

ARKANSAS REGISTER

Proposed Rule Cover Sheet



Secretary of State
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Little Rock, Arkansas 72201-1094
(501) 682-5070
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Name of Department _____

Agency or Division Name _____

Other Subdivision or Department, If Applicable _____

Previous Agency Name, If Applicable _____

Contact Person _____

Contact E-mail _____

Contact Phone _____

Name of Rule _____

Newspaper Name _____

Date of Publishing _____

Final Date for Public Comment _____

Location and Time of Public Meeting _____

QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS
WITH THE ARKANSAS LEGISLATIVE COUNCIL

DEPARTMENT/AGENCY Department of Commerce
DIVISION Workforce Services – Arkansas Rehabilitation Services
DIVISION DIRECTOR Joseph Baxter
CONTACT PERSON Charles Lyford, General Counsel
ADDRESS 1 Commerce Way, Suite 206; Little Rock, AR 72202
PHONE NO. 501-682-2286 FAX NO. 501-296-1687 E-MAIL charles.lyford@arkansas.gov
NAME OF PRESENTER AT COMMITTEE MEETING Charles Lyford
PRESENTER E-MAIL charles.lyford@arkansas.gov

INSTRUCTIONS

Please make copies of this form for future use.

Please answer each question **completely** using layman terms. You may use additional sheets, if necessary.

If you have a method of indexing your rules, please give the proposed citation after “Short Title of this Rule” below.

Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

Jessica Whittaker
Administrative Rules Review Section
Arkansas Legislative Council
Bureau of Legislative Research
One Capitol Mall, 5th Floor
Little Rock, AR 72201

1. What is the short title of this rule? Forgiveness of Student Loan Program Rules

2. What is the subject of the proposed rule? the student-loan forgiveness program administered by ARS, which makes payments to employees’ lenders if they work for ARS two years per payment

3. Is this rule required to comply with a federal statute, rule, or regulation? Yes ☐ No ☒

If yes, please provide the federal rule, regulation, and/or statute citation. N/A

4. Was this rule filed under the emergency provisions of the Administrative Procedure Act? Yes ☐ No ☒

If yes, what is the effective date of the emergency rule? N/A

When does the emergency rule expire? N/A

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act?

Yes ☐No ☒Is this a new rule? Yes ☐ No ☒If yes, please provide a brief summary explaining the regulation. N/ADoes this repeal an existing rule? Yes ☐ No ☒

If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does. N/A

Is this an amendment to an existing rule? Yes ☒ No ☐

If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. **Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled “mark-up.”** Please see attached.

Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation.

Ark. Code Ann. § 25-30-206(b)(2) (authorizing Arkansas Rehabilitation Services to “promulgate rules regarding eligibility, payment, and program management consistent with this section”).

7. What is the purpose of this proposed rule? Why is it necessary? These amendments replace the current rules for the Forgiveness of Student Loan Program, which were last updated in 2007. Since that time, statutes affecting the Program have been enacted, such as the Transformation and Efficiencies Act of 2019 and Act 282 of 2021, which changed the timing of loan-forgiveness payments for eligible employees.

Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b). <https://arcareered.org/publicreview>.

9. Will a public hearing be held on this proposed rule? Yes ☒ No ☐
If yes, please complete the following:

Date: October 6, 2021
Time: 10 to 11 a.m.
1 Commerce Way, Little Rock, AR
Place: 72202

When does the public comment period expire for permanent promulgation? (Must provide a date.)

October 25, 2021

What is the proposed effective date of this proposed rule? (Must provide a date.)

January 1, 2021

12. Please provide a copy of the notice required under Ark. Code Ann. § 25-15-204(a), and proof of the publication of said notice. See attached.

13. Please provide proof of filing the rule with the Secretary of State and the Arkansas State Library as required pursuant to Ark. Code Ann. § 25-15-204(e). See attached.

14. Please give the names of persons, groups, or organizations that you expect to comment on these rules. Please provide their position (for or against) if known. Unknown at this time.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Department of Commerce

DIVISION Workforce Services - Arkansas Rehabilitation Services

PERSON COMPLETING THIS STATEMENT Charles Lyford, General Counsel

TELEPHONE 501-682-2286 **FAX** 501-296-1687 **EMAIL:** charles.lyford@arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE Forgiveness of Student Loan Program Rules

1. Does this proposed, amended, or repealed rule have a financial impact? Yes ☐ No ☒

Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule? Yes ☒ No ☐

In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes ☒ No ☐

If an agency is proposing a more costly rule, please state the following: N/A

How the additional benefits of the more costly rule justify its additional cost;

The reason for adoption of the more costly rule;

Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and

Whether the reason is within the scope of the agency's statutory authority; and if so, please explain.

If the purpose of this rule is to implement a federal rule or regulation, please state the following:

What is the cost to implement the federal rule or regulation? N/A

Current Fiscal Year

General Revenue	_____
Federal Funds	_____
Cash Funds	_____
Special Revenue	_____
Other (Identify)	_____
Total	_____

Next Fiscal Year

General Revenue	_____
Federal Funds	_____
Cash Funds	_____
Special Revenue	_____
Other (Identify)	_____
Total	_____

What is the additional cost of the state rule? N/A

Current Fiscal Year

General Revenue _____
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____

Total _____

Next Fiscal Year

General Revenue _____
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____

Total _____

What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

No costs to private individuals or entities are anticipated.

Current Fiscal Year

\$ _____

Next Fiscal Year

\$ _____

What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

There should be no implementation costs associated with these amendments.

Current Fiscal Year

\$ _____

Next Fiscal Year

\$ _____

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes ☐ No ☒

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
 - (a) justifies the agency's need for the proposed rule; and
 - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;

- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
 - (a) the rule is achieving the statutory objectives;
 - (b) the benefits of the rule continue to justify its costs; and
 - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

These amendments replace the current rules for the Forgiveness of Student Loan Program, which were last updated in 2007. Since that time, statutes affecting the Program have been enacted, such as the Transformation and Efficiencies Act of 2019 and Act 282 of 2021, which changed the timing of loan-forgiveness payments for eligible employees.

**Rules for Administration of the Arkansas Rehabilitation Services
Forgiveness of Student Loan Program
Act ~~1275 of 2007~~ 282 of 2021**

INTRODUCTION

Act ~~1275 282~~ of ~~200721~~, effective July 31~~21~~, ~~established~~ amended and re-authorized the Arkansas Rehabilitation Services (~~ARS~~) Forgiveness of Student Loan Program (~~Program~~) ~~to,~~ which assists qualified eligible current employees and newly hired rehabilitation counselors employed by ARS with the repayment of qualifying student loans incurred while pursuing credentials that are required for employment. The act provides that ARS shall administer the Program and promulgate rules for its administration. The Forgiveness of Student Loan Program (Program) was originally authorized by Act 1275 of 2007. Arkansas Rehabilitation Services (ARS), as the administrator of the Program, is authorized by Act 282 to promulgate rules regarding Program eligibility, payments, and management.

PROVISIONS OF ACT ~~1275 OF 2007~~

ELIGIBILITY

~~An ARS rehabilitation counselor shall be eligible for the Program who~~

- ~~1. Satisfactorily completes the probationary employment period, as certified by the Commissioner of Arkansas Rehabilitation Services.~~
- ~~2. Provides proof of an unpaid student loan, including the name and address of the creditor; and~~
- ~~3. Agrees contractually to~~
 - ~~a. Work for ARS for a term that equals two (2) years for each year that the Program makes a payment on the counselor's student loan; and~~
 - ~~b. Reimburse the Program the full amount of any loan payment(s) made under the Program in the event that the counselor resigns his position with ARS or is terminated by ARS for cause before the term of the contract expires.~~

Individuals who meet the criteria below are eligible for participation in the Program:

1. Full-time employment with ARS.

2. Completion of a six-month probationary period, beginning with the first day of ARS employment. Individuals whose probationary period is extended to 12 months will be eligible upon completion of the extended probationary period.
3. Proof the individual has incurred student-loan debt resulting from obtaining a bachelor's or master's degree in the field of vocational rehabilitation:
 - a. Documentation of the name and address of the student-loan creditor.
 - b. A payoff amount for the loan owed to the creditor, current within 30 days of the individual's application to the Program.
 - c. Documentation, such as a transcript or diploma from an educational institution, confirming that the individual received a degree in one of the following fields:
 - Rehabilitation Counseling;
 - Social Work;
 - Psychology;
 - Disability studies;
 - Education, including Special Education;
 - Counseling, other than Rehabilitation Counseling (master's level only); and
 - Counselor Education (master's level only).
4. Execution of an agreement by which the individual acknowledges, among other requirements, that ARS will not issue payments under the Program if the individual resigns or is terminated for cause.

PROGRAM PAYMENTS

- ~~1. A counselor must complete the ARS six-month new employee probationary period.~~
- ~~2. An eligible counselor who wishes to apply to participate in the Program shall submit to the Program Director:~~
 - ~~a. A completed Student Loan Program Request form (Appendix A)~~
 - ~~b. An original statement and/or correspondence from the student loan creditor, dated within 30 days of the request. The proof of loan document must indicate the original loan disbursement dates.~~
 - ~~c. A completed Student Loan Program Agreement (Appendix B), signed by the requesting counselor and his immediate supervisor. In the contract, the counselor will agree to~~
 - ~~i. Remain in the employ of ARS for a term that equals two (2) years for each year that the Program makes a payment on the counselor's student loan; and~~

ii. Reimburse the Program the full amount of any loan payment(s) made under the Program in the event that the counselor resigns his position with ARS or is terminated by ARS for cause before the term of the contract expires.

3. A loan eligible for the Program must have been incurred in the pursuit of a master's degree in rehabilitation counseling, or a comparable degree as recognized by RSA and required for employment with ARS.

4. The amount of payment(s) made directly to the counselor's student loan creditor may not exceed two thousand dollars (\$2,000.00) per year.

5. Cumulative loan payments made for any counselor may not exceed the lesser of ten thousand dollars (\$10,000.00) or the amount of the balance due on the loan.

Payments made by ARS under the Program will satisfy the following criteria:

1. Payments will be issued directly to the student-loan creditor identified by the individual at the time of application to the Program.
2. Each payment will be the lesser of \$2,000.00, or the current loan-payoff amount.
3. Each payment is conditioned upon the participant's continual, full-time employment over the two years preceding the date that the payment is issued.

For example, an individual who is determined eligible on August 1st of State Fiscal Year 2022 must be employed until August 1st of State Fiscal Year 2024 in order for a payment to be issued.

4. Participants may receive up to five payments, not to exceed \$10,000.00, under the Program.
5. Total payments under the Program in a given State Fiscal year shall not exceed \$80,000.00.

PROGRAM MANAGEMENT

Pursuant to Act 282 of 2021, the following rules for Program Management will apply:

1. Individuals may submit an application for eligibility once per State Fiscal Year.
2. Each subsequent application must include all documents required to demonstrate eligibility. However, subsequent applications may refer to documents submitted with the original, approved application regarding the individual's degree in the field of vocational rehabilitation.
3. In all events, eligible participants must re-certify their loan payoff amounts within 30 days of a payment coming due.

- a. For example, an individual whose application was approved on August 1st of State Fiscal Year 2022 must submit a current loan payoff amount 30 days prior to August 1st of State Fiscal Year 2024.
- b. Program staff will send a written reminder of this requirement to eligible participants at least 60 days before a payment comes due.

ELIGIBILITY UNDER PRIOR LAW

For individuals who were determined eligible for the Program prior to the effective date of Act 282 of 2021, the following rules apply:

1. Beginning July 1, 2021, these individuals may submit one additional application for consideration under Act 1275 of 2007.
2. These additional applications will be reviewed by Program staff according to the “Rules for Administration of Arkansas Rehabilitation Services Forgiveness of Student Loan Program” associated with Act 1275 of 2007.
3. If Program staff approve an application submitted under Act 1275 of 2007, the eligible participant’s student-loan creditor may receive one payment, not to exceed \$2,000.00, upon approval of the application.
4. The payment will be conditioned on the obligation to fully reimburse the Program if the participant resigns, or is terminated for cause, before serving two years of continual employment with ARS, starting from the date the payment is issued.
5. Additional applications under Act 1275 of 2007 must be received before the effective date of Act 282 of 2021 in order to be considered.

**Rules for Administration of Arkansas Rehabilitation Services
Forgiveness of Student Loan Program
Act 282 of 2021**

INTRODUCTION

Act 282 of 2021, effective July 28, 2021, amended and re-authorized the Arkansas Rehabilitation Services Forgiveness of Student Loan Program, which assists eligible employees with the repayment of qualifying student loans. The Forgiveness of Student Loan Program (Program) was originally authorized by Act 1275 of 2007. Arkansas Rehabilitation Services (ARS), as the administrator of the Program, is authorized by Act 282 to promulgate rules regarding Program eligibility, payments, and management.

ELIGIBILITY

Individuals who meet the criteria below are eligible for participation in the Program:

1. Full-time employment with ARS.
2. Completion of a six-month probationary period, beginning with the first day of ARS employment. Individuals whose probationary period is extended to 12 months will be eligible upon completion of the extended probationary period.
3. Proof the individual has incurred student-loan debt resulting from obtaining a bachelor's or master's degree in the field of vocational rehabilitation:
 - a. Documentation of the name and address of the student-loan creditor.
 - b. A payoff amount for the loan owed to the creditor, current within 30 days of the individual's application to the Program.
 - c. Documentation, such as a transcript or diploma from an educational institution, confirming that the individual received a degree in one of the following fields:
 - Rehabilitation Counseling;
 - Social Work;
 - Psychology;
 - Disability studies;
 - Education, including Special Education;
 - Counseling, other than Rehabilitation Counseling (master's level only); and
 - Counselor Education (master's level only).
4. Execution of an agreement by which the individual acknowledges, among other requirements, that ARS will not issue payments under the Program if the individual resigns or is terminated for cause.

PROGRAM PAYMENTS

Payments made by ARS under the Program will satisfy the following criteria:

1. Payments will be issued directly to the student-loan creditor identified by the individual at the time of application to the Program.
2. Each payment will be the lesser of \$2,000.00, or the current loan-payoff amount.
3. Each payment is conditioned upon the participant's continual, full-time employment over the two years preceding the date that the payment is issued.

For example, an individual who is determined eligible on August 1st of State Fiscal Year 2022 must be employed until August 1st of State Fiscal Year 2024 in order for a payment to be issued.

4. Participants may receive up to five payments, not to exceed \$10,000.00, under the Program.
5. Total payments under the Program in a given State Fiscal year shall not exceed \$80,000.00.

PROGRAM MANAGEMENT

Pursuant to Act 282 of 2021, the following rules for Program Management will apply:

1. Individuals may submit an application for eligibility once per State Fiscal Year.
2. Each subsequent application must include all documents required to demonstrate eligibility. However, subsequent applications may refer to documents submitted with the original, approved application regarding the individual's degree in the field of vocational rehabilitation.
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 - b. Program staff will send a written reminder of this requirement to eligible participants at least 60 days before a payment comes due.

ELIGIBILITY UNDER PRIOR LAW

For individuals who were determined eligible for the Program prior to the effective date of Act 282 of 2021, the following rules apply:

1. Beginning July 1, 2021, these individuals may submit one additional application for consideration under Act 1275 of 2007.
2. These additional applications will be reviewed by Program staff according to the “Rules for Administration of Arkansas Rehabilitation Services Forgiveness of Student Loan Program” associated with Act 1275 of 2007.
3. If Program staff approve an application submitted under Act 1275 of 2007, the eligible participant’s student-loan creditor may receive one payment, not to exceed \$2,000.00, upon approval of the application.
4. The payment will be conditioned on the obligation to fully reimburse the Program if the participant resigns, or is terminated for cause, before serving two years of continual employment with ARS, starting from the date the payment is issued.
5. Additional applications under Act 1275 of 2007 must be received before the effective date of Act 282 of 2021 in order to be considered.