

SENATE BILL NO. 67

BY SENATOR FRED MILLS

1 AN ACT

2 To amend and reenact R.S. 49:951(9), 953, the introductory paragraph of 953.1(A)(1),  
3 953.1(A)(5), and (C), 954(A) and (B)(2), 954.1(A), 955(B), (C), (E), and (F),  
4 959(A), 960(B), 964.1(C), 966(A), 967, the introductory paragraph of 968(B),  
5 968(B)(24)(b), (C)(2) and (4), (D)(1)(a), and the introductory paragraph of (D)(1)(b),  
6 (D)(1)(b)(i), and (c) and (3), (E)(1)(a), the introductory paragraph of 968(F)(1), (G),  
7 (H), (J), and (K)(2), 969(A), 970(A), 971(A)(1) and (3) and (B), 974(B), (C), and  
8 (E), 978.1, 978.4(A)(2), 978.5(B) and (C), the introductory paragraph of 978.7, and  
9 978.8(A) and (B), to enact R.S. 49:953.1(G), 963, and 964, and to recodify Chapter  
10 13 of Title 49 of the Louisiana Revised Statutes of 1950 in its entirety, relative to the  
11 Administrative Procedure Act; to make technical updates to the Administrative  
12 Procedure Act; to provide for public hearings; to provide for publication of executive  
13 orders; to direct the Louisiana State Law Institute to redesignate the current  
14 provisions of Chapter 13 of Title 49 of the Louisiana Revised Statutes of 1950 into  
15 a new format and number scheme, to be comprised of R.S. 49:950 through 978.3,  
16 without changing the text of the provisions except as provided herein; to make  
17 technical and conforming changes to reflect the format and number scheme provided  
18 herein; to direct the Louisiana State Law Institute to change references to segments  
19 of law in existing statutes and codes as necessary to reflect the redesignation of such  
20 segments as provided herein; and to provide for related matters.

21 Be it enacted by the Legislature of Louisiana:

22 Section 1. R.S. 49:951(9), 953, the introductory paragraph of 953.1(A)(1),  
23 953.1(A)(5), and (C), 954(A) and (B)(2), 954.1(A), 955(B), (C), (E), and (F), 959(A),  
24 960(B), 964.1(C), 966(A), 967, the introductory paragraph of 968(B), 968(B)(24)(b), (C)(2)  
25 and (4), (D)(1)(a), the introductory paragraph of (D)(1)(b), (D)(1)(b)(i), and (c) and (3),

1 (E)(1)(a), the introductory paragraph of 968(F)(1), (G), (H), (J), and (K)(2), 969(A), 970(A),  
2 971(A)(1) and (3) and (B), 974(B), (C), and (E), 978.1, 978.4(A)(2), 978.5(B) and (C), the  
3 introductory paragraph of 978.7, and 978.8(A) and (B) are hereby amended and reenacted  
4 and R.S. 49:953.1(G), 963, and 964 are hereby enacted to read as follows:

5 §951. Definitions

6 As used in this Chapter:

7 \* \* \*

8 (9) "Rulemaking" means the process employed by an agency for the  
9 formulation of a rule. Except where the context clearly provides otherwise, the  
10 procedures for adoption of rules and of emergency rules as provided in ~~R.S. 49:953~~  
11 **R.S. 49:961** shall also apply to adoption, increase, or decrease of fees. The fact that  
12 a statement of policy or an interpretation of a statute is made in the decision of a case  
13 or in an agency decision upon or disposition of a particular matter as applied to a  
14 specific set of facts involved does not render the same a rule within this definition  
15 or constitute specific adoption thereof by the agency so as to be required to be issued  
16 and filed as provided in this Subsection.

17 ~~§966.~~**§952.** Construction and effect; judicial cognizance

18 A. Nothing in this Chapter shall be held to diminish the constitutional rights  
19 of any person or to limit or repeal additional requirements imposed by statute or  
20 otherwise recognized by law. Notwithstanding the foregoing, and except as provided  
21 in ~~R.S. 49:967~~ **R.S. 49:954**, any and all statutory requirements regarding the  
22 adoption or promulgation of rules other than those contained in Sections 953, ~~954,~~  
23 ~~954.1, and 968~~ **961, 965, and 966** of this Title are hereby superseded by the  
24 provisions of this Chapter and are repealed. Except as otherwise required by law, all  
25 requirements or privileges relating to evidence or procedure shall apply equally to  
26 agencies and persons. Every agency is granted all authority necessary to comply with  
27 the requirements of this Chapter through the issuance of rules or otherwise.

28 \* \* \*

29 ~~§954.1~~**§953.** Louisiana Administrative Code and Louisiana Register; publication;  
30 distribution; copies; index; interagency rules



1 979 shall not apply to any rule, regulation, or policy and procedure statements issued  
2 by or for the Department of Public Safety and Corrections, corrections services,  
3 concerning:

4 (1) The internal management and daily operations of a correctional institute,  
5 probation and parole district office, or headquarters function.

6 (2) General law statements that are substantially repetitions of state or federal  
7 law.

8 (3) The implementation and processes for carrying out a court-ordered  
9 sentence of death and any and all matters related to the regulations for the sentence  
10 of death.

11 ~~F.E.~~ The provisions of ~~R.S. 49:963, 964, and 965~~ **R.S. 49:968, 978.2, and**  
12 **979** shall apply only to the regulations and policies of the Department of Public  
13 Safety and Corrections, corrections services, that affect the substantial rights of, or  
14 administrative remedies available to, the public or any offender incarcerated in a  
15 state correctional facility or local jail facility.

16 ~~§967.1~~**§955.** Application of Chapter to rules and fees

17 [Section redesignated from R.S. 49:967.1]

18 ~~§952~~**§956.** Public information; adoption of rules; availability of rules and orders

19 [Section redesignated from R.S. 49:952]

20 ~~§974~~**§957.** Internet publication of certain information concerning proposed rules  
21 and fees; information required to be published; manner of  
22 publication; deadlines

23 \* \* \*

24 B. All of the following information shall be included on the website:

25 (1) A brief description of each rule or fee that the agency is in the process of  
26 adopting, amending, or repealing. For each ~~such~~ rule or fee, links to the following  
27 shall be included:

28 (a) The full text of the current rule or fee.

29 (b) A ~~copy of~~ **link to the Louisiana Register website showing** the proposed  
30 rule or statement of the proposed fee in ~~the form required by R.S. 49:968(C)(1).~~

1 (c) The name and contact information of the ~~person within the agency who~~  
 2 ~~has the responsibility~~ **agency representative responsible** for responding to inquiries  
 3 about the intended action as required by ~~R.S. 49:953(A)(1)(a)(iv)~~ **R.S.**  
 4 **49:961(A)(1)(a)(iv)**.

5 (d) The time when, the place where, and the manner in which interested  
 6 persons may present ~~their views~~ **public comment** concerning the intended action as  
 7 required by ~~R.S. 49:953(A)(1)(a)(v)~~ **R.S. 49:961(A)(1)(a)(v)**.

8 (e) The anticipated effective date for the proposed rule or fee.

9 (f) A copy of the notice of intent submitted to the Louisiana Register pursuant  
 10 to ~~R.S. 49:953(A)(1)(b)~~ **R.S. 49:961(A)(1)(b)** and the date the notice of intent will  
 11 be published in the Louisiana Register.

12 (g) A copy of the report submitted to the legislative oversight subcommittees  
 13 pursuant to ~~R.S. 49:968(D)(1)(b)~~ **R.S. 49:966(D)(1)(b)** and a copy of the public  
 14 notice required by ~~R.S. 49:968(D)(1)(c)~~ **R.S. 49:966(D)(1)(c)**.

15 (h) A copy of any announcement of a hearing and report made pursuant to  
 16 ~~R.S. 49:968(H)(2)~~ **R.S. 49:966(H)(2)**.

17 (i) A copy of any report received by the agency from a legislative oversight  
 18 subcommittee pursuant to ~~R.S. 49:968(F)~~ **R.S. 49:966(F)** or from the governor  
 19 pursuant to ~~R.S. 49:968(I)~~ **R.S. 49:966(I)**.

20 (2) A copy of the annual report submitted to the legislative oversight  
 21 subcommittees by the agency pursuant to ~~R.S. 49:968(K)~~ **R.S. 49:966(K)**.

22 C.(1)(a) The information required to be published pursuant to Subparagraphs  
 23 (B)(1)(a) through (g) of this Section shall be published in the manner required by this  
 24 Section no later than five days after the date on which the agency submits the report  
 25 for the proposed rule or fee to the legislative oversight subcommittees pursuant to  
 26 ~~R.S. 49:968(B)~~ **R.S. 49:966(B)**.

27 (b) The copy of the announcement required to be published pursuant to  
 28 Subparagraph (B)(1)(h) of this Section shall be published in the manner required by  
 29 this Section no later than five days after the announcement is submitted to the  
 30 Louisiana Register in accordance with ~~R.S. 49:968(H)(2)~~ **R.S. 49:966(H)(2)**.

1 (c) The copy of the report required to be published pursuant to Subparagraph  
 2 (B)(1)(i) of this Section shall be published in the manner required by this Section no  
 3 later than five days after the report is received by the agency.

4 (d) The copy of the annual report required to be published pursuant to  
 5 Paragraph (B)(2) of this Section shall be published in the manner required by this  
 6 Section no later than five days after the report is submitted to the legislative  
 7 oversight subcommittees by the agency pursuant to ~~R.S. 49:968(K)~~ **R.S. 49:966(K)**.

8 (2) If an agency does not have an ~~Internet~~ **internet** website, the agency shall  
 9 submit the information required by this Section to be published to the department or  
 10 to the division of administration, as the case may be, in a manner which allows  
 11 enough time for the information to be published as required by this Section prior to  
 12 the applicable deadline provided in Paragraph (1) of this Subsection.

13 \* \* \*

14 E. The provisions of this Section shall not be construed to require the  
 15 publication of information concerning the adoption, amendment, or repeal of any  
 16 rule or fee unless and until the agency gives notice of its intended action pursuant to  
 17 ~~R.S. 49:953(A)~~ **R.S. 49:961(A)**.

18 **PART II. RULE PROMULGATION**

19 ~~§953~~**§961**. Procedure for adoption of rules; ~~agency rule review~~

20 ~~A. Prior to the adoption, amendment, or repeal of any rule, the agency shall:~~

21 ~~(1)(a) Give notice of its intended action and a copy of the proposed rules at~~  
 22 ~~least ninety days prior to taking action on the rule. The notice shall include:~~

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

25 ~~(ii) A statement, approved by the legislative fiscal office, of the fiscal impact~~  
 26 ~~of the intended action, if any; or a statement, approved by the legislative fiscal office,~~  
 27 ~~that no fiscal impact will result from such proposed action;~~

28 ~~(iii) A statement, approved by the legislative fiscal office, of the economic~~  
 29 ~~impact of the intended action, if any; or a statement, approved by the legislative~~  
 30 ~~fiscal office, that no economic impact will result from such proposed action;~~

1           ~~(iv) The name of the person within the agency who has the responsibility for~~  
2           ~~responding to inquiries about the intended action;~~

3           ~~(v) The time when, the place where, and the manner in which interested~~  
4           ~~persons may present their views thereon; and~~

5           ~~(vi) A statement that the intended action complies with the statutory law~~  
6           ~~administered by the agency, including a citation of the enabling legislation.~~

7           ~~(vii) The preamble, which explains the basis and rationale for the intended~~  
8           ~~action; and summarizes the information and data supporting the intended action.~~

9           ~~(viii) A statement concerning the impact on family formation, stability, and~~  
10          ~~autonomy as set forth in R.S. 49:972.~~

11          ~~(ix) A statement concerning the impact on child, individual, or family poverty~~  
12          ~~in relation to individual or community asset development as set forth in R.S. 49:973.~~

13          ~~(x) A statement concerning the economic impact on small businesses, as set~~  
14          ~~forth in R.S. 49:978.4, and the small business regulatory flexibility analysis, as set~~  
15          ~~forth in R.S. 49:978.5.~~

16          ~~(b)(i) The notice shall be published at least once in the Louisiana Register~~  
17          ~~and shall be submitted with a full text of the proposed rule to the Louisiana Register~~  
18          ~~at least one hundred days prior to the date the agency will take action on the rule.~~

19          ~~(ii) Upon publication of the notice, copies of the full text of the proposed rule~~  
20          ~~shall be available from the agency proposing the rule upon written request within~~  
21          ~~two working days.~~

22          ~~(c) Notice of the intent of an agency to adopt, amend, or repeal any rule and~~  
23          ~~the approved fiscal and economic impact statements, as provided for in this~~  
24          ~~Subsection, shall be mailed to all persons who have made timely request of the~~  
25          ~~agency for such notice, which notice and statements shall be mailed at the earliest~~  
26          ~~possible date, and in no case later than ten days after the date when the proposed rule~~  
27          ~~change is submitted to the Louisiana Register.~~

28          ~~(d) For the purpose of timely notice as required by this Paragraph, the date~~  
29          ~~of notice shall be deemed to be the date of publication of the issue of the Louisiana~~  
30          ~~Register in which the notice appears, such publication date to be the publication date~~

1 as stated on the outside cover or the first page of said issue:

2 ~~(2)(a) Afford all interested persons reasonable opportunity to submit data,~~  
3 ~~views, comments, or arguments, orally or in writing. In case of substantive rules,~~  
4 ~~opportunity for oral presentation or argument must be granted if requested within~~  
5 ~~twenty days after publication of the rule as provided in this Subsection, by twenty-~~  
6 ~~five persons, by a governmental subdivision or agency, by an association having not~~  
7 ~~less than twenty-five members, or by a committee of either house of the legislature~~  
8 ~~to which the proposed rule change has been referred under the provisions of R.S.~~  
9 ~~49:968.~~

10 ~~(b)(i) Make available to all interested persons copies of any rule intended for~~  
11 ~~adoption, amendment, or repeal from the time the notice of its intended action is~~  
12 ~~published in the Louisiana Register. Any hearing pursuant to the provisions of this~~  
13 ~~Paragraph shall be held no earlier than thirty-five days and no later than forty days~~  
14 ~~after the publication of the Louisiana Register in which the notice of the intended~~  
15 ~~action appears. The agency shall consider fully all written and oral comments and~~  
16 ~~submissions respecting the proposed rule.~~

17 ~~(ii) The agency shall issue a response to comments and submissions~~  
18 ~~describing the principal reasons for and against adoption of any amendments or~~  
19 ~~changes suggested in the written or oral comments and submissions. In addition to~~  
20 ~~the response to comments, the agency may prepare a preamble explaining the basis~~  
21 ~~and rationale for the rule, identifying the data and evidence upon which the rule is~~  
22 ~~based, and responding to comments and submissions. Such preamble and response~~  
23 ~~to comments and submissions shall be furnished to the respective legislative~~  
24 ~~oversight subcommittees at least five days prior to the day the legislative oversight~~  
25 ~~subcommittee hearing is to be held on the proposed rule, and shall be made available~~  
26 ~~to interested persons no later than one day following their submission to the~~  
27 ~~appropriate legislative oversight subcommittee. If no legislative oversight hearing~~  
28 ~~is to be held, the agency shall issue a response to comments and submissions and~~  
29 ~~preamble, if any, to any person who presented comments or submissions on the rule~~  
30 ~~and to any requesting person not later than fifteen days prior to the time of~~



1 publication of the final rule:

2 (iii) The agency shall, upon request, make available to interested persons the  
3 report submitted pursuant to R.S. 49:968(D) no later than one working day following  
4 the submittal of such report to the legislative oversight subcommittees.

5 (3)(a) For the purposes of this Subsection, the statement of fiscal impact shall  
6 be prepared by the proposing agency and submitted to the Legislative Fiscal Office  
7 for its approval. Such fiscal impact statement shall include a statement of the receipt,  
8 expenditure, or allocation of state funds or funds of any political subdivision of the  
9 state.

10 (b) For the purposes of this Subsection, the statement of economic impact  
11 shall be prepared by the proposing agency and submitted to the Legislative Fiscal  
12 Office for its approval. Such economic impact statements shall include an estimate  
13 of the cost to the agency to implement the proposed action, including the estimated  
14 amount of paperwork; an estimate of the cost or economic benefit to all persons  
15 directly affected by the proposed action; an estimate of the impact of the proposed  
16 action on competition and the open market for employment, if applicable; and a  
17 detailed statement of the data, assumptions, and methods used in making each of the  
18 above estimates.

19 **A.(1) An agency shall give notice of its intention to adopt, amend, or**  
20 **repeal any rule and a copy of the proposed rules at least ninety days prior to**  
21 **taking action on the rule.**

22 **(2) The notice shall include all of the following:**

23 **(a) A statement by the agency clearly describing the proposed action**  
24 **being taken.**

25 **(b) A statement by the legislative fiscal office on whether the proposed**  
26 **action will result in a fiscal impact.**

27 **(c) A statement by the legislative fiscal office on whether the proposed**  
28 **action will result in an economic impact.**

29 **(d) The name of the agency representative responsible for responding to**  
30 **inquiries about the intended action.**

1                    (e) The time, place, and manner in which interested persons may present  
2 public comment regarding the intended action.

3                    (f) A statement that the intended action complies with the statutory law  
4 administered by the agency, including a citation of the enabling legislation.

5                    (g) A preamble explaining the basis and rationale for the intended action  
6 and summarizes the information and data supporting the intended action.

7                    (h) All of the following statements concerning the proposed action:

8                    (i) The impact on family formation, stability, and autonomy required by  
9 R.S. 49:972.

10                   (ii) The impact on child, individual, or family poverty in relation to  
11 individual or community asset development required by R.S. 49:973.

12                   (iii) The economic impact on small businesses required by R.S. 49:974.4.

13                   (iv) The small business regulatory flexibility analysis required by R.S.  
14 49:974.5.

15                   (3) The notice shall be published at least once in the Louisiana Register  
16 and shall be submitted with a full text of the proposed rule to the Louisiana  
17 Register at least one hundred days prior to the date the agency will take action  
18 on the rule.

19                   (4) After the notice is published in the Louisiana Register, the agency  
20 shall make available copies of the full text of the proposed rule no later than two  
21 working days after receiving a written request.

22                   (5) Notice of the intent of an agency to adopt, amend, or repeal any rule  
23 and the approved fiscal and economic impact statements shall be transmitted  
24 to all persons who have made timely request of the agency for notice. The notice  
25 and statements shall be transmitted at the earliest possible date, but not later  
26 than ten days after the date when the proposed rule change is submitted to the  
27 Louisiana Register.

28                   (6) For the purpose of this Subsection, the date of notice is the date of  
29 publication of the issue of the Louisiana Register in which the notice appears as  
30 stated on the outside cover or the first page of the issue.

1           B.(1) The agency shall afford all interested persons a reasonable  
2           opportunity to submit data, views, comments, or arguments, orally or in  
3           writing. In the case of substantive rules, the agency shall grant an opportunity  
4           for oral presentation or argument if requested within twenty days after  
5           publication of the rule pursuant to Subsection A of this Section by twenty-five  
6           persons, by a governmental subdivision or agency, by an association having not  
7           less than twenty-five members, or by a committee of either house of the  
8           legislature to which the proposed rule change has been referred pursuant to  
9           R.S. 49:966.

10           (2) Any hearing held pursuant to the provisions of Paragraph (1) of this  
11           Subsection shall be held no earlier than thirty-five days and no later than  
12           forty-five days after the publication of the Louisiana Register in which the  
13           notice of the intended action appears.

14           (3) The agency shall consider fully all written and oral comments and  
15           submissions respecting the proposed rule. The agency shall respond to the  
16           comments and submissions describing the principal reasons for and against  
17           adoption of any amendments or changes suggested in the written or oral  
18           comments and submissions.

19           (4) The response required by Paragraph (3) of this Subsection shall be  
20           furnished to the respective legislative oversight subcommittees at least five days  
21           prior to the day the legislative oversight subcommittee hearing is to be held on  
22           the proposed rule, and shall be made available to interested persons no later  
23           than one day following their submission to the appropriate legislative oversight  
24           subcommittee. If no legislative oversight hearing is to be held, the agency shall  
25           send its response to comments or submissions on the rule to any person who  
26           presented comments or submissions on the rule and to any requesting person  
27           not later than fifteen days prior to the time of publication of the final rule.

28           (5) The agency shall, upon request, make available to interested persons  
29           the report submitted pursuant to R.S. 49:966(D) no later than one working day  
30           following the submittal of such report to the legislative oversight

1            subcommittees.

2            ~~C.(1) An interested person may petition an agency requesting the adoption,~~  
3            ~~amendment, or repeal of a rule. Each agency shall prescribe by rule the form for~~  
4            ~~petitions and the procedure for their submission, considerations, and disposition.~~  
5            ~~Within ninety days after submission of a petition, the agency shall either deny the~~  
6            ~~petition in writing, stating reasons for the denial, or shall initiate rulemaking~~  
7            ~~proceedings in accordance with this Chapter. Each agency with an appropriated~~  
8            ~~operating budget of five million dollars or more shall include on its website a~~  
9            ~~description of the procedure for submitting petitions in accordance with this~~  
10           ~~Paragraph.~~

11           ~~(2)(a) At least once prior to January 1, 2020, and at least once during every~~  
12           ~~six-year period thereafter, each agency subject to Paragraph (1) of this Subsection~~  
13           ~~which engages in rulemaking shall conduct a public hearing for the purpose of~~  
14           ~~allowing any interested person the opportunity to comment on any rule of the agency~~  
15           ~~which the person believes is contrary to law, outdated, unnecessary, overly complex,~~  
16           ~~or burdensome. The agency shall publish notice of the meeting in the Louisiana~~  
17           ~~Register, give notice of the meeting electronically to the appropriate legislative~~  
18           ~~oversight committees, and shall provide notice of the meeting to all persons who~~  
19           ~~have made timely request of the agency for notice of rule changes, all no later than~~  
20           ~~thirty days prior to the meeting.~~

21           ~~(b) The notice of the meeting shall contain:~~

22           ~~(i) The name of the agency.~~

23           ~~(ii) The purpose of the meeting.~~

24           ~~(iii) The time and place of the meeting.~~

25           ~~(iv) The process for requesting reasonable accommodations for persons with~~  
26           ~~disabilities.~~

27           ~~(v) The name and contact information of the person within the agency to~~  
28           ~~whom interested persons should direct their views regarding the agency's rules, if in~~  
29           ~~writing, and the deadline for submission of written comments.~~

30           ~~(c) The agency shall consider fully all written and oral comments and~~

1           submissions concerning its rules. The agency shall advise persons who provide oral  
 2           comments that in order to be submitted to the legislative oversight committees,  
 3           comments must be submitted to the agency in writing. The agency shall issue a  
 4           response to each submission describing the principal advantages and disadvantages  
 5           of the rule changes suggested in the submission. In addition, the agency may prepare  
 6           a statement explaining the basis and rationale for the rule in question identifying the  
 7           data and evidence upon which the rule is based. All such statements and responses  
 8           to submissions shall be furnished to the respective legislative oversight committees  
 9           in the manner provided by R.S. 49:968(K) and shall be made available to interested  
 10          persons as soon as possible but no later than one day following their submission to  
 11          the appropriate legislative oversight committees.

12                        **C.(1) The statement of fiscal impact shall be prepared by the proposing**  
 13                        **agency and submitted to the legislative fiscal office for its approval. The fiscal**  
 14                        **impact statement shall include a statement of the receipt, expenditure, or**  
 15                        **allocation of state funds or funds of any political subdivision of the state.**

16                        **(2) The statement of economic impact shall be prepared by the proposing**  
 17                        **agency and submitted to the legislative fiscal office for its approval. The**  
 18                        **economic impact statement shall include an estimate of the cost to the agency**  
 19                        **to implement the proposed action, including the estimated amount of**  
 20                        **paperwork; an estimate of the cost or economic benefit to all persons directly**  
 21                        **affected by the proposed action; an estimate of the impact of the proposed**  
 22                        **action on competition and the open market for employment, if applicable; and**  
 23                        **a detailed statement of the data, assumptions, and methods used in making each**  
 24                        **of the above estimates.**

25                        ~~D. When a rule is adopted, amended, or repealed in compliance with federal~~  
 26                        ~~regulations, the adopting agency's notice of intent and the actual text of the rule as~~  
 27                        ~~published in the Louisiana Register, must be accompanied by a citation of the~~  
 28                        ~~Federal Register issue in which the determining federal regulation is published, such~~  
 29                        ~~citation to be by volume, number, date, and page number.~~

30                        **D. When a rule is adopted, amended, or repealed in compliance with**

1 **federal regulations, the adopting agency's notice of intent and the actual text of**  
2 **the rule as published in the Louisiana Register shall be accompanied by a**  
3 **citation of the volume, number, date, and page number of the Federal Register**  
4 **issue in which the determining federal regulation is published.**

5 ~~E.(1) No agency shall adopt, amend, or repeal any rule if the accompanying~~  
6 ~~fiscal and economic impact statement approved by the legislative fiscal office~~  
7 ~~indicates that the rule change would result in any increase in the expenditure of state~~  
8 ~~funds, unless the rule is adopted as an emergency rule pursuant to the requirements~~  
9 ~~of R.S. 49:953.1 or unless the legislature has specifically appropriated the funds~~  
10 ~~necessary for the expenditures associated with the rule change.~~

11 ~~(2) The fiscal and economic impact statement shall be summarized by the~~  
12 ~~agency as to the estimated costs or economic benefits or both, to directly affected~~  
13 ~~persons, small businesses, or nongovernmental groups and the summary shall be~~  
14 ~~published in the Louisiana Register.~~

15 ~~(3) No later than the tenth day of the month, the office of the state register~~  
16 ~~shall electronically transmit to the commercial division of the Department of State,~~  
17 ~~the summary of the fiscal and economic impact statement.~~

18 **E.(1) No agency shall adopt, amend, or repeal any rule if the**  
19 **accompanying fiscal and economic impact statement approved by the legislative**  
20 **fiscal office indicates that the rule change would result in any increase in the**  
21 **expenditure of state funds, unless the rule is adopted as an emergency rule**  
22 **pursuant to the requirements of R.S. 49:962 or unless the legislature has**  
23 **specifically appropriated the funds necessary for the expenditures associated**  
24 **with the rule change.**

25 **(2) The fiscal and economic impact statement shall be summarized by the**  
26 **agency as to the estimated costs or economic benefits, or both, to directly**  
27 **affected persons, small businesses, or nongovernmental groups and the**  
28 **summary shall be published in the Louisiana Register.**

29 **(3) No later than the tenth day of the month, the office of the state**  
30 **register shall electronically transmit to the commercial division of the**

1            **Department of State, the summary of the fiscal and economic impact statement.**

2            ~~F.(1) Notwithstanding any other provision of this Chapter to the contrary, if~~  
3            ~~the Department of Environmental Quality proposes a rule that is not identical to a~~  
4            ~~federal law or regulation or is not required for compliance with a federal law or~~  
5            ~~regulation, the Department of Environmental Quality shall adopt and promulgate~~  
6            ~~such proposed rule separately from any proposed rule or set of proposed rules that~~  
7            ~~is identical to a federal law or regulation or required for compliance with a federal~~  
8            ~~law or regulation. However, if the only difference between the proposed rule or set~~  
9            ~~of proposed rules and the corresponding federal law or regulation is a proposed fee,~~  
10           ~~the Department of Environmental Quality shall not be required to adopt and~~  
11           ~~promulgate such proposed rule or set of proposed rules separately. For purposes of~~  
12           ~~this Subsection, the term "identical" shall mean that the proposed rule has the same~~  
13           ~~content and meaning as the corresponding federal law or regulation.~~

14           ~~(2) When the Department of Environmental Quality proposes a rule that is~~  
15           ~~not identical to a corresponding federal law or regulation, or is not required for~~  
16           ~~compliance with a federal law or regulation, the Department of Environmental~~  
17           ~~Quality shall provide a brief summary which explains the basis and rationale for the~~  
18           ~~proposed rule, identifies the data and evidence, if any, upon which the rule is based,~~  
19           ~~and identifies any portions of the proposed rule that differ from federal law or~~  
20           ~~regulation if there is a federal law or regulation which is not identical but which~~  
21           ~~corresponds substantially to the proposed rule. Such summary shall be provided~~  
22           ~~along with the notice of intent and shall be published in the Louisiana Register or~~  
23           ~~made available along with the proposed rule as provided in Item (A)(1)(b)(ii) of this~~  
24           ~~Section. The Department of Environmental Quality may also provide such a~~  
25           ~~summary when proposing a rule identical to a corresponding federal law or~~  
26           ~~regulation or proposing a rule which is required for compliance with federal law or~~  
27           ~~regulation to explain the basis and rationale for the proposed rule.~~

28           ~~(3) Notwithstanding any other provision of this Chapter to the contrary, when~~  
29           ~~the Department of Environmental Quality proposes a rule that is identical to a federal~~  
30           ~~law or regulation applicable in Louisiana, except as provided in Paragraph (4) of this~~

1 Subsection, it may use the following procedure for the adoption of the rule:

2 (a) ~~The department shall publish a notice of the proposed rule at least sixty~~  
3 ~~days prior to taking action on the rule as provided below. The notice, which may~~  
4 ~~include an explanation of the basis and rationale for the proposed rule, shall include~~  
5 ~~all of the following:~~

6 (i) ~~A statement of either the terms or substance of the intended action or a~~  
7 ~~description of the subjects and issues involved.~~

8 (ii) ~~A statement that no fiscal or economic impact will result from the~~  
9 ~~proposed rule.~~

10 (iii) ~~The name of the person within the department who has responsibility for~~  
11 ~~responding to inquiries about the intended action.~~

12 (iv) ~~The time, place, and manner in which interested persons may present~~  
13 ~~their views thereon including the notice for a public hearing required by R.S.~~  
14 ~~30:2011(D)(1).~~

15 (v) ~~A statement that the intended action complies with the law administered~~  
16 ~~by the department, including a citation of the specific provision, or provisions, of law~~  
17 ~~which authorize the proposed rule.~~

18 (b) ~~Notice of the proposed rule shall be published at least once in the~~  
19 ~~Louisiana Register and shall be submitted with a full text of the proposed rule to the~~  
20 ~~Louisiana Register at least seventy days prior to the date the department proposes to~~  
21 ~~formally adopt the rule. The Office of the State Register may omit from the~~  
22 ~~Louisiana Register any such proposed rule the publication of which would be unduly~~  
23 ~~cumbersome, expensive, or otherwise inexpedient, if the Louisiana Register contains~~  
24 ~~a notice stating the general subject matter of the omitted proposed rule, the process~~  
25 ~~being employed by the department for adoption of the proposed rule, and stating how~~  
26 ~~a copy of the proposed rule may be obtained.~~

27 (c) ~~Notice of the intent of the department to adopt the rule shall be mailed to~~  
28 ~~all persons who have made timely request for such notice, which notice shall be~~  
29 ~~mailed at the earliest possible date, and in no case later than ten days after the date~~  
30 ~~when the proposed rule is submitted to the Louisiana Register.~~



1           ~~(d) For the purpose of timely notice as required by this Paragraph, the date~~  
2           ~~of notice shall be deemed to be the date of publication of the issue of the Louisiana~~  
3           ~~Register in which the notice appears, such publication date to be the publication date~~  
4           ~~as stated on the outside cover or the first page of said issue.~~

5           ~~(e) The department shall afford all interested persons an opportunity to~~  
6           ~~submit data, views, comments, or arguments related to the proposed rule, in writing,~~  
7           ~~during a period of no less than thirty days. The department shall consider fully all~~  
8           ~~written comments and submissions respecting the proposed rule.~~

9           ~~(f) The department shall make available to all interested persons copies of the~~  
10          ~~proposed rule from the time the notice of its adoption is published in the Louisiana~~  
11          ~~Register.~~

12          ~~(g) The department shall issue a response to comments and submissions~~  
13          ~~describing the principal reasons for and against adoption of any amendments or~~  
14          ~~changes suggested in the written comments and submissions and specifically~~  
15          ~~addressing any assertion that the proposed rule is not identical to the federal law or~~  
16          ~~regulation upon which it is based. The department shall issue such response to~~  
17          ~~comments and submissions to any person who presented comments or submissions~~  
18          ~~on the rule and to any requesting person no later than fifteen days prior to the time~~  
19          ~~of publication of the final rule.~~

20          ~~(h) No later than fifteen days prior to the time of publication of the final rule~~  
21          ~~in the Louisiana Register, the secretary or any authorized assistant secretary of the~~  
22          ~~department shall do each of the following:~~

23                 ~~(i) Certify under oath, to the governor of the state of Louisiana, the attorney~~  
24                 ~~general of Louisiana, the speaker of the House of Representatives, the president of~~  
25                 ~~the Senate, the chairman of the House Committee on Natural Resources and~~  
26                 ~~Environment, the chairman of the Senate Committee on Environmental Quality, and~~  
27                 ~~the Office of the State Register that the proposed rule is identical to a specified~~  
28                 ~~federal law or regulation applicable in Louisiana.~~

29                 ~~(ii) Furnish the chairman of the Senate Committee on Environmental Quality~~  
30                 ~~and the chairman of the House Committee on Natural Resources and Environment~~

1 the response to comments and submissions required under Subparagraph (g) of this  
 2 Paragraph, together with a copy of the notice required under Subparagraph (a) of this  
 3 Paragraph:

4 (i) ~~Unless specifically requested, in writing, by the chairman of the House~~  
 5 ~~Committee on Natural Resources and Environment or the chairman of the Senate~~  
 6 ~~Committee on Environmental Quality within ten days of the certification provided~~  
 7 ~~under Subparagraph (h) of this Paragraph, there shall be no legislative oversight of~~  
 8 ~~the proposed rule. If, however, legislative oversight is properly requested, R.S.~~  
 9 ~~49:968 and Items (A)(2)(b)(ii) and (iii) of this Section shall thereafter apply with~~  
 10 ~~respect to the proposed rule.~~

11 (j) ~~In the absence of legislative oversight, the proposed rule may be adopted~~  
 12 ~~by the Department of Environmental Quality no earlier than sixty days, nor later than~~  
 13 ~~twelve months, after the official notice of the proposed rule was published in the~~  
 14 ~~Louisiana Register; provided, however, that the proposed rule shall be effective upon~~  
 15 ~~its publication in the Louisiana Register, said publication to be subsequent to the act~~  
 16 ~~of adoption.~~

17 (4) ~~The procedures set forth in Paragraph (3) of this Subsection for the~~  
 18 ~~adoption by the Department of Environmental Quality of rules identical to federal~~  
 19 ~~laws or regulations applicable in Louisiana shall not be available for the adoption of~~  
 20 ~~any rules creating or increasing fees.~~

21 **F.(1) No later than the tenth day of the month, the office of the state**  
 22 **register shall electronically transmit to the commercial division of the**  
 23 **Department of State, all of the following information:**

24 **(a) The small business economic impact statement prepared by the**  
 25 **agency pursuant to R.S. 49:974.4 and the small business regulatory flexibility**  
 26 **analysis prepared pursuant to R.S. 49:974.5.**

27 **(b) The summary of the estimated costs to small businesses, citizens, and**  
 28 **nongovernmental groups as provided in Subsection E of this Section.**

29 **(c) Any potpourri notices which are submitted to the office of the state**  
 30 **register pursuant to R.S. 49:974.4.**

1                    (2) Prior to electronically sending the information required in this  
 2                    Subsection and Subsection E of this Section to the commercial division of the  
 3                    Department of State, the office of the state register shall divide the information  
 4                    by agency.

5                    ~~G.(1) Prior to or concurrent with publishing notice of any proposed policy,~~  
 6                    ~~standard, or regulation pursuant to Subsection A of this Section and prior to~~  
 7                    ~~promulgating any policy, standard, or final regulation whether pursuant to R.S.~~  
 8                    ~~49:954 or otherwise under the authority of the Louisiana Environmental Quality Act,~~  
 9                    ~~R.S. 30:2001 et seq., the Department of Environmental Quality, after August 15,~~  
 10                    ~~1995, shall publish a report, or a summary of the report, in the Louisiana Register~~  
 11                    ~~which includes:~~

12                    ~~(a) A statement identifying the specific risks being addressed by the policy,~~  
 13                    ~~standard, or regulation and any published, peer-reviewed scientific literature used by~~  
 14                    ~~the department to characterize the risks.~~

15                    ~~(b) A comparative analysis of the risks addressed by the policy, standard, or~~  
 16                    ~~regulation relative to other risks of a similar or analogous nature to which the public~~  
 17                    ~~is routinely exposed.~~

18                    ~~(c) An analysis based upon published, readily available peer-reviewed~~  
 19                    ~~scientific literature, describing how the proposed and final policy, standard, or~~  
 20                    ~~regulation will advance the purpose of protecting human health or the environment~~  
 21                    ~~against the specified identified risks.~~

22                    ~~(d) An analysis and statement that, based on the best readily available data,~~  
 23                    ~~the proposed or final policy, standard, or regulation presents the most cost-effective~~  
 24                    ~~method practically achievable to produce the benefits intended regarding the risks~~  
 25                    ~~identified in Subparagraph (a) of this Paragraph.~~

26                    ~~(2) No regulation shall become effective until the secretary complies with the~~  
 27                    ~~requirements of Paragraph (1) of this Subsection.~~

28                    ~~(3) This provision shall not apply in those cases where the policy, standard,~~  
 29                    ~~or regulation:~~

30                    ~~(a) Is required for compliance with a federal law or regulation.~~

1                   (b) Is identical to a federal law or regulation applicable in Louisiana.

2                   (c) ~~Will cost the state and affected persons less than one million dollars, in~~  
3 ~~the aggregate, to implement.~~

4                   (d) ~~Is an emergency rule under R.S. 49:953.1.~~

5                   (4) ~~For purposes of this Subsection, the term "identical" shall mean that the~~  
6 ~~proposed rule has the same content and meaning as the corresponding federal law or~~  
7 ~~regulation.~~

8                   (5) ~~In complying with this Section, the department shall consider any~~  
9 ~~scientific and economic studies or data timely provided by interested parties which~~  
10 ~~are relevant to the issues addressed herein and the proposed policy, standard, or~~  
11 ~~regulation being considered.~~

12                   H. ~~The Department of Wildlife and Fisheries and the Louisiana Wildlife and~~  
13 ~~Fisheries Commission may employ the timetables and provisions of Subsection B~~  
14 ~~of this Section in promulgating rules and regulations relative to hunting seasons,~~  
15 ~~trapping seasons, alligator seasons, shrimp seasons, oysters seasons, and finfish~~  
16 ~~seasons and size limits, and all rules and regulations pursuant thereto. Rules adopted~~  
17 ~~annually pursuant to this Subsection which open and close the offshore and fall~~  
18 ~~shrimp seasons, the oyster seasons, the marine finfish seasons, the webless migratory~~  
19 ~~game bird hunting season, and the trapping season shall be effective for the duration~~  
20 ~~of the respective season. Notwithstanding the provisions of Paragraph (B)(4) of this~~  
21 ~~Section, any legislative oversight hearing held on a rule proposed under the~~  
22 ~~provisions of this Subsection shall be held no earlier than five days and no later than~~  
23 ~~thirty days following the date of adoption of the rule.~~

24                   I.(1) ~~No later than the tenth day of the month, the office of the state register~~  
25 ~~shall electronically transmit to the commercial division of the Department of State,~~  
26 ~~all of the following information:~~

27                   (a) ~~The small business economic impact statement prepared by the agency~~  
28 ~~pursuant to R.S. 49:978.4 and the small business regulatory flexibility analysis~~  
29 ~~prepared pursuant to R.S. 49:978.5.~~

30                   (b) ~~The summary of the estimated costs to small businesses, citizens, and~~

1 nongovernmental groups as is provided in Subsection E of this Section.

2 (c) ~~Any potpourri notices which are submitted to the office of the state~~  
3 ~~register pursuant to R.S. 49:978.4.~~

4 (2) ~~Prior to electronically sending the information required in this Subsection~~  
5 ~~and Subsection E of this Section to the commercial division of the Department of~~  
6 ~~State, the office of the state register shall divide the information by agency.~~

7 ~~§953.1.~~**§962.** Emergency rulemaking

8 A.(1) In extraordinary circumstances an agency may adopt an emergency rule  
9 as an alternative to the rulemaking provisions provided for in ~~R.S. 49:953~~ **R.S.**  
10 **49:961.** An emergency rule may be adopted by an agency without prior notice or a  
11 public hearing for any of the following reasons:

12 \* \* \*

13 (5) No emergency rule shall be adopted by an agency more than two  
14 consecutive times unless the agency is operating under a state or federal declaration  
15 of disaster, a state or federal public health emergency, or an ongoing emergency as  
16 authorized by the legislature, governor, or other provision of law. However, the  
17 agency may concurrently proceed with the adoption of an identical rule pursuant to  
18 the procedure provided for in ~~R.S. 49:953(A)~~ **R.S. 49:961(A).**

19 \* \* \*

20 C. The validity of an emergency rule may be determined in an action for  
21 declaratory judgment in the district court of the parish in which the agency is located.  
22 The agency shall be made a party to the action. An action for a declaratory judgment  
23 under this Section may be brought only by a person to whom such emergency rule  
24 is applicable or who would be adversely affected by such emergency rule and only  
25 on the grounds that the emergency rule does not meet the criteria for adoption of an  
26 emergency rule as provided in Paragraph (A)(1) of this Section. The court shall  
27 declare the emergency rule invalid if it finds that there is not sufficient evidence that  
28 such emergency rule must be adopted on an emergency basis for one or more of the  
29 reasons for adoption of an emergency rule as provided in Subsection A of this  
30 Section. Notwithstanding any provision of law to the contrary, the emergency rule

1 shall remain in effect until such declaratory judgment is rendered. The provisions of  
 2 ~~R.S. 49:963~~ **R.S. 49:968** shall not apply to any action brought pursuant to this  
 3 Section. The provisions of this Section are in addition to ~~R.S. 49:963~~ **R.S. 49:968**  
 4 and shall not limit any action pursuant to ~~R.S. 49:963~~ **R.S. 49:968**.

5 \* \* \*

6 **G. The Department of Wildlife and Fisheries and the Louisiana Wildlife**  
 7 **and Fisheries Commission may employ the timetables and provisions of this**  
 8 **Section in promulgating rules and regulations relative to hunting seasons,**  
 9 **trapping seasons, alligator seasons, shrimp seasons, oyster seasons, and finfish**  
 10 **seasons and size limits, and all rules and regulations pursuant thereto. Rules**  
 11 **adopted annually pursuant to this Subsection which open and close the offshore**  
 12 **and fall shrimp seasons, the oyster seasons, the marine finfish seasons, the**  
 13 **webless migratory game bird hunting season, and the trapping season shall be**  
 14 **effective for the duration of the respective season. Notwithstanding the**  
 15 **provisions of Subsection D of this Section, any legislative oversight hearing held**  
 16 **on a rule proposed under the provisions of this Subsection shall be held no**  
 17 **earlier than five days and no later than thirty days following the date of**  
 18 **adoption of the rule.**

19 **§963. Department of Environmental Quality; procedure for adoption of rules**

20 **A.(1) Notwithstanding any other provision of this Chapter to the**  
 21 **contrary, if the Department of Environmental Quality proposes a rule that is**  
 22 **not identical to a federal law or regulation or is not required for compliance**  
 23 **with a federal law or regulation, the department shall do all of the following:**

24 **(a) Adopt and promulgate the proposed rule separately from any**  
 25 **proposed rule or set of proposed rules that is identical to a federal law or**  
 26 **regulation or required for compliance with a federal law or regulation, unless**  
 27 **the only difference between the proposed rule or set of proposed rules and the**  
 28 **corresponding federal law or regulation is a proposed fee. For purposes of this**  
 29 **Subsection, the term "identical" shall mean that the proposed rule has the same**  
 30 **content and meaning as the corresponding federal law or regulation.**

1           **(b)(i) Provide a brief summary which explains the basis and rationale for**  
2           **the proposed rule, identifies the data and evidence, if any, upon which the rule**  
3           **is based, and identifies any portions of the proposed rule that differ from**  
4           **federal law or regulation if there is a federal law or regulation which is not**  
5           **identical but which corresponds substantially to the proposed rule.**

6           **(ii) The summary shall be provided along with the notice of intent and**  
7           **shall be published in the Louisiana Register or made available along with the**  
8           **proposed rule as provided in R.S. 49:961(A)(4). The department may also**  
9           **provide the summary when proposing a rule identical to a corresponding**  
10           **federal law or regulation or proposing a rule which is required for compliance**  
11           **with federal law or regulation to explain the basis and rationale for the**  
12           **proposed rule.**

13           **(2) Notwithstanding any other provision of this Chapter to the contrary,**  
14           **when the department proposes a rule that is identical to a federal law or**  
15           **regulation applicable in Louisiana, except as provided in Paragraph (3) of this**  
16           **Subsection, it may use the following procedure for the adoption of the rule:**

17           **(a) The department shall publish a notice of the proposed rule at least**  
18           **sixty days prior to taking action on the rule as provided below. The notice,**  
19           **which may include an explanation of the basis and rationale for the proposed**  
20           **rule, shall include all of the following:**

21           **(i) A statement of either the terms or substance of the intended action or**  
22           **a description of the subjects and issues involved.**

23           **(ii) A statement that no fiscal or economic impact will result from the**  
24           **proposed rule.**

25           **(iii) The name of the person within the department who has**  
26           **responsibility for responding to inquiries about the intended action.**

27           **(iv) The time, place, and manner in which interested persons may**  
28           **present their views including the notice for a public hearing required by R.S.**  
29           **30:2011(D)(1).**

30           **(v) A statement that the intended action complies with the law**

1 administered by the department, including a citation of the specific provisions  
2 of law which authorize the proposed rule.

3 (b) Notice of the proposed rule shall be published at least once in the  
4 Louisiana Register and shall be submitted with a full text of the proposed rule  
5 to the Louisiana Register at least seventy days prior to the date the department  
6 proposes to formally adopt the rule. The office of the state register may omit  
7 from the Louisiana Register any proposed rule the publication of which would  
8 be unduly cumbersome, expensive, or otherwise inexpedient, if the Louisiana  
9 Register contains a notice stating the general subject matter of the omitted  
10 proposed rule, the process being employed by the department for adoption of  
11 the proposed rule, and stating how a copy of the proposed rule may be obtained.

12 (c) Notice of the intent of the department to adopt the rule shall be  
13 transmitted to all persons who have made timely request for notice at the  
14 earliest possible date, and in no case later than ten days after the date when the  
15 proposed rule is submitted to the Louisiana Register.

16 (d) For the purposes of this Paragraph, the date of notice is the date of  
17 publication of the issue of the Louisiana Register in which the notice appears as  
18 stated on the outside cover or the first page of the issue.

19 (e) The department shall afford all interested persons an opportunity to  
20 submit data, views, comments, or arguments related to the proposed rule, in  
21 writing, during a period of no less than thirty days. The department shall  
22 consider fully all written comments and submissions respecting the proposed  
23 rule.

24 (f) The department shall make available to all interested persons copies  
25 of the proposed rule from the time the notice of its adoption is published in the  
26 Louisiana Register.

27 (g) The department shall issue a response to comments and submissions  
28 describing the principal reasons for and against adoption of any amendments  
29 or changes suggested in the written comments and submissions and specifically  
30 addressing any assertion that the proposed rule is not identical to the federal



1 law or regulation upon which it is based. The department shall issue the  
2 response to comments and submissions to any person who presented comments  
3 or submissions on the rule and to any requesting person no later than fifteen  
4 days prior to the time of publication of the final rule.

5 (h) No later than fifteen days prior to the time of publication of the final  
6 rule in the Louisiana Register, the secretary or any authorized assistant  
7 secretary of the department shall do each of the following:

8 (i) Certify under oath, to the governor of the state of Louisiana, the  
9 attorney general of Louisiana, the speaker of the House of Representatives, the  
10 president of the Senate, the chairman of the House Committee on Natural  
11 Resources and Environment, the chairman of the Senate Committee on  
12 Environmental Quality, and the office of the state register that the proposed  
13 rule is identical to a specified federal law or regulation applicable in Louisiana.

14 (ii) Furnish the chairman of the Senate Committee on Environmental  
15 Quality and the chairman of the House Committee on Natural Resources and  
16 Environment the response to comments and submissions required under  
17 Subparagraph (g) of this Paragraph, together with a copy of the notice required  
18 under Subparagraph (a) of this Paragraph.

19 (i) Unless specifically requested, in writing, by the chairman of the House  
20 Committee on Natural Resources and Environment or the chairman of the  
21 Senate Committee on Environmental Quality within ten days of the certification  
22 provided under Subparagraph (h) of this Paragraph, there shall be no  
23 legislative oversight of the proposed rule. If, however, legislative oversight is  
24 properly requested, R.S. 49:961(B)(2) and (3) and 966 shall thereafter apply  
25 with respect to the proposed rule.

26 (j) In the absence of legislative oversight, the proposed rule may be  
27 adopted by the department no earlier than sixty days, nor later than twelve  
28 months, after the official notice of the proposed rule was published in the  
29 Louisiana Register. The proposed rule shall be effective upon its publication in  
30 the Louisiana Register subsequent to the act of adoption.

1           **(3) The procedures set forth in Paragraph (2) of this Subsection for the**  
2           **adoption by the department of rules identical to federal laws or regulations**  
3           **applicable in Louisiana shall not be available for the adoption of any rules**  
4           **creating or increasing fees.**

5           **B.(1) Prior to or concurrent with publishing notice of any proposed**  
6           **policy, standard, or regulation pursuant to Subsection A of this Section and**  
7           **prior to promulgating any policy, standard, or final regulation whether**  
8           **pursuant to R.S. 49:965 or otherwise under the authority of the Louisiana**  
9           **Environmental Quality Act, R.S. 30:2001 et seq., the department shall publish**  
10           **a report, or a summary of the report, in the Louisiana Register which includes:**

11           **(a) A statement identifying the specific risks being addressed by the**  
12           **policy, standard, or regulation and any published, peer-reviewed scientific**  
13           **literature used by the department to characterize the risks.**

14           **(b) A comparative analysis of the risks addressed by the policy, standard,**  
15           **or regulation relative to other risks of a similar or analogous nature to which**  
16           **the public is routinely exposed.**

17           **(c) An analysis based upon published, readily available peer-reviewed**  
18           **scientific literature, describing how the proposed and final policy, standard, or**  
19           **regulation will advance the purpose of protecting human health or the**  
20           **environment against the specified identified risks.**

21           **(d) An analysis and statement that, based on the best readily available**  
22           **data, the proposed or final policy, standard, or regulation presents the most**  
23           **cost-effective method practically achievable to produce the benefits intended**  
24           **regarding the risks identified in Subparagraph (a) of this Paragraph.**

25           **(2) No regulation shall become effective until the secretary complies with**  
26           **the requirements of Paragraph (1) of this Subsection.**

27           **(3) This provision shall not apply in those cases where the policy,**  
28           **standard, or regulation meets one or more of the following criteria:**

29           **(a) Is required for compliance with a federal law or regulation.**

30           **(b) Is identical to a federal law or regulation applicable in Louisiana.**

1                    (c) Will cost the state and affected persons less than one million dollars,  
 2                    in the aggregate, to implement.

3                    (d) Is an emergency rule under R.S. 49:962.

4                    (4) For purposes of this Subsection, the term "identical" shall mean that  
 5                    the proposed rule has the same content and meaning as the corresponding  
 6                    federal law or regulation.

7                    (5) In complying with this Section, the department shall consider any  
 8                    scientific and economic studies or data timely provided by interested parties  
 9                    which are relevant to the issues addressed and the proposed policy, standard,  
 10                    or regulation being considered.

11                    ~~§954.3.~~§963.1 Environmental Regulatory Code

12                    [Section redesignated from R.S. 49:954.3]

13                    §964. Public request for the adoption, amendment, or repeal of a rule; agency  
 14                    rule review

15                    A. An interested person may petition an agency requesting the adoption,  
 16                    amendment, or repeal of a rule. Each agency shall prescribe by rule the form  
 17                    for petitions and the procedure for their submission, considerations, and  
 18                    disposition. Within ninety days after submission of a petition, the agency shall  
 19                    either deny the petition in writing, stating reasons for the denial, or shall initiate  
 20                    rulemaking proceedings in accordance with this Chapter. Each agency with an  
 21                    appropriated operating budget of five million dollars or more shall include on  
 22                    its website a description of the procedure for submitting petitions in accordance  
 23                    with this Subsection.

24                    B.(1) At least once prior to January 1, 2020, and at least once during  
 25                    every six-year period thereafter, each agency subject to Subsection A of this  
 26                    Section which engages in rulemaking shall conduct a public hearing for the  
 27                    purpose of allowing any interested person the opportunity to comment on any  
 28                    rule of the agency which the person believes is contrary to law, outdated,  
 29                    unnecessary, overly complex, or burdensome. The agency shall publish notice  
 30                    of the meeting in the Louisiana Register, give notice of the meeting

1 electronically to the appropriate legislative oversight committees, and shall  
 2 provide notice of the meeting to all persons who have made timely request of the  
 3 agency for notice of rule changes, all no later than thirty days prior to the  
 4 meeting.

5 (2) The notice of the meeting shall contain:

6 (a) The name of the agency.

7 (b) The purpose of the meeting.

8 (c) The time and place of the meeting.

9 (d) The process for requesting reasonable accommodations for persons  
 10 with disabilities.

11 (e) The name and contact information of the person within the agency  
 12 to whom interested persons should direct their views regarding the agency's  
 13 rules, if in writing, and the deadline for submission of written comments.

14 (3) The agency shall consider fully all written and oral comments and  
 15 submissions concerning its rules. The agency shall advise persons who provide  
 16 oral comments that in order to be submitted to the legislative oversight  
 17 committees, comments must be submitted to the agency in writing. The agency  
 18 shall issue a response to each submission describing the principal advantages  
 19 and disadvantages of the rule changes suggested in the submission. In addition,  
 20 the agency may prepare a statement explaining the basis and rationale for the  
 21 rule in question identifying the data and evidence upon which the rule is based.  
 22 All such statements and responses to submissions shall be furnished to the  
 23 respective legislative oversight committees in the manner provided by R.S.  
 24 49:966(K) and shall be made available to interested persons as soon as possible  
 25 but no later than one day following their submission to the appropriate  
 26 legislative oversight committees.

27 ~~§954.~~§965. Filing; taking effect of rules

28 A. No rule adopted ~~on or after January 1, 1975,~~ is valid unless adopted in  
 29 substantial compliance with this Chapter. Each rulemaking agency shall file a  
 30 certified copy of its rules with the Office of the State Register. No rule, ~~whether~~



1 or by messenger who shall provide a receipt for signature. The electronic receipt by  
2 the committee, return receipt or the messenger's receipt shall be proof of receipt of  
3 the report by the committee.

4 \* \* \*

5 (24) \* \* \*

6 (b) Whenever the fiscal impact or economic impact of the proposed rule  
7 change or fee adoption, increase, or decrease is five hundred thousand dollars or  
8 more as indicated by the statement of fiscal impact or the statement of economic  
9 impact required by Subsection C of this Section, the agency shall transmit the report  
10 provided for in Subsection C of this Section to each member of the legislature via  
11 electronic mail on the same day the notice of the intended action is submitted to the  
12 Louisiana Register for publication in accordance with ~~R.S. 49:953~~ **R.S. 49:961**.

13 C. The report, as provided for in Subsection B of this Section, shall contain:

14 \* \* \*

15 (2) A statement of ~~the proposed action, that is,~~ whether the rule is proposed  
16 for adoption, amendment, or repeal; a brief summary of the content of the rule if  
17 proposed for adoption or repeal; and a brief summary of the change in the rule if  
18 proposed for amendment.

19 \* \* \*

20 (4) A statement of the circumstances which require adoption, amending, or  
21 repeal of the rule or ~~the~~ adoption, increasing, or decreasing of the fee.

22 \* \* \*

23 D.(1)(a) The chairman of each standing committee to which reports are  
24 submitted shall appoint an oversight subcommittee, which may conduct hearings on  
25 all rules that are proposed for adoption, amendment, or repeal and on all proposed  
26 fee adoptions, increases, or decreases. Any ~~such~~ hearing shall be conducted after any  
27 hearing is conducted by the agency pursuant to ~~R.S. 49:953(A)(2)~~ **R.S. 49:961**.

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

1 (i) A summary of all testimony at any hearing conducted pursuant to ~~R.S.~~  
2 ~~49:953(A)(2)~~ R.S. 49:961.

3 \* \* \*

4 (c) The agency shall publish on its website public notice that the report  
5 required by Subparagraph (b) of this Paragraph has been delivered to the appropriate  
6 standing committee as provided for in Subsection B of this Section within ~~one~~ five  
7 business ~~day~~ days from submission of the report to the appropriate standing  
8 committee. If the agency does not maintain a website, the agency may submit the  
9 public notice to the Office of the State Register for publication on a website  
10 maintained by the Office of the State Register.

11 \* \* \*

12 (3) At ~~such~~ the hearings, the oversight subcommittees shall make all of the  
13 following determinations:

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

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

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

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

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

28 \* \* \*

29 F.(1) If either the House or Senate oversight subcommittee determines that  
30 a proposed rule change or proposed fee action is unacceptable, the respective

1 subcommittee shall provide a written report which contains **all of** the following:

2 \* \* \*

3 G. After receipt of the report of the subcommittee, the governor shall have  
 4 ten calendar days in which to disapprove the action taken by the subcommittee. If the  
 5 action of the subcommittee is not disapproved by the governor within ten calendar  
 6 days from the day the subcommittee report is delivered to him, the rule change shall  
 7 not be adopted by the agency until it has been changed or modified and subsequently  
 8 found acceptable by the subcommittee, or has been approved by the standing  
 9 committee, or by the legislature by concurrent resolution. If a proposed rule change  
 10 is determined to be unacceptable by an oversight committee and ~~such~~ **the**  
 11 determination is not disapproved by the governor as provided in this Section, the  
 12 agency shall not propose a rule change or emergency rule that is the same or  
 13 substantially similar to such disapproved proposed rule change nor shall the agency  
 14 adopt an emergency rule that is the same or substantially similar to such disapproved  
 15 proposed rule change within four months after issuance of a written report by the  
 16 subcommittee as provided in Subsection F of this Section nor more than once during  
 17 the interim between regular sessions of the legislature.

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

26 (2) Substantive changes to a rule proposed for adoption, amendment, or  
 27 repeal occur if the nature of the proposed rule is altered or if ~~such~~ **the** changes affect  
 28 additional or different substantive matters or issues not included in the notice  
 29 required by ~~R.S. 49:953(A)(1)~~ **R.S. 49:961**. Whenever an agency seeks to  
 30 substantively change a proposed rule after notice of intent has been published in the



1 Louisiana Register pursuant to ~~R.S. 49:953(A)(1)~~ **R.S. 49:961**, the agency shall hold  
 2 a public hearing on the substantive changes preceded by an announcement of the  
 3 hearing in the Louisiana Register. A notice of the hearing shall be mailed within ten  
 4 days after the date the announcement is submitted to the Louisiana Register to all  
 5 persons who have made request of the agency for ~~such~~ notice. Any hearing by the  
 6 agency pursuant to this Paragraph shall be held no earlier than thirty days after the  
 7 publication of the announcement in the Louisiana Register. The agency hearing shall  
 8 conform to ~~R.S. 49:953(A)(2)(b)~~ **R.S. 49:961**, and a report on the hearing shall be  
 9 made to the oversight committees in accordance with Subparagraph D(1)(b) of this  
 10 Section. The agency shall make available to interested persons a copy of ~~such~~ **the**  
 11 report no later than one working day following the submittal of such report to the  
 12 oversight committees. Any determination as to the rule by the oversight committees,  
 13 prior to gubernatorial review as provided in Subsection G of this Section, shall be  
 14 made no earlier than five days and no later than thirty days following the day the  
 15 report required by this Paragraph is received from the agency.

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

20 \* \* \*

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

26 K. \* \* \*

27 (2) The report required by Paragraph (1) of this Subsection shall also contain  
 28 a recitation of each petition and submission, if any, received by the agency pursuant  
 29 to ~~R.S. 49:953(C)~~ **R.S. 49:961** during the previous calendar year and the agency's  
 30 response to each petition and submission, if any were received.

\* \* \*

1  
2 ~~§968.1~~§967. Review of rules relative to state content standards; elementary and  
3 secondary education

4 [Section redesignated from R.S. 49:968.1]

5 ~~§963.~~§968. Judicial review of validity or applicability of rules

6 [Section redesignated from R.S. 49:963]

7 §969. Legislative veto, amendment, or suspension of rules, regulations, and fees

8 A. In addition to the procedures provided in ~~R.S. 49:968~~ **R.S. 49:966** for  
9 review of the exercise of the rulemaking authority delegated by the legislature to  
10 state agencies, as defined by this Chapter, the legislature, by Concurrent Resolution,  
11 may suspend, amend, or repeal any rule or regulation or body of rules or regulations,  
12 or any fee or any increase, decrease, or repeal of any fee, adopted by a state  
13 department, agency, board, or commission. The Louisiana Register shall publish a  
14 brief summary of any Concurrent Resolution adopted by the legislature pursuant to  
15 this Section. ~~Such~~ **The** summary shall be published not later than forty-five days  
16 after signing of such Resolution by the presiding officers of the legislature.

17 \* \* \*

18 §970. Gubernatorial suspension or veto of rules and regulations

19 A. The governor, by executive order, may suspend or veto any rule or  
20 regulation or body of rules or regulations adopted by a state department, agency,  
21 board or commission, except as provided in ~~R.S. 49:967~~ **R.S. 49:954**, within thirty  
22 days of ~~their~~ adoption. Upon the execution of ~~such~~ an order, the governor shall  
23 transmit copies ~~thereof~~ **of the order** to the speaker of the House of Representatives  
24 and president of the Senate.

25 \* \* \*

26 §971. Rejection of agency fee adoption, increases, or decreases; prohibition against  
27 fee increases and new fees; exceptions

28 A.(1) If either the House or Senate oversight subcommittees appointed  
29 pursuant to ~~R.S. 49:968~~ **R.S. 49:966** determines that a proposed fee adoption,  
30 increase, or decrease is unacceptable, the respective subcommittee shall provide a

1 written report containing the reasons ~~therefor~~ **for the finding** to the governor, the  
2 agency proposing the fee adoption, increase, or decrease, and the other house of the  
3 legislature. If the oversight subcommittee of the other house of the legislature  
4 likewise determines that the proposed fee adoption, increase, or decrease is  
5 unacceptable the fee action shall not be adopted by the agency.

6 \* \* \*

7 (3) However, no state agency which has the authority to impose or assess fees  
8 shall increase any existing fee or impose any new fee unless the fee increase or fee  
9 adoption is expressly authorized pursuant to a fee schedule established by statute or  
10 specifically authorized by a federal law, rules, or regulations for the purpose of  
11 satisfying an express mandate of such federal law, rule, or regulation. No state  
12 agency shall adjust, modify or change the formula for any authorized fee in a manner  
13 that would increase the fee paid by any person by more than five percent of the  
14 relevant fee paid by such person in the previous fiscal year. Proposed fee increases  
15 of less than five percent shall be subject to oversight as required by ~~R.S. 49:968~~ **R.S.**  
16 **49:966.**

17 \* \* \*

18 B. Action by a subcommittee shall require **a quorum and** the favorable vote  
19 of a majority of the members of the subcommittee who are present and voting;  
20 ~~provided a quorum is present.~~

21 \* \* \*

22 ~~§978.1.~~**§974.1.** Short title

23 ~~R.S. 49:978.1~~ **R.S. 49:974.1** through ~~978.8~~ **974.8** may be cited as the Small  
24 Business Protection Act and are referred to therein as "this Act".

25 ~~§978.2.~~**§974.2.** Intent; legislative findings

26 [Section redesignated from R.S. 49:978.2]

27 ~~§978.3.~~**§974.3.** Definitions

28 [Section redesignated from R.S. 49:978.3]

29 ~~§978.4.~~**§974.4.** Small business economic impact statements; potpourri notices

30 A. \* \* \*

1 (2) The small business economic impact statement shall be submitted to the  
2 office of the state register pursuant to ~~R.S. 49:953~~ **R.S. 49:961**.

3 \* \* \*

4 ~~§978.5.~~**§974.5**. Regulatory flexibility analysis

5 \* \* \*

6 B. Prior to the adoption of any proposed rule by an agency which according  
7 to the economic impact statement required by ~~R.S. 49:978.4~~ **R.S. 49:974.4** and the  
8 results of the regulatory flexibility analysis required by this Section would have an  
9 adverse impact on small businesses, the agency shall notify the Department of  
10 Economic Development of its intent to adopt the proposed rule.

11 C. The agency shall submit the small business flexibility analysis with the  
12 office of the state register, pursuant to ~~R.S. 49:953~~ **R.S. 49:961**.

13 ~~§978.6.~~**§974.6**. Conflicts of law

14 [Section redesignated from R.S. 49:978.6]

15 ~~§978.7.~~**§974.7**. Notification

16 Upon receiving the electronic transfer of information from the office of the  
17 state register, as provided in ~~R.S. 49:953~~ **R.S. 49:961**, the commercial division of the  
18 Department of State shall perform all of the following items:

19 \* \* \*

20 ~~§978.8.~~**§974.8**. Small business advocate; posting of rules

21 A. The secretary of state shall designate a small business advocate from the  
22 existing staff of the commercial division of the Department of State to implement  
23 and maintain the notification duties and functions required of the Department of  
24 State pursuant to ~~R.S. 49:978.7~~ **R.S. 49:974.7**.

25 B. The small business advocate shall coordinate the implementation and  
26 maintenance of the website of the commercial division of the Department of State  
27 relative to the receipt of information from the office of the state register, pursuant to  
28 ~~R.S. 49:953~~ **R.S. 49:961**. The department shall enter into an agreement with the  
29 office of the state register to arrange for the electronic receipt of the information on  
30 an ongoing basis.

\* \* \*

PART III. ADJUDICATION

~~§955:~~§975. Adjudication; notice; hearing; records

\* \* \*

B.(1) The notice shall include **all of the following**:

~~(1)~~(a) A statement of the time, place, and nature of the hearing;

~~(2)~~(b) A statement of the legal authority and jurisdiction under which the hearing is to be held;

~~(3)~~(c) A reference to the particular sections of the statutes and rules involved;

~~(4)~~(d) A short and plain statement of the matters asserted.

(2) If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon application, a more definite and detailed statement shall be furnished.

C. Opportunity shall be afforded all parties to respond and present evidence on all issues of fact involved and argument on all issues of law and policy involved and to conduct ~~such~~ cross-examination as ~~may be~~ required for a full and true disclosure of the facts.

\* \* \*

E. The record in a case of adjudication shall include **all of the following**:

(1) All pleadings, motions, intermediate rulings;

(2) Evidence received or considered or a resume thereof if not transcribed;

(3) A statement of matters officially noticed except matters so obvious that statement of them would serve no useful purpose;

(4) Offers of proof, objections, and rulings thereon;

(5) Proposed findings and exceptions;

(6) Any decision, opinion, or report by the officer presiding at the hearing.

F. The agency shall make a full transcript of all proceedings before it when the statute governing it requires it, and, in the absence of ~~such~~ a requirement, shall,

1 at the request of any party or person, have prepared and furnish him with a copy of  
2 the transcript or any part thereof **of the transcript** upon payment of the cost thereof  
3 unless the governing statute or constitution provides that it shall be furnished without  
4 cost.

5 \* \* \*

6 ~~§956.~~**§975.1.** Rules of evidence; official notice; oaths and affirmations; subpoenas;  
7 depositions and discovery; and confidential privileged information  
8 [Section redesignated from R.S. 49:956]

9 ~~§956.1~~**§975.2.** Administrative proceedings; member of the legislature or personnel  
10 as witness  
11 [Section redesignated from R.S. 49:956.1]

12 ~~§957.~~**§976.** Examination of evidence by agency  
13 [Section redesignated from R.S. 49:957]

14 ~~§958.~~**§977.** Decisions and orders  
15 [Section redesignated from R.S. 49:958]

16 ~~§959.~~**§977.1.** Rehearings  
17 A. A decision or order in a case of adjudication shall be subject to rehearing,  
18 reopening, or reconsideration by the agency, within ten days from the date of its  
19 entry. The grounds for such action shall be either that **one of the following:**

- 20 (1) The decision or order is clearly contrary to the law and the evidence;
- 21 (2) The party has discovered since the hearing evidence important to the  
22 issues which he could not have with due diligence obtained before or during the  
23 hearing;
- 24 (3) There is a showing that issues not previously considered ought to be  
25 examined in order properly to dispose of the matter; ~~or~~
- 26 (4) There is other good ground for further consideration of the issues and the  
27 evidence in the public interest.

28 \* \* \*

29 ~~§960.~~**§977.2.** Ex parte consultations and recusations

30 \* \* \*



1 purposes of this Subsection and of R.S. 49:992(H), the term "litigation expenses"  
2 shall mean court costs and attorney fees of the agency and of any other party if the  
3 agency was required to pay ~~such~~ costs and fees.

4 ~~§965.~~**§979.** Appeals

5 [Section redesignated from R.S. 49:965]

6 ~~§965.1.~~**§980.** Expenses of administrative proceedings; right to recover

7 [Section redesignated from R.S. 49:965.1]

8 Section 2(A). The Louisiana State Law Institute is hereby directed to redesignate  
9 R.S. 49:950 through 957, as provided in Section 1 of this Act, as Part I of Chapter 13 of Title  
10 49 of the Louisiana Revised Statutes of 1950, to be entitled "General Provisions".

11 (B) The Louisiana State Law Institute is hereby directed to redesignate R.S. 49:961  
12 through 974.8, as provided in Section 1 of this Act, as Part II of Chapter 13 of Title 49 of the  
13 Louisiana Revised Statutes of 1950, to be entitled "Rule Promulgation".

14 (C) The Louisiana State Law Institute is hereby directed to redesignate R.S. 49:975  
15 through 980, as provided in Section 1 of this Act, as Part III of Chapter 13 of Title 49 of the  
16 Louisiana Revised Statutes of 1950, to be entitled "Adjudication".

17 Section 3. The Louisiana State Law Institute is hereby authorized to update any  
18 citation references in Louisiana Law to conform with the changes made by this Act.

\_\_\_\_\_  
PRESIDENT OF THE SENATE

\_\_\_\_\_  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_