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TESTIMONY

CUTTING RED TAPE IN KANSAS

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Kansas Senate Committee on Assessment and Taxation
Kansas Joint Committee on Administrative Rules and Regulations

May 2, 2019

Chairwoman Tyson, Chairman Highland, and members of the committees:

Thank you for allowing me to present this testimony today with regard to the regulatory environment in Kansas. My name is James Broughel, and I am a senior research fellow at the Mercatus Center at George Mason University, as well as an adjunct professor of law and economics at George Mason University. My research focuses on state regulatory institutions, economic growth, and the economic analysis of regulations.

My message today can be summarized in three points:

1. Kansas has a significant amount of regulation on its books in absolute terms, but has a relatively light regulatory burden when compared to other US states.
2. Nonetheless, the accumulation of unnecessary regulations can be a drag on economic growth and prosperity in a state.
3. Creating a budget, or inventory, system for regulations would help the Kansas economy grow, lock in the state's competitive edge, and encourage recurring periodic review of the thousands of existing regulations affecting state residents.

QUANTIFYING REGULATION AT THE STATE LEVEL

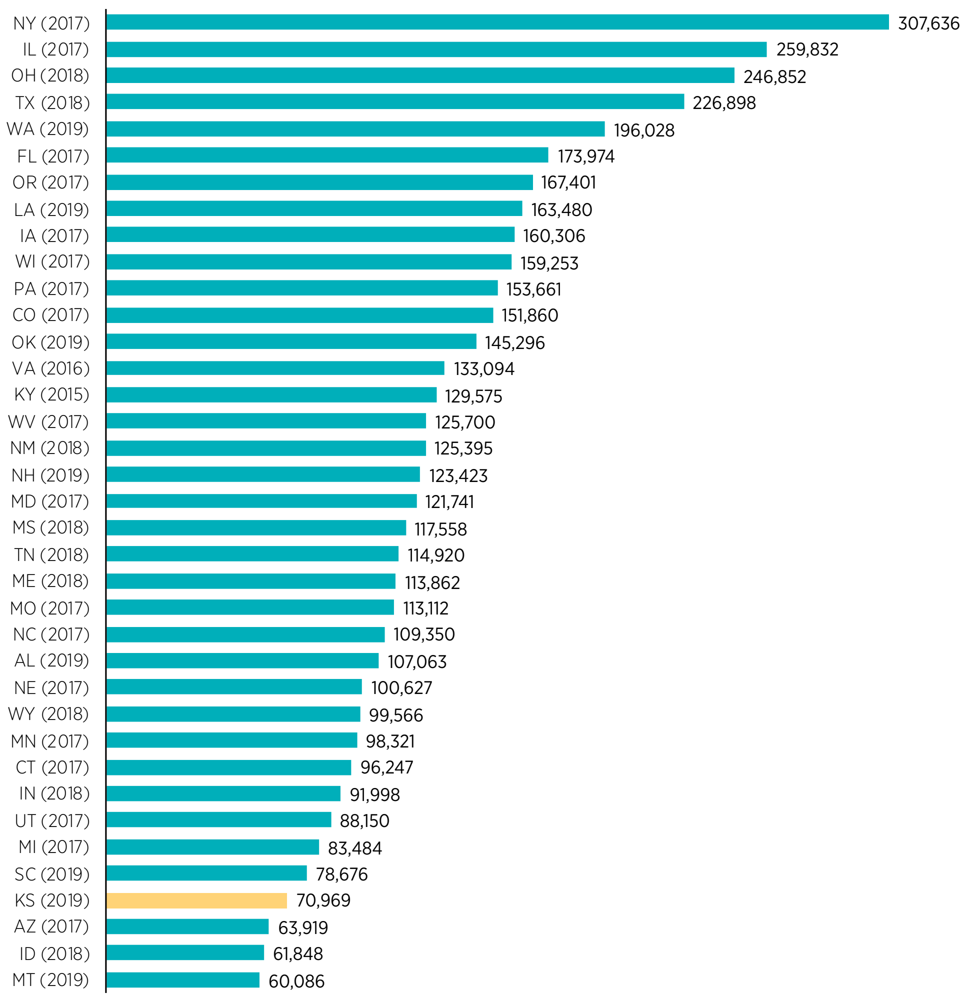
Generally speaking, state regulatory codes are too large for any single individual to read from start to finish. For example, the online version of the *Kansas Administrative Regulations* (KAR) contained 3.2 million words as of early 2019.[1] It would take an ordinary person about 180 hours—or 4.5 weeks—to read the entire KAR, assuming the person reads regulations 40 hours per week as a full-time job. At the Mercatus Center, my colleagues and I have launched State RegData, a first-of-its-kind effort to quantify regulation across the 50 states.[2] State RegData uses text analysis technology to scan through bodies of legal text—in this case state administrative codes. Modern technology is allowing us to overcome some of the barriers traditionally associated with parsing millions of words of regulatory text.

[1] James Broughel, "A Snapshot of Kansas Regulation in 2019" (Mercatus Policy Brief, Mercatus Center at George Mason University, Arlington, VA, April 2019).
[2] State RegData is part of a broader project called QuantGov, which seeks to quantify legal text. See Patrick A. McLaughlin and Oliver Sherouse, "QuantGov—A Policy Analytics Platform," QuantGov, December 20, 2017.

As part of our project, we pull key information from state codes, including word counts and counts of regulatory restrictions, which are instances of the terms *shall*, *must*, *may not*, *prohibited*, and *required*. These restrictions can signify legal constraints and obligations of various kinds.[3] We are also able to estimate which industries are most targeted by state regulation and assess which types of regulation are most prevalent.

Kansas had 70,969 regulatory restrictions in its administrative code as of early 2019.[4] To put that in context, Kansas's administrative code contains the fourth-smallest count of regulatory restrictions of any state reviewed thus far by the State RegData project.[5] The average state has roughly 134,000 restrictions, nearly double what Kansas has, but Kansas has roughly 10,000 more restrictions in its regulatory code than Montana, the least regulated state by our measure. New York, the most regulated state by our measure to date, has more than four times as many regulatory restrictions as Kansas (see figure 1).

FIGURE 1. STATE REGULATORY RESTRICTIONS

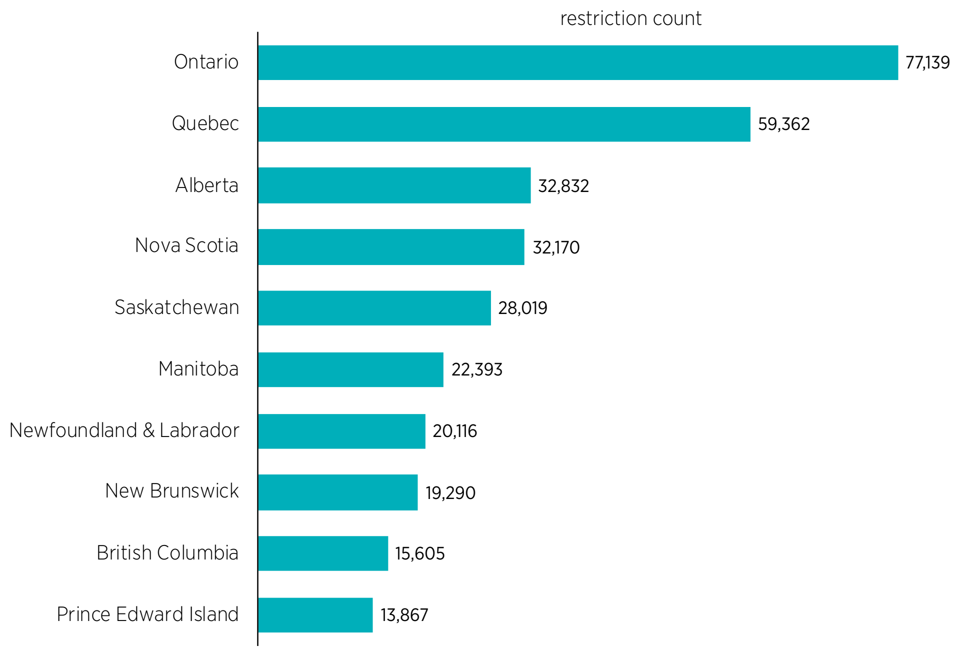


Source: State Regulatory Snapshot Reports, 2015–2019, Mercatus Center at George Mason University, Arlington, VA, https://www.mercatus.org/states. The Montana regulatory snapshot is forthcoming.

[3] Restrictions can also occur in legal text for other purposes, such as for definitional purposes. At times, restrictions may relate to government employees rather than the private sector.
[4] Broughel, "A Snapshot of Kansas Regulation in 2019."
[5] To date, the Mercatus Center State RegData project has examined 37 state administrative codes and plans to look at close to all 50 states in the near future.

Despite Kansas having a relatively light-touch regulatory approach compared to other US states, the United States in general appears to have significantly more regulation than some other countries, such as Canada.[6] According to Mercatus estimates, the average province in Canada has just 26,800 regulatory restrictions, far fewer than Kansas (see figure 2 for Canada's top 10 provinces in terms of regulatory restrictions). Similarly, the national government in Canada had just 71,801 active restrictions in its regulations as of 2018,[7] roughly the same as Kansas. While these numbers may not be completely comparable (since many Canadian requirements show up outside of regulation in statutes and various policy documents),[8] they nonetheless are fairly striking, considering that roughly 1.1 million restrictions show up in the US *Code of Federal Regulations*, more than 15 times the corresponding national estimate for Canada.

FIGURE 2. RESTRICTION COUNTS FOR THE TOP 10 MOST REGULATED PROVINCES IN CANADA



Patrick A. McLaughlin, Scott Atherley, and Stephen Strosko, RegData Canada (dataset), QuantGov, Mercatus Center at George Mason University, Arlington, VA, 2018, https://quantgov.org/regdata-canada/.

WHY REGULATORY ACCUMULATION MATTERS

The accumulated body of regulations in a state has an effect on the economy that is greater than the sum of the effects of each individual regulation.[9] Michael Mandel and Diana Carew of the Progressive Policy Institute in Washington, DC, liken the effect of regulation on the economy to dropping pebbles in a stream.[10] The first pebble is insignificant, a thousand pebbles may slow the flow, but a hundred thousand pebbles could dam the stream even when that last pebble was, by itself, also insignificant.

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[6] Patrick A. McLaughlin, Scott Atherley, and Stephen Strosko, RegData Canada (dataset), QuantGov, Mercatus Center at George Mason University, Arlington, VA, 2018, https://quantgov.org/regdata-canada/.
[7] Patrick A. McLaughlin, Stephen Strosko, and Laura Jones, "RegData Canada: A Snapshot of Regulatory Restrictions in Canada's Provinces" (Mercatus Policy Brief, Mercatus Center at George Mason University, Arlington, VA, March 2019).
[8] Canada also has a parliamentary system, rather than a presidential system like in the United States, which may result in some differences.
[9] James Broughel, *Regulation and Economic Growth: Applying Economic Theory to Public Policy* (Arlington, VA: Mercatus Center at George Mason University, 2017).
[10] Michael Mandel and Diana G. Carew, *Regulatory Improvement Commission: A Politically Viable Approach to US Regulatory Reform* (Washington, DC: Progressive Policy Institute, 2013).

The empirical connection between regulation, economic growth, and the known contributors to economic growth has been made many times in the peer-reviewed academic literature:

- A 2013 study in the *Journal of Economic Growth* estimates that federal regulation slowed the growth of the US economy by 2 percentage points per year on average from 1949 to 2005.[11] This estimate suggests that, had regulation remained at its 1949 level, 2011 GDP would have been about $39 trillion, or 3.5 times higher than it actually was.[12]
- A study published by the Mercatus Center estimates that growth has been slowed by 0.8 percentage points per year on average by federal regulations implemented since 1980.[13] That number may sound small, but in fact it suggests that had the federal government imposed a cap on regulation levels in 1980, then by 2012 the economy would have been $4 trillion larger, which amounts to $13,000 per person in the United States.
- Researchers at the World Bank estimate that the economies of countries with the least burdensome business regulations grow 2.3 percentage points faster annually than countries with the most burdensome regulations.[14]
- The authors of one study, published in the *Quarterly Journal of Economics*, a top-ranked economics journal, say the following about gains (or lack thereof) from more stringent regulation: "We do not find that stricter regulation of entry is associated with higher quality products, better pollution records or health outcomes, or keener competition. But stricter regulation of entry is associated with sharply higher levels of corruption, and a greater relative size of the unofficial economy."[15]

Numerous other academic studies have confirmed the negative effects that product market regulations can have on important contributors to economic growth, including investment rates,[16] innovation and research and development spending efficacy,[17] employment,[18] and productivity growth.[19]

In addition to a robust empirical literature, leading applied welfare economists readily admit their preference that policy aim for a rate of growth below the economy's maximum sustainable rate of growth.[20] Why? Because many economists prefer to redistribute wealth from the future to the present (i.e., for the present generation to consume at the expense of future generations), believing this would bring about a more equitable distribution of wealth across generations. In other words, they are willing to accept a slower rate of economic growth in exchange for policy interventions that they perceive as

[11] John W. Dawson and John J. Seater, "Federal Regulation and Aggregate Economic Growth," *Journal of Economic Growth* 18, no. 2 (2013): 137–77.
[12] Patrick A. McLaughlin, Nita Ghei, and Michael Wilt, "Regulatory Accumulation and Its Costs: An Overview" (Mercatus Policy Brief, Mercatus Center at George Mason University, Arlington, VA, 2018).
[13] Bentley Coffey, Patrick A. McLaughlin, and Pietro Peretto, "The Cumulative Cost of Regulations" (Mercatus Working Paper, Mercatus Center at George Mason University, Arlington, VA, 2016).
[14] Simeon Djankov, Caralee McLiesh, and Rita Maria Ramalho, "Regulation and Growth," *Economic Letters* 92, no. 3 (2006): 395–401.
[15] Simeon Djankov et al., "The Regulation of Entry," *Quarterly Journal of Economics* 117, no. 1 (2002): 1–37.
[16] Alberto Alesina et al., "Regulation and Investment," *Journal of the European Economic Association* 3, no. 4 (2005): 791–825.
[17] Chiara Franco, Fabio Pieri, and Francesco Venturini, "Product Market Regulation and Innovation Efficiency," *Journal of Productivity Analysis* 45, no. 3 (2016): 299–315.
[18] Giuseppe Nicoletti et al., "European Integration, Liberalization, and Labor-Market Performance," in *Welfare and Employment in United Europe*, ed. Giuseppe Bertola, Tito Boeri, and Giuseppe Nicoletti (Cambridge, MA: MIT Press, 2001).
[19] Renaud Bourlès et al., "Do Product Market Regulations in Upstream Sectors Curb Productivity Growth? Panel Data Evidence for OECD Countries," *Review of Economics and Statistics* 95, no. 5 (2013): 1750–68.
[20] See, for example, Kenneth Arrow, "The Trade-Off between Growth and Equity," in *Theory for Economic Efficiency*, ed. Greenfeld, et al. (Cambridge, MA: MIT Press, 1979); F. P. Ramsey, "A Mathematical Theory of Saving," *Economic Journal* 38, no. 152 (1928): 543–59; Tjalling C. Koopmans, "On the Concept of Optimal Economic Growth" (Cowles Foundation Discussion Paper No. 163, Cowles Foundation for Research in Economics at Yale University, New Haven, CT, December 6, 1963).

advancing equity. Unfortunately, many economists allow their own values to enter analysis when they should be focused on making honest assessments of the economic tradeoffs policies present.[21]

CONNECTING ECONOMIC GROWTH AND WELL-BEING

A few lost percentage points in growth may not sound like a lot, but consider this: From 2007 to 2017, the compound annual growth rate of Kansas real GDP was just 0.9 percent (the rate for the nation was 1.5 percent).[22] In 2017, Kansas real GDP grew 0.2 percent, while the 2016–2017 national change was 2.2 percent.

If the past decade is a good indicator, it will take about 78 years for the state's economy to double in size. This was approximately the life expectancy at birth for an American born in 2007.[23] By contrast, if Kansas's economy were to grow 3 percent per year, it would take just 24 years for its real GDP to double. This small difference in growth rates is roughly the difference between the economy doubling once in a lifetime and doubling three times in the same time period.

Growth rates of 3 percentage points or more per year are plausible and are being achieved in some states right now.[24] By contrast, states with slower growth will see incomes and wages for state residents that are much lower than they could otherwise be. Reversing this trend would boost innovation, bring increased employment opportunities for Kansans, and improve living conditions for state residents now and in the future.

The miracle of compound growth becomes more evident when considering longer time horizons. Table 1 presents how a theoretical $100 investment would grow over time at various annual rates of return. As should be clear, the difference between 1 percent annual growth and 10 percent annual growth is beyond night and day. While national or state economic growth on the order of 7 to 10 percent annually is unrealistically high, growth in the range of 3 to 4 percent is not.

TABLE 1. COMPOUNDING AT DIFFERENT ANNUAL GROWTH RATES

	Annual Growth Rates			
Year	1%	3%	7%	10%
0	$100	$100	$100	$100
1	$101	$103	$107	$110
5	$105	$116	$140	$161
10	$110	$134	$197	$259
25	$128	$209	$543	$1,083
50	$164	$438	$2,946	$11,739
75	$211	$918	$15,988	$127,190
100	$270	$1,922	$86,772	$1,378,061

Source: James Broughel, *Regulation and Economic Growth: Applying Economic Theory to Public Policy* (Arlington, VA: Mercatus Center at George Mason University, 2017), 7.

[21] James Broughel, "Equity or Efficiency? The Battle for the Soul of Benefit-Cost Analysis" (Mercatus Policy Brief, Mercatus Center at George Mason University, Arlington, VA, March 2019).
[22] US Bureau of Economic Analysis, *BEARFACTS: Kansas*, November 2018.
[23] Centers for Disease Control and Prevention, *Table 15. Life Expectancy at Birth, at Age 65, and at Age 75, by Sex, Race, and Hispanic Origin: United States, Selected Years 1900–2016*, 2017, https://www.cdc.gov/nchs/data/hus/2017/015.pdf.
[24] For example, in 2017, Oregon real GDP grew 3.6 percent.

It is difficult to even conceive of what the US economy would be like were it two to four times as large as it is today. The benefits in terms of technology, wealth, and opportunity stretch the bounds of the imagination. While GDP does not measure all aspects of human well-being, the income generated by a vibrant and growing economy can improve living standards in countless ways. With more wealth, Kansans would have far greater opportunity to increase investments in health and education, pass along bequests to their children, and pursue the kind of life they and their families think is best.

At some point, an economy that grows consistently faster than another economy is so much richer in terms of wealth, technology, and opportunity, that one can say that it is objectively better off in terms of human well-being.[25] Every state in the country should be concerned about growth, especially Kansas, with growth rates below the national rate.

ESTABLISHING A BUDGET FOR REGULATIONS

Kansas has a strong track record of pursuing regulatory reforms in recent years, but more work remains.[26] Just as a closet can gradually overflow with clothing that is out of style or otherwise unessential, the regulatory system is periodically in need of a little spring cleaning.[27] That's why one reform that is worth considering is creating a budgeting system for regulations. A regulatory budget can prevent excessive regulatory accumulation while also preserving the flexibility regulators need to maintain a modern regulatory system. Some benefits to this approach include the following:

- *Limiting regulatory accumulation.* A budget provides a check on the inertial growth of regulations—it helps prevent too many pebbles from clogging the stream.
- *Demonstrated success.* A budgeting approach has been tried and proven effective in other places, most notably in Canada; and similar efforts are underway in states such as Virginia.
- *Maintaining state competitiveness.* Based on restriction counts, Kansas looks like an attractive place for businesses compared to neighboring states. A regulatory budget could be used to lock in the state's competitive edge, keeping barriers to entrepreneurship low and attracting ambitious young people and firms from around the country.
- *A culture change at state agencies.* After the Canadian province of British Columbia instituted a simple regulatory budget in the early 2000s, one public official noted that it changed her role from a regulation "maker," who simply adds new rules, to a regulation "manager," who oversees and cares for a portfolio of rules.

In 2001, British Columbia successfully instituted a reform with a goal of reducing regulation levels by one-third within three years.[28] Subsequently, British Columbia implemented a policy whereby one regulatory requirement would be eliminated for every new one introduced, ensuring that regulatory creep would not return. Regular reporting played an important role in providing the necessary transparency about how many requirements were added or removed over time and where requirements were coming from.[29] Regulation levels have fallen further in the province since the "one-in, one-out"

[25] Tyler Cowen, *Stubborn Attachments: A Vision for a Society of Free, Prosperous, and Responsible Individuals* (San Francisco, CA: Stripe Press, 2018).
[26] See, for example, Kansas House Bill 2280 from 2018, which required cost-benefit analysis for regulations and approval of rules by the director of the budget. H.B. 2280, 2017–2018 Leg., Reg. Sess. (Kan. 2017).
[27] James Broughel, "Spring Cleaning for Regulations," *Inside Sources*, May 24, 2017.
[28] Laura Jones, "Cutting Red Tape in Canada" (Mercatus Research, Mercatus Center at George Mason University, Arlington, VA, 2015).
[29] James Broughel and Laura Jones, "Effective Regulatory Reform: What the United States can Learn from British Columbia" (Mercatus Research, Mercatus Center at George Mason University, Arlington, VA, September 2018).

policy was established.[30] It is likely that regulatory reform has contributed to British Columbia's strong economy in recent years, as an economic turnaround coincided with the reduction in regulation.[31]

The success of the province's regulatory effort inspired a similar national law in Canada, which passed the Canadian parliament overwhelmingly by a margin of 245 "yes" votes to just one "no" vote.[32] US states such as Kentucky have also been inspired by the reforms in British Columbia and are currently implementing red tape reduction programs.[33]

British Columbia was able to achieve its goals in part because government employees counted the number of regulatory requirements in place and committed to tracking this statistic across time. A similar inventory system is now being set up in Virginia as part of the 2018 Regulatory Reduction Pilot Program.[34] By July 1, 2020, all executive branch agencies in Virginia that are subject to the state Administrative Process Act must develop a baseline regulatory catalog and report their catalog data. Two states agencies, the Department of Professional and Occupation Regulation and the Department of Criminal Justice Services, must, by July of 2021, initiate reforms that produce a 25 percent reduction of the rules and requirements under their purview.

It is not surprising that Virginia is combining substantive efforts to reduce regulatory burdens with licensing and criminal justice reforms. The negative effects of occupational licensing laws are well known.[35] These restrictions often disproportionately burden low-income individuals, as well as other vulnerable populations such as minorities, military spouses, and immigrants, all of whom are trying to better provide for their families.[36] Recent analysis also suggests recidivism, the likelihood that former prisoners will reoffend and return to prison, can also be reduced by reforming occupational licensing laws.[37] Other states may be following Virginia's lead,[38] and Kansas could follow a similar path. Like with the national law in Canada, Virginia's law is notable for its bipartisan nature.[39] In fact, CNBC recently named Virginia one of America's top states for business, citing the new regulatory reduction law as a major reason for Virginia's strong placement in the rankings.[40]

CONCLUSION

The state of Kansas has nearly 71,000 regulatory restrictions on its books as of early 2019. It has about as much regulation as the national government in Canada, based on estimates from the Mercatus Center. A budgeting system for regulations could help prevent unwanted regulatory accumulation in Kansas while

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30 The total reduction since 2001 is estimated to be 49 percent. See Laura Jones, "Lessons from the British Columbia Model of Regulatory Reform" (Testimony before the House Subcommittee on Healthcare, Benefits, and Administrative Rules and Subcommittee on Intergovernmental Affairs, Mercatus Center at George Mason University, Arlington, VA, September 27, 2018).
31 James Broughel, "Can the United States Replicate the British Columbia Growth Model?," Mercatus Center at George Mason University, May 25, 2017.
32 Red Tape Reduction Act, S.C. 2015, c. 12 (Can).
33 For example, the website for Kentucky's Red Tape Reduction Initiative cites British Columbia as an influence. See Red Tape Reduction home page, accessed February 23, 2019, http://www.redtapereduction.com.
34 H.B. 883, Gen. Assemb., Reg. Sess. (Va. 2018)
35 For example, many occupational licensing requirements exist to protect established interests rather than to serve the public interest. See William Mellor and Dick M. Carpenter II, *Bottleneckers: Gaming the Government for Power and Private Profit* (New York: Encounter Books, 2016).
36 Matthew D. Mitchell, "Occupational Licensing and the Poor and Disadvantaged" (Mercatus Policy Spotlight, Mercatus Center at George Mason University, Arlington, VA, 2017); Patrick A. McLaughlin, Matthew D. Mitchell, and Anne Philpott, "The Effects of Occupational Licensure on Competition, Consumers, and the Workforce" (Mercatus on Policy, Mercatus Center at George Mason University, November 2017); US Department of the Treasury, Council of Economic Advisers, and US Department of Labor, *Occupational Licensing: A Framework for Policymakers*, July 2015, 4.
37 Vittorio Nastasi and Samuel R. Staley, *Bridging the Divide: Licensing and Recidivism* (Tallahassee, FL: James Madison Institute, 2019).
38 See, for example, H.B. 995, Gen. Assemb., 2019–2020 Sess. (Pa. 2019).
39 James Broughel, "A Reform That Offers Hope for Centrists," *Washington Post*, March 14, 2018.
40 Jeff Clabaugh, "Virginia Ranks 4th among CNBC's Best States for Business," *WTOP*, July 10, 2018.

also granting state regulators the flexibility to address new and evolving problems. The successful experience of British Columbia since 2001 offers a roadmap for how to implement such a reform. Other US states such as Kentucky and Virginia are following British Columbia's successful example.

If Kansas can consistently increase its economic growth rate each year, this would have profound implications for the opportunities available to state residents, both in the near term as well as far into the future. Establishing a regulatory budget is a smart step toward achieving this goal.

Thank you again for your time and the opportunity to submit this testimony. I am happy to answer any questions you may have.

Sincerely,

James Broughel, PhD
Senior Research Fellow, Mercatus Center at George Mason University

ATTACHMENTS (4)

"A Snapshot of Kansas Regulation in 2019" (Mercatus Policy Brief)
"Can the United States Replicate the British Columbia Growth Model?" (Mercatus Chart)
"A Step-by-Step Guide to Using Mercatus Tools to Reduce State Regulation Levels" (Mercatus on Policy)
James Broughel, "Spring Cleaning for Regulations," *Inside Sources,* May 24, 2017.

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REGULATORY SNAPSHOT

A Snapshot of Kansas Regulation in 2019

70,969 Restrictions, 3.2 Million Words, and 4.5 Weeks to Read

James Broughel

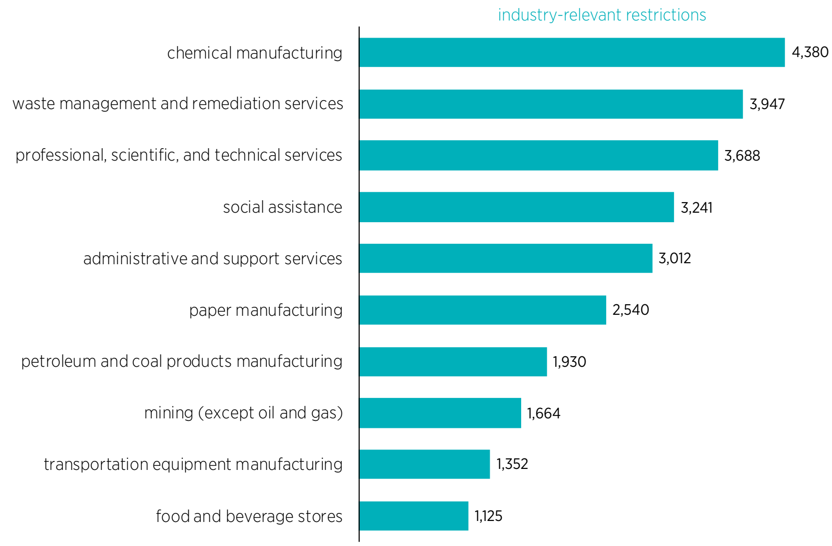
April 2019

It would take an ordinary person more than two and a half years to read the entire US *Code of Federal Regulations* (CFR), which contained nearly 104 million words in 2017.[1] The sheer size of the CFR poses a problem not just for the individuals and businesses that want to stay in compliance with the law but also for anyone interested in understanding the consequences of this massive system of rules. States also have sizable regulatory codes, which add an additional layer to the large body of federal regulation. A prime example is the online version of the 2019 *Kansas Administrative Regulations* (KAR).[2]

Researchers at the Mercatus Center at George Mason University developed State RegData, a platform for analyzing and quantifying state regulatory text. State RegData captures information in minutes that would take hours, weeks, or even years to obtain by reading and counting. For example, the tool allows researchers to identify the industries that state regulation targets most by connecting text relevant to those industries with restrictive word counts.[3] These regulatory restrictions are instances of the words and phrases *shall*, *must*, *may not*, *prohibited*, and *required*, and they can signify legal constraints and obligations.[4] As shown in figure 1, the three industries with the highest estimates of industry-relevant restrictions in the 2019 KAR are chemical manufacturing; waste management and remediation services; and professional, scientific, and technical services (which includes legal services, accounting and tax preparation, and a variety of other professional services).

State RegData also reveals that the 2019 KAR contains 70,969 restrictions and 3.2 million words. It would take an individual about 180 hours—or about four and a half weeks—to read the entire

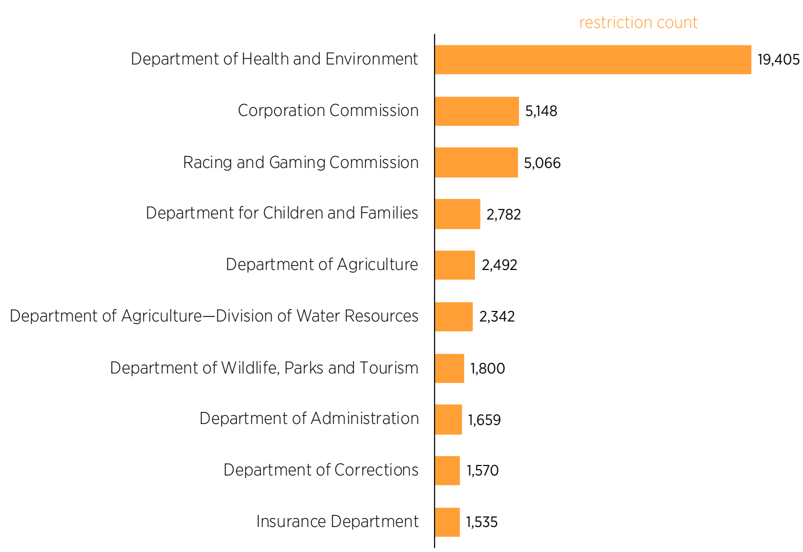
Figure 1. Top 10 Industries Targeted by Kansas State Regulation in 2019



Note: Industries are classified using the RegData 3.0 industry classifier. Some previous state regulatory snapshots used earlier versions of the RegData industry classifier.
Source: State RegData (Kansas data), https://quantgov.org/state-regdata/.

KAR. That's assuming the reader spends 40 hours per week reading and reads at a rate of 300 words per minute. By comparison, there are 1.09 million additional restrictions in the federal code.[5] Individuals and businesses in Kansas must navigate these different layers of restrictions to remain in compliance.

Figure 2. Top 10 Regulators in Kansas in 2019



Source: State RegData (Kansas data), https://quantgov.org/state-regdata/.

The rules in the KAR are organized by agency. Figure 2 shows that the section of the KAR associated with the Department of Health and Environment contains 19,405 restrictions. By this measure, this is the biggest regulator in Kansas. Coming in second is the Corporation Commission, with 5,148 restrictions.

Federal regulation tends to attract the most headlines, but it is important to remember that the nearly 104 million words and 1.09 million restrictions in the federal code significantly understate the true scope of regulation in the United States. States like Kansas write millions of additional words of regulation and tens of thousands of additional restrictions. State-level requirements carry the force of law to restrict individuals and businesses just as federal ones do.

Researchers are only beginning to understand the consequences of the massive and growing federal regulatory system on economic growth and well-being in the United States.[6] Meanwhile, the effects of state regulation remain largely unknown. If this snapshot of Kansas regulation in 2019 is a good indicator, then the states are also active regulators, suggesting that the full impact of regulation on society is far greater than that of federal regulation alone.

ACKNOWLEDGMENT

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ABOUT THE AUTHOR

James Broughel is a senior research fellow at the Mercatus Center at George Mason University. Broughel has a PhD in economics from George Mason University. He is also an adjunct professor in the economics department and the law school at George Mason University.

QuantGov This regulatory snapshot was produced in part using **QuantGov**, a policy analytics platform that facilitates analysis of the causes and effects of various government actions. The QuantGov project treats policy text as data, allowing researchers to quickly and effectively examine broad policies (as articulated in bodies of text) by using some of the latest advances from data science, such as machine learning and other artificial intelligence technology. The Mercatus Center's team of data engineers, analysts, and developers created this platform and continually utilize and update it to produce data that support a variety of research products and to provide policymakers with data that inform positive policy change. More information is available at **quantgov.org**.

Jonathan Nelson	Patrick A. McLaughlin	Stephen Strosko	Thurston Powers
Data Lead	Policy Analytics Director	Data Engineer	Data Analyst

NOTES

1. This assumes the person reads 300 words per minute for 40 hours per week with two weeks of vacation per year. "RegData 3.1," QuantGov; Patrick A. McLaughlin, Oliver Sherouse, Daniel Francis, Michael Gasvoda, Jonathan Nelson, Stephen Strosko, and Tyler Richards, "RegData 3.0 User's Guide," accessed February 15, 2018, https://quantgov.org/regdata/users-guide/.

2. State of Kansas, Office of the Secretary of State, Kansas Administrative Regulations (K.A.R.), accessed February 13, 2019, http://www.kssos.org/pubs/pubs_kar.aspx.

3. State RegData is part of a broader project called QuantGov, which seeks to quantify legal text. See Patrick A. McLaughlin and Oliver Sherouse, "QuantGov—A Policy Analytics Platform," QuantGov, December 20, 2017. Data for Kansas are available at https://quantgov.org/state-regdata/.

4. Restrictions can also occur in legal text for other purposes, such as for definitional purposes. At times, restrictions may relate to government employees rather than the private sector.

5. "RegData 3.1"; McLaughlin et al., "RegData 3.0 User's Guide."

6. See, for example, Bentley Coffey, Patrick A. McLaughlin, and Pietro Peretto, "The Cumulative Cost of Regulations" (Mercatus Working Paper, Mercatus Center at George Mason University, Arlington, VA, 2016).

Chart / Data Visualization

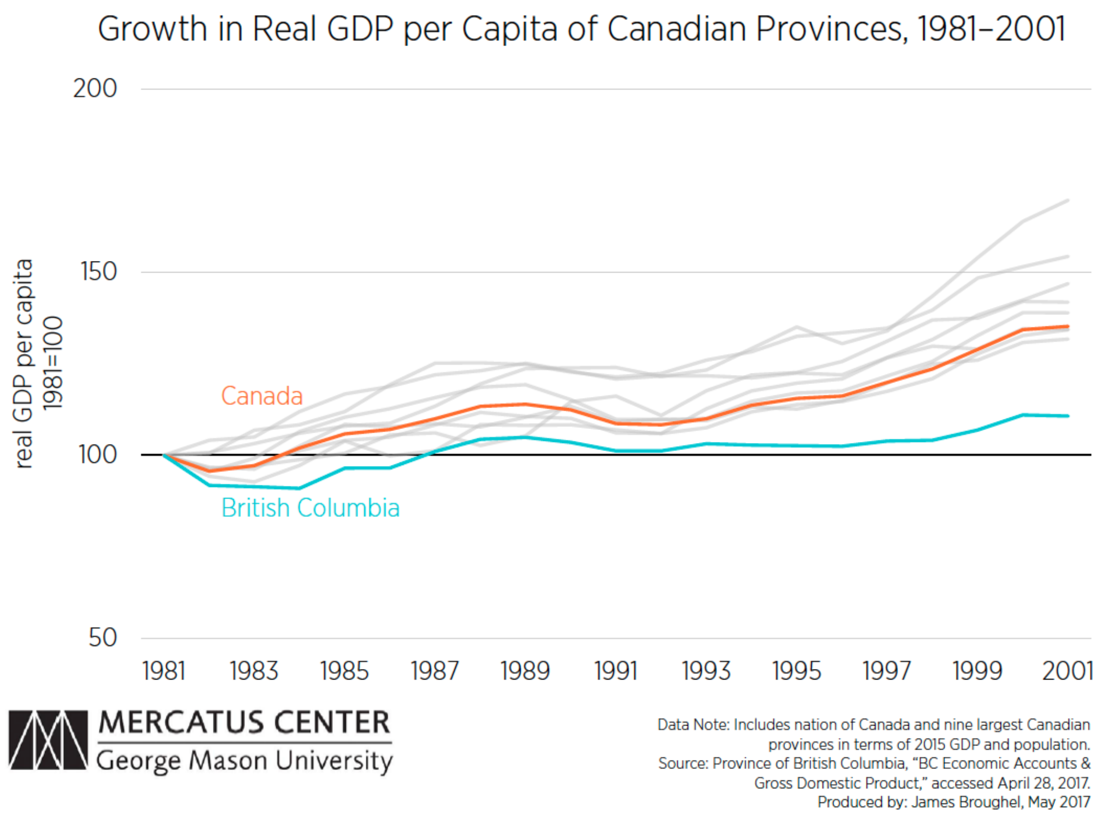
Can the United States Replicate the British Columbia Growth Model?

May 25, 2017

Authors: James Broughel

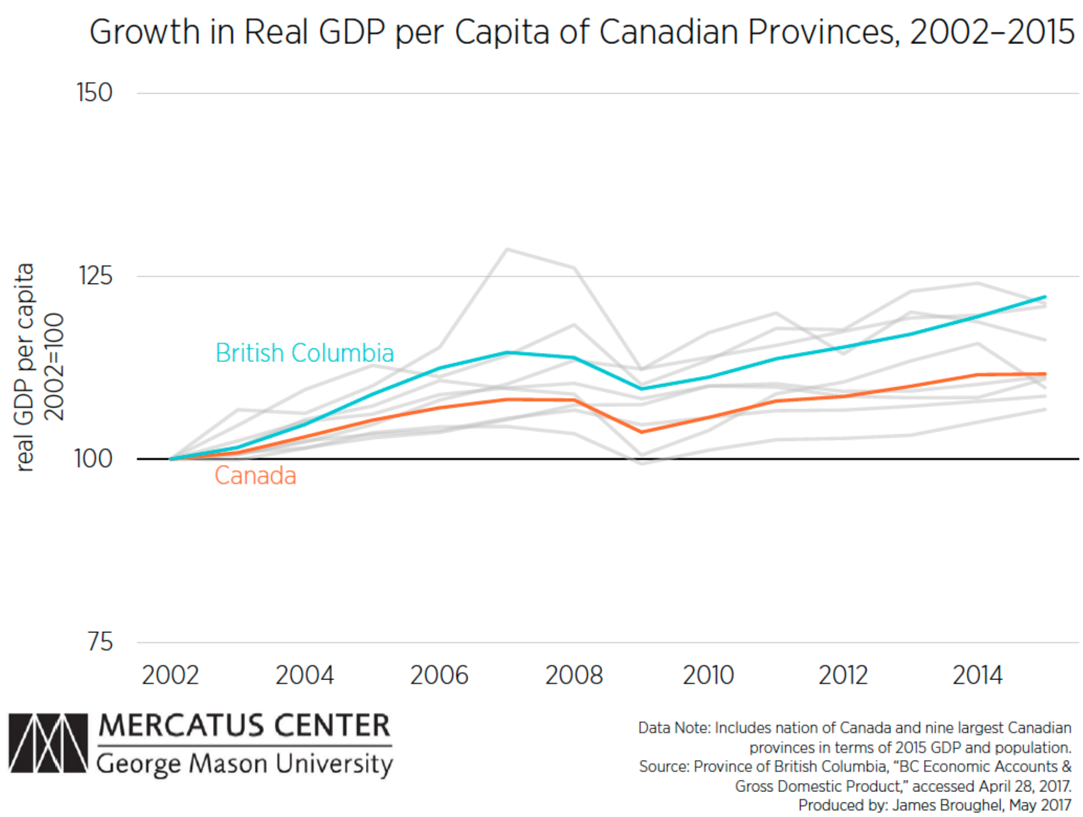
In 2001 British Columbia began an aggressive regulatory reform [1] program. One motivation for reform was no doubt the disappointing economic growth [2] the Canadian province experienced in the years prior. As of 2015, however, the province is now a leader in Canadian economic performance. The possibility of achieving similar gains in the United States—where growth has been disappointing in recent years—is one reason why regulatory reform may be an attractive option for policymakers at all levels of government.

The 1990s were sometimes referred to as a "dismal decade" in British Columbia; some commentators [3] even joked that the acronym BC referred to the province being a "basket case," rather than its name. It is not surprising then that British Columbia was one of the worst performing economies in Canada around that time, as is demonstrated in the first chart.



The first chart plots real GDP per capita across time for the nine largest Canadian provinces in terms of 2015 GDP and population. Also included are changes for the nation of Canada as a whole. The base year is 1981, meaning the lines in the first chart plot how income per person changed relative to each region's 1981 level. As is clear from the graph, British Columbia performed considerably worse by this measure than any other major economy in Canada.

In 2001 leaders in British Columbia sought to reduce regulatory requirements by one-third within three years. Reformers not only achieved this goal, but they have cut regulation levels further in the years since—nearly 50 percent [4] in total.



The economic situation in British Columbia changed dramatically. As of 2015, British Columbia is now Canada's best performing major economy in terms of real GDP per capita growth since 2002. The second chart plots this U-turn.

The turnaround represents a growth miracle [5] of sorts. The question from a public policy perspective is whether this success can be transferred elsewhere. Many factors likely contributed to British Columbia's boom, but was regulatory reform the key ingredient?

Luckily, the core elements [6] of British Columbia's reform are replicable, meaning other governments can copy the British Columbia regulatory reform model. These elements include establishing a goal to reduce regulation levels by a specified amount within a set period of time, carefully measuring how much regulation is in place, and capping regulation levels to ensure reduction targets can be met and unwanted regulatory accumulation [7] does not return in the future.

Strong leadership and public support are also important, which take time and opportunity to develop. Nonetheless, by emulating its neighbors to the north, perhaps the United States can set off a growth miracle of its own.

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MERCATUS ON POLICY

A Step-by-Step Guide to Using Mercatus Tools to Reduce State Regulation Levels

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FOR STATES WISHING TO CUT EXCESSIVE "RED tape," that is, to reduce unnecessary regulatory burdens, designing a process to accomplish this goal can be a daunting task. This guide offers state policymakers a fairly simple and straightforward process for achieving this objective using tools developed by the Mercatus Center at George Mason University. Although the process outlined here is not the only path to reducing regulatory burdens, it has some advantages, including its relative simplicity, cost-effectiveness, and transparency. Some aspects of the approach have also been tested, and proven successful, in previous regulatory reform efforts.

STEP 1: DEFINE REGULATORY BURDEN

The first order of business for states wishing to reduce their level of regulation is to determine precisely what they want to reduce. Regulatory burden can be measured in a number of ways. For example, it can be measured in terms of the number of pages in the state administrative code, the number of final rules published by agencies, or paperwork, compliance, or social costs that rules impose on the public.

There are merits and drawbacks to each of these approaches. Because resources tend to be limited in states, this guide recommends using a relatively simple metric: the total count of restrictive words (also known as "regulatory restrictions") found in a state's administrative code. Restrictive words include legal obligations and prohibitions on the public and are signified by words and phrases such as "shall," "must," "may not," "prohibited," and "required." Resources permitting, policymakers who wish to develop a more comprehensive measure of regulatory burden could look beyond the state administrative code to agency notices, memoranda, guidance documents, and other agency releases.[1]

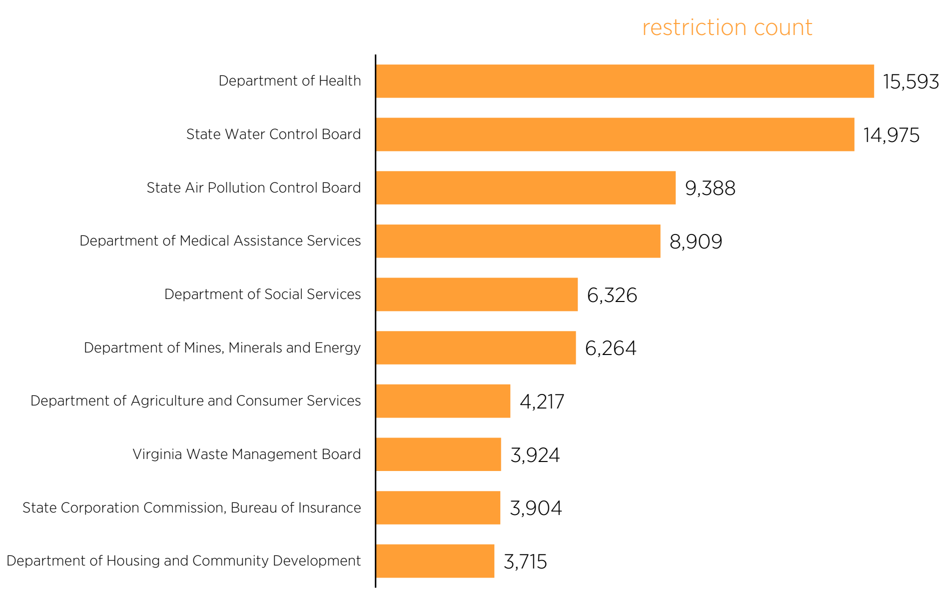
STEP 2: ESTABLISH A BASELINE

Before a state decides how much regulation it wants to cut, it must first know how much regulation it has and decide whether that amount seems excessive. If regulation is defined as the number of restrictive words appearing in the state administrative code, then a baseline, or initial starting point, can be established using Mercatus's State RegData tool,[2] which is a computer program that scans bodies of state regulatory text and counts the number of restrictive words.[3] When run through a state's administrative code, State RegData can establish each of the following: the total number of restrictive words on the books at a given point in time, the growth in the number of restrictions across time (if the administrative code is available for multiple years), the industries most targeted by state regulation, and the regulatory agencies with the most restrictive words on the books. Figure 1 provides an example of how tallying restrictions according to the regulatory agencies that produce them is possible for a state like Virginia.

STEP 3: SET A TARGET REDUCTION GOAL AND A DEADLINE

After establishing a baseline, the governor, state legislature, or some other body will set a goal for how much the code should be reduced. This will be largely a political decision, since it is difficult to know the "right" amount of regulation in any state. A 2013 survey of small businesses in the United States and Canada reported that respondents thought the burden of regulation could be reduced by about 30 percent without compromising the public interest.[4] However, the perception of how much unnecessary regulation exists will vary by time and by place as well as across populations affected.

Figure 1. Top Ten Regulatory Agencies in Virginia



Source: James Broughel and Oliver Sherouse, "A Snapshot of Virginia Regulation in 2016" (Policy Brief, Mercatus Center at George Mason University, Arlington, VA, January 19, 2017).

Before a state decides how much regulation it wants to cut, it must first know how much regulation it has and decide whether that amount seems excessive.

It may make sense to target a level of regulation close to levels found in similar or nearby states that are experiencing strong economic performance. One model to follow might be the Canadian province of British Columbia, which in 2001 set a goal of reducing its number of regulatory requirements (a metric similar to restrictive words) by one-third in three years.[5] By 2004, 37 percent of regulatory requirements in British Columbia had been eliminated, and more have been eliminated in subsequent years. As of 2016, 47 percent of the regulatory requirements had been eliminated since 2001.[6]

Rather than focus on the aggregate number of restrictive words found in the entire code, states may want to task different regulatory agencies with different reduction targets, since not every agency contributes to unnecessary regulatory burdens equally. Whatever target level and method of reduction policymakers choose, it is advisable to set a clear goal and a deadline for when the goal is to be met. Without clear objectives, reformers will have difficulty measuring the progress of their efforts, which could result in a lack of accountability and a lower probability of success.

Table 1: Steps to Reduce Regulation Levels in a State

STEP 1	Define regulatory burden
STEP 2	Establish a baseline
STEP 3	Set a target reduction goal and a deadline
STEP 4	Create an oversight mechanism
STEP 5	Establish a process to review the code and get buy-in from regulators
STEP 6	Institutionalize a regulatory budget

STEP 4: CREATE AN OVERSIGHT MECHANISM

Oversight over the red tape reduction process is needed and can come in many forms, and it does not have to be complicated or expensive to be effective. The body providing oversight can be an existing committee in the legislature or an office within the executive branch. A state may already have a body providing third-party review of regulations, which could be a logical place to house oversight functions since it presumably already possesses considerable expertise on state regulatory matters. Alternatively, if resources permit, a governor, via executive order, or the legislature, via statute, could set up a red tape reduction commission. The purpose of such a commission is to establish a process for reviewing the administrative code in a state, to ensure the successful and timely achievement of target goals, and to report back to the governor and the legislature regarding the progress of reform efforts.

The commission should also focus on communication with the public to ensure the benefits of regulatory reform, such as smarter and more efficient government, are well understood. The commission's staff should comprise a diverse group of individuals representing multiple viewpoints, including the viewpoints of consumers, industry, and government officials. Possible models for a red tape reduction commission include the Base Realignment and Closure system that recommended federal military bases for closure[7] and previous state red tape reduction commissions.[8]

STEP 5: ESTABLISH A PROCESS TO REVIEW THE CODE AND GET BUY-IN FROM REGULATORS

The next step is to review the regulatory code itself to identify red tape for elimination or modification. Input from the public can be helpful in this task, but it is important to get feedback from as many sources as possible so as not to limit responses to a narrow range of interests. Public feedback can also result in unexpected reform ideas that fall outside the scope of reformers' original plans. For example, during public hearings held as part of a 2010 New Jersey reform effort, members of the public complained about how prevailing wage requirements had raised the cost of public projects and prevented citizens from donating their services to their communities.[9] Although this sort of information might not be what reformers intended to gather at public hearings, such information is nonetheless valuable.

As for the actual review of the state code, this could conceivably be the responsibility of a red tape reduction commission or a legislative committee; however, it is probably more practical and economical to have regulatory agencies review their own portfolios of rules. First, regulators will be more familiar with their own rules than most other parties will be, so there is less of a learning curve. Second, this may require no additional state resources since presumably regulators are already monitoring program effectiveness to varying degrees. Resources and priorities simply have to be reallocated from a focus on rule writing to a focus on rule improvement and management.

Regulators also possess valuable information, and it is important that they perceive they are part of the reform effort and don't feel unfairly targeted with criticism. The risk of the latter is not negligible, since rules being eliminated are ones that regulators promulgated. If regulators are not invested in the reform, it is likely to fail. To enlist agency assistance and obtain agency buy-in, the oversight body may want to direct each agency to reduce its own restrictions by a predetermined amount and then give agencies wide latitude to decide how best to accomplish this goal. A formal policy requiring agencies to remove multiple old restrictions for every new one introduced is a way of motivating agencies to reduce regulatory burdens—by changing their incentives—while also giving regulators the flexibility to decide which requirements should stay and which should go. Such a policy is known as a regulatory budget. At first, the budget should be established to reduce regulation levels, but over time budget allowances might evolve toward keeping regulation levels constant or possibly growing at a certain rate.

If an agency is responsible for reducing its own regulatory burdens, the job of the oversight body will be primarily to check in with agencies periodically to make sure the effort is on track. With a clear metric to measure success, it will be fairly easy to determine whether regulatory agencies are succeeding. The oversight body can then focus on public relations, writing evaluative reports, and making recommendations to the state legislature (for example, when statutory action is needed to make regulatory changes).

STEP 6: INSTITUTIONALIZE A REGULATORY BUDGET

Once a state has succeeded in reducing its level of regulation to the desired level, maintaining the reduction should be a priority. There is a natural tendency for the level of regulation to rise over time—a phenomenon known as regulatory accumulation.[10] This is true in part because regulators are typically rewarded for issuing regulations, but not rewarded for withholding or eliminating regulations. Therefore, once the code has been streamlined, it makes sense to encourage a permanent culture change at agencies to prevent regulatory accumulation from recurring.

A regulatory budget is one such means to control the amount of regulation that can be issued and to change the culture at agencies.[11] After its initial goal had been met, British Columbia institutionalized a form of regulatory budget that ensures that the level of regulation stays roughly constant (as measured by the number of regulatory requirements) over time. States that want more flexibility might allow the regulatory code to grow over time, but only at a specified rate.

The key question will again be how to define the cap on regulatory burdens for the purpose of implementing a regulatory budget. Policymakers could frame the budget in terms of compliance or social costs that agencies may impose on the public or, to keep things simple, could again limit the total number of restrictive words each agency or all agencies may have on the books at any one time. The latter form of budget may prove easier to implement and enforce, because estimating costs can be time consuming and expensive. Cost analysis is also prone to gamesmanship by agencies, which can use their expert knowledge of an issue to over- or underestimate costs in economic analysis.[12] To guard against such manipulation, there needs to be third-party oversight over agency economic analyses, which is itself costly.[13] In contrast, a count of restrictive words is easy to calculate and difficult to manipulate.

CONCLUSION

The process outlined here is one way a state might go about reducing, and maintaining the reduction of, regulation levels. It is far from the only way. However, if any of the steps presented here are missing, there is a likely chance that the goals of reform efforts will not be met. Furthermore, there are several reasons to think the process described here is likely to be effective. First, it is simple. Setting a target reduction in the number of regulatory restrictions in a state's administrative code is straightforward, easy to monitor and assess, relatively inexpensive (given limited state resources), and difficult to manipulate. Second, similar reform efforts have been successful in the past, most notably in the Canadian province of British Columbia. Finally, analytic tools, such as State RegData from the Mercatus Center at George Mason University, are available to assist in this type of regulatory reform effort.

NOTES

1. Requirements found in these kinds of documents form a kind of stealth regulatory activity. See John D. Graham and James Broughel, "Stealth Regulation: Addressing Agency Evasion of OIRA and the Administrative Procedure Act," *Harvard Journal of Law & Public Policy, Federalist Edition* 1, no. 1 (2014): 30–54.
2. Visit www.regdata.org and www.quantgov.org for more information.
3. Patrick A. McLaughlin and Oliver Sherouse, "QuantGov—A Policy Analytics Platform," QuantGov, October 31, 2016.
4. Laura Jones, Nina Gormanns, and Queenie Wong, Canada's Red Tape Report with U.S. Comparisons (Toronto: Canadian Federation of Independent Business and KPMG Enterprise, 2013).
5. Laura Jones, "Cutting Red Tape in Canada: A Regulatory Reform Model for the United States?" (Mercatus Research, Mercatus Center at George Mason University, Arlington, VA, 2015).
6. B.C.'s Regulatory Reform Initiative, "Achieving a Modern Regulatory Environment: Fifth Annual Report, 2015/2016," Province of British Columbia, 2016.
7. Closing military bases, although very different from reducing red tape, faces a similar challenge. Narrow interest groups that benefit from a policy will resist its elimination, even if it is in the public interest, as will legislators who represent those interest groups. Third-party commissions can help overcome these kinds of political barriers. See Joshua Hall and Michael Williams, "A Process for Cleaning Up Federal Regulations: Insights from BRAC and the Dutch Administrative Burden Reduction Programme" (Mercatus Research, Mercatus Center at George Mason University, Arlington, VA, 2013).
8. For example, the Red Tape Review Group and the subsequent Red Tape Review Commission were both created in New Jersey in 2010. See New Jersey Exec. Order No. 3, January 20, 2010; and New Jersey Exec. Order No. 41, September 23, 2010.
9. New Jersey Red Tape Review Group, "Findings and Recommendations," April 19, 2010, 16.
10. Patrick A. McLaughlin and Richard Williams, "The Consequences of Regulatory Accumulation and a Proposed Solution" (Mercatus Working Paper, Mercatus Center at George Mason University, Arlington, VA, 2014).
11. For more information about regulatory budgets, see James Broughel, "Regulatory Reform 101: A Guide for the States" (Mercatus on Policy, Arlington, VA, December 2016).
12. Interviews with US agency economists reveal that these kinds of problems are common in the federal government. See Richard Williams, "The Influence of Regulatory Economists in Federal Health and Safety Agencies" (Mercatus Working Paper, Mercatus Center at George Mason University, Arlington, VA, 2008).
13. The cost of analysis is one reason why, at the federal level, economic analysis tends to be required only for the most economically significant regulations.

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Spring Cleaning for Regulations

Posted to Finance (https://www.insidesources.com/category/finance/) May 24, 2017
by James Broughel (https://www.insidesources.com/author/jamesbroughel/)

In testimony before the Senate Committee on Banking, Housing, & Urban Affairs last week, Treasury Secretary Steven Mnuchin observed, "the engine of American prosperity has slowed," in part due to "imprudent regulations crafted in the midst of crisis." With "historic reforms to both taxes and regulation," Mnuchin believes GDP growth of 3 percent or more is attainable.

The details of this historic agenda are not yet clear, but critical to any reform should be cleaning out the regulatory cobwebs that have been accumulating for seven decades.

A look to our neighbor in the north provides a glimpse of the power of some simple spring cleaning. Since 2001, the Canadian province of British Columbia has cut its regulatory requirements by nearly 50 percent. In terms of real GDP per capita growth, the province went from the worst performing major economy in Canada in the 1980s and '90s to the best in the years since reform was enacted. Alongside this turnaround, British Columbia has maintained a position as one of the healthiest places in Canada, and by some measures, the world.

Contrast this with the United States, where the pendulum of regulatory accumulation swings in just one direction, and economic growth is bitterly disappointing.

A core reason for our troubles may be the near relentless rise of federal regulation. Regardless of which political party controls the White House or Congress, the level of federal regulation has been growing for years. In 1950, the U.S. Code of Federal Regulations (CFR) was under 10,000 pages long. By 1975, it had grown to over 70,000 pages. By 1990—after the "Reagan Revolution" supposedly rolled back big government—it stood at over 125,000 pages. Today the CFR is nearly 180,000 pages long and includes over one million restrictions (words like "shall," "must" and "prohibited"). The state governments have hundreds of thousands of additional restrictions on their books, too.

At some point, the accumulation of rules is not just costly—it's absurd. Regulators become like hoarders who refuse to throw away any possessions. They add thousands of new rules to the pile each year, but rarely, if ever, do they take a break to seriously clean up what's accumulated.

With home décor, a minimalist approach can be the best. For example, some people cap the number of pieces of clothing they allow themselves to own, so every item becomes essential. With each new purchase, items from the past are reviewed to assess which ones are truly needed. This way, the closet never overflows.

British Columbia achieved its regulatory reductions in part by capping the amount of regulation that could be in place at any given time. The Trump administration is now moving in this direction too, with a requirement that at least two rules be identified for repeal for each new one proposed.

A cap on regulations works like a cap on possessions. With every new rule, we reassess the old ones: Which are vital? Which have outlived their usefulness or become passé? Which ones can be modernized with a little tailoring?

The regulatory closet will always need some essential items to protect citizens and maintain a fair marketplace. But at some point, as we add more and more rules without ever cleaning out the old ones, even necessary rules just add to the mess and create confusion, becoming less effective than they should be.

The longer we put off the unpleasant task of addressing old rules, the more work awaits us when we finally get around to cleaning. A permanent cap on rulemaking could make all the difference. This spring, regulators in D.C. and elsewhere should start to appreciate the power of feng shui.

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