office from the individual or his or her estate have preference over all debts or demands.

(d) If the ~~commission~~ 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 ~~commission~~ office may pursue business closure against the retailer under this subchapter.

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 ~~Commission~~ may be considered the amount of the lottery retail sale for purposes of computing the rental payment.

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 ~~Commission~~, the Director of the Office of the Arkansas Lottery ~~Commission~~ 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 ~~business~~ 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.

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 Commission 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.*

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 ~~a~~ 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.

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 Commission 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 Commission 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 ~~commission~~ 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 Arkansas Lottery ~~Commission~~ Legislative Oversight Committee.*

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 ~~Commission~~ shall contact the appropriate administrative body responsible for granting licenses to operate the business and report the closure of the business.*

23-115-612. Authority to promulgate rules.

The Office of the Arkansas Lottery ~~Commission~~ may promulgate rules necessary for the implementation and enforcement of this subchapter.

Subchapter 7 – Procurements

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

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

(2) *The ~~commission~~ 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 ~~commission~~ 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 ~~commission~~ office shall comply with the Arkansas Procurement Law, § 19-11-201 et seq.

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

(2) The ~~commission~~ 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 ~~commission~~ 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 ~~commission~~ office, and the best service and products for the public.

(d) In any bidding process, the ~~commission~~ 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 Arkansas Lottery ~~Commission~~ Legislative Oversight Committee 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 Arkansas Lottery ~~Commission~~ Legislative Oversight Committee shall provide the ~~commission~~ 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.

Subchapter 8 – Lottery Proceeds

23-115-801. Lottery proceeds.

(a)(1) ~~All lottery~~ Lottery proceeds are the property of the Office of the Arkansas Lottery Commission.

(2)(A) The ~~commission~~ office shall pay its operating expenses from its lottery proceeds.

(B)(i) An amount of lottery proceeds determined by the ~~commission~~ 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 ~~commission~~ office shall determine any rights of holders of tickets or shares.

(3) The percentage of lottery proceeds determined by the ~~commission~~ office to be net proceeds shall equal an amount determined by the ~~commission~~ office to maximize net proceeds for scholarships.

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

(2) The ~~commission~~ 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 a trust account.

(c)(1) The Director of the Department of Higher Education shall certify to the ~~commission~~ 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)~~(i)~~ The ~~commission~~ office shall transfer the funds requested by the ~~director~~ 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.

~~(ii)(B)~~ The Director of the Department of Higher Education shall disburse trust account funds only in the name of the recipient:

~~(a)(i)~~ To an approved institution of higher education; or

~~(b)(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~~ Director of the Department of Higher Education shall provide to the ~~commission~~ Director of the Department of Finance and Administration and to the Arkansas Lottery ~~Commission~~ Legislative Oversight Committee for the academic year just ended an accounting of all trust accounts maintained by the ~~department~~ 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 ~~commission~~ office; and

(B) Because the ~~department~~ Department of Higher Education has the expertise and experienced staff needed to efficiently and appropriately administer the scholarships, the ~~commission~~ office shall use the services of the ~~department~~ Department of Higher Education to administer scholarships funded with net proceeds from the lottery.

(2)(A) Annually by April 1, the ~~department~~ Department of Higher Education shall provide to the ~~commission~~ office and to the Arkansas Lottery ~~Commission~~ Legislative Oversight Committee the ~~department's~~ Department of Higher Education's budget for the administrative expenditures allowed under this subsection.

(B) Annually by October 31, the ~~department~~ Department of Higher Education shall provide an invoice to the ~~commission~~ 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.

(3)(A) Annually by November 1, the ~~commission~~ office shall file a copy of the invoice with the Arkansas Lottery ~~Commission~~ Legislative Oversight Committee for its review.

(B) The Arkansas Lottery ~~Commission~~ Legislative Oversight Committee shall review the invoice and forward its comments, if any, to the ~~commission~~ office.

(C) The ~~commission~~ office shall reimburse the ~~department~~ Department of Higher Education for the costs of administering the scholarship awards funded with net proceeds from the lottery after the Arkansas Lottery ~~Commission~~ Legislative Oversight Committee's review under this subsection.

23-115-802. Scholarship Shortfall Reserve Trust Account.

(a) The Office of the Arkansas Lottery ~~Commission~~ 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) Thereafter, only an amount necessary to maintain the account in an amount equal to twenty million dollars (\$20,000,000) shall be deposited into the account.

(3) Any amount in the ~~trust~~ 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) 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.

23-115-803. Disposition of funds.

(a)(1) To effectuate the purposes of the Office of the Arkansas Lottery Commission, the ~~commission~~ 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 ~~commission~~ office and lotteries.

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

(b)(1) The ~~commission~~ 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 ~~commission~~ 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 ~~commission's~~ office's operating account.

Subchapter 9 – Penalties

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 within a forty-eight-month period;

(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 Commission and instruct the commission 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.

23-115-902. *Fraud – Penalty.*

The offense of lottery fraud and penalties for a conviction of lottery fraud are provided under § 5-55-501.

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 Commission.

(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.

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 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.

Subchapter 10 – Debtors Owing Money to the State

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 Commission 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 ~~commission~~ 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.

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.*

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.

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 Commission 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 collectable 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~~ Social Security number of each debtor if available; and*

(C) *Any other information that would assist the ~~commission~~ office in identifying each debtor named in the list.*

(b)(1) *The ~~commission~~ 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 ~~commission~~ 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 ~~commission~~ 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 ~~commission~~ 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 ~~commission~~ office is not required to deduct claimed debts from prizes paid out by retailers or entities other than the ~~commission~~ office.*

(e) *Any list of debt provided under this section shall be provided periodically as the ~~commission~~ office shall provide by rule, and the*

~~commission~~ office is not obligated to retain the lists or deduct debts appearing on the lists beyond the period determined by the rules.

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

(g) The ~~commission~~ 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 ~~commission~~ office for all costs incurred by the ~~commission~~ office in setting off debts in the manner provided in this subchapter.

23-115-1005. Confidential information.

(a)(1) Notwithstanding any other confidentiality statute, the Office of the Arkansas Lottery Commission 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 ~~commission~~ 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.

23-115-1006. ~~Application~~ Applicability.

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

Subchapter 11 – Arkansas Lottery ~~Commission~~ Legislative Oversight Committee

23-115-1101. Arkansas Lottery ~~Commission~~ Legislative Oversight Committee.

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

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

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

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

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

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

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

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

(3)(A) Review proposed contracts of twenty-five thousand dollars (\$25,000) or more before the execution of the contracts.

(B) The ~~commission~~ office shall provide a list of all contracts less than twenty-five thousand dollars (\$25,000) to the Arkansas Lottery ~~Commission~~ Legislative Oversight Committee on a monthly basis;

(4) Review reports filed with the Arkansas Lottery ~~Commission~~ Legislative Oversight Committee 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 Arkansas Lottery ~~Commission~~ Legislative Oversight Committee considers necessary to fulfill its mandate.

(e)(1) Annually by December 15, the Arkansas Lottery ~~Commission~~ Legislative Oversight Committee shall provide to the General Assembly:

(A) Any analysis or findings resulting from its activities under this section that the Arkansas Lottery ~~Commission~~ Legislative Oversight Committee 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 Arkansas Lottery ~~Commission~~ Legislative Oversight Committee may make interim reports to the General Assembly regarding the expenditure of net lottery revenues.

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

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

(3) A majority of the membership of the Arkansas Lottery ~~Commission~~ Legislative Oversight Committee constitutes a quorum.

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

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

(h)(1) With the consent of both the President Pro Tempore of the Senate and the Speaker of the House of Representatives, the Arkansas Lottery ~~Commission~~ Legislative Oversight Committee may meet during a session of the General Assembly to perform its duties under this chapter.

(2) This subsection does not limit the authority of the Arkansas Lottery ~~Commission~~ Legislative Oversight Committee to meet during a recess as authorized by § ~~10-3-211 or § 10-2-223~~ 10-2-223 or § 10-3-211.

23-115-1102. Filing of information with Arkansas Lottery ~~Commission~~ Legislative Oversight Committee.

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

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

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

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

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

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

SECTION 26. Arkansas Code § 25-1-110(e), concerning cost-effectiveness of state-owned vehicles, is amended to read as follows:

(e) *The provisions of this section do not apply to ~~the Arkansas Lottery Commission~~, institutions of higher education, and vocational technical institutes.*

SECTION 27. Arkansas Code § 25-1-403(2)(B)(v), concerning definitions under the Arkansas Financial Transparency Act, is amended to read as follows:

(v) *The Office of the Arkansas Lottery ~~Commission~~;*

SECTION 28. Arkansas Code § 25-1-405(c), concerning cooperation by state agencies with the Department of Finance and Administration, is amended to read as follows:

(c) *The Office of the Arkansas Lottery ~~Commission~~ shall pay the costs of providing expenditure information for the ~~commission~~ office in the common format determined by the department.*

SECTION 29. Arkansas Code § 25-4-103(15), concerning definitions under the Arkansas Information Systems Act of 1997, is amended to read as follows:

(15) *“State agencies” means all state departments, boards, and commissions but shall not include the Office of the Arkansas Lottery ~~Commission~~, the elected constitutional officers and their staffs, the General Assembly and its committees and staffs, or the Supreme Court and the Administrative Office of the Courts, and public institutions of higher education with respect to academic, research, ~~healthcare~~ health care, and*

existing information technology applications and underlying support therefor;

SECTION 30. Arkansas Code § 26-18-1001(e), concerning business closure authority, is amended to read as follows:

(e) After written notice delivered to a lottery retailer by the United States Postal Service or by hand delivery, the director may pursue a remedy under this subchapter against a lottery retailer as a noncompliant taxpayer upon receiving a referral from the Office of the Arkansas Lottery Commission under § 23-115-605.

SECTION 31. Arkansas Code § 26-51-2302(1), concerning definitions under the Lottery Withholding Act, is amended to read as follows:

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

SECTION 32. Arkansas Code § 26-51-2306(a)(1), concerning liability for withholding under the Lottery Withholding Act, is amended to read as follows:

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

SECTION 33. DO NOT CODIFY. 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.

SECTION 34. EMERGENCY CLAUSE. 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.

/s/Hickey

APPROVED: 02/26/2015