

STATE LEGISLATURES

Table 3.26
LEGISLATIVE REVIEW OF ADMINISTRATIVE RULES/REGULATIONS: POWERS

State or other jurisdiction	Reviewing committee's powers			Legislative powers Method of legislative veto of rules
	Advisory powers only (a)	No objection constitutes approval of proposed rule	Committee may suspend rule	
Alabama .....	...	★	★	If not approved or disapproved within 45 days of filing, rule is approved. If disapproved by committee, disapproval may be appealed to the lieutenant governor. If the lieutenant governor doesn't approve rule, it is disapproved. If lieutenant governor approves rule, rule is suspended until final adjournment, next regular session. Rule takes effect upon that final adjournment unless committee's disapproval is sustained by legislature. The committee may approve a rule.
Alaska.....	★	...	(b)	Constitution and Statute
Arizona.....	★	N.A.	N.A.	N.A.
Arkansas.....	(gg)	★	...	A motion may be made in the Legislative Council or its Administrative Rules and Regulations Subcommittee to not approve the rule. If such a motion is made, the legislator making the motion must state the basis for not approving the rule. The only two valid reasons for not approving the rule are that it is inconsistent with state or federal law or inconsistent with legislative intent.
California	★(cc)	...	...	Statute
Colorado.....	...	★	...	Rules that the General Assembly has determined should not be continued are listed as exceptions to the continuation.
Connecticut.....	...	★	...	Statute CGS 4-170 (d) and 4-171; (c)
Delaware.....	★(ff)	...	...	N.A.
Florida.....	★(ee)	...	...	Statute
Georgia.....	...	★	...	Resolution (d)
Hawaii.....	★	...	...	...
Idaho.....	(ii)	★	(jj)	Concurrent resolution. All rules are terminated one year after adoption unless the legislature reauthorizes the rule.
Illinois.....	...	(e)	★(f)	(f)
Indiana.....	...	...	...	(g)
Iowa.....	...	...	(h)	By constitutional majority vote of each house, by joint resolution, with approval of governor not required.
Kansas.....	★	...	...	Statute
Kentucky.....	(x)	(y)	(z)	Enacting legislation to void. (z)
Louisiana.....	...	★	(i)	Concurrent resolution to suspend, amend or repeal adopted rules or fees. Proposed rules and emergency rules exist (i).
Maine.....	★(aa)	★(bb)	...	(j)
Maryland.....	★(k)	...	...	...
Massachusetts.....	...	...	...	The legislature may pass a bill which would supersede a regulation if signed into law by the governor.
Michigan.....	(l)	Joint Committee on Administrative Rules (JCAR) has 15 session days in which to consider the rule. JCAR may waive the remaining session days, object to the rule, propose that the rule be changed, or decide to enact the subject of the rule into law. (1) If JCAR does not object or waives the remaining session days, the rule goes into effect. (2) If JCAR objects, a member of the JCAR shall introduce bills in both houses to rescind the rule, repeal the authorizing statute, or stay the effective date for up to one year. If the legislation does not pass within 15 session days, the agency may file the rule. (3) If the JCAR proposes the rule be changed, the agency has 30 days to change the rule and resubmit or decide to not change the rule. If the agency agrees to change the proposed rule, it withdraws the rule and resubmits it. If the agency does not agree to change the proposed rule, it notifies the JCAR which again has 15 session days to consider the rule. (4) If the JCAR decides to enact the subject of the rule into law, the JCAR chair or alternate chair shall introduce legislation in both houses to do so and the agency may not file the rule for 270 days after the introduction of the legislation. The JCAR can also meet between legislative sessions and suspend rules promulgated during the interim between sessions.
Minnesota.....	★	(m)
Mississippi.....	(n).....

See footnotes at end of table.

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	Advisory powers only (a)	No objection constitutes approval of proposed rule	Committee may suspend rule	Method of legislative veto of rules
Missouri.....	...	★	★	Concurrent resolution passed by both houses of the General Assembly.
Montana.....	...	...	★(o)	Statute
Nebraska.....	★	★	...	...
Nevada.....	N.A.	★	★	Proposed regulations are either reviewed at the Legislative Commission's next regularly scheduled meeting (if the regulation is received more than 10 working days before the meeting), or they are referred to the Commission's Subcommittee to Review Regulations. If there is no objection to the regulation, then the Commission will "promptly" file the approved regulation with the Secretary of State. If the Commission or its subcommittee objects to a regulation, then the Commission will "promptly" return the regulation to the agency for revision. Within 60 days of receiving the written notice of objection to the regulation, the agency must revise the regulation and return it to the Legislative Counsel. If the Commission or its subcommittee objects to the revised regulation, the agency shall continue to revise and resubmit it to the Commission or subcommittee within 30 days after receiving the written notice of objection to the revised regulation.
New Hampshire.....	★	(q)	...	(f)
New Jersey.....	★	...	...	(s)
New Mexico.....	N.A.	N.A.	N.A.	No formal mechanism exists for legislative review of administrative rules.
New York.....	(hh)	...	...	There is no legislative veto of administrative rules outside of bill process in New York.
North Carolina.....	★	★	★	...
North Dakota.....	...	★(t)	...	...
Ohio.....	★	...	...	Concurrent resolution. Committee recommends to the General Assembly that a rule be invalidated. The General Assembly invalidates a rule through adoption of concurrent resolution.
Oklahoma.....	★(p)	★(p)	★(p)	The legislature may disapprove (veto) proposed rules by concurrent or joint resolution. A concurrent resolution does not require the governor's signature. Existing rules may be disapproved by joint resolution. A committee may not disapprove; only the full legislature may do so. Failure of the legislature to disapprove constitutes approval. Pursuant to HB 2055 enacted in 2013, legislature shall adopt omnibus resolution approving all proposed permanent rules except those listed in resolution which are to be disapproved.
Oregon.....	★	★	(dd)	By passing statute that overrides terms of rule.
Pennsylvania.....	...	★	★	Upon vote of General Assembly
Rhode Island.....	.....	.....	.....	(n).....
South Carolina.....	...	★	...	...
South Dakota.....	...	★	★	The Interim Rules Review Committee may, by statute, suspend rules that have not become effective yet by an affirmative vote of the majority of the committee.
Tennessee.....	...	...	★	The Government Operations committee of either house may stay a permanent rule for up to 60 days, and may request an agency to repeal, amend or withdraw. In accordance with statutorily-imposed termination dates, all permanent rules filed in one calendar year expire on June 30 of the subsequent year unless the general assembly enacts legislation to extend the rules to a date certain or indefinitely.
Texas.....	★	...	...	N.A.
Utah.....	★	...	...	All rules must be reauthorized by the legislature annually. This is done by omnibus legislation, which also provides for the sunseting of specific rules listed in the bill.
Vermont.....	.....	(u).....	.....	Statute
Virginia.....	(v)	The General Assembly must pass a bill enacted into law to directly negate the administrative rule.
Washington.....	★	★	★	N.A.
West Virginia.....	★	(w)

See footnotes at end of table.

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State or other jurisdiction	Reviewing committee's powers			Legislative powers Method of legislative veto of rules
	Advisory powers only (a)	No objection constitutes approval of proposed rule	Committee may suspend rule	
Wisconsin .....	...	★	★	The standing committee in each house has 30 days to conduct its review for a proposed rule. If either objects the Joint Committee for the Review of Administrative Rules has 30 days to introduce legislation in each house overturning the rules. After 40 days the bills are placed on the calendar. If either bill passes, the rules are overturned. If they fail to pass, the rules go into effect.
Wyoming	★	★	...	Action must be taken by legislative order adopted by both houses before the end of the next succeeding legislative session to nullify a rule.
American Samoa				The enacting clause of all bills shall be: Be it by the Legislature of American Samoa, and no law shall be except by bill. Bills may originate in either house, and may be amended or rejected by the other. The Governor may submit proposed legislation to the Legislature for consideration by it. He may designate any such proposed legislation as urgent, if he so considers it.
Guam	N.A.	N.A.	N.A.	Legislation to disapprove rules and regulations.
No. Mariana Islands...	★	★	★	
U.S. Virgin Islands...			(n)	

Source: The Council of State Governments' survey, June 2017.

Key:

★ — Yes

... — No

N.A. — Not applicable

(a) This column is defined by those legislatures or legislative committees that can only recommend changes to rules but have no power to enforce a change.

(b) Authorized, although constitutionally questionable.

(c) Disapproval of proposed regulations may be sustained, or reversed by action of the General Assembly in the ensuing session. The General Assembly may by resolution sustain or reverse a vote of disapproval.

(d) The reviewing committee must introduce a resolution to override a rule within the first 30 days of the next regular session of the General Assembly. If the resolution passes by less than a two-thirds majority of either house, the governor has final authority to affirm or veto the resolution.

(e) The Administrative Procedure Act is not clear on this point, but implies that the Joint Committee should either object or issue a statement of no objections.

(f) Joint Committee on Administrative Rules can send objections to issuing agency. If it does, the agency has 90 days from then to withdraw, change, or refuse to change the proposed regulations. If the Joint Committee determines that proposed regulations would seriously threaten the public good, it can block their adoption. Within 180 days the Joint Cmte., or both houses of the General Assembly, can "unblock" those regulations; if that does not happen, the regulations are dead.

(g) None — except by passing statute.

(h) Committee may delay or suspend object to rules, and has authority to approve emergency filed rules.

(i) If the committee determines that a proposed rule is unacceptable, it submits a report to the governor who then has 10 days to accept or reject the report. If the governor rejects the report, the rule change may be adopted by the agency. If the governor accepts the report, the agency may not adopt the rule. Emergency rules become effective upon adoption or up to 60 days after adoption as provided in the rule, but a standing committee or governor may void the rule by finding it unacceptable within 2 to 61 days after adoption and reporting such finding to agency within four days.

(j) No veto allowed. If Legislature wishes to stop a rule from being adopted, it must enact appropriate legislation prohibiting the agency from adopting the rule.

(k) Except for emergency regulations which require committee approval for adoption.

(l) Committee can suspend rules during interim.

(m) The Legislative Commission to Review Administrative Rules (LCRAR) ceased operating, effective July 1, 1996. The Legislative Coordinating Commission (LCC) may review a proposed or adopted rule. Contact the LCC for more information. See Minn. Stat. 3.842, subd. 4a.

(n) No formal mechanism for legislative review of administrative rules. In Virginia, legislative review is optional.

(o) A rule disapproved by the reviewing committee is reinstated at the end of the next session if a joint resolution in the legislature fails to sustain committee action.

(p) Pursuant to HB 2055 enacted in 2013, the legislature shall adopt omnibus resolution approving all proposed permanent rules except those listed in resolution which are to be disapproved. Full legislature may suspend rules.

(q) Failure to object or approve within 45 days of agency filing of final proposal constitutes approval.

(r) The legislature may permanently block rules through legislation. The vote to sponsor a joint resolution suspends the adoption of a proposed rule for a limited time so that the full legislature may act on the resolution, which would then be subject to governor's veto and override.

(s) Article V, Section IV, par. 6 of the NJ Constitution, as amended in 1992, says the legislature may review any rule or regulation to determine whether the rule or regulation is consistent with legislative intent. The legislature transmits its objections to existing or proposed rules or regulations to the governor and relevant agency via concurrent resolutions. The legislature may invalidate or prohibit an existing or proposed rule from taking effect by a majority vote of the authorized membership of each house, in compliance with constitutional provisions.

(t) Unless formal objections are made or the rule is declared void, rules are considered approved.

(u) JLCAR may recommend that an agency amend or withdraw a proposal. A vote opposing rule does not prohibit its adoption but assigns the burden of proof in any legal challenge to the agency.

(v) Standing committees and The Joint Commission on Administrative Rules may suspend the effective date of all or a part of a final regulation until the end of the next regular legislative session with the concurrence of the governor.

(w) State agencies have no power to promulgate rules without first submitting proposed rules to the legislature which must enact a statute authorizing the agency to promulgate the rule. If the legislature during a regular session disapproves all or part of any legislative rule, the agency may not issue the rule nor take action to implement all or part of the rule unless authorized to do so. However, the agency may resubmit the same or a similar proposed rule to the committee.

(x) The promulgating agency's proposed language may be amended upon agreement of the committee and the promulgating agency.

(y) The committee does not approve or disapprove administrative regulations. It reviews them and can propose amendments that will be made, if the promulgating agency agrees to the amendment.

(z) The committee may make a finding of deficiency. If that happens, a letter is sent to the Governor requesting the Governor's determination whether the administrative regulation should be withdrawn, withdrawn and amended, or put into effect notwithstanding the finding of deficiency. The finding itself does not stop the rule from going into effect. If the Governor determines that the administrative regulation should go into effect notwithstanding the finding of deficiency, the General Assembly will usually address that issue in its next regular session, either by its own

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finding that the administrative regulation found deficient is null, void, and unenforceable, or by amending the authorizing statute to restrict the need for the administrative regulation.

(aa) Committee makes recommendations on Major Substantive Rules, but approval or disapproval is by the full Legislature (the instrument used is a resolve).

(bb) Under very specific circumstances the answer is yes with respect to Major Substantive Rules: if the rules are submitted in accordance with the timelines established by law, and the Legislature fails to act on them, the rules may be adopted as if the Legislature approved them.

(cc) Executive branch agency has more than advisory power.

(dd) Negative rule determinations are made public and remain on website until rule is modified to comply with statutory authority, statute is modified to establish validity of rule or court case upholds validity of rule.

(ee) Joint Administrative Procedures Committee, with approval of the president and speaker, may seek judicial review of validity or invalidity of rules.

(ff) A standing committee can recommend a special session to consider committee's recommendations.

(gg) Amendment 92 to the Arkansas Constitution, which passed in 2014, and laws enacted by Act 1258 of 2015 provided the General Assembly with the power of review and approval of all administrative rules and regulations.

(hh) Commission may hold hearings, subpoena witnesses, administer oaths, take testimony, and compel the production of books, papers, documents and other evidence.

(ii) Germane joint subcommittees can submit a report of objection to a rule to the germane standing committee and the Legislature. The Legislature as a whole has the final say in the rejection of rules when voting on the concurrent resolution of the rejection.

(jj) Final rules previously approved by the Legislature, can still be rejected in a subsequent session.