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MEMORANDUM

To: Chairman Billinger and members of the Senate Ways and Means Committee
From: Jill A. Wolters, First Assistant Revisor and Matt Sterling, Senior Assistant Revisor
Date: March 22, 2021
Subject: **HB 2087**, Limiting the review of certain rules and regulations by the director of the budget

HB 2087 would amend several statutes concerning rules and regulations and review by the director of budget. Under current law, the rules and regulations approval process requires state agencies to provide an economic impact statement to the director of the budget that considers: 1) the total annual implementation and compliance costs to businesses, local governments, or individuals; 2) a determination of whether costs would be more than \$3,000,000 over two years; and 3) an estimate of such costs expressed as a single dollar figure.

The Director is also required to make an independent determination regarding implementation and compliance costs and may approve or disapprove of a rule and regulation based upon the accuracy of the economic impact statement or a determination that implementation and compliance costs will be more than \$3,000,000 over two years. Additionally, if it is determined that such costs would be over \$3,000,000, the agency must also conduct a public hearing.

HB 2087 would remove the requirement that the Director make an independent determination of the amount of implementation and compliance costs and would remove provisions requiring the Director to approve all rules and regulations. Under the bill, the Director would not be required to review or approve rules and regulations if the submitting agency determined they would not result in costs of more than \$3,000,000 over two years.

Under the bill, agencies would still be required to provide the Director with a copy of the economic impact statement for every rule and regulation submitted for approval. The bill would also specify that the implementation and compliance costs would be those costs reasonably expected to be incurred and would be separately identified for the affected businesses, local government units, and members of the public. In determining costs, the agency would not account for any actual or estimated cost savings realized by those entities.

Additionally, if a state agency was proposing a rule and regulation because of a federal mandate, the state agency would be required to provide an economic impact statement, but the Director would not be required to review or approve the proposed rule and regulation, regardless of estimated implementation and compliance costs. For rules and regulations proposed due to a federal mandate, compliance costs would be calculated from the effective date of the rule and regulation.

Finally, under current law, proposed rules and regulations are submitted to the Director of Budget before being submitted to the Secretary of Administration and the Attorney General. Under the

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bill, agencies would send proposed rules and regulations to the Secretary of Administration and the Attorney General before submission to the Director of the Budget.

The bill will take effect upon publication in the Kansas register.

The House federal and state affairs committee amended the bill to require the legislative post audit committee direct the legislative division of post audit to conduct an audit to study the following in 2023, not 2021: (1) The accuracy of economic impact statements submitted by state agencies 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; and (3) whether the \$3,000,000 cost figure is the appropriate amount of economic impact to trigger the hearing procedure.

The bill passed the House, 109 – 13 on February 18, 2021.