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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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 activity 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

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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. 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.

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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, Thumback in partnership with the Ewing Marion Kauffman Foundation has produced a Small Business Friendliness Survey (Thumback, 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 relationships. 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.

References


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.

**TABLE 1: City of Wichita’s Business Regulations**

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<th>Natural Resources, Mining, and Construction</th>
<th>Services</th>
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<td>3.10 Portable Storage Container Contractor Licensing</td>
<td>3.08 Escort Services</td>
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<tr>
<td>14.04 Self-Regulation of Industries</td>
<td>3.08 Miscellaneous Fees (for examples, Entertainment services including Cabarets, Circuses, Domino Tables, Photographing, Money Transaction, Shooting and Ticketing</td>
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<th>Wholesale and Retail</th>
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<td>25.04 Oil and Gas Regulations Services</td>
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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.
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 Statute, 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 Permits (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 Retail

Zoning and Land Use (Kansas Statute, Chapter 8, 41)

41-2608 Same; premises licensed; zoning compliance.

Licensing and Permits (Kansas Statute, Chapter 8, 41)

8-6 Fair Trade

8-24 Licensure of Vehicle Sales and Manufacturing

8-26 Licensure 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.

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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.
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Zoning and Land Use (Kansas Statue, Chapter 3: Aircrafts and Airfield)
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3-705 Procedure for adoption of zoning regulations.
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3-708 Administration of airport zoning regulations.
3-709 Judicial review.
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3-711 Acquisition of air rights; eminent domain.
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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.
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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
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82-15 Video service authorization

Building Codes (Kansas Administrative Regulations, K.A.R. 82)
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Finance (Kansas Administrative Regulations, K.A.R. 82)
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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.
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65-4024a Definitions.
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Licensing and Permitting (Kansas Statue, Chapter 40: Insurance, Chapter 7: Attorney at Laws, Chapter 36: Hotels, Lodginghouses and Restaurant, Chapter 65: Public Health)
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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.

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.

Grounds for disciplinary actions; proceedings; witnesses; costs; professional incompetency defined; criminal justice record information.

Judicial review of board's actions.

Misdemeanors; penalties.

Injunctions.

Acts which are not prohibited.

Invalidity of part.

Immunity from liability in civil actions for reporting, communicating and investigating certain information concerning alleged malpractice incidents and other information; conditions.

Rules and regulations.

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.

Advanced practice registered nurse; licensure; fees; license with temporary permit; exempt license.

Renewal of license for advanced practice registered nurse; reinstatement of lapsed license.

Same; educational and training programs for advanced practice registered nurses; approval; survey; nationally accredited programs.

Citation of Kansas nurse practice act.

Complaint or information relating to complaint confidential; exceptions.

Intravenous fluid therapy; qualifications of licensed practical nurses to administer; definitions; rules and regulations; advisory committee established; prohibitions; exceptions.

Definitions.

Qualifications for authorization to practice as a registered nurse anesthetist; approval of schools of nurse anesthesia, criteria.

Temporary authorization to practice.

Application; fees; deposit of moneys.

Expiration of authorizations to practice; renewal; lapsed authorization; reinstatement fee.

Duties of registered nurse anesthetists.

Qualifications of Applicant for Renewal of an Authorization to Practice; Continuing Education.

Unlawful Acts.

Application of Act.

Rules and regulations.

Supervision of delegated nursing procedures.

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

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

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

Rules and regulations; secretary of health and environment

Rules and regulations for system of priorities for children; consultation with representatives of medical society.

Inspections and investigations; rules and regulations concerning facility alteration or construction; preliminary inspections; consultations.

Finance (Kansas Statue, Chapter 40: Insurance)

Kansas health care prompt payment act; citation; effective date.

Same; claims; procedures; rules and regulations; erroneous payment of claims by insurer, limitation on recovery of; audit of pharmacy records, limitations on.

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.

Contracts between reinsurance brokers and insurers; written authorization required, contents.

Contracts between reinsurance managers and reinsurers; writing and commissioner's approval required; contents.

Examination; access to books, bank accounts and records.
**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 (pervasive 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 back ground 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 conservation 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/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 cut times 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