

1 ENGROSSED SENATE
2 BILL NO. 1130

By: Dahm of the Senate

and

Brumbaugh of the House

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5
6 An Act relating to state agency rules; amending 75
7 O.S. 2011, Sections 250.2, 250.4a, 250.10, as amended
8 by Section 49, Chapter 227, O.S.L. 2013, 251, 255,
9 257.1, 302, 303, as amended by Section 50, Chapter
10 227, O.S.L. 2013, 305, 307.1, 308 and 308.1, as
11 amended by Sections 4 and 5, Chapter 357, O.S.L.
12 2013, Section 6, Chapter 357, O.S.L. 2013 and 317 (75
13 O.S. Supp. 2015, Sections 250.10, 303, 308, 308.1 and
14 308.3), which relate to the Administrative Procedures
15 Act; modifying rights of the Legislature regarding
16 agency functions; requiring state agencies and
17 Secretary of State to publish certain documents on
18 websites; providing procedure for certain copyright
19 protections; modifying deadlines for certain duties;
20 requiring agency response to rule review request and
21 modifying deadline therefor; allowing certain
22 documents to be provided electronically or on
23 website; allowing certain documents to be provided on
24 certain digital media; requiring certain agency
orders be published on a website; requiring agencies
to submit certain documents to the Legislature;
requiring agencies to act upon certain petitions
within certain time period; deleting provision
relating to function of certain committees; modifying
duties of certain committees; granting Legislature
authority to amend proposed and effective agency
rules with or without instructions; providing
procedures; modifying duty of Legislature to have
certain resolution prepared and modifying contents
thereof; specifying requirements for such
resolutions; modifying time for certain rehearings;
and providing an effective date.

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

1 SECTION 1. AMENDATORY 75 O.S. 2011, Section 250.2, as
2 amended by Section 1, Chapter 357, O.S.L. 2013 (75 O.S. Supp. 2015,
3 Section 250.2), is amended to read as follows:

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

10 B. In creating agencies and designating their functions and
11 purposes, the Legislature may delegate rulemaking authority to
12 executive branch agencies to facilitate administration of
13 legislative policy. The delegation of rulemaking authority is
14 intended to eliminate the necessity of establishing every
15 administrative aspect of general public policy by legislation. In
16 so doing, however, the Legislature reserves to itself:

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

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

21 3. The right and responsibility to designate the method for
22 rule promulgation, review and modification;

23 4. The right to approve, amend or disapprove any adopted rule
24 by joint resolution; ~~and~~

1 5. The right to disapprove a proposed permanent, promulgated or
2 emergency rule at any time if the Legislature determines such rule
3 to be an imminent harm to the health, safety or welfare of the
4 public or the state or if the Legislature determines that a rule is
5 not consistent with legislative intent;

6 6. The right to amend any rules as they proceed through the
7 legislative review process; and

8 7. The right to establish a new agency rule directly through
9 enactment of a joint resolution.

10 SECTION 2. AMENDATORY 75 O.S. 2011, Section 250.4a, is
11 amended to read as follows:

12 Section 250.4a. A. Any agency exempt from all or part of the
13 Administrative Procedures Act pursuant to subsection A of Section
14 250.4 of this title shall maintain and make available for public
15 inspection its exempt rules at its principal place of business, and
16 shall also publish its exempt rules on its website. Provided, any
17 rules that are subject to copyright protection and are adopted by an
18 agency shall not be posted as provided in this act, but the agency
19 shall provide a weblink, if available, to access the protected
20 information from the owner of the copyright. If no weblink is
21 available, the contact information for the owner of the copyright
22 shall be made available.

23 B. It is recognized by the Oklahoma Legislature that agencies
24 specified by subsection A of this section have published rules

1 containing obsolete rules or internal policy statements or agency
2 statements which do not meet the Administrative Procedures Act
3 definition of rules. Therefore, by December ~~31, 2005,~~ 31 of each
4 year, each such agency shall conduct an internal review of its rules
5 to determine whether each of its rules is current and is a rule as
6 such term is defined by the Administrative Procedures Act. Any rule
7 determined by an agency to be obsolete or an internal policy
8 statement or any agency statement which does not meet the definition
9 of a rule pursuant to the Administrative Procedures Act shall be
10 deleted by the agency. Notice of such deletion shall be submitted
11 to the Speaker of the House of Representatives, the President Pro
12 Tempore of the Senate and the Governor for informational purposes.

13 C. The provisions of this section shall not be construed to
14 authorize any agency to amend any rule or to delete any rule which
15 affects any private rights or procedures available to the public.

16 SECTION 3. AMENDATORY 75 O.S. 2011, Section 250.10, as
17 amended by Section 49, Chapter 227, O.S.L. 2013 (75 O.S. Supp. 2015,
18 Section 250.10), is amended to read as follows:

19 Section 250.10. The Governor by Executive Order or either house
20 of the Legislature or both houses of the Legislature by resolution,
21 or a small business, may request an agency to review its rules to
22 determine whether or not the rules in question should be amended,
23 repealed or redrafted. The agency shall respond to such requests
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1 ~~from the Governor or the Legislature~~ within ~~ninety (90)~~ sixty (60)
2 calendar days of such request.

3 SECTION 4. AMENDATORY 75 O.S. 2011, Section 251, is
4 amended to read as follows:

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

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

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

22 2. An agency filing rules pursuant to the provisions of this
23 subsection:
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- 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, an analysis of new
23 or amended rules. The analysis shall include but not
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1 be limited 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, and shall also be published on the agency's
7 website. Provided, any rules that are subject to copyright
8 protection and are adopted by an agency shall not be posted as
9 provided in this act, but the agency shall provide a weblink, if
10 available, to access the protected information from the owner of the
11 copyright. If no weblink is available, the contact information for
12 the owner of the copyright shall be made available. In addition, a
13 copy of such standards shall be kept and maintained by the agency
14 pursuant to the provisions of the Preservation of Essential Records
15 Act.

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

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

23 SECTION 5. AMENDATORY 75 O.S. 2011, Section 255, is
24 amended to read as follows:

1 Section 255. A. 1. The Secretary is hereby authorized,
2 directed, and empowered to publish "The Oklahoma Register" not less
3 than monthly for the publication of new rules, any amendment,
4 revision or revocation of an existing rule, emergency rules, any
5 notices of such rulemaking process and Executive Orders as are
6 required by law to be published in "The Oklahoma Register". Said
7 rules or amendments, revisions, or revocations of existing rules
8 shall be published in the first issue of "The Oklahoma Register"
9 published pursuant to Sections 251, 253, 256, 303, 303.1, 303.2 and
10 308 of this title after the date of acceptance by the Secretary.
11 Such publications may be made electronically on the website of the
12 Secretary of State.

13 2. The Secretary shall cause a copy of each publication of "The
14 Oklahoma Register" to be sent to those county clerks who request it,
15 to members of the Legislature upon request, and to such other
16 agencies, libraries, and officials as the Secretary may select. The
17 Secretary may charge recipients of the publication a cost sufficient
18 to defray the cost of publication and mailing. Such copies may be
19 provided electronically.

20 3. The Secretary shall cause a copy of all rules, all new
21 rules, and all amendments, revisions, or revocations of existing
22 rules to be on file and available for public examination in the
23 Office during normal office hours.

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1 4. The Secretary shall promulgate rules to systematize the
2 designations of rules. To establish said system or to preserve
3 uniformity of designations, the Secretary may require the agency to
4 change the title or numbering of any rule or any amendment,
5 revision, or revocation thereof.

6 B. The Secretary is authorized to provide for the publication
7 of rules in summary form when the rules are of such length that
8 publication of the full text would be too costly. The summary shall
9 be prepared by the agency submitting the rules and shall state where
10 the full text of the rule may be obtained, either physically or on
11 the website of the Secretary of State or the submitting agency.

12 C. The notice required pursuant to the provisions of Section
13 303 of this title shall be published in "The Oklahoma Register"
14 prior to the adoption of a new rule, or amendment, revision or
15 revocation of any existing rule. The notice shall include the
16 information required by Section 303 of this title.

17 SECTION 6. AMENDATORY 75 O.S. 2011, Section 257.1, is
18 amended to read as follows:

19 Section 257.1. A. The Secretary is authorized to enter into
20 and make reciprocal agreements with other states to allow exchanges
21 of administrative codes of such states.

22 B. 1. Each of the following offices shall be entitled to
23 receive, as soon as available from the Secretary, without cost, one
24 copy of the printed volumes of the "Code" and the supplements

1 thereto or, upon request from an office, one copy of the "Code" and
2 the supplements thereto on compact disc or other digital media:

- 3 a. County clerk of each county;
- 4 b. Clerk of the Supreme Court;
- 5 c. Attorney General;
- 6 d. Governor;
- 7 e. Speaker of the House of Representatives and the
8 President Pro Tempore of the Senate;
- 9 f. the Research, Legal and Fiscal Divisions of the House
10 of Representatives;
- 11 g. the Legislative Division of the Senate; and
- 12 h. the Department of Libraries for the Law Library.

13 2. The Department of Libraries is authorized to obtain number
14 of copies of the "Code" and the supplements thereto necessary for
15 use for deposit with the Publications Clearinghouse pursuant to
16 Sections 3-113.1 through 3-115 of Title 65 of the Oklahoma Statutes.
17 The Secretary is authorized to retain sufficient copies for exchange
18 purposes with other states for copies of their rules.

19 SECTION 7. AMENDATORY 75 O.S. 2011, Section 302, is
20 amended to read as follows:

21 Section 302. A. In addition to other rulemaking requirements
22 imposed by law, each agency which has rulemaking authority, shall:

23 1. Promulgate as a rule a description of the organization of
24 the agency, stating the general course and method of the operations

1 of the agency and the methods whereby the public may obtain
2 information or make submissions or requests;

3 2. Promulgate rules of practice setting forth the nature and
4 requirements of all formal and informal procedures available,
5 including a description of all forms and instructions issued by the
6 agency for use by the public;

7 3. Make available for public inspection and publish on its
8 website all rules and all other written statements of policy or
9 interpretations formulated, adopted, promulgated or used by the
10 agency in the discharge of its functions. Provided, any rules that
11 are subject to copyright protection and are adopted by an agency
12 shall not be posted as provided in this act, but the agency shall
13 provide a weblink, if available, to access the protected information
14 from the owner of the copyright. If no weblink is available, the
15 contact information for the owner of the copyright shall be made
16 available;

17 4. Make available for public inspection and publish on its
18 website pursuant to the provisions of the Open Records Act all final
19 orders, decisions and opinions.

20 B. 1. An agency shall maintain an official rulemaking record
21 for each proposed rule or promulgated rule. The record and
22 materials incorporated by reference shall be available for public
23 inspection and shall be published on the agency's website.
24 Provided, any rules that are subject to copyright protection and are

1 adopted by an agency shall not be posted as provided in this act,
2 but the agency shall provide a weblink, if available, to access the
3 protected information from the owner of the copyright. If no
4 weblink is available, the contact information for the owner of the
5 copyright shall be made available.

6 2. The agency rulemaking record shall contain:

- 7 a. copies of all publications in "The Oklahoma Register"
8 with respect to the rule or the proceeding upon which
9 the rule is based,
- 10 b. copies of any portions of the agency's public
11 rulemaking docket containing entries relating to the
12 rule or the proceeding upon which the rule is based,
- 13 c. all written petitions, requests, submissions, and
14 comments received by the agency and all other written
15 materials considered by the agency in connection with
16 the formulation, proposal, or adoption of the rule or
17 the proceeding upon which the rule is based,
- 18 d. any official transcript of oral presentations made in
19 the proceeding upon which the rule is based or, if not
20 transcribed, any tape recording or stenographic record
21 of those presentations, and any memorandum prepared by
22 a presiding official summarizing the contents of those
23 presentations,

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- e. a copy of any regulatory analysis prepared for the proceeding upon which the rule is based,
- f. a copy of the rule and analysis of each such rule filed with the Office pursuant to Section 251 of this title,
- g. all petitions for exceptions to, amendments of, or repeal or suspension of, the rule,
- h. a copy of the rule impact statement, if made, and
- i. such other information concerning such rules as may be determined necessary by the agency.

3. Upon judicial review, the record required by this section constitutes the official agency rulemaking record with respect to a rule. Except as otherwise required by a provision of law, the agency rulemaking record need not constitute the exclusive basis for agency action on that rule or for judicial review thereof.

C. 1. ~~By December 31, 2002, each~~ Each agency that issues precedent-setting orders shall maintain and index all such orders that the agency intends to rely upon as precedent. The index and the orders shall be available for public inspection and copying in the main office and each regional or district office of the agency and shall be published on the agency's website. The orders shall be indexed by subject.

2. ~~After December 31, 2002, an~~ An order shall not be relied upon as precedent by an agency to the detriment of any person until

1 it has been made available for public inspection ~~and~~, indexed and
2 published in the manner described in this subsection.

3 3. An agency shall consistently apply rules to each person
4 subject to the jurisdiction of the agency regarding issuance of
5 orders.

6 D. An agency shall not by internal policy, memorandum, or other
7 form of action not otherwise authorized by the Administrative
8 Procedures Act:

9 1. Amend, interpret, implement, or repeal a statute or a rule;

10 2. Expand upon or limit a statute or a rule; and

11 3. Except as authorized by the Constitution of the United
12 States, the Oklahoma Constitution or a statute, expand or limit a
13 right guaranteed by the Constitution of the United States, the
14 Oklahoma Constitution, a statute, or a rule.

15 E. Any agency memorandum, internal policy, or other form of
16 action violative of this section or the spirit thereof is null,
17 void, and unenforceable.

18 F. This section shall not be construed to prohibit an agency
19 issuing an opinion or administrative decision which is authorized by
20 statute provided that, unless such opinion or administrative
21 decision is issued pursuant to the procedures required pursuant to
22 the Administrative Procedures Act, such decision or opinion shall
23 not have the force and effect of law.

1 SECTION 8. AMENDATORY 75 O.S. 2011, Section 303, as
2 amended by Section 50, Chapter 227, O.S.L. 2013 (75 O.S. Supp. 2015,
3 Section 303), is amended to read as follows:

4 Section 303. A. Prior to the adoption of any rule or amendment
5 or revocation of a rule, the agency shall:

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

8 2. Transmit one electronic copy of the complete text of all
9 proposed permanent rules and the notice described in subsection B of
10 this section to all members of the Legislature. Such transmission
11 shall be made using the state online filing system and shall be made
12 prior to or within three (3) days after the notice is submitted to
13 the Secretary of State for publication in "The Oklahoma Register";

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

19 ~~3.~~ 4. Hold a hearing, if required, as provided by subsection C
20 of this section;

21 ~~4.~~ 5. Consider the effect its intended action may have on the
22 various types of business and governmental entities. Except where
23 such modification or variance is prohibited by statute or
24 constitutional constraints, if an agency finds that its actions may

1 adversely affect any such entity, the agency may modify its actions
2 to exclude that type of entity, or may "tier" its actions to allow
3 rules, penalties, fines or reporting procedures and forms to vary
4 according to the size of a business or governmental entity or its
5 ability to comply or both. For business entities, the agency shall
6 include a description of the probable quantitative and qualitative
7 impact of the proposed rule, economic or otherwise, and use
8 quantifiable data to the extent possible, taking into account both
9 short-term and long-term consequences; and

10 ~~5.~~ 6. Consider the effect its intended action may have on the
11 various types of consumer groups. If an agency finds that its
12 actions may adversely affect such groups, the agency may modify its
13 actions to exclude that type of activity.

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

- 16 1. In simple language, a brief summary of the rule;
- 17 2. The proposed action being taken;
- 18 3. The circumstances which created the need for the rule;
- 19 4. The specific legal authority authorizing the proposed rule;
- 20 5. The intended effect of the rule;
- 21 6. If the agency determines that the rule affects business
22 entities, a request that such entities provide the agency, within
23 the comment period, in dollar amounts if possible, the increase in
24 the level of direct costs such as fees, and indirect costs such as

1 reporting, recordkeeping, equipment, construction, labor,
2 professional services, revenue loss, or other costs expected to be
3 incurred by a particular entity due to compliance with the proposed
4 rule;

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

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

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

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

19 The number of copies of such notice as specified by the
20 Secretary shall be submitted to the Secretary who shall publish the
21 notice in "The Oklahoma Register" pursuant to the provisions of
22 Section 255 of this title.

23 Prior to or within three (3) days after publication of the
24 notice in "The Oklahoma Register", the agency shall cause a copy of

1 the notice of the proposed rule adoption and the rule impact
2 statement, if available, to be mailed to all persons who have made a
3 timely request of the agency for advance notice of its rulemaking
4 proceedings. Provided, in lieu of mailing copies, an agency may
5 electronically notify interested persons that a copy of the proposed
6 rule and the rule impact statement, if available, may be viewed on
7 the agency's website. If an agency posts a copy of the proposed
8 rule and rule impact statement on its website, the agency shall not
9 charge persons for the cost of downloading or printing the proposed
10 rule or impact statement. Each agency shall maintain a listing of
11 persons or entities requesting such notice.

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

- 16 a. at least ten persons,
- 17 b. a political subdivision,
- 18 c. an agency, or
- 19 d. an association having not less than twenty-five
20 members.

21 At that hearing persons may present oral argument, data, and
22 views on the proposed rule.
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1 2. A hearing on a proposed rule may not be held earlier than
2 thirty (30) days after notice of the hearing is published pursuant
3 to subsection B of this section.

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

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

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

- 17 a. a brief description of the purpose of the proposed
18 rule,
- 19 b. a description of the classes of persons who most
20 likely will be affected by the proposed rule,
21 including classes that will bear the costs of the
22 proposed rule, and any information on cost impacts
23 received by the agency from any private or public
24 entities,

- 1 c. a description of the classes of persons who will
2 benefit from the proposed rule,
- 3 d. a description of the probable economic impact of the
4 proposed rule upon affected classes of persons or
5 political subdivisions, including a listing of all fee
6 changes and, whenever possible, a separate
7 justification for each fee change,
- 8 e. the probable costs and benefits to the agency and to
9 any other agency of the implementation and enforcement
10 of the proposed rule, the source of revenue to be used
11 for implementation and enforcement of the proposed
12 rule, and any anticipated effect on state revenues,
13 including a projected net loss or gain in such
14 revenues if it can be projected by the agency,
- 15 f. a determination of whether implementation of the
16 proposed rule will have an economic impact on any
17 political subdivisions or require their cooperation in
18 implementing or enforcing the rule,
- 19 g. a determination of whether implementation of the
20 proposed rule may have an adverse economic effect on
21 small business as provided by the Oklahoma Small
22 Business Regulatory Flexibility Act,
- 23 h. an explanation of the measures the agency has taken to
24 minimize compliance costs and a determination of

1 whether there are less costly or nonregulatory methods
2 or less intrusive methods for achieving the purpose of
3 the proposed rule,

4 i. a determination of the effect of the proposed rule on
5 the public health, safety and environment and, if the
6 proposed rule is designed to reduce significant risks
7 to the public health, safety and environment, an
8 explanation of the nature of the risk and to what
9 extent the proposed rule will reduce the risk,

10 j. a determination of any detrimental effect on the
11 public health, safety and environment if the proposed
12 rule is not implemented, and

13 k. the date the rule impact statement was prepared and if
14 modified, the date modified.

15 3. To the extent an agency for good cause finds the preparation
16 of a rule impact statement or the specified contents thereof are
17 unnecessary or contrary to the public interest in the process of
18 adopting a particular rule, the agency may request the Governor to
19 waive such requirement. Upon request by an agency, the Governor may
20 also waive the rule impact statement requirements if the agency is
21 required to implement a statute or federal requirement that does not
22 require an agency to interpret or describe the requirements, such as
23 federally mandated provisions which afford the agency no discretion
24 to consider less restrictive alternatives. If the Governor fails to

1 waive such requirement, in writing, prior to publication of the
2 notice of the intended rulemaking action, the rule impact statement
3 shall be completed. The determination to waive the rule impact
4 statement shall not be subject to judicial review.

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

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

11 SECTION 9. AMENDATORY 75 O.S. 2011, Section 305, is
12 amended to read as follows:

13 Section 305. An interested person may petition an agency
14 requesting the promulgation, amendment, or repeal of a rule. Each
15 agency shall prescribe by rule the form for petitions and the
16 procedure for their submission, consideration, and disposition. The
17 agency shall act upon said petition within ~~a reasonable time. If,~~
18 ~~within~~ thirty (30) calendar days after submission ~~of a petition, the~~
19 ~~agency has not initiated rulemaking proceedings in accordance with~~
20 ~~the Administrative Procedures Act, the petition shall be deemed to~~
21 ~~have been denied.~~

22 SECTION 10. AMENDATORY 75 O.S. 2011, Section 307.1, is
23 amended to read as follows:

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1 Section 307.1. A. The Speaker of the House of Representatives
2 and the President Pro Tempore of the Senate may each establish a
3 rule review committee or designate standing committees of each such
4 house to review administrative rules.

5 B. Such committees may meet separately or jointly at any time,
6 during sessions of the Legislature and in the interim.

7 C. The function of the committees so established or designated
8 shall be the review and promotion of adequate and proper rules by
9 agencies and developing an understanding on the part of the public
10 respecting such rules. ~~Such function shall be advisory only.~~

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

16 D. In addition to the review of agency-adopted rules pursuant
17 to this act, each such committee shall have the power and duty to:

18 1. Conduct a continuous study and investigations as to whether
19 additional legislation or changes in legislation are needed based on
20 various factors, including but not limited to, review of proposed
21 rules, review of existing rules including but not limited to
22 consideration of amendments to or repeal of existing rules, the lack
23 of rules, the ability of agencies to promulgate such rules, and the
24 needs of administrative agencies;

1 2. Conduct a continuous study of the existing rules of each
2 agency under its jurisdiction to determine if such rules should be
3 amended by the Legislature as provided by law;

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

7 ~~3.~~ 4. Conduct such other studies and investigations relating to
8 rules as may be determined to be necessary by the committee; and

9 ~~4.~~ 5. Monitor and investigate compliance of agencies with the
10 provisions of the Administrative Procedures Act, make periodic
11 investigations of the rulemaking activities of all agencies and
12 evaluate and report on all rules in terms of their propriety, legal
13 adequacy, relation to statutory authorization, economic and
14 budgetary effects and public policy.

15 SECTION 11. AMENDATORY 75 O.S. 2011, Section 308, as
16 amended by Section 4, Chapter 357, O.S.L. 2013 (75 O.S. Supp. 2015,
17 Section 308), is amended to read as follows:

18 Section 308. A. Upon receipt of any adopted rules, the Speaker
19 of the House of Representatives and the President Pro Tempore of the
20 Senate shall assign such rules to the appropriate committees of each
21 house of the Legislature for review. Except as otherwise provided
22 by this section:

1 1. ~~If such rules~~ Rules are to be received on or before ~~April 1~~
2 February 1, and the Legislature shall have until the last day of the
3 regular legislative session of that year to review such rules; and

4 2. If such rules are submitted by agencies that are subject to
5 federal requirements which require additional time, then such rules
6 may be received ~~after~~ on or before April 1, ~~the~~. The Legislature
7 shall have until the last day of the regular legislative session of
8 ~~the next~~ that year to review such rules. If such rules are received
9 after April 1, the Legislature shall have until the last day of the
10 regular legislative session of the next year to review such rules.

11 B. By the adoption of a joint resolution during the review
12 period specified in subsection A of this section, the Legislature
13 may disapprove ~~or~~, approve or amend any rule. Any such action may
14 apply to any rule in whole or in part. The Legislature may also
15 take any such action and provide further instructions to the agency
16 that promulgated the rule.

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

1 in whole by the Legislature. Upon enactment of any joint resolution
2 disapproving or amending a rule, the agency shall file notice of
3 such legislative disapproval or amendment with the Secretary for
4 publication in "The Oklahoma Register".

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

14 E. A proposed permanent rule shall be deemed finally adopted
15 if:

16 1. Approved or amended by the Legislature pursuant to Section ~~6~~
17 308.3 of this ~~act~~ title, provided that any such joint resolution
18 becomes law in accordance with Section 11 of Article VI of the
19 Oklahoma Constitution;

20 2. Approved by the Governor pursuant to subsection D of Section
21 ~~6~~ 308.3 of this ~~act~~ title;

22 3. Approved or amended by a joint resolution pursuant to
23 subsection B of this section, provided that any such resolution
24

1 becomes law in accordance with Section 11 of Article VI of the
2 Oklahoma Constitution; or

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

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

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

14 H. Any rights, privileges, or interests gained by any person by
15 operation of an emergency rule, shall not be affected by reason of
16 any subsequent disapproval ~~or~~, rejection or amendment of such rule
17 by either house of the Legislature.

18 SECTION 12. AMENDATORY 75 O.S. 2011, Section 308.1, as
19 amended by Section 5, Chapter 357, O.S.L. 2013 (75 O.S. Supp. 2015,
20 Section 308.1), is amended to read as follows:

21 Section 308.1. A. Upon final adoption, the agency shall submit
22 the rule to the Secretary for filing and publishing such rule
23 pursuant to Sections 251 and 255 of this title.

24

1 B. The text of the rule submitted for publication shall be the
2 same as the text of the rule that has been finally adopted.

3 C. After final adoption, filing, and publication, an effective
4 agency rule may be amended by the Legislature in a joint resolution
5 if such resolution becomes law in accordance with Section 11 of
6 Article VI of the Oklahoma Constitution. Unless otherwise provided
7 by specific vote of the Legislature, joint resolutions introduced
8 for purposes of amending a rule shall not be subject to regular
9 legislative cutoff dates, shall be limited to such provisions as may
10 be necessary for amendment of a rule, and any such other direction
11 or mandate regarding the rule deemed necessary by the Legislature.
12 The resolution shall contain no other provisions.

13 SECTION 13. AMENDATORY Section 6, Chapter 357, O.S.L.
14 2013 (75 O.S. Supp. 2015, Section 308.3), is amended to read as
15 follows:

16 Section 308.3. A. The Legislature ~~shall~~ may have an omnibus
17 joint resolution prepared for consideration each session.

18 B. The joint resolution shall be substantially in the following
19 form: "All proposed permanent rules of Oklahoma state agencies
20 filed on or before April 1 are hereby approved except for the
21 following:".

22 C. For the purpose of this section, a proposed permanent rule
23 may be disapproved, in whole or in part or amended, in the omnibus
24 joint resolution considered by the Legislature.

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

5 2. In seeking the approval of a proposed permanent rule, the
6 agency shall submit a petition to the Governor that affirmatively
7 states:

- 8 a. the rule is necessary, and
- 9 b. a citation to the source of its authority to make the
10 rule.

11 3. a. If the Governor finds that the necessity does exist,
12 and that the agency has the authority to make the
13 rule, the Governor may declare the rule to be approved
14 and finally adopted by publishing that declaration in
15 "The Oklahoma Register" on or before July 17 of that
16 year.

17 b. The declaration shall set forth the rule to be
18 approved, the reasons the approval is necessary, and a
19 citation to the source of the agency's authority to
20 make the rule.

21 4. If the omnibus joint resolution fails to pass both houses of
22 the Legislature and be signed by the Governor or is found by the
23 Governor to have a ~~technical legal defect~~ nonsubstantive error
24 preventing approval of administrative rules intended to be approved

1 by the Legislature, the Governor may declare all rules to be
2 approved and finally adopted by publishing a single declaration in
3 "The Oklahoma Register" on or before July 17 without meeting
4 requirements of paragraphs 2 and 3 of this subsection. If the
5 Governor finds that the joint resolution has a ~~technical-legal~~
6 ~~defect~~ nonsubstantive error, the Governor shall make the finding in
7 writing and submit the finding to the Legislature.

8 SECTION 14. AMENDATORY 75 O.S. 2011, Section 317, is
9 amended to read as follows:

10 Section 317. A. A final agency order issued by an
11 administrative head of an agency shall be subject to rehearing,
12 reopening or reconsideration by such administrative head. Any
13 application or request for such rehearing, reopening or
14 reconsideration shall be made by any party aggrieved by the final
15 agency order within ~~ten (10)~~ thirty (30) days from the date of the
16 entry of such final agency order. The grounds for such action shall
17 be either:

18 1. Newly discovered or newly available evidence, relevant to
19 the issues;

20 2. Need for additional evidence adequately to develop the facts
21 essential to proper decision;

22 3. Probable error committed by the agency in the proceeding or
23 in its decision such as would be ground for reversal on judicial
24 review of the final agency order;

1 4. Need for further consideration of the issues and the
2 evidence in the public interest; or

3 5. A showing that issues not previously considered ought to be
4 examined in order properly to dispose of the matter.

5 B. The order of the agency granting rehearing, reconsideration
6 or review, or the petition of a party therefor, shall set forth the
7 grounds which justify such action.

8 C. Nothing in this section shall prevent rehearing, reopening
9 or reconsideration of a matter by any agency in accordance with
10 other statutory provisions applicable to such agency, or, at any
11 time, on the ground of fraud practiced by the prevailing party or of
12 procurement of the order by perjured testimony or fictitious
13 evidence.

14 D. On reconsideration, reopening, or rehearing, the matter may
15 be heard by the agency, or it may be referred to a hearing examiner.
16 The hearing shall be confined to those grounds upon which the
17 reconsideration, reopening or rehearing was ordered.

18 E. If an application for rehearing shall be timely filed, the
19 period within which judicial review, under the applicable statute,
20 must be sought, shall run from the final disposition of such
21 application.

22 SECTION 15. This act shall become effective November 1, 2016.

23

24

1 Passed the Senate the 8th day of March, 2016.

2
3 _____
4 Presiding Officer of the Senate

5 Passed the House of Representatives the ____ day of _____,
6 2016.

7
8 _____
9 Presiding Officer of the House
10 of Representatives