

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                                   1st Session of the 56th Legislature (2017)

4   HOUSE BILL 1461

                                  By: Echols

7                                   AS INTRODUCED

8           An Act relating to state government; creating the  
9           Oklahoma Sunset Law; defining terms; creating the  
10          Sunset Advisory Commission; providing for membership,  
11          terms and staffing of the Commission; requiring  
12          agency report to the Commission; providing powers and  
13          duties of the Commission; authorizing public  
14          hearings; requiring report by the Commission;  
15          establishing criteria for review of agencies;  
16          requiring staff to monitor recommendations; providing  
17          for abolishment of advisory committees; authorizing  
18          Commission to exempt certain agencies from  
19          requirements; providing for continuation of agencies;  
20          providing for actions after termination of agency;  
21          authorizing Commission to issue subpoenas; requiring  
22          assistance by state entities; providing for  
23          confidentiality of records; providing for review of  
24          proposed legislation creating an agency or regulating  
          an occupation; repealing 74 O.S. 2011, Sections 3901,  
          3902, 3903, 3904, 3905, 3906, 3907, as amended by  
          Section 12, Chapter 269, O.S.L. 2016, 3908, 3909, as  
          amended by Section 1009, Chapter 304, O.S.L. 2012,  
          3911, 3913, 3914, as amended by Section 4, Chapter  
          168, O.S.L. 2015, 3915, 3916, 3917, 3918, 3920, as  
          amended by Section 1010, Chapter 304, O.S.L. 2012 and  
          3921 (74 O.S. Supp. 2016, Sections 3907, 3909, 3914  
          and 3920), which relate to the Oklahoma Sunset Law;  
          providing for codification; and providing an  
          effective date.

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

1 SECTION 1. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 10101 of Title 74, unless there  
3 is created a duplication in numbering, reads as follows:

4 This act shall be known and may be cited as the "Oklahoma Sunset  
5 Act".

6 SECTION 2. NEW LAW A new section of law to be codified  
7 in the Oklahoma Statutes as Section 10102 of Title 74, unless there  
8 is created a duplication in numbering, reads as follows:

9 As used in the Oklahoma Sunset Act:

10 1. "State agency" means an agency expressly made subject to  
11 this act;

12 2. "Advisory committee" means a board, committee, council,  
13 commission, department or other entity created pursuant to state law  
14 whose primary function is to advise a state agency; and

15 3. "Commission" means the Sunset Advisory Commission.

16 SECTION 3. NEW LAW A new section of law to be codified  
17 in the Oklahoma Statutes as Section 10103 of Title 74, unless there  
18 is created a duplication in numbering, reads as follows:

19 A. There is hereby created the Sunset Advisory Commission. The  
20 Commission shall consist of five members of the Senate and one  
21 public member appointed by the President Pro Tempore of the Senate  
22 and five members of the House of Representatives and one public  
23 member appointed by the Speaker of the House. The President Pro  
24

1 Tempore and the Speaker may serve as one of the legislative  
2 appointees.

3 B. An individual is not eligible for appointment as a public  
4 member if the individual or the individual's spouse of the  
5 individual is:

6 1. Regulated by a state agency that the Commission will review  
7 during the term for which the individual would serve;

8 2. Employed by, participates in the management of, or directly  
9 or indirectly has more than a ten percent (10%) interest in a  
10 business entity or other organization regulated by a state agency  
11 the commission will review during the term for which the individual  
12 would serve; or

13 3. Required to register as a lobbyist under the rules of the  
14 Ethics Commission because of the person's activities for  
15 compensation on behalf of a profession or entity related to the  
16 operation of an agency under review.

17 C. It is a ground for removal of a public member from the  
18 Commission if the member does not have the qualifications required  
19 by subsection B of this section for appointment to the Commission at  
20 the time of appointment or does not maintain the qualifications  
21 while serving on the Commission. The validity of the Commission's  
22 action is not affected by the fact that it was taken when a ground  
23 for removal of a public member from the Commission existed.

24

1 D. Legislative members serve four-year terms, with terms  
2 staggered so that the terms of as near to one-half (1/2) of the  
3 legislative members appointed by the President Pro Tempore as  
4 possible and the terms of as near to one-half (1/2) of the  
5 legislative members appointed by the Speaker of the House of  
6 Representatives as possible expire September 1 of each odd-numbered  
7 year. If the President Pro Tempore or the Speaker serves on the  
8 Commission, service continues until resignation from the Commission  
9 or until the individual ceases to hold the office. Public members  
10 serve two-year terms expiring September 1 of each odd-numbered year.

11 E. Members other than the President Pro Tempore and the Speaker  
12 are subject to the following restrictions:

13 1. After an individual serves six (6) years on the Commission,  
14 the individual is not eligible for appointment to another term or  
15 part of a term;

16 2. A legislative member who serves a full term shall not be  
17 appointed to an immediately succeeding term; and

18 3. A public member shall not serve more than two consecutive  
19 terms, and, for purposes of this prohibition, a member is considered  
20 to have served a term only if the member has served more than one-  
21 half (1/2) of the term.

22 F. The President Pro Tempore and Speaker shall make their  
23 appointments before September 1 of each odd-numbered year.

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1 G. If a legislative member ceases to be a member of the house  
2 from which he was appointed, the member vacates his or her  
3 membership on the Commission.

4 H. If a vacancy occurs, the appropriate appointing authority  
5 shall appoint a person to serve for the remainder of the unexpired  
6 term in the same manner as the original appointment.

7 I. The Commission shall have a chair and vice-chair as  
8 presiding officers. The chair and vice-chair shall alternate every  
9 two (2) years between the two membership groups appointed by the  
10 Lieutenant Governor and the Speaker. The chair and vice-chair shall  
11 not be from the same membership group. The President Pro Tempore  
12 shall designate a presiding officer from his or her appointed  
13 membership group and the Speaker shall designate the other presiding  
14 officer from his or her appointed membership group.

15 J. Seven members of the Commission constitute a quorum. A  
16 final action or recommendation shall not be made unless approved by  
17 a record vote of a majority of members appointed by the President  
18 Pro Tempore and the Speaker. All other actions by the Commission  
19 shall be decided by a majority of the members present and voting.

20 K. Each member of the Commission is entitled to reimbursement  
21 for actual and necessary expenses incurred in performing Commission  
22 duties. Each legislative member shall be reimbursed actual and  
23 necessary travel expenses when traveling on official state business  
24 as provided by the State Travel Reimbursement Act. Each public

1 member is entitled to reimbursement from funds appropriated to the  
2 Commission.

3 SECTION 4. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 10104 of Title 74, unless there  
5 is created a duplication in numbering, reads as follows:

6 A. The Commission shall employ an Executive Director to act as  
7 the executive head of the Commission.

8 B. The Executive Director shall employ persons necessary to  
9 carry out the Oklahoma Sunset Act through funds made available by  
10 the Legislature.

11 C. The chairman and vice-chairman of the Commission may each  
12 employ a staff to work for them on matters related to Commission  
13 activities.

14 SECTION 5. NEW LAW A new section of law to be codified  
15 in the Oklahoma Statutes as Section 10105 of Title 74, unless there  
16 is created a duplication in numbering, reads as follows:

17 A. Before September 1 of the odd-numbered year before the year  
18 in which a state agency subject to the Oklahoma Sunset Act is  
19 abolished, the agency shall report to the Commission:

20 1. Information regarding the application to the agency of the  
21 criteria in Section 10 of this act; and

22 2. Any other information that the agency considers appropriate  
23 or that is requested by the Commission.

24

1 B. The reports under subsection A of this section shall be  
2 submitted in electronic format only. The Commission shall prescribe  
3 the electronic format to be used.

4 SECTION 6. NEW LAW A new section of law to be codified  
5 in the Oklahoma Statutes as Section 10106 of Title 74, unless there  
6 is created a duplication in numbering, reads as follows:

7 Before September 1 of the odd-numbered year before the year in  
8 which a state agency subject to the Oklahoma Sunset Act is  
9 abolished, the state agency shall submit to the Commission, the  
10 Governor and each member of the Legislature a report that:

11 1. Lists each report that the agency is required by statute to  
12 prepare; and

13 2. Evaluates the need for each report listed in paragraph 1 of  
14 this section based on whether factors or conditions have changed  
15 since the date the statutory requirement to prepare the report was  
16 enacted.

17 SECTION 7. NEW LAW A new section of law to be codified  
18 in the Oklahoma Statutes as Section 10107 of Title 74, unless there  
19 is created a duplication in numbering, reads as follows:

20 Before January 1 of the year in which a state agency subject to  
21 the Oklahoma Sunset Act and its advisory committees are abolished,  
22 the Commission shall:

23 1. Review and take action necessary to verify the reports  
24 submitted by the agency under Section 5 of this act;

1           2. Conduct a review of the agency based on the criteria  
2 provided in Section 10 of this act and prepare a written report; and

3           3. Review the implementation of Commission recommendations  
4 contained in the reports presented to the Legislature during the  
5 preceding legislative session and the resulting legislation.

6           SECTION 8.           NEW LAW           A new section of law to be codified  
7 in the Oklahoma Statutes as Section 10108 of Title 74, unless there  
8 is created a duplication in numbering, reads as follows:

9           A. Before February 1 of the year a state agency subject to the  
10 Oklahoma Sunset Act and its advisory committees are abolished, the  
11 Commission shall conduct public hearings concerning but not limited  
12 to the application to the agency of the criteria provided in Section  
13 10 of this act.

14           B. The Commission may hold the public hearings after the review  
15 of the agency is complete.

16           SECTION 9.           NEW LAW           A new section of law to be codified  
17 in the Oklahoma Statutes as Section 10109 of Title 74, unless there  
18 is created a duplication in numbering, reads as follows:

19           A. At each regular legislative session, the Commission shall  
20 present to the Legislature and the Governor a report on the state  
21 agencies and advisory committees reviewed.

22           B. In the report the Commission shall include:

23           1. Its findings regarding the criteria prescribed by Section 10  
24 of this act;



1           2. Its recommendations based on the matters prescribed by  
2 Section 12 of this act; and

3           3. Other information the Commission considers necessary for a  
4 complete review of the state agency.

5           SECTION 10.       NEW LAW       A new section of law to be codified  
6 in the Oklahoma Statutes as Section 10110 of Title 74, unless there  
7 is created a duplication in numbering, reads as follows:

8           The Commission and its staff shall consider the following  
9 criteria in determining whether a public need exists for the  
10 continuation of a state agency or its advisory committees or for the  
11 performance of the functions of the agency or its advisory  
12 committees:

13           1. The efficiency and effectiveness with which the state agency  
14 or the advisory committee operates;

15           2.    a.    An identification of the mission, goals and objectives  
16                   intended for the state agency or advisory committee  
17                   and of the problem or need that the state agency or  
18                   advisory committee was intended to address, and

19           b.    The extent to which the mission, goals and objectives  
20                   have been achieved and the problem or need has been  
21                   addressed;

22           3.    a.    An identification of any activities of the state  
23                   agency in addition to those granted by statute and of  
24                   the authority for those activities, and

1           b.    The extent to which those activities are needed;

2           4.    An assessment of authority of the state agency relating to  
3 fees, inspections, enforcement and penalties;

4           5.    Whether less restrictive or alternative methods of  
5 performing any function that the agency performs could adequately  
6 protect or provide service to the public;

7           6.    The extent to which the jurisdiction of the state agency and  
8 the programs administered by the state agency overlap or duplicate  
9 those of other agencies, the extent to which the state agency  
10 coordinates with those agencies and the extent to which the programs  
11 administered by the state agency can be consolidated with the  
12 programs of other state agencies;

13          7.    The promptness and effectiveness with which the state agency  
14 addresses complaints concerning entities or other persons affected  
15 by the state agency, including an assessment of the state agency's  
16 administrative hearings process;

17          8.    An assessment of the state agency's rulemaking process and  
18 the extent to which the state agency has encouraged participation by  
19 the public in making its rules and decisions and the extent to which  
20 the public participation has resulted in rules that benefit the  
21 public;

22          9.    The extent to which the state agency has complied with:  
23  
24

1 a. federal and state laws and applicable rules regarding  
2 equality of employment opportunity and the rights and  
3 privacy of individuals, and

4 b. state law and applicable rules of any state agency  
5 regarding purchasing guidelines and programs for  
6 historically underutilized businesses;

7 10. The extent to which the state agency issues and enforces  
8 rules relating to potential conflicts of interest of its employees;

9 11. The extent to which the agency complies with and follows  
10 records management practices that enable the agency to respond  
11 efficiently to requests for public information;

12 12. The effect of federal intervention or loss of federal funds  
13 if the state agency is abolished; and

14 13. The extent to which the purpose and effectiveness of  
15 reporting requirements imposed on the state agency justifies the  
16 continuation of the requirement.

17 SECTION 11. NEW LAW A new section of law to be codified  
18 in the Oklahoma Statutes as Section 10111 of Title 74, unless there  
19 is created a duplication in numbering, reads as follows:

20 A. In this section:

21 1. "License" means a license, certificate, registration, permit  
22 or other form of authorization required by law or a state agency  
23 rule that must be obtained by an individual to engage in a  
24 particular occupation or profession;

1           2. "Public interest" means protection from a present and  
2 recognizable harm to public health, safety or welfare. The term  
3 shall not include speculative threats, or other nondemonstrable  
4 menaces to public health, safety or welfare. For the purposes of  
5 this paragraph, the term "welfare" includes the financial health of  
6 the public when the absence of governmental regulation unreasonably  
7 increases risk and liability to broad classes of consumers.

8           B. In an assessment of an state agency that licenses an  
9 occupation or profession, the Commission and its staff shall  
10 consider:

11           1. Whether the occupational licensing program:

- 12           a. serves a meaningful, defined public interest, and
- 13           b. provides the least restrictive form of regulation that  
14           will adequately protect the public interest;

15           2. The extent to which the regulatory objective of the  
16 occupational licensing program may be achieved through market  
17 forces, private or industry certification and accreditation programs  
18 or enforcement of other law;

19           3. The extent to which licensing criteria, if applicable,  
20 ensure that applicants have occupational skill sets or competencies  
21 that correlate with a public interest and the impact that those  
22 criteria have on applicants, particularly those with moderate or low  
23 incomes, seeking to enter the occupation or profession; and  
24

1 4. The impact of the regulation, including the extent to which  
2 the program stimulates or restricts competition and affects consumer  
3 choice and the cost of services.

4 SECTION 12. NEW LAW A new section of law to be codified  
5 in the Oklahoma Statutes as Section 10112 of Title 74, unless there  
6 is created a duplication in numbering, reads as follows:

7 A. In its report on a state agency, the Commission shall:

8 1. Make recommendations on the abolition, continuation or  
9 reorganization of each affected state agency and its advisory  
10 committees and on the need for the performance of the functions of  
11 the agency and its advisory committees;

12 2. Make recommendations on the consolidation, transfer or  
13 reorganization of programs within state agencies not under review  
14 when the programs duplicate functions performed in agencies under  
15 review;

16 3. Make recommendations to improve the operations of the  
17 agency, its policy body and its advisory committees, including  
18 management recommendations that do not require a change in the  
19 agency's enabling statute; and

20 4. Make recommendations on the continuation or abolition of  
21 each reporting requirement imposed on the agency by law.

22 B. The Commission shall include the estimated fiscal impact of  
23 its recommendations and may recommend appropriation levels for  
24 certain programs to improve the operations of the state agency.

1 C. The Commission shall have drafts of legislation prepared to  
2 carry out the Commission's recommendations under this section.

3 D. After the Legislature acts on the report under Section 9 of  
4 this act, the Commission shall present to the State Auditor and  
5 Inspector the Commission's recommendations that do not require a  
6 statutory change to be put into effect. Based on a risk assessment  
7 and subject to the legislative audit committee's approval of  
8 including the examination, the State Auditor and Inspector may  
9 examine the recommendations and include as part of the next approved  
10 audit of the state agency a report on whether the state agency has  
11 implemented the recommendations and, if so, in what manner.

12 SECTION 13. NEW LAW A new section of law to be codified  
13 in the Oklahoma Statutes as Section 10113 of Title 74, unless there  
14 is created a duplication in numbering, reads as follows:

15 A. In the two-year period preceding the date scheduled for the  
16 abolition of a state agency under the Oklahoma Sunset Act, the  
17 Commission may exempt certain agencies from the requirements of this  
18 act relating to staff reports, hearings and reviews.

19 B. The Commission may only exempt state agencies that have been  
20 inactive for a period of two (2) years preceding the date the state  
21 agency is scheduled for abolition or that have been rendered  
22 inactive by an action of the Legislature.

1 C. The Commission's action in exempting state agencies under  
2 this section shall be performed by an affirmative record vote and  
3 shall be decided by a majority of all members present and voting.

4 SECTION 14. NEW LAW A new section of law to be codified  
5 in the Oklahoma Statutes as Section 10114 of Title 74, unless there  
6 is created a duplication in numbering, reads as follows:

7 During each legislative session, the staff of the Commission  
8 shall monitor legislation affecting state agencies that have  
9 undergone sunset review and shall periodically report to the members  
10 of the Commission on proposed changes which would modify prior  
11 recommendations of the Commission.

12 SECTION 15. NEW LAW A new section of law to be codified  
13 in the Oklahoma Statutes as Section 10115 of Title 74, unless there  
14 is created a duplication in numbering, reads as follows:

15 An advisory committee, the primary function of which is to  
16 advise a particular state agency, is abolished on the date set for  
17 abolition of the state agency unless the advisory committee is  
18 expressly continued by law.

19 SECTION 16. NEW LAW A new section of law to be codified  
20 in the Oklahoma Statutes as Section 10116 of Title 74, unless there  
21 is created a duplication in numbering, reads as follows:

22 A. During the regular session immediately before the abolition  
23 of a state agency or an advisory committee that is subject to the  
24 Oklahoma Sunset Act, the Legislature by law may continue the state

1 agency or advisory committee for a period not to exceed twelve (12)  
2 years.

3 B. This act shall not prohibit the Legislature from:

4 1. Terminating a state agency or advisory committee subject to  
5 this act at a date earlier than that provided in this act; or

6 2. Considering any other legislation relative to a state agency  
7 or advisory committee subject to this act.

8 SECTION 17. NEW LAW A new section of law to be codified  
9 in the Oklahoma Statutes as Section 10117 of Title 74, unless there  
10 is created a duplication in numbering, reads as follows:

11 A. A state agency that is abolished in an odd-numbered year may  
12 continue in existence until September 1 of the following year to  
13 conclude its business. Unless the law provides otherwise,  
14 abolishment does not reduce or otherwise limit the powers and  
15 authority of the state agency during the concluding year. A state  
16 agency is terminated and shall cease all activities at the  
17 expiration of the one-year period. Unless the law provides  
18 otherwise, all rules that have been adopted by the state agency  
19 expire at the expiration of the one-year period.

20 B. Any unobligated and unexpended appropriations of an  
21 abolished agency or advisory committee lapse on September 1 of the  
22 even-numbered year after abolishment.

23 C. Except as provided by subsection E of this section or as  
24 otherwise provided by law, all money in a dedicated fund of an



1 abolished state agency or advisory committee on September 1 of the  
2 even-numbered year after abolishment is transferred to the General  
3 Revenue Fund. The part of the law dedicating the money to a  
4 specific fund of an abolished agency becomes void on September 1 of  
5 the even-numbered year after abolishment.

6 D. Unless the Governor designates an appropriate state agency  
7 as prescribed by subsection E of this section, property and records  
8 in the custody of an abolished state agency or advisory committee on  
9 September 1 of the even-numbered year after abolishment shall be  
10 transferred to the State Treasurer. If the Governor designates an  
11 appropriate state agency, the property and records shall be  
12 transferred to the designated state agency.

13 E. The Legislature recognizes the state's continuing obligation  
14 to pay bonded indebtedness and all other obligations, including  
15 lease, contract and other written obligations, incurred by a state  
16 agency abolished under this act, and this act shall not impair or  
17 impede the payment of bonded indebtedness and all other obligations,  
18 including lease, contract and other written obligations, in  
19 accordance with their terms. If an abolished state agency has  
20 outstanding bonded indebtedness or other outstanding obligations,  
21 including lease, contract and other written obligations, the bonds  
22 and all other obligations, including lease, contract and other  
23 written obligations, remain valid and enforceable in accordance with  
24 their terms and subject to all applicable terms and conditions of

1 the laws and proceedings authorizing the bonds and all other  
2 obligations, including lease, contract and other written  
3 obligations. The Governor shall designate an appropriate state  
4 agency that shall continue to carry out all covenants contained in  
5 the bonds and in all other obligations, including lease, contract  
6 and other written obligations, and the proceedings authorizing them,  
7 including the issuance of bonds, and the performance of all other  
8 obligations, including lease, contract and other written  
9 obligations, to complete the construction of projects or the  
10 performance of other obligations, including lease, contract and  
11 other written obligations. The designated state agency shall  
12 provide payment from the sources of payment of the bonds in  
13 accordance with the terms of the bonds and shall provide payment  
14 from the sources of payment of all other obligations, including  
15 lease, contract and other written obligations, in accordance with  
16 their terms, whether from taxes, revenues, or otherwise, until the  
17 bonds and interest on the bonds are paid in full and all other  
18 obligations, including lease, contract and other written  
19 obligations, are performed and paid in full. If the proceedings so  
20 provide, all funds established by laws or proceedings authorizing  
21 the bonds or authorizing other obligations, including lease,  
22 contract and other written obligations, shall remain with the  
23 comptroller or the previously designated trustees. If the  
24 proceedings do not provide that the funds remain with the

1 comptroller or the previously designated trustees, the funds shall  
2 be transferred to the designated state agency.

3 SECTION 18. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 10118 of Title 74, unless there  
5 is created a duplication in numbering, reads as follows:

6 A. The Commission may issue subpoenas to compel the attendance  
7 of witnesses and the production of books, records, papers and other  
8 objects necessary or proper for the purposes of the Commission  
9 proceedings. The subpoenas may be served on a witness at any place  
10 in this state.

11 B. If a majority of the Commission directs the issuance of a  
12 subpoena, the chairman shall issue the subpoena in the name of the  
13 Commission.

14 C. If the chairman is absent, the chairman's designee may issue  
15 a subpoena or other process in the same manner as the chairman.

16 D. Testimony taken under subpoena shall be reduced to writing  
17 and given under oath subject to the penalties of perjury.

18 SECTION 19. NEW LAW A new section of law to be codified  
19 in the Oklahoma Statutes as Section 10119 of Title 74, unless there  
20 is created a duplication in numbering, reads as follows:

21 A. The Commission may request the assistance of state agencies  
22 and officers. When assistance is requested, a state agency or  
23 officer shall assist the Commission.

24

1 B. In carrying out its functions under the Oklahoma Sunset Act,  
2 the Commission or its designated staff member may attend any  
3 meetings and proceedings of any state agency, including any meeting  
4 or proceeding of the governing body of the agency that is closed to  
5 the public, and may inspect the records, documents and files of any  
6 state agency, including any record, document or file that is:

- 7 1. Attorney work product;
- 8 2. An attorney-client communication; or
- 9 3. Made privileged or confidential by law.

10 C. It is the intent of the Legislature to allow the Commission  
11 and its designated staff members to have access to all meetings or  
12 proceedings of a state agency being reviewed by the Commission under  
13 this act and to all records, documents and files of that agency. To  
14 the extent that this section conflicts with other law that purports  
15 to limit the Commission's access to meetings or proceedings or to  
16 records, documents and files this section controls. If federal law  
17 prohibits a state agency from disclosing information in a record,  
18 document or file to the Commission, including information in a  
19 record, document or file created as a result of or considered during  
20 a meeting or proceeding, the state agency may redact the protected  
21 information from the record, document or file.

22 SECTION 20. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 10120 of Title 74, unless there  
24 is created a duplication in numbering, reads as follows:

1       A. A working paper, including all documentary or other  
2 information, prepared or maintained by the Commission staff in  
3 performing its duties under the Oklahoma Sunset Act or other law to  
4 conduct an evaluation and prepare a report is exempted from the  
5 Oklahoma Open Records Act.

6       B. A record held by another entity that is considered to be  
7 confidential by law and that the Commission receives in connection  
8 with the performance of the Commission's functions under this act or  
9 another law remains confidential and is exempted from the Oklahoma  
10 Open Records Act.

11       C. A state agency that provides the Commission with access to a  
12 privileged or confidential communication, record, document or file  
13 under Section 19 of this act for purposes of a review under this act  
14 shall not waive the attorney-client privilege, or any other  
15 privilege or confidentiality requirement protected or required by  
16 the Oklahoma Constitution, common law, statutory law or rules of  
17 evidence, procedure or professional conduct, with respect to the  
18 communication, record, document or file provided to the Commission.  
19 For purposes of this subsection, a communication includes a  
20 discussion that occurs at a meeting or proceeding of the state  
21 agency that is closed to the public.

22       D. The state agency may require the Commission or the members  
23 of the Commission's staff who view, handle, or are privy to  
24 information, or who attend a meeting that is not accessible to the

1 public, to sign a confidentiality agreement that covers the  
2 information and requires that:

3 1. The information not be disclosed outside the Commission for  
4 purposes other than the purpose for which it was received;

5 2. The information be labeled as confidential;

6 3. The information be kept securely; and

7 4. The number of copies made of the information or the notes  
8 taken from the information that implicate the confidential nature of  
9 the information be controlled, with all copies or notes that are not  
10 destroyed or returned to the governmental body remaining  
11 confidential and subject to the confidentiality agreement.

12 E. A person who obtains access to confidential information in  
13 connection with the performance of the Commission's duties under  
14 this act or another law commits an offense if the person knowingly:

15 1. Uses the confidential information for a purpose other than  
16 the purpose for which the information was received or for a purpose  
17 unrelated to the law that permitted the person to obtain access to  
18 the information, including solicitation of political contributions  
19 or solicitation of clients;

20 2. Permits inspection of the confidential information by a  
21 person who is not authorized to inspect the information; or

22 3. Discloses the confidential information to a person who is  
23 not authorized to receive the information.

24

1 SECTION 21. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 10121 of Title 74, unless there  
3 is created a duplication in numbering, reads as follows:

4 Except as otherwise expressly provided, abolition of a state  
5 agency does not affect rights and duties that matured, penalties  
6 that were incurred, civil or criminal liabilities that arose or  
7 proceedings that were begun before the effective date of the  
8 abolition.

9 SECTION 22. NEW LAW A new section of law to be codified  
10 in the Oklahoma Statutes as Section 10122 of Title 74, unless there  
11 is created a duplication in numbering, reads as follows:

12 A. Each bill filed in a house of the Legislature that would  
13 create a new state agency or a new advisory committee to a state  
14 agency shall be reviewed by the Commission.

15 B. The Commission shall review the bill to determine if:

16 1. The proposed functions of the agency or committee could be  
17 administered by one or more existing state agencies or advisory  
18 committees;

19 2. The form of regulation, if any, proposed by the bill is the  
20 least restrictive form of regulation that will adequately protect  
21 the public;

22 3. The bill provides for adequate public input regarding any  
23 regulatory function proposed by the bill; and  
24

1 4. The bill provides for adequate protection against conflicts  
2 of interest within the agency or committee.

3 C. On request, the Commission shall forward a written comment  
4 on the legislation to the author of the bill and to the presiding  
5 officer of the committee to which the bill is referred.

6 SECTION 23. NEW LAW A new section of law to be codified  
7 in the Oklahoma Statutes as Section 10123 of Title 74, unless there  
8 is created a duplication in numbering, reads as follows:

9 A. Not later than December 31 of an odd-numbered year, a member  
10 of the Legislature may submit proposed legislation that would create  
11 an occupational licensing program or significantly affect an  
12 existing occupational licensing program to the Commission for review  
13 and analysis. A request under this section may be submitted after  
14 December 31 of an odd-numbered year on the approval of the  
15 Commission's chair based on the recommendation of the Executive  
16 Director. The Commission's chair may, on the recommendation of the  
17 Executive Director, deny a request for review under this section.

18 B. If the Commission reviews and analyzes legislation proposing  
19 the regulation of an occupation, the Commission shall submit a  
20 report to the Legislature before the start of the next legislative  
21 session regarding the Commission's findings on the need for  
22 regulating the occupation and the type of regulation recommended, if  
23 any.

24



1 C. In analyzing legislation proposing the creation of an  
2 occupational licensing program, the Commission shall determine  
3 whether:

4 1. The unregulated practice of the occupation would be  
5 inconsistent with the public interest as defined by Section 11 of  
6 this act;

7 2. The public can reasonably be expected to benefit from an  
8 assurance of initial and continuing professional skill sets or  
9 competencies; and

10 3. The public can be more effectively protected by means other  
11 than state regulation.

12 D. If the Commission reviews and analyzes proposed legislation  
13 amending an existing occupational licensing program, the Commission  
14 shall submit a report to the Legislature before the start of the  
15 next legislative session regarding the Commission's findings on the  
16 need for the proposed legislation.

17 SECTION 24. REPEALER 74 O.S. 2011, Sections 3901, 3902,  
18 3903, 3904, 3905, 3906, 3907, as amended by Section 12, Chapter 269,  
19 O.S.L. 2016, 3908, 3909, as amended by Section 1009, Chapter 304,  
20 O.S.L. 2012, 3911, 3913, 3914, as amended by Section 4, Chapter 168,  
21 O.S.L. 2015, 3915, 3916, 3917, 3918, 3920, as amended by Section  
22 1010, Chapter 304, O.S.L. 2012 and 3921 (74 O.S. Supp. 2016,  
23 Sections 3907, 3909, 3914 and 3920), are hereby repealed.

24

1 SECTION 25. This act shall become effective November 1, 2017.

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3 COMMITTEE REPORT BY: COMMITTEE ON GOVERNMENT MODERNIZATION, dated  
4 02/08/2017 - DO PASS.

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