Kansas Administrative Regulations
Economic Impact Statement (EIS)

Kansas Department of Revenue	Taylor Murray	785-296-6093
Agency	Agency Contact	Contact Phone Number

92-12-152
K.A.R. Number(s)

☒ Permanent ☐ Temporary

Is/Are the proposed rule(s) and regulation(s) mandated by the federal government as a requirement for participating in or implementing a federally subsidized or assisted program?

☐ Yes If yes, continue to fill out the remaining form to be included with the regulation packet submitted in the review process to the Department of Administration and the Attorney General. Budget approval is not required; however, the Division of the Budget will require submission of a copy of the EIS at the end of the review process.

☒ No If no, do the total annual implementation and compliance costs for the proposed rule(s) and regulation(s), calculated from the effective date of the rule(s) and regulation(s), exceed $1.0 million or more in implementation and compliance costs that are reasonably expected to be incurred by or passed along to businesses, local governmental units and individuals as a result of the proposed rule and regulation over the initial five-year period following adoption of such rule(s) and regulation(s) (as calculated in Section III, F)?

☐ Yes If "Yes," then the agency shall not adopt the rule(s) and regulation(s) until the rule(s) and regulation(s) has been ratified by the Legislature with a bill, unless the proposed rule(s) and regulation(s) are: 1) mandated by the federal government as a requirement for participating in or implementing a federally subsidized or assisted program, as described in K.S.A. 77-416(b)(1)(B), and amendments thereto; 2) temporary rule(s) and regulation(s) adopted pursuant to K.S.A. 77-722, and amendments thereto; or 3) rules and regulations adopted pursuant to K.S.A. 2-3710 (Kansas Agricultural Remediation Board). Continue to fill out the remaining EIS form to be included with the regulation packet in the review process to the Department of Administration and the Attorney General. The submitted EIS will be independently analyzed by the Division of the Budget for approval.

☒ No If no, continue to fill out the remaining form to be included with the regulation packet submitted in the review process to the Department of Administration and the Attorney General. The submitted EIS will be analyzed by the Division of the Budget for approval.

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Section I

Analysis, brief description, and cost and benefit quantification of the proposed rule(s) and regulation(s). If the approach chosen by the Kansas agency to address the policy issue is different from that utilized by agencies of contiguous states or of the federal government, the economic impact statement shall include an explanation of why the Kansas agency's rule and regulation differs.

Pregnancy Resource Act Tax Credit

2024 House Bill 2465, New Sec. 8, was enacted as K.S.A. 79-32,316. For tax years beginning after December 31, 2023, a taxpayer is allowed a Kansas income, privilege or premium tax credit equal to 70% of the total amount contributed during the taxable year by the taxpayer to an eligible charitable organization ("Pregnancy Resource Act Tax Credit"). The term "eligible charitable organization" is defined in K.S.A. 79-32,316(b)(1) and includes nonprofit organizations dedicated to providing resources for pregnant women.

Proposed K.A.R. 92-12-152 establishes rules for the Pregnancy Resource Act Tax Credit that (1) ensure contributions are defined and valued as provided in law for other, similar contribution-based credits and (2) clarify the Department's treatment of two specific contribution scenarios.

Types of Contributions Allowed; Valuing Contributions

The proposed regulation establishes contribution rules that are consistent with the rules specified in statute or regulation for other, similar contribution-based credits, including the Low-Income Student Scholarship Credit, Community Service Contribution Credit, and Community College or Technical College Contribution Credit. The updated rules would allow contributions of stocks, bonds, personal property, or real property to qualify for credit. The updated rules would also establish guidelines for valuing these other-than-cash contributions that are consistent with the guidelines specified in statute or regulation for the similar contribution-based credits listed above.

Donor Advised Funds

The proposed regulation clarifies that distributions to an eligible charitable organization from a separately owned donor advised fund do not qualify as the original donor's contributions to an eligible charitable organization. Individuals who contribute to a donor advised fund sponsored by a public charity generally receive an immediate tax benefit for the contribution. While the original donor may advise the donor advised fund on how to distribute those funds to other organizations, the fund/sponsoring organization has legal control of those funds and complete discretion as to the actual distributions from the fund.

Giving Days or Similar Events

The proposed regulation clarifies the treatment of contributions through "giving days" and other limited-time fundraising events. According to the proposed regulation, contributions through these events may qualify for credit if certain requirements are met.

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Cost and Benefit

Generally

The proposed regulation does not lead to estimable additional costs for contributors or eligible charitable organizations. It benefits contributors and eligible charitable organizations by clarifying program rules and expanding the types of contributions allowed.

Credit Utilization

Allowing other-than-cash contributions could result in contributors choosing to contribute additional amounts, leading to a potential impact to state revenues that is judged minimal but is difficult to estimate. The current credit allowed is capped at $10 million per year. For more information on potential impact to state revenues, please see Section III.F, below.

Appraisal Cost

As previously noted, the updated rules would establish guidelines for valuing other-than-cash contributions that are consistent with the guidelines specified in statute or regulation for similar contribution-based credits. This includes a requirement providing that the amount of tax credit allowable for donations of real property shall be based on the lesser of two current independent appraisals conducted by state-licensed appraisers. This appraisal cost will vary widely depending on the nature of the real property appraised. Real property contributions for similar contribution-based credits are very rare (fewer than annual) and thus do not provide sufficient data to permit an estimate. Therefore, it is not possible to assign a dollar figure or useful range of figures to this potential cost.

It is worth noting that the appraisal requirement is intended as a safeguard of public funds and is consistent with legislative policy regarding the same (*see* K.S.A. 79-32,195(f), K.S.A. 74-99c02(b)). Thus, the cost appears both necessary and reasonable if the donation of real property is to be allowed for credit.

Section II

Explain whether the proposed rule and regulation is mandated by federal law as a requirement for participating in or implementing a federally subsidized or assisted program and whether the proposed rules and regulations exceed the requirements of applicable federal law.

These regulations are not mandated by federal law.

Section III

Agency analysis specifically addressing the following:

A. The extent to which the rule(s) and regulation(s) will enhance or restrict business activities and growth;

There is no significant effect on business activities and growth based on these proposed changes.

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The additional clarity and uniformity should make it easier for contributors and eligible charitable organizations to make and accept qualifying contributions, although this effect is minor and not economically quantifiable. Allowing other-than-cash contributions could result in contributors choosing to contribute additional amounts.

Please see the explanation in Section III.F, below, for additional information about the potential cost of the requirement to have real property gifts independently appraised.

B. The economic effect, including a detailed quantification of implementation and compliance costs, on the specific businesses, sectors, public utility ratepayers, individuals, and local governments that will be affected by the proposed rule(s) and regulation(s) and on the state economy as a whole;

There is no significant economic effect based on these proposed changes.

The additional clarity and uniformity should make it easier for contributors and eligible charitable organizations to make and accept qualifying contributions, although this effect is minor and not economically quantifiable. Allowing other-than-cash contributions could result in contributors choosing to contribute additional amounts.

Please see the explanation in Section III.F, below, for additional information about the potential cost of the requirement to have real property gifts independently appraised.

C. Businesses that would be directly affected by the proposed rule(s) and regulation(s);

Contributors and eligible charitable organizations are directly affected by the proposed regulation. Per statute, eligible charitable organizations are certified by the Department of Revenue and a list of currently certified organization is published (see https://www.ksrevenue.gov/prtaxcredits-pregnancy.html).

D. Benefits of the proposed rule(s) and regulation(s) compared to the costs;

The proposed regulation does not lead to estimable additional costs for contributors or eligible charitable organizations. It benefits contributors and eligible charitable organizations by clarifying program rules and expanding the types of contributions allowed. Allowing other-than-cash contributions could result in contributors choosing to contribute additional amounts, leading to a potential impact to state revenues that is judged minimal but is difficult to estimate. The current credit allowed is capped at $10 million per year. For more information on potential impact to state revenues, please see Section III.F, below.

Please see the explanation in Section III.F, below, for additional information about the potential cost of the requirement to have real property gifts independently appraised.

E. Measures taken by the agency to minimize the cost and impact of the proposed rule(s) and regulation(s) on business and economic development within the State of Kansas, local government, and individuals;

The Department of Revenue sought input from organizations currently registered with the Department as eligible charitable organizations. 16 of those organizations chose to participate in a

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teleconference to discuss the proposed regulation. Feedback from participating organizations has been generally favorable. The Department will also work with eligible charitable organizations during the public comment period as an additional avenue to promote awareness and opportunity to comment among existing and potential program donors.

Because the proposed regulation does not lead to an estimable impact on business and economic development within the State of Kansas, local government, or identifiable individuals, no other specific measures were taken to minimize the cost and impact on business and economic development, local government, and individuals.

F. An estimate of the total annual implementation and compliance costs that are reasonably expected to be incurred by or passed along to businesses, local governments, or individuals. *Note: Do not account for any actual or estimated cost savings that may be realized. Implementation and compliance costs determined shall be those additional costs reasonably expected to be incurred and shall be separately identified for the affected businesses, local governmental units, and individuals.*

Costs to Affected Businesses – $0.00

Costs to Local Governmental Units – $0.00

Costs to Individuals – $0.00

Total Annual Costs – $0.00
(sum of above amounts)

Give a detailed statement of the data and methodology used in estimating the above cost estimate.

The proposed regulation does not lead to estimable additional costs for affected businesses/organizations, local government units, or individuals.

As previously noted, the updated rules would establish guidelines for valuing other-than-cash contributions that are consistent with the guidelines specified in statute or regulation for similar contribution-based credits. This includes a requirement providing that the amount of tax credit allowable for donations of real property shall be based on the lesser of two current independent appraisals conducted by state-licensed appraisers. This appraisal cost will vary widely depending on the nature of the real property appraised. Real property contributions for similar contribution-based credits are very rare (fewer than annual) and thus do not provide sufficient data to permit an estimate of this cost to the donor. Therefore, it is not possible to assign a precise dollar figure, or even a useful range of figures, to this potential cost.

It is again worth noting that this requirement is intended as a safeguard of public funds and is consistent with legislative policy regarding the same (*see* K.S.A. 79-32,195(f), K.S.A. 74-99c02(b)). Thus, the cost appears both necessary and reasonable if the donation of real property is to be allowed for credit.

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☐ Yes

☐ No

☒ Not Applicable

If the total implementation and compliance costs exceed $1.0 million or more in implementation and compliance costs over the initial five-year period following adoption of such rule(s) and regulation(s) that are reasonably expected to be incurred by or passed along to businesses, local governmental units and individuals as a result of the proposed rule and regulation, did the agency hold a public hearing to find that the estimated costs have been accurately determined and are necessary for achieving legislative intent? If applicable, document when the public hearing was held, those in attendance, and any pertinent information from the hearing.

N/A

Provide an estimate to any changes in aggregate state revenues and expenditures for the implementation of the proposed rule(s) and regulation(s), for both the current fiscal year and next fiscal year.

The proposed regulation would allow contributions of stocks, bonds, personal property, or real property to qualify for credit. This is consistent with rules specified in statute or regulation for other, similar contribution-based credits, including the Low-Income Student Scholarship Credit, Community Service Contribution Credit, and Community College or Technical College Contribution Credit. Contributors may be more willing to contribute or may contribute larger amounts if these types of contributions are allowed.

The precise effect is difficult to estimate because it depends on accounting for contributions that were not made. However, in 2023, other-than-cash contributions to the Low-Income Student Scholarship Credit, Community Service Contribution Credit, and Community College or Technical College Contribution Credit made up approximately 10% of total contributions. 2024 contributions to the Pregnancy Resource Act Tax Credit totaled $3,956,553. Based on the 10% proportion of other-than-cash contributions seen in similar credit programs, a hypothetical additional $439,617 in contributions may have qualified for Pregnancy Resource Act Tax Credit in 2024 [($3,956,553 / 0.9) * 0.1 = $439,617]. Because 70% of the value of the contribution qualifies for credit, an additional $307,732 represents the Pregnancy Resource Act Tax Credit that may theoretically have been issued if the program allowed other-than-cash contributions [$439,617 * 0.7 = $307,732]. Note that 2024 was the first year of the Pregnancy Resource Act Tax Credit.

However, please also note that several factors work together to lower this hypothetical impact to revenues. First, not all taxpayers are able to use the credit in its entirety against their liability in the taxable year. Credits may be carried over for five tax years but are then eliminated. This delays and in some cases eliminates the potential fiscal impact of the credit. Second, many contributors are likely to have still contributed the same amounts to the Pregnancy Resource Act Tax Credit in cash even if they would have preferred to make an other-than-cash contribution. Third, contributors who were primarily motivated to make an other-than-cash contribution for tax planning purposes in tax year 2024 may have chosen to contribute to one of the other contribution-based credit programs instead of the Pregnancy Resource Act Tax Credit, resulting in the same overall fiscal impact to state revenues.

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Provide an estimate of any immediate or long-range economic impact of the proposed rule(s) and regulation(s) on any individual(s), small employers, and the general public. If no dollar estimate can be given for any individual(s), small employers, and the general public, give specific reasons why no estimate is possible.

The proposed regulation does not lead to estimable additional costs for individuals, small employers, or the general public.

The additional clarity and uniformity should make it easier for contributors and eligible charitable organizations to make and accept qualifying contributions, although this effect is minor and not economically quantifiable.

Please see the explanation in Section III.F, above, for information about the potential cost of the requirement to have real property gifts independently appraised.

G. If the proposed rule(s) and regulation(s) increases or decreases revenues of cities, counties or school districts, or imposes functions or responsibilities on cities, counties or school districts that will increase expenditures or fiscal liability, describe how the state agency consulted with the League of Kansas Municipalities, Kansas Association of Counties, and/or the Kansas Association of School Boards.

Because the proposed changes will not result in changes to revenues of cities, counties or school districts and impose no additional functions or responsibilities on cities, counties or school districts, the Department of Revenue did not consult with the League of Kansas Municipalities, Kansas Association of Counties, and/or the Kansas Association of School Boards.

H. Describe how the agency consulted and solicited information from businesses, business associations, local governmental units, state agencies, or institutions and members of the public that may be affected by the proposed rule(s) and regulation(s) or may provide relevant information.

The Department of Revenue sought input from organizations currently registered with the Department as eligible charitable organizations. 16 of those organizations chose to participate in a teleconference to discuss the proposed regulation. Feedback from participating organizations has been generally favorable.

Section IV

Does the Economic Impact Statement involve any environmental rule(s) and regulation(s)?

☐ Yes If yes, complete the remainder of Section IV.

☒ No If no, skip the remainder of Section IV.

A. Describe the capital and annual costs of compliance with the proposed rule(s) and regulation(s), and the individuals or entities who would bear the costs.

N/A

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B. Describe the initial and annual costs of implementing and enforcing the proposed rule(s) and regulation(s), including the estimated amount of paperwork, and the state agencies, other governmental agencies, or other individuals who will bear the costs.

N/A

C. Describe the costs that would likely accrue if the proposed rule(s) and regulation(s) are not adopted, the individuals or entities who will bear the costs and who will be affected by the failure to adopt the rule(s) and regulation(s).

N/A

D. Provide a detailed statement of the data and methodology used in estimating the costs used.

N/A

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