



**State of Arkansas
Bureau of
Legislative Research**

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MEMORANDUM

TO: ALC—Executive Subcommittee
FROM: Jillian Thayer, Legal Counsel to the Director
CC: Marty Garrity, Director
DATE: May 3, 2017
SUBJECT: Summary of Changes to ALC Rules

Rule 3. Order of Business.

Changes to this section are to incorporate the policy recommended by the Executive Subcommittee and adopted by the Legislative Council in April 2014, regarding the deadline for an item to appear on a Legislative Council agenda, and the procedure for taking an item up out of order on the agenda.

Rule 5.(a)(1) Review Subcommittee.

Changes to this section are to update references found in the law; this section also assigns to the Review subcommittee a bi-annual study of the procurement laws, regulations, and procedures.

Rule 5.(a)(8) Claims Review Subcommittee.

Changes to this section are to include the proper citations to the duties under the law and to add an additional duty regarding procurement protests to comply with Act 882 of 2017.

Rule 5.(a)(14) AHIM Oversight Subcommittee. Assigned duties under SB4 and HB1004 of the First Extraordinary Session, including a study regarding the future and sustainability of Arkansas Health Insurance Marketplace.

Rule 5.(b)(1)(C)(v) Executive Subcommittee.

This new subdivision adds to the Executive Subcommittee's duties, as required by Act 802 of 2017, to provide immediate legislative action on reforms proposed by DHS under its Medicaid provider-led organized care plan.

Rule 5.(k) Special Events.

This new rule prohibits special events for the ALC and its subcommittees.

Rule 7.(c) Legislative Council Meetings.

New language adds the option of a majority of the members providing a written request to call a special meeting of the Legislative Council. Changes to this subsection are to comply with the actual practices of the Legislative Council.

Rule 8.(b) Quorum and Action. Legislative Council Subcommittee Meeting.

New language states that ex officio members will only be counted toward the membership number necessary for a quorum in a subcommittee meeting at the time that action is being taken by the subcommittee. Changes to this subsection are to comply with the actual practices of the Legislative Council and its subcommittees.

Rule 9.(a) Motion to Reconsider.

New language states that a motion to reconsider may be taken up during the same meeting as the vote for which reconsideration is requested. Changes to this subsection are to comply with the actual practices of the Legislative Council.

Rule 15. Bills.

This section was obsolete and is removed in this version. All subsequent sections are renumbered accordingly.

Rule 19. Expenses of Legislative Council Co-Chairs and Legislative Council Members and Alternates.

Change made to remove inaccurate language and to reflect actual practices of the Legislative Council.

Rule 23. Review and Approval of State Agency Rules.

- Change to section (a) to add the Arkansas Game and Fish Commission to the definition of a state agency which must file proposed rules with the Legislative Council in accordance with the Administrative Procedure Act and Arkansas Code § 10-3-309.
- Changes to this rule at subsections (d)(4) and (e) are to comply with the requirements of Act 820 of 2017, which provides for a vote of three-fourths of the members present when reviewing and approving rules by the State Board of Health concerning exemptions from the requirements of the Prescription Drug Monitoring Program.

RULES OF THE ARKANSAS LEGISLATIVE COUNCIL

1. Purpose. The purpose of these Rules is to form a basis for the Legislative Council's operations and to inform the members of the General Assembly and the Public of the Legislative Council's procedure in order that they may properly utilize the Legislative Council's services and assist in studying problems before the General Assembly.

2. Parliamentary Procedure. Except as otherwise specified by these Rules, the proceedings of the Legislative Council shall be governed by the same rules as govern the House of Representatives and Senate of the General Assembly of Arkansas, so far as they are applicable, together with MASON'S MANUAL OF LEGISLATIVE PROCEDURE.

3. Order of Business.

(a) The regular order of business for meetings of the Legislative Council shall be as follows:

- ~~(a)~~(1) Call to order by chair-;
- ~~(b)~~(2) Roll call-;
- ~~(c)~~(3) Approval of minutes-;
- ~~(d)~~(4) Presentation of revenue-related reports-;
- ~~(e)~~(5) Report of the Executive Subcommittee-;
- ~~(f)~~(6) Reports of standing subcommittees-;
- ~~(g)~~(7) Reports of interim or special committees or subcommittees-;
- ~~(h)~~(8) Review of communications-;
- ~~(i)~~(9) Memorials-;
- ~~(j)~~(10) Business carried over from previous council meetings-;
- ~~(k)~~(11) New business-;
- ~~(l)~~(12) New proposals and resolutions-;
- ~~(m)~~ Report of Executive Secretary-;
- (13) Supplemental agenda items; and
- ~~(n)~~(14) Adjournment.

(b) Items to be considered on an agenda, other than reports of Legislative Council subcommittees, shall be submitted no later than seven (7) days prior to a scheduled meeting date in order to be placed on the Legislative Council agenda. Items received less than seven (7) days before a scheduled meeting of the Legislative Council will be placed on a supplemental agenda upon the approval of the Legislative Council Co-Chairs and may only be considered by the Legislative Council upon a vote to suspend the rules. Otherwise, the items will be added to the agenda of the next meeting of the Legislative Council.

(c) An item may be taken up out of the order set forth herein by an affirmative vote of a majority of the members present.

4. Officers.

(a) The Legislative Council shall ~~select~~ have from among its membership a Senate Co-Chair and a House of Representatives Co-Chair, and a Senate Co-Vice Chair and a

House of Representatives Co-Vice Chair who shall serve during the legislative biennium in which they are ~~elected~~ selected .

(b) The Director of the Bureau of Legislative Research shall serve as Executive Secretary of the Legislative Council.

5. Legislative Council Subcommittees.

(a) **Standing Subcommittees.** The Legislative Council shall have the following standing subcommittees with jurisdiction of the following subject areas:

(1) **Review Subcommittee.**

(A) To this subcommittee shall be referred matters pertaining to:

~~(A)(i)~~ Agency requests for professional services contracts and consultant services contracts, which are subject to review by the Legislative Council as provided in Arkansas Code § ~~19-4-1713~~ 19-11-1006;

~~(B)(ii)~~ Review of proposed methods of financing for capital expenditures in excess of \$250,000, which have not been approved by the General Assembly, as provided in Arkansas Code § 22-9-104;

~~(C)(iii)~~ Review of requests of state agencies for leasing of motor vehicles (for more than thirty (30) days) prior to final approval of the leases by the state purchasing administrator, as provided in Arkansas Code § 22-8-102; and

~~(D)(iv)~~ Review of other matters referred to the subcommittee by the Legislative Council that require Legislative Council review and that are not otherwise within the jurisdiction of another Legislative Council subcommittee;.

(B) In addition to the duties listed in subdivision (A), the subcommittee shall:

(i) Study current procurement processes and requirements, including without limitation the process and requirements for requests for qualifications and the process and requirements for evaluating responses to requests for proposals and requests for qualifications;

(ii) Study the impact of procurement processes on the legal, architectural, engineering, construction management, and land surveying professions; and

(iii) Recommend changes to the procurement laws, regulations, and processes in a report to the full Legislative Council at its December meeting in each even-numbered year.

(2) **Charitable, Penal, and Correctional Institutions Subcommittee.**

To this subcommittee shall be referred matters pertaining to:

(A) The Department of Correction and its various units;

(B) The state correctional facilities for juveniles;

(C) The state institutions that provide institutional services for citizens of this state; and

(D) Private facilities providing institutional services and care purchased by the state for the benefit of indigent persons;

(3) **Performance Evaluation and Expenditure Review Subcommittee.**

To this subcommittee shall be referred matters pertaining to:

(A) The financial operation and fiscal performance of state agencies, departments, and institutions, including but not limited to;

(i) Program performance and evaluation;

(ii) Efficiency in the operation of agency programs and services;

(iii) Coordination of programs and services that require the expenditure of state funds;

(iv) The stability and adequacy of the various funds and fund accounts of the state; and

(v) Other matters pertaining to agency performance and accountability in the use of public funds, which are not otherwise within the jurisdiction of another subcommittee of the Legislative Council;

(B) The organization, consolidation, merger, or abolishment of a state agency, board, commission, or program; and

(C) Other matters as may be assigned to the subcommittee by the Legislative Council;

(4) **Administrative Rules and Regulations Subcommittee.** To this subcommittee shall be referred matters pertaining to:

(A) Administrative rules and regulations submitted to the Legislative Council by state agencies, boards, and commissions for Legislative Council review and approval, as required by Arkansas Code § 10-3-309; and

(B) Other matters pertaining to administrative organization, rules, regulations, and procedures as may be assigned to the subcommittee by the Legislative Council;

(5) **Uniform Personnel Classification and Compensation Plan Subcommittee.** To this subcommittee shall be referred matters pertaining to:

(A) The State Uniform Personnel Classification and Compensation Plan;

(B) The adequacy of position classification and pay schedule of state agencies and institutions;

(C) Consideration of matters that require Legislative Council advice in regard to the administration of the State Personnel Classification and Compensation Plan; and

(D) The duties of the General Assembly to establish the maximum number of employees, and the maximum annual salaries of all officials and employees of state government;

(6) **Policy-Making Subcommittee.** To this subcommittee shall be referred matters pertaining to:

(A)(i) Review of study proposals referred to interim committees by members thereof, which have not previously been reviewed by the Legislative Council as to germaneness.

(ii) The subcommittee shall submit its recommendations to the Legislative Council concerning the germaneness of the study proposals to the subject areas assigned to the interim committee as provided by law; and

(B) Review and make recommendations to the Legislative Council regarding requests from interim committees, task forces, and subcommittees of the Legislative Council for the allocation of funds and personnel to be funded from monies appropriated to the Legislative Council for interim committee study purposes;

(7) **Hospital and Medicaid Study Subcommittee.** To this subcommittee shall be referred all matters pertaining to:

(A) Hospitals;

(B) Medicaid;

(C) Incentives for the establishment of rural hospitals, clinics and other rural medical facilities;

- (D) Incentives for physicians practicing in rural areas; and
- (E) Any and all related matters;

(8) **Claims Review Subcommittee.** To this subcommittee shall be referred all matters pertaining to:

(A) ~~elaims~~ Claims referred from the Arkansas State Claims Commission, in accordance with Arkansas Code § 19-10-215;

(B) Appeals from decisions of the Arkansas State Claims Commission, in accordance with Arkansas Code § 19-10-211; and

(C) [Effective July 31, 2017] Appeals from decisions of the Arkansas State Claims Commission in connection with the solicitation or award of a contract by a state agency, in accordance with Arkansas Code § 19-11-244.

(9) **Game & Fish/State Police Subcommittee.** To this subcommittee shall be referred all matters pertaining to the Arkansas Game & Fish Commission and State Police;

(10) **Litigation Reports Oversight Subcommittee.** To this subcommittee shall be referred all matters pertaining to:

(A) Receipt of notification of lawsuits affecting the state; and

(B) Review of the lawsuits including the style of the case being litigated, the identity of the tribunal before which the matter has been filed, a brief description of the issues involved, and other information that will enable the Legislative Council to determine the action that may be necessary to protect the interests of the General Assembly and the State of Arkansas;

(11) **Higher Education Subcommittee.** To this subcommittee shall be referred matters pertaining to:

(A) Four-year institutions of higher education;

(B) Two-year institutions of higher education;

(C) Technical education;

(D) Vocational education;

(E) Adult education;

(F) College and career readiness;

(G) Private institutions of higher education; and

(H) Any related matters as may be assigned to the subcommittee by the Legislative Council; ~~and~~

(12) **Lottery Oversight Subcommittee.** To this subcommittee shall be referred all matters pertaining to:

(A) Expenditures of lottery proceeds;

(B) Proposed rules of the Office of the Arkansas Lottery;

(C) Proposed contracts of twenty-five thousand dollars (\$25,000) or more;

(D) Reports pertaining to the lottery and lottery scholarships; and

(E) Any and all related lottery matters-;

(13) **Highway Commission Review and Advisory Subcommittee.**

(A) Membership. The subcommittee shall consist of twenty (20) members with at least four (4) or more members of the Legislative Council from each congressional district of the state. The Legislative Council may, by an affirmative vote of two-thirds (2/3) of a quorum to suspend the rules, alter the membership of the subcommittee.

(B) Duties. To this subcommittee shall be referred the following matters:

(i) Proposed rules of the State Highway Commission required under

Arkansas Code § 27-65-107(a)(18)(A). Proposed rules of the State Highway Commission submitted under this subdivision are not subject to approval by the Legislative Council or any of its subcommittees and shall be presented for review only;

(ii) Reports from the ~~highway commission~~ State Highway Commission regarding the progress of each public road construction project of ten million dollars (\$10,000,000) or more;

(iii) Other State Highway Commission matters the subcommittee considers necessary to perform its duties as prescribed by law; and

(iv) Other duties as assigned to the subcommittee by the Legislative Council; and

(14) **Arkansas Health Insurance Marketplace Oversight Subcommittee**

(A) To this subcommittee shall be referred all matters pertaining to:

(i) Proposed policies, procedures, and rules of the Arkansas Health Insurance Marketplace;

(ii) Review of proposed payments of stipends and expense reimbursements to the Arkansas Health Insurance Marketplace Board of Directors;

(iii) Proposed articles, bylaws and rules of the Arkansas Health Insurance Marketplace Board of Directors;

(iv) Reports on the accounting of activities, expenditures, and receipts of the Arkansas Health Insurance Marketplace Board of Directors;

(v) Review of Arkansas Health Insurance Marketplace competitive bidding processes for contract awards;

(vi) Reports pertaining to the Arkansas Health Insurance Marketplace, as requested by the subcommittee or required by law; and

(vii) Any and all related insurance marketplace matters.

(B)(i) At its November meeting of each year, the subcommittee shall review the recommendations of the Arkansas Health Insurance Marketplace regarding increases or decreases in the amount of future assessments or user fees and penalties and interest charges for nonpayment of an assessment or user fee charged to participating health insurers. The subcommittee shall report its recommendations to the Legislative Council at the November meeting of the Legislative Council.

(ii) Annually by December 1, the Legislative Council shall report the recommendations to the Speaker of the House of Representatives and the President Pro Tempore of the Senate.

(C) Annually by December 15, the subcommittee and the Legislative Council shall report to the General Assembly any analysis or findings resulting from its activities regarding the Arkansas Health Insurance Marketplace that the subcommittee and the Legislative Council deem relevant.

(D)(i) Pursuant to Act of the First Extraordinary Session of 2017, the subcommittee shall:

(a) Review the operations, programs, and finances of the Arkansas Health Insurance Marketplace;

(b) Study approaches by other states regarding health insurance marketplace structure, design, and operations;

(c) Provide recommendations concerning the Arkansas Health Insurance Marketplace for the continued availability of health insurance to Arkansans; and

(d) Explore and recommend options for the future efficiency and sustainability of the Arkansas Health Insurance Marketplace.

(ii) The subcommittee shall report on the findings of the study required under this subdivision 5.(a)(15) to the Legislative Council. The report shall include recommendations for legislation. Once adopted, the Legislative Council shall provide the report to the General Assembly, with a copy to the Governor.

(b) **Select Subcommittees.** The Co-Chairs of the Legislative Council may designate subcommittees to assist in the administration of the affairs of the Legislative Council and of the Bureau of Legislative Research, including but not limited to the following:

(1) **Executive Subcommittee.**

(A) This subcommittee shall consist of:

- (i) The House of Representatives Co-Chair;
- (ii) The Senate Co-Chair;
- (iii) The immediate past Co-Chairs of the Legislative Council; and
- (iv) Other members as prescribed by Arkansas Code § 10-3-303(f).

(B) The Co-Chairs of the Legislative Council shall serve as the Co-Chairs of the subcommittee.

(C) The subcommittee shall assist the House of Representatives Co-Chair and the Senate Co-Chair and the Director of the Bureau of Legislative Research in regard to:

- (i) The development of proposed policies governing the Legislative Council;
- (ii) Personnel policies and matters pertaining to the operation of the Bureau of Legislative Research;
- (iii) Review and offer instruction to the Bureau of Legislative Research with respect to requests received from members of the General Assembly for distribution of letters, documents, or other information to all members of the General Assembly and to other states; ~~and~~
- (iv) Review and approval of proposed emergency rules submitted by state agencies; ~~and~~

(v) [Effective July 31, 2017] Providing immediate action on reforms proposed by the Department of Human Services to meet its savings goals under the Medicaid provider-led organized care plan, as required by Act 802 of 2017.

(D) The Director of the Bureau of Legislative Research shall report to and regularly seek the review and advice of the Executive Subcommittee as may be required by the subcommittee under Arkansas Code § 10-3-303.

(2) **Other Select Subcommittees.** The House of Representatives Co-Chair and Senate Co-Chair may from time to time with the approval of the Legislative Council name such other select subcommittees and define their duties as they deem necessary to assist in the internal operation and affairs of the Legislative Council and the Bureau of Legislative Research.

(c) **Other Subcommittees.** In addition to the standing and select subcommittees, other subcommittees may be created by the Legislative Council from time to time. Special subcommittees of the Legislative Council may be established only upon suspension of the Rules.

(d) **Subcommittee Membership.**

(1)(A) Unless otherwise stated in these rules, ~~Each~~ each of the subcommittees

of the Legislative Council shall have sixteen (16) members, eight (8) Senate members and eight (8) House of Representatives members, in addition to the House of Representatives Co-Chair and the Senate Co-Chair and the House of Representative Co-Vice Chair and Senate Co-Vice Chair of the Legislative Council who shall serve as ex officio members of each subcommittee of the Legislative Council.

(B) The Legislative Council Co-Chairs may add additional members to any subcommittee of the Legislative Council during the initial selection of subcommittees for each biennium at their joint discretion.

(2) The Co-Chairs and Vice-Co Chairs of the Legislative Council as ex officio members of the Legislative Council subcommittees shall enjoy the same rights and privileges as other members of the subcommittees.

(3) The Senate members shall be appointed by the Senate Co-Chair of the Legislative Council and the House of Representatives members shall be appointed by the House of Representatives Co-Chair of the Legislative Council.

(e) Alternate Members.

(1) First alternate members shall have a vote in matters before the Legislative Council if the regular member which the first alternate represents is not in attendance.

(2) Second alternate members shall have a vote in matters before the Legislative Council if the regular member and the first alternate member which the second alternate represents are not in attendance.

(3) For purposes of these rules, a member or an alternate shall be considered to be "not in attendance" when he or she is determined by the chair to not be in the committee room at the time that the motion on which action is required is made.

(4) Alternate members of the Legislative Council shall have the same subcommittee assignments as regular members, but shall serve on the subcommittees only upon absence of regular members. However, an alternate member shall not serve as a chair or vice chair of the subcommittee except upon becoming a regular member. When it becomes apparent that a regular member of the Legislative Council will no longer be serving as a member of the Legislative Council, his or her alternate, upon becoming a regular member, may request new subcommittee assignments.

(f) Temporary Ex Officio Non-Voting Members of Subcommittees. Any regular member of the Legislative Council who introduces a proposal for study by the Legislative Council shall be a non-voting ex officio member of the subcommittee to which the proposal is referred for study for purposes of that study only.

(g) Chairs of Subcommittees.

(1) No member shall serve as chair of more than one (1) standing subcommittee.

(2) The chairs of subcommittees of the Legislative Council, other than the Executive Subcommittee, shall serve at the pleasure of the Legislative Council Co-Chair of the house to which the subcommittee chair is a member.

(h) Meetings of Subcommittees.

(1) A Legislative Council subcommittee shall not meet during a regularly scheduled meeting of the Legislative Council.

(2)(A) All meetings of Legislative Council subcommittees should be scheduled during the week of a scheduled Legislative Council meeting.

(B) The Senate Co-Chair and the House of Representatives Co-Chair must give prior approval for a subcommittee of the Legislative Council to meet at a date outside the week of a scheduled Legislative Council meeting.

(C) Either chair of a subcommittee or a majority of the members of a subcommittee shall have the authority to call a subcommittee meeting if there is sufficient work to warrant the meeting, and the chair shall notify the Director of the Bureau of Legislative Research of the time of the subcommittee meeting in order to avoid conflicting dates in subcommittee meetings.

(3) Participation in discussion at Legislative Council subcommittee meetings shall be in the following priority:

(A) Members of the subcommittee;

(B) Alternate members of the subcommittee; and

(C)(i) Legislators who are not members of the subcommittee.

(ii) Legislators who are not members of the subcommittee may be allowed to participate in the discussion after all members and alternates have participated, if time allows, and if at that point it is the will of the co-chairs of the subcommittee.

(4) Motions shall only be recognized when made by members of the subcommittee or their alternates.

(i) Powers of Subcommittees.

(1) A subcommittee of the Legislative Council shall consider only those matters that have been duly referred to it by the Legislative Council.

(2)(A) A subcommittee shall not:

(i) Embark upon any study unless the study shall have been directed by the Legislative Council;

(ii) Make or undertake any investigation unless:

(a) The nature and purposes of the investigation have been filed in writing as a proposal in the manner provided in these rules; and

(b) The study has been approved at a regular meeting of the Legislative Council by a two-thirds (2/3) vote of the entire membership of the Legislative Council; or

(iii)(a) Incur any "special expenses" during the course of its business without the prior consent of the Senate Co-Chair and the House of Representatives Co-Chair of the Legislative Council.

(b) For purposes of this rule, "special expenses" means any expenses incurred beyond payment of mileage and per diem to members of the General Assembly for attendance at the subcommittee meeting, and includes without limitation witness fees, interpreter fees, and court reporter expenses.

(B)(i) If a subcommittee determines, during the course of any study referred to it that an investigation is necessary for the proper determination of the matter under study, the subcommittee shall, in writing, report the facts to the Legislative Council.

(ii) The report shall be filed with the Director of the Bureau of Legislative Research at least six (6) days in advance of the next regular meeting of the Legislative Council and placed on the agenda of the meeting.

(iii) If the Legislative Council approves the investigation by a two-thirds (2/3) vote of the entire membership, the investigation may be undertaken by the subcommittee within such limits as the Legislative Council may direct.

(j) Bypassing Subcommittee Review.

(1) All matters that fall under the jurisdiction of the Legislative Council subcommittees, as set forth in this Rule 5, shall be presented to the subcommittees

rather than being brought directly to the Legislative Council.

(2)(A) In order for a matter usually referred to a Legislative Council subcommittee to receive direct review or approval by the Legislative Council, there must first be a vote to suspend the rules of the Legislative Council under Rule ~~18~~17.(c). Upon passage of the motion to suspend the rules, the Legislative Council may hear the matter directly.

(B) This option shall only be exercised upon a showing that there is an imminent need for review or approval such that the matter cannot be delayed until the next regularly scheduled meeting of the appropriate subcommittee.

(k) **Special Events.** The Legislative Council and its subcommittees shall not participate in special events, as defined in Article 19, § 30 of the Arkansas Constitution.

6. Offices. The Legislative Council shall maintain offices in the State Capitol, but the House of Representatives Co-Chair and Senate Co-Chair may call any meeting at any other place.

7. Legislative Council Meetings.

(a) Regular meetings of the Legislative Council shall be held on the third Friday of each month, with the House of Representatives Co-Chair and Senate Co-Chair alternating the chair, unless otherwise agreed by the Co-Chairs.

(b) The Co-Chairs may cancel any regular meeting date upon six (6) days' notice to the members.

(c) Special meetings may be called, at such additional times as may be deemed desirable, by the Co-Chairs upon six (6) days' notice thereof, ~~or~~ upon vote by the Legislative Council at a meeting of the Legislative Council, or by written request of a majority of the members of the Legislative Council at such additional times as may be deemed desirable.

(d) All meetings of the Legislative Council shall be open to the public except that executive sessions may be held as authorized by law.

8. Quorum and Action.

(a)(1) **Legislative Council Meeting.** A majority of the members of the Legislative Council, or their alternates, shall constitute a quorum for the transaction of all business. A quorum is the minimum number of members or alternates necessary to conduct business. As the number of members or alternates present exceeds the minimum for a quorum, the number present becomes the quorum, (e.g. If a majority of the members is 30, but 47 members are present, then 47 is the quorum.)

(2) Except as otherwise provided by these rules, an affirmative vote of a majority of the members present shall be required for any issue or matter. A majority of the members present, when the members present represent less than a quorum may not effectively take action.

(3)(A) Upon the request of any three (3) members of the Legislative Council, a separate vote of House of Representatives members and Senate members shall be taken on any issue or matter before the Legislative Council and, except as otherwise provided by these rules, approval of a majority of the members present when a quorum is present from the House of Representatives and a majority of the members present when a quorum is present from the Senate shall be required for the issue or matter.

(B) If the vote required to take action on a matter requires anything other

than a majority of the members present, that amount required to take action will be the amount required for each house in a separate vote (e.g., Suspension of the rules requires an affirmative vote of two-thirds (2/3) of a quorum. In a separate vote of the houses, suspension of the rules would require an affirmative vote of two-thirds (2/3) of a quorum of the members of the House of Representatives and two-thirds (2/3) of a quorum of the members of the Senate.)

(C) A request for a separation of the vote may be combined with a request for a roll call.

(b) **Legislative Council Subcommittee Meeting.** A majority of the membership of a subcommittee of the Legislative Council shall constitute a quorum, and except as otherwise provided by these rules, an affirmative vote of a majority of the members present of a subcommittee of the Legislative Council shall be necessary for action on any matter. The Senate Co-Chair and Vice-Chair and the House of Representatives Co-Chair and Vice-Chair of the Legislative Council shall only be counted towards the membership number necessary for a quorum of the Subcommittee when present at the ~~meeting at which a vote is taking place~~ time that action is being taken by the Subcommittee.

9. Motions/Objections.

(a) **Motion to Reconsider.** A motion to reconsider a proposition that has been made and carried or lost shall only be made by a member who voted in the majority of the vote on the proposition. The vote on a proposition may once be reconsidered by a majority vote of the total membership of the Legislative Council, but once a vote has been taken to reconsider, a further motion to reconsider is not in order. A motion to reconsider shall only be taken up ~~if posed before the Chair has moved on to other business~~ within the same meeting as the vote which is the subject of reconsideration.

(b) **Motion to Expunge.** The record on any action taken by the Legislative Council may be expunged by a two-thirds (2/3) vote of the total membership of the Legislative Council.

(c) **Second to Motions Required.** Action may only be taken by the Legislative Council after a motion and a second have been recognized by the Legislative Council Co-Chairs, the Co-Vice Chairs, or the Co-Chair designee.

(d) **Substitute Motions.** A substitute motion to a main motion may be made and shall be considered prior to consideration of the main motion. A substitute to the substitute motion shall be allowed and considered prior to consideration of the original substitute motion and the main motion. However, a substitute motion to the third degree shall never be permitted.

(e) **Objections.** An objection to consideration or to the Chair's ruling must be made immediately following the motion or ruling. It may be made when another has the floor but must be made before debate or voting has begun, and before any action has been taken.

10. Roll Call. A roll call shall be taken upon any question upon demand of three (3) members. A request for a roll call may be combined with a request for a separation of the vote between the members of the House of Representatives and the members of the Senate.

11. Agenda. On or before six (6) days prior to the date of any meeting of the

Legislative Council, the Executive Secretary shall prepare and make available to each member of the Legislative Council the agenda or program to be considered at the meeting.

12. Proposals, Resolutions and Memorials.

(a) Matters of legislative and governmental interest may be brought to the attention of the Legislative Council in three (3) ways:

(1)(A) **Proposals.** Those matters that call for study and research by the Legislative Council or an interim committee should be submitted in the form of a proposal. Any member of the General Assembly may submit a proposal. Each proposal shall bear a descriptive title, and bear the name of the sponsor.

(B) Proposals must be filed with the Executive Secretary at least six (6) days before the meeting at which they are to be considered. New proposals shall not be accepted by the Legislative Council after the August meeting of the second year of the biennium.

(C)(i) Proposals shall be filed in or referred to the interim committee to which the subject matter of the proposal is germane. Identical proposals or substantially identical proposals shall be filed in or referred to only one (1) interim committee.

(ii) If identical or substantially identical proposals are filed in more than one (1) interim committee, the Policy-Making Subcommittee shall make the determination as to which interim committee the subject matter of the proposals is most germane. If the subject matter of the identical or substantially identical proposals can be considered germane to more than one interim committee, the interim committee that adopted the proposal first will retain the proposal.

(iii) The sponsor of each of the identical or substantially identical proposals shall be a non-voting ex officio member of the committee that retains the proposal for study under subdivision (a)(1)(C)(ii) of this section for the purposes of that study.

(2)(A) **Resolutions.** Those matters that call for the consensus of the Legislative Council on a particular subject or that urge an official or body such as the United States Congress to take or not take certain actions or adopt a certain policy, should be submitted in the form of resolutions and may be submitted by any member of the General Assembly.

(B) Resolutions must be filed at least six (6) days in advance of the meeting at which they are to be considered.

(3) **Memorials.** Memorials that pay tribute to the memory of a deceased person may be submitted to the Legislative Council by any member of the General Assembly at any time without prior approval.

(b)(1) Under the heading "(+) New Business" in the Order of Business, Rule 3, announcements may be made, and any member of the Legislative Council shall be privileged to bring up for discussion routine matters or proposals for future consideration or action.

(2) The matters, however, shall be regarded as suggestions only, and must be brought within the requirements of this Rule 12 requiring proposals, resolutions, and memorials to be reduced to writing and presented formally before final consideration.

13. Study and Report.

(a) Each study proposal referred to the Legislative Council by the General Assembly, or on request of a member or members of the General Assembly, and each study undertaken by the Legislative Council on its own motion, shall be the subject of such research and recommendation as the Legislative Council may determine.

(b) The House of Representatives Co-Chair and the Senate Co-Chair, or the Legislative Council, shall refer study proposals to the appropriate joint interim committee or the appropriate standing Legislative Council subcommittee in accordance with Arkansas Code § 10-3-313(b)(1)(B) whenever a committee or subcommittee study is deemed appropriate.

(c) The Bureau of Legislative Research shall compile the information and prepare drafts of proposed legislation in connection with each study as may be directed by the Legislative Council or appropriate interim committee or the Legislative Council subcommittee to which the study was referred.

(d)(1) Each Legislative Council subcommittee shall consider each matter referred to it and shall report to the Legislative Council with respect thereto at the earliest possible date.

(2) The Legislative Council shall report the findings and recommendations to the General Assembly in connection with each matter submitted to it for study as the Legislative Council may determine to be informative and advisory to the General Assembly.

(e) Whenever any member of the General Assembly, who is not a regular member of the Legislative Council, presents a study proposal to the Legislative Council, the member of the General Assembly shall be privileged to appear before the Legislative Council on one (1) occasion and explain the purpose of the study, and shall be entitled to draw per diem and mileage therefor at the same rate as authorized by law for regular Legislative Council members.

14. Reports by the Bureau of Legislative Research.

(a) Reports by the Bureau of Legislative Research shall be impartial and comprehensive, and shall set out clearly such relevant information as may be useful to the interim committees, the Legislative Council and the General Assembly on each proposal studied.

(b) A copy of each report made by the Bureau of Legislative Research shall, upon completion, be made available to members of the General Assembly, the governor, and other persons as may be designated by the Legislative Council, upon their request therefor.

~~15. Bills.~~

~~—(a) Any proposed legislation growing out of study and research by the Legislative Council and recommended by the Legislative Council shall be sponsored in the General Assembly by the chair and vice chair of the interim committee that recommended the legislation.~~

~~—(b) If the chair, vice chair, or both elect not to introduce the legislation, the House of Representatives Co-Chair and Senate Co-Chair of the Legislative Council may designate one (1) or more Legislative Council members to sponsor the legislation.~~

1615. Legislative Institute. During the fall preceding each regular session of the

General Assembly, the Legislative Council, together with the Senate, the House of Representatives, and the Legislative Joint Auditing Committee, shall sponsor and conduct a Legislative Institute for the purpose of:

- (a) Training new members in parliamentary procedure and bill drafting techniques;
- (b) Acquainting them with the work of the Legislative Council and the Bureau of Legislative Research, the Legislative Joint Auditing Committee and its staff, and other agencies established to assist legislators; and
- (c) Other related matters.

~~17~~16. Emergency Action.

(a) **State Agency Request for Emergency Action.** Whenever a matter that requires Legislative Council review, approval, or advice is filed with the Legislative Council office for consideration at the next regular meeting of the Legislative Council, or the subcommittee to which the matter is normally referred, and the Chief Fiscal Officer of the State states, in writing, that the matter requires immediate action, the Co-Chairs of the Legislative Council may institute "Emergency Action Procedures" for the consideration of the matter, if they determine that it is in the best interest of the agency, or that immediate action is essential to enable the agency to perform essential services.

(b) **Executive Subcommittee Request for Emergency Action.** Whenever a matter is decided by the Executive Subcommittee of the Legislative Council that requires final review or approval of the Legislative Council, and it is determined by the members of the Executive Subcommittee that the matter requires immediate action, the Co-Chairs of the Legislative Council may institute "Emergency Action Procedures" for the consideration of the matter, if they determine that delaying the matter until the next regularly scheduled meeting of the Legislative Council would be detrimental to the entity(ies) involved in the matter being decided.

(c) "Emergency Action Procedures" shall consist of:

(1) The Co-Chairs of the Legislative Council determining that there is sufficient justification to consider the matter by Emergency Action Procedures;

(2) Consideration of the matter by the Co-Chairs of the Legislative Council, and the co-chairs of the subcommittee to which the matter is normally presented for review; and

(3) The co-chairs of the affected subcommittee and the Co-Chairs of the Legislative Council are unanimous in their evaluation that emergency review, approval, or advice is advisable, then the House of Representatives Co-Chair and Senate Co-Chair may act on behalf of the Legislative Council in regard thereto.

(d) All matters considered under the emergency procedures shall be reported in writing to the Legislative Council at its next regular meeting.

~~18~~17. Legislative Council Rules.

(a) The rules of the Legislative Council may be adopted by an affirmative separate vote of a majority of the members of the House of Representatives and a majority of the members of the Senate.

(b) The rules of the Legislative Council may be amended by an affirmative separate vote of two-thirds (2/3) of the members of the House of Representatives and two-thirds (2/3) of the members of the Senate. Amendments to the rules may be made after six (6) days' written notice of intent thereof.

(c) The rules of the Legislative Council may be suspended by an affirmative vote of

two-thirds (2/3) of a quorum, or, if a separate vote is requested, affirmative vote of two-thirds (2/3) of a quorum of the members of the House of Representatives and two-thirds (2/3) of a quorum of the members of the Senate.

(d) Unless suspended or amended, or changed by law, these rules shall continue in full force and effect as the temporary rules for the Legislative Council during the future successive biennial periods until permanent rules have been adopted by the Legislative Council.

1918. Subpoena Powers.

(a)(1) The subpoena powers of the Legislative Council shall be exercised only upon the two-thirds (2/3) vote of the entire membership of the Legislative Council at a regular meeting, after notice shall have been given in writing to all Legislative Council members setting forth the purpose or purposes for which the subpoena powers are to be used.

(2) The notice shall include the names of all persons to be subpoenaed and the description of all books, documents, or records to be subpoenaed.

(b) All hearings at which witnesses or documents, books and records are subpoenaed shall be held before the entire membership of the Legislative Council.

(c) No subcommittee of the Legislative Council shall have the authority to issue subpoenas.

2019. Expenses of Legislative Council Co-Chairs and Legislative Council Members and Alternates.

(a) The Co-Chairs of the Legislative Council, or any designated appointee, shall be authorized to draw per diem and mileage for any meetings attended concerning Legislative Council business.

(b)(1) The Co-Chairs of the Legislative Council are authorized to designate regular members of the Legislative Council to attend regional or national meetings ~~of The Council of State Governments, its affiliated organizations, or other regional or national conferences, or meetings of state officials.~~

(2) ~~Beginning July 27, 2011 [effective date of Acts 2011, Nos. 48 and 71], the~~ The travel authorization is also subject to approval by the Speaker of the House of Representatives or the President Pro Tempore of the Senate, in accordance with Arkansas Code § 10-2-224(b)(2)(B).

(3) The members shall be reimbursed only for their reasonable and necessary transportation, meals, lodging and other expenses incurred in attending the meetings.

(c) Alternate members of the Legislative Council shall not be designated to attend the meetings and receive reimbursement for expenses in connection therewith, except upon approval of the Legislative Council.

(d) In no event may members of the General Assembly who are not members or alternates of the Legislative Council be designated to attend the conferences and receive reimbursement for expenses therefor from Legislative Council funds.

2120. Staff Services and Special Procedures for Joint Interim Committees.

(a)(1) The Bureau of Legislative Research shall make available staff assistance from its various divisions to assist the interim committees and members thereof in the performance of their respective legislative duties.

(2) In order to provide for the equitable distribution of staff time and services among the interim committees, the Director of the Bureau of Legislative Research may,

from time to time, submit reports to the Legislative Council of the workload of the staff, the requests received from each of the interim committees, and the ability to adequately furnish the services requested.

(b)(1) In the event an interim committee desires to seek a grant of federal or private funds for a special study project, or to obtain the services of staff assistance not available through the Bureau of Legislative Research, the interim committee shall submit a request, in writing, to the Legislative Council outlining:

- (A) The need and sources of the funds;
- (B) The projects for which the funds will be used;
- (C) The staff positions that will need to be created;
- (D) The maximum annual salary rate for each position; and
- (E) Other pertinent information.

(2) If the Legislative Council determines that the funds and services are not available through the Bureau of Legislative Research, or other funds available to the Legislative Council, the Legislative Council may authorize:

(A) The House of Representatives Co-Chair and Senate Co-Chair of the Legislative Council, or the Director of the Bureau of Legislative Research, to submit a request for the funds, to be administered by the Bureau of Legislative Research; or

(B) The Co-Chairs of the interim committee to make the application for the federal or private grant to be administered with procedures outlined in the request submitted by the interim committee and approved by the Legislative Council, and in accordance with the appropriate fiscal laws and procedures of the state.

(c) No interim committee shall make an application for, or receive a grant of funds, from a private person, company, firm, corporation, or other organization without first obtaining the approval of the Legislative Council.

2221. Pre-session Budget Hearing Special Rules. The Legislative Council and the members of the Joint Budget Committee shall, at the beginning of the biennial pre-session budget hearings, which shall commence after the October 1 preceding the next regular session of the General Assembly, in accordance with Arkansas Code § 10-3-507(a), adopt appropriate special budget hearing rules.

2322. Review and Approval of State Agency Rules. ~~[Effective July 22, 2015]~~ In accordance with Arkansas Code § 10-3-309 ~~(as amended by Act 1258 of 2015)~~, the following procedures shall apply with regard to review and approval of state agency rules:

(a) As used in these rules:

(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) A statement that concerns the internal management of a state agency and that does not affect the private rights or procedures available to the public;
- (ii) A declaratory order or ruling issued under § 25-15-206 or other provision of law applicable to the state agency issuing the declaratory order or ruling; or
- (iii) Intraagency memoranda; and

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

bureau, or other agency of state government, including the Arkansas State Game and Fish Commission, having authority to promulgate or enforce rules.

(B) "State agency" does not include the following:

(i) ~~The Arkansas State Game and Fish Commission, if the rule is not promulgated under the 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) (ii) An institution of higher education.

(b) 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.

(c) The Legislative Council shall refer all proposed rules filed by a state agency ~~with~~ to the Administrative Rules and Regulations Subcommittee.

(d) **Review and Approval of Rules by the Administrative Rules and Regulations Subcommittee.** The Administrative Rules and Regulations Subcommittee (the "Subcommittee") shall conduct its review of state agency rules as follows:

(1) **Placement of Rules on the Subcommittee Agenda.** In order to have a rule placed on an upcoming Subcommittee agenda, the following requirements must be met:

(A) The public comment period of the state agency's proposed rule shall have expired by the 15th of the month prior to the Subcommittee meeting date at which the state agency would like the proposed rule to appear on the agenda; and

(B) The state agency shall provide the Subcommittee staff with the following information, which is in addition to the information previously required to have been submitted under subsection (d)(2) of this Rule:

(i) A public comment summary that includes for each comment received: the name of the commenter, if known; a summary of the comment; and a response by the agency to the comment;

(ii) A revised markup of the proposed rule that shows changes, if any, that were made subsequent to the initial rule filing with the Subcommittee; and

(iii) Any additional information requested by the Legislative Council, including without limitation the state agency's responses to any questions and comments submitted to the state agency by Subcommittee staff concerning the proposed rule.

(2) **Materials to be Provided by a State Agency When Filing a Rule.** Upon filing of a proposed rule with the Subcommittee, the state agency shall submit the following documentation:

(A) A completed questionnaire on a form approved by the Legislative Council;

(B) A financial impact statement, as required by Arkansas Code § 25-15-204, on a form approved by the Legislative Council;

(C) A summary of the proposed rule; and

(D) The proposed rule and any markup to the proposed rule.

(3) **Public Comment.** When conducting its review of a state agency rule, the Subcommittee shall allow members of the public a reasonable opportunity to comment

on the proposed rule.

(4)(A) **Review and Approval.** Except as set forth in subdivision (4)(E) of this section, Upon upon conclusion of its review of the proposed rule, the Chair of the Subcommittee shall state, “Without objection, the rule is considered reviewed and approved.”

(B) At this point, the rule is considered reviewed and approved, pending Legislative Council final action, unless a majority of a quorum present at the Subcommittee meeting request that the Subcommittee vote on the issue of approving the rule.

(C)(i) At the time that the motion is made to vote regarding approval, the member making the motion shall state the grounds upon which approval should be denied.

(ii) The only viable grounds for not approving a rule shall be if the rule is found to be inconsistent with state or federal law or with legislative intent.

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

(E)(i) [Effective July 31, 2017] A proposed rule submitted by the State Board of Health under Arkansas Code § 20-7-604(d)(2)(D), concerning exemptions from the requirements of the Prescription Drug Monitoring Program, shall be considered reviewed and approved by the Subcommittee upon an affirmative vote of three-fourths (3/4) of the members present when a quorum is present.

(ii) When considering a rule submitted under this subdivision (E), the requirement to state the grounds for not approving a rule under Rule 22.(d)(4)(C) shall not apply.

(5) **Referral of Proposed Rules.** The Subcommittee may refer a rule to a committee of the General Assembly or another subcommittee of the Legislative Council for the committee’s or subcommittee’s consideration. However, in doing so, the Subcommittee shall not delegate its authority to review and approve a rule to that committee or subcommittee.

(e) **Review and Approval of Rules by the Legislative Council.**

(1) The Legislative Council shall conduct its approval of rules reviewed and approved by the Administrative Rules and Regulations Subcommittee in the following manner:

~~(+)(A)~~ A proposed rule approved by the Administrative Rules and Regulations Subcommittee shall be considered approved by the Legislative Council upon adoption by the Legislative Council of the Subcommittee’s report in which the rule is contained.

~~(2)(A)(B)(i)~~ A majority of a quorum present of the Legislative Council may request a vote regarding approval of a specific proposed rule contained in the report of the Subcommittee. 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.

~~(B)(+)(ii)(a)~~ At the time that the motion is made to vote regarding approval, the member making the motion shall state the grounds upon which approval should be denied.

~~(+)(b)~~ The only viable grounds for not approving a rule shall be if the rule is found to be inconsistent with state or federal law or with legislative intent.

(2)(A) [Effective July 31, 2017] A proposed rule submitted by the State Board of Health under Arkansas Code § 20-7-604(d)(2)(D), concerning exemptions from the requirements of the Prescription Drug Monitoring Program, shall be considered reviewed and approved by the Legislative Council upon an affirmative vote of three-fourths (3/4) of the members present when a quorum is present, and shall be considered separately from other rules reported to the Legislative Council by the Administrative Rules and Regulations Subcommittee.

(B) When considering review and approval of a proposed rule under subdivision (e)(2) of this section, grounds for not approving the rule are not required to be stated.

(f) **Review and Approval of Emergency Rules.** The following procedures apply with regard to the review and approval of proposed emergency rules:

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

(2) A proposed emergency rule may be considered reviewed and approved by the Executive Subcommittee in one of two ways:

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

(ii) Upon conclusion of the Executive Subcommittee's review of the proposed emergency rule, the rule shall be considered approved unless a majority of a quorum present request a vote regarding approval of the proposed emergency rule. If the Executive Subcommittee votes on the issue of approval, the proposed emergency rule shall be approved unless a majority of a quorum present vote for the proposed emergency rule not to be approved.

(iii)(a) At the time that the motion is made to vote regarding approval, the member making the motion shall state the grounds upon which approval should be denied.

(b) The only viable grounds for not approving a rule shall be if the rule is found to be inconsistent with state or federal law or legislative intent.

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

(3) Except for emergency rules adopted under Arkansas Code § 5-64-201, regarding the addition, deletion, or rescheduling of controlled substances and gamma-hydroxybutyrates and its known precursors and analogs by the Director of the Department of Health:

(A) If possible, a proposed emergency rule shall be sent electronically to the members of the Legislative Council at least one (1) day before the Executive Subcommittee considers the emergency rule for review and approval.

(B) Either chair of the Legislative Council or a majority of the members of Legislative Council may call a meeting to be held within one (1) day after review and approval by the Executive Subcommittee of the emergency rule to request reconsideration of the emergency rule by the Executive Subcommittee.

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

~~2423.~~ Expenditure of Legislative Council Funds.

(a)(1) **Special Expenses.** Any expenditure of Legislative Council funds for special

expenses by a committee or task force of the General Assembly shall require an affirmative vote of a majority of the committee or task force wishing to expend the funds prior to expenditure of the funds.

(2)(A) For purposes of this rule, "special expenses" means any expenses incurred other than payment of mileage and per diem to members of the General Assembly for attendance at the meeting of the committee or task force, and includes without limitation witness fees, interpreter fees, and court reporter expenses.

(B) "Special expenses" does not include expenditure of funds in relation to the hiring of a consultant.

(3) Any committee or task force voting to incur special expenses shall provide monthly reports to the Policy-Making Subcommittee of the Legislative Council regarding authorization and payment of the special expenses.

(b)(1) **Consultant Contracts.** Upon completing its process for selecting a consultant, a subcommittee of the Legislative Council or committee or task force of the General Assembly, desiring to hire a consultant to assist with a study of the subcommittee, committee, or task force, shall authorize the Bureau of Legislative Research to enter the contract with the chosen consultant and recommend approval of the contract to the Policy-Making Subcommittee of the Legislative Council during the interim, or the Executive Subcommittee of Legislative Council during a legislative session, by an affirmative vote of a majority of the members of the subcommittee, committee, or task force.

(2) The Policy-Making Subcommittee, or the Executive Subcommittee if during a legislative session, shall conduct a review of the proposed contract and make a recommendation to the Legislative Council regarding authorization of the Bureau of Legislative Research to enter the contract.

(3) Upon approval of the contract by the Legislative Council, the Bureau of Legislative Research may execute the approved contract and the selected consultant may begin work for the subcommittee, committee, or task force.

2524. Application of Rules to Subcommittees. The Rules of the Legislative Council, as set forth herein, shall apply to the proceedings of the Subcommittees of the Legislative Council and shall control over any rules adopted by a Subcommittee that may conflict with these rules.