

**JCARR**

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**Report on Oversight Activities of the**

**JOINT COMMITTEE ON**

**ADMINISTRATIVE RULES**

**AND REGULATIONS**

**July 2015—June 2016**

**Kansas Legislative Research Department  
July 2016**



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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 2014 Supp. 77-436 specifies the composition and duties of the Joint Committee on Administrative Rules and Regulations. It states that 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 2015 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.

This volume contains a report for the current year, 2015-2016, plus reports for the previous five years:

- 2014-2015;
- 2013-2014;
- 2012-2013;
- 2011-2012; and
- 2010-2011.

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 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 topic of the proposed rules and regulations are included in the following table.

<b>JCARR Meeting Dates, Agency Appearances, and Topics, July 2015 - June 2016</b>								
<b>Agency</b>	<b>August 10, 2015</b>	<b>Sept. 28, 2015</b>	<b>Nov. 16, 2015</b>	<b>Jan. 7, 2016</b>	<b>Feb. 8, 2016</b>	<b>March 14, 2016</b>	<b>March 22, 2016</b>	<b>June 1, 2016 (1)</b>
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*

\* Rules and regulations in this set were NOT published in the *Kansas Register* as final rules and regulations before July 1, 2016.

(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***

- 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.

### ***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.

### ***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.

### ***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.

### ***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.

### ***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.

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 topic of the proposed rules and regulations by date are listed in the following table.

<b>JCARR Meeting Dates, Agency Appearances, and Topics, July 2014 - June 2015</b>								
<b>Agency</b>	<b>July 14, 2014</b>	<b>Sept. 2, 2014</b>	<b>Oct. 13, 2014</b>	<b>Dec. 2, 2014</b>	<b>Jan. 28, 2015</b>	<b>Feb. 20, 2015</b>	<b>March 13, 2015</b>	<b>May 6, 2015</b>
<b>Aging and Disability Services</b>		Adult care home operators						
<b>Agricultural Remediation</b>				Limit remediation reimbursement				
<b>Agriculture – Animal Health Division</b>	Cervids (deer, elk)							
<b>Agriculture – Water Resources Division</b>							Safe yield, GWD #2	
<b>Attorney General</b>	Building signs regarding firearms							
<b>Bank Commissioner</b>	Fees							
<b>Barbering</b>				School requirements				
<b>Behavioral Sciences</b>	Professional counselors education							
<b>Corporation Commission</b>		Emergency management for energy operators*(1); natural gas pipeline safety					Motor carrier safety; oil and gas production safety*	Motor carrier driver hours*
<b>Corrections</b>	Good time credits for juveniles*							
<b>Education</b>	Teacher licensure; fingerprinting							
<b>Emergency Medical Services</b>		Ambulance equipment	Reinstating attendant certificate			Education standards		
<b>Health and Environment (KDHE)</b>		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.) (euthanasia topic heard February 8, 2016; fee for institutional license 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. (heard September 28, 2015)

**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.

### ***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. (heard March 14, 2016)

### ***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. (physician assistant topic heard January 7, 2016)

### ***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. (heard March 14, 2016)

**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.

**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. (heard November 16, 2015, and January 7, 2016)

**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. (heard August 10, 2015)

## ***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 ABE (Achieving a Better Life Experience) Savings Program, a tax-deferred savings program authorized by the passage of the federal ABE 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 topic of the proposed rules and regulations by date are listed in the following table.

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

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

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

### ***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. (heard July 14, 2014)

### ***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. (heard July 14, 2014)

### ***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. (heard January 7, 2016)

### ***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. (heard March 13, 2015)

***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. (heard July 14, 2014)

***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.

***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. (heard October 13, 2014)

**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. (heard February 20, 2015)

**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. (revocations heard August 10, 2015)

#### ***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. (heard July 14, 2014)

#### ***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 topic 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**

<b>AGENCY</b>	<b>July 23, 2012</b>	<b>Sept. 17, 2012</b>	<b>Nov. 26, 2012</b>	<b>Jan. 7, 2013</b>	<b>March 6, 2013</b>	<b>April 22, 2013</b>	<b>June 20, 2013</b>
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 ad 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. (heard July 14, 2014)

**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. (heard August 27, 2013)

### ***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. (heard November 5, 2013)

**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. (heard January 7, 2014)

**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. (heard January 7, 2014)

**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. (heard June 20, 2013)

### ***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. (heard January 7, 2014)

### ***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 (revocations heard December 2, 2014).

### ***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 topic 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, Oct. 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, Nov. 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, Aug. 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, Aug. 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, Oct. 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, Jan. 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, Feb. 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 Senate Bill 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, Oct. 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, Nov. 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 Senate Bill 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, Jan. 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, Feb. 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. (heard November 26, 2012)
- 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. (heard April 22, 2013)
- 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. (heard March 6, 2013)

### ***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. (heard July 23, 2012)

### ***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. (heard July 22, 2013)

### ***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. (heard July 22, 2013)

**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. (heard November 5, 2013)

### ***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. (heard July 23 and November 26, 2012)

### ***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.

### ***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. (heard March 6, 2013, for non-resident)

**REPORT OF THE OVERSIGHT ACTIVITIES OF THE  
JOINT COMMITTEE ON ADMINISTRATIVE RULES AND REGULATIONS  
JUNE 2010 THROUGH JUNE 2011**

From June 2010 through June 2011, the Joint Committee on Administrative Regulations (JCARR) reviewed proposed rules and regulations of 36 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 eight times.

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

<b>JCARR Meeting Dates, Agency Appearances, and Topics, June 2010 - June 2011</b>								
<b>Agency</b>	<b>June 29, 2010</b>	<b>Aug. 16, 2010</b>	<b>Sept. 20, 2010</b>	<b>Nov. 8, 2010</b>	<b>Jan. 5, 2011</b>	<b>March 1, 2011</b>	<b>April 27&amp;29, 2011</b>	<b>June 1, 2011</b>
Accountancy		Continuing ed., misc.						
Administration				Energy efficiency				
Aging			Adult care homes				Appeal procedures; revocation; misc.	
Agriculture	Weights and measures					Commercial feeding stuffs	Ag. chemical registration, use	
Agriculture, Water Resources			GMD 5 flowmeter, misc.			GMD 1 yield; cause for nonuse		GMD 2 flow-meters
Animal Health	Reportable diseases							
Attorney General			Concealed carry					
Behavioral Sciences								Social work licenses*
Commerce				IMPACT	PEAK			
Corporation Commission	Carrier fees	Oil and gas; motor carriers (1)					Pipeline safety; telecommunications	Motor carriers*
Education						Licensure* (2); program approval		
Emergency Medical Services	Credentials					Instruction		Cont. ed.; misc.
Fire Marshal								Flame-retardant cigarettes; investigators
Governmental Ethics				Campaign contributions				
Health and Environment		Radiation; air quality	Newborn screening; day care home fees; air quality	HIV screening; hazardous waste	Charitable providers; speech-language; TB	Surface water register*	Lexie's law; child care licensing*; Flint Hills smoke	Adult care homes; medication aides

**JCARR Meeting Dates, Agency Appearances, and Topics, June 2010 - June 2011**

Agency	June 29, 2010	Aug. 16, 2010	Sept. 20, 2010	Nov. 8, 2010	Jan. 5, 2011	March 1, 2011	April 27&29, 2011	June 1, 2011
Health Policy			Adult care homes	Medicaid prior authorization*				
Indigents' Defense		Eligibility, attorney rates						
Insurance	Title agent records			Advertising; capital instructions; public adjuster	Financial reports; inspection	Firefighter relief act	Assuming risk	
Juvenile Justice		Contraband						
Labor	Employer contribution rates							
Labor, Workers Compensation		Fees for medical services						
Mortuary Arts								Crematories
Pharmacy	Nuclear pharmacy*; electronic supervision*	Logging sale of meth. precursors*			Electronic reports, prescriptions	Telepharmacy*		
Racing and Gaming					Updates			
Real Estate Appraisal					Fees			
Regents					Credit hours; student health insurance			Admissions standards
Revenue	Foreign vehicle dealer license		Bonds		Sales tax			
Revenue, Alcoholic Beverage Control			Farm wineries	Farm wineries	Advertising, packaging*(3)			
Secretary of State	Services fees							
Securities					Dishonest practices, filings			Land sales; Invest Kansas
State Employee Health Care				Eligibility				
Surety Bonds					Define "purchase"			
Tax Appeals		Procedures, fees						
Transportation		Rail assistance						
Treasurer	Housing loans							
Wildlife and Parks			Fees, seasons			Fees; hunting and fishing		Fur-bearers; deer

\* - all 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) Three of the 44 proposed rules and regulations were withheld.

(2) One of the proposed rules and regulations, on fingerprinting, was not adopted by the Board.

(3) Several of these rules and regulations were substantially revised and resubmitted.

## 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 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*

- Board of Pharmacy, telepharmacies, March 1, 2011. The Committee expressed its belief that the Board does not have statutory authority to allow a pharmacy in which no pharmacist is physically present and asked how the Board intended to enforce supervision statutes under the proposed rules and regulations. (The Board tabled the proposed rules and regulations.)
- Kansas Corporation Commission, pipeline safety, April 29, 2011. The Committee expressed its concern that the Economic Impact Statement stated that a proposed amendment would comply with a Commission order. The Committee asked by what authority the Commission can overturn an administrative rule and regulation by entering and implementing a Commission Order. (The agency replied the Commission had asked staff only to take the appropriate steps to repeal the regulation and it had so revised the Economic Impact Statement.)
- Securities Commissioner, Invest Kansas exemption, June 1, 2011. The Committee questioned the agency's authority to create an exemption to the Securities Act and asked the Commissioner's representative to explain the basis of the agency's authority. (The agency responded KSA 17-12a203 gives the Commissioner authority to create exemptions by regulation, but not to adopt a regulation to restrict or take away statutory exemptions.)

### *Clarity*

- Department on Aging, adult care home renovation, September 20, 2010. The Committee commented that, throughout the proposed rules and regulations, "alteration" and "remodeling" were used but were not clearly defined, and imprecision in these definitions could cause facilities unnecessary expense. (The terms were removed in the final rules and regulations.)
- Department of Health and Environment, hazardous waste, November 8, 2010. The Committee said that a reference to "40 CFR parts 124 through 279" seemed too broad in that not all of those parts of the Code of Federal Regulations apply to hazardous waste. (The agency said it agreed and changed the reference to "40 CFR part 124 or 40 CFR parts 260 through 279.")

- Department of Revenue, retailers' sales tax, January 5, 2011. The Committee suggested a subsection be reworded so that it was clear that a "financing lease" is a type of "conditional sale." (The subsection was reworded to include the sentence, "Conditional sale contracts include 'financing leases.'")

### ***Consistency***

- Juvenile Justice Authority, contraband, August 16, 2010. The Committee suggested that the Authority refer to the statutory language concerning concealed carry for appropriate language regarding the carry of guns and firearms in employee vehicles. (The final rule and regulation contains such a reference.)
- Department on Aging, appeals in Medicaid programs, April 27, 2011. The Committee asked whether rules and regulations of the Department of Social and Rehabilitation Services referenced in the Department on Aging proposed rules and regulations reflect current Kansas Administrative Procedures Act practices. (The agency replied that the Social and Rehabilitation Services regulations contain certain federal requirements for the appeals and fair hearing process required for the Medicaid programs and supplement, rather than reflect, the Kansas Administrative Procedures Act.)

### ***Economic Impact Statements***

- Kansas Corporation Commission, motor carrier registration fees, June 29, 2010. The Committee requested the Economic Impact Statement be clarified as to the actual changes in fees and the change in the total amount expected to be generated. (The statement was amended accordingly.)
- Department of Labor, Division of Workers Compensation, fees for medical and hospital services, August 16, 2010. The Committee requested the Economic Impact Statement be revised before the public meeting to reflect costs to the regulated community (in addition to costs to the agency). (The statement was amended accordingly.)
- Department of Health and Environment, reductions in MSUD and PKU [treatment infant formula] financial assistance program, September 20, 2010. The Committee requested more detail in the Economic Impact Statement, specifically the savings incurred by the agency as a result of the program eligibility reductions and the number of families whose benefits would be reduced. (The agency reported level funding and estimated that benefits with the sliding fee scale would be reduced for 173 families.)

### ***Outreach***

- Court of Tax Appeals, procedures, August 16, 2010. The Committee expressed its concern that those who do not have e-mail or have access to a fax machine would not have sufficient access to the agency. (The Court responded that its staff are

careful to conduct all formal business by physical mail in accordance with the Kansas Administrative Procedures Act.)

- Department on Aging, adult care home renovation, September 20, 2010. The Committee requested the Department reach out to adult care homes and nursing facilities in rural and western Kansas for input on the proposed rules and regulations. (The agency provided information on its subsequent outreach efforts.)
- Department of Revenue, Division of Alcoholic Beverage Control, farm wineries, September 20, 2010. The Committee commended the agency for its work with the interested parties on the set of rules and regulations.
- Health Policy Authority, prior authorization for Medicaid medications, November 8, 2010. The Committee requested the agency not move forward with the proposed rule and regulation until it had provided interested parties adequate participation in the selection of drugs and their alternatives. It appeared to the Committee that patients, physicians, and drug manufacturers were excluded from the development of the prior authorization list. (The agency notified the Committee that, as a result of its reorganization under the Department of Health and Environment, the proposed rule and regulation was being delayed and would be re-evaluated in terms of its role in the overall Medicaid reform efforts underway in Kansas.)

### ***Possible Legislation***

- Department of Commerce, Promoting Employment Across Kansas (PEAK) Act, January 5, 2011. The Committee believed additional segments of a company should be eligible and asked the agency if it believed such a change would require a statutory modification. (The agency did not request statutory change.)
- Kansas Corporation Commission, pipeline safety, April 29, 2011. Because of federal action to repeal the Natural Gas Pipeline Safety Act of 1968 (cited in state law) and include most of its provisions in Public Law 103-272, the Committee suggested the agency may need to seek revisions to certain pipeline-related statutes. (The agency stated staff planned to pursue updates to the statutes.)

### ***Program Concerns***

- Department of Animal Health, reportable diseases, June 29, 2010. The Committee suggested the proposed rule and regulation be revised to retain authority for the Livestock Commissioner to designate other diseases as reportable infectious or contagious animal diseases. (The agency adopted the recommendation.)
- Department of Agriculture, Division of Water Resources, water use in Groundwater District No. 5, September 20, 2010. The Committee expressed its concern with the structure of the Agricultural Water Enhancement Program and said the program fails to recognize individuals who have long practiced water conservation and instead rewards those who have practiced certain types of water conservation only since program payments became available. (The agency stated that it had no involvement

in the development of the program and its terms and defined individuals who practiced conservation prior to the program who could qualify for benefits.)

- Department of Health and Environment, air quality, August 16, 2010. The Committee encouraged the agency to continue to make the cases for exemption from federal Environmental Protection Agency (EPA) regulations that may not be applicable to Kansas. It also encouraged agency staff to continue to point out discrepancies and inaccuracies in EPA data that would result in further detrimental impact to the regulated community.
- Board of Pharmacy, statewide electronic logging system for the sale of methamphetamine precursors, August 16, 2010. The Committee expressed concern with the delay in the adoption of these rules and regulations and asked the Board to suggest means to accomplish these types of tasks in a more timely manner. (The 2009 Statewide Electronic Logging System for Sale of Methamphetamine Precursor Act includes a January 1, 2010, date for the rules and regulations. These rules and regulations had not been published as final rules and regulations by June 30, 2011.)
- Department of Revenue, Division of Alcoholic Beverage Control, advertising and packaging, January 5, 2011. The Committee expressed concern that the proposed rules and regulations would impose more requirements more stringent than federal requirements. (The agency stated that the agency and industry worked closely on these trade practice regulations, and both parties felt the topics addressed by these rules and regulations were appropriate and necessary. These rules and regulations had not been finalized by June 30, 2011.)
- Department of Health and Environment, medication aides, June 1, 2011. The Committee asked whether the agency had considered a proficiency test in oral English for medication aides and the English proficiency levels required by other states. (The agency stated the applicable advisory committee would be asked to consider this topic and provided brief information on the few states that do require testing for English proficiency.)

### **Legislative Action, 2011 Session**

During the 2011 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. For more information on aspects of these bills not related to rules and regulations, the reader is directed to the 2011 *Summary of Legislation*. Dates newly authorized rules and regulations were first heard by the Joint Committee are included in parentheses.

### **All Agencies**

- **HB 2027** amends the Rules and Regulations Filing Act. The bill simplifies the definition of “rule and regulation,” “rule,” and “regulation” (a single definition for the three terms) and removes certain exemptions from the definition of “rule and regulation.” The bill retains exemptions related to curriculum, administration, conduct, discipline, or graduation of students at a public institution; parking and traffic at regents institutions; and emergency or security procedures of a correctional

institution. Among the exemptions eliminated are rules and regulations relating to highways and made known to the public through signs, relating to the form and content of reports by units of government, valuing securities held by insurance companies, and setting seasons and bag, creel, possession, size or length limits for the taking or possession of wildlife if such limits are made known to the public by other means. It adds an exemption for orders issued by the Secretary of Corrections or a warden.

The bill gives state agencies the authority to issue guidance documents without following the procedures set forth in the Rules and Regulations Filing Act. This new section of law states that guidance documents can contain binding instructions to state agency staff members, except presiding officers. Each agency must maintain an index of the guidance documents; publish the index on the agency's website; make all guidance documents available to the public; file the index in any other manner required by the Secretary of State; and provide a copy of each guidance document to the Joint Committee on Administrative Rules and Regulations.

The bill states that an agency may bind parties, establish policies, and interpret statutes or regulations by order in an adjudication under the Kansas Administrative Procedure Act or other procedures required by law, but those adjudications do not establish precedent except under certain circumstances listed in the bill. The bill allows statements of policy to be treated as binding within the agency when directed to agency personnel concerning their duties or the internal management or organization of the agency. The bill also expands the definition of "person" to include individuals and companies or other legal or commercial entities.

- **HB 2336**, the Kansas Employment First Initiative Act, requires state programs and services that support employment of people with disabilities to consider, as their first option, competitive and integrated employment for people with disabilities. The bill requires all state agencies to follow the policy by coordinating among agencies and collaborating. Agencies may share data and information to track progress. State agencies may adopt rules and regulations to implement the Act.

### ***911 Coordinating Council***

- **Sub. for SB 50** requires the 911 Coordinating Council to adopt rules and regulations for the terms of the contract with the local collection point administrator. It also authorizes the Council to adopt rules and regulations necessary to effectuate other provisions of the Act, including a uniform reporting form regarding spending by a public safety answering point (PSAP), standards for equipment, and civil penalties. The deadline for rules and regulations necessary to begin administration of the Act is December 31, 2011. (heard November 21, 2011)

### ***Administration, Department of***

- **SB 115** makes changes to an award and recognition program for state employees. Under previous law, the Secretary of Administration was required to adopt rules and regulations that provide oversight and administrative review of state agency award and recognition programs. No rules and regulations on those topics currently are in effect.

### ***Agriculture, Department of, Division of Water Resources***

- **SB 124** requires the Chief Engineer to adopt rules and regulations to implement the Lower Smoky Hill Water Supply Access Program. (heard June 20, 2013) The bill also authorizes the Division's Chief Engineer and the Director of the Kansas Water Office to adopt any rules and regulations necessary to carry out the purposes of and procedures for the Water Rights Conservation Program. (heard January 7, 2014) The bill establishes both programs.

### ***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, **HB 2014, Sec. 96**, prohibits CURB from using state funding in the Utility Regulatory Fee Fund for any duties pursuant to Executive Order No. 11-02.

### ***Commerce, Department of***

- **SB 198** authorizes the Secretary of Commerce to adopt rules and regulations necessary to implement provisions relating to a matching program to repay certain student loans for individuals living in Rural Opportunity Zones. The bill authorizes 50 counties to be designated as Rural Opportunity Zones. (heard July 22, 2011)
- **HB 2054** abolishes the Kansas Technology Enterprise Corporation (KTEC) and, in general, transfers its rules and regulations to the Department of Commerce, including those related to the Angel Investor Act. The bill also transfers KTEC rules and regulations relating to the Strategic Technology and Research (STAR) Fund and the Experimental Program to Stimulate Competitive Research (EPSCoR) to the Board of Regents. The Governor may resolve any conflict over the disposition of any power or duty.
- **HB 2125** authorizes the Athletic Commission to adopt rules and regulations in several areas and clarifies that the Athletic Commission has permissive rule and regulation authority regarding professional wrestling. The Commission is specifically authorized to adopt rules and regulations regarding liability insurance, indemnity coverage, and surety bonds for professional wrestling. The Commission is to adopt rules and regulations by July 1, 2012, on the certification and payment of inspectors; drug testing; communicable diseases; fees for electronically distributing a regulated sports contest; disclosure between any promoter, broadcaster, media network or distributor who electronically distributes or televises a regulated sports contest; and any other rules and regulations the Commission deems necessary regarding the televising, broadcasting or distributing of a regulated sports contest. (heard July 22, 2013)

### ***Emergency Medical Services, Board of***

- **HB 2182** adds fees and temporary licensure for ambulances and rescue vehicles and requirements for a quality assurance and improvement program for ambulance services to the list of topics on which the Emergency Medical Services Board is required to adopt rules and regulations. (heard August 29, 2011)

### ***Health and Environment, Department of***

- **House Sub. for SB 36** requires the Secretary of Health and Environment to adopt rules and regulations for the licensure of facilities for the performance of abortions. The bill specifies areas to be covered by the rules and regulations, such as sanitation, staff qualifications, medical records and reporting, and infection control. (heard July 22, 2011)
- **HB 2035** requires the Secretary of Health and Environment to adopt rules and regulations regarding the collection of details about referrals, record keeping, and reporting requirements for physicians performing certain abortions. (heard February 10, 2012)
- **HB 2182** requires the Secretary of Health and Environment to adopt, by January 1, 2012, rules and regulations regarding a standard authorization form for the use and disclosure of protected health information consistent with requirements of the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA). (heard November 26, 2012)
- **HB 2218** requires the Secretary of Health and Environment to adopt rules and regulations on information required on late-term abortions, including information that must be provided by a physician in order to comply with the obligation to disclose the medical basis and specific medical diagnoses relied upon in determining that a specific abortion meets statutory requirements. (heard February 10, 2012)

### ***Health Policy Authority***

- **Executive Reorganization Order No. 38** states that all rules and regulations, orders, and directives of the Health Policy Authority shall be deemed to be those of the Department of Health and Environment.
- **SB 210** authorizes the Health Policy Authority to adopt rules and regulations regarding an assessment on providers of services to individuals with developmental disabilities. The rules and regulations are to be adopted within 30 days of authorization for the program from the federal Centers for Medicare and Medicaid Services.

### ***Insurance, Department of***

- **SB 170** creates the Portable Electronics Insurance Act, to regulate the licensing and sale of or offer of coverage for portable electronic devices. The bill authorizes the

Commissioner of Insurance to adopt rules and regulations necessary to implement the Act.

- **Sub. for HB 2134** authorizes the Commissioner of Insurance to adopt rules and regulations related to an affidavit of exempt status to be used by any person who is not required to be covered under a workers compensation insurance policy or other plan for the payment of workers compensation.
- **HB 2139** authorizes the Insurance Commissioner to adopt rules and regulations to carry out the purpose and provisions for the purchase of workers compensation policies through a shared employment relationship. (heard November 5, 2013)

#### ***Investigation, Kansas Bureau of***

- **House Sub. for SB 6** requires the Kansas Bureau of Investigation to adopt rules and regulations regarding testing of saliva for law enforcement purposes and a list of approved preliminary screening devices. (This requirement was changed to authority to adopt rules and regulations in 2012 SB 60.) The Bureau's director also is required to adopt rules and regulations requiring district courts to report the filing of all cases alleging a violation of driving under the influence (DUI) statutes. (heard June 20, 2013) The deadline for both types of rules and regulations is July 1, 2012. By July 1, 2013, the director is required to adopt rules and regulations regarding electronic filing of all cases alleging DUI violations. (heard June 20, 2013)
- **House Sub. for SB 37** authorizes the Director to adopt rules and regulations necessary to implement the provisions of the Kansas Offender Registration Act.

#### ***Labor, Department of***

- **Sub. for HB 2135** authorizes the Secretary of Labor and the Secretary of Revenue to adopt rules and regulations regarding the proper classification of a worker (employee or independent contractor). The bill authorizes the Secretaries' agencies to share information.

#### ***Revenue, Department of***

- **SB 193** requires the Secretary of Revenue to adopt rules and regulations regarding the filing of documents to support the qualifications of a taxpayer who wishes to claim a tax credit under the Promoting Employment Across Kansas (PEAK) Act. The bill allows a 95 percent individual income tax exemption (through an income tax credit mechanism) for certain Kansas source income (related to a relocated business operation) received by Kansas resident owners of qualified companies who materially participate in the business activities.
- **Sub. for HB 2135** authorizes the Secretary of Revenue and the Secretary of Labor to adopt rules and regulations regarding the proper classification of a worker (employee or independent contractor). The bill authorizes the Secretaries' agencies to share information.

### ***Secretary of State***

- **HB 2067** authorizes the Secretary of State to adopt rules and regulations regarding advance voting and voting at the polling place in general in addition to rules and regulations authorized under previous law to define valid forms of identification. The bill also authorizes rules and regulations to implement provisions regarding application for an advance ballot to be transmitted by mail, permanent advance voting status, and providing proof of citizenship in order to register to vote. (heard January 3, 2012)
- **HB 2240** requires the Secretary of State to promulgate rules and regulations fixing fees on each preneed cemetery merchandise contract, for preneed burial products or services, and on each interment. Each fee cannot exceed \$30. The bill also requires the Secretary of State to promulgate rules and regulations for the purpose of oversight and audit of any cemetery merchandise trust fund and any permanent maintenance fund maintained by a cemetery corporation.

### ***Social and Rehabilitation Services, Department of***

- **House Sub. for SB 6** requires Department of Social and Rehabilitation Services to promulgate rules and regulations regarding alcohol and drug evaluations, by July 1, 2012. (The deadline was amended to July 1, 2013, by 2012 House Sub. for SB 60.)

### ***Water Office, Kansas***

- **SB 122** authorizes the Director of the Kansas Water Office to adopt rules and regulations to carry out provisions of the bill, which authorizes the Director to negotiate and grant easements on state property for construction and maintenance of conservation projects with cooperating landowners. (heard June 20, 2013)
- **SB 124** authorizes the Director of the Kansas Water Office and the Chief Engineer (of the Division of Water Resources in the Department of Agriculture) to adopt any rules and regulations necessary to carry out the purposes and procedures of the Act, which, among other things, creates the Lower Smoky Hill Water Supply Access Program. The bill also requires the Office to adopt rules and regulations to implement the Program. (heard June 20, 2013, and January 7, 2014)

### ***Wildlife, Parks, and Tourism, Department of***

- **SB 123** exempts fees for the use of cabins owned and operated by the Department from requirements that the fees be established in rules and regulations. (repeal heard July 22, 2011)