

CORRECTED
SESSION OF 2024

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2648

As Amended by House Committee on
Commerce, Labor and Economic Development

Brief*

HB 2648, as amended, would make various changes to the process for the adoption of administrative rules and regulations.

Legislative Ratification Requirement

The bill would generally prohibit the adoption of any rule or regulation that the economic impact statement indicates \$1.0 million or more in implementation or compliance costs are reasonably expected to be incurred by or passed along to businesses, local governments, or individuals during the initial five-year period following the adoption of the rule or regulation, unless the rule or regulation has been ratified by the Legislature by the enactment of a bill authorizing such rule or regulation. Any member of the Legislature would be authorized to introduce such legislation.

“Implementation and compliance costs” would be defined to mean direct costs that are readily ascertainable based upon standard business practices, including, but not limited to, fees, the cost to obtain a license or registration, the cost of equipment required to be installed or used, additional operating costs incurred, the cost of monitoring and reporting, and any other costs to comply with the requirements of the proposed rule and regulation.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

The bill would require the economic impact statements filed with proposed rules and regulations to include a determination whether the rule or regulation would result in such costs in excess of \$1.0 million in the first five years following adoption of the rule and would eliminate a requirement that such statements include similar determinations over two-year periods.

State agencies prohibited from adopting rules and regulations pursuant to this limitation would be authorized to modify the proposed rule or regulation and prepare a revised economic impact statement. The adoption of the modified rule or regulation would be authorized if the \$1.0 million limitation is not anticipated to be exceeded by the modified rule or regulation.

This requirement would not apply to temporary rules and regulations, rules and regulations proposed because of a federal mandate, or rules and regulations of the Kansas Agricultural Remediation Board.

Duties of the Director of the Budget

The bill would require the Director of the Budget (Director), in reviewing the economic impact statements for proposed rules and regulations, to conduct an independent analysis to determine the agency has complied with the requirements for economic impact statements and review the agency's determination of the amount of implementation and compliance costs reasonably expected to be incurred by or passed along to businesses, local governments, and individuals over the initial five-year period following adoption of the rule or regulation.

If such costs do not exceed \$1.0 million, the Director would be required to approve rules and regulations if the Director independently determines the economic impact statement is a complete analysis and the Director concurs with the economic impact statement and disapprove the rule

if the economic statement is incomplete or contains substantive inaccuracies.

If such costs do exceed \$1.0 million, the Director would be required to approve rules and regulations if the proposed rule or regulation has been ratified by the Legislature and disapprove the proposed rule and regulation if the economic impact statement is incomplete or contains substantive inaccuracies.

The Director's reports to the Joint Committee on Administrative Rules and Regulations would be required to include information regarding rules and regulations denied due to exceeding the \$1.0 million requirement provided by the bill.

Establishment of Rules Governing Future Private Conduct through Adjudication Policy Establishment

The bill would provide that policies established by orders in adjudications under the Kansas Administrative Procedures Act or other procedures would not include the establishment of rules governing future private conduct that have the force of law.

Elimination of Legislative Post Audit Study of Economic Impact Statements

The bill would eliminate a requirement that the Legislative Division of Post Audit conduct an audit in 2026 to study the accuracy of economic impact statements submitted with proposed rules and regulations, the impact of the review of the Director on the accuracy of such statements, and the appropriate amount of economic impact to trigger additional rules and regulations hearing procedures.

Use of Term “Individual” in Rules and Regulations Filing Act

The bill would replace the terms “person” and “member of the public” with the term “individual” or “individual and entity,” as appropriate, throughout the Rules and Regulations Filing Act.

Background

The bill was introduced by the House Committee on Commerce, Labor and Economic Development at the request of a representative of the Kansas Chamber of Commerce.

House Committee on Commerce, Labor and Economic Development

In the House Committee hearing, **proponent** testimony was provided by representatives of Americans for Prosperity Kansas, Kansas Chamber of Commerce, Kansas Soybean Association, and Opportunity Solutions Project, and a representative of Kansas Grain and Feed Association, Kansas Agribusiness Retailers Association, and Renew Kansas Biofuels Association. Proponents generally stated the bill would improve the state’s process for the adoption of rules and regulations and provide legislative oversight of regulations with high compliance costs.

Written-only proponent testimony was provided by representatives of Kansas Cooperative Council and United WE.

Neutral testimony was provided by a representative of the Office of the Attorney General.

No other testimony was provided.

The House Committee amended the bill to eliminate a requirement for the Legislative Post Audit Committee to direct an audit study related to the rule and regulation economic impact statements, to exempt the rules and regulations of the Kansas Agricultural Remediation Board from the requirements of the bill, and to provide that policies established by orders in adjudications under the Kansas Administrative Procedures Act or other procedures would not include the establishment of rules governing future private conduct that have the force of law.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Division of the Budget indicates enactment of the bill would likely not incur additional administrative expenses for the Division and could be implemented with existing resources. The Division indicates enactment of the bill could cause operational issues for agencies that could not implement rules and regulations until the enactment of legislation and subsequent approval.

Legislative Administrative Services indicates enactment of the bill would have a negligible fiscal effect on the Legislature's budget and could be absorbed within existing resources. The Secretary of State and Office of the Attorney General indicate enactment of the bill would have no fiscal effect on their budgets.

Any fiscal effect associated with the bill is not reflected in *The FY 2025 Governor's Budget Report*.

Rules and regulations; adoption; economic impact statements; legislative ratification