

LEGISLATIVE REVIEW OF RULES AND REGULATIONS

State	Statute(s)	Other source(s)	Quotes from official websites or statutes explaining legislative oversight
Alabama	Ala.Code 1975 § 41-22-23 (would be amended by 2020 HB 8 to set economic impact threshold)		In the event the committee disapproves a proposed rule or any part thereof, it shall give notice of the disapproval to the agency. The disapproval of any rule may be appealed to the Lieutenant Governor in writing by the agency that submitted the rule within 15 days of disapproval. . . . If the Lieutenant Governor sustains the disapproval of the rule, he or she shall notify the committee and return the rule to the agency and the disapproval shall be final. If the Lieutenant Governor approves the rule, he or she shall notify the chair of the committee. The rule shall become effective upon adjournment of the next regular session of the Legislature that commences after the approval unless, prior to that time, the Legislature adopts a joint resolution that overrules the approval by the Lieutenant Governor and sustains the action of the committee.
Alaska	AS § 44.62.320 AS § 24.05.182	http://arr.legis.state.ak.us/	The Administrative Regulation Review Committee has the power to hold public hearings; to examine all administrative regulations, including proposed regulations, amendments, and orders of repeal, to determine if they properly implement legislative intent and to provide comments on them to the governor and state agencies; to promote needed revision or repeal of regulations that have been adopted by state departments and agencies and, when the committee determines a regulation should be repealed or amended, to introduce a bill that would enact a statute that would supersede or nullify the regulation.
Arizona	A.A.C. R1-6-101 <i>et seq.</i>	https://grrc.az.gov/	The Governor's Regulatory Review Council reviews Arizona regulations to ensure that they are necessary and to avoid duplication and adverse impact on the public. The Council also assesses whether Arizona regulations are beneficial, clear, consistent with legislative intent, legal, and within the agency's statutory authority. If an Arizona regulation does not meet these criteria, the

			<p>Council may return it to the agency for further consideration. The Council also reviews reports on existing Arizona regulations.</p> <p>No legislative review procedure found.</p>
Arkansas	A.C.A. § 10-3-309	http://www.arkleg.state.ar.us/assembly/2017/2018F/Pages/CommitteeDetail.aspx?committeecode=040	This subcommittee [the Administrative Rules and Regulations subcommittee of the Legislative Council] reviews matters regarding administrative rules and regulations by state agencies, boards, and commissions as required by A.C.A. 10-3-309, and such other matters pertaining to administrative organization, rules, regulations, and procedures as may be assigned to the subcommittee by the Legislative Council.
California	Government Code § 11340 <i>et seq.</i>		No legislative review procedure found. The Legislature has created the Office of Administrative Law in the executive branch to review regulations.
Colorado	C.R.S.A. § 24-4-101 <i>et seq.</i>	https://leg.colorado.gov/agencies/offices-legislative-legal-services/rule-review	The Committee on Legal Services does not try to determine whether the rule is good or bad policy. Rather, it limits its analysis to the narrow question of whether the agency has the legal authority to promulgate the rule in question. If the Committee believes the rule is proper, it will vote to allow the rule to continue. If the Committee determines that the rule is in conflict with a statute or exceeds the agency's statutory authority, the vote will specify that this rule will be allowed to expire the following May 15.
Connecticut	C.G.S.A. § 4-170	https://www.cga.ct.gov/rr/	It is the responsibility of the Legislative Regulation Review Committee to review regulations proposed by state agencies and approve them before regulations are implemented. This position was adopted since all regulations have the force of law, and it is important that regulations do not contravene the legislative intent, or conflict with current state or federal laws, or state or federal constitutions.
Delaware	29 Del.C. §§ 1131 <i>et seq.</i> , 10101 <i>et seq.</i>	http://regulations.delaware.gov/	No legislative review procedures found. The statutes provide review by requiring a comment period following the proposal of regulations and requiring the agency to review any comments submitted. Any

Working Document
provided to committee upon request

			person aggrieved by and claiming the unlawfulness of any regulation may bring an action in the Court for declaratory relief.
Florida	F.S.A. 120.545	§ http://www.japc.state.fl.us/	<p>The Joint Administrative Procedures Committee conducts continuous oversight of executive branch actions implementing legislatively delegated powers, ensuring that each action has an adequate statutory basis, that all applicable procedures are followed, and that no illegal rules are imposed on the people of Florida.</p> <p>If the committee objects to a rule and the agency refuses to modify, amend, withdraw, or repeal the rule, the committee shall file with the Department of State a notice of the objection, detailing with particularity the committee's objection to the rule. The Department of State shall publish this notice in the Florida Administrative Register. If the rule is published in the Florida Administrative Code, a reference to the committee's objection and to the issue of the Florida Administrative Register in which the full text thereof appears shall be recorded in a history note.</p> <p>If the committee objects to a rule, or portion of a rule, and the agency fails to initiate administrative action to modify, amend, withdraw, or repeal the rule consistent with the objection within 60 days after the objection, or thereafter fails to proceed in good faith to complete such action, the committee may submit to the President of the Senate and the Speaker of the House of Representatives a recommendation that legislation be introduced to address the committee's objection.</p>
Georgia	Ga. Code Ann., § 45-20-3.1 (applies to personnel matters)	http://www.legis.ga.gov/Joint/legcouncil/en-US/AbouttheOffice.aspx	If, prior to the date of the public hearing at which the proposed rule or regulation is to be considered for adoption, the chairperson of the Senate Government Oversight Committee or the House Committee on Governmental Affairs notifies the commissioner of administrative services that the committee objects to the adoption of the proposed rule or regulation or has questions concerning the purpose, nature, or necessity of the proposed rule or regulation, it shall be the duty of the

			<p>commissioner to consult with the committee prior to the board's adoption of the proposed rule or regulation.</p> <p>Attorneys of the Office of Legislative Counsel review executive branch agency rules for statutory authorization and compliance.</p>
Hawaii	HRS § 91-3		No legislative review procedures found.
Illinois	Illinois Administrative Procedure Act, 5 ILCS 100/1-1 et seq., specifically 5 ILCS 100/5-90, 5 ILCS 100/5-105	http://www.ilga.gov/commission/jcar	Two purposes of JCAR are to ensure that the General Assembly is adequately informed of how laws are implemented through agency rulemaking and to facilitate public understanding of rules and regulations.
Idaho	I.C. §§ 67-5291, 67-5292		The standing committees of the legislature may review temporary, pending and final rules which have been published in the bulletin or in the administrative code. A concurrent resolution may be adopted approving the rule, in whole or in part, or rejecting the rule where it is determined that the rule, or part of the rule, is not consistent with the legislative intent of the statute. The rejection of a rule, or part of a rule, by the legislature via concurrent resolution shall prevent the agency's intended action from remaining in effect beyond the date of the legislative action. Every rule adopted and becoming effective after June 30, 1990, shall automatically expire on July 1 of the following year unless the rule is extended by statute.
Indiana	IC 4-22-2-0.1 <i>et seq.</i> IC 4-22-2-32		No legislative review procedures found. The statutes provide for review by the Attorney General and approval or disapproval by the Governor.
Iowa	Iowa Administrative Procedures Act, Iowa Code Chapter 17A, also I.C.A. § 7.17	https://www.legis.iowa.gov/law/administrativeRules/howDoRulesWork	<p>The IAPA is essentially a complete set out procedural safeguards that channels agency discretion and provides a mechanism for judicial review.</p> <p>The objection is the workhorse of the rules review process. It is used almost exclusively by the Administrative Rules</p>

			<p>Review Committee but is also available to the Governor and the Attorney General. The objection removes the presumption of validity that courts accord administrative rules. This power may be exercised over any rule, whether proposed or in effect {§17A.4(4)}.</p> <p>The legislature can reverse or modify any rule through a joint resolution approved by both chambers.</p>
Kentucky	KRS § 13A.010 et seq.	https://legislature.ky.gov/Committees/Pages/Committee-Details.aspx?CommitteeRSN=3&CommitteeType=Statutory%20Committee	Jurisdiction of the Statutory Committee Administrative Regulation Review Subcommittee: Review and comment upon administrative regulations submitted to it by the Legislative Research Commission; make nonbinding determinations concerning the statutory authority to promulgate administrative regulations filed with the Legislative Research Commission; review existing administrative regulations; recommend the amendment, repeal, or enactment of statutes relating to administrative regulations; conduct a continuous study of the administrative regulations procedure and the needs of administrative bodies; study statutes relating to administrative hearings; and make legislative recommendations.
Louisiana	LA R.S. 49:968		Reports of pending rules are submitted to standing committees, as specified in statute. The chairman of each standing committee to which reports are submitted is required to appoint an oversight subcommittee, which may conduct hearings on the rules. After receipt of the report of the subcommittee, the governor has ten calendar days in which to disapprove the action taken by the subcommittee. If the action of the subcommittee is not disapproved by the governor within ten calendar days from the day the subcommittee report is delivered to him, the rule change shall not be adopted by the agency until it has been changed or modified and subsequently found acceptable by the subcommittee, or has been approved by the standing committee, or by the legislature by concurrent

			resolution.
Maine	5 M.R.S.A. §§ 8071, 8072		In order to provide for maximum agency flexibility in the adoption of rules while retaining appropriate legislative oversight over certain rules that are expected to be controversial or to have a major impact on the regulated community, each agency rule authorized and adopted after January 1, 1996 is subject to one of 2 levels of rule-making requirements: routine technical rules subject to limited requirements, and major substantive rules. Any grant of general or specific rule-making authority to adopt major substantive rules is considered to be permission only to provisionally adopt those rules subject to legislative review. Final adoption may occur only after legislative review of provisionally adopted rules and authorization of the Legislature.
Maryland	MD Code, State Government, § 10-111.1	https://msa.maryland.gov/msa/mdmanual/07leg/html/com/02aelr.html	<p>Proposed State agency regulations are reviewed by the Committee with regard to the legislative prerogative and procedural due process. Moreover, periodic review and evaluation of existing regulations are monitored by the Committee, which also may be designated by the General Assembly to monitor the implementation of specific legislation by a State agency. In addition, the Committee may inquire into any alleged failure of a State government officer or employee to comply with Maryland statutory or constitutional law.</p> <p>Copies of all regulations of each State agency are received by the Committee. Unless submitted to the Committee, certain regulations or standards may be invalid (Code State Government Article, secs. 10-101 through 10-139). The Committee also is required to receive emergency energy executive orders promulgated by the Governor (Chapter 1, Acts of 2nd Special Session of 1973). This legislative authority has been updated annually.</p> <p>For the Code of Maryland Regulations (COMAR), the Committee sits as a legislative advisory board.</p>

Massachusetts	M.G.L.A. 30A § 1 et seq.	https://www.sec.state.ma.us/spr/sprpdf/manual	No legislative review procedures found
Michigan	M.C.L.A. 24-245a, 24.245c	https://council.legislature.mi.gov/CouncilAdministrator/jcar	If the Joint Committee on Administrative Rules (JCAR) approves a notice of objection, JCARR members introduce in both houses a bill to rescinds the rule, repeals the statutory authority for the rule, or stays the rule for up to 1 year. Alternatively, the chair and alternate chair may introduce or cause to be introduced bills in both houses enacting the subject of the rule into law (which places the rule on hold for 270 days). If the legislation passes and is not vetoed, the rule does not take effect.
Minnesota	M.S.A. § 3.305	https://www.commissions.leg.state.mn.us/commis/adminrules.html	If the commission or a committee objects to all or some portion of a rule because the commission or committee considers it to be beyond the procedural or substantive authority delegated to the agency, the issuing agency must respond in writing to the objecting entity. The commission or a committee may petition for a declaratory judgment to determine the validity of a rule objected to by the commission or committee, within two years after an objection is filed.
Mississippi			No legislative review procedure found.
Missouri	§§ 536.037, 536.041	https://www.senate.mo.gov/jcar/index.htm	The Joint Committee on Administrative Rules is charged with the responsibility to review administrative rules filed by state agencies for compliance with Missouri statutes. A rule shall be invalid in the event that there is an absence of statutory authority to promulgate the rule; the rule is in conflict with state law; or the rule is arbitrary and capricious. Any person may file a written petition with an agency requesting the adoption, amendment or repeal of any rule. Any agency receiving such a petition or other request in writing to adopt, amend or repeal any rule must furnish a copy to the joint committee on administrative rules and to the commissioner of administration. The agency must submit a written response to the petitioner and copies of the response

			to the Joint Committee and to the Commissioner of Administration, containing its determination whether such rule should be adopted, continued without change, amended, or rescinded, together with a concise summary of the state agency's specific facts and findings.
Montana	MCA. <u>2-4-402.</u> <u>2-4-405.</u>	https://leg.mt.gov/committees/interim/interim-committee-rule-review-authority/	<p>an interim committee may take any one or a combination of the following actions:</p> <ul style="list-style-type: none"> – Request an agency's rulemaking records for checking compliance with MAPA. – Prepare written recommendations for the adoption, amendment, or rejection of a rule and submit those recommendations to the agency proposing the rule and submit oral or written testimony at a rulemaking hearing. – Require that a rulemaking hearing be held in accordance with the provisions of 2-4-302 through 2-4-305, MCA. – Institute, intervene in, or otherwise participate in rule review proceedings in the state and federal courts and administrative agencies. – Review the incidence and conduct of administrative proceedings. Poll the Legislature by mail to determine whether a proposed rule is consistent with the intent of the Legislature. The results of the poll are admissible in any court proceeding involving the validity of the proposed or adopted rule. – Require an economic impact statement relating to the adoption of a rule. – Object to all or some portion of a proposed or adopted rule and delay the adoption of the rule for 6 months or delay the effective date of the rule until the day after final adjournment of the next legislative session. – Recommend a rule adoption or change.
Nebraska			No legislative review procedure found.
Nevada	N.R.S.	https://www.leg.state.nv.us	After adopting a permanent regulation, the

	233B.067, 233B.0675	te.nv.us/App/InterimCommittee/REL/Interim2019/Committee/1431/Overview	<p>agency shall submit an informational statement and one copy of each regulation adopted to the Legislative Counsel for review by the Legislative Commission [an LCC-like body] to determine whether to approve the regulation.</p> <p>If the Legislative Commission, or the Subcommittee to Review Regulations has objected to a regulation, the agency shall revise the regulation to conform to the statutory authority pursuant to which it was adopted and to carry out the intent of the Legislature in granting that authority and return it to the Legislative Counsel.</p>
New Hampshire	N.H. Rev. Stat. §§ 541-A:2, 541-A:13	http://www.gencourt.state.nh.us/rules/jlcar/description_members.htm	<p>The Joint Legislative Committee on Administrative Rules (JLCAR) may approve, conditionally approve, or object to final proposals or proposed interim rules on certain grounds set by statute and as further clarified by the JLCAR's own rules. JLCAR approval is not required except for a proposed interim rule. Agencies may amend a proposed rule in response to an objection and still seek JLCAR approval, or the agency may withdraw the rule.</p> <p>The JLCAR may not object to an emergency rule but may petition for its repeal if the agency has not demonstrated that the rule is necessary to prevent an imminent peril to the public health or safety.</p> <p>An agency may not adopt a proposed regular rule after responding to an objection until the JLCAR has had an opportunity to examine the response and decide whether to approve the rule, make a final objection, or vote to support the introduction of a joint resolution.</p> <p>A final objection is not a veto nor does it delay adoption of a rule, but it does shift the burden of proof to the agency on the lawfulness of the rule in a court challenge or court enforcement action of the rule.</p> <p>A vote to sponsor a joint resolution does not veto the rule but delays its adoption for a limited time in order for the legislature to consider the joint resolution</p>

			as a piece of legislation. If enacted, the joint resolution may permanently prevent the adoption.
New Jersey	Constitution, Article 5, Section 4, paragraph 6 N.J.S.A. 58:10A-14		The Legislature may review any rule or regulation to determine if the rule or regulation is consistent with the intent of the Legislature as expressed in the language of the statute which the rule or regulation is intended to implement. Upon a finding that an existing or proposed rule or regulation is not consistent with legislative intent, the Legislature shall transmit this finding in the form of a concurrent resolution to the Governor and the head of the Executive Branch agency which promulgated, or plans to promulgate, the rule or regulation. The agency shall have 30 days to amend or withdraw the existing or proposed rule or regulation. If the agency does not amend or withdraw the existing or proposed rule or regulation, the Legislature may invalidate that rule or regulation, in whole or in part, or may prohibit that proposed rule or regulation, in whole or in part, from taking effect by a vote of a majority of the authorized membership of each House in favor of a concurrent resolution providing for invalidation or prohibition, as the case may be, of the rule or regulation. Specific committees are given authority to review specific rules and regulations.
New Mexico	N. M. S. A. 1978, § 14-4-1 <i>et seq.</i> 1.24.25.1 NMAC <i>et seq.</i>		No legislative review procedure found.
New York	McKinney's Legislative Law § 87. Powers and duties	https://www.nysenate.gov/committees/administrative-regulations-review-commission-arcc	The Administrative Regulations Review Commission shall exercise continuous oversight of the process of rule making and examine rules adopted or proposed by each agency with respect to (i) statutory authority, (ii) compliance with legislative intent, (iii) impact on the economy and on the government operations of the state and its local governments, and (iv) impact on affected parties; and, in furtherance of such duties,

			may examine other issues it deems appropriate.
North Carolina	N.C.G.S.A. § 120-70.101	https://www.ncleg.gov/Committees/CommitteeInfo/Non-Standing/472 https://www.nc.gov/agency/rules-review-commission https://www.oah.nc.gov/	<p>The Joint Legislative Administrative Procedure Oversight Committee has powers and duties that include the following:</p> <ul style="list-style-type: none">– To review rules to which the Rules Review Commission has objected to determine if statutory changes are needed to enable the agency to fulfill the intent of the General Assembly.– To review the activities of State occupational licensing boards to determine if the boards are operating in accordance with statutory requirements and if the boards are still necessary to achieve the purposes for which they were created.– To review State regulatory programs to determine if the programs overlap, have conflicting goals, or could be simplified and still achieve the purpose of the regulation.– To review existing rules to determine if the rules are necessary or if the rules can be streamlined.– To review the rule-making process to determine if the procedures for adopting rules give the public adequate notice of and information about proposed rules.– To review any other concerns about administrative law to determine if statutory changes are needed.– To report to the General Assembly from time to time concerning the Committee's activities and any recommendations for statutory changes.

North Dakota	Administrative Agencies Practice Act, Chapter 28-32 (28-32-01 et seq.)	https://www.legis.nd.gov/assembly/65-2017/committees/interim/administrative-rules-committee	<p>Among other tasks, determine whether a rule is void. The administrative rules committee may find a rule or portion of a rule void if the committee makes the specific finding that, with regard to that rule or portion of a rule, there is:</p> <ul style="list-style-type: none"> a. An absence of statutory authority. b. An emergency relating to public health, safety, or welfare. c. A failure to comply with express legislative intent or to substantially meet the procedural requirements of this chapter for adoption of the rule. d. A conflict with state law. e. Arbitrariness and capriciousness.
Ohio	R.C. § 101.35 et seq.	http://www.jcarr.state.oh.us/	<p>JCARR's primary function is to review proposed new, amended, and rescinded rules from over 100 agencies to ensure they do not exceed their rule-making authority granted to them by the General Assembly. If a rule violates one or more of the six items for review, the JCARR committee could make a recommendation to invalidate all or part of the rule. (The items include whether the rules exceed the agency's authority, conflict with an existing rule of that agency or another state agency, conflict with legislative intent, an economic impact analysis is included, incorporation by reference is done correctly, and impact on small business.)</p>
Oklahoma	75 Okl.St.Ann. § 250.10	https://okhouse.gov/Committees/CommitteeMembers.aspx?CommID=364&SubCommID=0	<p>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.</p>
Oregon	O.R.S. §§ 183.405, 183.720, 183.730	https://www.oregonlegislature.gov/lc https://www.oregonlegislature.gov/lc/Pages/ARRs.aspx	<p>The office of Legislative Counsel reviews all administrative rules adopted by executive branch agencies for constitutionality and legal sufficiency. If a Legislative Counsel attorney determines that a rule exceeds the intent and scope of the enabling legislation or otherwise raises a constitutional issue, the attorney will</p>

			<p>send the agency a memorandum and report called a “negative determination” and ask that the agency contact the attorney to discuss a possible resolution within 30 days. If the concerns are not resolved, the Legislative Counsel attorney will formalize the negative determination and send it to the designated interim committee of the Legislative Assembly. The interim committee then schedules a hearing on the negative determination at a meeting that is held during the interim between legislative sessions. If the interim committee agrees with the Legislative Counsel findings on the legal sufficiency of the rule, the committee will adopt the negative rule determination.</p> <p>Each rule must be reviewed not later than 5 years after the agency has adopted it.</p>
Pennsylvania	71 P.S. §§ 745.2, 745.3, 745.5 , 745.7	http://www.irrc.state.pa.us/	The statutory Independent Regulatory Review Commission reviews regulations. A standing committee of the General Assembly may introduce a concurrent resolution based on that review. If the concurrent resolution passes and is not vetoed, or if a veto is overridden, the regulation does not go into effect.
Rhode Island	Gen.Laws 1956, §§ 42-35-15, 42-35-16		Authorizes review via the courts
South Carolina	Code 1976 § 1-23-120	https://www.scstatehouse.gov/registerandregs.php	After review by the appropriate standing committees, the Legislature may consider concurrent resolutions to approve or disapprove the regulations. Each agency must review its regulations at least every 5 years, with certain exceptions.
South Dakota	SDCL § 1-26-1 et seq.	https://sdlegislature.gov/Interim/Documents.aspx?Committee=207&Session=2019&tab=Detail	The Interim Rules Review Committee may: <ul style="list-style-type: none"> (1) Declare that the rule-making process is complete to the satisfaction of the committee; (2) Revert the rule to an earlier step in the rule adoption procedure pursuant to § 1-26-4.7 to consider an amendment to the proposed rule; or (3) Move to suspend the proposed rule
Tennessee	T. C. A. § 4-5-226	http://www.capitol.tn.gov/joint/committees/gov-opps/	Each permanent rule that does not expire because legislation has been enacted to continue a rule to a date certain or indefinitely shall expire on June 30 of the

			year following the year of its filing. Rules are reviewed by the Government Operations Committees. The agency has the burden of demonstrating, by convincing evidence, that various factors justify the continued existence of an agency rule; the factors to be considered include whether the agency is acting within its authority, whether the rule will be easily understood by those directly affected by it, and whether the rule is necessary to secure the health, safety, or welfare of the public. Whether an agency has met its burden of persuasion is solely within the discretion of the General Assembly.
Texas	Government Code 2001.032	§	Each chamber of the Legislature must establish a process by which each proposed rule is referred to the appropriate standing committee. On the vote of a majority of its members, a standing committee may send to a state agency a statement supporting or opposing adoption of a proposed rule.
Utah	UCA 1953 63G-3-501, 63G-3-501	https://rules.utah.gov/help-rulemaking-process-basics/	The Administrative Rules Review Committee shall review each rule submitted to determine whether the rule is authorized by statute and meets legislative intent, to review the costs and benefits of each, and to determine whether adoption of the rule requires legislative review or approval. Every agency rule in effect on February 28 of a calendar year expires on May 1 of that calendar year unless reauthorized by the legislature. The Administrative Rules Review Committee is directed to introduce omnibus legislation that "reauthorizes" all regulations except for an enumerated list. The Committee is also allowed to send letters to agencies to discuss rules they feel should be lapsed. The statute also allows for the severability of regulations so that specific portions of regulations may be reauthorized. Agencies are allowed to petition the governor to seek an extension for specific rules that are not set to be reauthorized by the legislature.
Vermont	3 V.S.A. § § 817, 842	https://www.sec.state.vt.us/administrative-rules.aspx	The Legislative Committee on Administrative Rules may choose to object to a rule by contacting an agency in

			writing. Agencies have 14 days to respond to the objection. The committee will then meet again to voter whether to modify the objection or certify and send the objection to the Secretary of State. If an objection is certified with the Secretary of State and the agency decides to adopt the rule anyway, the agency would lose the presumption of validity in court actions related to the rule. The Committee may hear rules previously adopted, on its own initiative.
Virginia	Va. Code Ann. 2.2-4014	http://dls.virginia.gov/commissions/carr.htm	Joint Commission on Administrative Rules or other standing legislative committees may meet to review promulgated rules and regulations. Such committees may file an objection. Such committees may also suspend the effective date of promulgated rules and regulations with approval of the governor.
Washington	Administrative Procedure Act, 34.05.010 et seq., legislative review in 34.05.610 et seq.	http://leg.wa.gov/jointcommittees/JAR/RC/Pages/default.aspx	The Joint Administrative Rules Review Committee reviews proposed and existing agency rules to determine (1) whether the rules conform to the intent of the statute(s) they purport to implement; and (2) whether the rules will be or were adopted in accord with the procedural provisions of the law, including the APA. The Committee also reviews whether an agency is using a policy or interpretive statement in place of a rule.

West Virginia	W. Va. Code, § 29A-3-1 et seq.	http://www.wvlegislature.gov/Joint/rule_making.cfm	<p>The Legislative Rule-Making Review Committee's current purpose is to review all legislative rules proposed by state agencies, boards and commissions and to make recommendations regarding the proposed rules to the Legislature, which has the authority to approve or disapprove the promulgation of the proposed rules. The [Legislative Rule-Making Review] committee shall review each proposed legislative rule and, in its discretion, may hold public hearings thereon. Such review shall include, but not be limited to, a determination of:</p> <ul style="list-style-type: none"> (1) Whether the agency has specific statutory authority to propose the rule and has not exceeded the scope of its statutory authority in approving the proposed legislative rule; (2) Whether the proposed legislative rule is in conformity with the legislative intent of the statute which the rule is intended to implement, extend, apply, interpret or make specific; . . . (c) After reviewing the legislative rule, the committee shall recommend that the Legislature: (1) Authorize the promulgation of the legislative rule; (2) Authorize the promulgation of part of the legislative rule; (3) Authorize the promulgation of the legislative rule with certain amendments; (4) Recommend that the proposed rule be withdrawn; or (5) Reject the proposed rule.
Wisconsin	W.S.A. 227.10 et seq.	https://docs.legis.wisconsin.gov/misc/briefing_book Chapter 4, Administrative Rulemaking	Each rule may be reviewed by a standing committee as well as by the Joint Committee for Review of Administrative Rules (JCRAR). A standing Committee may object to all or part of a rule on certain limited grounds, e.g., failure to comply with legislative intent. The JCRAR reviews each proposed rule. It may suspend a rule and introduce legislation in each chamber. If either bill is enacted, the rule is repealed.
Wyoming	W.S. 28-9-101 – 28-9-108, 16-3-103 (in Administrative Procedure Act)	(none found)	Notice of a pending rule is given to legislators and committees involved with the bill granting the authority and to other interested legislators. The Legislative Management Council may review any rule of an agency when requested to do so by a member of the legislature or any legislative committee. When reviewing a rule of an agency, the council shall

			determine whether the rule: (i) Appears to be within the intent and scope of the legislative enactment delegating the authority to adopt the rule; (ii) Has been adopted in accordance with all applicable and statutory requirements of law; and (iii) Meets all constitutional and statutory requirements, restrictions and standards.
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NCSL

<http://www.ncsl.org/research/about-state-legislatures/separation-of-powers-legislative-oversight.aspx> (2012) [No updated information is available via NCSL, according to Kae Warnock, email, 12/3/19]

An administrative rule is typically a regulation, standard or policy issued by an executive agency to implement statutory provisions administered by the agency. In many states, the number of regulations promulgated by executive agencies exceeds the number of statutes enacted by the legislature.

Although state legislatures have delegated that authority to executive agencies, they have carefully protected their authority to review and, in most instances, approve administrative rules to ensure that they comply with statutory authority and legislative intent. If the legislature determines that a rule does not comply with those two thresholds, it may be empowered by constitutional provision or statute to veto the rule.

Forty-one states have some type of authority to review administrative rules, although not all of them have the power to veto rules. In the states that have veto authority, the action may be required through enactment of a statute (13 states) or passage of a resolution (15 states). State courts have heard challenges to legislative veto of administrative rules in at least 11 states, with all but two ruling that the power—or the process being used—was unconstitutional. Court decisions in Idaho and Missouri illustrate the differing perspectives.

In *Mead v. Arnell*, 791 P.2d 410 (Idaho 1990), the Idaho Supreme Court upheld the authority of the legislature to veto administrative rules through passage of a resolution that did not require the governor's signature. The court determined that only the legislature can make laws and that administrative rules have a lesser status than statutory law, thereby allowing a statute that authorized a veto through legislative resolution to stand.

In *Missouri Coalition for the Environment v. Joint Committee on Administrative Rules*, 948 S.W.2d 125 (Mo. 1997), the Missouri Supreme Court ruled unconstitutional a statute that suspended agency rules pending review by the Joint Committee on Administrative Rules. The court determined that the legislature "may not unilaterally control execution of rulemaking authority after its delegation of rulemaking power," requiring it to pass a bill for the governor's signature if it chose to alter a rule.

QUOTED STATUTES BELOW ARE VIA WESTLAW, DECEMBER 2019 AND JANUARY 2020

ALABAMA

Ala.Code 1975 § 41-22-23. Submission and review of proposed rules; fiscal note required for rules with economic impact.

(a) The notice required by subdivision (a)(1) of Section 41-22-5 shall be given, in addition to the persons named in the notice, to each member of the committee and such other persons in the legislative department as the committee requires. The form of the proposed rule presented to the committee shall be as follows: New language shall be underlined and language to be deleted shall be typed and lined through.

(b)(1) Within the 45-day period between the date of publication in the Alabama Administrative Monthly that a rule has been certified and the date it becomes effective, and subject to subsection (h) of Section 41-22-5.1, the committee shall study all proposed rules and may hold public hearings. The committee may adopt a policy providing when a public hearing will be held on a rule meeting specified criteria. In the event the committee fails to give notice to the agency of either its approval or disapproval of the proposed rule within 45 days after the notice is published in the Alabama Administrative Monthly that the rule has been certified and filed with the Legislative Services Agency, Legal Division, pursuant to Section 41-22-6, the committee shall be deemed to have approved the proposed rule for the purposes of this section.

(2) In the event the committee disapproves a proposed rule or any part thereof, it shall give notice of the disapproval to the agency. The disapproval of any rule may be appealed to the Lieutenant Governor in writing by the agency that submitted the rule within 15 days of disapproval. The Office of the Lieutenant Governor shall stamp the written appeal to denote the date the appeal was received. If the disapproval of a rule is appealed to the Lieutenant Governor, the Lieutenant Governor, within the 15 days after the notice of appeal of the disapproval of the rule is filed, may review the rule and hold public hearings he or she determines necessary.

(3) If the Lieutenant Governor sustains the disapproval of the rule, he or she shall notify the committee and return the rule to the agency and the disapproval shall be final.

(4) If the Lieutenant Governor approves the rule, he or she shall notify the chair of the committee. The rule shall become effective upon adjournment of the next regular session of the Legislature that commences after the approval unless, prior to that time, the Legislature adopts a joint resolution that overrules the approval by the Lieutenant Governor and sustains the action of the committee.

(5) If the Lieutenant Governor fails to either approve or disapprove the rule within the 15 days after the notice of appeal of the disapproval of the committee, the rule shall be deemed approved and the rule shall become effective upon adjournment of the next regular session of the Legislature that commences after the deemed approval unless, prior to that time, the Legislature adopts a joint resolution that overrides the deemed approval of the Lieutenant Governor and sustains the action of the committee. In the event the Office of the Lieutenant Governor is vacant, a rule disapproved by the committee shall be suspended until the adjournment of the next regular session of the Legislature following the disapproval. The rule shall be reinstated on adjournment of that regular session unless the Legislature, by joint resolution, sustains the disapproval.

(c) The committee may propose an amendment to any proposed rule and return it to the agency with the suggested amendment. In the event the agency accepts the rule as amended, the agency may resubmit the rule as amended to the committee and the rule shall become effective on the date specified in the rule, or on the date the amended rule is submitted, whichever is later. In the event the agency does not accept the amendment, the proposed amended rule shall be deemed disapproved, as provided in subsection (b).

(d) An agency may withdraw a proposed or certified rule. An agency may resubmit a rule so withdrawn or returned under this section with minor modification. Such a rule is a new filing and subject to this section but is not subject to further notice as provided in subsection (a) of Section 41-22-5.

(e) The committee is authorized to review and approve or disapprove any rule adopted prior to October 1, 1982.

(f) A rule submitted to the committee which has an economic impact shall be accompanied by a fiscal note prepared by the agency in accordance with this subsection. Upon receiving the fiscal note, the committee may require additional information from the submitting agency, other state agencies, or other sources. A state agency shall cooperate and provide information to the committee. At a minimum, the fiscal note submitted with a proposed rule shall include the following:

(1) A determination of the need for the rule and the expected benefit of the rule.

(2) A determination of the costs and benefits associated with the rule and an explanation of why the rule is considered to be the most cost effective, efficient, and feasible means for allocating public and private resources and for achieving the stated purpose.

(3) The effect of the rule on competition.

(4) The effect of the rule on the cost of living and doing business in the geographical area in which the rule would be implemented.

(5) The effect of the rule on employment in the geographical area in which the rule would be implemented.

(6) The source of revenue to be used for implementing and enforcing the rule.

(7) A conclusion on the short-term and long-term economic impact upon all persons substantially affected by the rule, including an analysis containing a description of which persons will bear the costs of the rule and which persons will benefit directly and indirectly from the rule.

(8) The uncertainties associated with the estimation of particular benefits and burdens and the difficulties involved in the comparison of qualitatively and quantitatively dissimilar benefits and burdens. A determination of the need for the rule shall consider qualitative and quantitative benefits and burdens.

(9) The effect of the rule on the environment and public health.

(10) The detrimental effect on the environment and public health if the rule is not implemented.

(g) In determining whether to approve or disapprove proposed rules, the committee shall consider the following criteria:

(1) Is there a statutory authority for the proposed rule?

(2) Would the absence of the rule or rules significantly harm or endanger the public health, safety, or welfare?

(3) Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare?

(4) Is there another, less restrictive method of regulation available that could adequately protect the public?

(5) Does the rule or do the rules have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree?

(6) Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the rule or rules?

(7) Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public?

(8) Any other criteria the committee may deem appropriate.

ALASKA

<http://arr.legis.state.ak.us/>

Joint Committee for Administrative Regulation Review (creation statute repealed effective August 1, 2018)

[Administrative Procedures Act](#) | [Reports](#) | [Regulatory Process](#) | [Submitting Comments](#)

Authority - The Administrative Regulation Review Committee is established as a permanent interim committee of the legislature. The establishment of the committee recognizes the need for prompt legislative review of administrative regulations filed by the lieutenant governor.

Powers - The Administrative Regulation Review Committee has the power to hold public hearings; to examine all administrative regulations, including proposed regulations, amendments, and orders of repeal, to determine if they properly implement legislative intent and to provide comments on them to the governor and state agencies; to promote needed revision or repeal of regulations that have been adopted by state departments and agencies and, when the committee determines a regulation should be repealed or amended, to introduce a bill that would enact a statute that would supersede or nullify the regulation.

Review - The review of administrative regulations shall evaluate the legality and constitutionality of the regulation; whether the state agency has statutory authority to adopt the regulation that implements, interprets, makes specific, or otherwise carry out a statute; and whether the proposed regulation is consistent with applicable statutes.

Members - The Administrative Regulation Review Committee is composed of three members of the House appointed by the Speaker of the House, and three members of the Senate appointed by the President of the Senate. The membership from each house shall include at least one member from each of the two major political parties. Members serve for the duration of the legislature during which they are appointed.

Meetings - The Administrative Regulation Review Committee may meet during the sessions of the legislature and during the interim between sessions at such times and places in the state as the chairman may determine.

Article 05. JUDICIAL REVIEW

Sec. 44.62.300. Judicial review of validity. (NOT repealed in 2018)

(a) An interested person may get a judicial declaration on the validity of a regulation by bringing an action for declaratory relief in the superior court. In addition to any other ground the court may declare the regulation invalid

(1) for a substantial failure to comply with [AS 44.62.010--44.62.319](#); or

(2) in the case of an emergency regulation or order of repeal, upon the ground that the facts recited in the statement do not constitute an emergency under [AS 44.62.250](#).

(b) Notwithstanding (a) of this section, a person may not bring an action in court to challenge the adoption, repeal, or amendment of a regulation by a state agency for

(1) insufficiency or inaccuracy of the information provided under [AS 44.62.190\(d\)](#) or [\(g\)](#);

(2) failure of the subject line of electronic mail or the title of a written publication to meet the requirements of [AS 44.62.190\(f\)](#);

- (3) failure of the brief description required by [AS 44.62.200\(d\)](#) to comply with the requirements of [AS 44.62.200\(d\)](#) relating to
 - (A) the clarity and readability of the brief description; or
 - (B) the description of the changes made by the proposed adoption, amendment, or repeal of a regulation; or
- (4) inaccuracy or insufficiency of the answer to a question provided by the state agency under [AS 44.62.213](#).

Sec. 44.62.320. Legislative annulment of regulations and review. **Repealed by SLA 2018, ch. 7, § 23, eff. Aug. 1, 2018**

(a) [Repealed, Sec. 7 ch 164 SLA 2004].

(b) At the same time a regulation is filed by the lieutenant governor, the lieutenant governor shall submit the regulation to the chairman and all members of the Administrative Regulation Review Committee for review under [AS 24.20.400](#) - 24.20.460 together with the fiscal information required to be prepared under [AS 44.62.195](#).

Effective: August 1, 2018

AS § 24.05.182. Review of administrative regulations by standing committees of the legislature

- (a) A standing committee of the legislature may, consistent with the committee's jurisdiction as provided in the uniform rules of the legislature, review a proposed or adopted regulation, amendment of a regulation, or repeal of a regulation.
- (b) to (d) Repealed by [SLA 2018, ch. 7 § 23, eff. August 1, 2018](#).

ARKANSAS

A.C.A. § 10-3-309. Review and approval of state agency rules

(a)(1)(A) In the passage of this section, the General Assembly is aware of the significant number of laws which have been enacted granting to boards, commissions, departments, and administrative agencies of state government the authority to promulgate and enforce rules.

(B) The General Assembly is further aware that ample safeguards have not been established whereby the General Assembly may be informed of circumstances in which administrative rules do not conform to legislative intent.

(2) It is the purpose of this section to establish a method for continuing legislative review and approval of such rules to correct abuses of rulemaking authority or clarify legislative intent with respect to the rulemaking authority granted the administrative boards, commissions, departments, or agencies. . . .

(c)(1) A state agency shall file a proposed rule with the Legislative Council at least thirty (30) days before the expiration of the period for public comment on the rule under the Arkansas Administrative Procedure Act, [§ 25-15-201 et seq.](#), or other laws or policies pertaining to the rulemaking authority of that state agency.

(2) The Legislative Council shall assign proposed rules to the Administrative Rules Subcommittee of the Legislative Council.

(3)(A)(i) The proposed rule shall be reviewed by the Administrative Rules Subcommittee of the Legislative Council.

(ii) When reviewing a rule under subdivision (c)(3)(A)(i) of this section, the Administrative Rules Subcommittee of the Legislative Council shall allow members of the public a reasonable opportunity to comment on the proposed rule.

(B)(i)(a) Except as set forth in subdivision (c)(3)(B)(ii) of this section, upon conclusion of the review of the proposed rule by the Administrative Rules Subcommittee of the Legislative Council, the proposed rule shall be considered approved unless a majority of a quorum present request that the Administrative Rules Subcommittee of the Legislative Council vote on the issue of approving the proposed rule.

(b) If the Administrative Rules Subcommittee of the Legislative Council votes on the issue of approving the proposed rule, the proposed rule shall be approved unless a majority of a quorum present vote for the proposed rule to not be approved. . . .

(c)(4)(A)(i) Except as set forth in subdivision (c)(4)(B) of this section, a proposed rule approved by the Administrative Rules Subcommittee of the Legislative Council shall be considered approved by the Legislative Council unless a majority of a quorum present request that the Legislative Council vote on the issue of approving the proposed rule.

(e)(5)(A) During a regular, fiscal, or extraordinary session of the General Assembly:

(i) The Administrative Rule Review Subcommittee shall perform the functions assigned to the Administrative Rules Subcommittee of the Legislative Council under this section; and

(ii) The Joint Budget Committee shall perform the functions assigned to the Legislative Council under this section.

(B) Actions taken by the Administrative Rule Review Subcommittee and the Joint Budget Committee under this subsection have the same effect as actions taken by the Administrative Rules Subcommittee of the Legislative Council and the Legislative Council under this section.

(C) The Joint Budget Committee shall file a report of its actions under this subsection with the Legislative Council as soon as practicable.

(f)(1) A committee or subcommittee under this section may vote to not approve a rule under this section only if the rule is inconsistent with:

(A) State or federal law; or

(B) Legislative intent.

(2) A committee or subcommittee under this section voting not to approve a rule under this section shall state the grounds under subdivision (f)(1) of this section when not approving a rule.

(g)(1) The Administrative Rules Subcommittee of the Legislative Council, the Legislative Council, the Administrative Rule Review Subcommittee, or the Joint Budget Committee may refer a rule to a committee of the General Assembly for the committee's consideration.

(2) After the referred rule is presented to a committee of the General Assembly and considered, the committee to whom the rule was referred may provide its views and opinions on the rule to the committee or subcommittee that referred the rule.

CALIFORNIA

Cal.Gov.Code § 11340.1. Legislative intent

(a) The Legislature therefore declares that it is in the public interest to establish an Office of Administrative Law which shall be charged with the orderly review of adopted regulations. It is the intent of the Legislature that the purpose of such review shall be to reduce the number of administrative regulations and to improve the quality of those regulations which are adopted. It is the intent of the Legislature that agencies shall actively seek to reduce the unnecessary regulatory burden on private individuals and entities by substituting performance standards for prescriptive standards wherever performance standards can be reasonably expected to be as effective and less burdensome, and that this substitution shall be considered during the course of the agency rulemaking process. It is the intent of the Legislature that neither the Office of Administrative Law nor the court should substitute its judgment for that of the rulemaking agency as expressed in the substantive content of adopted regulations. It is the intent of the Legislature that while the Office of Administrative Law will be part of the executive branch of state government, that the office work closely with, and upon request report directly to, the Legislature in order to accomplish regulatory reform in California.

(b) It is the intent of the Legislature that the California Code of Regulations made available on the Internet by the office pursuant to [Section 11344](#) include complete authority and reference citations and history notes.

COLORADO

<https://leg.colorado.gov/agencies/office-legislative-legal-services/rule-review>

The Office of Legislative Legal Services has responsibility for implementing the statutory provisions for legislative review of [administrative rules and regulations](#). Every rule adopted or amended by an executive agency is first reviewed by an Office of Legislative Legal Services attorney or legislative assistant to determine if the rule is within the power delegated to the agency and consistent with law. If the staff determines there is a problem with a rule, the rule is then reviewed by the Committee on Legal Services at a public hearing. By statute, all rules adopted or amended during any one-year period that begins November 1 and ends the following October 31 expire on the May 15th that follows such one-year period unless the General Assembly adopts a bill that postpones their expiration. Each session, members of the Committee on Legal Services sponsor a bill to postpone the expiration of the rules scheduled to expire May 15 of that year; except that those rules that the legislature finds to exceed the rule-making authority of the agency or to be inconsistent with law are designated to expire as scheduled on May 15. After each session of the General Assembly, the Office of Legislative Legal Services reviews existing rules to determine if they are in conflict with laws enacted during that session.

What is rule review?

Rule review is a process authorized by the State Administrative Procedure Act (APA) that provides for legislative oversight of executive branch rulemaking. Section 24-4-103 (8) (d), C.R.S., requires executive branch agencies to submit new or amended rules to the Office of Legislative Legal Services. The statute directs OLLS staff to review the rules to determine whether they are within the agency's rulemaking authority. OLLS staff performs rule review under the direction of a legislative committee, the Committee on Legal Services.

Does the legislature have the authority to veto rules?

No. The issuance of rules by an agency is a law-making function. Because the authority to make law generally rests with the legislative branch, the only way an executive branch agency can make law via rules is if that authority has been delegated to the agency by the legislature. This is done through the statutes that create an agency and define its specific role and authority. Because an agency's authority to issue rules originated with the General Assembly, the legislature retains the authority, indeed the responsibility, to make sure rules adopted by the agency are within that agency's powers as delegated to it by the General Assembly in the first place. This is the essence of the rule review process set forth in the State Administrative Procedure Act. The rule review process in Colorado is an example of the "checks and balances" between the legislative and executive branches of state government.

What are rule reviewers looking for?

Review of a rule by the OLLS takes into account a number of factors, from the procedural - were certain time deadlines met? - to the more substantive issues, such as whether a rule conflicts with a statutory provision enacted by the legislature or whether an agency's rule goes beyond the authority granted it by the General Assembly. Some issues also require that the rules be checked against the Colorado Constitution, as well as federal regulations and statutes and even the United States Constitution.

What happens when a problem with a rule is found?

OLLS staff conduct an internal analysis to determine if a potential rule problem is an actual rule problem. If staff believes there is a problem with the rule, an agency representative is contacted. The representative will have an opportunity to explain the rationale for the rule. In many instances, this clarification is sufficient, and the rule is allowed to continue in force.

In other cases, however, the reason given by the agency does not explain away the problem with the rule. In this situation, there are two possible options. First, the agency may agree there is a problem with the rule and that the rule should be deleted or amended. A separate rulemaking effort is then initiated by the agency.

The second scenario occurs if the agency continues to believe its rule is proper while OLLS staff believes it is not. This rule issue is then set for hearing before the Committee on Legal Services.

What is the role of the Committee on Legal Services?

The Committee on Legal Services is composed of ten members, five from the House of Representatives and five from the Senate. It usually meets to discuss rule issues at a series of meetings in the fall of each year. It may also hear rule issues at its meetings during the regular legislative session.

A hearing on a rule issue begins with a presentation by an OLLS staff member outlining the problems with the rule. This is followed by a representative of the agency, or perhaps an assistant attorney general, speaking in defense of the rule. Any other interested parties are given the opportunity to address the Committee at this time.

The Committee on Legal Services does not try to determine whether the rule is good or bad policy. Rather, it limits its analysis to the narrow question of whether the agency has the legal authority to promulgate the rule in question. If the Committee believes the rule is proper, it will vote to allow the rule to continue. If the Committee determines that the rule is in conflict with a statute or exceeds the agency's statutory authority, the vote will specify that this rule will be allowed to expire the following May 15.

Is the action by the Committee on Legal Services the final step?

No. The rule review bill introduced in the following legislative session will specifically list those rules that have been deemed improper by action of the Committee and will designate them for expiration. The expiration of all other rules is postponed, allowing them to continue in effect past the May 15 expiration date set in the APA.

The rule review bill must be passed by both houses of the General Assembly and signed by the Governor. It must go through the same process as any other piece of legislation, where it is subject to amendment in committee and on the floor. When enacted, this legislation has the effect of preserving the vast majority of agency rules while causing only those acted on by the Committee on Legal Services to expire.

C.R.S.A. § 24-4-108

§ 24-4-108. Legislative consideration of rules

(1) Unless extended by the general assembly acting by bill, all of the rules and regulations of the principal departments shall expire on the dates specified in this section.

(7) The general assembly, in its discretion, may postpone by bill the expiration of rules and regulations, or any portion thereof. Nothing in this section shall prohibit any action by the general assembly pursuant to [section 24-4-103\(8\)\(d\)](#). The postponement of the expiration of a rule shall not constitute legislative approval of the rule nor be admissible in any court as evidence of legislative intent. The committee on legal services is authorized to establish procedures for the implementation of review of rules and regulations contemplated by this section including, but not limited to, a procedure for annual review of rules and regulations which may conflict with statutes or statutory changes adopted subsequent to review of a department's rules and regulations pursuant to this section.

CONNECTICUT

<https://www.cga.ct.gov/rr/>

While the Legislative Regulation Review Committee has been in existence since 1972, it was a November 24, 1982 amendment to the State's Constitution which provided the authority for the General Assembly to adopt the current structure of the committee.

It is the responsibility of the Legislative Regulation Review Committee to review regulations proposed by state agencies and approve them before regulations are implemented. This position was adopted since all regulations have the force of law, and it is important that regulations do not contravene the legislative intent, or conflict with current state or federal laws, or state or federal constitutions.

This joint bipartisan committee is made up of 14 members: 6 senators and 8 representatives divided equally by party. In keeping with the bipartisan nature of the committee the chairmanship of the committee changes every two years. Pairing either a Senate Democrat and a House Republican or a Senate Republican and a House Democrat as co-chairs.

Statutes were significantly revised in 2016;
<https://www.cga.ct.gov/2016/ACT/pa/2016PA-00058-R00HB-05498-PA.htm>

Substitute House Bill No. 5498

Public Act No. 16-58

C.G.S.A. § 4-170

§ 4-170. Legislative regulation review committee. Submission requirements for regulations. Disapproved regulations. Resubmitted regulations

(a) There shall be a standing legislative committee to review all regulations of the several state departments and agencies following the proposal thereof, which shall consist of eight members of the House of Representatives, four from each major party, to be appointed on the first Wednesday after the first Monday in January in the odd-numbered years, by the speaker of said House, and six members of the Senate, three from each major party, to be appointed on or before said dates by the president pro tempore of the Senate. The members shall serve for the balance of the term for which they were elected. . .

(c) The committee shall review all proposed regulations and, in its discretion, may hold public hearings on any proposed regulation and may approve, disapprove or reject without prejudice, in whole or in part, any such regulation. If the committee fails to so approve, disapprove or reject without prejudice a proposed regulation, within sixty-five days after the date of submission as provided in subsection (b) of this section, the committee shall be deemed to have approved the proposed regulation for purposes of this section.

(d) If the committee disapproves a proposed regulation in whole or in part, it shall give notice of the disapproval and the reasons for the disapproval to the agency, and no agency shall thereafter issue any regulation or directive or take other action to implement such disapproved regulation, or part thereof, as the case may be, except that the agency may adopt a substantively new regulation in accordance with the provisions of this chapter, provided the General Assembly may reverse such disapproval under the provisions of [section 4-171](#). If the committee disapproves any regulation proposed for the purpose of implementing a federally subsidized or assisted program, the General Assembly shall be required to either sustain or reverse the disapproval.

(e) If the committee rejects a proposed regulation without prejudice, in whole or in part, it shall notify the agency of the reasons for the rejection and the agency, following approval by the Attorney General for legal sufficiency pursuant to [section 4-169](#), shall resubmit the regulation in revised form to the committee, if the adoption of such regulation is required by the general statutes or any public or special act, not later than the first Tuesday of the second month following such rejection without prejudice and may so resubmit any other regulation, in the same manner as provided in this section for the initial submission. Each resubmission under this subsection shall include a summary of revisions identified by paragraph. The committee shall review and take action on such resubmitted regulation no later than thirty-five days after the date of submission, as provided in subsection (b) of this section. Posting of the notice on the eRegulations System pursuant to the provisions of [section 4-168](#) shall not be required in the case of such resubmission.

(f) If an agency fails to submit any regulation approved in whole or in part by the standing legislative regulation review committee to the office of the Secretary of the State as provided in [section 4-172](#), not later than fourteen days after the date of approval, the agency shall notify the committee, not later than five days after such fourteen-day period, of its reasons for failing to submit such regulation. If any agency fails to comply with the time limits established under subsection (c) of [section 4-168](#), or under subsection (e) of this section, the administrative head of such agency shall submit to the committee a written explanation of the reasons for such noncompliance. The committee, upon the affirmative vote of two-thirds of its members, may grant an extension of the time limits established under subsection (c) of [section 4-168](#) and under subsection (e) of this section. If no such extension is granted, the administrative head of the agency shall personally appear before the standing legislative regulation review committee, at a time prescribed by the committee, to explain such failure to comply. After any such appearance, the committee may, upon the affirmative vote of two-thirds of its members, report such noncompliance to the Governor. Not later than fourteen days thereafter, the Governor shall report to the committee concerning the action the Governor has taken to ensure compliance with the provisions of [section 4-168](#) and with the provisions of this section.

DELAWARE

29 Del.C. § 1131. Legislative findings

The General Assembly has conferred on boards, commissions, departments and other agencies of the Executive Branch of State Government the authority to adopt regulations. The General Assembly has found that this delegation of authority has resulted in regulations being promulgated without effective review or oversight and conformity to legislative intent. The General Assembly finds that they must provide a procedure of oversight and review of regulations pursuant to this delegation of legislative power to curtail excessive regulations and to establish a system of accountability. It is the intent of this subchapter to establish an effective method of ongoing review, accountability and oversight of regulations. It is further the intent of this subchapter to provide review by requiring a comment period following the proposal of regulations and requiring the agency to review any comments submitted.

29 Del.C. § 10141. Review of regulations

- (a) Any person aggrieved by and claiming the unlawfulness of any regulation may bring an action in the Court for declaratory relief.
- (b) No action of an agency with respect to the making or consideration of a proposed adoption, amendment or repeal of a regulation shall be subject to review until final agency action on the proposal has been taken.
- (c) When any regulation is the subject of an enforcement action in the Court, the lawfulness of such regulation may be reviewed by the Court as a defense in the action.
- (d) Except as provided in subsection (c) of this section, no judicial review of a regulation is available unless a complaint therefor is filed in the Court within 30 days of the day the agency order with respect to the regulation was published in the Register of Regulations.
- (e) Upon review of regulatory action, the agency action shall be presumed to be valid and the complaining party shall have the burden of proving either that the action was taken in a substantially unlawful manner and that the complainant suffered prejudice thereby, or that the regulation, where required, was adopted without a reasonable basis on the record or is otherwise unlawful. The Court, when factual determinations are at issue, shall take due account of the experience and specialized competence of the agency and of the purposes of the basic law under which the agency acted.

FLORIDA

F.S.A. § 120.545 Committee review of agency rules.

(1) As a legislative check on legislatively created authority, the committee shall examine each proposed rule, except for those proposed rules exempted by s. 120.81(1)(e) and (2), and its accompanying material, and each emergency rule, and may examine any existing rule, for the purpose of determining whether:

- (a) The rule is an invalid exercise of delegated legislative authority.
- (b) The statutory authority for the rule has been repealed.
- (c) The rule reiterates or paraphrases statutory material.
- (d) The rule is in proper form.

(e) The notice given prior to its adoption was sufficient to give adequate notice of the purpose and effect of the rule.

(f) The rule is consistent with expressed legislative intent pertaining to the specific provisions of law which the rule implements.

(g) The rule is necessary to accomplish the apparent or expressed objectives of the specific provision of law which the rule implements.

(h) The rule is a reasonable implementation of the law as it affects the convenience of the general public or persons particularly affected by the rule.

(i) The rule could be made less complex or more easily comprehensible to the general public.

(j) The rule's statement of estimated regulatory costs complies with the requirements of [s. 120.541](#) and whether the rule does not impose regulatory costs on the regulated person, county, or city which could be reduced by the adoption of less costly alternatives that substantially accomplish the statutory objectives.

(k) The rule will require additional appropriations.

(l) If the rule is an emergency rule, there exists an emergency justifying the adoption of such rule, the agency is within its statutory authority, and the rule was adopted in compliance with the requirements and limitations of [s. 120.54\(4\)](#).

(2) The committee may request from an agency such information as is reasonably necessary for examination of a rule as required by subsection (1).

The committee shall consult with legislative standing committees having jurisdiction over the subject areas. If the committee objects to a rule, the committee shall, within 5 days after the objection, certify that fact to the agency whose rule has been examined and include with the certification a statement detailing its objections with particularity. The committee shall notify the Speaker of the House of Representatives and the President of the Senate of any objection to an agency rule concurrent with certification of that fact to the agency. Such notice shall include a copy of the rule and the statement detailing the committee's objections to the rule.

(3) Within 30 days after receipt of the objection, if the agency is headed by an individual, or within 45 days after receipt of the objection, if the agency is headed by a collegial body, the agency shall:

(a) If the rule is not yet in effect:

1. File notice pursuant to [s. 120.54\(3\)\(d\)](#) of only such modifications as are necessary to address the committee's objection;

2. File notice pursuant to [s. 120.54\(3\)\(d\)](#) of withdrawal of the rule; or

3. Notify the committee in writing that it refuses to modify or withdraw the rule.

(b) If the rule is in effect:

1. File notice pursuant to [s. 120.54\(3\)\(a\)](#), without prior notice of rule development, to amend the rule to address the committee's objection;

2. File notice pursuant to [s. 120.54\(3\)\(a\)](#) to repeal the rule; or

3. Notify the committee in writing that the agency refuses to amend or repeal the rule.

(c) If the objection is to the statement of estimated regulatory costs:

1. Prepare a corrected statement of estimated regulatory costs, give notice of the availability of the corrected statement in the first available issue of the Florida Administrative Register, and file a copy of the corrected statement with the committee; or

2. Notify the committee that it refuses to prepare a corrected statement of estimated regulatory costs.

(4) Failure of the agency to respond to a committee objection to a rule that is not yet in effect within the time prescribed in subsection (3) constitutes withdrawal of the rule in its entirety. In this event, the committee shall notify the Department of State that the agency, by its failure to respond to a committee objection, has elected to withdraw the rule. Upon receipt of the committee's notice, the Department of State shall publish a notice to that effect in the next available issue of the Florida Administrative Register. Upon publication of the notice, the rule shall be stricken from the files of the Department of State and the files of the agency.

(5) Failure of the agency to respond to a committee objection to a rule that is in effect within the time prescribed in subsection (3) constitutes a refusal to amend or repeal the rule.

(6) Failure of the agency to respond to a committee objection to a statement of estimated regulatory costs within the time prescribed in subsection (3) constitutes a refusal to prepare a corrected statement of estimated regulatory costs.

(7) If the committee objects to a rule and the agency refuses to modify, amend, withdraw, or repeal the rule, the committee shall file with the Department of State a notice of the objection, detailing with particularity the committee's objection to the rule. The Department of State shall publish this notice in the Florida Administrative Register. If the rule is published in the Florida Administrative Code, a reference to the committee's objection and to the issue of the Florida Administrative Register in which the full text thereof appears shall be recorded in a history note.

(8)(a) If the committee objects to a rule, or portion of a rule, and the agency fails to initiate administrative action to modify, amend, withdraw, or repeal the rule consistent with the objection within 60 days after the objection, or thereafter fails to proceed in good faith to complete such action, the committee may submit to the President of the Senate and the Speaker of the House of Representatives a recommendation that legislation be introduced to address the committee's objection.

(b) 1. If the committee votes to recommend the introduction of legislation to address the committee's objection, the committee shall, within 5 days after this determination, certify that fact to the agency whose rule or proposed rule has been examined. The committee may request that the agency temporarily suspend the rule or suspend the adoption of the proposed rule, pending consideration of proposed legislation during the next regular session of the Legislature.

2. Within 30 days after receipt of the certification, if the agency is headed by an individual, or within 45 days after receipt of the certification, if the agency is headed by a collegial body, the agency shall:

- a. Temporarily suspend the rule or suspend the adoption of the proposed rule; or
- b. Notify the committee in writing that the agency refuses to temporarily suspend the rule or suspend the adoption of the proposed rule.

3. If the agency elects to temporarily suspend the rule or suspend the adoption of the proposed rule, the agency shall give notice of the suspension in the Florida Administrative Register. The rule or the rule adoption process shall be suspended upon publication of the notice. An agency may not base any agency action on a suspended rule or suspended proposed rule, or portion of such rule, prior to expiration of the suspension. A suspended rule or suspended proposed rule, or portion of such rule, continues to be subject to administrative determination and judicial review as provided by law.

4. Failure of an agency to respond to committee certification within the time prescribed by subparagraph 2. constitutes a refusal to suspend the rule or to suspend the adoption of the proposed rule.

(c) The committee shall prepare proposed legislation to address the committee's objection in accordance with the rules of the Senate and the House of Representatives for prefiling and introduction in the next regular session of the Legislature. The proposed legislation shall be presented to the President of the Senate and the Speaker of the House of Representatives with the committee recommendation.

(d) If proposed legislation addressing the committee's objection fails to become law, any temporary agency suspension shall expire.

IDAHO

67-5291. Legislative review of rules. (1) The standing committees of the legislature may review temporary, pending and final rules which have been published in the bulletin or in the administrative code. If reviewed, the standing committee which reviewed the rules shall report to the membership of the body its findings and recommendations concerning its review of

the rules. If ordered by the presiding officer, the report of the committee shall be printed in the journal. A concurrent resolution may be adopted approving the rule, in whole or in part, or rejecting the rule where it is determined that the rule, or part of the rule, is not consistent with the legislative intent of the statute that the rule was written to interpret, prescribe, implement or enforce, or where it is determined that any rule, or part of a rule, previously promulgated and reviewed by the legislature shall be deemed not to be consistent with the legislative intent of the statute the rule was written to interpret, prescribe, implement or enforce. The rejection of a rule, or part of a rule, by the legislature via concurrent resolution shall prevent the agency's intended action from remaining in effect beyond the date of the legislative action. It shall be the responsibility of the secretary of state to immediately notify the affected agency of the filing and effective date of any concurrent resolution enacted to approve or reject, in whole or in part, an agency rule and to transmit a copy of the concurrent resolution to the director of the agency for promulgation. The agency shall be responsible for implementing legislative intent as expressed in the concurrent resolution, including, as appropriate, the reinstatement of the prior rule, if any, in the case of legislative rejection of a new rule. If a rule, or part of a rule, has been rejected by the legislature, the agency shall publish notice of such rejection in the bulletin. Except as provided in section [67-5226](#), Idaho Code, with respect to temporary rules, every rule promulgated within the authority conferred by law, and in accordance with the provisions of [chapter 52, title 67](#), Idaho Code, and made effective pursuant to section [67-5224\(5\)](#), Idaho Code, shall remain in full force and effect until the same is rejected by concurrent resolution, or until it expires as provided in section [67-5292](#), Idaho Code, or by its own terms.

(2) For purposes of this section, "part of a rule" means a provision in a rule that is designated either numerically or alphabetically or the entirety of any new or amended language contained therein.

67-5292. Expiration of administrative rules. (1) Notwithstanding any other provision of this chapter to the contrary, every rule adopted and becoming effective after June 30, 1990, shall automatically expire on July 1 of the following year unless the rule is extended by statute. Extended rules shall then continue to expire annually on July 1 of each succeeding year unless extended by statute in each such succeeding year.

(2) All rules adopted prior to June 30, 1990, shall expire on July 1, 1991, unless extended by statute. Thereafter, any rules which are extended shall then continue to expire annually on July 1 of each succeeding year unless extended by statute in each succeeding year.

(3) This section is a critical and integral part of this chapter. If any portion of this section or the application thereof to any person or circumstance is held invalid, the invalidity shall be deemed to affect all rules adopted subsequent to the effective date of this act and such rules shall be deemed null, void and of no further force and effect.

67-5278. Declaratory judgment on validity or applicability of rules. (1) The validity or applicability of a rule may be determined in an action for declaratory judgment in the district court, if it is alleged that the rule, or its threatened application interferes with or impairs, or threatens to interfere with or impair, the legal rights or privileges of the petitioner.

(2) The agency shall be made a party to the action.

(3) A declaratory judgment may be rendered whether or not the petitioner has requested the agency to pass upon the validity or applicability of the rule in question.

GEORGIA

Ga. Code Ann., § 45-20-3.1. Procedures for adoption of rules or regulations [in article on personnel administration]

(a) At least 30 days prior to the date of a public hearing held by the [state personnel] board to consider the adoption of rules or regulations to effectuate this chapter, the commissioner [of administrative services] shall transmit a notice containing an exact copy of the proposed rule or regulation to each member of the Senate Government Oversight Committee and the House Committee on Governmental Affairs. The notice shall provide a citation to the authority pursuant to which the proposed rule or regulation is to be adopted and, if it amends an existing rule or regulation, such existing rule or regulation shall be clearly identified. The notice shall also state the date, time, and place of the public hearing at which adoption of the proposed rule shall be considered.

(b) If, prior to the date of the public hearing at which the proposed rule or regulation is to be considered for adoption, the chairperson of either legislative committee specified in subsection (a) of this Code section notifies the commissioner that the committee objects to the adoption of the proposed rule or regulation or has questions concerning the purpose, nature, or necessity of the proposed rule or regulation, it shall be the duty of the commissioner to consult with the committee prior to the board's adoption of the proposed rule or regulation.

(c) If the commissioner finds that the immediate adoption of a rule or regulation is necessary to secure or protect the interests of the DOAS, such rule or regulation may be adopted by the board on an emergency basis without following the procedures required by subsections (a) and (b) of this Code section. In that event, the commissioner shall present a resolution to the board for adoption declaring the existence of an emergency and explaining the basis for such declaration as a condition necessary to adopt a rule or regulation on an emergency basis. Any rule or regulation adopted pursuant to the authority of this subsection shall expire in not more than 120 days immediately following its adoption, but the adoption of an identical rule pursuant to the requirements of this Code section shall not be precluded.

(d) Each rule or regulation adopted by the board shall become effective upon approval by the Governor. The commissioner shall immediately file an original and two copies of the rule or regulation in the office of the Secretary of State.

....

Office of Legislative Counsel, Interim Duties

The attorneys in the Office of Legislative Counsel also write and provide official opinions to the legislature's members and officers regarding constitutional or statutory interpretation, whether related to new legislation or existing law. Upon request (typically from the relevant chairperson), the attorneys also review executive branch agency rules for statutory authorization and compliance.

HAWAII

HRS § 91-3. Procedure for adoption, amendment, or repeal of rules

(a) Except as otherwise provided in this section, prior to the adoption of any rule authorized by law, or the amendment or repeal thereof, the adopting agency shall:

(1) Give at least thirty days' notice for a public hearing. The notice shall include:

(A) A statement of the topic of the proposed rule adoption, amendment, or repeal or a general description of the subjects involved; and

(B) A statement that a copy of the proposed rule to be adopted, the proposed rule amendment, or the rule proposed to be repealed will be mailed to any interested person who requests a copy, pays the required fees for the copy and the postage, if any, together with a description of where and how the requests may be made;

(C) A statement of when, where, and during what times the proposed rule to be adopted, the proposed rule amendment, or the rule proposed to be repealed may be reviewed in person; and

(D) The date, time, and place where the public hearing will be held and where interested persons may be heard on the proposed rule adoption, amendment, or repeal.

The notice shall be mailed to all persons who have made a timely written request of the agency for advance notice of its rulemaking proceedings, given at least once statewide for state agencies and in the county for county agencies. Proposed state agency rules shall also be posted on the Internet as provided in [section 91-2.6](#); and

(2) Afford all interested persons opportunity to submit data, views, or arguments, orally or in writing. The agency shall fully consider all written and oral submissions respecting the proposed rule. The agency may make its decision at the public hearing or announce then the date when it intends to make its decision. Upon adoption, amendment, or repeal of a rule, the agency, if requested to do so by an interested person, shall issue a concise statement of the principal reasons for and against its determination. . . .

(d) The adoption, amendment, or repeal of any rule by any state agency shall be subject to the approval of the governor. The adoption, amendment, or repeal of any rule by any county agency shall be subject to the approval of the mayor of the county. This subsection shall not apply to the adoption, amendment, and repeal of the rules of the county boards of water supply. . . .

(f) . . . Any challenge to the validity of the adoption, amendment, or repeal of an administrative rule on the ground of noncompliance with statutory procedural requirements shall be forever barred unless the challenge is made in a proceeding or action, including an action pursuant to [section 91-7](#), that is begun within three years after the effective date of the adoption, amendment, or repeal of the rule.

ILLINOIS

Illinois Administrative Procedure Act, 5 ILCS 100/1-1 et seq.

5 ILCS 100/5-90

Formerly cited as IL ST CH 127 ¶ 1005-90

100/5-90. Joint Committee on Administrative Rules

§ 5-90. Joint Committee on Administrative Rules.

(a) The Joint Committee on Administrative Rules is established as a legislative support services agency subject to the Legislative Commission Reorganization Act of 1984.[1](#) When feasible, the agenda of each meeting of the Joint Committee shall be submitted to the Secretary of State to be published at least 5 days before the meeting in the Illinois Register. The Joint Committee may also weekly, or as often as necessary, submit for publication in the Illinois Register lists of the dates on which notices under Section 5-40 were received and the dates on which the proposed rulemakings will be considered. The provisions of this subsection shall not prohibit the Joint Committee from acting upon an item that was not contained in the published agenda.

(b) The Joint Committee may charge reasonable fees for copies of documents or publications to cover the cost of copying or printing. The Joint Committee shall, however,

provide copies of documents or publications without cost to agencies that are directly affected by recommendations or findings included in the documents or publications.

5 ILCS 100/5-100

100/5-100. Powers of the Joint Committee

§ 5-100. Powers of the Joint Committee. The Joint Committee shall have the following powers under this Act:

(a) The function of the Joint Committee shall be the promotion of adequate and proper rules by agencies and an understanding on the part of the public respecting those rules. This function shall be advisory only, except as provided in Sections 5-115 and 5-125.

(b) The Joint Committee may undertake studies and investigations concerning rulemaking and agency rules.

(c) The Joint Committee shall monitor and investigate agencies' compliance with the provisions of this 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 statutory authorization, economic and budgetary effects, and public policy.

(d) Hearings and investigations conducted by the Joint Committee under this Act may be held at times and places within the State as the Committee deems necessary.

(e) The Joint Committee may request from any agency an analysis of the following:

(1) The effect of a new rule, amendment, or repealer, including any direct economic effect on the persons regulated by the rule; any anticipated effect on the proposing agency's budget and the budgets of other State agencies; and any anticipated effects on State revenues.

(2) The agency's evaluation of the submissions presented to the agency under Section 5-40.

(3) A description of any modifications from the initially published proposal made in the finally accepted version of the intended rule, amendment, or repealer.

(4) The agency's justification and rationale for the intended rule, amendment, or repealer.

(f) Failure of the Joint Committee to object to any proposed rule, amendment, or repealer or any existing rule shall not be construed as implying direct or indirect approval of the rule or proposed rule, amendment, or repealer by the Joint Committee or the General Assembly.

5 ILCS 100/5-105

Formerly cited as IL ST CH 127 ¶ 1005-105

100/5-105. Responsibilities of the Joint Committee

§ 5-105. Responsibilities of the Joint Committee. The Joint Committee shall have the following responsibilities under this Act:

(a) The Joint Committee shall conduct a systematic and continuing study of the rules and rulemaking process of all State agencies, including those agencies not covered in Section 1-25, for the purpose of improving the rulemaking process, reducing the number and bulk of rules, removing redundancies and unnecessary repetitions, and correcting grammatical, typographical, and similar errors not affecting the construction or meaning of the rules. The Joint Committee shall make recommendations to the appropriate affected agency.

(b) The Joint Committee shall review the statutory authority on which any administrative rule is based.

(c) The Joint Committee shall maintain a review program to study the impact of legislative changes, court rulings, and administrative action on agency rules and rulemaking.

(d) The Joint Committee shall suggest rulemaking by an agency whenever the Joint Committee, in the course of its review of the agency's rules under this Act, determines that the agency's rules are incomplete, inconsistent, or otherwise deficient.

100/5-110. Responsibilities of the Joint Committee with respect to proposed rules, amendments, or repealers

(a) The Joint Committee shall examine any proposed rule, amendment to a rule, and repeal of a rule to determine whether the proposed rule, amendment to a rule, or repeal of a rule is within the statutory authority upon which it is based; whether the rule, amendment to a rule, or repeal of a rule is in proper form; and whether the notice was given before its adoption, amendment, or repeal and was sufficient to give adequate notice of the purpose and effect of the rule, amendment, or repeal. In addition, the Joint Committee may consider whether the agency has considered alternatives to the rule that are consistent with the stated objectives of both the applicable statutes and regulations and whether the rule is designed to minimize economic impact on small businesses.

(b) If the Joint Committee objects to a proposed rule, amendment to a rule, or repeal of a rule, it shall certify the fact to the issuing agency and include with the certification a statement of its specific objections.

(c) If within the second notice period the Joint Committee certifies its objections to the issuing agency, then that agency shall do one of the following within 90 days after receiving the statement of objection:

(1) Modify the proposed rule, amendment, or repealer to meet the Joint Committee's objections.

(2) Withdraw the proposed rule, amendment, or repealer in its entirety.

(3) Refuse to modify or withdraw the proposed rule, amendment, or repealer.

(d) If an agency elects to modify a proposed rule, amendment, or repealer to meet the Joint Committee's objections, it shall make those modifications that are necessary to meet the objections and shall resubmit the rule, amendment, or repealer to the Joint Committee. In addition, the agency shall submit a notice of its election to modify the proposed rule, amendment, or repealer to meet the Joint Committee's objections to the Secretary of State, and the notice shall be published in the first available issue of the Illinois Register, but the agency shall not be required to conduct a public hearing. If the Joint Committee determines that the modifications do not remedy the Joint Committee's objections, it shall so notify the agency in writing and shall submit a copy of that notification to the Secretary of State for publication in the next available issue of the Illinois Register. In addition, the Joint Committee may recommend legislative action as provided in subsection (g) for agency refusals.

(e) If an agency elects to withdraw a proposed rule, amendment, or repealer as a result of the Joint Committee's objections, it shall notify the Joint Committee in writing of its election and shall submit a notice of the withdrawal to the Secretary of State. The notice shall be published in the next available issue of the Illinois Register.

(f) Failure of an agency to respond to the Joint Committee's objections to a proposed rule, amendment, or repealer within the time prescribed in subsection (c) shall constitute withdrawal of the proposed rule, amendment, or repealer in its entirety. The Joint Committee shall submit a notice to that effect to the Secretary of State, and the notice shall be published in the next available issue of the Illinois Register. The Secretary of State shall refuse to accept for filing a certified copy of the proposed rule, amendment, or repealer under the provisions of Section 5-65.

(g) If an agency refuses to modify or withdraw the proposed rule, amendment, or repealer to remedy an objection stated by the Joint Committee, it shall notify the Joint Committee in writing of its refusal and shall submit a notice of refusal to the Secretary of State. The notice shall be published in the next available issue of the Illinois Register. If the Joint Committee decides to recommend legislative action in response to an agency refusal, then the Joint Committee shall have drafted and introduced into either house of the General Assembly appropriate legislation to implement the recommendations of the Joint Committee.

(h) No rule, amendment, or repeal of a rule shall be accepted by the Secretary of State for filing under Section 5-65, if the rulemaking is subject to this Section, until after the agency has responded to the objections of the Joint Committee as provided in this Section.

<http://www.ilga.gov/commission/jcar/>

The Joint Committee on Administrative Rules is a bipartisan legislative oversight committee created by the General Assembly in 1977. Pursuant to the Illinois Administrative Procedure Act, the committee is authorized to conduct systematic reviews of administrative rules promulgated by State agencies. JCAR conducts several integrated review programs, including a review program for proposed, emergency and peremptory rulemaking, a review of new Public Acts and a complaint review program.

JCAR is composed of 12 legislators who are appointed by the legislative leadership, with the membership apportioned equally between the two houses and the two political parties. It is co-chaired by 2 members representing each party and each legislative house. Support services for the committee are provided by the JCAR staff.

Two purposes of JCAR are to ensure that the General Assembly is adequately informed of how laws are implemented through agency rulemaking and to facilitate public understanding of rules and regulations. To that end, in addition to the review of new and existing rulemaking, JCAR monitors legislation that affects rulemaking and conducts a Public Act review to alert agencies to the need for rulemaking. It also publishes a weekly newsletter called *The Flinn Report* on the General Assembly website to inform and educate Illinois citizens about current rulemaking activity and maintains the State's database for the *Illinois Administrative Code* and *Illinois Register*.

From the document "Illinois Rulemaking Process"

Under the IAPA, the Joint Committee on Administrative Rules exercises oversight of the rulemaking process on behalf of the entire General Assembly to insure that agency rules meet the requirements of the IAPA and do not exceed the authority that the GA has granted to the agency in statute. The IAPA also requires any agency that implements discretion in administering a program to include in its rules the standards by which the agency shall exercise this power. If an agency is given, in statute, discretion to determine who shall receive a benefit (e.g., public assistance, a license or permit, a grant, a scholarship, a State contract) or a penalty (e.g., a fine, revocation of a license or permit, denial or termination of assistance), its rules must clearly spell out the standards that the agency will use to make these determinations.

INDIANA

IC 4-22-2-29 Adoption of rules; adoption of revised version of proposed rule

Sec. 29. (a) As used in this section, "small business ombudsman" refers to the small business ombudsman designated under [IC 5-28-17-6](#).

(b) After an agency has complied with [sections 26](#), 27, and 28 of this chapter, the agency may:

(1) adopt a rule that is identical to a proposed rule published in the Indiana Register under [section 24](#) of this chapter;

(2) subject to subsection (c), adopt a rule that consolidates part or all of two (2) or more proposed rules published in the Indiana Register under [section 24](#) of this chapter and considered under [section 27](#) of this chapter;

(3) subject to subsection (c), adopt part of one (1) or more proposed rules described in subdivision (2) in two (2) or more separate adoption actions; or

(4) subject to subsection (c), adopt a revised version of a proposed rule published under [section 24](#) of this chapter and include provisions that did not appear in the published version, including any provisions recommended by the small business ombudsman under [IC 4-22-2.1-6\(a\)](#), if applicable.

(c) An agency may not adopt a rule that substantially differs from the version or versions of the proposed rule or rules published in the Indiana Register under [section 24](#) of this chapter, unless it is a logical outgrowth of any proposed rule as supported by any written comments submitted:

(1) during the public comment period; or

(2) by the small business ombudsman under [IC 4-22-2.1-6\(a\)](#), if applicable.

IC 4-22-2-32 Review of rule by attorney general; approval or disapproval

Sec. 32. (a) The attorney general shall review each rule submitted under [section 31](#) of this chapter for legality.

(b) In the review, the attorney general shall determine whether the rule adopted by the agency complies with the requirements under [section 29](#) of this chapter. The attorney general shall consider the following:

(1) The extent to which all persons affected by the adopted rule should have understood from the published rule or rules that their interests would be affected.

(2) The extent to which the subject matter of the adopted rule or the issues determined in the adopted rule are different from the subject matter or issues that were involved in the published rule or rules.

(3) The extent to which the effects of the adopted rule differ from the effects that would have occurred if the published rule or rules had been adopted instead.

In the review, the attorney general shall consider whether the adopted rule may constitute the taking of property without just compensation to an owner.

(c) Except as provided in subsections (d) and (h), the attorney general shall disapprove a rule under this section only if it:

(1) has been adopted without statutory authority;

(2) has been adopted without complying with this chapter;

(3) does not comply with requirements under [section 29](#) of this chapter; or

(4) violates another law.

Otherwise, the attorney general shall approve the rule without making a specific finding of fact concerning the subjects.

(d) If an agency submits a rule to the attorney general without complying with [section 20\(a\)\(2\)](#) of this chapter, the attorney general may:

(1) disapprove the rule; or

(2) return the rule to the agency without disapproving the rule.

(e) If the attorney general returns a rule under subsection (d)(2), the agency may bring the rule into compliance with [section 20\(a\)\(2\)](#) of this chapter and resubmit the rule to the attorney general without readopting the rule.

(f) If the attorney general determines in the course of the review conducted under subsection (b) that a rule may constitute a taking of property, the attorney general shall advise the following:

- (1) The governor.
- (2) The agency head.

Advice given under this subsection shall be regarded as confidential attorney-client communication.

- (g) The attorney general has forty-five (45) days from the date that an agency:

- (1) submits a rule under section 31 of this chapter; or
- (2) resubmits a rule under subsection (e);

to approve or disapprove the rule. If the attorney general neither approves nor disapproves the rule, the rule is deemed approved, and the agency may submit it to the governor for approval under section 33 of this chapter without the approval of the attorney general.

- (h) For rules adopted under IC 13-14-9, the attorney general:

(1) shall determine whether the rule adopted by the agency under IC 13-14-9-9(2) is a logical outgrowth of the proposed rule as published under IC 13-14-9-5(a)(2) and of testimony presented at the board meeting held under IC 13-14-9-5(a)(3); and

- (2) may disapprove a rule under this section only if the rule:

(A) has been adopted without statutory authority;

(B) has been adopted without complying with this chapter or IC 13-14-9;

(C) is not a logical outgrowth of the proposed rule as published under IC 13-14-9-5(a)(2) and of the testimony presented at the board meeting held under IC 13-14-9-5(a)(3); or

(D) violates another law.

IC 4-22-2-34 Approval or disapproval of rule by governor

Sec. 34. (a) The governor may approve or disapprove a rule submitted under section 33 of this chapter with or without cause.

(b) The governor has fifteen (15) days from the date that an agency submits a rule under section 33 of this chapter to approve or disapprove the rule. However, the governor may take thirty (30) days to approve or disapprove the rule if the governor files a statement with the publisher within the first fifteen (15) days after an agency submits the rule that states that the governor intends to take an additional fifteen (15) days to approve or disapprove the rule. If the governor neither approves nor disapproves the rule within the allowed period, the rule is deemed approved, and the agency may submit the rule to the publisher without the approval of the governor.

IOWA

<https://www.legis.iowa.gov/law/administrativeRules/arrc>

<https://www.legis.iowa.gov/law/administrativeRules/howDoRulesWork>

from “Rulemaking Resources”

Both the Governor and the Legislature review agency rulemaking on an ongoing basis. The legislature’s Administrative Rules Review Committee (ARRC) meets monthly to review all proposed and “final” rules that are

currently in process. The public is welcome to attend these meetings and may make presentations on these rulemaking proposals. The Governor's Administrative Rules Coordinator also sits on the committee as an ex-officio non voting member.

Both the Governor and the ARRC can "object" to any rule. In effect an "objection" is a written opinion that either the Governor or the ARRC finds a rule to be unlawful. If the rule is later challenged in court, the objection requires the agency to come forward and to prove the validity of its rule. The Governor can rescind any proposed rule up to 70 days after it has become effective. The committee can delay the effective date of a proposed rule pending additional review by the legislature itself. The legislature may rescind any administrative rule by joint action of the two houses.

Ch. 17A Iowa Administrative Procedure Act, I.C.A. 17A.4A et seq.

17A.8 Administrative rules review committee.

1. There is created the "Administrative Rules Review Committee." The committee shall be bipartisan and shall be composed of the following members:

a. Three senators appointed by the majority leader of the senate and two senators appointed by the minority leader of the senate.

b. Three representatives appointed by the speaker of the house of representatives and two representatives appointed by the minority leader of the house of representatives.

2. A committee member shall be appointed prior to the adjournment of a regular session convened in an odd-numbered year. The term of office shall be for four years beginning May 1 of the year of appointment. . . .

6. The committee shall meet for the purpose of selectively reviewing rules, whether proposed or in effect. A regular or special committee meeting shall be open to the public and an interested person may be heard and present evidence. The committee may require a representative of an agency whose rule or proposed rule is under consideration to attend a committee meeting.

7. The committee may refer a rule to the speaker of the house and the president of the senate at the next regular session of the general assembly. The speaker and the president shall refer such a rule to the appropriate standing committee of the general assembly.

8. If the committee finds objection to a rule, it may utilize the procedure provided in **section 17A.4, subsection 6**. In addition or in the alternative, the committee may include in the referral, under **subsection 7**, a recommendation that this rule be overcome by statute. If the committee of the general assembly to which a rule is referred finds objection to the referred rule, it may recommend to the general assembly that this rule be overcome by statute. **This section** shall not be construed to prevent a committee of the general assembly from reviewing a rule on its own motion.

9. a. Upon a vote of two-thirds of its members, the administrative rules review committee may delay the effective date of a rule or portion of a rule until the adjournment of the next

regular session of the general assembly, unless the rule was promulgated under section 17A.5, subsection 2, paragraph "b". If the rule was promulgated under section 17A.5, subsection

2, paragraph "b", the administrative rules review committee, within thirty-five days of the effective date of the rule and upon the vote of two-thirds of its members, may suspend the applicability of the rule or portion of the rule until the adjournment of the next regular session of the general assembly.

b. The committee shall refer a rule or portion of a rule whose effective date has been delayed or applicability has been suspended to the speaker of the house of representatives and the president of the senate who shall refer the delayed or suspended rule or portion of the rule to the appropriate standing committees of the general assembly. A standing committee shall review the rule within twenty-one days after the rule is referred to the committee by the speaker of the house of representatives or the president of the senate and shall take formal committee action by sponsoring a joint resolution to disapprove the rule, by proposing legislation relating to the rule, or by refusing to propose a joint resolution or legislation concerning the rule. The standing committee shall inform the administrative rules review committee of the committee action taken concerning the rule. If the general assembly has not disapproved of the rule by a joint resolution, the rule shall become effective. The speaker of the house of representatives and the president of the senate shall notify the administrative code editor of the final disposition of each rule or portion of a rule whose effective date has been delayed or whose applicability has been suspended pursuant to this subsection. If the rule is disapproved, the rule shall not be effective and the agency shall rescind the rule.

[C54, 58, 62, §17A.2; C66, 71, 73, §17A.2 – 17A.4, 17A.10; C75, 77, 79, 81, §17A.8]

86 Acts, ch 1245, §2024, 2039; 91 Acts, ch 258, §21 – 23; 95 Acts, ch 49, §1; 98 Acts, ch 1202, §12, 46; 2003 Acts, ch 35, §30, 49; 2008 Acts, ch 1031, §97; 2008 Acts, ch 1156, §19, 58; 2012 Acts, ch 1138, §20; 2013 Acts, ch 114, §4

KENTUCKY

[https://legislature.ky.gov/Committees/Pages/Committee-Details.aspx?
CommitteeRSN=3&CommitteeType=Statutory%20Committee](https://legislature.ky.gov/Committees/Pages/Committee-Details.aspx?CommitteeRSN=3&CommitteeType=Statutory%20Committee)

Statutory Committee
Administrative Regulation Review Sub.

Jurisdiction

Review and comment upon administrative regulations submitted to it by the Legislative Research Commission; make nonbinding determinations concerning the statutory authority to promulgate administrative regulations filed with the Legislative Research Commission; review existing administrative regulations; recommend the amendment, repeal, or enactment of statutes relating to administrative regulations; conduct a continuous study of the administrative regulations procedure and the needs of administrative bodies; study statutes relating to administrative hearings; and make legislative recommendations.

KRS § 13A.290

13A.290 Review by Administrative Regulation Review Subcommittee; review by interim joint committee or standing committee with subject matter jurisdiction

(1) (a) Except as provided by [KRS 158.6471](#) and [158.6472](#), the Administrative Regulation Review Subcommittee shall meet monthly to review administrative regulations prior to close of business on the fifteenth day of the calendar month.

(b) The agenda shall:

1. Include each administrative regulation that completed the public comment process;
2. Include each administrative regulation for which a statement of consideration was received on or before 12 noon, eastern time, on the fifteenth day of the prior calendar month;
3. Include each effective administrative regulation that the subcommittee has decided to review;
4. Include each administrative regulation that was deferred from the prior month's meeting of the subcommittee; and
5. Not include an administrative regulation that is deferred, withdrawn, expired, or automatically taken off the agenda under the provisions of this chapter.

(c) Review of an administrative regulation shall include the entire administrative regulation and all attachments filed with the administrative regulation. The review of amendments to existing administrative regulations shall not be limited to only the changes proposed by the promulgating administrative body.

(2) The meetings shall be open to the public.

(3) Public notice of the time, date, and place of the Administrative Regulation Review Subcommittee meeting shall be given in the Administrative Register.

(4) (a) A representative of the administrative body for an administrative regulation under consideration shall be present to explain the administrative regulation and to answer questions thereon.

(b) If a representative of the administrative body with authority to amend a filed administrative regulation is not present at the subcommittee meeting, the administrative regulation shall be deferred to the next regularly scheduled meeting of the subcommittee.

(c) If a representative of an administrative body for an effective administrative regulation fails to appear before the subcommittee, the subcommittee may:

1. Defer the administrative regulation to the next regularly scheduled meeting of the subcommittee; or

2. Make a nonbinding determination pursuant to [KRS 13A.030\(2\)](#), [\(3\)](#), and [\(4\)](#).

(5) Following the meeting and before the next regularly scheduled meeting of the Commission, the Administrative Regulation Review Subcommittee shall forward to the Commission its findings, recommendations, or other comments it deems appropriate in writing. The Administrative Regulation Review Subcommittee shall also forward to the Commission its findings, recommendations, or other comments it deems appropriate on an effective administrative regulation it has reviewed. The Administrative Regulation Review Subcommittee's findings shall be published in the Administrative Register.

(6) (a) After review by the Administrative Regulation Review Subcommittee, the Commission shall, on the first Wednesday of the following month, or if the first Wednesday is a legal holiday, the next workday of the month, assign a filed administrative regulation to:

1. An interim joint committee with subject matter jurisdiction; or
2. The Senate and House standing committees with subject matter jurisdiction.

(b) Upon notification of the assignment by the Commission, the legislative subcommittee to which the administrative regulation is assigned shall notify the regulations compiler:

1. Of the date, time, and place of the meeting at which it will consider the administrative regulation; or

2. That it will not meet to consider the administrative regulation.

(7) (a) Within ninety (90) days of the assignment, the subcommittee may hold a public meeting during which the administrative regulation shall be reviewed.

(b) If the ninetieth day of the assignment falls on a Saturday, Sunday, or holiday, the deadline for review shall be the workday following the Saturday, Sunday, or holiday.

(c) 1. If the administrative regulation is assigned to an interim joint committee and a session of the General Assembly begins during the review period, the assignment shall transfer to the Senate and House standing committees with subject matter jurisdiction.

2. If the administrative regulation is assigned to Senate and House standing committees and a session of the General Assembly adjourns sine die during the review period, the assignment shall transfer to the interim joint committee with subject matter jurisdiction.

3. An administrative regulation may be transferred more than one (1) time under this paragraph. A transfer shall not extend the review period established by this subsection.

(d) Notice of the time, date, and place of the meeting shall be placed in the legislative calendar.

(8) Except as provided in subsection (9) of this section, a subcommittee shall be empowered to make the same nonbinding determinations and to exercise the same authority as the Administrative Regulation Review Subcommittee.

(9) (a) This subsection shall apply to administrative regulations filed with the Commission.

(b) A majority of the entire membership of the subcommittee to which an administrative regulation is referred pursuant to subsection (6)(a) of this section shall constitute a quorum for purposes of reviewing administrative regulations.

(c) In order to amend an administrative regulation pursuant to [KRS 13A.320](#), defer an administrative regulation pursuant to [KRS 13A.300](#), or find an administrative regulation deficient pursuant to [KRS 13A.030\(2\)](#), [\(3\)](#), and [\(4\)](#), the motion to amend, defer, or find deficient shall be approved by a majority of the entire membership of the subcommittee. Additionally, during a session of the General Assembly, standing committees of the Senate and House of Representatives shall agree in order to amend an administrative regulation, defer an administrative regulation, or find an administrative regulation deficient by:

1. Meeting separately; or

2. Meeting jointly. If the standing committees meet jointly, it shall require a majority vote of Senate members voting and a majority of House members voting, as well as the majority vote of the entire membership of the standing committees meeting jointly, in order to take action on the administrative regulation.

(10) (a) The quorum requirements of subsection (9)(b) of this section shall apply to an effective administrative regulation under review by a subcommittee.

(b) A motion to find an effective administrative regulation deficient shall be approved by:

1. A majority of the entire membership of the Administrative Regulation Review Subcommittee;

2. A majority of a House or Senate standing committee; or

3. A joint standing committee in accordance with subsection (9)(c)2. of this section.

(11) (a) Upon adjournment of the meeting at which a legislative subcommittee has considered an administrative regulation pursuant to subsection (7) or (10) of this section, the subcommittee shall inform the regulations compiler of its findings, recommendations, or other action taken on the administrative regulation.

(b) Following the meeting and before the next regularly scheduled meeting of the Commission, the subcommittee shall forward to the Commission its findings, recommendations, or other comments it deems appropriate in writing. The subcommittee's findings shall be published in the Administrative Register.

13A.3102 Expiration of administrative regulations

(1) An ordinary administrative regulation with a last effective date on or after March 1, 2013, shall expire seven (7) years after its last effective date, except as provided by the certification process in [KRS 13A.3104](#).

(2) An ordinary administrative regulation with a last effective date before March 1, 2013, shall expire on March 1, 2020, except as provided by the certification process in [KRS 13A.3104](#).

(3) For all administrative regulations that expire under this section or [KRS 13A.3104](#), the regulations compiler shall:

- (a) Delete them from the Kentucky Administrative Regulations Service;
- (b) Add them to the list of ineffective administrative regulations; and

(c) Beginning on September 1, 2020, and at least once every six (6) months thereafter, publish a list of administrative regulations that have expired since the most recent previous list was published under this paragraph.

(4) Within three (3) months of June 27, 2019, and at least once every six (6) months thereafter, the regulations compiler shall publish a list of existing administrative regulations and their corresponding last effective dates.

13A.3104 Certification process for avoiding expiration of administrative regulations

(1) If an administrative body does not want an administrative regulation to expire under [KRS 13A.3102](#), the administrative body shall:

(a) Review the administrative regulation in its entirety for compliance with current law governing the subject matter of the administrative regulation;

(b) Prior to the expiration date, file a certification letter with the regulations compiler stating whether the administrative regulation shall be amended or remain in effect without amendment; and

(c) Not be required to consider KRS Chapter 13A drafting and formatting requirements as part of its review.

(2) The certification letter shall be on the administrative body's official letterhead, in the format prescribed by the regulations compiler, and include the following information:

- (a) The name of the administrative body;
- (b) The number of the administrative regulation;
- (c) The title of the administrative regulation;
- (d) A statement that:

- 1. The administrative body shall be amending the administrative regulation; or
- 2. The administrative regulation shall remain in effect without amendment; and

- (e) A brief statement in support of the decision.

(3) (a) If the certification letter was filed pursuant to subsection (1)(b) of this section, stating that the administrative regulation shall be amended, the administrative body shall file an amendment to the administrative regulation in accordance with KRS Chapter 13A within eighteen (18) months of the date the certification letter was filed.

(b) If the amendment was filed in accordance with paragraph (a) of this subsection:

1. The administrative regulation shall not expire if it is continuing through the administrative regulations process; or

2. The administrative regulation shall expire on the date the amendment is withdrawn or otherwise ceases going through the administrative regulations process.

(c) Once the amendment is effective, the regulations compiler shall update the last effective date for that administrative regulation to reflect the amendment's effective date.

(4) If the certification letter was filed pursuant to subsection (1)(b) of this section, stating that the administrative regulation shall remain in effect without amendment, the regulations compiler shall:

(a) Update the administrative regulation's history line to state that a certification letter was received; and

(b) Change the last effective date of the administrative regulation to the date the certification letter was received.

(5) If filed by the deadline established in [KRS 13A.050\(3\)](#), the regulations compiler shall publish in the Administrative Register of Kentucky each certification letter received:

- (a) In summary format; or
- (b) In its entirety.

LOUISIANA

LSA-R.S. 49:968

§ 968. Review of agency rules; fees

A. It is the declared purpose of this Section to provide a procedure whereby the legislature may review the exercise of rule-making authority and the adoption, increasing, or decreasing of fees, extensions of the legislative lawmaking function, which it has delegated to state agencies.

B. Prior to the adoption, amendment, or repeal of any rule or the adoption, increase, or decrease of any fee, the agency shall submit a report relative to such proposed rule change or fee adoption, increase, or decrease to the appropriate standing committees of the legislature and the presiding officers of the respective houses as provided in this Section.

....

D. (1)(a) The chairman of each standing committee to which reports are submitted shall appoint an oversight subcommittee, which may conduct hearings on all rules that are proposed for adoption, amendment, or repeal and on all proposed fee adoptions, increases, or decreases. Any such hearing shall be conducted after any hearing is conducted by the agency pursuant to [R.S. 49:953\(A\)\(2\)](#).

(b) The agency shall submit a report to the subcommittee, in the same manner as the submittal of the report provided for in Subsection B of this Section, which shall include:

(i) A summary of all testimony at any hearing conducted pursuant to [R.S. 49:953\(A\)\(2\)](#).

(ii) A summary of all comments received by the agency, a copy of the agency's response to the summarized comments, and a statement of any tentative or proposed action of the agency resulting from oral or written comments received.

(iii) A revision of the proposed rule if any changes to the rule have been made since the report provided for in Subsection B of this Section was submitted, or a statement that no changes have been made.

(iv) A concise statement of the principal reasons for and against adoption of any amendments or changes suggested.

(c) The agency shall publish on its website public notice that the report required by Subparagraph (b) of this Paragraph has been delivered to the appropriate standing committee as provided for in Subsection B of this Section within one business day from submission of the report to the appropriate standing committee.

(2)(a) Except as provided in Paragraph (H)(2) of this Section, any subcommittee hearing on a proposed rule shall be held no earlier than five days and no later than thirty days following the day the report required by Subparagraph (1)(b) of this Subsection is received by the subcommittee.

(b) The oversight subcommittee may consist of the entire membership of the standing committee and shall consist of at least a majority of the membership of the standing committee, at the discretion of the chairman of the standing committee, with the concurrence of the speaker of the House of Representatives or the president of the Senate. House and Senate oversight subcommittees may meet jointly or separately to conduct hearings for purposes of rules review.

(3) At such hearings, the oversight subcommittees shall:

(a) Determine whether the rule change or action on fees is in conformity with the intent and scope of the enabling legislation purporting to authorize the adoption thereof.

(b) Determine whether the rule change or action on fees is in conformity and not contrary to all applicable provisions of law and of the constitution.

(c) Determine the advisability or relative merit of the rule change or action on fees.

(d) Determine whether the rule change or action on fees is acceptable or unacceptable to the oversight subcommittee.

E. (1)(a) Each such determination shall be made by the respective subcommittees of each house acting separately. Action by a subcommittee shall require the favorable vote of a majority of the members of the subcommittee who are present and voting, provided a quorum is present.

(b) No later than three weeks before the deadline for legislative oversight action, the chairman of the subcommittee may request, by letter, the consent of the subcommittee members to have a mail ballot instead of a meeting to consider a proposed rule or proposed fee action. If no objection is received within ten days of the chairman's request, the chairman shall cause a mail ballot to be sent to the members of the subcommittee. In order for the subcommittee to reject a proposed rule or proposed fee action, a majority of ballots returned to the chairman at least twenty-four hours prior to the deadline for legislative oversight action must disapprove the change. Any determination by the subcommittee shall be made within the period provided for oversight hearings in Paragraph (D)(2) of this Section.

(2) Failure of a subcommittee to conduct a hearing or to make a determination regarding any rule proposed for adoption, amendment, or repeal shall not affect the validity of a rule otherwise adopted in compliance with this Chapter.

F. (1) If either the House or Senate oversight subcommittee determines that a proposed rule change or proposed fee action is unacceptable, the respective subcommittee shall provide a written report which contains the following:

(a) A copy of the proposed rule or a statement of the amount of the proposed fee action.

(b) A summary of the determinations made by the subcommittee in accordance with Subsections D and E of this Section.

(2) The written report shall be delivered to the governor, the agency proposing the rule change, and the Louisiana Register no later than four days after the committee makes its determination.

G. After receipt of the report of the subcommittee, the governor shall have ten calendar days in which to disapprove the action taken by the subcommittee. If the action of the subcommittee is not disapproved by the governor within ten calendar days from the day the subcommittee report is delivered to him, the rule change shall not be adopted by the agency until it has been changed or modified and subsequently found acceptable by the subcommittee, or has been approved by the standing committee, or by the legislature by concurrent resolution. If a proposed rule change is determined to be unacceptable by an oversight committee and such determination is not disapproved by the governor as provided in this Section, the agency shall not propose a rule change or emergency rule that is the same or substantially similar to such disapproved proposed rule change nor shall the agency adopt an emergency rule that is the same or substantially similar to such disapproved proposed rule change within four months

after issuance of a written report by the subcommittee as provided in Subsection F of this Section nor more than once during the interim between regular sessions of the legislature.

H. (1) If both the House and Senate oversight subcommittees fail to find a proposed rule change unacceptable as provided herein, or if the governor disapproves the action of an oversight subcommittee within the time provided in R.S. 49:968(G), the proposed rule change may be adopted by the agency in the identical form proposed by the agency or with technical changes or with changes suggested by the subcommittee, provided at least ninety days and no more than twelve months have elapsed since notice of intent was published in the Louisiana Register.

(2) Substantive changes to a rule proposed for adoption, amendment, or repeal occur if the nature of the proposed rule is altered or if such changes affect additional or different substantive matters or issues not included in the notice required by [R.S. 49:953\(A\)\(1\)](#). Whenever an agency seeks to substantively change a proposed rule after notice of intent has been published in the Louisiana Register pursuant to [R.S. 49:953\(A\)\(1\)](#), the agency shall hold a public hearing on the substantive changes preceded by an announcement of the hearing in the Louisiana Register. A notice of the hearing shall be mailed within ten days after the date the announcement is submitted to the Louisiana Register to all persons who have made request of the agency for such notice. Any hearing by the agency pursuant to this Paragraph shall be held no earlier than thirty days after the publication of the announcement in the Louisiana Register. The agency hearing shall conform to [R.S. 49:953\(A\)\(2\)\(b\)](#), and a report on the hearing shall be made to the oversight committees in accordance with Subparagraph (D)(1)(b) of this Section. The agency shall make available to interested persons a copy of such report no later than one working day following the submittal of such report to the oversight committees. Any determination as to the rule by the oversight committees, prior to gubernatorial review as provided in Subsection G of this Section, shall be made no earlier than five days and no later than thirty days following the day the report required by this Paragraph is received from the agency.

(3) If a rule or part of a rule that is severable from a larger rule or body of rules proposed as a unit is found unacceptable, the rules or parts thereof found acceptable may be adopted by the agency in accordance with Paragraph (1) of this Subsection.

I. If the governor disapproves the action of an oversight subcommittee, he shall state written reasons for his action and shall deliver a copy of his reasons to the House and Senate oversight subcommittees, the agency proposing the rule change, and the Louisiana Register.

J. The Louisiana Register shall publish a copy of the written report of an oversight subcommittee and the written report of the governor in disapproving any such action, or if unduly cumbersome, expensive, or otherwise inexpedient, a notice stating the general subject matter of the omitted report and stating how a copy thereof may be obtained.

K. (1) Each year, no later than thirty days prior to the beginning of the regular session of the legislature, each agency shall submit a report to the appropriate committees as provided for in Subsection B of this Section. This report shall contain a statement of the action taken by the agency with respect to adoption, amendment, or repeal of each rule proposed for adoption, amendment, or repeal during the previous year and a report of the action taken by the agency with respect to any proposed fee adoption, increase, or decrease during the previous year.

(2) The report required by Paragraph (1) of this Subsection shall also contain a recitation of each petition and submission, if any, received by the agency pursuant to [R.S. 49:953\(C\)](#) during the previous calendar year and the agency's response to each petition and submission, if any were received.

L. After submission of the report required by Subsection K of this Section to the standing committee, a public hearing may be held by the committee for the purpose of reviewing the report with representatives of the agency.

M. No later than the second legislative day of the regular session of the legislature, a standing committee to which proposed rule changes or proposed fee changes are submitted may submit a report to the legislature. This report shall contain a summary of all action taken by

the committee or the oversight subcommittee with respect to agency rules and fees during the preceding twelve months. The report shall also contain any recommendations of the committee for statutory changes concerning the agency, particularly in statutes authorizing the making and promulgation of rules and fees of the agency.

N. A standing committee may, at any time, exercise the powers granted to an oversight subcommittee under the provisions of this Section.

MAINE

5 M.R.S.A. § 8071. Legislative review of certain agency rules

Except as otherwise provided in this subchapter, rules adopted pursuant to rule-making authorization delegated to an agency after January 1, 1996 are subject to the procedures of this subchapter and subchapter II.¹

1. Legislative action. All new rules authorized to be adopted by delegation of legislative authority that is enacted after January 1, 1996, including new rules authorized by amendment of provisions of laws in effect on that date, must be assigned by the Legislature to one of 2 categories and subject to the appropriate level of rule-making procedures as provided in this subchapter. The Legislature shall assign the category and level of review to all rules at the time it enacts the authorizing legislation. The Legislature may assign different categories and levels of review to different types of rules authorized by the same legislation.

2. Categories of rules. There are 2 categories of rules authorized for adoption after January 1, 1996.

A. Routine technical rules are procedural rules that establish standards of practice or procedure for the conduct of business with or before an agency and any other rules that are not major substantive rules as defined in paragraph B. Routine technical rules include, but are not limited to, forms prescribed by an agency; they do not include fees established by an agency except fees established or amended by agency rule that are below a cap or within a range established by statute.

B. Major substantive rules are rules that, in the judgment of the Legislature:

(1) Require the exercise of significant agency discretion or interpretation in drafting; or

(2) Because of their subject matter or anticipated impact, are reasonably expected to result in a significant increase in the cost of doing business, a significant reduction in property values, the loss or significant reduction of government benefits or services, the imposition of state mandates on units of local government as defined in the [Constitution of Maine, Article IX, Section 21](#), or other serious burdens on the public or units of local government.

3. Levels of rule-making process. In order to provide for maximum agency flexibility in the adoption of rules while retaining appropriate legislative oversight over certain rules that are expected to be controversial or to have a major impact on the regulated community, each agency rule authorized and adopted after January 1, 1996 is subject to one of 2 levels of rule-making requirements.

A. Routine technical rules are subject to the rule-making requirements of subchapter II only.

B. Major substantive rules are subject to the requirements of section 8072. After January 1, 1996, any grant of general or specific rule-making authority to adopt major substantive rules is considered to be permission only to provisionally adopt those rules subject to legislative review. Final adoption may occur only after legislative review of provisionally adopted rules as provided in section 8072.

The establishment or amendment of an agency fee by rulemaking is a major substantive rule, except for the establishment or amendment of a fee that falls under a cap or within a range set in statute, which is a routine technical rule.

5 M.R.S.A. § 8072. Legislative review of major substantive rules

As provided in section 8071, major substantive rules are subject to an increased level of rule-making requirements. The rule-making requirements of subchapter II [5 MRSA 8051 et seq.] for routine technical rules apply to the adoption of major substantive rules, except that the 120-day period for adoption and the 150-day period for approval as to form and legality under section 8052, subsection 7, paragraphs A and B apply to provisional adoption of major substantive rules, not final adoption. In addition to the other rule-making requirements, every major substantive rule is also subject to legislative review as provided in this section.

1. Preliminary adoption of major substantive rules. An agency proposing a major substantive rule other than an emergency rule, after filing the notice of proposed rulemaking required by section 8052, shall proceed with rule-making procedures to the point of, but not including, final adoption. At that point, known in this section as "provisional adoption," the agency shall file the provisionally adopted rule and related materials with the Secretary of State as provided in section 8056, subsection 1, paragraph B and submit the rule to the Legislature for review and authorization for final adoption as provided in this section. The rule has legal effect only after review by the Legislature followed by final adoption by the agency.

2. Submission of materials. At the time an agency provisionally adopts a rule, the agency shall submit to the Executive Director of the Legislative Council 20 copies of:

- A. The full text of the rule provisionally adopted by the agency with new language underlined and with language to be deleted from any existing rule stricken through but clearly legible;
- B. A concise summary of the content of the rule and a description and a copy of any existing rule the agency proposes to amend or repeal;
- C. A statement of the circumstances that require the rule;
- D. A statement of the economic impact of the rule on the State and its residents; and
- E. Any other information required by law.

3. Legislative review; legislative instrument prepared. If the required copies of the provisionally adopted rule and related information are received by the Executive Director of the Legislative Council during the legislative rule acceptance period, the Executive Director shall notify the Revisor of Statutes, who shall draft an appropriate legislative instrument to allow for legislative review and action upon the provisionally adopted rule during the legislative review session. The Secretary of the Senate and the Clerk of the House shall place the legislative instrument on the Advance Journal and Calendar. The secretary and clerk shall jointly suggest reference of the legislative instrument to a joint standing committee of the Legislature that has jurisdiction over the subject matter of the proposed rule and shall provide for publication of that suggestion in the Advance Journal and Calendar first in the Senate and then in the House of Representatives no later than the next legislative day following receipt of the legislative instrument. After floor action on referral of the legislative instrument to committee is completed, the Secretary of the Senate and the Clerk of the House of Representatives shall send copies of the rule and related information to each member of that committee. Each rule submitted for legislative review during the legislative rule acceptance period must be reviewed by the appropriate joint standing committee at a meeting called for that purpose in accordance with legislative rules. A committee may review more than one rule and the rules of more than one agency at a meeting. The committee shall notify the affected agency of the meeting on its proposed rules.

4. Committee review. The committee shall review each provisionally adopted rule and, in its discretion, may hold public hearings on that rule. A public hearing under this subsection

must be advertised in the same manner as required by legislative rules then in effect for advertisement of public hearings on proposed legislation. The committee's review must include, but is not limited to, a determination of:

- A. Whether the agency has exceeded the scope of its statutory authority in approving the provisionally adopted rule;
- B. Whether the provisionally adopted rule is in conformity with the legislative intent of the statute the rule is intended to implement, extend, apply, interpret or make specific;
- C. Whether the provisionally adopted rule conflicts with any other provision of law or with any other rule adopted by the same or a different agency;
- D. Whether the provisionally adopted rule is necessary to fully accomplish the objectives of the statute under which the rule was proposed;
- E. Whether the provisionally adopted rule is reasonable, especially as it affects the convenience of the general public or of persons particularly affected by it;
- F. Whether the provisionally adopted rule could be made less complex or more readily understandable for the general public;
- G. Whether the provisionally adopted rule was proposed in compliance with the requirements of this chapter and with requirements imposed by any other provision of law; and
- H. For a rule that is reasonably expected to result in a significant reduction in property values, whether sufficient variance provisions exist in law or in the rule to avoid an unconstitutional taking, and whether, as a matter of policy, the expected reduction is necessary or appropriate for the protection of the public health, safety and welfare advanced by the rule.

5. Committee recommendation. After reviewing a rule referred to it by the Legislature, the committee shall recommend:

- A. That the Legislature authorize the final adoption of the rule;
- B. That the Legislature authorize the final adoption of a specified part of the rule;
- C. That the Legislature authorize the final adoption of the rule with certain specified amendments; or
- D. That the final adoption of the rule be disapproved by the Legislature.

The committee shall notify the agency proposing the rule of its recommendation. When the committee makes a recommendation under paragraph B, C or D, the notice must contain a statement of the reasons for that recommendation.

6. Repealed. Laws 2011, c. 244, § 6.

7. Report to the Legislature. Unless otherwise provided by the Legislature, each joint standing committee of the Legislature that receives a rule submitted during the legislative rule acceptance period shall report to the Legislature its recommendations concerning final adoption of the rule no later than 30 days before statutory adjournment of the legislative review session as provided in Title 3, section 2.

8. Final adoption; effective date. Unless otherwise provided by law, final adoption of a rule or part of a rule by an agency must occur within 60 days of the effective date of the legislation approving that rule or part of that rule or of the adjournment of the session in which the Legislature failed to act on the rule or part of the rule as specified in subsection 11. Finally adopted rules must be filed with the Secretary of State as provided in section 8056, subsection 1, paragraph B and notice must be published as provided in section 8056, subsection 1, paragraph D. Except as otherwise specified by law, the rules become effective 30 days after filing with the Secretary of State or at a later date specified by the agency.

9. Consideration at special session. If appropriate, the committee recommendation regarding an agency rule or rules may be submitted to and considered by a special session of the Legislature.

10. Rules submitted outside legislative rule acceptance period. The Legislature may act or decline to act upon any rules submitted outside the legislative rule acceptance period.

11. Prohibited final adoption. A provisionally adopted rule or part of a provisionally adopted rule may not be finally adopted by an agency unless:

A. Legislation authorizing adoption of the rule or part of the rule is enacted into law; or

B. The agency submits the rule or part of the rule in accordance with this section during the legislative rule acceptance period and the Legislature fails to act on the rule or part of the rule.

For purposes of this subsection, the Legislature fails to act on a rule or part of a rule if the Legislature fails to enact legislation authorizing adoption or disapproving adoption of the rule or part of the rule during the legislative review session or during any subsequent session to which a legislative instrument expressly providing for approval or disapproval of the rule or part of the rule is carried over. Nothing in this section requires the Legislature to use the legislative instrument produced pursuant to subsection 3 to approve or disapprove of a rule or part of a rule.

MARYLAND

MD Code, State Government, § 10-111.1

Opposition by Committee to adoption

(a)(1) Prior to the expiration of any period of review granted to or reserved by the Committee pursuant to [§ 10-111\(a\)](#) of this subtitle, the Committee, by a majority vote, may oppose the adoption of any proposed regulation.

(2) Unless waived by both of the presiding officers, at least 2 weeks prior to acting pursuant to subsection (a)(1) of this section with respect to any proposed regulation, the Committee shall notify the presiding officers who shall notify the appropriate standing committees that the special procedure established by this section may be exercised.

Factors considered

(b) In its review of a proposed regulation pursuant to this section, the factors the Committee shall consider shall include whether the regulation:

(1) is in conformity with the statutory authority of the promulgating unit; and

(2) reasonably complies with the legislative intent of the statute under which the regulation was promulgated.

Notice to Governor and unit

(c)(1) Within 5 working days after the Committee votes to oppose the adoption of a proposed regulation, it shall provide written notice to the Governor and the promulgating unit of its action.

(2) Upon receipt of such notice, and with written notice to the Committee and as otherwise required by law, the promulgating unit may:

(i) withdraw the regulation;

(ii) modify the regulation, but only in accordance with [§ 10-113](#) of this subtitle; or

(iii) submit the regulation to the Governor with a statement of the justification for the unit's refusal to withdraw or modify the regulation.

(3) Following the receipt of notice under paragraph (2)(iii) above, the Governor may consult with the Committee and the unit in an effort to resolve the conflict. After written notice has been provided to the presiding officers and to the Committee, the Governor may:

(i) instruct the unit to withdraw the regulation;

(ii) instruct the unit to modify the regulation, but only in accordance with [§ 10-113](#) of this subtitle; or

(iii) approve the adoption of the regulation.

Approval of regulations opposed by Committee

(d) A proposed regulation opposed by the Committee pursuant to this section may not be adopted, and is not effective unless approved, by the Governor pursuant to subsection (c)(3) of this section.

MD Code, State Government, § 10-132.1

§ 10-132.1. Schedule of regulations for review

Submission of schedule

(a)(1) Subject to subsection (b) of this section, the adopting authority for each unit shall every 8 years, beginning on or after October 1, 2001, submit to the Governor and to the [Joint] Committee [on Administrative, Executive, and Legislative Review] a schedule of regulations to be reviewed under this part during the following 8 years.

(2)(i) To the extent possible and reasonable, an adopting authority shall schedule related regulations to be reviewed concurrently.

(ii) Unless good cause exists for publishing a larger group of regulations concurrently, the largest group of regulations that an adopting authority may schedule for review concurrently shall be a subtitle.

Certificate of exemption

(b)(1) At the time that a unit's regulations are scheduled for review under this part, an adopting authority may certify to the Committee and the Governor that the review of a regulation or group of related regulations would not be effective or cost-effective and is exempt from the review process under this subtitle because the regulation or group of related regulations was:

- (i) adopted to implement a federally mandated or federally approved program; or
- (ii) initially adopted or comprehensively amended during the preceding 8 years.

(2) An adopting authority issuing a certificate of exemption shall provide the Governor and Committee with written justification for the certificate of exemption.

(3) If there is more than one adopting authority for a regulation or group of related regulations for which an exemption is to be certified, each adopting authority shall sign the certificate of exemption and written justification required under this subsection.

Review of exempted regulations

(c) At any time during a review cycle, the Governor or Committee may ask that an adopting authority review a regulation or group of regulations for which a certificate of exemption has been issued, notwithstanding the claim of exemption.

MICHIGAN

M.C.L.A. 24.245a. Consideration of rules; procedure; notice of objection; introduction of legislation; filing with secretary of state; withdrawal of proposed rule; resubmission; applicability

Sec. 45a. (1) Except as otherwise provided in subsections (10) to (12), after the committee has received a notice of transmittal under section 45(2),¹ the committee has 15 session days in which to consider the rule and do 1 of the following:

- (a) Object to the rule by approving a notice of objection under subsection (2) and filing the notice with the office.
- (b) Propose that the rule be changed. If the committee proposes that a rule be changed under this subdivision, section 45c [24.245c] applies.
- (c) Decide to introduce bills under subsection (5) to enact the subject of the rule into law.

(d) Waive any remaining session days. If the committee waives the remaining session days, the clerk of the committee shall promptly notify the office of the waiver by electronic transmission.

(2) To approve a notice of objection under subsection (1)(a), a concurrent majority of the committee, as provided in section 35.3 must affirmatively determine that 1 or more of the following conditions exist:

- (a) The agency lacks statutory authority for the rule.
- (b) The agency is exceeding the statutory scope of its rule-making authority.
- (c) There exists an emergency relating to the public health, safety, and welfare that would warrant disapproval of the rule.
- (d) The rule conflicts with state law.
- (e) A substantial change in circumstances has occurred since enactment of the law on which the proposed rule is based.
- (f) The rule is arbitrary or capricious.
- (g) The rule is unduly burdensome to the public or to a licensee licensed under the rule.

(3) If the committee does not approve a notice of objection, propose that the rule be changed, or decide to introduce bills under subsection (5) within the time period prescribed in subsection (1), or if the committee waives the remaining session days under subsection (1), the office may immediately file the rule, with the certificate of approval required under section 45(1), with the secretary of state. The rule takes effect immediately on being filed with the secretary of state unless a later date is indicated in the rule.

(4) If the committee files a notice of objection under subsection (1)(a), the committee chair, the alternate chair, or any member of the committee shall introduce bills in both houses of the legislature, simultaneously to the extent practicable. Each house shall place the bill or bills directly on its calendar. The bills must contain 1 or more of the following:

- (a) A rescission of a rule upon its effective date.
- (b) A repeal of the statutory provision under which the rule was authorized.
- (c) A bill staying the effective date of the proposed rule for up to 1 year.

(5) If the committee decides to proceed under this subsection as provided in subsection (1)(c), the committee chair and the alternate chair shall, as soon as the bills have been prepared, introduce or cause to be introduced in both houses of the legislature bills to enact into law the subject of the proposed rule. The language of a bill introduced under this subsection is not required to be identical to the language of the proposed rule. The legislative service bureau shall give priority to the preparation of the bills.

(6) The office shall not file with the secretary of state a rule as to which the committee has filed a notice of objection under subsection (1)(a) until after whichever of the following applies:

- (a) Unless subdivision (b) applies, 15 session days after the date the notice is filed.
- (b) The date of a rescission of the notice of objection as provided in this subdivision. The committee may rescind a notice of objection filed under subsection (1)(a). If the committee rescinds a notice of objection under this subdivision, the clerk of the committee shall promptly notify the office by electronic transmission of the rescission.

(7) If the committee decides to introduce bills under subsection (5) with respect to the subject of a rule, the office shall not file the rule with the secretary of state until 270 days after the bills were introduced.

(8) If legislation introduced under subsection (4) or (5) is defeated in either house and if the vote by which the legislation failed to pass is not reconsidered in compliance with the rules of that house, or if legislation introduced under subsection (4) or (5) is not adopted by both houses within the applicable period specified in subsection (6) or (7), the office may file the rule with the secretary of state. The rule takes effect immediately on being filed with the secretary of state unless a later date is specified in the rule.

(9) If legislation introduced under subsection (4) or (5) is enacted by the legislature and presented to the governor within the 15-session-day period under subsection (6) or before the

expiration of 270 days under subsection (7), the rule does not take effect unless the legislation is vetoed by the governor as provided by law. If the governor vetoes the legislation, the office may file the rule with the secretary of state immediately. The rule takes effect 7 days after the date it is filed with the secretary of state unless a later effective date is indicated in the rule.

(10) An agency may withdraw a proposed rule under the following conditions:

(a) With permission of the committee chair and alternate chair, the agency may withdraw the rule to change the rule and resubmit it as changed. If permission to withdraw is granted, the 15-session-day period described in subsection (1) is tolled until the rule is resubmitted. However, the committee must have at least 6 session days after resubmission to consider the resubmitted rule, and if necessary, the period under subsection (1) is extended to give the committee the 6 days.

(b) Without permission of the committee chair and alternate chair, the agency may withdraw the rule to change the rule and resubmit it as changed. If permission to withdraw is not granted, a new and untolled 15-session-day time period described in subsection (1) begins on resubmission of the rule to the committee for consideration.

(11) This section does not apply to rules adopted under section 33 or 48⁴ or a rule to which sections 41 and 42⁵ do not apply as provided in section 44(1) or (2).⁶

(12) An agency shall withdraw any rule pending before the committee at the final adjournment of a regular session held in an even-numbered year and resubmit the rule. A new and untolled 15-session-day period described in subsection (1) begins on resubmission of the rule to the committee for consideration.

(13) As used in this section only, "session day" means a day in which both the house of representatives and the senate convene in session and a quorum is recorded.

M.C.L.A. 24.245c. Changing of proposed rule; procedure

Sec. 45c. (1) If the committee proposes that a proposed rule be changed under section 45a(1),¹ the agency shall, within 30 days, do 1 of the following:

(a) Decide to change the rule and, within the 30 days, resubmit the rule, as changed, to the committee. If the agency decides to change the rule, subsections (2) to (5) apply.

(b) Decide to not change the rule. If the agency decides to not change the rule, subsection (6) applies.

(2) If an agency decides to change a proposed rule under subsection (1), the agency shall withdraw the rule. A withdrawal under this subsection is a withdrawal with permission under section 45a(10). After withdrawing the rule under this subsection, the agency shall give notice to the office for publication of the proposed rule, as changed, under section 8.² The notice must include the text of the rule as changed.

(3) After receiving the text of a proposed rule as changed under subsection (2), the office shall review the rule as changed and determine whether the regulatory impact or the impact on small businesses of the rule as changed would be more burdensome than the regulatory impact or the impact on small businesses of the rule as originally proposed. If the language of the rule as changed is identical to the language of the corresponding rule promulgated and in effect at the time of the review, the regulatory impact and impact on small businesses of the rule as changed are not more burdensome. The office shall notify the agency of its determination under this subsection.

(4) If the office's determination under subsection (3) is that the regulatory impact and the impact on small businesses of the rule as changed would not be more burdensome, the agency is not required to prepare a new agency report under section 45(2)³ or conduct a new public hearing on the rule as changed. If the determination is that the regulatory impact and the impact on small businesses of the rule as changed would be more burdensome, the agency shall prepare a new agency report under section 45(2) and conduct a new public hearing.

(5) After receiving the office's determination under subsection (3), the agency shall submit a supplement to the agency report under section 45(2) that includes all of the following:

(a) A statement of the determination of the office under subsection (3) and whether a new agency report under section 45(2) and public hearing are required.

(b) An explanation for the proposed changed rule.

(6) If an agency decides to not change a rule under subsection (1), the agency shall within the 30-day period under subsection (1) notify the committee of the decision and the reasons for the decision and file the notice with the office. After the notice is filed, the committee has 15 session days in which to consider the agency's decision and take 1 of the actions listed in section 45a(1).

MINNESOTA

M.S.A. § 3.305. Legislative Coordinating Commission; bicameral legislative administration

Subd. 8. Rule review. Upon written request of two or more of its members or five or more members of the legislature, the Legislative Coordinating Commission shall review a state agency rule as defined in [section 14.02, subdivision 4](#). The commission may perform this review by holding one or more commission meetings or by establishing a bicameral group as provided in subdivision 6 to hold these meetings.

M.S.A. § 3.842. Review of rules by commission or committee

Subdivision 1. Purpose. The commission shall promote adequate and proper rules by agencies and an understanding upon the part of the public respecting them.

Subd. 2. Jurisdiction. The jurisdiction of the commission includes all rules as defined in [section 14.02, subdivision 4](#). The commission also has jurisdiction of rules filed with the secretary of state in accordance with [sections 14.38, subdivisions 5, 6, 7, 8, 9, and 11; 14.386; and 14.388](#).

The commission may periodically review statutory exemptions to the rulemaking provisions of this chapter.

Subd. 3. Hearings. The commission may hold public hearings to investigate complaints with respect to rules if it considers the complaints meritorious and worthy of attention. If the rules that are the subject of the public hearing were adopted without a rulemaking hearing, it may request the Office of Administrative Hearings to hold the public hearing and prepare a report summarizing the testimony received at the hearing. The Office of Administrative Hearings shall assess the costs of the public hearing to the agency whose rules are the subject of the hearing.

Subd. 4. Repealed by [Laws 1997, c. 98, § 17](#).

Subd. 4a. Objections to rules. (a) For purposes of this subdivision, "committee" means the house of representatives policy committee or senate policy committee with primary jurisdiction over state governmental operations. The commission or a committee may object to a rule as provided in this subdivision. If the commission [Legislative Coordinating Commission] or a committee objects to all or some portion of a rule because the commission or committee considers it to be beyond the procedural or substantive authority delegated to the agency, including a proposed rule submitted under [section 14.15, subdivision 4](#), or [14.26, subdivision 3](#), paragraph (c), the commission or committee may file that objection in the Office of the Secretary of State. The filed objection must contain a concise statement of the commission's or committee's reasons for its action. An objection to a proposed rule submitted by the commission

or a committee under [section 14.15, subdivision 4](#), or [14.26, subdivision 3](#), paragraph (c), may not be filed before the rule is adopted.

(b) The secretary of state shall affix to each objection a certification of the date and time of its filing and as soon after the objection is filed as practicable shall transmit a certified copy of it to the agency issuing the rule in question and to the revisor of statutes. The secretary of state shall also maintain a permanent register open to public inspection of all objections by the commission or committee.

(c) The commission or committee shall publish and index an objection filed under this section in the next issue of the State Register. The revisor of statutes shall indicate the existence of the objection adjacent to the rule in question when that rule is published in Minnesota Rules.

(d) Within 14 days after the filing of an objection by the commission or committee to a rule, the issuing agency shall respond in writing to the objecting entity. After receipt of the response, the commission or committee may withdraw or modify its objection.

(e) After the filing of an objection by the commission or committee that is not subsequently withdrawn, the burden is upon the agency in any proceeding for judicial review or for enforcement of the rule to establish that the whole or portion of the rule objected to is valid.

(f) The failure of the commission or a committee to object to a rule is not an implied legislative authorization of its validity.

(g) In accordance with [sections 14.44](#) and [14.45](#), the commission or a committee may petition for a declaratory judgment to determine the validity of a rule objected to by the commission or committee. The action must be started within two years after an objection is filed in the Office of the Secretary of State.

(h) The commission or a committee may intervene in litigation arising from agency action. For purposes of this paragraph, agency action means the whole or part of a rule, or the failure to issue a rule.

MISSOURI

536.014. Rules invalid, when. — No department, agency, commission or board rule shall be valid in the event that:

- (1) There is an absence of statutory authority for the rule or any portion thereof; or
- (2) The rule is in conflict with state law; or
- (3) The rule is so arbitrary and capricious as to create such substantial inequity as to be unreasonably burdensome on persons affected.

536.037. Committee on administrative rules, members, meetings, duties — reports — expenses. — 1. There is established a permanent joint committee of the general assembly to be known as the "Committee on Administrative Rules", which shall be composed of five members of the senate and five members of the house of representatives. The senate members of the committee shall be appointed by the president pro tem of the senate and the house members by the speaker of the house. The appointment of each member shall continue during his term of office as a member of the general assembly unless sooner removed. No major party shall be represented by more than three appointed members from either house.

2. The committee on administrative rules shall meet within ten days after its creation and organize by selecting a chairman and a vice chairman, one of whom shall be a member of the senate and one of whom shall be a member of the house of representatives. A majority of

the members constitutes a quorum. Meetings of the committee may be called at such time and place as the chairman designates.

3. The committee shall review all rules promulgated by any state agency after January 1, 1976, except rules promulgated by the labor and industrial labor relations commission. In its review the committee may take such action as it deems necessary which may include holding hearings.

536.041. Any person may petition agency concerning rules, agency must furnish copy to committee on administrative rules and commissioner of administration together with its action — agency recommendations, procedure. — Any person may file a written petition with an agency requesting the adoption, amendment or repeal of any rule. Any agency receiving such a petition or other request in writing to adopt, amend or repeal any rule shall forthwith furnish a copy thereof to the joint committee on administrative rules and to the commissioner of administration. Within sixty days after the receipt of the petition, the agency shall submit a written response to the petitioner and copies of the response, in electronic format, to the joint committee on administrative rules and to the commissioner of administration, containing its determination whether such rule should be adopted, continued without change, amended, or rescinded, together with a concise summary of the state agency's specific facts and findings with respect to the criteria set forth in subsection 4 of section [536.175](#). If the agency determines the rule merits adoption, amendment, or rescission, it shall initiate proceedings in accordance with the applicable requirements of this chapter. The joint committee may refer comments or recommendations concerning such rule to the general assembly for further action. Upon timely application, the joint committee on administrative rules may grant, upon good cause shown, an extension of time to answer a petition. A petition submitted in accordance with this section shall constitute notice for purposes of subsection 9 of section [536.021](#).

MONTANA

MCA 2-4-402. Powers of committees--duty to review rules

- (1) The administrative rule review committees shall review all proposed rules filed with the secretary of state.
- (2) The appropriate administrative rule review committee may:
 - (a) request and obtain an agency's rulemaking records for the purpose of reviewing compliance with [2-4-305](#);
 - (b) prepare written recommendations for the adoption, amendment, or rejection of a rule and submit those recommendations to the department proposing the rule and submit oral or written testimony at a rulemaking hearing;
 - (c) require that a rulemaking hearing be held in accordance with the provisions of [2-4-302](#) through [2-4-305](#);
 - (d) institute, intervene in, or otherwise participate in proceedings involving this chapter in the state and federal courts and administrative agencies;
 - (e) review the incidence and conduct of administrative proceedings under this chapter.

MCA 2-4-403. Legislative intent--poll

- (1) If the legislature is not in session, the committee may poll all members of the legislature by mail to determine whether a proposed rule is consistent with the intent of the legislature.
- (2) If 20 or more legislators object to a proposed rule, the committee shall poll the members of the legislature.

(3) The poll must include an opportunity for the agency to present a written justification for the proposed rule to the members of the legislature.

MCA 2-4-404. Evidentiary value of legislative poll

If the appropriate administrative rule review committee has conducted a poll of the legislature in accordance with [2-4-403](#), the results of the poll must be admissible in any court proceeding involving the validity of the proposed rule or the validity of the adopted rule if the rule was adopted by the agency. If the poll determines that a majority of the members of both houses find that the proposed rule or adopted rule is contrary to the intent of the legislature, the proposed rule or adopted rule must be conclusively presumed to be contrary to the legislative intent in any court proceeding involving its validity.

MCA 2-4-406. Committee objection to violation of authority for rule--effect

(1) If the appropriate administrative rule review committee objects to all or some portion of a proposed or adopted rule because the committee considers it not to have been proposed or adopted in substantial compliance with [2-4-302](#), [2-4-303](#), and [2-4-305](#), the committee shall send a written objection to the agency that promulgated the rule. The objection must contain a concise statement of the committee's reasons for its action.

(2) Within 14 days after the mailing of a committee objection to a rule, the agency promulgating the rule shall respond in writing to the committee. After receipt of the response, the committee may withdraw or modify its objection.

(3) If the committee fails to withdraw or substantially modify its objection to a rule, it may vote to send the objection to the secretary of state, who shall, upon receipt of the objection, publish the objection in the register adjacent to any notice of adoption of the rule and in the ARM adjacent to the rule, provided an agency response must also be published if requested by the agency. Costs of publication of the objection and the agency response must be paid by the committee.

(4) If an objection to all or a portion of a rule has been published pursuant to subsection (3), the agency bears the burden, in any action challenging the legality of the rule or portion of a rule objected to by the committee, of proving that the rule or portion of the rule objected to was adopted in substantial compliance with [2-4-302](#), [2-4-303](#), and [2-4-305](#). If a rule is invalidated by court judgment because the agency failed to meet its burden of proof imposed by this subsection and the court finds that the rule was adopted in arbitrary and capricious disregard for the purposes of the authorizing statute, the court may award costs and reasonable attorney fees against the agency.

MCA 2-4-411. Report

The committee may recommend amendments to the Montana Administrative Procedure Act or the repeal, amendment, or adoption of a rule as provided in [2-4-412](#) and make other recommendations and reports as it considers advisable.

MCA 2-4-412. Legislative review of rules--effect of failure to object

(1) The legislature may, by bill, repeal any rule in the ARM. If a rule is repealed, the legislature shall in the bill state its objections to the repealed rule. If an agency adopts a new rule to replace the repealed rule, the agency shall adopt the new rule in accordance with the objections stated by the legislature in the bill. If the legislature does not repeal a rule filed with it before the adjournment of that regular session, the rule remains valid.

(2) The legislature may also by joint resolution request or advise or by bill direct the adoption, amendment, or repeal of any rule. If a change in a rule or the adoption of an additional rule is advised, requested, or directed to be made, the legislature shall in the joint resolution or bill state the nature of the change or the additional rule to be made and its reasons for the

change or addition. The agency shall, in the manner provided in the Montana Administrative Procedure Act, adopt a new rule in accordance with the legislative direction in a bill.

(3) Rules and changes in rules made by agencies under subsection (2) must conform and be pursuant to statutory authority.

(4) Failure of the legislature or the appropriate administrative rule review committee to object in any manner to the adoption, amendment, or repeal of a rule is inadmissible in the courts of this state to prove the validity of any rule.

MCA 2-4-305. Requisites for validity--authority and statement of reasons

(1)(a) The agency shall fully consider written and oral submissions respecting the proposed rule, including comments submitted by the primary sponsor of the legislation prior to the drafting of the substantive content and wording of a proposed rule that initially implements legislation.

(b)(i) Upon adoption of a rule, an agency shall issue a concise statement of the principal reasons for and against its adoption, incorporating in the statement the reasons for overruling the considerations urged against its adoption. If substantial differences exist between the rule as proposed and as adopted and the differences have not been described or set forth in the adopted rule as that rule is published in the register, the differences must be described in the statement of reasons for and against agency action. When written or oral submissions have not been received, an agency may omit the statement of reasons.

(ii) If an adopted rule that initially implements legislation does not reflect the comments submitted by the primary sponsor, the agency shall provide a statement explaining why the sponsor's comments were not incorporated into the adopted rule. . . .

(9) If a majority of the members of the appropriate administrative rule review committee notify the committee presiding officer that those members object to all or a portion of a notice of proposed rulemaking, the committee shall notify the agency in writing that the committee objects to all or a portion of the proposal notice and will address the objections at the next committee meeting. Following notice by the committee to the agency, all or a portion of the proposal notice that the committee objects to may not be adopted until publication of the last issue of the register that is published before expiration of the 6-month period during which the adoption notice must be published, unless prior to that time, the committee meets and does not make the same objection. A copy of the committee's notification to the agency must be included in the committee's records. . . .

MCA 2-4-306. Filing and format--adoption and effective dates--dissemination of emergency rules

. . . (4) Each rule is effective after publication in the register, as provided in [2-4-312](#), except that: . . .

(c) if, following written administrative rule review committee notification to an agency under [2-4-305\(9\)](#), the committee meets and under [2-4-406\(1\)](#) objects to all or some portion of a proposed rule before the proposed rule is adopted, the proposed rule or portion of the proposed rule objected to is not effective until the day after final adjournment of the regular session of the legislature that begins after the notice proposing the rule was published by the secretary of state, unless, following the committee's objection under [2-4-406\(1\)](#):

(i) the committee withdraws its objection under [2-4-406](#) before the proposed rule is adopted; or

(ii) the rule or portion of a rule objected to is adopted with changes that in the opinion of a majority of the committee members, as communicated in writing to the committee presiding officer and staff, make it comply with the committee's objection and concerns.

NEVADA

N.R.S. 233B.067. Permanent regulation: Submission by agency of informational statement and copy of regulation to Legislative Counsel; endorsement of date and maintenance of copy by Legislative Counsel; statement by agency required if adoption of regulation is required by federal law; review by Legislative Commission or Subcommittee to Review Regulations; written request by agency for review by Subcommittee in emergency circumstances; approval of or objection to by Commission or Subcommittee; duty of Legislative Counsel to file approved regulations with Secretary of State or return regulations with notice of objection to agency; appointment of members of Subcommittee

1. After adopting a permanent regulation, the agency shall submit the informational statement prepared pursuant to [NRS 233B.066](#) and one copy of each regulation adopted to the Legislative Counsel for review by the Legislative Commission to determine whether to approve the regulation. The Legislative Counsel shall endorse on the original and the copy of each adopted regulation the date of their receipt. The Legislative Counsel shall maintain the copy of the regulation in a file and make the copy available for public inspection for 2 years.

2. If an agency submits an adopted regulation to the Legislative Counsel pursuant to subsection 1 that:

- (a) The agency is required to adopt pursuant to a federal statute or regulation; and
- (b) Exceeds the specific statutory authority of the agency or sets forth requirements that are more stringent than a statute of this State,

it shall include a statement that adoption of the regulation is required by a federal statute or regulation. The statement must include the specific citation of the federal statute or regulation requiring such adoption.

3. Except as otherwise provided in subsection 4, the Legislative Commission shall:

(a) Review the regulation at its next regularly scheduled meeting if the regulation is received more than 10 working days before the meeting; or

(b) Refer the regulation for review to the Subcommittee to Review Regulations appointed pursuant to subsection 6.

4. If an agency determines that an emergency exists which requires a regulation of the agency submitted pursuant to subsection 1 to become effective before the next meeting of the Legislative Commission is scheduled to be held, the agency may notify the Legislative Counsel in writing of the emergency. Upon receipt of such a notice, the Legislative Counsel shall refer the regulation for review by the Subcommittee to Review Regulations. The Subcommittee shall meet to review the regulation as soon as practicable.

5. If the Legislative Commission, or the Subcommittee to Review Regulations if the regulation was referred, approves the regulation, the Legislative Counsel shall promptly file the regulation with the Secretary of State and notify the agency of the filing. If the Commission or Subcommittee objects to the regulation after determining that:

(a) If subsection 2 is applicable, the regulation is not required pursuant to a federal statute or regulation;

(b) The regulation does not conform to statutory authority;

(c) The regulation does not carry out legislative intent;

(d) The small business impact statement is inaccurate, incomplete or did not adequately consider or significantly underestimated the economic effect of the regulation on small businesses; or

(e) The agency has not provided a satisfactory explanation of the need for the regulation in its informational statement as required pursuant to [NRS 233B.066](#), or the informational statement is insufficient or incomplete,

the Legislative Counsel shall attach to the regulation a written notice of the objection, including, if practicable, a statement of the reasons for the objection, and shall promptly return the regulation to the agency.

6. As soon as practicable after each regular legislative session, the Legislative Commission shall appoint a Subcommittee to Review Regulations consisting of at least three members or alternate members of the Legislative Commission.

233B.0675. Permanent regulation: Revision and resubmission of regulation objected to by Legislative Commission or Subcommittee to Review Regulations; approval of or objection to revised regulation by Commission or Subcommittee

1. If the Legislative Commission [Note: appears to be the counterpart to the Legislative Coordinating Council, per <https://www.leg.state.nv.us/App/InterimCommittee/REL/Interim2019/Committee/1431/Overview>] , or the Subcommittee to Review Regulations appointed pursuant to subsection 6 of [NRS 233B.067](#), has objected to a regulation, the agency shall revise the regulation to conform to the statutory authority pursuant to which it was adopted and to carry out the intent of the Legislature in granting that authority and return it to the Legislative Counsel within 60 days after the agency received the written notice of the objection to the regulation pursuant to [NRS 233B.067](#). Upon receipt of the revised regulation, the Legislative Counsel shall resubmit the regulation to the Commission or Subcommittee for review. If the Commission or Subcommittee approves the revised regulation, the Legislative Counsel shall promptly file the revised regulation with the Secretary of State and notify the agency of the filing.

2. If the Legislative Commission or Subcommittee objects to the revised regulation, the Legislative Counsel shall attach to the revised regulation a written notice of the objection, including, if practicable, a statement of the reasons for the objection, and shall promptly return the revised regulation to the agency. The agency shall continue to revise it and resubmit it to the Commission or Subcommittee within 30 days after the agency received the written notice of the objection to the revised regulation.

NEW HAMPSHIRE

N.H. Rev. Stat. § 541-A:2 Joint Legislative Committee on Administrative Rules.

I. There is hereby created a joint legislative committee to be known as the joint legislative committee on administrative rules. The committee shall be composed of 10 members of the general court and 10 alternates . . .

IV. In addition to its ongoing review of proposed and adopted rules, the committee shall:

(a) Petition an agency under [RSA 541-A:4](#) to adopt rules if the agency has clear rulemaking authority which it has not used.

(b) Review statutory passages granting rulemaking authority. On the basis of this review, the committee shall, before each regular legislative session, make written recommendations to the president of the senate and the speaker of the house as to how such passages should be amended to eliminate confusing, inefficient, or unnecessary statutory language.

(c) Make written recommendations, when appropriate, to the president of the senate and the speaker of the house as to how the legislative oversight of rulemaking might be improved. These recommendations may include proposed amendments to RSA 541-A.

(d) Have the authority to amend and provide the final approval of the drafting and procedure manual developed by the director of legislative services and the commissioner of administrative services under [RSA 541-A:8](#).

(e) Notify the chairpersons of appropriate standing committees of the general court in writing when committee recommendations are made to agencies relative to legislation as a result of reviewing proposed and adopted rules.

(f) Make written recommendations, when appropriate, to the president of the senate, the speaker of the house of representatives, and the chairs of standing committees of the general court having jurisdiction over the subject matter of an agency concerning the amendment or repeal of the statutory authority of an agency that has enforced rules which are not effective or not otherwise valid, or that has not commenced rulemaking or adopted rules as required by statute.

(g) Establish, in consultation with the director of the office of legislative services, a pilot program authorizing procedures for electronic filing by agencies. Notwithstanding [RSA 541-A:1](#), VI, the committee shall permit electronic filing or submissions by selected agencies pursuant to criteria established in the pilot program.

N.H. Rev. Stat. §541-A:13 Review by the Joint Legislative Committee on Administrative Rules.

I. The committee shall either approve the rule or enter a conditional approval or objection under paragraph V within 45 days of the filing of a final proposal under [RSA 541-A:12](#), I, unless the deadline is waived for good cause pursuant to [RSA 541-A:40](#). The committee shall either approve the rule or enter a conditional approval or objection under paragraph V within 60 days of the filing of a final proposal under [RSA 541-A:12](#), I-a, unless the deadline is waived for good cause pursuant to [RSA 541-A:40](#). Objections to a rule may be made only once.

II. (a) If an agency has filed a final proposal and the committee has granted the agency's request, pursuant to [RSA 541-A:12](#), I-a, the director of legislative services shall notify the agency of any potential bases for committee objection identified by the office of legislative services by forwarding a copy of the final proposal with the counsel's comments noted thereon at least 14 days prior to the committee meeting at which the proposal will be considered.

(b) In response to the comments, an agency may then file a proposed amended final proposal with the director for review by the committee and request that the committee approve the rule as amended. Both the request and the amendment shall be in writing and shall be filed at least 7 days prior to the regularly scheduled meeting or special meeting for which the final proposal has been placed on the agenda.

(c) The committee may:

- (1) Approve the rule as originally filed;
- (2) Approve the rule with amendment; or
- (3) Act under paragraph V.

(d) If the committee approves the rule as filed pursuant to [RSA 541-A:12](#), or with amendment, it shall notify the agency in writing of its approval.

(e) Failure to give notice of either approval, conditional approval, or objection at the end of the 45-day or 60-day period under paragraph I shall be deemed approval.

III. If the rule is approved under subparagraph II(c) or (e), the agency may adopt the rule.

IV. The committee may object to a proposed rule if the rule is:

- (a) Beyond the authority of the agency;
- (b) Contrary to the intent of the legislature;
- (c) Determined not to be in the public interest; or
- (d) Deemed by the committee to have a substantial economic impact not recognized in the fiscal impact statement.

V. The following procedures shall govern committee objections:

(a) If the committee objects to the final proposal as filed or as amended pursuant to paragraph II, it shall so inform the agency. In lieu of a preliminary objection, the committee may vote to conditionally approve the rule with an amendment, provided that the committee specifies in its conditional approval the language of the amendment to address the basis for a preliminary

objection. The committee shall notify the agency in writing of its conditional approval. Within 30 days of the meeting, or in the case of a board or commission, 7 days following its next regularly scheduled meeting, the agency shall submit a written explanation to the committee in the form of a letter and an annotated text of the final proposed rule detailing how the rule has been amended in accordance with the conditional approval. The written explanation shall be signed by the individual holding rulemaking authority, or, if a body of individuals holds rulemaking authority, by a voting member of that body, provided that a quorum of the body has approved. Failure to submit a written explanation in accordance with the conditional approval and this paragraph shall cause the conditional approval to be deemed a committee vote to make a preliminary objection on the date of the conditional approval. If the office of legislative services determines that the agency has amended the rule in accordance with the conditional approval and this paragraph, the office of legislative services shall promptly send written confirmation of compliance to the agency. The agency may then adopt the rule as amended.

(b) If the committee objects to the final proposal as filed or as amended pursuant to paragraph II, the committee shall send the agency a preliminary written objection stating the basis for the objection. A preliminary objection or conditional approval shall require the assent of a majority of the votes cast, a quorum being present. If a preliminary objection is made, the committee may send a copy of the preliminary objection to the appropriate house and senate standing policy committees and, if so, shall give notice to the agency. Within 30 days of the date the preliminary objection was entered, the standing policy committees at properly convened executive sessions shall review the proposed rules and the preliminary objection and shall adopt recommendations or comments relative to the basis for the preliminary objection and shall communicate the same to the committee.

(c) The agency shall respond to the preliminary objection by withdrawing the rule, by amending the rule to remove the basis for objection, or by making no change. The agency shall respond to a committee objection only once, and shall report its response in writing to the committee within 45 days of the committee's vote to make a preliminary objection. Failure to respond to the committee in accordance with this subparagraph shall mean the rulemaking procedure for that proposed rule is invalid; however, the agency is not precluded from initiating the process over again for a similar rule. After receipt of the agency response, the committee may modify its objections made under paragraph IV or approve the rule.

(d) After submitting its preliminary objection response and prior to the final committee vote on the final proposal, and in all cases, prior to the adoption of the rule by the agency, the agency may request that the committee approve the rule with further amendment or issue a revised objection. The committee may approve the rule with further amendment only if the agency submits the request and proposed amendment, in writing to the committee at least 7 days prior to the committee meeting at which the agency presents the rule. Submission of such a request shall not preclude the agency from requesting a revised objection if the committee does not approve the rule as requested.

(e) A revised objection may be made only once by the committee and may be made only at the request of the agency. The agency shall respond and the committee may review the response in the same manner as a preliminary objection. No further amendment may be made by the agency after it responds to the committee except as provided in [RSA 541-A:14](#), II.

(f) If the agency responds but the basis for the committee's preliminary or revised objection has not been removed or the response creates a new basis for objection, the committee may, by majority vote of the entire committee, file a final objection. The final objection shall be filed in certified form with the director of legislative services for publication in the next issue of the rulemaking register.

VI. After a final objection by the committee to a provision in the rule is filed with the director under subparagraph V(f), the burden of proof shall be on the agency in any action for judicial review or for enforcement of the provision to establish that the part objected to is within the authority delegated to the agency, is consistent with the intent of the legislature, is in the public interest, or does not have a substantial economic impact not recognized in the fiscal

impact statement. If the agency fails to meet its burden of proof, the court shall declare the whole or a portion of the rule objected to invalid. The failure of the committee to object to a rule shall not be an implied legislative authorization of its substantive or procedural lawfulness.

VII. (a) The provisions of this paragraph may be used by the committee as an alternative to or in addition to the final objection procedure employed by the committee in paragraph V.

(b) If an agency responds to a preliminary or revised objection but the basis for objection has not been removed or the response creates a new basis for objection, the committee may, within 50 days from the date on which the objection response was due and by majority vote of the entire committee, recommend legislative action through sponsorship of a joint resolution to implement its recommendation. Such vote shall prevent the rule from being adopted and filed by the agency for the period of time specified in subparagraph VII(c).

(c) If the committee votes to sponsor a joint resolution pursuant to subparagraph VII(b), the joint resolution shall be introduced in the house of representatives or senate within 20 business days of such vote when the general court is in session and 20 business days of the start of the following legislative session if such vote occurs when the general court is not in session. If a joint resolution is not introduced within this time frame, the agency may adopt the rule. If a joint resolution is introduced within this time frame, the agency shall be prevented from adopting and filing such rule until final legislative action is taken on the resolution or the passage of 90 consecutive calendar days during which the general court shall have been in session, whichever occurs first. The 90 calendar day period shall commence on the date such joint resolution has been introduced. If the session of the general court adjourns prior to the sixtieth calendar day after such joint resolution has been introduced, then the agency shall be prevented from adopting and filing such rule until 90 calendar days, beginning with the next session of the general court, have passed.

(d) The provisions of this paragraph shall apply to only the specific portion of the agency's rule identified in the joint resolution. The provisions of this paragraph shall not prevent an agency from adopting and filing the remainder of the rules in the final proposal under RSA 541-A while the committee pursues legislative action under this paragraph, nor shall it prevent the committee from also voting to enter a final objection pursuant to paragraph V.

(e) Nothing in this section shall prevent the general court from introducing legislation which addresses any matter included in a joint resolution introduced under the provisions of this section.

(f) Notwithstanding any house or senate rules to the contrary, a joint resolution which the committee votes to sponsor under subparagraph VII(b) may be introduced at any time during the legislative session. It shall be subject to the same rules as any other bill introduced at the beginning of the legislative session.

N.H. Rev. Stat. § 541-A:18 Emergency Rules.

I. An agency may proceed to adopt an emergency rule if it finds either that an imminent peril to the public health or safety requires adoption of a rule with less notice than is required under [RSA 541-A:6](#) or that substantial fiscal harm to the state or its citizens could occur if rules are not adopted with less notice than is required under [RSA 541-A:6](#). The rule may be adopted without having been filed in proposed or final proposed form and may be adopted after whatever notice and hearing the agency finds to be practicable under the circumstances. The agency shall make reasonable efforts to ensure that emergency rules are made known to persons who may be affected by them.

II. Notwithstanding [RSA 541-A:16](#), III, emergency rules adopted under this section shall not remain in effect for more than 180 days from the date and time of filing with the director of legislative services. An agency may propose a permanent rule on the same subject at the same time that it adopts an emergency rule, but it shall not adopt the same emergency rule when the emergency rule expires. . . .

NEW JERSEY

N.J.S.A. Const. Art. 5, § 4, ¶ 6

6. Rules and regulations; filing; publication; legislative review

6. No rule or regulation made by any department, officer, agency or authority of this state, except such as relates to the organization or internal management of the State government or a part thereof, shall take effect until it is filed either with the Secretary of State or in such other manner as may be provided by law. The Legislature shall provide for the prompt publication of such rules and regulations. The Legislature may review any rule or regulation to determine if the rule or regulation is consistent with the intent of the Legislature as expressed in the language of the statute which the rule or regulation is intended to implement. Upon a finding that an existing or proposed rule or regulation is not consistent with legislative intent, the Legislature shall transmit this finding in the form of a concurrent resolution to the Governor and the head of the Executive Branch agency which promulgated, or plans to promulgate, the rule or regulation. The agency shall have 30 days to amend or withdraw the existing or proposed rule or regulation. If the agency does not amend or withdraw the existing or proposed rule or regulation, the Legislature may invalidate that rule or regulation, in whole or in part, or may prohibit that proposed rule or regulation, in whole or in part, from taking effect by a vote of a majority of the authorized membership of each House in favor of a concurrent resolution providing for invalidation or prohibition, as the case may be, of the rule or regulation. This vote shall not take place until at least 20 calendar days after the placing on the desks of the members of each House of the Legislature in open meeting of the transcript of a public hearing held by either House on the invalidation or prohibition of the rule or regulation.

N.J.S.A. 52:14B-4.1. Proposed rule; submission to legislature; referral to appropriate standing reference committee

Every rule hereafter proposed by a State agency shall be submitted by the Office of Administrative Law to the Senate and General Assembly within two business days of its receipt by the office, and the President of the Senate and the Speaker of the General Assembly shall immediately refer the proposed rule to the appropriate committee in each House.

N.J.S.A. 52:14B-4.3. Disapproval or delay of effective date within 60 days of submission; concurrent resolution

If, pursuant to [Article V, section 4, paragraph 6 of the New Jersey Constitution](#), the Senate and General Assembly adopt a concurrent resolution invalidating a rule or regulation, in whole or in part, or prohibiting a proposed rule or regulation, in whole or in part, from taking effect, the presiding officer of the House of final adoption shall cause the concurrent resolution to be transmitted to the Office of Administrative Law for publication in the New Jersey Register and the New Jersey Administrative Code as an annotation to the rule or regulation.

N.J.S.A. 58:10A-14. Legislative oversight committees

The Senate Committee on Energy and Environment and the Assembly Committee on Agriculture and Environment are hereby designated as the Legislative Oversight Committees for the Water Pollution Control Act. The Department of Environmental Protection is directed to submit any proposed rules or regulations to the Legislative Oversight Committees, prior to the

holding of public hearings on such proposed rules or regulations and to promptly submit to either committee any information concerning the administration of said act which either Legislative Oversight Committee may request. The Legislative Oversight Committees shall review, evaluate and recommend alterations to any such proposed rules or regulations and shall recommend whatever administrative alterations it may choose in order to effectuate the Legislative intent of this act.

Examples:

N.J.S.A. 4:1C-37. Joint legislative oversight committee; duties

The Senate Natural Resources and Agriculture Committee and the Assembly Agriculture and Environment Committee are designated as the Joint Legislative Oversight Committee on Agricultural Retention and Development. The duties and responsibilities of the joint oversight committee shall be as follows:

- a. To monitor the operation of the committee and its efforts to retain farmland in productive agricultural use and to recommend to the committee any rule, regulation, guideline, or revision thereto which it deems necessary to effectuate the purposes and provisions of this act;
- b. To review and evaluate the implementation of development easement purchases on agricultural land;
- c. To review and evaluate all relevant existing and proposed statutes, rules, regulations and ordinances, so as to determine their individual effect upon the conduct of agricultural activities in this State; and
- d. To recommend to the Legislature any legislation which it deems necessary in order to effectuate the purposes of this act.

N.J.S.A. 4:1B-10. Joint legislative oversight committee

The Assembly Committee on Agriculture and Environment and the Senate Committee on Agriculture are hereby designated as the Joint Legislative Oversight Committee for the Agricultural Preserve Demonstration Program. The duties and responsibilities of the committee shall be as follows:

- a. To review and evaluate the proposed rules, regulations and guidelines for the implementation and administration of the agricultural preserve program, in terms of feasibility, effect and conformance with the intentions and provisions of this act.
- b. To analyze the progress of the program prior to the State acquisition of development easements to prime agricultural lands, so as to determine the advisability of proceeding therewith.
- c. To conduct a final program review and evaluation following the State acquisition of such easements; such final review and evaluation shall be conducted and transmitted to the Legislature within 1 year of such acquisition, and shall include the following:
 - (1) A statement of the social, economic and environmental effects of the program on the program area and on the State;
 - (2) An evaluation of the impact of the program on agriculture and related industries in this State;
 - (3) An analysis of the mechanism of the State purchase of developments rights to prime agricultural lands as a means of preserving agricultural open space, the feasibility of further use of such mechanism in other areas of the State, and potential sources of funding therefor; and,

(4) An identification of possible alternative methods of preserving agricultural open space in New Jersey.

d. To review and evaluate all relevant existing and proposed statutes, rules, regulations and ordinances, so as to determine the individual and cumulative effect upon the conduct of agricultural activities in this State.

e. To recommend to the Legislature and to the departments, prior to, during and following the implementation of the program, any legislation, rule, regulation, guideline, or revision thereto which it deems necessary in order to effectuate the purposes of this act or the findings of the committee concerning the program created herein.

The departments are hereby directed to cooperate with the committee in providing any assistance or information necessary for or incident to the performance of the duties and responsibilities of the committee as herein provided.

NEW YORK

McKinney's Legislative Law § 87. Powers and duties

1. The commission shall exercise continuous oversight of the process of rule making and examine rules, as defined in subdivision two of section one hundred two of the state administrative procedure act, adopted or proposed by each agency with respect to (i) statutory authority, (ii) compliance with legislative intent, (iii) impact on the economy and on the government operations of the state and its local governments, and (iv) impact on affected parties; and, in furtherance of such duties, may examine other issues it deems appropriate. For purpose of this article, the term agency shall mean any department, board, bureau, commission, division, office, council, committee or officer of the state or a public benefit corporation or public authority at least one of whose members is appointed by the governor.

2. The commission may employ such staff and retain such consultants and expert services as may be necessary and fix their compensation and expenses within the amounts appropriated therefor. Employment by the commission shall be deemed to be employment by the legislature for all purposes.

3. The commission shall have the power, subject to the provisions of section seventy-three of the civil rights law, to hold hearings, subpoena witnesses, administer oaths, take testimony and compel the production of books, papers, documents and other evidence in furtherance of its duties; provided, however, that no subpoena shall issue except upon the affirmative vote of a majority of the whole membership of the commission. The commission may request and shall receive from all agencies such assistance and data as will enable it properly to consummate any such examination, and review.

4. [Eff. March 19, 2020.] The commission shall be authorized to request and receive, from a state agency, all rulemaking notices, statements and analyses as provided for pursuant to the state administrative procedure act, data, rules, regulations and other information by electronic means as provided for by article three of the state technology law.

NORTH CAROLINA

N.C.G.S.A. § 120-70.101. Purpose and powers of Committee

The Joint Legislative Administrative Procedure Oversight Committee has the following powers and duties:

- (1) To review rules to which the Rules Review Commission has objected to determine if statutory changes are needed to enable the agency to fulfill the intent of the General Assembly.
- (2) To receive reports prepared by the Rules Review Commission containing the text and a summary of each rule approved by the Commission.
- (3) Repealed by [S.L. 2009-125, § 1, eff. Oct. 1, 2009](#).
- (3a) To review the activities of State occupational licensing boards to determine if the boards are operating in accordance with statutory requirements and if the boards are still necessary to achieve the purposes for which they were created. This review shall not include decisions concerning board personnel matters or determinations on individual licensing applications or individual disciplinary actions.
- (4) To review State regulatory programs to determine if the programs overlap, have conflicting goals, or could be simplified and still achieve the purpose of the regulation.
- (5) To review existing rules to determine if the rules are necessary or if the rules can be streamlined.
- (6) To review the rule-making process to determine if the procedures for adopting rules give the public adequate notice of and information about proposed rules.
- (7) To review any other concerns about administrative law to determine if statutory changes are needed.
- (8) To report to the General Assembly from time to time concerning the Committee's activities and any recommendations for statutory changes.

NORTH DAKOTA

<https://www.legis.nd.gov/assembly/65-2017/committees/interim/administrative-rules-committee>

ADMINISTRATIVE RULES COMMITTEE

Interim Committee Studies and Assignments

(18 members)

[3026](#) Study the membership and state supervision of the state's occupational and professional licensing boards in order to retain antitrust law immunity

Approve extension of time for administrative agencies to adopt rules (NDCC § [28-32-07](#))

Establish standard procedures for administrative agency compliance with notice requirements of proposed rulemaking (NDCC § [28-32-10](#))

Establish procedure to distribute copies of administrative agency filings of notice of proposed rulemaking (NDCC § [28-32-10](#))

Determine whether an administrative rule is void (NDCC § [28-32-18](#))

Receive notice of appeal of an administrative agency's rulemaking action (NDCC § [28-32-42](#))

Approve, with the State Personnel Board, rules adopted by Human Resource Management Services authorizing service awards to employees in the classified service (NDCC § [54-06-32](#))

Approve, with the State Personnel Board, rules adopted by Human Resource Management Services authorizing state agencies to provide employer-paid costs of training or educational courses to employees in the classified service (NDCC § [54-06-33](#))

Study and review administrative rules and related statutes (NDCC § [54-35-02.6](#))

§ 28-32-06. Force and effect of rules

Upon becoming effective, rules have the force and effect of law until amended or repealed by the agency or commission, declared invalid by a final court decision, suspended or found to be void by the administrative rules committee, or determined repealed by the legislative council because the authority for adoption of the rules is repealed or transferred to another agency.

NDCC, § 28-32-17. Administrative rules committee objection

If the legislative management's administrative rules committee objects to all or any portion of a rule because the committee deems it to be unreasonable, arbitrary, capricious, or beyond the authority delegated to the adopting agency, the committee may file that objection in certified form with the legislative council. The filed objection must contain a concise statement of the committee's reasons for its action.

1. The legislative council shall attach to each objection a certification of the time and date of its filing and, as soon as possible, shall transmit a copy of the objection and the certification to the agency adopting the rule in question. The legislative council also shall maintain a permanent register of all committee objections.

2. The legislative council shall publish an objection filed pursuant to this section in the next issue of the code supplement. In case of a filed committee objection to a rule subject to the exceptions of the definition of rule in [section 28-32-01](#), the agency shall indicate the existence of that objection adjacent to the rule in any compilation containing that rule.

3. Within fourteen days after the filing of a committee objection to a rule, the adopting agency shall respond in writing to the committee. After receipt of the response, the committee may withdraw or modify its objection.

4. After the filing of a committee objection, the burden of persuasion is upon the agency in any action for judicial review or for enforcement of the rule to establish that the whole or portion thereof objected to is within the procedural and substantive authority delegated to the agency. If the agency fails to meet its burden of persuasion, the court shall declare the whole or portion of the rule objected to invalid and judgment must be rendered against the agency for court costs. These court costs must include a reasonable attorney's fee and must be payable from the appropriation of the agency which adopted the rule in question.

**NDCC, § 28-32-18. Administrative rules committee may void rule--Grounds--
Amendment by agreement of agency and committee**

1. The legislative management's administrative rules committee may find that all or any portion of a rule is void if that rule is initially considered by the committee not later than the fifteenth day of the month before the date of the administrative code supplement in which the rule change is scheduled to appear. The administrative rules committee may find a rule or portion of a rule void if the committee makes the specific finding that, with regard to that rule or portion of a rule, there is:

- a. An absence of statutory authority.
- b. An emergency relating to public health, safety, or welfare.

- c. A failure to comply with express legislative intent or to substantially meet the procedural requirements of this chapter for adoption of the rule.
- d. A conflict with state law.
- e. Arbitrariness and capriciousness.
- f. A failure to make a written record of its consideration of written and oral submissions respecting the rule under [section 28-32-11](#).

2. The administrative rules committee may find a rule void at the meeting at which the rule is initially considered by the committee or may hold consideration of that rule for one subsequent meeting. If no representative of the agency appears before the administrative rules committee when rules are scheduled for committee consideration, those rules are held over for consideration at the next subsequent committee meeting. Rules are not considered initially considered by the committee under this subsection until a representative of the agency appears before the administrative rules committee when the rules are scheduled for committee consideration. If no representative of the agency appears before the administrative rules committee meeting to which rules are held over for consideration, the rules are void if the rules were adopted as emergency rules and for rules not adopted as emergency rules the administrative rules committee may void the rules, allow the rules to become effective, or hold over consideration of the rules to the next subsequent committee meeting. Within three business days after the administrative rules committee finds that a rule is void, the legislative council shall provide written notice of that finding and the committee's specific finding under subdivisions a through f of subsection 1 to the adopting agency and to the chairman of the legislative management. Within fourteen days after receipt of the notice, the adopting agency may file a petition with the chairman of the legislative management for review by the legislative management of the decision of the administrative rules committee. If the adopting agency does not file a petition for review, the rule becomes void on the fifteenth day after the notice from the legislative council to the adopting agency. If within sixty days after receipt of the petition from the adopting agency the legislative management has not disapproved by motion the finding of the administrative rules committee, the rule is void.

3. An agency may amend or repeal a rule or create a related rule if, after consideration of rules by the administrative rules committee, the agency and committee agree that the rule amendment, repeal, or creation is necessary to address any of the considerations under subsection 1. A rule amended, repealed, or created under this subsection is not subject to the other requirements of this chapter relating to adoption of administrative rules and may be published by the legislative council as amended, repealed, or created. If requested by the agency or any interested party, a rule amended, repealed, or created under this subsection must be reconsidered by the administrative rules committee at a subsequent meeting at which public comment on the agreed rule change must be allowed.

C

NDCC, § 28-32-18.1. Administrative rules committee review of existing rules

1. Upon request by the administrative rules committee, an administrative agency or the commission shall brief the committee on its existing rules and point out any provisions that appear to be obsolete and any areas in which statutory or constitutional authority has changed or been repealed since the rules were adopted or amended.

2. An agency or the commission may amend or repeal a rule without complying with the other requirements of this chapter relating to adoption of rules and may resubmit the change to the legislative council for publication provided:

- a. The agency or commission initiates the request to the administrative rules committee for consideration of the amendment or repeal;
- b. The agency or commission provides notice to the regulated community, in a manner reasonably calculated to provide notice to those persons interested in the rule, of the time and

place the administrative rules committee will consider the request for amendment or repeal of the rule; and

c. The agency or commission and the administrative rules committee agree the rule amendment or repeal eliminates a provision that is obsolete or no longer in compliance with law and that no detriment would result to the substantive rights of the regulated community from the amendment or repeal.

OHIO

<http://www.jcarr.state.oh.us/about>

The Joint Committee on Agency Rule Review (JCARR) was created in 1977 by the Ohio General Assembly. The committee consists of five State Representatives and five State Senators. JCARR's primary function is to review proposed new, amended, and rescinded rules from over 100 agencies to ensure they do not exceed their rule-making authority granted to them by the General Assembly. If a rule violates one or more of the six items listed below, the JCARR committee could make a recommendation to invalidate all or part of the rule:

- Do the rules exceed the agency's authority;
- Do the rules conflict with an existing rule of that agency or another state agency;
- Do the rules conflict with legislative intent;
- Has the rule-making agency prepared a complete and accurate rule summary and fiscal analysis of the proposed, amended, or rescinded rule ([ORC 127.18](#));
- Has the rule-making agency met the incorporation by reference standards for a text or other material as stated in ORC sections [121.71 through 121.75](#); and,
- If the rule has an adverse impact on business ([ORC 107.52](#)), that the rule-making agency has demonstrated through the business impact analysis (BIA), the Common Sense Initiative Office (CSI) recommendations and the agency's memorandum of response to the CSI recommendations, that the rule's regulatory intent justifies its adverse impact on business.

Does JCARR invalidate rules?

No, JCARR does not invalidate rules. The committee may recommend to the entire General Assembly, via a Concurrent Resolution, the invalidation of an administrative rule based on one or more of the legislative review criteria. In order for a rule to be invalidated, the resolution must pass both chambers of the General Assembly. If a rule is invalidated by the General Assembly, the agency may not file that rule again for the remainder of that General Assembly.

R.C. § 101.35

101.35 Joint committee on agency rule review

There is hereby created in the general assembly the joint committee on agency rule review. The committee shall consist of five members of the house of representatives and five members of the senate. Within fifteen days after the commencement of the first regular session of each general assembly, the speaker of the house of representatives shall appoint the members of the committee from the house of representatives, and the president of the senate shall appoint the members of the committee from the senate. Not more than three of the members from each house shall be of the same political party. . . .

At meetings of the committee, the committee may request an agency, as defined in [section 106.01 of the Revised Code](#), to provide information relative to the agency's implementation of its statutory authority.

A member of the committee, and the executive director and staff of the committee, are entitled in their official capacities to attend, but not in their official capacities to participate in, a public hearing conducted by an agency on a proposed rule.

The executive director serves at the pleasure of the president and speaker by mutual consensus. The executive director may employ such technical, professional, and clerical employees as are necessary to carry out the powers and administrative duties of the committee.

R.C. § 101.351

101.351 Rule watch system

The goal of the rule watch system is to provide one world wide web portal through which a person can obtain information about the rules of, and about rule-making by, state agencies.

The joint committee on agency rule review shall establish, maintain, and improve a rule watch system. The rule watch system shall be designed so that a person may register electronically to receive an electronic mail alert when an agency files a rule for review by the joint committee.

The joint committee shall integrate the common sense initiative office into the rule watch system. The joint committee is the principal member of the rule watch system, but shall work in collaboration with the common sense initiative office to achieve the integration.

Failure of the rule watch system to transmit an electronic mail alert to a person is not grounds for questioning the validity of a rule or the validity of the process by which the rule was adopted.

CREDIT(S)

[\(2014 S 3, eff. 9-17-14\)](#)

R.C. § 101.353

101.353 Procedure upon agency dereliction of duty to adopt rule

If the joint committee on agency rule review becomes aware, such as through its own inquiries or by receiving complaints from interested parties or stakeholders, that an agency subject to its jurisdiction is required expressly or impliedly by a statute to adopt a rule but appears neither to have done so nor to have commenced the rule-making process, the chairperson of the joint committee, in the chairperson's sole discretion, may request the agency to appear before the joint committee to address its apparent dereliction. The request shall specify the time and place at which a designee of the agency is to appear before the joint committee to address, and answer the joint committee's questions concerning, the agency's apparent dereliction. The request shall identify the statute that expressly or impliedly requires rule-making and that apparently has not been complied with. The joint committee shall transmit the request to the agency electronically.

The joint committee also shall publish the request on its web site, and shall indicate in conjunction with the published request that any person is invited to appear before the joint committee when the agency appears to offer and make comments to the joint committee concerning the agency's apparent dereliction.

Upon receiving the request, the agency shall designate a suitable agency officer or employee to appear on behalf of the agency before the joint committee as directed in the request. The agency electronically shall notify the joint committee of the name, title, telephone number, and electronic mail address of the officer or employee who has been designated to appear before the joint committee in response to the request.

Upon appearing before the joint committee, the agency's designee shall address why the agency apparently has neither adopted a rule nor commenced the rule-making process as expressly or impliedly required by the statute. The members of the joint committee may question the agency's designee concerning the agency's apparent dereliction. Any person may offer and make comments to the joint committee concerning the agency's apparent dereliction.

After the appearance has concluded, the joint committee, by vote of a majority of its members, in writing may advise the agency to commence rule-making proceedings under the statute, as soon as it is reasonably feasible for the agency to do so. The joint committee shall transmit the advisory electronically to the agency. The joint committee also shall publish the advisory on its web site.

CREDIT(S)

([2018 S 221, eff. 8-18-19](#))

OKLAHOMA

75 Okl.St.Ann. § 250.10. Request for agency review of rules

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) calendar days of such request.

OREGON

183.405. When an agency shall review a rule

<Text subject to final change by the Oregon Office of the Legislative Counsel.>

(1) Not later than five years after adopting a rule, an agency shall review the rule for the purpose of determining:

- (a) Whether the rule has had the intended effect;
- (b) Whether the anticipated fiscal impact of the rule was underestimated or overestimated;
- (c) Whether subsequent changes in the law require that the rule be repealed or amended;
- (d) Whether there is continued need for the rule; and
- (e) What impacts the rule has on small businesses.

(2) Upon request of an agency, the Small Business Rules Advisory Committee established in section 2 of this 2018 Act may agree to complete the review and reporting required by this section for the agency.

(3) An agency or the Small Business Rules Advisory Committee shall utilize available information in complying with the requirements of subsection (1) of this section.

(4) An agency or the Small Business Rules Advisory Committee shall provide a report on each review of a rule conducted under this section:

(a) To the Secretary of State;

(b) To the Small Business Rules Advisory Committee, unless the committee completed the review under subsection (2) of this section; and

(c) If the agency appointed an advisory committee pursuant to [ORS 183.333](#) for consideration of a rule subject to the requirements of this section, to the advisory committee.

(5) The provisions of this section do not apply to the amendment or repeal of a rule.

(6) The provisions of this section do not apply to:

(a) Rules adopted to implement court orders or the settlement of civil proceedings;

(b) Rules that adopt federal laws or rules by reference;

(c) Rules adopted to implement legislatively approved fee changes; or

(d) Rules adopted to correct errors or omissions.

(7) The Secretary of State shall compile the reports submitted under this section during each calendar year and submit an annual report to the Legislative Assembly in the manner required by [ORS 192.245](#) no later than February 1 of the following year.

O.R.S. § 183.720. Agency rule review procedure; reporting duplicative or conflicting rules

(1) The Legislative Counsel may review, or shall review at the direction of the Legislative Counsel Committee, a proposed rule or an adopted rule of a state agency.

(2) The Legislative Counsel may review an adopted rule of a state agency upon the written request of any person affected by the rule. The Legislative Counsel shall review a proposed or adopted rule of a state agency upon the written request of any member of the Legislative Assembly. The written request for review must identify the specific objection or problem with the rule.

(3) When reviewing a rule of a state agency pursuant to subsection (1) or (2) of this section, the Legislative Counsel shall:

(a) Determine whether the rule appears to be within the intent and scope of the enabling legislation purporting to authorize its adoption; and

(b) Determine whether the rule raises any constitutional issue other than described in paragraph (a) of this subsection, and if so, the nature of the issue.

(4) In making a determination under subsection (3)(a) of this section, the Legislative Counsel shall, wherever possible, follow generally accepted principles of statutory construction.

(5) The Legislative Counsel shall prepare written findings on a rule reviewed, setting forth the determinations made under subsection (3) of this section.

(6) When a review of a rule is made by the Legislative Counsel, the Legislative Counsel shall send a copy of the determinations made under subsection (3) of this section to the appropriate interim committee or, if the review was requested by a member of the Legislative Assembly or by a person affected by the rule, to the person requesting the review. If the Legislative Counsel determines that a rule is not within the intent and scope of the enabling legislation purporting to authorize the state agency's adoption of the rule, or that the rule raises a constitutional issue, the Legislative Counsel shall also send a copy of the determination to the agency. The Legislative Counsel may request that the state agency respond in writing to the determinations or appear at the meeting of the interim committee at which the committee will consider the determinations. The interim committee may direct the Legislative Counsel to send

a copy of the determinations to the presiding officer of a house of the Legislative Assembly, who may refer the determinations to any legislative committee concerned.

(7)(a) A member of the Legislative Assembly may request that Legislative Counsel prepare a report on a rule adopted by a state agency that the member asserts is duplicative of or conflicts with another rule. A person affected by a rule adopted by a state agency may request that Legislative Counsel prepare a report on the rule if the person asserts that the rule is duplicative of or conflicts with another rule. A request for a report must be in writing and contain copies of the two rules that are claimed to be duplicative or conflicting. The second rule may be either a rule adopted by a state agency or a rule or regulation adopted by a federal agency.

(b)(A) Upon receipt of a written request by a member of the Legislative Assembly, the Legislative Counsel shall prepare a report to the interim committee that contains:

(i) A copy of the request, including copies of the two rules that the member asserts are conflicting or duplicative; and

(ii) Legislative Counsel's analysis of the requirements of the two rules.

(B) Upon receipt of a written request by a person affected by a rule adopted by a state agency, the Legislative Counsel may prepare a written report to the person and each state agency concerned that contains the Legislative Counsel's analysis of the requirements of the two rules.

(8) Upon receipt of a report under subsection (7)(b)(A) of this section, the interim committee may issue a determination that a rule is duplicative of or conflicts with the other cited rule.

(9) When a report on a rule is made by the Legislative Counsel under subsection (7)(b)(A) of this section, the Legislative Counsel shall send a copy of the report and any determinations made under subsection (8) of this section to each state agency concerned. The interim committee may direct the Legislative Counsel to send a copy of the determinations to the presiding officer of a house of the Legislative Assembly, who may refer the determinations to any legislative committee concerned.

O.R.S. § 183.730. Adopted rules included in review plan upon written request

(1) As used in this section, "public record" has the meaning given that term in [ORS 192.311](#).

(2) The Oregon Sunshine Committee shall include in the plan or schedule for review established under [ORS 192.511](#) [Note: regarding exemptions from disclosure for public records] an adopted rule of a state agency upon the written request of any person affected by the rule if the adopted rule impacts the disclosure, or exemption from disclosure, of a public record. The request must specify the disclosure or exemption that is of concern.

(3) The committee shall include in the plan or schedule for review established under [ORS 192.511](#) an adopted rule of a state agency upon the written request of a member of the Legislative Assembly if the adopted rule impacts the disclosure, or exemption from disclosure, of a public record.

PENNSYLVANIA

71 P.S. § 745.2. Legislative intent

(a) The General Assembly has enacted a large number of statutes and has conferred on boards, commissions, departments and agencies within the executive branch of government the authority to adopt rules and regulations to implement those statutes. The General Assembly has

found that this delegation of its authority has resulted in regulations being promulgated without undergoing effective review concerning cost benefits, duplication, inflationary impact and conformity to legislative intent. The General Assembly finds that it must establish a procedure for oversight and review of regulations adopted pursuant to this delegation of legislative power in order to curtail excessive regulation and to require the executive branch to justify its exercise of the authority to regulate before imposing hidden costs upon the economy of Pennsylvania. It is the intent of this act to establish a method for ongoing and effective legislative review and oversight in order to foster executive branch accountability; to provide for primary review by a commission with sufficient authority, expertise, independence and time to perform that function; to provide ultimate review of regulations by the General Assembly; and to assist the Governor, the Attorney General and the General Assembly in their supervisory and oversight functions. To the greatest extent possible, this act is intended to encourage the resolution of objections to a regulation and the reaching of a consensus among the commission, the standing committees, interested parties and the agency.

(b) Deleted by [2012, June 29, P.L. 657, No. 76, § 1](#), effective in 60 days [Aug. 28, 2012].

(c) This act is intended to improve State rulemaking by creating procedures to analyze the availability of more flexible regulatory approaches for small businesses in accordance with the following findings:

(1) A vibrant and growing small business sector is critical to creating jobs in a dynamic economy.

(2) Small businesses bear a disproportionate share of regulatory costs and burdens.

(3) Fundamental changes that are needed in the regulatory and enforcement culture of agencies to make them more responsive to small business can be made without compromising the statutory missions of the agencies.

(4) When adopting regulations to protect the health, safety and economic welfare of the Commonwealth, agencies should seek to achieve statutory goals as effectively and efficiently as possible without imposing unnecessary burdens on small business.

(5) Uniform regulatory and reporting requirements can impose unnecessary and disproportionately burdensome demands, including legal, accounting and consulting costs upon small businesses with limited resources.

(6) The failure to recognize differences in the scale and resources of regulated businesses can adversely affect competition in the marketplace, discourage innovation and restrict improvements in productivity.

(7) Unnecessary regulations create entry barriers in many industries and discourage potential entrepreneurs from introducing beneficial products and processes.

(8) The practice of treating all regulated businesses similarly may lead to inefficient use of regulatory agency resources, enforcement problems and, in some cases, to actions inconsistent with the legislative intent of health, safety, environmental and economic welfare legislation.

(9) Alternative regulatory approaches which do not conflict with the stated objective of applicable statutes may be available to minimize the significant economic impact of rules on small businesses.

(10) The process by which State regulations are developed and adopted should be reformed to require agencies to solicit the ideas and comments of small businesses, to examine the impact of proposed and existing rules on such businesses and to review the continued need for existing rules.

(d) This act is not intended to create a right or benefit, substantive or procedural, enforceable at law by a person against another person or against the Commonwealth, its agencies or its officers.

71 P.S. § 745.3. Definitions

The following words and phrases when used in this act shall have, unless the context clearly indicates otherwise, the meanings given to them in this section: . . .

"Commission." The Independent Regulatory Review Commission.

"Committee." A standing committee of the Senate or the House of Representatives designated by the President pro tempore of the Senate for the Senate or by the Speaker of the House of Representatives for the House. The designation shall prescribe the jurisdiction of each standing committee over the various State agencies for purposes of this act. The designation shall be transmitted to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin.

71 P.S. § 745.5. Proposed regulations; procedures for review

. . . (g) The commission may, within thirty days after the close of the public comment period, convey to the agency and committees any comments, recommendations and objections to the proposed regulation. The comments, recommendations and objections shall specify the regulatory review criterion set forth in section 5.2 which the proposed regulation has not met. If the commission does not comment on, make recommendations regarding or object to any portion of the proposed regulation within the time provided in this subsection, the commission shall be deemed to have approved that portion of the proposed regulation. Disapproval of the final-form regulation by the commission shall relate only to comments, recommendations and objections raised by the commission to the proposed regulation; to changes which the agency made to the proposed regulation; or to recommendations, comments or objections which a committee conveyed to the agency or the commission.

71 P.S. § 745.7. Procedures for subsequent review of disapproved final-form or final-omitted regulations

(a) An agency may select one of the following options for proceeding with a regulation which has been disapproved by the commission:

(1) To proceed further with the final-form or final-omitted regulation pursuant to subsection (b).

(2) To proceed further with the final-form or final-omitted regulation pursuant to subsection (c).

(3) To withdraw the final-form or final-omitted regulation.

(b) If the agency decides to adopt the final-form or final-omitted regulation without revisions or further modifications, the agency shall submit a report to the committees and the commission within 40 days of the agency's receipt of the commission's disapproval order. The agency's report shall contain the final-form or final-omitted regulation, the commission's disapproval order and the agency's response and recommendations regarding the final-form or final-omitted regulation. If the committees are prevented from receiving the report because of adjournment sine die or expiration of the legislative session in an even-numbered year, the agency shall submit its report to the commission and the committees on the fourth Monday in January of the next year. If either committee has not been designated by the fourth Monday in January, the agency may not deliver the report to the committees and the commission until both committees are designated, but the agency shall deliver its report to the commission and the committees no later than the second Monday after the date by which both committee designations have been published in the Pennsylvania Bulletin. If the agency does not deliver the report to the committees and the commission in the time prescribed in this subsection, the agency shall be deemed to have withdrawn the final-form or final-omitted regulation.

(c) If the agency decides to revise or modify the final-form or final-omitted regulation in order to respond to objections raised by the commission and adopt that regulation with revisions or modifications, the agency shall submit a report to the committees and the commission within 40 days of the agency's receipt of the commission's disapproval order. The agency's report shall contain the revised final-form or final-omitted regulation, the findings of the commission, and the agency's response and recommendations regarding the revised final-form or final-omitted regulation. If the committees are prevented from receiving the report because of adjournment

sine die or expiration of the legislative session in an even-numbered year, the agency shall submit the report to the commission and the committees on the fourth Monday in January of the next year. If either committee has not been designated by the fourth Monday in January, the agency may not deliver the report to the committees and the commission until both committees are designated, but the agency shall deliver its report to the commission and the committees no later than the second Monday after the date by which both committee designations have been published in the Pennsylvania Bulletin. If the agency does not deliver its report to the commission and the committees in the time prescribed in this subsection, the agency shall be deemed to have withdrawn the final-form or final-omitted regulation.

(c.1) The commission may have until its next scheduled meeting which occurs no less than 15 days from receipt of the agency's report to approve or disapprove the agency's report. The commission shall deliver its approval or disapproval order to the committees for consideration by the General Assembly pursuant to subsection (d). . . [dates if the legislature is not in session] . If the commission does not deliver its order disapproving the agency's report and revised final-form or final-omitted regulation in the time prescribed by this subsection, the commission shall be deemed to have approved the agency's report and the revised final-form or final-omitted regulation.

(d) Upon receipt of the commission's order pursuant to subsection (c.1) or at the expiration of the commission's review period if the commission does not act on the regulation or does not deliver its order pursuant to subsection (c.1), one or both of the committees may, within 14 calendar days, report to the House of Representatives or Senate a concurrent resolution and notify the agency. During the 14-calendar-day period, the agency may not promulgate the final-form or final-omitted regulation. If, by the expiration of the 14-calendar-day period, neither committee reports a concurrent resolution, the committees shall be deemed to have approved the final-form or final-omitted regulation, and the agency may promulgate that regulation. If either committee reports a concurrent resolution before the expiration of the 14-day period, the Senate and the House of Representatives shall each have 30 calendar days or ten legislative days, whichever is longer, from the date on which the concurrent resolution has been reported, to adopt the concurrent resolution. If the General Assembly adopts the concurrent resolution by majority vote in both the Senate and the House of Representatives, the concurrent resolution shall be presented to the Governor in accordance with [section 9 of Article III of the Constitution of Pennsylvania](#). If the Governor does not return the concurrent resolution to the General Assembly within ten calendar days after it is presented, the Governor shall be deemed to have approved the concurrent resolution. If the Governor vetoes the concurrent resolution, the General Assembly may override that veto by a two-thirds vote in each house. The Senate and the House of Representatives shall each have 30 calendar days or ten legislative days, whichever is longer, to override the veto. If the General Assembly does not adopt the concurrent resolution or override the veto in the time prescribed in this subsection, it shall be deemed to have approved the final-form or final-omitted regulation. Notice as to any final disposition of a concurrent resolution considered in accordance with this section shall be published in the Pennsylvania Bulletin. The bar on promulgation of the final-form or final-omitted regulation shall continue until that regulation has been approved or deemed approved in accordance with this subsection. If the General Assembly adopts the concurrent resolution and the Governor approves or is deemed to have approved the concurrent resolution or if the General Assembly overrides the Governor's veto of the concurrent resolution, the agency shall be barred from promulgating the final-form or final-omitted regulation. If the General Assembly does not adopt the concurrent resolution or if the Governor vetoes the concurrent resolution and the General Assembly does not override the Governor's veto, the agency may promulgate the final-form or final-omitted regulation. The General Assembly may, at its discretion, adopt a concurrent resolution disapproving the final-form or final-omitted regulation to indicate the intent of the General Assembly but permit the agency to promulgate that regulation.

Rhode Island

Gen.Laws 1956, §§ 42-35-15. Judicial review of contested cases

(a) Any person, including any small business, who has exhausted all administrative remedies available to him or her within the agency, and who is aggrieved by a final order in a contested case is entitled to judicial review under this chapter. This section does not limit utilization of or the scope of judicial review available under other means of review, redress, relief, or trial de novo provided by law. Any preliminary, procedural, or intermediate agency act or ruling is immediately reviewable in any case in which review of the final agency order would not provide an adequate remedy.

(b) Proceedings for review are instituted by filing a complaint in the superior court of Providence County or in the superior court in the county in which the cause of action arose, or where expressly provided by the general laws in the sixth division of the district court or family court of Providence County, within thirty (30) days after mailing notice of the final decision of the agency or, if a rehearing is requested, within thirty (30) days after the decision thereon; provided, however, that any person who is aggrieved by a final order concerning the assessment or determination of any tax, interest, or penalty made by the tax administrator must pay the amount of the tax, interest, or penalty to the administrator as a prerequisite to the filing of such complaint. Copies of the complaint shall be served upon the agency and all other parties of record in the manner prescribed by applicable procedural rules within ten (10) days after it is filed in court, provided, however, that the time for service may be extended for good cause by order of the court.

(c) The filing of the complaint does not itself stay enforcement of the agency order. The agency may grant, or the reviewing court may order, a stay upon the appropriate terms.

(d) Within thirty (30) days after the service of the complaint, or within further time allowed by the court, the agency shall transmit to the reviewing court the original or a certified copy of the entire record of the proceeding under review. By stipulation of all parties to the review proceedings, the record may be shortened. Any party unreasonably refusing to stipulate to limit the record may be taxed by the court for the additional costs. The court may require or permit subsequent corrections or additions to the record.

(e) If, before the date set for the hearing, application is made to the court for leave to present additional evidence, and it is shown to the satisfaction of the court that the additional evidence is material and that there were good reasons for failure to present it in the proceeding before the agency, the court may order that the additional evidence be taken before the agency upon conditions determined by the court. The agency may modify its findings and decision by reason of the additional evidence and shall file that evidence and any modifications, new findings, or decisions with the reviewing court.

(f) The review shall be conducted by the court without a jury and shall be confined to the record. In cases of alleged irregularities in procedure before the agency, not shown in the record, proof thereon may be taken in the court. The court, upon request, shall hear oral argument and receive written briefs.

(g) The court shall not substitute its judgment for that of the agency as to the weight of the evidence on questions of fact. The court may affirm the decision of the agency or remand the case for further proceedings, or it may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

- (1) In violation of constitutional or statutory provisions;
- (2) In excess of the statutory authority of the agency;
- (3) Made upon unlawful procedure;
- (4) Affected by other error or law;
- (5) Clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or

(6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

Gen.Laws 1956, **§ 42-35-16. Review by supreme court**

Any party in interest, if aggrieved by a final judgment of the superior, family, or district court rendered in proceedings brought under [§ 42-35-15](#), may, within twenty (20) days from the date of entry of the judgment, petition the supreme court of the state of Rhode Island for a writ of certiorari to review any questions of law involved. The petition for a writ of certiorari shall set forth the errors claimed. Upon the filing of such a petition with the clerk of the supreme court, the supreme court may, if it sees fit, issue its writ of certiorari to the superior, family, or district court to certify to the supreme court the record of the administrative proceeding under review, or so much thereof as was submitted to the superior, family, or district court by the parties, together with any additional record of the proceedings in the superior, family, or district court.

SOUTH CAROLINA

Code 1976 § 1-23-120. Approval of regulations; submission to Legislative Council for submission to General Assembly; contents, requirements and procedures; compliance with federal law.

(A) All regulations except those specifically exempted pursuant to subsection (H) must be filed with Legislative Council for submission to the General Assembly for review in accordance with this article; however, a regulation must not be filed with Legislative Council for submission to the General Assembly more than one year after publication of the drafting notice initiating the regulation pursuant to [Section 1-23-110](#), except those regulations requiring a final assessment report as provided in [Sections 1-23-270](#) and [1-23-280](#).

(B) To initiate the process of review, the agency shall file with the Legislative Council for submission to the President of the Senate and the Speaker of the House of Representatives a document containing:

(1) a copy of the regulations promulgated;

(2) in the case of regulations proposing to amend an existing regulation or any clearly identifiable subdivision or portion of a regulation, the full text of the existing regulation or the text of the identifiable portion of the regulation; text that is proposed to be deleted must be stricken through, and text that is proposed to be added must be underlined;

(3) a request for review;

(4) a brief synopsis of the regulations submitted which explains the content and any changes in existing regulations resulting from the submitted regulations;

(5) a copy of the final assessment report and the summary of the final report prepared by the office pursuant to Section 1-23-115. A regulation that does not require an assessment report because the regulation does not have a substantial economic impact must include a statement to that effect. A regulation exempt from filing an assessment report pursuant to [Section 1-23-115\(E\)](#) must include an explanation of the exemption;

(6) a copy of the fiscal impact statement prepared by the agency as required by [Section 1-23-110](#);

(7) a detailed statement of rationale which states the basis for the regulation, including the scientific or technical basis, if any, and identifies any studies, reports, policies, or statements of professional judgment or administrative need relied upon in developing the regulation;

(8) a copy of the economic impact statement, as provided in [Section 1-23-270\(C\)\(1\)\(a\)](#); and

(9) a copy of the regulatory flexibility analysis, as provided in [Section 1-23-270\(C\)\(1\)\(b\)](#).

(C) Upon receipt of the regulation, the President and Speaker shall refer the regulation for review to the standing committees of the Senate and House which are most concerned with the function of the promulgating agency. A copy of the regulation or a synopsis of the regulation must be given to each member of the committee, and Legislative Council shall notify all members of the General Assembly when regulations are submitted for review either through electronic means or by addition of this information to the website maintained by the Legislative Services Agency, or both. The committees to which regulations are referred have one hundred twenty days from the date regulations are submitted to the General Assembly to consider and take action on these regulations. However, if a regulation is referred to a committee and no action occurs in that committee on the regulation within sixty calendar days of receipt of the regulation, the regulation must be placed on the agenda of the full committee beginning with the next scheduled full committee meeting.

(D) If a joint resolution to approve a regulation is not enacted within one hundred twenty days after the regulation is submitted to the General Assembly or if a joint resolution to disapprove a regulation has not been introduced by a standing committee to which the regulation was referred for review, the regulation is effective upon publication in the State Register. Upon introduction of the first joint resolution disapproving a regulation by a standing committee to which the regulation was referred for review, the one-hundred-twenty-day period for automatic approval is tolled. A regulation may not be filed under the emergency provisions of [Section 1-23-130](#) if a joint resolution to disapprove the regulation has been introduced by a standing committee to which the regulation was referred. Upon a negative vote by either the Senate or House of Representatives on the resolution disapproving the regulation and the notification in writing of the negative vote to the Speaker of the House of Representatives and the President of the Senate by the Clerk of the House in which the negative vote occurred, the remainder of the period begins to run. If the remainder of the period is less than ninety days, additional days must be added to the remainder to equal ninety days. The introduction of a joint resolution by the committee of either house does not prevent the introduction of a joint resolution by the committee of the other house to either approve or disapprove the regulations concerned. A joint resolution approving or disapproving a regulation must include:

- (1) the synopsis of the regulation as required by subsection (B)(4);
- (2) the summary of the final assessment report prepared by the office pursuant to [Section 1-23-115](#) or, as required by subsection (B)(5), the statement or explanation that an assessment report is not required or is exempt.

(E) The one-hundred-twenty-day period of review begins on the date the regulation is filed with the President and Speaker. Sine die adjournment of the General Assembly tolls the running of the period of review, and the remainder of the period begins to run upon the next convening of the General Assembly excluding special sessions called by the Governor.

(F) Any member of the General Assembly may introduce a joint resolution approving or disapproving a regulation thirty days following the date the regulations concerned are referred to a standing committee for review and no committee joint resolution approving or disapproving the regulations has been introduced and the regulations concerned have not been withdrawn by the promulgating agency pursuant to [Section 1-23-125](#), but the introduction does not toll the one-hundred-twenty-day period of automatic approval.

(G) A regulation is deemed withdrawn if it has not become effective, as provided in this article, by the date of publication of the next State Register published after the end of the two-year session in which the regulation was submitted to the President and Speaker for review. Other provisions of this article notwithstanding, a regulation deemed withdrawn pursuant to this subsection may be resubmitted by the agency for legislative review during the next legislative session without repeating the requirements of [Section 1-23-110](#), [1-23-111](#), or [1-23-115](#) if the resubmitted regulation contains no substantive changes for the previously submitted version.

(H) General Assembly review is not required for regulations promulgated:

- (1) to maintain compliance with federal law including, but not limited to, grant programs; however, the synopsis of the regulation required to be submitted by subsection (B)(4) must

include citations to federal law, if any, mandating the promulgation of or changes in the regulation justifying this exemption. If the underlying federal law which constituted the basis for the exemption of a regulation from General Assembly review pursuant to this item is vacated, repealed, or otherwise does not have the force and effect of law, the state regulation is deemed repealed and without legal force and effect as of the date the promulgating state agency publishes notice in the State Register that the regulation is deemed repealed. The agency must publish the notice in the State Register no later than sixty days from the effective date the underlying federal law was rendered without legal force and effect. Upon publication of the notice, the prior version of the state regulation, if any, is reinstated and effective as a matter of law. The notice published in the State Register shall identify the specific provisions of the state regulation that are repealed as a result of the invalidity of the underlying federal law and shall provide the text of the prior regulation, if any, which is reinstated. The agency may promulgate additional amendments to the regulation by complying with the applicable requirements of this chapter;

(2) by the state Board of Financial Institutions in order to authorize state-chartered banks, state-chartered savings and loan associations, and state-chartered credit unions to engage in activities that are authorized pursuant to [Section 34-1-110](#);

(3) by the South Carolina Department of Revenue to adopt regulations, revenue rulings, revenue procedures, and technical advice memoranda of the Internal Revenue Service so as to maintain conformity with the Internal Revenue Code as defined in [Section 12-6-40](#);

(4) as emergency regulations under [Section 1-23-130](#).

(I) For purposes of this section, only those calendar days occurring during a session of the General Assembly, excluding special sessions, are included in computing the days elapsed.

(J) Each state agency, which promulgates regulations or to which the responsibility for administering regulations has been transferred, shall by July 1, 1997, and every five years thereafter, conduct a formal review of all regulations which it has promulgated or for which it has been transferred the responsibility of administering, except that those regulations described in subsection (H) are not subject to this review. Upon completion of the review, the agency shall submit to the Code Commissioner a report which identifies those regulations:

(1) for which the agency intends to begin the process of repeal in accordance with this article;

(2) for which the agency intends to begin the process of amendment in accordance with this article; and

(3) which do not require repeal or amendment.

Nothing in this subsection may be construed to prevent an agency from repealing or amending a regulation in accordance with this article before or after it is identified in the report to the Code Commissioner.

SOUTH DAKOTA

[https://sdlegislature.gov/Interim/Documents.aspx?
Committee=171&Session=2017&tab=Detail](https://sdlegislature.gov/Interim/Documents.aspx?Committee=171&Session=2017&tab=Detail)

SDCL § 1-26-4

1-26-4. Notice, service, and hearing required for adoption, amendment, or repeal of rules--Service on interim rules committee--Waiver of service

The following notice, service, and public hearing procedure shall be used to adopt, amend, or repeal a permanent rule:

(1) An agency shall serve a copy of a proposed rule and any publication described in § 1-26-6.6 upon the departmental secretary, bureau commissioner, public utilities commissioner, or constitutional officer to which it is attached for the secretary's, commissioner's, or officer's written approval to proceed;

(2) After receiving the written approval of the secretary, commissioner, or officer to proceed, the agency shall serve the director [if the Legislative Research Council] with a copy of: the proposed rules; any publication described in § 1-26-6.6; the fiscal note described in § 1-26-4.2; the impact statement on small business described in § 1-26-2.1; and the notice of hearing required by § 1-26-4.1. The copy of these documents shall be served at least twenty days before the public hearing to adopt the proposed rules. Any publication described in § 1-26-6.6 shall be returned to the agency upon completion of the director's review and retained by the agency. Also, twenty days before the public hearing, the agency shall serve the commissioner of the Bureau of Finance and Management with a copy of: the proposed rules; the fiscal note described in § 1-26-4.2; the impact statement on small business described in § 1-26-2.1; and the notice of hearing required by § 1-26-4.1;

(3) The agency shall publish the notice of hearing in the manner prescribed by § 1-26-4.1, at least twenty days before the public hearing;

(4) After reviewing the proposed rule pursuant to § 1-26-6.5, the director shall advise the agency of any recommended corrections to the proposed rule. If the agency does not concur with any recommendation of the director, the agency may appeal the recommended correction to the Interim Rules Review Committee for appropriate action;

(5) The agency shall afford all interested persons reasonable opportunity to submit amendments, data, opinions, or arguments at a public hearing held to adopt the rule. The hearing may be continued from time to time. The agency shall keep minutes of the hearing. A majority of the members of any board or commission authorized to pass rules must be present during the course of the public hearing;

(6) If the authority promulgating the rule is a secretary, commissioner, or officer, the agency shall accept written comments regarding the proposed rule for a period of ten days after the public hearing. If the authority promulgating the rule is a part-time citizen board, commission, committee, or task force, each interested person is required to submit written comments at least seventy-two hours before the public hearing. The seventy-two hours does not include the day of the public hearing. The written comments may be submitted by mail or email. The record of written comments may be closed at the conclusion of the public hearing. However, the hearing may be specifically continued for the purpose of taking additional comments;

(7) After the written comment period, the agency shall fully consider all amendments, data, opinions, or arguments regarding the proposed rule. A proposed rule may be modified or amended at this time to include or exclude matters which were described in the notice of hearing; and

(8) The agency shall serve the minutes of the hearing, a complete record of written comments, the impact statement on small business, the fiscal note, the information required in § 1-26-4.8, and a corrected copy of the rules on the members of the Interim Rules Review Committee at least five days before the agency appears before the committee to present the rules.

The time periods specified in this section may be extended by the agency. The requirement to serve the committee in subdivision (8) may be waived by the committee chair if the agency presents sufficient reasons to the committee chair that the agency is unable to comply with the time limit. The waiver may not be granted solely for the convenience of the agency.

SDCL § 1-26-4.3

1-26-4.3. Rule review by Interim Rules Review Committee before filing--Time limits

No permanent rule may be filed with the secretary of state without the review of the rule by the Interim Rules Review Committee. No permanent rule may be filed with the secretary of state if more than sixty days have passed from the date the Interim Rules Review Committee adopts a motion that the rule-making process is complete. No emergency rule may be adopted if more than thirty days have passed from the date the notice of intent to adopt an emergency rule was published in the manner prescribed in [§ 1-26-4.1](#).

SDCL § 1-26-4.7

1-26-4.7. Reversion to step in adoption procedure

The Interim Rules Review Committee may require an agency to revert to any step in the adoption procedure provided in [§ 1-26-4](#) if, in the judgment of the committee:

- (1) The substance of the proposed rule has been significantly rewritten from the originally proposed rule which was not the result of testimony received from the public hearing;
- (2) The proposed rule needs to be significantly rewritten in order to accomplish the intent of the agency;
- (3) The proposed rule needs to be rewritten to address the recommendations or objections of the Interim Rules Review Committee;
- (4) The proposed rule is not a valid exercise of delegated legislative authority;
- (5) The proposed rule is not in proper form;
- (6) The notice given prior to the proposed rule's adoption was not sufficient to give adequate notice to persons likely to be affected by the proposed rule;
- (7) The proposed rule is not consistent with the expressed legislative intent pertaining to the specific provision of law which the proposed rule implements;
- (8) The proposed rule is not a reasonable implementation of the law as it affects the convenience of the general public or persons likely affected by the proposed rule; or
- (9) The proposed rule may impose more than nominal costs upon a unit of local government or school district when the unit of local government or school district may not have sufficient funding to perform the activity required by the proposed rule.

If the committee requires an agency to revert to any step in the adoption procedure pursuant to this section, the time limitations set by chapter 1-26 shall also revert to the same step.

SDCL § 1-26-4.9. Authority of Interim Rules Review Committee

The Interim Rules Review Committee may:

- (1) Declare that the rule-making process is complete to the satisfaction of the committee;
- (2) Revert the rule to an earlier step in the rule adoption procedure pursuant to [§ 1-26-4.7](#) to consider an amendment to the proposed rule; or
- (3) Move to suspend the proposed rule pursuant to [§ 1-26-38](#).

SDCL § 1-26-6. Completion of adoption of rule or change in rules

The adoption, amendment, or repeal of a rule is complete when:

- (1) All the requirements of [§ 1-26-4](#) have been completed or, if the rule is an emergency rule, three days have passed since all the requirements of [§ 1-26-5](#) have been complied with;
- (2) It has been signed by a majority of the members of the multi-member body or by the officer having the authority to adopt it;
- (3) It has been signed by the director;
- (4) A copy has been filed with the director, in a form prescribed by the director [of the Legislative Research Council] to show amendments, deletions, and other changes to existing rules, for use in preparation of copy for the Administrative Rules of South Dakota;
- (5) The rule and a certificate have been filed with the secretary of state. The certificate shall affirm that the rule filed is a true and correct copy of the rule as adopted and that the agency has complied with [§ 1-26-4](#) or [1-26-5](#), and with this section; and
- (6) For a permanent rule, the agency has appeared and presented the proposed rule to the Interim Rules Review Committee.

Certificates required by this section shall be affidavits executed, under oath, by the officers authorized by statute to promulgate the rule. If a rule is promulgated by a multi-member body, the certificate shall be signed by its presiding officer.

Emergency rules are provisionally effective immediately after being filed. Notwithstanding [§ 15-6-6\(a\)](#), all other rules are provisionally effective on the twentieth day after being filed, not counting the day of filing. In either case a later effective date may be specified as part of the rules being filed. A rule which is not yet effective or a provisionally effective rule may be suspended in the manner specified by [§ 1-26-38](#) any time prior to the first day of July of the year following the year in which it became, or would have become, effective. The rule's provisional status ends at that time, and the rule may not thereafter be suspended by the rules committee. Unless suspended, a provisionally effective rule shall be enforced by the agency and the courts as if it were not so conditioned.

No rule promulgated after June 30, 1975, is valid unless adopted in compliance with [§ 1-26-4](#) or [1-26-5](#), and this section and copies of the rule are made available to the public upon request, by the agency.

TENNESSEE

T. C. A. § 4-5-226. Rules; expiration; review by government operations committees

- (a) Notwithstanding any other law to the contrary, unless legislation is enacted to continue a rule to a date certain or indefinitely, any permanent rule filed in the office of the secretary of state shall expire on June 30 of the year following the year of its filing.
- (b)(1) Notwithstanding any other law to the contrary, unless legislation is enacted to continue a rule to a date certain or to a date indefinitely beyond the date upon which an agency terminates, each permanent rule that does not expire under subsection (a), shall expire on the day provided in chapter 29, part 2 of this title for termination of the agency that promulgated such rule; provided, that if such agency continues in existence pursuant to [§ 4-29-112](#), such agency rule shall expire upon completion of such wind-up period.
- (2) All rules and regulations issued or promulgated by any department or agency of state government whose functions, duties, or responsibilities have been transferred to another department or agency shall remain in full force and effect, and shall thereafter be administered and enforced by the agency or department assuming responsibility for those functions, duties, or responsibilities as rules of that agency or department, and all proposed rules pending with the attorney general and reporter or secretary of state, unless withdrawn, shall continue that status

as proposed rules until becoming effective as rules of the agency assuming the functions, duties, or responsibilities. . . .

(c) Rules promulgated pursuant to this chapter shall be reviewed by the government operations committees of the senate and the house of representatives meeting jointly or separately, or, alternatively, at the discretion of the chair of either of such committees, by a subcommittee of the government operations committees. Members of the government operations committees of the senate and the house of representatives shall serve as members of such committees until their successors are duly appointed; provided, that such members remain members of the general assembly. Any member of either government operations committee who ceases to be a member of the general assembly shall cease to be a member of the government operations committee on the same date such member's membership in the general assembly ceases, as provided in the Constitution of Tennessee. In the event a majority of the membership of either government operations committee shall cease to be members of the general assembly, the speaker of the senate or the speaker of the house of representatives, as the case may be, may designate an appropriate number of members to serve interim appointments until the government operations committee is reconstituted. The house of representatives and senate government operations committees shall strive to hear rules within ninety (90) days of such rules being filed in the office of the secretary of state.

(d)(1) In conducting the review required by subsection (c), the committees or subcommittees shall hold at least one (1) public hearing to receive testimony from the public and from the administrative head of the agency. At such hearing, the agency shall have the burden of demonstrating, by convincing evidence, that consideration of the factors enumerated in subsection (e), in their totality, justifies the continued existence of an agency rule. Notice of the time and place of the public hearing shall be on the general assembly web site prior to the hearing. To the extent reasonably practicable, the committees or subcommittees shall conduct hearings on newly filed rules, other than emergency rules, during the ninety-day period immediately following the filing of the original of such rule in the office of the secretary of state.

(2) Whether an agency has met its burden of persuasion for the continued existence of a rule is solely within the discretion of the general assembly. Nothing in subdivision (d)(1) or subsection (e) creates a cause of action for any person to seek judicial review of whether the demonstration that an agency offered to justify the continued existence of a rule met the requirements of the standard prescribed in subdivision (d)(1).

(e) As part of the review of agency rules, the agency has the burden of demonstrating, by convincing evidence, that consideration of the factors enumerated in this subsection (e) justify the continued existence of an agency rule. Such factors include:

- (1) Whether the agency is acting within its authority to adopt the rule;
- (2) Whether the rule, considered in its entirety, will be easily understood by persons directly affected by the rule;
- (3) Whether the rule is consistent, and not in conflict with or contradictory to existing law;
- (4) Whether the rule is necessary to secure the health, safety, or welfare of the public;
- (5) Whether the rule is necessary and essential for the agency to serve persons affected by the rule;
- (6) Whether the rule is arbitrary or capricious;
- (7) Whether the rule adversely impacts a person's constitutional rights;
- (8) Whether the rule unnecessarily adversely impacts business or individuals;
- (9) Whether the rule will result in economic efficiency for persons served by the agency and persons affected by the rule; and
- (10) Whether the rule exceeds the mandatory minimum requirements of any relevant federal law or rule.

(f) As used in subsection (e):

(1) "Arbitrary or capricious" means a willful or unreasonable agency action without consideration of or in disregard of facts or law; and

(2) "Authority" means provisions of law that permit or obligate the agency to adopt, amend, or repeal a rule.

(g) Nothing contained in this chapter shall be construed to prohibit the general assembly by legislative enactment from directly or indirectly repealing or amending any rule.

(h) The committees or subcommittees have the authority to hold hearings, subpoena records, documents and persons, and to exercise all powers otherwise vested upon committees of the general assembly by title 3, chapter 3, and by the rules of the appropriate house. . . .

(j)(1) The committee may express its disapproval of a rule that fails, in its judgment, to satisfy any or all of the factors enumerated in subsection (e), by voting to allow such rule to expire upon its established expiration date or by voting to request the agency to repeal, amend or withdraw this rule before such established expiration date. Notice of the committee's disapproval of a rule whether by vote to allow the rule to expire or by vote to request the agency to repeal, amend or withdraw a rule shall be posted, by the secretary of state, to the administrative register on the secretary of state's web site as soon as possible after the committee meeting in which such action was taken.

(2) In the event an agency fails to comply with the committee's request to repeal, amend, or withdraw a rule within a reasonable time and before the established expiration date, the committee may vote to request the general assembly to repeal the rule, or to suspend any or all of such agency's rulemaking authority for any reasonable period of time or with respect to any particular subject matter, by legislative enactment. . . .

(l) If, pursuant to this section, the general assembly terminates a rule amending a previously existing rule, then such previously existing rule shall continue in effect until it is later amended, repealed or superseded by law. . . .

T. C. A. § 4-5-227. Rules; automatic termination

Upon filing a rule with the secretary of state, an agency may designate a date on which the effectiveness of such rule will automatically terminate. Such a designation shall be made either within the substantive language of the rule or on a form provided for such purpose by the secretary of state and shall result, at the appropriate time, in the repeal and removal of such rule from the Official Compilation of Rules and Regulations of the State of Tennessee, published by the secretary of state, without any further rulemaking activity by the agency. Any rule that automatically expires under [§ 4-5-226](#), shall so expire pursuant to that section, notwithstanding the fact that the rulemaking agency may have designated a later date for the automatic termination of such rule under this section. This section shall not apply to emergency rules.

TEXAS

V.T.C.A., Government Code § 2001.032. Legislative Review

(a) Each house of the legislature by rule shall establish a process under which the presiding officer of each house refers each proposed state agency rule to the appropriate standing committee for review before the rule is adopted.

(b) On receiving a written request from the lieutenant governor, a member of the legislature, or a legislative agency, the secretary of state shall provide the requestor with electronic notification of rulemaking filings by a state agency under [Section 2001.023](#).

(c) On the vote of a majority of its members, a standing committee may send to a state agency a statement supporting or opposing adoption of a proposed rule.

V.T.C.A., Government Code § 2008.054. Appointment and Duration of Negotiated Rulemaking Committee

(a) After considering comments it receives in response to the notice of proposed negotiated rulemaking, a state agency that intends to proceed shall establish a negotiated rulemaking committee and appoint the members of the committee.

(b) A state agency shall consider the appropriate balance between representatives of affected interests in appointing the negotiated rulemaking committee.

(c) The state agency shall appoint individuals to the committee to represent the agency and appoint other individuals to the committee to represent the interests identified by the agency that are likely to be affected by the proposed rule. Article 6252-33, Revised Statutes, does not apply to the size or composition of the committee or to the agency's ability to reimburse expenses of committee members under [Section 2008.003\(b\)](#).

(d) The committee is automatically abolished on the adoption of the proposed rule, unless the committee or the state agency after consulting the committee specifies an earlier abolition date.

UTAH

U.C.A. 1953 § 63G-3-501. Administrative Rules Review Committee

(1)(a) There is created an Administrative Rules Review Committee of the following 10 permanent members:

(i) five members of the Senate appointed by the president of the Senate, no more than three of whom may be from the same political party; and

(ii) five members of the House of Representatives appointed by the speaker of the House of Representatives, no more than three of whom may be from the same political party. . . .

(3)(a) The committee shall exercise continuous oversight of the rulemaking process.

(b) The committee shall examine each rule submitted by an agency to determine:

(i) whether the rule is authorized by statute;

(ii) whether the rule complies with legislative intent;

(iii) the rule's impact on the economy and the government operations of the state and local political subdivisions;

(iv) the rule's impact on affected persons;

(v) the rule's total cost to entities regulated by the state;

(vi) the rule's benefit to the citizens of the state; and

(vii) whether adoption of the rule requires legislative review or approval.

(c)(i) To carry out these duties, the committee may examine any other issues that the committee considers necessary.

(ii) The committee may also notify and refer rules to the chairs of the interim committee that has jurisdiction over a particular agency when the committee determines that an issue involved in an agency's rules may be more appropriately addressed by that committee.

(d) In reviewing a rule, the committee shall follow generally accepted principles of statutory construction.

(4) When the committee reviews an existing rule, the committee chairs shall invite the Senate and House chairs of the standing committee and of the appropriation subcommittee that have jurisdiction over the agency whose existing rule is being reviewed to participate as nonvoting, ex officio members with the committee.

(5) The committee may request that the Office of the Legislative Fiscal Analyst prepare a fiscal note on any rule.

. . .

(7)(a) The committee may prepare written findings of the committee's review of a rule and may include any recommendation, including legislative action.

(b) When the committee reviews a rule, the committee shall provide to the agency that enacted the rule:

(i) the committee's findings, if any; and

(ii) a request that the agency notify the committee of any changes the agency makes to the rule. . . .

U.C.A. 1953 § 63G-3-502. Legislative reauthorization of agency rules--Extension of rules by governor

(1) All grants of rulemaking power from the Legislature to a state agency in any statute are made subject to the provisions of this section.

(2)(a) Except as provided in Subsection (2)(b), every agency rule that is in effect on February 28 of any calendar year expires on May 1 of that year unless it has been reauthorized by the Legislature.

(b) Notwithstanding the provisions of Subsection (2)(a), an agency's rules do not expire if:

(i) the rule is explicitly mandated by a federal law or regulation; or

(ii) a provision of Utah's constitution vests the agency with specific constitutional authority to regulate.

(3)(a) The Administrative Rules Review Committee shall have omnibus legislation prepared for consideration by the Legislature during its annual general session.

(b) The omnibus legislation shall be substantially in the following form: "All rules of Utah state agencies are reauthorized except for the following".

(c) Before sending the legislation to the governor for the governor's action, the Administrative Rules Review Committee may send a letter to the governor and to the agency explaining specifically why the committee believes any rule should not be reauthorized.

(d) For the purpose of this section, the entire rule, a single section, or any complete paragraph of a rule may be excepted for reauthorization in the omnibus legislation considered by the Legislature.

(4) The Legislature's reauthorization of a rule by legislation does not constitute legislative approval of the rule, nor is it admissible in any proceeding as evidence of legislative intent.

(5)(a) If an agency believes that a rule that has not been reauthorized by the Legislature or that will be allowed to expire should continue in full force and effect and is a rule within their authorized rulemaking power, the agency may seek the governor's declaration extending the rule beyond the expiration date.

(b) In seeking the extension, the agency shall submit a petition to the governor that affirmatively states:

(i) that the rule is necessary; and

(ii) a citation to the source of its authority to make the rule.

(c)(i) 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 extended by publishing that declaration in the Administrative Rules Bulletin on or before April 15 of that year.

(ii) The declaration shall set forth the rule to be extended, the reasons the extension is necessary, and a citation to the source of the agency's authority to make the rule.

(d) If the omnibus bill required by Subsection (3) fails to pass both houses of the Legislature or is found to have a technical legal defect preventing reauthorization of administrative rules intended to be reauthorized by the Legislature, the governor may declare all rules to be extended by publishing a single declaration in the Administrative Rules Bulletin on or before June 15 without meeting requirements of Subsections (5)(b) and (c).

VERMONT

3 V.S.A. § 842. Review by Legislative Committee

(a) Objection; time frame; process.

(1) Within 45 days after the filing of a final proposal unless the agency consents to an extension of this review period, the Legislative Committee on Administrative Rules, by majority vote of the entire Committee, may object under subsection (b) of this section and recommend that the agency amend or withdraw the proposal. The agency shall be notified promptly of the objections. Failure to give timely notice shall be deemed approval.

(2) The agency shall within 14 days after receiving notice respond in writing to the Committee and send a copy to the Secretary of State. In its response, the agency may include revisions to the proposed rule or filing documents that seek to cure defects noted by the Committee.

(3) After receipt of this response, the Committee may withdraw or modify its objections.

(b) Grounds for objection. The Committee may object under this subsection if:

(1) a proposed rule is beyond the authority of the agency;

(2) a proposed rule is contrary to the intent of the Legislature;

(3) a proposed rule is arbitrary;

(4) the agency did not adhere to the strategy for maximizing public input prescribed by the Interagency Committee on Administrative Rules;

(5) a proposed rule is not written in a satisfactory style in accordance with [section 833](#) of this title;

(6) the economic impact analysis fails to recognize a substantial economic impact of the proposed rule, fails to include an evaluation and statement of costs to local school districts required under [section 838](#) of this title, or fails to recognize a substantial economic impact of the rule to such districts; or

(7) the environmental impact analysis fails to recognize a substantial environmental impact of the proposed rule.

(c) Objections; legal effect.

(1) When objection is made under this section, and the objection is not withdrawn after the agency responds, on majority vote of the entire Committee, it may file the objection in certified form with the Secretary of State. The objection shall contain a concise statement of the Committee's reasons for its action. The Secretary shall affix to each objection a certification of its filing and as soon as practicable transmit a copy to the agency.

(2) After a Committee objection is filed with the Secretary under this subsection, or on the same grounds under subsection 817(d) of this title, to the extent that the objection covers a rule or portion of a rule, the burden of proof thereafter shall be on the agency in any action for judicial review or for enforcement of the rule to establish that the part objected to is within the authority delegated to the agency, is consistent with the intent of the Legislature, is not arbitrary, and is written in a satisfactory style in accordance with [section 833](#) of this title, and that the agency did adhere to the strategy for maximizing public input prescribed by the Interagency Committee on Administrative Rules and its economic and environmental impact analyses did not fail to recognize a substantial economic or environmental impact. The objection of the Committee shall not be admissible evidence in any proceeding other than to establish the fact of the objection. If the agency fails to meet its burden of proof, the court shall declare the whole or portion of the rule objected to invalid.

(3) The failure of the Committee to object to a rule is not an implied legislative authorization of its substantive or procedural lawfulness.

(d) Notice of objection; inclusion on rule copies. When an objection is made under subsection (b) of this section and has been certified by the Secretary of State, notice of the objection shall be included on all copies of the rule distributed to the public.

3 V.S.A. § 817. Legislative Committee on Administrative Rules

(a) There is created a joint legislative committee to be known as the Legislative Committee on Administrative Rules. The Legislative Committee on Administrative Rules shall be composed of eight members of the General Assembly. . . .

(c) The Legislative Committee on Administrative Rules may hold public hearings on a proposed or previously adopted rule on its own initiative. The Committee shall give public notice of any hearing at least 10 days in advance and shall notify the agency affected. Any public hearing shall be scheduled at a time and place chosen to afford opportunity for affected persons to present their views. As appropriate, the Legislative Committee on Administrative Rules shall consult with the standing legislative committee having jurisdiction in the area of the rule under review.

(d) In addition to its powers under [section 842](#) of this title concerning rules, the Committee may, in similar manner, conduct public hearings, object, and file objections concerning existing rules. A rule reviewed under this subsection shall remain in effect until amended or repealed.

(e) At any time following its consideration of a final proposal under [section 841](#) of this title, the Committee, by majority vote of the entire Committee, may request that any standing committees of the General Assembly review the issues or questions presented therein which are outside the jurisdiction of the Committee but are within the jurisdiction of the standing committees. On receiving a request for review under this subsection, a standing committee may at its discretion review the issues or questions and act on them. The Committee's request for review shall not affect the review or review period of a final proposal.

VIRGINIA

VA Code Ann. § 2.2-4014. Legislative review of proposed and final regulations

A. After publication of the Register pursuant to [§ 2.2-4031](#), the standing committee of each house of the General Assembly to which matters relating to the content of the regulation are most properly referable or the Joint Commission on Administrative Rules may meet and, during the promulgation or final adoption process, file with the Registrar and the promulgating agency an objection to a proposed or final adopted regulation. The Registrar shall publish any such objection received by him as soon as practicable in the Register. Within 21 days after the receipt by the promulgating agency of a legislative objection, that agency shall file a response with the Registrar, the objecting legislative committee or the Joint Commission on Administrative Rules, and the Governor. If a legislative objection is filed within the final adoption period, subdivision A 1 of [§ 2.2-4015](#) shall govern.

B. In addition or as an alternative to the provisions of subsection A, the standing committee of both houses of the General Assembly to which matters relating to the content are most properly referable or the Joint Commission on Administrative Rules may suspend the effective date of any portion or all of a final regulation with the Governor's concurrence. The Governor and (i) the applicable standing committee of each house or (ii) the Joint Commission on Administrative Rules may direct, through a statement signed by a majority of their respective members and by the Governor, that the effective date of a portion or all of the final regulation is

suspended and shall not take effect until the end of the next regular legislative session. This statement shall be transmitted to the promulgating agency and the Registrar within the 30-day final adoption period, or if a later effective date is specified by the agency the statement may be transmitted at any time prior to the specified later effective date, and shall be published in the Register.

If a bill is passed at the next regular legislative session to nullify a portion but not all of the regulation, then the promulgating agency (i) may promulgate the regulation under the provision of subdivision A 4 a of § 2.2-4006, if it makes no changes to the regulation other than those required by statutory law or (ii) shall follow the provisions of §§ 2.2-4007.01 through 2.2-4007.06, if it wishes to also make discretionary changes to the regulation. If a bill to nullify all or a portion of the suspended regulation, or to modify the statutory authority for the regulation, is not passed at the next regular legislative session, then the suspended regulation shall become effective at the conclusion of the session, unless the suspended regulation is withdrawn by the agency.

C. A regulation shall become effective as provided in § 2.2-4015.

D. This section shall not apply to the issuance by the State Air Pollution Control Board of variances to its regulations.

VA Code Ann. § 2.2-4013. Executive review of proposed and final regulations; changes with substantial impact

A. The Governor shall adopt and publish procedures by executive order for review of all proposed regulations governed by this chapter by June 30 of the year in which the Governor takes office. The procedures shall include (i) review by the Attorney General to ensure statutory authority for the proposed regulations; and (ii) examination by the Governor to determine if the proposed regulations are (a) necessary to protect the public health, safety and welfare and (b) clearly written and easily understandable. The procedures may also include review of the proposed regulation by the appropriate Cabinet Secretary.

The Governor shall transmit his comments, if any, on a proposed regulation to the Registrar and the agency no later than fifteen days following the completion of the public comment period provided for in § 2.2-4007.03. The Governor may recommend amendments or modifications to any regulation that would bring that regulation into conformity with statutory authority or state or federal laws, regulations or judicial decisions. . . .

WASHINGTON

Joint Administrative Rules Review Committee,

<http://leg.wa.gov/jointcommittees/JARRC/Pages/default.aspx>

<http://leg.wa.gov/JointCommittees/JARRC/Pages/Process.aspx>

The Committee reviews proposed and existing agency rules to determine (1) whether the rules conform to the intent of the statute(s) they purport to implement; and (2) whether the rules will be or were adopted in accord with the procedural provisions of the law, including the APA. The Committee also reviews whether an agency is using a policy or interpretive statement in place of a rule.

The Committee follows a number of procedures, including the following:

1. Nonpartisan staff from both Senate Committee Services and House Office of Program Research regularly review all emergency, proposed, and adopted administrative rules as they are filed with the Code Reviser's Office.
2. Any citizen may submit a petition to the Committee for review of a proposed or existing rule or an agency guideline. If the Committee convenes a meeting or hearing to review a petition for review, staff will report on the administrative rule at issue and the issues raised by the petitioner. In most instances, the party requesting review is given an opportunity to speak on behalf of his or her petition. The affected agency is also given an opportunity to present on its rulemaking procedures and to respond to the issues raised by the petitioner.
3. The Committee is required by statute to give written acknowledgment that it has received a petition for review within 30 days of receipt. The Committee is further required to issue a final determination letter within 90 days of receipt of a petition.

The Committee has three statutory adverse findings available to it by a majority vote of its members:

1. That a proposed rule will not be or that an existing rule is not within the intent of the Legislature as expressed by the statute which the rule implements;
2. That a proposed rule will not be or that an existing rule was not adopted in accord with all applicable provisions of the law, including the APA; or
3. That an agency is using a policy or interpretive statement in place of a rule.

If the Committee makes an adverse finding, it must notify the affected agency of its objections and the reasons therefor. The agency must file notice of a hearing on the Committee's findings within 30 days of receiving the Committee's objections. The agency must notify the Committee of its intended action within seven days after the agency hearing.

If the Committee objects to the agency's intended action, it may, by a majority vote of its members, prepare and file a formal objection against the rule for publication in the next Washington Register and subsequent publication of Administrative Code.

The Committee may also, again by a majority vote of its members, recommend suspension of the rule to the Governor. The Governor must approve or disapprove the suspension within 30 days. If approved, the suspension remains in effect until 90 days after next legislative session.

RCWA 34.05.620. Review of proposed rules--Notice

If the rules review committee finds by a majority vote of its members that a proposed rule is not within the intent of the legislature as expressed in the statute which the rule implements, or that an agency may not be adopting a proposed rule in accordance with all applicable provisions of law, the committee shall give the affected agency written notice of its decision. The notice shall be given at least seven days prior to any hearing scheduled for consideration of or adoption of the proposed rule pursuant to [RCW 34.05.320](#). The notice shall include a statement of the review committee's findings and the reasons therefor. When the agency holds a hearing on the proposed rule, the agency shall consider the review committee's decision.

RCWA 34.05.630. Review of existing rules--Policy and interpretive statements, etc.--Notice--Hearing

(1) All rules required to be filed pursuant to [RCW 34.05.380](#), and emergency rules adopted pursuant to [RCW 34.05.350](#), are subject to selective review by the committee.

(2) All agency policy and interpretive statements, guidelines, and documents that are of general applicability, or their equivalents, are subject to selective review by the committee to determine whether or not a statement, guideline, or document that is of general applicability, or its equivalent, is being used as a rule that has not been adopted in accordance with all applicable provisions of law.

(3) If the rules review committee finds by a majority vote of its members: (a) That an existing rule is not within the intent of the legislature as expressed by the statute which the rule implements, (b) that the rule has not been adopted in accordance with all applicable provisions of law, or (c) that an agency is using a policy or interpretive statement in place of a rule, the agency affected shall be notified of such finding and the reasons therefor. Within thirty days of the receipt of the rules review committee's notice, the agency shall file notice of a hearing on the rules review committee's finding with the code reviser and mail notice to all persons who have made timely request of the agency for advance notice of its rule-making proceedings as provided in [RCW 34.05.320](#). The agency's notice shall include the rules review committee's findings and reasons therefor, and shall be published in the Washington state register in accordance with the provisions of chapter 34.08 RCW.

(4) The agency shall consider fully all written and oral submissions regarding (a) whether the rule in question is within the intent of the legislature as expressed by the statute which the rule implements, (b) whether the rule was adopted in accordance with all applicable provisions of law, and (c) whether the agency is using a policy or interpretive statement, guideline, or document that is of general applicability, or its equivalent, in place of a rule.

RCWA 34.05.640. Committee objections to agency intended action--Statement in register and WAC--Suspension of rule

(1) Within seven days of an agency hearing held after notification of the agency by the rules review committee pursuant to [RCW 34.05.620](#) or [34.05.630](#), the affected agency shall notify the committee of its intended action on a proposed or existing rule to which the committee objected or on a committee finding of the agency's failure to adopt rules.

(2) If the rules review committee finds by a majority vote of its members: (a) That the proposed or existing rule in question will not be modified, amended, withdrawn, or repealed by the agency so as to conform with the intent of the legislature, (b) that an existing rule was not adopted in accordance with all applicable provisions of law, or (c) that the agency will not replace the policy or interpretive statement, guideline, or document that is of general applicability, or its equivalent, with a rule, the rules review committee may, within thirty days from notification by the agency of its intended action, file with the code reviser notice of its objections together with a concise statement of the reasons therefor. Such notice and statement shall also be provided to the agency by the rules review committee.

(3)(a) If the rules review committee makes an adverse finding regarding an existing rule under subsection (2)(a) or (b) of this section, the committee may, by a majority vote of its members, recommend suspension of the rule. Within seven days of such vote the committee shall transmit to the appropriate standing committees of the legislature, the governor, the code reviser, and the agency written notice of its objection and recommended suspension and the concise reasons therefor. Within thirty days of receipt of the notice, the governor shall transmit

to the committee, the code reviser, and the agency written approval or disapproval of the recommended suspension. If the suspension is approved by the governor, it is effective from the date of that approval and continues until ninety days after the expiration of the next regular legislative session.

(b) If the rules review committee makes an adverse finding regarding a policy or interpretive statement, guideline, or document that is of general applicability, or its equivalent, under subsection (2)(c) of this section, the committee may, by a majority vote of its members, advise the governor of its finding.

(4) The code reviser shall publish transmittals from the rules review committee or the governor issued pursuant to subsection (2) or (3) of this section in the Washington state register and shall publish in the next supplement and compilation of the Washington Administrative Code a reference to the committee's objection or recommended suspension and the governor's action on it and to the issue of the Washington state register in which the full text thereof appears.

(5) The reference shall be removed from a rule published in the Washington Administrative Code if a subsequent adjudicatory proceeding determines that the rule is within the intent of the legislature or was adopted in accordance with all applicable laws, whichever was the objection of the rules review committee.

RCWA 34.05.650. Recommendations by committee to legislature

The rules review committee may recommend to the legislature that the original enabling legislation serving as authority for the adoption of any rule reviewed by the committee be amended or repealed in such manner as the committee deems advisable.

WEST VIRGINIA

http://www.wvlegislature.gov/Joint/rule_making.cfm

Created as a statutory body by an Act of the legislature in 1976 and reconstituting as a joint committee of the Legislature by an Act of the Legislature in 1982, the Committee's current purpose is to review all legislative rules proposed by state agencies, boards and commissions and to make recommendations regarding the proposed rules to the Legislature, which has the authority to approve or disapprove the promulgation of the proposed rules. The Committee is composed of six members of the Senate appointed by the President of the Senate and six member of the House of Delegates appointed by the Speaker of the House of Delegates. The President and the Speaker are ex officio, nonvoting members and appoint the cochairs. Members receive the same compensation and expenses received by the other members of the Legislature serving on committees. The Committees is authorized to employ legal, technical, investigative, clerical, stenographic, advisory, and other personnel. (Code 29A-3)

W. Va. Code, § 29A-3-1

§ 29A-3-1. Rules to be promulgated only in accordance with this article

In addition to other rule-making requirements imposed by law and except to the extent specifically exempted by the provisions of this chapter or other applicable law, and except as

provided for in article three-a of this chapter, every rule and regulation (including any amendment of or rule to repeal any other rule) shall be promulgated by an agency only in accordance with this article and shall be and remain effective only to the extent that it has been or is promulgated in accordance with this article.

W. Va. Code, § 29A-3-11. Submission of legislative rules to the Legislative Rule-Making Review Committee

(a) When an agency finally approves a proposed legislative rule for submission to the Legislature, pursuant to the provisions of section nine of this article, the secretary of the executive department which administers the agency pursuant to the provisions of article two, chapter five-f of this code shall submit to the Legislative Rule-Making Review Committee at its offices or at a regular meeting of such committee a number of copies in electronic or paper form as requested by the committee, which shall include the following information:

(1) The full text of the legislative rule as finally approved by the agency, with new language underlined and with language to be deleted from any existing rule stricken through but clearly legible;

(2) A brief summary of the content of the legislative rule and a description and a copy of any existing rule which the agency proposes to amend or repeal;

(3) A statement of the circumstances which require the rule;

(4) A detailed description of the rule's purpose and all proposed changes to the rule;

(5) A fiscal note containing all information included in a fiscal note for either house of the Legislature and a statement of the economic impact of the rule on the state or its residents;

(6) One copy of any relevant federal statutes or regulations;

(7) An explanation of the statutory authority for the rule, including a detailed summary of the effect of each provision of the rule with citation to the specific statute which empowers the agency to enact such provision;

(8) All public comments for each proposed rule. An agency may consolidate substantially similar comments in the interest of efficiency;

(9) All written responses by the agency to the substance of any public comments received, including whether the agency chose to modify the proposed rule in response to the comments or, if no changes were made, the rationale for declining to incorporate or make any suggested changes responding to the public comments. An agency may consolidate substantially similar responses in the interest of efficiency: *Provided*, That the agency's response shall address each issue and concern expressed by all comments received; and

(10) Any other information which the committee may request or which may be required by law. If the agency is an agency, board or commission which is not administered by an executive department as provided for in article two, chapter five-f of this code, the agency shall submit the final agency-approved rule as required by this subsection.

(b) The committee shall review each proposed legislative rule and, in its discretion, may hold public hearings thereon. Such review shall include, but not be limited to, a determination of:

(1) Whether the agency has specific statutory authority to propose the rule and has not exceeded the scope of its statutory authority in approving the proposed legislative rule;

(2) Whether the proposed legislative rule is in conformity with the legislative intent of the statute which the rule is intended to implement, extend, apply, interpret or make specific;

(3) Whether the proposed legislative rule overlaps, duplicates or conflicts with any other provision of this code, any other rule adopted by the same or a different agency, with federal statutes and rules, or with local laws and rules;

(4) Whether federal funding will be impacted by its expiration and explanation as to such;

(5) Whether the proposed legislative rule is necessary to fully accomplish the objectives of the statute under which the rule was proposed for promulgation;

(6) Whether the proposed legislative rule is reasonable, especially as it affects the convenience of the general public or of persons particularly affected by it;

(7) Whether the proposed legislative rule could be made less complex or more readily understandable by the general public; and

(8) Whether the proposed legislative rule was proposed for promulgation in compliance with the requirements of this article and with any requirements imposed by any other provision of this code.

(c) After reviewing the legislative rule, the committee shall recommend that the Legislature:

(1) Authorize the promulgation of the legislative rule;

(2) Authorize the promulgation of part of the legislative rule;

(3) Authorize the promulgation of the legislative rule with certain amendments;

(4) Recommend that the proposed rule be withdrawn; or

(5) Reject the proposed rule.

The committee shall file notice of its action in the State Register and with the agency proposing the rule: *Provided*, That when the committee makes the recommendations of subdivision (2), (3), (4) or (5) of this subsection, the notice shall contain a statement of the reasons for such recommendation.

(d) When the committee recommends that a rule be authorized, in whole or in part, by the Legislature, the committee shall instruct its staff or the office of Legislative Services to draft a bill authorizing the promulgation of all or part of the legislative rule and incorporating such amendments as the committee desires. If the committee recommends that the rule not be authorized, it shall include in its report a draft of a bill authorizing promulgation of the rule together with a recommendation. Any draft bill prepared under this section shall contain a legislative finding that the rule is within the legislative intent of the statute which the rule is intended to implement, extend, apply or interpret and shall be available for any member of the Legislature to introduce to the Legislature.

W. Va. Code, § 29A-3-12. Submission of legislative rules to Legislature

(a) No later than 40 days before the sixtieth day of each regular session of the Legislature, the cochairs of the Legislative Rule-Making Review Committee shall submit to the clerk of the respective houses of the Legislature copies of all proposed legislative rules which have been submitted to, and considered by, the committee pursuant to the provisions of § 29A-3-11 of this code and which have not been previously submitted to the Legislature for study, together with the recommendations of the committee with respect to the rules, a statement of the reasons for any recommendation that a rule be amended or withdrawn, and a statement that a bill authorizing the legislative rule has been drafted by the staff of the committee or by Legislative Services pursuant to § 29A-3-11 of this code. The cochairs of the committee may also submit the rules at the direction of the committee at any time before or during a special session in which consideration of the rules may be appropriate. Beginning in 2019, the committee may withhold from its report any proposed legislative rule which was submitted to the committee after the last Friday in July and beginning in 2020, and every four years thereafter, by the last Friday in August. The clerk of each house shall submit the report to his or her house at the commencement of the next session.

All bills introduced authorizing the promulgation of a rule may be referred by the President of the Senate and by the Speaker of the House of Delegates to appropriate standing committees of the respective houses for further consideration or the matters may be otherwise dealt with as each house or its rules provide. The Legislature may, by act, authorize the agency to adopt a legislative rule incorporating the entire rule or may authorize the agency to adopt a

rule with any amendments adopted by the Legislature. The clerk of the house originating the act shall immediately file a copy of any bill of authorization enacted with the Secretary of State and with the agency proposing the rule and the clerk of each house may prepare and file a synopsis of legislative action during any session on any proposed rule submitted to the house during the session for which authority to promulgate was not by law provided during the session. In acting upon the separate bills authorizing the promulgation of rules, the Legislature may, by amendment or substitution, combine the separate bills of authorization insofar as the various rules authorized in the amendment or substitution are proposed by agencies which are placed under the administration of one of the single, separate executive departments identified under the provisions of [§ 5F-1-2 of this code](#) or the Legislature may combine the separate bills of authorization by agency or agencies within an executive department. In the case of rules proposed for promulgation by an agency which is not administered by an executive department pursuant to the provisions of [§ 5F-1-2 of this code](#), the separate bills of authorization for the proposed rules of that agency may, by amendment or substitution, be combined. These provisions relating to combining separate bills of authorization according to department or agency are not intended to restrict the permissible breadth of bills of authorization and do not preclude the Legislature from otherwise combining various bills of authorization which have a unity of subject matter. Any number of provisions may be included in a bill of authorization, but the single object of the bill shall be to authorize the promulgation of proposed legislative rules.

(b) If the Legislature during its regular session disapproves all or part of any legislative rule which was submitted to it by the Legislative Rule-Making Review Committee during the session, an agency may not thereafter issue any rule or directive or take other action to implement the rule or part of the rule unless and until otherwise authorized to do so, except that the agency may resubmit the same or similar proposed rule to the Legislative Rule-Making Review Committee in accordance with the provisions of [§ 29A-3-11 of this code](#).

(c) Nothing shall be construed to prevent the Legislature by law from authorizing, or authorizing and directing, an agency to promulgate legislative rules not proposed by the agency or upon which some procedure specified in this chapter is not yet complete.

(d) Whenever the Legislature is convened by proclamation of the Governor, upon his or her own initiative or upon application of the members of the Legislature, or whenever a regular session of the Legislature is extended or convened by the vote or petition of its members, the Legislature may by act enacted during the extraordinary or extended session authorize, in whole or in part, any legislative rule, whether submitted to the Legislative Rule-Making Review Committee or not, if legislative action on the rule during the session is a lawful order of business.

(e) As a part of any act that amends chapter 64 of this code, authorizing the promulgation of a proposed legislative rule or rules, the Legislature may also provide, by general language or with specificity, for the disapproval of rules not approved or acted upon by the Legislature.

W. Va. Code, § 29A-3-13. Adoption of legislative rules; effective date

(a) Except as the Legislature may by law otherwise provide, within sixty days after the effective date of an act authorizing promulgation of a legislative rule, the agency shall promulgate the rule in conformity with the provisions of law authorizing and directing the promulgation of the rule. In the case of a rule proposed by an agency which is administered by an executive department pursuant to the provisions of article two, chapter five-f of this code, the secretary of the department shall promulgate the rule as authorized by the Legislature. In the case of an agency which is not subject to administration by the secretary of an executive

department, the agency which proposed the rule for promulgation shall promulgate the rule as authorized by the Legislature.

(b) A legislative rule authorized by the Legislature is effective upon filing in the State Register, or on the effective date fixed by the authorizing act or, if none is fixed by law, a later date not to exceed ninety days, as fixed by the agency.

(c) The Secretary of State shall note in the State Register the effective date of an authorized and promulgated legislative rule and shall promptly publish the duly promulgated rule in the Code of State Rules maintained by his or her office.

W. Va. Code, § 29A-3-19. Sunset provision in rules

(a) Any new legislative rule promulgated pursuant to this article after April 1, 2016, shall include a sunset provision terminating the rule after five years: *Provided*, That the rule may be renewed for additional terms of five years or less by the Legislature pursuant to the rule-making procedures and authority in this article: *Provided, however*, That if a different sunset or termination provision exists in the statute under which the proposed rule is promulgated, the enabling statute's provision shall control: *Provided further*, That this subsection shall not apply to rules promulgated by the Department of Environmental Protection or emergency rules promulgated pursuant to [§ 29A-3-15 of this code](#).

(b) Any legislative rule existing as of April 1, 2016, that is thereafter modified pursuant to this article, shall include a sunset provision as part of the modification setting forth a termination date for the rule: *Provided*, That the rule may be renewed for additional terms of years by the Legislature pursuant to the rule-making procedures and authority in this article: *Provided, however*, That if a different sunset or termination provision exists in the statute under which the legislative rule is promulgated, the enabling statute's provision controls: *Provided further*, That this subsection shall not apply to legislative rules promulgated by the Department of Environmental Protection or emergency rules promulgated pursuant to [§ 29A-3-15 of this code](#).

(c) The existence of a sunset provision terminating a legislative rule shall not preclude the repeal of the legislative rule by the Legislature prior to its termination.

(d) As part of its rule review under this article, the Legislative Rule-Making Review Committee may establish a procedure for timely review of a legislative rule prior to its termination for those agencies that have affirmatively sought renewal prior to expiration. The procedure may include a requirement that the agency show cause as to why the terminating legislative rule is required and necessary to be continued for another term of years.

(e) The Secretary of State shall provide notice to the promulgating agency and the Legislative Rule-Making Review Committee at least 18 months prior to every legislative rule's termination date. The promulgating agency has 60 days from receipt of the notice to file the legislative rule with the Secretary of State and the Legislative Rule-Making Review Committee affirmatively seeking renewal of the legislative rule: *Provided*, That the legislative rule that is scheduled to sunset may not be amended or changed except for a new sunset date and is not subject to the public comment period requirements contained in [§ 29A-3-5 of this code](#). The Legislative Rule-Making Review Committee, as part of its rule review under this article, may begin reviewing a legislative rule upon its filing.

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<https://docs.legis.wisconsin.gov> › misc › briefing_book See Chapter 4, Administrative Rulemaking

Joint Committee for Review of Administrative Rules

The Legislative Staff Council staff prepares reports on all proposed administrative rules and assists standing committees in their oversight of the administrative rulemaking process. [Legislative Council staff also review for style, clarity, and agency authority.] Once the Governor has approved a final draft rule, the agency may submit the rule, accompanied by a report, to the Chief Clerk of each house of the Legislature for referral by the presiding officer to a standing committee in each house. . . . When a rule is referred to a standing committee, the committee chair notifies the committee members of the referral and the date on which the committee's jurisdiction ends. . . . A committee may object to all or part of a rule only for one or more specific reasons, which include absence of statutory authority, failure to comply with legislative intent, conflict with state law, or arbitrariness or capriciousness, or imposition of an undue hardship. All proposed permanent rules are referred to the Joint Committee for Review of Administrative Rules (JCRAR), not just those receiving a standing committee objection. JCRAR is not required to take any action unless a rule received a standing committee objection. If a proposed rule received an objection in a standing committee, JCRAR is required to meet and take executive action and may either nonconcur in the objection, object to the proposed rule, or seek modifications to the rule in the same manner as the initial reviewing committee. JCRAR may, but is not required to, take executive action with respect to any proposed rule that passed a standing committee. JCRAR may request modifications to a rule and may object to a proposed rule for the same reasons for which the initial reviewing committee may object. . . .

JCRAR may, by a majority vote of a quorum of the committee, suspend a permanent rule or emergency rule that has been promulgated and is in effect if JCRAR has first received testimony about the rule at a public hearing and the suspension is based on one or more of the reasons a committee may cite when objecting to a proposed rule.

If JCRAR suspends a rule, it must, within 30 days, introduce a bill in each house to repeal the suspended rule. If both bills are defeated or fail to be enacted in any other manner, the rule remains in effect and JCRAR may not suspend it again. If either bill is enacted, the rule is repealed and may not be promulgated again by the agency unless a subsequent law specifically authorizes such action.

[A flowchart overview lists these stages for the administrative rulemaking process: statement of scope, initial drafting, external reviews, final agency review (includes approval by the Governor), legislative review, and publication, with a total time of 7.5 to 13 months.]

W.S.A. 227.19. Legislative review prior to promulgation

(1) Statement of purpose; rule-making powers. (a) Article IV of the constitution of this state vests in the legislature the power to make laws, and thereby to establish agencies and to designate agency functions, budgets and purposes. Article V of the constitution of this state charges the executive with the responsibility to expedite all measures which may be resolved upon by the legislature.

(b) The legislature recognizes the need for efficient administration of public policy. In creating agencies and designating their functions and purposes, the legislature may delegate rule-making authority to these agencies to facilitate administration of legislative policy. The delegation of rule-making 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 rule-making authority.
2. The right to establish any aspect of general policy by legislation, notwithstanding any delegation of rule-making authority.
3. The right and responsibility to designate the method for rule promulgation, review and modification.
4. The right to delay or suspend the implementation of any rule or proposed rule while under review by the legislature.

(2) Notification of legislature. An agency shall submit a notice to the chief clerk of each house of the legislature when a proposed rule is in final draft form. The notice shall be submitted in triplicate and shall be accompanied by a report in the form specified under sub. (3). A notice received under this subsection after the last day of the legislature's final general-business floor period in the biennial session as established in the joint resolution required under [s. 13.02\(3\)](#) shall be considered received on the first day of the next regular session of the legislature, unless the presiding officers of both houses direct referral of the notice and report under this subsection before that day. The presiding officer of each house of the legislature shall, within 10 working days following the day on which the notice and report are received, direct the appropriate chief clerk to refer the notice and report to one standing committee. The agency shall submit to the legislative reference bureau for publication in the register, in an electronic format approved by the legislative reference bureau, a statement that a proposed rule has been submitted to the chief clerk of each house of the legislature. The agency shall also include in the statement the date of approval of the proposed rule by the governor under [s. 227.185](#). Each chief clerk shall enter a similar statement in the journal of his or her house.

(3) Form of report. The report required under sub. (2) shall be in writing and shall include the proposed rule in the form specified in [s. 227.14\(1\)](#); the material specified in [s. 227.14\(2\)](#), [\(3\)](#), and [\(4\)](#); including any statement, suggested changes, or other material submitted to the agency by the small business regulatory review board; a copy of any economic impact analysis prepared by the agency under [s. 227.137\(2\)](#); a copy of any revised economic impact analysis prepared by the agency under [s. 227.137\(4\)](#); a copy of any independent economic impact analysis prepared under [s. 227.137\(4m\)](#); a copy of any energy impact report received from the public service commission under [s. 227.117\(2\)](#); and a copy of any recommendations of the legislative council staff. The report shall also include all of the following:

(a) A detailed statement explaining the basis and purpose of the proposed rule, including how the proposed rule advances relevant statutory goals or purposes.

(b) A summary of public comments to the proposed rule and the agency's response to those comments, and an explanation of any modification made in the proposed rule as a result of public comments or testimony received at a public hearing.

(c) A list of the persons who appeared or registered for or against the proposed rule at a public hearing held under [s. 227.136](#) or [227.16](#).

(cm) Any changes to the analysis prepared under [s. 227.14\(2\)](#) or the fiscal estimate prepared under [s. 227.14\(4\)](#).

(d) A response to the legislative council staff recommendations under [s. 227.15](#) indicating:

1. Acceptance of the recommendations in whole or in part.
2. Rejection of the recommendations in whole or in part.
3. The specific reason for rejecting any recommendation.

(e) Except as provided under sub. (3m), for all proposed rules that will have an effect on small businesses, as defined under [s. 227.114\(1\)](#), a final regulatory flexibility analysis, which shall contain as much information about the following as the agency can feasibly obtain and analyze with its existing staff and resources:

1. The agency's reason for including or failing to include in the proposed rule any of the methods specified under [s. 227.114\(2\)](#) for reducing its impact on small businesses.

2. A summary of issues raised by small businesses during the hearings on the proposed rule, any changes in the proposed rule as a result of alternatives suggested by small businesses and the reasons for rejecting any alternatives suggested by small businesses.

3. The nature of any reports and the estimated cost of their preparation by small businesses that must comply with the rule.

4. The nature and estimated cost of other measures and investments that will be required of small businesses in complying with the rule.

5. The additional cost, if any, to the agency of administering or enforcing a rule which includes any of the methods specified under [s. 227.114\(2\)](#).

6. The impact on public health, safety and welfare, if any, caused by including in the rule any of the methods specified under [s. 227.114\(2\)](#).

(f) If an energy impact report regarding the proposed rule was submitted with the report required under sub. (2), an explanation of the changes, if any, that were made in the proposed rule in response to that report.

(g) Any housing impact analysis prepared under [s. 227.115\(2\)\(a\)](#) and any revised housing impact analysis prepared under [s. 227.115\(2\)\(b\)](#).

(h) A response to any report prepared by the small business regulatory review board under [s. 227.14\(2g\)](#).

(3m) Analysis not required. The final regulatory flexibility analysis specified under sub. (3)(e) is not required for any rule if the small business regulatory review board determines that the rule will not have a significant-economic impact on a substantial number of small businesses.

(4) Committee review. (a) *Notice of referral.* Upon receipt of notice that a proposed rule has been referred to a committee under sub. (2), the chairperson or chairpersons of the committee shall notify, in writing, each committee member of the referral.

(am) *Committee meeting.* A committee may be convened upon the call of its chairperson or cochairpersons to review a proposed rule. A committee may meet separately or jointly with the other committee to which the notice and report were referred. A committee may hold a public hearing to review a proposed rule.

(b) *Committee review period.* 1. Except as otherwise provided in this paragraph, the committee review period for each committee extends for 30 days after referral of the proposed rule to the committee under sub. (2). If the chairperson or the cochairpersons of a committee take either of the following actions within the 30-day period, the committee review period for that committee is continued for 30 days from the date on which the first 30-day review period would have expired:

a. Request in writing that the agency meet with the committee to review the proposed rule.

b. Publish or post notice that the committee will hold a meeting or hearing to review the proposed rule and immediately send a copy of the notice to the agency.

1m. Except as provided under subd. 5., if a notice and report received under sub. (2) after the last day of the legislature's final general-business floor period as specified in sub. (2) is referred for committee review before the first day of the next regular session of the legislature, the committee review period for each committee to which the proposed rule is referred extends to the day specified under [s. 13.02\(1\)](#) for the next legislature to convene.

2. If a committee, by a majority vote of a quorum of the committee, requests modifications in a proposed rule, and the agency, in writing, agrees to consider making modifications, the review period for both committees to which the proposed rule is referred is extended either to the 10th working day following receipt by those committees of the modified proposed rule or a written statement to those committees that the agency will not make the modifications or to the expiration of the review period under subd. 1. or, if applicable, subd. 1m., whichever is later. There is no limit either on the number of modification agreements that may be entered into or on the time within which modifications may be made.

2m. If a committee requests in writing that the public service commission determine the rule's impact on the cost or reliability of electricity generation, transmission, or distribution or of fuels used in generating electricity, the commission shall prepare an energy impact report in the manner provided under [s. 227.117\(1\)](#). The commission shall submit a copy of the report to the committee and to the agency that proposed the rule within 30 days after the written request is submitted to the commission. The review period for both committees to which the proposed rule is referred is extended to the 10th working day following receipt by those committees of the report, to the expiration of the review period under subd. 1. or, if applicable, subd. 1m., or to the expiration of the review period under subd. 2., whichever is later.

3. An agency may, on its own initiative, submit a germane modification to a proposed rule to a committee during its review period. If a germane modification is submitted within the final 10 days of a committee review period under subd. 1., the review period for both committees to which the proposed rule is referred is extended for 10 working days. If a germane modification is submitted to a committee after the committee in the other house has concluded its jurisdiction over the proposed rule, the jurisdiction of the committee of the other house is revived for 10 working days. In this subdivision, an agency's proposal to delete part of a proposed rule under committee review shall be treated as a germane modification of the proposed rule.

3m. An agency may, during the committee review period, reconsider its action by recalling the proposed rule from the chief clerk of each house of the legislature. If the agency decides to continue the rule-making process with regard to the proposed rule, the agency shall resubmit the proposed rule, either in its recalled form or with one or more germane modifications, to the chief clerk in each house of the legislature as provided in sub. (2) and the committee review period under subd. 1. or, if applicable, subd. 1m. shall begin again.

4. An agency may modify a proposed rule following the committee review period if the modification is germane to the subject matter of the proposed rule. If a germane modification is made, the agency shall recall the proposed rule from the chief clerk of each house of the legislature. The proposed rule, with the germane modification, shall be resubmitted to the presiding officer in each house of the legislature as provided in sub. (2) and the committee review period shall begin again. Following the committee review period, an agency may not make any modification that is not germane to the subject matter of the proposed rule. In this subdivision, an agency's proposal to delete part of a proposed rule under committee review shall be treated as a germane modification of the proposed rule.

5. If a committee in one house votes to object to a proposed rule or to a part of the proposed rule under par. (d), the chairperson or cochairpersons of the committee shall immediately notify the chairperson or cochairpersons of the committee in the other house to which the proposed rule was referred. Upon receipt of the notice, the review period for the committee in the other house immediately ceases and no further action on the proposed rule or part of the proposed rule objected to may be taken under this paragraph by that committee, but the committee may proceed under par. (d) to object to the proposed rule or part of the proposed rule.

6. If a committee has not concluded its jurisdiction over a proposed rule or a part of a proposed rule before the day specified under [s. 13.02\(1\)](#) for the next legislature to convene, that jurisdiction immediately ceases and, within 10 working days after that date, the presiding officer of the appropriate house shall refer the proposed rule or part of the proposed rule to the appropriate standing committee of the next legislature as provided under sub. (2). If a committee review period is interrupted by the loss of jurisdiction under this subdivision, a new committee review period as provided in subd. 1. shall begin for the committee to which the proposed rule or part of the proposed rule is referred under this subdivision beginning on the date of referral under this subdivision.

(c) *Waiver of committee review.* A committee may waive its jurisdiction over a proposed rule prior to the expiration of the committee review period by adopting, by a majority vote of a quorum of the committee, a motion waiving the committee's jurisdiction.

(d) *Committee action.* A committee, by a majority vote of a quorum of the committee during the applicable review period under par. (b), may object to a proposed rule or to a part of a proposed rule for one or more of the following reasons:

1. An absence of statutory authority.
2. An emergency relating to public health, safety or welfare.
3. A failure to comply with legislative intent.
4. A conflict with state law.
5. A change in circumstances since enactment of the earliest law upon which the proposed rule is based.
6. Arbitrariness and capriciousness, or imposition of an undue hardship.

7. In the case of a proposed rule of the department of safety and professional services under [s. 101.63\(1\)](#) establishing standards for the construction of a dwelling, as defined in s. 101.61(1), the proposed rule would increase the cost of constructing or remodeling such a dwelling by more than \$1,000. This subdivision applies notwithstanding that the purpose of the one- and 2-family dwelling code under [s. 101.60](#) includes promoting interstate uniformity in construction standards. This subdivision does not apply to a proposed rule whose promulgation has been authorized under sub. (5)(fm).

(e) *Conclusion of committee jurisdiction.* Subject to par. (b)3., a committee's jurisdiction over a proposed rule is concluded when the committee objects to, approves, or waives its jurisdiction over the proposed rule or when the committee review period ends, whichever occurs first. When a committee's jurisdiction over a proposed rule is concluded, the committee shall report the proposed rule and any objection as provided in sub. (5)(a).

(5) Joint committee for review of administrative rules. (a) *Referral.* When a committee's jurisdiction over a proposed rule is concluded as provided in sub. (4)(e), the committee shall report the proposed rule and any objection to the chief clerk of the appropriate house within 5 working days after that jurisdiction is concluded. The chief clerk shall refer the proposed rule and any objection to the joint committee for review of administrative rules within 5 working days after receiving the committee report.

(b) *Joint committee review period.* 1. Except as otherwise provided in this paragraph, the review period for the joint committee for review of administrative rules extends for 30 days after the last referral of a proposed rule and any objection to that committee, and during that review period that committee may take any action on the proposed rule in whole or in part permitted under this subsection. The joint committee for review of administrative rules shall meet and take action in executive session during that period with respect to any proposed rule or any part of a proposed rule to which a committee has objected and may meet and take action in executive session during that period with respect to any proposed rule or any part of a proposed rule to which no committee has objected, except that if the cochairpersons take either of the following actions within the 30-day period, the joint committee review period is continued for 30 days from the date on which the first 30-day review period would have expired:

a. Request in writing that the agency meet with the joint committee for review of administrative rules to review the proposed rule.

b. Publish or post notice that the joint committee for review of administrative rules will hold a meeting or hearing to review the proposed rule and immediately send a copy of the notice to the agency.

1m. If a notice and report received under sub. (2) after the last day of the legislature's final general-business floor period as specified in sub. (2) is referred for review by the joint committee for review of administrative rules before the first day of the next regular session of the legislature, the review period for the joint committee for review of administrative rules extends to the day specified under [s. 13.02\(1\)](#) for the next legislature to convene. During that review period, the joint committee for review of administrative rules may meet and take action in executive session and may take any action on the proposed rule in whole or in part permitted under this subsection. If the joint committee for review of administrative rules meets in executive session with respect to a proposed rule or part of a proposed rule to which a committee has

objected, that joint committee shall take action as permitted under this subsection with respect to the committee's objection.

2. If the joint committee for review of administrative rules, by a majority vote of a quorum of the committee, requests modifications in a proposed rule, and the agency, in writing, agrees to consider making modifications, the review period for the joint committee is extended either to the 10th working day following receipt by the joint committee of the modified proposed rule or a written statement to the joint committee that the agency will not make the modifications or to the expiration of the review period under subd. 1. or, if applicable, subd. 1m., whichever is later. There is no limit either on the number of modification agreements that may be entered into or on the time within which modifications may be made.

3. The joint committee for review of administrative rules, by a majority vote of a quorum of the committee, may request the preparation of an independent economic impact analysis for a proposed rule, regardless of whether an independent economic impact analysis was prepared under [s. 227.137\(4m\)](#). If the joint committee for review of administrative rules requests an independent economic impact analysis under this subdivision, the committee shall request approval by the committee on senate organization and the committee on assembly organization. If both the committee on senate organization and the committee on assembly organization approve the request, the joint committee for review of administrative rules shall notify the agency proposing the proposed rule and shall contract with a person that is not an agency to prepare the independent economic impact analysis, and the review period for the committee is extended to the 10th working day following receipt by the committee of the completed analysis. The person preparing the independent economic impact analysis shall comply with [s. 227.137\(4m\)\(c\)1. to 3.](#) Costs of completing an independent economic impact analysis shall be paid as follows:

a. If the estimate in the independent economic impact analysis of total implementation and compliance costs under [s. 227.137\(3\)\(b\)1.](#) varies from the agency's estimate by 15 percent or more or varies from the agency's determination that there will be no implementation or compliance costs, the committee shall assess the agency that is proposing the proposed rule for the costs of completing the independent economic impact analysis.

b. If the estimate in the independent economic impact analysis of total implementation and compliance costs under [s. 227.137\(3\)\(b\)1.](#) does not vary from the agency's estimate by 15 percent or more or is in accord with the agency's determination that there will be no implementation and compliance costs, the costs of completing the independent economic impact analysis shall be paid in equal parts from the appropriation accounts under s. 20.765(1) (a) and (b).

c. Notwithstanding subd. 3. a. and b., if the maximum potential obligation under the contract for completing the independent economic impact analysis exceeds \$50,000, the joint committee for review of administrative rules shall submit the proposed contract to the joint committee on finance for the purpose of determining the funding source for the costs of completing the independent economic impact analysis, and the costs of completing the independent economic impact analysis shall be paid as provided by the joint committee on finance. If the joint committee on finance does not act to determine the funding source within 90 days, the costs of completing the independent economic impact analysis shall be paid as provided in subd. 3. a. and b.

4. If the joint committee for review of administrative rules has not concluded its jurisdiction over a proposed rule or a part of a proposed rule before the day specified under [s. 13.02\(1\)](#) for the next legislature to convene, that jurisdiction immediately ceases and, within 10 working days after that date, the presiding officer of the appropriate house shall refer the proposed rule or part of the proposed rule to the joint committee for review of administrative rules of the next legislature. If a committee review period is interrupted by the loss of jurisdiction under this subdivision, a new committee review period as provided in subd. 1. shall begin for the joint committee for review of administrative rules to which the proposed rule or part of the

proposed rule is referred under this subdivision beginning on the date of referral under this subdivision.

(c) *Agency not to promulgate rule during joint committee review.* An agency may not promulgate a proposed rule or a part of a proposed rule until the joint committee for review of administrative rules nonconcurs in the objection of the committee, concurs in the approval of the committee, otherwise approves the proposed rule or part of the proposed rule, or waives its jurisdiction over the proposed rule or part of the proposed rule under par. (d), until the expiration of the review period under par. (b)1., if no committee has objected to the proposed rule or the part of the proposed rule, until a bill introduced under par. (e) fails to be enacted, or until a bill introduced under par. (em) is enacted. An agency may promulgate any part of a proposed rule to which no objection has been made.

(d) *Joint committee action.* The joint committee for review of administrative rules may nonconcur in a committee's objection to a proposed rule or a part of a proposed rule, concur in a committee's approval of a proposed rule or a part of a proposed rule, otherwise approve a proposed rule or a part of a proposed rule, or waive its jurisdiction over a proposed rule or a part of a proposed rule by voting to nonconcur, concur, or approve, or to waive its jurisdiction, during the applicable review period under par. (b). If the joint committee for review of administrative rules objects to a proposed rule or a part of a proposed rule and invokes this paragraph, an agency may not promulgate the proposed rule or part of the proposed rule objected to until a bill introduced under par. (e) fails to be enacted. The joint committee for review of administrative rules may object to a proposed rule or a part of a proposed rule under this paragraph only for one or more of the reasons specified under sub. (4)(d).

(dm) *Indefinite objection; joint committee action.* If the joint committee for review of administrative rules objects to a proposed rule or a part of a proposed rule and invokes this paragraph, the agency may not promulgate the proposed rule or part of the proposed rule objected to until a bill introduced under par. (em) is enacted. The joint committee for review of administrative rules may object to a proposed rule or a part of a proposed rule under this paragraph only for one or more of the reasons specified under sub. (4)(d). This paragraph does not apply to a proposed rule whose promulgation has been previously authorized under par. (fm).

(e) *Bills to prevent promulgation.* When the joint committee for review of administrative rules objects to a proposed rule or a part of a proposed rule under par. (d) it shall, within 30 days of the date of the objection, meet and take executive action regarding the introduction, in each house of the legislature, of a bill to support the objection. The joint committee shall introduce the bills within 5 working days after taking executive action in favor of introduction of the bills unless the bills cannot be introduced during this time period under the joint rules of the legislature.

(em) *Indefinite objection; bill to authorize promulgation.* If the joint committee for review of administrative rules objects to a proposed rule or a part of a proposed rule under par. (dm), any member of the legislature may introduce a bill to authorize promulgation of the proposed rule or part of the proposed rule. This paragraph does not apply to a proposed rule whose promulgation has been previously authorized under par. (fm).

(f) *Bills to prevent promulgation; effect.* If both bills required under par. (e) are defeated, or fail to be enacted in any other manner, the agency may promulgate the proposed rule or part of the proposed rule that was objected to. If either bill becomes law, the agency may not promulgate the proposed rule or part of the proposed rule that was objected to unless a subsequent law specifically authorizes its promulgation. This paragraph applies to bills introduced on or after the day specified under [s. 13.02\(1\)](#) for the legislature to convene and before February 1 of an even-numbered year.

(fm) *Indefinite objection; bills to authorize promulgation; effect.* If all bills introduced under par. (em) are defeated, or fail to be enacted in any other manner, the agency may not promulgate the proposed rule or part of the proposed rule that was objected to unless

subsequent law specifically authorizes its promulgation. If any of those bills becomes law, the agency may promulgate the proposed rule or part of the proposed rule that was objected to.

(g) *Introduction of bills in next session; effect.* If the bills required under par. (e) are introduced on or after February 1 of an even-numbered year and before the next regular session of the legislature commences, as provided under [s. 13.02\(2\)](#), or if the bills cannot be introduced during this time period under the joint rules of the legislature, the joint committee for review of administrative rules shall introduce the bills on the first day of the next regular session of the legislature, unless either house adversely disposes of either bill. If the joint committee for review of administrative rules is required to introduce the bills, the agency may not promulgate the proposed rule or part of the proposed rule to which the bills pertain except as provided in par. (f). If either house adversely disposes of either bill, the agency may promulgate the proposed rule or part of the proposed rule that was objected to. In this paragraph, “adversely disposes of” means that one house has voted in one of the following ways:

1. To indefinitely postpone the bill.
2. To nonconcur in the bill.
3. Against ordering the bill engrossed.
4. Against ordering the bill to a 3rd reading.
5. Against passage.
6. Against concurrence.

(6) **Promulgation prevention or authorization procedure.** (a) The legislature may not consider a bill required or permitted under sub. (5)(e) or (em) until the joint committee for review of administrative rules has submitted a written report on the bill. The report shall be printed as an appendix to each bill and shall contain:

1. An explanation of the issue involving the proposed rule or part of the proposed rule objected to and the factual situation out of which the issue arose.
2. Arguments presented for and against the proposed rule at the executive session held under sub. (5)(b).
3. A statement of the action taken by the joint committee for review of administrative rules regarding the proposed rule.
4. A statement and analysis of the grounds upon which the joint committee for review of administrative rules relies for objecting to the proposed rule or part of the proposed rule.

(b) Upon introduction of the bills under sub. (5)(e) or (g), the presiding officer of each house of the legislature shall refer the bill introduced in that house to the appropriate committee, to the calendar scheduling committee or directly to the calendar. If the committee to which a bill is referred makes no report within 30 days after referral, the bill shall be considered reported without recommendation. No later than 40 days after referral, or as soon thereafter as is possible if the legislature is not in a floor period 40 days after referral, the bills shall be placed on the calendar of each house of the legislature according to its rule governing the placement of proposals on the calendar. A bill introduced under this section that is received in the 2nd house shall be referred, reported and placed on the calendar in the same manner as an original bill introduced under this section.

(7) **Nonapplication.** This section does not apply to rules promulgated under [s. 227.24](#).

W.S.A. 227.26. Legislative review after promulgation; joint committee for review of administrative rules

(1) **Definition.** In this section, “rule” means all or any part of a rule which has taken effect as provided under [s. 227.22\(2\)](#).

(2) **Review of rules by committee.** (a) *Purpose.* The joint committee for review of administrative rules shall promote adequate and proper rules, statements of general policy and interpretations of statutes by agencies and an understanding upon the part of the public respecting the rules, statements and interpretations.

(b) *Requirement for promulgation.* If the committee determines that a statement of policy or an interpretation of a statute meets the definition of a rule, it may direct the agency to promulgate the statement or interpretation as an emergency rule under [s. 227.24\(1\)\(a\)](#) within 30 days after the committee's action.

(c) *Public hearings.* The committee shall hold a public hearing to investigate any complaint with respect to a rule if it considers the complaint meritorious and worthy of attention.

(d) *Temporary suspension of rules.* The committee may suspend any rule by a majority vote of a quorum of the committee. A rule may be suspended only on the basis of testimony in relation to that rule received at a public hearing and only for one or more of the reasons specified under [s. 227.19\(4\)\(d\)](#).

(e) *Notice.* When the committee suspends a rule, it shall publish a class 1 notice, under ch. 985, of the suspension in the official state newspaper and give any other notice it considers appropriate.

(f) *Introduction of bills.* If any rule is suspended, the committee shall, within 30 days after the suspension, meet and take executive action regarding the introduction, in each house of the legislature, of a bill to support the suspension. The committee shall introduce the bills within 5 working days after taking executive action in favor of introduction of the bills unless the bills cannot be introduced during this time period under the joint rules of the legislature.

(g) *Committee report required.* No bill required by this subsection may be considered by the legislature until the committee submits a written report on the proposed bill. The report shall be printed as an appendix to the bills introduced under par. (f). The report shall contain all of the following:

1. An explanation of the issue regarding the suspended rule and the factual situation out of which the issue arose.

2. Arguments presented for and against the suspension action at the public hearing held under par. (c).

3. A statement of the action taken by the committee regarding the rule.

4. A statement and analysis of the grounds upon which the committee relies for suspending the rule.

(h) *Legislative procedure.* Upon the introduction of bills by the committee under this subsection, the presiding officer of each house of the legislature shall refer the bill introduced in that house to the appropriate committee, to the calendar scheduling committee or directly to the calendar. If the committee to which a bill is referred makes no report within 30 days after referral, the bill shall be considered reported without recommendation. No later than 40 days after referral, or as soon thereafter as is possible if the legislature is not in a floor period 40 days after referral, the bills shall be placed on the calendar of each house of the legislature according to its rule governing the placement of proposals on the calendar. A bill introduced under this subsection which is received in the 2nd house shall be referred, reported and placed on the calendar in the same manner as an original bill introduced under this subsection.

(i) *Timely introduction of bills; effect.* If both bills required under this subsection are defeated, or fail to be enacted in any other manner, the rule remains in effect and the committee may not suspend it again. If either bill becomes law, the rule is repealed and may not be promulgated again unless a subsequent law specifically authorizes such action. This paragraph applies to bills that are introduced on or after the day specified under [s. 13.02\(1\)](#) for the legislature to convene and before February 1 of an even-numbered year.

(im) *Multiple suspensions.* Notwithstanding pars. (i) and (j), the committee may act to suspend a rule as provided under this subsection multiple times.

(j) *Late introduction of bills; effect.* If the bills required under par. (f) are introduced on or after February 1 of an even-numbered year and before the next regular session of the legislature commences, as provided under [s. 13.02\(2\)](#), or if the bills cannot be introduced during this time period under the joint rules of the legislature, unless either house adversely disposes of either bill, the committee shall introduce the bills on the first day of the next regular session of the legislature. If the committee is required to introduce the bills on the first day of the next

regular session, the rule to which the bills pertain remains suspended except as provided in par. (i). If either house adversely disposes of either bill, the rule remains in effect and the committee may not suspend it again. In this paragraph, "adversely disposes of" has the meaning given under [s. 227.19\(5\)\(g\)](#).

(k) *Biennial report.* The committee shall submit a biennial report of its activities to the chief clerk of each house of the legislature, for distribution to the legislature under [s. 13.172\(2\)](#), and to the governor and include recommendations.

(L) *Emergency rules.* If the committee suspends an emergency rule under this section, the agency may not submit to the legislature under [s. 227.19\(2\)](#) the substance of the emergency rule as a proposed permanent rule during the time the emergency rule is suspended.

(3) **Public hearings by state agencies.** By a majority vote of a quorum of the committee, the committee may require any agency to hold a public hearing in respect to recommendations made under sub. (2) and to report its action to the committee within the time specified by the committee. The agency shall publish a class 1 notice, under ch. 985, of the hearing in the official state newspaper and give any other notice which the committee directs. The hearing shall be conducted in accordance with [s. 227.18](#) and shall be held not more than 60 days after receipt of notice of the requirement.

(4) **Repeal of unauthorized rules.** (a) In this subsection, "unauthorized rule" means a rule that an agency lacks the authority to promulgate due to the repeal or amendment of the law that previously authorized its promulgation.

(b) Notwithstanding [ss. 227.114](#) to [227.117](#) and [227.135](#) to [227.19](#), an agency that promulgated or that otherwise administers a rule that the agency determines is an unauthorized rule shall petition the joint committee for review of administrative rules for authorization to repeal that rule by using the following process:

1. The agency shall submit a petition with a proposed rule that repeals the rule the agency has determined is an unauthorized rule to the legislative council staff for review. The proposed rule shall be in the form required under [s. 227.14\(1\)](#) and shall include the material required under [s. 227.14\(2\)\(a\)1., 2., and 7.](#) and a statement that the agency is petitioning the joint committee for review of administrative rules to use the process under this subsection to repeal a rule the agency has determined to be an unauthorized rule. The agency shall also send an electronic copy of the petition and the proposed rule to the legislative reference bureau, in a format approved by the legislative reference bureau, for publication in the register.

2. The legislative council staff shall review the petition and proposed rule in accordance with [s. 227.15\(2\)](#) and submit to the joint committee for review of administrative rules the petition and proposed rule with a written report including a statement of its determination as to whether the proposed rule proposes to repeal an unauthorized rule. The legislative council staff shall send the agency a copy of its report with an indication of the date on which the petition and proposed rule were submitted to the committee.

3. Following receipt of the petition and proposed rule submitted by the legislative council staff under subd. 2., the joint committee for review of administrative rules shall review the petition and proposed rule and may do any of the following:

a. Approve the agency's petition if the committee determines that the proposed rule would repeal an unauthorized rule.

b. Deny the agency's petition.

c. Request that the agency make changes to the proposed rule and resubmit the petition and proposed rule under subd. 1.

4. The committee shall inform the agency in writing of its decision as to the petition.

(c) If the joint committee for review of administrative rules approves a petition to repeal an unauthorized rule as provided in par. (b)3. a., the agency shall promulgate the proposed rule by filing a certified copy of the rule with the legislative reference bureau under [s. 227.20](#), together with a copy of the committee's decision.

WYOMING

Legislative Service Office

16-3-103, 28-9-103, 28-9-104, 28-9-105, 28-9-106, 107, 108

W.S.1977 § 28-9-102. Powers and duties

- (a) The [legislative management] council may: [Note: The Management Council appears to be like the Kansas Legislative Coordinating Council; it has 13 members representing both parties and consisting primarily of legislators in leadership positions.]
- (i) Examine the administrative rules and regulations of any agency to determine if they properly implement legislative intent, are within the scope of delegated authority, and are lawfully adopted;
 - (ii) Require any agency and any officer or employee thereof to give full cooperation and assistance to the committee or its staff in assembling and furnishing requested information; and
 - (iii) Hold public hearings.

W.S.1977 § 28-9-103. Submission of rules for review; notice to legislators

- (a) Repealed by Laws 1988, ch. 66, § 2.
- (b) An agency shall submit copies of adopted, amended or repealed rules to the legislative service office for review pursuant to [W.S. 28-9-104](#) within ten (10) days after the date of the agency's final action adopting, amending or repealing those rules.
- (c) Repealed by Laws 1988, ch. 66, § 2.
- (d) Upon receipt of an agency's notice to adopt new rules pursuant to [W.S. 16-3-103\(a\)](#) (i), the legislative service office shall give notice to the primary sponsor of the legislation, to members of the interim or standing committee which sponsored or acted upon the legislation authorizing the new rules and to any other legislator requesting notification. The notice given by the legislative service office shall state a copy of the rules will be sent if requested. Notice under this subsection is not required for persons not currently serving in the legislature.

W.S.1977 § 28-9-104. Review procedure; time for review; criteria for review

- (a) The legislative service office shall review rules submitted under [W.S. 28-9-103\(b\)](#) and report its findings to the council. The legislative service office shall review new rules and include therein any comments from the primary sponsor of the legislation, the chairman of the interim or standing committee which sponsored or acted upon the legislation authorizing the new rules and any other legislator submitting comments, and shall report their findings to the council. The report required under this subsection shall be submitted to the council:
- (i) Within fifteen (15) days after the rules were submitted under [W.S. 28-9-103\(b\)](#); or
 - (ii) If the legislature is in session at the time the report would otherwise be due under paragraph (i) of this subsection, then within ten (10) days after the adjournment of the session.
- (b) The council may review any rule of an agency when requested to do so by a member of the legislature or any legislative committee.
- (c) When reviewing a rule of an agency, the council shall determine whether the rule:

- (i) Appears to be within the intent and scope of the legislative enactment delegating the authority to adopt the rule;
- (ii) Has been adopted in accordance with all applicable and statutory requirements of law; and
- (iii) Meets all constitutional and statutory requirements, restrictions and standards.

W.S.1977 § 28-9-105. Review procedure; recommendations

- (a) Repealed by Laws 1988, ch. 66, § 2.
- (b) The management council may refer the review report to the legislative interim or standing committee which sponsored or handled the legislation which is the authority relied on for the rule being reviewed. If the legislation was not sponsored by a legislative committee, the review report may be referred to the joint interim committee which corresponds to the standing committee that handled the legislation in the house in which the legislation was introduced. The standing or interim committee to which the review report is referred may make recommendations to and assist the council in preparing recommendations to the agency which adopted or proposed the rule being reviewed.

W.S.1977 § 28-9-106. Council recommendations to the agency; time.

- (a) The council shall submit its approval or its recommendations for amendment or rescission to the governor and to the agency which submitted the rule.
- (b) The governor, within fifteen (15) days after receiving any council recommendation, shall either order that the rule be amended or rescinded in accordance with the council's recommendation or file with the council in writing his objections to the recommendation.

W.S.1977 § 28-9-107. Legislative orders; action required; implementation and enforcement of rules

- (a) If the council determines that a rule submitted for review under [W.S. 28-9-103\(b\)](#) does not satisfy one (1) or more of the criteria of [W.S. 28-9-104\(c\)](#), the council may introduce legislation in the next succeeding legislative session following the review to obtain a legislative order to prohibit the implementation or enforcement of the rule.
- (b) Repealed by Laws 1988, ch. 66, § 2.
- (c) If the legislature, each house voting separately, approves a legislative order to prohibit the implementation or enforcement of any rule, the rule is null and void and shall not be implemented or enforced. If the legislature fails to approve a legislative order prohibiting the implementation or enforcement of a rule, the rule may be implemented or enforced, as the case may be, after compliance with all other applicable provisions of law.

W.S.1977 § 16-3-103. Adoption, amendment and repeal of rules; notice; hearing; emergency rules; proceedings to contest; review and approval by governor

(a) Prior to an agency's adoption, amendment or repeal of all rules other than interpretative rules or statements of general policy, the agency shall:

(i) Give at least forty-five (45) days notice of its intended action. Notice shall be mailed to all persons making timely requests of the agency for advanced notice of its rulemaking proceedings and to the attorney general, the secretary of state's office as registrar of rules, and the legislative service office if a state agency. The agency shall submit a copy of the proposed rules, in a format conforming to any requirements prescribed pursuant to subsection (f) of this section, with the notice given to the legislative service office. The notice shall include:

(A) The time when, the place where and the manner in which interested persons may present their views on the intended action;

(B) A statement of the terms and substance of the proposed rule or a description of the subjects and issues involved;

(C) If an amendment or a repeal, the citation to the agency rule to be amended or repealed;

(D) If new rules, a statement that they are new rules and a citation of the statute which authorizes adoption of the rules;

(E) The place where an interested person may obtain a copy of the proposed rules in a format conforming to any requirements prescribed pursuant to subsection (f) of this section;

(F) If the agency asserts that all or a portion of a rule is proposed to be adopted, amended or repealed in order for the state to comply with federal law or regulatory requirements:

(I) A statement that the adoption, amendment or repeal of the rule is required by federal law or regulation together with citations to the applicable federal law or regulation; and

(II) A statement whether the proposed rule change meets minimum federal requirements or whether the proposed rule change exceeds minimum federal requirements.

(G) A statement whether the proposed rule change meets minimum substantive state statutory requirements or whether the proposed rule change exceeds minimum substantive state statutory requirements. If the rule change exceeds minimum substantive state statutory requirements, the agency shall include a statement explaining the reason why the rule exceeds minimum substantive statutory requirements;

(H) A statement that the agency has complied with the requirements of [W.S. 9-5-304](#) and the location where an interested person may obtain a copy of the assessment used to evaluate the proposed rule pursuant to [W.S. 9-5-304](#);

(J) A concise statement of the principal reasons for adoption of the rule. In compliance with [*Tri-State Generation and Transmission Association, Inc. v. Environmental Quality Council*, 590 P.2d 1324 \(Wyo. 1979\)](#), the statement shall include a brief explanation of the substance or terms of the rule and the basis and purpose of the rule;

(K) If a state agency is proposing a rule that differs from the uniform rules listed in subsection (j) of this section, a statement of the reasons for varying from the uniform rules.

(ii) Afford all interested persons reasonable opportunity to submit data, views or arguments, orally or in writing, provided this period shall consist of at least forty-five (45) days from the later of the dates specified under subparagraph (A) of this paragraph, and provided:

(A) In the case of substantive rules, opportunity for oral hearing shall be granted if requested by twenty-five (25) persons, or by a governmental subdivision, or by an association having not less than twenty-five (25) members. No hearing under this subparagraph shall be conducted until at least forty-five (45) days after the later of:

(I) The date notice of intended action is given under paragraph (i) of this subsection; or

(II) The date notice is published if publication is required by subsection (e) of this section.

(B) The agency shall consider fully all written and oral submissions respecting the proposed rule;

(C) If prior to final adoption any person objects to the accuracy of a statement made by the agency pursuant to W.S. 16-3-103(a)(i)(F)(I) or (II), the agency shall:

(I) Provide the objecting person with a written response explaining and substantiating the agency's position by reference to federal law or regulations; and

(II) Include with the final rules submitted for review to the governor and legislative service office a concise statement of the objection and the agency's response.

(D) Upon adoption of the rule, the agency, if requested to do so by an interested person, either prior to adoption or within thirty (30) days thereafter, shall issue a concise statement of the principal reasons for overruling the consideration urged against its adoption.

(iii) Comply with the requirements of [W.S. 9-5-304](#).

(b) When an agency finds that an emergency requires the agency to proceed without notice or opportunity for hearing required by subsection (a) of this section, it may adopt emergency rules. An emergency rule is effective when filed. A state agency emergency rule shall bear the endorsement of the governor's concurrence on the finding of emergency before the registrar of rules accepts the rule for filing.

The rule so adopted shall be effective for no longer than one hundred twenty (120) days but the adoption of an identical rule under W.S. 16-3-103(a) or of an emergency rule under this subsection is not precluded. In no case shall identical or substantially similar emergency rules be effective for a total period of more than two hundred forty (240) days. A local agency may proceed with the emergency rule when notice of the emergency is filed with the local registrar of rules.

(c) No rule is valid unless submitted, filed and adopted in substantial compliance with this section. A proceeding to contest any rule on the ground of noncompliance with the procedural requirements of this section must be commenced within two (2) years from the effective date of the rule.

(d) No state agency rule or any amendment, repeal, modification or revision of the rule may be filed with the registrar of rules unless the rule has been submitted to the governor for review and the governor has approved and signed the rule. Except in the case of emergency rules and rules adopted by the game and fish commission fixing general hunting or fishing regulations, season or bag limits or establishing hunting areas, the governor shall not approve any rule until the date of receipt of the legislative management council's recommendation under [W.S. 28-9-106\(a\)](#) or until forty (40) days after the rule is filed with the legislative service office pursuant to [W.S. 28-9-103\(b\)](#), whichever is sooner. During the process of approving rules, the governor may disapprove any portion of a rule not conforming to paragraphs (d)(i), (ii) or (iii) of this section by clearly indicating the portion of the rule disapproved and the basis for the disapproval. Only those portions of a rule approved by the governor shall be filed with the registrar of rules as provided by [W.S. 16-3-104\(a\)](#). Any portion of a rule disapproved by the governor shall be returned to the agency and shall be null and void and shall not be filed, implemented or enforced. The governor shall report his disapproval of any rule or portion thereof to the management council within fifteen (15) days. The governor shall not approve any rule or any amendment, repeal, modification or revision of the rule unless it:

(i) Is within the scope of the statutory authority delegated to the adopting agency;

(ii) Appears to be within the scope of the legislative purpose of the statutory authority; and

(iii) Has been adopted in compliance with the procedural requirements of this act. For the purposes of this subsection, an "agency" means any authority, bureau, board, commission, department, division, officer or employee of the state, excluding the state legislature and the judiciary.

(e) If a state agency created as a licensing or regulatory board or commission for any profession or occupation regulated under title 33 regularly publishes a newsletter, memorandum or other written or electronic communication which serves as a medium to provide information to

members of the regulated profession or occupation, then in addition to the notice requirements of subsection (a) of this section, the agency shall publish within that medium the proposed rules in a format conforming to any requirements prescribed pursuant to subsection (f) of this section. If the agency determines publication in such manner is not practicable, it shall publish within the chosen medium at least once prior to taking final action to adopt, amend or repeal any rule notice of its intended rulemaking proceedings and make available the full text of all proposed changes in the format conforming to any requirements prescribed pursuant to subsection (f) of this section. This subsection shall not apply to emergency rules adopted pursuant to subsection (b) of this section.

(f) The state registrar of rules shall prescribe a format for state agencies to follow in preparing proposed amendments to existing rules which shall ensure that additions to and deletions from existing language are clearly indicated.

(g) Upon receipt of a notice of intended action from a state agency under paragraph (a) (i) of this section, the secretary of state's office shall maintain a file of these notices and make them available for public inspection during regular business hours. A notice shall remain in the file until the rules are adopted or until the agency determines not to take action to adopt the proposed rules. To the extent that resources enable the office to do so, the secretary of state's office shall make these notices available to the public electronically. The secretary of state may promulgate rules specifying the format of notices submitted by state agencies under this subsection. Compliance with this subsection shall not affect the validity of rules promulgated by state agencies.

(h) An agency may incorporate, by reference in its rules and without publishing the incorporated matter in full, all or any part of a code, standard, rule or regulation that has been adopted by an agency of the United States or of this state, another state or by a nationally recognized organization or association, provided:

(i) The agency determines that incorporation of the full text in agency rules would be cumbersome or inefficient given the length or nature of the rules;

(ii) The reference in the rules of the incorporating agency fully identifies the incorporated matter by location, date and otherwise, and states that the rule does not include any later amendments or editions of the incorporated matter;

(iii) The agency, organization or association originally issuing the incorporated matter makes copies of it readily available to the public;

(iv) The incorporating agency maintains and makes available for public inspection a copy of the incorporated matter at cost from the agency and the rules of the incorporating agency state where the incorporated matter is available on the internet as defined in [W.S. 9-2-1035\(a\)\(iii\)](#); and

(v) The incorporating agency otherwise complies with all procedural requirements under this act and the rules of the registrar of state agency rules governing the promulgation and filing of agency rules.

(j) Each state agency shall adopt as much of the uniform rules promulgated pursuant to the following provisions as is consistent with the specific and distinct requirements of the agency and state or federal law governing or applicable to the agency:

- (i) [W.S. 16-3-102\(d\)](#);
- (ii) [W.S. 16-4-204\(e\)](#).