

MINUTES

JOINT COMMITTEE ON ADMINISTRATIVE RULES AND REGULATIONS

September 6, 2016
Room 152-S—Statehouse

Members Present

Senator Vicki Schmidt, Chairperson
Representative Sharon Schwartz, Vice-chairperson
Senator Oletha Faust-Goudeau
Senator Tom Hawk
Senator Garrett Love
Senator Ralph Ostmeyer
Representative Steve Huebert
Representative Jerry Lunn
Representative Janice Pauls
Representative Ed Trimmer
Representative Jim Ward
Representative Valdenia Winn

Staff Present

Raney Gilliland, Kansas Legislative Research Department
Sharon Wenger, Kansas Legislative Research Department
Whitney Howard, Kansas Legislative Research Department
Natalie Scott, Office of Revisor of Statutes
Jenna Seematter, Office of Revisor of Statutes
Gary Deeter, Committee Assistant

Conferees

Randy Slater, Special Agent, Scrap Metal Dealer Registration Unit, Kansas Office of the Attorney General
Charles Klebe, Director and Assistant Attorney General, Bail Enforcement Agent Licensing Unit, Kansas Office of the Attorney General
Max Foster, Executive Director, Behavioral Sciences Regulatory Board
Erik Wisner, Executive Director, Kansas Real Estate Commission
Kraig Knowlton, Director of Personnel Services, Kansas Department of Administration
Rebecca Proctor, Executive Director, Kansas Organization of State Employees
Senator Anthony Hensley, Senate Minority Leader, Kansas Senate
Patricia Scalia, Executive Director, Board of Indigents' Defense Services
Wendee Grady, Chief Legal Counsel, Kansas Department of Agriculture
Lane Letourneau, Water Appropriation Program Manager, Kansas Department of Agriculture, Division of Water Resources
Doug Watson, Air Monitoring and Planning Chief, Kansas Department of Health and Environment, Bureau of Air

Linden Appel, Chief Legal Counsel, Kansas Department of Corrections
Chris Tymeson, Chief Legal Counsel, Kansas Department of Wildlife, Parks and Tourism
Chiquita Coggs, Executive Director, Kansas Board of Cosmetology
Larry Montgomery, Administrator, Kansas Board of Barbering
Kelli Broers, Assistant General Counsel, State Board of Education
Jean Redeker, Vice President for Academic Affairs, Kansas Board of Regents
Julene Miller, General Counsel, Kansas Board of Regents

Others Attending

[See attached list.](#)

Morning Session

The meeting was called to order at 10:10 a.m. by Chairperson Schmidt.

Senator Hawk moved to approve the June 1, 2016, minutes as written. The motion was seconded by Senator Faust-Goudeau. The motion was approved on a voice vote.

Chairperson Schmidt announced the arrival of her new grandson and the Committee expressed its congratulations.

Chairperson Schmidt expressed the Committee's appreciation for the superlative work provided by staff in producing the *Report on Oversight Activities of the Joint Committee on Administrative Rules and Regulations, July 2015-June 2016*.

Review and Comment on proposed rules and regulations noticed for hearing by the Kansas Office of the Attorney General.

KAR 16-14-10, submission of required information; KAR 16-14-11, definitions.

Randy Slater, Special Agent, Scrap Metal Dealer Registration Unit, Kansas Office of the Attorney General, appeared before the Committee to address the proposed rules and regulations. Mr. Slater explained the proposed rules and regulations outline the requirements for scrap metal dealers to capture and enter data related to regulated scrap metal transactions into an online database. Mr. Slater further explained the proposed rules and regulations define terms used in the Scrap Metal Theft Reduction Act the Kansas Legislature enacted in 2015.

Responding to questions from the Committee, Mr. Slater stated the database will assist in allocating enforcement resources and enable the Office of the Attorney General more effectively to thwart illegal activity. Mr. Slater stated the costs for the database will be covered by scrap metal dealer fees. Natalie Scott, Office of Revisor of Statutes, provided information to the Committee on the possible parallel regulation of pawn shops.

Review and Comment on proposed rules and regulations noticed for hearing by the Kansas Office of the Attorney General.

KAR 16-15-1, definitions; KAR 16-15-2, application for license; KAR 16-15-3, fees; KAR 16-15-4, license renewal.

Charles Klebe, Director and Assistant Attorney General, Bail Enforcement Agent Licensing Unit, Kansas Office of the Attorney General, reviewed the proposed rules and regulations regarding bail enforcement agents, often known as bounty hunters. Mr. Klebe explained the proposed rules and regulations correspond with the Bail Enforcement Agent Licensing Act, enacted during the 2016 Legislative Session. Mr. Klebe explained, under these rules and regulations, the Office of the Attorney General licenses bail enforcement agents, but will not license bail bonding sureties or any bail agents.

Responding to questions from the Committee, Mr. Klebe explained the legal consequences for a bail enforcement agent who does not have a Kansas license; he also stated the fees set in statute cover both the licensing and background check fees.

Review and Comment on proposed rules and regulations noticed for hearing by the Behavioral Sciences Regulatory Board.

KAR 102-8-1, definitions; KAR 102-8-2, fees; KAR 102-8-4, application for licensure; KAR 102-8-6, supervision; KAR 102-8-7, license, expiration and renewal; KAR 102-8-8, renewal audit; KAR 102-8-9, continuing education; KAR 102-8-10, documentation of continuing education; KAR 102-8-11, unprofessional conduct; KAR 102-8-12, recordkeeping.

Max Foster, Executive Director, Behavioral Sciences Regulatory Board, presented the proposed rules and regulations regarding the licensing of Behavioral Analysts and Assistant Behavioral Analysts, necessitated by the passage of 2014 HB 2744 ([Attachment 1](#)). The proposed rules and regulations outline licensure fees, requirements for supervision of the profession, continuing education requirements, license renewal, and unprofessional conduct.

Responding to questions from the Committee, Mr. Foster stated a consumer can file a complaint with the Board if a licensee is providing undue influence during a therapy session. Mr. Foster also explained the renewal and appeal processes. Ms. Scott stated the “sexual orientation” language found in this set of rules and regulations can be found in statutes associated with the Kansas Department of Revenue’s Division of Motor Vehicles and noted the language regarding imposition of personal values can be found in other Board regulations.

Review and Comment on proposed rules and regulations noticed for hearing by the Kansas Real Estate Commission.

KAR 86-1-2, revocation (was examinations); KAR 86-1-4, revocation (was renewal of license); KAR 86-2-8, revocation (was examination of records); KAR 86-3-19, disclosure of interest in property purchased, sold, or leased; KAR 86-3-26a, designated agents, disclosure of brokerage relationships; KAR 86-3-30, revocation (was advertising); KAR 86-3-31, broker supervision.

Erik Wisner, Executive Director, Kansas Real Estate Commission, reviewed the proposed rules and regulations. Mr. Wisner indicated the proposed rules and regulations offer clarification, such as requiring a broker to provide full and complete disclosure regarding any family member's interest in a real estate transaction. Mr. Wisner stated the proposed rules and regulations make no substantive changes to existing rules or policies.

Responding to questions from the Committee, Mr. Wisner stated there is no limitation on the number of affiliated licenses a broker is permitted to have in Kansas.

Review and Comment on proposed rules and regulations noticed for hearing by the Kansas Department of Administration.

KAR 1-2-74, administrative leave; KAR 1-6-23, reemployment; KAR 1-7-11, employees entitled to appeal performance reviews; KAR 1-9-23, shared leave; KAR 1-14-8, computation of layoff scores; KAR 1-14-10, procedures for bumping and layoff conferences.

Kraig Knowlton, Director of Personnel Services, Kansas Department of Administration, presented the proposed rules and regulations regarding administrative leave, reemployment, the performance reviews appeal process, shared leave, computation of layoff scores, and procedures for bumping and layoff conferences ([Attachment 2](#)). Mr. Knowlton noted the proposed rules and regulations would allow State agencies to provide time off as a reward to State employees, and also would balance the computation of layoff scores, which were heavily skewed toward longevity.

Responding to questions from the Committee, Mr. Knowlton noted performance reviews are required annually and although performance ratings do not determine salary, they are a determinant for layoff decisions. Mr. Knowlton noted the proposed changes to performance reviews would emphasize performance instead of longevity. Mr. Knowlton stated the concept of shared leave was discussed by the House Committee on Commerce, Labor and Economic Development in 2015 and some members believed shared leave to be double dipping.

Rebecca Proctor, Executive Director, Kansas Organization of State Employees, appeared before the Committee to oppose the Department's proposed rules and regulations ([Attachment 3](#)). She expressed concern regarding the policy of changing vacant positions from classified to unclassified when a new person is hired and stated this change strips an employee of civil service protections and exempts the employee from certain job protections. Ms. Proctor stated the reemployment preference rule appears to be an indirect way of terminating an employee. Ms. Proctor stated a concern that supervisors are exhibiting favoritism in their hiring and firing practices and concluded there is no favorable economic impact from these regulation changes.

Senator Anthony Hensley, Senate Minority Leader, stated the proposed rules and regulations are causing a great deal of concern among state employees and would be detrimental to long-time employees who have chosen a career of public service. Senator Hensley also noted these changes are coming at a time when employee morale is at an all-time low.

Representative Trimmer made a motion for the Committee to send a letter to the Department, asking the Department to delay implementation of these rules and regulations until

after the next legislative session due to vagueness and incomplete information in the regulations. The motion was seconded by Representative Ward. After discussion concerning the role of the Committee and its relationship to executive agencies, Representative Trimmer withdrew his motion. Senator Hawk noted he did not agree with the personnel changes in this set of rules and regulations.

The meeting recessed at 1:30 p.m.

Afternoon Session

The meeting reconvened at 2:00 p.m.

Review and Comment on proposed rules and regulations noticed for hearing by the Board of Indigents' Defense Services.

KAR 105-5-2, rates of compensation; KAR 105-5-3, appellate courts, compensation; KAR 105-5-6, reasonable compensation, non-tried cases; KAR 105-5-7, reasonable compensation, tried cases; KAR 105-5-8, compensation, exceptional cases; KAR 105-11-1, defendant reimbursement of attorney fees.

Patricia Scalia, Executive Director, Board of Indigents' Defense Services, outlined the proposed rules and regulations regarding hourly rates paid to private attorneys in the absence of a public defender. Ms. Scalia identified the compensation rates and upper limits for various types of cases. Ms. Scalia noted the statutory hourly rates have fluctuated through the years and the amendments reflect action taken by the Board under its statutory authority to adjust the rate of compensation to more closely approach the rate set by statute of \$80 per hour.

Responding to questions from the Committee, Ms. Scalia acknowledged it is difficult to enlist the services of attorneys with the low compensation rate. Ms. Scalia also noted the Board has not received sufficient funding.

Review and Comment on proposed rules and regulations noticed for hearing by the Kansas Department of Agriculture, Division of Water Resources.

KAR 5-3-6a, sealing diversion works; KAR 5-21-3, well spacing requirements.

Wendee Grady, Chief Legal Counsel, Kansas Department of Agriculture, presented the proposed rules and regulations. Ms. Grady noted the proposed rules and regulations limit well spacing in the Dakota aquifer in the Western Kansas Groundwater Management District No. 1 to ensure the Dakota wells do not impact one another and clarify the agency's authority to seal a water flowmeter.

Responding to questions from the Committee, Lane LeTourneau, Water Appropriation Program Manager, Division of Water Resources, Kansas Department of Agriculture, explained the agency is authorized to seal a pump, but is not authorized to turn it off because of due process issues on private property.

Review and Comment on proposed rules and regulations noticed for hearing by the Kansas Department of Health and Environment.

KAR 28-19-11, enforcement discretion, due to startup, shutdown malfunctions, or scheduled maintenance; KAR 28-19-300, construction permits and approvals, applicability; KAR 28-19-304, construction permits and approvals, fees.

Doug Watson, Air Monitoring and Planning Chief, Kansas Department of Health and Environment (KDHE), Bureau of Air, explained the proposed rules and regulations were necessary to align Kansas with the standards established by the federal Environmental Protection Agency. Mr. Watson stated the fee structure was adjusted to reflect the administrative costs for permits and the approval process.

Responding to questions from the Committee, Will Stone, Permit Section Chief, KDHE, Bureau of Air, stated the fees, currently ranging from \$100 to \$4,000, have been adjusted to range from \$1,000 to \$4,000 to correspond with staff time. Rick Brunetti, Director, KDHE, Bureau of Air, stated the fee increases are needed to address the complexity of many permits.

Review and Comment on proposed rules and regulations noticed for hearing by the Kansas Department of Corrections.

KAR 44-12-301, fighting.

Linden Appel, Chief Legal Counsel, Kansas Department of Corrections, addressed the proposed rule and regulation regarding inmate fighting. The amendment recognizes self-defense as an affirmative defense, but conditions its use upon the offender bearing the entire burden of proof in regard to successfully defending a fighting charge. Mr. Appel notes these changes come in response to the recent decision of the Kansas Supreme Court in *May v. Cline*.

Responding to questions from the Committee, Mr. Appel stated the current prison population is 9,500 men and 750 women and the proposed rule and regulation only applies to inmate conduct with regard to other inmates.

Review and Comment on proposed rules and regulations noticed for hearing by the Kansas Department of Wildlife, Parks and Tourism.

KAR 115-2-2, motor vehicle permit fees; KAR 115-2-3, camping, utility, and other fees; KAR 115-7-1, fishing, legal equipment, methods of taking, and other provisions; KAR 115-7-10, fishing, special provisions; KAR 115-8-13, motorized vehicles and aircraft, authorized operation; KAR 115-17-2, commercial sale of fish bait; KAR 115-18-20, tournament black bass pass, requirements, restrictions, and pass duration; KAR 115-25-5, turkey, fall season, bag limit, and permits; KAR 115-25-6, turkey, spring season, bag limit, permits, and game tags; KAR 115-25-14, fishing, creel limit, size limit, possession limit, and open season.

Chris Tymeson, Chief Legal Counsel, Kansas Department of Wildlife, Parks and Tourism, presented the proposed rules and regulations. Mr. Tymeson stated the proposed rules

and regulations would establish a motor vehicle permit fee for unconventional motor vehicles and allow for those unconventional motor vehicles to be operated on roads within state parks, increase camping permit fees, establish legal fishing equipment and methods for sportfish and nonsportfish, update a reference document for fishing, delete a receipt requirement for the commercial sale of fish bait, increase the amount of black bass an angler can keep from a tournament, establish hunting unit boundaries, and remove the length limit on certain fish allowed on floatline.

Responding to questions from the Committee, Mr. Tymeson stated the state is broken in to six turkey management units. Mr. Tymeson also noted the agency puts a lot of time and study into issues and the agency is proposing a fee increase because the last increase to these fees occurred in 2001. Representative Ward noted he is opposed to fee increases.

Review and Comment on proposed rules and regulations noticed for hearing by the Kansas Board of Cosmetology.

KAR 69-11-1, fees; KAR 69-12-18, access to tanning devices.

Chiquita Coggs, Executive Director, Kansas Board of Cosmetology, presented the proposed rules and regulations. Ms. Coggs noted the increased fees for the initial license application fee and renewal fee for cosmetologists, electrologists, manicurists, and a esthetician, and the increase in salon initial application fees and the reciprocity applications fees, are necessary because of a \$700,000 fee sweep from the Board. Ms. Coggs explained the proposed tanning facilities regulation would carry out the provisions of 2016 HB 2456, enabling the agency to enforce excluding minors from using tanning services.

Responding to questions from the Committee, Ms. Coggs noted a decrease in tanning and tanning salons since the imposition of a “tanning tax” in the Affordable Care Act. Ms. Coggs also stated the tanning facilities will keep logs and have an acceptable list of documents to determine the age of the consumer accessing the tanning facility.

Review and Comment on proposed rules and regulations noticed for hearing by the Kansas Board of Barbering.

KAR 61-1-24, temporary permits issued, permits and licenses conspicuously displayed; KAR 61-3-2, minimum requirements for courses of instruction; KAR 61-3-3, subjects required in courses of instruction; KAR 61-3-5, qualifications for supervisors of barber schools or barber colleges; KAR 61-3-20, teaching staff; KAR 61-4-2, issuance and renewal of licenses.

Larry Montgomery, Administrator, Kansas Board of Barbering, explained the proposed rules and regulations are being amended in response to 2016 HB 2456. Mr. Montgomery stated more barber schools are being established because of the new law. The proposed rules and regulations clarify permits issued to students upon graduation from a licensed barber school or college are only valid until the next examination. The proposed rules and regulations also clarify the minimum requirements for courses of instruction and the subject required in those courses, and the annual licensing dates. Mr. Montgomery also noted the individual supervising the

barbering course must be a licensed barber instructor and a licensed instructor will only instruct ten or fewer students.

Review and Comment on proposed rules and regulations noticed for hearing by the State Board of Education.

KAR 91-31-32, performance and quality criteria.

Kelli Broers, Assistant General Counsel, State Board of Education, presented the proposed rule and regulation addressing the performance and quality criteria each school must meet in order to maintain its accreditation by the Board. The proposed amendment, necessitated by passage of the Jason Flatt Act (2016 SB 323), adds a requirement for all accredited schools to provide suicide awareness and prevention training to all staff. Ms. Broers explained the regulation requires at least one hour of training per calendar year and the training may be accomplished through independent self-review of online training materials.

In response to Committee questions concerning language requiring “all staff” to complete training, Ms. Broers noted the Board does not provide legal advice to school districts, so each individual school district must determine what roles would be considered “all staff” for their district.

Review and Comment on proposed rules and regulations noticed for hearing by the Kansas Board of Regents.

KAR 88-29-2, revocation (was scope); KAR 88-29-5, revocation (was qualifications required for the admission of a Kansas resident who is under the age of 21); KAR 88-29-6, revocation (was qualifications required for the admission of a Kansas resident who is 21 or older); KAR 88-29-7, revocation (was qualifications required for the admission of a non-resident who is under the age of 21); KAR 88-29-7a, revocation (was the exception window for resident freshman class admissions); KAR 88-29-8c, revocation (was the exception window for nonresident freshmen class admissions); KAR 88-29-9, revocation (was admission policies for state educational institutions); KAR 88-29-10, revocation (was methods for state educational institutions to use when evaluating qualifications for admission); KAR 88-29-11, requirements for the qualified admission precollege curriculum.

Jean Redeker, Vice President for Academic Affairs, Kansas Board of Regents (KBOR), reviewed the proposed rules and regulations amending the qualified admission precollege curriculum for state university applicants ([Attachment 4](#)). Ms. Redeker explained the 2009 Legislature amended KSA 76-717 to give the KBOR authority to establish admissions standards for state universities. KBOR convened a task force in 2010 to make recommendations for university admission policies. Ms. Redeker stated the proposed amendment to KAR 88-29-11 includes an updated list of precollege courses required for admission to state universities for students who graduated between academic years 2010 and 2014.

Responding to questions from the Committee, Ms. Redeker noted the Common Course standards were developed in cooperation with the State Board of Education and will enable a

student to be successful in dealing with the entry-level college courses. KBOR reviews courses at the state level, but does not review every high school course at every high school across the state. Julene Miller, General Counsel, KBOR, stated some regulations were revoked because they are no longer applicable.

COMMITTEE DISCUSSION AND COMMENTS

Kansas Attorney General. The Joint Committee on Administrative Rules and Regulations reviewed for comment rules and regulations concerning KAR 16-14-10, submission of required information; KAR 16-14-11, definitions. After discussion, the Committee had no comments.

Kansas Attorney General. The Joint Committee on Administrative Rules and Regulations reviewed for comment rules and regulations concerning KAR 16-15-1, definitions; KAR 16-15-2, application for license; KAR 16-15-3, fees; KAR 16-15-4, license renewal. After discussion, the Committee had the following questions and comments.

KAR 16-15-2. The Committee asked about the requirements for bail enforcement agents who may not be from Kansas or who may not have a Kansas license. Are these agents required to have a state license or work under a bail bond agency? Are these individuals required to produce this information for law enforcement when those apprehended are turned over to law enforcement? In addition, are there reciprocity agreements with other states where these individuals may have licensure, or are there provisions for temporary licensure?

KAR 16-15-3. The Committee requests information with respect to the projected adequacy of the fees and, in addition, a report in six months as to the adequacy of the fees in order to make this program successful.

Kansas Behavioral Sciences Regulatory Board. The Joint Committee on Administrative Rules and Regulations reviewed for comment rules and regulations concerning KAR 102-8-1, definitions; KAR 102-8-2, fees; KAR 102-8-4, application for licensure; KAR 102-8-6, supervision; KAR 102-8-7, license, expiration and renewal; KAR 102-8-8, renewal audit; KAR 102-8-9, continuing education; KAR 102-8-10, documentation of continuing education; KAR 102-8-11, unprofessional conduct; KAR 102-8-12, recordkeeping. After discussion, the Committee had the following comments.

Comment and Request. The Committee believes that it is not clear in this set of rules and regulations whether an assistant behavioral analyst may be supervised by a profession other than a behavioral analyst. Please provide clarification to the Committee.

Comment. The Committee encourages the Behavioral Sciences Regulatory Board to consider the addition of a behavioral analyst to its board membership through legislation.

Request. The Committee requests information related to any differences in requirements for voluntary behavioral analysis services and those mandated by a court.

KAR 102-8-1. As part of the definition of “undue influence,” language is included to prohibit the imposition of one’s personal values, spiritual beliefs, or lifestyle on a client, student, or supervisee. The Committee requests information on how this language was developed and whether similar language exists in other rules and regulations of the agency.

KAR 102-8-11. In paragraph (j), language is included that would prohibit discrimination based on sexual orientation. The Committee asks the agency to review the other professions it regulates to determine if similar language exists and to explain why this is included in this rule and regulation when this does not appear in the state laws regarding discrimination.

Kansas Real Estate Commission. The Joint Committee on Administrative Rules and Regulations reviewed for comment rules and regulations concerning KAR 86-1-2, revocation (was examinations); KAR 86-1-4, revocation (was renewal of license); KAR 86-2-8, revocation (was examination of records); KAR 86-3-19, disclosure of interest in property purchased, sold, or leased; KAR 86-3-26a, designated agents, disclosure of brokerage relationships; KAR 86-3-30, revocation (was advertising); KAR 86-3-31, broker supervision. After discussion, the Committee had the following comment.

Comment. The Committee wishes to commend agency personnel for its work on this set of rules and regulations.

Kansas Department of Administration. The Joint Committee on Administrative Rules and Regulations reviewed for comment rules and regulations concerning KAR 1-2-74, administrative leave; KAR 1-6-23, reemployment; KAR 1-7-11, employees entitled to appeal performance reviews; KAR 1-9-23, shared leave; KAR 1-14-8, computation of layoff scores; KAR 1-14-10, procedures for bumping and layoff conferences. After discussion, the Committee had the following comments.

KAR 1-2-74. The proposed rule and regulation strikes the word “reward,” however, there is no definition for “reward” in the context of the existing rule and regulation. The Committee believes it would be helpful for the agency to explain how the word “reward” as it is used in the existing rule and regulation has been used in the past and how administrative leave may be used as a “reward” in the future. In addition, the Committee believes the use of administrative leave may have an impact on the employee when the employee is ready to retire. Please examine and respond to the potential impact on state employees with respect to the use of administrative leave, its impact on the State from a fiscal perspective, and the impact on KPERS benefits for employees.

KAR 1-6-23. In (b)(4)(B), the language reads as though there would be additional job-related selection criteria imposed after an individual who is eligible for an employee preference has applied for a position. Please clarify this language. In (b)(4)(C), the Committee is concerned with the elimination of the language regarding “minimal training” and “reasonable

amount of training on the job.” Please explain the rationale for the elimination of this language.

KAR 1-7-11. The Committee is curious why changes to this rule and regulation are necessary when the agency stated the rule and regulation would impact few state employees. The Committee also would like to note the State spent considerable resources on the Hays Study and this rule and regulation appears to deviate from the recommendations of that Study. The Committee believes this rule and regulation could have unknown impacts. Please outline the purpose of this rule and regulation and the potential impacts to state employees.

KAR 1-9-23. The Committee requests a complete explanation of the shared leave program and its use over time. Please also explain why the agency believes the use of shared leave at the time of retirement is “double dipping.” Additionally, the Committee would like clarification on when an employee close to retirement can donate their time for shared leave in relation to the 80-hour limit. Is the retiring employee who desires to donate their leave required to donate within the last month of employment or the last pay period, or some other date?

KAR 1-14-8. The Committee is concerned with changing the computation for layoff scores to have an emphasis on recent employee performance reviews may have an unintended consequence of impacting future performance reviews, therefore impacting employment. Attached is a copy of minutes from a Larned State Hospital Leadership meeting from May 26, 2016. The highlighted portion indicates Central Office is denying “exceptional performance ratings.” Please review and respond to the allegation that employees are denied exceptional review ratings by the next Joint Committee meeting on November 16, 2016. The Committee also asks for information on employee layoffs for the five years before the recession also before the November meeting.

Economic Impact Statement. In light of the Committee’s comments and requests for clarification on the proposed rules and regulations, the Committee believes the Economic Impact Statement is vague and requests the Economic Impact Statement be updated.

Kansas Board of Indigents’ Defense Services. The Joint Committee on Administrative Rules and Regulations reviewed for comment rules and regulations concerning KAR 105-5-2, rates of compensation; KAR 105-5-3, appellate courts, compensation; KAR 105-5-6, reasonable compensation, non-tried cases; KAR 105-5-7, reasonable compensation, tried cases; KAR 105-5-8, compensation, exceptional cases; KAR 105-11-1, defendant reimbursement of attorney fees. After discussion, the Committee had no comments.

Kansas Department of Agriculture, Division of Water Resources. The Joint Committee on Administrative Rules and Regulations reviewed for comment rules and regulations concerning KAR 5-3-6a, sealing diversion works; KAR 5-21-3, well spacing requirements. After discussion, the Committee had the following comments.

KAR 5-3-6a. The Committee is concerned about whether the order, notice or directive is delivered to the tenant or to the landowner (water right

owner) and would like to know how the agency ensures the parties are receiving notice. The Committee suggests the agency clarify the procedure for making a diversion works system inoperable since the language is being changed from “shall” to “may.”

Kansas Department of Health and Environment. The Joint Committee on Administrative Rules and Regulations reviewed for comment rules and regulations concerning KAR 28-19-11, enforcement discretion due to start-up, shutdown, malfunctions, or scheduled maintenance; KAR 28-19-300, construction permits and approvals, applicability; KAR 28-19-304, construction permits and approvals, fees. After discussion, the Committee had the following comment.

Economic Impact Statement. The Committee recognizes the agency included economic impact information in sections titled “Background of Proposed Amendments” in this set of rules and regulations. However, the Committee requests the agency to update its Economic Impact Statement on this set of rules and regulations with the economic impact information included in the “Background of Proposed Amendment” with actual dollar amounts.

Kansas Department of Corrections. The Joint Committee on Administrative Rules and Regulations reviewed for comment rules and regulations concerning KAR 44-12-301, fighting. After discussion, the Committee had no comments.

Kansas Department of Wildlife, Parks and Tourism. The Joint Committee on Administrative Rules and Regulations reviewed for comment rules and regulations concerning KAR 115-2-2, motor vehicle permit fees; KAR 115-2-3, camping, utility, and other fees; KAR 115-7-1, fishing, legal equipment, methods of taking, and other provisions; KAR 115-7-10, fishing, special provisions; KAR 115-8-13, motorized vehicles and aircraft, authorized operation; KAR 115-17-2, commercial sale of fish bait; KAR 115-18-20, tournament black bass pass, requirements, restrictions, and pass duration; KAR 115-25-5, turkey, fall season, bag limit, and permits; KAR 115-25-6, turkey, spring season, bag limit, permits, and game tags; KAR 115-25-14, fishing, creel limit, size limit, possession limit, and open season. After discussion, the Committee had no comments.

Kansas Board of Cosmetology. The Joint Committee on Administrative Rules and Regulations reviewed for comment rules and regulations concerning KAR 69-11-1, fees; KAR 69-12-18, access to tanning devices. After discussion, the Committee had the following comments.

KAR 69-12-18. The Committee suggests the agency require the maintenance of a log in order to track the age of those using tanning devices and identify the appropriate identification documents acceptable to verify the client’s age. The Committee also recommends the agency amend its existing complaint form to include minors accessing tanning devices. The Committee also learned the fines imposed by the agency are in office policy. Please explain why these fines are in office policy and not a part of a rule and regulation.

Comment. The Committee notes the fee increases included in this set of rules and regulations would not have been necessary had it not been for the sweeping of fee funds into the State General Fund.

Kansas Board of Barbering. The Joint Committee on Administrative Rules and Regulations reviewed for comment rules and regulations concerning KAR 61-1-24, temporary permits issued, permits and licenses conspicuously displayed; KAR 61-3-2, minimum requirements for courses of instruction; KAR 61-3-3, subjects required in courses of instruction; KAR 61-3-5, qualifications for supervisors of barber schools or barber colleges; KAR 61-3-20, teaching staff; KAR 61-4-2, issuance and renewal of licenses. After discussion, the Committee had the following comment.

Comment. The Committee wishes to commend the agency's administrator for doing a superb job during a difficult time for the agency.

Kansas State Board of Education. The Joint Committee on Administrative Rules and Regulations reviewed for comment rules and regulations concerning KAR 91-31-32, performance and quality criteria. After discussion, the Committee had the following comments.

KAR 91-31-32. The Committee believes the agency should consider requiring a form of verification to ensure independent self-review of suicide prevention training actually occurred. In addition, the Committee believes the agency may be unclear as to what is meant by "all school staff" in this rule and regulation. The Committee recommends the term either be defined by reference, clarified within the rule and regulation, or for the agency to seek legislative clarification through legislation.

Kansas Board of Regents. The Joint Committee on Administrative Rules and Regulations reviewed for comment rules and regulations concerning KAR 88-29-2, revocation (was scope); KAR 88-29-5, revocation (was qualifications required for the admission of a Kansas resident who is under the age of 21); KAR 88-29-6, revocation (was qualifications required for the admission of a Kansas resident who is 21 or older); KAR 88-29-7, revocation (was qualifications required for the admission of a non-resident who is under the age of 21); KAR 88-29-7a, revocation (was qualifications required for the admission of a nonresident who is 21 or older); KAR 88-29-8, revocation (was the exception window for resident freshman class admissions); KAR 88-29-8c, revocation (was the exception window for nonresident freshman class admissions); KAR 88-29-9, revocation (was admission policies for state educational institutions); KAR 88-29-10, revocation (was methods for state educational institutions to use when evaluating qualifications for admission); KAR 88-29-11, requirements for the qualified admission pre-college curriculum. After discussion, the Committee had no comment.

The meeting was adjourned at 5:10 p.m. The next meeting of the Committee is scheduled for November 16, 2016, at 10:00 a.m.

Prepared by Gary Deeter
Edited by Whitney Howard and Raney
Gilliland

Approved by the Committee on:

11/16/2016

(Date)