

ARKANSAS SENATE
90th General Assembly - Regular Session, 2015
Amendment Form

Subtitle of Senate Bill No. 2

AN ACT CONCERNING THE REVIEW AND APPROVAL OF ADMINISTRATIVE RULES AND THE
IMPLEMENTATION OF ARTICLE 5, SECTION 42, OF THE ARKANSAS CONSTITUTION.

Amendment No. 1 to Senate Bill No. 2

Amend Senate Bill No. 2 as originally introduced:

Delete everything following the enacting clause and substitute the following:

"SECTION 1. Arkansas Code § 6-15-2106(b), concerning rules implementing a school rating system, is amended to read as follows:

(b) The state board may, by rules adopted under the Arkansas Administrative Procedure Act, § 25-15-201 et seq., and reviewed and approved under § 10-3-309, redesignate the levels of performance categories and improvement categories under this subchapter to be consistent with:

- (1) The Common Core State Standards;
- (2) Assessments that correlate with those standards; and
- (3) Rules adopted under the requirements of a law enacted by Congress for general education, including without limitation the Elementary and Secondary Education Act of 1965 as reauthorized by the No Child Left Behind Act of 2001, 20 U.S.C. § 6301 et seq., or any supplementary federal regulations, directives, or decisions of the United States Department of Education pertaining to that legislation.

SECTION 2. Arkansas Code § 6-60-902(b)(2)(B)(ii), concerning the Arkansas Higher Education Information System and as amended by Act 218 of 2015, is amended to read as follows:

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

SECTION 3. Arkansas Code § 6-60-903(b), concerning compliance by institutions of higher education and as amended by Act 218 of 2015, 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 Legislative Oversight Committee~~ Legislative Council:

- (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 ~~Arkansas Lottery Legislative Oversight Committee~~ Legislative Council.

SECTION 4. Arkansas Code § 6-85-205(a), concerning the authority and duties of the Department of Higher Education and as amended by Act 218 of 2015, is amended to read as follows:

(a)~~(1)~~ The Department of Higher Education shall develop and promulgate rules for the administration of the Arkansas Academic Challenge Scholarship Program consistent with the purposes and requirements of this subchapter.

~~(2) The Arkansas Lottery Legislative Oversight Committee Subcommittee of the Legislative Council 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 5. Arkansas Code § 6-85-205(d)(3), concerning the authority and duties of the Department of Higher Education and as amended by Act 218 of 2015, 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 Legislative Oversight Committee~~ Legislative Council for review.

SECTION 6. Arkansas Code § 6-85-205(g), concerning the authority and duties of the Department of Higher Education and as amended by Act 218 of 2015, 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 Legislative Oversight Committee~~ Legislative Council on:

(i) The implementation of this subchapter;

(ii) The number of recipients that either:

(a) Dropped out during the academic year; or

(b) Lost the scholarship during the academic

year; and

(iii) Any additional information requested by the ~~Arkansas Lottery Legislative Oversight Committee~~ Legislative Council.

(B) ~~The Arkansas Lottery Legislative Oversight Committee~~ Legislative Council shall include the information reported under this subsection in its annual report to the General Assembly under § 6-85-220.

(2) By August 1 of each year, the Department of Higher Education shall provide to the ~~Arkansas Lottery Legislative Oversight Committee~~ Legislative Council an unaudited financial report on the administration of the Arkansas Academic Challenge Scholarship Program for the fiscal year just ended.

SECTION 7. Arkansas Code § 6-85-212(f), concerning scholarship award amounts and as amended by Act 218 of 2015, is amended to read as follows:

(f) Annually by December 15, the ~~Arkansas Lottery Legislative Oversight Committee~~ Legislative Council shall provide to the General Assembly

its recommendations for any changes to the:

- (1) Award amounts;
- (2) Number or type of scholarships; and
- (3) Eligibility requirements.

SECTION 8. Arkansas Code § 6-85-212(j), concerning scholarship award amounts and as amended by Act 218 of 2015, is amended to read as follows:

(j) When the General Assembly determines that 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 Legislative Oversight Committee~~ Legislative Council for the award of scholarships and grants to certain graduate and professional programs at approved institutions of higher education.

SECTION 9. Arkansas Code § 6-85-216(c), concerning an institution report to the Department of Higher Education and as amended by Act 218 of 2015, 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 Legislative Oversight Committee~~ Legislative Council under § 6-85-205.

SECTION 10. Arkansas Code § 6-85-219 and 6-85-220, as amended by Act 218 of 2015, 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 Legislative Oversight Committee~~ Legislative Council in the manner and format that the ~~Arkansas Lottery Legislative Oversight Committee~~ Legislative Council requires on all state-supported student financial assistance awarded by the department and awarded by approved institutions of higher education.

(2) The information provided shall include without limitation:

(A) Current year expenditures for scholarships and grants under the Arkansas Academic Challenge Scholarship Program – Part 2;

(B) Projected obligations for succeeding years from each scholarship or grant funding source;

(C) Fund balances for the:

(i) Higher Education Grants Fund Account; and

(ii) Trust accounts maintained by the Director of the Department of Higher Education to hold the net proceeds from the state lottery;

(D) An evaluation of whether the net proceeds from the state lottery available for the program supplement and do not supplant nonlottery state educational resources; and

(E) Other information that the ~~Arkansas Lottery Legislative Oversight Committee~~ Legislative Council or the General Assembly requests.

(b) Annually by December 1, the department shall report to the ~~Arkansas Lottery Legislative Oversight Committee~~ Legislative Council its recommendations for changes to the program, including without limitation:

- (1) Adjustments to the eligibility requirements of the program;

and

(2) Increases or decreases in the amounts awarded for a scholarship under the program based on the amount of net proceeds from the state lottery available.

(c) Annually by December 31, the department shall report to the ~~Arkansas Lottery Legislative Oversight Committee~~ Legislative Council the following information on recipients of the Arkansas Academic Challenge Scholarship Program – Part 2 who applied as of June 1:

- (1) Race;
- (2) Grade point average;
- (3) Composite score on the ACT or the equivalent score on an ACT equivalent; and
- (4) Family or individual income as reported on the student's Free Application for Federal Student Aid.

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

(a) The ~~Arkansas Lottery Legislative Oversight Committee~~ Legislative Council shall:

- (1) Oversee the development and implementation of Arkansas Code requirements with regard to the Arkansas Academic Challenge Scholarship Program;
- (2) Review whether and how the use of net state lottery proceeds helps to accomplish state objectives for higher education;
- (3) Review the ongoing data collection, research, and evaluation of the program;
- (4) Review the annual report of the Director of the Department of Higher Education under § 6-85-219;
- (5) Review and recommend changes to the:
 - (A) Number of awards for each scholarship and grant;
 - (B) Award levels;
 - (C) Eligibility requirements; and
 - (D) Overall administration of the program; and
- (6) Review and recommend policies for scholarships and grants funded with nonlottery state educational resources, including without limitation ways to ensure that net proceeds from the state lottery are used to supplement and not supplant nonlottery state educational resources.

(b) Annually by December 15, the ~~Arkansas Lottery Legislative Oversight Committee~~ Legislative Council shall report its findings and recommendations to the Office of the Arkansas Lottery, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Governor, the House Committee on Education, and the Senate Committee on Education.

SECTION 11. Arkansas Code § 9-13-106(g), concerning the attorney ad litem program, is amended to read as follows:

(g) In order to ensure that each judicial district will have an appropriate amount of funds to utilize for ad litem representation in custody cases, the funds appropriated shall be apportioned based upon a formula developed by the office, promulgated by rule, and approved by the Arkansas Judicial Council and the ~~Administrative Rules and Regulations Committee of the Arkansas~~ Legislative Council.

SECTION 12. Arkansas Code § 10-3-309 is amended to read as follows:
10-3-309. Review and approval of state agency rules, ~~regulations,~~
~~amendments, revisions, etc.~~

(a)(1)(A) In the passage of this section, the General Assembly is aware of the significant number of laws which have been enacted granting to boards, commissions, departments, and administrative agencies of state government the authority to promulgate and enforce rules ~~and regulations.~~

(B) The General Assembly is further aware that ample safeguards have not been established whereby the General Assembly may be informed of circumstances in which administrative rules ~~and regulations~~ do not conform to legislative intent.

(2) It is the purpose of this section to establish a method for continuing legislative review and approval of such rules ~~and regulations~~ ~~whereby the General Assembly at each legislative session may take remedial steps~~ to correct abuses of rulemaking authority or clarify legislative intent with respect to the rulemaking authority granted the administrative boards, commissions, departments, or agencies.

~~(b)(1)(A) Whenever a state agency finalizes the promulgation of a rule or regulation or a revision, amendment, or change in the regulation, a copy shall be filed with the Bureau of Legislative Research if the rule or regulation contains any changes from the initial filing of the rule or regulation.~~

~~(B) A state agency shall notify the Legislative Council of its intention to repeal any rule or regulation which is on file with the bureau.~~

~~(2) As used in this section, "state agency" means any office, board, commission, department, council, bureau, or other agency of state government having authority by statute enacted by the General Assembly to promulgate or enforce the administrative rules and regulations.~~

~~(c)(1) The research staff of the bureau shall study and review all current rules, or proposed rules, and all adopted amendments and revisions of rules by state agencies and shall report to the Legislative Council in regard to them.~~

~~(2) The Legislative Council shall act in an advisory capacity to the General Assembly with respect to administrative rules and procedures and shall report to the General Assembly at each regular session all administrative rules and regulations which the Legislative Council believes to be contrary to legislative intent or promulgated without legislative authority.~~

~~(d)(1)(A) The Legislative Council may selectively review possible, proposed, or adopted rules and regulations and prescribe appropriate Legislative Council procedures for that purpose.~~

~~(B) The Legislative Council may receive and investigate complaints from members of the public with respect to possible, proposed, or adopted rules and regulations and hold public proceedings on those complaints.~~

~~(2)(A) The Legislative Council may request a representative of an agency whose possible, proposed, or adopted rule or regulation is under examination to attend a Legislative Council meeting and answer relevant questions.~~

~~(B) The Legislative Council may also communicate to the~~

~~agency its nonbinding comments on any possible, proposed, or adopted rule or regulation and request the agency to respond to them in writing.~~

~~(3)(A) The Legislative Council may recommend and refer the recommendation to the appropriate committee or committees of the General Assembly:~~

~~(i) Enactment of a statute to improve the operation of an agency; and~~

~~(ii) That a particular rule or regulation be superseded in whole or in part by statute.~~

~~(B) Subdivision (d)(3)(A) of this section does not preclude any committee of the General Assembly from reviewing a rule or regulation on its own motion or recommending that it be superseded in whole or in part by statute.~~

~~(4)(A)(i) If the Legislative Council considers all or any portion of a rule or regulation to be beyond the procedural or substantive authority delegated to the adopting agency, the Legislative Council may file notice of that with the agency issuing the rule or regulation in question.~~

~~(ii) The notice shall contain a concise statement detailing the precise reasons that the Legislative Council considers the rule or regulation, or portion thereof, to be beyond the procedural or substantive authority delegated to the agency.~~

~~(B) The Legislative Council shall maintain a permanent register open to public inspection of all notices.~~

~~(C)(i) Within thirty (30) calendar days after the filing of an objection by the Legislative Council to a rule or regulation, the issuing agency shall respond in writing to the Legislative Council.~~

~~(ii) After receipt of the response, the Legislative Council may withdraw or modify its findings.~~

~~(D) The failure of the Legislative Council to file a notice regarding a rule or regulation is not an implied legislative authorization of its procedural or substantive validity.~~

~~(5) The Legislative Council may make nonbinding recommendations to an agency that it adopt a rule or regulation.~~

~~(e)(1)(A) Before any rule or regulation of any state agency may be revised, promulgated, amended, or changed, a copy of the rule or amendment to existing rules and a financial impact statement shall be filed with the bureau at least thirty (30) days before the expiration of the period for public comment on the rule pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq., or other acts pertaining to the rule-making authority of that agency.~~

~~(B) The scope of the financial impact statement shall be as provided under the Arkansas Administrative Procedure Act, § 25-15-201 et seq., and shall include without limitation the estimated cost of complying with the rule or regulation and the estimated cost for the agency to implement the rule or regulation.~~

~~(2) The bureau shall review the proposed revised or amended rule or regulation and, if it is believed that the rule or regulation is contrary to legislative intent, shall file a statement thereof with the Legislative Council.~~

~~(3) Filings under the Arkansas Administrative Procedure Act, § 25-15-201 et seq., and any comment on the proposed rule or regulation prepared by the bureau shall be submitted to the Legislative Council at the~~

~~next regular meeting following its filing with the Legislative Council.~~

~~(f)(1) In addition, before any rule or regulation of any state agency may be revised, promulgated, amended, or changed, a copy of the rule or amendment to existing rules shall be filed with the interim committees of the General Assembly having responsibility for review of that agency under Acts 1977, No. 100.~~

~~(2) The filing shall be made at least thirty (30) days before the expiration of the period for public comment on the rule, pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq., or other acts pertaining to the rulemaking authority of the agency.~~

(b) As used in this section:

(1)(A) "Rule" means a state agency statement of general applicability and future effect that implements, interprets, or prescribes law or policy or describes the organization, procedure, or practice of a state agency and includes without limitation the amendment or repeal of a prior rule.

(B) "Rule" does not mean:

(i) Statements that concern the internal management of a state agency and that do not affect the private rights or procedures available to the public;

(ii) Declaratory rulings issued pursuant to § 25-15-206; or

(iii) Intraagency memoranda; and

(2)(A) "State agency" means an office, board, commission, department, council, bureau, or other agency of state government having authority by statute enacted by the General Assembly to promulgate or enforce rules.

(B) "State agency" does not include:

(i) The Arkansas State Game and Fish Commission, if the rule is not promulgated under authority of a statute enacted by the General Assembly;

(ii) The State Highway Commission and the Arkansas State Highway and Transportation Department, if the rule is not promulgated under authority of a statute enacted by the General Assembly; and

(iii) An institution of higher education.

(c)(1) A state agency shall file a proposed rule with the Legislative Council at least thirty (30) days before the expiration of the period for public comment on the rule under the Arkansas Administrative Procedure Act, § 25-15-201 et seq., or other laws or policies pertaining to the rulemaking authority of that state agency.

(2) The Legislative Council shall assign proposed rules to the Administrative Rules and Regulations Subcommittee of the Legislative Council.

(3)(A) The proposed rule shall be reviewed by the Administrative Rules and Regulations Subcommittee of the Legislative Council.

(B)(i) Upon conclusion of the review of the proposed rule by the Administrative Rules and Regulations Subcommittee of the Legislative Council, the proposed rule shall be considered approved unless a majority of a quorum present request that the Administrative Rules and Regulations Subcommittee of the Legislative Council vote on the issue of approving the proposed rule.

(ii) If the Administrative Rules and Regulations Subcommittee of the Legislative Council votes on the issue of approving the

proposed rule, the proposed rule shall be approved unless a majority of a quorum present vote for the proposed rule to not be approved.

(4)(A) A proposed rule approved by the Administrative Rules and Regulations Subcommittee of the Legislative Council shall be considered approved by the Legislative Council unless a majority of a quorum present request that the Legislative Council vote on the issue of approving the proposed rule.

(B) If the Legislative Council votes on the issue of approving the proposed rule, the proposed rule shall be approved unless a majority of a quorum present vote for the proposed rule to not be approved.

(d)(1) A state agency shall file a proposed emergency rule with the Executive Subcommittee of the Legislative Council.

(2) A proposed emergency rule shall be considered approved by the Executive Subcommittee of the Legislative Council if:

(A)(i) The proposed emergency rule is reviewed and approved at a meeting of the Executive Subcommittee of the Legislative Council.

(ii) After the review of a proposed emergency rule at a meeting of the Executive Subcommittee of the Legislative Council, the proposed emergency rule shall be considered approved unless a majority of a quorum present request that the Executive Subcommittee of the Legislative Council vote on the issue of approving the proposed emergency rule.

(iii) If the Executive Subcommittee of the Legislative Council votes on the issue of approving the proposed emergency rule, the proposed emergency rule shall be approved unless a majority of a quorum present vote for the proposed emergency rule to not be approved; or

(B)(i) A majority or more of the members of the Executive Subcommittee of the Legislative Council approve the proposed emergency rule in writing.

(ii) An approval in writing of a proposed emergency rule under subdivision (d)(2)(B)(i) of this section shall not constitute a meeting under the Freedom of Information Act of 1967, § 25-19-101 et seq.

(3) A proposed emergency rule approved by the Executive Subcommittee of the Legislative Council shall be reported to the Administrative Rules and Regulations Subcommittee of the Legislative Council.

~~(g)(1)(e)(1)~~ The Joint Budget Committee shall establish the Administrative Rule and Regulation Review Subcommittee.

(2)(A) The Administrative Rule and Regulation Review Subcommittee shall consist of twenty-two (22) members of the General Assembly.

(B)(i) Nine (9) members of the Administrative Rule and Regulation Review Subcommittee shall be appointed by the Senate Cochair of the Joint Budget Committee.

(ii) The Senate Cochair of the Joint Budget Committee shall designate one (1) of his or her appointees as Senate Cochair of the Administrative Rule and Regulation Review Subcommittee.

(C)(i) Nine (9) members of the Administrative Rule and Regulation Review Subcommittee shall be appointed by the House Cochair of the Joint Budget Committee.

(ii) The House Cochair of the Joint Budget Committee shall designate one (1) of his or her appointees as House Cochair of the Administrative Rule and Regulation Review Subcommittee.

(3) The cochairs and co-vice chairs of the Legislative Council shall be ex officio members of the Administrative Rule and Regulation Review Subcommittee.

(4)(A) The Administrative Rule and Regulation Review Subcommittee may meet only during a regular, fiscal, or extraordinary session of the General Assembly.

(B) The Administrative Rule and Regulation Review Subcommittee shall meet at the call of the cochairs of the Administrative Rule and Regulation Review Subcommittee.

(5)(A) During a regular, fiscal, or extraordinary session of the General Assembly:

(i) ~~the~~ The Administrative Rule and Regulation Review Subcommittee may shall perform the functions assigned to the Legislative Council Administrative Rules and Regulations Subcommittee of the Legislative Council under this section; and

(ii) The Joint Budget Committee shall perform the functions assigned to the Legislative Council under this section.

(B) Actions taken by the Administrative Rule and Regulation Review Subcommittee and the Joint Budget Committee under subdivision (g)(5)(A) of this section this subsection have the same effect as actions taken by the Administrative Rules and Regulations Subcommittee of the Legislative Council and the Legislative Council under this section.

(C) If the Administrative Rule and Regulation Review Subcommittee meets during a regular, fiscal, or extraordinary session of the General Assembly, the Administrative Rule and Regulation Review Subcommittee The Joint Budget Committee shall file a report of its actions under this subsection with the Legislative Council as soon as practicable.

(f)(1) A committee or subcommittee under this section may vote to not approve a rule under this section only if the rule is inconsistent with:

(A) State or federal law; or

(B) Legislative intent.

(2) A committee or subcommittee under this section voting not to approve a rule under this section shall state the grounds under subdivision (f)(1) of this section when not approving a rule.

(g)(1) The Administrative Rules and Regulations Subcommittee of the Legislative Council, the Legislative Council, the Administrative Rule and Regulation Review Subcommittee of the Joint Budget Committee, or the Joint Budget Committee may refer a rule to a committee of the General Assembly for the committee's consideration.

(2) After the referred rule is presented to a committee of the General Assembly and considered, the committee to whom the rule was referred may provide its views and opinions on the rule to the committee or subcommittee that referred the rule.

(3) The Administrative Rules and Regulations Subcommittee of the Legislative Council, the Legislative Council, the Administrative Rule and Regulation Review Subcommittee of the Joint Budget Committee, or the Joint Budget Committee shall not delegate their authority to review or approve a rule under this section to a committee or subcommittee of the General Assembly or the Legislative Council.

(h) The Legislative Council shall adopt rules to implement this section, including without limitation rules concerning:

(1) The process for determining when a rule will be placed on

the agendas of the Administrative Rules and Regulations Subcommittee of the Legislative Council and the Legislative Council; and

(2) The materials a state agency shall provide with the rule to aid committees and subcommittees under this section in their review and approval of the rule.

SECTION 13. Arkansas Code § 19-7-103(b), concerning control of college study programs and basic educational grants, is amended to read as follows:

(b)(1) The Department of Education shall issue rules ~~and regulations~~ for the purpose of administering the funds received for college work-study programs and basic educational opportunity grants for the vocational-technical schools.

(2) The Department of Higher Education shall issue rules ~~and regulations~~ for the purpose of administering the funds received by state colleges and universities.

(3) The administration guidelines for the control of the funds of these two (2) programs shall be treated within the fiscal management laws of the State of Arkansas.

(4) Before these rules ~~and regulations~~ are implemented, the approval of the Legislative Council and the Legislative Joint Auditing Committee ~~must shall~~ be obtained ~~by a majority vote of both named bodies~~.

SECTION 14. Arkansas Code § 19-10-212(b), concerning reports of state agency liability and as amended by Act 218 of 2015, is amended to read as follows:

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

SECTION 15. Arkansas Code § 20-13-210 is amended to read as follows:
20-13-210. Rules, ~~regulations~~, and standards – Review required.

(a)(1) All rules, ~~regulations~~, and standards relating to emergency medical services promulgated and adopted by the Emergency Medical Services Advisory Council and the State Board of Health or any other state agency or department authorized to promulgate and adopt rules ~~and regulations~~ to carry out this subchapter shall be submitted to the House Committee on Public Health, Welfare, and Labor and the Senate Committee on Public Health, Welfare, and Labor or appropriate subcommittees thereof for consideration ~~and review~~ prior to being placed in effect by the department or agency.

(2) No rules, ~~regulations~~, or standards promulgated to carry out this subchapter shall be enforced by any state agency or department until they have been:

(A) ~~submitted~~ Submitted to, and considered, and approved for enforcement by the House Committee on Public Health, Welfare, and Labor and the Senate Committee on Public Health, Welfare, and Labor; and

(B) Reviewed and approved by the Legislative Council under § 10-3-309.

(b)(1) Rules ~~and regulations~~ promulgated by the council shall receive approval of the Governor after he or she receives the review ~~of the House Committee on Public Health, Welfare, and Labor and the Senate Committee on Public Health, Welfare, and Labor or appropriate subcommittees thereof~~ and approval of the Legislative Council prior to effect and enforcement.

~~(2) The rules and regulations shall be of a temporary nature, and no rules or regulations shall become final until specifically approved by the General Assembly.~~

SECTION 16. Arkansas Code § 23-65-403 is amended to read as follows:
23-65-403. Committees' approval of agreements or compacts required.

A multistate agreement or compact entered into by the Insurance Commissioner shall be:

- (1) ~~approved~~ Considered by the Senate Committee on Insurance and Commerce and the House Committee on Insurance and Commerce; and
- (2) Reviewed and approved by the Legislative Council.

SECTION 17. Arkansas Code 23-115-103(11), concerning the definition of "lobbying" and as amended by Act 218 of 2015, is amended to read as follows:

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

SECTION 18. Arkansas Code § 23-115-104(c)(1), concerning fiscal impact statements and as amended by Act 218 of 2015, is amended to read as follows:

(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 Legislative Oversight Committee~~ Legislative Council.

SECTION 19. Arkansas Code § 23-115-204(c)(3), concerning the Lottery Retailer Advisory Board and as amended by Act 218 of 2015, is amended to read as follows:

(3) The board may report to the office and the ~~Arkansas Lottery Legislative Oversight Committee~~ Legislative Council in writing at any time.

SECTION 20. Arkansas Code § 23-115-206, as amended by Act 218 of 2015, is amended to read as follows:

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

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

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

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

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

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

(ii) Annually review the audit plan.

(C) The director 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 office or others with whom the 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 office in accordance with generally accepted accounting principles and in accordance with guidelines and timelines established by the Chief Fiscal Officer of the State to permit incorporation into the state's financial statements and to permit the audit of the state's financial statements and the office's financial statements in a timely manner;

(7) Make all financial records and related information available to 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 Legislative Oversight Committee~~ Legislative Council disclosing the following budgeted and actual information for the reporting period and cumulatively for the fiscal year:

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

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

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

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

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

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

(ii) A current organizational chart;

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

(iv) The annual financial audit report made to the

Legislative Joint Auditing Committee;

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

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

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

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

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

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

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

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

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

(b) The department's report to the ~~Arkansas Lottery Legislative Oversight Committee~~ Legislative Council required by § 6-85-219;

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

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

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

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

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

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

(B) Revenues received;

(C) Claims for lottery prizes;

(D) Lottery prizes paid;

(E) Lottery prizes forfeited; and

(F) Other financial transactions of the office;

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

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

(i) Contain an estimate of the net proceeds to be

available for scholarships and grants during the succeeding fiscal year;

(ii) Compare the:
(a) Actual revenues and expenditures for the last completed fiscal year;
(b) Budgeted revenues and expenditures for the current fiscal year; and
(c) Estimated revenues and expenditures for the next fiscal year;

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

(iv) Classify all revenues and expenditures by specific purpose instead of "miscellaneous" or "other";

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

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

(a) The total number of persons currently employed;
(b) The number of Caucasian male employees;
(c) The number of Caucasian female employees;
(d) The total number of Caucasian employees;
(e) The number of African-American male employees;
(f) The number of African-American female employees;
(g) The number of other employees who are members of racial minorities; and
(h) The total number of minorities currently employed; and

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

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

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

(2) The office shall reimburse 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 office and related entities, scholarships, grants, vendors, retailers, or other related matters.

(3)(A) If the office, the General Assembly, the ~~Arkansas Lottery Legislative Oversight Committee~~ Legislative Council, or the Legislative Joint Auditing Committee requests additional audits or performance reviews of the fiscal affairs or operations of the office to be conducted by a private certified public accountant or other consultant, the Director of the

Department of Finance and Administration shall select and contract with appropriate certified public accountants or consultants to provide the services.

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

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

(4) This chapter does not limit the statutory authority of the division or the responsibilities of the 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.

SECTION 21. Arkansas Code § 23-115-207(c)(2)(B), concerning rulemaking pertaining to lotteries and as amended by Act 218 of 2015, is amended to read as follows:

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

SECTION 22. Arkansas Code § 23-115-208(d)(4), concerning sovereign immunity pertaining to lotteries and as amended by Act 218 of 2015, is amended to read as follows:

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

SECTION 23. Arkansas Code § 23-115-212(c)(1), concerning duties and responsibilities of the internal auditor employed by the Office of the Arkansas Lottery and as amended by Act 218 of 2015, is amended to read as follows:

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

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

(B) Update the ~~Arkansas Lottery Legislative Oversight Committee~~ Legislative Council concerning the resolution of any audit findings of the Division of Legislative Audit.

SECTION 24. Arkansas Code § 23-115-302(b)(8) and (9), concerning the duties of the Director of the Arkansas Lottery and as amended by Act 218 of 2015, are amended to read as follows:

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

(9) Annually by November 15, report to the ~~Arkansas Lottery~~

~~Legislative Oversight Committee~~ Legislative Council the following:

(A) For the immediately preceding fiscal year:

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

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

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

SECTION 25. Arkansas Code § 23-115-306, as amended by Act 218 of 2015, is amended to read as follows:

23-115-306. Special salary allowances.

(a) The Governor may make special salary allowances authorized by this section for recruitment or retention in amounts determined by the ~~Arkansas Lottery Legislative Oversight Committee~~ Legislative Council 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;
- (2) Internal auditor of the Office of the Arkansas Lottery; and
- (3) Chief operating officer of the 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 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 Legislative Oversight Committee~~ Legislative Council 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 Legislative Oversight Committee~~ Legislative Council is ruled unconstitutional by a court of competent jurisdiction, this section is void.

SECTION 26. Arkansas Code § 23-115-307, as amended by Act 218 of 2015, is amended to read as follows:

23-115-307. Expansion pool.

(a) The Office of the Arkansas Lottery 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 office does not have sufficient positions available to address growth needs.

(b) A position established under this section shall not exceed 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 position that is requested by the office is reviewed by the ~~Arkansas Lottery Legislative Oversight Committee~~ Legislative Council.

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

(e)(1) The requirement of review by the ~~Arkansas Lottery Legislative Oversight Committee~~ Legislative Council before authorizing a position from

the expansion pool is not a severable part of this section.

(2) If the requirement of review by the ~~Arkansas Lottery Legislative Oversight Committee~~ Legislative Council is ruled unconstitutional by a court of competent jurisdiction, this section is void.

SECTION 27. Arkansas Code § 23-115-401(e), concerning minority-owned businesses and female-owned businesses participating in lotteries and as amended by Act 218 of 2015, is amended to read as follows:

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

SECTION 28. § 23-115-403(g)(3), concerning attachments, garnishments, or executions withhold from lottery prizes and as amended by Act 218 of 2015, is amended to read as follows:

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

- (A) Unclaimed lottery prize money;
- (B) Expenditures from unclaimed lottery prize money; and
- (C) Deposits to net lottery proceeds from unclaimed lottery prize money.

SECTION 29. Arkansas Code § 23-115-410(c), concerning compulsive gambling disorder treatment and educational programs offered by the Office of the Arkansas Lottery and as amended by Act 218 of 2015, is amended to read as follows:

(c) The office and the department shall provide a joint report to the ~~Arkansas Lottery Legislative Oversight Committee~~ Legislative Council 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 office and the department for changes in the programs or funding the programs.

SECTION 30. Arkansas Code § 23-115-501(e)(1), concerning lottery vendors and as amended by Act 218 of 2015, is amended to read as follows:

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

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

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

Department of Finance and Administration, or a member of the ~~Arkansas Lottery Legislative Oversight Committee~~ Legislative Council.

SECTION 31. Arkansas Code § 23-115-610(d), concerning business closure procedures and as amended by Act 218 of 2015, is amended to read as follows:

(d) The Office of the Arkansas Lottery may reimburse the Department of Finance and Administration for the costs of administering this section after review of the amount by the ~~Arkansas Lottery Legislative Oversight Committee~~ Legislative Council.

SECTION 32. Arkansas Code § 23-115-701(e), concerning procurements of the Office of the Arkansas Lottery and as amended by Act 218 of 2015, is amended to read as follows:

(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 Legislative Oversight Committee~~ Legislative Council for review at least thirty (30) days before the execution date of the major procurement contract or the amendment or modification to a proposed or executed major procurement contract.

(2) The ~~Arkansas Lottery Legislative Oversight Committee~~ Legislative Council shall provide the office with its review as to the propriety of the major procurement contract and each amendment or modification to a proposed or executed major procurement contract within thirty (30) days after receipt of the proposed major procurement contract or the amendment or modification to a proposed or executed major procurement contract.

SECTION 33. Arkansas Code § 23-115-801, as amended by Act 218 of 2015, is amended to read as follows:

23-115-801. Lottery proceeds.

(a)(1) Lottery proceeds are the property of the Office of the Arkansas Lottery.

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

(B)(i) An amount of lottery proceeds determined by the office to maximize net proceeds for scholarships shall be made available as prize money.

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

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

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

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

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

(c)(1) The Director of the Department of Higher Education shall

certify to the office the amount of net proceeds from the lottery needed to fund the scholarships awarded to recipients under § 6-85-201 et seq. for each semester of an academic year.

(2)(A) The office shall transfer the funds requested by the Director of the Department of Higher Education under subdivision (c)(1) of this section into one (1) or more trust accounts at one (1) or more financial institutions meeting the requirements of subdivision (b)(2) of this section maintained by the Department of Higher Education.

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

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

(ii) If a recipient transfers to another approved institution of higher education, to the approved institution of higher education where the recipient transferred.

(3) By August 1 of each year, the Director of the Department of Higher Education shall provide to the Director of the Department of Finance and Administration and to the ~~Arkansas Lottery Legislative Oversight Committee~~ Legislative Council for the academic year just ended an accounting of all trust accounts maintained by the Department of Higher Education, including without limitation:

(A) Total deposits to all trust accounts;

(B) Total disbursements from the trust accounts; and

(C) The balance remaining in the trust accounts.

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

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

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

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

(B) Annually by October 31, the Department of Higher Education shall provide an invoice to the office for reimbursement of the administrative expenditures allowed under this subsection, including without limitation:

(i) For each employee the:

(a) Type of position, whether full-time, part-time, permanent, or temporary; and

(b) Salary paid;

(ii) A description of other expenditures requested in the invoice; and

(iii) An explanation of the increase, if any, of actual expenditures over the budgeted expenditures.

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

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

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

SECTION 34. Arkansas Code § 23-115-1101, as amended by Act 218 of 2015, is amended to read as follows:

23-115-1101. ~~Arkansas Lottery Legislative Oversight Committee~~ Duties of Legislative Council.

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

~~(b) The Arkansas Lottery 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 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 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 Legislative Oversight Committee and may consider racial, gender, and geographical diversity among the membership.~~

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

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

(2) Review and approve proposed rules of the Office of the Arkansas Lottery under § 10-3-309;

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

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

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

(5) Perform its duties under § 6-85-220; and

(6) Study other lottery matters as the ~~Arkansas Lottery Legislative Oversight Committee~~ Legislative Council considers necessary to fulfill its mandate.

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

(A) Any analysis or findings resulting from its activities under this section that the ~~Arkansas Lottery Legislative Oversight Committee~~ Legislative Council deems relevant; and

(B) Its recommendations for any changes to the:

- (i) Scholarship award amounts;
- (ii) Number or type of scholarships; and
- (iii) Scholarship eligibility requirements.

(2) ~~The Arkansas Lottery Legislative Oversight Committee~~ Legislative Council 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 Legislative Oversight Committee.~~

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

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

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

~~(g) Members of the Arkansas Lottery 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)(c)(1) With the consent of both the President Pro Tempore of the Senate and the Speaker of the House of Representatives, the Arkansas Lottery Legislative Oversight Committee may meet during a session of the General Assembly to perform its duties under this chapter~~ During a regular, fiscal, or extraordinary session of the General Assembly, the Joint Budget Committee shall perform the functions assigned to the Legislative Council under:

- (A) This chapter;
- (B) Section 6-60-902;
- (C) Section 6-60-903;
- (D) Section 6-85-205;
- (E) Section 6-85-212;
- (F) Section 6-85-216;
- (G) Section 6-85-219;
- (H) Section 6-85-220; and
- (I) Section 19-10-212.

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

(d) The Legislative Council and the Joint Budget Committee may:

(1) Establish one (1) or more subcommittees to assist in their duties under this chapter;

(2) Assign information filed with the Legislative Council under this subchapter to one (1) or more subcommittees created under subdivision (d)(1) of this section; and

(3) Delegate their duties under this chapter to one (1) or more subcommittees created under subdivision (d)(1) of this section, subject to the final approval of the Legislative Council or the Joint Budget Committee.

SECTION 35. Arkansas Code § 23-115-1102, as amended by Act 218 of 2015, is repealed.

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

~~Oversight Committee.~~

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

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

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

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

~~(c)(1) The Arkansas Lottery 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 Legislative Oversight Committee under subsection (b) of this section.~~

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

SECTION 36. Arkansas Code § 25-10-129(c), concerning rules of the Department of Human Services to assure compliance with federal statutes, rules, and regulations, is amended to read as follows:

(c) All rules promulgated pursuant to this section shall be promulgated in conformity with the Arkansas Administrative Procedure Act, § 25-15-201 et seq., and after legislative review and approval as required by § 10-3-309.

SECTION 37. Arkansas Code § 25-15-204 is amended to read as follows:
25-15-204. Rules – Procedure for adoption.

(a) Prior to the adoption, amendment, or repeal of a rule, the agency shall:

(1)(A)(i) Give at least thirty (30) days' notice of its intended action.

(ii) The thirty-day period shall begin on the first day of the publication of notice.

(B) The notice shall include:

(i) A statement of the terms or substance of the intended action or a description of the subjects and issues involved; and

(ii) The time, location, and manner in which an interested person may present his or her position on the intended action of the agency or on the issues related to the intended action of the agency.

(C) The notice shall be mailed to:

(i) A person specified by law; and

(ii) A person who has requested advance notice of rule-making proceedings.

(D) Unless otherwise provided by law, the notice shall be published:

(i) In a newspaper of general daily circulation for three (3) consecutive days and, when appropriate, in those trade, industry, or professional publications that the agency may select; and

(ii) By the Secretary of State on the Internet for thirty (30) days under § 25-15-218;

(2)(A) Afford all interested persons reasonable opportunity to submit written data, views, or arguments, orally or in writing.

(B) The agency shall grant an opportunity for an oral hearing if requested by twenty-five (25) persons, by a governmental subdivision or agency, or by an association having at least twenty-five (25) members.

(C) The agency shall fully consider all written and oral submissions respecting the proposed rule before finalizing the language of the proposed rule and filing the proposed rule as required by subsection (e) of this section.

(D) If an interested person requests a statement of the reasons for and against the adoption of a rule before adoption or within thirty (30) days after adoption, the agency shall issue a concise statement of the principal reasons for and against its adoption, incorporating its reasons for overruling the considerations urged against its adoption.

(E) When rules are required by law to be made on the record after opportunity for an agency hearing, the provisions of that law shall apply in place of this subdivision (a)(2); and

(3) Consider the following factors:

(A) Whether the agency is required by statute to adopt the proposed rule, whether by a specific date, and whether the agency has discretion to promulgate rules;

(B) Other statutes relevant to the proposed rule and its alternatives;

(C) The specific nature and significance of the problem the agency addresses with the proposed rule, including without limitation:

(i) The nature and degree of the risks the problem poses;

(ii) The priority of addressing those risks as opposed to other matters or activities within the agency's jurisdiction;

(iii) Whether the problem warrants new agency action; and

(iv) The countervailing risks that may be posed by alternative rules for the agency;

(D) Whether existing rules have created or contributed to the problem the agency is addressing with the proposed rule, and whether those rules could be amended or repealed to address the problem in whole or in part;

(E) Reasonable alternatives to the proposed rule, including without limitation:

(i) Adopting no rule;

(ii) Amending or repealing existing rules; and

(iii) Other potential responses that could be taken instead of agency action;

(F) The financial impact of the proposed rule; and

(G) Any other factor relevant to the need for and alternatives to the proposed rule.

(b)(1) An agency shall not adopt, amend, or repeal a rule unless the rule is 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.

(2) An agency shall adopt the least costly rule considered under this section, unless:

(A) The additional benefits of the more costly rule

justify its additional cost;

(B) The agency explains its reason for adoption of the more costly rule in writing;

(C) The reason is based on the interests of public health, safety, or welfare; and

(D) The reason is within the scope of the agency's statutory authority.

(c)(1) If an agency finds that imminent peril to the public health, safety, or welfare or compliance with a federal law or regulation requires adoption of a rule upon less than thirty (30) days' notice and states in writing its reasons for that finding, it may proceed without prior notice or hearing, or upon any abbreviated notice and hearing that it may choose, to adopt an emergency rule.

(2) An agency shall not file an emergency rule with the Secretary of State for adoption until the emergency rule has been approved under § 10-3-309.

~~(2)(3)~~ (3) Except as provided in ~~§ 5-64-204~~ § 5-64-201, the rule may be effective for no longer than one hundred twenty (120) days.

~~(3)(4)~~ (4) If, after the expiration of the effective period of an emergency rule, an agency wishes to adopt a successive emergency rule that is identical or substantially similar to the expired emergency rule, the agency shall not adopt the successive emergency rule earlier than thirty (30) days after the expiration of the emergency rule.

(d)(1) A person may petition an agency for the issuance, amendment, or repeal of a rule.

(2) Within thirty (30) days after submission of a petition, the agency shall:

(A) Deny the petition, stating in writing its reasons for the denial; or

(B) Initiate rule-making proceedings.

(e)(1)(A) An agency shall file with the Secretary of State, the Arkansas State Library, and the ~~Bureau of Legislative Research~~ Legislative Council a copy of each rule, including without limitation an emergency rule, proposed by it and a financial impact statement for the proposed rule.

(B) A rule shall be filed in compliance with this section and with §§ 10-3-309 and 25-15-218.

(2) The Secretary of State shall keep a register of the rules open to public inspection, and it shall be a permanent register.

(3) If the purpose of a state agency rule is to implement a federal rule or regulation, the financial impact statement shall include:

(A) The cost to implement the federal rule or regulation; and

(B) The additional cost of the state rule.

(4)(A) If a financial impact statement reveals 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, the agency shall file written findings at the time of filing the financial impact statement.

(B) The written findings shall be filed simultaneously with the financial impact statement and shall include without limitation:

(i) A statement of the rule's basis and purpose;

(ii) The problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;

(iii) 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;

(iv) 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;

(v) 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;

(vi)(a) A statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule.

(b) 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

(vii) 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 objections.

(f) An agency shall not file a final rule with the Secretary of State for adoption unless the final rule has been approved under § 10-3-309.

~~(f)(1)(A)~~(g)(1)(A) Each rule adopted by an agency is effective ~~thirty~~ ~~(30)~~ ten (10) days after filing of the final rule with the Secretary of State unless a later date is specified by law or in the rule itself.

(B) A final rule shall not be filed until the thirty-day public comment period required under subdivision (a)(1)(A) of this section has expired.

(C)(i) After the expiration of the thirty-day public comment period and before the effective date of the rule, the agency promulgating the rule shall take appropriate measures to make the final rule known to the persons who may be affected by the rule.

(ii) Appropriate measures shall include without limitation posting the following information on the agency's website:

(a) The final rule;
(b) Copies of all written comments submitted to the agency regarding the rule;

(c) A summary of all written and oral comments submitted to the agency regarding the rule and the agency's response to those comments;

(d) A summary of the financial impact of the

rule; and

(e) The proposed effective date of the final rule.

(2)(A)(i) However, an emergency rule may become effective immediately upon filing or at a stated time less than ~~thirty (30)~~ ten (10) days after filing if the agency finds that this effective date is necessary because of imminent peril to the public health, safety, or welfare.

(ii) The agency's finding, a brief statement of the reasons for the finding, and the financial impact statement shall be filed with the rule.

(B) The agency shall take appropriate measures to make emergency rules known to the persons who may be affected by the emergency rules.

~~(g)~~(h) A rule adopted after June 30, 1967, is not valid unless adopted and filed in substantial compliance with this section.

~~(h)~~~~(1)~~(i)(1) In a proceeding that questions the existence of imminent peril to the public health, safety, or welfare, a written finding by an agency that adopting an emergency rule was necessary to avoid the loss of federal funding or certification establishes a prima facie case of the existence of imminent peril to the public health, safety, or welfare.

(2) The burden of proof shifts to the challenger to rebut the existence of the condition by a preponderance of the evidence."

The Amendment was read the first time, rules suspended and read the second time and _____

By: Senator J. Dismang

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MBM130

Secretary