

1 STATE OF OKLAHOMA

2 1st Session of the 60th Legislature (2025)

3 SENATE BILL 318

By: Bergstrom

6 AS INTRODUCED

7 An Act relating to administrative rules; amending 62
8 O.S. 2021, Section 8012, which relates to the
9 Legislative Office of Fiscal Transparency; modifying
10 Office responsibilities; directing Office to
11 establish division for reviewing administrative
12 rules; stating role of division; amending 75 O.S.
13 2021, Sections 250.3 and 253, as amended by Sections
14 1 and 2, Chapter 38, O.S.L. 2023 (75 O.S. Supp. 2024,
15 Sections 250.3 and 253), which relate to the
16 Administrative Procedures Act; defining terms;
17 modifying authority to approve emergency rule
provisions; providing authority for the Governor to
call an extraordinary session for certain purpose;
amending 75 O.S. 2021, Section 303, which relates to
rule submission; requiring submission of rule impact
statement to the Legislative Office of Fiscal
Transparency; amending 75 O.S. 2021, Section 318,
which relates to judicial review; construing
provision; updating statutory references; providing
for codification; and providing an effective date.

18
19 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

20 SECTION 1. AMENDATORY 62 O.S. 2021, Section 8012, is
21 amended to read as follows:

22 Section 8012. A. The Legislative Office of Fiscal Transparency
23 shall:

- 1 1. Gather information regarding the proposed budgets of
2 executive branch agencies each fiscal year;
- 3 2. Analyze the information and evaluate the extent to which the
4 agency budget does or does not fulfill the agency's primary duties
5 and responsibilities under applicable provisions of federal, state,
6 or other law;
- 7 3. Analyze and forecast all revenues available to the agency
8 from appropriations, fees, dedicated revenue, or any other source;
- 9 4. Compare the agency budget information to the comparable
10 information contained in that agency's budget requests from prior
11 fiscal years; and
- 12 5. Conduct such investigations regarding the operations of the
13 agency as required in order to fulfill the duties imposed upon the
14 Office by law or as otherwise directed by the oversight committee;
15 and
- 16 6. Conduct rule impact analyses for major rules, as defined in
17 Section 250.3 of Title 75 of the Oklahoma Statutes, proposed by
18 state agencies.

19 The oversight committee, subject to the direction of the
20 President Pro Tempore of the Senate and the Speaker of the House of
21 Representatives, shall ensure that the functions performed by the
22 Office pursuant to the provisions of this subsection do not
23 duplicate those of the Senate Committee on Appropriations and the

1 House Committee on Appropriations and Budget and their respective
2 staffs.

3 B. The Office shall further conduct performance evaluations and
4 may conduct independent comprehensive performance audits. The
5 oversight committee created in Section ~~3 of this act~~ 8013 of this
6 title may periodically identify specific executive branch agencies,
7 or programs, activities, or functions within executive branch
8 agencies, for which the Office shall conduct a performance
9 evaluation or independent comprehensive performance audit.

10 C. As used in ~~this act~~ Section 8011 et seq. of this title,
11 "performance evaluation" means an examination of a program,
12 activity, or function of an executive branch agency, conducted in
13 accordance with applicable government auditing standards or auditing
14 and evaluation standards of other appropriate authoritative bodies.
15 The term includes, but is not limited to, an examination of issues
16 related to:

17 1. Economy, efficiency, or effectiveness of the agency or
18 program, including any revenue sources used to fund or support the
19 agency or program;

20 2. Structure or design of the agency or program to accomplish
21 its goals and objectives;

22 3. Adequacy of the agency or program to meet the needs or
23 policy goals identified by the Legislature;

1 4. Alternative methods of providing agency or program services
2 or products;

3 5. Goals, objectives, and performance measures used by the
4 agency to monitor and report agency or program accomplishments;

5 6. The accuracy or adequacy of public documents, reports, or
6 requests prepared by or in relation to the agency or program;

7 7. Compliance with appropriate policies, rules, or laws related
8 to the agency or program; and

9 8. Any other issues related to such agencies or programs as
10 directed by the oversight committee.

11 D. As used in ~~this act~~ Section 8011 et seq. of this title,
12 "independent comprehensive performance audit (ICPA)" includes, but
13 is not limited to, a review and analysis of the economy, efficiency,
14 effectiveness, and compliance of the policies, management, fiscal
15 affairs, and operations of state agencies, divisions, programs, and
16 accounts. The results of an ICPA may be used by the Legislature to
17 implement the best budgeting and policy-making practices for
18 government services to run in the most cost-effective way. The
19 Office may, at the direction of the oversight committee and subject
20 to the approval of the President Pro Tempore of the Senate and the
21 Speaker of the House of Representatives, contract with a private
22 company, nonprofit organization, or academic institution to assist
23 with an independent comprehensive performance audit or for
24 professional consulting and administrative support services. The

1 Office may, but shall not be required to, contract with the Office
2 of the State Auditor and Inspector to conduct any ICPA. The Office
3 shall develop the scope of services for a request for proposals
4 issued, for professional services necessary to complete each ICPA.
5 Prior to entering into any contract, the Office shall obtain no less
6 than three separate bids for the auditing services, unless the
7 Office determines that fewer than three entities meet the
8 qualifications to bid to perform such services as set forth by the
9 Office. The cost of the contract shall be paid by the Legislative
10 Services Service Bureau.

11 An independent comprehensive performance audit shall address but
12 not be limited to the following topics:

13 1. Policies which shall include constitutional mandates, if
14 any, statutory mandates, statutory authorizations, administrative
15 rules or policies of the affected agency reflected in internal
16 agency documents, or agency practices;

17 2. All sources of funding received by the agency, inclusive of
18 federal funds, state appropriations, state-dedicated revenues, fee
19 revenue sources, the use of agency revolving funds, or any other
20 fund or revenue source which is used to pay the expenses of the
21 agency;

22 3. Management of the agency which shall include, but not be
23 limited to, its governance, capacity, divisions, programs, accounts,
24 information technology systems, and policies and agency operations

1 which include objective analysis of the roles and functions of the
2 department; and

3 4. A schedule for implementation of agency-specific
4 recommendations.

5 SECTION 2. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 8016 of Title 62, unless there
7 is created a duplication in numbering, reads as follows:

8 A. The Legislative Office of Fiscal Transparency shall, within
9 ninety (90) days of the effective date of this act, establish a
10 division within the Office for the purpose of reviewing the Oklahoma
11 Administrative Code and conducting rule impact analyses for major
12 rules proposed by state agencies. The Office may employ no more
13 than five full-time employees to service the division and carry out
14 the functions outlined in this section.

15 B. In conducting a rule impact analysis for a major rule, the
16 Office shall include the following:

- 17 1. The statement of need for the proposed permanent rule;
- 18 2. Legal basis or statutory authority for the rule;
- 19 3. Examination of alternatives to the rule or regulation;
- 20 4. Evaluation of costs and benefits, including direct benefits,
21 cost savings or benefits to the public, estimated compliance costs
22 for regulated entities, secondary or indirect costs, effects on
23 state revenue, effects on state expenditures or administrative
24 expenses, and an estimated opportunity cost;

- 1 5. Sources consulted to conduct the analysis; and
2 6. Key assumptions or areas of uncertainty.

3 C. The Office shall also conduct the analysis prescribed in
4 subsection B of this section for any existing administrative rules
5 upon the request of the President Pro Tempore of the Senate, the
6 Speaker of the House of Representatives, or the Senate or House
7 Administrative Rules committees.

8 D. Upon completion, a rule impact analysis shall be made
9 publicly available. An annual report shall be electronically
10 submitted to the President Pro Tempore of the Senate, the Speaker of
11 the House of Representatives, and the chairs of the Senate and House
12 Administrative Rules committees at the end of the calendar year
13 detailing the evaluations conducted that year.

14 E. The Office shall provide a rule impact analysis for a major
15 rule not later than the fifteenth (15) legislative session day
16 following the date of submission by the agency.

17 SECTION 3. AMENDATORY 75 O.S. 2021, Section 250.3, as
18 amended by Section 1, Chapter 38, O.S.L. 2023 (75 O.S. Supp. 2024,
19 Section 250.3), is amended to read as follows:

20 Section 250.3. As used in the Administrative Procedures Act:

- 21 1. "Administrative head" means an official or agency body
22 responsible pursuant to law for issuing final agency orders;
23 2. "Adopted" means a proposed emergency rule which has been
24 approved by the agency but has not been approved or disapproved by

the Governor as an emergency rule as provided by Section 253 of this title, or a proposed permanent rule which has been approved by the agency and not disapproved by the Governor pursuant to paragraph 6 of subsection A of Section 303 of this title, but has not been finally approved or disapproved by the Legislature or the Governor;

3. "Agency" includes but is not limited to any constitutionally or statutorily created state board, bureau, commission, office, authority, public trust in which the state is a beneficiary, or interstate commission, except:

a. the Legislature or any branch, committee or officer thereof, and

4. "Emergency rule" means a rule that is made pursuant to Section 253 of this title;

5. "Final rule" or "finally adopted rule" means a rule other than an emergency rule, which has not been published pursuant to Section 255 of this title but is otherwise in compliance with the requirements of the Administrative Procedures Act, and is:

- a. approved by the Legislature pursuant to Section 308.3 of this title, provided that any such joint resolution becomes law in accordance with Section 11 of Article VI of the Oklahoma Constitution,
- b. approved by the Governor pursuant to subsection C of Section 308.3 of this title.

1 c. approved by a joint resolution pursuant to subsection
2 B of Section 308 of this title, provided that any such
3 resolution becomes law in accordance with Section 11
4 of Article VI of the Oklahoma Constitution, or
5 d. disapproved by a joint resolution pursuant to
6 subsection B of Section 308 of this title or Section
7 308.3 of this title, which has been vetoed by the
8 Governor in accordance with Section 11 of Article VI
9 of the Oklahoma Constitution and the veto has not been
10 overridden;

11 6. "Final agency order" means an order that includes findings
12 of fact and conclusions of law pursuant to Section 312 of this
13 title, is dispositive of an individual proceeding unless there is a
14 request for rehearing, reopening, or reconsideration pursuant to
15 Section 317 of this title and which is subject to judicial review;

16 7. "Hearing examiner" means a person meeting the qualifications
17 specified by Article II of the Administrative Procedures Act and who
18 has been duly appointed by an agency to hold hearings and, as
19 required, render orders or proposed orders;

20 8. "Individual proceeding" means the formal process employed by
21 an agency having jurisdiction by law to resolve issues of law or
22 fact between parties and which results in the exercise of discretion
23 of a judicial nature;

1 9. "License" includes the whole or part of any agency permit,
2 certificate, approval, registration, charter, or similar form of
3 permission required by law;

4 10. "Major rule" means any administrative rule, whether it is
5 emergency or permanent in nature, that will result in or is likely
6 to result in:

7 a. an annual effect on the economy of One Million Dollars
8 (\$1,000,000.00) or more,

9 b. significant adverse effects on competition,
10 employment, investment, productivity, or innovation,
11 including significant adverse effects on individual
12 industries or regions, or

13 c. significant changes in social and cultural relations
14 among citizens, including significant impacts on
15 religious, ethnic, racial, or gender populations;

16 11. "Nonmajor rule" means any rule that is not a major rule;

17 12. "Office" means the Office of the Secretary of State;

18 11. 13. "Order" means all or part of a formal or official
19 decision made by an agency including but not limited to final agency
20 orders;

21 12. 14. "Party" means a person or agency named and
22 participating, or properly seeking and entitled by law to
23 participate, in an individual proceeding;

1 13. 15. "Permanent rule" means a rule that is made pursuant to
2 Section 303 of this title;

3 14. 16. "Person" means any individual, partnership,
4 corporation, association, governmental subdivision, or public or
5 private organization of any character other than an agency;

6 15. 17. "Political subdivision" means a county, city,
7 incorporated town or school district within this state;

8 16. 18. "Promulgated" means a finally adopted rule which has
9 been filed and published in accordance with the provisions of the
10 Administrative Procedures Act, or an emergency rule or preemptive
11 rule which has been approved by the Governor;

12 17. 19. "Rule" means any agency statement or group of related
13 statements of general applicability and future effect that
14 implements, interprets or prescribes law or policy, or describes the
15 procedure or practice requirements of the agency. The term rule
16 includes the amendment or revocation of an effective rule but does
17 not include:

18 a. the issuance, renewal, denial, suspension or
19 revocation or other sanction of an individual specific
20 license,

21 b. the approval, disapproval or prescription of rates.

22 For purposes of this subparagraph, the term "rates"
23 shall not include fees or charges fixed by an agency
24 for services provided by that agency including but not

limited to fees charged for licensing, permitting,
inspections or publications,

c. statements and memoranda concerning only the internal management of an agency and not affecting private rights or procedures available to the public,

d. declaratory rulings issued pursuant to Section 307 of this title,

e. orders by an agency, or

f. press releases or "agency news releases", provided such releases are not for the purpose of interpreting or implementing or prescribing law or agency policy;

18. 20. "Rulemaking" means the process employed by an agency

for the formulation of a rule;

19. 21. "Secretary" means the Secretary of State;

20. 22. "Small business" means a for-profit enterprise consisting of fifty or fewer full-time or part-time employees; and

21. 23. "Technical legal defect" means an error that would otherwise invalidate an action by a court of law.

SECTION 4. AMENDATORY 75 O.S. 2021, Section 253, as

amended by Section 2, Chapter 38, O.S.L. 2023 (75 O.S. Supp. 2024, Section 253), is amended to read as follows:

Section 253. A. 1. If an agency finds that a rule is necessary as an emergency measure, the rule may be promulgated pursuant to the provisions of this section, if the rule is first

1 approved by the Governor Legislature. The Governor Legislature
2 shall not approve the adoption, amendment, revision, or revocation
3 of a rule as an emergency measure unless the agency submits
4 substantial evidence that the rule is necessary as an emergency
5 measure to do any of the following:

- 6 a. protect the public health, safety or welfare,
- 7 b. comply with deadlines in amendments to an agency's
governing law or federal programs,
- 8 c. avoid violation of federal law or regulation or other
state law,
- 9 d. avoid imminent reduction to the agency's budget, or
- 10 e. avoid serious prejudice to the public interest.

11 As used in this subsection, "substantial evidence" shall mean
12 credible evidence which is of sufficient quality and probative value
13 to enable a person of reasonable caution to support a conclusion.

14 2. In determining whether a rule is necessary as an emergency
measure, the Governor Legislature shall consider whether the
15 emergency situation was created due to the agency's delay or
16 inaction and could have been averted by timely compliance with the
17 provisions of this chapter.

18 B. An emergency rule adopted by an agency shall:

19 1. Be prepared in the format required by Section 251 of this
title;

- 1 2. a. Include an impact statement which meets the
2 requirements set forth in subparagraph b of this
3 paragraph unless the ~~Governor~~ Legislature waives the
4 requirement in writing upon a finding that the rule
5 impact statement or the specified contents thereof are
6 unnecessary or contrary to the public interest.
- 7 b. The rule impact statement shall include, but not be
8 limited to:
- 9 (1) a brief description of the proposed rule,
10 (2) a description of the persons who most likely will
11 be affected by the proposed rule, including
12 classes that will bear the costs of the proposed
13 rule, and any information on cost impacts
14 received by the agency from any private or public
15 entities,
- 16 (3) a description of the classes of persons who will
17 benefit from the proposed rule,
- 18 (4) a description of the probable economic impact of
19 the proposed rule upon affected classes of
20 persons or political subdivisions, including a
21 listing of all fee changes and, whenever
22 possible, a separate justification for each fee
23 change,

- (5) the probable costs and benefits to the agency and to any other agency of the implementation and enforcement of the proposed rule, and any anticipated effect on state revenues, including a projected net loss or gain in such revenues if it can be projected by the agency,
 - (6) a determination of whether implementation of the proposed rule may have an adverse economic effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act,
 - (7) an explanation of the measures the agency has taken to minimize compliance costs and a determination of whether there are less costly or nonregulatory methods or less intrusive methods for achieving the purpose of the proposed rule,
 - (8) a determination of the effect of the proposed rule on the public health, safety, and environment and, if the proposed rule is designed to reduce significant risks to the public health, safety, and environment, an explanation of the nature of the risk and to what extent the proposed rule will reduce the risk,

- (9) a determination of any detrimental effect on the public health, safety, and environment if the proposed rule is not implemented, and
 - (10) the date the rule impact statement was prepared and if modified, the date modified.

c. The rule impact statement shall be prepared on or before the date the emergency rule is adopted;

3. Be transmitted pursuant to Section 464 of Title 74 of the

Oklahoma Statutes to the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the chief legislative officer of each chamber, along with the information required by this subsection within ten (10) days after the rule is adopted; and

4. Not be invalidated on the ground that the contents of the rule impact statement are insufficient or inaccurate.

C. 1. Within forty-five (45) calendar days of receipt of a proposed emergency rule filed with the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the chief legislative officer of each chamber, the ~~Governor~~ Legislature shall review the demonstration of emergency pursuant to subsection A of this section, and shall separately review the rule in accordance with the standards prescribed in paragraph 3 of this subsection.

1 2. Prior to approval of emergency rules, the Governor
2 Legislature shall submit the emergency rule to the Secretary of
3 State for review of proper formatting.

4 3. If the Governor Legislature determines the agency has
5 established the rule is necessary as an emergency measure pursuant
6 to subsection A of this section, the Governor Legislature shall
7 approve the proposed emergency rule if the rule is:

- 8 a. clear, concise, and understandable,
- 9 b. within the power of the agency to make and within the
10 enacted legislative standards, and
- 11 c. made in compliance with the requirements of the
12 Administrative Procedures Act.

13 D. If a major rule is submitted as an emergency rule under this
14 subsection and is done so when the Legislature is not in session,
15 the Governor may call the Legislature into an extraordinary session
16 for the sole purpose of voting to approve or disapprove the proposed
17 major rule if the Governor believes a major rule must go in effect.

18 In such cases, each chamber of the Legislature shall work in good
19 faith to schedule the vote promptly.

20 E. 1. Within the forty-five-calendar-day period set forth in
21 paragraph 1 of subsection C of this section, the Governor
22 Legislature may approve the emergency rule or disapprove the
23 emergency rule. Failure of the Governor Legislature to approve an
24

1 emergency rule within the specified period shall constitute
2 disapproval of the emergency rule.

3 2. If the ~~Governor~~ Legislature disapproves the adopted
4 emergency rule, the ~~Governor~~ Legislature shall return the entire
5 document to the agency with reasons for the disapproval. If the
6 agency elects to modify the rule, the agency shall adopt the
7 modifications, and shall file the modified rule in accordance with
8 the requirements of subsection B of this section.

9 3. Upon disapproval of an emergency rule, the Governor shall,
10 within fifteen (15) days, make written notification to the Speaker
11 of the House of Representatives, the President Pro Tempore of the
12 Senate, the chief legislative officer of each chamber, and the
13 Office of Administrative Rules.

14 E. 1. Upon approval of an emergency rule, the Governor shall
15 immediately make written notification to the agency, the Speaker of
16 the House of Representatives, the President Pro Tempore of the
17 Senate, the chief legislative officer of each chamber, and the
18 Office of Administrative Rules. Upon receipt of the notice of the
19 approval, the agency shall file with the Office of Administrative
20 Rules as many copies of the notice of approval and the emergency
21 rule as required by the Secretary.

22 2. Emergency rules shall be subject to legislative review
23 pursuant to Section 308 of this title.

1 3. F. A major rule submitted as an emergency rule may go into
2 effect for purposes of this act earlier than specified in this
3 section if the Governor publishes a statement including the
4 following:

5 1. An explanation of the emergency or federal requirement that
6 exists requiring an earlier effective date for the rule; and

7 2. If the Legislature is not in session or is near the end of
8 its Legislative session, an explanation of why the Legislature
9 cannot be called back into session specially to consider and vote on
10 the major rule.

11 Nothing in this subsection shall be construed to prevent the
12 Legislature from voting to disapprove a major rule submitted as an
13 emergency rule.

14 G. A nonmajor rule submitted as an emergency rule may take
15 effect after submission to the Legislature pursuant to this section.

16 H. The emergency rule shall be published in accordance with the
17 provisions of Section 255 of this title in "The Oklahoma Register"
18 following the approval by the Governor Legislature. The Governor's
19 Legislature's approval and the approved rules shall be retained as
20 official records by the Office of Administrative Rules.

21 F. I. 1. Upon approval by the Governor Legislature, an
22 emergency rule shall be considered promulgated and shall be in force
23 immediately, or on such later date as specified therein. An

1 emergency rule shall only be applied prospectively from its
2 effective date.

3 2. Except as otherwise provided in this subsection, the
4 emergency rule shall remain in full force and effect through the
5 first day of the next succeeding regular session of the Legislature
6 following promulgation of such emergency rule until September 14
7 following such session, unless it is made ineffective pursuant to
8 subsection ~~H~~ K of this section.

9 ~~G.~~ J. No agency shall adopt any emergency rule which
10 establishes or increases fees, except during such times as the
11 Legislature is in session, unless specifically mandated by the
12 Legislature or federal legislation, or when the failure to establish
13 or increase fees would conflict with an order issued by a court of
14 law.

15 ~~H.~~ K. 1. If an emergency rule is of a continuing nature, the
16 agency promulgating such emergency rule shall initiate proceedings
17 for promulgation of a permanent rule pursuant to Sections 303
18 through 308.2 of this title. If an emergency rule is superseded by
19 another emergency rule prior to the enactment of a permanent rule,
20 the latter emergency rule shall retain the same expiration date as
21 the superseded emergency rule, unless otherwise authorized by the
22 Legislature.

23 2. Any promulgated emergency rule shall be made ineffective if:

24 a. disapproved by the Legislature,

- 1 b. superseded by the promulgation of permanent rules,
- 2 c. any adopted rules based upon such emergency rules are
- 3 subsequently disapproved pursuant to Section 308 of
- 4 this title, or
- 5 d. an earlier expiration date is specified by the agency
- 6 in the rules.

7 3. a. Emergency rules in effect on the first day of the

8 session shall be null and void on September 15

9 following sine die adjournment of the Legislature

10 unless otherwise specifically provided by the

11 Legislature.

12 b. Unless otherwise authorized by the Legislature, an

13 agency shall not adopt any emergency rule, which has

14 become null and void pursuant to subparagraph a of

15 this paragraph, as a new emergency rule or adopt any

16 emergency rules of similar scope or intent as the

17 emergency rules which became null and void pursuant to

18 subparagraph a of this paragraph.

19 I. L. Emergency rules shall not become effective unless

20 approved by the ~~Governor~~ Legislature pursuant to the provisions of

21 this section.

22 J. M. 1. The requirements of Section 303 of this title

23 relating to notice and hearing shall not be applicable to emergency

24 rules promulgated pursuant to the provisions of this section.

1 Provided, this shall not be construed to prevent an abbreviated
2 notice and hearing process determined to be necessary by an agency.

3 2. The rule report required pursuant to Section 303.1 of this
4 title shall not be applicable to emergency rules promulgated
5 pursuant to the provisions of this section. Provided, this shall
6 not be construed to prevent an agency from complying with such
7 requirements at the discretion of such agency.

8 3. The statement of submission required by Section 303.1 of
9 this title shall not be applicable to emergency rules promulgated
10 pursuant to the provisions of this section.

11 K. N. Prior to approval or disapproval of an emergency rule by
12 the ~~Governor~~ Legislature, an agency may withdraw from review an
13 emergency rule submitted pursuant to the provisions of this section.
14 Notice of such withdrawal shall be given to ~~the Governor~~, the
15 Speaker of the House of Representatives, and the President Pro
16 Tempore of the Senate in accordance with the requirements set forth
17 in Section 464 of Title 74 and to the Office of Administrative Rules
18 as required by the Secretary. In order to be promulgated as
19 emergency rules, any replacement rules shall be resubmitted pursuant
20 to the provisions of this section.

21 L. O. Upon completing the requirements of this section, an
22 agency may promulgate a proposed emergency rule. No emergency rule
23 is valid unless promulgated in substantial compliance with the
24 provisions of this section.

1 M. P. Emergency rules adopted by an agency or approved by the
2 Governor Legislature shall be subject to review pursuant to the
3 provisions of Section 306 of this title.

4 SECTION 5. AMENDATORY 75 O.S. 2021, Section 303, is
5 amended to read as follows:

6 Section 303. A. Prior to the adoption of any rule or amendment
7 or revocation of a rule and except as provided for pursuant to the
8 expedited rule repeal process provided in Section 9 of this act, the
9 agency shall:

10 1. Cause notice of any intended action to be published in "The
11 Oklahoma Register" pursuant to subsection B of this section;

12 2. For at least thirty (30) days after publication of the
13 notice of the intended rulemaking action, afford a comment period
14 for all interested persons to submit data, views or arguments,
15 orally or in writing. The agency shall consider fully all written
16 and oral submissions respecting the proposed rule;

17 3. Hold a hearing, if required, as provided by subsection C of
18 this section;

19 4. Consider the effect its intended action may have on the
20 various types of business and governmental entities. Except where
21 such modification or variance is prohibited by statute or
22 constitutional constraints, if an agency finds that its actions may
23 adversely affect any such entity, the agency may modify its actions
24 to exclude that type of entity, or may "tier" its actions to allow

1 rules, penalties, fines or reporting procedures and forms to vary
2 according to the size of a business or governmental entity or its
3 ability to comply or both. For business entities, the agency shall
4 include a description of the probable quantitative and qualitative
5 impact of the proposed rule, economic or otherwise, and use
6 quantifiable data to the extent possible, taking into account both
7 short-term and long-term consequences;

8 5. Consider the effect its intended action may have on the
9 various types of consumer groups. If an agency finds that its
10 actions may adversely affect such groups, the agency may modify its
11 actions to exclude that type of activity; and

12 6. When an agency provides notice pursuant to paragraph 1 of
13 this subsection, the agency shall provide one (1) electronic copy of
14 the complete text of the proposed rule, amendment or revocation and
15 a copy of the notice to the Governor and to the appropriate cabinet
16 secretary. No agency may adopt any proposed rule, amendment or
17 revocation if, within thirty (30) days from providing notice to the
18 Governor and the appropriate cabinet secretary, the agency receives
19 express written disapproval from the Governor or the cabinet
20 secretary. If the Governor or the cabinet secretary disapproves a
21 rule, the affected agency shall be notified in writing of the
22 reasons for disapproval. If, after thirty (30) days of providing
23 the notice to the Governor and the cabinet secretary, the agency has
24

1 not received an express written disapproval, the agency may proceed
2 with the rulemaking process.

3 B. The notice required by paragraph 1 of subsection A of this
4 section shall include, but not be limited to:

- 5 1. In simple language, a brief summary of the rule;
- 6 2. The proposed action being taken;
- 7 3. The circumstances which created the need for the rule;
- 8 4. The specific legal authority, including statutory citations,
9 authorizing the proposed rule;

10 5. The intended effect of the rule;
11 6. If the agency determines that the rule affects business
12 entities, a request that such entities provide the agency, within
13 the comment period, in dollar amounts if possible, the increase in
14 the level of direct costs such as fees, and indirect costs such as
15 reporting, recordkeeping, equipment, construction, labor,
16 professional services, revenue loss, or other costs expected to be
17 incurred by a particular entity due to compliance with the proposed
18 rule;

19 7. The time when, the place where, and the manner in which
20 interested persons may present their views thereon pursuant to
21 paragraph 3 of subsection A of this section;

22 8. Whether or not the agency intends to issue a rule impact
23 statement according to subsection D of this section and where copies
24 of such impact statement may be obtained for review by the public;

1 9. The time when, the place where, and the manner in which
2 persons may demand a hearing on the proposed rule if the notice does
3 not already provide for a hearing. If the notice provides for a
4 hearing, the time and place of the hearing shall be specified in the
5 notice; and

6 10. Where copies of the proposed rules may be obtained for
7 review by the public. An agency may charge persons for the actual
8 cost of mailing a copy of the proposed rules to such persons.

9 The number of copies of such notice as specified by the
10 Secretary shall be submitted to the Secretary who shall publish the
11 notice in "The Oklahoma Register" pursuant to the provisions of
12 Section 255 of this title.

13 Prior to or within three (3) days after publication of the
14 notice in "The Oklahoma Register", the agency shall cause a copy of
15 the notice of the proposed rule adoption and the rule impact
16 statement, if available, to be mailed to all persons who have made a
17 timely request of the agency for advance notice of its rulemaking
18 proceedings. Provided, in lieu of mailing copies, an agency may
19 electronically notify interested persons that a copy of the proposed
20 rule and the rule impact statement, if available, may be viewed on
21 the agency's website. If an agency posts a copy of the proposed
22 rule and rule impact statement on its website, the agency shall not
23 charge persons for the cost of downloading or printing the proposed

1 rule or impact statement. Each agency shall maintain a listing of
2 persons or entities requesting such notice.

3 C. 1. If the published notice does not already provide for a
4 hearing, an agency shall schedule a hearing on a proposed rule if,
5 within thirty (30) days after the published notice of the proposed
6 rule adoption, a written request for a hearing is submitted by:

- 7 a. at least ten persons,
- 8 b. a political subdivision,
- 9 c. an agency, or
- 10 d. an association having not less than twenty-five
11 members.

12 At that hearing persons may present oral argument, data, and
13 views on the proposed rule.

14 2. A hearing on a proposed rule may not be held earlier than
15 thirty (30) days after notice of the hearing is published pursuant
16 to subsection B of this section.

17 3. The provisions of this subsection shall not be construed to
18 prevent an agency from holding a hearing or hearings on the proposed
19 rule although not required by the provisions of this subsection;
20 provided that notice of such hearing shall be published in "The
21 Oklahoma Register" at least thirty (30) days prior to such hearing.

22 D. 1. Except as otherwise provided in this subsection, an
23 agency shall issue a rule impact statement of a proposed rule prior
24 to or within fifteen (15) days after the date of publication of the

1 notice of proposed rule adoption. The rule impact statement may be
2 modified after any hearing or comment period afforded pursuant to
3 the provisions of this section. Following issuance and any
4 subsequent modification, the agency shall submit the rule impact
5 statement to the Legislative Office of Fiscal Transparency to
6 conduct a rule impact analysis.

7 2. Except as otherwise provided in this subsection, the rule
8 impact statement shall include, but not be limited to:

- 9 a. a brief description of the purpose of the proposed
10 rule,
- 11 b. a description of the classes of persons who most
12 likely will be affected by the proposed rule,
13 including classes that will bear the costs of the
14 proposed rule, and any information on cost impacts
15 received by the agency from any private or public
16 entities,
- 17 c. a description of the classes of persons who will
18 benefit from the proposed rule,
- 19 d. a description of the probable economic impact of the
20 proposed rule upon affected classes of persons or
21 political subdivisions, including a listing of all fee
22 changes and, whenever possible, a separate
23 justification for each fee change,

- 1 e. the probable costs and benefits to the agency and to
2 any other agency of the implementation and enforcement
3 of the proposed rule, the source of revenue to be used
4 for implementation and enforcement of the proposed
5 rule, and any anticipated effect on state revenues,
6 including a projected net loss or gain in such
7 revenues if it can be projected by the agency,
- 8 f. a determination of whether implementation of the
9 proposed rule will have an economic impact on any
10 political subdivisions or require their cooperation in
11 implementing or enforcing the rule,
- 12 g. a determination of whether implementation of the
13 proposed rule may have an adverse economic effect on
14 small business as provided by the Oklahoma Small
15 Business Regulatory Flexibility Act,
- 16 h. an explanation of the measures the agency has taken to
17 minimize compliance costs and a determination of
18 whether there are less costly or nonregulatory methods
19 or less intrusive methods for achieving the purpose of
20 the proposed rule,
- 21 i. a determination of the effect of the proposed rule on
22 the public health, safety and environment and, if the
23 proposed rule is designed to reduce significant risks
24 to the public health, safety and environment, an

- 1 explanation of the nature of the risk and to what
2 extent the proposed rule will reduce the risk,
3 j. a determination of any detrimental effect on the
4 public health, safety and environment if the proposed
5 rule is not implemented, and
6 k. the date the rule impact statement was prepared and if
7 modified, the date modified.

8 3. To the extent an agency for good cause finds the preparation
9 of a rule impact statement or the specified contents thereof are
10 unnecessary or contrary to the public interest in the process of
11 adopting a particular rule, the agency may request the Governor to
12 waive such requirement. Such request shall be in writing and shall
13 state the agency's findings and the justification for such findings.
14 Upon request by an agency, the Governor may also waive the rule
15 impact statement requirements if the agency is required to implement
16 a statute or federal requirement that does not require an agency to
17 interpret or describe the requirements, such as federally mandated
18 provisions which afford the agency no discretion to consider less
19 restrictive alternatives. If the Governor fails to waive such
20 requirement, in writing, prior to publication of the notice of the
21 intended rulemaking action, the rule impact statement shall be
22 completed. The determination to waive the rule impact statement
23 shall not be subject to judicial review.

1 4. The rule shall not be invalidated on the ground that the
2 contents of the rule impact statement are insufficient or
3 inaccurate.

4 E. Upon completing the requirements of this section, an agency
5 may adopt a proposed rule. No rule is valid unless adopted in
6 substantial compliance with the provisions of this section.

7 SECTION 6. AMENDATORY 75 O.S. 2021, Section 318, is
8 amended to read as follows:

9 Section 318. A. 1. Any party aggrieved by a final agency
10 order in an individual proceeding is entitled to certain, speedy,
11 adequate and complete judicial review thereof pursuant to the
12 provisions of this section and Sections 319, 320, 321, 322 and 323
13 of this title.

14 2. This section shall not prevent resort to other means of
15 review, redress, relief or trial de novo, available because of
16 constitutional provisions.

17 3. Neither a motion for new trial nor an application for
18 rehearing shall be prerequisite to secure judicial review.

19 B. 1. The judicial review prescribed by this section for final
20 agency orders, as to agencies whose final agency orders are made
21 subject to review, under constitutional or statutory provisions, by
22 appellate proceedings in the Supreme Court of Oklahoma, shall be
23 afforded by such proceedings taken in accordance with the procedure
24 and under the conditions otherwise provided by law, but subject to

1 the applicable provisions of Sections 319 through 324 of this title,
2 and the rules of the Supreme Court.

3 2. In all other instances, proceedings for review shall be
4 instituted by filing a petition, in the district court of the county
5 in which the party seeking review resides or at the option of such
6 party where the property interest affected is situated, naming as
7 respondents only the agency, such other party or parties in the
8 administrative proceeding as may be named by the petitioner or as
9 otherwise may be allowed by law, within thirty (30) days after the
10 appellant is notified of the final agency order as provided in
11 Section 312 of this title.

12 C. Copies of the petition shall be delivered in person or
13 mailed, postage prepaid, to the agency and all other parties of
14 record, and proof of such delivery or mailing shall be filed in the
15 court within ten (10) days after the filing of the petition. Any
16 party not named as a respondent in the petition is entitled to
17 respond within ten (10) days of receipt of service. The court, in
18 its discretion, may permit other interested persons to intervene.

19 D. In any proceedings for review brought by a party aggrieved
20 by a final agency order:

21 1. The agency whose final agency order was made subject to
22 review may be entitled to recover against such aggrieved party any
23 court costs, witness fees and reasonable attorney fees if the court
24

1 determines that the proceeding brought by the party is frivolous or
2 was brought to delay the effect of said final agency order.

3 2. The party aggrieved by the final agency order may be
4 entitled to recover against such agency any court costs, witness
5 fees, and reasonable attorney fees if the court determines that the
6 proceeding brought by the agency is frivolous.

7 E. Action taken by the Legislature to approve a major rule
8 shall not be construed to serve as a grant or modification of
9 statutory authority by the Legislature for the promulgation of a
10 rule, shall not extinguish or affect any claim, whether substantive
11 or procedural, against any alleged decent in a rule, and shall not
12 form part of the record before the court in any judicial proceeding
13 concerning a rule except for purposes of determining whether or not
14 the rule is in effect.

15 SECTION 7. This act shall become effective November 1, 2025.
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17 60-1-63 RD 12/31/2024 11:56:13 AM
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