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To: Senate Federal and State Affairs Committee  
From: R.E. "Tuck" Duncan

RE: HB2526 — AN ACT concerning administrative rules and regulations; relating to approval of rules and regulations by the director of the budget; reporting impact on business; joint committee on administrative rules and regulations; report made by committee; audit; state rules and regulations board.

I am here as Tuck Duncan, lawyer, and my comments are my own and may not reflect the opinions of any organization. I also testified before the House Committee on Commerce, Labor and Economic Development

I supported the original concept of HB2526 and told the committee that **candidly it did not go far enough**. I supported the testimony of the Kansas Chamber which directed agencies to reach out to trade associations, businesses, local government units and individuals for input on their proposed changes. The chamber's proposal adopted in part by the House is a positive step toward protecting Kansas businesses against burdensome rules and regulations by strengthening legislative oversight.

I informed the House committee that currently there are detailed instructions for the preparation of the economic impact statement Those instructions as developed by the Kansas Department of Administration are set out in the Policy and Procedure Manual for the Filing of Kansas Administrative Regulations at:

<http://admin.ks.gov/docs/default-source/Chief-Counsel/reg-manual-february-2018-final-draft.pdf?sfvrsn=4> Were state agencies to have followed these guidelines this legislation might not have been necessary.

The policy manual provides that the agency state:

(3) a description of the cost, the persons who will bear the cost, and those who will be affected by the proposed regulation, including the following:

- (A) The agency proposing the regulation;
- (B) other governmental agencies or units;
- (C) "small employers" (see K.S.A. 77-415 and 77-416);
- (D) private citizens; and
- (E) consumers of the products or services that are the subject of the regulation or its enforcement; ...

Many times the agency will merely state: “*There will be no economic impact to this agency, other state agencies, or to the public.*”

Or it might state: “*Economic Impact Statement: The proposed amendments are not anticipated to have any appreciable negative economic impact on the agency, other agencies, small businesses, or the public.*”<sup>1</sup>

The House amendments will insure that the economic impact is considered.

The economic impact statement provided for by HB2526 would include an analysis that would address the following factors:

- The extent to which the rule and regulation would enhance or restrict business activities and growth;
- The economic effect on the Kansas economy, including specific businesses, business sectors, public utility ratepayers, individuals, and local units of government;
- The businesses that would be affected directly;
- The benefits compared to the cost; ● Measures taken by the agency to minimize the cost and impact on businesses and economic development within the state, local units of government, and individuals;
- An estimate of the total annual implementation and compliance costs, which would be expressed as a single dollar amount, that would be expected to be absorbed by businesses, local units of government, or members of the public, and which would include an agency determination of whether these costs would exceed \$5.0 million over a two-year period; and
- An estimate of the total implementation and compliance costs, which would be expressed as a single dollar amount, that would be expected to be absorbed by businesses, local units of government, and individuals. In addition, the bill would require state agencies to consult and solicit information from businesses, business associations, local governmental units, state agencies or institutions, and members of the public that may be affected by the proposed rules and regulations or that may provide relevant information.

HB2526 also provides that prior to an agency submitting a proposed rule and regulation to the Secretary of Administration and the Attorney General, as required by law, the agency would send the proposed rule and regulation to the Director of the Budget, who would conduct an independent analysis, using the factors specified above.

The bill also provides for several new reports to the Legislature which will increase the transparency of this process and afford the Legislature the opportunity to ascertain if the regulatory power that has been extended to agencies is being appropriately exercised.

*Thank you for your attention to and consideration of these matters.*

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<sup>1</sup> These are actual statements from regulation announcements.