

STATE OF OKLAHOMA

1st Session of the 58th Legislature (2021)

SENATE BILL 928

By: Dahm

AS INTRODUCED

An Act relating to Administrative rules; amending 75 O.S. 2011, Sections 250.2, as amended by Section 1, Chapter 357, O.S.L. 2013, 250.3, as amended by Section 2, Chapter 357, O.S.L. 2013, 250.4a, 250.6, 250.10, as amended by Section 49, Chapter 227, O.S.L. 2013, 251, as last amended by Section 215, Chapter 408, O.S.L. 2019, 253, as amended by Section 3, Chapter 357, O.S.L. 2013, 303, as amended by Section 50, Chapter 227, O.S.L. 2013, 303.1, as amended by Section 2, Chapter 252, O.S.L. 2016, 305, 307.1, 308, as amended by Section 4, Chapter 357, O.S.L. 2013, Section 6, Chapter 357, O.S.L. 2013, (75 O.S. Supp. 2020, Sections 250.2, 250.3, 250.10, 251, 253, 303, 303.1, 308 and 308.3), which relate to the Administrative Procedure Act; clarifying authority to modify certain administrative rules; adding certain 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 information; conforming language; modifying method for agencies to initiate rule making proceedings;

1 creating a Joint Committee on Administrative Rules;
2 providing for membership; providing for selection of
3 co-chairs; providing for meeting schedule; stating
4 requirement of a quorum; providing purpose of the
5 committee; providing for voting requirements;
6 clarifying certain powers; adding entity to receive
7 certain rules; providing for recommendations of
8 certain rules; modifying type of legislative vehicle
9 for procedure; deleting certain approval procedure;
10 updating statutory language; providing for
11 codification; and providing 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 intended to eliminate the necessity of establishing every

1 administrative aspect of general public policy by legislation. In
2 so doing, however, the Legislature reserves to itself:

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

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

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

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

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

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

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

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

22 2. "Adopted" means a proposed emergency rule which has been
23 approved by the agency but has not been approved or disapproved by
24 the Governor as provided by Section 253 of this title, or a proposed
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1 permanent rule which has been approved by the agency, but has not
2 been approved or disapproved by the Legislature ~~or by declaration of~~
3 ~~the Governor as provided by subsection D of Section 6 of this act;~~

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

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

10 b. the courts;

11 4. "Emergency rule" means a rule that is made pursuant to
12 Section 253 of this title;

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

15 6. "Final rule" or "finally adopted rule" means a rule other
16 than an emergency rule, which has not been published pursuant to
17 Section 255 of this title but is otherwise in compliance with the
18 requirements of the Administrative Procedures Act, and is:

19 a. approved by the Legislature pursuant to Section ~~6~~
20 308.3 of this ~~act~~ title, provided that any such joint
21 resolution becomes law in accordance with Section 11
22 of Article VI of the Oklahoma Constitution,

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

1 ~~e.~~ approved by a joint resolution pursuant to subsection
2 B of Section 308 of this title, provided that any such
3 resolution becomes law in accordance with Section 11
4 of Article VI of the Oklahoma Constitution, or

5 ~~d.~~

6 c. disapproved by a joint resolution pursuant to
7 subsection B of Section 308 of this title or Section ~~6~~
8 308.3 of this ~~act~~ title, which has been vetoed by the
9 Governor in accordance with Section 11 of Article VI
10 of the Oklahoma Constitution and the veto has not been
11 overridden;

12 ~~6.~~ 7. "Final agency order" means an order that includes
13 findings of fact and conclusions of law pursuant to Section 312 of
14 this title, is dispositive of an individual proceeding unless there
15 is a request for rehearing, reopening, or reconsideration pursuant
16 to Section 317 of this title and which is subject to judicial
17 review;

18 ~~7.~~ 8. "Hearing examiner" means a person meeting the
19 qualifications specified by Article II of the Administrative
20 Procedures Act and who has been duly appointed by an agency to hold
21 hearings and, as required, render orders or proposed orders;

22 ~~8.~~ 9. "Individual proceeding" means the formal process employed
23 by an agency having jurisdiction by law to resolve issues of law or
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1 fact between parties and which results in the exercise of discretion
2 of a judicial nature;

3 ~~9.~~ 10. "License" includes the whole or part of any agency
4 permit, certificate, approval, registration, charter, or similar
5 form of permission required by law;

6 ~~10.~~ 11. "Office" means the Office of the Secretary of State;

7 ~~11.~~ 12. "Order" means all or part of a formal or official
8 decision made by an agency including but not limited to final agency
9 orders;

10 ~~12.~~ 13. "Party" means a person or agency named and
11 participating, or properly seeking and entitled by law to
12 participate, in an individual proceeding;

13 ~~13.~~ 14. "Permanent rule" means a rule that is made pursuant to
14 Section 303 of this title;

15 ~~14.~~ 15. "Person" means any individual, partnership,
16 corporation, association, governmental subdivision, or public or
17 private organization of any character other than an agency;

18 ~~15.~~ 16. "Political subdivision" means a county, city,
19 incorporated town or school district within this state;

20 ~~16.~~ 17. "Promulgated" means a finally adopted rule which has
21 been filed and published in accordance with the provisions of the
22 Administrative Procedures Act, or an emergency rule or preemptive
23 rule which has been approved by the Governor;

1 ~~17.~~ 18. "Rule" means any agency statement or group of related
2 statements of general applicability and future effect that
3 implements, interprets or prescribes law or policy, or describes the
4 procedure or practice requirements of the agency. The term "rule"
5 includes the amendment or revocation of an effective rule but does
6 not include:

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

1 ~~18.~~ 19. "Rulemaking" means the process employed by an agency
2 for the formulation of a rule; and

3 ~~19.~~ 20. "Secretary" means the Secretary of State;

4 21. "Small business" means a for-profit enterprise consisting
5 of fifty or fewer full-time or part-time employees; and

6 22. "Technical legal defect" means an error that would
7 otherwise invalidate an action by a court of law.

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

10 Section 250.4a. ~~A.~~ Any agency exempt from all or part of the
11 Administrative Procedures Act pursuant to subsection A of Section
12 250.4 of this title shall maintain and make available for public
13 inspection its exempt rules at its principal place of business and
14 on any website associated with the agency.

15 ~~B. It is recognized by the Oklahoma Legislature that agencies~~
16 ~~specified by subsection A of this section have published rules~~
17 ~~containing obsolete rules or internal policy statements or agency~~
18 ~~statements which do not meet the Administrative Procedures Act~~
19 ~~definition of rules. Therefore, by December 31, 2005, each such~~
20 ~~agency shall conduct an internal review of its rules to determine~~
21 ~~whether each of its rules is current and is a rule as such term is~~
22 ~~defined by the Administrative Procedures Act. Any rule determined~~
23 ~~by an agency to be obsolete or an internal policy statement or any~~
24 ~~agency statement which does not meet the definition of a rule~~

1 ~~pursuant to the Administrative Procedures Act shall be deleted by~~
2 ~~the agency. Notice of such deletion shall be submitted to the~~
3 ~~Speaker of the House of Representatives, the President Pro Tempore~~
4 ~~of the Senate and the Governor for informational purposes.~~

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

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

10 Section 250.6. A. 1. The Commission for Human Services may
11 promulgate a preemptive rule pursuant to the provisions of this
12 section:

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

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

22 2. A preemptive rule must be approved by the Governor pursuant
23 to this section.

1 3. Any preemptive rule approved and published pursuant to this
2 section shall also be posted to the website associated with the
3 Commission.

4 4. The conditions specified in this subsection for the
5 promulgation of a preemptive rule shall be the only conditions
6 authorized for promulgation of such rule by the Commission for Human
7 Services.

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

16 2. Upon the filing of the request for approval of a preemptive
17 rule, the Governor shall review such rule and decide as to whether
18 such rule should be approved. Prior to approval of a preemptive
19 rule, the Governor shall submit the preemptive rule to the Office of
20 the Secretary of State for review of proper formatting unless the
21 preemptive rule has been reviewed by the Office prior to agency
22 submission to the Governor. Failure of the Governor to approve such
23 rule within twenty-eight (28) calendar days shall constitute denial
24 of the rule as a preemptive rule.

1 3. Upon approval of a preemptive rule, the Governor shall
2 immediately notify the Commission. Upon receipt of notice of the
3 approval of the preemptive rule, the Commission shall file the
4 number of copies specified by the Secretary of the approval issued
5 by the Governor and the number of copies specified by the Secretary
6 of the preemptive rule with the Office pursuant to Section 251 of
7 this title.

8 4. The preemptive rule shall be published in accordance with
9 the provisions of Section 255 of this title in "The Oklahoma
10 Register" following approval by the Governor. The Governor's
11 approval and the approved rules shall be retained as official
12 records by the Office of Administrative Rules.

13 5. For informational purposes only, a copy of the Governor's
14 approval and the preemptive rule shall be submitted by the
15 Commission to the Speaker of the House of Representatives and the
16 President Pro Tempore of the Senate within ten (10) days of the
17 approval of the preemptive rule by the Governor.

18 6. Upon approval by the Governor, the rule shall be considered
19 promulgated and shall be in force immediately, or if a later date is
20 required by statute or specified in the rule, the later date is the
21 effective date.

22 C. A preemptive rule shall be considered to be a permanent rule
23 and shall remain in full force and effect unless and until
24 specifically disapproved during the first thirty (30) legislative

1 days of the next regular legislative session following promulgation
2 of such preemptive rule or unless an earlier expiration date is
3 specified by the Commission. The Legislature may disapprove such
4 rule pursuant to Section 308 of this title. Any resolution
5 introduced for the purpose of disapproving such rule shall not be
6 subject to regular legislative cut off dates.

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

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

16 Section 250.10. The Governor by Executive Order or either house
17 of the Legislature or both houses of the Legislature by resolution,
18 or a small business, may request an agency to review its rules to
19 determine whether or not the rules in question should be amended,
20 repealed or redrafted. The agency shall respond to requests from
21 the Governor or the Legislature within ~~ninety (90)~~ thirty (30)
22 calendar days of such request. The agency shall respond to requests
23 made by a small business within ninety (90) calendar days.
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1 SECTION 6. AMENDATORY 75 O.S. 2011, Section 251, as last
2 amended by Section 215, Chapter 408, O.S.L. 2019 (75 O.S. Supp.
3 2020, Section 251), is amended to read as follows:

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

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

16 3. Each agency shall post their rules on any website associated
17 with the agency.

18 B. 1. Each agency shall file the number of copies specified by
19 the Secretary of all new rules, and all amendments, revisions or
20 revocations of existing rules attested to by the agency, pursuant to
21 the provisions of Section 254 of this title, with the Office within
22 thirty (30) calendar days after they become finally adopted.

23 2. An agency filing rules pursuant to the provisions of this
24 subsection:

- 1 a. shall prepare the rules in plain language which can be
2 easily understood,
3 b. shall not unnecessarily repeat statutory language.
4 Whenever it is necessary to refer to statutory
5 language in order to effectively convey the meaning of
6 a rule interpreting that language, the reference shall
7 clearly indicate the portion of the language which is
8 statutory and the portion which is the agency's
9 amplification or interpretation of that language,
10 c. shall indicate whether a rule is new, amends an
11 existing permanent rule or repeals an existing
12 permanent rule. If a rule amends an existing rule,
13 the rule shall indicate the language to be deleted
14 typed with a line through the language and language to
15 be inserted typed with the new language underscored,
16 d. shall state if the rule supersedes an existing
17 emergency rule,
18 e. shall include a reference to any rule requiring a new
19 or revised form in a note to the rule. The Secretary
20 shall insert that reference in "The Oklahoma Register"
21 as a notation to the affected rule,
22 f. shall prepare, in plain language, a statement of the
23 gist of the rule and an analysis of new or amended
24 rules. The analysis shall include but not be limited

1 to a reference to any statute that the rule
2 interprets, any related statute or any related rule,
3 g. may include with its rules, brief notes,
4 illustrations, findings of facts, and references to
5 digests of Supreme Court cases, other court decisions,
6 or Attorney General's opinions, and other explanatory
7 material. Such material may be included if the
8 material is labeled or set forth in a manner which
9 clearly distinguishes it from the rules,
10 h. shall include other information, in such form and in
11 such manner as is required by the Secretary, and
12 i. may change the format of existing rules without any
13 rulemaking action by the agency in order to comply
14 with the standard provisions established by the
15 Secretary for "Code" and "The Oklahoma Register"
16 publication so long as there is no substantive change
17 to the rule.

18 C. The Secretary is authorized to determine a numbering system
19 and other standardized format for documents to be filed and may
20 refuse to accept for publication any document that does not
21 substantially conform to the promulgated rules of the Secretary.

22 D. In order to avoid unnecessary expense, an agency may use the
23 published standards established by organizations and technical
24 societies of recognized national standing, other state agencies, or

1 federal agencies by incorporating the standards or rules in its
2 rules or regulations by reference to the specific issue or issues of
3 publications in which the standards are published, without
4 reproducing the standards in full. The standards shall be readily
5 available to the public for examination at the administrative
6 offices of the agency. In addition, a copy of such standards shall
7 be kept and maintained by the agency pursuant to the provisions of
8 the Preservation of Essential Records Act.

9 E. The Secretary shall provide for the publication of all
10 Executive Orders received pursuant to the provisions of Section 664
11 of Title 74 of the Oklahoma Statutes.

12 F. The Secretary may authorize or require the filing of rules
13 or Executive Orders by or through electronic data or machine
14 readable equipment in such form and manner as is required by the
15 Secretary.

16 G. In consultation with the Adjutant General, the Secretary
17 shall establish a method for the publication and archiving of all
18 military publications received by the Secretary of State from the
19 Adjutant General pursuant to the Oklahoma Uniform Code of Military
20 Justice and the Oklahoma State Guard Act. Military publications
21 shall be defined in accordance with Section 801 of Title 44 of the
22 Oklahoma Statutes. The Secretary may also authorize or require the
23 filing of military publications by or through electronic means in
24 such form and manner as is required by the Secretary. This

1 subsection shall only apply to military publications promulgated
2 after October 1, 2019.

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

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

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

- 22 a. protect the public health, safety or welfare,
- 23 b. comply with deadlines in amendments to an agency's
- 24 governing law or federal programs,

- c. avoid violation of federal law or regulation or other state law,
- d. avoid imminent reduction to the agency's budget, or
- e. avoid serious prejudice to the public interest.

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

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

B. An emergency rule adopted by an agency shall:

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

2. a. Include an impact statement which meets the requirements set forth in subparagraph b of this paragraph unless the Governor waives the requirement in writing upon a finding that the rule impact statement or the specified contents thereof are unnecessary or contrary to the public interest.

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

(1) a brief description of the proposed rule,

1 (2) a description of the persons who most likely will
2 be affected by the proposed rule, including
3 classes that will bear the costs of the proposed
4 rule, and any information on cost impacts
5 received by the agency from any private or public
6 entities,

7 (3) a description of the classes of persons who will
8 benefit from the proposed rule,

9 (4) a description of the probable economic impact of
10 the proposed rule upon affected classes of
11 persons or political subdivisions, including a
12 listing of all fee changes and, whenever
13 possible, a separate justification for each fee
14 change,

15 (5) the probable costs and benefits to the agency and
16 to any other agency of the implementation and
17 enforcement of the proposed rule, and any
18 anticipated effect on state revenues, including a
19 projected net loss or gain in such revenues if it
20 can be projected by the agency,

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

- 1 (7) an explanation of the measures the agency has
2 taken to minimize compliance costs and a
3 determination of whether there are less costly or
4 nonregulatory methods or less intrusive methods
5 for achieving the purpose of the proposed rule,
6 (8) a determination of the effect of the proposed
7 rule on the public health, safety and environment
8 and, if the proposed rule is designed to reduce
9 significant risks to the public health, safety
10 and environment, an explanation of the nature of
11 the risk and to what extent the proposed rule
12 will reduce the risk,
13 (9) a determination of any detrimental effect on the
14 public health, safety and environment if the
15 proposed rule is not implemented, and
16 (10) the date the rule impact statement was prepared
17 and if modified, the date modified.

18 c. The rule impact statement shall be prepared on or
19 before the date the emergency rule is adopted;

20 3. Be transmitted pursuant to Section 464 of Title 74 of the
21 Oklahoma Statutes to the Governor, the Speaker of the Oklahoma House
22 of Representatives and the President Pro Tempore of the Senate,
23 along with the information required by this subsection within ten
24 (10) days after the rule is adopted; and

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

3 C. 1. Within forty-five (45) calendar days of receipt of a
4 proposed emergency rule filed with the Governor, the Speaker of the
5 Oklahoma House of Representatives ~~and~~, the President Pro Tempore of
6 the Senate and the chairs of the Joint Committee on Administrative
7 Rules, the Governor shall review the demonstration of emergency
8 pursuant to subsection A of this section, and shall separately
9 review the rule in accordance with the standards prescribed in
10 paragraph 3 of this subsection.

11 2. Prior to approval of emergency rules, the Governor shall
12 submit the emergency rule to the Secretary of State for review of
13 proper formatting.

14 3. If the Governor determines the agency has established the
15 rule is necessary as an emergency measure pursuant to subsection A
16 of this section, the Governor shall approve the proposed emergency
17 rule if the rule is:

- 18 a. clear, concise and understandable,
- 19 b. within the power of the agency to make and within the
20 enacted legislative standards, and
- 21 c. made in compliance with the requirements of the
22 Administrative Procedures Act.

23 D. 1. Within the forty-five-calendar-day period set forth in
24 paragraph 1 of subsection C of this section, the Governor may

1 approve the emergency rule or disapprove the emergency rule.

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

4 2. If the Governor disapproves the adopted emergency rule, the
5 Governor shall return the entire document to the agency with reasons
6 for the disapproval. If the agency elects to modify the rule, the
7 agency shall adopt the modifications, and shall file the modified
8 rule in accordance with the requirements of subsection B of this
9 section.

10 3. Upon disapproval of an emergency rule, the Governor shall,
11 within fifteen (15) days, make written notification to the Speaker
12 of the House of Representatives, the President Pro Tempore of the
13 Senate, the chairs of the Joint Committee on Administrative Rules
14 and the Office of Administrative Rules.

15 E. 1. Upon approval of an emergency rule, the Governor shall
16 immediately make written notification to the agency, the Speaker of
17 the House of Representatives, the President Pro Tempore of the
18 Senate, the chairs of the Joint Committee on Administrative Rules
19 and the Office of Administrative Rules. Upon receipt of the notice
20 of the approval, the agency shall file with the Office of
21 Administrative Rules as many copies of the notice of approval and
22 the emergency rule as required by the Secretary.

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

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

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

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

16 3. An emergency rule approved pursuant to this section may be
17 immediately suspended by the Joint Committee on Administrative Rules
18 until the emergency rule can be subject to legislative review
19 pursuant to Section 308 of this title. Within three (3) business
20 days, written notification of the suspension shall be sent to the
21 agency, Governor, the President Pro Tempore of the Senate and the
22 Speaker of the House of Representatives. The written notification
23 shall also provide the reasons for the suspension. The Committee
24

1 may reinstate an emergency rule prior to legislative review without
2 following the approval process as provided by 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
25

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;

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; and

15 11. A notarized statement executed by the agency director
16 affirming the legal authority cited in paragraph 4 of this
17 subsection and a statement of whether or not the subject of the
18 proposed rule or rules has been included in any filed bill of the
19 Legislature within the last two regular legislative sessions. If
20 the subject matter of the proposed rule or rules did appear in filed
21 legislation, the bill number shall be included in the statement.

22 When notice provided in this section does not contain the
23 information pursuant to paragraph 11 of this subsection or the
24

1 information is deemed inaccurate, the rule or rules shall be
2 invalidated.

3 The number of copies of such notice as specified by the
4 Secretary shall be submitted to the Secretary who shall publish the
5 notice in "The Oklahoma Register" pursuant to the provisions of
6 Section 255 of this title.

7 Prior to or within three (3) days after publication of the
8 notice in "The Oklahoma Register", the agency shall cause a copy of
9 the notice of the proposed rule adoption and the rule impact
10 statement, if available, to be mailed to all persons who have made a
11 timely request of the agency for advance notice of its rulemaking
12 proceedings. Provided, in lieu of mailing copies, an agency may
13 electronically notify interested persons that a copy of the proposed
14 rule and the rule impact statement, if available, may be viewed on
15 the agency's website. If an agency posts a copy of the proposed
16 rule and rule impact statement on its website, the agency shall not
17 charge persons for the cost of downloading or printing the proposed
18 rule or impact statement. Each agency shall maintain a listing of
19 persons or entities requesting such notice.

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

24 a. at least ten persons,

- b. a political subdivision,
- c. an agency, or
- d. an association having not less than twenty-five members.

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

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

3. The provisions of this subsection shall not be construed to prevent an agency from holding a hearing or hearings on the proposed rule although not required by the provisions of this subsection; provided that notice of such hearing shall be published in "The Oklahoma Register" at least thirty (30) days prior to such hearing.

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

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

- a. a brief description of the purpose of the proposed rule,

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

- 1 g. a determination of whether implementation of the
2 proposed rule may have an adverse economic effect on
3 small business as provided by the Oklahoma Small
4 Business Regulatory Flexibility Act,
5 h. an explanation of the measures the agency has taken to
6 minimize compliance costs and a determination of
7 whether there are less costly or nonregulatory methods
8 or less intrusive methods for achieving the purpose of
9 the proposed rule,
10 i. a determination of the effect of the proposed rule on
11 the public health, safety and environment and, if the
12 proposed rule is designed to reduce significant risks
13 to the public health, safety and environment, an
14 explanation of the nature of the risk and to what
15 extent the proposed rule will reduce the risk,
16 j. a determination of any detrimental effect on the
17 public health, safety and environment if the proposed
18 rule is not implemented, and
19 k. the date the rule impact statement was prepared and if
20 modified, the date modified.

21 3. To the extent an agency for good cause finds the preparation
22 of a rule impact statement or the specified contents thereof are
23 unnecessary or contrary to the public interest in the process of
24 adopting a particular rule, the agency may request the Governor to
25

1 waive such requirement. Such request shall be in writing and shall
2 state the agency's findings and the justification for such findings.

3 Upon request by an agency, the Governor may also waive the rule
4 impact statement requirements if the agency is required to implement
5 a statute or federal requirement that does not require an agency to
6 interpret or describe the requirements, such as federally mandated
7 provisions which afford the agency no discretion to consider less
8 restrictive alternatives. If the Governor fails to waive such
9 requirement, in writing, prior to publication of the notice of the
10 intended rulemaking action, the rule impact statement shall be
11 completed. The determination to waive the rule impact statement
12 shall not be subject to judicial review.

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

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

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

22 A. Upon request by a rule-making agency, an expedited rule
23 repeal process may be utilized when such rule or rules meet the
24 criteria pursuant to this section.

1 B. Beginning on September 1, 2021, and every year thereafter, a
2 rule-making agency may initiate a request for expedited repeal of a
3 rule or rules when:

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

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

- 10 a. a rule is duplicate,
- 11 b. the rule is obsolete,
- 12 c. the rule is no longer enforced,
- 13 d. the rule is no longer in compliance with state or
14 federal law,
- 15 e. the rule is no longer in compliance with federal
16 regulation, or
- 17 f. the rule does not affect substantive rights of the
18 regulated community;

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

22 4. For at least ten (10) days after publication of the notice
23 of the intended action, afford a comment period for all interested
24

1 persons. The agency shall consider fully all written and oral
2 submissions respecting the proposed rule.

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

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

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

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

15 Section 303.1. A. Within ten (10) days after adoption of a
16 permanent rule, the agency shall file two copies of the following
17 with the Governor, the Speaker of the House of Representatives and,
18 the President Pro Tempore of the Senate and the chairs of the Joint
19 Committee on Administrative Rules: all such new rules or
20 amendments; revisions or revocations to an existing rule proposed by
21 an agency; and the agency rule report as required by subsection E of
22 this section.

23 B. If the agency determines in the rule impact statement
24 prepared as part of the agency rule report that the proposed rule

1 will have an economic impact on any political subdivisions or
2 require their cooperation in implementing or enforcing a proposed
3 permanent rule, a copy of the proposed rule and rule report shall be
4 filed within ten (10) days after adoption of the permanent rule with
5 the Oklahoma Advisory Committee on Intergovernmental Relations for
6 its review. ~~Said~~ The Committee may communicate any recommendations
7 that it may deem necessary to the Governor, the Speaker of the House
8 of Representatives and President Pro Tempore of the Senate during
9 the period that the permanent rules are being reviewed.

10 C. When the rules have been submitted to the Governor, the
11 Speaker of the House of Representatives ~~and~~, the President Pro
12 Tempore of the Senate and chairs of the Joint Committee on
13 Administrative Rules, the agency shall also submit to the Office of
14 Administrative Rules for publication in "The Oklahoma Register", a
15 statement that the adopted rules have been submitted to the Governor
16 and the Legislature.

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

21 E. The report required by subsection A of this section shall
22 include:
23
24
25

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

4 2. The name and address of the agency;

5 3. The title and number of the rule;

6 4. A citation to the constitutional and statutory authority for
7 the rule;

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

10 6. A statement of the gist of the rule and a brief summary of
11 the content of the adopted rule;

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

13 8. The date and location of the meeting, if held, at which such
14 rules were adopted or the date and location when the rules were
15 adopted if the rulemaking agency is not required to hold a meeting
16 to adopt rules;

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

1 10. A list of persons or organizations who appeared or
2 registered for or against the adopted rule at any public hearing
3 held by the agency or those who have commented in writing before or
4 after the hearing;

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

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

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

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

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

19 SECTION 11. AMENDATORY 75 O.S. 2011, Section 305, is
20 amended to read as follows:

21 Section 305. An interested person may petition an agency
22 requesting the promulgation, amendment, or repeal of a rule. Each
23 agency shall prescribe by rule the form for petitions and the
24 procedure for their submission, consideration, and disposition. ~~The~~

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

8 SECTION 12. AMENDATORY 75 O.S. 2011, Section 307.1, is
9 amended to read as follows:

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

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

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

1 D. The Committee shall meet separately or jointly at any time,
2 as needed and during sessions of the Legislature and at regular
3 intervals in the interim.

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

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

17 F. The Committee shall approve or disapprove a repeal of rules
18 under the expedited repeal process pursuant to this act. Those
19 rules approved by the Committee shall be presented to the
20 Legislature for final approval for repeal. All Committee actions on
21 items for consideration require a majority vote of both the Senate
22 members and the House members of the Committee.

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

4 1. Conduct a continuous study and investigations as to whether
5 additional legislation or changes in legislation are needed based on
6 various factors, including but not limited to, review of proposed
7 rules, review of existing rules including but not limited to
8 consideration of amendments to or repeal of existing rules, the lack
9 of rules, the ability of agencies to promulgate such rules, the
10 burden of administrative rules on the regulated community and the
11 needs of administrative agencies;

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

15 3. Conduct such other studies and investigations relating to
16 rules as may be determined to be necessary by the ~~committee~~
17 Committee; and

18 4. Monitor and investigate compliance of agencies with the
19 provisions of the Administrative Procedures Act, make periodic
20 investigations of the rulemaking activities of all agencies and
21 evaluate and report on all rules in terms of their propriety, legal
22 adequacy, relation to constitutional or statutory authorization,
23 economic and budgetary effects and public policy.

1 SECTION 13. AMENDATORY 75 O.S. 2011, Section 308, as
2 amended by Section 4, Chapter 357, O.S.L. 2013 (75 O.S. Supp. 2020,
3 Section 308), is amended to read as follows:

4 Section 308. A. Upon receipt of any adopted rules, the Speaker
5 of the House of Representatives and the President Pro Tempore of the
6 Senate shall assign such rules to the ~~appropriate committees of each~~
7 ~~house of the Legislature for review~~ Joint Committee on
8 Administrative Rules. Except as otherwise provided by this section:

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

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

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

1 C. Unless otherwise authorized by the Legislature, whenever a
2 rule is disapproved as provided in subsection B of this section, the
3 agency adopting such rules shall not have authority to resubmit an
4 identical rule, except during the first sixty (60) calendar days of
5 the next regular legislative session. Any effective emergency rule
6 which would have been superseded by a disapproved permanent rule
7 shall be deemed null and void on the date the Legislature
8 disapproves the permanent rule. Rules may be disapproved in part or
9 in whole by the Legislature. Upon enactment of any joint resolution
10 disapproving a rule, the agency shall file notice of such
11 legislative disapproval with the Secretary for publication in "The
12 Oklahoma Register".

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

22 E. A proposed permanent rule shall be deemed finally adopted
23 if:
24

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

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

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

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

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

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

22 H. Any rights, privileges, or interests gained by any person by
23 operation of an emergency rule, shall not be affected by reason of
24

1 any subsequent disapproval or rejection of such rule by either house
2 of the Legislature.

3 SECTION 14. AMENDATORY Section 6, Chapter 357, O.S.L.
4 2013 (75 O.S. Supp. 2020, Section 308.3), is amended to read as
5 follows:

6 Section 308.3. A. The Legislature shall have ~~an omnibus~~ a
7 joint resolution prepared for consideration each session.

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

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

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

19 ~~2. In seeking the approval of a proposed permanent rule, the~~
20 ~~agency shall submit a petition to the Governor that affirmatively~~
21 ~~states:~~

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

23 ~~b. a citation to the source of its authority to make the~~
24 ~~rule.~~

1 ~~3. a. If the Governor finds that the necessity does exist,~~
2 ~~and that the agency has the authority to make the~~
3 ~~rule, the Governor may declare the rule to be approved~~
4 ~~and finally adopted by publishing that declaration in~~
5 ~~"The Oklahoma Register" on or before July 17 of that~~
6 ~~year.~~

7 ~~b. The declaration shall set forth the rule to be~~
8 ~~approved, the reasons the approval is necessary, and a~~
9 ~~citation to the source of the agency's authority to~~
10 ~~make the rule.~~

11 4. C. If the omnibus a joint resolution fails to pass both
12 houses of the Legislature and be signed by the Governor or is found
13 by the Governor to have a technical legal defect preventing approval
14 of administrative rules intended to be approved by the Legislature,
15 the Governor may declare all rules to be approved and finally
16 adopted by publishing a single declaration in "The Oklahoma
17 Register" on or before July 17 ~~without meeting requirements of~~
18 ~~paragraphs 2 and 3 of this subsection.~~ If the Governor finds that
19 the joint resolution has a technical legal defect, the Governor
20 shall make the finding in writing and submit the finding to the
21 Legislature.

22 SECTION 15. This act shall become effective September 1, 2021.

24 58-1-1213

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