

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas
2 90th General Assembly
3 Regular Session, 2015
4

As Engrossed: S3/24/15 H3/30/15

A Bill

SENATE BILL 2

5 By: Senator J. Dismang
6

For An Act To Be Entitled

8 AN ACT CONCERNING THE REVIEW AND APPROVAL OF
9 ADMINISTRATIVE RULES; IMPLEMENTING ARTICLE 5, SECTION
10 42, OF THE ARKANSAS CONSTITUTION; AND FOR OTHER
11 PURPOSES.
12
13

Subtitle

14 AN ACT CONCERNING THE REVIEW AND APPROVAL
15 OF ADMINISTRATIVE RULES AND THE
16 IMPLEMENTATION OF ARTICLE 5, SECTION 42,
17 OF THE ARKANSAS CONSTITUTION.
18
19
20

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
22

23 *SECTION 1. LEGISLATIVE FINDINGS. The General Assembly finds:*

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

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

34 *(3) The General Assembly at this time wishes to exclude the Arkansas*
35 *State Game and Fish Commission, the State Highway Commission, the Arkansas*
36 *State Highway and Transportation Department, and institutions of higher*



1 education from the definition of "state agency" applied to the implementation
 2 of Amendment 92; and

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

8
 9 SECTION 2. Arkansas Code § 6-15-2106(b), concerning rules implementing
 10 a school rating system, is amended to read as follows:

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

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

23
 24 SECTION 3. Arkansas Code § 6-60-902(b)(2)(B)(ii), concerning the
 25 Arkansas Higher Education Information System and as amended by Act 218 of
 26 2015, is amended to read as follows:

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

31
 32 SECTION 4. Arkansas Code § 6-60-903(b), concerning compliance by
 33 institutions of higher education and as amended by Act 218 of 2015, is
 34 amended to read as follows:

35 (b) Within two (2) weeks of an institution of higher education's
 36 failure to comply with the requirements for submission of data published by

1 the department, the department shall report to the ~~Arkansas Lottery~~
 2 ~~Legislative Oversight Committee~~ Legislative Council:

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

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

7 (3) The length of time of noncompliance; and

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

10
 11 SECTION 5. Arkansas Code § 6-85-205(a), concerning the authority and
 12 duties of the Department of Higher Education and as amended by Act 218 of
 13 2015, is amended to read as follows:

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

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

22
 23 SECTION 6. Arkansas Code § 6-85-205(d)(3), concerning the authority
 24 and duties of the Department of Higher Education and as amended by Act 218 of
 25 2015, is amended to read as follows:

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

29
 30 SECTION 7. Arkansas Code § 6-85-205(g), concerning the authority and
 31 duties of the Department of Higher Education and as amended by Act 218 of
 32 2015, is amended to read as follows:

33 (g)(1)(A) By July 15 of each year, the Director of the Department of
 34 Higher Education shall provide a report to the ~~Arkansas Lottery Legislative~~
 35 ~~Oversight Committee~~ Legislative Council on:

36 (i) The implementation of this subchapter;

1 (ii) The number of recipients that either:
 2 (a) Dropped out during the academic year; or
 3 (b) Lost the scholarship during the academic
 4 year; and

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

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

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

15
 16 SECTION 8. Arkansas Code § 6-85-212(f), concerning scholarship award
 17 amounts and as amended by Act 218 of 2015, is amended to read as follows:

18 (f) Annually by December 15, the ~~Arkansas Lottery Legislative~~
 19 ~~Oversight Committee~~ Legislative Council shall provide to the General Assembly
 20 its recommendations for any changes to the:

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

24
 25 SECTION 9. Arkansas Code § 6-85-212(j), concerning scholarship award
 26 amounts and as amended by Act 218 of 2015, is amended to read as follows:

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

34
 35 SECTION 10. Arkansas Code § 6-85-216(c), concerning an institution
 36 report to the Department of Higher Education and as amended by Act 218 of

1 2015, is amended to read as follows:

2 (c) The department shall use the information provided under this
3 section to conduct the research and analysis needed to support the annual
4 report of the Director of the Department of Higher Education to the ~~Arkansas~~
5 ~~Lottery Legislative Oversight Committee~~ Legislative Council under § 6-85-205.

6
7 SECTION 11. Arkansas Code § 6-85-219 and 6-85-220, as amended by Act
8 218 of 2015, are amended to read as follows:

9 6-85-219. Reports to legislative committees.

10 (a)(1) Annually by August 1, the Department of Higher Education shall
11 report to the ~~Arkansas Lottery Legislative Oversight Committee~~ Legislative
12 Council in the manner and format that the ~~Arkansas Lottery Legislative~~
13 ~~Oversight Committee~~ Legislative Council requires on all state-supported
14 student financial assistance awarded by the department and awarded by
15 approved institutions of higher education.

16 (2) The information provided shall include without limitation:

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

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

21 (C) Fund balances for the:

22 (i) Higher Education Grants Fund Account; and

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

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

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

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

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

36 and

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

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

8 (1) *Race;*

9 (2) *Grade point average;*

10 (3) *Composite score on the ACT or the equivalent score on an ACT*
11 *equivalent; and*

12 (4) *Family or individual income as reported on the student's*
13 *Free Application for Federal Student Aid.*

14
15 6-85-220. ~~*Arkansas Lottery Legislative Oversight Committee*~~ *Legislative*
16 *Council* *– Annual report.*

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

19 (1) *Oversee the development and implementation of Arkansas Code*
20 *requirements with regard to the Arkansas Academic Challenge Scholarship*
21 *Program;*

22 (2) *Review whether and how the use of net state lottery proceeds*
23 *helps to accomplish state objectives for higher education;*

24 (3) *Review the ongoing data collection, research, and evaluation*
25 *of the program;*

26 (4) *Review the annual report of the Director of the Department*
27 *of Higher Education under § 6-85-219;*

28 (5) *Review and recommend changes to the:*

29 (A) *Number of awards for each scholarship and grant;*

30 (B) *Award levels;*

31 (C) *Eligibility requirements; and*

32 (D) *Overall administration of the program; and*

33 (6) *Review and recommend policies for scholarships and grants*
34 *funded with nonlottery state educational resources, including without*
35 *limitation ways to ensure that net proceeds from the state lottery are used*
36 *to supplement and not supplant nonlottery state educational resources.*

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

7
8 SECTION 12. Arkansas Code § 9-13-106(g), concerning the attorney ad
9 litem program, is amended to read as follows:

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

16
17 SECTION 13. Arkansas Code § 10-3-309 is amended to read as follows:

18 10-3-309. Review and approval of state agency rules, ~~regulations,~~
19 ~~amendments, revisions, etc.~~

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

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

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

34 ~~(b)(1)(A) Whenever a state agency finalizes the promulgation of a rule~~
35 ~~or regulation or a revision, amendment, or change in the regulation, a copy~~
36 ~~shall be filed with the Bureau of Legislative Research if the rule or~~

1 ~~regulation contains any changes from the initial filing of the rule or~~
2 ~~regulation.~~

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

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

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

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

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

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

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

31 ~~(B) The Legislative Council may also communicate to the~~
32 ~~agency its nonbinding comments on any possible, proposed, or adopted rule or~~
33 ~~regulation and request the agency to respond to them in writing.~~

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

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

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

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

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

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

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

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

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

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

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

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

36 ~~(B) The scope of the financial impact statement shall be~~

1 ~~as provided under the Arkansas Administrative Procedure Act, § 25-15-201 et~~
2 ~~seq., and shall include without limitation the estimated cost of complying~~
3 ~~with the rule or regulation and the estimated cost for the agency to~~
4 ~~implement the rule or regulation.~~

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

9 ~~(3) Filings under the Arkansas Administrative Procedure Act, §~~
10 ~~25-15-201 et seq., and any comment on the proposed rule or regulation~~
11 ~~prepared by the bureau shall be submitted to the Legislative Council at the~~
12 ~~next regular meeting following its filing with the Legislative Council.~~

13 ~~(f)(1) In addition, before any rule or regulation of any state agency~~
14 ~~may be revised, promulgated, amended, or changed, a copy of the rule or~~
15 ~~amendment to existing rules shall be filed with the interim committees of the~~
16 ~~General Assembly having responsibility for review of that agency under Acts~~
17 ~~1977, No. 100.~~

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

22 (b) As used in this section:

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

28 (B) "Rule" does not mean:

29 (i) A statement that concerns the internal
30 management of a state agency and that does not affect the private rights or
31 procedures available to the public;

32 (ii) A declaratory order or ruling issued under §
33 25-15-206 or other provision of law applicable to the state agency issuing
34 the declaratory order or ruling; or

35 (iii) Intraagency memoranda; and

36 (2)(A) "State agency" means an office, board, commission,

1 department, council, bureau, or other agency of state government having by
2 statute enacted by the General Assembly rules.

3 (B) "State agency" does not include the following unless
4 the Legislative Council adopts rules under subsection (h) of this section
5 including one (1) or more of the following in the definition of "state
6 agency":

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

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

13 (iii) An institution of higher education.

14 (c)(1) A state agency shall file a proposed rule with the Legislative
15 Council at least thirty (30) days before the expiration of the period for
16 public comment on the rule under the Arkansas Administrative Procedure Act, §
17 25-15-201 et seq., or other laws or policies pertaining to the rulemaking
18 authority of that state agency.

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

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

23 (ii) When reviewing a rule under subdivision
24 (c)(3)(A)(i) of this section, the Administrative Rules and Regulations
25 Subcommittee of the Legislative Council shall allow members of the public a
26 reasonable opportunity to comment on the proposed rule.

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

33 (ii) If the Administrative Rules and Regulations
34 Subcommittee of the Legislative Council votes on the issue of approving the
35 proposed rule, the proposed rule shall be approved unless a majority of a
36 quorum present vote for the proposed rule to not be approved.

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

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

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

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

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

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

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

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

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

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

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

36 (2)(A) The Administrative Rule and Regulation Review

1 Subcommittee shall consist of twenty-two (22) members of the General
2 Assembly.

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

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

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

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

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

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

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

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

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

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

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

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

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

8 (A) State or federal law; or

9 (B) Legislative intent.

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

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

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

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

28 (h)(1) The Legislative Council shall adopt rules to implement this
29 section, including without limitation rules concerning:

30 (A) The process for determining when a rule will be placed
31 on the agendas of the Administrative Rules and Regulations Subcommittee of
32 the Legislative Council and the Legislative Council; and

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

36 (2) The Legislative Council may adopt rules amending the

1 definition of "state agency" under subdivision (b)(1)(B) of this section to
 2 provide:

3 (A) That the definition of "state agency" includes an
 4 agency of state government, including without limitation an agency of state
 5 government under subdivision (b)(2)(B) of this section; and

6 (B) That the definition of "state agency" under this
 7 section does not include an agency of state government.

8 (i) The review and approval of a rule under this section shall not be
 9 construed to:

10 (1) Represent an expression by the General Assembly that the
 11 rule is consistent with:

12 (A) State or federal law; or

13 (B) Legislative intent; and

14 (2) Have any effect in a judicial proceeding relating to the
 15 rule, including without limitation a judicial review of the rule under § 25-
 16 15-212 or other applicable provision of law.

17
 18 SECTION 14. Arkansas Code § 12-27-106 is amended to read as follows:

19 12-27-106. Publication of rules, laws, and regulations – Report
 20 concerning administrative directives and administrative memoranda filed with
 21 Legislative Council.

22 (a) It shall be the duty of the Board of Corrections to publish in
 23 pamphlet form and to post in conspicuous places about the Department of
 24 Correction farms and all other penal institutions all rules, laws, and
 25 regulations promulgated by the board with reference to the conduct of the
 26 prisoners confined therein.

27 (b)(1) Except as provided in subdivision (b)(2) of this section, the
 28 board shall file a report with the Legislative Council on a quarterly basis
 29 containing all new and revised administrative directives and administrative
 30 memoranda issued in the previous quarter by:

31 (A) The board;

32 (B) The Director of the Department of Correction;

33 (C) The Director of the Department of Community
 34 Correction; and

35 (D) Staff of the Department of Correction and Department
 36 of Community Correction.

1 (2) The report under subdivision (b)(1) of this section shall
2 not include information that is confidential under § 12-27-137.

3
4 SECTION 15. Arkansas Code § 16-93-210 is amended to read as follows:
5 16-93-210. Monthly performance report on parole applications and
6 outcome - Reports concerning administrative directives filed with Legislative
7 Council.

8 (a)(1) Beginning October 1, 2011, the Parole Board shall submit a
9 monthly report to the chairs of the House Committee on Judiciary and the
10 Senate Committee on Judiciary, the Legislative Council, the Board of
11 Corrections, the Governor, and the Commission on Disparity in Sentencing
12 showing the number of persons who make application for parole and those who
13 are granted or denied parole during the previous month for each criminal
14 offense classification.

15 (2) The report shall include a breakdown by race of all persons
16 sentenced in each criminal offense classification.

17 (3) The report shall include the reason for each denial of
18 parole, the results of the risk-needs assessment, and the course of action
19 that accompanies each denial pursuant to § 16-93-615(a)(2)(B)(ii).

20 (b) The board shall cooperate with and upon request make presentations
21 and provide various reports, to the extent the board's budget will allow, to
22 the Legislative Council concerning board policy and criteria on discretionary
23 offender programs and services.

24 (c) The board shall file a report with the Legislative Council on a
25 quarterly basis containing all new and revised administrative directives
26 issued in the previous quarter by:

27 (1) The board;

28 (2) The Chairman of the board;

29 (3) The Administrative Services Manager of the board;

30 (4) The Administrator of the board; and

31 (5) Staff of the board.

32
33 SECTION 16. Arkansas Code § 19-7-103(b), concerning control of college
34 study programs and basic educational grants, is amended to read as follows:

35 (b)(1) The Department of Education shall issue rules ~~and regulations~~
36 for the purpose of administering the funds received for college work-study

1 programs and basic educational opportunity grants for the vocational-
2 technical schools.

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

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

9 (4) Before these rules ~~and regulations~~ are implemented, the
10 approval of the Legislative Council and the Legislative Joint Auditing
11 Committee ~~must~~ shall be obtained ~~by a majority vote of both named bodies.~~
12

13 SECTION 17. Arkansas Code § 19-10-212(b), concerning reports of state
14 agency liability and as amended by Act 218 of 2015, is amended to read as
15 follows:

16 (b) The Office of the Arkansas Lottery shall file its report under
17 subsection (a) of this section with the ~~Arkansas Lottery Legislative~~
18 ~~Oversight Committee~~ Legislative Council.
19

20 SECTION 18. Arkansas Code § 20-13-210 is amended to read as follows:

21 20-13-210. Rules, ~~regulations,~~ and standards – Review required.

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

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

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

36 (B) Reviewed and approved by the Legislative Council under

1 § 10-3-309.

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

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

10
11 SECTION 19. Arkansas Code § 23-65-403 is amended to read as follows:
12 23-65-403. Committees' approval of agreements or compacts required.

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

15 ~~(1) approved~~ Considered by the Senate Committee on Insurance and
16 Commerce and the House Committee on Insurance and Commerce; and

17 (2) Reviewed and approved by the Legislative Council.

18
19 SECTION 20. Arkansas Code 23-115-103(11), concerning the definition of
20 "lobbying" and as amended by Act 218 of 2015, is amended to read as follows:

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

28
29 SECTION 21. Arkansas Code § 23-115-104(c)(1), concerning fiscal impact
30 statements and as amended by Act 218 of 2015, is amended to read as follows:

31 (c)(1) A fiscal impact statement under this section shall be developed
32 by the Bureau of Legislative Research within the guidelines adopted by the
33 ~~Arkansas Lottery Legislative Oversight Committee~~ Legislative Council.

34
35 SECTION 22. Arkansas Code § 23-115-204(c)(3), concerning the Lottery
36 Retailer Advisory Board and as amended by Act 218 of 2015, is amended to read

1 as follows:

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

4
5 SECTION 23. Arkansas Code § 23-115-206, as amended by Act 218 of 2015,
6 is amended to read as follows:

7 23-115-206. Internal controls – Annual audit.

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

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

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

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

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

21 (ii) Annually review the audit plan.

22 (C) The director shall review and take action to approve
23 or reject a recommendation from the internal auditor to amend the audit plan;

24 (3) Include in any contract or license with a vendor or retailer
25 for data processing services or other computer services a provision
26 permitting the Division of Legislative Audit to have access and authority to
27 audit the computer systems of the vendor or retailer;

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

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

34 (6) Prepare the financial statements, including the related
35 notes to the financial statements, of the office in accordance with generally
36 accepted accounting principles and in accordance with guidelines and

1 *timelines established by the Chief Fiscal Officer of the State to permit*
2 *incorporation into the state's financial statements and to permit the audit*
3 *of the state's financial statements and the office's financial statements in*
4 *a timely manner;*

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

9 *(8)(A) Submit monthly reports to the Governor and the ~~Arkansas~~*
10 *~~Lottery Legislative Oversight Committee~~ Legislative Council disclosing the*
11 *following budgeted and actual information for the reporting period and*
12 *cumulatively for the fiscal year:*

13 *(i) Total lottery revenues;*

14 *(ii) Prize disbursements;*

15 *(iii) Operating expenses;*

16 *(iv) Net assets; and*

17 *(v) Administrative expenses.*

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

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

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

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

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

34 *(ii) A current organizational chart;*

35 *(iii) Information on each type of lottery game*
36 *offered by the Arkansas Scholarship Lottery, game promotions, or other*

1 activities related to games during the fiscal year;

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

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

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

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

14 (a) Unclaimed lottery prize money under § 23-
15 115-403;

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

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

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

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

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

28 (b) The department's report to the ~~Arkansas~~
29 ~~Lottery Legislative Oversight Committee~~ Legislative Council required by § 6-
30 85-219;

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

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

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

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

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

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

6 (B) Revenues received;

7 (C) Claims for lottery prizes;

8 (D) Lottery prizes paid;

9 (E) Lottery prizes forfeited; and

10 (F) Other financial transactions of the office;

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

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

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

20 (ii) Compare the:

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

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

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

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

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

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

36 (vi) For each position title authorized under §§ 23-

1 115-305 – 23-115-307, contain a schedule of the annual salary, special
2 allowance, or grade and include:

3 (a) The total number of persons currently
4 employed;

5 (b) The number of Caucasian male employees;

6 (c) The number of Caucasian female employees;

7 (d) The total number of Caucasian employees;

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

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

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

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

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

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

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

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

30 (3)(A) If the office, the General Assembly, the ~~Arkansas Lottery~~
31 ~~Legislative Oversight Committee~~ Legislative Council, or the Legislative Joint
32 Auditing Committee requests additional audits or performance reviews of the
33 fiscal affairs or operations of the office to be conducted by a private
34 certified public accountant or other consultant, the Director of the
35 Department of Finance and Administration shall select and contract with
36 appropriate certified public accountants or consultants to provide the

1 services.

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

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

9 (4) This chapter does not limit the statutory authority of the
10 division or the responsibilities of the office or related entities, retail,
11 advisory board members, employees, vendors, retailers, or any other
12 individuals or entities to cooperate with the division or provide information
13 or records requested by the division.

14

15 SECTION 24. Arkansas Code § 23-115-207(c)(2)(B), concerning rulemaking
16 pertaining to lotteries and as amended by Act 218 of 2015, is amended to read
17 as follows:

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

22

23 SECTION 25. Arkansas Code § 23-115-208(d)(4), concerning sovereign
24 immunity pertaining to lotteries and as amended by Act 218 of 2015, is
25 amended to read as follows:

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

28

29 SECTION 26. Arkansas Code § 23-115-212(c)(1), concerning duties and
30 responsibilities of the internal auditor employed by the Office of the
31 Arkansas Lottery and as amended by Act 218 of 2015, is amended to read as
32 follows:

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

36

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

1 ~~Committee~~ Legislative Council concerning current issues and problems reported
2 to the director under subsection (b) of this section; and

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

6
7 SECTION 27. Arkansas Code § 23-115-302(b)(8) and (9), concerning the
8 duties of the Director of the Arkansas Lottery and as amended by Act 218 of
9 2015, are amended to read as follows:

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

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

16 (A) For the immediately preceding fiscal year:

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

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

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

23
24 SECTION 28. Arkansas Code § 23-115-306, as amended by Act 218 of 2015,
25 is amended to read as follows:

26 23-115-306. Special salary allowances.

27 (a) The Governor may make special salary allowances authorized by this
28 section for recruitment or retention in amounts determined by the ~~Arkansas~~
29 ~~Lottery Legislative Oversight Committee~~ Legislative Council to be equitable,
30 in view of the exacting duties that are involved, as a part of the salary of
31 the:

32 (1) Director of the Office of the Arkansas Lottery;

33 (2) Internal auditor of the Office of the Arkansas Lottery; and

34 (3) Chief operating officer of the office.

35 (b) For a position subject to a special allowance under subsection (a)
36 of this section, the sum of the salary authorized by the General Assembly and

1 the special salary allowance, shall not exceed an amount equal to one and
2 one-half (1 1/2) times the salary for the position authorized by the General
3 Assembly.

4 (c)(1) The requirement of approval by the ~~Arkansas Lottery Legislative~~
5 ~~Oversight Committee~~ Legislative Council before granting a special salary
6 allowance under this section is not a severable part of this section.

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

10
11 SECTION 29. Arkansas Code § 23-115-307, as amended by Act 218 of 2015,
12 is amended to read as follows:

13 23-115-307. Expansion pool.

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

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

22 (c) A position shall not be authorized from the expansion pool until
23 the specific position that is requested by the office is reviewed by the
24 ~~Arkansas Lottery Legislative Oversight Committee~~ Legislative Council.

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

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

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

35
36 SECTION 30. Arkansas Code § 23-115-401(e), concerning minority-owned

1 *businesses and female-owned businesses participating in lotteries and as*
2 *amended by Act 218 of 2015, is amended to read as follows:*

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

8

9 *SECTION 31. § 23-115-403(g)(3), concerning attachments, garnishments,*
10 *or executions withhold from lottery prizes and as amended by Act 218 of 2015,*
11 *is amended to read as follows:*

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

15 *(A) Unclaimed lottery prize money;*

16 *(B) Expenditures from unclaimed lottery prize money; and*

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

19

20 *SECTION 32. Arkansas Code § 23-115-410(c), concerning compulsive*
21 *gambling disorder treatment and educational programs offered by the Office of*
22 *the Arkansas Lottery and as amended by Act 218 of 2015, is amended to read as*
23 *follows:*

24 *(c) The office and the department shall provide a joint report to the*
25 *~~Arkansas Lottery Legislative Oversight Committee~~ Legislative Council that*
26 *includes without limitation:*

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

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

31 *(3) The recommendations of the office and the department for*
32 *changes in the programs or funding the programs.*

33

34 *SECTION 33. Arkansas Code § 23-115-501(e)(1), concerning lottery*
35 *vendors and as amended by Act 218 of 2015, is amended to read as follows:*

36 *(e)(1) A vendor who provides or proposes to provide goods or services*

1 under a major procurement contract shall not provide a gift or compensation
2 to:

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

8 (B) A member of the immediate family of the Director of
9 the Office of the Arkansas Lottery, an employee of the office, the Director
10 of the Department of Finance and Administration, the Deputy Director of the
11 Department of Finance and Administration, or a member of the ~~Arkansas Lottery~~
12 ~~Legislative Oversight Committee~~ Legislative Council.

13
14 SECTION 34. Arkansas Code § 23-115-610(d), concerning business closure
15 procedures and as amended by Act 218 of 2015, is amended to read as follows:

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

20
21 SECTION 35. Arkansas Code § 23-115-701(e), concerning procurements of
22 the Office of the Arkansas Lottery and as amended by Act 218 of 2015, is
23 amended to read as follows:

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

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

1
2 *SECTION 36. Arkansas Code § 23-115-801, as amended by Act 218 of 2015,*
3 *is amended to read as follows:*

4 *23-115-801. Lottery proceeds.*

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

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

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

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

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

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

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

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

26 *(c)(1) The Director of the Department of Higher Education shall*
27 *certify to the office the amount of net proceeds from the lottery needed to*
28 *fund the scholarships awarded to recipients under § 6-85-201 et seq. for each*
29 *semester of an academic year.*

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

35 *(B) The Director of the Department of Higher*
36 *Education shall disburse trust account funds only in the name of the*

1 recipient:

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

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

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

13 (A) Total deposits to all trust accounts;

14 (B) Total disbursements from the trust accounts; and

15 (C) The balance remaining in the trust accounts.

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

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

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

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

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

32 (i) For each employee the:

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

35 (b) Salary paid;

36 (ii) A description of other expenditures requested

1 in the invoice; and

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

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

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

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

14
15 SECTION 37. Arkansas Code § 23-115-1101, as amended by Act 218 of
16 2015, is amended to read as follows:

17 23-115-1101. ~~Arkansas Lottery Legislative Oversight Committee~~ Duties
18 of Legislative Council.

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

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

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

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

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

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

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

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

3 (3)(A) Review proposed contracts of twenty-five thousand dollars
4 (\$25,000) or more before the execution of the contracts.

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

8 (4) Review reports filed with the ~~Arkansas Lottery Legislative~~
9 ~~Oversight Committee~~ Legislative Council by the Department of Higher
10 Education, including without limitation reports filed under §§ 6-85-205 and
11 6-85-220;

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

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

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

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

22 (B) Its recommendations for any changes to the:

23 (i) Scholarship award amounts;

24 (ii) Number or type of scholarships; and

25 (iii) Scholarship eligibility requirements.

26 (2) ~~The Arkansas Lottery Legislative Oversight Committee~~
27 Legislative Council may make interim reports to the General Assembly
28 regarding the expenditure of net lottery revenues.

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

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

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

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

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

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

- 14 ~~(A) This chapter;~~
15 ~~(B) Section 6-60-902;~~
16 ~~(C) Section 6-60-903;~~
17 ~~(D) Section 6-85-205;~~
18 ~~(E) Section 6-85-212;~~
19 ~~(F) Section 6-85-216;~~
20 ~~(G) Section 6-85-219;~~
21 ~~(H) Section 6-85-220; and~~
22 ~~(I) Section 19-10-212.~~

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

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

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

29 ~~(2) Assign information filed with the Legislative Council under~~
30 ~~this subchapter to one (1) or more subcommittees of the Legislative Council,~~
31 ~~including without limitation a subcommittee created under subdivision (d)(1)~~
32 ~~of this section; and~~

33 ~~(3) Delegate their duties under this chapter to one (1) or more~~
34 ~~subcommittees of the Legislative Council, subject to the final approval of~~
35 ~~the Legislative Council or the Joint Budget Committee.~~

36

1 SECTION 38. Arkansas Code § 23-115-1102, as amended by Act 218 of
2 2015, is repealed.

3 ~~23-115-1102. Filing of information with Arkansas Lottery Legislative~~
4 ~~Oversight Committee.~~

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

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

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

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

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

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

20
21 SECTION 39. Arkansas Code § 25-10-129(c), concerning rules of the
22 Department of Human Services to assure compliance with federal statutes,
23 rules, and regulations, is amended to read as follows:

24 (c) All rules promulgated pursuant to this section shall be
25 promulgated in conformity with the Arkansas Administrative Procedure Act, §
26 25-15-201 et seq., and after legislative review and approval as required by §
27 10-3-309.

28
29 SECTION 40. Arkansas Code § 25-15-204 is amended to read as follows:
30 25-15-204. Rules – Procedure for adoption.

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

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

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

1 (B) *The notice shall include:*

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

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

7 (C) *The notice shall be mailed to:*

8 (i) *A person specified by law; and*

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

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

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

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

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

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

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

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

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

36 (3) *Consider the following factors:*

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

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

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

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

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

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

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

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

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

22 (i) *Adopting no rule;*

23 (ii) *Amending or repealing existing rules; and*

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

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

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

29 (b)(1) *An agency shall not adopt, amend, or repeal a rule unless the*
30 *rule is based on the best reasonably obtainable scientific, technical,*
31 *economic, or other evidence and information available concerning the need*
32 *for, consequences of, and alternatives to the rule.*

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

35 (A) *The additional benefits of the more costly rule*
36 *justify its additional cost;*

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

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

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

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

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

16 ~~(2)(3)~~ Except as provided in ~~§ 5-64-204~~ § 5-64-201, the rule may
17 be effective for no longer than one hundred twenty (120) days.

18 ~~(3)(4)~~ If, after the expiration of the effective period of an
19 emergency rule, an agency wishes to adopt a successive emergency rule that is
20 identical or substantially similar to the expired emergency rule, the agency
21 shall not adopt the successive emergency rule earlier than thirty (30) days
22 after the expiration of the emergency rule.

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

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

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

29 (B) Initiate rule-making proceedings.

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

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

36 (2) The Secretary of State shall keep a register of the rules

1 open to public inspection, and it shall be a permanent register.

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

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

6 (B) The additional cost of the state rule.

7 (4)(A) If a financial impact statement reveals a new or
8 increased cost or obligation of at least one hundred thousand dollars
9 (\$100,000) per year to a private individual, private entity, private
10 business, state government, county government, municipal government, or to
11 two (2) or more of those entities combined, the agency shall file written
12 findings at the time of filing the financial impact statement.

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

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

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

19 (iii) A description of the factual evidence that:

20 (a) Justifies the agency's need for the
21 proposed rule; and

22 (b) Describes how the benefits of the rule
23 meet the relevant statutory objectives and justify the rule's costs;

24 (iv) A list of less costly alternatives to the
25 proposed rule and the reasons why the alternatives do not adequately address
26 the problem to be solved by the proposed rule;

27 (v) A list of alternatives to the proposed rule that
28 were suggested as a result of public comment and the reasons why the
29 alternatives do not adequately address the problem to be solved by the
30 proposed rule;

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

34 (b) If existing rules have created or
35 contributed to the problem, an explanation of why amendment or repeal of the
36 rule creating or contributing to the problem is not a sufficient response;

1 and

2 (vii) An agency plan for review of the rule no less
3 than every ten (10) years to determine whether, based upon the evidence,
4 there remains a need for the rule, including without limitation whether:

5 (a) The rule is achieving the statutory
6 objectives;

7 (b) The benefits of the rule continue to
8 justify its costs; and

9 (c) The rule can be amended or repealed to
10 reduce costs while continuing to achieve the statutory objections.

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

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

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

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

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

25 (a) The final rule;

26 (b) Copies of all written comments submitted
27 to the agency regarding the rule;

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

31 (d) A summary of the financial impact of the
32 rule; and

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

35 (2)(A)(i) However, an emergency rule may become effective
36 immediately upon filing or at a stated time less than ~~thirty (30)~~ ten (10)

1 *days after filing if the agency finds that this effective date is necessary*
2 *because of imminent peril to the public health, safety, or welfare.*

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

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

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

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

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

18
19 */s/J. Dismang*
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