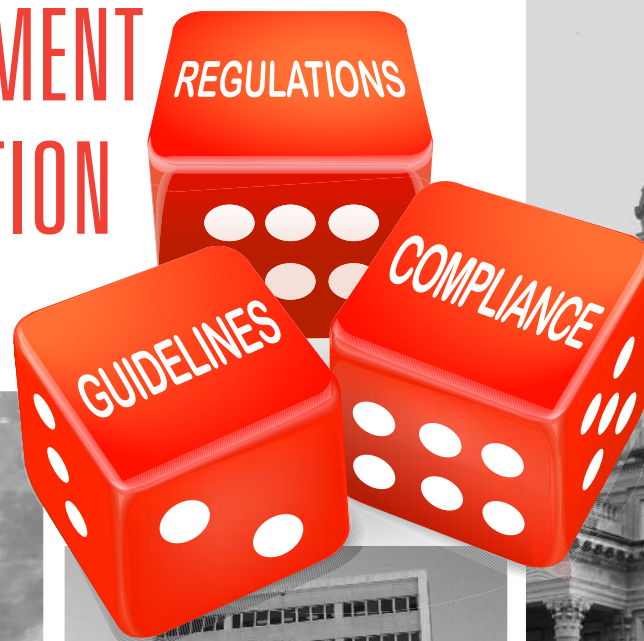


Business Perceptions of the Economic Impact of State and Local

GOVERNMENT REGULATION



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Prepared for Kansas Policy Institute
by Hugo Wall School of Public Affairs, Wichita State University

Nancy McCarthy Snyder, Principal Investigator with assistance from Mark Bowman
Misty Bruckner and Paula Downs, Facilitators





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About the Authors

Nancy McCarthy Snyder is director of the Hugo Wall School of Public Affairs and a faculty member in the Public Administration program at Wichita State University. She holds a bachelors degree in math from Clarke College in Dubuque, Iowa and a doctorate in economics from Southern Illinois University in Carbondale. Her research includes evaluations of Kansas welfare reform programs; nonprofit governance, management and financial management; school finance; and a review of the privatization of the Kansas child welfare system. Snyder has taught courses on public sector economics, state and local government budgeting, statistics, and nonprofit management. She has served on several state and local advisory commissions, most recently the City of Wichita Water Utilities Advisory Committee. She is a member of the State of Kansas Consensus Revenue Estimating Group. Snyder served as Director of Institutional Research at WSU from 1998-2000 and from 2004-2007 she held the position of Associate Vice President for Academic Affairs and Research where she was responsible for University reaccreditation, academic planning and budgeting.

Mark Bowman is a graduate assistant in the Master of Public Administration program at Wichita State University. He is a graduate of Emporia State University where he majored in political science.

Misty R. Bruckner, Director of the Hugo Wall School's Center for Urban Studies, joined the School in September 2006. Ms. Bruckner is responsible for assisting local governments and nonprofits with special projects, policy development, community surveys, facilitation and training efforts. She completed her MPA degree at the Hugo Wall School in 1995. From 1994 through 2000, she worked in the Office of the Wichita City Manager as assistant to the city manager, and after 2000, was self-employed as a consultant to local governments and nonprofit agencies. Ms. Bruckner is a recipient of the Excellence in Public Service Award and the Sedgwick County Sheriff's Office Bronze Medal Award for Public Service – the highest honor for a civilian. In 2010, Ms. Bruckner was selected to participate in the Kansas Leadership Center's Community Collaboration Academy aimed at advancing facilitation and collaboration efforts across the state of Kansas.

Paula Downs, REAP Sustainable Communities Project Director, holds a Bachelor of Science degree in Criminal Justice and a Master of Public Administration with a Graduate Certificate in non-Project Management, both from Wichita State University. She previously worked at Sedgwick County for 21 years, beginning in the District Attorney's Office and finishing her career in the Project Services Department. Paula has 13 years of experience working as a project manager and teaching on the subject. In her current role, she oversees the Regional Sustainable Communities planning effort. This project engages partners, stakeholders, local government representatives, and the public, around regional issues in the areas of housing, transportation, workforce and business development, natural environment, and healthy community design.

Foreword

When policy debates turn to job creation there is often scant detail beyond platitudes and talking points. “We need lower taxes.” “Targeted government investment is the name of the game.” “Create an environment in which all can succeed.” “Regulations need to be updated for the 21st Century.” Politicians from across the political spectrum offer bromides that serve their previously held beliefs while citizens and businesses struggle to decide who is right.

The recent Wichita debate on a new city sales tax, Kansas’ move to lower income taxes, and the national debate on a recovery that goes in fits and starts all circle around the same topic – what does it take to create more jobs and provide more opportunity. Taxes and regulations warrant the most coverage and comment in this conversation, as they are most commonly cited by businesses. While some literature exists on the national regulatory regime, there is very little specific research on state and local regulations. This is even more true of Kansas and the greater Wichita area.

It is to this end that KPI recently partnered with Wichita State University’s Hugo Wall School of Public Affairs to take the pulse of local businesses and their interactions with regulators at the state and local level. Under the guidance of Nancy McCarthy Snyder, Ph.D., the research team conducted several focus groups with local business associations to better understand their specific experiences with the regulations and the people who enforce them. The groups and businesses interviewed provided a good cross-section of the Wichita economy and allow for the drawing of solid insights and conclusions.

Surprising to some, the businesses interviewed did not have as much of a problem with the regulations themselves, or the need for regulations, but with their application and enforcement. Across industries and focus group sessions the key themes were clear – give businesses transparency in what regulations are being

applied, how they are employed, provide flexibility in meeting those goals, and allow an opportunity for compliance.

Sometimes things can be said so often as to lose their punch and become little more than the platitudes referenced above. The findings from Hugo Wall are clear that businesses will adapt and comply with regulations if they are transparent and accountable. Many in the public can be forgiven for thinking this was already the case. Thankfully, local and state governments can ensure this happens with minimal additional expense. A transparent and accountable regulatory regime should be considered the “low hanging fruit” of government.

Individuals and communities will always land on different places along the continuum of appropriate regulation. And, a give and take will always exist between regulators and the regulated. Those two truisms, however, should do nothing to undermine the need for regulations to be applied equally, based on clear rules and interpretations, and to give each business an opportunity to comply.

This project is a starting point from which to gain insight and guide future policy debates in Wichita and Kansas. In fact, many of the business leaders who took part in the focus groups would say these same trends are evident in other jurisdictions and with federal agencies as well. Give them transparency, accountability, and space and they will set about building a business and spurring economic growth that creates more opportunities for Kansans to start their own businesses, find a better paying job, and provide for their family.

I close by offering my thanks to the research staff at Wichita State University and all of the participants in the focus groups.

*– James Franko, Vice President and Policy Director,
Kansas Policy Institute*

Business Perceptions of the Economic Impact of State and Local Government Regulation

In response to a request from the Kansas Policy Institute, the Hugo Wall School (HWS) of Public Affairs at Wichita State University collected and analyzed information about the perceptions and attitudes of businesses in metropolitan Wichita Kansas toward state and local government regulation. The purpose of the project was to identify specific regulations that impede or support business activity in order to inform policy makers about possible changes. — Nancy McCarthy Snyder, Hugo Wall School of Public Affairs, Wichita State University

METHODOLOGY

The study involved three stages. First data were collected on existing state and local government regulations in metro Wichita to identify the types of regulation that applied to broad industrial sectors, i.e. natural resources, mining and construction; manufacturing; wholesale and retail trade; transportation, warehousing and utilities; and services (See Appendix A). Second, interviews were conducted with key informants in the business and regulatory communities of the Wichita metro area. Finally, focus groups were held to solicit additional input on business regulation.

The original proposal called for several industry-specific focus groups. However, despite concerted efforts to solicit participation, it proved impossible to get widespread businessperson input. Small business owners told us that were simply too busy running their organizations to take time out for a focus group. Efforts to coordinate with already-scheduled board meetings were also relatively unsuccessful. As a result, three focus groups were held, one with the Sedgwick County Farm Bureau, one with Commercial Real Estate Developers, and one organized by the Wichita Independent Business Association with representation from several industries. Despite these low response rates, common themes emerged.

The focus group participants were asked to identify specific government regulations that hinder business operations or expansion; to identify regulations that are necessary; to comment on the role of individual regulators, as opposed to the regulations themselves; to estimate the time and effort required to comply with government regulations; and to cite examples of unfair or inappropriate citations.

BACKGROUND

For purposes of this report, business regulation refers to a collection of governmental laws and policies that place requirements on businesses to achieve public purpose. Government regulation of business typically covers environment, labor, health, licensing, utilities and other legal requirements to set up and operate a business (Lanza, 2011). Government regulation of business activ-

ity has a long history in the United States. It is designed to balance the potentially competing interests of private profit maximization and public/consumer interests. The U.S. Small Business Administration (2014) categorizes types of business regulation into two main groups 1) industrial laws and regulations and 2) employment and labor laws. The first category involves laws that govern how business is conducted in general and in specific industries. The laws in this category include environmental, zoning and land use, building code, financial, licensing and permits, on-line business practices and advertising and signage regulations. The latter category, employment and labor laws, governs the employment and hiring practices of businesses. Alternatively, many economists distinguish two types of regulation: economic and social. The former limits entry to an industry and the prices that can be charged. The latter are designed to correct for market failures and establish rules about how businesses operate (Litan, 2008).

Interest in the economic impact of government regulation has been growing for several decades. Internationally, the World Bank began ranking economies on the ease of doing business based on 11 indicators of business regulation¹ and protection of property rights. In its most recent report, Doing Business 2015, the World Bank ranks the U.S. 7th of 189 national economies.² Despite its relatively high ranking, political consensus in the U.S. continues to seek reform. Every president since Richard Nixon has proposed regulatory changes either through deregulation of some industries, most notably transportation, communication and, until the recession of 2007, financial services; or improved calculations of benefits and costs and transparency of regulatory impacts. In 2000 the Regulatory Right-to-Know Act became law. It requires the Office of Management and Budget (OMB) to report annually to Congress “an accounting statement and associated report” that includes: an estimate of annual total benefits and costs of federal rules and paperwork; an analysis of the impact of federal regulations on state, local and tribal governments,³ small business, wages and economic growth; and recommendations for reform. The 2014 Draft Report to Congress identified aggregate annual benefits of between \$217 billion and

\$863 billion and costs between \$57 billion and \$84 billion, both in 2001 dollars and averaged over the period 2003 to 2013 (Office of Management and Budget, 2014). According to the report, only five rules over the past decade have had more than \$100 million annual costs to state, local and tribal governments, the threshold required by the Unfunded Mandates Reform Act of 1995. Many rules, however, have had impacts on other levels of government lower than \$100 million.

The methodology of the OMB report has been called into question. It relies on self-reports from Federal agencies. Benefits and costs are not estimated for all rules. In some cases the estimates are based on highly speculative assumptions. Compliance costs of rules promulgated by independent regulatory agencies are also excluded. Nevertheless, it is the only comprehensive estimate of the costs and benefits of Federal regulation that is produced annually.

Most academic literature on the impact of regulation has focused on federal regulation or on specific industries. There is very little research that focuses on state and local government regulation generally. Theoretically, business regulations can generate either positive or negative effects on local business establishment and economic development. On a positive side, government regulation enhances business establishment and operation by protecting property rights, prohibiting illegal or unfair competition, and encouraging efficient use of resources endowments in a jurisdiction through designating business or residential zoning. On the negative side, regulations may become an impediment to economic development especially for small businesses and minority entrepreneurs given that some compliance costs or license applications can be prohibitive. Licensing requirements and other regulations can also pose barriers to entry and reduce competition. Another negative consequence of regulation is known as “regulatory capture,” a situation in which regulators become so closely aligned with the regulated industry that they serve industry interests at the expense of public interest (Stigler, 1971). Empirical evidence on regulatory capture is limited, however (Dal Bo, 2006).

Lanza (2011) empirically found that the effect of business regulation is non-linear. Business laws/regulations for a state government that ranks at about the 66th percentile and below of all states tend to be positively related to business establishment growth rates. States in the top one-third of regulation (regulation level above 67th percentile) tend to have slow growth rates for business establishment and retention.

The Mercatus Center at George Mason University compiles a list of business regulations in each of the 50 U.S. States and annually ranks States on their regulatory

environments including property right laws, occupational licensing, labor laws, worker compensation mandates, cable and telecom freedom, the level of tort abuse and health insurance requirements with which businesses must comply. In its most recent report (2014), the Mercatus Center reports that Kansas ranks 10th among the 50 states in the level of business regulations (rank 1 is considered the least level of regulation and rank 50 is considered the highest regulation level). In the same year, the State of Indiana ranked 1 and California ranked 50 as the strictest state for business laws. Mercatus specifically states that Kansas’s local zoning is the least officious in the nation, labor laws are light (there is a right-to-work law, no minimum wage, and reasonable workers’ compensation laws), cable franchising is in place, occupational licensing is low (but nurse practitioners are not allowed to practice independently), there is no certificate-of-need (CON) law, property/casualty insurance regulations are moderate, and the court system is much better than average. (Mercatus, 2014)

For the last three years, Thumbtack in partnership with the Ewing Marion Kauffman Foundation has produced a Small Business Friendliness Survey (Thumbtack, 2014) to assess state and local business environments. States are graded on the basis of overall business friendliness, ease of starting a business, ease of hiring, training and networking programs, and various regulations including health and safety, employment, taxes, licensing, environment, zoning. For 2014 Kansas received a grade of B. The state got very high marks for the friendliness of its licensing laws, zoning, labor laws and general regulatory environment.

FINDINGS

The purpose of this research project was to collect information on business perceptions of the regulatory environment in the Wichita metropolitan area and to identify specific regulations that might be changed to improve business operations. The findings reflect the views of key stakeholders and focus group participants. The following is a summary of broad issues and common themes that were identified.

- **Focus on the end rather than the means.** Most participants indicated support for the intent of most regulations. For example, the agricultural participants expressed deep concerns and support for having plentiful quality water. There was strong support to keep groundwater free of contamination. However, the frustration is in the restrictive options and methods to prevent contamination. Participants indicated the need to find alternative implementation ideas to ensure the same results of the regulations.
- **Stakeholders input.** An overriding theme in all focus groups was the need to involve stakeholders in the

development of the regulations. Focus group members voiced concern that regulations are developed with little or no input from stakeholders who are impacted by the regulations. Attendees indicated that regulations would be more successful in accomplishing their intentions, if stakeholders were involved in the development. The stakeholders can contribute industry knowledge and technical expertise to achieve the desired impact.

- **Assistance for compliance.** Most participants also indicated the need for assistance from the regulators to come into compliance. If regulators were able to provide alternatives, resources or flexibility in compliance options, participants believed there would be more success in reaching compliance with a less adversarial relationship with regulators. Compliance is particularly difficult for small businesses and start-up firms that lack the experience and resources to navigate the system.

- **The volume of information can be overwhelming.** A common issue was the significant amount and complexity of the regulations. Participants discussed the volume of the regulations and the difficulty of being in compliance due to the quantity of rules. Finding ways to simplify the regulations, reduce redundancy, and develop simplified implementation systems (checklists, for example) would decrease the frustration of stakeholders and time spent on compliance.

- **Unpublished guidelines.** At the state level, there was a request for access to unpublished interpretation guidelines. Participants indicated that a better system could be created if the public understood the guidelines for implementation and enforcement of the regulations, instead of uncertainty and lack of clarity of implementation.

- **Continual review and engagement.** Stakeholders believed that compliance and successful implementation of the intent of the regulations could be improved with a continual review process and stakeholder involvement. Currently, there is no way to address issues or improve the regulatory process. Developing a system of review and stakeholder engagement would improve the purpose of the regulations.

- **Time is money.** All research participants indicated the need to simplify the regulatory process to reduce the amount of time stakeholders spend on compliance issues. Some suggestions include: improve the written communication, reduce the number of compliance forms, streamline the inspection process and schedule, and identify resources and alternatives. Anything that can be done to reduce the amount of time on regulatory issues, means more time stakeholders can focus on running their business. The old adage of “time is money” was a constant theme.

- **Build relationships.** There were several examples of the need for regulators and stakeholders to build rela-

tionships. Participants could identify times regulators worked with stakeholders to address the intent of the regulations, as well as examples, where regulators approached the job with an adversarial mindset. Identifying ways to build relationships to ensure the purpose of the regulation is at the center of decisions is important for future success.

- **Land development restrictions.** Building codes are considered appropriate, but land development restrictions, e.g. zoning, drainage, grading, are unpopular with real estate developers. Plan reviews at the Metropolitan Area Planning Department can be slow and expensive, which can hinder weather-related timelines.

- **It’s the regulator not the regulation.** A dominant theme from interviews and focus groups was that while regulations may be appropriate and reasonable, inconsistent interpretation and enforcement lead to uncertainty. Participants noted a “guilty until proven innocent” mindset. There is a need for better training for inspectors with on-going periodic review of decisions to insure consistency. Leadership that creates a culture within regulatory agencies that emphasizes collaboration and public good while de-emphasizing punitive attitudes should be encouraged.

- **Government should practice what it preaches.** A number of participants commented that government does not hold itself to the same standard that it imposes on private enterprise. Examples include noxious weed enforcement, public fountain maintenance, site lighting and mowing.

The focus groups revealed a number of specific categories of regulations that can be considered for review and change (Detailed focus group results are included in Appendix B). Among the regulation cited are:

- Stormwater
- Historical preservation
- Site requirements
- Flint hills smoke management
- Infill permitting
- Elevator requirements
- Inconsistency across jurisdictions (difficulty in dealing with the city of Andover was mentioned several times)
- Worker’s compensation and unemployment insurance claims and appeals
- Retroactive mandates, particularly with respect to Medicaid
- Multiple background check requirements, need for better coordination
- Waste management

The most common targets of business frustration with regulation are Federal, particularly the Environmental

Protection Agency, the Occupational Safety and Health Administration, Americans with Disabilities Act, and federal financial regulators. To the extent that state government is responsible for enforcing some federal regulations, it is advisable to review state interpretation of federal rules and make sure that policies are being appropriately and consistently enforced. This is particularly true for regulations applied to agriculture.

Respondents reported progress in certain industrial areas, most notably in the building code enforcement in Sedgwick County. Conversations between the newly created Metropolitan Area Building and Construction Department and its stakeholders are improving. Management changes have expedited inspections for residential construction. Members of the oil industry also expressed appreciation for the responsiveness of the Kansas Corporation Commission.

Findings from the focus groups revealed the importance and on-going difficulty of communication between regulators and regulated industry. Some issues cited by participants have already been addressed, e.g. the historical environs regulations that were changed in 2013 and the “use it or lose it” state water regulations that were recently amended.

The most significant concern of local businesses is stability and predictable costs. Businesses can adjust to any regulatory environment, but costs increase accordingly and uncertainty stifles investment and innovation.

Businesses are particularly sensitive to the costs created by changing rules in mid-project. Lead times on new regulations or interpretations of existing regulations should be reasonable and respectful of project timelines.

Given that Kansas ranks fairly high in ratings of business regulation, the most productive course of action for public policy appears to be establishment of formal avenues of conversation between regulated businesses and regulators. These conversations must take a form that goes beyond the traditional public hearing or public input on proposed regulation. The conversations might also expand to regional offices of federal regulatory agencies. It is possible that further investigation into state and local interpretations of federal regulations that businesses find particularly onerous might prove beneficial.

There will always be conflict between the interests of private businesses motivated to maximize profits and the public interest designed to promote competition and correct market failures to improve economic efficiency. Differences of opinion are strength of a democratic system. The challenge is to create effective working relationships between public regulators and regulated businesses while avoiding the threat of regulatory capture. Public scrutiny is the most effective means to insure balance of competing interests and effective public policy.

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End Notes

- ¹ These include starting a business, dealing with construction permits, getting electricity, registering property, getting credit, protecting minority investors, paying taxes, trading across borders, enforcing contracts and resolving insolvency.
- ² Singapore, New Zealand, Hong Kong, Denmark, South Korea and Norway ranked 1-6.
- ³ Two are EPA drinking water rules (2005 and 2006), one EPA standards for utility emissions (2011), Homeland Security's standards for chemical facility security (2007) and USDA's nutrition standards for school lunch and breakfast programs (2012).

Appendix A – Government Regulations and Statutes

TABLE 1: City of Wichita’s Business Regulations

Natural Resources, Mining, and Construction		Services	
3.01	Utility Regulation	3.05	Adult Entertainment Establishment and Adult Hotels
3.10	Portable Storage Container Contractor Licensing	3.08	Escort Services
14.04	Self-Regulation of Industries	3.08	Miscellaneous Fees (for examples, Entertainment services including Cabarets, Circuses, Domino Tables, Photographing, Money Transaction, Shooting and Ticketing
14.08	Industrial Districts and Zoning	3.09	Animal Exhibitions, Rodeos and Animal Shows
19.01	Wichita/Sedgwick Unified Building and Trading Code	3.12	Theaters and Shows
19.12	Wiring Installation Regulations	3.16	Community Antenna Television Systems
20.04	Housing Code	3.20	Amusement Parks and Rides
20.08	Alternative Correctional Housing	3.22	Haunted Houses, Halloween Houses, and Mystery Mansions
21.01	Wichita/Sedgwick Unified Building and Trading Code for Plumbing and Gas Fitting	3.24	Coin-Operated Amusement and Music Devices
21.02	Plumbing Code-General Provision	3.28	Dances and Dance Halls
22.10	Wichita/Sedgwick Unified Building and Trade Code for Air Conditioning and Warm Air Heating Code	3.30	Entertainment Establishments
22.08	Mobile Homes	3.40	Alarm Systems
23.04	Awnings, Canopies and Marquees Regulations	3.49	Wrecking Services
23.05	Awnings, Canopies and Marquees Enforcement	3.51	Solid Waste Collection and Disposal
25.04	Oil and Gas Regulations	3.52	Solid Waste Transfer Stations
26.04	Mobile Homes and Mobile Home park Regulations	3.56	Bathhouses and Massage Salons
27.06	Floodplain Management	3.72	Private Security Officers and Private Security Agencies
Manufacturing		3.74	Funeral Escort Service Licensing
14.04	Self-Regulation of Industries	3.80	Ambulance
14.08	Industrial Districts and Zoning	3.82	Medi-Coaches
18.04-18.51	Building Codes	3.84	Wichita Taxicab Code
19.01	Wichita/Sedgwick Unified Building and Trading Code	3.85	Charter Limousine Services
19.12	Wiring Installation Regulations	3.88	Airport Limousines
Wholesale and Retail		3.90	Scrap Processors
3.03	Retailers’ Sales Taxes	3.93	Communication Services
3.48	Motor Vehicle Wrecking Sales	3.96	Home Occupation (License and Fee Requirement)
3.64	Advertising-Vehicular	3.98	Laundromats
3.89	Ice Cream Street Vendor	All Industrial Sectors	
3.91	Cultural Markets	3.02	Property Taxes
3.94	Organized Famers’ Markets	3.04	In General-Business and Occupation License Requirement
3.95	Inderal Merchants	3.11	Community Events
3.96	Home Occupation (License and Fee Requirement)	3.14	Parade
3.97	Street and Sidewalk Vending	3.26	Permits for Charitable Solicitation Events
24.04	Sign and Billboard Regulations and Standards	3.32	Business Termination and Liquidation Sales
Transportation Warehouse and Utilities		3.36	Auctions and Auctioneers
3.01	Utility Regulation	3.44	Miscellaneous Sales
3.84	Wichita Taxicab Code	3.66	Advertising-Distributing Signs, Bills and Posters
3.85	Charter Limousine Services	28.04	Zoning Code
3.88	Airport Limousines	28.05	Subdivision Regulations
3.92	School Bus Franchise	30.01	Registration of Neglected Building
14.04	Self-Regulation of Industries		
25.04	Oil and Gas Regulations Services		

Source: Mini-code, Retrieved June 9, 2014 from <https://library.municode.com/index.aspx?clientId=14166>

Tables 2 through 7 below presents the list of State of Kansas laws and regulations that relate to each of the five business sectors including natural resources, mining and construction, manufacturing, wholesale and retail trades, transportation, warehousing and utilities and services.

TABLE 2: The State of Kansas's Employment and Labor Laws

All Industries (Kansas Statute, Chapter 44)

- 44-603 Utilities and employments subject to supervision.
- 44-606 Continuity and efficiency in operation of industries.
- 44-607 Investigations and temporary findings.
- 44-608 Orders affecting hours, ways and conditions of employment; modification.
- 44-609 Rights and contracts of parties.
- 44-610 Notice of investigation or hearing; publication.
- 44-611 Powers in investigations.
- 44-612 Judicial review of secretary's actions.
- 44-614 Labor unions; collective bargaining.
- 44-615 Unlawful acts against witnesses and litigants.
- 44-616 Business operations; limitation or cessation, hearings; changing conditions.
- 44-617 Violations of act; quitting employment; picketing; intimidation.
- 44-618 Penalties for violating 44-601 to 44-628.
- 44-619 Inducing violation of act or orders; penalty.44-619 - Inducing violation of act or orders; penalty.
- 44-620 Emergency control and operation.
- 44-621 Controversies between employer and employee; authority of secretary.
- 44-622 Evidence taking; examiner, appointment, qualifications, authority.
- 44-623 Orders as to minimum or standard wage; accounts pending investigations.
- 44-624 Industrial conditions and relations; investigations, inquiries.
- 44-625 Effect of act on other rights and remedies.
- 44-626 Construction of 44-601 to 44-628.
- 44-628 Partial invalidity of act.
- 44-631 Factory, mill and mine inspection.
- 44-634 Annual reports; duties as to labor and industrial pursuits; enforcement of laws.
- 44-635 Interrogatories and testimony; penalty for failure to testify; information deemed confidential; penalty for disclosing.
- 44-636 Places of business; inspection; safety and protection of employees; orders; notice and hearing; penalty.
- 44-637 Definitions.
- 44-638 Statistics and information by state and municipal officers.
- 44-639 State policy as to wages, hours and insanitary conditions.
- 44-640 Conditions of employment detrimental to health and welfare unlawful.
- 44-643 Wages, hours and conditions for learners, apprentices and minors.
- 44-645 Same; investigation; orders; notice and hearing; employer to display order; petition for rehearing.
- 44-646 Same; inspectors and clerical personnel.
- 44-647 Same; review of orders.
- 44-648 Same; penalties.
- 44-650 Same; act supplemental.
- 44-661 Kansas apprenticeship council; establishment; composition; qualifications; terms; quorum; vacancies; organization; officers; meetings; expenses; clerical, secretarial and staff assistance.
- 44-662 Powers, duties and functions.
- 44-643 Wages, hours and conditions for learners, apprentices and minors.

Transportation, Warehouse and Utility Industries (Kansas Statute, Chapter 44)

- 44-603 Utilities and employments subject to supervision.

Service Industry (Kansas Statute, Chapter 8)

8-2412 Dealer review board; membership; meetings; compensation and expenses; secretary; attachment to department of revenue.

TABLE 3: State of Kansas's Regulations for Natural Resource, Mining, and Construction Sector

Environmental, Health and Safety (Kansas Statute, Chapter 55)

- 55-101 Natural gas for residents of platted land outside city; laying and maintenance of pipes.
- 55-102 Control and management of oil and gas wells; unlawful acts, penalties; flaring, venting or use of gas permitted, when.
- 55-112 Transportation of gas; standards for.
- 55-151 Application of intent to drill wells, required information; notification of surface owner; fee and contents; information to department of health and environment and county clerk; approval of application, when; conditions; compliance with rules and regulations.
- 55-154 Certification of compliance with statutes and rules and regulations.
- 55-156 Protection of water prior to abandoning of well; penalty for noncompliance.
- 55-157 Cementing in surface casing and additional pipe prior to testing, completion or abandonment of well; penalty for noncompliance.
- 55-177 Removal of structures and abutments from lands after abandoning wells; exception.
- 55-178 Complaint concerning pollution from abandoned wells; contents.
- 55-179 Investigation of complaint by the commission; findings; responsibility for remedial action; costs; hearings; orders.
- 55-180 Testing and investigation of pollution; plugging expenses; liens.
- 55-186 Spill notification requirements.
- 55-1110 Severability.
- 55-1111 Commission review of exit tap on gathering system, access, service, abandonment; procedure.
- 55-1115 Underground storage of hydrocarbons; corporation commission regulation of underground porosity storage of natural gas.
- 55-1117 Same; department of health and environment regulation of other underground storage.
- 55-1117a Same; department of health and environment regulation of underground crude oil storage.
- 55-1120 Same; salt solution mining wells; abandonment, legal responsibility for.

Environmental, Health and Safety (Kansas Administrative Regulations, K.A.R. 82)

- 82-3-100 General rules and regulations; exception. Related to Article 3. Production and Conservation of Oil and Gas
- 82-2 Oil and Gas Conservation and K.A.R. 82-3-100. General rules and regulations; exception.
- 82-11 Natural gas pipeline safety

Zoning and Land Use (Kansas Administrative Regulations, K.A.R. 82)

- 82-10 Oil and natural gas liquid pipelines

Licensing and Permitting (Kansas Statute, Chapter 55)

- 55-155 Licensure of operators and contractors; requirements; notification of surface owner.
- 55-171 Permit required for the storage or disposal of salt water, oil or refuse in surface ponds.
- 55-1107 Issuance of more than one certificate of convenience and necessity; exit fees prohibited.
- 55-1108 Contractual obligations, when amended.
- 55-1812 Licensure; training, inspection and safety regulation; fees; exemption; violations; penalties

Licensing and Permitting (Kansas Administrative Regulations, K.A.R. 82)

- 82-1 Rules of Practices and Procedures for Corporations Regulated by Kansas Corporation Commission
- 82-1-219 General regulations relating to pleadings and other papers.

TABLE 4: State of Kansas Regulations for Manufacturing**Zoning and Land Use (Kansas Statue, Chapter 19)**

- 19-2908 Zoning regulations inapplicable to existing structures or agricultural land; exceptions. And 19-2921 - Zoning regulations inapplicable to existing structures or agricultural land; exceptions.
- 19-2916b Counties between 150,000 and 200,000; bonds to carry out master plan.
- 19-2950 Zoning in improvement districts; public purpose.
- 19-2956 Planning and zoning in urban areas; purpose.
- 19-2957 Same; zoning boards for townships and county planning commission; consolidated zoning boards; establishment; membership; meetings; powers.
- 19-2958 Same; comprehensive plan; procedure to approve; notice; hearing; consideration by county commissioners; revision, amendment and annual review of plan, procedure.
- 19-2959 Same; intergovernmental planning agreements; approval of county commissioners.
- 19-2960 Same; zoning regulations; zoning districts or classifications; notice; hearing; fees; amendments to regulations, rezoning or conditional uses, procedure; protest of rezoning or conditional use; existing uses; agricultural exemption; plans for streets and highways.
- 19-2961 Same; regulations concerning subdivision of land in unincorporated area of county, procedure; reservation of land for open space or recreation; notice; hearing; amendment of regulations; fees; platting of subdivision, approval; building permits; naming and numbering streets.
- 19-2962 Same; board of zoning appeals; establishment; membership; meetings; powers; review of board decisions contrary to zoning regulations; judicial review.
- 19-2963 Same; penalties for violations; actions for enforcement.
- 19-2964 Same; reasonableness of regulations; appeal.
- 19-2965 Same; existing zoning and planning continued in force until adoption of comprehensive plan.
- 19-2966 Severability of act.

Licensing and Permitting (Kansas Administrative Regulations, K.A.R. 82)

- 82-1 Rules of Practices and Procedures for Corporations Regulated by Kansas Corporation Commission

TABLE 5: State of Kansas Regulations for Wholesales and Retailers**Zoning and Land Use (Kansas Statue, Chapter 8, 41)**

- 41-2608 Same; premises licensed; zoning compliance.

Licensing and Permitting (Kansas Statue, Chapter 8, 41)

- 8-6 Fair Trade
- 8-24 Licensure of Vehicle Sales and Manufacturing
- 8-26 Licensures and Regulation of Sales of Liquor by the Drink
- 8-2405 Insurance required of dealers; limitations on cancellation.
- 8-2406 Dealer plates; fee; symbols on plates; use of plates.
- 8-2419 Liability of manufacturers and distributors for defects in equipment; indemnification for damages; when.
- 8-2403 Vehicle dealers required to have licenses; exceptions; supervision by director of vehicles.
- 8-2404 License required; license fees; bond required, when; place of business required, when; supplemental place of business; manual and examination for salesperson; prohibiting brokering of new and used motor vehicles; exceptions.
- 8-2410 Denial, suspension or revocation of license; grounds; notice and hearing; licensee responsibility for agents; appeals; prohibited acts.
- 8-2414 Cancellation, termination or nonrenewal of franchise agreements between dealers and manufacturers or distributors; cause; hearing; burden of proof; compensation upon termination; effect of noncompliance by manufacturer or distributor.
- 8-2416 Sale, transfer or assignment of dealership, notice and limitations; disapproval procedure; duties of manufacturer or distributor; appointment of successor.
- 8-2425 Full-privilege license plates; dealer-hauler full-privilege trailer license plates; fees; use.
- 8-2429 Interstate dealer licensing compact.

- 8-2430 Establishment of additional or relocation of existing new vehicle dealer; procedure; relevant market area.
- 8-2431 Same; exemption for manufacturers with dispute resolution procedures.
- 8-2432 Same; act part of vehicle dealers and manufacturers licensing act.
- 8-2433 Temporary permit for vehicle salesperson.
- 8-2434 Selling motor vehicles without a license; penalty.
- 8-2443 Act supplemental to vehicle dealers and manufacturers licensing act.
- 8-2444 Temporary trade show license; requirements; fees.
- 41-2607 Club licenses; term; refund of fees, when.
- 41-2609 Same; suspension or revocation; procedure.
- 41-2610 Unlawful acts of licensee; employment restrictions.
- 41-2611 Revocation or suspension of license; grounds for.
- 41-2612 Display of license.
- 41-2613 Immediate entry to and inspection of premises condition of license or permit; revocation for refusal.
- 41-2615 Possession or consumption by minor prohibited.
- 41-2619 Search warrant for premises where liquor sold by the drink without license or permit.
- 41-2620 Sale of liquor by the drink without license or permit prohibited.
- 41-2621 Club or drinking establishment license limited to premises specified.
- 41-2622 License fees; city or county taxes; other state fees fund.
- 41-2623 Persons and entities ineligible for licensure.
- 41-2625 Same; corporations and partnerships.
- 41-2626 Violations of act or rules and regulations; revocation or suspension of license.
- 41-2627 Club or drinking establishment license; change in premises.
- 41-2628 Time limit for grant or denial of license.
- 41-2629 Class B club, drinking establishment, public venue or caterer's license; term; assignability; refund of fees, when.
- 41-2630 Injunction for violation of act by licensee.
- 41-2631 City ordinance conflicting with act void; ordinance limitations.
- 41-2632 Influencing purchases by licensees prohibited.
- 41-2636 Sale of class A club license prohibited.
- 41-2637 Class A club license; rights of licensee; storing customer wine; samples.
- 41-2639 Sale of club memberships; restrictions.
- 41-2640 Certain sales practices prohibited; penalties.
- 41-2641 Class B club license; rights of licensee; storing customer wine; samples.
- 41-2642 Drinking establishment license; rights of licensee; hotel minibars; storing customer wine; samples.
- 41-2643 Caterer's license; rights of licensee.
- 41-2644 Drinking establishment/caterer license; rights of licensee.
- 41-2645 Temporary permit; authorization of certain sales.
- 41-2646 Sale of liquor by the drink in public places; election to prohibit or permit.
- 41-2647 Possession of liquor or cereal malt beverage on licensed premises.
- 41-2648 Effective date of license; conversion of club license to drinking establishment license.
- 41-2649 Title of act.
- 41-2650 Severability.
- 41-2651 Application for licensure, renewal, suspension or revocation; notice to governing body of city or county; power of such governing body to request suspension or revocation hearing; hearings.
- 41-2652 Use of minors to determine compliance with law, limitations.
- 41-2653 Removal of unconsumed alcoholic liquor from premises of club or drinking establishment.
- 41-2654 Drinking establishment license; municipal corporation; qualifications.
- 41-2655 Public venue license; rights of licensee; rules and regulations.
- 41-2656 Samples; regulation thereof.
- 41-2657 Licensee; samples; drink tax.

Licensing and Permitting (Kansas Administrative Regulations, K.A.R. 82)

82-1 Rules of Practices and Procedures for Corporations Regulated by Kansas Corporation Commission

Advertising and Signage (Kansas Statue, Chapter 41)

41-2614 Hours of operation.

TABLE 6: State of Kansas Regulations for Transportation, Warehouse and Utility

Environmental, Health and Safety (Kansas Administrative Regulations, K.A.R. 82)

82-4-3 Exemption from the motor carrier safety regulations.
82-4-3f General motor carrier safety regulations
82-5 Railroad Safety Regulation
82-6 Suppression of Diesel locomotive Originated Fires on Railroad Right-of-Way
82-7 Railroad Grade Crossing Protection Rules
82-12 Wire stringing rules
82-13 Telecommunication rules
82-14 The Kansas underground utility damage prevention act

Zoning and Land Use (Kansas Statue, Chapter 3: Aircrafts and Airfield)

3-702 Airport hazards contrary to public interest.
3-703 Power to adopt airport zoning regulations; privately owned airports.
3-704 Relation to comprehensive zoning regulations.
3-705 Procedure for adoption of zoning regulations.
3-706 Airport zoning requirements.
3-707 Permits and variances.
3-708 Administration of airport zoning regulations.
3-709 Judicial review.
3-710 Enforcement and remedies.
3-711 Acquisition of air rights; eminent domain.
3-712 Invalidity of part.

Licensing and Permitting (Kansas Statue, Chapter 3: Aircrafts and Airfield)

3-2 Regulation of Aircrafts
3-7 Zoning and Regulation
3-202 Pilot's certificate.
3-203 Violation of air commerce regulations.
3-204 Pilot to present license on demand.
3-206 Federal aircraft or pilots.

Licensing and Permitting (Kansas Administrative Regulations, K.A.R. 82)

82-1 Rules of Practices and Procedures for Corporations Regulated by Kansas Corporation Commission
82-5-12 Regulations relating to the filing of rules and regulations of the operating departments of railroad corporations.
82-15 Video service authorization

Building Codes (Kansas Administrative Regulations, K.A.R. 82)

82-8 Sitting of Nuclear Generation Facilities

Finance (Kansas Administrative Regulations, K.A.R. 82)

82-4-48a Motor carriers of property other than household goods carriers electing to be subject to uniform bills of lading and antitrust immunity regulations.
82-9 Railroad Rates

TABLE 7: State of Kansas Regulations for Services (i.e., Information, Financial activity, Professional and business, Education and Health, Leisure and hospitality)**Environmental, Health and Safety (Kansas Statue, Chapter 65: Public Health)**

- 65-6a44 Adoption of regulations.
- 65-34,143 Rules and regulations.
- 65-3027 Small business assistance program; compliance advisory panel.
- 65-3801 Safety glazing materials; definitions.

Advertising and Signage (Kansas Statue, Chapter 40: Insurance, Chapter 65: Public Health)

- 40-2403 Unfair methods of competition or unfair and deceptive acts or practices; prohibited.
- 40-2404 Unfair methods of competition or unfair and deceptive acts or practices; title insurance agents, requirements; disclosure of nonpublic personal information; rules and regulations.
- 40-2405 Unfair methods of competition or unfair or deceptive acts or practices; power of commissioner.
- 40-2414a Rules and regulations to protect armed forces members from dishonest life insurance sales practices.
- 40-2415 Unauthorized insurer's false advertising process act; legislative declaration.
- 40-2425 Personal identifier; use of social security number prohibited.
- 40-2426 Personal identifier; effect of federal law.
- 40-37a04 Written contract between controlling producer and controlled insurer required, minimum provisions; directors' audit committee, review of insurer's loss reserves; loss and commissions information report to commissioner; application of requirements.
- 40-37a05 Disclosure of producer-insurer relationship to insured.
- 40-37a06 Failure to comply with law, remedies for benefit of insurer; rights of policyholders, claimants, creditors and other third parties unaffected.
- 40-3802 Same; agreements between insurer and administrator; contents.
- 40-3821 Pharmacy benefits manager registration act; citation of act; applicability.
- 65-3802 Same; labeling; information.
- 65-4019 Information confidential.
- 65-4023 Injunction.
- 65-4024 Acceptance for treatment; rules and regulations; standards.
- 65-4024a Definitions.
- 65-4024b Remittance of moneys received from licensing fees.
- 65-4024c Rules and regulations; authority of secretary validated.
- 65-4024d Citation of act.

Licensing and Permitting (Kansas Statue, Chapter 40: Insurance, Chapter 7: Attorney at Laws, Chapter 36: Hotels, Lodginghouses and Restaurant, Chapter 65: Public Health)

- 40-24 Regulation of Certain Trade Practices
- 40-37a Regulation of Brokers and Controlled Insurers
- 40-38 Regulation and Registration of Administrators
- 40-45 Regulation of Reinsurance Intermediaries
- 7-103 Rules for admission, discipline and disbarment.
- 7-108 Attorney's lien; notice.
- 7-109 Same; amount of lien.
- 7-121b Attorney fees in damage actions for acts or omissions of health care providers; approval; definitions.
- 7-127 Applicants for admission to practice law; fingerprints; criminal history record check.
- 36-1 Licenses, Rules and Regulations
- 36-131 Place of Assembly Defined
- 36-132 Gas stove connections; approval of state fire marshal.
- 36-133 Same; duties of fire marshal.
- 36-134 Same; penalty.
- 65-4a Abortion Facility Licensure
- 65-5a Children With Special Health Care Needs

- 65-6a Meat and Poultry
- 65-11 Regulation of Nursing
- 65-14 Regulation of Dentists and Dental Hygienists
- 65-15 Regulation of Optometrists
- 65-16 Regulation of Pharmacists
- 65-17 Regulation of Embalmers and Funeral Directors; Funeral Establishments
- 65-18 Examination, Registration and Regulation of Barbers
- 65-19 Licensure of Entities By State Board of Cosmetology
- 65-20 Regulation of Podiatrists
- 65-23 Enrichment of Flour and Bread
- 65-29 Physical Therapy
- 65-30 Air Quality Control
- 65-34 Solid and Hazardous Waste
- 65-35 Licensure of Adult Care Home Administrators
- 65-38 Safety Materials
- 65-40 Alcoholism and Intoxication Treatment
- 65-41 Controlled Substances
- 65-42 Examination, Licensure and Regulation of Mental Health Technicians
- 65-44 Community Mental Health and Intellectual Disability Assistance
- 65-45 Certification of Operators of Water Supply Systems and Wastewater Treatment Facilities
- 65-49 Health Care Providers
- 65-50 Credentialing
- 65-51 Home Health Agencies
- 65-53 Asbestos Control
- 65-54 Occupational Therapy
- 65-55 Respiratory Therapy
- 65-56 Confidential Communications and Information
- 65-57 Emergency Planning and Community Right-to-Know
- 65-58 Professional Counselors
- 65-59 Dietitians
- 65-60 Acquired Immune Deficiency Syndrome (Aids) and Hepatitis B; Other Infectious Disease
- 65-61 Emergency Medical Services
- 65-62 Miscellaneous Provisions
- 65-63 Social Workers
- 65-64 Marriage and Family Therapists
- 65-65 Speech-Language Pathologists and Audiologists
- 65-66 Addictions Counselors
- 65-67 Abortion
- 65-67a Fetal Organs and Tissue
- 65-68 Health Care Data
- 65-69 Athletic Trainers
- 65-70 Chemical Control
- 65-71 Assistive Device Individual Development Account Program
- 65-72 Naturopathic Doctors
- 65-73 Radiologic Technologists
- 65-74 Primary Care Safety Net Clinic Capital Loan Guarantees
- 65-1115 Licensure of professional nurses; qualifications of applicants; examination; refresher course; renewal license; title and abbreviation; temporary permit; exempt license.
- 65-1116 Licensure of practical nurses; qualifications of applicants; examination; refresher course; renewal license; title and abbreviation; temporary permit; exempt license.

- 65-1117 Renewal of license; inactive license, fee; continuing education requirements; rules and regulations; reinstatement of lapsed license; exception; notification of change in name or address or criminal conviction.
- 65-1119 Schools of nursing; approval; approval of providers of continuing education offerings; application fee; criteria for evaluating out-of-state schools; nationally accredited schools of nursing.
- 65-1120 Grounds for disciplinary actions; proceedings; witnesses; costs; professional incompetency defined; criminal justice record information.
- 65-1121a Judicial review of board's actions.
- 65-1122 Misdemeanors; penalties.
- 65-1123 Injunctions.
- 65-1124 Acts which are not prohibited.
- 65-1126 Invalidity of part.
- 65-1127 Immunity from liability in civil actions for reporting, communicating and investigating certain information concerning alleged malpractice incidents and other information; conditions.
- 65-1129 Rules and regulations.
- 65-1130 Advanced practice registered nurse; standards and requirements for licensure; rules and regulations; roles, titles and abbreviations; prescription of drugs authorized; licensure of currently registered individuals.
- 65-1131 Advanced practice registered nurse; licensure; fees; license with temporary permit; exempt license.
- 65-1132 Renewal of license for advanced practice registered nurse; reinstatement of lapsed license.
- 65-1133 Same; educational and training programs for advanced practice registered nurses; approval; survey; nationally accredited programs.
- 65-1134 Citation of Kansas nurse practice act.
- 65-1135 Complaint or information relating to complaint confidential; exceptions.
- 65-1136 Intravenous fluid therapy; qualifications of licensed practical nurses to administer; definitions; rules and regulations; advisory committee established; prohibitions; exceptions.
- 65-1151 Definitions.
- 65-1152 Qualifications for authorization to practice as a registered nurse anesthetist; approval of schools of nurse anesthesia, criteria.
- 65-1153 Temporary authorization to practice.
- 65-1154 Application; fees; deposit of moneys.
- 65-1155 Expiration of authorizations to practice; renewal; lapsed authorization; reinstatement fee.
- 65-1158 Duties of registered nurse anesthetists.
- 65-1159 Qualifications of Applicant for Renewal of an Authorization to Practice; Continuing Education.
- 65-1162 Unlawful Acts.
- 65-1163 Application of Act.
- 65-1164 Rules and regulations.
- 65-1165 Supervision of delegated nursing procedures.

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Building Codes (Kansas Statute, Chapters 65: Public Health)

- 65-4a09 Rules and regulations; secretary of health and environment
- 65-5a14 Rules and regulations for system of priorities for children; consultation with representatives of medical society.
- 65-4018 Inspections and investigations; rules and regulations concerning facility alteration or construction; preliminary inspections; consultations.

Finance (Kansas Statute, Chapter 40: Insurance)

- 40-2440 Kansas health care prompt payment act; citation; effective date.
- 40-2442 Same; claims; procedures; rules and regulations; erroneous payment of claims by insurer, limitation on recovery of; audit of pharmacy records, limitations on.
- 40-4503 Licensure of reinsurance brokers, managers and intermediaries, application fee; nonresidents, designation of agent for service of process; refund of commissioner to issue license; exemption for attorneys.
- 40-4504 Contracts between reinsurance brokers and insurers; written authorization required, contents.
- 40-4507 Contracts between reinsurance managers and reinsurers; writing and commissioner's approval required; contents.
- 40-4510 Examination; access to books, bank accounts and records.

Appendix B – Focus Group Details

Question 1: Are there any state or local government regulations that hinder operations or expansion of your business? Please be specific.

Livestock regulations (not sure if EPA rules enforced by KDHE or just KDHE rules)

- Lagoons
- Soil testing
- Hog limitation
 - Runoff

New facilities are difficult to build

Arbitrariness of numbers for confined animals (what's so special about 300)

Flint Hill Smoke Management

- Limits on burn time
- Arbitrariness of when the burn ban is in place
- The rules is over the entire state instead of certain areas

Local zoning issues

- Encroachment on farm land
- Amount of land use on regulations of farm land

Lack of enforcement on noxious weeds on county property

County doesn't follow own mowing standards

Water issue

- Future use of water rights is penalized if a farmer conserves, meaning that it is better to use all of allotted water than to conserve (perverse incentive)
- Atmosphere of uncertainty, an "unsure climate" of regulation

Different standards with livestock lagoons vs. personal/home lagoons

Quantity of regulations almost impossible to comply with KDHE – Dairy climate is on a downturn and the requirements

- Dairy has 4 fees (producer, the container maker, the distributor, and the delivery trucks)

Close down costs can be so significant as to cause bankruptcy

Balance

- Western KS being less populated

Much harder for small operations to be able to comply with regulations when enforced

- Enforcement on extremely small operations is spotty at best

Different agencies create regulations that ultimately are conflicting; therefore, irrespective of what one does, they are breaking the law

Site requirements related to site size, traffic flow patterns (ingress/egress)

Storm water regulation requirements

Site lighting requirements related to business development sites in conjunction with residential areas

Industrial (warehouse) zoning that gets a "spot zone" in a retail area and requires a petition to get zone changed

General "attitudes" of building inspection and zoning department- "we have the power and you have to ask us

for something so we can make requirements and you have to follow it"

Concerned about the future impact of growth boundary or sustained growth discussions they are hearing

Infill development permitting

Historic Preservation regulations when developers are within so many feet- there are a lot of regulations

Rules/Regulations for Kansas Real Estate licensing about what brokers and agents can or can't do

Building codes are from 2006 and the new codes are cumbersome- would like to find cooperation on regulations that may harm developers

Conflict among jurisdictions regarding code enforcement

Powder coating business: water treatment is difficult due to the amount of testing and reporting the state requires.

EPA Regulations

- Filtered from fed to state to locality
- These deter development by increasing costs
- Regulations are designed to reduce where 1% of pollution is coming from, so there is a rise in cost, but little to no effect on pollution levels

Worker's Comp/Unemployment (state level)

- The calculation is unreasonable
- Employers have no recourse for questionable claims
- Employees automatically receive unemployment benefits even if there was cause for termination
- Premiums have dramatically risen
 - 1% has risen to 6%
 - Unfair to small businesses
 - This is in part caused by an entire industry being reclassified as "high risk," rather than targeting the individual types of actions in the industry that should be considered "high risk"

Healthcare

- Medicaid delays or denies payment whenever possible
- Retroactive mandates
- Surveyors and auditors are problematic
 - Force businesses to incur
 - Regulators are too hostile
 - Regulators role should be helping businesses to navigate laws to come into compliance
 - 3rd party contracted auditors get a percentage of what they find, thus there is a conflict of interest
 - Interpretations of rules can be absurd
- Background checks
 - There are a large number of background checks that each have to be paid for by the employer
 - When an employer finds out information and voluntarily informs the government, there are still fines associated, even though the government background checks didn't pick up on any problems
 - Even when the employee lies about their past experience, the employer is responsible

Development/Building Codes

- Stormwater regulation within the city is too difficult to comply with
- Regulator state of mind is adversarial, “guilty until proven innocent”
- More expensive to renovate old buildings to bring them up to city codes than it is to build new – this is the main reason developers want to continue to build further out instead of fixing old properties
- Phased Dev – get application on Phase 1 and have to start over for Phase 2, essentially this is a time issue for permits
- Local government used to be changing the culture when they allowed the businesses to rate how well the regulators were working with the businesses
- State is much worse
- Fire department is a problem – fire hydrant # required
- The city is adopting codes with no amendments by businesses to ensure reasonability
 - Example is the fire sprinkle regulations – over 10,000 s.f. Require sprinkler system
- Renovation difficulties
 - ADA
 - Landscaping/Drainage
 - Can’t repurpose
 - Elevator requirements
 - Historical preservation requirements
 - Truncated ramps/curbs, this is problematic because we made the sidewalk less safe for a majority

Certification

- Cost has doubled because welders/machinists that have been in the business for 30+ years are now required to take courses for certification
- CDL compliance issues
 - Must provide previous employment (irrespective of how long ago that was)
 - Hiring drug test results (irrespective of how long ago that was)
 - Physical and record height, weight, etc.

Transportation

- Regulations for trailers hauling equipment with fuel in it
- Tagging of commercial vehicles has dramatically increased in cost

Number of Regulatory agencies is a problem

KDHE is problematic due to all the regulations waste management (both hazardous/non-hazardous)

Question 2: Are there regulations you believe to be necessary? If so, which ones and why?

No specific responses, but there was a conversation about the intent of most regulations were good, but they are taken to extreme. The participants discussed quality and plentiful water is important to the agricultural community, too, but that the regulations seem extreme.

Developers/Residents property rights

Believe in some level of planning/zoning

Real estate licensing regulations

90% are good regulations and are necessary / 10% cause the greatest issue

Development standards are high and often necessary- the problem is lack of flexibility, overreach of government, and those regulations that are left for interpretation

Lower Property Taxes

Good examples of regulations:

- Dry Cleaner Fund
- Gas Station Fund
- Court of Tax Appeals being reduced to a board where rulings are 50% for public and 50% for government. Court of Tax Appeals usually ruled 90% government 10% public.
- Mortgage registration appeal was god for industry

BREHA2 was good for industry Requiring insurance to drive

High school graduation (affects future workforce)

Nurse Practice Act

Licensing/training requirements for nurses

Question 3: From your perspective which is a bigger problem – regulations or the regulators who are inconsistent, unpredictable, rigid or unreasonable?

Regulators

- Rules come from top down
- Attitude of there to regulate not facilitate
- “Guilty until proven innocent” mentality
- Move from governing to dictating
- Lack of understanding – they give no thought to the economic feasibility or financial possibilities, which is especially damaging because the agriculture sector can’t pass on the cost
- Too much personnel turnover creates variations in interpretations, degree of enforcement, and causes a learning curve cycle to be continuously repeated

Chemical sprayer regulation is going to be a problem in the future with current proposals

KDHE needs people who have knowledge about the situation, they need people with “skin in the game” to properly understand their regulations

There is a permit or fee attached to doing almost anything

Regulators are the issue- some have not had to use the regulations therefore they have not been affected by them. They are typically not agents/developers so they don’t understand needs.

Typically an adversary relationship between industry and regulators

Regulations are not always followed on local government projects like they are for industry projects

Both are problematic

Whenever something bad happens the immediate response is to create a new regulation

Worse than the new regulation is the adversarial position of regulators causes an unreasonable enforcement of rules

Regulations are overly complicated; however, simplifying them may make them open to interpretation, thus there needs to be a balance

Irrespective of size, corporations within a specific industry

may have to comply with regulations that were never intended to be for small businesses that only perform certain functions within the industry

Question 4: What resources, e.g., time and monetary, are required for you to comply with regulations? Do you have any recommendations that the city and state could change to accommodate your business in terms of regulation compliance?

Percent of Resources

- Livestock much higher regulated
- About 1/3 of resources (particularly time) are used for regulation compliance, though that increases when doing your own chemicals

10% of the development costs, on average, are assigned to resources associated with meeting regulations- contractors/engineers/architects/and lawyers have to be hired in the development world to meet regulations

There are opportunity costs – time. The regulation process could take a year or more from the time you start a project until you are ready to construct. Need to find ways to minimize the regulation process timeframe

Need more advisory boards that are made up of people in the trade- they can provide insight on the regulations

Regulators, instead of saying what you can't do, should work to figure out how to get it done

Create regulator/industry partnerships to cut cost/time to get development completed (work with developers vs. just working on compliance)

A "same day inspection" option will be made available to developers through code enforcement, at a higher cost, to help cuts time in the process- developers like this option and want to find other ways to cut time, even if there is an increased fee

- Take regulations to the industry to help identify "pros and cons" and then develop regulations

Lost 25% of business because of certification requirements (machinists would lose 1 month of work to comply per worker)

1 FTE dealing with regulation in addition to 20% of staff using 20%-50% of their time making sure they are complying with regulation

5% to outsource compliance with workers comp and unemployment

Unexpected costs/time related to "unannounced" inspection

20 hours a week just on fuel tax compliance/reports, part time person of a staff 3.5

Question 5: Can you provide an example of a business that was cited for a regulatory violation that you felt was unfair or inappropriate? What could have improved or prevented this situation?

(Responses did not directly answer the question. There were virtually no examples of unfair citation. The discussion returned to general problems about regulations.)

Entertainment District Regulation in Old Town – the question of alcohol control now changes parking regulations on the site- example: parking for a business was figured on the building occupancy load divided by 3 people per vehicle for the total number of parking spaces. Changes

in alcohol regulations now say the parking is based on a vehicle occupancy load of 2 persons which requires more parking. Something not considered when regulation was developed.

- Project Example: "The Venue" Ballroom/Rental Hall- if liquor is on the premises more parking is needed which was cumbersome for the business and was unable to remain open
- This kind of regulation requires developers to work with police, fire, and code enforcement- several regulators which make it difficult.

Utility easement issues – not leaving site in its previous condition after utility access. Had a utility on a project where landscape had been done as required. Utility completed work and left the site unfinished. Replanted sod and 2 weeks later the utility came back and did the same thing again.

Example: Large building construction with property tax forgiveness for 5 or 10 years in certain areas. Subsidies created an unfair consequence. Intention was good to get things developed, however, a tenant moved from a "non-subsidy" large building to a "subsidy" large building just down the street.

Training on customer service needed for regulators

Pay them to help businesses get into compliance – bonus pay should be for helping business come into compliance rather than finding ways to penalize the business

Change culture where regulations help businesses be in compliance (they are the experts)

Common sense approach

State pass a law to be helpful rather than punitive – would change climate

Look at other states (job/business growth) & see what we can learn/implement

Performance surveys where they were employed in part based on their performance

Regulation simplification – reduce costs to businesses by 10%/20% in a set period of time

When rules/regs are being discussed, bring in businesses during development or changes to ensure reasonability

There needs to be an appeal system for regulation violations

Less businesses able to survive which means remaining businesses are carrying a larger burden for taxation

SBA study: businesses under 500 employees bore the highest cost per employee

Regulators don't care

Can't expand businesses without some regulators/regulations being addressed

Employees are more demanding = expect wage levels, costs, and certifications

- Background on every employee – why can't a business have similar protection that employees have so that there is recourse when the employee lies to the employer

Rules and regs need to be publicly available along with the interpretive guidelines. The more clear the interpretations the lighter the burden on businesses in terms of legal costs and time to try to understand the regulation

If a business can't reasonably know what the rule is, they need to have time to be able to come into compliance



KANSAS · POLICY
INSTITUTE

250 N. Water Street, Suite 216

Wichita, Kansas 67202

Online: www.kansaspolicy.org

Email: information@kansaspolicy.org

Phone: 316.634.0218

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