

An Act

ENROLLED SENATE
BILL NO. 913

By: Daniels, Bullard, Hamilton
and Bergstrom of the Senate

and

O'Donnell, Gann, Crosswhite
Hader, Stearman, Stark and
Lepak of the House

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; establishing procedures for disapproval of agency rule by Governor or cabinet secretary; 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; creating a Joint Committee on Administrative Rules; providing for membership; providing for selection of co-chairs; providing for meeting schedule; stating requirement of a quorum; providing purpose of the committee; providing for voting requirements; clarifying certain powers; adding entity to receive certain rules; providing for recommendations of certain rules; modifying type of legislative vehicle for procedure; deleting certain approval procedure; updating statutory language; providing for codification; and providing an effective date.

SUBJECT: Administrative rules

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

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

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

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

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

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

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

Section 250.3. As used in the Administrative Procedures Act:

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

2. "Adopted" means a proposed emergency rule which has been approved by the agency but has not been approved or disapproved by the Governor as an emergency rule as provided by Section 253 of this title, or a proposed permanent rule which has been approved by the agency and not disapproved by the Governor pursuant to paragraph 6 of subsection A of Section 303 of this title, but has not been finally approved or disapproved by the Legislature or by declaration of the Governor as provided by subsection D of Section 6 of this act;

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

- a. the Legislature or any branch, committee or officer thereof, and
- b. the courts;

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

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

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

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

- a. approved by the Legislature pursuant to Section ~~6~~ 308.3 of this ~~act~~ title, provided that any such joint resolution becomes law in accordance with Section 11 of Article VI of the Oklahoma Constitution,
- b. approved by the Governor pursuant to subsection ~~D~~ C of Section ~~6~~ 308.3 of this ~~act~~ title,
- c. approved by a joint resolution pursuant to subsection B of Section 308 of this title, provided that any such resolution becomes law in accordance with Section 11 of Article VI of the Oklahoma Constitution, or
- d. disapproved by a joint resolution pursuant to subsection B of Section 308 of this title or Section ~~6~~ 308.3 of this ~~act~~ title, which has been vetoed by the Governor in accordance with Section 11 of Article VI

of the Oklahoma Constitution and the veto has not been overridden;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~B. It is recognized by the Oklahoma Legislature that agencies specified by subsection A of this section have published rules containing obsolete rules or internal policy statements or agency statements which do not meet the Administrative Procedures Act definition of rules. Therefore, by December 31, 2005, each such agency shall conduct an internal review of its rules to determine whether each of its rules is current and is a rule as such term is defined by the Administrative Procedures Act. Any rule determined by an agency to be obsolete or an internal policy statement or any agency statement which does not meet the definition of a rule pursuant to the Administrative Procedures Act shall be deleted by the agency. Notice of such deletion shall be submitted to the Speaker of the House of Representatives, the President Pro Tempore of the Senate and the Governor for informational purposes.~~

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

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

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

- a. when the Commission for Human Services is required by federal law, federal rules, a state law enacted pursuant to federal law or federal rule, or order of a court of competent jurisdiction to adopt a rule, or an amendment, revision or revocation of an existing rule, and
- b. which if such rule is not immediately adopted would result in the imposition of a financial penalty, or a reduction, withholding or loss of federal funds.

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

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

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

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

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

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

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

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

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

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

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

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

Section 250.10. The Governor by Executive Order or either house of the Legislature or both houses of the Legislature by resolution, or a small business, may request an agency to review its rules to determine whether or not the rules in question should be amended, repealed or redrafted. The agency shall respond to requests from the Governor or the Legislature within ~~ninety (90)~~ thirty (30) calendar days of such request. The agency shall respond to requests made by a small business within ninety (90) calendar days.

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

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

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

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

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

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

- a. shall prepare the rules in plain language which can be easily understood,
- b. shall not unnecessarily repeat statutory language. Whenever it is necessary to refer to statutory language in order to effectively convey the meaning of a rule interpreting that language, the reference shall clearly indicate the portion of the language which is statutory and the portion which is the agency's amplification or interpretation of that language,
- c. shall indicate whether a rule is new, amends an existing permanent rule or repeals an existing permanent rule. If a rule amends an existing rule, the rule shall indicate the language to be deleted typed with a line through the language and language to be inserted typed with the new language underscored,
- d. shall state if the rule supersedes an existing emergency rule,
- e. shall include a reference to any rule requiring a new or revised form in a note to the rule. The Secretary shall insert that reference in "The Oklahoma Register" as a notation to the affected rule,
- f. shall prepare, in plain language, a statement of the gist of the rule and an analysis of new or amended rules. The analysis shall include but not be limited to a reference to any statute that the rule interprets, any related statute or any related rule,
- g. may include with its rules, brief notes, illustrations, findings of facts, and references to digests of Supreme Court cases, other court decisions, or Attorney General's opinions, and other explanatory material. Such material may be included if the material is labeled or set forth in a manner which clearly distinguishes it from the rules,

- h. shall include other information, in such form and in such manner as is required by the Secretary, and
- i. may change the format of existing rules without any rulemaking action by the agency in order to comply with the standard provisions established by the Secretary for "Code" and "The Oklahoma Register" publication so long as there is no substantive change to the rule.

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

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

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

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

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

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

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

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

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

- a. protect the public health, safety or welfare,
- b. comply with deadlines in amendments to an agency's 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,

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

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

(4) a description of the probable economic impact of the proposed rule upon affected classes of persons or political subdivisions, including a listing of all fee changes and, whenever

possible, a separate justification for each fee change,

- (5) the probable costs and benefits to the agency and to any other agency of the implementation and enforcement of the proposed rule, and any anticipated effect on state revenues, including a projected net loss or gain in such revenues if it can be projected by the agency,
- (6) a determination of whether implementation of the proposed rule may have an adverse economic effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act,
- (7) an explanation of the measures the agency has taken to minimize compliance costs and a determination of whether there are less costly or nonregulatory methods or less intrusive methods for achieving the purpose of the proposed rule,
- (8) a determination of the effect of the proposed rule on the public health, safety and environment and, if the proposed rule is designed to reduce significant risks to the public health, safety and environment, an explanation of the nature of the risk and to what extent the proposed rule will reduce the risk,
- (9) a determination of any detrimental effect on the public health, safety and environment if the proposed rule is not implemented, and
- (10) the date the rule impact statement was prepared and if modified, the date modified.

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

3. Be transmitted pursuant to Section 464 of Title 74 of the Oklahoma Statutes to the Governor, the Speaker of the Oklahoma House of Representatives ~~and~~, the President Pro Tempore of the Senate and

the chairs of the Joint Committee on Administrative Rules, along with the information required by this subsection within ten (10) days after the rule is adopted; and

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

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

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

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

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

D. 1. Within the forty-five-calendar-day period set forth in paragraph 1 of subsection C of this section, the Governor may approve the emergency rule or disapprove the emergency rule. Failure of the Governor to approve an emergency rule within the specified period shall constitute disapproval of the emergency rule.

2. If the Governor disapproves the adopted emergency rule, the Governor shall return the entire document to the agency with reasons for the disapproval. If the agency elects to modify the rule, the

agency shall adopt the modifications, and shall file the modified rule in accordance with the requirements of subsection B of this section.

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

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

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

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

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

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

G. No agency shall adopt any emergency rule which establishes or increases fees, except during such times as the Legislature is in

session, unless specifically mandated by the Legislature or federal legislation, or when the failure to establish or increase fees would conflict with an order issued by a court of law.

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

2. Any promulgated emergency rule shall be made ineffective if:

- a. disapproved by the Legislature,
- b. superseded by the promulgation of permanent rules,
- c. any adopted rules based upon such emergency rules are subsequently disapproved pursuant to Section 308 of this title, or
- d. an earlier expiration date is specified by the agency in the rules.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4. Consider the effect its intended action may have on the various types of business and governmental entities. Except where such modification or variance is prohibited by statute or constitutional constraints, if an agency finds that its actions may adversely affect any such entity, the agency may modify its actions to exclude that type of entity, or may "tier" its actions to allow rules, penalties, fines or reporting procedures and forms to vary according to the size of a business or governmental entity or its ability to comply or both. For business entities, the agency shall include a description of the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, and use quantifiable data to the extent possible, taking into account both short-term and long-term consequences; ~~and~~

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

6. When an agency provides notice pursuant to paragraph 1 of this subsection, the agency shall provide one (1) electronic copy of the complete text of the proposed rule, amendment or revocation and a copy of the notice to the Governor and to the appropriate cabinet secretary. No agency may adopt any proposed rule, amendment or revocation if, within thirty (30) days from providing notice to the

Governor and the appropriate cabinet secretary, the agency receives express written disapproval from the Governor or the cabinet secretary. If the Governor or the cabinet secretary disapproves a rule, the affected agency shall be notified in writing of the reasons for disapproval. If, after thirty (30) days of providing the notice to the Governor and the cabinet secretary, the agency has not received an express written disapproval, the agency may proceed with the rulemaking process.

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

1. In simple language, a brief summary of the rule;
2. The proposed action being taken;
3. The circumstances which created the need for the rule;
4. The specific legal authority, including statutory citations, authorizing the proposed rule;
5. The intended effect of the rule;
6. If the agency determines that the rule affects business entities, a request that such entities provide the agency, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rule;
7. The time when, the place where, and the manner in which interested persons may present their views thereon pursuant to paragraph 3 of subsection A of this section;
8. Whether or not the agency intends to issue a rule impact statement according to subsection D of this section and where copies of such impact statement may be obtained for review by the public;
9. The time when, the place where, and the manner in which persons may demand a hearing on the proposed rule if the notice does

not already provide for a hearing. If the notice provides for a hearing, the time and place of the hearing shall be specified in the notice; and

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

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

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

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

- 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,
- b. a description of the classes of persons who most likely will be affected by the proposed rule, including classes that will bear the costs of the proposed rule, and any information on cost impacts received by the agency from any private or public entities,
- c. a description of the classes of persons who will benefit from the proposed rule,
- d. a description of the probable economic impact of the proposed rule upon affected classes of persons or political subdivisions, including a listing of all fee changes and, whenever possible, a separate justification for each fee change,

- e. the probable costs and benefits to the agency and to any other agency of the implementation and enforcement of the proposed rule, the source of revenue to be used for implementation and enforcement of the proposed rule, and any anticipated effect on state revenues, including a projected net loss or gain in such revenues if it can be projected by the agency,
- f. a determination of whether implementation of the proposed rule will have an economic impact on any political subdivisions or require their cooperation in implementing or enforcing the rule,
- g. a determination of whether implementation of the proposed rule may have an adverse economic effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act,
- h. an explanation of the measures the agency has taken to minimize compliance costs and a determination of whether there are less costly or nonregulatory methods or less intrusive methods for achieving the purpose of the proposed rule,
- i. a determination of the effect of the proposed rule on the public health, safety and environment and, if the proposed rule is designed to reduce significant risks to the public health, safety and environment, an explanation of the nature of the risk and to what extent the proposed rule will reduce the risk,
- j. a determination of any detrimental effect on the public health, safety and environment if the proposed rule is not implemented, and
- k. the date the rule impact statement was prepared and if modified, the date modified.

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

waive such requirement. Such request shall be in writing and shall state the agency's findings and the justification for such findings. Upon request by an agency, the Governor may also waive the rule impact statement requirements if the agency is required to implement a statute or federal requirement that does not require an agency to interpret or describe the requirements, such as federally mandated provisions which afford the agency no discretion to consider less restrictive alternatives. If the Governor fails to waive such requirement, in writing, prior to publication of the notice of the intended rulemaking action, the rule impact statement shall be completed. The determination to waive the rule impact statement shall not be subject to judicial review.

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

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

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

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

B. Beginning on February 1, 2022, and every year thereafter, a rulemaking agency may initiate a request for expedited repeal of a rule or rules when:

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

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

a. a rule is duplicate,

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

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

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

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

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

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

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

Section 303.1. A. Within ten (10) days after adoption of a permanent rule, the agency shall file two copies of the following with the Governor, the Speaker of the House of Representatives ~~and,~~

the President Pro Tempore of the Senate and the chairs of the Joint Committee on Administrative Rules: all such new rules or amendments; revisions or revocations to an existing rule proposed by an agency; and the agency rule report as required by subsection E of this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 305. An interested person may petition an agency requesting the promulgation, amendment, or repeal of a rule. Each agency shall prescribe by rule the form for petitions and the procedure for their submission, consideration, and disposition. ~~The~~ Within thirty (30) calendar days after submission of a petition, the agency shall act upon said petition within a reasonable time. If, within thirty (30) calendar days after submission of a petition, the agency has not initiated initiate rulemaking proceedings in accordance with the Administrative Procedures Act, the petition shall be deemed to have been denied or provide a written response and explanation of its failure to initiate rulemaking proceedings.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

C. Unless otherwise authorized by the Legislature, whenever a rule is disapproved as provided in subsection B of this section, the

agency adopting such rules shall not have authority to resubmit an identical rule, except during the first sixty (60) calendar days of the next regular legislative session. Any effective emergency rule which would have been superseded by a disapproved permanent rule shall be deemed null and void on the date the Legislature disapproves the permanent rule. Rules may be disapproved in part or in whole by the Legislature. Upon enactment of any joint resolution disapproving a rule, the agency shall file notice of such legislative disapproval with the Secretary for publication in "The Oklahoma Register".

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Passed the Senate the 11th day of March, 2021.

Presiding Officer of the Senate

Passed the House of Representatives the 6th day of April, 2021.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____