Legislative Oversight of Legal Mandates: Strategies for Monitoring Agency Rulemaking

PEER MISSISSIPPI

Joint Legislative Committee on Performance Evaluation and Expenditure Review

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The Mississippi Legislature created the Joint Legislative Committee on Performance Evaluation and Expenditure Review (PEER Committee) by statute in 1973. A joint committee, the PEER Committee is composed of seven members of the House of Representatives appointed by the Speaker of the House and seven members of the Senate appointed by the Lieutenant Governor. Appointments are made for four-year terms, with one Senator and one Representative appointed from each of the U.S. Congressional Districts and three at-large members appointed from each house. Committee officers are elected by the membership, with officers alternating annually between the two houses. All Committee actions by statute require a majority vote of four Representatives and four Senators voting in the affirmative.

Mississippi's constitution gives the Legislature broad power to conduct examinations and investigations. PEER is authorized by law to review any public entity, including contractors supported in whole or in part by public funds, and to address any issues that may require legislative action. PEER has statutory access to all state and local records and has subpoena power to compel testimony or the production of documents.

PEER provides a variety of services to the Legislature, including program evaluations, economy and efficiency reviews, financial audits, limited scope evaluations, fiscal notes, and other governmental research and assistance. The Committee identifies inefficiency or ineffectiveness or a failure to accomplish legislative objectives, and makes recommendations for redefinition, redirection, redistribution and/or restructuring of Mississippi government. As directed by and subject to the prior approval of the PEER Committee, the Committee's professional staff executes audit and evaluation projects obtaining information and developing options for consideration by the Committee. The PEER Committee releases reports to the Legislature, Governor, Lieutenant Governor, the agency examined, and the general public.

The Committee assigns top priority to written requests from individual legislators and legislative committees. The Committee also considers PEER staff proposals and written requests from state officials and others.

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Issue Brief Highlights

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CONCLUSION: Most states have adopted some form of rules oversight that can benefit a general program or agency. While many programs adopted over the years were found to be unconstitutional, effective programs can be adopted that can reduce the risk of constitutional litigation and provide an effective system of rules oversight. A logical first step in developing a rules review process would be to establish a joint committee with the discretion to review newly adopted or proposed rules and advise the Legislature on the subject of whether or not the rules are consistent with several legal standards including the intention of the Legislature.

BACKGROUND

Agencies authorized by broad laws have been empowered to create their own rules and regulations. Over the years, as government agencies have grown, efforts at the state and federal level have been made to oversee the administrative process, particularly rulemaking.

Legislatures have always had broad authority to review the activities of government, particularly the executive branch. There are many processes that can be used to accomplish this, including appropriations hearings and legislative audits and evaluations.

The purpose of this issue brief is to explain the uses and pitfalls of Mississippi's methods of oversight and critique of agency rulemaking.

RECOMMENDATIONS

Option 1: Establish a joint committee with the power to selectively review newly adopted/proposed rules and give advice to the Legislature on these rules.

Option 2: Adopt a general law empowering a Joint Committee to conduct rules reviews on proposed or new rule adoptions to advise the Legislature on the legality of the rules. Additionally, provide that new rules must be approved by the Legislature through general bills in the session following their adoption. Failure to approve constitutes a rejection of the rule.

Option 3: The PEER Committee could review agency rules in a limited capacity based on its existing enabling legislation through MISS. CODE ANN. Section 5-3-57 (1972).

KEY FINDINGS

- **What forms of oversight does Mississippi currently use to regulate agency rulemaking?**
  Mississippi regularly uses all forms of traditional oversight (e.g., advice and consent, standing committee hearings). The Levin Center for Oversight and Democracy of Wayne State University Law School notes that while Mississippi actively uses these forms of oversight, it is noticeably lacking in any formal method of administrative rules review.
- **What are the options for legislative involvement in the rule review process?**
  Some strategies for enhanced legislative oversight include non-systemic forms of oversight, systemic advisory bodies, rule suspension, and litigation burden shifting. In some states, legislatures combine these strategies.

How are other states' legislatures involved in rules review?

In this issue brief, PEER discussed several states whose experience in administrative rules review might be instructive if Mississippi wished to consider establishing a legislative rules review program. These states generally review newly adopted or proposed rules, and methods vary from state to state.

Of the states discussed, those of Colorado, Kansas, and Tennessee are not likely to raise constitutional concerns in Mississippi and could be used to offer effective oversight of the rulemaking process.

- **Colorado and Tennessee** have adopted general laws that empower joint committees to conduct rules reviews and advise the state legislatures on the legality of the rules.
- **Kansas** has established a committee that has been effective in reviewing rules and has had influence on amendments that have enabled rules to become effective without challenges in the Legislature.

Legislative Oversight of Legal Mandates: Strategies for Monitoring Agency Rulemaking

Introduction

Authority

At its meeting of November 30, 2022, the PEER Committee authorized a review of the Legislature's oversight of legislative mandates given to state agencies.

Scope

This issue brief reviews the ways in which state legislatures have regulated and continue to regulate statutory mandates given to agencies through the application of rules reviews. This includes:

- the genesis of legislative review of agency rules;
- constitutional issues that have arisen regarding the legislative review of agency rules;
- current approaches taken by Mississippi's neighboring states and several other states which effectively review agency rules; and,
- options for establishing a program of administrative rules review in Mississippi.

Method

To conduct this review PEER:

- reviewed professional literature on methods of legislative oversight;
- reviewed case law addressing the doctrine of separation of powers as applied in Mississippi and other states;
- reviewed specific methods by which other states oversee their executive branch rulemaking authority; and,
- obtained information on the resources other states commit to conduct rules reviews.

Purpose

Mississippi government consists of state agencies managed either by elected or appointed executives, or by appointed governing boards. To administer their broad range of programs and responsibilities, these agencies adopt rules and regulations to implement the laws that the Legislature passes and then entrusts the agency with administering. From time to time, members of the Legislature raise concerns that agencies do not adopt rules and regulations that conform to the requirements of the adopted legislation. When this happens, questions are asked as to how the Legislature can exercise oversight over agency rulemaking.

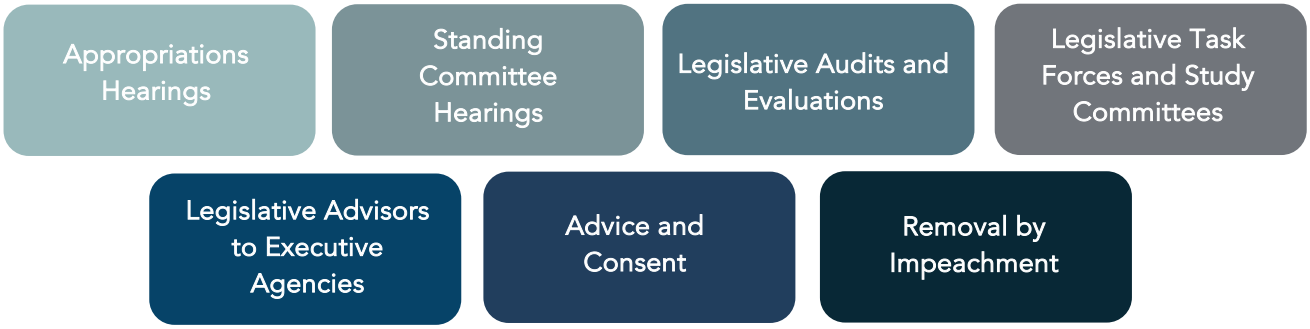
Background

The growth of government agencies rendering regulation and services in the twentieth century brought about sweeping changes in lawmaking and accountability. Over the years, agencies authorized by broad laws have been empowered to adopt their own rules and regulations.

Concerns about the growth of an administrative state engendered efforts at both the state and federal level to oversee the administrative process in general, and the making of rules in particular. Methods of legislative oversight, both traditional and specifically developed for the review of rules, were employed for the purpose of reviewing the actions of administrative agencies and their operations.

Traditional Forms of Oversight

Legislatures have always had broad authority to review the activities of government, particularly the executive branch. This form of oversight is, was, and continues to be carried out through the following processes:



- **Appropriations hearings:** Appropriations hearings can be used to question agencies on what they are accomplishing with their appropriated resources. When coupled with indicators and measures to assess the efficiency and effectiveness of operations, these can be powerful means of determining what value the state receives for the resources it places in its agencies.
- **Standing committee hearings:** Both the U.S. Congress and state legislatures have a variety of standing committees that are responsible for handling bills addressing the subject matter responsibilities of various agencies. These bodies can be an effective means of generally overseeing agencies and specifically overseeing the laws they administer, particularly when their membership and staff consist of long-serving persons who have accumulated institutional memory.
- **Legislative audits and evaluations:** Over the past half-century many Legislatures have created organizations (e.g., the PEER Committee) specifically charged with the responsibility of conducting audits, evaluations, and investigations of agencies and their operations. While compliance with the law is often an element of these reviews, reviews generally focus on effective or efficient implementation of programs and services.

- **Legislative task forces and study committees:** These entities, usually established for a limited duration, are given a mandate to study certain subjects. These subjects can include agency compliance with legislative mandates.
- **Legislative advisors to executive agencies:** This approach has been used in Mississippi since the 1980s. Legislative members appointed to advise agencies can make recommendations and suggestions to agency heads and can offer guidance on matters of legislative intent and purpose.
- **Advice and consent:** This power to confirm appointees of the Governor allows a legislative body, usually the Senate, to question appointees about their beliefs on the laws that govern the agency they are appointed to direct or manage. Questions directed to an appointee about the appointee's philosophy, goals, and preferences can be a powerful tool in ensuring that the legislative will is advanced and that appointees will follow the law. In instances where an appointee fails to carry forward the laws adopted by a Legislature, legislators would have an argument for either calling for the resignation of a confirmed appointee or possibly impeachment in cases where the appointee is an officer.
- **Removal by impeachment:** Article 6, Sections 49 through 52, *Mississippi Constitution of 1890*, provide for the impeachment of officers. Specifically, Section 50 states:

  "The governor and all other civil officers of this state, shall be liable to impeachment for treason, bribery, or any high crime or misdemeanor in office."

  This remedy may be imposed by the Legislature with the House of Representatives responsible for adopting the article of impeachment and the Senate being the body responsible for rendering judgment.

Except for impeachment, Mississippi regularly uses these approaches.

Except for impeachment, Mississippi regularly uses these approaches to oversee the functions and activities of state government to ascertain how efficiently and effectively an agency administers its resources or whether the laws governing agencies need to be strengthened, amended, or repealed to best serve the public interest.

The Levin Center for Oversight and Democracy (Levin Center) of Wayne State University Law School,[1] which studies how actively state legislatures carry out their oversight functions, notes that while Mississippi actively uses these forms of oversight, it is noticeably lacking in any formal method of administrative rules review.[2] Over the past several decades, many states have developed specialized methods for dealing with the oversight and critique of agency rules. Explaining the forms of this oversight including uses and pitfalls is the purpose of this issue brief.

The purpose of this issue brief is to explain the uses and pitfalls of Mississippi's methods of oversight and critique of agency rulemaking.

[1] The Levin Institute is devoted to the study of Legislative Oversight in the United States and publishes considerable information on the oversight activities and capabilities of the 50 states.
[2] *Oversight in the Fifty States*, Levin Center for Oversight and Democracy, Wayne State University, 2019.

The Evolution of Legislative Rules Oversight and Legal Challenges

During the 1950s, in the face of growing concern over the potential for arbitrariness in the rulemaking and adjudicative functions of administrative agencies, state legislatures began to enact the Model Administrative Procedures Act. First published in 1946, the Act set parameters on the processes by which administrative agencies adopted rules and adjudicated matters before them.[3]

Over the years, many state legislatures grafted provisions onto their respective Administrative Procedures Act that required legislative oversight of agency rules by either adopting a general method of review, and in some cases a legislative veto of all agency rules, or more targeted reviews focusing on specific agencies and newly adopted or proposed rules. These reviews were often placed in the hands of individual standing committees, and sometimes in the hands of a joint committee. Legislative reviews were added as another step to be accomplished before a rule could be adopted or made permanently effective.

In requiring legislative review, legislatures followed the lead of Congress, which had been exercising a legislative veto of agency rules for decades. With the evolution of these new forms of oversight came constitutional litigation at the state and federal levels, particularly in cases where the approaches taken by the legislatures gave either one house or both houses the power to veto a rule.

By the 1980s, challenges were raised regarding oversight that involved a one or two-house legislative veto. In 1983, The United States Supreme Court rendered its seminal decision in *Chadha versus INS*.[4] In *Chadha*, the court struck down a procedure by which one house of Congress could veto administrative rules. Writing for the majority, Chief Justice Burger stated that whenever Congressional action has the purpose and effect of altering legal rights, duties, and relations of persons outside the Legislative branch, Congress must act through both houses in a bill or resolution submitted to the President.[5]

In the case *Chadha versus INS*, the Supreme Court stated that whenever Congressional action has the purpose and effect of altering legal rights, duties, and relations of persons outside the Legislative branch, Congress must act through both houses in a bill or resolution submitted to the President.

Over the decade following *Chadha*, cases were filed in many states attempting to invalidate the legislative veto under the *Chadha* logic. While *Chadha* is not binding on states, by and large, the efforts of these litigants were successful as will be seen from the following discussion.

State Court Actions Following Chadha versus INS

Any procedure for reviewing agency rules must be permissible within a state's constitutional framework. Generally, when states have established a system of rules review, that system permits the Legislature to veto a rule or rules. These processes can be challenged under several constitutional doctrines, including requirements of bicameral action, presentment to the Governor, and separation of powers.

- **Requirements of bicameral action:** Several states experimented with a process by which a single house of the Legislature could veto an administrative rule by simply adopting an order or a resolution saying that the rule was no longer effective. When such practices have been challenged, courts have generally taken the position that such actions violate state constitutional provisions

[3] Mary M. Janicki, *Model State Administrative Procedure Act*, Office of Legislative Research, OPLR Report, Connecticut, May 13, 2009.
[4] 642 U.S. 919 (1983).
[5] *Chadha* at 952.

that vest the legislative power in two houses. The logic of such court opinions is that state constitutions expect the legislative will to be expressed through bicameral action. Allowing a single house or a single committee to determine the will of the Legislature violates such a concept.[6]

- **Presentment:** Many states have constitutional provisions that require that legislative action having the force of general law be adopted and presented to the governor for approval or disapproval. These constitutional requirements are called presentment clauses. Several procedures of some states providing a legislative veto of agency rules by joint resolution have been successfully challenged in court for violating the presentment requirement as the resolutions are not presented to the governor for his or her approval. Perhaps the best statement of the logic behind the presentment clause argument was offered in *State ex rel. Stephan v. Kansas House of Representatives.*[7] In this case, the Kansas Supreme Court was presented with a procedure whereby the Kansas Legislature could pass a joint resolution vetoing an administrative rule. The court noted:

  > *…. a resolution is essentially legislative where it affects the legal rights, duties, and regulations of persons outside the legislative branch and therefore must comply with the enactment provisions of the constitution. 103 S.Ct. at 2784. See also State v. A.L.I.V.E. Voluntary, 606 P.2d at 773-74. Where our legislature attempts to reject, modify, or revoke administrative rules and regulations by concurrent resolution it is enacting legislation which must comply with the provisions of art. 2, § 14. A bill does not become a law until it has the final consideration of the house, senate and governor as required by art. 2, § 14. Harris v. Shanahan, 192 Kan. 183, Syl. § 1, 387 P.2d 771 (1963). This was not done here.*

  Courts generally follow the result in the *Stephan* case and hold that presentment requirements are intended to give the governor a significant role in a tripartite system of government by allowing the governor to exercise a check on legislative power. Several states have held that such schemes of legislative veto violate state constitutions.[8]

- **General separation of powers arguments**: All fifty states have embraced the doctrine of separation of powers, with 40 specifically adopting the doctrine in their constitutions. Generally, these provisions state that the duties of government are divided and assigned to the legislative branch, the executive branch, and the judicial branch. In applying these principles, it is also usual and customary for courts to conclude that at the very least a core responsibility of the legislative branch is lawmaking while the executive branch's core responsibility is carrying out the laws passed by the Legislature.

While most cases dealing with legislative oversight of rulemaking stress the unconstitutional means applied (e.g., veto by committee or veto through resolution not subject to presentment to the governor), a few conclude that rules vetoes violate the general principle of separation of powers. In *Legislative Research*

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[6] See *Com. Dept. of Environmental Resources v. Jubelirer*, 567 A.2d 741, 130 Pa. Commonwealth 124 (Pa. Commonwealth Ct. 1989). See also In Re Opinion of Justices, 431 A 2d 783 (NH, 1981). Also see Mark D. Falkhoff, "The Legislative Veto in Illinois: Why JCAR Review of Agency Rulemaking is Unconstitutional," Volume 47, *Loyola University Chicago Law Journal*, Summer 2016, pages 1083 through 1091.

[7] State ex rel. *Stephan v. Kansas House of Representatives*, 236 Kan. 45, 687 P.2d 622 (Kan. 1984).

[8] See Kalkhoff, supra.

Commission by and through Prather v. Brown,[9] the Kentucky Supreme Court ruled a procedure by which the Kentucky Legislature Research Committee could veto an administrative rule was unconstitutional, the court reasoned:

> *The adoption of administrative regulations necessary to implement and carry out the purpose of legislative enactments is executive in nature and is ordinarily within the constitutional purview of the executive branch of government. Ky. Const. Secs. 27-28, 42, 88 and 89. Brown v. Barkley, Ky., 628 S.W.2d 616 (1982). We conclude that KRS 13.085 (1) (d) and (e); KRS 13.087 (4), (5), (6), (7), (8), (9); KRS 13.088 (2) (3); and KRS 13.092 (1) and (2) which set out the plan and the rules for providing legislative or LRC review of proposed regulations as those statutes are presently written are violative of Ky. Const. Secs. 27-28 and are a legislative encroachment into the power of the executive branch.*

In summary, after *Chadha*, litigation arising in 13 jurisdictions including the District of Columbia resulted in one or two-house legislative vetoes being held unconstitutional. These cases applied some if not all the logic set out above.[10] Additionally two states, Oklahoma and Oregon, opted to repeal their legislative veto statutes.[11]

Decisions Upholding a Legislative Veto

During the post-*Chadha* period of state litigation, only one state supreme court held that a two-house legislative veto by resolution was constitutional. In *Mead v. Arnell*, 791 P. 2d 410 (Idaho, 1990) the Idaho Supreme Court held that a two-house veto by joint resolution was constitutional. In doing so, the court concluded that the Legislature is the only law-making authority in Idaho and that it cannot delegate its authority to another branch of government.

Additionally, some states have amended their constitutions to specifically permit legislatures or their committees to veto administrative rules by resolutions. Examples include Connecticut, Nevada, and New Jersey.

The Requirements of the Mississippi Constitution

Mississippi has provisions in its constitution that mandate bicameralism and limit the uses to which resolutions can be directed.

Any attempt to give one house the power to veto administrative rules or provide for the veto of administrative rules by concurrent resolution would be at risk of being held unconstitutional. Mississippi has provisions in its Constitution that mandate bicameralism and limit the uses to which resolutions can be directed. Specifically, Article 4, Section 33 of the *Mississippi Constitution of 1890* vests the legislative power of the state in the Senate and the House of Representatives. By specifically vesting the power in

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[9] Legislative Research Commission by and through *Prather v. Brown*, 664 S.W.2d 907 (Ky. 1984).

[10] Alaska, Connecticut, the District of Columbia, Kansas, Kentucky, Massachusetts, Montana (Trial Court) New Hampshire (Advisory Opinion), New Jersey, Pennsylvania, South Carolina, and West Virginia, see Kenneth D. Dean, "Legislative Veto of Administrative Rules in Missouri: A Constitutional Virus," Volume 57, *Missouri Law Review*, pages 1157, 1170 -1179, (1992). Ultimately, Missouri would join these states in striking the Legislative veto based on presentment. See *Missouri Coalition for the Environment v. Joint Committee on Administrative Rules*, 948 SW 2d. 125 (Mo, 1997).

[11] See Dan, supra at notes 158 and 163.

both houses, this section would appear to work against giving the work of one house the effect of law. States which have rules against single-house action have similar provisions.[12] Likewise, Article 4, Section 60 addresses what can be done by bill and resolution. This section states:

> *No bill shall be so amended in its passage through either house as to change its original purpose, and no law shall be passed except by bill; but orders, votes, and resolutions of both houses, affecting the prerogatives and duties thereof, or relating to adjournment, to amendments to the Constitution, to the investigation of public officers, and the like, shall not require the signature of the governor; and such resolutions, orders, and votes, may empower legislative committees to administer oaths, to send for persons and papers, and generally make legislative investigations effective.*

This provision limits the use of resolutions to certain specific matters dealing with operations of the House and Senate and amendments to the Constitution. At present, Mississippi is one of only six states to not have such a process.[13]

Perhaps because of its stringent constitutional requirements, Mississippi would likely be challenged if it adopted a single or two-house legislative veto. This, however, does not preclude strong forms of rules oversight that will be discussed below.

What Are the Options for Legislative Involvement in the Rule Review Process?

Regardless of the constitutional limitations discussed above, legislatures have options they can exercise to review agency rules. During the 1980s and 1990s, much was written about the subject as many experts in Constitutional law became concerned that some legislative strategies for oversight could constitute legal encroachments on the powers of the executive branch. To guide policymakers, an often-cited article set out different strategies for enhanced legislative oversight citing both the possible benefits of enhanced oversight as well as the legal risks.[14]

- **Non-systemic forms of oversight:** When states adopt legislation creating an agency with rulemaking authority, those states can also adopt legislation that specifically amends agency legislation to negate a rule. This is called non-systemic because it follows the customary approach to legislative action and incorporates no specific requirements that the committee must follow when reviewing and reporting on a rule. This option raises no constitutional issues because the Legislature uses its traditionally utilized powers to take testimony, conduct investigations, and adopt legislation to address what it considers to be a problem regarding an agency rule.

  Non-systemic forms of oversight follow the customary approach to legislative action and does not incorporate requirements for reviewing and reporting on a rule.

- **Systemic advisory bodies:** This approach differs from the non-systemic approach because it utilizes a special committee charged with the responsibility for reviewing agency rules and making recommendations to the Legislature on the continued viability of a rule. These procedures often require that the committee determine whether the rule violates certain principles (e.g., is outside

[12] *Chadha* at 952.

[13] Alaska, Indiana, Massachusetts, Mississippi, New Mexico, and Rhode Island.

[14] L. Harold Levinson, *Legislative and Executive Veto of Rules of Administrative Agencies: Models and Alternatives*, 24 Wm. & Mary L. Rev. 79 (1982).

the scope of the statute), cannot be consistent with legislative intent, or is arbitrary and capricious. In some cases, the reviews entail a detailed economic impact of the adopted or proposed rule. Ohio is an example of a state which empowers a joint committee to advise the Legislature on action it should take regarding a role of questionable validity.

When coupled with a provision in law limiting the duration of a newly adopted agency rule, this approach provides the Legislature with a powerful means of addressing rules that may not be consistent with the letter or purpose of the law they were intended to apply. Colorado and Tennessee are examples of states that use this approach to rule oversight.

- **Rules suspensions:** Several states empower their legislatures or a joint committee of the Legislature to suspend the adoption of a new agency rule. In these states, legislative review is built into the state's Administrative Procedures Act and requires that the Legislature or a particular committee be given the opportunity to review a rule. For example, Wisconsin uses a procedure by which the Joint Committee on Review of Administrative Rules (JCRAR) can suspend a new rule from becoming effective, giving the Legislature the opportunity to either approve the rule or reject it through the legislative process. This process is more fully discussed on page 15 of this issue brief.

> Rule suspension allows legislatures or committees to suspend the adoption of a new agency rule in order to review the rule before it becomes effective.

> Temporary suspensions can raise issues, especially in instances where a legislative veto has been held unconstitutional.

Temporary suspensions can raise issues (e.g., in instances where the legislative veto has been held unconstitutional). Suspensions, such as those imposed in Wisconsin, appear to violate both the principles of bicameralism and presentment. However, some argue short duration suspensions can be more easily justified if:

- they are allowed only when the Legislature is not in session;
- the suspending body must make decisions based on statutory criteria; and,
- the suspension must be dealt with in the legislative process by a bill when the Legislature returns in session.

In states such as Michigan, where the state Constitution specifically authorizes suspension by joint committees when the Legislature is not in session, suspension presents no constitutional issue. For other states, suspension inhabits an area where arguments for the constitutionality of such actions can still be raised.

The Wisconsin Supreme Court affirmed the constitutionality of the suspension system recently in *Service Employees International Union v. Voss*.[15] In *Voss*, the Wisconsin Supreme Court stressed that the suspension was temporary until the Legislature could consider a bill that would repeal the rules. If the bill was not passed, the rule would become effective again. In so concluding, the court upheld the temporary suspension, as they had done in an earlier case.[16]

[15] 393 Wis 2d. 38, 946 N.W. 2d. 25 (2020).
[16] *Martinez v. DILHR*, 165 Wis. 2d 687, 478 N.W.2d 582 (Wis. 1992).

Additionally, the 2010 Revised Model State Administrative Procedures Act[17] recommends a form of suspension. The act provides for the creation of a specialized legislative committee that has the power to approve a rule, recommend an amendment, or reject a rule. When rejected, the rule cannot become effective unless the Legislature adopts a bill approving the rule in states where presentment is necessary to comply with constitutional requirements.

- **Litigation burden shifting**: In several states,[18] a legislative committee may object to an administrative rule and require that its objection be published with the rule. Using the New Hampshire procedure as an example, the process can work as follows:
    - An agency publishes a proposed rule and provides a copy to the New Hampshire Legislative Services Office for publication in the state's rulemaking register.
    - The New Hampshire Joint Legislative Committee on Administrative Rules reviews rules before they are final. The Committee may approve rules or may conduct a hearing on the proposed rules. The Committee may issue preliminary objections to the rule, thereby giving the agency an opportunity to make amendments to the rule.
    - If amendments do not correct the concerns the Committee has raised, the Committee may enter an objection to the final rule.
    - If there are no objections to the final rule, the rule becomes effective; however, in any court, if an action challenges the rule's provisions, the agency has the burden of proving that the rule is consistent with the law, is in the public interest, and it does not have a substantial economic impact beyond what the agency reported when the rule was filed.

Other Strategies

Some states use a combination of the approaches explained above.

In addition to the approaches set out above, some states have combined strategies. For example, New Hampshire provides for both suspensions and objections on the record that shift the burden of proof in administrative hearings. North Dakota still utilizes a legislative veto but also has a burden-shifting option codified in law.

Additionally, it is possible for the Legislature to consider a selective application of rules review under which reviews would be limited to certain agencies or programs.

Specific Examples of Legislative Rules Review in Action: Mississippi's Neighboring States and Other Selected States

The following paragraphs discuss several states whose experience in administrative rules review might be instructive if Mississippi wished to consider establishing such a program. These states generally review newly adopted (e.g., Tennessee) or proposed rules (e.g., Louisiana). Their methods of making their directives effective vary considerably from state to state.

[17] Revised Model State Administrative Procedures Act, National Conference of Commissioners on Uniform State Laws, 2010.

[18] Iowa, Montana, New Hampshire, and North Dakota.

Neighboring States

Unlike Mississippi, each state has a procedure for reviewing administrative rules. However, the review process varies in each state.

Alabama

Alabama's approach is much like that recommended by the most recent version of the Model Act. Alabama's Legislature has a Joint Committee to Administrative Regulation Review consisting of all members of the Legislative Council. The Committee reviews administrative rules and advises agencies and the Legislature of its findings.[19]

The review process commences when agencies give public notice of intent to adopt or amend rules. When this notice is given, the agency must give notice to the members of the Committee with a draft of the proposed new rule or amendment. After notice, the Committee shall review such rules and may hold public hearings on the proposed new rules or amendments. If the Committee has not filed an objection with the agency by the time under law that the agency must file its rule with Alabama Reference Bureau, the rule is considered adopted. If the Committee enters an objection to the rule the agency may appeal the decision to the Office of the Lieutenant Governor. The Lieutenant Governor may uphold the Committee's decision, in which case the rule is disapproved, or he or she may reverse the Committee's decision. If the rule is approved by the Lieutenant Governor, it becomes effective after the conclusion of the next legislative session where the Legislature may act on the rule.

In cases where the Committee has disapproved a rule and the Lieutenant Governor has sustained the disapproval, the Committee shall submit to the next session of the Legislature a joint resolution sustaining the disapproval. The Legislature may sustain or overrule the Committee by joint resolution.

Based on a discussion with the staff of the Committee, the total number of filings in 2022 was 585.

Arkansas

In contrast to Alabama, Arkansas maintains a legislative veto for committees assigned the responsibility for reviewing agency rules. This is because the Arkansas Constitution was specifically amended in 2014 to allow such. Specifically, the Constitution contains a new provision, Article 5, Section 42 which states:

> *§ 42. Review and approval of administrative rules*
>
> *(a) The General Assembly may provide by law:*
>
> *(1) For the review by a legislative committee of administrative rules promulgated by a state agency before the administrative rules become effective; and*
>
> *(2) That administrative rules promulgated by a state agency shall not become effective until reviewed and approved by the legislative committee charged by law with the review of administrative rules under subdivision (a) (1) of this section.*
>
> *(b) The review and approval by a legislative committee under subsection (a) of this section may occur during the interim or during a regular, special, or fiscal session of the General Assembly.*

[19] Alabama Code Section 41-22-22.

Arkansas Code Section 10-3-309 establishes the state's procedure for legislative review. A subcommittee of the Arkansas Legislative Council known as the Administrative Rule and Regulation Review Subcommittee must review administrative rules both new and amended for their compliance with:

- legislative intent; and,
- possible conflict with federal law.

The subcommittee may vote to approve or not approve a rule and may seek guidance from standing committees of the Legislature. Disapproval is tantamount to a veto as allowed by Section 42.

Louisiana

Louisiana has a statute providing which agency rules are to be transmitted to certain committees of the House and Senate. When transmitted, these committees are authorized to submit the agency rules to a subcommittee for review. A subcommittee may recommend adoption, amendment, or disapproval. Reports of the subcommittees are then forwarded to the Governor who has 10 days to approve or disapprove the action of the subcommittee. The Legislature has the power to pass joint resolutions that either amend, adopt, or revoke a rule.[20]

According to the staff of the Louisiana Legislature, the reviews are not mandatory, and committees may choose not to review a rule. In recent years, the review process has reviewed approximately 160 proposed rules per year, with committees reporting negatively once or twice per year. In some cases, the Governor has vetoed a report. Because existing staff is used to review rules, the only significant costs added to the operations of the Legislature are those associated with paying members per diem and travel.

Tennessee

Tennessee has a provision of law which states:

> *(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.*[21]

By this authority, the Government Operations Committees of the House and Senate, meeting separately or jointly, must recommend to the assembly whether to continue any new rules that have been adopted. If the Legislature does not adopt a bill that adopts the rule, the rule is repealed. According to the staff of the Government Operation Committee, a joint committee of the General Assembly will perform approximately 120 rules reviews in a year. They estimate that only one or two rules are recommended for exclusion from the bill authorizing rules. Because the staff participating in the process are agency staff or legislative staff performing other functions also, the costs of this operation are limited to the costs associated with legislator salary and travel. An example of a bill approving administrative rules is attached as Exhibit 1 on page 12.

Under TN Code Section 4-5-215, the Legislature may stay a rule for 90 days. According to staff, this stay provision has never been used.

Additionally, agencies must report every eight years on rules that they believe must or should be repealed.

[20] See LSA RS: 49:966, and LSA RS: 969.e.

[21] TN Code Section 4-5-226.

Exhibit 1: House Bill 234

HOUSE BILL 234

By Ragan

AN ACT relative to agency rules scheduled to expire pursuant to the provisions of the Uniform Administrative Procedures Act, compiled in Tennessee Code Annotated, Title 4, Chapter 5.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1.

(a) All permanent rules filed in the office of secretary of state on or after January 1, 2022, that are in effect on the effective date of this act, and that are scheduled for expiration under Tennessee Code Annotated, Section 4-5-226, on June 30, 2023, do not expire on June 30, 2023, but remain in effect until repealed or amended by subsequent rule of the appropriate rulemaking agency or until otherwise superseded by legislative enactment.

(b) This section is not to be construed to justify the continued effectiveness of any rule that remains in effect under subsection (a) if the rule conflicts with the provisions of any legislative enactment other than the Uniform Administrative Procedures Act, compiled in Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 2. If any provision of this act or the application of any provision of this act to any person or circumstance is held invalid, then the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end, the provisions of this act are severable.

SECTION 3. This act takes effect upon becoming a law, the public welfare requiring it.

SOURCE: Tennessee House Bill 234.

In reviewing other states' methods of overseeing administrative rules, PEER looked to the research conducted by the Levin Institute.

The following four states are considered by Levin to engage in a high level of rules oversight.[22] Additionally, this section discusses Kansas, a state that has effectively used an advisory committee to review rules and make recommendations.

Colorado

Colorado has a provision in its Administrative Procedures Act, Section 24-3-103 that provides in part:

> *(8) (a) No rule shall be issued except within the power delegated to the agency and as authorized by law. A rule shall not be deemed to be within the statutory authority and jurisdiction of any agency merely because such rule is not contrary to the specific provisions of a statute. Any rule or amendment to an existing rule issued by any agency, including state institutions of higher education administered pursuant to title 23, C.R.S., which conflicts with a statute shall be void.*
>
> *(b) An agency shall not issue a rule or amend an existing rule unless the issuing agency first submits the rule to the attorney general for the attorney general's opinion as to its constitutionality and legality. If an agency issues a rule or an amendment to an existing rule without first submitting the rule or amendment to the attorney general, the rule or amendment is void.*
>
> *(c) (I) (A) Notwithstanding any other provision of law to the contrary, including section 24-4-107, and except as provided in subsection (8)(c)(I)(B) of this section, on and after November 1, 1993, all rules adopted or amended during any one-year period that begins each November 1 and continues through the following October 31 expire at 11:59 p.m. on the May 15 that follows such one-year period unless the general assembly by bill acts to postpone the expiration of a specific rule.*

In other words, administrative rules adopted in a one-year period must be approved by the Colorado General Assembly between November 1 and October 31, or they will be void after the following May 15.

> Rules adopted in a one-year period must be approved by the Colorado General Assembly between November 1 and October 31, or they will be void after the following May 15.

The review process is also set out in the same section. In general, agencies that adopted rules within the period set out above must submit their rules to the General Assembly's Office of Legal Services for review. Following review, the Office shall:

> *present its findings to the committee on legal services at a public meeting held after timely notice to the public and affected agencies. The committee on legal services shall, on affirmative vote, submit such rules, comments, and proposed legislation at the next regular session of the general assembly.*[23]
>
> *Rules or portions of rules not included in the bill are no longer effective after May 15, and agencies must conform their rules to the actions of the General Assembly.*

The Office of Legal Services reports to the Committee on Legal Services all rules that have legal issues the agency has not agreed to revise. For purposes of the staff review, objections can be made to a rule if:

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[22] *Oversight in the Fifty States*, supra at pages 182 to 183 (Colorado) pp 314 to 315 (Illinois), pp 376 to 377, (Kansas), pp 606 to 607 (Nevada), and pp 982 to 983 (Wisconsin).

[23] See subparagraph (8) (d) (1) (iv).

- the rule conflicts with statute;
- the rule is outside of or beyond the agency's rulemaking authority; and/or,
- the rule is so vague that a person regulated by the rule could not determine how to comply with it.

The Committee follows the same standards and will vote on whether to extend the rule indefinitely or to allow it to expire on the following May 15. If the Committee votes to allow the rule to expire, the rule is listed in the annual rule review bill, for expiration. All of the newly adopted and amended rules that are not listed for expiration are extended indefinitely through the annual rule review bill. The annual rule review bill is reviewed by the General Assembly as is any other bill.

All recently adopted rules must be reviewed and included in a bill approving them.

By Section 24-3-103, the state of Colorado has established a process like that established in Tennessee for the review of recently adopted rules. All such rules must be reviewed and included in a bill approving them or they cease to be effective on May 15 as set out above. The Office reviews approximately 600 to 700 rules per year, noting that there has been an increase since COVID. It notes that many rules or amendments are very short and require only a few minutes to review.

Nevada

Nevada's Constitution's separation of powers section contains an amendment, Article 3, Section 1.2 that provides:

> *§ 1. Three separate departments; separation of powers; legislative review of administrative regulations.*
>
> *1. The powers of the Government of the State of Nevada shall be divided into three separate departments, -the Legislative, -the Executive and the Judicial; and no persons charged with the exercise of powers properly belonging to one of these departments shall exercise any functions, appertaining to either of the others, except in the cases expressly directed or permitted in this constitution.*
>
> *2. If the legislature authorizes the adoption of regulations by an executive agency which bind persons outside the agency, the legislature may provide by law for:*
>
> > *(a) The review of these regulations by a legislative agency before their effective date to determine initially whether each is within the statutory authority for its adoption;*
> >
> > *(b) The suspension by a legislative agency of any such regulation which appears to exceed that authority, until it is reviewed by a legislative body composed of members of the Senate and Assembly which is authorized to act on behalf of both houses of the legislature; and*
> >
> > *(c) The nullification of any such regulation by a majority vote of that legislative body, whether or not the regulation was suspended.*

Thus, the Nevada Constitution specifically grants to the Legislature considerable power to suspend or nullify agency rules. Consistent with the Constitutional mandate, NRS Section 233B.064 provides:

Permanent regulation: Prohibition against adoption until text approved or revised by Legislative Counsel; agency to provide written notification to Legislative Counsel of date of adoption; agency to issue statement of reasons for adoption upon request.

1. An agency shall not adopt, amend, or repeal a permanent regulation until it has received from the Legislative Counsel the approved or revised text of the regulation in the form to be adopted. The agency shall immediately notify the Legislative Counsel in writing of the date of adoption of each regulation adopted.

2. Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, and incorporate therein its reason for overruling the consideration urged against its adoption.

Illinois

Illinois' Joint Committee on Administrative Rules (JCAR) has been in existence since 1977. The authority to review rules extends to proposed rules. Rules can become effective for one year without JCAR notice but can become void if not reviewed by the Committee. After filing an intent to adopt a rule, if no hearings are requested by members of the public, the Governor, or JCAR, a second notice is published. At this time, JCAR can become involved in reviewing. JCAR staff and legislative committee members review the rule for statutory authority, propriety, standards for the exercise of discretion, economic effects, clarity, procedural requirements, and technical aspects. JCAR may then recommend technical changes to the rule, object to the rule, allow the agency to start the process over with a sufficiently amended proposal, block the proposed change entirely, or issue no objection, allowing the rule change to take effect.

Following amendments to its legislation in 2004, JCAR may suspend administrative rules, with suspensions remaining permanent unless the General Assembly votes to set them aside. This effectively gives JCAR a legislative veto. Illinois also requires that all rules be adopted in accordance with all provisions of the Illinois Administrative Procedures Act and legislation creating and empowering JCAR. At least one academic commentator has suggested that the Committee veto violated the Illinois Constitution's Separation of Powers provisions for reasons that have been cited in cases from other jurisdictions cited above. [24]

JCAR may also review earlier adopted rules in cases where the Committee deems appropriate.

Wisconsin

Wisconsin has a complex, multi-tiered approach to legislative rules review.

When the agency has completed its work on an initial draft rule, the proposed rule is submitted to the Legislative Council staff for review.[25] This requirement does not apply to emergency rules. The rule is assigned to a Legislative Council attorney or analyst for review and preparation of a report containing comments about the rule. The rule is then given a secondary review by the Legislative Council director or assistant director. The Legislative Council staff reviews the rule for form, style, and technical adequacy. The staff also specifically:

- reviews the rule to determine whether there is statutory authority for the agency to adopt the rule; and,

[24] Mark D. Falkhoff, *The Legislative Veto in Illinois*, supra at p. 1074.

[25] By statute, the Legislative Council staff serves as the Legislature's Administrative Rules Clearinghouse. A clearinghouse is an agency that collects and distributes something, especially information.

- reviews the text of the rule for clarity and use of plain language.

The Legislative Council staff review may indicate whether an agency is attempting to regulate matters beyond its legal authority or whether a lack of clarity and precision in the rule language could inappropriately affect persons regulated by the rule.

The period for Legislative Council review is 20 working days following receipt of the proposed rule.

Usually after this review the agency goes to a public hearing on the subject of the rules and may also be subject to an economic analysis. Following the hearing, the rule will be submitted to the Office of the Governor for approval.

Following the Governor's approval, the rule is then submitted to the presiding officers of the two houses of the assembly for assignment to a standing committee of each house. Generally, the standing committee review period extends for 30 days after referral of a proposed rule by the presiding officer. However, a committee review period may be extended for an additional 30 days if the committee chair, within the initial 30-day period, takes either of the following actions:

- requests in writing that the agency meet with the committee to review the proposed rule; or,
- publishes or posts a notice that the committee will hold a meeting or hearing to review the proposed rule and immediately sends a copy of the notice to the agency.

If a committee, by majority vote of a quorum of the committee, requests modifications to a proposed rule and the agency, in writing, agrees to consider making modifications, the review period is extended for both standing committees for 10 days from the time the modifications are received from the agency. An agency may also submit germane modifications on its own. Modifications are accepted under passive review.

A committee may object to all or part of a rule only for one or more of the following reasons:

1. Absence of statutory authority.
2. Emergency relating to public health, safety, or welfare.
3. Failure to comply with legislative intent.
4. Conflict with state law.
5. Change in circumstances since enactment of the earliest law on which the proposed rule is based.
6. Arbitrariness or capriciousness, or imposition of an undue hardship.
7. For a proposed rule of the Department of Safety and Professional Services establishing standards for dwelling construction, the rule would increase the cost of constructing or remodeling a dwelling by more than $1,000.

Joint Committee for Review of Administrative Rules (JCRAR)

When a standing committee's jurisdiction over a proposed rule ends, the rule is referred to JCRAR. All proposed permanent rules are referred to JCRAR, not just those receiving a standing committee objection. As with the initial reviewing committee, the review period for JCRAR is 30 days but may be extended for an additional 30 days. 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 object to a rule or part of a rule using one of two methods. Under the first method, it must meet and take executive action within 30 days regarding the introduction in each house of a bill to support the objection. If either bill becomes law, the agency may not promulgate the rule, or part of the rule, that was objected to, unless a later law specifically authorizes promulgation of the rule.

Alternatively, JCRAR may choose to indefinitely object to a proposed rule. Under this method, an agency may not promulgate the rule or part of the rule, unless the Legislature specifically authorizes the promulgation through enactment of new legislation.

JCRAR Treatment of Rules in Effect

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, but JCRAR may suspend the rule 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. JCRAR may suspend an existing rule for the same reasons it may object to a proposed rule.

Kansas

While not rated as highly by Levin as the above-discussed states, one state with only advisory powers appears to have been effective in overseeing the adoption of administrative rules.

The Kansas Legislature has a Joint Committee on Administrative Rules and Regulations (JCARR). Since 1988, the JCARR has been charged with reviewing all proposed rules and regulations (KSA 2016 Supp. 77-436). The Committee then holds a public hearing and expresses its recommendations to the proposing agency within a statutory 60-day comment period. The Committee then forwards its comments and recommendations to the appropriate agency. Although the JCARR's comments on these rules have no more formal weight than any other public comment, the Committee has been effective in leveraging its comments into agency responsiveness. Comments often pertain to issues of authority, clarity, fees, costs, program concerns, and, in some cases, commendations for work carried out by the relevant agencies. If an agency chooses not to follow the recommendations made, the Committee may file a bill with the whole Legislature to require that its recommendations be implemented. As noted below, the JCARR actively utilizes this ability. The Committee conducted 17 meetings during the 2017-18 legislative session. Some of these meetings included testimony from representatives of agencies proposing new regulations, totaling up to 46 rules, regulations, or fees across the 17 meetings. Formal comment, sometimes critical of proposed rules, was offered fairly frequently. An

> Kansas's Joint Committee on Administrative Rules and Regulations has been effective in leveraging its comments into agency responsiveness.

> If an agency does not follow the Committee's recommendations, the Committee may file a bill that requires the recommendations be implemented.

interviewee confirmed that the JCARR does not have the power to block the adoption of any rules, and such action must be taken by the whole Legislature. In some cases, legislation was enacted that contained "provisions authorizing, requiring, moving, or clarifying authority for rules and regulations." Of the 46 rules and regulations that the JCARR considered in 2017, three were withdrawn and four were not published in the Kansas Register by July 1, 2017, the cutoff.

Additionally, problems may arise not so much from the rules being reviewed but from the statute empowering the adoption of the rules. As noted by one commentator:

> *Controversial or "hard" cases of statutory interpretation are those where a statute is amenable to several possible interpretations. A statute may be ambiguous either by inadvertence (because the legislature did not contemplate the concrete situation now before the court or tribunal) or by design (because the legislature deliberately left open an interpretive question in order to forestall controversy or to ensure that passage of a statute would not be stalled by disagreements over interpretation).*[26]

In these instances, administrative agencies and courts are placed in a position of adopting or applying administrative rules where determining legislative intent will be difficult. In such cases, a committee charged with rules oversight could make a valuable contribution to the Legislature by identifying these cases, particularly those that have gone to court by making recommendations to the Legislature on matters that should be revisited for statutory clarification.[27]

Conclusions and Recommendations

Most states have adopted some form of rules oversight that can benefit a general program of agency oversight. While many programs adopted over the years were found to be unconstitutional, effective programs can be adopted that can reduce the risk of constitutional litigation and provide an effective system of rules oversight. The following addresses three potential methods of conducting oversight. Of the models discussed above, those of Colorado, Kansas, and Tennessee are not likely to raise constitutional concerns in Mississippi and could be used to offer effective oversight of the rulemaking process. Features in the Illinois, Wisconsin, Alabama, and Louisiana approaches, while effective, could raise a bicameralism and/or presentment challenge as discussed above, as they permit a legislative committee or their Legislature to suspend the operations of a rule. Arkansas and Nevada have specific constitutional procedures which safeguard a powerful oversight of rules which enables their legislatures to veto administrative rules. Mississippi does not have such a provision in our constitution.

Option 1

Establish a joint committee with the power to selectively review newly adopted/proposed rules and give advice to the Legislature on these rules.

A logical first step in developing a rules review process would be to establish a joint committee with the discretion to review newly adopted or proposed rules and advise the Legislature on the subject of whether or not the rules are consistent with several legal standards including the intention of the Legislature. Such

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[26] "Dynamic Statutory Interpretation by William N. Eskridge, Jr.," book review by Paul Michell, Harvard University Press, Cambridge, 1994, *McGill Law Journal*, Volume 41, pp. 713-720.

[27] At the federal level, courts of appeals have often transmitted to congress copies of opinions considered by the courts to be evidence of a need for Congress to revisit the terms of a particular statute. See Robert A. Katzman, *Judging Statutes*, Oxford University Press 2014, pp. 94-102.

reports could be delivered to the House and Senate each year before the session with guidance on legislative action that should be taken. Such a joint committee could be provided for by statute, or by joint rule. Standards for review could be established such as are often set out for review committees.[28]

Any such committee should be allowed to draw staff support from the PEER staff, as well as the House, Senate, and the Legislative Reference Bureau.

This is similar to what Kansas does through its Joint Committee on Administrative Rules and Regulations. The Kansas Committee has been effective in reviewing rules and has had influence on amendments that have enabled rules to become effective without challenges in the Legislature.

Such a committee should also be empowered to make recommendations to the Legislature on corrective legislation to address identified instances of gaps or overbreadth in statutes.

Option 2

Adopt a general law similar to those in effect in Tennessee and Colorado empowering a Joint Committee to conduct rules reviews on proposed or new rule adoptions to advise the Legislature on the legality of the rules. Additionally, provide that new rules must be approved by the Legislature through general bill in the session following their adoption. Failure to approve constitutes a rejection of the rule.

This model would empower a committee to do everything the committee described in Option 1 would do but would further necessitate that the Legislature act by general bill to approve the rules that were reviewed in order for them to remain effective.

The effect of this would be to increase the workload of the committee. It would have to review all new or proposed rules and make recommendations on them. The Legislature would then have to review recommendations and decide which rules it will approve and which ones it will not approve.

Option 3

The PEER Committee could review agency rules.

PEER's enabling legislation is sufficiently broad to permit rules reviews. Specifically, MISS. CODE ANN. Section 5-3-57 provides in part:

> *(c) … such committee shall also have full and complete authority to investigate all laws administered and enforced by any such offices, departments, agencies, institutions, and instrumentalities, and the manner and method of the administration and enforcement of such laws.*

The highlighted portion of Section 5-3-57 is broad enough to authorize a review of the rules an agency has adopted to carry out a legislative mandate. It should be noted that these reviews, particularly ones covering new program, might be time consuming. The PEER Committee must be mindful of the fact that this would create a new function of the Committee, which could compete with other projects that must be completed to satisfy both statutory mandates and members who request projects.

With existing resources, PEER could complete a limited number of rules reviews. To ensure that rules reviews do not interfere with statutorily mandated projects and other requests, PEER could complete no more than 20 rules reviews per year.

[28] Examples include consistency with legislative intent, not arbitrary or capricious, not outside the scope of the agency's authority, not in conflict with other rules.

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Legislative Oversight of Legal Mandates: Strategies for Monitoring Agency Rulemaking

August 13, 2024

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