

HOUSE BILL No. 2087

AN ACT concerning administrative rules and regulations; requiring the review of rules and regulations by state agencies every five years; relating to review by the director of the budget; requirements for adoption of rules and regulations; providing an alternative procedure for revocation of certain rules and regulations; amending K.S.A. 77-416, 77-420, 77-420a, 77-421, 77-422, 77-426 and 77-436 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. (a) All rules and regulations adopted by state agencies under the provisions of K.S.A. 77-415 et seq., and amendments thereto, shall be reviewed every five years in accordance with this section.

(b) (1) Each state agency that has adopted rules and regulations shall submit a report to the joint committee on administrative rules and regulations on or before July 15 of the year that corresponds to such state agency under paragraph (2). Such report shall contain a summary of such state agency's review and evaluation of rules and regulations adopted by such state agency, including a statement for each rule and regulation as to whether such rule and regulation is necessary for the implementation and administration of state law or may be revoked pursuant to K.S.A. 77-426(d), and amendments thereto.

(2) Each state agency that has adopted rules and regulations shall submit a report as required under paragraph (1) in the years that correspond to such state agency as follows:

(A) For 2023 and every fifth year thereafter, the following state agencies:

- (i) Department of administration;
- (ii) municipal accounting board;
- (iii) state treasurer;
- (iv) Kansas department of agriculture;
- (v) Kansas department of agriculture—division of water resources;
- (vi) state election board;
- (vii) secretary of state;
- (viii) livestock brand commissioner;
- (ix) Kansas department of agriculture—division of animal health;
- (x) Kansas bureau of investigation;
- (xi) Kansas department of agriculture—division of conservation;
- (xii) agricultural labor relations board;
- (xiii) alcoholic beverage control board of review;
- (xiv) Kansas department of revenue—division of alcoholic beverage control;
- (xv) athletic commission;
- (xvi) attorney general;
- (xvii) office of the state bank commissioner;
- (xviii) employee award board;
- (xix) governmental ethics commission;
- (xx) crime victims compensation board;
- (xxi) Kansas human rights commission;
- (xxii) state fire marshal; and
- (xxiii) Kansas department of wildlife and parks;

(B) for 2024 and every fifth year thereafter, the following state agencies:

- (i) Kansas wheat commission;
- (ii) Kansas state grain inspection department;
- (iii) Kansas department for aging and disability services;
- (iv) Kansas energy office;
- (v) department of health and environment;
- (vi) Kansas department for children and families;
- (vii) park and resources authority;
- (viii) state salvage board;
- (ix) Kansas department of transportation;
- (x) Kansas highway patrol;
- (xi) savings and loan department;
- (xii) Kansas turnpike authority;
- (xiii) insurance department;
- (xiv) food service and lodging board;
- (xv) commission on alcoholism;
- (xvi) corrections ombudsman board;
- (xvii) department of corrections;

- (xviii) Kansas prisoner review board;
 - (xix) executive council;
 - (xx) mined-land conservation and reclamation (KDHE);
 - (xxi) department of labor—employment security board of review;
 - (xxii) department of labor;
 - (xxiii) department of labor—division of employment; and
 - (xxiv) department of labor—division of workers compensation;
- (C) for 2025 and every fifth year thereafter, the following state agencies:
- (i) State records board;
 - (ii) state library;
 - (iii) board for the registration and examination of landscape architects;
 - (iv) adjutant general's department;
 - (v) state board of nursing;
 - (vi) Kansas board of barbering;
 - (vii) state board of mortuary arts;
 - (viii) board of engineering examiners;
 - (ix) board of examiners in optometry;
 - (x) state board of technical professions;
 - (xi) Kansas board of examiners in fitting and dispensing of hearing instruments;
 - (xii) state board of pharmacy;
 - (xiii) Kansas state board of cosmetology;
 - (xiv) state board of veterinary examiners;
 - (xv) Kansas dental board;
 - (xvi) board of examiners of psychologists;
 - (xvii) registration and examining board for architects;
 - (xviii) board of accountancy;
 - (xix) state bank commissioner—consumer and mortgage lending division;
 - (xx) board of basic science examiners;
 - (xxi) Kansas public employees retirement system;
 - (xxii) office of the securities commissioner; and
 - (xxiii) Kansas corporation commission;
- (D) for 2026 and every fifth year thereafter, the following state agencies:
- (i) Public employee relations board;
 - (ii) abstracters' board of examiners;
 - (iii) Kansas real estate commission;
 - (iv) education commission;
 - (v) state board of regents;
 - (vi) school budget review board;
 - (vii) school retirement board;
 - (viii) state department of education;
 - (ix) Kansas department of revenue;
 - (x) Kansas department of revenue—division of property valuation;
 - (xi) state board of tax appeals;
 - (xii) crop improvement association;
 - (xiii) Kansas commission on veterans' affairs office;
 - (xiv) Kansas water office;
 - (xv) Kansas department of agriculture—division of weights and measures;
 - (xvi) state board of healing arts;
 - (xvii) podiatry board;
 - (xviii) behavioral sciences regulatory board;
 - (xix) state bank commissioner and savings and loan commissioner—joint regulations;
 - (xx) consumer credit commissioner, credit union administrator, savings and loan commissioner and bank commissioner—joint regulations;
 - (xxi) state board of indigents' defense services;
 - (xxii) Kansas commission on peace officers' standards and training; and
 - (xxiii) law enforcement training center; and
- (E) for 2027 and every fifth year thereafter, the following state agencies:
- (i) Kansas state employees health care commission;
 - (ii) emergency medical services board;

- (iii) department of commerce;
- (iv) Kansas lottery;
- (v) Kansas racing and gaming commission;
- (vi) Kansas department of wildlife and parks;
- (vii) Kansas state fair board;
- (viii) real estate appraisal board;
- (ix) state historical society;
- (x) health care data governing board;
- (xi) state department of credit unions;
- (xii) pooled money investment board;
- (xiii) department of corrections—division of juvenile services;
- (xiv) state child death review board;
- (xv) Kansas agricultural remediation board;
- (xvi) unmarked burial sites preservation board;
- (xvii) Kansas housing resources corporation;
- (xviii) department of commerce— Kansas athletic commission;
- (xix) department of health and environment—division of health care finance;
- (xx) home inspectors registration board;
- (xxi) committee on surety bonds and insurance;
- (xxii) 911 coordinating council; and
- (xxiii) office of administrative hearings.

(c) For any state agency not listed in subsection (b)(2) that adopts rules and regulations that become effective on or after July 1, 2022, such state agency shall submit a report to the joint committee on administrative rules and regulations in accordance with subsection (b) (1) on or before July 15 of the fifth year after such rules and regulations become effective and every fifth year thereafter.

(d) Notwithstanding any other provision of law, a rule and regulation may be adopted or maintained by a state agency only if such rule and regulation serves an identifiable public purpose to support state law and may not be broader than is necessary to meet such public purpose.

(e) This section shall be a part of and supplemental to the rules and regulations filing act, K.S.A. 77-415 et seq., and amendments thereto.

Sec. 2. K.S.A. 77-416 is hereby amended to read as follows: 77-416. (a) Every state agency shall file with the secretary of state every rule and regulation adopted by it and every amendment and revocation thereof in the manner prescribed by the secretary of state. Each rule and regulation shall include a citation to the statutory section or sections being implemented or interpreted and a citation of the authority pursuant to which it, or any part thereof, was adopted. Every rule and regulation filed in the office of the secretary of state shall be accompanied by a copy of the economic impact statement required by subsection (b) and a copy of the environmental benefit statement if required by subsection (d). A copy of any document adopted by reference in a rule and regulation shall be available from the state agency that adopted the rule and regulation upon request by any person interested therein. The state agency, under the direction of the secretary of state, shall number each section with a distinguishing number and, in making a compilation of the rules and regulations, the sections shall be arranged in numerical order. A decimal system of numbering shall be prohibited.

(b) (1) At the time of drafting a proposed rule and regulation or amendment to an existing rule and regulation, the state agency shall consider the economic impact of the proposed rule and regulation. The state agency shall prepare an economic impact statement that shall include:

(A) An analysis, brief description, and cost and benefit quantification of the proposed rules and regulations and what is intended to be accomplished by their adoption. If the approach chosen by the Kansas agency to address the policy issue is different from that utilized by agencies of contiguous states or of the federal government, the economic impact statement shall include an explanation of why the Kansas agency's rule and regulation differs;

(B) whether the proposed rule and regulation is mandated by federal law as a requirement for participating in or implementing a federally subsidized or assisted program and whether the proposed

rules and regulations exceed the requirements of applicable federal law;

(C) an analysis specifically addressing the following factors:

(i) The extent to which the rule and regulation will enhance or restrict business activities and growth;

(ii) the economic effect, including a detailed quantification of implementation and compliance costs, on the specific businesses, business sectors, public utility ratepayers, individuals and local governmental units that will be affected by the proposed rule and regulation and on the state economy as a whole;

(iii) the businesses that would be directly affected by the proposed rule and regulation;

(iv) the benefits of the proposed rule and regulation compared to the cost;

(v) measures taken by the agency to minimize the cost and impact of the proposed rule and regulation on business and economic development within the state of Kansas, local government and individuals; *and*

(vi) an estimate, ~~expressed as a single dollar figure~~, of the total annual implementation and compliance costs that are reasonably expected to be incurred by or passed along to businesses, local governmental units or members of the public and a determination of whether those costs will exceed \$1,000,000 over any two-year period from the effective date of this act through June 30, 2024, or exceed \$3,000,000 over any two-year period on and after July 1, 2024; ~~and~~

~~(vii) an estimate of the total implementation and compliance costs that are reasonably expected to be incurred by or passed along to businesses, local governmental units and individuals as a result of the proposed rule, expressed as a single dollar figure.~~

(2) The state agency shall consult with the league of Kansas municipalities, Kansas association of counties and the Kansas association of school boards, as appropriate, when preparing the economic impact statement of a proposed rule and regulation which increases or decreases revenues of cities, counties or school districts or imposes functions or responsibilities on cities, counties or school districts that will increase their expenditures or fiscal liability. The agency shall consult and solicit information from businesses, business associations, local governmental units, state agencies or institutions and members of the public that may be affected by the proposed rule and regulation or that may provide relevant information.

(3) As required pursuant to the provisions of K.S.A. 77-420(d), and amendments thereto, the state agency shall reevaluate and, when necessary, update the economic impact statement when directed to do so by the director of the budget and, if approved by the director of the budget, shall submit the revised economic impact statement at the time of filing a rule and regulation with the secretary of state. If a public hearing was held prior to the adoption of the rule and regulation, a state agency at the time of filing a rule and regulation with the secretary of state shall include as a part of the economic impact statement a statement specifying the time and place at which the hearing was held and the attendance at the hearing. A copy of the current economic impact statement shall be available from the state agency upon request by any party interested therein.

(4) The implementation and compliance costs determined under subsection (b)(1)(C)(vi) shall be those additional costs reasonably expected to be incurred and shall be separately identified for the affected businesses, local governmental units and members of the public. In determining total additional costs of such proposed rules and regulations, the state agency shall not account for any actual or estimated cost savings that may be realized by the implementing state agency, local government or by members of the public.

(c) Pursuant to the provisions of K.S.A. 77-420, and amendments thereto, the director of the budget shall review the economic impact statement prepared by any state agency and shall prepare a supplemental or revised statement and an independent analysis by the director of the budget of the cost and the factors as set forth in subsection (b)(1)(A) and (C) and subsection (e). If possible, the supplemental or revised statement shall include a reliable estimate in dollars of the anticipated change in revenues and expenditures of the state. It also shall include a statement, if determinable or reasonably

foreseeable, of the immediate and long-range economic impact of the rule and regulation upon persons subject thereto, small employers and the general public. If, after careful investigation, it is determined that no dollar estimate is possible, the statement shall set forth the reasons why no dollar estimate can be given. Every state agency is directed to cooperate with the division of the budget in the preparation of any statement pursuant to this subsection when, and to the extent, requested by the director of the budget. The director of the budget shall follow the procedures set forth in K.S.A. 77-420, and amendments thereto, in evaluating and accepting or rejecting the proposed rule and regulation. No agency shall submit a rule and regulation to the secretary of state for filing before receiving the approval of the director of the budget as provided in this subsection and K.S.A. 77-420, and amendments thereto.

(d) At the time of drafting a proposed environmental rule and regulation or amendment to an existing environmental rule and regulation, the state agency shall consider the environmental benefit of such proposed rule and regulation or amendment. Prior to giving notice of a hearing on a proposed rule and regulation, the state agency shall prepare an environmental benefit statement that shall include a description of the need for and the environmental benefits that will likely accrue as the result of the proposed rule and regulation or amendment. The description shall summarize, when applicable, research indicating the level of risk to the public health or the environment being removed or controlled by the proposed rule and regulation or amendment. When specific contaminants are to be controlled by the proposed rule and regulation or amendment, the description shall indicate the level at which the contaminants are considered harmful according to currently available research. The state agency may consult with other state agencies when preparing the environmental benefit statement. The state agency shall reevaluate and, when necessary, update the statement at the time of filing a rule and regulation with the secretary of state. A copy of the current environmental benefit statement shall be available from the state agency upon request by any party interested therein.

(e) In addition to the requirements of subsection (b), the economic impact statement for all environmental rules and regulations shall include:

(1) A description of the capital and annual costs of compliance with the proposed rules and regulations, and the persons who will bear those costs;

(2) a description of the initial and annual costs of implementing and enforcing the proposed rules and regulations, including the estimated amount of paperwork, and the state agencies, other governmental agencies or other persons or entities who will bear the costs;

(3) a description of the costs that would likely accrue if the proposed rules and regulations are not adopted, the persons who will bear the costs and those who will be affected by the failure to adopt the rules and regulations; and

(4) a detailed statement of the data and methodology used in estimating the costs used in the statement.

(f) In ~~2024~~ 2026, the legislative post audit committee shall direct the legislative division of post audit to conduct an audit to study:

(1) The accuracy of economic impact statements submitted by state agencies pursuant to this section for the immediately preceding seven years;

(2) the impact the review by the director of the budget has had on the accuracy of economic impact statements submitted by state agencies pursuant to this section; and

(3) whether the \$1,000,000 or \$3,000,000 cost figure is the appropriate amount of economic impact to trigger the hearing procedure required by K.S.A. 77-420(a), and amendments thereto.

Sec. 3. K.S.A. 77-420 is hereby amended to read as follows: 77-420. (a) (1) *Except as further provided by this subsection*, every rule and regulation proposed to be adopted by any state agency, ~~before~~ *after* being submitted to the secretary of administration and the attorney general as required by this section, shall be submitted with the economic impact statement for the rule and regulation required by

K.S.A. 77-416, and amendments thereto, to the director of the budget for review of the accuracy and completeness of the agency's economic impact statement. ~~The director of the budget shall make an independent determination of the amount of implementation and compliance costs reasonably expected to be incurred by or passed along to businesses, local government and individuals over any two-year period as a result of the proposed rule and regulation and shall conduct an independent analysis of the factors set forth in K.S.A. 77-416(b)(1)(A) and (C) and (e), and amendments thereto. Every rule and regulation approved requiring approval by the director of the budget shall be stamped as approved, and the date of approval shall be indicated.~~

(2) ~~If the director independently~~ *agency* determines that a proposed rule and regulation submitted or resubmitted by the agency will not result in implementation or compliance costs of more than *\$1,000,000 from the effective date of this act through June 30, 2024, or more than \$3,000,000 on and after July 1, 2024*, for businesses, local government or individuals in any two-year period, ~~the director shall:~~

~~(A) approve the rule and regulation if the director independently determines that the economic impact statement is accurate, demonstrates a complete analysis as required by K.S.A. 77-416(b)(1)(A) and (C) and (e), and amendments thereto, and the director concurs with the economic impact statement; or~~

~~(B) disapprove the rule and regulation~~ *agency shall provide a copy of the economic impact statement to the director, but the director shall not be required to review or approve the proposed rule and regulation.*

(3) ~~If the director of the budget~~ *agency* determines that the proposed rule and regulation will result in implementation and compliance costs of more than *\$1,000,000 from the effective date of this act through June 30, 2024, or more than \$3,000,000 on and after July 1, 2024*, for businesses, local government or individuals in any two-year period, the director of the budget shall:

~~(A) approve the proposed rule and regulation, if the agency, prior to the submission or the resubmission of a rule and regulation to the director, holds a public hearing and finds that the costs of the proposed rule and regulation have been accurately determined and are necessary for achieving legislative intent and the director, after an independent analysis, concurs with the agency's findings and analysis and approves the economic impact statement; or~~

~~(B) disapprove the proposed rule and regulation.~~

~~(4) If an agency is proposing a rule and regulation because of a federal mandate as described in K.S.A. 77-416(b)(1)(B), and amendments thereto, the agency shall provide a copy of the economic impact statement to the director, but the director shall not be required to review or approve the proposed rule and regulation, regardless of the implementation and compliance cost of the proposed rule and regulation.~~

~~(5) For the purposes of this subsection, the implementation and compliance cost shall be calculated from the effective date of the rule and regulation.~~

(b) The director of the budget shall submit an annual report to the legislature and to the joint committee on administrative rules and regulations on the first day of the 2019 regular legislative session and subsequent regular legislative sessions on all rules and regulations approved ~~or denied~~ by the director. The report shall include the text of each rule and regulation reviewed, the final economic impact statement and a summary of the director's analysis supporting the decision to approve ~~or reject~~ the rule and regulation. The director shall immediately submit a separate report to the legislature, if in session, and the joint committee on administrative rules and regulations upon the approval ~~or denial~~ of a rule or regulation with costs determined to be greater than *\$1,000,000 from the effective date of this act through June 30, 2024, or greater than \$3,000,000 on and after July 1, 2024*, for businesses, local government or individuals over any two-year period. The report shall include an analysis of the agency's and the director's decisions with respect to the necessity of the cost of the rule and regulation to achieve legislative intent.

(c) Every rule and regulation proposed to be adopted by any state agency ~~that has been approved by the director of the budget pursuant to~~

~~the provisions of subsection (a)~~, before being submitted to the attorney general *and the director of the budget as required* under this section, shall be submitted to the secretary of administration for approval of its organization, style, orthography and grammar subject to such requirements as to organization, style, orthography and grammar as the secretary may adopt. Every rule and regulation submitted to the secretary of administration under this subsection shall be accompanied by a copy of any document which is adopted by reference by the rule and regulation. Every rule and regulation approved by the secretary of administration under this subsection shall be stamped as approved and the date of such approval shall be indicated therein.

(d) Every rule and regulation proposed by any state agency that has been approved by ~~the director of the budget and~~ the secretary of administration as provided in ~~subsections (a) and~~ *subsection (c)*, before being ~~adopted or filed~~ *submitted to the director of the budget as required under this section*, shall be submitted to the attorney general for an opinion as to the legality of the same, including whether the making of such rule and regulation is within the authority conferred by law on the state agency. The attorney general shall promptly furnish an opinion as to the legality of the proposed rule and regulation so submitted. Every rule and regulation submitted to the attorney general under this subsection shall be accompanied by a copy of any document which is adopted by reference by the rule and regulation. Every rule and regulation approved by the attorney general under this subsection shall be stamped as approved and the date of such approval shall be indicated therein.

(e) No rule and regulation shall be filed by the secretary of state unless:

(1) ~~The rule and regulation has been approved by the director of the budget~~ *complied with the provisions of subsection (a)*;

(2) the organization, style, orthography and grammar have been approved by the secretary of administration;

(3) the rule and regulation has been approved in writing by the attorney general as to legality;

(4) the rule and regulation has been formally adopted by the state agency after it has ~~been approved by the director of the budget~~ *complied with the provisions of subsection (a)*, the secretary of administration and the attorney general and is accompanied by a certified or other formal statement of adoption when adoption is by an executive officer of a state agency, or by a certified copy of the roll call vote required for its adoption by K.S.A. 77-421, and amendments thereto, when adoption is by a board, commission, authority or other similar body;

(5) the rule and regulation to be filed is accompanied by a copy of the economic impact statement as provided by K.S.A. 77-416, and amendments thereto, that ~~has been reviewed and approved by the director of the budget as provided by~~ *complies with the provisions of subsection (a)*; and

(6) the rule and regulation to be filed is accompanied by a copy of the environmental benefit statement required by K.S.A. 77-416, and amendments thereto, if applicable.

Sec. 4. K.S.A. 77-420a is hereby amended to read as follows: 77-420a. No rule and regulation shall be adopted prior to the effective date of the statute authorizing its adoption, but prior to the effective date of such statute, the proposed rule and regulation may be submitted to ~~the director of the budget, the secretary of administration and to~~, the attorney general *and to the director of the budget* for approval as required by K.S.A. 77-420, and amendments thereto, and notice of the proposed rule and regulation may be given and a hearing held thereon in the manner provided by K.S.A. 77-421, and amendments thereto.

Sec. 5. K.S.A. 77-421 is hereby amended to read as follows: 77-421. (a) (1) Except as provided by subsection (a)(2), subsection (a)(3) or subsection (a)(4), prior to the adoption of any permanent rule and regulation or any temporary rule and regulation which is required to be adopted as a temporary rule and regulation in order to comply with the requirements of the statute authorizing the same and after any such rule and regulation has been approved by ~~the director of the budget, the secretary of administration and~~, the attorney general *and the director of the budget*, the adopting state agency shall give at least 60 days' notice

of its intended action in the Kansas register and to the secretary of state and to the joint committee on administrative rules and regulations established by K.S.A. 77-436, and amendments thereto. The notice shall be provided to the secretary of state and to the chairperson, vice chairperson, ranking minority member of the joint committee and legislative research department and shall be published in the Kansas register. A complete copy of all proposed rules and regulations and the complete economic impact statement required by K.S.A. 77-416, and amendments thereto, shall accompany the notice sent to the secretary of state. The notice shall contain:

(A) A summary of the substance of the proposed rules and regulations;

(B) a summary of the economic impact statement indicating the estimated economic impact on governmental agencies or units, persons subject to the proposed rules and regulations and the general public;

(C) a summary of the environmental benefit statement, if applicable, indicating the need for the proposed rules and regulations;

(D) the address where a complete copy of the proposed rules and regulations, the complete economic impact statement, the environmental benefit statement, if applicable, required by K.S.A. 77-416, and amendments thereto, may be obtained;

(E) the time and place of the public hearing to be held; the manner in which interested parties may present their views; and

(F) a specific statement that the period of 60 days' notice constitutes a public comment period for the purpose of receiving written public comments on the proposed rules and regulations and the address where such comments may be submitted to the state agency. Publication of such notice in the Kansas register shall constitute notice to all parties affected by the rules and regulations.

(2) Prior to adopting any rule and regulation which establishes seasons and fixes bag, creel, possession, size or length limits for the taking or possession of wildlife and after such rule and regulation has been approved by the secretary of administration and the attorney general, the secretary of wildlife, parks and tourism shall give at least 30 days' notice of its intended action in the Kansas register and to the secretary of state and to the joint committee on administrative rules and regulations created pursuant to K.S.A. 77-436, and amendments thereto. All other provisions of subsection (a)(1) shall apply to such rules and regulations, except that the statement required by subsection ~~(a)(1)(E)~~ (a)(1)(F) shall state that the period of 30 days' notice constitutes a public comment period on such rules and regulations.

(3) Prior to adopting any rule and regulation which establishes any permanent prior authorization on a prescription-only drug pursuant to K.S.A. 39-7,120, and amendments thereto, or which concerns coverage or reimbursement for pharmaceuticals under the pharmacy program of the state medicaid plan, and after such rule and regulation has been approved by the director of the budget, the secretary of administration and the attorney general, the secretary of health and environment shall give at least 30 days' notice of its intended action in the Kansas register and to the secretary of state and to the joint committee on administrative rules and regulations created pursuant to K.S.A. 77-436, and amendments thereto. All other provisions of subsection (a)(1) shall apply to such rules and regulations, except that the statement required by subsection ~~(a)(1)(E)~~ (a)(1)(F) shall state that the period of 30 days' notice constitutes a public comment period on such rules and regulations.

(4) Prior to adopting any rule and regulation pursuant to subsection (c), the state agency shall give at least 60 days' notice of its intended action in the Kansas register and to the secretary of state and to the joint committee on administrative rules and regulations created pursuant to K.S.A. 77-436, and amendments thereto. All other provisions of subsection (a)(1) shall apply to such rules and regulations, except that the statement required by subsection ~~(a)(1)(E)~~ (a)(1)(F) shall state that the period of notice constitutes a public comment period on such rules and regulations.

(b) (1) On the date of the hearing, all interested parties shall be given reasonable opportunity to present their views or arguments on adoption of the rule and regulation, either orally or in writing. At the time it adopts or amends a rule and regulation, the state agency shall

prepare a concise statement of the principal reasons for adopting the rule and regulation or amendment thereto, including:

(A) The agency's reasons for not accepting substantial arguments made in testimony and comments; and

(B) the reasons for any substantial change between the text of the proposed adopted or amended rule and regulation contained in the published notice of the proposed adoption or amendment of the rule and regulation and the text of the rule and regulation as finally adopted.

(2) Whenever a state agency is required by any other statute to give notice and hold a hearing before adopting, amending, reviving or revoking a rule and regulation, the state agency, in lieu of following the requirements or statutory procedure set out in such other law, may give notice and hold hearings on proposed rules and regulations in the manner prescribed by this section.

(3) Notwithstanding the other provisions of this section, the secretary of corrections may give notice or an opportunity to be heard to any inmate in the custody of the secretary with regard to the adoption of any rule and regulation.

(c) (1) The agency shall initiate new rulemaking proceedings under this act, if a state agency proposes to adopt a final rule and regulation that:

(A) Differs in subject matter or effect in any material respect from the rule and regulation as originally proposed; and

(B) is not a logical outgrowth of the rule and regulation as originally proposed.

(2) For the purposes of this provision, a rule and regulation is not the logical outgrowth of the rule and regulation as originally proposed if a person affected by the final rule and regulation was not put on notice that such person's interests were affected in the rule making.

(d) When, pursuant to this or any other statute, a state agency holds a hearing on the adoption of a proposed rule and regulation, the agency shall cause written minutes or other records, including a record maintained on sound recording tape or on any electronically accessed media or any combination of written or electronically accessed media records of the hearing to be made. If the proposed rule and regulation is adopted and becomes effective, the state agency shall maintain, for not less than three years after its effective date, such minutes or other records, together with any recording, transcript or other record made of the hearing and a list of all persons who appeared at the hearing and who they represented, any written testimony presented at the hearing and any written comments submitted during the public comment period.

(e) No rule and regulation shall be adopted by a board, commission, authority or other similar body except at a meeting which is open to the public and notwithstanding any other provision of law to the contrary, no rule and regulation shall be adopted by a board, commission, authority or other similar body unless it receives approval by roll call vote of a majority of the total membership thereof.

Sec. 6. K.S.A. 77-422 is hereby amended to read as follows: 77-422. (a) A rule and regulation may be adopted by a state agency as a temporary rule and regulation if the state agency and the state rules and regulations board finds that the preservation of the public peace, health, safety or welfare necessitates or makes desirable putting such rule and regulation into effect prior to the time it could be put into effect if the agency were to comply with the notice, hearing and publication requirements of this act or prior to the effective date prescribed by K.S.A. 77-426, and amendments thereto.

(b) Temporary rules and regulations may be adopted without the giving of notice and the holding of a hearing thereon.

(c) (1) A temporary rule and regulation shall take effect:

(A) After approval by ~~the director of the budget~~, the secretary of administration ~~and~~, the attorney general *and the director of the budget* as provided by K.S.A. 77-420, and amendments thereto;

(B) after approval by the state rules and regulations board as provided by K.S.A. 77-423, and amendments thereto; and

(C) upon filing with the secretary of state.

(2) The effective date of all or specific parts of a temporary rule and regulation may be delayed to a date later than its filing date if the delayed effective date of such rule and regulation, or specific parts

thereof, is clearly expressed in the body of such rule and regulation.

(3) A temporary rule and regulation shall be effective for a period not to exceed 120 days except that, for good cause, a state agency may request that a temporary rule and regulation may be renewed one time for an additional period not to exceed 120 days.

(d) A temporary rule and regulation which amends an existing rule and regulation shall have the effect of suspending the force and effect of the existing rule and regulation until such time as the temporary rule and regulation is no longer effective. In such case, at the time the temporary rule and regulation ceases to be effective, the existing permanent rule and regulation which was amended by the temporary rule and regulation shall be in full force and effect unless such existing rule and regulation is otherwise amended, revoked or suspended as provided by law.

(e) Temporary rules and regulations shall be numbered in accordance with the numbering arrangement approved by the secretary of state and otherwise shall conform to the approval, adoption and filing requirements of this act, insofar as the same can be made applicable.

Sec. 7. K.S.A. 77-426 is hereby amended to read as follows: 77-426. (a) All rules and regulations ~~which~~ *that* are in force and effect at the time this act takes effect shall continue in full force and effect and may be amended, revived or revoked as provided by law. All new rules and regulations and all amendments, revivals or revocations of rules and regulations, other than temporary regulations, adopted in any year shall be filed with the secretary of state and shall become effective 15 days following its publication in the Kansas register or such later date as clearly expressed in the body of such rule and regulation.

(b) *Except for rules and regulations revoked pursuant to subsection (d), as soon as possible after the filing of any rules and regulations by a state agency, the secretary of state shall submit to the joint committee on administrative rules and regulations such number of copies as may be requested by the joint committee on administrative rules and regulations.*

(c) At any time prior to adjournment sine die of the regular session of the legislature, the legislature may adopt a concurrent resolution expressing the concern of the legislature with any permanent or temporary rule and regulation ~~which~~ *that* is in force and effect and on file in the office of the secretary of state and any permanent rule and regulation filed in the office of the secretary of state during the preceding year and requesting the revocation of any such rule and regulation or the amendment of any such rule and regulation in the manner specified in such resolution.

(d) *(1) Notwithstanding any other provision of the rules and regulations filing act, any rule and regulation may be revoked pursuant to this subsection if such rule and regulation is identified by a state agency in the report submitted to the joint committee on administrative rules and regulations pursuant to section 1, and amendments thereto, as one that may be revoked pursuant to this subsection. A state agency may revoke a rule and regulation by filing a notice of such revocation with the secretary of state and causing such notice to be published in the Kansas register. Such notice of revocation shall not contain any new rules and regulations or any amendments to any rules and regulations.*

(2) Prior to filing the notice of revocation with the secretary, the state agency shall:

(A) Upon the written request of a member of the public, hold a public hearing on the proposed notice of revocation;

(B) submit the notice of revocation to the attorney general for review and approval in accordance with K.S.A. 77-420(d), and amendments thereto; and

(C) submit the notice of revocation to the joint committee on administrative rules and regulations and, upon request by the chairperson of such committee, appear before such committee at a hearing on such notice.

(3) The revocation of a rule and regulation under this subsection shall be effective 15 days following the date that the notice of such revocation is published in the Kansas register.

Sec. 8. K.S.A. 77-436 is hereby amended to read as follows: 77-

436. (a) There is hereby established a joint committee on administrative rules and regulations consisting of five senators and seven members of the house of representatives. The five senator members shall be appointed as follows: Three by the committee on organization, calendar and rules and two by the minority leader of the senate. The seven representative members shall be appointed as follows: Four by the speaker of the house of representatives and three by the minority leader of the house of representatives. The committee on organization, calendar and rules shall designate a senator member to be chairperson or vice-chairperson of the joint committee as provided in this section. The speaker of the house of representatives shall designate a representative member to be chairperson or vice-chairperson of the joint committee as provided in this section. The minority leader of the senate shall designate a senator member to be the ranking minority member of the joint committee as provided in this section. The minority leader of the house of representatives shall designate a representative member to be the ranking minority member of the joint committee as provided in this section.

(b) A quorum of the joint committee on administrative rules and regulations shall be seven. All actions of the committee may be taken by a majority of those present when there is a quorum. In odd-numbered years the chairperson and the ranking minority member of the joint committee shall be the designated members of the house of representatives from the convening of the regular session in that year until the convening of the regular session in the next ensuing year. In even-numbered years the chairperson and the ranking minority member of the joint committee shall be the designated members of the senate from the convening of the regular session of that year until the convening of the regular session of the next ensuing year. The vice-chairperson shall exercise all of the powers of the chairperson in the absence of the chairperson.

(c) *Except for rules and regulations revoked pursuant to K.S.A. 77-426(d), and amendments thereto*, all proposed rules and regulations shall be reviewed by the joint committee on administrative rules and regulations during the public comment period required by K.S.A. 77-421, and amendments thereto. The committee may introduce such legislation as it deems necessary in performing its functions of reviewing administrative rules and regulations.

(d) The committee shall issue a report to the legislature following each meeting making comments and recommendations and indicating concerns about any proposed rule and regulation. Such report shall be made available to each agency that had proposed rules and regulations reviewed at such meeting during the agency's public comment period for such proposed rules and regulations required by K.S.A. 77-421, and amendments thereto. If having a final report completed by the public hearing required by K.S.A. 77-421, and amendments thereto, is impractical, a preliminary report shall be made available to the agency containing the committee's comments. The preliminary report shall be incorporated into the final report and made available to each agency.

(e) *Except for rules and regulations revoked pursuant to K.S.A. 77-426(d), and amendments thereto*, all rules and regulations filed each year in the office of secretary of state shall be subject to review by the joint committee. The committee may introduce such legislation as it deems necessary in performing its functions of reviewing administrative rules and regulations.

(f) The joint committee shall meet on call of the chairperson as authorized by the legislative coordinating council. All such meetings shall be held in Topeka, unless authorized to be held in a different place by the legislative coordinating council. Members of the joint committee shall receive compensation, travel expenses and subsistence expenses or allowances as provided in K.S.A. 75-3212, and amendments thereto, when attending meetings of such committee authorized by the legislative coordinating council.

(g) Amounts paid under authority of this section shall be paid from appropriations for legislative expense and vouchers therefor shall be prepared by the director of legislative administrative services and approved by the chairperson or vice-chairperson of the legislative coordinating council.

Sec. 9. K.S.A. 77-416, 77-420, 77-420a, 77-421, 77-422, 77-426 and 77-436 are hereby repealed.

Sec. 10. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the HOUSE, and was adopted by that body

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE
as amended _____

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.