

February 12, 2024

The Honorable Sean Tarwater, Chairperson
House Committee on Commerce, Labor and Economic Development
300 SW 10th Avenue, Room 346-S
Topeka, Kansas 66612

Dear Representative Tarwater:

SUBJECT: Fiscal Note for HB 2648 by House Committee on Commerce, Labor and Economic Development

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2648 is respectfully submitted to your committee.

Under current law, the Director of the Budget is required to approve agency administrative rules and regulations when there is a determination that the total “implementation and compliance costs” incurred by or passed along to businesses, local government, or members of the public would exceed \$1.0 million over any two-year period through June 30, 2024, or if costs would exceed \$3.0 million over any two-year period on or after July 1, 2024. HB 2648 would change this threshold to \$1.0 million in the initial five-year period following the adoption of the rule and regulation, after the Director would independently determine the costs. “Implementation and compliance costs” would be defined as direct costs that are readily ascertainable based upon standard business practices, including 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. The bill would allow the Director to disapprove the proposed rule and regulation if the economic impact statement is determined to be incomplete or would contain substantive inaccuracies.

In addition, before the proposed rule and regulation could be approved by the Director, HB 2648 would require that the Legislature enact legislation authorizing the rule and regulation if the agency’s economic impact statement would report a cost of \$1.0 million or more in the initial five-year period. The enactment of the legislation would be required before a state agency could adopt the rules and regulations. The bill would not apply to temporary rules and regulations.

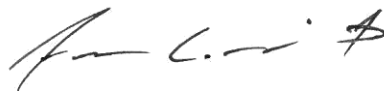
If a state agency would be prohibited from adopting a proposed rule and regulation under provisions of the bill, the agency could modify the proposed rule and regulation to lower the implementation and compliance costs of the proposed rule and regulation. Any modification would be required to be germane to the subject of the proposed rule and regulation. If a proposed

rule and regulation would be modified, the state agency would prepare a revised economic impact statement. A state agency could adopt a modified rule and regulation if the revised economic impact statement indicates that \$1.0 million or more in implementation and compliance costs are not reasonably expected to be incurred by or passed along to businesses, local governments, and individuals over the initial five-year period.

The Division of the Budget reports during calendar year 2023, the Director of the Budget approved 5 groups of submitted rules and regulations from five state agencies that reported an implementation and compliance cost greater than \$1.0 million. These agencies include the Department for Aging and Disability Services, the Department of Health and Environment, the Department of Transportation, the Board of Indigent Defense Services, and the Department of Wildlife and Parks. The enactment of the bill likely would not incur additional administrative expenses for the Division and the bill could be implemented with existing budget resources and staff. For agencies that could not implement rules and regulations until the enactment of legislation and subsequent approval by the Director of the Budget, this change could cause operational issues for those agencies with the delay caused by requiring Legislative approval; however, the Division cannot estimate a fiscal effect.

Legislative Administrative Services indicates that the enactment of the bill would have a negligible fiscal effect on the Legislature's budget. The Joint Committee on Administrative Rules and Regulations may be required to have an additional day or two each fiscal year to review larger economic impact statements associated with proposed administrative rules and regulations. However, any costs associated with additional days to meet will be absorbed within existing appropriations for the Legislature. The Secretary of State and the Attorney General indicate the enactment of the bill would have no fiscal effect. Any fiscal effect associated with HB 2648 is not reflected in *The FY 2025 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam C. Proffitt", with a stylized flourish at the end.

Adam C. Proffitt
Director of the Budget

cc: Tamara Emery, Department of Administration
William Hendrix, Office of the Attorney General
Sandy Tompkins, Office of the Secretary of State