

JCARR

Report on Oversight Activities of the

JOINT COMMITTEE ON

ADMINISTRATIVE RULES

AND REGULATIONS

July 2024—June 2025

**Kansas Legislative Research Department
July 2025**

TABLE OF CONTENTS

Introduction.....	4
Report of the Oversight Activities of the Joint Committee on Administrative Rules and Regulations:	
Legislative Oversight—2024-2025.....	5
Previous Years:	
Legislative Oversight—2023-2024.....	16
Legislative Oversight—2022-2023.....	32
Legislative Oversight—2021-2022.....	45
Legislative Oversight—2020-2021.....	58
Legislative Oversight—2019-2020.....	73
Required Rules and Regulations:	
Statutorily Required Rules and Regulations Not Heard by the JCARR as of July 1, 2025.....	85

INTRODUCTION

Since 1939 (L. 1939, Ch. 308), the Kansas statutes have provided for legislative oversight of agency 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 (1984)).

Statutes related to rules and regulations underwent extensive revisions in 1988. KSA 77-436 specifies the composition and duties of the Joint Committee on Administrative Rules and Regulations. It states all rules and regulations filed each year with the Secretary of State are subject to review by the Committee, which is authorized to “introduce such legislation as it deems necessary in performing its functions of reviewing administrative rules and regulations.” The statute was further revised in 2010, primarily with updates to procedures, and more extensively in 2011, 2018, and 2022 (as noted in the reports for those years), but the Committee’s basic charge has not changed. The 2011 bill also designated KSA 77-415 *et seq.* 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 and the [State Library of Kansas](#). Reports including information for years 2010 and later but not included in this report are also available.

This volume contains a report for the current year, 2024-2025, plus reports for the previous five years:

- 2023-2024;
- 2022-2023;
- 2021-2022;
- 2020-2021; and
- 2019-2020.

More information on rules and regulations heard by the Committee in recent years, reports of the Committee after each meeting, 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 2024 through June 2025**

From July 2024 through June 2025, the Joint Committee on Administrative Rules and Regulations (JCARR or Committee) reviewed proposed rules and regulations of 15 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 KSA 77-436, the Committee met six times, at which proposed rules and regulations were heard, and the state agencies appeared before the Committee. The main topics of the proposed rules and regulations are included in the following table. For each meeting, staff provided the statutory language authorizing the proposed rules and regulations and the text of each rule and regulation proposed for revocation except rules and regulations revoked using the expedited procedures of KSA 77-426 as amended in 2022.

JCARR Meeting Dates, Agency Appearances, and Regulation Topics, July 2024–June 2025						
	August 12, 2024	October 28, 2024	December 11, 2024	February 5, 2025	April 28, 2025	June 10, 2025
Agricultural Remediation Board					Reimbursement of spill expenses	
Agriculture		Live plant dealers		Meat and poultry inspection		
Agriculture – Animal Health			Livestock brands			
Children and Families		Child abuse and neglect registry				
Corporation Commission		Motor carrier safety		Driving of commercial vehicles		
Education			Graduation requirements			
Emergency Medical Services	Certification, examinations, course approval					
Healing Arts	Board member duties and procedures					
Health and Environment	Domestic water supply; Laboratory certification; Surface water quality				Coal facility permit fees; Transportation of radioactive materials ⁽¹⁾	
Nursing		Refresher courses; Graduate study				
Optometry			Licensure; prescription contents			

JCARR Meeting Dates, Agency Appearances, and Regulation Topics, July 2024–June 2025						
	August 12, 2024	October 28, 2024	December 11, 2024	February 5, 2025	April 28, 2025	June 10, 2025
Pharmacy		Prescription delivery (white bagging)				Dispensing at certain facilities; K-TRACS users ⁽¹⁾
Real Estate Commission		Licensure				
Revenue	Revocations (tax forms, credits)					Revocations (compensating tax) ⁽¹⁾
Wildlife and Parks	Fire extinguishers on motorboats	Elk and deer hunting				Fishing ⁽¹⁾

(1) The proposed rules and regulations had not been adopted as of July 1, 2025.

Expedited Revocations

Pursuant to provisions of KSA 2024 Supp. 77-426(d), enacted in 2022, the Kansas Department of Health and Environment revoked 19 rules and regulations the agency had reported in 2024 were not necessary; the notice describing the revoked rules and regulations was published in the March 20, 2025, issue of the *Kansas Register*.

This agency was among the 15 that completed reviews of their rules and regulations pursuant to KSA 2024 Supp. 77-440, enacted in 2022. Agency responses and a summary of those responses were posted on the Kansas Legislative Research Department website in August 2024.

Comments to Agencies

After each proposed rule and regulation was reviewed, the Committee expressed comments it deemed appropriate, including commendations, and reported its comments to the Legislature via the Kansas Legislative Research Department's (KLRD's) Committee webpages. Committee staff forwarded those remarks to each state agency presenting proposed rules and regulations at the meeting and posted the reports on the Committee's KLRD webpage. The Committee requested a response to each comment. Committee staff maintain a database of information about Committee comments and agency responses; those comments and responses are available for public inspection.

Clarity

Department of Wildlife and Parks, fire extinguishers on motorboats, August 12, 2024. The Committee requested the agency consider replacing “not more than” in proposed KAR 115-30-4(a) with “less than” to clarify that an expired fire extinguisher may not be replaced by a separate fire extinguisher that is also expired or is 12 years past its manufacture date. (The agency stated that language was inserted at the request of the Department of Administration and that the language would be revisited.)

Department for Children and Families, child abuse and neglect registry, October 28, 2024. The Committee questioned why KAR 30-46-10(k) contains a single definition for “substantiated perpetrator” and “perpetrator” and whether a definition of “perpetrator” was necessary in this rule and regulation. (The agency stated it was discussing removing the definition of “perpetrator” in a subsequent revision.)

Board of Examiners in Optometry, prescriptions, December 11, 2024. The Committee requested the agency ensure use of the word “shall” is limited to those elements the agency would expect to be specified in every prescription. (The agency noted the use of “shall” was not changed in the proposed rule and regulation. It stated that for more than 30 years the Board and practitioners have treated the use of the term “shall” as applying to elements of the prescription when warranted or indicated by the optometrist’s examination of the patient and indicating when the measure is not applicable to the patient. It gave the example that no measurement relating to the axes location would be applicable to a patient who does not have astigmatism.)

Costs or Economic Impact

Department of Wildlife and Parks, fire extinguishers on motorboats, August 12, 2024. The Committee expressed concern that portions of the Economic Impact Statement (EIS) had not been completed and a statement to the Committee that stakeholder input had not been sought. (The agency apologized that the incomplete EIS had been submitted in error. The agency stated a random sample of stakeholders, including boat owners, was underway at the time of the response, but its preliminary findings showed the typical boat owner is not aware of the expiration date included on the label on their marine fire extinguisher and is not concerned with an estimated cost of \$2.33 per year [\$27.99/12 years] for the purchase of a compliant fire extinguisher to help assure the safety of their boat and passengers.)

Department of Wildlife and Parks, fire extinguishers on motorboats, August 12, 2024. The Committee requested information on whether the proposed revisions were required due to a change in federal policy and, if so, what federal funds are tied to these revisions. (The agency stated the changes are mandated by the U.S. Coast Guard for any state that participates in the Coast Guard’s Recreational Boating Safety Program and that the agency receives approximately \$1.1 million annually for administration of that program and typically uses the grant as a 50/50 match for equipment and salaries to facilitate the program.)

Department of Agriculture, live plant dealers, October 28, 2024. The Committee requested information on when a nonprofit or charitable organization would be subject to regulation as a live plant dealer. (The agency stated a nonprofit, charitable, or religious organization is statutorily defined as a “special event live plant dealer” if it does not intend to sell, offer for sale, or distribute live plants for more than five days in a calendar year. Also according to statute, a special live plant dealer is not required to be licensed or inspected by the Secretary of Agriculture or pay a fee but must register with the Secretary. The agency also stated a nonprofit, charitable, or religious organization that offered plants for sale on more than five days per year would be eligible for a license fee of \$30 rather than the \$100 regular fee.)

Department of Wildlife and Parks, fishing, June 10, 2025. The Committee noted the EIS addressed changes to length and creel limits but not changes to the length of the season, which seemed likely to have an impact on businesses providing services to anglers. It noted inconsistencies in a portion of the EIS regarding involvement of any environmental rule and regulation and requested an amended EIS.

Information Requests

State Board of Healing Arts, Board member duties and procedures, August 12, 2024. The Committee requested information regarding the selection and appointment process for filling a vacancy in the office of vice-president of the Board. (The agency referenced KSA 65-2818, which states the Board must organize annually and select a president and vice-president, and explained the purposes of the proposed amendments to KAR 100-4-2 are to allow the Board to fill an unexpired term in the office of vice-president after the former vice-president becomes president upon a vacancy in the office of president.)

Department of Wildlife and Parks, fire extinguishers on motorboats, August 12, 2024. The Committee requested the agency provide the number of citations issued related to outdated fire extinguishers discovered during boat inspection. (The agency stated 2,847 boat inspections were conducted in 2023 and 46 citations were issued for fire extinguisher non-compliance. It stated information for additional years would require additional search time.)

Department for Children and Families, child abuse and neglect registry, October 28, 2024. The Committee requested the agency provide information on the due process rights of alleged perpetrators under both the Kansas Administrative Procedure Act (KAPA) and the Kansas Judicial Review Act, to include the stages at which an alleged perpetrator could present evidence through counsel, and whether judicial review rights exist for substantiated perpetrators, as determined by the agency. (The agency stated, under the KAPA, KSA 77-501 *et seq.*, and the Kansas Judicial Review Act, KSA 77-601 *et seq.*, an alleged perpetrator is provided opportunities to be heard and provide evidence with or without legal counsel. It stated appeal rights under the Kansas Judicial Review Act exist for an alleged perpetrator who has exhausted the administrative procedures in the KAPA, and the petitioner may further pursue review of the district court's decision to the appellate courts. It further explained the steps involved, including the contents of notices sent to a person against whom a substantiated finding has been made, the appeals process including the role of the agency's State Appeals Committee, prehearing conferences, and discovery.)

Department for Children and Families, child abuse and neglect registry, October 28, 2024. The Committee requested information on the reason for and the potential impact on children of removing the definition of "affirmed perpetrator." (The agency stated the only findings entered into the central registry are substantiated findings and there would be no impact to children at licensed facilities by removing that definition. It further stated removing the finding decision of "affirmed" would not have an impact on children because safety is determined through assessments, safety planning with the family and network, provision of services, and protective action.)

State Board of Pharmacy, prescription delivery (white bagging), October 28, 2024. The Committee requested additional information on the prevalence of "white bagging" shipments by specialty pharmacies and the proportion of spoiled medications among all such shipments due to negligence by any party. (The agency provided five documents: Hospital Charges and Reimbursement for Medicines: 2023 Update Analysis of Markups Relative to Acquisition Cost; Hospital Charges and Reimbursement for Medicines: Analysis of Cost-to-Charge Ratios; Kansas Hospital Association letter to Board staff dated July 26, 2023; Kansas Hospital Association White Bagging Survey dated September 28, 2023; and Advent Health letter to the Board dated April 26, 2023, supporting the proposed rule and regulation. The agency noted 180 administering facilities, 3 in-state specialty pharmacies, and 15 out-of-state specialty pharmacies would be subject to the rule and regulation.)

Department of Health and Environment, coal facility permit fees, April 28, 2025.

The Committee requested additional information regarding whether the amount of coal ash produced and disposed of in Kansas has changed over the past five years and whether there has been measurable change in the amounts or proportions of heavy metals or other contaminants contained within such coal ash. (The agency provided a graph and a table showing tons of coal combustion residue produced, which declined from 1,522,978 tons in 2010 to 428,376 tons in 2023. It stated the specific chemical composition of coal ash depends on the composition of the source coal, power-generating facilities in Kansas use mostly low-sulfur coal from the Powder River Basin in Wyoming to reduce sulfur emissions, and the resulting ash produced is primarily composed of silica particles. It said oxides of silicon, aluminum, iron, and calcium make up 95 percent to 99 percent of fly ash, which also contains trace amounts [less than 1 percent] of other constituents such as arsenic, lead, mercury, and zinc.)

State Board of Pharmacy, prescription drug monitoring database access, June 10, 2025. The Committee requested information on criteria by which a Prescription Drug Monitoring Program database (K-TRACS) delegate may access information in that database and how and in what ways that access is limited.

Department of Wildlife and Parks, fishing, June 10, 2025. The Committee requested additional information on three topics: how creel limits, size limits, or both are determined when they are based on sociological data and whether biological data is considered in those cases; the numbers of fishing licenses issued to Kansas residents and to non-residents and the trends in those numbers; and a cost-benefit analysis of purchasing trout for catch by anglers in Kansas and information on any other species the agency stocks in Kansas.

Program Concerns

Board of Examiners in Optometry, prescriptions, December 11, 2024. The Committee stated it believed it did not have an opportunity to fully review a proposed rule and regulation because answers to questions specific to the practice of optometry were not available. It requested a representative of the Board able to answer practice questions be available at future rule and regulation presentations to the Committee. (The agency stated the proposed rule and regulation would be re-worked and amended at a later date.)

Board of Examiners in Optometry, prescriptions, December 11, 2024. The Committee expressed concern regarding the effect of the elimination of pupillary distance from a prescription on consumer choice of where to purchase eyeglasses. (The agency stated the proposed rule and regulation would be re-worked and amended at a later date. It also stated an optician is in a better position to gauge pupillary distance when eyeglasses are situated on a patient's face and speculation by an optometrist would lead to inaccuracies; an optician is not free to deviate from the prescription's pupillary distance and a patient would be required to return to the optometrist to correct a measurement based on the specific eyeglasses ordered from the optician. The agency further stated states vary in whether pupillary distance is required for a prescription.)

State Board of Pharmacy, prescription drug monitoring database access, June 10, 2025. The Committee requested the Board review its proposed KAR 68-21-8 with specific attention to the issue of confidentiality of patient data before proceeding with its adoption. The Committee stated it finds delegation of access to the prescription drug monitoring database, K-TRACS, to addiction counselors, who are not primary health care providers, persons who investigate deaths, and others specifically authorized by KSA 65-1685(c), to be a matter of

policy on which the Legislature should act and will consider revocation of KSA 65-1682(c)(3) and related changes in additional statutes.

State Board of Pharmacy, emergency medication kits in long-term care facilities, June 10, 2025. The Committee suggested ensuring provisions regarding emergency use align with policies of the Drug Enforcement Agency and other relevant agencies.

Legislative Action

Of the 129 bills enacted in 2025, 18 contained provisions authorizing, requiring, moving, or clarifying authority for state agency rules and regulations or changing procedures regarding rules and regulations. The following section 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 2025 *Summary of Legislation*, available from the Kansas Legislative Research Department at its [website](#). A table listing statutes enacted in 2020 through 2025 that require rules and regulations but that had not been heard by the Committee before July 1, 2025, is included at the end of this report.

All Agencies

SB 77 requires agencies revoking rules and regulations identified as unnecessary in review reports required under KSA 77-440 to provide a written notice to businesses, local governmental units, and members of the public known to the agency to be affected by the proposed revocation. Continuing law requires an agency to hold a public hearing on the proposed revocations upon the written request of a member of the public. The bill also requires the agencies to submit the rules and regulations, rather than a notice of revocation, to the Attorney General for review and approval under KSA 77-420(d). It also removes agencies that no longer exist or have been absorbed into other agencies from the list of agencies required in KSA 77-440 to review their rules and regulations to determine whether each rule and regulation is necessary.

Agriculture, Department of

SB 89 authorizes the Animal Health Commissioner to adopt rules and regulations to establish annual fees for participating in the National Poultry Improvement Plan (NPIP) and annual fees for obtaining certification to perform and receive testing and diagnostic services related to pullorum-typhoid or fowl typhoid pursuant to the Poultry Disease Control Act. The bill places caps on these fees: \$50 for the NPIP participation fee, \$50 for the certification fee for individuals providing testing or diagnostic services, and \$100 per location for testing and diagnostic services.

HB 2255, in reorganized statutes regarding standards for service companies that test weights and measures, authorizes the Secretary of Agriculture to adopt rules and regulations concerning standards of workmanship for technical representatives and service companies, requirements for contractual responsibilities and fulfillment of agreements by service companies, and maintenance and furnishing of reports and information necessary for the Secretary to carry out the provisions enacted by the bill.

Attorney General

House Sub. for SB 9 establishes the Kansas Land and Military Installation Protection Act, which requires the Attorney General to adopt rules and regulations on or before January 1, 2026, to implement provisions of the Act regarding non-notified transactions. A “non-notified transaction” is defined in the Act as “any transaction involving foreign investment in the United States that is not voluntarily submitted to the Committee on Foreign Investment in the United States for review pursuant to 50 USC §4565.” The Act prohibits a foreign principal from directly or indirectly acquiring any interest in real property within 100 miles of the boundary of any military installation in Kansas or any adjacent state and requires registration of any current ownership, divestiture, and Attorney General investigation of any suspected violation of the Act.

HB 2291 creates the Regulatory Relief Division within the Office of the Attorney General, tasking it with administering and supporting the operations of the General Regulatory Sandbox Program (also created by the bill). The bill authorizes the Division to adopt rules and regulations regarding the administration of the Program, including rules and regulations that would set forth the Program’s application process and reporting requirements.

Children and Families, Department for

HB 2359 authorizes the Secretary for Children and Families to adopt rules and regulations necessary to administer certain provisions related to guardianship under the Kansas Uniform Guardianship, Conservatorship and Other Protective Arrangements Act created by the bill and replacing current statutes regarding guardianship as of January 1, 2026. The bill authorizes a corporation organized under the Kansas General Corporation Code to act as guardian for an individual found to be in need of a guardian. The bill directs the Secretary to establish criteria for determining whether a corporation should be certified as a suitable agency to perform the duties of a guardian, on topics including, but not limited to, whether the corporation is a stable organization that is likely to continue in existence for some time.

Commerce, Department of

SB 98 authorizes the Secretary of Commerce or the Secretary of Revenue to adopt rules and regulations to implement a sales tax exemption applicable to any firm that invests at least \$250 million over 5 years for eligible data center costs, maintains at least 20 new jobs at the qualified data center within 2 calendar years after operations begin, and meets additional qualifications specified by the bill. The exemption is for purchases for the development, acquisition, construction, and operation of a qualified data center including, but not limited to, costs of land or site improvements; buildings; data center equipment, including acquisition and permitting; lease payments; site characterization and assessment; and engineering and design. The exemption also applies to labor services pertaining to the installation and maintenance of data center equipment and purchases made by a contractor for constructing or modifying a data center. The sales tax exemption would be valid for 20 years, regardless of the level of investment.

Cosmetology, Board of

HB 2338 changes from “demonstration” to “temporary location” and “temporary guest artist” the types of short-term permits the Board of Cosmetology may issue and for which it has authority to promulgate rules and regulations, creating a distinction between the permitting of guest artists and the permitting of temporary body art convention sites.

Developmental Disabilities, Kansas Council on

HB 2307 transfers authorization and oversight of prenatally and postnatally diagnosed conditions awareness programs and related rules and regulations, orders, and directives from the Secretary of Health and Environment to the Chairperson of the Kansas Council on Development Disabilities.

Early Childhood, Kansas Office of

HB 2045 establishes the Kansas Office of Early Childhood (Office), updates law regulating child care centers and child care homes, and makes several changes regarding rules and regulations:

- The bill transfers rules and regulations, orders, and directives of state agencies related to programs transferred by the Act to the Office on or before July 1, 2026. It requires the Director of Early Childhood (Director) to develop and adopt, amend, or revoke any rules and regulations necessary to carry out this act and the programs and duties of the Office, except that the Director is prohibited from adopting rules and regulations or policies requiring educational outcomes or curriculum for persons or entities licensed pursuant to the bill. The bill states the rules and regulations for operating and maintaining day care facilities shall be designed to promote the health, safety, and welfare of any child served in those facilities.
- The bill requires the Office to include updates to changes to rules and regulations in its annual report.
- The bill requires the Child Care Ombudsman, a position established by the bill within the Office, to recommend changes in policies, rules and regulations, or procedures to improve the functioning of child care services in Kansas to the Director, the Governor, and the Legislature.
- The bill requires the Director to set, in rules and regulations, the annual fee for a license to conduct a child care resource and referral agency, not to exceed \$150; a late fee equal to the renewal fee but not less than \$75; a fee of not more than \$35 for an amended license; and a fee for fingerprinting employees in a day care facility. The bill prohibits a fee for a license to conduct a day care facility.
- The bill authorizes the Director to adopt rules and regulations applicable to the services provided by youth development programs, which the bill defines as a child care facility that is not at an individual’s residence and serves children from kindergarten through age 17.

- The bill requires the Director to adopt rules and regulations consistent with the requirements for the receipt of child care funds under the American Recovery and Reinvestment Act of 2009 (a requirement assigned to the Secretary in 2010) [KSA 54-534].

Fire Marshal, State

SB 199 allows sales of fireworks to the public for personal use by individuals registered with the State Fire Marshal as permanent retailers from permanent structures at permanent locations within the state. The bill authorizes the State Fire Marshal to adopt rules and regulations to implement provisions of the bill regarding licensing with the State as a manufacturer, hobbyist manufacturer, distributor of display fireworks, distributor of articles pyrotechnic, unlimited distributor, display fireworks operator, or proximate pyrotechnic operator. It also authorizes rules and regulations regarding annual registration of a permanent fireworks retailer. The bill requires registration requirements to include submission of permanent business contact information, the address of the physical location or locations where retail sales will occur, the time period or periods sales will occur, and any other information the State Fire Marshal requires.

Fusion Center Oversight Board

House Sub. for SB 9, which establishes the Kansas Land and Military Installation Protection Act, authorizes the Fusion Center Oversight Board to adopt rules and regulations to reflect federal designation or revocation of designation of an organization as a foreign terrorist organization, after giving consideration to the risks to state and national security and the economic costs and benefits of such action. The bill prohibits the Board from adopting any rule and regulation that would designate an organization as a foreign terrorist organization if it is not declared as one under federal law. The Act prohibits a national of a country of concern from owning non-residential property within 100 miles of the boundary of any military installation in Kansas or an adjacent state. It defines a “country of concern” as one designated as a foreign terrorist organization under federal law. Per KSA 2024 Supp. 48-3705, the Board’s members are the Attorney General, the Adjutant General, and a member appointed by the Attorney General with expertise in critical infrastructure protection.

Health and Environment, Department of

House Sub. for SB 126 includes updates to the newborn screening program to establish the Advance Universal Newborn Screening Program. The bill authorizes the Secretary of Health of Environment to adopt rules and regulations regarding eligibility for reimbursement for purchases of food products medically necessary to treat conditions identified by newborn screening and removes specific eligibility qualifications for reimbursement from the statutes. The bill also requires the Secretary to determine and identify the conditions to be included in newborn screening tests and states those conditions may include, but are not limited to, conditions recommended by the U.S. Secretary of Health and Human Services, changed from conditions recommended in a specific 2005 report.

HB 2045 establishes the Kansas Office of Early Childhood, updates law regulating child care centers and child care homes, and makes several changes regarding rules and regulations. The bill requires the Secretary of Health and Environment to update child care rules and regulations to not require licensure for an individual who provides care for less than 35 hours, unless otherwise increased by the Secretary, to 4 or fewer children (not more than 2 of

whom may be infants who are not related to the individual by blood, marriage, or legal adoption) nor to individuals who provide care for children in such child's own home or when care is arranged between friends and neighbors on an irregular basis. The bill also requires the Secretary to update rules and regulations regarding child ratios on or before October 1, 2025.

Insurance, Department of

SB 42 establishes the Kansas Real Time Motor Vehicle Insurance Verification Act and requires the Commissioner of Insurance to establish a web-based system for online verification of motor vehicle insurance and requires motor vehicle insurers to cooperate with the Commissioner to establish and maintain the system. The Act authorizes the Commissioner of Insurance to adopt rules and regulations necessary to implement the Act, on topics including specifications and standards for transmitting requests to insurers via web services, establishing and maintaining the system, and providing policy status information to users including vehicle registration officials, law enforcement officers, and the courts.

HB 2334, among other things, authorizes the Commissioner of Insurance to promulgate rules and regulations necessary to implement a program for the issuance of provisional certificates of authority under the Captive Insurance Act. [*Note: HB 2050, among other things, renamed the Kansas Insurance Department as the Kansas Department of Insurance.*]

Regents, State Board of

HB 2185 amends the Kansas National Guard Educational Assistance Act to authorize, rather than require, rules and regulations for administration of the Act. The bill adds eligibility under the Act for Kansas National Guard member dependents who are sponsored by eligible Guard members.

Revenue, Department of

SB 98 authorizes the Secretary of Commerce or the Secretary of Revenue to adopt rules and regulations to implement a sales tax exemption applicable to any firm that invests at least \$250 million over 5 years for eligible data center costs, maintains at least 20 new jobs at the qualified data center within 2 calendar years after operations begin, and meets additional qualifications specified by the bill. The exemption is for purchases for the development, acquisition, construction, and operation of a qualified data center including, but not limited to, costs of land or site improvements; buildings; data center equipment, including acquisition and permitting; lease payments; site characterization and assessment; and engineering and design. The exemption also applies to labor services pertaining to the installation and maintenance of data center equipment and purchases made by a contractor for constructing or modifying a data center. The sales tax exemption would be valid for 20 years, regardless of the level of investment.

Secretary of State

HB 2117 directs the Secretary of State to establish in rules and regulations the application and recording fee for each limited partnership formed in Kansas and each foreign limited partnership in an amount not to exceed \$150. Formerly, the statutory rate was set at \$150.

HB 2371 directs the Secretary of State to establish in rules and regulations the application and recording fee for each foreign limited liability company, in an amount not to exceed \$150. Formerly, the statutes set the fee at \$150.

State Treasurer

Sub. for HB 2152 establishes the public moneys pooled method for securing deposits of public moneys in financial institutions above amounts insured or guaranteed by the Federal Deposit Insurance Corporation. The bill authorizes the State Treasurer to adopt rules and regulations to administer and implement those provisions.

**REPORT OF THE OVERSIGHT ACTIVITIES OF THE
JOINT COMMITTEE ON ADMINISTRATIVE RULES AND REGULATIONS
July 2023 through June 2024**

From July 2023 through June 2024, the Joint Committee on Administrative Rules and Regulations (JCARR or Committee) 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 KSA 77-436, the Committee met nine times, at which proposed rules and regulations were heard and the state agencies appeared before the Committee. The main topics of the proposed rules and regulations are included in the following table. For each meeting, staff provided the statutory language authorizing the proposed rules and regulations and the text of each rule and regulation proposed for revocation except rules and regulations revoked using the expedited procedures of KSA 77-426 as amended in 2022.

JCARR Meeting Dates, Agency Appearances, and Regulation Topics, July 2023 – June 2024									
Agency	July 10, 2023	August 21, 2023	October 10, 2023	November 27, 2023	January 19, 2024	February 2, 2024	March 15, 2024	April 25, 2024	June 20, 2024
Accountancy						CPA examination; Continuing education			
Administration								Membership fees	
Aging and Disability Services						Crisis intervention centers			
Agriculture		Dairy; Weed seeds							
Agriculture – Animal Health									Livestock markets; Livestock movement
Bank Commissioner									Loans
Behavioral Sciences		License fees				Licensee education			
Children and Families						Juvenile crisis intervention centers; Foster care			
Corporation Commission					Motor carrier safety				
Cosmetology								Licenses	
Education					Teaching license		Graduation requirements		
Election Board							Election expenses		
Emergency Medical Services		EMS provider; Instruction	Ambulance service		Ambulance service				

JCARR Meeting Dates, Agency Appearances, and Regulation Topics, July 2023 – June 2024									
Agency	July 10, 2023	August 21, 2023	October 10, 2023	November 27, 2023	January 19, 2024	February 2, 2024	March 15, 2024	April 25, 2024	June 20, 2024
Fire Marshal						School drills, building code; LP gas			
Healing Arts	License and permit fees	Reentry license							
Health and Environment		Radon technicians; Water test fees	Rural emergency hospitals; Spill reporting			Water pollution control revolving fund	Underground hydrocarbon storage wells	Child care	
Health and Environment – Health Care Finance		Medicaid eligibility ⁽¹⁾							Hearing procedures
Human Rights								Expedited revocations	
Insurance	Pharmacy benefit manager report; Rating plans							Various	
KBI			DNA records; Fentanyl test strips						
Labor – Workers Compensation							Fees for medical services		
Mortuary Arts				Funeral director responsibilities			Fees		
Nursing	Program preceptors								
Optometry			Notifications; Approved schools or colleges	Biennial renewal					Continuing education; Reciprocal licenses
Pharmacy	Add Schedule I drug	Remote pharmacy ⁽²⁾	Add Schedule I drug						Various; Tele-pharmacy ⁽¹⁾
Regents					Student assistance; Revocations				
Revenue		Tax credits	Food sales tax refunds	Homestead tax relief	Workforce retention tax credits			Cigarette tax; Revocations	

JCARR Meeting Dates, Agency Appearances, and Regulation Topics, July 2023 – June 2024									
Agency	July 10, 2023	August 21, 2023	October 10, 2023	November 27, 2023	January 19, 2024	February 2, 2024	March 15, 2024	April 25, 2024	June 20, 2024
Revenue – Alcoholic Beverage Control			Expedited revocations				Expedited revocations		
Revenue – Property Valuation						Mass appraiser continuing education			
Secretary of State		Ballots; Election audits	Notarial acts; Expedited revocations				Voting equipment, records, procedures		
Transportation	Train crews								
Wildlife and Parks	Aquatic species; Big game seasons; Amphibian possession		License and permit fees; Expedited revocations		Personal flotation devices; Hunting seasons			Fishing	

(1) The proposed rules and regulations had not been adopted as of July 1, 2025.

(2) The Board did not proceed with adoption of proposed KAR 68-7-26 (remote practice).

Expedited Revocations

Pursuant to provisions of KSA 2023 Supp. 77-426(d), enacted in 2022, 4 agencies revoked 84 rules and regulations the agencies had reported in 2023 were not necessary:

- Kansas Human Rights Commission – 45;
- Department of Revenue, Division of Alcoholic Beverage Control – 34;
- Secretary of State – 1; and
- Kansas Department of Wildlife and Parks – 4.

These 4 agencies were among the 21 that completed reviews of their rules and regulations pursuant to KSA 2023 Supp. 77-440, enacted in 2022. Agency responses and a summary of those responses were posted on the Kansas Legislative Research Department website in August 2023.

Comments to Agencies

After each proposed rule and regulation was reviewed, the Committee expressed comments it deemed appropriate, including commendations, and reported its comments to the Legislature via the Kansas Legislative Research Department's (KLRD's) Committee webpages. Committee staff forwarded those remarks to each state agency presenting proposed rules and regulations at the meeting and posted the reports on the Committee's KLRD webpage. The Committee requested a response to each comment. Committee staff maintain a database of information about Committee comments and agency responses; those comments and responses are available for public inspection.

Clarity

Secretary of State, ballots, August 21, 2023. The Committee expressed its concern that, because the proposed rule and regulation did not contain a deadline, confusion could occur among county election officials in determining how to address applications received after a county or statutory deadline. (The agency stated KSA 25-1122(f)(1) provides a deadline for county election officers to accept mail ballot applications and, if an application is received after the statutory deadline, the voter will not receive a mail ballot, the county elections staff will attempt to notify the voter, and the voter will need to vote in person, either in advance or on election day.)

Emergency Medical Services Board, course of instruction, August 21, 2023. The Committee asked the agency to review the set of rules and regulations for acronyms not explained before use of the acronym and make revisions as necessary. (The agency stated it found only the single instance identified by the Committee and that the term cited by the Committee is defined in definitions not amended by the proposed rules and regulations presented.)

Department of Health and Environment, Division of Health Care Finance, Medicaid benefits, August 21, 2023. The Committee expressed its concern that the proposed language to create an exception for low-income individuals who receive Medicare Part B immunosuppressive drug benefits to receive Kansas Medicaid benefits is vague and could result in confusion by the regulated community. The Committee asked the agency to consider revising the language to more explicitly state the exception. (The proposed rule and regulation had not been finalized as of July 1, 2025.)

Secretary of State, notarial acts, October 10, 2023. In proposed KAR 7-43-14, the Committee suggested the agency clarify which notary public must take specified actions, *i.e.*, any notary public or the specific notary public who stamped the record. (The agency stated its attorneys met with attorneys of the National Notary Association after the Committee meeting and found that the regulation was not confusing when read in conjunction with the statutory and regulatory framework; only the notary public who stamped the record can take the actions.)

Behavioral Sciences Regulatory Board, addiction counselor licensing, February 2, 2024. The Committee requested the Board define the term “biopsychosocial.” (The agency stated it had replaced “biopsychosocial needs,” a term that originated in 1977, with “biopsychosocial or the biological, psychological, and social needs” to better clarify this term.)

Behavioral Sciences Regulatory Board, addiction counselor licensing, February 2, 2024. The Committee asked why the term “substance use” was removed in a specific paragraph and replaced with “biopsychosocial needs” and expressed its concern that the modification of this educational requirement could result in students completing less coursework specific to addiction and substance use. (The agency stated a main reason for the proposal was to update and modernize the requirements in a way that would enable more individuals to meet the requirements for licensure while ensuring public protection. It noted licensure for addiction counseling lacks the level of consistent criteria among states available for other regulated professions, and it asked experts to review the required coursework and consider changes. It stated the term “biopsychosocial” is inclusive of assessing for substance use disorders while also assessing for other disorders; that the regulation includes many other courses specific to addictions or substance use, such as required courses in introduction to addiction and co-occurring disorders [specifically focusing on substance use disorders]; and all applicants must pass an addiction-specific license examination.)

Department for Children and Families, foster care, February 2, 2024. The Committee requested the agency reference in KAR 30-47-816 the requirements of KSA 8-1344 regarding appropriate types of child safety restraints during transportation based on age and size.

Department for Aging and Disability Services, crisis intervention centers, February 2, 2024. The Committee requested the agency consider moving requirements for testing for tuberculosis from a rule and regulation titled “physical health care” to one titled “infection control, COVID-19 protections.” (The agency stated it had incorporated this change into the permanent rule and regulation.)

Commendation

Department of Health and Environment, spill reporting, October 10, 2023. The Committee commended the agency for its efforts to solicit stakeholder input, including through email, on these proposed changes regarding reporting of hazardous material spills.

Costs or Economic Impact

Department of Health and Environment, fees for public water supply tests, August 21, 2023. The Committee requested information on how the fees compare with fees charged by agencies conducting similar testing in contiguous states. (The agency provided copies of the fees charged by Nebraska, Colorado, and Oklahoma, noting none of the laboratories use the same format or naming conventions, so the agency could not place fees side by side. The agency further stated Missouri charges all public water supplies a fee based on the number of citizens the public water supply serves and requires public water supplies to use the state laboratory. The agency noted Kansas allows each public water supply to decide what laboratory it wants to use.)

Department of Wildlife and Parks, fees, October 10, 2023. The Committee noted the economic impact statement for the proposed rule and regulation did not contain any estimate of impact on hunting lodges, outfitters, guides, and related businesses that serve primarily out-of-state hunters. The Committee urged the agency to contact a sample of such businesses when drafting proposed changes to hunting and fishing rules and regulations in the future and include information gained from those contacts in the economic impact statement.

Department of Health and Environment, child care, April 25, 2024. The Committee requested clarification on whether any of the proposed changes are federally required and, if so, which ones, and whether any federal moneys for the agency or providers are tied to adoption of those requirements, and, if so, which and the amounts of the federal moneys. The Committee also requested specific information on costs to child care providers for meeting those requirements. (The agency noted health and safety changes to regulations that are tied to the Child Care Development Fund include training on topics including creating plans to prevent and respond to allergic reactions, emergency procedures, handling of hazardous materials, and child development. It noted the Department for Children and Families [DCF] is the lead agency in Kansas and received funding from the federal Office of Child Care; it deferred to DCF for amounts but said the funding that provides child care subsidy funds would be in jeopardy without compliance with the federal rule. It stated the cumulative cost to providers for coming into compliance with these new regulations is approximately \$104,881.50 if all 15,300 estimated staff members are required to attend half an hour of additional training at the median wage of \$13.71 reported by the U.S. Bureau of Labor Statistics for child care providers in Kansas.)

Department of Health and Environment, child care, April 25, 2024. The Committee noted the extensive proposed changes, requested the agency continue to work with child care providers to identify changes of particular concern to providers as being burdensome or costly, and requested the agency report to the Committee on any changes to the draft rules and regulations made because the change was considered to be burdensome or costly to providers. The Committee also noted some of the proposed changes appear to reduce regulatory specifications child care providers must meet and recognized the statement made by the agency in its economic impact statement regarding balancing increased health and safety standards with economic realities faced by parents and licensees. (The agency stated it would continue to work with child care providers to identify changes of particular concern to providers that are burdensome or costly. It listed some changes made to the draft rules and regulations to reduce burden or costs, such as increasing maximum group sizes in nearly all age categories for family child care homes, centers, and preschools; streamlining health records; allowing 30-day flexibility in moving a child to the next age-appropriate unit; removing a requirement for two substitutes to be on staff; and allowing programs more flexibility when serving children with special health care needs.)

Fee Funds

State Board of Healing Arts, license fees, July 10, 2023. The Committee noted the agency's fee fund has been growing and recommended delaying the proposed fee increases and addition of staff until the agency's proposed budget is reviewed via the legislative budget process. (The agency thanked Committee members for their time and commitment to the process and stated the agency would take the recommendation into consideration.)

Behavioral Sciences Regulatory Board, license fees, August 21, 2023. The Committee requested fee fund balance figures and projections of future fee fund balances. (The agency stated, as a small fee-funded agency, it utilizes only the Behavioral Sciences Regulatory Board Fee Fund for operational expenditures. At the end of FY 2023, its balance was \$2,027,850. As of November 15, 2023, the agency anticipated revenue of \$900,000 in FY 2024 and \$800,000 in FY 2025, with expenditures of \$1,173,036 in FY 2024 and \$1,195,945 in FY 2025, meaning projected ending balances of \$1,754,814 for FY 2024 and \$1,358,869 in FY 2025. The agency noted enactment of 2023 Sub. for SB 131 regarding expedited licensing included authority to hire for new licensing specialist positions and that participating in multistate compacts will result in fewer individuals holding a license in Kansas and reduced licensing fees.)

Information Requests

Department of Insurance, pharmacy benefit managers, July 10, 2023. The Committee requested information on the number of complaints reported to the agency regarding pharmacy benefit managers (PBMs). (The agency reported it reviewed network adequacy reports that had already been provided and that, within the previous 12 months at the time of submission of the reports, PBMs reported receiving 704 total complaints: 550 from pharmacies and 154 from patients. The agency could not discern whether any of the complaints were submitted to PBMs in person.)

Department of Agriculture, weed seeds, August 21, 2023. The Committee requested copies of educational materials used to inform county weed officers of Kansas statutory and regulatory requirements for addressing noxious weeds. (The agency provided a copy of its

handbook created and circulated to inform county weed officers of Kansas statutory and regulatory requirements on this topic.)

Department of Health and Environment, radon technicians, August 21, 2023. The Committee requested information on radon measurements in Kansas, including where Kansas ranks nationally and studies that show health outcomes, including the number of cancer cases attributed to radon poisoning in Kansas. (The agency stated it does not have ready access to average radon levels for all states but Kansas ranks 20th in the nation — first being the highest percentage of elevated radon levels — with 36 percent of measurements above the U.S. Environmental Protection Agency action level of 4.0 picocuries per liter of air. It also stated the Association of American Radon Scientists and Technologists estimates there are approximately 295 cases of radon-induced lung cancer in Kansas, with an estimated cost of \$121 million that includes \$5 million in direct medical costs and \$62 million in economic impact costs.)

Department of Health and Environment, radon technicians, August 21, 2023. The Committee requested information on the reasons for lowering the required number of continuing education hours and how the lower amount compares with the requirements of other states in the region. (The agency stated it had, since 2011, utilized the same continuing education requirements as the National Radon Proficiency Program, which has reduced its requirements. Nebraska requires 6 hours of continuing education for measurement technicians, 6 hours for mitigation technicians, and 11 hours for dually certified technicians.)

Kansas Bureau of Investigation (KBI), fentanyl test strips, October 10, 2023. The Committee noted materials used or intended for use to test a substance for the presence of fentanyl or a fentanyl analog are excluded from the definition of drug paraphernalia with enactment of 2023 SB 174 and requested information on the availability of the immunoassay-based field test approved by the Director of the KBI, including whether members of the public as well as law enforcement personnel can purchase these testing strips. (The agency provided a link to the manufacturer's website and stated the product is available for anyone to purchase.)

Department of Wildlife and Parks, fees, October 10, 2023. The Committee noted the agency has tracked licensing fee revenues and the numbers issued since fee changes in 2016. The Committee requested the agency track the same information for the fees to be increased by this proposed rule and regulation (*i.e.*, certain nonresident licenses) and report that information to the Committee after four years with the increased fees.

Department for Children and Families, foster care, February 2, 2024. The Committee requested information on whether determinations regarding whether a child is in need of care or payments for children in need of care with an undocumented immigration status differ from those for children who are citizens and the legal basis for treating the groups the same or differently.

Department of Health and Environment, child care, April 25, 2024. The Committee noted that a provision in KAR 28-4-115 regarding storage of weapons and ammunition does not exist in state statutes and asked whether provisions regarding storage of weapons and ammunition or similar provisions have been challenged in court. [*Note:* This portion of the rule and regulation was not proposed for amendment.] (The agency noted it is important for child care providers to keep potentially harmful or dangerous items or substances, such as medication, sharp objects, and cleaning substances, out of the reach of children. It stated, to the agency's knowledge, the regulation regarding the storage of weapons and ammunition in child care facilities has not been challenged in court, the regulation is infrequently cited as part of

agency enforcement actions for which an administrative hearing is requested before the Office of Administrative Hearings, and this issue has never been preserved for appeal.)

Legislation

Kansas Bureau of Investigation (KBI), DNA databank records, October 10, 2023. The Committee noted its concern that not all eligible persons are aware of the procedure to be followed to initiate removal of their DNA profiles and destruction of their collected DNA samples from the data maintained by the KBI. It expressed support for this process becoming automatic for all persons upon expungement, provided such person's information is not otherwise required to be part of the Combined DNA Index System or DNA Databank.

State Board of Mortuary Arts, funeral directors, November 27, 2023. The Committee recommended the agency pursue legislative action regarding the proposed change to the charge and personal supervision of a Kansas licensed funeral director. (The agency stated current law requires a Kansas licensed funeral director be in charge and have personal supervision of a funeral establishment, a branch funeral establishment, or both.)

Department for Aging and Disability Services, crisis intervention centers, February 2, 2024. The Committee suggested the Legislature review the statement of patient rights in KSA 59-2978, which is applicable to various types of facilities overseen by the Department for Aging and Disability Services.

Department of Health and Environment, child care, April 25, 2024. The Committee stated it appreciates the agency's efforts to keep Kansas children safe in state-licensed child care facilities but the Committee finds the agency has made policy decisions in these proposed rules and regulations and reminds the agency that the Legislature determines policy and such policy changes should be brought before the Legislature. (The agency thanked the Committee for the reminder.)

State Board of Pharmacy, telepharmacy, June 20, 2024. The Committee requested the agency delay implementation of the proposed new Article 23 telepharmacy rules and regulations until January 30, 2025, after the Legislature returns for its 2025 Session. (The agency stated that its board had tabled the rule and regulation indefinitely after the public hearing on the proposed telepharmacy rules and regulations. The agency stated the board believed it had exhausted its resources attempting to put together a set of regulations governing telepharmacy in Kansas that satisfies the need to protect the public and is acceptable to all pharmacy stakeholders. In the meantime, to ensure that telepharmacy access currently available in Kansas via the Pilot Project was not interrupted, the board extended the Pilot Project's expiration date until after the Kansas Legislature has had the opportunity to act on this topic.) [Note: Provisos regarding telepharmacy were included in 2025 HB 2082 and SB 68 as introduced but were not included in appropriations bill SB 125 as enacted. Rules and regulations on telepharmacy had not been finalized as of July 1, 2025.]

Program Concerns

Department of Health and Environment, radon technicians, August 21, 2023. The Committee requested information on whether the 70 percent required for a passing score on the radon mitigation technical certification examination is the standard nationally or whether other

states require a higher score. (The agency stated the National Radon Safety Board specifies 70 percent as a passing score, that the National Radon Safety Board score is the standard in Nebraska, and that Iowa specifies a 70 percent passing score in its application guidance documents.)

Department of Health and Environment, spill reporting, October 10, 2023. The Committee asked the agency to consider implementing a requirement that the agency confirm receipt or provide follow-up information to a person reporting a spill of a hazardous substance within 24 hours of such report. (The agency stated each incident recorded via the Kansas All-Hazards Reporting Hotline or email is recorded in the WebEOC spills database, which is shared with the Kansas Division of Emergency Management and the Kansas Corporation Commission; each incident receives an incident tracking number that is sent by email to the reporting party; and any interested person, including the reporter of a spill, could request the record from the agency. It also noted the proposed requirement would necessitate self-regulatory language in the regulation, which it said is generally discouraged and disallowed.)

State Board of Mortuary Arts, funeral directors, November 27, 2023. The Committee recommended the rule and regulation include an upper limit on the number of funeral establishments for which a Kansas funeral director may be in charge and have personal supervision. (The agency stated the Board finds that current law allows a funeral director to be in charge and have personal supervision of an unlimited number of branch funeral establishments and fails to see any distinction between overseeing several branch funeral establishments or several funeral establishments.)

State Board of Mortuary Arts, funeral directors, November 27, 2023. The Committee requested the agency consider adding provisions to the rule and regulation to establish a minimum frequency at which or the circumstances under which a licensed funeral director must provide in-person supervision to a funeral establishment. (The agency stated the Board does not know of any situations where the funeral director in charge is not frequently in person at a funeral establishment and/or branch funeral establishment and it is the responsibility of the funeral director in charge to maintain the operations of the funeral establishment and/or branch funeral establishment, and its employees.)

Department of Health and Environment, Water Pollution Control Revolving Fund, February 2, 2024. The Committee recommended a revision to KAR 28-16-114 to allow for payment of interest separate from principal so that such interest is not capitalized before project completion unless desired by the municipality. (The agency stated standard loan language includes the choice between capitalizing interest and paying interest when it accrues and the agency does not believe it is appropriate to spell out every loan condition in the regulations. It also noted its cover letter sent with an invoice every six months after the first loan disbursement is made indicates the municipality can choose to capitalize the interest payment into the loan. If a payment is not made by the due date, the amount is automatically capitalized into the loan. The agency listed the types of costs for which a municipality may request disbursement.)

Department for Aging and Disability Services, crisis intervention centers, February 2, 2024. The Committee requested the agency consider replacing “or” in KAR 26-52-15(d) with “and” to ensure the treatment plan is reviewed at least daily and at the conclusion of the patient’s stay. (The agency stated it had incorporated this change into the permanent rule and regulation.)

Proposal Withdrawal Recommended

Department of Transportation, train crews, July 10, 2023. The Committee expressed its concerns regarding the potential economic and workforce implications of the proposed rule and regulation to require a minimum of two train crew members and noted other topics such as federal preemption and public safety related to railroads appeared to need further discussion. The Committee recommended the proposed rule and regulation be withdrawn and this proposal be brought before the Legislature. (The response from the agency included that approximately 94 percent of train traffic operated with two-person crews and therefore no additional cost would be incurred for those trains; short-line railroads would need to add 15 locomotive conductor positions, resulting in an annual cost increase of \$1.5 million; a grace period would be allowed until April 1, 2024, before enforcement; that the agency does not share the Committee’s concern about federal preemption; and the agency had received many comments in support of the proposed rule and regulation and touching on safety and health concerns.) [Note: The Federal Railroad Administration issued a final rule April 9, 2024, effective June 10, 2024 (89 FR 25052), establishing minimum safety requirements for the size of train crews depending on the type of operation. The final rule requires railroad operations to have a minimum of two crew members except for certain identified one-person train crew operations that do not pose significant safety risks to railroad employees, the public, or the environment. This final rule includes requirements for railroads seeking to continue certain existing one-person train crew operations and a special approval process for railroads seeking to initiate certain new one-person train crew operations.]

Department of Agriculture, weed seeds, August 21, 2023. The Committee expressed its concern that not all stakeholders had been contacted, specifically with regard to two new seed varieties classified as “restricted,” and that the potential economic impact to these stakeholders is not fully contained in the economic impact statement. The Committee recommended the proposed rule and regulation be withdrawn and the proposal brought before the Legislature. (The agency stated it had contacted numerous stakeholder groups during the drafting of the proposed rules and regulations and participated in extensive dialogue with stakeholder groups regarding the “restricted” classifications of Caucasian bluestem and yellow bluestem. It provided summaries of testimony received from entities including the Kansas Agribusiness Retailers Association and Star Seed and the American Seed Trade Association supporting the compromise of listing seeds for these grass species as “restricted.” The agency stated it has listened to many stakeholders over the prior four years and determined that the agency and the State should address the threat to native grasslands—and the industries that depend upon them—posed by these species. The agency stated it declined to withdraw the rule and regulation.)

State Board of Pharmacy, remote pharmacy practice, August 21, 2023. The Committee expressed concern regarding the potential public safety implications of expanding the definition of “direct supervision of a pharmacist” to include remote work settings. The Committee noted the proposal is not related to any recently enacted legislation and recommended withdrawal so that the proposal could be brought before the Legislature. (The agency stated the Board had voted not to adopt the proposed rule and regulation based on the feedback from the Committee.)

Other

General comment, February 2, 2024. The Committee noted long development, drafting, and approval times for many proposed rules and regulations, especially those rules and regulations required by enacted legislation, and stated it welcomes suggestions for process improvement.

General comment, February 2, 2024. The Committee requested terms be standardized across agency regulations, to the extent practicable, such as terms used to describe online learning and continuing education courses for state-licensed professionals.

Kansas Bureau of Investigation (KBI), fentanyl test strips, October 10, 2023. The Committee requested a statement from the KBI regarding its jurisdiction and at what point the agency becomes involved in criminal cases investigated by local law enforcement agencies. (The agency noted its jurisdictional authority in KSA 75-712(a) and stated it has historically interpreted this authority via prioritization of its limited resources on the most pressing and dangerous crime problems and trends. It stated its current investigative priorities include major violent crimes, drug trafficking organizations and criminal enterprises, crimes against children, public corruption, and cybercrime. It noted the agency also investigates the majority of officer-involved shootings in the state and that, when and where it has the resource capacity and capability to do so, it provides investigative case support, technical assistance, and operational expertise to any Kansas law enforcement agency that requests such assistance.)

Department of Wildlife and Parks, fees, October 10, 2023. The Committee requested a statement from the Secretary of Wildlife and Parks regarding the agency's efforts to address deer baiting within the state and the purposes behind the educational meetings it has held in recent months. (The agency stated in June 2023 it had held an informational public meeting with the Wildlife and Parks Commission to share the latest scientific data on baiting and feeding deer, in response to questions from the Commission and the public on the health and population effects of deer baiting, primarily using corn, on deer, turkeys, quail, and other wildlife. The agency stated staff made it clear at the beginning and end of that session as well as at all subsequent communications that it had no plans for regulations that would impact baiting or feeding on private lands. It stated its goal was and is to equip Kansans with the best scientific information to inform their decisions on wildlife conservation.)

Department of Wildlife and Parks, fees, October 10, 2023. The Committee requested a statement from the Secretary of Wildlife and Parks regarding the agency's position on out-of-state hunters, particularly regarding amendments to rules and regulations that affect only or primarily out-of-state hunters. (The agency provided this statement: "Kansas Wildlife and Parks' mission is to conserve our state's fish and wildlife resources. 'Conservation' is defined as 'wise use.' For our agency, that means that we strive for healthy populations which are sustained for their and Kansans' benefit. Kansas is 49th in its percentage of public lands and, while we invite all to come and enjoy Kansas resources, we know that Kansas resident input on needed regulatory changes needs to carry most weight. Both survey data and input from residents at our commission meetings are clear that resident hunters feel that they are being pushed from areas they have traditionally hunted by nonresidents. Based on this consistent input, we have recommended limiting nonresident opportunities in some cases.")

State Board of Pharmacy, telepharmacy and various, June 20, 2024. The Committee expressed its concern that the agency employs a full-time attorney primarily for rules and regulations.

Legislative Action

Of the 113 bills enacted in 2024, including 2 from the special session, 19 contained provisions authorizing, requiring, moving, or clarifying authority for state agency rules and regulations or changing procedures regarding rules and regulations. The following section 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 2024 *Summary of Legislation*, available from the Kansas Legislative Research Department. A table listing statutes enacted in 2020 through 2025 that require rules and regulations but that had not been heard by the Committee before July 1, 2024, is included at the end of this report.

All Agencies

HB 2648 adds a section to the Rules and Regulations Filing Act to generally prohibit the adoption of any rule or regulation for which the economic impact statement indicates \$1.0 million or more in implementation or compliance costs are reasonably expected to be incurred by or passed along to businesses, local governments, or individuals during the initial five-year period following the adoption of the rule and regulation, unless the rule and regulation has been ratified by the Legislature via enactment of a bill authorizing such rule or regulation. Any member of the Legislature is authorized to introduce such legislation. The bill defines “implementation and compliance costs” to mean direct costs that are readily ascertainable based upon standard business practices, including, but not limited to, fees, the cost to obtain a license or registration, the cost of equipment required to be installed or used, additional operating costs incurred, the cost of monitoring and reporting, and any other costs to comply with the requirements of the proposed rule and regulation. A proposed rule and regulation could be modified. The limit will not apply to temporary rules and regulations, rules and regulations proposed because of a federal mandate, or rules and regulations of the Kansas Agricultural Remediation Board.

HB 2648 requires the Director of the Budget (Director), in reviewing the economic impact statements for proposed rules and regulations, to conduct an independent analysis to determine the agency has complied with the requirements for economic impact statements and review the agency’s determination of the amount of implementation and compliance costs reasonably expected to be incurred by or passed along to businesses, local governments, and individuals over the initial five-year period following adoption of the rule or regulation. If such costs do not exceed \$1.0 million, the Director is required to approve rules and regulations if the Director independently determines the economic impact statement is a complete analysis and the Director concurs with the economic impact statement and to disapprove the proposed rule and regulation if the economic statement is incomplete or contains substantive inaccuracies. If such costs do exceed \$1.0 million, the Director would be required to approve rules and regulations if the proposed rule or regulation has been ratified by the Legislature and disapprove the proposed rule and regulation if the economic impact statement is incomplete or contains substantive inaccuracies.

HB 2745 requires all licensing bodies to adopt rules and regulations to exempt military spouses of active military service members from all fees assessed by any licensing body to obtain or renew an occupational credential in Kansas, including criminal background report fees.

911 Board, State

HB 2690 creates the State 911 Board to replace the 911 Coordinating Council as of July 1, 2025, and authorizes the Board to adopt rules and regulations it deems necessary for the implementation and administration of the Kansas 911 Act. However, the Board is prohibited from establishing a mandatory certification program for public safety answering point operations or emergency communications personnel. The bill transfers rules and regulations of the 911 Coordinating Council in effect as of July 1, 2025, to the Board.

Agriculture, Department of

HB 2607 amends the Kansas Pesticide Law to require pesticide business licensees and private applicators to provide appropriate supervision and training for uncertified applicators who apply restricted-use pesticides and place restrictions on uncertified applicators. The bill authorizes the Secretary of Agriculture to adopt rules and regulations to prescribe requirements for appropriate supervision and training of uncertified applicators by certified applicators and to prescribe record requirements, including, but not limited to, training information that pesticide business licensees are required to maintain. The Secretary also is authorized to adopt rules and regulations regarding the direct supervision of registered pest control technicians by certified applicators.

Bank Commissioner, State

Senate Sub. for HB 2247 amends the Kansas Mortgage Business Act to, among other things, direct the State Bank Commissioner to specify in rules and regulations the calculation for the amount financed and a finance charge and the information a consumer must be provided before entering into a mortgage loan, and to issue and amend administrative guidance documents in accordance with the Rules and Regulations Filing Act rather than the Kansas Administrative Procedure Act. (Continuing law authorizes the Commissioner to “adopt rules and regulations as necessary to carry out the intent and purpose of this act and to implement the requirements of applicable federal law” [KSA 9-2209].) Within the Uniform Consumer Credit Code, the bill directs the Commissioner to establish in rules and regulations a nonrefundable fee for a renewal application for a license to make supervised loans and information to be included in a written notice to a consumer in default on a payment (although this information also could be established in administrative interpretation). The bill also authorizes the administrator, defined in continuing law as the deputy commissioner of the Consumer and Mortgage Lending Division appointed by the Bank Commissioner, to resolve a matter arising under rules and regulations using an informal agreement.

HB 2560 enacts the Kansas Money Transmission Act, effective January 1, 2025, and grants the State Bank Commissioner the “broad administrative authority to administer, interpret and enforce this act, promulgate rules and regulations necessary to implement this act and set proportionate and equitable fees and costs associated with applications, examinations, investigations and other actions required to provide sufficient funds to meet the budget requirements of administering and enforcing the act for each fiscal year and to achieve the purposes of this act.” The Kansas Money Transmission Act replaces the Kansas Money Transmitter Act, which had authorized the Commissioner to adopt rules and regulations necessary to implement and administer that act.

HB 2560 also enacts the Kansas Earned Wage Access Services Act. It authorizes the Office of the State Bank Commissioner to regulate earned wage access services providers and authorizes the Commissioner to adopt, amend, and revoke rules and regulations as necessary to carry out the intent and purposes of this act. “Earned wage access services” means the business of providing consumer-directed wage access services, employer-integrated wage access services, or both.

Child Advocate

SB 115, the Child Advocate Act, directs the Child Advocate to review statutes, rules and regulations, and policies and procedures for the health, safety, and welfare of children. The

Child Advocate is directed to “make recommendations for changes to policies, procedures, or adopted or proposed rules and regulations of any state or local agency that adversely affect or may adversely affect the health, safety, and welfare of any child,” and to include that in an annual report due before the beginning of each regular session.

Emergency Medical Services Board

SB 384 authorizes the Emergency Medical Services Board to grant a permanent variance from rules and regulations requiring at least one person on each vehicle providing emergency medical services to be a certified emergency medical service provider (a paramedic or emergency medical technician), a physician, a physician assistant, an advanced practice registered nurse, or a professional nurse.

Fire Marshal, State

House Sub. for SB 143 amends the Elevator Safety Act to change the deadline for promulgation of rules and regulations by the State Fire Marshal to enforce the Act from January 1, 2023, to January 1, 2025. The bill also amends the Act to require elevators to conform to the applicable requirements of the code in effect when such elevator was installed, and it prohibits rules and regulations that require an elevator installed before July 1, 2024, to be in compliance with current American national standards. (No such rules and regulations had been promulgated prior to the effective date of the bill.)

Health and Environment, Department of

HB 2525 requires the Secretary of Health and Environment to establish fees for permitting, monitoring, testing, inspecting, and regulating underground injection control class I and class V wells and sets limits on those fees. It prohibits the Secretary from establishing fees for small-capacity, sanitary septic systems, including single-family residential septic systems and non-residential septic systems that are used solely for sanitary waste.

Pharmacy, State Board of

HB 2547 amends law regarding emergency medication kits in accredited schools, providing more specificity, and removes authority for the State Board of Pharmacy to adopt rules and regulations regarding the maintenance of epinephrine kits for use in accredited schools. (The Board had not promulgated any rules and regulations on this topic prior to the effective date of the bill.)

Regents, State Board of

SB 18 enacts the Kansas Campus Restoration Act. It authorizes the State Board of Regents to adopt rules and regulations necessary to implement and administer the Act and requires it to define “educational mission-critical facilities” and “state of good repair” in rules and regulations. The stated purpose of the Act is to reduce deferred maintenance of educational mission-critical facilities at postsecondary educational institutions, to bring such facilities to a state of good repair, and to provide for the demolition or razing of facilities at state educational institutions that are no longer mission-critical.

SB 19 establishes the Kansas National Guard Education Master's for Enhanced Readiness and Global Excellence (EMERGE) Program to provide financial assistance (tuition and fees) to Kansas National Guard members pursuing master's degrees at Kansas educational institutions, up to 100 per year, 200 total. It authorizes the Board to adopt rules and regulations to administer the EMERGE Program.

Revenue, Department of

SB 462 authorizes the Director of Vehicles, Department of Revenue, to adopt rules and regulations necessary for participation in and implementation of the Federal Motor Carrier Safety Administration's Drug and Alcohol Clearinghouse Program as in effect on July 1, 2024. The purpose of the Clearinghouse Program is to ensure driving privileges are removed from commercial driver's license holders with drug and alcohol violations and that information is available to law enforcement.

Senate Sub. for HB 2124, which amends law regarding microbreweries, expands rule and regulation requirements of the Secretary of Revenue regarding furnishing equipment, signs, supplies, or similar things of value to include microbreweries. Formerly, the statute required rules and regulations to permit manufacturers and distributors to provide certain types of items to licensees under the Club and Drinking Establishment Act or to a retailer licensed under the Kansas Liquor Control Act to sell beer or cereal malt beverage.

HB 2465 enacts the Adoption Savings Account Act, establishes modifications to the Kansas adjusted gross income of an individual for contributions to an adoption savings account, and amends the adoption tax credit. It directs the Secretary of Revenue to adopt rules and regulations necessary to administer the Act by July 1, 2025.

Secretary of State

HB 2615 removes requirements for the Secretary of State to annually publish the rules and regulations or a supplement; to edit, prepare, and publish replacement volumes of the *Kansas Administrative Regulations*; and publish and make available annual supplements to the *Kansas Administrative Regulations*. It requires the Secretary of State to maintain a searchable database containing all of the current Kansas administrative regulations. It also removes responsibility for the State Rules and Regulations Board to determine rules and regulations to be published in the *Kansas Administrative Regulations*. [Note: Members of the State Rules and Regulations Board are the Attorney General, Secretary of State, and Secretary of Administration, or their designees; the chairperson, vice-chairperson, and ranking member or designee of the Joint Committee on Administrative Rules and Regulations; and the chairperson of the Senate Committee on Ways and Means or the House Committee on Appropriations.] In law not amended by the bill, the Secretary of State is required to publish the *Kansas Administrative Regulations* in an electronic or paper medium.

HB 2790 transfers authority for rules and regulations under the Professional Employer Organization Registration Act from the Commissioner of Insurance to the Secretary of State as of January 1, 2025.

Veterans Services, Kansas Office of

HB 2760 transfers rules and regulations of the Kansas Commission on Veterans Affairs Office to the Kansas Office of Veterans Services, which the bill creates.

**REPORT OF THE OVERSIGHT ACTIVITIES OF THE
JOINT COMMITTEE ON ADMINISTRATIVE RULES AND REGULATIONS
July 2022 through June 2023**

From July 2022 through June 2023, the Joint Committee on Administrative Rules and Regulations (JCARR or Committee) reviewed proposed rules and regulations of 22 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 KSA 77-436, the Committee met eight times, at which proposed rules and regulations were heard and the state agencies appeared before the Committee. The main topics of the proposed rules and regulations are included in the following table. (Information on the two short-agenda meetings in March is combined in the table below.) For each meeting, staff provided the statutory language authorizing the proposed rules and regulations and the text of each rule and regulation proposed for revocation.

JCARR Meeting Dates, Agency Appearances, and Regulation Topics, July 2022 – June 2023							
Agency	July 18, 2022	Sept. 14, 2022	October 18, 2022	December 13, 2022	February 10, 2023	March 3 and 10, 2023	April 25, 2023
Agriculture	Grain warehouses					Food code	
Attorney General			Batterer intervention				
Bank Commissioner				Sale of personal property to bank officers			
Behavioral Sciences			Supervised experience requirements				
Corporation Commission			Motor carrier safety				
Education			Teacher licensure			Emergency safety interventions	
Emergency Medical Services	Initial instruction exams						
Healing Arts	Physical therapy compact	Reentry active license	Athletic trainers; radiologic technologists; Midwifery		Occupational therapists liability insurance	Resident active license	
Health and Environment	Newborn screening		Air quality, fees; Day care home licensing ^{(1) (2)}		Water Transfer Act projects		
Health and Environment – Health Care Finance						Medicaid premiums for Working Healthy participants	Medicaid application for deceased applicant
Human Rights			Disability discrimination				
Insurance							Annuities; Viaticating a policy
KBI				Testing oral fluids			

JCARR Meeting Dates, Agency Appearances, and Regulation Topics, July 2022 – June 2023							
Agency	July 18, 2022	Sept. 14, 2022	October 18, 2022	December 13, 2022	February 10, 2023	March 3 and 10, 2023	April 25, 2023
Nursing	Advanced practice registered nurses				Continuing education		
Optometry					Fees		
Pharmacy						Various updates; Controlled substances; Prescription monitoring program (K-TRACS); Telepharmacy ⁽³⁾	
Real Estate Appraisal					Fees		
Real Estate Commission	Fees						
Regents				Private and out-of-state postsecondary institutions; Promise Scholarship			
Revenue					Repealing outdated regulations		
Secretary of State	Advance voting applications, signature verification; Notaries				Electronic poll book signatures; ballot secrecy; poll agents		
Wildlife and Parks	Fees; licenses; deer and sandhill crane hunting		Furbearers; mussels		Camping; Baiting wildlife; Trail cameras		Turkey hunting; Baiting wildlife

(1) The proposed rule and regulation had not been adopted as of July 1, 2024. A different version of KAR 28-4-114 was heard at the April 25, 2024, meeting.

(2) The agency notified the Committee it would not proceed with adoption of the proposed rule and regulation.

(3) In its response to comments, the State Board of Pharmacy noted the Attorney General had notified the agency of its intent to rescind approval of KAR 68-23-1 through 68-23-6, telepharmacy, and had rescinded its approval of KAR 68-7-20a (delivery of prescriptions dispensed to an alternative site for administration). Telepharmacy rules and regulations were also presented at the June 20, 2024, meeting.

Comments to Agencies

After each proposed rule and regulation was reviewed, the Committee expressed comments it deemed appropriate, including commendations, and reported its comments to the Legislature. Committee staff forwarded those remarks to each state agency presenting proposed rules and regulations at the meeting as well as posting the reports on the Committee's KLRD webpage. The Committee requested a response to each comment. Committee staff maintain a database of information about Committee comments and agency responses; those comments and responses are available for public inspection.

Commendations

State Department of Education, teacher licensure, October 18, 2022. The Committee commended the Department for its efforts to address the teacher shortage in Kansas by reducing barriers to obtaining a Kansas teaching license for a person who has held a teaching, school leadership, or school specialist license in another state. The Committee also noted the changes in the rules and regulations were not prompted by changes to the statutes.

Human Rights Commission, disability discrimination, October 18, 2022. The Committee commended the Commission for its outreach to 17 organizations, seeking their input on the proposed rule and regulation changes.

Office of the Attorney General, batterer intervention, October 18, 2022. The Committee commended the Office for reviewing its program requirements to ensure the program better serves Kansans.

State Board of Pharmacy, various topics, March 3, 2023. The Committee commended the agency for proactively updating its rules and regulations and using consistent language in those rules and regulations. It also commended the agency representative for concisely and precisely explaining the various topics presented in these proposed rules and regulations and providing additional information as requested.

Economic Impact

Department of Health and Environment, fees for emissions (air quality), October 18, 2022. The Committee expressed its skepticism of information in the agency's testimony that the fee increases proposed will not increase costs to ratepayers. (The agency stated it had consistently charged minimal fees to cover program costs and was not expanding the program or its costs. Review by the U.S. Environmental Protection Agency [EPA] showed the fees charged did not support program costs and it is necessary to differentiate fees to retain those programs. The agency further stated the fee schedule had been developed in consultation with the regulated community and it could not predict whether the proposed fees would raise costs to ratepayers directly or could be absorbed within the budgets of impacted industries.)

Department of Agriculture, Kansas Food Code updates, March 10, 2023. The Committee requested the amount of federal funding received by the agency or otherwise distributed to the State that is tied to adoption of updates to the federal food code incorporated into state law. (The agency stated a total of \$99,344 in federal funding received by the agency or otherwise distributed to the State is tied to the adoption of a state food code that mirrors or closely follows the Model Food Code, and so by extension is tied to the adoption of this regulation. It specified these funds are received from the U.S. Food and Drug Administration pursuant to cooperative agreements administered by the National Environmental Health Association, and maintaining retail standards adequate to protect public health is required to receive such funding.)

Department of Health and Environment, Division of Health Care Finance, Medicaid premiums for Working Healthy participants, March 10, 2023. The Committee commended the agency for seeking to incentivize work among those receiving benefits from the State, but it noted the agency states in its Economic Impact Statement that the proposed change will reduce revenues to the State by approximately \$750,000, and the Committee urged a change resulting in a fiscal impact to the State of that size to come before the full Legislature and not be handled

through this rule and regulation. (The agency stated the Working Healthy premium issue had been presented to the Robert G. (Bob) Bethell Joint Committee on Home and Community Based Services and KanCare Oversight, to participants in the Human Services Consensus Caseload process, and to the House Committee on Appropriations, showing involvement by the Legislature in this proposal.)

Kansas Department of Wildlife and Parks, turkey hunting, April 25, 2023. The Committee urged the agency to contact the Tourism Division of the Department of Commerce for estimates of the economic activity in Kansas related to turkey hunting and to use that information to estimate the effects on the Kansas economy from reducing the number of available turkey permits, particularly the effect of fewer permits being issued to hunters coming from outside of the state. (The agency stated it had begun work to find or generate current data for Kansas on the economic impact of an out-of-state hunting or fishing trip to Kansas. It stated it would apply more resources to the economic evaluations to make the forecast more accurate and that it would request additional feedback on those evaluations.)

Department of Insurance, suitability in annuity transactions, viaticating a policy, April 25, 2023. The Committee asked whether the State will receive any federal moneys as a result of the adoption of the proposed rules and regulations and, if so, an approximate amount. (The agency reported it would receive no federal moneys as a result of adopting the regulation.)

Information Requests

Department of Health and Environment, newborn screening, July 18, 2022. The Committee requested information on the demographic information collected on infants with notifiable conditions, specifically whether information on the race of the infant is collected. (The agency stated it does not collect information on a child's race but does record first name, middle name, last name, suffix, date of birth, sex, and birth order [if it was a multiple birth].)

Department of Health and Environment, newborn screening, July 18, 2022. The Committee requested information on the roles played by nonprofit organizations in the development of these rules and regulations and in the Kansas Birth Defects Surveillance Reporting Manual adopted by reference. (The agency stated the Bureau of Family Health consulted with both internal and external stakeholders who were considered subject matter experts in maternal and/or child health for a general review of the proposed regulations during the drafting process and that no nonprofit organizations proposed any changes nor had any role in the development of the regulations or the Kansas Birth Defects Surveillance Reporting Manual.)

Board of Nursing, advanced practice registered nurses, July 18, 2022. The Committee requested information on the differences between the definitions of "medical plan of care" and "nursing plan of care" or "nursing regimen" and the reason the Board chose to retain "medical plan of care" in the rules and regulations. (The agency stated it continued with language in place for more than 35 years, to make clear to licensees, employers, and other entities that the role and scope of advanced practice registered nurse [APRN] practice did not change. It noted the term "nursing plan of care" applies to all nurses, not only APRNs, that the changes to the rules and regulations reflected statutory changes made by enactment of 2022 Senate Sub. for HB 2279 regarding collaborative practice, and that the terms "medical regimen" and "medical plan of care" in Kansas statutes are not specific or limited to the practice of medicine or surgery or individuals licensed under the Medical Practice Act.)

Secretary of State, signature verification on advance voting ballots, July 18, 2022.

The Committee requested any readily available information or statistics regarding numbers of ballots, or statistics by locality, cast in recent elections for which signature matching by local election officials was required, for which signatures were found to not match or were missing, and for which the signature was verified or its absence corrected. (The agency provided a table listing each of the 105 counties and columns for “No Signature,” “No Signature Match,” “Total Returned,” and “% [of the total returned] with a Signature Issue.” Statewide, the totals were 576 for No Signature, 176 for No Signature Match, 426,681 for Total Returned, and 0.18 percent for percentage with a Signature Issue. The agency specified the information provided is based on the 2020 general election data sent to the federal Election Assistance Commission and 2022 data were not yet final as of the response date. The agency also noted a provisional ballot may be rejected for more than one reason, but the survey allows only one reason to be given.)

State Board of Healing Arts, implementing the Kansas Physical Therapy Licensure Compact, July 18, 2022. The Committee asked which states allow physical therapist (PT) and physical therapist assistant (PTA) licensees to submit credit hours earned online to fulfill their continuing education requirements and which of those states allow all such continuing education credit hours to be earned online. (The agency stated Missouri allows PT and PTA licensees to complete all continuing education online and it would seek information from a national association on additional states. The agency also stated it is not uncommon for states to allow continuing education online, particularly since the onset of the COVID-19 pandemic.)

Kansas Bureau of Investigation (KBI), approved devices for testing oral fluids, December 13, 2022. The Committee expressed its concern that the approved device’s cutoff values for indicating a drug or its metabolite has been detected in an oral fluid sample are determined only by the manufacturer of the device and are not established in the rule and regulation. The Committee noted no scientific evidence was presented regarding whether a positive result using this device indicates impairment or indicates only the presence of detectable substances. It asked the KBI to provide to the Committee studies and literature that the KBI relied upon in determining the device appropriately indicates a positive result. (The agency provided links to the requested information. It also stated the device will provide preliminary indication of drugs present in a donor’s oral fluid but the determination of impairment is complex and based on a combination of observations and evidence in a given case. It stated the device cutoff concentrations for reporting positive and negative results are slightly higher than the concentrations recommended by the National Safety Council’s Alcohol, Drugs and Impairment Division for screening of evidentiary oral fluid.)

State Board of Healing Arts, liability insurance for occupational therapists, February 10, 2023. The Committee requested information on whether policies that meet the minimum insurance requirements for an individual occupational therapist in private practice, for which premiums are cheaper than for policies providing required coverage obtained through an individual’s employer, will entice occupational therapists into private practice and what impact such change would have on the quality of care available in Kansas. (The agency stated it consulted with many stakeholders in drafting the minimum insurance requirements, including the Occupational Therapy Advisory Council and the Kansas Occupational Therapy Association. It also provided information on additional insured policies. It stated the difference in minimum limits for professional liability insurance is unlikely to entice occupational therapists into private practice or negatively affect the quality of care in Kansas.)

Department of Health and Environment, Water Transfer Act project eligibility, February 10, 2023. The Committee requested information on the definition of “significant noncompliance”; whether “other procedures” includes any requirements related to

environmental, social, and governance (ESG) concerns; and the role of the EPA in determining eligibility for a Kansas program and whether that determination of eligibility cedes authority to the federal agency. (The agency referenced the definition of “significant noncompliance” in KAR 28-15-50: failure to comply with any national primary drinking water standard according to criteria established by the administrator of the EPA. It noted “other procedures” reference a municipality’s technical, managerial, and financial capacity to operate the drinking water utility and include no requirements related to ESG. The agency states the EPA does not have the authority to determine which specific projects receive loans but has set general eligibility requirements [in 40 CFR 35.3520] for the Drinking Water State Revolving Fund Program nationally. Generally, EPA regulations prohibit assistance to federally owned or for-profit water systems, systems in significant noncompliance with drinking water regulations, certain types of projects such as dams and reservoirs, and projects primarily for fire protection or to serve future population growth. The agency added the Kansas Public Water Supply Loan Fund also excludes private and non-profit water systems.)

State Department of Education, emergency safety interventions, March 3, 2023.

The Committee requested the webpage address or addresses of the agency’s information on emergency safety interventions (ESI), including reports on the use of ESI and the entirety of the current rules and regulations on the topic. (The agency directed members to the subject index at www.ksde.org, choosing “E,” then “Emergency Safety Interventions.” It noted analysis is provided on the [ESI page](#).)

Department of Agriculture, Kansas Food Code updates, March 10, 2023.

The Committee, understanding that a different division of the agency handles meat processing inspections and the need to protect food safety, asked the reason for both federal and state inspection of meat processing plants and the differences in that oversight. (The agency stated meat processing plants must choose to be inspected by KDA’s Meat and Poultry Inspection [MPI] Program or by the U.S. Department of Agriculture’s Food Safety Inspection Service [FSIS]. It listed options if FSIS refuses to accept a business for federal inspection for any reason, or if the business does not want to be federally inspected, including operating under custom exemptions, processing of an animal only for that animal’s owner, operating under state inspection, or not operating. It further stated state-administered MPI programs, including that of Kansas, typically can provide more personalized guidance to establishments in developing their food safety-oriented operations, as well as more timely enforcement when necessary to protect public health, than FSIS can provide. The agency further stated state MPI programs operate under a cooperative agreement with the FSIS and must enforce requirements “at least equal to” those imposed under the Federal Meat Inspection Act to receive 50 percent matching funds from FSIS to maintain the state program. The agency noted Kansas statutes prohibit the MPI program from enforcing requirements that are more stringent than those in federal law.)

Department of Health and Environment, Division of Health Care Finance, Medicaid premiums for Working Healthy participants, March 10, 2023.

The Committee requested information on the history of the changes to the protected income level and to whom it applies. (The agency provided information on the history of the protected income level and listed the 12 categories of beneficiaries in the Kansas Medicaid program who have income standards. It noted the protected income level for home and community based services increased in 2022 and stated not making equivalent changes for Working Healthy participants would disincentivize continued work participation from those otherwise eligible for Medicaid.)

Program Concerns

State Board of Healing Arts and Board of Nursing, midwifery, October 18, 2022. The Committee noted KSA 65-28b07, the authorizing statute for these proposed rules and regulations, requires midwifery rules and regulations to be adopted no later than January 1, 2017. It expressed its displeasure with both the State Board of Healing Arts and the Board of Nursing for their failure to meet the statutory deadline for these rules and regulations.

Department of Health and Environment, day care home licensing capacities, October 18, 2022. The Committee urged the Department to reduce burdensome regulations that are not necessary to protect health and safety. It requested the Department provide information on capacity limits and ratios for day care home providers and group day care home providers in surrounding states. (The agency notified the Committee it would not proceed with the proposed rule and regulation. It provided information on child staff ratios for small family child care homes in Colorado, Missouri, and Oklahoma plus standards and rationale from *Caring for Our Children*, 4th Edition, a resource provided by the American Academy of Pediatrics, American Public Health Association, and National Resource Center for Health and Safety in Child Care and Early Education and published [online](#) by the National Resource Center for Health and Safety in Child Care and Early Education.)

Office of the State Bank Commissioner, sale of personal property to bank officers, December 13, 2022. The Committee expressed concern that sales of tangible personal property to bank or trust company officers, employees, directors, or related interests without approval from the Commissioner, without an established market price and without a public offering to determine whether the amount realized is in fact the actual value of the property, could facilitate self-dealing and disadvantage consumers. (The agency stated KSA 84-9-610 addresses the concern: a secured party may purchase collateral subject to a repossession in lieu of a public auction only if it is of a kind that is customarily sold on a recognized market or the subject of widely distributed standard price quotations. It noted the rule and regulation addresses sale after a bank or trust company has acquired the property through repossession or after it has served its purpose as equipment, and banks and trust companies are not permitted to purchase and sell tangible property as a business. It stated there is no comparable requirement to gain the Commissioner's approval before selling tangible personal property to an officer, employee, director, or related interest in any surrounding state or for national banks and it was unaware of the concern materializing in those banks.)

State Board of Regents, Kansas Promise Scholarships, December 13, 2022. The Committee expressed its concern that only one person, the State Board of Regents' Director of Student Financial Aid, will determine whether a Promise Scholarship recipient has made a "best possible effort" to fulfill the requirements of the scholarship agreement. (The agency reported it had addressed this concern with amendments to KAR 88-9a-6(d)(2) and 88-9a-6(e)(2) requiring the Director of Student Financial Aid to consult with the Board's Chief Executive Officer before determining whether a student has made the "best possible effort.")

Department of Revenue, repeal of outdated regulations, February 10, 2023. The Committee noted all government entities need to review their documents, such as regulations and statutes, and remove those no longer needed. (The agency stated it agreed and takes the comment and other recent actions of the Legislature as a charge to prioritize review and revocation of unnecessary regulations.)

Department of Insurance, viaticating a policy, April 25, 2023. The Committee urged the agency to request a bill to place into statute the viatical settlement schedule proposed in this

rule and regulation. (The agency stated that, during the public comment period and the public hearing, the Life Insurance Settlement Association [LISA] expressed concern and recommended alternatives to the standards contained in the regulation, and the agency had reached out to LISA to explore alternatives.)

Legislation Affecting Rule and Regulation Authority

Of the 98 bills enacted in 2023, 14 contained provisions authorizing, requiring, moving, or clarifying authority for state agency rules and regulations. The following section 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 2023 *Summary of Legislation*, available from the Kansas Legislative Research Department.

All Agencies

HB 2100, the Kansas Public Investments and Contracts Protection Act, prohibits any state agency from adopting rules and regulations, sharing or publishing information, adopting policies, or issuing guidelines for purposes of environmental, social, and governance criteria that restrict the ability of any industry to offer products or services. It also prohibits any state agency from requiring any person or business to adopt or operate in accordance with environmental, social, and governance criteria.

Multiple Education and Sports-regulating Entities

HB 2238, the Fairness in Women's Sports Act, requires the State Board of Regents, the Kansas State High School Activities Association, the governing body of Washburn University, and the governing body of each community college and technical college to adopt rules and regulations to implement provisions requiring athletic teams or sports designated for females, women, or girls to be closed to students who are males, men, or boys, as defined in the bill.

Bank Commissioner, State

SB 44 authorizes the State Bank Commissioner to adopt rules and regulations necessary to administer the Kansas Financial Institutions Information Security Act enacted by the bill. The purpose of this act is to establish information security standards for each entity subject to regulation by the Office of the State Bank Commissioner that is not directly regulated by a federal banking agency. The standards must be consistent with specified standards in federal law that are applicable to financial institutions over which the Federal Trade Commission has jurisdiction, *e.g.*, mortgage lenders, financial advisors, tax preparation firms, and check cashing businesses. [*Note:* The reference to 16 CFR Section 314 is assumed to mean 16 CFR Part 314.]

Behavioral Sciences Regulatory Board

Sub. for SB 131 requires the Behavioral Sciences Regulatory Board to adopt rules and regulations to establish an expedited application for any license, registration, permit, or certificate it issues and to set a fee of not more than \$100 for an expedited application process. The bill prohibits such a fee from being charged to any applicant who is a military service member or military spouse. The bill requires the Board to complete the review of an expedited application and issue a decision on it within 15 business days. (Corresponding rules and regulations were heard at the August 21, 2023, meeting.)

Sub. for SB 131 also requires the Board to adopt rules and regulations to set a fee, if required by the Board, of not more than \$225 for the issuance of a community-based psychologist license. (Corresponding rules and regulations were heard at the August 21, 2023, meeting.)

Commerce, Department of

HB 2292, the Kansas Apprenticeship Act, provides a credit against income tax liability for an eligible employer that employs an apprentice pursuant to a registered apprenticeship agreement and employs the apprentice after a probationary period is completed, for tax years 2023, 2024, and 2025. The bill authorizes the Secretary of Commerce, or the Secretary of Revenue, to adopt rules and regulations to establish standards for participation and eligibility and to otherwise implement and administer this act.

HB 2292 also establishes the Kansas Educator Registered Apprenticeship Grant Program. The Secretary of Commerce and the State Board of Education are to coordinate to adopt rules and regulations by March 1, 2024, to implement and administer this program. Rules and regulations are to establish application procedures, forms, and terms and conditions for a grant award under this program and the terms, conditions, and requirements for acceptance for the Secretary of Commerce to accept an applicant school into the Program.

HB 2332 updates Kansas Department of Wildlife and Parks (KDWP) statutes to reflect Executive Reorganization Order (ERO) No. 48 that became effective on July 1, 2021. ERO No. 48 transferred the Division of Tourism and the Office of the Director of Tourism from KDWP to the Department of Commerce. Among the provisions regarding rules and regulations that are specifically reassigned to the Secretary of Commerce are those for establishing criteria for obtaining grants and other expenditures from the State Tourism Fund, administering a state matching grant program to provide assistance in the promotion of tourism, and a tax credit against corporate income tax for 20 percent of the cost of liability insurance paid by a registered agritourism operator who operates an agritourism activity.

Cosmetology, Kansas State Board of

HB 2125 authorizes the Kansas State Board of Cosmetology to adopt rules and regulations necessary for implementation of charitable event and demonstration permits, which the bill creates. Under a charitable event permit, a licensee will be able to provide tattooing, cosmetic tattooing, or body piercing services at no cost to recipients at the event. Under a demonstration permit, a licensee will be authorized to provide tattooing, cosmetic tattooing, or body piercing services at a state or national convention or any other event location approved by the Board if certain conditions are met.

HB 2125 also clarifies that an adult care home or a long-term care unit of a medical care facility is exempt from provisions requiring applying to the Board of Cosmetology to establish a salon or clinic with the Board of Cosmetology, paying the new salon or clinic license fee, submitting to inspection of equipment as to safety and sanitary condition of the premises, holding a salon or clinic license as issued by the Board of Cosmetology, or submitting to inspection by the Kansas Board of Barbering.

Criminal Justice Information System Committee, Kansas

HB 2019 requires the Kansas Criminal Justice Information System Committee to adopt rules and regulations that require entities connected to the Kansas Criminal Justice Information System (KCJIS) to report any cybersecurity incident to the Kansas Bureau of Investigation (KBI) not later than 12 hours after the discovery of the cybersecurity incident. This long-standing Committee is composed of various executive and judicial branch officials and representatives of emergency services, law enforcement, and district courts. It is tasked with adopting and enforcing rules, regulations, and policies necessary for the establishment, maintenance, upgrading, and operation of KCJIS.

Education, State Board of

HB 2292 establishes the Kansas Educator Registered Apprenticeship Grant Program. The State Board of Education and the Secretary of Commerce are to coordinate to adopt rules and regulations by March 1, 2024, to implement and administer this program. Rules and regulations are to establish application procedures, forms, and terms and conditions for a grant award under this program and the terms, conditions, and requirements for acceptance for the Secretary of Commerce to accept an applicant school into the Program.

Governmental Ethics Commission

House Sub. for SB 208 requires the Governmental Ethics Commission to provide by rules and regulations the standards by which any member of the Commission, the executive director, or any other person employed or engaged by the Commission must recuse themselves from any matter before the Commission by reason of a conflict of interest, appearance of impropriety, or other basis affecting the ability of the Commission to neutrally and fairly enforce the Campaign Finance Act.

Healing Arts, State Board of

Sub. for SB 131 permits the issuance of waivers by the State Board of Healing Arts to allow a health care professional traveling with a sports team and licensed in another state in a profession licensed and regulated by the Board to practice that profession within Kansas for a short period of time during certain sporting events. The bill authorizes the Board to adopt rules and regulations necessary to implement the provisions of the bill, including procedures for reporting potential medical violations.

Health and Environment, Department of

SB 120 authorizes the Secretary of Health and Environment to adopt rules and regulations regarding certification of replacement segments of water distribution systems, as part of a continuing program of annual certification by public water supply systems. The provisions regarding replacement segments were added to the authority to adopt rules and regulations regarding the extension of distribution systems.

HB 2024 establishes the Child Abuse Review and Evaluation (CARE) Program and requires the Secretary of Health and Environment to, among other things, pay for and manage a network referral system and to adopt rules and regulations as necessary for the Program,

subject to available appropriations. The bill requires the Secretary for Children and Families or a law enforcement agency, upon investigation by law enforcement or assignment by the Secretary of an investigation of physical abuse or physical neglect that concerns a child five years of age or younger, to make a CARE referral for such child. The bill allows, in any other investigation of physical abuse, emotional abuse, medical neglect, or physical neglect conducted pursuant to the bill's provisions, the Secretary, the law enforcement agency, or the agency's designee to make a CARE referral for such child.

Insurance, Department of

SB 85, the Kansas Travel Insurance Act, authorizes the Commissioner of Insurance to adopt rules and regulations to implement and enforce the provisions of the Act. The requirements of the Act apply to travel insurance that covers any resident of Kansas that is sold, solicited, negotiated, or offered in Kansas but does not generally apply to cancellation fee waivers or travel assistance services.

Regents, State Board of

SB 123, the Kansas Adult Learner Grant Act, establishes the Kansas Adult Learner Grant Program, administered by the State Board of Regents, and requires the Regents to adopt rules and regulations by March 1, 2024, on grant application and renewal forms and deadlines; appeal procedures for denial or revocation of a Kansas adult learner grant; the terms, conditions, and requirements for the Kansas adult learner grant consistent with the provisions of the bill; and procedures for requesting and approving medical, military, and personal absences from an eligible postsecondary educational institution while a Kansas adult learner grant recipient is receiving such a grant. An adult learner grant eligible program is a baccalaureate degree program offered by a state educational institution, municipal university, or not-for-profit independent institution that meets certain criteria in information technology and security; health care and nursing; science, engineering, aerospace, and advanced manufacturing; education, early childhood education, and development; business, accounting, and data analytics; or other field designated by the eligible postsecondary institution pursuant to the Adult Learner Act. (Corresponding rules and regulations were heard at the January 19, 2024, meeting.)

Revenue, Department of

SB 123, the Kansas Adult Learner Grant Act, also establishes a tax credit of \$1,500 for an individual who has received a grant under the Kansas Adult Learner Grant Program, lives in Kansas and has lived in Kansas for at least two consecutive years since completing an adult learner grant eligible program, and is employed in Kansas or has commenced service in the military. The bill requires the Secretary of Revenue, by March 1, 2024, to adopt rules and regulations to implement these Kansas workforce retention incentive income tax credit provisions. (Corresponding rules and regulations were heard at the January 19, 2024, meeting.)

HB 2292, the Kansas Apprenticeship Act, provides a credit against income tax liability for an eligible employer that employs an apprentice pursuant to a registered apprenticeship agreement and employs the apprentice after a probationary period is completed, for tax years 2023, 2024, and 2025. The bill authorizes the Secretary of Revenue, or the Secretary of Commerce, to adopt rules and regulations to establish standards for participation and eligibility and to otherwise implement and administer this act.

Water Office, Kansas

Senate Sub. for HB 2302 establishes the Water Technical Assistance Fund. The bill directs the Kansas Water Office to adopt rules and regulations to establish criteria for administering this fund and awarding grants for technical assistance. The bill states the criteria are to address prioritization of municipalities with fewer than 2,000 residents and any district, such as a watershed or conservation district, formed for a special or single purpose related to water.

Senate Sub. for HB 2302 also establishes the Water Projects Grant Fund. The Fund is to be used for construction, repair, maintenance, or replacement of water-related infrastructure; as matching moneys for grant or loan applications for water-related infrastructure projects; and for repayment to the Public Water Supply Loan Fund or the Kansas Pollution Control Revolving Fund. The bill directs the Kansas Water Office to adopt rules and regulations necessary to establish those criteria.

**REPORT OF THE OVERSIGHT ACTIVITIES OF THE
JOINT COMMITTEE ON ADMINISTRATIVE RULES AND REGULATIONS
July 2021 through June 2022**

From July 2021 through June 2022, the Joint Committee on Administrative Rules and Regulations (JCARR or Committee) reviewed proposed rules and regulations of 25 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 KSA 77-436, the Committee met seven times. Meeting dates at which proposed rules and regulations were heard, the state agencies appearing before the Committee, and the main topics of the proposed rules and regulations are included in the following table. For each meeting, staff provided the statutory language authorizing the proposed rules and regulations and the text of each rule and regulation proposed for revocation.

JCARR Meeting Dates, Agency Appearances, and Regulation Topics, July 2021 – June 2022							
Agency	July 9, 2021	Sept. 10, 2021	November 15, 2021	January 5, 2022	March 14, 2022	April 26, 2022	May 23, 2022
911 Coordinating Council	Various						
Accountancy							Coursework
Agriculture		Industrial hemp			Dairy laboratory fees		
Agriculture – Animal Health					Calfhood vaccination tags		
Agriculture – Water Resources			Local enhanced management areas				
Attorney General						Anti-human-trafficking notices	
Bank Commissioner					Loan documentation		
Corporation Commission		Pipeline safety					
Cosmetology	Various ⁽¹⁾						
Education	Accreditation						
Emergency Medical Services		Various					
Healing Arts		Expedited license				Nurse midwifery	
Health and Environment		Livestock waste	Contact tracing	Radiation; Surface water	Fees for vital statistics documents; Home health agency licensure		
Health and Environment – Health Care Finance							Medicaid eligibility standards
KBI			Field tests for controlled substances				

JCARR Meeting Dates, Agency Appearances, and Regulation Topics, July 2021 – June 2022							
Agency	July 9, 2021	Sept. 10, 2021	November 15, 2021	January 5, 2022	March 14, 2022	April 26, 2022	May 23, 2022
Labor – Board of Review	Hearing of appeals ⁽²⁾						
Labor-Workers Compensation			Notifications ⁽¹⁾				
Nursing		Schools of nursing		Licensing			
Peace Officers' Standards and Training						Various updates; definitions	
Real Estate Appraisal						Education requirements	
Regents			Qualified admissions				
Revenue	License plate replacement						
Secretary of State			Publication prices; census (revocations)				
Technical Professions			Applications				
Wildlife and Parks		Turkey hunting; fishing; flotation devices					Deer management units; Hunting of big game

⁽¹⁾ One of the proposed rules and regulations presented had not been published as final as of July 1, 2025. The proposed revocation of KAR 69-6-3, Care of invalids, had not been finalized. However, in 2023, the authorizing statute, KSA 65-1904a, was amended to add, "An adult care home, as defined in K.S.A. [39-923](#), and amendments thereto, or a long-term care unit of a medical care facility, as defined in K.S.A. [65-425](#), and amendments thereto, shall be exempted from the provisions of this section."

⁽²⁾ The proposed rule and regulation was withdrawn via notice in the *Kansas Register*.

Comments to Agencies

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

Compliments

911 Coordinating Council, public safety answering points, 911-related grants and expenditures, July 9, 2021. The Committee thanked the agency for its work on these updates to its rules and regulations.

Department of Agriculture, Division of Water Resources, local enhanced management areas, November 15, 2021. The Committee commended the work of the local enhanced management areas.

Secretary of State, revocations based on 2021 statutory changes, November 15, 2021. The Committee thanked the agency for removing these rules and regulations.

Information Requests

911 Coordinating Council, public safety answering points, 911-related grants and expenditures, July 9, 2021. The Committee requested the agency inform the Committee when federal law makes available additional grants to the states for purposes under the purview of the agency and to provide information on the requirements for those grants. (The agency stated it will provide the requested information.)

Department of Revenue, license plate replacement, July 9, 2021. The Committee requested information on license plate duplicate numbers. (The agency stated there is no duplication of numbers on standard license plates and should be none for personalized license plates. However, there is duplication among dealer plates of different types, *i.e.*, the same number could be on dealer plates for an automobile, a motorcycle, and a trailer. There also is duplication of numbers among types of distinctive license plates, *e.g.*, both the University of Kansas and Kansas State University plates have up to five numerals, and those numbers could be the same. Another area of overlap of numbers is two sets that have six numerals: commercial vehicle international registration plan plates and antique vehicle plates.)

Department of Revenue, license plate replacement, July 9, 2021. The Committee requested an update on implementing personalized license plates utilizing the standard license plate background. (The agency responded it had targeted January 1, 2022, for implementation of those license plates.)

Department of Health and Environment, contact tracing, November 15, 2021. The Committee requested information on costs to the State for contact tracing including, but not limited to, costs for software, hardware databases, training, hiring, and salaries, and the funding used to cover those costs. It also requested information on counties issuing written quarantine orders. (The agency reported \$7.8 million spent on contact outreach staff, program specialists, and supervisors; \$13.7 million on development and maintenance of the application used, training, and quality assurance monitoring; and that all costs were funded by federal funds. It also reported the agency does not track quarantine orders and had no records on them.)

State Bank Commissioner, loan documentation, March 14, 2022. The Committee asked how the threshold amount of \$250,000 was chosen. (The threshold applies to requirements including those regarding credit information on borrowers, certain lien searches, title insurance, and mortgage-priority insurance.) (The agency stated the amount was chosen after consultation with the banking industry and the Kansas Bankers Association, will make a state bank more competitive with its competitors, and provides balance with the need to limit safety and soundness risks.)

State Bank Commissioner, loan documentation, March 14, 2022. The Committee requested additional information on the effects of the changes to the rules and regulations on title companies. (The agency stated the proposed regulation was expected to reduce the business activities of title insurance companies and real estate attorneys who offer written title opinions and, according to the industry, the reduction of business activities could be significant. The agency described a meeting with 18 individuals engaged in title insurance to discuss the proposed changes and stated it received no follow-up responses or negative public comments. It noted title insurance still will be required by federal law for government-guaranteed loans,

loans with private mortgage insurance, and loans the bank chooses to sell on the secondary market. It further stated Kansas' banking laws would continue to be more strict than those of surrounding states.)

Department of Health and Environment, fees for vital records documents, March 14, 2022. The Committee requested information on the requirement and the deadline given to the agency to move these records to vendor-hosted cloud storage or state-hosted data centers. (The agency quoted from a strategic plan stating, in part, "Kansas is currently in the middle of a major transformation that eliminates the risk of operating and maintaining data center facilities within the Topeka campus. After an exhaustive competitive bid process, Unisys was awarded the contract to provide data center and cloud hosting services. This new offering will transition all agency data center operations to secured Unisys data center facilities." It provided a timeline in graphic form, showing data migration schedules for several cabinet-level executive agencies including a schedule migrating Department of Health and Environment data in spring 2022. The executive branch chief information technology officer and the agency chief information officer provided additional information on the data migration project at the July 19, 2022, meeting.)

Department of Health and Environment, home health agency licensure, March 14, 2022. The Committee requested information on the number of home health agencies in Kansas, by category. (The agency stated it then licensed 311 home health agencies, and 160 of those were Medicare certified. It stated the agency would not separate those into home health care services, home and community based services, and supportive care services until after the rules and regulations became effective.)

Policy Concerns

State Department of Education, accreditation, July 9, 2021. The Committee suggested the agency clarify the timeframe within which an education system would be required to provide a link to the current agency report card, or accountability report, for the education system. (The agency noted in 2005, districts were mailing or otherwise publicly advertising their accreditation results in manners that necessitated a 60-day grace period. The agency noted the regulation as proposed requires each education system to provide a link to the report card at all times, districts only need to provide a link to the agency information, and each school district was already in compliance with the requirement.)

Department of Revenue, license plate replacement, July 9, 2021. The Committee suggested the agency consider a line item in its upcoming budget request for replacing standard license plates. (The agency stated its proposed budget did not include a full license plate replacement and that it was discussing the readability of license plates currently in use with law enforcement representatives. It stated a full standard license plate replacement would cost approximately \$23 million and replacing embossed license plates still in use would cost approximately half that amount.)

Board of Cosmetology, salons in adult care homes, July 9, 2021. The Committee requested the agency not proceed with revocation of a rule and regulation regarding salons in adult care facilities as proposed and thanked the agency for its offers to cooperate in reducing duplication of facility oversight. It also noted no information on costs to facilities in the economic impact statement if the rule and regulation were revoked. (The agency reported the Board of Cosmetology had chosen not to revoke this rule and regulation. It provided information on statutes regarding oversight of salons in adult care facilities and its legal analysis of authority to regulate those salons. It noted the Department of Health and Environment and the Department for Aging and Disability Services [KDADS] also have statutory and regulatory responsibilities for

salons within adult care facilities. The agency also reported the Board of Cosmetology had asked the Executive Director, legal counsel, and other staff members to meet with KDADS to work toward a mutually agreeable solution and that those meetings had begun in September.)

Department of Labor - Division of Workers Compensation, notifications, November 15, 2021. The Committee strongly suggested the agency not proceed with adoption of the new and amended rules and regulations and urged the agency to work with the Legislature to address the topics of the proposed changes through the legislative process. (The agency noted its authority for the proposed rules and regulations had been vetted by the Office of the Attorney General and provided an illustration of a change required by the Office of the Attorney General to conform to statute.) [Note: The Attorney General rescinded its approval of three of the proposed rules and regulations before the public hearing and none presented had been finalized as of July 1, 2023.]

Department of Health and Environment, home health agency licensure, March 14, 2022. The Committee noted the extensive changes proposed in the rules and regulations and that provisions regarding supportive care services were added to Kansas statutes in 2017 SB 154. It asked whether the extensive changes were necessary. It recommended the agency not proceed before review of the proposed rules and regulations with home health agencies and a determination of the effects of the fees on home health agencies. (The agency noted 2017 SB 154 had added two specific categories: home and community based services agencies and supportive care services. It stated the categories differ in the level of services provided and specific regulations were required for each.)

Timeliness

State Board of Healing Arts, nurse-midwifery, April 26, 2022. The Committee noted KSA 65-28b07, enacted in 2016, required rules and regulations on nurse-midwifery to be adopted by January 1, 2017. The Committee expressed its displeasure with both the State Board of Healing Arts and the Board of Nursing for failure to promptly promulgate the rules and regulations. It asked how many rules and regulations remained to be promulgated and urged prompt action by both boards. (The agency responded eight proposed rules and regulations regarding the independent practice of nurse midwives were in various stages of the promulgation process, and it understood the Committee's concern with timeliness.)

Legislation Affecting Rule and Regulation Authority

Of the 100 bills enacted in 2022, 23 contained provisions authorizing, requiring, moving, or clarifying authority for state agency rules and regulations. The following section summarizes those statutory changes plus a change in responsibility directed by the Governor using an executive reorganization order (ERO). 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 2022 *Summary of Legislation*, available from the Kansas Legislative Research Department. A table listing statutes enacted in 2015 through 2022 that require rules and regulations but that had not been heard by the Committee before July 1, 2022, is included at the end of this report.

All Agencies – Amending the Rules and Regulations Filing Act

HB 2087 amends the Rules and Regulations Filing Act to change provisions related to review of proposed rules and regulations by the Director of the Budget (Director) and to require each agency to periodically review its rules and regulations.

The bill removes the requirement that the Director make an independent determination of implementation and compliance costs, removes provisions requiring the Director to approve all rules and regulations, and specifies the Director is not required to review or approve rules and regulations if the submitting agency determines those rules and regulations would not result in costs of more than \$1.0 million over two years from the effective date of the bill (April 28, 2022, the date of publication in the *Kansas Register*) through June 30, 2024, or more than \$3.0 million over two years on and after July 1, 2024. Agencies continue to be required to provide the Director with a copy of the economic impact statement for every rule and regulation submitted for approval. If a state agency is proposing a rule and regulation because of a federal mandate, the state agency continues to be required to provide an economic impact statement, but the Director is not required to review or approve the proposed rule and regulation, regardless of estimated implementation and compliance costs. The bill specifies, for rules and regulations proposed due to a federal mandate, compliance costs are calculated from the effective date of the rule and regulation. The bill amends the order of submission to require state agencies to send proposed rules and regulations directly to the Secretary of Administration and Attorney General before submitting them to the Director.

The bill adds to the Rules and Regulations Filing Act requirements for each agency to submit a report to the Committee summarizing each state agency's review and evaluation of its rules and regulations, including a statement for each rule and regulation as to whether it is necessary to implement and administer state law or whether it may be revoked. Each agency is assigned a year, 2023 through 2027, based on its rule and regulation agency number, to submit such a report. The bill then requires subsequent agency reviews at five-year intervals.

Aging and Disability Services, Department for

HB 2703 creates the Kansas Targeted Employment Act and provides tax credits for employing individuals with developmental disability under certain circumstances. The bill directs the Secretary for Aging and Disability Services to develop and implement a program to measure the results of the tax credits and analyze the employment of individuals with developmental disabilities, their quality of life while employed, and the impact upon taxpayer savings and government programs. The Secretary for Aging and Disability Services and the Secretary of Revenue are authorized to adopt rules and regulations necessary to administer the bill.

SB 19 enacts the Living, Investing in Values and Ending Suicide (LIVES) Act and implements the 988 Suicide Prevention and Mental Health Crisis Hotline. The bill outlines responsibilities of the Department for Aging and Disability Services regarding these crisis services, including adopting rules and regulations to implement the LIVES Act.

Agriculture, Department of

HB 2559 amends the Commercial Industrial Hemp Act to reflect the ending of the Industrial Hemp Research Program. [*Note: Kansas operates a U.S. Department of Agriculture-approved commercial industrial hemp production program.*] It requires the Department of Agriculture to establish, by rules and regulations, the Industrial Hemp Advisory Board as part of the Commercial Industrial Hemp Program, replacing similar language that had been applicable

to the former Industrial Hemp Research Program. The bill adds “standards for authorized seed or clone plants” to the list of topics for rules and regulations.

HB 2559 also authorizes the Department of Agriculture to provide industrial hemp testing services to non-licensed persons or governmental entities, including law enforcement agencies, when testing capacity is available and not required for testing industrial hemp produced by Kansas licensees. It authorizes the Secretary of Agriculture to establish a fee schedule in rules and regulations for such testing.

Commerce, Department of

House Sub. for SB 347 establishes the Attracting Powerful Economic Expansion (APEX) Program to attract large capital investments by businesses to Kansas and to encourage a Kansas-based supply chain for such large enterprises. The bill states the Secretary of Commerce or the Secretary of Revenue may adopt rules and regulations to implement this act.

Corporation Commission, Kansas

HB 2329 modifies the list of entities that are subject to Kansas Corporation Commission rules and regulations adopted to ensure conformity with the federal Natural Gas Pipeline Safety Act (Act). The bill makes subject to such rules and regulations operators of “gathering lines,” or pipelines transporting gas from a current production facility to a transmission line or main, provided that such operators are regulated by the Act, and removes an exclusion for farming or activities associated with the production of oil or gas.

Deaf and Hard of Hearing, Commission for the

SB 62 requires registration of sign language interpreters and that those interpreters meet credential requirements of the Commission for the Deaf and Hard of Hearing (CDHH). The bill requires the CDHH to adopt necessary rules and regulations on topics including, but not limited to, fees, categories of interpreter certification and interpreter endorsements, continuing education, a code of professional conduct, supervision and mentorship requirements, and suspension or revocation of interpreter registration.

Development Finance Authority, Kansas

HB 2237 enacts the Kansas Housing Investor Tax Credit Act (HITCA), to facilitate investment in suitable housing that will support the growth of communities lacking housing and the development and expansion of businesses. The bill authorizes the Director of Housing of the Kansas Development Finance Authority to issue tax credits to qualified investors who make cash investments in qualified housing projects, and to project builders and developers. The bill requires the Director of Housing to adopt rules and regulations as necessary to implement HITCA, and authorizes the Secretary of Revenue to adopt rules and regulations as necessary to implement and administer HITCA.

Education, State Department of

SB 215 authorizes a school district to contract with a transportation network company to transport no more than eight people to and from school or school-related activities. The bill specifies the contract between the school district and the transportation network company shall

exclusively governing the services provided, and rules and regulations of the State Board of Education will not apply.

Fire Marshal, State

HB 2005 enacts the Elevator Safety Act and requires the State Fire Marshal to adopt rules and regulations by January 1, 2023, to implement and enforce the Act. [Note: The deadline was amended to January 1, 2025, in 2024 House Sub. for SB 143.] The rules and regulations are to be based on generally accepted national engineering standards, including, at a minimum, the American Society of Mechanical Engineers safety code for elevators and escalators and the safety standards for wind turbine tower elevators. The bill requires the rules and regulations to include operation, maintenance, servicing, construction, alteration, and installation of elevators; requirements and qualifications for licensure as provided in the bill, including initial and renewal requirements and emergency and temporary license issuance; requirements for permit and certificate of operation issuance; requirements for registration of elevators; and standards for granting exceptions and variances from the rules and regulations of the Elevator Safety Act and municipal ordinances. The bill establishes the Elevator Safety Advisory Board, consisting of 11 members, for the purpose of advising the State Fire Marshal and making recommendations regarding rules and regulations necessary for the Act.

Healing Arts, State Board of

SB 440 authorizes occupational therapists to provide limited services to patients without referral from a health care provider and amends the Occupational Therapy Practice Act. It requires licensed occupational therapists actively practicing in the state to maintain professional liability insurance coverage as a condition of rendering professional occupational therapy services. The bill requires the State Board of Healing Arts to determine the minimum level of coverage for such insurance through rules and regulations. (Corresponding rules and regulations were heard at the February 10, 2023, meeting.)

Highway Patrol

SB 313 permits operation of driverless-capable vehicles without a human driver with the automated driving system engaged under certain circumstances. The bill states automated driving systems (ADSs) and ADS-equipped vehicles shall be regulated by the Kansas Highway Patrol (KHP). It authorizes the superintendent of the KHP to adopt rules and regulations to implement all new sections of the bill specifying requirements for ADSs and ADS-equipped vehicles.

HB 2377 transfers oversight of state certification of ignition interlock device manufacturers and service providers from the Department of Revenue to the KHP. The bill deems current rules and regulations on this subject (KAR 92-56-1 *et seq.*) to be rules and regulations of the KHP.

Historical Society, State

HB 2237 creates the Historic Kansas Act, which modifies and establishes certain tax credits for older commercial structures in the state. It establishes, for tax years starting after December 31, 2021, an income, premium, or privilege tax credit of 10 percent of costs and expenses for the restoration and preservation of a commercial structure at least 50 years old that does not receive the Historic Structures Tax Credit. The bill authorizes the Director of

Taxation to adopt rules and regulations necessary for administration of these provisions. The bill also authorizes the Executive Director of the Kansas State Historical Society to adopt rules and regulations necessary to administer the Historic Structures Tax Credit, which is amended by the bill.

Housing Resources Corporation, Kansas

HB 2237 includes the Kansas Affordable Housing Tax Credit Act (AHTCA), which authorizes a tax credit to be claimed against the applicable income, privilege, or premium tax, starting in tax year 2023. The tax credit will be for each qualified development (as defined by the bill) for each year of the credit period in an amount equal to the federal tax credit allocated or allowed by the Kansas Housing Resources Corporation (KHRC) to such qualified development. The bill authorizes the KHRC and the Director of Taxation, Department of Revenue, in consultation with each other, to promulgate rules and regulations necessary to administer the AHTCA.

HB 2237 also enacts the Kansas Rural Home Loan Guarantee Act, to be administered by the KHRC. The bill establishes loan guarantees for construction or renovation of single-family homes in rural counties. The bill requires the KHRC to administer these provisions and to adopt rules and regulations to implement or administer these provisions, including the development of an application process.

Insurance, Commissioner of

House Sub. for SB 28 enacts the Pharmacy Benefits Manager Licensure Act and requires licensure, rather than registration, of pharmacy benefits managers. The bill amends portions of law formerly known as the Pharmacy Benefits Registration Act. Added to rule and regulation authority was a requirement for the Commissioner of Insurance to adopt, amend, and revoke necessary rules and regulations by July 1, 2023. Continuing law requires the rules and regulations to address, but not be limited to, the content of the application or any other form or report required to implement pharmacy benefits manager licensure. (Corresponding rules and regulations were heard at the July 10, 2023, meeting.)

SB 448 amends state Unfair Trade Practices Law with language from the National Association of Insurance Commissioners (NAIC) Unfair Trade Practices Model Law to exempt the certain activities from practices considered as unfair and deceptive acts or practices pertaining to unfair discrimination and rebates. The bill authorizes the Commissioner of Insurance to adopt rules and regulations regarding the permitted practices to ensure consumer protection and permits those rules and regulations to be on topics including, but not limited to, consumer data protections and privacy, consumer disclosure, and unfair discrimination. (Corresponding rules and regulations were heard at the April 25, 2023, meeting.)

Lottery

House Sub. for Sub. for SB 84 directs the Kansas Lottery, upon recommendation of its Executive Director, to adopt rules and regulations governing the operation of sports wagering. The bill requires the permanent or temporary rules and regulations to include, but not be limited to, provisions regarding management contracts for sports wagering conducted by lottery gaming facility managers, provisions for the confidentiality of information submitted by an interactive sports wagering platform and lottery gaming facility managers, and provisions ensuring the integrity of sports wagering in Kansas.

House Sub. for Sub. for SB 84 also directs the Executive Director of the Kansas Lottery to adopt rules and regulations regarding the advertisement of sports wagering by January 1, 2023. The bill specifies the rules and regulations are to address, but not be limited to, ensuring advertisements do not target children, other persons ineligible to place wagers, problem gamblers, or other vulnerable persons; limiting the form, content, quantity, timing, and location of advertisements; requiring disclosure in the advertisements of the identity of the lottery gaming facility manager; requiring a toll-free number for information and referral services for compulsive and problem gambling; and prohibiting false, misleading, or deceptive advertisements.

Nursing, State Board of

Senate Sub. for HB 2279 amends the Kansas Nurse Practice Act governing the licensure of advanced practice registered nurses (APRNs) to, among other things, allow an APRN to prescribe drugs without a written protocol as authorized by a responsible physician, require an APRN to maintain malpractice insurance, and require national certification for initial licensure as an APRN. The bill specifies that rules and regulations of the State Board of Nursing must be consistent with these provisions.

Racing and Gaming Commission

House Sub. for Sub. for SB 84 authorizes the Kansas Racing and Gaming Commission (KRGCC) to adopt temporary rules and regulations without being subject to the provisions of the Rules and Regulations Filing Act but requires approval of those rules and regulations from the Attorney General, filing with the Secretary of State, and publication in the *Kansas Register*. It sets January 1, 2023, as a deadline for the KRGCC to adopt permanent rules and regulations to implement the amendments to the Kansas Expanded Lottery Act.

House Sub. for Sub. for SB 84 also authorizes wagering on historical horse races and requires the KRGCC to adopt rules and regulations by January 1, 2023, to implement and enforce those provisions.

Regents, State Board of

Sub. for HB 2466 establishes the Computer Science Educator Program to promote the advancement of computer science licensed and pre-service teacher preparation in Kansas. The bill authorizes the State Board of Regents (KBOR) to provide scholarships, not to exceed \$1,000 for each recipient, to pre-service teachers working toward a degree in elementary or secondary education and to licensed teachers who complete one course in computer science while enrolled in a state educational institution, community college, or certain not-for-profit institution of postsecondary education. The bill requires the KBOR to prioritize for scholarships candidates from underrepresented groups and candidates who agree to teach computer science in rural schools and in schools with higher percentages of students from underrepresented groups. The bill authorizes the KBOR to coordinate with postsecondary educational institutions to develop pathways in computer science education for pre-service teachers to obtain a certification to teach computer science. The bill requires the KBOR to adopt rules and regulations necessary to implement the Program, including requirements for scholarship eligibility and applications.

Senate Sub. for HB 2567 changes the date by which the State Board of Regents is directed to adopt rules and regulations for the Kansas Promise Scholarship Program from

March 1, 2022, to March 1, 2023. (Corresponding rules and regulations were heard at the December 13, 2022, meeting.)

Revenue, Department of

SB 215 transfers responsibility for conduct, operation, and approval of courses in motorcycle safety and for the qualifications of instructors for such courses conducted by a community college from the State Board of Regents to the Department of Revenue, and it authorizes the Department of Revenue to establish those standards by public declaration of the Director of Vehicles as well as through rules and regulations.

House Sub. for SB 347 establishes the Attracting Powerful Economic Expansion (APEX) Program to attract large capital investments by businesses to Kansas and to encourage a Kansas-based supply chain for such large enterprises. The bill states the Secretary of Commerce or the Secretary of Revenue may adopt rules and regulations to implement this act.

HB 2136 authorizes the Secretary of Revenue to adopt rules and regulations as necessary to implement provisions of the COVID-19 Retail Storefront Property Tax Relief Act, which provides claims for refunds to be paid for tax years 2020 and 2021 for certain claimants that were operationally shut down or restricted at their retail storefront by a COVID-19-related order or action imposed by the State, a local unit of government, or a local health officer.

HB 2237 enacts the Kansas Affordable Housing Tax Credit Act (AHTCA), which authorizes a tax credit to be claimed against the applicable income, privilege, or premium tax, starting in tax year 2023. The tax credit will be for each qualified development (as defined by the bill) for each year of the credit period in an amount equal to the federal tax credit allocated or allowed by the Kansas Housing Resources Corporation (KHRC) to such qualified development. The bill authorizes the KHRC and the Director of Taxation, Department of Revenue, in consultation with each other, to promulgate rules and regulations necessary to administer the AHTCA.

HB 2237 also enacts the Kansas Housing Investor Tax Credit Act (HITCA), to facilitate investment in suitable housing that will support the growth of communities lacking housing and the development and expansion of businesses. The bill authorizes the Director of Housing of the Kansas Development Finance Authority to issue tax credits to qualified investors who make cash investments in qualified housing projects, and to project builders and developers. The bill requires the Director of Housing to adopt rules and regulations as necessary to implement HITCA, and authorizes the Secretary of Revenue to adopt rules and regulations as necessary to implement and administer HITCA.

HB 2237 also creates the Historic Kansas Act, which modifies and establishes certain tax credits for older commercial structures in the state. It establishes, for tax years starting after December 31, 2021, an income, premium, or privilege tax credit of 10 percent of costs and expenses for the restoration and preservation of a commercial structure at least 50 years old that does not receive the Historic Structures Tax Credit. The bill authorizes the Director of Taxation to adopt rules and regulations necessary for administration of these provisions. The bill also authorizes the Executive Director of the Kansas State Historical Society to adopt rules and regulations necessary to administer the Historic Structures Tax Credit, which is amended by the bill.

Senate Sub. for HB 2239 establishes income tax credits related to aerospace and aviation studies for certain employers and employees: for employers for specified portions of tuition paid to a full-time qualified employee, for employers for a percentage of compensation paid to qualified employees for up to five years, and for employees who become qualified

employees during the taxable year. The bill authorizes the Secretary of Revenue to adopt rules and regulations to implement and administer these provisions.

Senate Sub. for HB 2239 also creates an income tax credit for any Class II or Class III railroad or any owner or lessee of rail siding adjacent to a Class II or Class III railroad for tax years 2022 through 2031 for certain track maintenance expenditures. The bill authorizes the Secretary of Revenue and Secretary of Transportation to adopt rules and regulations to administer the credit and verify the eligibility of taxpayer expenditures for purposes of the credit.

Senate Sub. for HB 2239 also enacts the SALT [State and Local Tax] Parity Act, providing certain pass-through entities with the option of paying state income taxes at the entity level rather than being paid by the individual owners of the pass-through entities starting in tax year 2022. The bill authorizes the Secretary of Revenue to adopt rules and regulations necessary to implement the SALT Parity Act and to require electing entities to furnish information necessary to implement the Act.

HB 2377 amends the statute governing disqualification from driving a commercial motor vehicle for certain offenses. It replaces a provision allowing the Secretary of Revenue to adopt rules and regulations establishing guidelines under which a second offense lifetime disqualification may be reduced to a period of not less than ten years with a provision requiring any person with a second offense lifetime disqualification to apply in writing to the Division of Vehicles. The bill requires the Secretary of Revenue to adopt rules and regulations necessary to administer the new procedure by March 1, 2023.

HB 2377 authorizes a person whose license is restricted to operating only a motor vehicle with an ignition interlock device to request reduced ignition interlock device program costs by submitting a request to the Division of Vehicles. The bill requires the Secretary of Revenue to adopt rules and regulations regarding the requirements and guidelines for receiving reduced costs prior to March 1, 2023. The bill also transfers oversight of ignition interlock device manufacturers and services providers from the Department of Revenue to the Kansas Highway Patrol.

HB 2703 creates the Kansas Targeted Employment Act and provides tax credits for employing individuals with developmental disability under certain circumstances. The bill directs the Secretary for Aging and Disability Services to develop and implement a program to measure the results of the tax credits and analyze the employment of individuals with developmental disabilities, their quality of life while employed, and the impact upon taxpayer savings and government programs. The Secretary for Aging and Disability Services and the Secretary of Revenue are authorized to adopt rules and regulations necessary to administer the bill.

Secretary of State

Senate Sub. for HB 2138 creates an election audit procedure to be conducted by the Secretary of State in the calendar year following the general election in an even-numbered year, in four counties chosen at random within specified categories. The bill requires the Secretary to adopt rules and regulations necessary to implement the audits, including specifying the specific records and procedures to be examined. (Corresponding rules and regulations were heard at the March 15, 2024, meeting.)

Senate Sub. for HB 2138 also requires all voting systems in Kansas to use a paper ballot with a distinctive watermark and provide the voter an opportunity to correct any error on the paper ballot before it is secured and preserved. It also requires each paper ballot to be

counted by hand in a recount unless the recount requestor chooses not to have them counted by hand, and it prohibits the use of poll books not requiring a hand-written signature. The bill requires the Secretary to adopt rules and regulations to implement these provisions by January 1, 2023. (Corresponding rules and regulations were heard at the February 10, 2023, meeting.)

Senate Sub. for HB 2138 also authorizes the Secretary of State to adopt rules and regulations for the use of electronic poll books to process voters at polling places. (Corresponding rules and regulations were heard at the February 10, 2023, meeting.)

Sentencing Commission

SB 408 transfers provider certification duties for certified drug abuse treatment programs (SB 123 programs) for drug offenders or divertees from the Kansas Department of Corrections to the Kansas Sentencing Commission.

Transportation, Department of

Senate Sub. for HB 2239 creates an income tax credit for any Class II or Class III railroad or any owner or lessee of rail siding adjacent to a Class II or Class III railroad for tax years 2022 through 2031 for certain track maintenance expenditures. The bill authorizes the Secretary of Revenue and Secretary of Transportation to adopt rules and regulations to administer the credit and verify the eligibility of taxpayer expenditures for purposes of the credit.

**REPORT OF THE OVERSIGHT ACTIVITIES OF THE
JOINT COMMITTEE ON ADMINISTRATIVE RULES AND REGULATIONS
July 2020 through June 2021**

From July 2020 through June 2021, the Joint Committee on Administrative Rules and Regulations (JCARR or Committee) reviewed proposed rules and regulations of 25 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 KSA 77-436, the Committee met seven times. Meeting dates at which proposed rules and regulations were heard, the state agencies appearing before the Committee, and the main topics of the proposed rules and regulations are included in the following table. For each meeting, staff provided the statutory language authorizing the proposed rules and regulations and the text of each rule and regulation proposed for revocation.

JCARR Meeting Dates, Agency Appearances, and Regulation Topics, July 2020 – June 2021							
Agency	August 10, 2020	October 5, 2020	December 2, 2020	January 8, 2021	February 22, 2021	March 26, 2021	May 5, 2021
Administration							Mileage rates
Agriculture		Animal health	Commercial industrial hemp	Noxious weed management			
Agriculture – Conservation					Conservation payments		
Attorney General	Open meetings; Scrap metal dealers						
Bank Commissioner				Mortgage business fees			
Barbering		Advisory opinions					
Corporation Commission		Motor carrier hours of service	Motor carrier fees				
Cosmetology		Credit hours					
Fire Marshal						Processing industrial hemp ⁽¹⁾	
Healing Arts	Examination requirements; Acupuncturists		Resident active licenses	Licensing	Continuing education, pain management		Continuing education
Health and Environment	Contact tracing	Air quality		Emergency planning and right to know			Animal waste
Health and Environment – Health Care Finance		Home and community-based services					
Human Rights			Various updates				
Insurance			Reporting forms				
Real Estate Appraisal						Professional practice standards	
Real Estate Commission				Records			

JCARR Meeting Dates, Agency Appearances, and Regulation Topics, July 2020 – June 2021							
Agency	August 10, 2020	October 5, 2020	December 2, 2020	January 8, 2021	February 22, 2021	March 26, 2021	May 5, 2021
Regents	Voluntary retirement; Student health insurance; Qualified admissions						
Revenue			Sales tax				
Secretary of State				Vote centers			
State Employee Health Care							Eligibility for benefits
Technical Professions	Professional practice; Continuing education				Surveying professional practice standards		
Transportation		Escort vehicle service providers					
Wildlife, Parks and Tourism	Furbearers and fur dealers; Falconry	Special permits; Fees; Wild turkey hunting; Fishing			Deer management units; Deer season and permits; Hunting rabbits; Vehicle permits		Hunting of game birds, big game, prairie chickens, quail; Restrictions

⁽¹⁾ Not all of the proposed rules and regulations presented had been published as final as of July 1, 2025.

Comments to Agencies

After each proposed rule and regulation was reviewed, the Committee expressed comments it deemed appropriate, including commendations, and reported its comments to the Legislature; 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; those comments and responses are available for public inspection.

Committee concerns are summarized below, by general topic. A summary of the agency’s response, if the response was received by the deadline for this report, is summarized in parentheses.

Agency Authority

Attorney General, open meetings during a declared emergency, August 10, 2020. The Committee requested the specific authority for provisions stating “Nothing in this regulation shall require any public body or agency to take action to prevent any member of the public from physically attending any public meeting.” (The agency responded provisions of the Kansas Open Meetings Act require all meetings for the conduct of governmental affairs and the transaction of governmental business be open to the public. It stated the provision clarifies the rule and regulation does not require the use of a medium for interactive communication in place of allowing members of the public to physically attend a meeting.)

Kansas Human Rights Commission, various updates, December 2, 2020. The Committee requested the agency provide the legal authority, whether statute, case law, or other authority, that authorizes dismissal of an amended complaint or a supplement to a complaint that would change or add a protected category different from that alleged in the initial complaint, except within the time period for filing a new complaint. (The agency provided information on cases, federal laws administered by the Equal Employment Opportunity Commission, and the Kansas Act Against Discrimination [KSA 44-1001 *et seq.*]. The cases cited include *Beech Aircraft Corp. v. Kansas Human Rights Commission*, 254 Kan. 270 [1993]; *Moraga v. Ashcroft*, 110 Fed. Appx. 55 [10th Cir. 2004]; and *Doerge v. Crum's Enterprises, Inc.*, 05-1019-JTM [D. Kan. May 31, 20].)

Department of Agriculture, noxious weeds, January 8, 2021. The Committee requested additional information on the reason for the change in the rule and regulation to require a county, city, township, or district to hire its weed supervisor as an employee rather than employ the weed supervisor as an independent contractor and to prohibit renewal or extension of an independent contractor's contract. (The agency responded KSA 2-1316 requires each board of county commissioners to employ a county weed supervisor and does not specify the employment status. It notes the Noxious Weed Act [Act] also grants broad authority to the Secretary of Agriculture to carry out the provisions of the Act. The agency stated county representatives had expressed support for this requirement and the change would ensure greater accountability in those positions and more effective enforcement of the Act.)

State Bank Commissioner, mortgage business fees, January 8, 2021. The Committee requested the agency explain its interpretation of law (including KSA 9-2203(a)) to allow remote work by a loan originator. (The agency stated it interprets "at" and "from" in KSA 9-2203 to relate to oversight and not to actual presence of employees in the office, and the agency provides oversight through oversight of the offices, which in turn oversee the employees of those offices. It planned to meet with industry to discuss possible statutory clarification.)

Compliments

State Board of Regents, annuity program, August 10, 2020. The Committee expressed its appreciation for revocation of unnecessary rules and regulations.

Kansas Human Rights Commission, various updates, December 2, 2020. The Committee commended the agency for undertaking a comprehensive update of its rules and regulations and encouraged proceeding with the update with all deliberate speed.

Department of Agriculture, noxious weeds, January 8, 2021. The Committee thanked the agency's representative for her thorough review of the proposed rules and regulations and the additional information provided on the topics the rules and regulations address.

Secretary of State, vote centers, January 8, 2021. The Committee thanked the Secretary of State and local election officials, including those who worked in the polling places, for their work in conducting free, fair, and transparent elections in Kansas in 2020.

State Fire Marshal, hemp processing, March 26, 2021. The Committee expressed its appreciation to the agency for reaching out to the industry, visiting industry facilities, and proposing further changes to the proposed rules and regulations based on industry suggestions

to lessen the impact to the industry. The Committee thanked the agency for its plans to provide specific information on subsequent changes to these rules and regulations.

Information Requests

Kansas Department of Wildlife, Parks and Tourism, hunting of furbearers, August 10, 2020. The Committee requested information on the safety of hunting using artificial light, scopes and equipment that amplify visible light, thermal-imaging scopes, and other equipment. (The agency provided information on similar provisions in 14 Midwest and Plains states including equipment allowed, species for which the equipment could be used, and firearms restrictions. Its response stated there is no indication the risk associated with using the equipment of concern exceeds that of other types of hunting. The agency noted statutes specifically allow use of this equipment in cases of wildlife damage and for wildlife control.)

Kansas Department of Wildlife, Parks and Tourism, falconry, August 10, 2020. The Committee requested additional information about legal responsibilities assigned to parents and guardians in KAR 115-14-12, including the origin of the provision and case law. (The agency responded that the federal government is the primary regulator with regard to raptors and migratory birds, state programs can be no less restrictive than federal law, and federal regulations require a signature on the application and legal responsibility of a parent or legal guardian for an apprentice falconer ages 12 through 17. The agency stated it found no case law on this topic. The agency noted 70 falconry permits were issued and renewed in 2020 and 1 individual younger than age 18 had a permit.)

Department of Agriculture, noxious weeds, January 8, 2021. The Committee suggested clarification that more stringent control efforts could be applied to noxious weeds in categories B and C, at the direction of local officials, and it requested information on how noxious weeds were categorized. (The agency provided information on the classification system, which is based on the size of the weed population and its distribution within the state and weighs the threat to agricultural production against costs to local entities and individual producers. It stated the agency believes the rule and regulation strikes an appropriate balance among cost, available resources, and the protection of property from the spread of noxious weeds by requiring noxious weeds to be managed using the Department's approved control methods and provides flexibility for local entities.)

Board of Technical Professions, providing a transcript, August 10, 2020. The Committee requested information on the agency's procedures and requirements regarding transcripts when the educational institution has ceased operations and cannot itself provide a transcript. (The agency replied applicants can themselves provide a copy of their transcript or other proof of attendance and the obtaining of the required degree to the agency for the agency's approval.)

Department of Health and Environment, contact tracing, August 10, 2020. The Committee requested information on the data points collected about each contact and scripts used by contact tracers at the agency and at major health departments across the state. It asked how these scripts vary from scripts used for contact tracing for other infectious diseases and how a person contacted gives consent for participating in COVID-19 contact tracing. (The agency provided a copy of the script, including the data points, and stated it includes consent and was similar to scripts used for other infectious and contagious diseases.)

Department of Health and Environment, contact tracing, August 10, 2020. The Committee requested specific information on the security of data collected by contact tracers, such as types of protections of the data and where the data were stored. It noted authorization for COVID-19 contact tracing would expire May 1, 2021, and asked how the agency would ensure no personal data related to COVID-19 would be retained. (The agency responded data collected by contact tracers were populated in EpiTrax, the agency disease surveillance system, and in the Salesforce Contact Tracing system, both hosted in cloud environments managed by vendors. It provided information on the selection of those products. It stated all data were stored in an encrypted format, all data remained the property of the agency, and contract provisions ensure the agency retains control of the data for future use or destruction.)

Department of Agriculture, industrial hemp, December 2, 2020. The Committee requested information on how the required distances between specified hemp-related activities and certain types of structures in proposed KAR 4-34-27 were determined. (The agency responded it sought to prevent situations in which an odor from a hemp field might attract children or in which children might be exposed to THC if the crop's THC level exceeded limits. It also described its considerations in determining a distance from residential structures, including the likelihood of large numbers of children nearby, dangers associated with hemp processing, and knowledge that many new hemp producers will have only modest areas of land available to them. It noted a rule and regulation allows for a modification of the distance requirements upon request to the Secretary.)

Department of Revenue, retail sales tax, December 2, 2020. The Committee requested more detailed information on what the agency sought to achieve with the proposed changes to the retailers' sales tax rules and regulations. (The agency stated it sought revocation of the two rules and regulations in order to immediately establish policy to extend the exemption for isolated or occasional sale to all persons, not-for-profit organizations, and religious organizations conducting a multi-day or regularly scheduled annual annual sale event within a calendar year or more than one sales event per calendar year. It noted the rules and regulations being revoked had limited the sales tax exemption to sales that were not recurring, regardless of whether such sales were infrequent, and to nonprofit organizations that were religious organizations.)

State Bank Commissioner, mortgage business fees, January 8, 2021. The Committee requested additional information about how the amount of the increase in the application fee for renewal of registration as a loan originator had been determined. It also requested information on the balance of the Bank Commissioner Fee Fund: the estimated year-end balance, the trend in the year-end balance over at least the previous five years, and the estimate of the amount needed in that fund. (The agency stated the fee was determined after communications with the mortgage industry, which the agency stated is evolving to downsize branch offices and shift to remote offices. The agency stated it was aiming for neutral fiscal impact between branch location fees and mortgage loan originator fees. It provided information on the fee fund balance for FY 2015 through FY 2021.)

Secretary of State, vote centers, January 8, 2021. The Committee requested clarification as to whether a county that submits a plan for vote centers could receive approval for that plan from the Secretary of State in time for vote centers to be available for use in the 2021 primary elections, as the proposed rule and regulation required the plan to be submitted at least six months before implementation. (The agency responded the Secretary had provided draft regulatory language to county election officials in 2020 and, to date, had not received any plans but had been notified one county might submit a plan. The agency noted many counties will not have a primary municipal election.)

Secretary of State, vote centers, January 8, 2021. The Committee requested information on the specific procedures used to certify electronic voting machines at the state and county levels and to verify votes from electronic voting machines. It also requested the number of voting machines in Kansas that do not provide paper verification of the individual voter's votes. (The agency responded only the State certifies voting equipment, and counties may use only state-certified equipment. It stated it was aware of 52 voting machines that as of the date of the response did not provide paper verification on individual votes. It provided an attachment regarding certification.)

State Fire Marshal, hemp processing, March 26, 2021. The Committee expressed concerns that costs related to these rules and regulations could exceed \$3.0 million. It asked the agency to provide information on known specific costs, such as costs to industry for saving recordings from required video surveillance systems and meeting requirements of fire and safety codes and costs to the agency for testing product samples, background checks, and reviewing and recording information provided by the industry. (The agency provided detailed information on costs for security video systems, sprinkler and alarm systems, code compliance [noting local codes could alter those costs], and background checks. It stated video retention time had been reduced to 14 days and the video could be motion-activated, saving on file storage space and costs, after consultation with industry. The response noted amendments to KSA 2-3907 and KSA 31-136 allow the agency to grant exceptions if a processor demonstrates an unnecessary hardship.)

State Employees Health Care Commission, waiting periods for health insurance coverage, May 5, 2021. The Committee requested cost figures for each of the groups covered by the state employee health benefit plan, with specific information on the numbers used and the calculations made. (The agency stated it had worked with the health plan's actuarial consulting agency and, separately, with the Human Resource Department of the Department of Administration to analyze potential costs to the State. It listed factors taken into consideration and provided cost figures. It also provided information on such policies among private employers surveyed by the Kaiser Foundation.)

Information Requests: Numbers and Statistics

State Board of Regents, qualified admissions, August 10, 2020. The Committee requested information on the numbers of students rejected for admission, resident and nonresident separately, with numbers provided specifically for the University of Kansas. (The agency provided the requested statistics and provided a link to its annual report on exceptions to the minimum admission standards at state universities.)

Attorney General, scrap metal dealers, August 10, 2020. The Committee requested a list of the scrap metal dealers who paid the annual scrap metal dealer registration fee or any fees associated with a criminal history background check, such as fees for fingerprinting. The Committee also requested information on the amounts paid by each registrant. (The agency provided lists of scrap metal dealers registered in 2016 and 2017, before the registration requirement was suspended. It stated fees for background checks were included in the \$1,000 registration, which was paid by all but one of the listed registrants [which did not submit the entire amount]. The agency stated fees associated with having fingerprints taken would have been collected by the law enforcement agency that took the fingerprints and it had no record of those fees.)

Board of Technical Professions, number and age of surveyors, August 10, 2020.

The Committee requested information on the numbers of surveyors and their average age. (The agency responded there were 616 licensed surveyors, and their average age was 58 years old.)

Department of Health and Environment, contact tracing, August 10, 2020.

The Committee requested information on then-current numbers of contact tracers, paid, under contract, or volunteer and the numbers the agency and the local health agencies planned to hire in response to the COVID-19 pandemic. It also asked what background checks are required for contact tracers. (The agency responded it had 12 contact tracers plus 1 supervisor, which were contract positions, and background checks were conducted by the contractor.)

Kansas Board of Barbering, disqualifying convictions, October 5, 2020.

The Committee asked how many license or permit applications for applicants with civil or criminal records the Board had reviewed and how many of those applicants were approved for a license or permit. (The agency responded it had reviewed 40 completed applications for review of criminal history since amendments to KSA 74-120 became effective in July 2018 and approved 34. It provided information on the individuals denied approval and its efforts to train and license incarcerated or formerly incarcerated individuals who have been rehabilitated.)

Promulgation Process

Board of Technical Professions, licensing, August 10, 2020.

The Committee requested information more specific than that provided in the Economic Impact Statement about the agency's consultation with associations or members of the professions when developing the changes to rules and regulations. (The agency responded the Board had appointed a committee of Board members from each profession to study and create the regulation changes, and formulation of the changes was a multiyear process. It stated committee members and other Board members are active in their state and national professional organizations, and changes were presented to and discussed by those organizations.)

Department of Transportation, escort vehicles, October 5, 2020.

The Committee requested information on the states from which Kansas will accept escort vehicle operator training certification and the states on whose rules and regulations the Kansas proposed rules and regulations were based. (The agency stated it accepts escort vehicle training certification approved by ten states: Arizona, Colorado, Florida, Georgia, Minnesota, North Carolina, Oklahoma, Utah, Virginia, and Washington. The agency responded it reviewed Federal Highway Administration best practices guidelines and training materials and escort vehicle regulations adopted by states including Colorado, Minnesota, Utah, and Washington. It described aspects of other states' regulations that are more restrictive than those proposed for Kansas.)

Kansas Human Rights Commission, various updates, December 2, 2020.

The Committee suggested listing entities that had been consulted in the development of the rules and regulations in the Economic Impact Statement, to provide evidence of compliance with requirements in KSA 77-416(b)(2) for the agency to "consult and solicit information from businesses, business associations, local governmental units, state agencies or institutions and members of the public that may be affected by the proposed rule and regulation or that may provide relevant information." (The agency provided a list of 13 organizations to which an email had been sent soliciting input regarding, and inviting responses to, the proposed rules and regulations. It stated the email had included the proposed changes to the rules and regulations and other information, including how to participate in the public hearing.)

State Board of Healing Arts, resident active license, December 2, 2020. The Committee recommended withdrawing the proposed rule and regulation until it could be presented with a package of related rules and regulations. (The agency replied it had not intended to communicate that it would be appropriate to withdraw the proposed rule and regulation but that the rule and regulation presented would be discussed in context with upcoming proposed rules and regulations. It stated it holds open the public comment period until the Board considers formal adoption of a rule and regulation, so that all comments received prior to formal adoption will be considered by the Board. It also reviewed the legislative history of a resident active license, the type of license affected by the rule and regulation.)

Program Concerns

Department of Agriculture, noxious weeds, January 8, 2021. The Committee requested the agency make available on its website annual weed eradication reports required by the rule and regulation and suggested information from the annual weed eradication progress reports be summarized in the agency's overall annual report. (The agency responded it would post the annual reports and summarize the annual weed eradication progress reports in its overall annual report.)

Subcommittee on Occupational Licensing

A three-member Subcommittee on Occupational Licensing was appointed at the October 2020 meeting to investigate rules and regulations that impede the employment of individuals who have completed their criminal sentences. The Subcommittee presented the following conclusions and recommendations to the Committee at its January 2021 meeting:

- The Subcommittee recommends legislative review of the agencies listed in KSA 74-120(c) as exempt from requirements of KSA 74-120(b) to revise existing requirements to list the specific civil and criminal records that could disqualify an applicant from receiving a license, certification, or registration. The Subcommittee further recommends legislative review of the entities included in the definition of "municipality" referenced in KSA 74-120(c). [Note: 2021 HB 2370 would address this topic.]
- The Subcommittee recommends the State seek additional opportunities for entering into interstate compacts that would ease qualifying for a license, certification, or registration in Kansas while maintaining standards appropriate for Kansas for qualifications including training, education, and experience.
- The Subcommittee urges state agencies to specifically ensure qualified military spouses are able to obtain licensure, certification, or registration in Kansas and the Legislature to monitor those efforts. [Note: See amendments to KSA 48-3406 enacted in 2021 Sub. for HB 2066.]
- The Subcommittee urges agency and legislative review of qualifications and procedures for any license, certification, or registration to ensure these qualifications and procedures do not have the effect of disqualifying applicants for reasons, such as race, that are not *bona fide* qualifications for the occupation or profession.

- The Subcommittee recommends legislators review the report of the Council of State Governments Justice Center concerning occupational licensing barriers for justice-involved persons reentering society.
- The Subcommittee recommends legislators review the 2018 Arizona Right to Earn a Living Act (SB 1437), which specifies certain rights of individuals to seek review of rules and regulations that burden entry to or participation in an occupation, profession, or trade.

Legislation Affecting Rule and Regulation Authority

Of the 116 bills enacted in 2021, 24 contained provisions authorizing, requiring, moving, or clarifying authority for state agency rules and regulations. The following section summarizes those statutory changes plus a change in responsibility directed by the Governor using an executive reorganization order (ERO). 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 2021 *Summary of Legislation*, available from the Kansas Legislative Research Department. A table listing statutes enacted in 2015 through 2021 that require rules and regulations but that had not been heard by the Committee before July 1, 2021, is included at the end of this report.

All Licensing Agencies

Sub. for HB 2066 amends law to shorten the period of time in which regulatory bodies are required to issue occupational credentials to military service members or military spouses seeking to establish residency in Kansas and provide for expedited credentialing of non-military prospective residents. It applies to licensing bodies except those relevant to the practice of law or the regulation of attorneys. An amendment requires, rather than allows, licensing bodies to adopt rules and regulations necessary to implement changes for licensure of an individual who is a military spouse, military service member, or an individual who has established or intends to establish residency in Kansas. (Corresponding rules and regulations from the State Board of Healing Arts were heard at September 10, 2021, meeting; from the Board of Technical Professions at the November 15, 2021, meeting; and from the Board of Nursing at the January 5, 2022, and July 18, 2022, meetings.)

Aging and Disability Services, Department for

Senate Sub. for HB 2208 requires the Department for Aging and Disability Services to establish a process for certification of and funding for certified community behavioral health clinics in accordance with requirements in the bill. It also states the Secretary for Aging and Disability Services is to adopt rules and regulations as necessary to implement and administer these provisions.

Agriculture, Department of; Division of Conservation

SB 38 changes the procedure for rules and regulations related to grant and protection programs for water quality conservation and practices, such as terraces, ditches, critical area planting, irrigation technology, and soil and grassland health, and for the control and eradication of invasive species. Before proposed rules and regulations are submitted to the Director of the Budget, the Secretary of Administration, and the Attorney General for approval, the bill requires

the Director of the Division of Conservation to submit proposed rules and regulations to the State Conservation Commission for review and recommendations to the Director of the Division of Conservation and the Secretary of Agriculture.

Attorney General

HB 2079 transfers authority for certain rules and regulations and transfers current rules and regulations from the Secretary of State to the Attorney General for administering the Charitable Organizations and Solicitations Act and for the “Safe at Home” program. For the latter, the rules and regulations are to prescribe a renewal procedure for certification as a participant and to prescribe voting procedures to maintain confidentiality of program participants with regard to voting. The bill also requires the Attorney General to adopt rules and regulations prescribing the content, size, and other characteristics of notices the Attorney General determines are appropriate to help and support victims of human trafficking. (Corresponding rules and regulations were heard at the April 26, 2022, meeting.)

Bank Commissioner, State

Senate Sub. for HB 2074 authorizes the State Bank Commissioner to adopt, before January 1, 2022, rules and regulations necessary to administer the Technology-enabled Fiduciary Financial Institutions Act, which the bill creates. The Act is added to the Kansas Banking Code.

Behavioral Sciences Regulatory Board

SB 170 enacts the Psychology Interjurisdictional Compact (PSYPACT) and provides for the interjurisdictional authorization of psychologists across state boundaries to practice telepsychology using telecommunication technologies and provide temporary in-person, face-to-face psychology services. It requires the Behavioral Sciences Regulatory Board to adopt rules and regulations to establish an additional fee, not to exceed \$25, for any person whose home state is Kansas who seeks compact privilege to practice under the PSYPACT. The bill becomes effective January 1, 2022. (Corresponding rules and regulations were heard at the August 21, 2023, meeting.)

Corporation Commission

HB 2022 allows any person who has no obligation to plug, replug, or repair a well to seek reimbursement for plugging a well from the Abandoned Oil and Gas Well Fund, if such well has been abandoned for five or more years. The bill requires the Corporation Commission to promulgate rules and regulations for determining whether, how, and to what extent a request for reimbursement shall be granted.

Fire Marshal, State

HB 2007, an appropriations bill, requires the State Fire Marshal to enter into a memorandum of understanding with the Kansas Department of Agriculture for the State Fire Marshal to assume the authority, powers, and duties granted to the Kansas Department of Agriculture regarding the regulation of hemp processors during fiscal year 2022. It also requires the State Fire Marshal to adopt any rules and regulations relating to the regulation of hemp

processors necessary for the health, welfare, and safety of the public. (Corresponding rules and regulations were heard at the March 26, 2021, meeting.)

HB 2244 amends the Commercial Industrial Hemp Act to transfer registration and regulation of industrial hemp processors from the Kansas Department of Agriculture to the State Fire Marshal. It requires the State Fire Marshal to promulgate rules and regulations on topics including, but not limited to, denial, conditioning, renewal, or revocation of registration; creation of multiple classes of registrations based upon the scope of hemp processing activities of an applicant; security measures; inventory control; maintenance of records; access to and inspection of records and processing facilities by the State Fire Marshal and law enforcement agencies; collection and disposal of any cannabinoids extracted during the processing of industrial hemp that cannot be lawfully sold in Kansas; and transportation of industrial hemp or hemp products. The bill also specifies the State Fire Marshal may grant an exemption from the application of a specific requirement of rules and regulations, upon written request, unless the State Fire Marshal determines that the condition, structure, or activity that is or would be in noncompliance would constitute a distinct hazard to life or property. The request for an exemption must clearly demonstrate that enforcement of a specific requirement will cause unnecessary hardship as determined by the State Fire Marshal. (Corresponding rules and regulations were heard at the March 26, 2021, meeting.)

Health and Environment, Department of

HB 2155 replaces and updates law regarding soil and water pollutant releases and cleanup. The bill requires the Secretary of Health and Environment to adopt rules and regulations that, in the Secretary's judgment, are necessary to respond to and report the release of a pollutant, for the purpose of preventing water and soil pollution detrimental to public health or the environment. (Corresponding rules and regulations were heard at the October 10, 2023, meeting.)

Senate Sub. for HB 2208 enacts the Rural Emergency Hospital Act and creates a category of licensure to enable certain Kansas hospitals to receive federal health care reimbursement as rural emergency hospitals. The bill requires the Secretary of Health and Environment to adopt rules and regulations establishing minimum standards for the establishment and operation of rural emergency hospitals in accordance with provisions of the bill. (Corresponding rules and regulations were heard at the October 10, 2023, meeting.)

Senate Sub. for HB 2208 also establishes the Rural Hospital Innovation Grant Program, for the purpose of strengthening and improving the health care system and increasing access to health care services in eligible counties. The bill states the Secretary of Health and Environment is to adopt rules and regulations necessary to implement and administer the grants.

Highway Patrol, Kansas

SB 36 specifically authorizes the Superintendent of the Kansas Highway Patrol to promulgate rules and regulations regarding vehicle identification number checks performed by employees of new vehicle dealers on certain vehicles acquired by the new vehicle dealers. (Former law had included "in accordance with rules and regulations adopted by" the Superintendent.)

Insurance, Department of

House Sub. for SB 78 removes a requirement that the minimum requirements for net worth, annual revenue, and annual budgeted expenditures of exempt commercial purchases of surplus lines insurance be adjusted and published by the Commissioner of Insurance through rules and regulations. The bill instead requires these adjusted amounts to be published in the *Kansas Register*. [Note: No rules and regulations on this topic had been promulgated.]

The bill also amends the Utilization Review Organization Act to remove the requirement that a utilization review committee provide advice to the Commissioner before the Commissioner adopts rules and regulations that establish standards for the conduct of health care utilization review activities performed by utilization review organizations in Kansas or affecting Kansas residents.

Labor, Department of

Senate Sub. for Sub. for HB 2196 creates the Unemployment Compensation Modernization and Improvement Council and requires the Secretary of Labor, with the assistance of the Council, to adopt rules and regulations creating a uniform process through which an applicant for or a recipient of benefits under the employment security law or an employer may submit a complaint related to the service the applicant, recipient, or employer received. The Council may suggest to the Secretary rules and regulations necessary to implement provisions for an unemployment compensation complaints system.

Senate Sub. for Sub. for HB 2196 also requires a new Department of Labor information technology system to be designed, implemented, and administered by December 31, 2022. The bill states the Secretary of Labor is to adopt rules and regulations necessary to implement these provisions, and such rules and regulations are to be adopted within 12 months of the effective date of the act (*i.e.*, by May 13, 2022).

Pharmacy, State Board of

Sub. for SB 238 authorizes the State Board of Pharmacy to adopt rules and regulations necessary to specify additional criteria for a managing pharmacy and telepharmacy outlet, on topics including, but not limited to, application requirements; structural, security, technology, and equipment requirements; staffing, training, and electronic supervision requirements; inventory record keeping and storage requirements; labeling requirements; establishment of policies and procedures; the number of telepharmacy outlets that may be operated by a supervising pharmacy; use of automated dispensing machines; and criteria for requesting exemptions or waivers from other requirements. (Corresponding rules and regulations were heard at the March 3, 2023, meeting. The agency later notified the Committee that, the day before the scheduled hearing, the Office of the Attorney General stated its intent to rescind approval for the telepharmacy rules and regulations and instructed the agency not to hold that hearing. Corresponding rules and regulations also were heard at the June 20, 2024, meeting.)

Sub. for SB 238 also clarifies registration requirements for a manufacturer or virtual manufacturer and requires the Board to adopt rules and regulations by July 1, 2022, to establish standards and requirements for the issuance and maintenance of a manufacturer and virtual manufacturer registration, including inspections, security, and procedures for compliance with requirements of the Federal Drug Supply Chain Security Act. The bill also states the Board, by rules and regulations, must require personnel employed by a person registered as a manufacturer or virtual manufacturer to have appropriate education or experience to assume responsibility for positions related to compliance with state registration requirements. The bill

also modifies a rule and regulation authorization regarding passing scores on examinations required for licensure as a pharmacist.

Regents, State Board of

SB 64 amends the Private and Out-of-State Postsecondary Education Institution Act to clarify the authority of the State Board of Regents (Board) over certain private and out-of-state institutions. It addresses rules and regulations in three areas:

- The bill authorizes the Board to adopt rules and regulations to ensure orderly transition of an approved institution to a new owner, including, but not limited to, requiring a new owner to take certain actions such as maintaining and servicing student records, resolving certain student complaints, and honoring the terms of student enrollment agreements.
- The bill requires the Board to adopt rules and regulations that impose requirements on any postsecondary institution that is closing, on topics including, but not limited to, notice requirements, teach-out plans, maintenance of academic records, refund requirements, and transcript requests.
- The bill authorizes the Board to adopt rules and regulations imposing surety bond requirements for the indemnification of any student for any loss as a result of the failure of a degree-granting institution to achieve accreditation by a recognized accrediting organization.

(Corresponding rules and regulations were heard at the December 13, 2022, meeting.)

HB 2064 creates the Kansas Promise Scholarship Program (Program) and directs the Board to administer it. Subject to appropriations, the Program is to provide scholarships for students to complete two-year associate degree programs, career and technical education certificates, or standalone programs approved by the Board in approved fields. It requires the Board to adopt rules and regulations by March 1, 2022, to implement and administer the Program and requires rules and regulations to establish scholarship application deadlines; appeal procedures for denial or revocation of a Kansas Promise Scholarship; guidelines to ensure, as much as is practicable, that courses taken from a Promise-eligible program transfer to a state educational institution or a municipal university; the terms, conditions, and requirements of the scholarship agreement between the Board and the student; procedures for requesting and approving certain absences from an institution; and criteria for determining whether a student has fulfilled the employment and repayment requirements specified in the bill, including methods of repayment; and criteria for determining whether special circumstances or good cause are present that prevent a student from completing the scholarship requirements. [Note: The deadline for these rules and regulations was changed to March 1, 2023, in 2022 Senate Sub. for HB 2567.] (Corresponding rules and regulations were heard at the December 13, 2022, meeting.)

Revenue, Department of

SB 47 authorizes the Secretary of Revenue (Secretary) to adopt rules and regulations necessary to carry out the provisions of the Kansas Taxpayer Protection Act, which takes effect January 1, 2022. The Act authorizes the Secretary to enjoin any person from acting as a paid tax preparer by seeking a temporary or permanent order from a court of competent jurisdiction

enjoining conduct such as preparing a return that understates the taxpayer's liability due to "willful or reckless conduct," as that term is defined in the Internal Revenue Code; negotiating a check issued to the taxpayer by the Department of Revenue without the permission of the taxpayer; and misrepresenting the preparer's education, experience, or eligibility to practice tax preparation. The Act also requires tax preparers to provide certain information on tax returns.

SB 50 requires the collection and remittance of sales and compensating use taxes by certain marketplace facilitators. It requires the Department of Revenue to promulgate rules and regulations that establish the criteria for obtaining a waiver from collecting and remitting the tax, the process and procedure for a marketplace facilitator to apply for a waiver, and the process for providing notice to an affected marketplace facilitator and marketplace seller of a waiver.

Senate Sub. for HB 2104 removes requirements that rules and regulations of the Director of Property Valuation require appraisals to be performed in accordance with generally accepted appraisal standards. Instead, the bill continues requirements for directives prescribing appraiser standards for performance and states the directives shall require all appraisals be performed in compliance with the Uniform Standards of Professional Appraisal Practice promulgated by the Appraisal Standards Board of the Appraisal Foundation.

HB 2187 enacts the First-time Home Buyer Savings Account Act and establishes modifications to the Kansas adjusted gross income of an individual for contributions to a first-time home buyer savings account. The bill directs the Secretary of Revenue to adopt rules and regulations necessary to administer the provisions of the Act.

Secretary of State

SB 106, the Revised Uniform Law on Notarial Acts, replaces rule and regulation provisions in former law (the Uniform Law on Notarial Acts) regarding electronic notarization, with provisions requiring the Secretary of State to adopt rules and regulations on topics that may include, but not be limited to, prescribing the manner of performing notarial acts regarding tangible and electronic records, providing evidence of tampering, ensuring integrity of records or signatures, prescribing the process for a notarial commission, preventing fraud or mistake, approving and accepting forms of assurance, and providing for the administration of the examination and the course of study required by law. The bill specifically requires the Secretary of State to adopt rules and regulations regarding notarial acts using communication technology for a remotely located individual (replacing a requirement for rules and regulations establishing procedures for an electronic notarization) and providing short-form certificates of notarial acts, such as witnessing a signature or certifying a copy, that are sufficient for the purposes indicated with the information required by law. (Corresponding rules and regulations were heard at the July 18, 2022, meeting.)

Treasurer, State

SB 86 establishes the Kansas Extraordinary Utility Costs Loan Deposit Program and the Kansas Economic Recovery Loan Deposit Program and authorizes the State Treasurer to administer both. The bill authorizes the State Treasurer to adopt rules and regulations necessary to administer the programs and states any such rules and regulations are to be adopted by February 1, 2022. [*Note:* Provisions regarding the Kansas Economic Recovery Loan Deposit Program also were enacted in SB 15, but those provisions were repealed in SB 86 and reenacted; SB 86 became effective upon publication in the *Kansas Register*.]

SB 86 also establishes the City Utility Low-interest Loan Program, to provide loans to cities for extraordinary electric or natural gas costs incurred during the extreme winter weather event of February 2021, and authorizes the State Treasurer to administer it. The bill authorizes the State Treasurer to adopt rules and regulations necessary to administer the provisions of the program including the development of a streamlined application process. The bill states such rules and regulations are to be adopted by January 1, 2022; however, the bill requires the streamlined application process to be established by March 4, 2021. [Note: Provisions regarding the City Utility Low-interest Loan Program also were enacted in House Sub. for SB 88, which had required the streamlined application process to be established within 14 days of the effective date of the act.]

Wildlife and Parks, Kansas Department of

ERO 48 transfers the Division of Tourism to the Department of Commerce. It renames the Kansas Department of Wildlife, Parks and Tourism (KDWPT) as the Kansas Department of Wildlife and Parks (KDWP) and the Secretary of Wildlife, Parks and Tourism (Secretary) as the Secretary of Wildlife and Parks. The ERO states the KDWP and the Secretary of Wildlife and Parks will be the successor in every way to the powers, duties, and functions of the KDWPT and of the Secretary granted prior to the effective date of the ERO. All rules, regulations, orders, and directives of the Secretary that are in effect on July 1, 2021, and that relate to the functions, powers, or duties of the Director of Tourism of the KDWPT shall continue to be effective and deemed the rules, regulations, orders, and directives of the Secretary of Commerce until revised, amended, revoked, or nullified by law.

SB 142 prohibits the operator of a vessel from operating such vessel unless every person age 12 or younger is wearing a personal flotation device approved by the U.S. Coast Guard or is below decks or in an enclosed cabin. The bill states the approved devices will be prescribed in rules and regulations of the Secretary of Wildlife and Parks. (The corresponding rules and regulations were heard at the September 10, 2021, meeting.)

**REPORT OF THE OVERSIGHT ACTIVITIES OF THE
JOINT COMMITTEE ON ADMINISTRATIVE RULES AND REGULATIONS
July 2019 through June 2020**

From July 2019 through June 2020, the Joint Committee on Administrative Rules and Regulations (JCARR) reviewed proposed rules and regulations of 27 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 Committee met six times. Meeting dates at which proposed rules and regulations were heard, the state agencies appearing before the Committee, and the main topics of the proposed rules and regulations are included in the following table.

JCARR Meeting Dates, Agency Appearances, and Topics, July 2019 – June 2020						
Agency	August 6, 2019	October 8, 2019	November 20, 2019	January 10, 2020	March 3, 2020	May 19, 2020
Accountancy	Examinations					
Adult Care Home Administrators (Aging and Disability Services)			Updates			
Agriculture – Animal Health	Movement of certain cats					
Agriculture – Water Resources	Groundwater management districts					
Athletic Commission	Bare-knuckle fighting					
Attorney General				Victim Information and Notification Everyday Advisory Board		
Bank Commissioner			Custody of investments			
Dental Board	Sedation; Definitions	Dental anesthesiology; Specialist examinations				
Examiners in Fitting and Dispensing of Hearing Instruments	Various					
Emergency Medical Services		Medication lists				
Healing Arts		Athletic training; Physical therapy	Midwifery		Business entity certification	
Health and Environment (KDHE)		Childcare incidents		Public Water Supply Loan Fund; Cosmetology facilities	Petroleum products storage tanks	
Health and Environment and Aging and Disability Services						Nursing facility assessment

JCARR Meeting Dates, Agency Appearances, and Topics, July 2019 – June 2020						
Agency	August 6, 2019	October 8, 2019	November 20, 2019	January 10, 2020	March 3, 2020	May 19, 2020
Health Care Finance, KDHE						Review of Medicaid payment denial
Indigents' Defense Services			Attorney compensation			
KBI	Approved field tests					Scrap metal data repository
Nursing		Intravenous fluid therapy			License reinstatement	
Pharmacy		Various	Pharmacy technician			
Racing and Gaming			Concealed carry in casinos			
Real Estate Commission			Continuing education, various			
Regents					AO-K to Work program	
Revenue	Ignition interlock devices		Taxes on bullion and coins			
Revenue – Alcoholic Beverage Control	Label requirements for certain beer					
Secretary of State	Post-election audits					
Technical Professions		Fees				
Veterinary Examiners					Fees	
Wildlife, Parks and Tourism	Furbearers; Fees; Electric-assisted bicycles	Fishing; Electronic Licenses; Threatened species; Electronic tags; Turkey seasons			Carcasses; Bow equipment; Deer unit boundaries; Hunting seasons	

All proposed rules and regulations had been published as final as of July 1, 2023.

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. All comments and responses are available for public inspection.

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

Athletic Commission, Department of Commerce, bare-knuckle fighting, August 6, 2019. The Committee expressed its concern that the sport of professional bare-knuckle fighting was being authorized by the agency without prior legislative consideration and noted other regulated sports are listed in KSA 74-50,182. (The agency responded the statute authorizes professional boxing, which it defined as the sport of attack and defense which uses the fists and does not specify contestants must wear gloves. It stated that, because the statute provides an exemption from prohibition of contests both with and without gloves when conducted pursuant to the Act, the agency is authorized to regulate such sport both with and without gloves. It further stated having a separate regulation promotes the agency purpose of ensuring the safety of contest participants.)

Department of Revenue, breath alcohol ignition interlock devices (BAID), August 6, 2019. The Committee expressed its concern with implementation of ignition interlock devices that capture images and questioned agency authority to expand the data collected without legislative input. (The agency referenced KSA 8-1016(a) and noted KSA 75-5156 requires the Director of Vehicles to report to the House Committee on Veterans and Military each year on the topic of driver's license information privacy. It stated the Director would raise the issue of ignition interlock device customer information privacy when the report was presented.)

Kansas Department of Wildlife, Parks and Tourism, endangered and threatened species, October 8, 2019. The Committee requested statutory citations related to authority to determine species on the endangered and threatened species lists and steps the agency and its commission take before proposing changes to the listings. (The agency provided a flow chart with statutory references.)

Clarity

Department of Health and Environment, child care, reporting critical incidents, October 8, 2019. The Committee suggested the agency consider defining the term "jeopardizes." (The agency provided information on the types of incidents in regulated facilities that might require notification of parents, national association guidance on describing those incidents, and the definition of the term. It also described training to be provided to local licensing surveyors and the regulated community on the types of incidents to be reported.)

Department of Health and Environment, child care, reporting critical incidents, October 8, 2019. The Committee asked the agency to consider defining the term "written report" and providing the form on paper. It also expressed concern about how licensees would meet a requirement the form be submitted by the next working day. (The agency responded the form is available both online and on paper from the agency or local license surveyor. It also clarified the rule and regulation does not place a burden on the licensee to ensure the agency receives the report by the next working day.)

Department of Health and Environment, child care, reporting critical incidents, October 8, 2019. The Committee asked the agency to consider defining the term "facility" with respect to the location at which critical incident reports must be kept. (The agency provided information on the applicable definitions in statute and regulations.)

Department of Health and Environment, petroleum products storage tanks, March 3, 2020. The Committee noted the proposed rules and regulations required communications to be “in writing” but did not define the term; it asked whether electronic communications were included and suggested the agency define the term. (The agency reported it had discussed the types of communications with Office of the Attorney General staff so that communication between the agency and licensee was documented. It stated communications use both paper and email and that the definition of “in writing” could be addressed in policy guidance materials including the Owner/Operator Guidance Manual being developed.)

Compliments

Kansas Department of Wildlife, Parks and Tourism, various, August 6, 2019. The Committee expressed its appreciation for the agency’s elimination of the backcountry access pass and its associated fee, which will expand public access to Little Jerusalem Badlands State Park.

Kansas Dental Board, sedation, August 6, 2019. The Committee expressed its appreciation for the Board’s attention to this public safety issue.

Department of Health and Environment, public water supply loan fund, January 10, 2020. The Committee complimented the agency on its thorough economic impact statement submitted for this set of rules and regulations.

Costs or Economic Impact

Department of Revenue, BAIDs, August 6, 2019. The Committee noted rules and regulations require each BAID to be installed at the driver’s expense and asked how the agency would assure no drivers would be charged for replacement devices. (The agency stated it had received assurances from the BAID industry that the customer would not be reassessed equipment installation fees based on the addition of requirements for image capture. The agency also stated, however, that some of the manufacturers may charge another installation fee to recover costs for the upgraded equipment because monthly recalibration fees are set in contract with the customer.)

State Board of Pharmacy, pharmacy ceasing business, October 8, 2019. The Committee expressed its concern that the economic impact statement did not include an estimate of the costs to pharmacies to notify their customers and asked the agency to consider issuing a new economic impact statement. (The agency provided a revised economic impact statement and changes to the proposed rule and regulation to authorize additional methods for patient notification, to include U.S. mail, email, text message, or phone call.)

State Board of Pharmacy, economic impact, October 8, 2019. The Committee requested information on moneys moved to the State General Fund (SGF) that had been fees paid to the agency. (The agency provided information on a cash balance at the end of fiscal year 2014, subsequent fee reductions in 2014, a transfer of \$800,000 to the SGF in 2015, legislative requirements to use agency moneys to cover costs associated with tracking of prescriptions for controlled substances, and fee increases in 2019 to prevent fund imbalance.)

State Board of Indigents’ Defense Services, attorney reimbursement rates, November 20, 2019. The Committee commented it understood budget constraints had led to reimbursement rates for attorneys that are significantly less than market rates and it recognized

the implications of those budget constraints on Kansans accused of crimes and the state as a whole. (The agency stated it shares those concerns, but the proposed increase was a step toward better funding for assigned counsel.)

Department of Health and Environment, petroleum products storage tanks, March 3, 2020. The Committee requested information about funding for this portion of the agency and information to justify raising fees. (The agency provided balances for funds used in this program and noted statutory restrictions on revenues into those funds and uses of the moneys. It stated state moneys match federal funds for uses including installer certification, standards for manufacturers, inspections, and operator training.)

Data Privacy

Department of Revenue, BAIDs, August 6, 2019. The Committee expressed its concern with the privacy of certain data and images received by BAID vendors and manufacturers and requested information on how those data are transferred. It also asked how the agency monitors lawful use of the data collected and urged data protection rules and regulations. (The agency stated customer performance information is communicated to the BAID manufacturer during each monthly calibration. It noted KAR 92-56-2 requires a manufacturer to cooperate with the Director of Vehicles, a court, or a law enforcement agency. It stated the agency shared concerns about protecting customer images and would start by reviewing existing agreements with BAID manufacturers for prohibitions on disclosing personal information to third parties.)

State Board of Pharmacy, sharing information, October 8, 2019. The Committee requested information on agency procedures, contractual provisions, and other processes and policies designed to protect the privacy of pharmacy records. (The agency provided information on such provisions for maintaining confidentiality of records of prescriptions for controlled substances and drugs of concern. The agency noted confidentiality agreements, contractual obligations to meet confidentiality requirements in state and federal law, authentication required for access to accounts, and additional measures taken to assure access is restricted only to appropriate parties.)

Information Requests

Secretary of State, post-election audits, August 6, 2019. The Committee requested additional information regarding promulgation of rules and regulations related to 2019 Sub. for SB 130, allowing all voters in a county to vote at any polling place on election day, at the discretion of the county election official. (The agency responded it had formed a working group of Kansas election officers, county clerks, election experts, and security specialists to assist in the drafting of the rules and regulations.)

Division of Animal Health, Department of Agriculture, transferring certain cats, August 6, 2019. The Committee requested additional information about the reasons to allow cats that have tested positive for feline immunodeficiency virus (FIV) to be adopted or permanently relocated. (The agency responded there had been an extensive review of research on the topic and consultation with Kansas State University College of Veterinary Medicine disease specialists. The agency stated research has found FIV asymptomatic cats are not likely to transmit the disease, especially in the absence of a deep bite wound.)

Athletic Commission, Department of Commerce, bare-knuckle fighting, August 6, 2019. The Committee requested citations for literature the agency relied upon when considering regulation of bare-knuckle fighting, particularly literature related to injuries associated with the sport. (The agency provided a copy of the article “The True Force of a Boxer’s Punch” and provided information from industry sources on the pounds of force elite fighters produce with and without gloves.)

State Board of Pharmacy, wholesale distributors, October 8, 2019. The Committee requested information related to the agency’s inspection or testing of drugs imported into the United States. (The agency stated it does not have authority to inspect any facilities not registered with the agency and did not have any foreign facility registrants. It further stated it had not received any complaints or concerns regarding the potency or composition of any prescription drugs sold in Kansas, and that Kansas facilities are inspected at least once every three years and most pharmacies every 18 months. It noted it had adopted regulations aligning state standards with those of the federal Drug Supply Chain Security Act [21 USC 351 *et seq.*].)

Kansas Department of Wildlife, Parks and Tourism, turkey hunting, October 8, 2019. The Committee requested information on data the agency relied upon when closing the season in certain areas of the state. It also requested information on numbers of licenses issued to in-state and out-of-state turkey hunters. (The agency provided a map of state hunting units, information provided to its commission before the commission adopted the changes, graphs showing turkey numbers in the various units over several years, and the numbers of hunters and permits or game tags sold since 2014.)

Board of Adult Care Home Administrators, initial licensure of a nursing home administrator, November 20, 2019. The Committee asked the agency to provide its requirements specific to a person who is the administrator of record at multiple facilities. (The agency stated the requirements are in KAR 26-39-101(i) and KAR 8-39-163(a)(4) and provided the language of those rules and regulations.)

Board of Adult Care Home Administrators, initial licensure of a nursing home administrator, November 20, 2019. The Committee requested information on the number of licensed adult care home administrators and the number of adult care homes, by year. (For years 2015 through 2019, the agency provided the number of skilled nursing facilities, assisted living facilities licensed for 60 or more beds, residential health care facilities licensed for 60 or more beds, the total number of facilities requiring a licensed administrator, and the total number of licensed adult care home administrators. For all years, the number of licensed administrators exceeded the total number of licensed facilities.)

State Board of Pharmacy, pharmacy technicians, November 20, 2019. The Committee requested information on what tasks a pharmacy technician may perform in Kansas and on a report with information about pharmacy technician tasks in other states. (The agency provided a list of tasks a pharmacy technician may perform and described training requirements and oversight required by pharmacists. It provided summary information from the National Association of Boards of Pharmacy on tasks pharmacy technicians in other states may perform.)

State Board of Regents, AO-K to Work program, March 3, 2020. The Committee requested additional information about fees for materials, including fee waivers by the institutions. (The agency noted the rule and regulation requires a \$25 fee for a high school equivalency credential. It described a materials fee to be paid to an adult education center, an average of \$30 and set at the local level. It stated 366 Kansans obtained career readiness

certificates in FY 2019 and the local programs decide whether to waive the fee; if 35 percent of those fees were waived, \$3,843 in fees was waived.)

State Board of Regents, AO-K to Work program, March 3, 2020. The Committee requested information about the process used to determine which institutions are included in the approved credentials and pathways list dated August 30, 2019, and which institutions were in the process of applying or declined to participate. (The agency stated 20 of Kansas' 26 community and technical colleges were participating and listed those that were not then participating. It stated institutions may join the initiative at any time.)

State Board of Regents, AO-K to Work program, March 3, 2020. The Committee requested additional information about the competency levels associated with the ACT National Career Readiness Certificate (NCRC), including the employer competency percentage associated with each level of certificate achievement. (The agency provided additional information on the NCRC and the skills associated with each level. It noted a Kansas student must achieve a level that indicates readiness for 65 percent of profiled jobs to receive a high school equivalency credential under this program.)

Kansas Department of Wildlife, Parks and Tourism, sale of antlers, March 3, 2020. The Committee requested a legal analysis of the statutory authority for the Secretary of Wildlife, Parks and Tourism to conduct an auction on January 2, 2020, involving a set of antlers from a buck shot by a poacher in Osage County in 2011. (The agency provided such an analysis and stated the antlers were sold at a negotiated price between two potential buyers. It reviewed rules specific to the agency regarding disposal of seized wildlife parts and firearms.)

Division of Health Care Finance, Department of Health and Environment, external independent third-party review for providers, May 19, 2020. The Committee requested information on the process by which the Kansas Foundation for Medical Care was selected as the contractor for third-party review of denied Medicaid claims. (The agency provided a description of the process, with dates. It noted three vendors submitted technical and cost proposals that were reviewed by staff of the two agencies [Department of Health and Environment and the Department for Aging and Disability Services] and then by additional officials, negotiations with two of the vendors, and selection.)

Division of Health Care Finance, Department of Health and Environment, external independent third-party review for providers, May 19, 2020. The Committee requested information on the number of external review requests the agency had received, their dates, and the number of cases for which external review had been granted. (The agency provided a table with information on each of the 17 requests for external review it had received. Most were denied because the adverse decision had been made before January 1, 2020. Three were approved.)

Legislative Action

State Board of Healing Arts and Board of Nursing, midwifery, November 20, 2019. The Committee requested the agencies review statutes on this topic and request changes to clarify language or place policy positions into statute. (The State Board of Healing Arts responded it would consider the issue and determine whether and which specific recommendations could be made in its role as a licensing agency. The Board of Nursing responded the issue would be put on the agenda for an upcoming meeting.)

Kansas Bureau of Investigation, scrap metal dealer data, May 19, 2020. The Committee suggested the Legislature review KSA 50-6,111 as amended by 2019 HB 2248, which requires these rules and regulations, and provide clarifications as needed. (No bill introduced in 2021 would have amended KSA 2020 Supp. 50-6,111.)

Program Concerns

Secretary of State, post-election audits, August 6, 2019. The Committee expressed its concern that procedures to randomly choose election races and precincts for audits might not be uniform across counties and suggested the rules and regulations specify how counties should establish randomization procedure criteria. (The agency responded that its audit implementation group, which included representatives of counties with various population sizes, voting equipment, and political affiliations, had examined that idea and noted the statute does not require the state mandate a specific method.)

Secretary of State, post-election audits, August 6, 2019. The Committee suggested, if procedures for randomization were not made uniform across the state, that the agency clarify who determines the procedure to randomize the selection of races and precincts to be audited. (The agency replied the question is answered in KAR 7-47-1(c)(2) and (3) which identifies when the Secretary of State makes the random selection and when the county election officer makes the selection. The agency stated the wording of KAR 7-47-1(c) was developed by Department of Administration, Office of the Attorney General, and Secretary of State attorneys.)

Board of Examiners in Fitting and Dispensing of Hearing Instruments, licensing, August 6, 2019. The Committee expressed its concern that consideration of only those felonies related to the fitting and dispensing of hearing instruments may fail to potentially disqualify applicants who have been convicted of felonies related to protecting the general welfare and the duties and responsibilities of licensed persons as provided in KSA 74-120(b)(1). (The agency responded that KSA 74-5818(a) requires the agency to limit its consideration to convictions for felonies and misdemeanors related to the practice of fitting and dispensing hearing instruments.)

Department of Health and Environment, child care, reporting critical incidents, October 8, 2019. The Committee expressed its concern that some childcare providers may not have access to email or the Internet and asked the agency to consider providing notification of regulatory changes *via* U.S. Postal Service if the provider so requests. (The agency responded it communicates with the regulated community based on the licensee's preferred method, either email or postal mail, and provides the information also on its website, at meetings and webinars, at professional development events, and through partnerships with various associations.)

Board of Adult Care Home Administrators, initial licensure of a nursing home administrator, November 20, 2019. The Committee asked the agency to explain why a baccalaureate or post-baccalaureate degree is required for initial licensure and how many other states have similar requirements. (The agency stated that a degree had been required since 1990, because the agency found applicants with degrees were much more likely to pass the national examination, and 35 states require at least a baccalaureate degree.)

Board of Adult Care Home Administrators, initial licensure of a nursing home administrator, November 20, 2019. The Committee asked the agency to clarify whether an applicant for licensure by reciprocity must have a baccalaureate or post-baccalaureate degree and to provide information on what is meant by "substantially equivalent." (The agency stated

licensure by reciprocity may be achieved by either licensed experience or education and training and the agency does not further define the term in the rules and regulations as it allows the board to consider all aspects of an applicant's education, training, and experience.)

Department of Health and Environment, sanitary regulations for the practice of cosmetology, nail technology, electrology, or esthetics, January 10, 2020. The Committee requested information on changes to physical facilities that could be required by the changes to the rules and regulations and whether existing facilities would be allowed to continue to meet previous requirements. (The agency stated it believed all facilities were already in compliance with the proposed regulations regarding facilities and equipment in those facilities.)

Department of Health and Environment, petroleum products storage tanks, March 3, 2020. The Committee expressed its concern that seven days could be insufficient time to complete and submit a registration form. (The agency responded that this timeline applies only to existing systems and that registration for a new system is to be submitted within 30 days. It provided reasons why properly registering such a system is important and noted the primary industry trade association had approved the seven-day deadline.)

Division of Health Care Finance, Department of Health and Environment, external independent third-party review for providers, May 19, 2020. The Committee expressed its concerns with retroactivity in this rule and regulation and questioned whether the rule and regulation reflects legislative intent. It noted the rule and regulation was not effective by January 1, 2020, but applied to claims denied after January 1, 2020. The Committee requested review of KSA 39-709i by the Senate Committee on Public Health and Welfare and the House Committee on Health and Human Services in light of this concern. (The agency provided a ten-page legal analysis of the statutes involved and how state and federal courts had addressed potential retroactivity, finding rules and regulations can have retroactive effect.)

Rule and Regulation Process

State Board of Healing Arts, midwifery, October 8, 2019. The Committee requested a representative of the Board of Nursing accompany a representative of this agency when rules and regulations on this topic are presented. (Both agencies responded that they expected to be present when subsequent midwifery rules and regulations are presented.)

State Board of Healing Arts, athletic training, October 8, 2019. The Committee noted a page of a proposed rule and regulation had not been published on the Secretary of State's website. It requested information on the timeline for the rule and regulation process and whether the proposed regulation was in compliance with the Rules and Regulations Filing Act. (The agency provided a timeline of steps in the development and notice of the proposed rule and regulation and stated the process met the requirements of the Act. It noted no comments were received on the proposed rule and regulation.)

State Board of Healing Arts, midwifery, November 20, 2019. The Committee suggested that a version of a rule and regulation on the midwifery scope of practice be adopted and later modified after consensus is reached between the State Board of Healing Arts and the Board of Nursing. (The State Board of Healing Arts responded it was not confident the law authorizing the rules and regulations would permit adoption of a rule and regulation on this topic that had not been agreed upon by both agencies. It stated concurrence from the Board of Nursing had been withdrawn and it did not plan to adopt the presented rule and regulation. The

Board of Nursing stated it would work with its board and contact the State Board of Healing Arts.)

State Board of Healing Arts and Board of Nursing, midwifery, November 20, 2019. The Committee noted KSA 65-28b07 required rules and regulations on this topic be adopted by January 1, 2017, and it urged continued cooperation between the boards. (The agencies stated they would continue to work on this issue.)

Division of Health Care Finance, Department of Health and Environment, external independent third-party review for providers, May 19, 2020. The Committee asked why this rule and regulation was being promulgated after the January 1, 2020, statutory deadline effective July 1, 2017. (The agency stated it had had to address major changes in federal rules for Medicaid managed care and incorporate those changes into the rule and regulation in addition to managing major projects on other aspects of KanCare. The response stated the agency had included a draft of this rule and regulation in a larger package regarding appeals and hearing steps, but that draft was pulled in early 2019 upon consultation with leadership and staff. It described work with the Department of Administration in May and June 2019 and Division of the Budget approval in November 2019 before disapproval by the Office of the Attorney General in December 2019, further edits, and a subsequent round of approvals.)

Legislative Action

Of the 13 bills enacted in 2020, 2 contained provisions authorizing, requiring, moving, or clarifying authority for state agency rules and regulations; the only bill enacted during the 2020 Special Session also contained provisions regarding rules and regulations. The following list summarizes those statutory changes plus a change in responsibility directed by the Governor using an executive reorganization order (ERO). 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 2020 *Summary of Legislation*, available from the Kansas Legislative Research Department's website.

Department of Administration

ERO 45 transfers the powers, duties, and functions of the State Employee Health Plan and the State Self Insurance Fund from the Department of Health and Environment to the Department of Administration, in a Division of the State Employee Health Benefits Plan created by the ERO. The ERO states all rules and regulations of the KDHE Division of Health Care Finance that relate to functions transferred by this order shall continue to be effective and deemed to be rules and regulations of the Secretary of Administration until revised, amended, repealed, or nullified pursuant to law. (Rules and regulations initially promulgated by the State Employees Health Care Commission, KAR 108-1-1 *et seq.*, appear to be so transferred.)

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 Office of the Attorney General on those proposed rules and regulations. However, **SB 66**, Section 48, prohibits CURB from using state funding in the Utility Regulatory Fee Fund for any duties

pursuant to Executive Order No. 11-02 in state fiscal year 2020. [Note: Executive Order 18-03, signed January 29, 2018, rescinded several earlier executive orders, including Executive Order No. 11-02.]

Health and Environment, Department of

SB 66, in Sections 71 and 72, prohibits the Department of Health and Environment from amending or modifying any rule and regulation adopted pursuant to the Kansas Air Quality Act or KSA 65-3022, if the change would increase any fee in rules and regulations as of July 1, 2020, or would adopt, create, or impose any new fee. The bill declares any new such fees to be null and void. The bill requires the agency to work with affected stakeholders to develop a fee schedule for the purpose of proposing such fee schedule in legislation during the 2021 Session.

SB 66, in Section 160, requires the Secretary of Health and Environment to adopt rules and regulations establishing standards for determining eligibility for state assistance for covering costs for diagnosed cases of maple syrup urine disease. The bill requires needs to be covered under the Medicaid state plan for those who are financially eligible for Medicaid; reimbursement of between 50 percent and 100 percent of product costs if the applicable income of the person or persons legally responsible for the diagnosed individual is not more than 300 percent of the federal poverty level established under the most recent poverty guidelines issued by the U.S. Department of Health and Human Services; and reimbursement of not more than 50 percent of product costs if the income of the legally responsible person or persons exceeds 300 percent of the federal poverty level.

SB 66, in Section 172, authorizes the Secretary of Health and Environment to adopt rules and regulations to require, to the extent of available funding, newborn screening tests to screen for treatable disorders listed in the Core Uniform Panel of Newborn Screening Conditions recommended in the 2005 report “Newborn Screening: Toward a Uniform Screening Panel and System” by the American College of Medical Genetics or another report the agency determines will provide more appropriate newborn screening guidelines to protect the health and welfare of newborns with treatable disorders. The Secretary of Health and Environment is required to appoint a council to advise the agency on screening tests. [Note: These provisions were further amended by 2025 House Sub. for SB 126.]

Special Session HB 2016, in Section 16, requires the Secretary of Health and Environment to promulgate rules and regulations by August 1, 2020, to administer and enforce provisions of the COVID-19 Contact Tracing Privacy Act. The rules and regulations are to prescribe qualifications and training for contact tracers. The provisions of this section expire May 1, 2021. (Corresponding rules and regulations were heard at the August 10, 2020, meeting and the November 15, 2021, meeting. The promulgated rules and regulations have no force and effect after June 30, 2022.)

Transportation, Department of

House Sub. for SB 173, in Section 6, authorizes the Secretary of Transportation to adopt rules and regulations establishing criteria for qualification for a grant under and implementing a new Driver’s Education Scholarship Grant Program. The Program will sunset June 30, 2023. [Note: HB 2184 (2023), Section 140(j), extended this scholarship grant program through fiscal year 2025.]

Statutorily Required Rules and Regulations 2020-2025 Not Heard by the JCARR as of July 1, 2025

Agency	Year	Bill Number			Session Law Chapter	Statute⁽¹⁾	Topic
All licensing agencies	2024		HB	2745	9	74-7003	Exemption from fees to obtain an occupational credential for spouses of active military members
Aging and Disability Services	2022	House Sub. for	SB	19	100	75-5966	Living, Investing in Values and Ending Suicide (LIVES) Act (988 hotline)
Attorney General	2025	House Sub. for	SB	9	68	n/a	Kansas Land and Military Installation Protection Act
Bank Commissioner	2024	Senate Sub. for	HB	2247	100	9-2209	Calculations of “amount financed” and “finance charge” under the Kansas Mortgage Business Act
Bank Commissioner	2024	Senate Sub. for	HB	2247	6	16a-5-111	Fee to renew a license for supervised loans
Certain licensing agencies ⁽²⁾	2021	Sub. for	HB	2066	70	48-3406	Occupational credentials, military spouses and new state residents
Commerce, with Education	2023		HB	2292	81	74-50,234	Kansas Educator Registered Apprenticeship Grant Program
Corporation Commission	2021		HB	2022	28	55-180	Reimbursement for plugging certain wells
Criminal Justice Information System Committee	2023		HB	2019	75	74-5704	Reporting cybersecurity incidents if connected to KCJIS
Deaf and Hard of Hearing	2022		SB	62	50	75-5393a	Registration for sign language interpreters
Early Childhood	2025		HB	2045	68	n/a	Fees for license to conduct a child care resource and referral agency
Governmental Ethics	2023	House Sub. for	SB	208	23	25-4119h	Standards for recusal
Health and Environment	2025		HB	2045	118	n/a	Child care
Health and Environment	2024		HB	2525	10	55-1,117	Fees for underground injection control class 1 and class V wells
Health and Environment	2020		SB	66	5	65-180	Eligibility for state assistance for costs associated with maple syrup urine disease
Housing Resources Corporation	2022		HB	2237	85	12-5261	Kansas Rural Home Loan Guarantee Act
Labor	2021	S. Sub. for Sub. for	HB	2196	92	44-771	Unemployment compensation system complaints
Pharmacy	2021	Sub. for	SB	238	106	65-1643d	Drug manufacturer registration
Racing and Gaming	2022	H. Sub. for	SB	84	91	74-8785	Sports betting

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		Sub. for					
Regents	2024		SB	18	6	76-7,158	Kansas Campus Restoration Act
Regents, college governing bodies, Kansas State High School Activities Association	2023		HB	2238	13	60-5603	Implement the Fairness in Women's Sports Act
Revenue	2024	Senate Sub. for	HB	2124	59	41-703	Microbreweries furnishing items of value
Revenue	2022		HB	2377	80	8-2,142	Review of disqualification for commercial driving privileges after two or more DUI incidents under certain circumstances
Revenue	2022		HB	2377	80	8-1016	Reduced-cost ignition interlock device program
Revenue	2021		SB	50	93	79-5602	Marketplace facilitator tax collection and remittance waivers
Secretary of State	2025		HB	2117	10	56-1a605	Application and recording fee for limited partnerships and foreign limited partnerships.
Secretary of State	2025		HB	2371	95	17-76,136	Application and recording fee for limited liability companies and foreign limited liability companies.
Water Office	2023	Senate Sub. for	HB	2302	59	82a-956	Water Technical Assistance Fund, Water Projects Grant Fund criteria

⁽¹⁾ Statute numbers assume the supplement as appropriate.

⁽²⁾ Although the bill requires state agencies to adopt rules and regulations necessary to implement and carry out certain reporting requirements, some state agencies may have been able to carry out the reporting requirements of the bill within their existing rules and regulations framework.

n/a - not available when this report was published