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# State Legislative Oversight: **Kansas**



## Capacity and Usage Assessment

Oversight through Analytic Bureaucracies:	Moderate
Oversight through the Appropriations Process:	Moderate
Oversight through Committees:	Moderate
Oversight through Administrative Rule Review:	Limited
Oversight through Advice and Consent:	Limited
Oversight through Monitoring Contracts:	Limited
Judgment of Overall Institutional Capacity for Oversight:	Moderate
Judgment of Overall Use of Institutional Capacity for Oversight:	Moderate

To read the full 50 state study report or to discuss the Kansas state report, please contact [Benjamin.Eikey@wayne.edu](mailto:Benjamin.Eikey@wayne.edu).



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# Legislative Oversight in Kansas

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## Summary Assessment

While entities such as the Legislative Division of Post Audit (LPA) and the Joint Committee on Administrative Rules and Regulations provide the basis for effective legislative oversight in Kansas, in actual practice one-party government in Kansas may have dampened these efforts. Despite its limited formal authority to force agencies to change rules, Kansas's JCARR is one of the more active rule review committees among the states. It seems to be willing to pass legislation forcing agencies to alter rules, which seems likely to enhance its ability to persuade state agencies to take its concerns seriously.

Even in cases where legislators have taken an interest in overseeing executive agencies, as in the case of the Department of Corrections or on the issue of foster care, very little overt action seems to be taken to address problems. There may be more indirect effects across time, however. Interestingly, much of the oversight that has occurred in recent years appears to have resulted from pushback against some of former Gov. Brownback's fiscal policies, as moderate Republicans joined forces with Democrats to take a firmer control over the budget. Crises can and did generate fire alarm oversight in Kansas.

## Major Strengths

The LPA has, in certain cases, demonstrated its abilities to work closely with the legislature to investigate issues in state government, notably in the incidence of mismanagement at two of Kansas's prisons. In addition to audits required by law, legislators can request audits at any time, although the Legislative Post Audit Committee ultimately selects the audits that are conducted. Based on archived audio available online, appropriations committees appear to hold agency heads accountable for expenditures. The State of Kansas Division of the Budget's Comparison Report is a particularly noteworthy oversight mechanism employed by the Kansas legislature.

## Challenges

Although the LPA may work closely with the legislature, often, implementation of recommendations is slow. Instead, oversight in Kansas through analytic bureaucracies appears less comprehensive. It is typical for audit recommendations by the LPA to target agency change rather than seeking to use legislation to change agency behavior. In other states some analytical bureaucracies frequently seek legislative change as part of their recommendations.

## Relevant Institutional Characteristics

Kansas's legislature consists of 125 representatives and 40 senators. Although the National Conference of State Legislatures (NCSL) classifies Kansas's legislature as "part-time lite," meaning that while it is a part-time legislature with low pay and small staff, it is not among the "most traditional of citizen legislatures."<sup>882</sup> Legislators are paid \$88.66 per calendar day of the session, plus a \$142 per diem for each actual working day of the legislative session.<sup>883</sup> The legislative session is approximately five-and-a-half months in duration; in 2017 it lasted from January 9 through June 26. The legislature has 354 total staff members, 148 of whom are permanent.<sup>884</sup> Kansas legislators are not term-limited.<sup>885</sup> Based on these and other factors, the Kansas legislature is ranked as the 31<sup>st</sup> most professional legislature in the country by Squire (2017).

Kansas's governor has fairly extensive powers, with full budget-preparation responsibility and the right to reorganize government agencies through an executive reorganization order (ERO), a particular kind of executive order. The governor also has a line-item veto on appropriations bills. This authority is restrained only by an override vote of two thirds of the majority in both houses of the legislature (Beyle, 2008). According to Ferguson (2013), the Office of the Kansas Governor is the tenth most powerful among the 50 states.

Kansas's state and local government employees make up 12.8% of total employment in the state. Of these, 7.6% are engaged in the education sector, while 1.5% is employed in public safety, 1.3% in welfare, 1.4% in general services, and 1% in other sectors (Edwards, 2006). Kansas has a high percentage of state and local government employees overall (11.3% nationally) and in education (6.1% nationally) than 41 other states.

## Political Context

In Kansas, Republicans control the governorship and both chambers of the legislature. While Republicans have historically dominated Kansas politics, the governorship has regularly

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<sup>882</sup> <http://www.ncsl.org/research/about-state-legislatures/full-and-part-time-legislatures.aspx>, accessed 6/12/18.

<sup>883</sup> <http://www.ncsl.org/research/about-state-legislatures/2017/legislator-compensation-information.aspx>, accessed 6/12/18.

<sup>884</sup> <http://www.ncsl.org/Documents/legismgt/StaffingData1979-2015.pdf>, accessed 6/12/18.

<sup>885</sup> <http://www.ncsl.org/research/about-state-legislatures/chart-of-term-limits-states.aspx>, accessed 6/12/18.

alternated between Republican and Democratic control over the last sixty years.<sup>886</sup> Republicans have controlled the house since 1993 and the senate since 1917.<sup>887</sup> The house is currently comprised of 85 Republicans and 40 Democrats, while the senate has 31 Republicans and nine Democrats. According to Shor and McCarty (2015), Kansas's house is the 19<sup>th</sup> most polarized in the country, while its senate is the 22<sup>nd</sup> most polarized.

Despite the Republican Party's electoral dominance, factional disputes between moderates and social and fiscal conservatives in the party have led to Kansas being described as having "a de facto 'three party' system, comprising Democrats, conservative Republicans, and 'traditional-moderate' Republicans who may side at times with Democrats" (Haider-Markel, 2009). Thus, while the conservative wing of the party has been ascendant in recent years, the factions of legislative Republicans have increasingly disagreed with another over the policies of former Gov. Sam Brownback, who stepped down in January 2018 to assume an ambassadorial post in the Trump administration. During his tenure in Kansas, Brownback implemented controversial economic policies, including sizeable tax and budget cuts, privatization of the state's Medicaid system, and refusal of federal Medicaid subsidies (Judis, 2014). The resulting "gaping budget shortfalls, inadequate education funding and insufficient revenue," coupled with the state's poor economic performance, culminated in the legislature overriding Gov. Brownback's 2017 veto of budget items that were intended to reverse some of his tax policies (Bosman, 2017).

## Dimensions of Oversight

### Oversight Through Analytic Bureaucracies

The Legislative Division of Post Audit (LPA) is Kansas's analytic bureaucracy.<sup>888</sup> It is established by statute 46-1101. Its essential function is to evaluate the usefulness of government agencies, their adherence to the law, and the extent to which each agency achieves its prescribed functions. The LPA is tasked with conducting audits of state agencies, "providing oversight of state government by evaluating whether agencies are following laws, achieving intended results, and operating efficiently."<sup>889</sup> It conducts performance audits that are mandated by Kansas law, as well as limited scope performance audits that are selected by the chair of the Legislative Post Audit Committee (LPAC). Limited scope audits are "limited" in the sense that they are intended to take fewer than 100 hours of staff time to complete.<sup>890</sup> The LPA does not have subpoena power. In 2015, the LPA had a professional staff of 25 and a budget of \$2.3 million (NASACT, 2015). Most of its professional staff (17) conducts performance audits. It has only one financial auditor. This supports the finding that it hires outside CPA firms to conduct the state's single audit and other financial auditing projects. It employs four Information Technology (IT) auditors.

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<sup>886</sup> <http://www.kshs.org/p/kansas-governors/11702>, accessed 6/12/18.

<sup>887</sup> <https://www.kssos.org/forms/communication/KSOOfficialsHist2018.pdf>, accessed 6/13/18.

<sup>888</sup> <http://www.kslpa.org/>, accessed 6/14/18.

<sup>889</sup> <http://www.kslpa.org/about-us/>, accessed 6/13/18.

<sup>890</sup> [http://www.kslpa.org/media/committeerules/lpac\\_rules.pdf](http://www.kslpa.org/media/committeerules/lpac_rules.pdf), accessed 5/3/18.

The LPAC directs the LPA's work.<sup>891</sup> Most of the audits that are conducted are done at the behest of the LPAC, a joint standing committee that consists of five senators and five representatives from the house. Three members are appointed by the president of the senate or the speaker of the house, respectively, and two each by the minority leader in each chamber.

In addition to periodic audits required by law, any legislator can request an audit, though the LPAC ultimately selects the audits that are conducted. This process involves a presentation by the LPA to the LPAC, which then decides whether to approve or reject the proposed audit request. According to an interviewee, "The LPA work[s] with legislator[s] to prepare a scope statement, which defines the questions they want answered. The scope statement also includes some background on the subject and an estimate for how many staff [LPA] would need to dedicate to the audit. This is all done in private. The research is confidential until presented to LPAC. [The LPA] also does a lot to help guide [legislators] to good questions [and does not] try to influence the substance of their concerns, but . . . help[s] shape them into answerable audit questions" (interview notes, 2018). Once a scope statement is approved, it is forwarded to the LPAC, which typically considers all outstanding audit requests at a single meeting rather than in a rolling process.

In 2017, the LPA conducted 15 performance audits and five IT audits. Additionally, "[e]xternal CPA firms under contract with LPA conducted financial audits of several state agencies."<sup>892</sup> KSA 74-7287 directs that at least four performance audit topics approved by the LPA must focus on cost-saving measures. Minutes from LPAC meetings<sup>893</sup> confirm this but demonstrate that audits are designated as meeting this standard after the fact through a vote by LPAC members. Every three years, external auditors review the Kansas Lottery and the state's 911 emergency system.

The LPA works closely with the legislature and is utilized by legislators to investigate issues in state government. One example involved a series of incidents between May and July 2017 at the El Dorado Correctional Facility near Wichita, as well as numerous problems at Kansas's largest prison, the Lansing Correctional Facility (Llopis-Jepsen, 2017). One legislator called for more transparency in the Kansas Department of Corrections (KDOC), noting that various problems, including understaffing, serious injuries suffered by inmates, and prisoners starting fires, had gone completely unreported until uncovered by the media (Woodall, 2017). The same legislator requested an audit of the KDOC, which was subsequently completed in December 2017. In the end, auditors found that the incidents were largely "spontaneous" and did not offer recommended actions to the legislature or the KDOC.<sup>894</sup> Around the same time, the Legislative Budget Committee held hearings on the state prison system's funding issues. During these hearings, legislators utilized the auditor's report and heard testimony from the secretary of corrections.<sup>895</sup> Much of the testimony regarded plans to renovate the Lansing Correctional Facility and pay and benefits for correctional officers at El Dorado.<sup>896</sup> Follow-up hearings held

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<sup>891</sup> [http://www.kslpa.org/media/annualreports/AFU2017\\_v9PcESk.pdf](http://www.kslpa.org/media/annualreports/AFU2017_v9PcESk.pdf), accessed 7/2/18.

<sup>892</sup> [http://www.kslpa.org/media/annualreports/AFU2017\\_v9PcESk.pdf](http://www.kslpa.org/media/annualreports/AFU2017_v9PcESk.pdf), accessed 6/14/18.

<sup>893</sup> <http://www.kslpa.org/media/files/minutes/042518.pdf>, accessed 6/14/18.

<sup>894</sup> <http://www.kslpa.org/media/files/reports/l-17-019.pdf>, accessed 6/6/18.

<sup>895</sup> [http://www.kslegislature.org/li/b2017\\_18/committees/ctte\\_leg\\_budget\\_1/documents/testimony/20170803\\_15.pdf](http://www.kslegislature.org/li/b2017_18/committees/ctte_leg_budget_1/documents/testimony/20170803_15.pdf), accessed 6/6/18.

<sup>896</sup> [http://www.kslegislature.org/li/b2017\\_18/committees/ctte\\_leg\\_budget\\_1/documents/minutes/20170803.pdf](http://www.kslegislature.org/li/b2017_18/committees/ctte_leg_budget_1/documents/minutes/20170803.pdf), accessed 6/6/18.

in October included testimony from the KDOC's Director of Capital Investment and dealt solely with the plans to renovate the Lansing facility.<sup>897</sup>

People familiar with the LPA and its relationship with the legislature suggest that this is par for the course: very often “there is no perceivable action” when legislators engage in oversight activities. “When there is action, it could be years away from implementation...there is rarely a strong action from the legislature. Legislatures have an enormous torpor.” Instead, audits are “more commonly useful as ‘ammo’ which supports an ongoing effort in the legislature.” For example, “Kansas has a long battle with foster care oversight. [The LPA] did about five audits of foster care [over the course of several years] – none of them directly resulted in significant oversight, but they all assisted the efforts of committees, individual legislators, and outside groups” (interview notes, 2018).

More often, audit recommendations are targeted at changing agencies, rather than eliciting legislative action. Agencies tend to either implement the recommendations quickly or ignore them entirely. Recommendations that are “relatively innocuous and . . . helpful to the agency” are often “implemented without any dispute,” while “ones that require significant work are typically not implemented.” The legislature, meanwhile, “typically won’t act unless there is significant public appeal to the subject” (interview notes, 2018). Although the LPA claims that it tries to stay in the background, letting legislators have the press attention, it does release brief summaries of its reports to the media (NASACT, 2015).

Kansas also has a Legislative Research Department (KLRD), which provides “objective research and fiscal analysis for members of the Kansas legislature.”<sup>898</sup> The KLRD reports to Legislative Coordinating Council (LCC) which consists of seven legislative leaders: The speaker of the house and speaker pro tempore of the house, the majority and minority party leaders of each chamber, and president of the senate. The LCC appoints the KLRD director. The KLRD’s 40-member staff analyzes agency budgets, helps legislators write appropriations bills and provides the committee staff for standing and interim committees. Legislators can use the KLRD to request information from various local, state, and federal entities, research particular statutes or policy areas, and prepare substantive reports pertaining to those requests. The KLRD also publishes annual Agency Budget Summaries, Appropriations Reports, and Committee Reports to the legislature. It previously published a report on annual legislative highlights.<sup>899</sup>

## Oversight Through the Appropriations Process

Proposed budgets are prepared by each agency, subject to analysis by the KLRD and to analysis and recommendations of the Division of the Budget. These budgets are also submitted to the Legislative Research Department (LRD) at the same time. The governor, upon consideration of these recommendations, submits a budget proposal. The governor may revise the budget of executive branch agencies, but may not revise those of the judicial branch, which

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<sup>897</sup> [http://www.kslegislature.org/li/b2017\\_18/committees/ctte\\_leg\\_budget\\_1/documents/testimony/20171005\\_09.pdf](http://www.kslegislature.org/li/b2017_18/committees/ctte_leg_budget_1/documents/testimony/20171005_09.pdf), accessed 6/6/18.

<sup>898</sup> <http://www.kslegresearch.org/KLRD-web/Services-to-Legislators.html>, accessed 6/12/18.

<sup>899</sup> [http://www.kslegresearch.org/KLRD-web/Publications/LegislativeHighlights/2018\\_highlights\\_landscape.pdf](http://www.kslegresearch.org/KLRD-web/Publications/LegislativeHighlights/2018_highlights_landscape.pdf), accessed 7/4/18.

remain unchanged in the final budget proposal. The LRD then prepares an analysis of the budget, which is presented to the legislature.<sup>900</sup>

The House Appropriations Committee and the Senate Ways and Means Committee are the legislative standing committees to which the governor's budget is referred. These committees refer agency-specific budget items to the pertinent house standing committees and senate subcommittees. Based on committee minutes and archived audio,<sup>901</sup> appropriations committees do pose questions to agency representatives, expecting them to explain their expenditures and justify future appropriations. After such hearings conclude, then the proposed budget is revised based on the recommendations of the standing committees. The revised budget is then submitted to the full house and senate for approval, rejection, or amendment. A simple majority is required for budget approval. If approved, the budget is then submitted to a conference committee for reconciliation. Kansas's governor has line item veto authority over the budget.

Importantly, the State of Kansas Division of the Budget publishes the annual Comparison Report that compares the budget proposed by the governor and what was actually approved by the legislature.<sup>902</sup> For fiscal year 2017-2019, the legislature allocated an average of \$263 million more to the budget than the governor recommended, indicating that some review and amendment is happening in this domain. On the other hand, this action partially resulted from the Kansas Supreme Court's decision that the previously enacted K-12 education funding system was unconstitutional (Hancock, 2018), rather than through independent action by the legislature. The legislature on its own initiative, however, battled the state's governor over restrictions on Medicaid funding. Ultimately, the governor vetoed the legislature's restrictions on the debated program (Koranda, 2018).

During the budget battles over K-12 education funding in March 2018, the House K-12 Education Budget Committee met regularly. During its March 5 meeting, the committee listened to a presentation on a Legislative Post Audit by a representative of the American Institutes for Research. On March 6, it received an informational briefing on the impact of investments in early childhood education. On March 7, it listened to briefings from the State Department of Education, and on March 8 considered two bills related to weighting of certain groups of at-risk children when funding public schools. The Kansas Legislative Highlights for 2018,<sup>903</sup> published by the KLRD, lists changes to this weighting formula among the legislative accomplishments for the year.

This appropriations subcommittee continued to meet almost daily (five days per week) throughout the month of March.<sup>904</sup> This might have been a response to an impending showdown between the courts and the state over education funding.

## Oversight Through Committees

Most standing committees seem to engage in fairly limited oversight. While a decent amount of legislation is passed through both house and senate standing committees, our review

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<sup>900</sup> [http://www.kslegresearch.org/KLRD-web/Publications/BriefingBook/2017\\_briefing\\_book.pdf](http://www.kslegresearch.org/KLRD-web/Publications/BriefingBook/2017_briefing_book.pdf), accessed 6/14/18.

<sup>901</sup> <http://sg001-harmony.sliq.net/00287/Harmony/en/View/Calendar/20180430/-1>, accessed 6/14/18.

<sup>902</sup> <https://budget.kansas.gov/comparison-reports/>, accessed 6/14/18.

<sup>903</sup> [http://www.kslegresearch.org/KLRD-web/Publications/LegislativeHighlights/2018\\_highlights\\_landscape.pdf](http://www.kslegresearch.org/KLRD-web/Publications/LegislativeHighlights/2018_highlights_landscape.pdf), accessed 7/4/18.

<sup>904</sup> <http://sg001-harmony.sliq.net/00287/Harmony/en/View/Calendar/20180402/-1>, accessed 7/4/18.

indicates that not much of it is oversight-related. According to an interviewee, standing committees will sometimes “question an agency harshly. This public haranguing seems to have some value. One example was [an] audit of the Sexual Predator Treatment Program, which found significant legal, financial, and operational problems. “LPAC was very aggressive with them during the report’s presentation” (interview notes, 2018). However, there is no indication that any legislation or other actions emerged from these hearings. Other times, members of standing committees will work more discreetly. For example, one legislator who was very interested in the state’s foster care problems held “a number of private conversations with Department of Children and Families regarding [the auditor’s] findings and what was being done” (interview notes, 2018). However, no oversight-related legislation emerged from these meetings.

Substantive legislative oversight by standing committees takes place in certain instances. In 2017, for example, the LPA audited the privatized (nonprofit) state foster care system. The performance audit was “ordered following two deaths in 2014 of children who were in the foster care system.” In 2015 the LPAC voted along party lines against ordering an audit of the Department of Children and Families (DCF), but did wait list the audit request (Hancock, 2015). So the audit was not completed until 2017. The report read that “the state’s system of oversight needs improvement,” particularly in the realm of the ability to “compile, maintain, and better use data to make decisions about the children in the foster care system” (Hancock, 2017). Yet it was not until 2018 that Kansas legislators took action to legislate changes in the transparency in reporting deaths that occur while children are in the foster care (Bauer, Thomas and Woodall, 2018). So, although it appears that the Kansas legislature does use audit information, it does not appear in this instance to have done so with a sense of urgency even though children’s lives are involved.

In 2017, full and limited-scope performance audits were also performed on the state’s K-12 education system, casinos, the KDOC, and certain minority-serving liaison offices within the Office of the Governor (among other things). In each case, the reports noted agency responses to the issues identified in the audits.

## Oversight Through the Administrative Rules Process

All proposed rules must be filed with the Kansas Secretary of State. The legality of proposed rules is reviewed by the attorney general. The rule is then considered by the Joint Committee on Administrative Rules and Regulations (JCARR). Since 1988, the JCARR has been charged with reviewing all proposed rules and regulations (KSA 2016 Supp. 77-436). The committee then holds a public hearing and expresses its recommendations to the proposing agency within a statutory 60-day comment period. The committee then forwards its comments and recommendations to the appropriate agency. Although the JCARR’s comments on these rules have no more formal weight than any other public comment, the committee has been effective in leveraging its comments into agency responsiveness (Schwartz, 2010). Comments often pertain to issues of authority, clarity, fees, and costs, program concerns, and, in some cases, commendations for work carried out by the relevant agencies.<sup>905</sup> If an agency chooses not to follow the recommendations made, the committee may file a bill with the whole legislature to

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<sup>905</sup> <http://www.kslegresearch.org/KLRD-web/Publications/CommitteeReports/2016CommitteeReports/jcarr'16-'17-cr.pdf>, accessed 6/14/18.



require that their recommendations be implemented.<sup>906</sup> As noted below, the JCARR actively utilizes this ability.

The committee conducted 17 meetings during the 2017-18 legislative session. Some of these meetings included testimony from representatives of agencies proposing new regulations, totaling up to 46 rules, regulations or fees across the 17 meetings. Formal comment, sometimes critical of proposed rules, was offered fairly frequently. An interviewee confirmed that the JCARR does not have the power to block the adoption of any rules, and such action must be taken by the whole legislature. In some cases, legislation was enacted that contained “provisions authorizing, requiring, moving, or clarifying authority for rules and regulations.”<sup>907</sup> Existing rules may also be “amended, revived or revoked as provided by law” (KSA 77-426). According to the KLRD annual report on the JCARR, 26 of the 104 bills enacted by Kansas’s legislature in 2017 include changes that would affect these rules and regulations. Additionally, of the 46 rules and regulations that the JCARR considered in 2017, three were withdrawn and four were not published in the Kansas Register by July 1, 2017, the cutoff for this KLRD report.<sup>908</sup>

On June 7, 2018, the Kansas legislature passed HB 2280,<sup>909</sup> which requires all proposed regulations to be reviewed and approved by the Director of the Budget and required an expanded economic impact analysis. Previously, the law required only a “brief description” of economic impacts. The purpose, according to an interviewee, is to ensure that all proposed regulations are financially “good for Kansas” (interview notes, 2018). The same source indicated that this bill was passed very swiftly and quietly, and both the JCARR and the secretary of state were taken by surprise. It remains unclear whether these changes affect the work previously performed by the JCARR.

## Oversight Through Advice and Consent

The governor of Kansas, assisted by the Office of Appointments, is responsible for appointing individuals to serve on boards and commissions. The governor appoints 54 agency directors, board members, and commissioners subject to confirmation by a majority vote in the senate, pending approval by the Senate Confirmation Oversight Committee.<sup>910</sup> Partisan representation on this committee is proportional to that of the entire senate. Applicants submit documents to the Office of Appointments for review and are then subjected to a phone interview with the Director of the Office of Appointments. Pending the results of a background check, the applicant is then subject to senatorial confirmation.<sup>911</sup> Among other things, a questionnaire used by the Senate Confirmation Oversight Committee contains basic questions about educational and employment background, relevant experience, professional licenses, the applicant’s reason as to why they would be a good fit for the position, and their understanding of the purpose of the

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<sup>906</sup> [http://www.kslegresearch.org/KLRD-web/Publications/BriefingBook/2017\\_briefing\\_book.pdf](http://www.kslegresearch.org/KLRD-web/Publications/BriefingBook/2017_briefing_book.pdf), accessed 6/14/18.

<sup>907</sup> <http://www.kslegresearch.org/KLRD-web/Publications/CommitteeReports/2016CommitteeReports/jcarr'16-'17-cr.pdf>, accessed 6/14/18.

<sup>908</sup> <http://www.kslegresearch.org/KLRD-web/Publications/CommitteeReports/2016CommitteeReports/jcarr'16-'17-cr.pdf>, accessed 7/4/18.

<sup>909</sup> <https://legiscan.com/KS/bill/HB2280/2017>, accessed 6/14/18.

<sup>910</sup> [http://www.kslegresearch.org/KLRD-web/Publications/BriefingBook/2017\\_briefing\\_book.pdf](http://www.kslegresearch.org/KLRD-web/Publications/BriefingBook/2017_briefing_book.pdf), accessed 6/14/18.

<sup>911</sup> <https://governor.kansas.gov/serving-kansans/office-of-appointments/faqs-for-appointment-process/>, accessed 6/13/18.

position to which they are applying.<sup>912</sup> Supreme Court justices are chosen by the governor from a list compiled by the Supreme Court Nominating Commission. Court of appeals judges are nominated by the governor and subject to confirmation by the senate.<sup>913</sup>

The governor may issue executive orders “when empowered to do so by the legislature.” These orders “do not have the force of law and may only be issued when related directly to the governor’s duties.”<sup>914</sup> Generally speaking, however, executive orders are not common in Kansas, and most appear to be related to disasters like drought and wildfires or to the creation and reorganization of agencies.<sup>915</sup>

According to the state constitution, the governor may reorganize executive agencies by issuing an “executive reorganization order” (ERO), which is distinct from other executive orders. EROs may be issued “for the purpose of transferring, abolishing, consolidating or coordinating part or all of a state agency or its functions within the executive branch.”<sup>916</sup> EROs also have the force of law unless either chamber of the legislature invalidates it by passing “a resolution disapproving such executive reorganization order” within 60 days.<sup>917</sup> Several agencies, including the former Kansas Department on Aging, the Disability and Behavioral Health Services Division, and the Department of Administration, have been reorganized in recent years; the legislature does not appear to have intervened (KDOA, 2015; KHI, 2012).

## Oversight Through Monitoring of State Contracts

State contracts are administered by the Office of Procurements and Contracts, which is a division of the Department of Administration. The office’s secretary is a gubernatorial appointment subject to senatorial confirmation. At least once per year the Director of Purchases must prepare a “detailed report . . . of all contracts over \$5,000” and submit it to the Legislative Coordinating Council (LCC), the Chairpersons of the Senate Ways and Means and the House Appropriations Committees (KSA 75-3739). The director must also supply a similar report detailing all instances in which the competitive bidding process was waived.

## Oversight Through Automatic Mechanisms

Kansas does not have automatic sunrise or sunset processes. Sunset provisions on specific laws or entities, do, however, exist. The Kansas Lottery, for example, has historically been subject to periodic renewal by the legislature. Over the years, there has been some pressure to repeal the sunset requirement (Rothschild, 2006), on the grounds that sunset is costing the state money since it requires the lottery to renegotiate with vendors. During the 2017-2018

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<sup>912</sup> [http://www.kslegislature.org/li\\_2016/b2015\\_16/committees/misc/ctte\\_s\\_cnfrm\\_ovst\\_1\\_20150504\\_02\\_other.pdf](http://www.kslegislature.org/li_2016/b2015_16/committees/misc/ctte_s_cnfrm_ovst_1_20150504_02_other.pdf), accessed 6/13/18.

<sup>913</sup> [http://web.archive.org/web/20141002190406/http://www.judicialselection.us/judicial\\_selection/methods/selection\\_of\\_judges.cfm?state=KS](http://web.archive.org/web/20141002190406/http://www.judicialselection.us/judicial_selection/methods/selection_of_judges.cfm?state=KS), accessed 9/26/18.

<sup>914</sup> <http://www.civics.ks.gov/kansas/executive/governor.html>, accessed 6/6/18.

<sup>915</sup> <https://kslib.info/Archive.aspx?AMID=41>, accessed 6/12/18.

<sup>916</sup> <http://www.civics.ks.gov/kansas/executive/governor.html>, accessed 6/6/18.

<sup>917</sup> <https://kslib.info/827/Article-1-Executive>, accessed 6/12/18.

legislative session, a bill was introduced to abolish the sunset provisions (SB 168). That bill, however, died in committee and the legislature subsequently ended its session.<sup>918</sup>

## Methods and Limitations

In Kansas, a total of three people were interviewed. The legislature's website provides livestreams of house and senate proceedings, but there is a lack of archival recordings of committee hearings. Minutes and agendas for committee meetings are available online, but some of these are cryptic. It is, therefore, difficult to determine how well the Kansas legislature uses its oversight tools.

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<sup>918</sup> [http://www.kslegislature.org/li/b2017\\_18/measures/sb168/](http://www.kslegislature.org/li/b2017_18/measures/sb168/), accessed 6/6/18.

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