

**SENATE BILL No. 245**

By Committee on Ways and Means

4-5

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1 AN ACT concerning administrative rules and regulations; relating to  
2 review of rules and regulations by state agencies; functions of the joint  
3 committee on administrative rules and regulations; reports including  
4 impact on business and economic development; amending K.S.A. 2016  
5 Supp. 77-416 and 77-436 and repealing the existing sections.  
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7 *Be it enacted by the Legislature of the State of Kansas:*

8 New Section 1. (a) Prior to July 1, 2018, each state agency that has  
9 adopted rules and regulations shall review such rules and regulations and  
10 determine the impact that such rules and regulations have on business and  
11 economic development within the state of Kansas, including, but not  
12 limited to, identifying rules and regulations that negatively impact or  
13 create any barrier to success for business and economic development  
14 within the state of Kansas. When evaluating such rules and regulations,  
15 each state agency shall consider factors including, but not limited to:

- 16 (1) Whether the rules and regulations restrict business activities;  
17 (2) whether substantial time, money or other resources are required in  
18 order to comply with the rules and regulations; and  
19 (3) the public purpose served by the rules and regulations, including,  
20 but not limited to, whether the rules and regulations further a public  
21 purpose, whether the public purpose is as important as when the rules and  
22 regulations were adopted and whether the public purpose outweighs any  
23 negative impact on business or economic development within the state of  
24 Kansas.

25 (b) Prior to October 1, 2018, each state agency shall prepare and  
26 submit a report to the joint committee on administrative rules and  
27 regulations identifying the rules and regulations the state agency has  
28 identified as having a negative impact on business and economic  
29 development within the state of Kansas, whether the public purpose served  
30 by the rules and regulations outweighs any negative impact on business or  
31 economic development and alternatives to the identified rules and  
32 regulations.

33 (c) Prior to January 14, 2019, the joint committee on administrative  
34 rules and regulations shall submit a report to the speaker of the house of  
35 representatives and the president of the senate summarizing the  
36 committee's findings regarding information submitted under subsection

1 (b).

2 Sec. 2. K.S.A. 2016 Supp. 77-416 is hereby amended to read as  
3 follows: 77-416. (a) Every state agency shall file with the secretary of state  
4 every rule and regulation adopted by it and every amendment and  
5 revocation thereof in the manner prescribed by the secretary of state. Each  
6 rule and regulation shall include a citation to the statutory section or  
7 sections being implemented or interpreted and a citation of the authority  
8 pursuant to which it, or any part thereof, was adopted. Every rule and  
9 regulation filed in the office of the secretary of state shall be accompanied  
10 by a copy of the economic impact statement required by subsection (b) and  
11 a copy of the environmental benefit statement if required by subsection  
12 (d). A copy of any document adopted by reference in a rule and regulation  
13 shall be available from the state agency ~~which~~ *that* adopted the rule and  
14 regulation upon request by any person interested therein. The state agency,  
15 under the direction of the secretary of state, shall number each section with  
16 a distinguishing number and, in making a compilation of the rules and  
17 regulations, the sections shall be arranged in numerical order. A decimal  
18 system of numbering shall be prohibited.

19 (b) (1) At the time of drafting a proposed rule and regulation or  
20 amendment to an existing rule and regulation, the state agency shall  
21 consider the economic impact of such proposed rule and regulation or  
22 amendment upon all governmental agencies or units and all persons ~~which~~  
23 *who* will be subject thereto and upon the general public. Prior to giving  
24 notice of a hearing on a proposed rule and regulation, the state agency  
25 shall prepare an economic impact statement that shall include:

26 (A) A brief description of the proposed rules and regulations and  
27 what is intended to be accomplished by their adoption;

28 (B) whether the proposed rule and regulation is mandated by federal  
29 law as a requirement for participating in or implementing a federally  
30 subsidized or assisted program and whether the proposed rules and  
31 regulations exceed the requirements of applicable federal law;

32 (C) a description of the cost, the persons who will bear the costs and  
33 those who will be affected by the proposed rules and regulations, including  
34 the agency proposing the rules and regulations, other governmental  
35 agencies or units, private citizens and consumers of the products or  
36 services ~~which~~ *that* are the subject of the rules and regulations or the  
37 enforcement thereof; ~~and~~

38 (D) a description of any less costly or less intrusive methods that  
39 were considered by the state agency for achieving the stated purpose of the  
40 rules and regulations and why such methods were rejected in favor of the  
41 proposed rules and regulations. The state agency may consult with other  
42 state agencies when preparing the economic impact statement; *and*

43 (E) *a description of businesses that would be directly affected by the*

1 *proposed rules and regulations, the benefits of the proposed rules and*  
2 *regulations and measures taken to minimize the impact of the proposed*  
3 *rules and regulations on business and economic development within the*  
4 *state of Kansas.*

5 (2) The state agency shall consult with the league of Kansas  
6 municipalities, Kansas association of counties and the Kansas association  
7 of school boards, as appropriate, when preparing the economic impact  
8 statement of a proposed rule and regulation—~~which~~ *that* increases or  
9 decreases revenues of cities, counties or school districts or imposes  
10 functions or responsibilities on cities, counties or school districts—~~which~~  
11 *that* will increase their expenditures or fiscal liability.

12 (3) The state agency shall reevaluate and, when necessary, update the  
13 statement at the time of filing a rule and regulation with the secretary of  
14 state. If a public hearing was held prior to the adoption of the rule and  
15 regulation, a state agency at the time of filing a rule and regulation with  
16 the secretary of state shall include as a part of the economic impact  
17 statement a statement specifying the time and place at which the hearing  
18 was held and the attendance at the hearing. A copy of the current economic  
19 impact statement shall be available from the state agency upon request by  
20 any party interested therein.

21 (c) Upon request of the state rules and regulations board, the joint  
22 committee on administrative rules and regulations or the chairperson of  
23 either committee or board, the director of the budget shall review the  
24 economic impact statement prepared by any state agency and shall prepare  
25 a supplemental or revised statement. If possible, the supplemental or  
26 revised statement shall include a reliable estimate in dollars of the  
27 anticipated change in revenues and expenditures of the state. It also shall  
28 include a statement, if determinable or reasonably foreseeable, of the  
29 immediate and long-range economic impact of the rule and regulation  
30 upon persons subject thereto, small employers and the general public. If,  
31 after careful investigation, it is determined that no dollar estimate is  
32 possible, the statement shall set forth the reasons why no dollar estimate  
33 can be given. Every state agency is directed to cooperate with the division  
34 of the budget in the preparation of any statement pursuant to this  
35 subsection when, and to the extent, requested by the director of the budget.

36 (d) At the time of drafting a proposed environmental rule and  
37 regulation or amendment to an existing environmental rule and regulation,  
38 the state agency shall consider the environmental benefit of such proposed  
39 rule and regulation or amendment. Prior to giving notice of a hearing on a  
40 proposed rule and regulation, the state agency shall prepare an  
41 environmental benefit statement that shall include a description of the need  
42 for and the environmental benefits—~~which~~ *that* will likely accrue as the  
43 result of the proposed rule and regulation or amendment. The description

1 shall summarize, when applicable, research indicating the level of risk to  
2 the public health or the environment being removed or controlled by the  
3 proposed rule and regulation or amendment. When specific contaminants  
4 are to be controlled by the proposed rule and regulation or amendment, the  
5 description shall indicate the level at which the contaminants are  
6 considered harmful according to currently available research. The state  
7 agency may consult with other state agencies when preparing the  
8 environmental benefit statement. The state agency shall reevaluate and,  
9 when necessary, update the statement at the time of filing a rule and  
10 regulation with the secretary of state. A copy of the current environmental  
11 benefit statement shall be available from the state agency upon request by  
12 any party interested therein.

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

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

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

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

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

28 Sec. 3. K.S.A. 2016 Supp. 77-436 is hereby amended to read as  
29 follows: 77-436. (a) There is hereby established a joint committee on  
30 administrative rules and regulations ~~which shall consist~~ *consisting* of five  
31 senators and seven members of the house of representatives. The five  
32 senator members shall be appointed as follows: Three by the committee on  
33 organization, calendar and rules and two by the minority leader of the  
34 senate. The seven representative members shall be appointed as follows:  
35 Four by the speaker of the house of representatives and three by the  
36 minority leader of the house of representatives. The committee on  
37 organization, calendar and rules shall designate a senator member to be  
38 chairperson or vice-chairperson of the joint committee as provided in this  
39 section. The speaker of the house of representatives shall designate a  
40 representative member to be chairperson or vice-chairperson of the joint  
41 committee as provided in this section.

42 (b) A quorum of the joint committee on administrative rules and  
43 regulations shall be seven. All actions of the committee may be taken by a

1 majority of those present when there is a quorum. In odd-numbered years,  
2 the chairperson of the joint committee shall be the designated member of  
3 the house of representatives from the convening of the regular session in  
4 that year until the convening of the regular session in the next ensuing  
5 year. In even-numbered years, the chairperson of the joint committee shall  
6 be the designated member of the senate from the convening of the regular  
7 session of that year until the convening of the regular session of the next  
8 ensuing year. The vice-chairperson shall exercise all of the powers of the  
9 chairperson in the absence of the chairperson.

10 (c) All proposed rules and regulations shall be reviewed by the joint  
11 committee on administrative rules and regulations during the public  
12 comment period required by K.S.A. 77-421, and amendments thereto. The  
13 committee may introduce such legislation as it deems necessary in  
14 performing its functions of reviewing administrative rules and regulations.  
15 *The committee may communicate the committee's concerns, suggestions*  
16 *and comments regarding proposed rules and regulations to state agencies,*  
17 *including the committee's concerns regarding the effect of proposed rules*  
18 *and regulations on business and economic development within the state of*  
19 *Kansas.*

20 (d) All rules and regulations filed each year in the office of secretary  
21 of state shall be subject to review by the joint committee. The committee  
22 may introduce such legislation as it deems necessary in performing its  
23 functions of reviewing administrative rules and regulations.

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

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

37 Sec. 4. K.S.A. 2016 Supp. 77-416 and 77-436 are hereby repealed.

38 Sec. 5. This act shall take effect and be in force from and after its  
39 publication in the statute book.