



House Committee on Commerce, Labor and Economic Development
February 12, 2024
Proponent, HB 2648

Dear Chairman Tarwater and Members of the Committee,

My name is Elizabeth Patton, I am the State Director for Americans for Prosperity-Kansas and behalf of thousands of Kansas activists, we urge you to support HB 2648.

Every Kansan learns that their Representatives and Senators in Topeka are meant to write the laws, their Governor is meant to execute the letter of the law, and their Supreme Court is meant to say what the law means. However, as the government has attempted to manage an ever-greater portion of the economy, this hasn't truly been the case. Bureaucrats who never face the voters are given broad latitude to implement changes to regulations which, after all, are just laws by another name.

HB 2648 will help bring some much-needed accountability to these important agencies. By requiring them to consider the true net cost of each proposed regulation and their impacts on every level of our state, it will ensure that only those regulations which have been carefully crafted are advanced. Equally as impactful is the requirement that once an agency determines a new regulation will have a negative impact of \$1 million or more, that agency goes back to the legislature to request specific authority to levy that burden on the people of Kansas.

Specifically, it gives lawmakers a better system and opportunity to prevent the implementation of overly burdensome regulations, providing an important check on the often virtually unrestrained power of the administrative branch to implement laws at their discretion. These added costs to industry and individuals when the regulatory burden increase is not only felt by businesses of all sizes, but they are often passed on to consumers. In our current economy, we ought to be implementing safeguards from the government to unnecessarily add costs and burdens to businesses or at least add a more robust check and balance to the administrative state.

Over the past few decades, legislatures have gradually given broad authority to regulatory agencies to not only carry out the law, but also to create it. This has created an imbalance of power in an otherwise balanced system. In order to restore the checks and balances that ensure a representative government for all Americans and to reduce burdensome regulatory accumulation, legislatures must reclaim their authority over the lawmaking process. Legislative accountability helps to reduce unnecessary, outdated, duplicative, and particularly costly regulations.

Kansas is one of only 16 states in which there is no clear, permanent requirement in the state constitution or law for a legislative review body to weigh in on new regulations before they go into effect.¹ While I hope that one day we do have a Constitutional Amendment which would simply make clear that, insofar as the Legislature has delegated limited authority to executive branch agencies to create and implement binding regulations, it has the authority to reclaim that authority by revoking or suspending particular rules- but this statute change will be a significant step in the right direction. We believe that legislative ratification requirement for certain proposed regulations is sufficiently distinguishable from the statute at issue in *State ex rel. Stephan* to change the result.

This legislation does not prevent agencies from enacting new regulations; it is designed to ensure that new rules with a major impact on the economy face scrutiny by elected officials, who are accountable to the voters.

In 2020, the Mercatus Center at George Mason University released Version 2.0 of its State RegData project, which examines the cumulative volume of regulations found in the administrative codes of 44 states and the District of Columbia. Kansas' administrative code contains more than 70,000 regulatory restrictions.² A related analysis³ found that that these 70,000 regulatory restrictions include more than 3.2 million words, which would take someone 4.5 weeks to read.

From 1997 to 2015, the regulatory burden upon Kansas increased by 72 percent. Unfortunately, Kansas ranks outside the top 20 states for doing business according to Area Development magazine as well as middle of the pack in the Small Business & Entrepreneurship Council's 2019 Small Business Policy Index rankings.

Leading the way in regulatory output is the Kansas Department of Health and Environment (almost 20,000 restrictions) and the Kansas Corporation Commission (over 5,000 restrictions). Additional research from the Mercatus Center also shows that cumulative state and federal regulation has a regressive impact on Kansas, increasing consumer prices and poverty, while decreasing entrepreneurship.⁴

We hope to change that with intentional policies such as this one. Jurisdictions that have adopted red-tape-reduction programs in the U.S. and Canada have not experienced diminished protection for public health and safety or other adverse effects that critics warn of. Instead, many have experienced resounding economic success.⁵ Idaho, Arizona, Wisconsin and Virginia among many others were able to see a stark increase in economic growth following their ability to reform their

¹ https://ballotpedia.org/Nondelegation_doctrine:_States_with_regulatory_review_bodies.

² <https://www.mercatus.org/publications/regulation/quantifying-regulation-us-states-state-regdata-20>

³ <https://www.mercatus.org/publications/regulation/snapshot-kansas-regulation-2019-entrepreneurship>

⁴ <https://www.mercatus.org/publications/regulation/regressive-effects-regulations-kansas>

⁵ <https://www.governing.com/finance/How-States-Are-Leading-the-Way-on-Regulatory-Reform.html>

regulatory codes and reduce red tape. This legislation would enable our state to begin to follow suit. We thank you for the opportunity to testify today, and we look forward to working together to achieve these sensible reforms that will boost productivity and open economic opportunities for all residents of Kansas.

Sincerely,

Elizabeth Patton

State Director
Americans for Prosperity-Kansas