

3 Senate Bill No. 537
4 As Amended

5 SENATE BILL NO. 537 - By: ADELSON of the Senate and BALKMAN of the
6 House.

7 [statutes and reports - preemptive rules - Oklahoma Health
8 Care Authority Board - effective date]

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

10 SECTION 1. AMENDATORY 75 O.S. 2001, Section 250.6, is
11 amended to read as follows:

12 Section 250.6 A. 1. The Commission for Human Services or the
13 Oklahoma Health Care Authority Board may promulgate a preemptive
14 rule pursuant to the provisions of this section:

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

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

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

3 3. The conditions specified in this subsection for the
4 promulgation of a preemptive rule shall be the only conditions
5 authorized for promulgation of such rule by the Commission for Human
6 Services or the Oklahoma Health Care Authority Board.

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

17 2. Upon the filing of the request for approval of a preemptive
18 rule, the Governor shall review such rule and decide as to whether
19 such rule should be approved. Prior to approval of a preemptive
20 rule, the Governor shall submit the preemptive rule to the Office of
21 the Secretary of State for review of proper formatting unless the
22 preemptive rule has been reviewed by the Office prior to agency
23 submission to the Governor. Failure of the Governor to approve such

1 rule within twenty-eight (28) calendar days shall constitute denial
2 of the rule as a preemptive rule.

3 3. Upon approval of a preemptive rule, the Governor shall
4 immediately notify the Commission or the Oklahoma Health Care
5 Authority Board. Upon receipt of notice of the approval of the
6 preemptive rule, the Commission or the Oklahoma Health Care
7 Authority Board shall file the number of copies specified by the
8 Secretary of the approval issued by the Governor and the number of
9 copies specified by the Secretary of the preemptive rule with the
10 Office pursuant to Section 251 of this title.

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

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

22 6. Upon approval by the Governor, the rule shall be considered
23 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) calendar days
6 of the next regular legislative session following promulgation of
7 such preemptive rule or unless an earlier expiration date is
8 specified by the Commission or the Oklahoma Health Care Authority
9 Board. The Legislature may disapprove such rule pursuant to Section
10 308 of this title. Any resolution introduced for the purpose of
11 disapproving such rule shall not be subject to regular legislative
12 cut off dates.

13 D. Except as otherwise provided by this section, preemptive
14 rules shall be promulgated and published in compliance with Article
15 I of the Administrative Procedures Act. Preemptive rules
16 promulgated pursuant to the provisions of this section shall be
17 exempt from the provisions of Sections 253, 303, 303.1, 303.2, 304,
18 308 and 308.1 of this title.

19 SECTION 2. This act shall become effective November 1, 2005.

20 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 2-23-05 - DO
21 PASS, As Amended and Coauthored.