

REFERENCE TITLE: nutrition assistance program; administrative rulemaking

State of Arizona  
Senate  
Fifty-fifth Legislature  
Second Regular Session  
2022

## **SB 1526**

Introduced by  
Senators Gabaldon: Alston, Quezada, Rios, Stahl Hamilton, Terán

AN ACT

AMENDING SECTIONS 41-1032 AND 41-1055, ARIZONA REVISED STATUTES; RELATING  
TO RULEMAKING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 41-1032, Arizona Revised Statutes, is amended to  
3 read:

4 41-1032. Effective date of rules

5 A. A rule filed pursuant to section 41-1031 becomes effective sixty  
6 days after a certified original and two copies of the rule and preamble  
7 are filed in the office of the secretary of state and the time and date  
8 are affixed as provided in section 41-1031, unless the ~~rule-making~~  
9 RULEMAKING agency includes in the preamble information that demonstrates  
10 that the rule needs to be effective immediately on filing in the office of  
11 the secretary of state and the time and date are affixed as provided in  
12 section 41-1031. A rule may only be effective immediately for any of the  
13 following reasons:

14 1. To preserve the public peace, health or safety.

15 2. To avoid a violation of federal law or regulation or state law,  
16 if the need for an immediate effective date is not created due to the  
17 agency's delay or inaction.

18 3. To comply with deadlines in amendments to an agency's governing  
19 statute or federal programs, if the need for an immediate effective date  
20 is not created due to the agency's delay or inaction.

21 4. To provide a benefit to the public and a penalty is not  
22 associated with a violation of the rule.

23 5. To adopt a rule that is less stringent than the rule that is  
24 currently in effect and that does not have an impact on the public health,  
25 safety, welfare or environment, or that does not affect the public  
26 involvement and public participation process.

27 B. Notwithstanding subsection A of this section, a ~~rule-making~~  
28 RULEMAKING agency may specify an effective date more than sixty days after  
29 the filing of the rule in the office of the secretary of state if the  
30 agency determines that good cause exists for and the public interest will  
31 not be harmed by the later date.

32 C. NOTWITHSTANDING SUBSECTION A OF THIS SECTION, A RULE MAY NOT  
33 BECOME EFFECTIVE UNTIL THE AGENCY COMPLIES WITH SECTION 41-1055.

34 ~~C.~~ D. This section does not affect the validity of an existing  
35 rule until the new or amended rule that is filed with the secretary of  
36 state is effective pursuant to this section.

37 Sec. 2. Section 41-1055, Arizona Revised Statutes, is amended to  
38 read:

39 41-1055. Economic, small business and consumer impact  
40 statement

41 A. The economic, small business and consumer impact summary in the  
42 preamble shall include:

43 1. An identification of the proposed ~~rule-making~~ RULEMAKING,  
44 including all of the following:

1 (a) The conduct and its frequency of occurrence that the rule is  
2 designed to change.

3 (b) The harm resulting from the conduct the rule is designed to  
4 change and the likelihood it will continue to occur if the rule is not  
5 changed.

6 (c) The estimated change in frequency of the targeted conduct  
7 expected from the rule change.

8 2. A brief summary of the information included in the economic,  
9 small business and consumer impact statement.

10 3. If the economic, small business and consumer impact summary  
11 accompanies a proposed rule or a proposed expedited rule, the name and  
12 address of agency employees who may be contacted to submit or request  
13 additional data on the information included in the economic, small  
14 business and consumer impact statement.

15 B. The economic, small business and consumer impact statement shall  
16 include:

17 1. An identification of the proposed ~~rule making~~ RULEMAKING.

18 2. An identification of the persons who will be directly affected  
19 by, bear the costs of or directly benefit from the proposed ~~rule making~~  
20 RULEMAKING.

21 3. A cost benefit analysis of the following:

22 (a) The probable costs and benefits to the implementing agency and  
23 other agencies directly affected by the implementation and enforcement of  
24 the proposed ~~rule making~~ RULEMAKING. The probable costs to the  
25 implementing agency shall include the number of new full-time employees  
26 necessary to implement and enforce the proposed rule. The preparer of the  
27 economic, small business and consumer impact statement shall notify the  
28 joint legislative budget committee of the number of new full-time  
29 employees necessary to implement and enforce the rule before the rule is  
30 approved by the council.

31 (b) The probable costs and benefits to a political subdivision of  
32 this state directly affected by the implementation and enforcement of the  
33 proposed ~~rule making~~ RULEMAKING.

34 (c) The probable costs and benefits to businesses directly affected  
35 by the proposed ~~rule making~~ RULEMAKING, including any anticipated effect  
36 on the revenues or payroll expenditures of employers who are subject to  
37 the proposed ~~rule making~~ RULEMAKING.

38 4. A general description of the probable impact on private and  
39 public employment in businesses, agencies and political subdivisions of  
40 this state directly affected by the proposed ~~rule making~~ RULEMAKING.

41 5. A STATEMENT OF THE PROBABLE IMPACT OF THE PROPOSED RULEMAKING ON  
42 INDIVIDUALS OR FAMILIES WHO RECEIVE STATE OR FEDERAL SUPPLEMENTAL  
43 NUTRITION ASSISTANCE BENEFITS. THE STATEMENT SHALL INCLUDE THE FOLLOWING:

1 (a) AN EXPLANATION OF WHETHER RECIPIENTS COULD BE DENIED ANY FOOD  
2 OR PRODUCTS.

3 (b) THE AGENCY'S PLAN TO MITIGATE THE IMPACT ON INDIVIDUALS OR  
4 FAMILIES WHO COULD BE DENIED ANY FOOD OR PRODUCTS TO THE EXTENT POSSIBLE.

5 ~~5.~~ 6. A statement of the probable impact of the proposed ~~rule~~  
6 ~~making~~ RULEMAKING on small businesses. The statement shall include:

7 (a) An identification of the small businesses subject to the  
8 proposed ~~rule making~~ RULEMAKING.

9 (b) The administrative and other costs required for compliance with  
10 the proposed ~~rule making~~ RULEMAKING.

11 (c) A description of the methods prescribed in section 41-1035 that  
12 the agency may use to reduce the impact on small businesses, with reasons  
13 for the agency's decision to use or not to use each method.

14 (d) The probable cost and benefit to private persons and consumers  
15 who are directly affected by the proposed ~~rule making~~ RULEMAKING.

16 ~~6.~~ 7. A statement of the probable effect on state revenues.

17 ~~7.~~ 8. A description of any less intrusive or less costly  
18 alternative methods of achieving the purpose of the proposed ~~rule making~~  
19 RULEMAKING, including the monetizing of the costs and benefits for each  
20 option and providing the rationale for not using nonselected alternatives.

21 ~~8.~~ 9. A description of any data on which a rule is based with a  
22 detailed explanation of how the data was obtained and why the data is  
23 acceptable data. An agency advocating that any data is acceptable data  
24 has the burden of proving that the data is acceptable. For the purposes  
25 of this paragraph, "acceptable data" means empirical, replicable and  
26 testable data as evidenced in supporting documentation, statistics,  
27 reports, studies or research.

28 C. If for any reason adequate data are not reasonably available to  
29 comply with the requirements of subsection B of this section, the agency  
30 shall explain the limitations of the data and the methods that were  
31 employed in the attempt to obtain the data and shall characterize the  
32 probable impacts in qualitative terms. The absence of adequate data, if  
33 explained in accordance with this subsection, shall not be grounds for a  
34 legal challenge to the sufficiency of the economic, small business and  
35 consumer impact statement.

36 D. An agency is not required to prepare an economic, small business  
37 and consumer impact statement pursuant to this chapter and is not required  
38 to file a petition pursuant to subsection E of this section for the  
39 following ~~rule makings~~ RULEMAKINGS:

40 1. Initial making, but not renewal, of an emergency rule pursuant  
41 to section 41-1026.

42 2. Proposed expedited ~~rule making~~ RULEMAKING or final expedited  
43 ~~rule making~~ RULEMAKING.

- 1           E. Before filing a proposed rule with the secretary of state, an  
2 agency may petition the council for a determination that the agency is not  
3 required to file an economic, small business and consumer impact  
4 statement. The petition shall demonstrate both of the following:
- 5           1. The ~~rule making~~ RULEMAKING decreases monitoring, record keeping,  
6 costs or reporting burdens on agencies, political subdivisions, businesses  
7 or persons.
- 8           2. The ~~rule making~~ RULEMAKING does not increase monitoring, record  
9 keeping, costs or reporting burdens on persons subject to the proposed  
10 ~~rule making~~ RULEMAKING.
- 11          F. The council shall place a petition under subsection E of this  
12 section on the agenda of its next meeting if at least four council members  
13 make such a request of the council chairperson within two weeks after the  
14 filing of the petition.
- 15          G. The preamble for a ~~rule making~~ RULEMAKING that is exempt  
16 pursuant to subsection D or E of this section shall state that the ~~rule~~  
17 ~~making~~ RULEMAKING is exempt from the requirements to prepare and file an  
18 economic, small business and consumer impact statement.
- 19          H. The cost-benefit analysis required by subsection B of this  
20 section shall calculate only the costs and benefits that occur in this  
21 state.
- 22          I. If a person submits an analysis to the agency regarding the  
23 rule's impact on the competitiveness of businesses in this state as  
24 compared to the competitiveness of businesses in other states, the agency  
25 shall consider the analysis.