

THE [REDACTED]
COST OF DOING
BUSINESS [REDACTED]
IMPROVING UTAH'S REGULATORY SYSTEM

KEEPING UTAH THE BEST STATE FOR BUSINESS

As the statewide voice for business, the Salt Lake Chamber works to ensure Utah's business climate remains among the best in the nation. We believe low taxes, effective regulations, top-notch infrastructure, a talented workforce and a well-managed and limited government create the environment for economic success. In many respects, Utah has led the nation in prioritizing each of these categories. Nevertheless, we can and must improve.

Utah business leaders have become increasingly concerned that our exemplary business climate may deteriorate because of complacency caused by favorable national rankings. A decline in specific metrics of Utah's business climate shows these concerns are warranted, in large part to other states surpassing our efforts.

To respond to this concern, we developed tangible reforms to produce more effective and fair regulations. The most important of these reforms seeks to improve the process of analyzing and mitigating impacts of administrative rules on Utah's business. Our focus is both the executive branch where rules are promulgated and the legislative branch where rulemaking authority is authorized. Both branches of government must consider the impact of their decisions on the Utah economy. This report details these recommendations. It also looks at what we can learn from other states and, ultimately, how we can keep Utah's regulatory climate among the best in the nation.

I want to acknowledge the collaboration of the Governor's Office, the Legislature's Administrative Rules Review Committee, the Department of Administrative Services, and the Office of Legislative Fiscal Analyst with the business community to develop these recommendations. Their efforts to innovate, collaborate and be responsive to the business community are why our state's economy continues to excel. To their credit, a number of these recommendations are already under consideration, if not implementation.

I invite you to review this report and join us in making these recommendations a reality.



A stylized, handwritten signature in dark ink that reads "Lane Beattie".

Lane Beattie
President and CEO



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The Salt Lake Chamber undertook this Cost of Doing Business effort to develop tangible reforms for Utah's regulatory structure. In this report we review the following areas:

- National rankings of Utah's regulatory climate
- Past efforts to improve analysis of administrative rules
- Current practices governing analysis of administrative rules
- Understanding the impact of Utah's current code on the regulatory process
- Understanding cost-benefit analysis
- Best practices from across the nation.

We conclude with recommendations and conclusions to keep Utah's regulatory structure among the best in the nation.

EXECUTIVE SUMMARY

The Salt Lake Chamber continues to fulfill our mission by working to retain Utah's business climate as one of the best in the nation.

Utah's current success has been because of several key ingredients:

- Low taxes
- Top-notch infrastructure
- A talented workforce
- A well-managed and limited government
- Effective regulations

These core elements support our free enterprise economy and create an environment for economic success.

We cannot let our exemplary business climate deteriorate. Proactive solutions that preserve a high standard of rulemaking are critical.

Our state continues to garner national praise for our pro-business climate. Utah's administrative code has clear processes, requires business engagement and has been continuously improved. In 2011, the state conducted one of the most thorough regulation reviews in the nation. However, in comparison to leading states, Utah's regulatory structure is becoming outdated.

We believe key reforms focused on improving analysis and evaluation of rules will greatly improve Utah's business climate.

This is based on analyzing Utah's current rankings and past efforts to improve, reviewing relevant code and executive orders, conducting an audit of the existing fiscal impact analysis in action, and looking at best practices from all other 49 states. Keeping Utah's regulatory climate among the best in the nation must be a priority. We believe key reforms focused on improving analysis and evaluation of administrative rules will greatly improve Utah's business climate.

A modern, balanced and transparent regulatory system gives businesses the confidence they need to hire, invest and innovate. This report lays out the case for such reforms and related action to improve Utah's regulatory environment.

Specific recommendations for improvement are focused on:

- Better evaluation of Utah's rules
- Stopping unnecessary regulation
- Improving transparency and oversight
- Achieving a national model

Each action has detail provided in the conclusions and recommendations section on page 13.

REFORM #1: BETTER EVALUATION

Require a Quantitative Analysis of the Fiscal Impact on Every Rule

Implement a Analysis Tool for Agencies

Expand Business Impact Categories

Improve Breakdown on the Fiscal Costs of Rule

EXECUTIVE SUMMARY

REFORM #2: STOPPING UNNECESSARY REGULATION

Flag Legislation That may Produce Increased Regulation

Perform and Publish a Small Business Impact Reduction Analysis on Every Rule

REFORM #3: IMPROVING TRANSPARENCY AND OVERSIGHT

Establish an Executive Branch Clearinghouse for Regulation

Emphasize the Impact on Economic Development

Modernize and Invest in rules.utah.gov

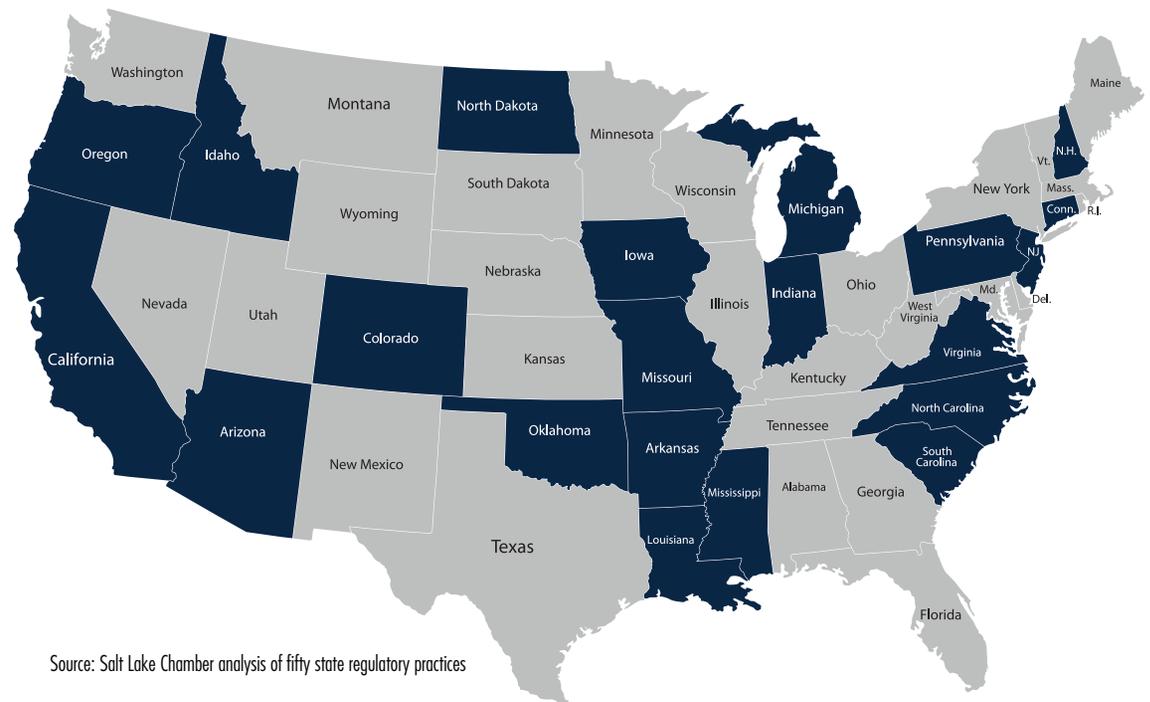
Place Best Practices in Statute

REFORM #4: ACHIEVING A NATIONAL MODEL

Consider a More Robust Analysis on Costs and Benefits of Rules

STATES WITH COST-BENEFIT ANALYSIS ON REGULATION

States with cost-benefit analysis on regulation States without cost-benefit analysis on regulation



Source: Salt Lake Chamber analysis of fifty state regulatory practices

RANKING UTAH'S REGULATORY CLIMATE

"The Beehive State benefits from light regulation and energy costs that are 19% below the national average."

- Forbes 2016 "Best State from Business"

Regulation reform is among the easiest and simplest ways policymakers can influence economic growth. Every state is subject to many of the same federal regulations, so proactively addressing our state's regulatory structure is necessary to make an immediate impact on improving Utah's competitiveness

Rules or Regulations:

In Utah, administrative rules are state regulations. Promulgated by various state agencies, rules are written with the effect of law. Agencies write administrative rules to implement or interpret state or federal legal mandates.

Behind our top national rankings, Utah's business climate and costs of doing business have been on the relative decline as other states become more competitive, indicating a need for action.

2016 BEST STATE FOR BUSINESS - FORBES

2015 TOP ENTERPRISING STATE - U.S. CHAMBER OF COMMERCE

2016 BEST STATE FOR BUSINESS - FORBES

		PRESENT	PAST
REGULATORY ENVIRONMENT - FORBES	↑	#2 (2016)	#8 (2015)
BUSINESS CLIMATE - U.S. CHAMBER OF COMMERCE	↓	#7 (2015)	#6 (2014)
BUSINESS TAX CLIMATE - TAX FOUNDATION	↓	#9 (2017)	#8 (2016)
BEST LEGAL ENVIRONMENT - INSTITUTE FOR LEGAL REFORM, U.S. CHAMBER OF COMMERCE	↓	#10 (2015)	#9 (2012)
BUSINESS FRIENDLINESS - CNBC	↓	#10 (2016)	#5 (2015)
BUSINESS COSTS - FORBES	↓	#10 (2015)	#6 (2014)
SMALL BUSINESS POLICY INDEX - SMALL BUSINESS & ENTREPRENEURSHIP COUNCIL	-	#13 (2016)	#13 (2014)
COST OF DOING BUSINESS - CNBC	↓	#19 (2016)	#13 (2015)

Source: National media and non-profit entities as noted.

PAST EFFORTS TO ANALYZE THE IMPACT OF RULES ON BUSINESS

Over the past several decades, Utah has sought to improve its regulatory code to better understand and reduce the costs of regulation on business. To the credit of Utah's decision makers, these efforts have accelerated in recent years, especially in light of the increased regulatory burden from the federal government. We believe the next advancement should include better analysis of the economic impacts of proposed regulation.

- 1985 (H.B. 217) - REQUIRING EACH AGENCY TO REPORT ANTICIPATED COST OR SAVINGS TO STATE BUDGETS, LOCAL GOVERNMENTS, AND OTHER PERSONS.
- 1986 EXECUTIVE ORDER, GOVERNOR BANGERTER - CLARIFIED RULES AND REDUCED VOLUME.
- 1988 EXECUTIVE ORDER, GOVERNOR BANGERTER - ASKED AGENCY DIRECTORS TO WEIGH FISCAL IMPACT ON ALL ENTITIES AND AUTOMIZE RULES PROCESS.
- MID-90'S (1994, S.B. 40. 1996, S.B. 136) - EFFORTS MADE, BUT FAILED, TO PREPARE A BUSINESS ECONOMIC IMPACT FOR ADMINISTRATIVE RULES.
- 1998 (S.B. 88) - INSTEAD OF MANDATING A COST-BENEFIT ANALYSIS, DEPARTMENT HEADS ARE REQUIRED TO COMMENT ON THE FISCAL IMPACT EACH PROPOSED RULE WOULD HAVE ON BUSINESS. INTENT WAS STATED FOR A MORE ROBUST COST-BENEFIT ANALYSIS.
- 1998 (UTAH ADMINISTRATIVE CODE - R15-4-10) - DIVISION OF ADMINISTRATIVE RULES ISSUED GUIDANCE FOR WHAT TYPE OF INFORMATION AN AGENCY NEEDED TO PROVIDE WHEN IT REPORTED THE "ANTICIPATED COST OR SAVINGS" ASSESSMENT REQUIRED BY STATUTE (S.B. 88).
- 2007 (H.B. 64) - REQUIRING EACH AGENCY TO REPORT ON EACH PROPOSED RULE'S ANTICIPATED COSTS OR SAVINGS TO SMALL BUSINESSES (LESS THAN 50 EMPLOYEES).
- 2008 (H.B. 53) - AGENCIES MUST CONSIDER METHODS TO MITIGATE ANY NEGATIVE FISCAL IMPACT A PROPOSED RULE MIGHT HAVE ON SMALL BUSINESSES.
- 2011 FISCAL NOTE - OFFICE OF LEGISLATIVE FISCAL ANALYST BEGAN USING COST AND SAVING INFORMATION FILED WITH ADMINISTRATIVE RULES TO AID IN THEIR EVALUATION OF FISCAL NOTES. (NOTE: THIS ONLY ACCOUNTS FOR DIRECT COSTS OFTEN INTERPRETED AS A FEE OR TAX ASSOCIATED WITH A RULE.)
- 2011 EXECUTIVE ORDER, GOVERNOR HERBERT - STREAMLINED AGENCY INVOLVEMENT, INCLUDED THE GOVERNOR'S OFFICE OF ECONOMIC DEVELOPMENT IN RULE-MAKING PROCESS, ENHANCED THE ROLE OF GOVERNOR'S OFFICE OF PLANNING AND BUDGET (NOW MANAGEMENT AND BUDGET) AND INITIATED THE 2011 UTAH BUSINESS REGULATION REVIEW.
- 2011 GOVERNOR HERBERT'S UTAH BUSINESS REGULATION REVIEW - FOUND 48% OF UTAH'S RULES SUBSTANTIALLY AFFECT BUSINESSES. MODIFIED OR ELIMINATED MORE THAN 300 OUTDATED RULES ON BUSINESS.

Source: Governor Herbert's 2011 Regulation Review, Utah's Administrative Code and Salt Lake Chamber.

UTAH'S ADMINISTRATIVE CODE, EXECUTIVE ORDERS AND BUSINESS IMPACT OF RULES

Over the past several decades, Utah has taken steps to better understand the financial and economic impacts of rules. This has been an effort of continuous improvement that should be applauded. Our economy has benefited from these past efforts to streamline and better analyze our rules. The state can build on these efforts by improving Utah's administrative code and related executive orders. This section details Utah's existing regulatory process when analyzing the potential fiscal impacts rules and identifies areas for improvement.

63-46A-5: PRIOR TO FILING A RULE WITH THE OFFICE, THE DEPARTMENT HEAD SHALL CONSIDER AND COMMENT ON THE FISCAL IMPACT A RULE MAY HAVE ON BUSINESS

Utah's current code attempts to account for the fiscal impact a rule may have on a business. However, this statute does not require any analysis to be performed to determine the potential impact. In some cases, agencies go beyond this statute to provide a more evidence based approach. However, the code and the "Rulewriting Manual for Utah" gives limited guidance on how to determine this impact. As the 2015 Regulatory Audit on the Fiscal Impacts of Rules section shows, this leads to inconsistent and limited analysis on the impact of a rule.

Pros:

- Intent to understand fiscal impact

Cons:

- No requirement for analysis
- Limited guidance or definition on what is a fiscal impact

63G-3-501-6: THE COMMITTEE MAY REQUEST THAT THE OFFICE OF LEGISLATIVE FISCAL ANALYST PREPARE A FISCAL NOTE ON ANY RULE

While some agencies may lack in their analysis on the potential fiscal impact of a rule, the Administrative Rules Review Committee can require the Office of Legislative Fiscal Analyst to prepare a fiscal note on any rule. While an improvement of qualitative statements, fiscal notes provide limited information that do not present a full understanding of the potential costs and benefits from a rule. Statute limits a fiscal note analysis to account only for direct expenditures (Utah Code: 36-12-13-2).

Pros:

- Provides additional opportunity for analysis
- Fiscal notes are a more robust analysis

Cons:

- Administrative code regarding fiscal impact and fiscal note not uniform
- Does not provide decision makers a full understanding of the potential benefits that may justify those costs
- Likely performed only after a rule is published and already impacting business

UTAH'S ADMINISTRATIVE CODE, EXECUTIVE ORDERS AND BUSINESS IMPACT OF RULES

63-46A-6: IF THE AGENCY REASONABLY EXPECTS THAT A PROPOSED RULE WILL HAVE A MEASURABLE NEGATIVE FISCAL IMPACT ON SMALL BUSINESSES, THE AGENCY SHALL CONSIDER, AS ALLOWED BY FEDERAL LAW, EACH OF THE FOLLOWING METHODS OF REDUCING THE IMPACT OF THE RULE ON SMALL BUSINESSES:

- (A) Establishing less stringent compliance or reporting requirements for small business
- (B) Establishing less stringent schedules or deadlines for compliance or reporting requirements for small businesses
- (C) Consolidating or simplifying compliance or reporting requirements for small business
- (D) Establishing performance standards for small businesses to replace design or operational standards required in the proposed rule
- (E) Exempting small businesses from all or any part of the requirements contained in the proposed rule

63-46A-7: IF DURING THE PUBLIC COMMENT PERIOD AN AGENCY RECEIVES COMMENT THAT THE PROPOSED RULE WILL COST SMALL BUSINESS MORE THAN ONE DAY'S ANNUAL AVERAGE GROSS RECEIPTS, AND THE AGENCY HAD NOT PREVIOUSLY PERFORMED THE ANALYSIS IN SUBSECTION (6), THE AGENCY SHALL PERFORM THE ANALYSIS DESCRIBED IN SUBSECTION (6).

Utah statute to address potential negative fiscal impacts of a rule on small businesses is commendable. However, agencies can not possibly attempt to mitigate negative impacts on small business without improved information and analysis on the potential impacts of a rule. The effectiveness of this statute is further reduced as agencies do not reliably publish if or when they perform a Small Business Impact Reduction analysis.

It should also be noted that any small business can trigger a Small Business Impact Reduction analysis by showing that the costs of compliance with the rule are more than one day's annual average gross receipts (63-46A-7). This is certainly a positive stopgap measure to account for a potential lack of analysis. However, we believe this unfairly places the burden of analysis of Utah's rules on small businesses, rather than agencies.

Pros:

- Seeks to reduce negative impacts of rule on small business
- Provides a stopgap measure if analysis has not been performed

Cons:

- Underutilized without good information to mitigate negative impacts
- Unfairly places the burden of analysis of Utah's rules on small businesses
- No requirement to publish a Small Business Impact Reduction analysis is and the alternatives considered to mitigate impacts

UTAH'S ADMINISTRATIVE CODE, EXECUTIVE ORDERS AND BUSINESS IMPACT OF RULES

EXECUTIVE ORDER EO/013/2011

In 2011, Governor Herbert issued an executive order seeking to establish effective oversight over state agency rulemaking. Stating that: “[administrative rules] shall not impose unnecessary burdens on the economy, on individuals, on public or private organizations, or on local governments. And that compliance costs, paperwork, and other burdens on the public are to be minimized.” This was a significant step to expand on existing administrative code and previous executive orders to improve analysis on the fiscal impact of rules. Specifically, it required agencies to review analysis with any board or commission that has rulemaking or advisory authority prior to submitting the rulemaking. The order also attempted to streamline agency processes by having greater oversight through the Governor’s Office of Planning and Budget (now Management and Budget) and involved the Governor’s Office of Economic Development. Most importantly, the executive order stated that the Governor’s Office of Planning and Budget should assist in determining and calculating fiscal and non-fiscal, direct and indirect impacts of rules. This executive order also resulted in the 2011 Utah Business Regulation Review effort for agencies conduct a lengthy review of regulation affecting business.

This review of nearly 2,000 regulations representing 99 percent of Utah’s rules showed:

- 48% of Utah’s rules substantially affect business
- 54% of rules did not have clear justification for requirements and needed clarification
- 368 changes to cut “red tape”, improve efficiency, update state code and improve certainty for business

Overall, EO/013/2011 was monumental to addressing our state’s regulatory burden.

Pros:

- Required agencies to review analysis with any board or commission
- Improved oversight of the rules process
- Clear intent to greatly enhance analysis on fiscal and non-fiscal, direct and indirect impacts of rules
- Led to the most robust review of regulations in state history

Cons:

- Left gaps and lacked clarity on various oversight responsibilities and roles within the executive branch
- Lacked adequate resources to meet intent to implement greater analysis of rules

AREAS FOR IMPROVEMENT

This review, Utah’s decision makers demonstrated a real intent to improve the analysis and understanding of the impacts of rules on businesses. It is also clear that Utah’s current code and executive orders do not require or provide the resources for a substantive analytical approach to understanding the full costs and benefits of rules.

- The state should be studying a more robust analysis procedure to understand potential costs and benefits of rules.
- A quantitative analysis of the fiscal impact on every rule should be required. This must also include an improved criteria, methodology and resources for agencies to determine a fiscal impact. These incremental steps should align with the fiscal note process as a more robust analysis procedure is studied.
- In addition to better fiscal analysis, improvements should include identifying and accounting for the industries and occupations, geographic regions in the state and number of firms impacted by a rule.
- Every Small Business Impact Reduction analysis should be published including the alternatives considered to mitigate impacts.
- Oversight responsibilities and roles within the executive branch could be improved.

2015 REGULATORY AUDIT ON THE FISCAL IMPACTS OF RULES

To better understand the current code's impact on the regulatory process, as well as the resulting reporting of those rule's effect on businesses, an audit was conducted of the 2015 calendar year administrative rules bulletin.

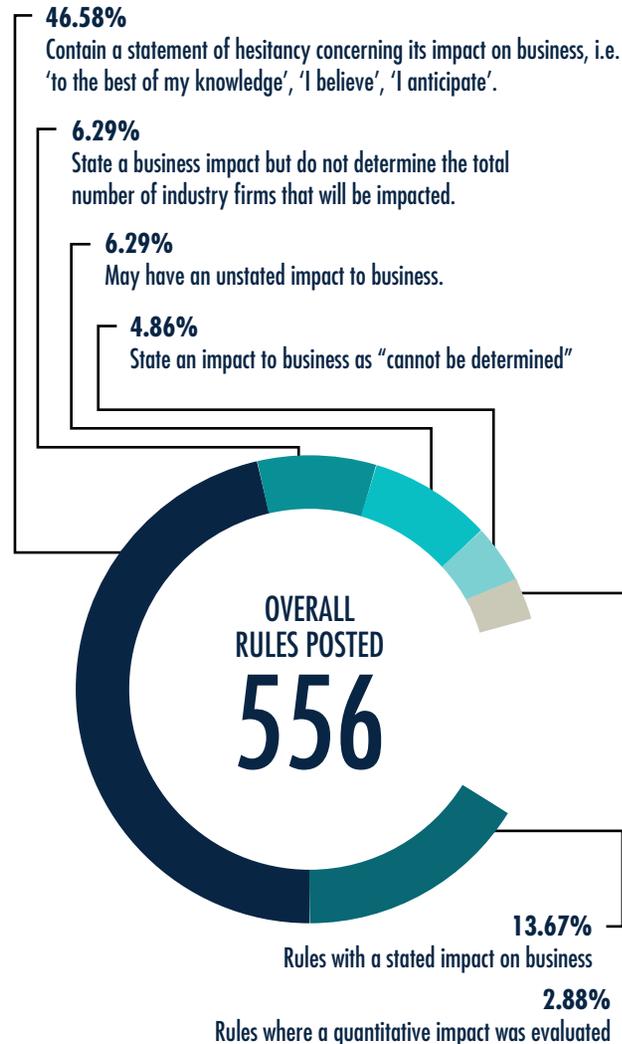
The audit revealed a gap between qualitative, and quantitative analysis methods. In total, 27 rules were unable to determine a stated impact and 6% had left the impact, whether significant or none at all, unstated. Only about 3% of rules had a quantitative impact included in the analysis.

Most revealing was that 46.58% of rules included a statement of hesitancy concerning the impact on business, i.e. 'to the best of my knowledge', 'I believe', 'I anticipate'. This lack of clarity leaves businesses with uncertainty and appears to not diligently analyze (whether qualitatively or quantitatively) the potential impacts of a rule.

Again, the only required response for an agency, based on statute, is a qualitative statement of impact (Utah Code: 63-46a-5). This means agency directors are not required to do any substantive analysis on the fiscal impact of a rule. The audit also showed that the more than 6% of rules that do reveal a business impact do not identify the number of industry firms or jobs impacted.

Ultimately, even under current code, there is a clear disparity among rules and the expectation for regulatory analysis.

SUMMARY OF 2015 AUDIT OF STATE FISCAL IMPACT OF RULES ON UTAH BUSINESSES:



AREAS FOR IMPROVEMENT:

- State agencies could benefit from a simplified tool that meets existing code but provides improved and standardized analysis. The addition of a simplified analysis tool would lead to better rules, remove the statements of hesitancy and act as a trigger for Small Business Impact Reduction analysis.
- Many rules lack transparency and demonstrate discrepancies in the amount of effort an agency has gone through to determine the impact of a rule. This is especially true if an agency has already completed but not disclosed a Small Business Impact Reduction analysis. We support the state's ongoing effort to modernize rules.utah.gov to improve overall transparency, including the analysis of the fiscal impact of a rule and all other relevant documents.
- It is too difficult to comprehend both the individual and overall impacts of a rule when there is a reported fiscal impact to business. Efforts should be made to standardize the fiscal impact to a typical individual business in a year, the total fiscal impact of a rule in a year and expected total lifetime fiscal impact of a rule.
- In many instances, rules that contain a business impact are the direct result of legislation. As such, the Office of the Legislative Fiscal Analyst should flag any bill that may potentially produce a rule with a fiscal impact on business.

Source: Salt Lake Chamber analysis of 2015 administrative rules bulletin.

REGULATORY ANALYSIS: 50-STATE REVIEW

Utah does not operate in a vacuum. Improving our regulatory environment will enhance our state's overall economic competitiveness. While Utah has improved its process, other states are taking the lead with better analysis.

After a fifty-state review, it is evident that Utah's current analysis structure is inadequate. Many states have implemented more rigorous analysis improved processes and mitigation efforts that are leading to economic growth.

Key findings and best practices from this review include:

NEARLY HALF OF STATES HAVE SOME MECHANISM OF COST-BENEFIT ANALYSIS FOR RULEMAKING:

Overall, 21 states have some form of cost-benefit analysis. Of these, almost every state performs a cost-benefit analysis through a regulating agency with the exceptions of Connecticut and South Carolina, which use a coordinating office.

CENTRAL CLEARINGHOUSE

Arizona and Virginia exhibited the most comprehensive systems involving separate agencies creating cost-benefit analysis reports which are reviewed by the agency proposing the regulation. These published reports are also used by the states' legislatures. This differs from most states, which only perform cost-benefit analysis when there is a proposed regulation, with the analysis coming from the agency that proposed the change. Arizona and Virginia's methods may help Utah benefit from better oversight and coordination within the executive branch.

GREATER PUBLIC INPUT

Colorado is the only state that allows public input in regards to facilitating a cost-benefit analysis, which is examined by their department of regulatory agencies. Utah's current code, allowing for small businesses to request a Small Business Impact Reduction analysis, is comparable if it were to include a more robust analysis of costs and benefits.

STANDARDIZED ANALYSIS

A total of 12 states rely on standardized forms to perform regulatory analysis. These forms guide agency specific criteria and are used to develop a simpler business impact statement and a more robust cost-benefit analysis. Utah's regulatory system would benefit from reviewing these forms. Possible applications include models to improve the scope of impact analysis and how best to inform legislation that grants rulemaking.

BEHIND THE REST

Utah is among 15 other states that developed other non-legislative efforts of mitigating the impact of business regulation. States such as Alaska, Mississippi, and Wyoming have no mitigation efforts in regard to regulation. With these efforts in mind, Utah's stated impacts criteria are still behind the efforts to include broader impact statements such as industry impacts, better cost breakdowns and potential job impact statements.

WHAT IS THE IMPACT?

In many states, the impacts of implementing reforms are tangible. For example:

- Colorado's process has prevented stringent regulation for small business retailers, resulting in higher business confidence indexes, firm expansion, and lower volatility.
- North Carolina's recent reforms requiring cost-benefit analysis have streamlined rulemaking processes, allowing the state to have a more competitive tax and cost environment.
- Oregon and Iowa have seen drops in the cost of doing business with fewer regulations for research activities and business expansion opportunities.
- Virginia's enhanced regulatory climate, from robust incentives and policy, have led to an increase of firms entering the state.

WHAT IS A COST-BENEFIT ANALYSIS?

Utah's rules attempt to measure the fiscal impacts of administrative rules. However, these efforts are less robust than that of many of our peer states. Top-tier states utilize a robust cost-benefit analysis of major rules. This analysis is an analytical procedure to estimate the net economic value of a given policy or project.

There are a variety of these analyses including an array of methodologies. The Center for Effective Government defines cost-benefit analysis as: "Assign[ing] a monetary value (also known as monetizing) to all the predicted costs and benefits of a regulation."

A COST-BENEFIT ANALYSIS DEMONSTRATES DIRECT COSTS AND BENEFITS AS WELL AS THE INDIRECT IMPACTS INVOLVED WITH REGULATION.

- INDUSTRY
- GOVERNMENT
- INDIVIDUAL CITIZENS
- COMMUNITIES
- THE ENVIRONMENT
- THE ECONOMY AT LARGE

Any efforts to implement a greater use of cost-benefit analysis in Utah would require a thoughtful study and additional resources. It is also important to recognize that cost-benefit analysis is only one tool regulatory decision makers use in determining a proposed regulation. However, without such a tool, Utah's decision makers are missing an important consideration when proposing new regulations.

"For all its limitations, cost-benefit analysis is the most disciplined way to test whether regulatory requirements are a good idea. At the national level, its track record establishes its ability to separate the wheat from the chaff – to make the case for sensible mandates and to decrease the likelihood that regulatory initiatives will be ill-directed." - Regulatory Review for the States, Edward Glaeser and Cass R. Sunstein

KEY FACTS

48% OF UTAH'S RULES
SUBSTANTIALLY
AFFECT BUSINESS

2.88% OF RULES INCLUDED
QUANTITATIVE ANALYSIS
ON THE IMPACT IN 2015

21 STATES UTILIZE A MORE ROBUST
ANALYSIS OF THE COSTS AND
BENEFITS OF RULES THAN UTAH

\$? WITHOUT BETTER ANALYSIS,
WE DO NOT KNOW HOW MUCH
UTAH'S RULES COST OUR ECONOMY

RECOMMENDATIONS AND CONCLUSIONS

In summary, Utah's regulatory code and executive actions have resulted in significant improvements to our business climate. Decision makers should continue to build on this foundation by supporting resources and allowing innovation for improved analysis of the impacts of rules on business. Below are the Chamber's recommendations to begin enhancing Utah's method of analysis of rules and keep our states overall business climate competitive.

REFORM #1: BETTER EVALUATION

REQUIRE A QUANTITATIVE ANALYSIS OF THE FISCAL IMPACT ON EVERY RULE

A quantitative analysis of the fiscal impact on every rule should be required. This must also include improved criteria, methodology and resources for agencies to determine a fiscal impact. These incremental steps should align with the fiscal note process as a more robust analysis procedure is studied.

IMPLEMENT A SIMPLE ANALYSIS TOOL FOR AGENCIES

Provide agencies a simplified and standardized tool with clear criteria to better analyze the impacts of rules on business and the economy. This should be supported and overseen by the Governor's Office of Management and Budget. We appreciate the efforts of the Governor's Office to begin development of this tool.

REFORM #1: BETTER EVALUATION (CONTINUED)

EXPAND BUSINESS IMPACT CATEGORIES

Update current statutes to require agencies to conduct a more robust analysis of the specific impacts of a rule. This can be pursued prior to the state adopting a more robust cost-benefit analysis procedure. This should include:

- (A) An effort to identify and estimate the industries subject to the proposed regulation and the number of jobs impacted.
- (B) An effort to identify and estimate the number of the small businesses subject to the proposed regulation within the state.
- (C) Improve quantification/monetization of the projected reporting, record keeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.
- (D) Clearly state geographic extent of impacts.

IMPROVE THE BREAKDOWN

Specifically address the impact to a typical business in a year, the aggregated or total impact of a rule in a year across all businesses impacted and the expected total lifetime impact of a rule on businesses. This effort can be pursued prior to the state adopting a more robust cost-benefit analysis procedure.

REFORM #2: STOPPING UNNECESSARY REGULATION

FLAG LEGISLATION THAT PROMOTES REGULATION

The Office of the Legislative Fiscal Analyst should flag and analyze legislation that could or will require a rule with a fiscal impact on business. This would ensure legislators understand the potential future impacts of their bills on businesses. We appreciate the efforts of the Administrative Rules Review Committee to look at this solution.

PERFORM AND PUBLISH SMALL BUSINESS IMPACT REDUCTION ANALYSIS ON EVERY RULE

Utah's code is fairly competitive in regard to developing alternatives for small businesses. However, an updated statute should require an agency to publish a completed Small Impact Reduction Analysis along with all alternatives. Publishing this analysis will increase transparency in the process and allow small businesses to understand that regulating entities attempted to reduce the burden in line with statute.

RECOMMENDATIONS AND CONCLUSIONS

REFORM #3: IMPROVING TRANSPARENCY AND OVERSIGHT

ESTABLISH AN EXECUTIVE BRANCH CLEARINGHOUSE FOR REGULATION

We support ongoing efforts to enhance the roles of both the Governor's Office and Governor's Office of Management and Budget to act as clearinghouses to reduce unnecessary rules and improve analysis before rules are put to public comment.

EMPHASIZE THE IMPACT ON ECONOMIC DEVELOPMENT

Clarify the Governor's Office of Economic Development's (GOED) role to focus on impact of a rule to economic development by specifically evaluating the ability of Utah businesses to compete with businesses in other states. This should be done in consultation with chambers of commerce and industry associations to reach the broader business community. We appreciate the efforts of the Governor's Office to streamline this process.

MODERNIZE RULES.UTAH.GOV

Invest in the rules platform to match our state's commitment to innovation, transparency and public participation in the rulemaking process.

PLACE BEST PRACTICES IN STATUTE

Best practices should be in statute to ensure continuity with gubernatorial changes.

REFORM #4: ACHIEVING A NATIONAL MODEL

CONSIDER A MORE ROBUST ANALYSIS ON COSTS AND BENEFITS OF RULES

A more robust cost-benefit analysis procedure is needed for Utah's regulatory system to remain competitive. Decision makers should provide resources to study the necessary level of sophistication, methodology and other applications of a cost-benefit analysis in state policymaking. This study should include:

- (A) Developing a less sophisticated cost-benefit analysis for all rules and a more robust cost-benefit analysis on rules that exceed a certain threshold of fiscal impact to the overall economy;
- (B) Identifying the possible impacts on the creation or elimination of jobs within the state of Utah;
- (C) Identifying possible impacts on the creation of new businesses or the elimination of existing businesses within the state of Utah;
- (D) Identifying possible impacts on the expansion of businesses currently doing business within the state of Utah, and;
- (E) Identifying benefits of the regulation to the health and welfare of Utah residents, worker safety and the state's natural environment.



The Salt Lake Chamber Board of Governors recognizes and appreciates the Chamber staff for its dedication and professionalism. This includes this report's author Michael Parker, MPP, Director of Public Policy and the contributions of Chandler Stepan, Economic and Policy Research Intern, Christina Ripley, Public Policy Fellow and Bianca Yardley, Graphic Designer.

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