

JCARR

Report on Oversight Activities of the

JOINT COMMITTEE ON

ADMINISTRATIVE RULES

AND REGULATIONS

July 2016—June 2017

**Kansas Legislative Research Department
July 2017**

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INTRODUCTION

Since 1939 (L. 1939, Ch. 308), the Kansas statutes have provided for legislative oversight of rules and regulations. For more than 40 years, that oversight generally allowed the Legislature to reject, modify, or revoke an administrative rule and regulation. The Joint Committee on Administrative Rules and Regulations was formed in 1977, to review all filed rules and regulations and to recommend to the Legislature whether to amend, revoke, or reject the regulations reviewed. In 1984, the Kansas Supreme Court found provisions allowing the Legislature to rewrite or reject administrative rules and regulations to be unconstitutional (*State, ex rel. Stephan v. Kansas House of Representatives*, 236 Kan 45).

Statutes related to rules and regulations underwent extensive revisions in 1988. KSA 2016 Supp. 77-436 specifies the composition and duties of the Joint Committee on Administrative Rules and Regulations. It states all rules and regulations filed each year with the Secretary of State are subject to review by the Committee, which is authorized to “introduce such legislation as it deems necessary in performing its functions of reviewing administrative rules and regulations.” The Act was further revised in 2010, primarily with updates to procedures, and more extensively in 2011 (as noted in the report for that year), but the Committee’s basic charge has not changed. The 2011 bill also designated KSA 2016 Supp. 77-415 through 77-438 as the Kansas Rules and Regulations Filing Act.

A brief history of oversight from 1939 through May 2010 is provided in the *Report on Oversight Activities of the Joint Committee on Administrative Rules and Regulations, June 2009-May 2010*, available from the Kansas Legislative Research Department. Reports including information for 2010-2011 are also available.

This volume contains a report for the current year, 2016-2017, plus reports for the previous five years:

- 2015-2016;
- 2014-2015;
- 2013-2014;
- 2012-2013; and
- 2011-2012.

More information on rules and regulations heard by the Joint Committee in recent years and state agency responses to Committee comments is available from the Kansas Legislative Research Department.

REPORT OF THE OVERSIGHT ACTIVITIES OF THE JOINT COMMITTEE ON ADMINISTRATIVE RULES AND REGULATIONS July 2016 through June 2017

From July 2016 through June 2017, the Joint Committee on Administrative Rules and Regulations (JCARR) reviewed proposed rules and regulations of 29 different state executive branch agencies or agency divisions that have separate agency numbers. To review all of the proposed rules and regulations within their public comment periods as required by law, the Joint Committee met nine times. Meeting dates, the state agencies appearing before the Committee, and the main topics of the proposed rules and regulations are included in the following table.

JCARR Meeting Dates, Agency Appearances, and Topics, July 2016 - June 2017							
Agency	Sept. 6, 2016	Nov. 16, 2016	Jan. 3, 2017	March 6 & 7, 2017	April 5, 2017	May 16 & 31, 2017	June 26, 2017
Administration	Leave, reviews, layoffs						
Administrative Hearings		Hearing procedures					
Agriculture – Animal Health			Cervid brucellosis	Pet Animal Act* (later withdrawn)			Pet Animal Act*; auctions*
Agriculture - Veterinary Examiners			Fees				
Agriculture – Water Resources	Well spacing, water meters				Civil penalties		Uses of water*
Athletic Commission			Mixed martial arts				
Attorney General	Scrap metal dealers; bail agents	School officer training; court debt collection					
Barbering	Licensing; training						
Behavioral Sciences	Applied behavior analysis					Supervisor education*	
Children and Families							Foster care licensing*
Corporation Commission			Renewable energy				
Corrections	Fighting						
Corrections (Juvenile)				Community-based gradual responses			
Cosmetology	License fees; access to tanning devices						
Education	Suicide prevention				Emergency safety interventions; teacher preparation; school bus transportation		
Emergency Medical Services				Scope of practice	Ambulance equipment*		
Examiners in Fitting and Dispensing of Hearing Instruments		Examinations, fees					
Healing Arts			Dry needling				

JCARR Meeting Dates, Agency Appearances, and Topics, July 2016 - June 2017

Agency	Sept. 6, 2016	Nov. 16, 2016	Jan. 3, 2017	March 6 & 7, 2017	April 5, 2017	May 16 & 31, 2017	June 26, 2017
Health and Environment (KDHE)	Air quality	Day care homes and centers				Trauma centers*; voluntary cleanup of contamination*	
Indigents' Defense	Attorney compensation						
Insurance				External review; reporting*; risk-based capital instructions*		Workers compensation exemption affidavit*	Medicare supplement policies*
Labor (Workers Compensation)		Fees for medical services					
Nursing				Fees for verification of license			
Pharmacy							Emergency opioid antagonist protocols*
Real Estate Appraisal				Coursework, experience, supervision			
Real Estate Commission	Clarify relationships	Fees			Rebates		
Regents	State university admissions			Military admissions; GED scores; private and out-of-state institutions			
Revenue			Consumable materials tax (electronic cigarettes)				
Wildlife, Parks and Tourism	Vehicle permits; bait fish; wild turkey hunting			Possession of game; big-game seasons; public lands special use restrictions		Nuisance birds; deer hunting*	

* Rules and regulations in this set were NOT published in the *Kansas Register* as final rules and regulations before July 1, 2017.

(1) Includes a May 12, 2016, meeting at which only Emergency Medical Services proposed rules and regulations were heard.

(2) Three of the four proposed rules and regulations were withdrawn.

Comments to Agencies

After each proposed rule and regulation was reviewed, the Committee expressed comments it deemed appropriate, including commendations, and staff forwarded those remarks to each state agency for consideration. The Committee requested a response to each comment. Staff maintain a database of information about Committee comments and agency responses to them. All comments and responses are available for public inspection.

Examples of Committee concerns are summarized below, by general topic. Additional information, including a summary of the agency's response if the response was received by the deadline for this report, is summarized in parentheses.

Authority

- Department of Insurance, workers compensation insurance policies, May 16, 2017. The Committee heard testimony regarding authority for this particular rule and regulation; Committee leadership and staff met with a representative of the Attorney General's Office to discuss the issue. (In its response, the agency stated the Attorney General's Office had reviewed and approved the proposed rule and regulation for legality and outlined statutes granting authority and interpreted with the rule and regulation.)

Clarity

- Behavioral Sciences Regulatory Board, behavioral analysts, September 6, 2016. The Committee requested clarification on whether an assistant behavioral analyst may be supervised by someone in a profession other than behavioral analysis. (The agency responded the scope of practice for an assistant behavior analyst is very narrow and only a licensed behavior analyst could supervise an assistant behavior analyst.)
- Department of Health and Environment, voluntary cleanup and property redevelopment program, May 31, 2017. The Committee suggested clarification to ensure qualified persons conduct the required analyses. It also suggested the agency clarify whether the Secretary's designee could approve an application.
- Department of Agriculture, Division of Animal Health, Kansas Pet Animal Act, June 26, 2017. Committee members were concerned about definitions, *e.g.*, for "rescue network," used in the proposed rules and regulations but did not exist in the statutes, and the potential effect on the regulated community. It noted SB 47, to amend the Kansas Pet Animal Act, was not passed by the Legislature in 2017.

Changes to Law

- Behavioral Sciences Regulatory Board, behavioral analysts, September 6, 2016. The Committee suggested the agency consider requesting a change to law to add a behavioral analyst to the Behavioral Sciences Regulatory Board. (The agency said it determined input from behavior analysts and assistant behavior analysts could be

accomplished by adding a representative of behavior analysts to the Board's psychology advisory committee, which would not require a change to law.)

Compliments

- Real Estate Commission, family and brokerage relationships, September 6, 2016. The Committee commended the agency for its work on this set of rules and regulations.
- Board of Barbering, permits, course requirements, licensing, September 6, 2016. The Committee commended the agency's administrator for doing a superb job during a difficult time for the agency.
- Office of Administrative Hearings, hearing procedures, November 16, 2016. The Committee commended the agency for the revised rules and regulations on electronic filing.
- Board of Pharmacy, emergency opioid antagonist protocols, June 26, 2017. The Committee commended the agency for its timely and appropriate development and implementation of this rule and regulation.

Fees and Costs

- Attorney General, bail enforcement agent licensing, September 6, 2016. The Committee requested information on the projected adequacy of the fees and a report in six months as to the adequacy of the fees to cover costs to oversee the program. (In its September 28, 2016, response, the agency said it was too early to determine whether the fees would cover the costs to the agency to oversee the program. Later information showed direct costs of approximately \$230 per license for salaries and fringe benefits for time spent specifically on those applications and application fees of \$257 per license, including the cost of a criminal record check. Total revenue to the program as of July 2017 was \$5,397, with 21 applications received (of which 20 were approved). The response noted indirect costs would include information technology, human resources, fiscal, and administrative support costs and that total costs would exceed amounts received from applications.)
- Department of Labor, Division of Workers Compensation, fees for medical services, November 16, 2016. The Committee recommended the agency explore, with the National Council on Compensation Insurance, whether a shift to using actual acquisition cost or another cost methodology would be beneficial for future schedules of medical fees. (The agency responded its representative had discussed this with the National Council on Compensation Insurance and no state was then using acquisition costs as its base for workers compensation reimbursement for prescription drugs. It added the issue may be reviewed again when creating the 2019 medical fee schedule.)
- Attorney General, school for law enforcement officer training, November 16, 2016. The Committee expressed concern this set of rules and regulations is an unfunded mandate to law enforcement agencies and unified school districts. (The agency

replied 2016 SB 14, Section 14, requires the agency to collaborate with the Kansas Law Enforcement Training Center and the State Board of Education to promulgate rules and regulations on this topic.)

- Department of Health and Environment, child care provider training, March 6, 2017. The Committee expressed its concern with costs to child care providers to meet the new training requirements and requested the amount associated with the Child Care and Development Fund (CCDF) State Plan. (The agency responded total funds available for the CCDF State Plan are approximately \$51 million a year and the potential penalty for not being in compliance with the federal Child Care Development Block Grant Act of 2014 was approximately \$1 million a year.)

Information Requests

- Attorney General, bail enforcement agent licensing, September 6, 2016. The Committee asked about procedures for bail enforcement agents who may not be from Kansas. (The agency responded a Kansas license is not required, and notes one option is for the out-of-state bail enforcement agent to contract with a Kansas entity. It notes the Bail Enforcement Agent Licensing Act contains no authority for the Office of the Attorney General to establish reciprocity agreements with other states.)
- Department of Administration, awarding of administrative leave, September 6, 2016. The Committee requested information on the potential impact of the rules and regulations on state employees and their Kansas Public Employees Retirement System (KPERs) benefits. (The agency said it anticipated a positive impact on employee morale and that guidelines to be issued in the form of a Personnel Bulletin would address how to eliminate or minimize adverse effects on employees who receive administrative leave of ten days or more [and therefore are not eligible for KPERs service credit for that time] or who could lose vacation leave as a result of using administrative leave.)
- Department of Health and Environment, voluntary cleanup and property redevelopment program, May 31, 2017. The Committee requested an example of the type of information filed to notify a prospective landowner of approved controls for the property subject to a voluntary agreement on this topic.
- Department of Agriculture, Division of Animal Health, Kansas Pet Animal Act, June 26, 2017. The Committee requested information on the agency's position and rationale used to choose entities with respect to unannounced inspection, and it also requested the agency describe its requests to the Legislature for additional resources to fund additional inspectors for this program.

Program Concerns

- Department of Administration, appeal of performance rating and shared leave program, September 6, 2016. The Committee noted a proposed rule and regulation on appeal of a performance rating appeared to deviate from the recommendations of the Hays Study and requested information on the impact on State employees. It also requested a complete explanation of the shared leave program and its use over time

and asked for clarification on certain aspects of that program. (The Department responded it had decided not to proceed with the proposed amendments to either KAR 1-7-11 or KAR 1-9-23 and did not need to address the “moot” comments and requests.)

- Department of Education, suicide prevention training, September 6, 2016. The Committee requested the agency consider requiring a form of verification to ensure self-review of suicide prevention training actually occurred and to clarify the meaning of “all school staff.” (The Department responded the schools are held accountable through the accreditation system and the agency would be revising all accreditation regulations [including on suicide prevention training] and could add a definition of “all school staff” after that review if needed.)
- Department of Revenue, tax on consumable materials (electronic cigarettes), January 3, 2017. The Committee expressed its disappointment that the rules and regulations would not go into effect until after the tax implementation date of January 1, 2017. (The agency responded it worked closely with the e-cigarette industry, and continued conversations with industry representatives resulted in a compromise in enacted 2017 Sub. for HB 2230. The bill defines “consumable material” and delayed implementation of the law until July 1, 2017.)
- Department of Insurance, external review of medical condition decisions, March 6, 2017. The Committee expressed concern that the amount of time outlined in the rule and regulation for an expedited external review (3 business days) is inconsistent with that in statute (72 hours from receipt), and it requested the agency review this and the use of both “days” and “business days” in the proposed rule and regulation.
- Board of Regents, GED scores, March 6, 2017. The Committee asked how the agency would deal with individuals who were granted GED credentials with scores of 145-149 before the rule and regulation was amended from requiring a score of 150 to requiring a score of 145. (The agency responded it amended the rule and regulation, after consultation with staff of the Offices of the Attorney General and the Secretary of State, to make the amended score effective for all tests taken on or after January 1, 2014. It estimated approximately 650 Kansans took the test during the time in question and approximately 164 scored between 145 and 149 on at least one of the tests.)
- Department of Agriculture, Division of Water Resources, changes to beneficial uses of water, June 26, 2017. The Committee noted the discretion in the proposed rule and regulation as to the amount of a civil penalty and asked how the agency ensures a penalty amount is determined in an objective rather than a subjective manner.

Legislative Action

Of the 104 bills enacted in 2017, 26 contained provisions authorizing, requiring, moving, or clarifying authority for rules and regulations. The following list summarizes those statutory changes. Statutory deadlines that were specified are mentioned. For more information on aspects of these bills not related to rules and regulations, the reader is directed to the 2017 *Summary of Legislation*, available from the Kansas Legislative Research Department's website.

Agriculture, Department of

House Sub. for SB 60 requires, rather than allows, the Secretary of Agriculture to reduce the fee for registrations of agricultural chemicals and commercial fertilizers and for any dairy license or inspection fee whenever it is determined the fee is yielding more revenue than is necessary for the administration of the program to which it is linked.

HB 2136 authorizes the Secretary of Agriculture to promulgate rules and regulations requiring technical representatives of service companies that work with motor fuel dispensing devices in violation of dispensing device statutes or rules and regulations to seek renewal of a license on an annual basis, as well as to establish criteria for reinstatement of eligibility for the three-year license. It also authorizes the Secretary of Agriculture to charge a fee, in an amount not more than is necessary to cover the expenses incurred by the agency, to the attendees of continuing education seminars for technical representatives.

Attorney General

SB 23 requires the Attorney General, the Commissioner of Insurance, and the Securities Commissioner to coordinate and cooperate to prevent, detect, investigate, and criminally prosecute crimes related to insurance and securities. The Attorney General is authorized to adopt rules and regulations to administer that section of new law.

House Sub. for SB 40 requires any applicant for issuance or renewal of a commercial driver's license to have completed training approved by the Attorney General in human trafficking identification and prevention. The Attorney General, in consultation with the Director of Vehicles, is directed to promulgate rules and regulations to implement these provisions, by January 1, 2019.

SB 149 allows the Attorney General to determine, establish, and collect legal representation charges for legal services provided to any state agency (defined by the bill to mean any department of state government, or any agency thereof, that collects fees for licensing, regulating, or certifying a person or profession). The Attorney General may determine the charges to any agency based on a schedule of fees and costs published by the Attorney General or by agreement with the state agency; those fees may not exceed the limits established for compensation and reimbursement for legal services provided to indigent defendants. The Attorney General is authorized to adopt rules and regulations as necessary to implement the provisions.

Children and Families, Department for

Sub. for Sub. for SB 95 requires the Secretary for Children and Families to accept a telephonic signature by an applicant or an applicant's authorized representative to fulfill any signature requirement for application for public assistance programs administered by the Secretary. The bill makes a telephonic signature an option for applicants, not a requirement. The bill requires the Secretary, prior to January 1, 2018, to adopt rules and regulations to establish requirements and procedures for submitting a telephonic signature, including measures to verify the identity of any applicant choosing or purporting to submit a telephonic signature; to protect an applicant for public assistance against potential impersonation, identity theft, or invasion of privacy; and to provide accurate linkage between a telephonic signature and the associated application or case file.

Citizens Utility Ratepayer Board

Executive Order 11-02 ordered the Citizens Utility Ratepayer Board (CURB) to receive proposed rules and regulations and, at CURB's discretion, to review those proposed rules and regulations for their impact on Kansas citizens and provide comments to the Office of the Governor. The order requires executive agencies to send copies of proposed rules and regulations to CURB after getting approval from the Department of Administration and the Attorney General's Office on those proposed rules and regulations. However, **Senate Sub. for HB 2002, Sec. 62**, prohibits CURB from using state funding in the Utility Regulatory Fee Fund for any duties pursuant to Executive Order No. 11-02 in state fiscal year 2018.

Corrections, Department of

House Sub. for SB 42 requires the Department of Corrections to establish and maintain a statewide searchable database that contains information regarding juveniles who participate in an immediate intervention program. The bill requires county and district attorneys, judges, community supervision officers, and juvenile intake and assessment workers to have access to the database and to submit necessary data to such database. The bill requires the Department of Corrections, in consultation with the Office of Judicial Administration, to adopt rules and regulations to carry out these provisions.

Education, State Board of

SB 19 authorizes the State Board of Education to adopt rules and regulations to administer the Kansas School Equity and Enhancement Act. It also specifically authorizes the Board to adopt rules and regulations prescribing procedures for school districts to follow in reporting information related to student transportation, including on uniform reporting of expenditures for transportation, and establishing the criteria for eligibility for at-risk program services in districts that offer instruction in kindergarten and in grades 1 through 12.

Fusion Center Oversight Board

SB 184, the Kansas Intelligence Fusion Center Act, establishes the Fusion Center Oversight Board, which is composed of the Attorney General, the Adjutant General, and a member appointed by the Attorney General with expertise in critical infrastructure protection. The bill authorizes the Board to adopt rules and regulations necessary to carry out the provisions of the Act.

Insurance, Department of

SB 14 requires the Commissioner of Insurance to adopt, by January 1, 2018, rules and regulations relating to insurance for self-service storage units.

SB 16 authorizes the Commissioner to adopt rules and regulations on three topics:

- The bill authorizes the Commissioner to act as the group-wide supervisor for any internationally active insurance group and to promulgate, by July 1, 2018, rules and regulations necessary to administer these provisions;

- The bill's provisions regarding corporate governance annual disclosure include authority for the Commissioner to adopt, by January 1, 2019, rules and regulations necessary to administer these provisions; and
- The bill specifies the requirements for reinsurance credit on and after January 1, 2018. The bill authorizes the Commissioner to adopt, by January 1, 2019, rules and regulations necessary to implement these provisions.

SB 17, the Fair Access to Insurance Requirements Plan Act, states its purpose is to make available basic property and casualty insurance to persons who have property interests in Kansas and are in good faith entitled, but unable, to obtain coverage through the voluntary market. The bill authorizes the Commissioner to adopt, by January 1, 2018, rules and regulations necessary to administer the Act.

SB 23 establishes the Office of the Securities Commissioner as a division under the jurisdiction of the Commissioner of Insurance. The bill requires the Office of the Securities Commissioner to cooperate with the Department of Insurance to consolidate administrative functions and cross-appoint employees as necessary. The Commissioner of Insurance and the Securities Commissioner are authorized to enter into agreements and adopt rules and regulations necessary to administer these provisions.

Health and Environment, Department of

Senate Sub. for HB 2026 requires adoption of two sets of rules and regulations:

- By January 1, 2018, the Secretary of Health and Environment must adopt rules and regulations necessary to implement requirements related to Medicaid managed care organizations, regarding data production and training, standardization, the provision of an independent auditor, payment to nursing facilities with a change in ownership, and non-discrimination against a licensed pharmacy or pharmacist; and
- By January 1, 2020, the Department must adopt rules and regulations to implement provisions related to Medicaid external independent third-party review.

Labor, Department of

House Sub. for SB 86 requires the Secretary of Labor, by January 1, 2018, to adopt rules and regulations to implement amendments the bill makes to the Kansas Amusement Ride Act and the Amusement Ride Insurance Act. It also requires the Secretary of Labor to adopt rules and regulations specifying nationally recognized organizations that issue certifications or other evidence of qualification to inspect amusement rides and requiring education, experience, and training at least equivalent to that required for a Level II certification from the National Association of Amusement Ride Safety Officials as of July 1, 2017. **House Sub. for SB 70**, which was repealed and replaced by House Sub. for SB 86, contained an identical provision regarding rules and regulations related to inspector certification.

Nursing, Board of

HB 2118 requires the Board of Nursing to adopt in rules and regulations continuing education requirements for inactive advanced practice nursing licensees to become licensed in the state.

Pharmacy, Board of

Senate Sub. for HB 2055 requires the Board of Pharmacy to establish standards and requirements for the issuance and maintenance of registration for third-party logistics providers and for outsourcing facilities engaged in the compounding of sterile drugs. Those rules and regulations must address, among other topics, that the personnel employed by persons registered to operate as third-party logistics providers or outsourcing facilities have appropriate education and experience to assume responsibility for compliance with state registration requirements. The bill also requires the Board to adopt rules and regulations to restrict the tasks a pharmacy technician may perform prior to passing any required examinations and to govern proper compounding practices and distribution of compounded drugs by pharmacists and pharmacies.

HB 2217 creates standards governing the use and administration of emergency opioid antagonists to inhibit the effects of opioids and for the treatment of an opioid overdose. It requires the Board of Pharmacy to issue a statewide opioid antagonist protocol, define applicable terms, establish educational requirements for the use of opioid antagonists, and provide protection from civil and criminal liability for individuals acting in good faith and with reasonable care in administering an opioid antagonist. The bill requires the Board to adopt rules and regulations necessary to implement the provisions of the bill prior to January 1, 2018. (The corresponding rules and regulations were heard at the June 26, 2017, meeting.)

Revenue, Department of

House Sub. for SB 13 allows businesses with licenses to sell any cereal malt beverage (defined by law to mean any fermented but undistilled liquor brewed from malt, malt substitute, flavored malt beverage, or combination thereof, with an alcohol weight of 3.2 percent or less) to sell beer containing not more than 6.0 percent alcohol by volume, starting April 1, 2019. The bill authorizes the Director of Alcoholic Beverage Control to adopt rules and regulations necessary to administer the provisions of the bill. The bill states the rules and regulations are to be promulgated by July 1, 2018.

Sub. for SB 74, Joey's Law, authorizes issuance of placards, for use in vehicles, to persons who need assistance with cognition including, but not limited to, persons with autism spectrum disorder. It also authorizes identification of such persons by decals on license plates and on driver's licenses or nondriver identification cards. The bill authorizes the Secretary of Revenue to adopt rules and regulations necessary to implement these provisions.

Sub. for HB 2230 specifies the Department of Revenue must require in rules and regulations information required of each retail dealer that sells cigarettes to Kansas consumers without *indicia* of Kansas tax. It also delays the effective date, from January 1 to July 1, 2017, for provisions regarding taxing of consumable materials (e-cigarettes).

Sub. for HB 2277 allows a city or county to establish one or more common areas for the consumption of alcohol within the city or unincorporated area of the county. The bill requires the Secretary of Revenue to adopt rules and regulations to implement these provisions.

Securities Commissioner, Office of the

SB 23 establishes the Office of the Securities Commissioner as a division under the jurisdiction of the Commissioner of Insurance. The bill requires the Office of the Securities Commissioner to cooperate with the Department of Insurance to consolidate administrative functions and cross-appoint employees as necessary. The Commissioner of Insurance and the Securities Commissioner are authorized to enter into agreements and adopt rules and regulations necessary to administer these provisions.

State, Secretary of

HB 2158 requires advance voting ballots postmarked (or otherwise indicated by the U.S. Postal Service to have been mailed) before the close of the polls on election day to be counted if received on or before the third day following the election, unless additional time is permitted by the Secretary of State. The bill requires the Secretary of State to adopt rules and regulations to implement these provisions.

State Bank Commissioner

SB 20 replaces a provision setting the application fee for a credit services organization business at \$100 with one stating the amount of the fee is to be established by the State Bank Commissioner through rules and regulations.

Tax Appeals, State Board of

SB 19 authorizes certain school districts to levy an *ad valorem* tax for not more than two years to finance costs attributable to assignment of ancillary school facilities weighting to the enrollment of the school district. The State Board of Tax Appeals is authorized to adopt rules and regulations to implement these provisions, including rules and regulations relating to the evidence required in support of a school district's claim that the costs attributable to commencing operation of one or more new school facilities exceed the amount that is financed from any other sources provided by law for such purpose.

REPORT OF THE OVERSIGHT ACTIVITIES OF THE JOINT COMMITTEE ON ADMINISTRATIVE RULES AND REGULATIONS July 2015 through June 2016

From July 2015 through June 2016, the Joint Committee on Administrative Rules and Regulations (JCARR) reviewed proposed rules and regulations of 36 different state executive branch agencies or agency divisions that have separate agency numbers. To review all of the proposed rules and regulations within their public comment periods as required by law, the Joint Committee met nine times. Meeting dates, the state agencies appearing before the Committee, and the main topics of the proposed rules and regulations are included in the following table.

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Agency	August 10, 2015	Sept. 28, 2015	Nov. 16, 2015	Jan. 7, 2016	Feb. 8, 2016	March 14, 2016	March 22, 2016	June 1, 2016 (1)
911 Coordinating Council	Fees							
Accountancy			Professional conduct					
Administration	Parking garage fees		Travel reimbursement					
Administrative Hearings		Hearings procedures*						
Agricultural Remediation							Reimbursement	
Agriculture					Liming materials			
Agriculture – Animal Health					Euthanasia		Quarantine	Reportable diseases*
Agriculture - Veterinary Examiners							Fees	
Agriculture – Water Resources			Water storage			Flowmeters; closing aquifers		
Attorney General		Scrap metal dealers						
Barbering					Barber colleges; fees			
Children and Families			Child support					
Corporation Commission	Gas wells			Motor carriers				
Corrections		Sexual abuse						
Cosmetology	Fees; mobile facilities							
Dental Board			Notification of scaling					
Education						Emergency safety interventions		
Emergency Medical Services			Continuing education	Ambulance definitions			Continuing education*	Continuing education (1)*

JCARR Meeting Dates, Agency Appearances, and Topics, July 2015 - June 2016

Agency	August 10, 2015	Sept. 28, 2015	Nov. 16, 2015	Jan. 7, 2016	Feb. 8, 2016	March 14, 2016	March 22, 2016	June 1, 2016 (1)
Healing Arts				Physician assistants	Continuing education, occupational and physical therapists			
Health and Environment (KDHE)	Nitrogen oxides allocations (air quality)					Contamination risk management	Vital statistics records	
KDHE – Health Care Finance			Adult care home reimbursement					
Indigents' Defense		Attorney compensation						
Insurance		Life insurance; annuities				Benefits coordination		Health utilization management*
Nursing				Programs; licenses; conduct; continuing education				
Pharmacy							Collaborative drug therapy	Continuing ed.; long-term care facilities; automated systems; fees*
Racing and Gaming					Extending certain licenses (2)			
Real Estate Appraisal				Historic properties			License requirements	
Real Estate Commission		License fees; background checks						
Regents	Military in-state tuition; residency							
Revenue	Ignition interlock devices		Ignition interlock devices; charitable gaming	Bingo				
Revenue – Alcoholic Beverage Control	Automated wine dispensing							
Revenue – Property Valuation						Mass appraisal continuing education		
Secretary of State	Voter registration							
Securities	Fees	Licensing; registration; ethics						
Technical Professions							Seals and signatures	
Wildlife, Parks and Tourism	License fees; permit applications; fishing				Public lands use; elk and deer hunting		Hunting, doves and antelope	Hunting, deer ; remove commercial guiding permits*

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Examples of Committee concerns are summarized below, by general topic. Additional information, including a summary of the agency's response if the response was received by the deadline for this report, is summarized in parentheses.

Authority

- Education, emergency safety interventions, March 14, 2016. The Committee suggested the agency cite not only its authority under the *Kansas Constitution*, but also that given through statute for these rules and regulations. (The agency responded it had received no guidance through the Department of Administration or Secretary of State advising state agencies to use the history section of a regulation to make the public aware of a statutory mandate. It further stated it would have adopted the regulations even if the Freedom from Unsafe Restraint and Seclusion Act had not been enacted and noted that Act sunsets in 2020.)

Clarity

- Division of Water Resources, Department of Agriculture, groundwater storage, November 16, 2015. The Committee suggested new language concerning well spacings near the North Fork of the Ninnescah River be separated from continuing language so the new requirement is not confused with language regarding McPherson County. (The agency separated the new and continuing language using subparagraph designations.)
- Revenue, charitable gaming, November 16, 2015. The Committee suggested the agency include "raffle" in the title of a proposed rule and regulation, presented only as "Definitions" and in the same article as bingo rules and regulations. (The agency changed the title to "Charitable raffles; definitions.")

Compliments

- 911 Coordinating Council, fees, August 10, 2015. The Committee said it appreciates the Council looking ahead to future technological advancements for 911 services.
- Revenue, charitable gaming, November 16, 2015. The Committee thanked those responsible for providing a word-for-word comparison between the former rules and regulations for bingo, which were all revoked, and the proposed rules and regulations, many of which were substantially the same as the revoked rules and regulations.

- Emergency Medical Services, ambulance definitions, January 7, 2016. The Committee thanked the Board for simplifying ambulance types and its efforts to enable ambulance coverage throughout the state.
- Barbering, barber colleges, fees, February 8, 2016. The Committee commended the Board for acting to align its practices and rules and regulations and its efforts to further update its rules and regulations.
- Technical Professions, seals and signatures, March 22, 2016. The Committee commended the agency and the Board of Technical Professions for the recognition given to those new to the professions and the efforts to impress on the new professionals the importance of the public trust.

Fees and Costs

- Wildlife, Parks and Tourism, license fees, August 10, 2015. The Committee said it believed the proposed fee increases were excessive and would discourage hunting and fishing in Kansas. (The agency response stated the majority of the license fees had not been increased since 2002, and some not since 1984, while costs to provide services increased; the increased license fees remained competitively priced compared with those in surrounding states; applications for nonresident deer permits in the first six months following the increase indicated no change in demand; the five-year license option kept the fee on an annual basis at the former rate; and fees were not increased for resident youth deer and turkey permits, to encourage participation.)
- Attorney General, scrap metal dealers, September 28, 2015. The Committee expressed its concern that the cost of initial registration and annual renewal of a scrap metal dealer's registration certificate is excessive and that the fee is the same for all dealers, without differentiating dealer size or between urban and rural dealers. (The agency responded the scrap metal dealer registration program is intended to be self-sustaining and the fee could be adjusted once the agency is able to determine the actual costs of operating the registration program. It noted the Scrap Metal Theft Reduction Act does not authorize the Attorney General to obtain information that would indicate the size of a scrap metal business or to base the fee on factors such as business size or the place of business.)
- Children and Families, child support enforcement, November 16, 2015. The Committee suggested the agency clarify how the Secretary for Children and Families would determine whether funds for child support enforcement were sufficient to reduce the fee in non-public-assistance (non-PA) cases; the fee is a percentage of child support enforcement collections distributed to the applicant or recipient. (The agency responded that the proposed rule and regulation reduced the Secretary's authority to change the rate in non-PA cases and added "statewide" to the subsection in question, so that the rule and regulation allows the Secretary to reduce the percentage statewide, "commensurate with the department's available funds," if agency funds are sufficient to pay for some or all of the costs associated with non-PA cases statewide.)
- Emergency Medical Services, continuing education, November 16, 2015. The Committee expressed its concern that the additional time proposed for continuing

education could be a burden on emergency medical responders and suggested the Economic Impact Statement include costs to individuals who must meet the proposed continuing education requirements or costs to agencies with paid staff who must backfill responder spots during the additional training proposed. (The agency said the Board was revisiting the proposals; different versions were presented at the Committee's March 22, 2016, meeting.)

- Health and Environment, environmental contamination risk management program, March 14, 2016. The Committee expressed its concern about whether agency staff could absorb the work of the new risk management plan program. (The agency responded that the new program offers another option for remediation and the overall number of sites managed by existing staff was expected to remain relatively constant. However, as the program is voluntary, projecting future participation is challenging.)

Information Requests

- Revenue, Alcoholic Beverage Control, automated wine dispensing, August 10, 2015. The Committee requested information on controls considered to prevent a patron of legal age from providing an active access card to an underage person. (The agency responded it had opposed elimination of the requirement for a face-to-face interaction in the dispensing of alcohol and believed the language of the proposed rules and regulations was the best option to mitigate the risks. It noted the regulations require controls such as requiring a patron to present identification before accessing an automated dispensing machine for the first time during a business day and when the 15-ounce limit on a card has been reached and requiring the licensee to video record the automated self-dispensing machine and provide the video to an agency agent or law enforcement officer upon request for at least 60 days.)
- Secretary of State, voter registration, August 10, 2015. The Committee noted two paragraphs of a proposed rule and regulation allow an applicant for voter registration to provide an affidavit when proving citizenship under certain circumstances, and it asked whether an affidavit process could be allowed under additional circumstances and, if so, under what circumstances. (The agency's response stated the Secretary of State does not believe an affidavit process should be allowed under any additional circumstances and believes language in statute and regulation is sufficient to allow persons attempting to register to vote to meet the legal requirements.)
- Agriculture, Animal Health, reportable diseases, June 1, 2016. The Committee requested additional information about bovine leukosis and the reason it is proposed for deletion from the list of reportable infectious diseases. It also asked the agency to determine what other states have bovine leukosis as a reportable disease and how their reporting requirements are met. (The agency provided information about bovine leukosis, its transmission, and testing for the disease. It stated the disease was removed for several reasons: the disease is endemic within the State, the agency is unable to supply resources to remove diseased animals from herds, there is no program funding or indemnity, positive animals are rarely reported, and most western states do not require reporting of this disease.)

Program Concerns

- Secretary of State, voter registration, August 10, 2015. The Committee expressed its concern that not all county election officers contact potential voters whose applications are incomplete in the manner recommended by the State Election Director and suggested the minimum contact requirements be included in the rules and regulations. (The agency's response stated the Secretary was issuing guidelines concerning the contact of potential voters who had not completed voter registration and was conducting a survey of every county election office to ensure the minimum voter-contact efforts were being conducted.)
- Nursing, licenses, January 7, 2016. In two proposed rules and regulations, the Committee requested the agency, with the assistance of the Office of the Attorney General, review use of the phrase "deterioration through the aging process." The Committee suggested protection of the public can be achieved through the review of "physical or mental disability or condition." (The phrase "deterioration through the aging process" was removed.)
- Healing Arts, physician assistants, January 7, 2016. The Committee expressed its concern with the proposal to have no limit on the number of physician assistants under one physician's supervision at the main practice location. (The agency responded that many comments were received on this topic, and the Board chose to not impose numerical supervision limitations. It also noted there is no corresponding restriction on the number of advanced practice registered nurses who may collaborate with a single physician, regardless of location of practice.)
- Racing and Gaming, certification and licensing, February 8, 2016. The Committee noted most professional licenses in Kansas are issued for periods of no longer than two years and expressed its concern that a three-year cycle would allow people who no longer meet standards to operate for too long a period before their qualifications were reviewed. (The proposed changes to rules and regulations to increase the gaming license renewal period from two to three years were withdrawn.)

Legislative Action

Of the 112 bills enacted in 2016, 20 contained provisions authorizing, requiring, moving, or clarifying authority for rules and regulations. The following list summarizes those statutory changes. Statutory deadlines that were specified are mentioned. For more information on aspects of these bills not related to rules and regulations, the reader is directed to the 2016 *Summary of Legislation*, available from the Kansas Legislative Research Department's website.

Accountancy, Board of

HB 2536 clarifies the practice of certified public accountants and revises law to reflect changes in the profession. It removes authority for the Board of Accountancy to issue rules and regulations regarding notification and renewal of a permit for an out-of-state certified public accountant that meets certain requirements. (This change does not affect any effective rules and regulations; no such rules and regulations have been promulgated.)

Aging and Disability Services, Department for

SB 449 authorizes the Secretary for Aging and Disability Services to adopt rules and regulations to implement the provisions of the bill, which provides for the development, establishment, and enforcement of standards for the care, treatment, health, safety, hygiene, welfare, and comfort of individuals receiving care from residential facilities licensed under the bill, serving those with mental illness, developmental disability, or other disability. It specifically authorizes rules and regulations that allow a facility for individuals with mental illness or disabilities receiving assistance through the Department to assist an individual with the taking of medication when the medication is in a labeled container dispensed by a pharmacist; regarding the initial application for license and renewal of licensure fees; and regarding appeals of disqualification from employment.

HB 2615 removes a requirement for the Secretary for Aging and Disability Services to adopt rules and regulations with respect to licensed substance abuse treatment facilities that include minimum qualifications for employees of licensed or certified programs which are less than the qualifications required for a registered alcohol and other drug abuse counselor.

Agriculture, Department of

HB 2480 authorizes the Animal Health Commissioner to adopt and enforce rules and regulations governing brand inspections and allows brand inspectors and special investigators to aid in the investigations and prosecutions of violations of Kansas livestock laws and rules and regulations.

HB 2490 authorizes, beginning July 1, 2017, a three-year license for each technical representative of a weights and measures service company who has had ten years of continuous licensure with no administrative enforcement action adjudicated against that representative. The Secretary will be authorized to promulgate rules and regulations to require technical representatives who have been adjudicated as in violation of this legislation or rules and regulations to seek renewal of a license on an annual basis, as well as establish criteria for reinstatement of eligibility for the three-year license.

Attorney General

SB 367 creates and amends law related to the Kansas juvenile justice system. It requires the Attorney General, in collaboration with the Kansas Law Enforcement Training Center and the State Board of Education, to promulgate rules and regulations by January 1, 2017, to create skill development training for responding effectively to misconduct in school while minimizing student exposure to the juvenile justice system. The bill requires the superintendent of each school district or the superintendent's designee and any law enforcement officer primarily assigned to a school to complete the training.

Senate Sub. for HB 2056 creates and amends law relating to sureties and bail enforcement agents. It authorizes the Attorney General to adopt rules and regulations necessary to carry out its provisions. It specifically authorizes the Attorney General to fix in rules and regulations fees to cover costs of administering the provisions of the bill; the bill includes limits on the amounts of the fees. (The corresponding rules and regulations were heard at the September 6, 2016, meeting.)

Bank Commissioner, State

SB 390 authorizes the State Bank Commissioner, in collaboration with the Credit Union Administrator, to promulgate rules and regulations regarding savings promotions in which a person would deposit money into a savings account or other savings program in order to obtain entries and participate in the promotion. The bill requires the promotions be conducted in a manner to ensure each entry has an equal chance of winning the designated prize.

Behavioral Sciences Regulatory Board

HB 2615 requires the Behavioral Sciences Regulatory Board establish in rules and regulations a fee (not to exceed \$200) for the renewal of a temporary psychologist license and fees for application, issuance, and renewal of licenses under the Licensure of Master's Level Psychologists Act.

Children and Families, Department for

SB 418 moves authority for rules and regulations related to staff secure facilities from the Department of Health and Environment (KDHE) to the Department for Children and Families. It also changes the deadline for those rules and regulations from January 1, 2014, to January 1, 2017. (In 2014, KDHE had finalized rules and regulations related to these facilities.)

Commerce, Department of

Senate Sub. for HB 2509 authorizes, for purposes of recovering application processing, oversight, administrative, and other costs, an application fee of up to \$750 for economic development incentive programs administered wholly or in part by the Secretary of Commerce. It also authorizes an administrative application fee for sales tax and revenue (STAR) bond issuance of up to 1 percent, not to exceed \$200,000, and recovery of actual costs exceeding the fee. The bill authorizes the Secretary of Commerce to adopt rules and regulations to implement those provisions.

Corrections, Department of

SB 367 creates and amends law related to the Kansas juvenile justice system. It requires the Secretary of Corrections to adopt, by January 1, 2017, rules and regulations developed in consultation with the Supreme Court for a statewide system of structured community-based graduated responses for technical violations of probation, violations of conditional release, and violations of a condition of sentence by juveniles; the graduated responses are to be utilized by community supervision officers. The bill also requires the Secretary to promulgate, by January 1, 2017, rules and regulations regarding earned time calculations for juveniles. (The corresponding rules and regulations were heard at the March 7, 2017, meeting.)

Cosmetology, Board of

HB 2456 states no tanning facility shall provide access to a tanning device for any person younger than 18 and authorizes the Board of Cosmetology to assess a fine of no more than \$250 against a licensee for each violation. It authorizes rules and regulations necessary to effectuate these provisions, to be adopted no later than January 1, 2017. (The corresponding rules and regulations were heard at the September 6, 2016, meeting.)

Credit Unions, Department of

SB 390 authorizes the Credit Union Administrator, in collaboration with the State Bank Commissioner, to promulgate rules and regulations regarding savings promotions in which a person would deposit money into a savings account or other savings program in order to obtain entries and participate in the promotion. The bill requires the promotions be conducted in a manner to ensure each entry has an equal chance of winning the designated prize.

Education, State Board of

Sub. for SB 323 includes the Jason Flatt Act, which requires the board of education of each school district to provide suicide awareness and prevention programming to all school staff. The bill requires the Board of Education to adopt rules and necessary to implement the Act by January 1, 2017. (The corresponding rules and regulations were heard at the September 6, 2016, meeting.)

Healing Arts, Board of

HB 2615 enacts the Acupuncture Practice Act, which prohibits the practice of acupuncture without an acupuncture license as of July 1, 2017. It authorizes the Board of Healing Arts to promulgate rules and regulations to administer the provisions of the Act, including licensure requirements and continuing education requirements. The bill specifically authorizes rules and regulations regarding verification of the applicant's practice of acupuncture, appropriate continuing education requirements for inactive licensees to become licensed to regularly practice acupuncture within Kansas, and fees. The bill also requires the Board to adopt rules and regulations to establish minimum education and training requirements for the practice of dry needling by a licensed physical therapist. (The corresponding dry needling rules and regulations were heard at the January 3, 2017, meeting.)

HB 2615 also enacts law regarding the independent practice of midwifery. It requires the Board of Healing Arts, in consultation with and with the concurrence of the State Board of Nursing, to adopt rules and regulations pertaining to certified nurse-midwives engaging in the independent practice of midwifery and governing the ordering of tests and diagnostic services, prescribing drugs, and referral or transfer to physicians in the event of complications or emergencies. It requires the rules and regulations to be adopted by January 1, 2017.

Health and Environment, Department of

House Sub. for SB 227 authorizes the Secretary of Health and Environment to adopt rules and regulations to implement the Contaminated Property Redevelopment Act, including a fee for a Certificate of Environmental Liability Release (which is to be based on the size and complexity of the site and cannot exceed \$2,000).

House Sub. for SB 402, which removes a prohibition on medication step therapy for Medicaid recipients, requires the Medicaid Drug Utilization Review Board to review and approve any proposed policy or rule and regulation related to step therapy. It further requires the Mental Health Medication Advisory Committee and the Medicaid Drug Utilization Review Board to review and approve any proposed policy or rule and regulation related to step therapy for medication used to treat mental illness.

Regents, Board of

HB 2622 requires the State Board of Regents to publish degree prospectus information for each undergraduate degree program offered by each postsecondary educational institution and authorizes the Board to adopt rules and regulations to implement those provisions.

Revenue, Department of

House Sub. for SB 280 requires a county appraiser to follow methodologies developed by the Director of Property Evaluation to value specific types of property. Prior to January 1, 2017, the Secretary of Revenue is authorized to adopt rules and regulations necessary to administer those provisions.

HB 2522 authorizes the Secretary of Revenue to adopt rules and regulations to implement a program to permit an electronic online renewal of a driver's license to a license holder who meets specified criteria.

State, Secretary of

Senate Sub. for HB 2112 authorizes the Secretary of State to issue rules and regulations with respect to service of process related to mergers and consolidation of stock corporations and nonstock corporations.

Transportation, Department of

House Sub. for SB 245 authorizes the Secretary of Transportation to adopt rules and regulations to implement a memorial signage program under the Kyle Thornburg and Kylie Jobe Believe Act. Each such memorial sign will commemorate those killed in an accident in which the driver of the other vehicle was under the influence of alcohol or drugs. Applications for the signs are required.

Turnpike Authority

SB 373 authorizes the Kansas Turnpike Authority to adopt rules and regulations regarding enforcement of payment of tolls. The bill authorizes notices of toll evasion that may include a toll-evasion civil penalty, administrative fee, and costs for each instance of an unpaid toll. The bill also authorizes enforcement of payment through denial of vehicle registration after January 1, 2018, if the amount of tolls due exceeds \$100 and certain notices have been sent to the vehicle owner.

**REPORT OF THE OVERSIGHT ACTIVITIES OF THE
JOINT COMMITTEE ON ADMINISTRATIVE RULES AND REGULATIONS
July 2014 through June 2015**

From July 2014 through June 2015, the Joint Committee on Administrative Rules and Regulations (JCARR) reviewed proposed rules and regulations of 29 different state executive branch agencies or agency divisions that have separate agency numbers. To review all of the proposed rules and regulations within their public comment periods as required by law, the Joint Committee met eight times.

The dates of Joint Committee meetings, the state agencies appearing before the Committee on such dates, and the main topics of the proposed rules and regulations by date are listed in the following table.

JCARR Meeting Dates, Agency Appearances, and Topics, July 2014 - June 2015								
Agency	July 14, 2014	Sept. 2, 2014	Oct. 13, 2014	Dec. 2, 2014	Jan. 28, 2015	Feb. 20, 2015	March 13, 2015	May 6, 2015
Aging and Disability Services		Adult care home operators						
Agricultural Remediation				Limit remediation reimbursement				
Agriculture – Animal Health Division	Cervids (deer, elk)							
Agriculture – Water Resources Division							Safe yield, GWD #2	
Attorney General	Building signs regarding firearms							
Bank Commissioner	Fees							
Barbering				School requirements				
Behavioral Sciences	Professional counselors education							
Corporation Commission		Emergency management for energy operators*(1); natural gas pipeline safety					Motor carrier safety; oil and gas production safety*	Motor carrier driver hours*
Corrections	Good time credits for juveniles*							
Education	Teacher licensure; fingerprinting							
Emergency Medical Services		Ambulance equipment	Reinstating attendant certificate			Education standards		
Health and Environment (KDHE)		Air quality standards	Surface water quality standards				Background checks for certain workers	

JCARR Meeting Dates, Agency Appearances, and Topics, July 2014 - June 2015

Agency	July 14, 2014	Sept. 2, 2014	Oct. 13, 2014	Dec. 2, 2014	Jan. 28, 2015	Feb. 20, 2015	March 13, 2015	May 6, 2015
Housing Resources						Installation, manufactured housing		
KDHE – Division of Health Care Finance						Prior authorization	KanCare Prompt Payment Act	
Indigents' Defense		Defendant reimbursement of attorney fees						
Insurance		Long-term care insurance*(1)		Filing requirements; long-term care insurance; advertising		Holding company reporting	Health policy renewal*	
KBI	Electronic reporting by district courts							
Labor – Division of Workers Compensation			Medical fees					
Nursing				Fees				
Optometry							Continuing education, liability insurance	
Pharmacy	Prescription monitoring* (1)	Prescription monitoring		Electronic prescriptions; repeal repository program			Addition to Schedule I list	
Real Estate Appraisal			Education for new appraisers				Fee reduction	
Regents					GED scores; post-secondary admissions; fees			
Revenue	Liquefied petroleum fuel tax		Tax credits for scholarship program					
Revenue – Property Valuation Division	Real estate valuation					Appraising complex industrial property		
State Employee Health Care				Eligibility				
Technical Professions	Licensing: geologists and land surveyors					Continuing education*		
Wildlife, Parks and Tourism	Big game hunting; use of dogs	Fees; fishing, protected species		Fishing line identification; vehicle permit placement		Deer permits	Antelope, elk, and deer seasons	Deer season for Fort Riley

* Rules and regulations in this set were NOT published in the *Kansas Register* as final rules and regulations before July 1, 2015.

(1) The proposed rule and regulation was withdrawn.

Comments to Agencies

After each proposed rule and regulation was reviewed, the Committee expressed comments it deemed appropriate, including commendations, and staff forwarded those remarks to each state agency for consideration. The Committee requested a response to each comment. Staff maintain a database of information about Committee comments and agency responses to them. All comments and responses are available for public inspection.

Examples of Committee concerns are summarized below, by general topic. Additional information, including a summary of the agency's response if the response was received by the deadline for this report, is summarized in parentheses.

Adoption by Reference

- KDHE, surface water quality standards, October 13, 2014. The Committee encouraged the agency to cross-reference items adopted by reference to aid the reader in locating associated items. (The agency stated a document is cross-referenced only the first time it is referenced in a rule and regulation.)
- Board of Pharmacy, electronic prescriptions for Schedule II drugs, December 2, 2014. The Committee noted the proposed rules and regulations referred to 21 CFR Part 1311 and suggested the federal regulation be adopted by reference. (The agency responded any electronically transmitted prescription for a controlled substance would have to comply with the requirements of 21 CFR Part 1311 as a matter of federal law, so the requirements did not need to be established in state law – the reference was informational rather than substantive.)

Authority for Rules and Regulations

- Education, fingerprinting of teachers, July 14, 2014. The Committee requested the Board consider seeking statutory authority for requiring fingerprinting of teachers who have maintained licensure since before 2002. (The agency responded the *Kansas Constitution* gives the Board authority to supervise the public schools and to adopt regulations for purposes such as the issuance and renewal of licenses for teachers without any further legislative action. The Board unanimously approved the proposed rule and regulation amendments.)

Clarity

- Real Estate Appraisal Board, education requirements for new appraisers, October 13, 2014. The Committee noted the rule and regulation appeared to reference bachelor's degrees awarded from community colleges. (The agency agreed and said the language will be corrected upon subsequent revision of this rule and regulation.)
- Corporation Commission, adoption by reference of federal motor carrier safety regulations, May 6, 2015. The Committee requested review of the state definition of "agricultural commodity" to determine whether it should be made consistent with the federal definition. The Committee also requested review of deletion of a definition for "automatic on-board recording device," a term used in another portion of the rules

and regulations. (The agency said it intends to revise the definition of “agricultural commodity” to make it consistent with the federal definition the next time this rule and regulation is amended. It also reported it retained the definition of “automatic on-board recording device.”)

Compliments

- Regents, fees for private and out-of-state postsecondary institutions, January 28, 2015. The Committee commended the agency for evaluating the amounts needed to pay budgeted expenses and reducing the rates to be paid by private and out-of-state postsecondary institutions to receive and maintain certificates of approval to operate in the state. (The agency expressed appreciation for the comment.)

Economic Impact Statements

- Bank Commissioner, reductions in mortgage business and credit services organization fees, July 14, 2014. The Committee urged the agency to specify the amount of impact of the fee reduction. (The agency included specific amounts in revised Economic Impact Statements and also included the overall budget amount for the Consumer and Mortgage Lending Division.)
- Revenue, Tax Credit for Low Income Students Scholarship Program, October 13, 2014. The Committee requested the agency enhance the Economic Impact Statement to reflect the impact of the cost to the agency of implementing the program. (The agency revised the statements to reflect agency costs.)

Information Requests

- Corrections, good-time credits for juveniles, July 14, 2014. The Committee requested the agency report to the Joint Committee on Corrections and Juvenile Justice Oversight by July 1, 2015, on the impacts of the changes made by the agency with the presented rules and regulations. (The report was distributed to members of both the Joint Committee on Corrections and Juvenile Justice Oversight and the JCARR.)
- Corporation Commission, emergency management for energy operators, September 2, 2014. The Committee expressed concern with the issue of small utilities having procedures or plans for those consumers who have critical need for service in times of outage and requested a response. (The proposed rule and regulation was withdrawn. The Commission directed its staff to revise the rule and regulation in light of comments from the public and the Joint Committee.)
- Board of Barbering, minimum requirements for a school or college of barbering, December 2, 2014. The Committee asked why a separate entrance is necessary if a building is also used to operate a business or school that conducts or teaches anything other than barbering. (The agency responded a separate entrance is necessary to limit traffic to the barber school and to minimize potential sanitary issues, giving as an example the sharing of a barber school space with a restaurant. The agency said the requirement also is similar to a continuing separate entry requirement for a barbershop.)

- State Employee Health Care Commission, eligibility for health care benefits, December 2, 2014. The Committee asked when the 1,000-hour threshold for eligibility was implemented for an employee to qualify as a primary participant in the State Health Care Benefits Program. (The agency responded the threshold was implemented on October 1, 1988.)
- KDHE, Health Policy, prescription drug prior authorization, February 20, 2015. The Committee requested the names of the people on the Preferred Drug List Advisory Committee and a written description of the process of placing and removing drugs from the prior authorization drug list. (The agency provided the names and a summary of the processes.)
- KDHE, Health Policy, KanCare Prompt Payment Act, March 13, 2015. The Committee asked to know the identity of the person or entity responsible for determining whether a clean claim is *bona fide*. The Committee also asked who is responsible to monitor for patterns in payment (e.g., whether a type of provider has an unusually high proportion of claims that are not “clean”) and what processes, in addition to filing lawsuits, are available to protect providers when they have relatively low dollar claims. (The agency responded that KSA 39-709f does not give KDHE authority to use its own monitoring to enforce the Prompt Payment Act nor enforcement power to any other agency. It stated the agency will remind providers of their obligations and could bring suit if the failure to make timely payments rises to the level of a material breach of the KanCare agreement.)

Legislative Action

Of the 104 bills enacted in 2015, 29 contained provisions authorizing, requiring, moving, or clarifying authority for rules and regulations. The following list summarizes those statutory changes. Statutory deadlines that were specified are mentioned. For more information on aspects of these bills not related to rules and regulations, the reader is directed to the 2015 *Summary of Legislation*, available from the Kansas Legislative Research Department’s website.

Agriculture, Department of

SB 156 permits a water right owner or a group of water right owners in a designated area to enter into a consent agreement and order with the Chief Engineer of the Division of Water Resources to establish a water conservation area. It requires the Chief Engineer to adopt rules and regulations to implement these provisions.

SB 189 directs the Animal Health Commissioner to promulgate rules and regulations by December 31, 2015, regarding acceptable methods of euthanasia. The bill also directs the Board of Veterinary Examiners to establish in rules and regulations the information and proof of qualifications needed for obtaining an institutional license to practice veterinary medicine; an applicant must be employed by a school of veterinary medicine in the state. (In 2014, SB 278 transferred all duties, powers, employees, and funding of the Board of Veterinary Examiners into the Division of Animal Health in the Department of Agriculture, until July 1, 2016. The Board retains rules and regulations authority, and proposed rules and regulations are to be formally proposed by the Secretary of Agriculture.) (The corresponding euthanasia rules and regulations were heard at the February 8, 2016, meeting; the corresponding fee for institutional license rules and regulations were heard March 22, 2016.)

Attorney General

SB 206 authorizes the Attorney General to adopt rules and regulations needed to administer the provisions of the Vision Care Services Act regarding discount cards and vision care discount plans. Those rules and regulations are to be adopted by January 1, 2016.

HB 2048 authorizes the Attorney General to adopt rules and regulations necessary to implement the provisions of the Scrap Metal Theft Reduction Act. (The corresponding rules and regulations were heard at the September 28, 2015, and September 6, 2016, meetings.)

HB 2111 removes authority for the Attorney General to adopt rules and regulations regarding the collection of restitution or debts owed to courts. Instead, the bill specifies the Supreme Court may adopt rules on this topic. (KAR 16-9-1 would be affected.)

Senate Sub. for HB 2124 adds the Attorney General to the Department of Revenue as those authorized to promulgate rules and regulations regarding the units sold by each tobacco product manufacturer for each year.

HB 2256 authorizes the Attorney General to adopt rules and regulations to implement and administer the provisions of the Open Records Act and the Open Meetings Act.

Bank Commissioner and Banking Board

SB 240 specifies the fees to be paid by applicants for a bank or trust company charter, new branch bank, trust authority, or other specified business locations or arrangements and authorizes the Bank Commissioner to adopt rules and regulations to increase those fees to amounts no more than 150 percent of the statutory amounts. The bill also removes authority for the State Banking Board to adopt rules and regulations for a plan of operation for the management of funds for state banks and trust companies. (No specific rules and regulations on this topic appear to have been promulgated.)

Children and Families, Department of

Senate Sub. for HB 2258 requires the Secretary for Children and Families to adopt rules and regulations to determine eligibility for the child care subsidy program and child care support not provided through Temporary Assistance to Needy Families. The bill also removes authority for the Secretary to adopt rules and regulations regarding general assistance and removes authority to extend a deprivation requirement under the definition of "dependent children" to include being deprived of parental or guardian support or care by reason of the unemployment of a parent or guardian. The bill also references rules and regulations to be adopted regarding work participation by parents of certain newborns.

Executive Reorganization Order 43 transfers rules and regulations authority regarding foster care licensing to the Department for Children and Families (DCF) from the KDHE, effective July 1, 2015.

Corporation Commission

House Sub. for SB 91 repeals authority for the Corporation Commission to promulgate rules and regulations to establish renewable portfolio requirements, calculate and report the

statewide retail rate impact of the portfolio requirements, set penalties for violations of portfolio requirements, and establish a certification process for use of renewable energy resources. The bill continues all Commission rules and regulations in effect on June 30, 2015, that allow a utility to recover costs incurred to meet the renewable portfolio standard. The bill also enacts the Renewable Energy Standards Act. (The corresponding rules and regulations were heard at the January 3, 2017, meeting.)

Education, Board of

House Sub. for SB 7 authorizes the State Board of Education to adopt rules and regulations for the administration of the provisions of the Classroom Learning Assuring Student Success Act, which replaced the former school funding formula. The section is effective through June 30, 2017.

Senate Sub. for Sub. for HB 2170 authorizes the Board to adopt rules and regulations as necessary, by March 1, 2016, to implement the Freedom from Unsafe Restraint and Seclusion Act. (The corresponding rules and regulations were heard at the March 14, 2016, meeting.)

Fire Marshal

HB 2097 authorizes the State Fire Marshal to adopt rules and regulations governing the composition, training requirements, response, and operations of regional search and rescue teams.

Healing Arts, Board of

Senate Sub. for HB 2225 requires the Board of Healing Arts to adopt rules and regulations establishing appropriate continuing education requirements for exempt physician assistant licensees to become licensed to regularly practice as physician assistants in Kansas. It requires the Board to adopt rules and regulations regarding issuance, maintenance, and renewal of a resident active license created by the bill. It authorizes rules and regulations regarding special permits for physicians in training. It also added an effective date deadline of January 11, 2016, to a requirement for rules and regulations governing the practice of physician assistants. The bill states charges for copies of health care records shall not exceed charges established by the Board in rules and regulations, and it authorizes the Board to adopt and enforce rules and regulations that require Board licensees to furnish health care records to patients or their authorized representatives. (The corresponding physician rules and regulations were heard at the January 7, 2016, meeting.)

Health and Environment, Department of

House Sub. for SB 36 authorizes the Secretary of Health and Environment to adopt rules and regulations to implement the Local Conservation Linked Deposit Lending Program. The purpose of the program is to facilitate loans by eligible financial institutions for the construction, design, rehabilitation, and enhancement of nonpoint source water pollution control systems for public or private owners.

SB 124 authorizes the Secretary of Health and Environment to adopt rules and regulations on the land-spreading of solid waste generated by drilling oil and gas wells. It references rules and regulations the Secretary is to adopt by July 1, 2016, regarding concentrations of low-level radioactive waste that is naturally occurring radioactive material (NORM) or technologically enhanced NORM (TENORM) waste. The bill also clarifies that best management practices and maximum loading rates for disposal of solid waste generated by drilling oil and gas wells using land-spreading are to be established in rules and regulations. The bill also specifies rules and regulations on water quality standards may include standards variances that may apply to specified pollutants, permittees, or waterbody segments that reflect the highest attainable condition during the specified time period for the variance.

Senate Sub. for HB 2149 states KDHE shall promulgate, before July 1, 2016, rules and regulations necessary to implement reimbursement to a medical care facility for prescribed medically necessary donor human breast milk provided to a recipient of medical assistance.

HB 2192 authorizes the Secretary of Health and Environment to adopt rules and regulations necessary to implement new provisions in the Kansas Storage Tank Act that waive the “deductible” a tank owner must pay before being eligible for Underground Storage Tank Trust Fund moneys to assist with cleanup, if contamination is discovered when the owners of single-wall underground petroleum tanks replace all components with secondary containment systems that meet certain requirements.

HB 2193 establishes the Voluntary Risk Management Program (Program), which will be administered by KDHE for low-risk contaminated sites. A responsible party that chooses to participate in the Program enters into an enforceable agreement with KDHE to carry out remediation activities agreed to in a risk management plan. The bill requires the Secretary of Health and Environment to adopt rules and regulations to implement the provisions. (The corresponding rules and regulations were heard at the March 14, 2016, meeting.)

HB 2233 establishes the procedure for developing and submitting a state plan to the federal Environmental Protection Agency (EPA) to comply with the proposed federal Clean Power Plan rule. Prior to submitting any state plan to the EPA, the Secretary of Health and Environment is required to obtain the approval of a legislative Clean Power Plan Implementation Study Committee and submit such state plan as proposed rules and regulations.

Executive Reorganization Order 43 transfers all powers, duties, and functions of the DCF Economic and Employment Services Section that determines eligibility for Medicaid services to KDHE, effective January 1, 2016. The transfer includes rule and regulation authority.

Insurance, Commissioner of

SB 206 authorizes the Insurance Commissioner to adopt rules and regulations needed to administer the provisions of the Vision Care Services Act regarding any insurer, health insurer, health benefit plan, or vision care insurance provider. Those rules and regulations are to be adopted by January 1, 2016.

HB 2352 authorizes the Commissioner to adopt rules and regulations regarding excess lines insurance, no later than January 1, 2017.

Regents, Board of

Senate Sub. for HB 2353 allows the Board of Regents to adopt policy to authorize state educational institutions to provide leave time to university support staff. Under continuing law, such a policy is allowed for application to classified employees, and the Board is authorized to adopt any needed rules and regulations on the topic of leave for these employees.

Revenue, Department of

SB 109 creates the Kansas Disaster Utilities Response Act (Act). Under the Act, out-of-state businesses conducting operations within the state for disaster or emergency-related work are not considered to have established a level of presence requiring registration, licensing, or filing or remitting state or local taxes. The bill authorizes the Department of Revenue to promulgate rules and regulations needed to implement the Act.

Senate Sub. for HB 2109 authorizes rules and regulations or administrative guidelines regarding a tax amnesty program available to certain taxpayers. It also requires the Secretary of Revenue to adopt rules and regulations to implement taxation on electronic cigarettes. (The corresponding rules and regulations were heard at the January 3, 2017, meeting.)

Senate Sub. for HB 2155 requires the Secretary of Revenue to adopt rules and regulations to implement license requirements for nonprofit organizations conducting raffles and governing the conduct of raffles by those nonprofit organizations, upon recommendations of the Administrator of Charitable Gaming (Administrator) (a position created by the bill). Also upon recommendation of the Administrator, the Secretary is required to adopt all rules and regulations necessary for the administration and enforcement by the Administrator of the Kansas Charitable Gaming Act regarding bingo and raffles. Those rules and regulations must include reasonable criteria for approval of applications for registration. (The corresponding rules and regulations were heard at the November 16, 2015, and January 7, 2016, meetings.)

HB 2223 authorizes the Secretary of Revenue to adopt rules and regulations necessary to implement provisions allowing a public venue, club, or drinking establishment to offer customer self-service of wine from automated devices on licensed premises under certain circumstances. The bill also authorizes the Secretary to adopt rules and regulations to implement annual vineyard permits that enable the holders, who each must have more than 100 vines, to sell wine on the premises. (The corresponding rules and regulations were heard at the August 10, 2015, meeting.)

Secretary of State

HB 2104 moves municipal elections from spring to fall and requires the Secretary of State to promulgate rules and regulations by July 1, 2016, regarding the style and form of the official primary ballot and the official general election ballot for municipal offices, the declaration of intent to become a candidate, primary election procedures for municipal primary and general elections, conduct of elections, and the arrangement of names on the ballot.

Tax Appeals, Board of

House Sub. for SB 7 places into a new statute continued authority for the Board of Tax Appeals to adopt rules and regulations regarding and amount of *ad valorem* tax on taxable

tangible property a school district may levy, including rules and regulations on evidence required in support of certain school district claims.

Treasurer, State

HB 2216 authorizes the State Treasurer to promulgate rules and regulations necessary to implement the Kansas ABLE (Achieving a Better Life Experience) Savings Program, a tax-deferred savings program authorized by the passage of the federal ABLE Act for the purpose of empowering individuals with disabilities and their families to save private funds to support the individuals with disabilities, and to provide guidelines for the maintenance of such accounts. The bill also authorizes the Treasurer to promulgate rules and regulations to provide that every contract, application, or similar document associated with the account clearly indicate the account is not insured by the State and that neither the principal nor the investment return are guaranteed by the State.

REPORT OF THE OVERSIGHT ACTIVITIES OF THE JOINT COMMITTEE ON ADMINISTRATIVE RULES AND REGULATIONS July 2013 through June 2014

From July 2013 through June 2014, the Joint Committee on Administrative Rules and Regulations (JCARR) reviewed proposed rules and regulations of 33 different state executive branch agencies or agency divisions that have separate agency numbers. To review all of the proposed rules and regulations within their public comment periods as required by law, the Joint Committee met eight times.

The dates of Joint Committee meetings, the state agencies appearing before the Committee on such dates, and the main topics of the proposed rules and regulations by date are listed in the following table.

JCARR Meeting Dates, Agency Appearances, and Topics, July 2013 - June 2014								
Agency	July 22, 2013	Aug. 27, 2013	Nov. 5, 2013	Jan. 7, 2014	March 6, 2014	March 24, 2014	April 29, 2014	May 30, 2014
Abstracters' Board of Examiners								Fees*
Accountancy				CPA exam,; standards				
Administration								Job injury leave; furloughs*
Aging and Disability Services		Adult care homes; aides	Adult care home assessment					
Agriculture – Animal Health Division	Cattle diseases							
Agriculture – Water Resources Division				Water rights				
Attorney General		Concealed carry signs; Roofing Registration Act						
Bank Commissioner							Loan documents; appraisals	
Behavioral Sciences		Addiction counselor licensing						
Commerce	High Performance Incentive Program							
Commerce – Athletic Commission	Eligibility; fees; misc.						Fees; testing; boxing*	
Corporation Commission	Hydraulic fracturing							
Corrections	Certain grievances						Inmate communications	
Cosmetology	Students; tattooing, piercing (1)							

JCARR Meeting Dates, Agency Appearances, and Topics, July 2013 - June 2014

Agency	July 22, 2013	Aug. 27, 2013	Nov. 5, 2013	Jan. 7, 2014	March 6, 2014	March 24, 2014	April 29, 2014	May 30, 2014
Crime Victims Compensation			Payments, misc.					
Dental				Continuing education				
Education			Celebrate Freedom Week					
Emergency Medical Services	Graduated sanctions		Ambulance service permit; credentials	Staffing; authorized activities for EMTs (3)				
Fire Marshal	Explosives				LP gas; training			
Health and Environment (KDHE)	Land-spreading		Tiny-K services	Staff secure facilities; occupational exposure			Lab fees; surface water register	
KDHE – Division of Health Care Finance			Eligibility for Medicaid, CHIP; ACA compliance					Prior authorization*
Insurance			Reporting; misc.					
Labor – Division of Workers Compensation		Medical fees						
Library				Internet access policy				
Nursing	Exam fee; LPN IV therapy			Fees				
Pharmacy						Prescription monitoring; fees		
Real Estate Appraisal						Fees		Appraisal experience; fees*
Revenue		Vehicle registration			Ignition interlock devices			
Revenue – Property Valuation Division			Appraiser qualifications					
Securities Commissioner	Investment advisers							
Technical Professions			License; reciprocity (2)					
Wildlife, Parks and Tourism	Exempt, bird hunting	Fees; bait fish; misc.		Fees; restitution	Exempt, permits		Hunting misc.*	

* Rules and regulations in this set were NOT published in the *Kansas Register* as final rules and regulations before July 1, 2014.

(1) 3 of the 19 rules and regulations in this set were not published by June 30, 2014

(2) 1 of the 12 rules and regulations in this set was not published by June 30, 2014

(3) 1 of the 4 rules and regulations in this set was not published by June 30, 2014

Comments to Agencies

After each proposed rule and regulation was reviewed, the Committee expressed comments it deemed appropriate, including commendations, and staff forwarded those remarks to each state agency for consideration. The Committee requested a response to each comment. Staff maintain a database of information about Committee comments and agency responses to them. Agencies responded to all but one of the comments directed to them (the exception is noted below). All comments and responses are available for public inspection.

Examples of Committee concerns are summarized below, by general topic. Additional information, including a summary of the agency's response if the response was received by the deadline for this report, is summarized in parentheses.

Adoption by Reference

- Accountancy, auditing standards, January 7, 2014. The Committee noted the auditing standards mentioned in a proposed rule and regulation had been adopted by reference in a different rule and regulation and suggested a cross-reference to the adoption by reference. (The agency provided no specific response to this comment.)
- Department of Revenue, ignition interlock devices, March 6, 2014. The Committee was concerned that a document was adopted by reference without a specific date for that document; Department of Administration guidance appeared to require such a date. (The agency said it checked with the Department of Administration, and the citation to a *Federal Register* document that included a page number did not require change.)
- Real Estate Appraisal Board, appraisal experience requirements, May 30, 2014. The Committee noted a table was adopted by reference in three rules and regulations and suggested adopting the table in only one rule and regulation and adding cross-references to that adoption by reference in the other two rules and regulations. (The agency stated it would make those changes the next time the rules and regulations in question are amended.)

Authority for Rules and Regulations

- Department of Agriculture, Division of Water Resources, water rights conservation program, January 7, 2014. The Committee requested review of the Chief Engineer's authority to promulgate rules and regulations related to the Water Rights Conservation Program because the statute establishing the program had not been made part of the Water Appropriations Act. (HB 2429, which would have addressed the issue, passed the House in 2014 and received a hearing in the Senate Committee on Natural Resources, but its contents were not enacted. The bill was mentioned in the agency's response.)
- KDHE, surface water register, April 29, 2014. The Committee suggested the agency review its authority to promulgate this rule and regulation, because the listed

authorizing statute specified a date in 2003 for promulgating rules and regulations. (The agency added a reference to an additional authorizing statute.)

Clarity

- Department of Commerce, Athletic Commission, licensure requirements, July 22, 2013. The Committee asked the agency to clarify what was meant by a “valid, government-issued identification card”; a copy of such identification was to be submitted with an application for a license to compete or serve in any contest. (The agency determined submission of valid photo identification was unnecessary in the context of the rule and regulation, and the requirement was not included in the final rule and regulation.)
- Behavioral Sciences Regulatory Board, addiction counselor requirements, August 27, 2013. The Committee suggested the agency define the terms “cultural sensitivity” and “cultural competence” and use more consistency in its references to cultural issues. (The agency replaced both terms with “culturally informed,” which it called a more precise term that would not require an additional definition.)
- Crime Victims Compensation Board, cooperation with law enforcement, November 5, 2013. The Committee noted the term “offices and agencies with investigatory or prosecutorial responsibilities” used in the proposed rule and regulation includes the fire marshal (KSA 31-137), the Secretary of Labor (KSA 75-5702), the Director of Property Valuation (KSA 79-1406), the Secretary for Aging and Disability Services (KSA 75-5945, KSA 39-1905), and the long term care ombudsman (KSA 75-7306). (The agency replaced the questioned term with “the offices and agencies responsible for investigating the crime or prosecuting the offender.”)
- Board of Accountancy, renewal of a permit to practice, January 7, 2014. The Committee suggested the agency substitute a 30-day limit, rather than the vague “time frame specified by the board,” to specify the time frame for submitting information the Board needs to verify the number of continuing professional education hours an applicant has claimed. (The agency substituted a requirement for a response within 30 days.)
- Department of Administration, furloughs, May 30, 2014. The Committee suggested “lapse in appropriations” should be replaced by words such as “lack of funding” because “lapse in appropriations” has a different meaning than what appeared to be intended in the rule and regulation. The Committee also suggested retaining “notwithstanding” rather than replacing it with “despite,” to retain the legal meaning of “notwithstanding.” (The latter suggestion also was made to the Office of the State Bank Commissioner after the Committee’s April 29, 2014, meeting. The Office stated the Department of Administration said proposed rules and regulations should be drafted to avoid complicated or confusing language, and the use of “notwithstanding” would counter that position.)
- Board of Pharmacy, prescription monitoring program, March 24, 2014. The Committee suggested the agency remove a reference to a statute’s subsection, so that the rule and regulation would not need to be revised if an amendment changed

the subsection designation in the statute. (The agency said the subsection reference provided clarity and did not remove it.)

Compliments

- Behavioral Sciences Regulatory Board, addiction counselor licensing, August 27, 2013. The Committee expressed its appreciation for the work of the agency and stakeholders in developing the proposed rules and regulations and integrating the regulation of addiction counselors into the work of the Board.
- KDHE, Division of Health Care Finance, November 5, 2013. The Committee expressed its appreciation to the agency staff members who presented the proposed rules and regulations for the expertise they demonstrated in answering questions from Committee members.
- Board of Nursing, fees, January 7, 2014. The Committee commended the agency's executive director for her assistance to leaders in other small regulatory agencies.
- Real Estate Appraisal Board, fees, March 24, 2014. The Committee thanked the agency for being diligent in decreasing fees when the fund balance allows.
- KDHE, laboratory fees, April 29, 2014. The Committee commended the agency on a complete and thorough Economic Impact Statement.

Economic Impact Statements

- Corporation Commission, hydraulic fracturing, July 22, 2013. The Committee believed the Environmental Benefit Statement included in the Economic Impact Statement did not meet the requirements of KSA 2012 Supp. 77-416(d) because it did not summarize certain risks or specific contaminants. (The agency submitted an expanded Environmental Impact Statement.)
- Department of Wildlife, Parks and Tourism, camping fees, January 7, 2014. The Committee requested documentation of the utility cost increases that the Committee was told prompted the proposed increases in camping permit fees. (The agency submitted information showing utility costs from 2005 to 2013 had nearly doubled, and the fee had increased from \$5.50 to the proposed \$9 in that time frame. The response also noted the fee also pays for associated infrastructure costs.)

Information Requests

- Board of Cosmetology, tattooing and piercing, July 22, 2013. The agency's representative stated a proposed change to the expiration dates of certain licenses reflected a policy change; the Committee asked when the policy was changed. (The agency responded the expiration date for cosmetology practitioner licenses was changed in approximately 1998, and it is unknown why the rule and regulation was not changed at that time.)
- KDHE, land-spreading of well-drilling wastes, July 22, 2013. The Committee asked what would happen if a land-spreading operation has been approved and not

completed by July 1, 2015, when the exemption under the Solid Waste Act is set to expire. (The agency responded it will seek during the 2015 Session to have the Legislature remove the expiration date and make any other legislative changes required to the program, based on experience with the program to that point. It further stated it will inform anyone with an active approval that no land-spreading may be done after July 1, 2015, if the expiration date is not removed.)

- Department of Education, Celebrate Freedom Week curricula, November 5, 2013. The Committee requested clarification regarding whether the rule and regulation applies to innovative and charter schools. (The agency stated the issue was unresolved and that the Office of the Attorney General had declined a request for an opinion, citing pending action in *Gannon, et al. v. State*.)

Policy Suggestions

- Board of Cosmetology, tattooing and piercing, July 22, 2013. The Committee stated it believed the addition of mobile facilities to the facilities that can be licensed is a major regulatory change that should be preceded by statutory change and asked why such a statutory change was not requested. (The agency found five mobile body art facilities had been licensed between 1998 and 2009 and stated authority was derived from a KDHE definition of a mobile establishment.)
- KDHE, Tiny-K services, November 5, 2013. The Committee asked whether the agency considered allowing a clinical professional counselor licensed by the Behavioral Sciences Regulatory Board (BSRB) to be among the “qualified personnel” who may provide early intervention services. (The rule and regulation was changed to include clinical professional counselors licensed by the BSRB.)
- KDHE, staff secure facilities, January 7, 2014. The Committee suggested the agency consider reducing the 24-hour time limit for reporting serious incidents and ensure any such time limits be compatible with duty of reporting requirements for professional staff elsewhere in state law. (The agency changed the provision to require reporting upon discovery of the incident or event but no later than 24 hours after discovery.)

Uniformity with Other Law

- Department of Aging and Disability Services, adult care homes, August 27, 2013. The Committee asked the agency to consider aligning its definition of “concentrated livestock operation” with definitions used by KDHE and the Department of Agriculture and to make its definition of “physician” consistent. (The agency reworded the definition of concentrated livestock operation to coincide with the KDHE definition for confined feeding operations and modified the statutory references in definitions of “physician” to be consistent with law applicable to the Board of Healing Arts.)
- Board of Cosmetology, tattooing and piercing, July 22, 2013. The Committee requested information regarding client-disclosed health information to be retained by the tattoo licensee, the effects of those records on liability, and whether the provisions were acceptable under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Americans with Disabilities Act (ADA). (The agency determined a body arts practitioner is not a “covered entity” under either HIPAA or

ADA. It also said the Board shared the Committee's liability concerns if the record is not specific and that other states also were grappling with how to handle the health information collected from clients.)

- KDHE, Tiny-K services, November 5, 2013. The Committee suggested removing "Kansas" before the names of various boards, to reflect their statutory names. (The agency retained "Kansas," stating that was based on the Attorney General's review of the proposed rule and regulation.)
- Department of Administration, furloughs, May 30, 2014. The Committee asked whether provisions in the rule and regulation for mandatory leave without pay violate any state employment contract statutes or contracts. (The agency responded that mandatory leave without pay due to furlough does not violate any state employment contract statutes or contracts, although an agency conducting furloughs may be required to confer with employee organizations regarding the furloughs.)

Legislative Action

Of the 144 bills enacted in 2014, 21 contained provisions authorizing, requiring, moving, or clarifying authority for rules and regulations. The following list summarizes the authority granted to each agency. Statutory deadlines that were specified are mentioned. The list also includes changes to authority but does not include transfers of authority related to the Governor's executive agency reorganization. For more information on aspects of these bills not related to rules and regulations, the reader is directed to the 2014 *Summary of Legislation*. Dates newly authorized rules and regulations were first heard by the Joint Committee are included in parentheses.

Aging and Disability Services, Department of

HB 2418, the Operator Registration Act, requires the Secretary to adopt by rules and regulations a system for registering adult care home operators. It also requires the Secretary to adopt rules and regulations establishing requirements for reinstatement of people whose registrations have lapsed for failure to renew. All fees under the Act are to be established by rules and regulations. (The corresponding rules and regulations were heard at the September 2, 2014, meeting.)

Agriculture, Department of

SB 278 states rules and regulations of the Board of Veterinary Examiners, through June 30, 2016, are to be submitted to the Secretary of Agriculture and formally proposed and adopted by the Secretary. The Secretary may recommend changes to proposed rules and regulations, but the bill requires any changes be approved by the Board.

Attorney General

SB 308 clarifies the Attorney General is authorized to promulgate rules and regulations that adopt provisions of the Federal Trade Commission regulations implementing the national do-not-call law including, but not limited to, the telemarketing sales rule in 16 CFR Part 310.

HB 2578 requires the Attorney General to adopt rules and regulations prescribing the location, content, size, and other characteristics of signs to be posted on any building where carrying an unconcealed firearm is prohibited. (The corresponding rules and regulations were heard at the July 14, 2014, meeting.)

Behavioral Sciences Regulatory Board

HB 2744 authorizes the Board to promulgate rules and regulations to implement and administer the Applied Behavior Analysis Licensure Act.

Corporation Commission

Senate Sub. for HB 2482 authorizes the Commission to adopt rules and regulations to administer the Energy Efficiency Investment Act, which the bill added to the statutes. The Act's provisions include a requirement the Commission permit electric and natural gas public utilities to implement Commission-approved programs and cost recovery mechanisms to reduce the consumption of electricity or natural gas by retail customers.

Education, State Board of

Senate Sub. for HB 2506 authorizes the Board to adopt rules and regulations regarding a specific group of prospective teachers exempted from a requirement to complete a teacher preparation program prior to licensure: teachers with degrees in science, technology, engineering, mathematics, finance, or accounting; five years of work experience in the subject matter area; and commitments from local school district boards to hire them to teach related courses. (The corresponding rules and regulations were heard at the July 14, 2014, meeting.)

Healing Arts, Board of

HB 2673 requires the Board take several actions with regard to rules and regulations:

- The bill requires the Board to establish requirements for continuing education for exempt licensees of each branch of the healing arts. (An exempt license may be issued to a person who is not regularly engaged in the practice of healing arts in Kansas and does not hold himself or herself out to the public as being professionally engaged in such practice.)
- The bill requires the Board to establish rules and regulations for the issuance, renewal, and scope of practice for a reentry license (which is created by the bill).
- The bill allows the Board to adopt rules and regulations establishing qualitative and quantitative practice activities which qualify as active practice for the purpose of issuing a license to a person who has been in the active practice of a branch of the healing arts in some other state, territory, or country or the District of Columbia.
- The bill requires the Board to adopt rules and regulations governing the practice of physician assistants. (The corresponding rules and regulations were heard at the January 7, 2016, meeting.)

Health and Environment, Department of

SB 254 amends statutes of the State Children's Health Insurance Program and the Medicaid Estate Recovery Program to clarify the rules and regulations authority of the Secretary of Health and Environment over these programs.

HB 2552 requires the Secretary of Health and Environment to adopt rules and regulations to carry out provisions regarding payment deadlines in any contract between the Kansas Medical Assistance Program and any managed care organization and penalties. The bill requires such contracts to require the allowed amount on all clean claims to be fully paid or denied within 30 days after receipt and the allowed amount on all other claims be fully paid or denied within 90 days after receipt. (The corresponding rules and regulations were heard at the March 13, 2015, meeting.)

Insurance, Department of

HB 2668, which becomes effective July 1, 2017, authorizes the Insurance Commissioner to adopt rules and regulations necessary to carry out the provisions of the Predetermination of Health Care Benefits Act. Under the Act, a health plan that receives an electronic health predetermination request will be required to provide to the requesting health care provider the estimated amounts of expected benefits coverage on the procedures specified in the request.

Investigation, Kansas Bureau of

HB 2501 directs the Bureau to adopt rules and regulations by July 1, 2014, requiring district courts to electronically report filings and dispositions to the KBI Central Repository in cases involving the crimes of human trafficking, aggravated human trafficking, selling sexual relations, promoting the sale of sexual relations, buying sexual relations, and commercial sexual exploitation of a child. (The corresponding rules and regulations were heard at the July 14, 2014, meeting.)

Pharmacy, Board of

Senate Sub. for HB 2146 requires the Board to establish by rules and regulations the expiration dates for licenses, registrations, and permits issued by the Board and to allow for the prorating of fees for license and registration periods. The bill also authorizes the Board to adopt rules and regulations related to the registration, discipline, training, and oversight of pharmacist interns. (The corresponding rules and regulations were heard at the June 1, 2016, meeting.)

Regents, Board of

HB 2544 authorizes the Board to adopt rules and regulations to implement provisions authorizing certain postsecondary educational institutions to enter into the State Authorization Reciprocity Agreement to provide distance education to out-of-state students.

Revenue, Department of

Senate Sub. for HB 2506 requires the Secretary of Revenue to adopt rules and regulations regarding filing of documents that support the amount of credit claimed under the

Tax Credit for Low Income Students Scholarship Program, which was created by the bill. (The corresponding rules and regulations were heard at the October 13, 2014, meeting.)

HB 2643 requires the Secretary to adopt, by January 1, 2015, rules and regulations necessary to implement provisions relating to contracting with an independent appraiser to classify and appraise natural gas and helium processing facilities, ethanol facilities, crude oil refineries, fertilizer manufacturing facilities, cement manufacturing facilities, and such other complex industrial properties as otherwise requested by the county appraiser or the taxpayer. (The corresponding rules and regulations were heard at the February 20, 2015, meeting.)

Senate Sub. for HB 2693 requires the Secretary to adopt, by January 1, 2015, rules and regulations to implement commercial driver's license skills testing by authorized community and technical colleges.

HB 2727 requires the Secretary to promulgate rules and regulations necessary to remain compliant with certain federal standards regarding parking placards for people with disabilities.

Securities Commissioner, Office of the

HB 2152 repeals the Uniform Land Sales Practices Act, including authority for related rules and regulations. (The corresponding revocations were heard at the August 10, 2015, meeting.)

State, Secretary of

HB 2130 authorizes the Secretary of State to promulgate rules and regulations on the rights and responsibilities of election officials regarding ballot language statements.

Sub. for Sub. for HB 2721 authorizes the Secretary to adopt rules and regulations to implement the Business Entity Standard Treatment Act, which centralizes the requirements for the most common filings of corporations, limited liability companies, limited partnerships, and limited liability partnerships with the Secretary. No such rules and regulations may be effective before January 1, 2015.

Tax Appeals, Board of

HB 2643 authorizes the Board of Tax Appeals to issue rules and regulations regarding the classification of property constructed with the proceeds of industrial revenue bonds as real or personal property. (The Court of Tax Appeals was renamed the Board of Tax Appeals with enactment of House Sub. for SB 231.)

Technical Professions, Board of

SB 349 authorizes the Board to adopt rules and regulations concerning canceled, inactive, and emeritus licensure status for the professions regulated by the Board. The bill also requires the Board to adopt rules and regulations prescribing minimum standards for boundary surveys, mortgage title inspection, American Land Title Association surveys, and such other surveys as necessary to control the quality of surveying in the state of Kansas. (The corresponding rules and regulations were heard at the July 14, 2014, meeting.)

Veterans Affairs Office

Sub. for HB 2681 transfers all rules and regulations of the Kansas Commission on Veterans Affairs to the Kansas Commission on Veterans Affairs Office, which was created by the bill. It also authorizes the Director of the Office, in accordance with general policies directed by the Governor, to adopt, amend, or revoke any rules and regulations.

REPORT OF THE OVERSIGHT ACTIVITIES OF THE JOINT COMMITTEE ON ADMINISTRATIVE RULES AND REGULATIONS JULY 2012 THROUGH JUNE 2013

From July 2012 through June 2013, the Joint Committee on Administrative Rules and Regulations (JCARR) reviewed proposed rules and regulations of 32 different state executive branch agencies or agency divisions that have separate agency numbers. To review all of the proposed rules and regulations within their public comment periods as required by law, the Joint Committee met seven times.

The dates of Joint Committee meetings, the state agencies appearing before the Committee on such dates, and the main topics of the proposed rules and regulations by date are listed in the following table.

JCARR MEETING DATES, AGENCY APPEARANCES, AND TOPICS, JULY 2012 – JUNE 2013

AGENCY	July 23, 2012	Sept. 17, 2012	Nov. 26, 2012	Jan. 7, 2013	March 6, 2013	April 22, 2013	June 20, 2013
911 Coordinating Council			Grant distribution				
Agriculture		Food service inspection	Lodging; food safety		Meat inspection; food code	Food establishments * (6)	
Agriculture – Animal Health			Cattle; trichomoniasis tests* (3)				
Agriculture – Conservation Division						Water right transition assistance	
Agriculture – Water Resources						Multi-year flex accounts	
Agriculture – Weights & Measures							NIST standards adoption
Attorney General	Batterer intervention						
Bank Commissioner				Loan documents			
Children & Families	Child abuse definitions						
Commerce	High Performance Incentive Program*						
Corporation Commission		Compressed air energy storage				Horizontal drilling, other oil and gas*(7)	Motor carriers
Corrections			Prisoner fees; good time credits				
Cosmetology	Body art licenses						
Dental Board						Extended care permits	

AGENCY	July 23, 2012	Sept. 17, 2012	Nov. 26, 2012	Jan. 7, 2013	March 6, 2013	April 22, 2013	June 20, 2013
Education				Use of restraint, seclusion			
Emergency Medical Services	Medication administration			Cont. ed.; fees; misc.		Ambulance services	
Health and Environment		Air quality standards	Abortion reports; HIPAA form	Alcohol tests; x-ray equipment fees	Hazardous waste	Water wells	Foster care licensing
Health and Environment (former Health Policy Authority)		Medicaid prior authorization					
Indigents' Defense	Capital case attorney qualifications	Payments for services					
Insurance			Subrogation; scoring; NAIC; notice; standards* (2)				
KBI							Reporting criminal history
Labor – Workers Compensation	Schedule for review of briefs*		Electronic medical claim reports			Data submission	
Nursing					Cont. ed. for nurses* (5)		
Peace Officers' Standards and Training	Redo of standards						
Pharmacy	Prescription monitoring*						
Real Estate Appraisal	Appraisal management company registration (1)		Registration renewal	Fee reduction			Fee reduction
Regents		Qualified admissions	Residency for military; qualified admissions				
Revenue – Alcoholic Beverage Control		Fines and penalties	Retail liquor dealers (4)		Samples; tasting events		
Water Office							State water plan; misc.
Wildlife, Parks and Tourism	Falconry; wildlife rehabilitation permits	Fishing; vehicle fees;; misc.	Migratory bird program; falconry		Fees; bow hunting	Camping fees; misc.	Agritourism

* Rules and regulations in this set were NOT published in the *Kansas Register* as final rules and regulations on or before June 30, 2015.

(1) Two of the proposed rules and regulations were heard again at the JCARR's Nov. 26, 2012, meeting.

(2) Two of the four proposed rules and regulations had not been published as final before July 1, 2013.

(3) The proposed rule and regulation was withdrawn.

(4) Three of the proposed rules and regulations were heard again at the JCARR's March 6, 2013, meeting.

(5) One of the proposed rules and regulations (60-16-102, Scope of practice for licensed practical nurse performing intravenous fluid therapy) was withdrawn and heard again at the July 22, 2013, meeting.

(6) One of the proposed rules and regulations (4-28-35, Exempt food sold directly to the end consumer) was delayed or withdrawn.

(7) One of the proposed rules and regulations (82-3-103a, Deviated holes; notice and hearing required) was delayed or withdrawn.

Comments to Agencies

After each proposed rule and regulation was reviewed, the Committee expressed comments it deemed appropriate, including commendations, and staff forwarded those remarks to each state agency for consideration. The Committee requested a response to each comment and received responses to comments on all rules and regulations that have been finalized. Staff maintain a database of information about Committee comments and agency responses to them. All comments and responses are available for public inspection.

The Committee expressed particular concerns about some of the proposed rules and regulations it heard. **Examples** of those concerns are summarized below, by general topic.

Clarity

- Real Estate Appraisal Board, appraisal management company registration, July 23, 2012. The Committee requested the agency clarify when an applicant for renewal that is a appraisal management company can be of “good moral character,” as defined in the proposed rule and regulation. (The agency responded that the term “good moral character” was used twice in the statute but not defined, leading the agency to define it in rule and regulation. Its representative said the first use of the term [now KSA 2014 Supp. 58-4709] clearly applies to individuals but the second [now KSA 2014 Supp. 58-4722] was not clear in its application, and statutory change could be needed.)
- Kansas Corporation Commission, Oil and Gas Conservation Division, compressed air energy storage, September 17, 2012. The Committee requested clarification of the terms “substantial change,” “material change,” and “necessary,” to ensure regulatory consistency. (In the final published rules and regulations, in the first two instances, the agency used the term “substantial change” and added “including a change in the rate, pressure, or volume of injected air.” The agency considered adding additional language to clarify “necessary,” but the final rule and regulation was unchanged from the proposed rule and regulation.)
- Board of Regents, qualified admissions, November 26, 2012. The Committee recommended the Board reconsider the use of the term “state educational institution” in the proposed rules and regulations when the meaning of that term in the rules and regulations differs from the meaning in statute. (The Board amended the definition in the state university admissions rules and regulations article to refer to the statute and to clarify that the meaning of the regulatory term differs from the meaning of the statutory term when used in that specific article of rules and regulations.)
- Department of Agriculture, Division of Water Resources, base water rights, April 22, 2013. The Committee recommended the agency define “inadequate” as applied to water use records and recommended wording to say no actual water use will be counted for a year for which records are inadequate. (The published rule and regulation reflects the suggested wording change.)
- Water Office, weather modification permit, June 20, 2013. The Committee requested clarification of the term “statement of individual worth” and suggested replacing it with “profit and loss statement” or a similar, widely used term. (The agency stated it revised the language to state “or by a statement of individual worth, such as a profit and loss statement.”)

Compliments

- Attorney General, batterer intervention programs, July 23, 2012. The Committee commended the agency on the work it undertook in developing the set of rules and regulations.
- KDHE, National Ambient Air Quality Standards for fine particulate matter, September 17, 2012. The Committee commended the agency on its efforts to work with the U.S. Environmental Protection Agency to find workable solutions for rural states.
- Wildlife, Parks and Tourism, camping fees, turkey hunts, exempt regulations, April 22, 2013. The Committee complimented the agency for including an Economic Impact Statement after each proposed rule and regulation.

Consistency with Other Law

- Board of Cosmetology, tattoo and body piercing practice standards, July 23, 2012. The Committee raised concerns about the proposed rule and regulation's requirement for obtaining medical information from "protected classes" of individuals (under the Americans with Disabilities Act) or consulting with those people's physicians. (The agency did not adopt the proposed rule and regulation. The Board stated it would revise the proposal.)
- KDHE, foster care licensing, June 20, 2013. The Committee requested the agency review a proposed rule and regulation regarding which family members may transport a foster child, for consistency with graduated driver's license provisions. (The agency removed a reference to a driving permit but did not address the issue of consistency with graduated driver's license provisions, e.g., KSA 8-2,101(d).)

Effect on Stakeholders

- Labor, Workers Compensation Division, time schedule for appellate briefs to be submitted to the Appeals Board, July 23, 2012. The Committee requested information about the numbers of cases in the Appeals Board's backlog and the reasons for any backlog. (The agency stated the average number of days from appeal to decision, from January 1, 2011, to July 23, 2012, was 97 days and the proposed rule and regulation was expected to reduce that time frame by at least 3 weeks. It also stated there were 696 appeals and 593 decisions during that time period, and 139 decisions were pending as of July 2012.)
- Bank Commissioner, loan documentation, January 7, 2013. The Committee believed the proposed rule and regulation would make it more difficult for smaller banks to conduct business. (The Bank Commissioner and the Kansas State Banking Board amended the rule and regulation, saying the amended rule and regulation will allow more discretion and flexibility in how they monitor loans of less than \$100,000 that are not adequately secured.)
- Board of Nursing, scope of practice for licensed practical nurse (LPN), March 6, 2013. The Committee questioned whether the rule and regulation should authorize LPNs qualified by the Board before June 1, 2000, to perform certain activities, regardless of their training. (The proposed rule and regulation was withdrawn.)

- Corporation Commission, Transportation Division, motor carrier safety, June 20, 2013. After discussion on a requirement for letters of recommendation from medical examiners on institutional or personalized letterhead, the Committee stated such letterhead is now easily fabricated and suggested the agency consider a requirement the physician provide a National Provider Identifier instead. (The agency added a requirement for the physician to provide a National Provider Identifier in any such letter of recommendation, which is to be written on letterhead.)

Economic Impact Statement

- KDHE, National Ambient Air Quality Standards for fine particulate matter, September 17, 2012. The Committee requested information about the formula that would be used to calculate the potential loss of federal transportation dollars, should the agency not adopt the proposed rules and regulations. (The agency responded that federal sanctions would be imposed if the National Ambient Air Quality Standards continued to be exceeded and amounts of Federal Highway Fund restrictions would be based on Federal Highway Administration and U.S. EPA regulations.)
- Agriculture, Water Resources, multi-year flex accounts and base water rights, April 22, 2013. The Committee requested a more detailed Economic Impact Statement, including information on impacts on the agency from the agency absorbing approximately \$750,000 in costs for these programs. (The agency stated it did not believe an updated Economic Impact Statement was necessary.)
- Corporation Commission, Transportation Division, motor carrier safety, June 20, 2013. The Committee requested information on the economic impact of not adopting the proposed rules and regulations, which would adopt by reference various federal statutes, with certain Kansas-specific changes. (The agency noted it must be in substantial compliance with federal rules and regulations and provided a list of federal funding streams that would be suspended and agencies currently receiving grants for which they would no longer be eligible if Kansas were to be determined out of compliance.)

Fees

- Kansas Corporation Commission, Oil and Gas Conservation Division, compressed air energy storage, September 17, 2012. The Committee asked why proposed fees were the same as those for cavern natural gas storage. (The agency provided details on the numbers of KDHE-regulated natural gas storage facilities, costs, and the parallels between the programs.)

Information Requests

- KDHE, Division of Health Care Finance, prior authorization for certain medications, September 17, 2012. The Committee requested information on costs for the state-owned automated prior authorization system that would be replaced under KanCare. (The agency's response included the information that the state paid Xerox \$1.00 for implementation costs, nearly \$38,000 for change requests, and \$32,700 a month – a total of \$439,616 through August 2012. It further stated the SmartPA system had

generated an average monthly savings of \$762,885 for the Kansas Medicaid Pharmacy program. It further stated, “Xerox has met all milestones set forth for the SmartPA programs, and continues to be very responsive to the needs of the Kansas Medicaid Pharmacy program, as well as those of its providers and beneficiaries.”)

- Kansas Corporation Commission, Oil and Gas Conservation Division, horizontal drilling, April 22, 2013. The Committee asked the agency to compare its proposed notice of intent to drill requirements and its proposed well completion report requirements with notice requirements of nearby states. (The KCC reported its staff had reviewed the regulations of Oklahoma, Texas, and Colorado. The agency said those states appear to permit horizontal well drilling by a form process. It further said Kansas requires a well completion report within 120 days of the spud date [with exceptions available], while the other states generally require a well completion report within 30 days of the actual well completion date.)

Subjective Criteria

- Peace Officers’ Standards and Training, unprofessional conduct, July 23, 2012. The Committee requested the criteria for what would “cause disrepute to the law enforcement profession, the appointing authority, or the officer” and suggested the agency add such criteria to the proposed rule and regulation. (The agency removed the quoted language from the rule and regulation.)
- Department of Agriculture, food safety, November 26, 2012. The Committee stated it believed a rule and regulation was not complete because it did not include the conditions required to be met to prevent transported food from becoming adulterated. (The agency revised the rule and regulation. It added language stating the food shall be “protected from physical, chemical, and microbial contamination and degradation” and specified vehicles and containers must be clean and sanitary and temperature-control standards must be met.)

Legislative Action

During the 2013 Session, the Legislature authorized multiple agencies to adopt rules and regulations. The following list summarizes the authority granted to each agency. Statutory deadlines that were specified are mentioned. The list also includes changes to authority but does not include transfers of authority related to the Governor’s executive agency reorganization. For more information on aspects of these bills not related to rules and regulations, the reader is directed to the 2013 *Summary of Legislation*. Dates newly authorized rules and regulations were first heard by the Joint Committee are included in parentheses.

All Licensing Bodies

HB 2078 requires a licensing body to accept education, training or service completed in military service toward application requirements for certification or licensure in Kansas if the applicant demonstrates to the satisfaction of the licensing body that such education, training or service is substantially equivalent to the existing requirements for certification or licensure. The section allows each licensing body (defined to not include the Board of Nursing or the Board of

Emergency Medical Services) to adopt rules and regulations necessary to implement the provisions of the section.

HB 2181 allows each licensing body to adopt rules and regulations to waive educational requirements for certification or licensure if an applicant provides satisfactory evidence of completion of a distance education course. An “applicant” is defined as a person who has separated from military service under conditions other than dishonorable. The section does not apply to the regulation of attorneys or the practice of law.

Agriculture, Department of

Sub. for SB 57 extends the rules and regulations authority of the animal health commissioner to allow rules and regulations to ensure compliance with federal requirements and to protect domestic animals and wildlife from disease risks related to domestic deer production. (The corresponding rules and regulations were heard at the July 14, 2014, meeting.)

HB 2363 requires the Chief Engineer, Division of Water Resources, to adopt rules and regulations to implement new provisions that allow limited transfer permits and to ensure there is no increase in consumptive use. A limited transfer permit may authorize the use of up to 4 million gallons from an existing water right. The permit is limited to a single calendar year. The bill also authorizes the Chief Engineer to adopt rules and regulations for the issuance of a general permit for a project that requires limited supervision and review. The projects covered by general permits include the construction, modification or addition of certain dams and water obstructions in designated streams.

Attorney General

SB 59, the Medicaid Fraud Act, authorizes the Attorney General to promulgate rules and regulations necessary to implement monetary rewards to those who report violation by any person of the Medicaid Fraud Control Act, the False Claims Act, or any other provision of law that protects the integrity of the public treasury.

Sub. for HB 2024, the Kansas Roofing Registration Act, authorizes rules and regulations necessary to implement the Act, which is part of the Kansas Consumer Protection Act and requires roofing contractors to register with the Attorney General. (The corresponding rules and regulations were heard at the August 27, 2013, meeting.)

Bank Commissioner, State

SB 139 authorizes the State Bank Commissioner to adopt rules and regulations necessary to administer and implement the Kansas Money Transmitter Act. The bill also amended the Act to allow money transmitters to submit applications for licensure and to allow the Commissioner to request and receive licensure information and report violations of the law and other relevant information through a nationwide multi-state licensing system and registry, and it revised and added definitions in the Act, clarified licensee activities, and specified when licensees are allowed to share agents.

Children and Families, Department for

SB 149 authorizes the Secretary for Children and Families to adopt rules and regulations necessary to carry out a program of drug screening the applicants for cash assistance as a condition of eligibility and for continued receipt of that assistance.

HB 2015 requires the Secretary to adopt rules and regulations regarding distribution of child support collected by the Department's central unit. The rules and regulations are to be based on child support distribution requirements in Title IV-D of the federal Social Security Act and accompanying federal regulations. The rules and regulations will not be effective before July 1, 2015.

Education, State Board of

HB 2261 requires the State Board of Education to adopt, by December 31, 2013, rules and regulations requiring appropriate instruction for Celebrate Freedom Week, as part of the curriculum for grades kindergarten through eight. (The corresponding rules and regulations were heard at the November 5, 2013, meeting.)

HB 2319, the Public Innovative Districts Act, authorizes the Board to adopt rules and regulations to implement and administer the Act. The bill provides that a public innovative district is exempt from all other laws and regulations applicable to school districts.

Executive Chief Information Technology Officer

HB 2200 moves responsibility for certain information technology rules and regulations from the Secretary of Administration to the Executive Chief Information Technology Officer (ECITO). After approval from the Secretary of State and the Attorney General, and holding a public hearing, the ECITO's rules and regulations related to the powers or duties of the Office of Information Technology Services are to be submitted to the Governor, who may approve, modify or reject any of them. The bill also moves authority for rules and regulations related to establishment of rates and charges for services performed by the Division of Information Systems and Communications' Office of Information Technology Services, for any other governmental unit, from the Secretary of Administration to the ECITO.

Fire Marshal, State

SB 135 transfers the authority for rules and regulations under the Boiler Safety Act from the Secretary of Labor to the Office of the State Fire Marshal.

Health and Environment, Department of

SB 187 transfers authority for rules and regulations related to the administration of the Workers Compensation Self-Insurance Fund from the Secretary of Administration to the Secretary of Health and Environment.

Senate Sub. for HB 2034 requires the Secretary of Health and Environment, in consultation with the Attorney General, to promulgate rules and regulations to implement provisions related to staff secure facilities for minors who are victims of human trafficking, by

January 1, 2014. (The corresponding rules and regulations were heard at the January 7, 2014, meeting.)

Sub. for HB 2183 requires the Secretary to adopt, by January 1, 2014, rules and regulations to protect those who may be exposed to blood or other potentially infectious materials by providing or receiving services. The bill also amends agency authority regarding the prevention of diseases dangerous to the public health, from promulgating rules and regulations “for the isolation and quarantine” of affected people to promulgating rules and regulations “as may be medically necessary and reasonable to prevent the spread and dissemination of diseases . . . including, but not limited to, providing for the testing for such diseases and the isolation and quarantine. . . ” of affected people. (The corresponding rules and regulations were heard at the January 7, 2014, meeting.)

HB 2363 states no rules and regulations adopted by the Secretary to prevent surface and subsurface water pollution and soil pollution shall apply to land-based sand and gravel pits or to aggregate mining operations utilizing washwater ponds under certain circumstances.

Insurance, Commissioner of

SB 85 authorizes the Commissioner of Insurance to adopt rules and regulations that require any motor vehicle liability insurance company authorized to do business in Kansas to provide verification of insurance using an image displayed on a cellular phone or other portable electronic device. The Commissioner previously had that authority regarding proof of insurance provided using photocopy or facsimile.

Investigation, Bureau of

Sub. for HB 2017 requires the Bureau of Investigation to promulgate rules and regulations concerning training for law enforcement agencies in the implementation of provisions on the reporting of sexually violent crimes and pornographic materials seized or documented as evidence. The process for such reporting is to be in place within one year of the implementation of a “capable” central data repository system.

HB 2041 moved from 2013 to 2014 a deadline for the Bureau to adopt rules and regulations requiring district courts to electronically report all case filings and dispositions related to driving under the influence or to refusing to submit to a test to determine the presence of alcohol or drugs. (The corresponding rules and regulations were heard at the June 20, 2013, meeting.)

Labor, Department of

SB 149 authorizes the Secretary of Labor to adopt rules and regulations necessary to require employers to submit reports containing the name and address of each job applicant who has been refused employment by reason of specified types of misconduct (use of or impairment caused by alcohol or a non-prescribed controlled substance) and any other information required by the Secretary. The Secretary may use this information to determine eligibility for unemployment benefits.

Librarian, State

HB 2109, the Children's Internet Protection Act, requires the State Librarian to establish standards and promulgate rules and regulations for the enforcement of provisions that require public libraries to ensure no minor has access to visual depictions that are harmful to minors and no person has access to visual depictions that are classed as child pornography or obscene. (The corresponding rules and regulations were heard at the January 7, 2014, meeting.)

Pharmacy, Board of

SB 199 allows the Board to adopt rules and regulations on additional subjects under the Utilization of Unused Medications Act: procedures for the acceptance of unused medications, designating certain controlled substances as accepted donated medicines, and standards and procedures for a qualifying center or clinic to prepare any donated medications for dispensing or administering. The bill also revoked authority for rules and regulations regarding the Cancer Drug Repository Program (The corresponding revocations were heard at the December 2, 2014, meeting).

Revenue, Department of

SB 136 authorizes the Director of Vehicles to adopt rules and regulations necessary to allow a veteran's driver's license to include a "veteran" designation.

SB 164 authorizes the Secretary of Revenue to adopt rules and regulations to establish minimum standards and practices for providers of motor vehicle functions, and to implement and administer contracts with county treasurers and other contractors to perform motor vehicle functions relating to certificates of title, driver's licenses, identification cards, and personal property taxation.

HB 2011 authorizes the Secretary to adopt rules and regulations to establish a procedure for transferring distinctive license plates under certain circumstances.

REPORT OF THE OVERSIGHT ACTIVITIES OF THE JOINT COMMITTEE ON ADMINISTRATIVE RULES AND REGULATIONS JULY 2011 THROUGH JUNE 2012

From July 2011 through June 2012, the Joint Committee on Administrative Rules and Regulations (JCARR) reviewed proposed rules and regulations of 29 different executive branch agencies. To review all of those proposed rules and regulations within their public comment periods as required by law, the Joint Committee met nine times.

The dates of Joint Committee meetings, the agencies appearing before the Committee, and the main topics of the proposed rules and regulations are listed in the following table.

JCARR Meeting Dates, Agency Appearances, and Topics, July 2011 - June 2012

Agency	July 22, 2011	Aug. 29, 2011	Sept. 26, 2011	Oct. 10, 2011	Nov. 21, 2011	Jan. 3, 2012	Feb. 10, 2012	April 9, 2012	June 1, 2012
Accountancy							Permits; continuing education		
Administration	Leave payouts								
Aging	Homes Plus staff training								
Agriculture	Commercial feeding stuffs		Fees, lodging and food service			Live plant dealers		Live plants: licenses, fees, inspection, penalties	
Agriculture, Water Resources				Flex accounts				Permits for water for fracking	
Behavioral Sciences		Addiction counselors			Revoking counselor regulations			Examination requirements for counselors*	
Commerce	Rural opportunity zones								
Corrections					Community corrections	Parole, house arrest			
Crime Victims Compensation								Revoke hearing procedures	
Dental Board		Continuing education							
Education								Teacher licenses	
Emergency Medical Services		Updates to reflect 2011 HB 2182 (1)		Scope of practice for EMT		Training; continuing education (2)	Continuing education		

Agency	July 22, 2011	Aug. 29, 2011	Sept. 26, 2011	Oct. 10, 2011	Nov. 21, 2011	Jan. 3, 2012	Feb. 10, 2012	April 9, 2012	June 1, 2012
Healing Arts					Continuing education for physician assistants				
Health and Environment	Abortion clinic standards	Obsolete references; hazardous waste facilities fees			Radon	Medicaid prior authorization; trauma centers	Construction material landfills*; abortion reports	Disposal of special waste	
Home Inspector Registration						Fees			
Indigents' Defense		Eligibility, reimbursement							
Insurance					External review			Reports, instructions	
Labor – Workers Compensation	Compensation for loss of body part			Fees for medical services					
Nursing							Updating terms; APRN cont. ed.		
Racing and Gaming	Miscellaneous updates								
Real Estate Appraisal							Fees		Appraisal standards
Regents	Fees for private and out-of-state institutions						Postsecondary admissions		
Revenue	Tax liability abatement								
Revenue – Alcoholic Beverage Control					Trade practices				
Secretary of State						Voter ID			
Tax Appeals	Fees								
Technical Professions				Reciprocity; adoption by reference					
Wildlife, Parks and Tourism	Cabin fees; ice fishing; nuisance birds	Commercial bait fish, misc.		Bait fish; motor vehicle permit; misc.			Electronic registration; crossbows	Exempt hunting regulations	Blinds; commercial guides; misc.
911 Coordinating Council					Selection of administrator				

* All rules and regulations in this set were NOT published in the *Kansas Register* as final rules and regulations before June 30, 2015.

(1) Of the 13 proposed rules and regulations, 1 was not adopted by the Board.

(2) The agency delayed two of the eight proposed rules and regulations.

Comments to Agencies

After each proposed rule and regulation was reviewed, the Committee expressed comments it deemed appropriate, including commendations, and staff forwarded those remarks to each agency for consideration. The Committee requested a response to each comment. Staff maintain a database of information about Committee comments and agency responses to them. All comments and responses are available for public inspection.

The Committee expressed particular concerns about some of the proposed rules and regulations it heard. **Examples** of those concerns are summarized below, by general topic.

Agency Authority

- Department of Agriculture, Division of Water Resources, flex accounts, October 10, 2011. The Committee requested review of the listed authorizing statutes, because the bill creating the statute implemented by the rule and regulation did not specifically state the new section was to be part of the Water Appropriations Act. (The agency responded that the new provisions make sense only when they are considered part of the Water Appropriations Act, even if the legislation itself did not so specify. The agency made no changes to the regulation.)
- Department of Health and Environment, radon measurement, November 21, 2011. The Committee questioned the authority of the agency to promulgate rules and regulations regarding reciprocal certification. (The agency removed references to reciprocity.)

Clarity

- Board of Emergency Medical Services, updates to reflect 2011 HB 2182, August 29, 2011. The Committee noted that the term “political subdivision” used in a proposed rule and regulation has various meanings in statutes, depending on the context, and suggested the agency define the term. (The agency revised the rule and regulation to use “city, county, or township.”)
- Department of Health and Environment, modification of obsolete references, August 29, 2011. The Committee stated the proposed rule and regulation, which modifies language in other rules and regulations, did not conform to Rules and Regulations Filing Act requirements that changes proposed in rules and regulations be indicated with strikeouts and italics. The Committee also said this type of regulation would be confusing to the regulated community. (The rule and regulation was adopted. An agency official provided a schedule for modifying each of the regulations listed in the presented proposed rule and regulation.)
- Department of Agriculture, Division of Water Resources, flex accounts, October 10, 2011. The Committee asked whether the phrase “actual, legal annual water use” used in the proposed regulations meant the amount authorized or the amount used. (The Division changed the wording to “water lawfully used each year.”)

- Secretary of State, voter identification, January 3, 2012. The proposed regulation directed the county election officer to assess the document presented as proof of citizenship and then add the voter's name to the voter registration list. The Committee requested the agency specify the result if a county election officer assesses a citizenship document but finds it to be unacceptable. (The agency replied that the statutes state no one shall be registered unless the applicant has produced evidence of citizenship. The proposed regulation was not changed.)
- Board of Regents, post-secondary admissions, February 10, 2012. The Committee asked whether, according to statute, a General Educational Development (GED) credential is a certificate or diploma. (The agency replied the statutes are inconsistent and amended the regulations to refer to the GED as a "credential" rather than a "certificate." It stated "credential" is the most inclusive term and is used in the GED statute.)

Information Requests

- Department of Administration, limits on state leave payouts, July 22, 2011. The Committee requested a list of agencies that have authority to pay new retirees for more than 240 hours of accrued vacation leave when they retire. (A list was provided.)
- Department of Health and Environment, hazardous waste facilities fees, August 29, 2011. The Committee requested information to explain the need for significant fee increases and why the Legislature was not notified during the 2011 Session about program underfunding. It also notified legislative officials about this concern. (The agency replied the agency had monitored the relevant fund but had not determined declining revenues would require a fee increase until after the Legislature had adjourned.)
- Real Estate Appraisal Board, revocation of adoption by reference of specific standards, June 1, 2012. The Committee asked the Attorney General whether this revocation created an unlawful delegation of authority. (The Attorney General's designee replied that the plain language of the statute requires appraisers to follow the Uniform Standards of Professional Appraisal Practice [USPAP] standards and the statutes do not give the agency the authority to approve or disapprove USPAP standards. The reply further states KSA 58-4121 appears to delegate the authority to establish, amend, supplement, and retire standards to the Appraisal Standards Board of the Appraisal Foundation.)
- Real Estate Appraisal Board, revocation of adoption by reference of specific standards and related changes to additional rules and regulations, June 1, 2012. The Committee requested demographic information on appraisers in Kansas and asked whether a new requirement that a supervisor be in good standing is likely to affect the availability of appraisers. (The agency provided statewide information and information by county on the numbers of appraisers in various categories. It stated the effect of the federal requirement that a supervisor be in good standing is unknown, both in Kansas and across the country.)

Program Concerns

- Department of Health and Environment, abortion clinic standards, July 22, 2011. The Committee suggested that the rule and regulation be amended to require an ultrasound examination before the consent to the abortion is obtained. (The agency agreed and revised the rule and regulation.)
- Department of Commerce, rural opportunity zone programs, July 22, 2011. The Committee questioned regulations addressing both the student loan repayment program and the tax credit program and suggested they be separated. (The agency removed state income tax credit qualifications, definitions, and procedures from the rural opportunity zone rules and regulations.)
- Behavioral Sciences Regulatory Board, addiction counselor standards, August 29, 2011. The Committee strongly recommended the agency work with representatives of social workers and university social work programs to reach a common ground on proposed rules and regulations. (The agency organized a “compromise committee.” 2012 SB 290, approved by the Governor on March 30, clarified licensure requirements for licensed addiction counselors and licensed clinical addiction counselors. At its April 9, 2012, meeting, the Committee thanked the Board for its work toward compromise.)
- Wildlife, Parks and Tourism, taking and use of bait fish, October 10, 2011. The Committee was concerned that the proposed rule and regulation did not address the transportation of wild-caught bait fish from a stream basin to a pool or pond. (The agency amended the rule and regulation to state that wild-caught bait fish shall be used on the flowing stream or river from which they were taken.)
- 911 Coordinating Council, selection of a local collection point administrator, November 21, 2011. The Committee was concerned that the Council had selected a local collection point administrator before this rule and regulation was in place and believed the timing could risk a legal challenge to the selection. (The agency replied that the statutory time line required such action. It said 2011 SB 50, which established the Council, was signed by the Governor on May 1, 2011, and its members appointed by July 1, 2011. SB 50 also required a local collection point administrator be in place by January 1, 2012, and rules and regulations for the terms of the contract by December 31, 2011. Because of the time needed to promulgate rules and regulations, the Council proceeded on those tasks simultaneously, and the requirements in the request for proposals for a local collection point administrator were the same as those included in the proposed rule and regulation.)
- Secretary of State, voter identification, January 3, 2012. The Committee questioned the use of the terms “if practicable” and “by any means” in proposed rules and regulations regarding applications for advance ballots and requested the agency provide more direction to local officials needing to contact a voter in order to fully complete such an application. (The agency stated it recognizes the authority given to county election officials in statutes and wished to preserve local discretion. If a question remains about the application, the voter could be issued a provisional ballot, the agency said. The proposed rule and regulation was not changed.)

- Board of Regents, post-secondary admissions, February 10, 2012. The Committee was concerned with the deletion of required courses in the social sciences and stated the standards should require courses in American history, geography, and government. (The agency amended the proposed rule and regulation to provide that the three required units of approved qualified admission social sciences courses include instruction in U.S. history, U.S. government, and geography.)

Legislative Action

During the 2012 Session, the Legislature authorized multiple agencies to adopt rules and regulations. The following list summarizes the authority granted, by agency. Statutory deadlines that were specified are mentioned. The list also includes changes to authority but does not include transfers of authority related to executive agency reorganization. For more information on aspects of these bills not related to rules and regulations, the reader is directed to the 2012 *Summary of Legislation*. Dates newly authorized rules and regulations were first heard by the Joint Committee are included in parentheses.

All Agencies

SB 252 amends the Rules and Regulations Filing Act to update agency names and to change notice requirement from 30 days to 60 days for new rule-making proceedings when the agency proposes to adopt a final rule and regulation that differs in subject matter or effect in any material respect from the rule and regulation as originally proposed and is not a logical outgrowth of the rule and regulation as originally proposed. The public comment period is 60 days. This bill was introduced by the Joint Committee on Administrative Rules and Regulations.

Administration, Department of, and Department for Aging and Disability Services

HB 2453 establishes bidding preferences for certain businesses that employ individuals with disabilities. The bill authorizes the Secretary of Administration and the Secretary for Aging and Disability Services, jointly, to adopt rules and regulations necessary to implement that section. This portion of the bill becomes effective January 1, 2013. (The provision was repealed in 2013.)

Aging and Disability Services, Department for

House Sub. for SB 60 amends various administrative and criminal statutes related to driving under the influence. Section 13 provides that, on and after July 1, 2013, all alcohol and drug evaluations conducted prior to sentencing or under a diversion agreement are to utilize a standardized substance use evaluation approved by the Secretary of Social and Rehabilitation Services. (These duties have been moved to the Department for Aging and Disability Services.) It requires the Secretary to promulgate rules and regulations to implement this section by July 1, 2013.

HB 2453, among other things, creates a rebuttable presumption that an individual with a disability is eligible for reinstatement to the level of home and community based services or other Medicaid program services to which the individual was entitled on the day preceding the day the individual stopped receiving those services because of full-time employment. It

authorizes the Secretary for Aging and Disability Services to adopt rules and regulations necessary to implement those provisions.

Agriculture, Department of

House Sub. for SB 191 authorizes the Secretary of Agriculture to adopt rules and regulations to establish fees for and administer laboratory testing of samples from other states.

Senate Sub. for HB 2730 amends various sections of the Kansas Food Service and Lodging Act and the Kansas Meat and Poultry Inspection Act. Its changes regarding rule and regulation authority are in four sections:

- Section 6 gives express authority to the Secretary to promulgate rules and regulations with respect to the licensure of lodging establishments and fees related to licensure and inspection. (The corresponding rules and regulations were heard at the November 26, 2012, meeting.)
- Section 23 changes rule and regulation authority of the Secretary of Agriculture from authority to adopt rules and regulations establishing an inspection fee for retail food stores to authority to adopt an application and license fee for food establishments. The bill sets maximum license fees. (The corresponding rules and regulations were heard at the April 22, 2013, meeting.)
- Section 26 authorizes the Secretary to prescribe rules and regulations to implement voluntary inspection for animals other than livestock, poultry, or rabbits which can or may be used in and for the preparation of meat or meat products or poultry or poultry products. Such rules and regulations can include fees to cover inspection costs.
- Section 29 authorizes the Secretary to prescribe rules and regulations for the voluntary inspection of all livestock, domestic rabbits and poultry which can be used in and for meat or meat products or poultry or poultry products in intrastate commerce. (The corresponding rules and regulations were heard at the March 6, 2013, meeting.)

Agriculture, Department of, Division of Water Resources

SB 310 requires the Chief Engineer to adopt rules and regulations regarding local enhanced management areas within groundwater management districts.

Attorney General

SB 304 requires the Attorney General to adopt rules and regulations governing the administration and enforcement of the Batterer Intervention Program Certification Act. These requirements may include, but not be limited to, standards, program elements and goals, the role of the certified batterer intervention program in the community, technical considerations, the assessment of batterer participants and the utilization of the Kansas domestic violence offender assessment, and orientation training and continuing education requirements. These rules and regulations are to be adopted before May 31, 2013 (the first anniversary of the Act's effective

date). This bill was introduced by the Joint Committee on Administrative Rules and Regulations. (The corresponding rules and regulations were heard at the July 23, 2012, meeting.)

Corporation Commission

Senate Sub. for HB 2526 provides explicit authority for the Kansas Corporation Commission to regulate hydraulic fracturing, and it authorizes the Commission to promulgate rules and regulations for supervision and disclosure of any well on which a hydraulic fracturing treatment is performed. (The corresponding rules and regulations were heard at the July 22, 2013, meeting.)

Creative Arts Industries Commission

Senate Sub. for HB 2454 creates the Creative Arts Industries Commission within the Department of Commerce, merging the powers, functions, and duties of the Kansas Arts Commission and the Kansas Film Commission. It authorizes the Commission to adopt necessary rules and regulations.

Dental Board

HB 2631, among other things, extends the length of time dentists may be employed to provide services to patients after the death or substantial disability of a dentist until the practice can be sold or closed. It adds authority for the Dental Board to adopt rules and regulations necessary to implement certain provisions related to the employment of dentists.

Health and Environment, Department of

Senate Sub. for HB 2597 enacts new law relating to the disposal of solid waste generated by drilling of oil and gas wells. It requires the Secretary of Health and Environment to adopt, by January 1, 2014, rules and regulations governing land-spreading of waste generated by drilling oil and gas wells. The Secretary is required to coordinate with the Kansas Corporation Commission on this matter. (The corresponding rules and regulations were heard at the July 22, 2013, meeting.)

HB 2697 requires the Department of Health and Environment (KDHE), in conjunction with the Department of Social and Rehabilitation Services, to review and update rules and regulations that establish eligibility requirements for Medicaid. It also requires KDHE to establish a procedure to allow the holder of a life insurance policy with cash surrender value to give the Kansas Medicaid program collateral assignment of the proceeds of such policy, in lieu of requiring the owner to sell the policy to meet the property ownership limits for Medicaid eligibility. Any needed changes to rules and regulations are to be accomplished within a year following receipt of a federal waiver to implement this or, if no waiver is necessary, by July 1, 2013.

Information Technology Services, Office of

HB 2175 requires the implementation of an overall Kansas land and geographic resources program using a geographic information system. It authorizes the Executive Chief Information Technology Office to adopt rules and regulations to implement the Act.

Insurance, Department of

Senate Sub. for HB 2077 creates the Professional Employer Organization (PEO) Act. A PEO is defined as a person or business that enters into an ongoing co-employment relationship with an employer-client, and the act requires a PEO to register with the Commissioner of insurance. The bill authorizes the Commissioner to adopt rules and regulations the Commissioner deems necessary to implement the Act. (The corresponding rules and regulations were heard at the November 5, 2013, meeting.)

Investigation, Kansas Bureau of

SB 60, Section 38, amended KSA 75-712h to authorize, rather than require, the Director of the Kansas Bureau of Investigation to adopt rules and regulations regarding preliminary screening devices for testing of saliva for law enforcement purposes. The bill also removed a deadline for such rules and regulations.

Juvenile Justice Authority

HB 2496 amends the Law Enforcement Training Act to include special investigators of the Juvenile Justice Authority. The bill gives the Commissioner of the Juvenile Justice Authority the authority to adopt rules and regulations prescribing additional training required for those special investigators.

Real Estate Appraisal Board

SB 345 creates the Kansas Appraisal Management Company Registration Act and authorizes the Real Estate Appraisal Board to adopt, amend, and revoke rules and regulations governing the administration and enforcement of the Act, including rules and regulations for fees and reports. The Act provides a process for registering and regulating entities that conduct, perform, or engage in real estate management. (The corresponding rules and regulations were heard at the July 23 and November 26, 2012, meetings.)

Regents, Board of, and State Board of Education

SB 155, Section 2, authorizes the State Board of Regents and the State Board of Education, jointly, to adopt rules and regulations necessary to implement a portion of the Career Technical Education Incentive Program: reimbursements for career credentials gained by high school students.

Regents, Board of

SB 155, Section 3, authorizes the Board to adopt rules and regulations regarding career technical education programs. The section containing this authorization is effective July 1, 2013.

HB 2435, among other things, replaces the Vocational Education Scholarship with the new Career Technical Workforce Grant. It amends a provision regarding the Scholarship to authorize, rather than require, the Board to adopt rules and regulations for administering the grants.

Revenue, Department of

Sub. for HB 2689 includes two provisions related to rules and regulations:

- Section 2 of the bill allows the Director of Alcoholic Beverage Control to issue a permit to the Kansas State Fair or a *bona fide* group of distillers a permit to import small quantities of spirits. The spirits can be used only for *bona fide* education and scientific tasting programs. The Secretary is required to adopt rules and regulations regarding such importation and the conduct of such tasting programs.
- Section 25 extends the Secretary's authority to regulate advertising of alcoholic liquor to include advertising by a micro-distillery.

HB 2729 adds park and recreation motor vehicle permits to vehicle registration activities for which the Secretary of Revenue may adopt rules and regulations.

Social and Rehabilitation Services

House Sub. for SB 60 changed the implementation deadline of a provision requiring the use of a standardized substance use evaluation approved by the Secretary of Social and Rehabilitation Services from July 1, 2012, to July 1, 2013. (This and other responsibilities were assigned to the Secretary for Aging and Disability Services in 2014 HB 2515.)

Wildlife, Parks and Tourism, Department of

SB 314 requires the Secretary of Wildlife, Parks and Tourism to implement a combination antlered and antlerless deer permit and adopt rules and regulations to administer that permit, by April 30, 2013. (The corresponding non-resident rules and regulations were heard at the March 6, 2013, meeting.)