

**77-621. Scope of review.** (a) Except to the extent that this act or another statute provides otherwise:

- (1) The burden of proving the invalidity of agency action is on the party asserting invalidity; and
- (2) the validity of agency action shall be determined in accordance with the standards of judicial review provided in this section, as applied to the agency action at the time it was taken.
- (b) The court shall make a separate and distinct ruling on each material issue on which the court's decision is based.
- (c) The court shall grant relief only if it determines any one or more of the following:
  - (1) The agency action, or the statute or rule and regulation on which the agency action is based, is unconstitutional on its face or as applied;
  - (2) the agency has acted beyond the jurisdiction conferred by any provision of law;
  - (3) the agency has not decided an issue requiring resolution;
  - (4) the agency has erroneously interpreted or applied the law;
  - (5) the agency has engaged in an unlawful procedure or has failed to follow prescribed procedure;
  - (6) the persons taking the agency action were improperly constituted as a decision-making body or subject to disqualification;
  - (7) the agency action is based on a determination of fact, made or implied by the agency, that is not supported to the appropriate standard of proof by evidence that is substantial when viewed in light of the record as a whole, which includes the agency record for judicial review, supplemented by any additional evidence received by the court under this act; or
  - (8) the agency action is otherwise unreasonable, arbitrary or capricious.
- (d) For purposes of this section, "in light of the record as a whole" means that the adequacy of the evidence in the record before the court to support a particular finding of fact shall be judged in light of all the relevant evidence in the record cited by any party that detracts from such finding as well as all of the relevant evidence in the record, compiled pursuant to K.S.A. 77-620, and amendments thereto, cited by any party that supports such finding, including any determinations of veracity by the presiding officer who personally observed the demeanor of the witness and the agency's explanation of why the relevant evidence in the record supports its material findings of fact. In reviewing the evidence in light of the record as a whole, the court shall not reweigh the evidence or engage in de novo review.
- (e) In making the foregoing determinations, due account shall be taken by the court of the rule of harmless error.

**History:** L. 1984, ch. 338, § 21; L. 2009, ch. 109, § 28; July 1.