

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL 913

6 By: Daniels and Bullard

7 COMMITTEE SUBSTITUTE

8 An Act relating to administrative rules; amending 75
9 O.S. 2011, Sections 250.2, as amended by Section 1,
10 Chapter 357, O.S.L. 2013, 250.3, as amended by
11 Section 2, Chapter 357, O.S.L. 2013, 250.4a, 250.6,
12 250.10, as amended by Section 49, Chapter 227, O.S.L.
13 2013, 251, as last amended by Section 215, Chapter
14 408, O.S.L. 2019, 253, as amended by Section 3,
15 Chapter 357, O.S.L. 2013, 303, as amended by Section
16 50, Chapter 227, O.S.L. 2013, 303.1, as amended by
17 Section 2, Chapter 252, O.S.L. 2016, 305, 307.1, 308,
18 as amended by Section 4, Chapter 357, O.S.L. 2013,
19 Section 6, Chapter 357, O.S.L. 2013, (75 O.S. Supp.
20 2020, Sections 250.2, 250.3, 250.10, 251, 253, 303,
21 303.1, 308 and 308.3), which relate to the
22 Administrative Procedure Act; clarifying authority to
23 modify certain administrative rules; adding certain
24 definitions; deleting certain rule approval
procedure; providing for posting certain information
on a website; deleting obsolete language; modifying
number of days for certain responses; providing for
publication on website; providing procedure for
certain committee to suspend an agency emergency
rule; adding certain persons to receive certain
information; clarifying inclusion of certain
information; requiring certain notarized statement;
authorizing certain committee to disapprove certain
rules under certain circumstances; creating expedited
rule repeal process; providing procedures for
agencies for certain request; specifying criteria for
qualification; requiring certain notice; allowing for
comment period; providing for certain hearings and
votes; prohibiting certain agency requests by certain
date; adding certain persons to receive certain

1 information; conforming language; modifying method
2 for agencies to initiate rule making proceedings;
3 creating a Joint Committee on Administrative Rules;
4 providing for membership; providing for selection of
5 co-chairs; providing for meeting schedule; stating
6 requirement of a quorum; providing purpose of the
7 committee; providing for voting requirements;
8 clarifying certain powers; adding entity to receive
9 certain rules; establishing requirements for approval
10 or disapproval by Governor of agency rules; providing
11 for recommendations of certain rules; modifying type
12 of legislative vehicle for procedure; deleting
13 certain approval procedure; updating statutory
14 language; providing for codification; and providing
15 an effective date.

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BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 75 O.S. 2011, Section 250.2, as
amended by Section 1, Chapter 357, O.S.L. 2013 (75 O.S. Supp. 2020,
Section 250.2), is amended to read as follows:

Section 250.2. A. Article V of the Oklahoma Constitution vests
in the Legislature the power to make laws, and thereby to establish
agencies and to designate agency functions, budgets and purposes.
Article VI of the Oklahoma Constitution charges the Executive Branch
of Government with the responsibility to implement all measures
enacted by the Legislature.

B. In creating agencies and designating their functions and
purposes, the Legislature may delegate rulemaking authority to
executive branch agencies to facilitate administration of
legislative policy. The delegation of rulemaking authority is

1 intended to eliminate the necessity of establishing every
2 administrative aspect of general public policy by legislation. In
3 so doing, however, the Legislature reserves to itself:

4 1. The right to retract any delegation of rulemaking authority
5 unless otherwise precluded by the Oklahoma Constitution;

6 2. The right to establish any aspect of general policy by
7 legislation, notwithstanding any delegation of rulemaking authority;

8 3. The right and responsibility to designate the method for
9 rule promulgation, review, repeal and modification;

10 4. The right to approve or disapprove or repeal any adopted
11 rule by joint resolution; and

12 5. The right to disapprove a proposed permanent, promulgated or
13 emergency rule at any time if the Legislature determines such rule
14 to be an imminent harm to the health, safety or welfare of the
15 public or the state or if the Legislature determines that a rule is
16 not consistent with legislative intent.

17 SECTION 2. AMENDATORY 75 O.S. 2011, Section 250.3, as
18 amended by Section 2, Chapter 357, O.S.L. 2013 (75 O.S. Supp. 2020,
19 Section 250.3), is amended to read as follows:

20 Section 250.3. As used in the Administrative Procedures Act:

21 1. "Administrative head" means an official or agency body
22 responsible pursuant to law for issuing final agency orders;

23 2. "Adopted" means a proposed emergency rule which has been
24 approved by the agency but has not been approved or disapproved by

1 the Governor as provided by Section 253 of this title, or a proposed
2 permanent rule which has been approved by the agency, but has not
3 been approved or disapproved by the Legislature ~~or by declaration of~~
4 ~~the Governor as provided by subsection D of Section 6 of this act;~~

5 3. "Agency" includes but is not limited to any constitutionally
6 or statutorily created state board, bureau, commission, office,
7 authority, public trust in which the state is a beneficiary, or
8 interstate commission, except:

9 a. the Legislature or any branch, committee or officer
10 thereof, and

11 b. the courts;

12 4. "Concurrent majority" means a majority of members on the
13 Joint Committee on Administrative Rules from both the Oklahoma
14 Senate and the Oklahoma House of Representatives;

15 5. "Emergency rule" means a rule that is made pursuant to
16 Section 253 of this title;

17 ~~5-~~ 6. "Expedited repeal" means the procedure utilized by a
18 rule-making agency as specified in Section 9 of this act;

19 7. "Final rule" or "finally adopted rule" means a rule other
20 than an emergency rule, which has not been published pursuant to
21 Section 255 of this title but is otherwise in compliance with the
22 requirements of the Administrative Procedures Act, and is:

23 a. approved by the Legislature pursuant to Section ~~6~~

24 308.3 of this ~~act~~ title, provided that any such joint

1 resolution becomes law in accordance with Section 11
2 of Article VI of the Oklahoma Constitution,

3 b. ~~approved by the Governor pursuant to subsection D of~~
4 ~~Section 6 of this act,~~

5 e. approved by a joint resolution pursuant to subsection
6 B of Section 308 of this title, provided that any such
7 resolution becomes law in accordance with Section 11
8 of Article VI of the Oklahoma Constitution, or

9 ~~d.~~

10 c. disapproved by a joint resolution pursuant to
11 subsection B of Section 308 of this title or Section ~~6~~
12 308.3 of this ~~act~~ title, which has been vetoed by the
13 Governor in accordance with Section 11 of Article VI
14 of the Oklahoma Constitution and the veto has not been
15 overridden;

16 ~~6.~~ 8. "Final agency order" means an order that includes
17 findings of fact and conclusions of law pursuant to Section 312 of
18 this title, is dispositive of an individual proceeding unless there
19 is a request for rehearing, reopening, or reconsideration pursuant
20 to Section 317 of this title and which is subject to judicial
21 review;

22 ~~7.~~ 9. "Hearing examiner" means a person meeting the
23 qualifications specified by Article II of the Administrative
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1 Procedures Act and who has been duly appointed by an agency to hold
2 hearings and, as required, render orders or proposed orders;

3 ~~8.~~ 10. "Individual proceeding" means the formal process
4 employed by an agency having jurisdiction by law to resolve issues
5 of law or fact between parties and which results in the exercise of
6 discretion of a judicial nature;

7 ~~9.~~ 11. "License" includes the whole or part of any agency
8 permit, certificate, approval, registration, charter, or similar
9 form of permission required by law;

10 ~~10.~~ 12. "Office" means the Office of the Secretary of State;

11 ~~11.~~ 13. "Order" means all or part of a formal or official
12 decision made by an agency including but not limited to final agency
13 orders;

14 ~~12.~~ 14. "Party" means a person or agency named and
15 participating, or properly seeking and entitled by law to
16 participate, in an individual proceeding;

17 ~~13.~~ 15. "Permanent rule" means a rule that is made pursuant to
18 Section 303 of this title;

19 ~~14.~~ 16. "Person" means any individual, partnership,
20 corporation, association, governmental subdivision, or public or
21 private organization of any character other than an agency;

22 ~~15.~~ 17. "Political subdivision" means a county, city,
23 incorporated town or school district within this state;

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1 ~~16.~~ 18. "Promulgated" means a finally adopted rule which has
2 been filed and published in accordance with the provisions of the
3 Administrative Procedures Act, or an emergency rule or preemptive
4 rule which has been approved by the Governor;

5 ~~17.~~ 19. "Rule" means any agency statement or group of related
6 statements of general applicability and future effect that
7 implements, interprets or prescribes law or policy, or describes the
8 procedure or practice requirements of the agency. The term "rule"
9 includes the amendment or revocation of an effective rule but does
10 not include:

- 11 a. the issuance, renewal, denial, suspension or
12 revocation or other sanction of an individual specific
13 license,
- 14 b. the approval, disapproval or prescription of rates.
15 For purposes of this subparagraph, the term "rates"
16 shall not include fees or charges fixed by an agency
17 for services provided by that agency including but not
18 limited to fees charged for licensing, permitting,
19 inspections or publications,
- 20 c. statements and memoranda concerning only the internal
21 management of an agency and not affecting private
22 rights or procedures available to the public,
- 23 d. declaratory rulings issued pursuant to Section 307 of
24 this title,

1 e. orders by an agency, or

2 f. press releases or "agency news releases", provided
3 such releases are not for the purpose of interpreting,
4 implementing or prescribing law or agency policy;

5 ~~18.~~ 20. "Rulemaking" means the process employed by an agency
6 for the formulation of a rule; ~~and~~

7 ~~19.~~ 21. "Secretary" means the Secretary of State;

8 22. "Small business" means a for-profit enterprise consisting
9 of fifty or fewer full-time or part-time employees; and

10 23. "Technical legal defect" means an error that would
11 otherwise invalidate an action by a court of law.

12 SECTION 3. AMENDATORY 75 O.S. 2011, Section 250.4a, is
13 amended to read as follows:

14 Section 250.4a. ~~A.~~ Any agency exempt from all or part of the
15 Administrative Procedures Act pursuant to subsection A of Section
16 250.4 of this title shall maintain and make available for public
17 inspection its exempt rules at its principal place of business and
18 on any website associated with the agency.

19 ~~B. It is recognized by the Oklahoma Legislature that agencies~~
20 ~~specified by subsection A of this section have published rules~~
21 ~~containing obsolete rules or internal policy statements or agency~~
22 ~~statements which do not meet the Administrative Procedures Act~~
23 ~~definition of rules. Therefore, by December 31, 2005, each such~~
24 ~~agency shall conduct an internal review of its rules to determine~~

1 ~~whether each of its rules is current and is a rule as such term is~~
2 ~~defined by the Administrative Procedures Act. Any rule determined~~
3 ~~by an agency to be obsolete or an internal policy statement or any~~
4 ~~agency statement which does not meet the definition of a rule~~
5 ~~pursuant to the Administrative Procedures Act shall be deleted by~~
6 ~~the agency. Notice of such deletion shall be submitted to the~~
7 ~~Speaker of the House of Representatives, the President Pro Tempore~~
8 ~~of the Senate and the Governor for informational purposes.~~

9 C. ~~The provisions of this section shall not be construed to~~
10 ~~authorize any agency to amend any rule or to delete any rule which~~
11 ~~affects any private rights or procedures available to the public.~~

12 SECTION 4. AMENDATORY 75 O.S. 2011, Section 250.6, is
13 amended to read as follows:

14 Section 250.6. A. 1. The Commission for Human Services may
15 promulgate a preemptive rule pursuant to the provisions of this
16 section:

17 a. when the Commission for Human Services is required by
18 federal law, federal rules, a state law enacted
19 pursuant to federal law or federal rule, or order of a
20 court of competent jurisdiction to adopt a rule, or an
21 amendment, revision or revocation of an existing rule,
22 and

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1 b. which if such rule is not immediately adopted would
2 result in the imposition of a financial penalty, or a
3 reduction, withholding or loss of federal funds.

4 2. A preemptive rule must be approved by the Governor pursuant
5 to this section.

6 3. The website of the Commission shall provide a link to the
7 website of the Secretary of State where the preemptive rules of the
8 Commission are published.

9 4. The conditions specified in this subsection for the
10 promulgation of a preemptive rule shall be the only conditions
11 authorized for promulgation of such rule by the Commission for Human
12 Services.

13 B. 1. Upon the adoption of such preemptive rule by the
14 Commission, the Director of the Department of Human Services shall
15 request the Governor to approve the rules on the basis that such
16 rules are required to comply with a federal law, federal rule, a
17 state law enacted pursuant to federal law or rule, or order of a
18 court of competent jurisdiction and which if such rules are not
19 immediately adopted would result in a financial penalty, or a
20 reduction, withholding or loss of federal funds.

21 2. Upon the filing of the request for approval of a preemptive
22 rule, the Governor shall review such rule and decide as to whether
23 such rule should be approved. Prior to approval of a preemptive
24 rule, the Governor shall submit the preemptive rule to the Office of

1 the Secretary of State for review of proper formatting unless the
2 preemptive rule has been reviewed by the Office prior to agency
3 submission to the Governor. Failure of the Governor to approve such
4 rule within twenty-eight (28) calendar days shall constitute denial
5 of the rule as a preemptive rule.

6 3. Upon approval of a preemptive rule, the Governor shall
7 immediately notify the Commission. Upon receipt of notice of the
8 approval of the preemptive rule, the Commission shall file the
9 number of copies specified by the Secretary of the approval issued
10 by the Governor and the number of copies specified by the Secretary
11 of the preemptive rule with the Office pursuant to Section 251 of
12 this title.

13 4. The preemptive rule shall be published in accordance with
14 the provisions of Section 255 of this title in "The Oklahoma
15 Register" following approval by the Governor. The Governor's
16 approval and the approved rules shall be retained as official
17 records by the Office of Administrative Rules.

18 5. For informational purposes only, a copy of the Governor's
19 approval and the preemptive rule shall be submitted by the
20 Commission to the Speaker of the House of Representatives and the
21 President Pro Tempore of the Senate within ten (10) days of the
22 approval of the preemptive rule by the Governor.

23 6. Upon approval by the Governor, the rule shall be considered
24 promulgated and shall be in force immediately, or if a later date is

1 required by statute or specified in the rule, the later date is the
2 effective date.

3 C. A preemptive rule shall be considered to be a permanent rule
4 and shall remain in full force and effect unless and until
5 specifically disapproved during the first thirty (30) legislative
6 days of the next regular legislative session following promulgation
7 of such preemptive rule or unless an earlier expiration date is
8 specified by the Commission. The Legislature may disapprove such
9 rule pursuant to Section 308 of this title. Any resolution
10 introduced for the purpose of disapproving such rule shall not be
11 subject to regular legislative cut off dates.

12 D. Except as otherwise provided by this section, preemptive
13 rules shall be promulgated and published in compliance with Article
14 I of the Administrative Procedures Act. Preemptive rules
15 promulgated pursuant to the provisions of this section shall be
16 exempt from the provisions of Sections 253, 303, 303.1, 303.2, 304,
17 308 and 308.1 of this title.

18 SECTION 5. AMENDATORY 75 O.S. 2011, Section 250.10, as
19 amended by Section 49, Chapter 227, O.S.L. 2013 (75 O.S. Supp. 2020,
20 Section 250.10), is amended to read as follows:

21 Section 250.10. The Governor by Executive Order or either house
22 of the Legislature or both houses of the Legislature by resolution,
23 or a small business, may request an agency to review its rules to
24 determine whether or not the rules in question should be amended,

1 repealed or redrafted. The agency shall respond to requests from
2 the Governor or the Legislature within ~~ninety (90)~~ thirty (30)
3 calendar days of such request. The agency shall respond to requests
4 made by a small business within ninety (90) calendar days.

5 SECTION 6. AMENDATORY 75 O.S. 2011, Section 251, as last
6 amended by Section 215, Chapter 408, O.S.L. 2019 (75 O.S. Supp.
7 2020, Section 251), is amended to read as follows:

8 Section 251. A. 1. Upon the request of the Secretary, each
9 agency shall furnish to the Office a complete set of its permanent
10 rules in such form as is required by the Secretary or as otherwise
11 provided by law.

12 2. The Secretary shall promulgate rules to ensure the effective
13 administration of the provisions of Article I of the Administrative
14 Procedures Act. The rules shall include, but are not limited to,
15 rules prescribing paper size, numbering system, and the format of
16 documents required to be filed pursuant to the provisions of the
17 Administrative Procedures Act or such other requirements as deemed
18 necessary by the Secretary to implement the provisions of the
19 Administrative Procedures Act.

20 3. The website of each agency shall provide a link to the
21 website of the Secretary of State where the rules of the agency are
22 published.

23 B. 1. Each agency shall file the number of copies specified by
24 the Secretary of all new rules, and all amendments, revisions or

1 revocations of existing rules attested to by the agency, pursuant to
2 the provisions of Section 254 of this title, with the Office within
3 thirty (30) calendar days after they become finally adopted.

4 2. An agency filing rules pursuant to the provisions of this
5 subsection:

6 a. shall prepare the rules in plain language which can be
7 easily understood,

8 b. shall not unnecessarily repeat statutory language.

9 Whenever it is necessary to refer to statutory
10 language in order to effectively convey the meaning of
11 a rule interpreting that language, the reference shall
12 clearly indicate the portion of the language which is
13 statutory and the portion which is the agency's
14 amplification or interpretation of that language,

15 c. shall indicate whether a rule is new, amends an
16 existing permanent rule or repeals an existing
17 permanent rule. If a rule amends an existing rule,
18 the rule shall indicate the language to be deleted
19 typed with a line through the language and language to
20 be inserted typed with the new language underscored,

21 d. shall state if the rule supersedes an existing
22 emergency rule,

23 e. shall include a reference to any rule requiring a new
24 or revised form in a note to the rule. The Secretary

1 shall insert that reference in "The Oklahoma Register"
2 as a notation to the affected rule,

3 f. shall prepare, in plain language, a statement of the
4 gist of the rule and an analysis of new or amended
5 rules. The analysis shall include but not be limited
6 to a reference to any statute that the rule
7 interprets, any related statute or any related rule,

8 g. may include with its rules, brief notes,
9 illustrations, findings of facts, and references to
10 digests of Supreme Court cases, other court decisions,
11 or Attorney General's opinions, and other explanatory
12 material. Such material may be included if the
13 material is labeled or set forth in a manner which
14 clearly distinguishes it from the rules,

15 h. shall include other information, in such form and in
16 such manner as is required by the Secretary, and

17 i. may change the format of existing rules without any
18 rulemaking action by the agency in order to comply
19 with the standard provisions established by the
20 Secretary for "Code" and "The Oklahoma Register"
21 publication so long as there is no substantive change
22 to the rule.

23 C. The Secretary is authorized to determine a numbering system
24 and other standardized format for documents to be filed and may

1 refuse to accept for publication any document that does not
2 substantially conform to the promulgated rules of the Secretary.

3 D. In order to avoid unnecessary expense, an agency may use the
4 published standards established by organizations and technical
5 societies of recognized national standing, other state agencies, or
6 federal agencies by incorporating the standards or rules in its
7 rules or regulations by reference to the specific issue or issues of
8 publications in which the standards are published, without
9 reproducing the standards in full. The standards shall be readily
10 available to the public for examination at the administrative
11 offices of the agency. In addition, a copy of such standards shall
12 be kept and maintained by the agency pursuant to the provisions of
13 the Preservation of Essential Records Act.

14 E. The Secretary shall provide for the publication of all
15 Executive Orders received pursuant to the provisions of Section 664
16 of Title 74 of the Oklahoma Statutes.

17 F. The Secretary may authorize or require the filing of rules
18 or Executive Orders by or through electronic data or machine
19 readable equipment in such form and manner as is required by the
20 Secretary.

21 G. In consultation with the Adjutant General, the Secretary
22 shall establish a method for the publication and archiving of all
23 military publications received by the Secretary of State from the
24 Adjutant General pursuant to the Oklahoma Uniform Code of Military

1 Justice and the Oklahoma State Guard Act. Military publications
2 shall be defined in accordance with Section 801 of Title 44 of the
3 Oklahoma Statutes. The Secretary may also authorize or require the
4 filing of military publications by or through electronic means in
5 such form and manner as is required by the Secretary. This
6 subsection shall only apply to military publications promulgated
7 after October 1, 2019.

8 H. On or before October 1, 2021, the Secretary shall commence
9 publication of all military publications provided by the Adjutant
10 General. On a biennial basis thereafter, the Secretary shall cause
11 the military publications received in the course of the previous two
12 (2) years to be published in a printed and bound format suitable for
13 physical archiving in sufficient numbers to satisfy the requirements
14 of the "Publications Clearinghouse" established in Section 3-113.3
15 of Title 65 of the Oklahoma Statutes.

16 SECTION 7. AMENDATORY 75 O.S. 2011, Section 253, as
17 amended by Section 3, Chapter 357, O.S.L. 2013 (75 O.S. Supp. 2020,
18 Section 253), is amended to read as follows:

19 Section 253. A. 1. If an agency finds that a rule is
20 necessary as an emergency measure, the rule may be promulgated
21 pursuant to the provisions of this section, if the rule is first
22 approved by the Governor. The Governor shall not approve the
23 adoption, amendment, revision or revocation of a rule as an
24 emergency measure unless the agency submits substantial evidence

1 that the rule is necessary as an emergency measure to do any of the
2 following:

- 3 a. protect the public health, safety or welfare,
- 4 b. comply with deadlines in amendments to an agency's
5 governing law or federal programs,
- 6 c. avoid violation of federal law or regulation or other
7 state law,
- 8 d. avoid imminent reduction to the agency's budget, or
- 9 e. avoid serious prejudice to the public interest.

10 As used in this subsection, "substantial evidence" shall mean
11 credible evidence which is of sufficient quality and probative value
12 to enable a person of reasonable caution to support a conclusion.

13 2. In determining whether a rule is necessary as an emergency
14 measure, the Governor shall consider whether the emergency situation
15 was created due to the agency's delay or inaction and could have
16 been averted by timely compliance with the provisions of this
17 chapter.

18 B. An emergency rule adopted by an agency shall:

19 1. Be prepared in the format required by Section 251 of this
20 title;

21 2. a. Include an impact statement which meets the
22 requirements set forth in subparagraph b of this
23 paragraph unless the Governor waives the requirement
24 in writing upon a finding that the rule impact

1 statement or the specified contents thereof are
2 unnecessary or contrary to the public interest.

3 b. The rule impact statement shall include, but not be
4 limited to:

- 5 (1) a brief description of the proposed rule,
- 6 (2) a description of the persons who most likely will
7 be affected by the proposed rule, including
8 classes that will bear the costs of the proposed
9 rule, and any information on cost impacts
10 received by the agency from any private or public
11 entities,
- 12 (3) a description of the classes of persons who will
13 benefit from the proposed rule,
- 14 (4) a description of the probable economic impact of
15 the proposed rule upon affected classes of
16 persons or political subdivisions, including a
17 listing of all fee changes and, whenever
18 possible, a separate justification for each fee
19 change,
- 20 (5) the probable costs and benefits to the agency and
21 to any other agency of the implementation and
22 enforcement of the proposed rule, and any
23 anticipated effect on state revenues, including a
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1 projected net loss or gain in such revenues if it
2 can be projected by the agency,

3 (6) a determination of whether implementation of the
4 proposed rule may have an adverse economic effect
5 on small business as provided by the Oklahoma
6 Small Business Regulatory Flexibility Act,

7 (7) an explanation of the measures the agency has
8 taken to minimize compliance costs and a
9 determination of whether there are less costly or
10 nonregulatory methods or less intrusive methods
11 for achieving the purpose of the proposed rule,

12 (8) a determination of the effect of the proposed
13 rule on the public health, safety and environment
14 and, if the proposed rule is designed to reduce
15 significant risks to the public health, safety
16 and environment, an explanation of the nature of
17 the risk and to what extent the proposed rule
18 will reduce the risk,

19 (9) a determination of any detrimental effect on the
20 public health, safety and environment if the
21 proposed rule is not implemented, and

22 (10) the date the rule impact statement was prepared
23 and if modified, the date modified.
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1 c. The rule impact statement shall be prepared on or
2 before the date the emergency rule is adopted;

3 3. Be transmitted pursuant to Section 464 of Title 74 of the
4 Oklahoma Statutes to the Governor, the Speaker of the Oklahoma House
5 of Representatives and, the President Pro Tempore of the Senate and
6 the chairs of the Joint Committee on Administrative Rules, along
7 with the information required by this subsection within ten (10)
8 days after the rule is adopted; and

9 4. Not be invalidated on the ground that the contents of the
10 rule impact statement are insufficient or inaccurate.

11 C. 1. Within forty-five (45) calendar days of receipt of a
12 proposed emergency rule filed with the Governor, the Speaker of the
13 Oklahoma House of Representatives and, the President Pro Tempore of
14 the Senate and the chairs of the Joint Committee on Administrative
15 Rules, the Governor shall review the demonstration of emergency
16 pursuant to subsection A of this section, and shall separately
17 review the rule in accordance with the standards prescribed in
18 paragraph 3 of this subsection.

19 2. Prior to approval of emergency rules, the Governor shall
20 submit the emergency rule to the Secretary of State for review of
21 proper formatting.

22 3. If the Governor determines the agency has established the
23 rule is necessary as an emergency measure pursuant to subsection A
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1 of this section, the Governor shall approve the proposed emergency
2 rule if the rule is:

- 3 a. clear, concise and understandable,
- 4 b. within the power of the agency to make and within the
5 enacted legislative standards, and
- 6 c. made in compliance with the requirements of the
7 Administrative Procedures Act.

8 D. 1. Within the forty-five-calendar-day period set forth in
9 paragraph 1 of subsection C of this section, the Governor may
10 approve the emergency rule or disapprove the emergency rule.

11 Failure of the Governor to approve an emergency rule within the
12 specified period shall constitute disapproval of the emergency rule.

13 2. If the Governor disapproves the adopted emergency rule, the
14 Governor shall return the entire document to the agency with reasons
15 for the disapproval. If the agency elects to modify the rule, the
16 agency shall adopt the modifications, and shall file the modified
17 rule in accordance with the requirements of subsection B of this
18 section.

19 3. Upon disapproval of an emergency rule, the Governor shall,
20 within fifteen (15) days, make written notification to the Speaker
21 of the House of Representatives, the President Pro Tempore of the
22 Senate, the chairs of the Joint Committee on Administrative Rules
23 and the Office of Administrative Rules.

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1 E. 1. Upon approval of an emergency rule, the Governor shall
2 immediately make written notification to the agency, the Speaker of
3 the House of Representatives, the President Pro Tempore of the
4 Senate, the chairs of the Joint Committee on Administrative Rules
5 and the Office of Administrative Rules. Upon receipt of the notice
6 of the approval, the agency shall file with the Office of
7 Administrative Rules as many copies of the notice of approval and
8 the emergency rule as required by the Secretary.

9 2. Emergency rules shall be subject to legislative review
10 pursuant to Section 308 of this title.

11 3. The emergency rule shall be published in accordance with the
12 provisions of Section 255 of this title in "The Oklahoma Register"
13 following the approval by the Governor. The Governor's approval and
14 the approved rules shall be retained as official records by the
15 Office of Administrative Rules.

16 F. 1. Upon approval by the Governor, an emergency rule shall
17 be considered promulgated and shall be in force immediately, or on
18 such later date as specified therein. An emergency rule shall only
19 be applied prospectively from its effective date.

20 2. ~~The~~ Except as otherwise provided in this subsection, the
21 emergency rule shall remain in full force and effect through the
22 first day of the next succeeding regular session of the Legislature
23 following promulgation of such emergency rule until September 14
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1 following such session, unless it is made ineffective pursuant to
2 subsection H of this section.

3 G. No agency shall adopt any emergency rule which establishes
4 or increases fees, except during such times as the Legislature is in
5 session, unless specifically mandated by the Legislature or federal
6 legislation, or when the failure to establish or increase fees would
7 conflict with an order issued by a court of law.

8 H. 1. If an emergency rule is of a continuing nature, the
9 agency promulgating such emergency rule shall initiate proceedings
10 for promulgation of a permanent rule pursuant to Sections 303
11 through 308.2 of this title. If an emergency rule is superseded by
12 another emergency rule prior to the enactment of a permanent rule,
13 the latter emergency rule shall retain the same expiration date as
14 the superseded emergency rule, unless otherwise authorized by the
15 Legislature.

16 2. Any promulgated emergency rule shall be made ineffective if:
17 a. disapproved by the Legislature,
18 b. superseded by the promulgation of permanent rules,
19 c. any adopted rules based upon such emergency rules are
20 subsequently disapproved pursuant to Section 308 of
21 this title, or
22 d. an earlier expiration date is specified by the agency
23 in the rules.
24

1 3. a. Emergency rules in effect on the first day of the
2 session shall be null and void on September 15
3 following sine die adjournment of the Legislature
4 unless otherwise specifically provided by the
5 Legislature.

6 b. Unless otherwise authorized by the Legislature, an
7 agency shall not adopt any emergency rule, which has
8 become null and void pursuant to subparagraph a of
9 this paragraph, as a new emergency rule or adopt any
10 emergency rules of similar scope or intent as the
11 emergency rules which became null and void pursuant to
12 subparagraph a of this paragraph.

13 I. Emergency rules shall not become effective unless approved
14 by the Governor pursuant to the provisions of this section.

15 J. 1. The requirements of Section 303 of this title relating
16 to notice and hearing shall not be applicable to emergency rules
17 promulgated pursuant to the provisions of this section. Provided
18 this shall not be construed to prevent an abbreviated notice and
19 hearing process determined to be necessary by an agency.

20 2. The rule report required pursuant to Section 303.1 of this
21 title shall not be applicable to emergency rules promulgated
22 pursuant to the provisions of this section. Provided this shall not
23 be construed to prevent an agency from complying with such
24 requirements at the discretion of such agency.

1 3. The statement of submission required by Section 303.1 of
2 this title shall not be applicable to emergency rules promulgated
3 pursuant to the provisions of this section.

4 K. Prior to approval or disapproval of an emergency rule by the
5 Governor, an agency may withdraw from review an emergency rule
6 submitted pursuant to the provisions of this section. Notice of
7 such withdrawal shall be given to the Governor, the Speaker of the
8 House of Representatives, the President Pro Tempore of the Senate in
9 accordance with the requirements set forth in Section 464 of Title
10 74 and to the Office of Administrative Rules as required by the
11 Secretary. In order to be promulgated as emergency rules, any
12 replacement rules shall be resubmitted pursuant to the provisions of
13 this section.

14 L. Upon completing the requirements of this section, an agency
15 may promulgate a proposed emergency rule. No emergency rule is
16 valid unless promulgated in substantial compliance with the
17 provisions of this section.

18 M. Emergency rules adopted by an agency or approved by the
19 Governor shall be subject to review pursuant to the provisions of
20 Section 306 of this title.

21 SECTION 8. AMENDATORY 75 O.S. 2011, Section 303, as
22 amended by Section 50, Chapter 227, O.S.L. 2013 (75 O.S. Supp. 2020,
23 Section 303), is amended to read as follows:

24

1 Section 303. A. Prior to the adoption of any rule or amendment
2 or revocation of a rule and except as provided for pursuant to the
3 expedited rule repeal process provided in Section 9 of this act, the
4 agency shall:

5 1. Cause notice of any intended action to be published in "The
6 Oklahoma Register" pursuant to subsection B of this section;

7 2. For at least thirty (30) days after publication of the
8 notice of the intended rulemaking action, afford a comment period
9 for all interested persons to submit data, views or arguments,
10 orally or in writing. The agency shall consider fully all written
11 and oral submissions respecting the proposed rule;

12 3. Hold a hearing, if required, as provided by subsection C of
13 this section;

14 4. Consider the effect its intended action may have on the
15 various types of business and governmental entities. Except where
16 such modification or variance is prohibited by statute or
17 constitutional constraints, if an agency finds that its actions may
18 adversely affect any such entity, the agency may modify its actions
19 to exclude that type of entity, or may "tier" its actions to allow
20 rules, penalties, fines or reporting procedures and forms to vary
21 according to the size of a business or governmental entity or its
22 ability to comply or both. For business entities, the agency shall
23 include a description of the probable quantitative and qualitative
24 impact of the proposed rule, economic or otherwise, and use

1 quantifiable data to the extent possible, taking into account both
2 short-term and long-term consequences; and

3 5. Consider the effect its intended action may have on the
4 various types of consumer groups. If an agency finds that its
5 actions may adversely affect such groups, the agency may modify its
6 actions to exclude that type of activity.

7 B. The notice required by paragraph 1 of subsection A of this
8 section shall include, but not be limited to:

- 9 1. In simple language, a brief summary of the rule;
- 10 2. The proposed action being taken;
- 11 3. The circumstances which created the need for the rule;
- 12 4. The specific legal authority, including statutory citations,
13 authorizing the proposed rule;
- 14 5. The intended effect of the rule;
- 15 6. If the agency determines that the rule affects business
16 entities, a request that such entities provide the agency, within
17 the comment period, in dollar amounts if possible, the increase in
18 the level of direct costs such as fees, and indirect costs such as
19 reporting, recordkeeping, equipment, construction, labor,
20 professional services, revenue loss, or other costs expected to be
21 incurred by a particular entity due to compliance with the proposed
22 rule;

23

24

1 7. The time when, the place where, and the manner in which
2 interested persons may present their views thereon pursuant to
3 paragraph 3 of subsection A of this section;

4 8. Whether or not the agency intends to issue a rule impact
5 statement according to subsection D of this section and where copies
6 of such impact statement may be obtained for review by the public;

7 9. The time when, the place where, and the manner in which
8 persons may demand a hearing on the proposed rule if the notice does
9 not already provide for a hearing. If the notice provides for a
10 hearing, the time and place of the hearing shall be specified in the
11 notice; and

12 10. Where copies of the proposed rules may be obtained for
13 review by the public. An agency may charge persons for the actual
14 cost of mailing a copy of the proposed rules to such persons.

15 The number of copies of such notice as specified by the
16 Secretary shall be submitted to the Secretary who shall publish the
17 notice in "The Oklahoma Register" pursuant to the provisions of
18 Section 255 of this title.

19 Prior to or within three (3) days after publication of the
20 notice in "The Oklahoma Register", the agency shall cause a copy of
21 the notice of the proposed rule adoption and the rule impact
22 statement, if available, to be mailed to all persons who have made a
23 timely request of the agency for advance notice of its rulemaking
24 proceedings. Provided, in lieu of mailing copies, an agency may

1 electronically notify interested persons that a copy of the proposed
2 rule and the rule impact statement, if available, may be viewed on
3 the agency's website. If an agency posts a copy of the proposed
4 rule and rule impact statement on its website, the agency shall not
5 charge persons for the cost of downloading or printing the proposed
6 rule or impact statement. Each agency shall maintain a listing of
7 persons or entities requesting such notice.

8 C. 1. If the published notice does not already provide for a
9 hearing, an agency shall schedule a hearing on a proposed rule if,
10 within thirty (30) days after the published notice of the proposed
11 rule adoption, a written request for a hearing is submitted by:

- 12 a. at least ten persons,
- 13 b. a political subdivision,
- 14 c. an agency, or
- 15 d. an association having not less than twenty-five
16 members.

17 At that hearing persons may present oral argument, data, and
18 views on the proposed rule.

19 2. A hearing on a proposed rule may not be held earlier than
20 thirty (30) days after notice of the hearing is published pursuant
21 to subsection B of this section.

22 3. The provisions of this subsection shall not be construed to
23 prevent an agency from holding a hearing or hearings on the proposed
24 rule although not required by the provisions of this subsection;

1 provided that notice of such hearing shall be published in "The
2 Oklahoma Register" at least thirty (30) days prior to such hearing.

3 D. 1. Except as otherwise provided in this subsection, an
4 agency shall issue a rule impact statement of a proposed rule prior
5 to or within fifteen (15) days after the date of publication of the
6 notice of proposed rule adoption. The rule impact statement may be
7 modified after any hearing or comment period afforded pursuant to
8 the provisions of this section.

9 2. Except as otherwise provided in this subsection, the rule
10 impact statement shall include, but not be limited to:

- 11 a. a brief description of the purpose of the proposed
12 rule,
- 13 b. a description of the classes of persons who most
14 likely will be affected by the proposed rule,
15 including classes that will bear the costs of the
16 proposed rule, and any information on cost impacts
17 received by the agency from any private or public
18 entities,
- 19 c. a description of the classes of persons who will
20 benefit from the proposed rule,
- 21 d. a description of the probable economic impact of the
22 proposed rule upon affected classes of persons or
23 political subdivisions, including a listing of all fee
24

1 changes and, whenever possible, a separate
2 justification for each fee change,

3 e. the probable costs and benefits to the agency and to
4 any other agency of the implementation and enforcement
5 of the proposed rule, the source of revenue to be used
6 for implementation and enforcement of the proposed
7 rule, and any anticipated effect on state revenues,
8 including a projected net loss or gain in such
9 revenues if it can be projected by the agency,

10 f. a determination of whether implementation of the
11 proposed rule will have an economic impact on any
12 political subdivisions or require their cooperation in
13 implementing or enforcing the rule,

14 g. a determination of whether implementation of the
15 proposed rule may have an adverse economic effect on
16 small business as provided by the Oklahoma Small
17 Business Regulatory Flexibility Act,

18 h. an explanation of the measures the agency has taken to
19 minimize compliance costs and a determination of
20 whether there are less costly or nonregulatory methods
21 or less intrusive methods for achieving the purpose of
22 the proposed rule,

23 i. a determination of the effect of the proposed rule on
24 the public health, safety and environment and, if the

1 proposed rule is designed to reduce significant risks
2 to the public health, safety and environment, an
3 explanation of the nature of the risk and to what
4 extent the proposed rule will reduce the risk,

5 j. a determination of any detrimental effect on the
6 public health, safety and environment if the proposed
7 rule is not implemented, and

8 k. the date the rule impact statement was prepared and if
9 modified, the date modified.

10 3. To the extent an agency for good cause finds the preparation
11 of a rule impact statement or the specified contents thereof are
12 unnecessary or contrary to the public interest in the process of
13 adopting a particular rule, the agency may request the Governor to
14 waive such requirement. Such request shall be in writing and shall
15 state the agency's findings and the justification for such findings.

16 Upon request by an agency, the Governor may also waive the rule
17 impact statement requirements if the agency is required to implement
18 a statute or federal requirement that does not require an agency to
19 interpret or describe the requirements, such as federally mandated
20 provisions which afford the agency no discretion to consider less
21 restrictive alternatives. If the Governor fails to waive such
22 requirement, in writing, prior to publication of the notice of the
23 intended rulemaking action, the rule impact statement shall be

1 completed. The determination to waive the rule impact statement
2 shall not be subject to judicial review.

3 4. The rule shall not be invalidated on the ground that the
4 contents of the rule impact statement are insufficient or
5 inaccurate.

6 E. Upon completing the requirements of this section, an agency
7 may adopt a proposed rule. No rule is valid unless adopted in
8 substantial compliance with the provisions of this section.

9 SECTION 9. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 303a of Title 75, unless there
11 is created a duplication in numbering, reads as follows:

12 A. Upon request by a rulemaking agency, an expedited rule
13 repeal process may be utilized when such rule or rules meet the
14 criteria pursuant to this section.

15 B. Beginning on September 1, 2021, and every year thereafter, a
16 rulemaking agency may initiate a request for expedited repeal of a
17 rule or rules when:

18 1. A request by the agency is submitted electronically to the
19 President Pro Tempore of the Senate and the Speaker of the House of
20 Representatives. The request shall be assigned to the Joint
21 Committee on Administrative Rules to conduct the repeal process;

22 2. A copy of the rule or rules is provided along with a
23 statement indicating one of the following:

24 a. a rule is duplicate,

- b. the rule is obsolete,
- c. the rule is no longer enforced,
- d. the rule is no longer in compliance with state or federal law,
- e. the rule is no longer in compliance with federal regulation, or
- f. the rule does not affect substantive rights of the regulated community;

3. The agency provides notice in the "Oklahoma Register" in a format reasonably calculated to provide notice to persons interested in the rule; and

4. For at least ten (10) days after publication of the notice of the intended action, afford a comment period for all interested persons. The agency shall consider fully all written and oral submissions respecting the proposed rule.

C. Upon completion of the comment period, the committee may schedule a hearing on the agency rule proposal. If the Committee approves the repeal by concurrent majority, it shall be presented to the Legislature for final approval.

No request for an expedited repeal shall be initiated after May 1. Upon final legislative adoption, the agency shall comply with additional publication requirements as provided by law.

An agency, at any point prior to final legislative adoption, may withdraw the expedited agency rule repeal request.

1 SECTION 10. AMENDATORY 75 O.S. 2011, Section 303.1, as
2 amended by Section 2, Chapter 252, O.S.L. 2016 (75 O.S. Supp. 2020,
3 Section 303.1), is amended to read as follows:

4 Section 303.1. A. Within ten (10) days after adoption of a
5 permanent rule, the agency shall file two copies of the following
6 with the Governor, the Speaker of the House of Representatives ~~and,~~
7 the President Pro Tempore of the Senate and the chairs of the Joint
8 Committee on Administrative Rules: all such new rules or
9 amendments; revisions or revocations to an existing rule proposed by
10 an agency; and the agency rule report as required by subsection E of
11 this section.

12 B. If the agency determines in the rule impact statement
13 prepared as part of the agency rule report that the proposed rule
14 will have an economic impact on any political subdivisions or
15 require their cooperation in implementing or enforcing a proposed
16 permanent rule, a copy of the proposed rule and rule report shall be
17 filed within ten (10) days after adoption of the permanent rule with
18 the Oklahoma Advisory Committee on Intergovernmental Relations for
19 its review. ~~Said~~ The Committee may communicate any recommendations
20 that it may deem necessary to the Governor, the Speaker of the House
21 of Representatives and President Pro Tempore of the Senate during
22 the period that the permanent rules are being reviewed.

23 C. When the rules have been submitted to the Governor, the
24 Speaker of the House of Representatives ~~and,~~ the President Pro

1 Tempore of the Senate and chairs of the Joint Committee on
2 Administrative Rules, the agency shall also submit to the Office of
3 Administrative Rules for publication in "The Oklahoma Register", a
4 statement that the adopted rules have been submitted to the Governor
5 and the Legislature.

6 D. The text of the adopted rules shall be submitted to the
7 Governor, the Speaker of the House of Representatives and the
8 President Pro Tempore of the Senate in the same format as required
9 by the Secretary pursuant to Section 251 of this title.

10 E. The report required by subsection A of this section shall
11 include:

12 1. The date the notice of the intended rulemaking action was
13 published in "The Oklahoma Register" pursuant to Section 255 of this
14 title;

15 2. The name and address of the agency;

16 3. The title and number of the rule;

17 4. A citation to the constitutional or statutory authority for
18 the rule;

19 5. The citation to any federal or state law, court ruling, or
20 any other authority requiring the rule;

21 6. A statement of the gist of the rule ~~and~~ or a brief summary
22 of the content of the adopted rule;

23 7. A statement explaining the need for the adopted rule;

24

1 8. The date and location of the meeting, if held, at which such
2 rules were adopted or the date and location when the rules were
3 adopted if the rulemaking agency is not required to hold a meeting
4 to adopt rules;

5 9. A summary of the comments and explanation of changes or lack
6 of any change made in the adopted rules as a result of testimony
7 received at all hearings or meetings held or sponsored by an agency
8 for the purpose of providing the public an opportunity to comment on
9 the rules or of any written comments received prior to the adoption
10 of the rule. The summary shall include all comments received about
11 the cost impact of the proposed rules;

12 10. A list of persons or organizations who appeared or
13 registered for or against the adopted rule at any public hearing
14 held by the agency or those who have commented in writing before or
15 after the hearing;

16 11. A rule impact statement if required pursuant to Section 303
17 of this title;

18 12. An incorporation by reference statement if the rule
19 incorporates a set of rules from a body outside the state, such as a
20 national code;

21 13. The members of the governing board of the agency adopting
22 the rules and the recorded vote of each member;

23

24

1 14. The proposed effective date of the rules, if an effective
2 date is required pursuant to paragraph 1 of subsection B of Section
3 304 of this title; and

4 15. Any other information requested by the Governor, the
5 Speaker of the House of Representatives, the President Pro Tempore
6 of the Senate or ~~either rule review committee~~ the Joint Committee on
7 Administrative Rules.

8 SECTION 11. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 303.2a of Title 75, unless there
10 is created a duplication in numbering, reads as follows:

11 A. The Governor shall have thirty (30) calendar days from
12 receipt of a rule from an agency to approve or disapprove the rule.

13 1. If the Governor approves the rule, the Governor shall
14 immediately notify the agency in writing of the approval and the
15 rule shall proceed to legislative review pursuant to the provisions
16 of Sections 307.1 and 308 of Title 75 of the Oklahoma Statutes. A
17 copy of such approval shall be given by the Governor to the
18 President Pro Tempore of the Senate, the Speaker of the House of
19 Representatives and the chairs of the Joint Committee on
20 Administrative Rules. Upon receipt of the approval, the agency
21 shall submit a notice of such approval to the Office of
22 Administrative Rules for publication in "The Oklahoma Register".

23 2. If the Governor disapproves the rule, the Governor shall
24 return the entire document to the agency. Notice of such

1 disapproval shall be given by the Governor to the President Pro
2 Tempore of the Senate, the Speaker of the House of Representatives
3 and the chairs of the Joint Committee on Administrative Rules.
4 Failure of the Governor to approve a rule within the specified
5 period shall constitute disapproval of the rule by the Governor.
6 Upon receipt of the disapproval or upon failure of the Governor to
7 approve the rule within the specified period, the agency shall
8 submit a notice of such disapproval to the Office of Administrative
9 Rules for publication in "The Oklahoma Register". Any effective
10 emergency rule which would have been superseded by a disapproved
11 permanent rule shall be deemed null and void on the date the
12 Governor disapproves the permanent rule.

13 B. Any rule not approved by the Governor pursuant to the
14 provisions of this section shall not become effective unless
15 otherwise approved by the Legislature by joint resolution pursuant
16 to subsection B of Section 308 of Title 75 of the Oklahoma Statutes.

17 SECTION 12. AMENDATORY 75 O.S. 2011, Section 305, is
18 amended to read as follows:

19 Section 305. An interested person may petition an agency
20 requesting the promulgation, amendment, or repeal of a rule. Each
21 agency shall prescribe by rule the form for petitions and the
22 procedure for their submission, consideration, and disposition. ~~The~~
23 Within thirty (30) calendar days after submission of a petition, the
24 ~~agency shall act upon said petition within a reasonable time. If,~~

1 ~~within thirty (30) calendar days after submission of a petition, the~~
2 ~~agency has not initiated~~ initiate rulemaking proceedings in
3 ~~accordance with the Administrative Procedures Act, the petition~~
4 ~~shall be deemed to have been denied~~ or provide a written response
5 and explanation of its failure to initiate rulemaking proceedings.

6 SECTION 13. AMENDATORY 75 O.S. 2011, Section 307.1, is
7 amended to read as follows:

8 Section 307.1. A. The Speaker of the House of Representatives
9 and the President Pro Tempore of the Senate ~~may each~~ shall establish
10 a joint rule ~~review~~ committee ~~or designate standing committees of~~
11 ~~each such house to review administrative rules~~ to be designated as
12 the Joint Committee on Administrative Rules.

13 B. ~~Such committees may~~ The President Pro Tempore and the
14 Speaker shall appoint current members of the Senate and House of
15 Representatives to the Committee. The President Pro Tempore and
16 Speaker shall designate one of their respective appointments as co-
17 chair of the Committee.

18 C. A quorum shall be required to conduct any business of the
19 Committee. A quorum shall be a majority of the Senate members of
20 the Committee and a majority of the House members of the Committee.

21 D. The Committee shall meet ~~separately or jointly at any time,~~
22 as needed and during sessions of the Legislature and at regular
23 intervals in the interim.

1 ~~C.~~ E. The function of the ~~committees so established or~~
2 ~~designated~~ Committee shall be the review and ~~promotion of adequate~~
3 ~~and proper rules by agencies and developing an understanding on the~~
4 ~~part of the public respecting such rules. Such function shall be~~
5 ~~advisory only~~ of all adopted agency administrative rules and
6 emergency rules including recommending by concurrent majority an
7 approval or disapproval of each proposed rule to the Legislature.
8 The Committee may also recommend by concurrent majority an agency
9 amend or further consider a proposed rule.

10 ~~Each committee may review all adopted rules and such other rules~~
11 ~~the committee deems appropriate and may make recommendations~~
12 ~~concerning such rules to their respective house of the Legislature,~~
13 ~~or to the agency adopting the rule, or to both their respective~~
14 ~~house of the Legislature and the agency~~

15 F. The Committee shall approve or disapprove by concurrent
16 majority a repeal of rules under the expedited repeal process
17 pursuant to this act. Such rules shall be presented to the
18 Legislature for final approval for repeal.

19 ~~D.~~ G. In addition to the review of agency-adopted rules
20 pursuant to this act, ~~each such committee~~ the Committee shall have
21 the power and duty to:

22 1. Conduct a continuous study and investigations as to whether
23 additional legislation or changes in legislation are needed based on
24 various factors, including but not limited to, review of proposed

1 rules, review of existing rules including but not limited to
2 consideration of amendments to or repeal of existing rules, the lack
3 of rules, the ability of agencies to promulgate such rules, the
4 burden of administrative rules on the regulated community and the
5 needs of administrative agencies;

6 2. Conduct a continuous study of the rulemaking process of all
7 state agencies including those agencies exempted by Section 250.4 of
8 this title for the purpose of improving the rulemaking process;

9 3. Conduct such other studies and investigations relating to
10 rules as may be determined to be necessary by the ~~committee~~
11 Committee; and

12 4. Monitor and investigate compliance of agencies with the
13 provisions of the Administrative Procedures Act, make periodic
14 investigations of the rulemaking activities of all agencies and
15 evaluate and report on all rules in terms of their propriety, legal
16 adequacy, relation to constitutional or statutory authorization,
17 economic and budgetary effects and public policy.

18 SECTION 14. AMENDATORY 75 O.S. 2011, Section 308, as
19 amended by Section 4, Chapter 357, O.S.L. 2013 (75 O.S. Supp. 2020,
20 Section 308), is amended to read as follows:

21 Section 308. A. Upon receipt of any adopted rules, the Speaker
22 of the House of Representatives and the President Pro Tempore of the
23 Senate shall assign such rules to the ~~appropriate committees of each~~

24

1 ~~house of the Legislature for review~~ Joint Committee on
2 Administrative Rules. Except as otherwise provided by this section:

3 1. If such rules are received on or before April 1, the
4 Legislature shall have until the last day of the regular legislative
5 session of that year to ~~review such rules~~ act on the recommendations
6 of the Joint Committee on Administrative Rules; and

7 2. If such rules are received after April 1, the Legislature
8 shall have until the last day of the regular legislative session of
9 the next year to ~~review such rules~~ act on the recommendations of the
10 Joint Committee on Administrative Rules.

11 B. By the adoption of a joint ~~resolution~~ resolutions during the
12 review period specified in subsection A of this section, the
13 Legislature may disapprove or approve any rule, disapprove all or
14 part of a rule or rules and disapprove or approve the repeal of
15 rules under the expedited repeal process pursuant to this act.
16 Rules under consideration at a meeting of the Joint Committee on
17 Administrative Rules during the interim may be acted upon by the
18 Legislature at any time during session.

19 C. Unless otherwise authorized by the Legislature, whenever a
20 rule is disapproved as provided in subsection B of this section, the
21 agency adopting such rules shall not have authority to resubmit an
22 identical rule, except during the first sixty (60) calendar days of
23 the next regular legislative session. Any effective emergency rule
24 which would have been superseded by a disapproved permanent rule

1 shall be deemed null and void on the date the Legislature
2 disapproves the permanent rule. Rules may be disapproved in part or
3 in whole by the Legislature. Upon enactment of any joint resolution
4 disapproving a rule, the agency shall file notice of such
5 legislative disapproval with the Secretary for publication in "The
6 Oklahoma Register".

7 D. Unless otherwise provided by specific vote of the
8 Legislature, joint resolutions introduced for purposes of
9 disapproving or approving a rule or the omnibus joint resolution
10 described in Section ~~6~~ 308.3 of this ~~act~~ title shall not be subject
11 to regular legislative cutoff dates, shall be limited to such
12 provisions as may be necessary for disapproval or approval of a
13 rule, and any such other direction or mandate regarding the rule
14 deemed necessary by the Legislature. The resolution shall contain
15 no other provisions.

16 E. A proposed permanent rule shall be deemed finally adopted
17 if:

18 1. Approved by the Legislature pursuant to Section 6 of this
19 act, provided that any such joint resolution becomes law in
20 accordance with Section 11 of Article VI of the Oklahoma
21 Constitution;

22 2. ~~Approved by the Governor pursuant to subsection D of Section~~
23 ~~6 of this act;~~

24

1 ~~3.~~ Approved by a joint resolution pursuant to subsection B of
2 this section, provided that any such resolution becomes law in
3 accordance with Section 11 of Article VI of the Oklahoma
4 Constitution; or

5 ~~4.~~ 3. Disapproved by a joint resolution pursuant to subsection
6 B of this section or Section ~~6~~ 308.3 of this ~~act~~ title which has
7 been vetoed by the Governor in accordance with Section 11 of Article
8 VI of the Oklahoma Constitution and the veto has not been
9 overridden.

10 F. Prior to final adoption of a rule, an agency may withdraw a
11 rule from legislative review. Notice of such withdrawal shall be
12 given to the Governor, the Speaker of the House of Representatives,
13 the President Pro Tempore of the Senate, and to the Secretary for
14 publication in "The Oklahoma Register".

15 G. An agency may promulgate an emergency rule only pursuant to
16 Section 253 of this title.

17 H. Any rights, privileges, or interests gained by any person by
18 operation of an emergency rule, shall not be affected by reason of
19 any subsequent disapproval or rejection of such rule by either house
20 of the Legislature.

21 SECTION 15. AMENDATORY Section 6, Chapter 357, O.S.L.
22 2013 (75 O.S. Supp. 2020, Section 308.3), is amended to read as
23 follows:
24

1 Section 308.3. A. The Legislature shall have ~~an omnibus~~ joint
2 ~~resolution~~ resolutions prepared for consideration each session.

3 B. ~~The joint resolution shall be substantially in the following~~
4 ~~form: "All proposed permanent rules of Oklahoma state agencies~~
5 ~~filed on or before April 1 are hereby approved except for the~~
6 ~~following:".~~

7 C. For the purpose of this section, a proposed permanent rule
8 may be disapproved, in whole or in part, in ~~the omnibus~~ a joint
9 resolution considered by the Legislature.

10 D. ~~1. If an agency believes that a rule has not been approved~~
11 ~~by the Legislature pursuant to this section and should be approved~~
12 ~~and finally adopted, the agency may seek the Governor's declaration~~
13 ~~approving the rule.~~

14 ~~2. In seeking the approval of a proposed permanent rule, the~~
15 ~~agency shall submit a petition to the Governor that affirmatively~~
16 ~~states:~~

17 ~~a. the rule is necessary, and~~

18 ~~b. a citation to the source of its authority to make the~~
19 ~~rule.~~

20 ~~3. a. If the Governor finds that the necessity does exist,~~
21 ~~and that the agency has the authority to make the~~
22 ~~rule, the Governor may declare the rule to be approved~~
23 ~~and finally adopted by publishing that declaration in~~

24

1 ~~"The Oklahoma Register" on or before July 17 of that~~
2 ~~year.~~

3 ~~b. The declaration shall set forth the rule to be~~
4 ~~approved, the reasons the approval is necessary, and a~~
5 ~~citation to the source of the agency's authority to~~
6 ~~make the rule.~~

7 4. C. If ~~the omnibus~~ any rule received on or before April 1 is
8 not subject to a joint resolution fails to pass passed by both
9 houses of the Legislature and ~~be~~ signed by the Governor or is found
10 by the Governor to have a technical legal defect preventing approval
11 of administrative rules intended to be approved by the Legislature,
12 the Governor may declare ~~all~~ any rules received on or before
13 April 1 and not subject to a joint resolution passed by both
14 houses of the Legislature to be approved or disapproved and finally
15 adopted by publishing a single declaration in "The Oklahoma
16 Register" on or before July 17 ~~without meeting requirements of~~
17 ~~paragraphs 2 and 3 of this subsection.~~ If the Governor finds that
18 the joint resolution has a technical legal defect, the Governor
19 shall make the finding in writing and submit the finding to the
20 Legislature.

21 SECTION 16. This act shall become effective September 1, 2021.

22
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