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2 89th General Assembly  
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4

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# A Bill

HOUSE BILL 2021

5 By: Representatives Shepherd, *Alexander, Ballinger, Bell, Biviano, Bragg, Clemmer, Cozart, Davis,*  
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9

## For An Act To Be Entitled

11 AN ACT TO AMEND THE LAW REGARDING RULE MAKING BY  
12 AGENCIES; TO REQUIRE FINANCIAL IMPACT STATEMENTS BE  
13 FILED WITH ALL RULES; TO REQUIRE WRITTEN FINDINGS  
14 FROM THE AGENCY WHEN A SUBSTANTIAL FINANCIAL IMPACT  
15 EXISTS; AND FOR OTHER PURPOSES.  
16  
17

## Subtitle

19 TO AMEND THE LAW REGARDING RULE MAKING BY  
20 AGENCIES; TO REQUIRE FINANCIAL IMPACT  
21 STATEMENTS BE FILED WITH ALL RULES; AND  
22 TO REQUIRE WRITTEN FINDINGS FROM THE  
23 AGENCY WHEN A SUBSTANTIAL FINANCIAL  
24 IMPACT EXISTS.  
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26

27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
28

29 SECTION 1. Arkansas Code § 6-11-132 is amended to read as follows:

30 6-11-132. Financial impact statements for administrative rules.

31 ~~(a)(1) Except as provided in subsection (b) of this section, for each~~  
32 ~~rule promulgated by the~~ The State Board of Education ~~or and the State Board~~  
33 ~~of Workforce Education and Career Opportunities under~~ State Board of Career  
34 Education shall promulgate their rules as provided under the Arkansas  
35 Administrative Procedure Act, § 25-15-201 et seq., ~~the board promulgating the~~  
36 ~~rule shall file a financial impact statement with the Bureau of Legislative~~



1 Research.

2 ~~(2)(b)~~ The scope of the financial impact statement shall  
3 be ~~determined by the board promulgating the rule but~~ as provided under the  
4 Arkansas Administrative Procedure Act, § 25-15-201 et seq., and shall  
5 include, ~~at a minimum,~~ without limitation a public school district's  
6 estimated cost to comply with and implement the rule.

7 ~~(3) This subsection applies to an emergency rule for~~  
8 ~~permanent adoption.~~

9 ~~(b) For each emergency rule not for permanent adoption, if the State~~  
10 ~~Board of Education or the State Board of Workforce Education and Career~~  
11 ~~Opportunities has reason to believe that the development of a financial~~  
12 ~~impact statement for the emergency rule promulgated by it will be so~~  
13 ~~speculative as to be cost prohibitive, the board promulgating the rule shall~~  
14 ~~submit to the bureau a statement and explanation to that effect.~~

15 ~~(c) Neither the State Board of Education nor the State Board of~~  
16 ~~Workforce Education and Career Opportunities shall promulgate a rule with~~  
17 ~~respect to which it has not complied with this section.~~

18

19 SECTION 2. Arkansas Code § 10-3-309(e), concerning financial impact  
20 statements reviewed by the General Assembly, is amended to read as follows:

21 (e)(1)(A) Before any rule or regulation of any state agency may be  
22 revised, promulgated, amended, or changed, a copy of the rule or amendment to  
23 existing rules and a financial impact statement shall be filed with the  
24 bureau at least thirty (30) days before the expiration of the period for  
25 public comment on the rule pursuant to the Arkansas Administrative Procedure  
26 Act, § 25-15-201 et seq., or other acts pertaining to the rule-making  
27 authority of that agency.

28 (B) The scope of the financial impact statement shall be  
29 ~~determined by the agency but~~ as provided under the Arkansas Administrative  
30 Procedure Act, § 25-15-201 et seq., and shall include, ~~at a minimum,~~ without  
31 limitation the estimated cost of complying with the rule or regulation and  
32 the estimated cost for the agency to implement the rule or regulation.

33 ~~(C) Except as provided in § 6-11-132, if the agency has~~  
34 ~~reason to believe that the development of a financial impact statement will~~  
35 ~~be so speculative as to be cost prohibitive, the agency shall submit a~~  
36 ~~statement and explanation to that effect.~~

1                   ~~(D) If the purpose of a state agency rule or regulation is~~  
2 ~~to implement a federal rule or regulation, the financial impact statement~~  
3 ~~shall be limited to any incremental additional cost of the state rule or~~  
4 ~~regulation as opposed to the federal rule or regulation.~~

5                   (2) The bureau shall review the proposed revised or amended rule  
6 or regulation and, if it is believed that the rule or regulation is contrary  
7 to legislative intent, shall file a statement thereof with the Legislative  
8 Council.

9                   (3) ~~In either event, the proposed rule or regulation~~ Filings  
10 under the Arkansas Administrative Procedure Act, § 25-15-201 et seq., and any  
11 comment on the proposed rule or regulation prepared by the bureau shall be  
12 submitted to the Legislative Council at the next regular meeting following  
13 its filing with the Legislative Council.

14  
15                   SECTION 3. Arkansas Code § 25-15-202 is amended to read as follows:  
16                   25-15-202. Definitions.

17                   As used in this subchapter:

18                   (1)(A) “Adjudication” means an agency process for the  
19 formulation of an order.

20                   (B) “Adjudication” does not include ~~prisoner inmate~~  
21 disciplinary proceedings conducted by the Department of Correction and the  
22 Department of Community Correction;

23                   (2)(A) “Agency” means ~~each~~ a board, commission, department,  
24 officer, or other authority of the government of the State of Arkansas,  
25 whether ~~or not~~ within, or subject to review by, another agency, except the  
26 General Assembly, the courts, and Governor.

27                   (B) The word “agency” shall include the Division of Child  
28 Care and Early Childhood Education of the Department of Human Services and  
29 the Child Care Appeal Review Panel for purposes of administrative appeal.

30                   (C) The word “agency” shall not include the Arkansas  
31 Public Service Commission, the Arkansas Pollution Control and Ecology  
32 Commission, the Workers’ Compensation Commission, and the Department of  
33 Workforce Services, ~~it being determined by the General Assembly that~~ as the  
34 existing laws governing those agencies provide adequate administrative  
35 procedures for those agencies.

36                   ~~(D) Nothing in this subchapter shall be construed to~~ This

1 subchapter does not repeal delegations of authority as provided by law;

2 (3) "Financial impact statement" means a realistic statement of  
3 a new or increased cost or obligation of complying with a proposed rule to a:

4 (A) Private individual, entity, and business; and

5 (B) State, county, and municipal government;

6 (4) "License" includes ~~any~~ an agency permit, certificate,  
7 approval, registration, charter, or similar form of permission required by  
8 law;

9 ~~(4)(5)~~ "Licensing" means ~~any~~ an agency process respecting the  
10 grant, denial, renewal, revocation, suspension, annulment, withdrawal,  
11 limitation, or amendment of a license;

12 ~~(5)(6)~~ "Order" means the final disposition of an agency in any  
13 matter other than rule making, including licensing and rate making, in which  
14 the agency is required by law to make its determination after notice and  
15 hearing;

16 ~~(6)(7)~~ "Party" means ~~any~~ a person or agency named or admitted as  
17 a party, or properly seeking and entitled as of right to be admitted as a  
18 party, in ~~any~~ an agency proceeding;

19 ~~(7)(8)~~ "Person" means ~~any~~ an individual, partnership,  
20 corporation, association, or public or private organization of any character;

21 ~~(8)(A)(9)(A)~~ "Rule" means ~~any~~ an agency statement of general  
22 applicability and future effect that implements, interprets, or prescribes  
23 law or policy, or describes the organization, procedure, or practice of ~~any~~  
24 an agency and includes, but is not limited to, the amendment or repeal of a  
25 prior rule.

26 (B) "Rule" does not mean:

27 (i) Statements concerning the internal management of  
28 an agency and that do not affect the private rights or procedures available  
29 to the public;

30 (ii) Declaratory rulings issued pursuant to § 25-15-  
31 206; or

32 (iii) Intra-agency memoranda; and

33 ~~(9)(10)~~ "Rule making" means an agency process for the  
34 formulation, amendment, or repeal of a rule.

35  
36 SECTION 4. Arkansas Code § 25-15-204 is amended to read as follows:

1 25-15-204. Rules – Procedure for adoption.

2 (a) Prior to the adoption, amendment, or repeal of ~~any~~ a rule, the  
3 agency shall:

4 (1)(A)(i) Give at least thirty (30) days' notice of its  
5 intended action.

6 (ii) The thirty-day period shall begin on the first  
7 day of the publication of notice.

8 (B) The notice shall include a:

9 (i) A statement of the terms or substance of the  
10 intended action or a description of the subjects and issues involved; and ~~the~~

11 (ii) ~~The time, the place where~~ location, and ~~the~~  
12 manner in which an interested ~~persons~~ person may present ~~their views~~ his or  
13 her position on the intended action ~~or the subjects and issues involved of~~  
14 the agency or on the issues related to the intended action of the agency.

15 (C) The notice shall be mailed to ~~any~~:

16 (i) A person specified by law; and ~~to all persons~~

17 (ii) A person who ~~have~~ has requested advance notice  
18 of rule-making proceedings.

19 (D)~~(i)~~ Unless otherwise provided by law, the notice shall  
20 be published ~~in~~:

21 (i) In a newspaper of general daily circulation for  
22 three (3) consecutive days and, when appropriate, in those trade, industry,  
23 or professional publications that the agency may select; and

24 (ii) ~~The notice shall be published by~~ By the  
25 Secretary of State on the Internet for thirty (30) days ~~in accordance with~~  
26 under § 25-15-218;

27 (2)(A) Afford all interested persons reasonable opportunity to  
28 submit written data, views, or arguments, orally or in writing.

29 (B) ~~Opportunity for oral hearing must be granted~~ The  
30 agency shall grant an opportunity for an oral hearing if requested by twenty-  
31 five (25) persons, by a governmental subdivision or agency, or by an  
32 association having ~~no fewer than~~ at least twenty-five (25) members.

33 (C) The agency shall fully consider all written and oral  
34 submissions respecting the proposed rule before finalizing the language of  
35 the proposed rule and filing the proposed rule as required by subsection  
36 ~~(d)~~(e) of this section.

1                   (D) ~~Upon adoption of a rule, the agency, if requested to~~  
2 ~~do so by~~ If an interested person either prior to requests a statement of the  
3 reasons for and against the adoption of a rule before adoption or within  
4 thirty (30) days ~~thereafter, shall~~ after adoption, the agency shall issue a  
5 concise statement of the principal reasons for and against its adoption,  
6 incorporating ~~therein~~ its reasons for overruling the considerations urged  
7 against its adoption.

8                   (E) When rules are required by law to be made on the  
9 record after opportunity for an agency hearing, the provisions of that law  
10 shall apply in place of this subdivision (a)(2); and

11                   (3) ~~Comply with § 25-15-301 et seq.~~ Consider the following  
12 factors:

13                   (A) Whether the agency is required by statute to adopt the  
14 proposed rule, whether by a specific date, and whether the agency has  
15 discretion to promulgate rules;

16                   (B) Other statutes relevant to the proposed rule and its  
17 alternatives;

18                   (C) The specific nature and significance of the problem  
19 the agency addresses with the proposed rule including without limitation:

20                   (i) The nature and degree of the risks the problem  
21 poses;

22                   (ii) The priority of addressing those risks as  
23 opposed to other matters or activities within the agency's jurisdiction;

24                   (iii) Whether the problem warrants new agency  
25 action; and

26                   (iv) The countervailing risks that may be posed by  
27 alternative rules for the agency;

28                   (D) Whether existing rules have created or contributed to  
29 the problem the agency is addressing with the proposed rule, and whether  
30 those rules could be amended or repealed to address the problem in whole or  
31 in part;

32                   (E) Reasonable alternatives to the proposed rule including  
33 without limitation:

34                   (i) Adopting no rule;

35                   (ii) Amending or repealing existing rules; and

36                   (iii) Other potential responses that could be taken

1 instead of agency action;

2 (F) The financial impact of the proposed rule;

3 (G) Any other factor relevant to the need for and  
4 alternatives to the proposed rule.

5 (b)(1) An agency shall not adopt, amend, or repeal a rule unless the  
6 rule is based on the best reasonably obtainable scientific, technical,  
7 economic, or other evidence and information available concerning the need  
8 for, consequences of, and alternatives to the rule.

9 (2) An agency shall adopt the least costly rule considered under  
10 this section, unless:

11 (A) The additional benefits of the more costly rule  
12 justify its additional cost;

13 (B) The agency explains its reason for adoption of the  
14 more costly rule in writing;

15 (C) The reason is based on the interests of public health,  
16 safety, or welfare; and

17 (D) The reason is within the scope of the agency's  
18 statutory authority.

19 ~~(b)(1)(c)(1)~~ If an agency finds that imminent peril to the public  
20 health, safety, or welfare or compliance with a federal law ~~law~~ or  
21 ~~regulations~~ regulation requires adoption of a rule upon less than thirty (30)  
22 days' notice and states in writing its reasons for that finding, it may  
23 proceed without prior notice or hearing, or upon any abbreviated notice and  
24 hearing that it may choose, to adopt an emergency rule.

25 (2) Except as provided in § 5-64-204, the rule may be effective  
26 for no longer than one hundred twenty (120) days.

27 (3) If, after the expiration of the effective period of an  
28 emergency rule, an agency wishes to adopt a successive emergency rule that is  
29 identical or substantially similar to the expired emergency rule, the agency  
30 shall not adopt the successive emergency rule earlier than thirty (30) days  
31 after the expiration of the emergency rule.

32 ~~(c)(1)(d)(1)~~ ~~Every agency shall accord any~~ A person the right to may  
33 petition an agency for the issuance, amendment, or repeal of ~~any~~ a rule.

34 (2) Within thirty (30) days after submission of a petition, the  
35 agency shall:

36 (A) Deny the petition, stating in writing its reasons for

1 the denial; or

2 (B) Initiate rule-making proceedings.

3 ~~(d)(1)(A)(e)(1)(A) Every An agency, including those exempted under §~~  
4 ~~25-15-202,~~ shall file with the Secretary of State, the Arkansas State  
5 Library, and the Bureau of Legislative Research a copy of each rule ~~adopted~~  
6 proposed by it and a ~~statement of financial impact~~ statement for the proposed  
7 rule.

8 (B) ~~Rules~~ A rule shall be filed in compliance with this  
9 section and with §§ 25-15-218 and 10-3-309.

10 (2) The Secretary of State shall keep a register of the rules  
11 open to public inspection, and it shall be a permanent register.

12 ~~(3)(A) The scope of the financial impact statement shall be~~  
13 ~~determined by the agency but at a minimum shall include the estimated cost of~~  
14 ~~complying with the rule and the estimated cost for the agency to implement~~  
15 ~~the rule.~~

16 ~~(B) Except as provided in § 6-11-132, if the agency has~~  
17 ~~reason to believe that the development of a financial impact statement will~~  
18 ~~be so speculative as to be cost prohibitive, the agency shall submit a~~  
19 ~~statement and explanation to that effect.~~

20 ~~(C) If the purpose of a state agency rule is to implement~~  
21 ~~a federal rule or regulation, the financial impact statement shall be limited~~  
22 ~~to any incremental~~ include:

23 (i) The cost to implement the federal rule or  
24 regulation; and

25 (ii) The additional cost of the state rule, as  
26 opposed to the federal rule or regulation.

27 (4)(A) If a financial impact statement reveals a new or  
28 increased cost or obligation of at least one hundred thousand dollars  
29 (\$100,000) per year to a private individual, private entity, private  
30 business, state government, county government, municipal government, or to  
31 two (2) or more of those entities combined, the agency shall file written  
32 findings at the time of filing the financial impact statement.

33 (B) The written findings shall be filed simultaneously  
34 with the financial impact statement and shall include without limitation:

35 (i) A statement of the rule's basis and purpose;

36 (ii) The problem the agency seeks to address with



1 the proposed rule, including a statement of whether a rule is required by  
2 statute;

3 (iii) A description of the factual evidence that:

4 (a) Justifies the agency's need for the  
5 proposed rule; and

6 (b) Describes how the benefits of the rule  
7 meet the relevant statutory objectives and justify the rule's costs;

8 (iv) A list of less costly alternatives to the  
9 proposed rule and the reasons why the alternatives do not adequately address  
10 the problem to be solved by the proposed rule;

11 (v) A list of alternatives to the proposed rule that  
12 were suggested as a result of public comment and the reasons why the  
13 alternatives do not adequately address the problem to be solved by the  
14 proposed rule;

15 (vi)(a) A statement of whether existing rules have  
16 created or contributed to the problem the agency seeks to address with the  
17 proposed rule.

18 (b) If existing rules have created or  
19 contributed to the problem, an explanation of why amendment or repeal of the  
20 rule creating or contributing to the problem is not a sufficient response;  
21 and

22 (vii) An agency plan for review of the rule no less  
23 than every ten (10) years to determine whether, based upon the evidence,  
24 there remains a need for the rule including without limitation whether:

25 (a) The rule is achieving the statutory  
26 objectives;

27 (b) The benefits of the rule continue to  
28 justify its costs; and

29 (c) The rule can be amended or repealed to  
30 reduce costs while continuing to achieve the statutory objections.

31 ~~(e)-(1)-(A)-(f)(1)(A)~~ Each rule adopted by an agency is effective thirty  
32 (30) days after filing of the final rule unless a later date is specified by  
33 law or in the rule itself.

34 (B) A final rule shall not be filed until the thirty-day  
35 public comment period required under subdivision (a)(1)(A) of this section  
36 has expired.

1 (C)(i) After the expiration of the thirty-day public  
2 comment period and before the effective date of the rule, the agency  
3 promulgating the rule shall take appropriate measures to make the final rule  
4 known to the persons who may be affected by the rule.

5 (ii) Appropriate measures shall include without  
6 limitation posting the following information on the agency's website:

7 (a) The final rule;

8 (b) Copies of all written comments submitted  
9 to the agency regarding the rule;

10 (c) A summary of all written and oral comments  
11 submitted to the agency regarding the rule and the agency's response to those  
12 comments; ~~and~~

13 (d) A summary of the financial impact of the  
14 rule; and

15 (e) The proposed effective date of the final  
16 rule.

17 (2)(A)(i) However, an emergency rule may become effective  
18 immediately upon filing or at a stated time less than thirty (30) days after  
19 filing if the agency finds that this effective date is necessary because of  
20 imminent peril to the public health, safety, or welfare.

21 (ii) The agency's finding ~~and~~, a brief statement of  
22 the reasons for the finding, and the financial impact statement shall be  
23 filed with the rule.

24 (B) The agency shall take appropriate measures to make  
25 emergency rules known to the persons who may be affected by the emergency  
26 rules.

27 ~~(f)(g)~~ ~~No~~ A rule adopted after June 30, 1967, is not valid unless  
28 adopted and filed in substantial compliance with this section.

29 ~~(g)(1)(h)(1)~~ In ~~any~~ a proceeding ~~brought~~ that questions the existence  
30 of imminent peril to the public health, safety, or welfare, a written finding  
31 by an agency that ~~adoption of any~~ adopting an emergency rule was necessary to  
32 avoid the loss of federal funding or certification establishes a prima facie  
33 case of the existence of imminent peril to the public health, safety, or  
34 welfare.

35 (2) The burden of proof shifts to the challenger to rebut the  
36 existence of the condition by a preponderance of the evidence.

1  
2 SECTION 5. Arkansas Code Title 25, Chapter 15, Subchapter 3, is  
3 repealed.

4 ~~25-15-301. Definitions.~~

5 ~~As used in this subchapter:~~

6 ~~(1)(A) "Agency" means each board, commission, department,~~  
7 ~~office, or other authority of the government of the State of Arkansas whether~~  
8 ~~or not within or subject to review by another agency.~~

9 ~~(B) "Agency" does not include the General Assembly and the~~  
10 ~~judiciary;~~

11 ~~(2)(A) "Rule" means any agency statement of general~~  
12 ~~applicability and future effect that implements, interprets, or prescribes~~  
13 ~~law or policy or describes the organization, procedure, or practice of any~~  
14 ~~agency and includes, but is not limited to, the amendment or repeal of a~~  
15 ~~prior rule.~~

16 ~~(B) "Rule" does not mean:~~

17 ~~(i) Statements concerning the internal management of~~  
18 ~~an agency and statements that do not affect the private rights or procedures~~  
19 ~~available to the public;~~

20 ~~(ii) Declaratory rulings issued pursuant to § 25-15-~~  
21 ~~206; or~~

22 ~~(iii) Intra-agency memoranda; and~~

23 ~~(3) "Small business" means a for-profit enterprise consisting of~~  
24 ~~no more than one hundred (100) employees regardless of whether the employees~~  
25 ~~are full-time or part-time employees.~~

26  
27 ~~25-15-302. Determination of effect of proposed rule on small~~  
28 ~~businesses.~~

29 ~~(a)(1) Before submitting a proposed rule for adoption, amendment, or~~  
30 ~~repeal, an agency first shall determine whether the proposed rule affects~~  
31 ~~small businesses.~~

32 ~~(2) However, this section does not apply to a rule:~~

33 ~~(A) Adopted on an emergency basis;~~

34 ~~(B) That is federally mandated; or~~

35 ~~(C) That substantially codifies existing state or federal~~  
36 ~~law.~~

1           ~~(b) As part of its analysis, the agency shall examine whether a means~~  
2 ~~exists to make the rule less costly for small businesses without compromising~~  
3 ~~the objective of the rule.~~

4           ~~(c) If the proposed rule affects small businesses, the agency shall~~  
5 ~~prepare an economic impact statement before undertaking the promulgation~~  
6 ~~process.~~

7  
8           ~~25-15-303. Economic impact statement.~~

9           ~~(a) An agency required to prepare an economic impact statement under §~~  
10 ~~25-15-302(c) shall comply with this section.~~

11           ~~(b) The agency shall prepare an economic impact statement that sets~~  
12 ~~forth the following:~~

13                   ~~(1) The type or types of small businesses that will be directly~~  
14 ~~affected by the proposed rule, bear the cost of the proposed rule, or~~  
15 ~~directly benefit from the proposed rule;~~

16                   ~~(2) A description of how small businesses will be adversely~~  
17 ~~affected;~~

18                   ~~(3) A reasonable determination of the dollar amounts the~~  
19 ~~proposed rule will cost small businesses in terms of fees, administrative~~  
20 ~~penalties, reporting, recordkeeping, equipment, construction, labor,~~  
21 ~~professional services, revenue loss, or other costs associated with~~  
22 ~~compliance;~~

23                   ~~(4) A reasonable determination of the dollar amounts of the~~  
24 ~~costs to the agency of implementing the proposed rule, as well as the~~  
25 ~~financial benefit to the agency of implementing the rule;~~

26                   ~~(5) Whether and to what extent alternative means exist for~~  
27 ~~accomplishing the objectives of the proposed rule that might be less~~  
28 ~~burdensome to small businesses and why such alternatives are not being~~  
29 ~~proposed; and~~

30                   ~~(6) A comparison of the proposed rule with federal and state~~  
31 ~~counterparts.~~

32           ~~(c) The agency shall submit the economic impact statement and the~~  
33 ~~proposed rule to the Director of the Arkansas Economic Development~~  
34 ~~Commission.~~

35           ~~(d)(1) Within ten business (10) days of the receipt of the economic~~  
36 ~~impact statement and the proposed rule, the director shall provide detailed~~

1 ~~information in writing to the agency regarding whether, in the reasoned~~  
2 ~~opinion of the director, the agency has satisfactorily completed the economic~~  
3 ~~impact statement and whether the agency has taken sufficient measures to~~  
4 ~~balance the objectives of the proposed rule with the interests of the~~  
5 ~~affected small businesses.~~

6 ~~(2)(A)(i) In performing these duties, the director may elicit~~  
7 ~~views and information from, and shall serve as the point of contact for,~~  
8 ~~small business organizations and associations, state and federal agencies,~~  
9 ~~and other parties who have comments, objections, or opinions concerning the~~  
10 ~~proposed rule.~~

11 ~~(ii) The director shall send the proposed rules to~~  
12 ~~the members of the Regulatory Review Committee in any manner he or she~~  
13 ~~considers reasonable and may set a deadline for the receipt of responses from~~  
14 ~~members of the committee.~~

15 ~~(B) If appropriate, the director shall convey these~~  
16 ~~communications to the agency.~~

17 ~~(3) In addition to commenting upon a proposed rule, the director~~  
18 ~~may review existing rules and make recommendations to agencies to amend rules~~  
19 ~~that may have an unduly negative impact on small businesses.~~

20 ~~(c)(1) Upon receiving from the director the information described in~~  
21 ~~this section, the agency shall promptly consider the information.~~

22 ~~(2)(A) If the agency determines that no action shall be taken in~~  
23 ~~response to the information received from the director, the agency may~~  
24 ~~respond in writing to the director and explain its reasons for this~~  
25 ~~determination.~~

26 ~~(B) If the agency determines that amendment of a proposed~~  
27 ~~rule or adoption, amendment, or repeal of an existing rule is warranted, the~~  
28 ~~agency shall indicate this in its response.~~

29 ~~(3) Upon completing the requirements of subdivision (c)(2) of~~  
30 ~~this section, the agency may initiate the process for the adoption of a rule.~~

31  
32 */s/Shepherd*

33  
34  
35 **APPROVED: 04/04/2013**