

# Journal of the House

## FORTY-FOURTH DAY

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HALL OF THE HOUSE OF REPRESENTATIVES,  
TOPEKA, KS, Wednesday, March 14, 2018, 11:00 a.m.

The House met pursuant to adjournment with Speaker pro tem Schwab in the chair.

The roll was called with 122 members present.

Rep. Gallagher was excused on verified illness.

Reps. Deere and Finney were excused on excused absence by the Speaker.

Prayer by guest chaplain, Tobias Schlingensiepen, Senior Minister, First Congregational Church, Topeka.

O God, let us be present to you. In the Gospel of Matthew, in chapter 25, verses 31-40, we read:

When the Son of Man comes in his glory, and all the angels with him, then he will sit on the throne of his glory. All the gentiles will be gathered before him, and he will separate people one from another as a shepherd separates the sheep from the goats, and he will put the sheep at his right hand and the goats at the left. Then the king will say to those at his right hand, "Come, you that are blessed by my Father, inherit the kingdom prepared for you from the foundation of the world; for I was hungry and you gave me food, I was thirsty and you gave me something to drink, I was a stranger and you welcomed me, I was naked and you gave me clothing, I was sick and you took care of me, I was in prison and you visited me." Then the righteous will answer him, "Lord, when was it that we saw you hungry and gave you food, or thirsty and gave you something to drink? And when was it that we saw you a stranger and welcomed you, or naked and gave you clothing? And when was it that we saw you sick or in prison and visited you?" And the king will answer them, "Truly I tell you, just as you did it to one of the least of these who are members of my family, you did it to me."

O God, these words tell us that, even those who do not know the Son of Man, serve him, if they address the needs of their vulnerable neighbors. These words are an implicit warning to those who call themselves Christians, shouting "Lord! Lord!" and yet do not do the will of their Father in heaven. You desire that we seek you in the midst of the vulnerable, the oppressed, and the afflicted. And you make our eternal destiny dependent on our doing so.

Lord, I pray for the men and women who have been called to represent the people of Kansas in this house in every bill they deliberate, may they be mindful of the criteria by which we will all be judged; in every bill they vote upon, may they know that You are the One who ultimately tallies their votes.

Give them the courage to receive and live by your mercy. Amen.

The Pledge of Allegiance was led by Rep. Murnan.

### **PERSONAL PRIVILEGE**

There being no objection, the following remarks of Rep. Good are spread upon the Journal:

In the gallery today are people representing nonprofits in the State of Kansas. If you work for or are a volunteer, would you please stand and remain standing.

Today is Kansas Non-Profit Day at the State House. We have volunteers and leaders representing more than 20 nonprofits in the Capitol today, showcasing their organizations mission-based work and the economic impact of nonprofits in Kansas.

To give you a bit of history of nonprofits in Kansas...we have 27,000 nonprofits in Kansas. We, Kansans give 1.8 billion to charities each year AND they employ 9% of the state's workforce.

So today, in the Capitol, we have over 20 non-profit organizations in the Rotunda and on the first floor. Many will take your blood pressure! You are also encouraged to write a note to a child in your life in celebration of Absolutely Incredible Kids Day.

All legislators are welcome to join the Y and the other Kansas nonprofits here today at a Networking Reception from 4:30 – 6:30 p.m. at the Dillon House across the street.

Please join in giving a round of applause for all the amazing work these great individuals do for our great State of Kansas.

### **INTRODUCTION OF GUESTS**

There being no objection, the following remarks of Rep. Garber are spread upon the Journal:

Good morning Colleagues. I have several honors to give today. Please hold your applause until all are acknowledged.

Each year as summer ends and school begins, High School athletes and coaches across the nation are thinking about the possibility of winning a State Football Championship. In 2017 the dream came true for the Sabetha Bluejays as they traveled to Hutchinson to compete in the Class 3A title game.

Although not picked as a serious contender at the start of the season, the team improved each game and found themselves competing in the State finals against the Marysville Bulldogs, a team known for their high-octane offense. While Sabetha's rushing offense was very good, having set the State record of 88 rushing attempts in a single game, the team prided itself on defense. When the Bulldogs lined up inside the Bluejay five-yard line for what would be their last chance to win the game, both team's

faithful followers held their breath. The defense once again answered the call with their twenty-fourth interception of the year. With time running out, the Bluejay quarterback only needed to take a knee to secure the victory.

Coach Michael and his staff had instilled in the team beginning with the first practice that each team member was an important part of whatever success they had. I ask the team members on the floor to please raise your hand as I call your name. The remainder of the team and the coaching staff are present in the gallery today.

Seniors: Wyatt Beyer, Brandon Brownlee, Cole Oehm, Riley Hermann, Issac Sunderland, Kyle Grimm, Blake Frey, Trever Kramer, Tanner Ukele, Josh Compo and Seth Burdick.

Juniors: Elliot Strahm, Braden Cox, Mason Engelken, Joe Gruber and Caury Rokey.

Sophomore: Gabe Garber

It is also my honor to recognize Coach Garrett Michael for being selected the 2017 Kansas State High School Football "Coach of the Year". Coach Michael and his coaching staff did a phenomenal job in guiding these young men to a State Championship. But in my opinion, Coach Michael and his philosophy of "Faith, Family and Football" has prepared them for success in the future. Coach, thank you for your part in shaping the lives of the Sabetha High School students who look to you for guidance.

Finally, it is my pleasure to recognize Junior Elliot Strahm for his recent success. A few weeks ago, four members of the Sabetha wrestling team competed at the 3-2-1A state wrestling tournament in Hays. Elliot was crowned State Champion in the 285-pound weight class. Congratulations Elliot and good luck next year.

Please join me in congratulating The Sabetha Bluejays Football team, Coach Michael and Elliot for their successes.

Rep. Garber presented his guests with framed House certificates in honor of their accomplishments.

## **INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS**

The following bills were introduced and read by title:

**HB 2777**, AN ACT concerning consumer protection; relating to unconscionable acts or practices; requiring technology protection measures on internet-accessible devices; enacting the human trafficking and child exploitation prevention act; establishing the human trafficking and child exploitation prevention fund, by Committee on Federal and State Affairs.

**HB 2778**, AN ACT concerning state contracts; relating to application of contract requirements regarding anti-Israel boycotts; amending K.S.A. 2017 Supp. 75-3740e and 75-3740f and repealing the existing sections, by Committee on Federal and State Affairs.

**HB 2779**, AN ACT relating to property taxation; enacting the senior citizen property tax deferral act, by Committee on Taxation.

## **REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS**

The following bill was referred to committees as indicated:

Taxation: **HB 2776**.

**MESSAGES FROM THE GOVERNOR**

From Jeff Colyer, Governor of the State of Kansas; Executive Order No. 18-11, concerning a Drought Declaration.

The complete report is kept on file and open for inspection in the office of the Chief Clerk.

**MOTIONS TO CONCUR AND NONCONCUR**

On motion of Rep. E. Davis, the House non-concurred in Senate amendments to **HB 2232** and asked for a conference.

Speaker pro tem Schwab thereupon appointed Reps. Davis, Gallagher and Ousley as conferees on the part of the House.

On motion of Rep. Hineman, the House resolved into the Committee of the Whole, with Rep. Garber in the chair.

**COMMITTEE OF THE WHOLE**

On motion of Rep. Garber, Committee of the Whole report, as follows, was adopted:

Recommended that committee report to **HB 2516** be adopted; and the bill be passed as amended.

Committee report to **HB 2527** be adopted; and the bill be passed as amended.

Committee report to **SB 335** be adopted.

On motion of Rep. Ward to amend **SB 335**, Rep. Powell requested a ruling on the amendment being germane to the bill. The Rules Chair ruled the amendment not germane.

Rep. Ward challenged the ruling of the Rules Chair.

Roll call was demanded on Rep. Ward's challenge of the Rules Chair, the question being "Shall the Rules Chair be sustained?"

On roll call, the vote was: Yeas 77; Nays 45; Present but not voting: 0; Absent or not voting: 3.

Yeas: Alford, Arnberger, Aurand, Awerkamp, Baker, Barker, Becker, Bergquist, Blex, Burris, B. Carpenter, Claeys, Clark, Concannon, Corbet, E. Davis, Delperdang, Dierks, Dietrich, Dove, Elliott, Ellis, Eplee, Esau, Finch, Francis, Garber, Hawkins, Hibbard, Highland, Hineman, Hoffman, Houser, Huebert, Humphries, Jacobs, Jennings, Johnson, K. Jones, Judd-Jenkins, Karleskint, Kelly, Kessinger, Landwehr, Lewis, Markley, Mason, Mastroni, Orr, Osterman, F. Patton, Phillips, R. Powell, Proehl, Rafie, Rahjes, Ralph, Resman, Ryckman, Schreiber, Schroeder, Schwab, Seiwert, Smith, A., Smith, E., Sutton, S. Swanson, Tarwater, Thimesch, Thompson, Trimboli, Vickrey, Waymaster, Weber, C., Wheeler, Whitmer, K. Williams.

Nays: Alcala, Ballard, Bishop, Brim, Burroughs, Carlin, Carmichael, Clayton, Cox, Crum, S., Curtis, Frownfelter, Gartner, Good, Helgerson, Henderson, Highberger, Hodge, Holscher, Horn, Koesten, Kuether, Lusk, Lusker, Miller, Murnan, Neighbor, Ohaebosim, Ousley, Parker, Phelps, Pittman, Probst, Rooker, Ruiz, Sawyer, Sloan, Stogsdill, Trimmer, Victors, Ward, Weigel, Whipple, Winn, Wolfe Moore.

Present but not voting: None.

Absent or not voting: Deere, Finney, Gallagher.

The Rules Chair was sustained.

Also, on further motion of Rep. Ward to amend **SB 335**, Rep. Powell requested a ruling on the amendment being germane to the bill. The Rules Chair ruled the amendment not germane.

Also, on further motion of Rep. Ward to amend **SB 335**, the motion did not prevail; and the bill be passed as amended.

### REPORTS OF STANDING COMMITTEES

Committee on **Agriculture** recommends **SB 331** be amended on page 1, following line 6, by inserting:

"New Section 1. (a) There is hereby established the Flint Hills advisory council. The council shall study and assess the development, staffing, maintenance and promotion of the Flint Hills nature trail. The council shall report its findings and recommendations to the Kansas department of wildlife, parks and tourism on a quarterly basis.

(b) The Flint Hills advisory council shall consist of the following members:

(1) The Kansas house of representatives member who represents Kansas' 68<sup>th</sup> state house district, who shall serve as the chairperson of the Flint Hills advisory council;

(2) one county commissioner of Miami county, or the commissioner's designee, to be appointed by the board of county commissioners of Miami county;

(3) one resident of an incorporated city within Miami county to be appointed by the governing body of the county seat;

(4) one county commissioner of Franklin county, or the commissioner's designee, to be appointed by the board of county commissioners of Franklin county;

(5) one resident of an incorporated city within Franklin county to be appointed by the governing body of the county seat;

(6) one county commissioner of Osage county, or the commissioner's designee, to be appointed by the board of county commissioners of Osage county;

(7) one resident of an incorporated city within Osage county to be appointed by the governing body of the county seat;

(8) one county commissioner of Lyon county, or the commissioner's designee, to be appointed by the board of county commissioners of Lyon county;

(9) one resident of an incorporated city within Lyon county to be appointed by the governing body of the county seat;

(10) one county commissioner of Morris county, or the commissioner's designee, to be appointed by the board of county commissioners of Morris county;

(11) one resident of an incorporated city within Morris county to be appointed by the governing body of the county seat;

(12) one county commissioner of Dickinson county, or the commissioner's designee, to be appointed by the board of county commissioners of Dickinson county;

and

(13) one resident of an incorporated city within Dickinson county to be appointed by the governing body of the county seat.

(c) (1) Members of the Flint Hills advisory council shall be appointed no later than August 1, 2018. Any vacancy in the membership of the council shall be filled by appointment in the same manner prescribed in this section for the original appointment.

(2) The council shall meet quarterly and at the call of the chairperson or upon the

request of a majority of the council.

(d) The members of the Flint Hills advisory council shall be appointed for terms not to exceed three years and, with the exception of the chairperson, shall serve no more than two consecutive terms. The initial terms for the members will be staggered as follows:

(1) Members appointed in subsection (b)(2), (7), (8) and (13) shall serve for an initial term of one year;

(2) members appointed in subsection (b)(3), (4), (9) and (10) shall serve for an initial term of two years; and

(3) members appointed in subsection (b)(5), (6), (11) and (12) shall serve for an initial term of three years.

(e) Subject to approval by the legislative coordinating council, legislative members of the Flint Hills advisory council shall receive amounts provided in K.S.A. 75-3223(e), and amendments thereto.";

Also on page 1, following line 34, by inserting:

"(d) The requirements found in K.S.A. 65-171d(j)(2), and amendments thereto, shall not apply to subsection (a)(25) or (a)(26).";

And by renumbering sections accordingly;

Also on page 1, in the title, in line 2, after the semicolon by inserting "establishing the Flint Hills advisory council;" and the bill be passed as amended.

Committee on **Commerce, Labor and Economic Development** recommends **HB 2526** be amended on page 1, in line 27, by striking "such" and inserting "the"; also in line 27, by striking "or"; by striking all in lines 28 and 29; also in line 30, by striking all before "the" and inserting a period; in line 32, by striking "A" and inserting "An analysis,"; also in line 32, after "description" by inserting ", and cost and benefit quantification"; in line 33, before the semicolon by inserting ". If the approach chosen by the Kansas agency to address the policy issue is different from that utilized by agencies of contiguous states or of the federal government, the economic impact statement shall include an explanation of why the Kansas agency's rule and regulation differs";

On page 2, by striking all in lines 2 through 17 and inserting:

"(C) an analysis specifically addressing the following factors:

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

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

(iii) the businesses that would be directly affected by the proposed rule and regulation;

(iv) the benefits of the proposed rule and regulation compared to the cost;

(v) measures taken by the agency to minimize the cost and impact of the proposed rule and regulation on business and economic development within the state of Kansas, local government and individuals;

(vi) an estimate, expressed as a single dollar figure, of the total annual implementation and compliance costs that are reasonably expected to be incurred by or passed along to businesses, local governmental units or members of the public and a

determination of whether those costs will exceed \$5,000,000 over any two-year period; and

(vii) an estimate of the total implementation and compliance costs that are reasonably expected to be incurred by or passed along to businesses, local governmental units and individuals as a result of the proposed rule, expressed as a single dollar figure.";

Also on page 2, in line 24, after the period by inserting "The agency shall 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."; in line 25, after "(3)" by inserting "As required pursuant to the provisions of K.S.A. 77-420(d), and amendments thereto,"; also in line 25, after the second "the" by inserting "economic impact"; in line 26, after "statement" by inserting "when directed to do so by the director of the budget and, if approved by the director of the budget, shall submit the revised economic impact statement"; in line 34, by striking all after "(c)"; by striking all in line 35; in line 36, by striking all before the first "the" and inserting "Pursuant to the provisions of K.S.A. 77-420, and amendments thereto,"; in line 38, after "statement" by inserting "and an independent analysis by the director of the budget of the cost and the factors as set forth in subsection (b)(1)(A) and (C) and subsection (e)";

On page 3, in line 5, after the period by inserting "The director of the budget shall follow the procedures set forth in K.S.A. 77-420, and amendments thereto, in evaluating and accepting or rejecting the proposed rule and regulation. No agency shall submit a rule and regulation to the secretary of state for filing before receiving the approval of the director of the budget as provided in this subsection and K.S.A. 77-420, and amendments thereto.";

Also, on page 3, following line 40, by inserting:

"(f) In 2021, the legislative post audit committee shall direct the legislative division of post audit to conduct an audit to study:

(1) The accuracy of economic impact statements submitted by state agencies pursuant to this section for the immediately preceding 7 years;

(2) the impact the review by the director of the budget has had on the accuracy of economic impact statements submitted by state agencies pursuant to this section; and

(3) whether the \$5,000,000 cost figure is the appropriate amount of economic impact to trigger the hearing procedure required by K.S.A. 77-420(a), and amendments thereto.

Sec. 2. K.S.A. 2017 Supp. 77-420 is hereby amended to read as follows: 77-420. (a) (1) Every rule and regulation proposed to be adopted by any state agency, before being submitted to the secretary of administration and the attorney general as required by this section, shall be submitted with the economic impact statement for the rule and regulation required by K.S.A. 77-416, and amendments thereto, to the director of the budget for review of the accuracy and completeness of the agency's economic impact statement. The director of the budget shall make an independent determination of the amount of implementation and compliance costs reasonably expected to be incurred by or passed along to businesses, local government and individuals over any two-year period as a result of the proposed rule and regulation and shall conduct an independent analysis of the factors set forth in K.S.A. 77-416(b)(1)(A) and (C) and (e), and amendments thereto. Every rule and regulation approved by the director of the budget

shall be stamped as approved, and the date of approval shall be indicated.

(2) If the director independently determines that a proposed rule and regulation submitted or resubmitted by the agency will not result in implementation or compliance costs of more than \$5,000,000 for businesses, local government or individuals in any two-year period, the director shall:

(A) Approve the rule and regulation if the director independently determines that the economic impact statement is accurate, demonstrates a complete analysis as required by K.S.A. 77-416(b)(1)(A) and (C) and (e), and amendments thereto, and the director concurs with the economic impact statement; or

(B) disapprove the rule and regulation.

(3) If the director of the budget determines that the proposed rule and regulation will result in implementation and compliance costs of more than \$5,000,000 for businesses, local government or individuals in any two-year period, the director of the budget shall:

(A) Approve the proposed rule and regulation, if the agency, prior to the submission or the resubmission of a rule and regulation to the director, holds a public hearing and finds that the costs of the proposed rule and regulation have been accurately determined and are necessary for achieving legislative intent, and the director, after an independent analysis, concurs with the agency's findings and analysis and approves the economic impact statement; or

(B) disapprove the proposed rule and regulation.

(b) The director of the budget shall submit an annual report to the legislature and to the joint committee on administrative rules and regulations on the first day of the 2019 regular legislative session and subsequent regular legislative sessions on all rules and regulations approved or denied by the director. The report shall include the text of each rule and regulation reviewed, the final economic impact statement and a summary of the director's analysis supporting the decision to approve or reject the rule and regulation. The director shall immediately submit a separate report to the legislature, if in session, and the joint committee on administrative rules and regulations upon the approval or denial of a rule or regulation with costs determined to be greater than \$5,000,000 for businesses, local government or individuals over any two-year period. The report shall include an analysis of the agency's and the director's decisions with respect to the necessity of the cost of the rule and regulation to achieve legislative intent.

(c) Every rule and regulation proposed to be adopted by any state agency that has been approved by the director of the budget pursuant to the provisions of subsection (a), before being submitted to the attorney general under this section, shall be submitted to the secretary of administration for approval of its organization, style, orthography and grammar subject to such requirements as to organization, style, orthography and grammar as the secretary may adopt. Every rule and regulation submitted to the secretary of administration under this subsection-(a) shall be accompanied by a copy of any document which is adopted by reference by the rule and regulation. Every rule and regulation approved by the secretary of administration under this subsection-(a) shall be stamped as approved and the date of such approval shall be indicated therein.

(b)(d) Every rule and regulation proposed by any state agency which that has been approved by the director of the budget and the secretary of administration as provided in-subsection subsections (a) and (c) before being adopted or filed shall be submitted to



the attorney general for an opinion as to the legality of the same, including whether the making of such rule and regulation is within the authority conferred by law on the state agency. The attorney general shall promptly furnish an opinion as to the legality of the proposed rule and regulation so submitted. Every rule and regulation submitted to the attorney general under this subsection~~(b)~~ shall be accompanied by a copy of any document which is adopted by reference by the rule and regulation. Every rule and regulation approved by the attorney general under this subsection~~(b)~~ shall be stamped as approved and the date of such approval shall be indicated therein.

~~(c)~~(e) No rule and regulation shall be filed by the secretary of state unless:

(1) The rule and regulation has been approved by the director of the budget;

(2) The organization, style, orthography and grammar have been approved by the secretary of administration;

~~(2)~~(3) the rule and regulation has been approved in writing by the attorney general as to legality;

~~(3)~~(4) the rule and regulation has been formally adopted by the state agency after it has been approved by the director of the budget, the secretary of administration and the attorney general and is accompanied by a certified or other formal statement of adoption when adoption is by an executive officer of a state agency, or by a certified copy of the roll call vote required for its adoption by K.S.A. 77-421, and amendments thereto, when adoption is by a board, commission, authority or other similar body;

~~(4)~~(5) the rule and regulation to be filed is accompanied by a copy of the economic impact statement as provided by K.S.A. 77-416, and amendments thereto, that has been reviewed and approved by the director of the budget as provided by subsection (a); and

~~(5)~~(6) the rule and regulation to be filed is accompanied by a copy of the environmental benefit statement required by K.S.A. 77-416, and amendments thereto, if applicable.

Sec. 3. K.S.A. 2017 Supp. 77-420a is hereby amended to read as follows: 77-420a. No rule and regulation shall be adopted prior to the effective date of the statute authorizing its adoption, but prior to the effective date of such statute, the proposed rule and regulation may be submitted to the director of the budget, the secretary of administration and to the attorney general for approval as required by K.S.A. 77-420, and amendments thereto, and notice of the proposed rule and regulation may be given and a hearing held thereon in the manner provided by K.S.A. 77-421, and amendments thereto.

Sec. 4. K.S.A. 2017 Supp. 77-421 is hereby amended to read as follows: 77-421. (a) (1) Except as provided by subsection (a)(2), subsection (a)(3) or subsection (a)(4), prior to the adoption of any permanent rule and regulation or any temporary rule and regulation which is required to be adopted as a temporary rule and regulation in order to comply with the requirements of the statute authorizing the same and after any such rule and regulation has been approved by the director of the budget, the secretary of administration and the attorney general, the adopting state agency shall give at least 60 days' notice of its intended action in the Kansas register and to the secretary of state and to the joint committee on administrative rules and regulations established by K.S.A. 77-436, and amendments thereto. The notice shall be provided to the secretary of state and to the chairperson, vice chairperson, ranking minority member of the joint committee and legislative research department and shall be published in the Kansas register. A complete copy of all proposed rules and regulations and the complete economic impact

statement required by K.S.A. 77-416, and amendments thereto, shall accompany the notice sent to the secretary of state. The notice shall contain:

- (A) A summary of the substance of the proposed rules and regulations;
- (B) a summary of the economic impact statement indicating the estimated economic impact on governmental agencies or units, persons subject to the proposed rules and regulations and the general public;
- (C) a summary of the environmental benefit statement, if applicable, indicating the need for the proposed rules and regulations;
- (D) the address where a complete copy of the proposed rules and regulations, the complete economic impact statement, the environmental benefit statement, if applicable, required by K.S.A. 77-416, and amendments thereto, may be obtained;
- (E) the time and place of the public hearing to be held; the manner in which interested parties may present their views; and
- (F) a specific statement that the period of 60 days' notice constitutes a public comment period for the purpose of receiving written public comments on the proposed rules and regulations and the address where such comments may be submitted to the state agency. Publication of such notice in the Kansas register shall constitute notice to all parties affected by the rules and regulations.

(2) Prior to adopting any rule and regulation which establishes seasons and fixes bag, creel, possession, size or length limits for the taking or possession of wildlife and after such rule and regulation has been approved by the secretary of administration and the attorney general, the secretary of wildlife, parks and tourism shall give at least 30 days' notice of its intended action in the Kansas register and to the secretary of state and to the joint committee on administrative rules and regulations created pursuant to K.S.A. 77-436, and amendments thereto. All other provisions of subsection (a)(1) shall apply to such rules and regulations, except that the statement required by subsection (a)(1)(E) shall state that the period of 30 days' notice constitutes a public comment period on such rules and regulations.

(3) Prior to adopting any rule and regulation which establishes any permanent prior authorization on a prescription-only drug pursuant to K.S.A. 39-7,120, and amendments thereto, or which concerns coverage or reimbursement for pharmaceuticals under the pharmacy program of the state medicaid plan, and after such rule and regulation has been approved by the director of the budget, the secretary of administration and the attorney general, the secretary of health and environment shall give at least 30 days' notice of its intended action in the Kansas register and to the secretary of state and to the joint committee on administrative rules and regulations created pursuant to K.S.A. 77-436, and amendments thereto. All other provisions of subsection (a)(1) shall apply to such rules and regulations, except that the statement required by subsection (a)(1)(E) shall state that the period of 30 days' notice constitutes a public comment period on such rules and regulations.

(4) Prior to adopting any rule and regulation pursuant to subsection (c), the state agency shall give at least 60 days' notice of its intended action in the Kansas register and to the secretary of state and to the joint committee on administrative rules and regulations created pursuant to K.S.A. 77-436, and amendments thereto. All other provisions of subsection (a)(1) shall apply to such rules and regulations, except that the statement required by subsection (a)(1)(E) shall state that the period of notice constitutes a public comment period on such rules and regulations.

(b) (1) On the date of the hearing, all interested parties shall be given reasonable opportunity to present their views or arguments on adoption of the rule and regulation, either orally or in writing. At the time it adopts or amends a rule and regulation, the state agency shall prepare a concise statement of the principal reasons for adopting the rule and regulation or amendment thereto, including:

(A) The agency's reasons for not accepting substantial arguments made in testimony and comments; and

(B) the reasons for any substantial change between the text of the proposed adopted or amended rule and regulation contained in the published notice of the proposed adoption or amendment of the rule and regulation and the text of the rule and regulation as finally adopted.

(2) Whenever a state agency is required by any other statute to give notice and hold a hearing before adopting, amending, reviving or revoking a rule and regulation, the state agency, in lieu of following the requirements or statutory procedure set out in such other law, may give notice and hold hearings on proposed rules and regulations in the manner prescribed by this section.

(3) Notwithstanding the other provisions of this section, the secretary of corrections may give notice or an opportunity to be heard to any inmate in the custody of the secretary with regard to the adoption of any rule and regulation.

(c) (1) The agency shall initiate new rulemaking proceedings under this act, if a state agency proposes to adopt a final rule and regulation that:

(A) Differs in subject matter or effect in any material respect from the rule and regulation as originally proposed; and

(B) is not a logical outgrowth of the rule and regulation as originally proposed.

(2) For the purposes of this provision, a rule and regulation is not the logical outgrowth of the rule and regulation as originally proposed if a person affected by the final rule and regulation was not put on notice that such person's interests were affected in the rule making.

(d) When, pursuant to this or any other statute, a state agency holds a hearing on the adoption of a proposed rule and regulation, the agency shall cause written minutes or other records, including a record maintained on sound recording tape or on any electronically accessed media or any combination of written or electronically accessed media records of the hearing to be made. If the proposed rule and regulation is adopted and becomes effective, the state agency shall maintain, for not less than three years after its effective date, such minutes or other records, together with any recording, transcript or other record made of the hearing and a list of all persons who appeared at the hearing and who they represented, any written testimony presented at the hearing and any written comments submitted during the public comment period.

(e) No rule and regulation shall be adopted by a board, commission, authority or other similar body except at a meeting which is open to the public and notwithstanding any other provision of law to the contrary, no rule and regulation shall be adopted by a board, commission, authority or other similar body unless it receives approval by roll call vote of a majority of the total membership thereof.

Sec. 5. K.S.A. 2017 Supp. 77-422 is hereby amended to read as follows: 77-422. (a) A rule and regulation may be adopted by a state agency as a temporary rule and regulation if the state agency and the state rules and regulations board finds that the preservation of the public peace, health, safety or welfare necessitates or makes

desirable putting such rule and regulation into effect prior to the time it could be put into effect if the agency were to comply with the notice, hearing and publication requirements of this act or prior to the effective date prescribed by K.S.A. 77-426, and amendments thereto.

(b) Temporary rules and regulations may be adopted without the giving of notice and the holding of a hearing thereon.

(c) (1) A temporary rule and regulation shall take effect:

(A) After approval by the director of the budget, the secretary of administration and the attorney general as provided by K.S.A. 77-420, and amendments thereto;

(B) after approval by the state rules and regulations board as provided by K.S.A. 77-423, and amendments thereto; and

(C) upon filing with the secretary of state.

(2) The effective date of all or specific parts of a temporary rule and regulation may be delayed to a date later than its filing date if the delayed effective date of such rule and regulation, or specific parts thereof, is clearly expressed in the body of such rule and regulation.

(3) A temporary rule and regulation shall be effective for a period not to exceed 120 days except that, for good cause, a state agency may request that a temporary rule and regulation may be renewed one time for an additional period not to exceed 120 days.

(d) A temporary rule and regulation which amends an existing rule and regulation shall have the effect of suspending the force and effect of the existing rule and regulation until such time as the temporary rule and regulation is no longer effective. In such case, at the time the temporary rule and regulation ceases to be effective, the existing permanent rule and regulation which was amended by the temporary rule and regulation shall be in full force and effect unless such existing rule and regulation is otherwise amended, revoked or suspended as provided by law.

(e) Temporary rules and regulations shall be numbered in accordance with the numbering arrangement approved by the secretary of state and otherwise shall conform to the approval, adoption and filing requirements of this act, insofar as the same can be made applicable.";

On page 5, in line 13, by striking "As"; by striking all in lines 14 through 16; in line 17, by striking "regulations."; in line 20, after "(d)" by inserting "The committee shall issue a report to the legislature following each meeting making comments and recommendations and indicating concerns about any proposed rule and regulation. Such report shall be made available to each agency that had proposed rules and regulations reviewed at such meeting during the agency's public comment period for such proposed rules and regulations required by K.S.A. 77-421, and amendments thereto. If having a final report completed by the public hearing required by K.S.A. 77-421, and amendments thereto, is impractical, a preliminary report shall be made available to the agency containing the committee's comments. The preliminary report shall be incorporated into the final report and made available to each agency.

(e)";

And by redesignating subsections, paragraphs, subparagraphs and clauses accordingly;

Also on page 5, in line 37, after the comma by inserting "77-420, 77-420a, 77-421, 77-422,";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, after "to" by inserting "approval of rules and regulations by the director of the budget;"; in line 3, after the first semicolon by inserting "report made by committee; audit;"; in line 4, after the comma by inserting "77-420, 77-420a, 77-421, 77-422, "; and the bill be passed as amended.

Committee on **Elections** recommends **SB 264** be amended by substituting a new bill to be designated as "House Substitute for SENATE BILL NO. 264," as follows:

"House Substitute for SENATE BILL NO. 264

By Committee on Elections

"AN ACT concerning elections; relating to application and ballot signature requirements for disabled voters; relating to the crime of perjury; amending K.S.A. 25-1121 and K.S.A. 2017 Supp. 21-5903, 25-1122, 25-1124 and 25-1128 and repealing the existing sections."; and the substitute bill be passed.

(**H Sub for SB 264** was thereupon introduced and read by title.)

Committee on **Federal and State Affairs** recommends **SB 369** be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

Committee on **Federal and State Affairs** recommends **HB 2308** be amended on page 1, in line 5, after "of" by inserting "inpatient"; also in line 5, by striking the last "a" and inserting "the admitted"; in line 6, by striking "committee" and inserting "commit"; in line 12, by striking all after "means"; by striking all in line 13; in line 14, by striking "counseling" and inserting ":

(1) Any private or public treatment facility, as such terms are defined in K.S.A. 59-29b46, and amendments thereto;

(2) any community mental health center organized pursuant to the provisions of K.S.A. 19-4001 et seq., and amendments thereto, and licensed pursuant to K.S.A. 2017 Supp. 39-2001 et seq., and amendments thereto;

(3) any mental health clinic organized pursuant to the provisions of K.S.A. 65-211 et seq., and amendments thereto, and licensed pursuant to K.S.A. 2017 Supp. 39-2001 et seq., and amendments thereto;

(4) any crisis intervention center, as such term is defined in K.S.A. 59-29c02, and amendments thereto;

(5) any psychiatric hospital, psychiatric residential treatment facility or residential care facility, as such terms are defined in K.S.A. 2017 Supp. 39-2002, and amendments thereto;

(6) any hospital, as such term is defined in K.S.A. 65-425, and amendments thereto, that operates a psychiatric unit; or

(7) Osawatomie state hospital or Larned state hospital";

Also on page 1, in line 15, by striking "at Gordon's" and inserting "as Gordy's";

On page 1, in the title, in line 2, by striking "of"; and the bill be passed as amended.

Committee on **Financial Institutions and Pensions** recommends **HB 2764** be amended on page 1, in line 18, after "parks" by inserting ", public lands"; and the bill be passed as amended.

Committee on **Higher Education Budget** recommends **HB 2644** be passed.

Committee on **Higher Education Budget** recommends **SB 343** be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

Committee on **Taxation** recommends **HB 2755** be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

#### **CHANGE OF REFERENCE**

Speaker pro tem Schwab announced the withdrawal of **HB 2594** from Committee on Appropriations and re-referral to Committee on Financial Institutions and Pensions.

#### **COMMITTEE ASSIGNMENT CHANGES**

Speaker pro tem Schwab announced the appointment of Rep. Parker to replace Rep. Hodge on Committee on Judiciary on March 14, 2018.

On motion of Rep. Hineman, the House adjourned until 11:00 a.m., Thursday, March 15, 2018.

JENNY HAUGH, JULIA WERNER, *Journal Clerks.*

SUSAN W. KANNARR, *Chief Clerk.*

