



National Regulatory Reform

Progress
Rankings
Report 2023

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Introduction

Regulations, whether federal, state, or local, impose burdens on businesses and citizens in the name of harm reduction, fairness, or safety. However, many regulations fail to provide the benefits their authors anticipate while at the same time foisting complicated paperwork, reporting, and business changes on employers and innovators. While businesses may bear the initial brunt of regulations, customers pay in terms of higher prices, employees pay in terms of lost wages and jobs, and investors pay in terms of profits lost in layers of red tape. State regulatory burdens are generally not as onerous as federal ones, but for companies that operate in multiple jurisdictions, the unique and often contradictory regulations imposed by different states and localities can add significant complexity and cost.

The processes of creating regulations and evaluating them over time needs reform. The best procedural regulatory reforms have three goals: accountability, reviewability, and transparency. **Accountability** means that the government actors who impose a regulation should be willing to stand behind it and defend it as a valid and worthwhile exercise of government power. Accountability also means that the agency has carefully evaluated the costs and benefits of the rule to ensure it will do more good than harm including setting metrics for how a regulation should be judged in the out years. **Reviewability** means that citizens have an opportunity to challenge rules and regulations, that the courts do not needlessly assume that agencies are acting in the best interests of the state, that agencies cannot enforce unwritten or non-public rules, and that the state has the burden of explaining the legal basis of a rule. **Transparency** means that normal people, small business owners, political activists, and lobbyists alike generally should be able to know what is being proposed, participate in the regulatory creation process, and identify the rules they must follow without hiring expensive lawyers. Some states do not publish regulations and guidance online or may only publish materials on webpages that are difficult to find. Easy digital access to all regulations is a critical component of a transparent regulatory environment.

The Cicero Institute has been developing policy solutions for states that enhance these fundamental principles of regulation, and this research is designed to assess the progress states are making to accomplish those goals. There have been several nation-wide studies of the regulatory process with their own criteria and results. The research presented here uniquely addresses regulatory environments across metrics that are derived from policy solutions, rather than broadly surveying rulemaking processes state by state. This research directly informs the policy and serves as a tool for policy makers and members of regulatory agencies and communities nationally to assess where their state stands along the path to an accountable, reviewable, and transparent regulatory system.

Over 1000 data points were collected from more than 20 criteria across 50 states. Each state was deeply researched and scored on criteria drawn from Cicero's regulatory reform suite. Scores for each state were added and states were ranked based on their composite score. From both the rankings and the more nuanced interpretations of the data by category or by state, many interesting observations about the regulatory process in American states were found. Data will be updated periodically and a new report with corresponding updated figures and observations will continue to be published. Because of this, Cicero's Regulatory Ranking should be seen as forward looking, providing states with research and policy needed to reform their regulatory environment in a way that benefits their citizens and increases government accountability, reviewability, and transparency. As different states implement or repeal regulatory reforms in the areas this report covers, their scores will adjust up or down.

Relevant Studies

Many studies have been conducted on regulatory reform, spanning decades, and including subjects well beyond the scope of the research presented here. For this report, a selection of highly relevant studies and publications were reviewed to both inform the research process and take stock of previous attempts to analyze regulatory processes across the states. The first is a pair of working papers from the Mercatus Center published in 2012 and 2022, titled “State Regulatory Review: a 50 State Analysis of Effectiveness,” and “A 50-State Review of Regulatory Procedures” authored by Russell Sobel and James Broughel respectively. (Sobel 2012; Broughel, 2022) Both Sobel and Broughel focused heavily on procedure to identify outcomes across varying regulatory environments state to state. Sobel found that sunset provisions and cost-benefit analysis requirements are more effective than other reforms. (Sobel 11) His approach involved assessing regulatory environments through external metrics, such as the *Forbes* regulatory ranking and metrics on per capita regulation. Broughel studied the administrative procedure acts of every state for a large array of variables and metrics including review powers and entities, and impact statements. He also studied intensely the procedure and structure of regulation in every state, looking across to judicial and executive powers to examine how the administrative code in that state was built and what effects those differences have on outcomes. Broughel’s research also included suggestions that reviewability and financial impact analysis of some kind are most effective at easing regulatory burdens. (Broughel 2022)

In his 2021 paper titled “The Impossibility of Legislative Regulatory Reform and the Futility of Executive Regulatory Reform,” Stuart Shapiro examined federal regulatory reforms with a focus on the executive and found that most executive reforms have been ineffective apart from those of the Clinton and Trump Administrations. (Shapiro 116-117) Even in the event the executive effectively reforms regulation, doing so through executive order does not provide a long-term solution. (Shapiro 718) This concept is echoed at the state level as state regulatory reforms which come from the executive will face similar issues in the long term. Additionally, states which rely on the executive entirely for regulatory process risk accountability in review.

A further study from 2015 titled “Sunset Legislation in the States: Balancing the Legislature and the Executive” by Brian Baugus was published by the Mercatus center and provides a critical mid-decade survey of sunset legislation in the states. (Baugus 2015) Baugus reviewed in detail the sunset processes for every state and examined their outcomes. Importantly, Baugus found that only 10 states had a comprehensive sunset review, defined as, “A comprehensive review [which] requires all statutory agencies to undergo sunset review on a preset schedule.” (Baugus 4) The criteria for defining comprehensive sunset provisions in the present analysis is more stringent than in Baugus’ research, but his review provided a critical foundation for studies in sunset reform across the states.



Methodology

The bulk of research for this report comprised developing criteria and grading, and the collection and management of data. Each state was assessed on more than 20 metrics for a total of over 1,200 points of data. First, the rubric focuses on specific policy reforms that research shows are most likely to lead to accountability, reviewability, and transparency. The scoring system compares states to these policy ideals. The grading scale was designed to present an accurate picture of the regulatory environment of any given state measured against our reform criteria and to present that information aptly and quickly to any policy maker or analyst. We identified best practices in the regulatory process and have ranked states accordingly.

Data was collected using first the State Administrative Procedure Acts (APAs), then state code and secondary sources such as relevant studies (above), and finally executive orders. The use of executive orders to fulfill grading criteria was limited in scope. In most cases, states with recent or current executive orders instituting a regulatory reform received partial points for the specific category the order satisfied. As an example, Florida, Virginia, and Arizona all have executive orders reforming regulation, but they approach the process in markedly different ways. Florida targeted specific procedural areas such as sunset, whereas Arkansas had sweeping reforms across all regulatory processes which blankets an already advanced and high scoring regulatory environment. As a final example, Montana as of 2021 has implemented a red tape elimination mandate through executive order¹, establishing a review council comprised of agency heads, and which has since then demonstrated capable reform. Despite this, the state did not rank well on our metrics and did not receive any points for their executive reform. As a rule, executive reform was not prioritized as the focus of the research was on codified procedural reform evident in state APAs. Each state was assessed and scored individually, and the aggregate data were placed into a database with notes and relevant statutes present on each state's segment.

Each state's APA was reviewed to locate criteria and then analyzed to provide a score. For example, state A's APA would be reviewed for any cost-benefit analysis requirements first and if the findings were not satisfactory the APA would be reviewed for any statutes that might partially fill the criteria, such as a requirement for impact statements. Many states have provisions in their APA that partially meet the criteria for any given subsection, and the scoring criteria reflect this by awarding partial points in some places. This creates a more flexible data set that accounts for states that have either gone part of the way towards healthy reform, or states such as Idaho which has its own unique solutions clearly indicating positive reform. No points are awarded in substitution - a state must clearly meet the criteria to receive points. Points or scoring form a binary database that is then processed into numerical ranking. States with more points will score higher, but they should also have healthier regulatory environments. When weighed vertically against other states, criteria is either met, partially met, or fully met. (Table 2) This allows nuanced comparisons between various criteria and metrics across every state.

Due to the dynamic nature of the Republic, every state has an APA unique to itself, and none are collocated. Some data may be unavailable, and the results of the research are dependent on an interpretation of the grading criteria by the researcher or research team. Additionally, laws which are on the books were assessed, but whether or not those laws are faithfully and fully executed was not tracked. As an example, a state might have received points for requiring cost-benefit analysis in their APA, but this report does not look behind and evaluate whether the courts are throwing out regulations that fail to include a cost-benefit-analysis. Results may skew in favor of some states that took action to implement high quality regulatory reforms in the past but whose laws have been ignored recently, or who lack oversight in practice. This is to say that research and data is based on the statutes themselves, rather than on whether the states follow these rules in practice.

¹ Montana Executive Order 1-2021

Variable Scoring and Criteria

Aggregated data were categorized four ways to allow for state-by-state scoring. Scoring criteria is designed to both analyze the health of a regulatory environment against critical metrics such as whether cost benefit analysis requirements exist or if rules expire automatically, and to provide legislators and policy makers with concise and comprehensive scores for their state. Each category has its own sub score, with the four scores being aggregated into the state composite score. Composite State Scoring (Table 1) metrics are provided below. States' scores reflect scores in individual categories and provide an overview of the regulatory environment. Scores in the green, either light or dark, are healthy regulatory environments and likely require only small changes to improve. States which scored in the red, orange, or yellow need improvement in more than one area, and the sub scoring provides that nuance by category.

Table 1 – Composite State Scoring

Color Score	Red	Orange	Yellow	Light Green	Dark Green
Criteria Met	None	Few	Some	Most	All
Points Awarded	0-2 Points	3-4 Points	5-7 Points	8-9 Points	10 Points

Sub scores are used to build an accurate picture of regulatory health. As discussed above, the methodology for sub scoring involved intensive review of state code against criteria derived from Cicero regulatory policy. Sub scoring combines metrics from each of the four reform categories into red, yellow, and dark green. Color scoring is not averaged, but the scores from each metric combine to provide the sub score for that category. Those scores across four categories are combined to provide state composite scoring. The categories are as follows:

4.1 SUNSET PROVISIONS

Sunset provisions require that regulations go back through the state's regulatory process and receive sufficient scrutiny over some window of time. This way, regulations that cite to laws that have been repealed, that conflict with new laws, or are merely obsolete can be removed and the regulatory landscape refreshed over the course of the review window. Reviewability is critical to rulemaking, yet many states stop short of comprehensive review requirements and do not obligate agencies to reconsider regulations automatically. Rules should automatically expire, require equal or greater justification for renewal, and review should occur periodically. States can receive three total points across three metrics on sunset provisions as follows:

1. Has a sunset law that applies to all regulations with a pre-set, standardized timeline for expiration (+1). Sunsetting of agencies or sunsetting which is otherwise discretionary does not meet the criteria.
2. Regulation must be re-approved with a greater or equal burden of justification as when first introduced to remain in effect post-sunset (+1).
3. Has a required lookback/review for regulations/agencies (+1).

4.2 COST-BENEFIT ANALYSIS

Cost-benefit analysis (CBA) is a staple of policymaking but is not always incorporated into rulemaking. CBA allows the policymakers to compare the expected benefits of a regulation against its less speculative costs to ensure that the pros outweigh the cons. Unfortunately, many state rules are often drafted and approved with minimal or no requirement for exhaustive cost-benefit analysis (CBA), or when CBA is conducted it is done so without clearly defined metrics. Rule makers should be required to carefully consider the cost to regulated entities and the burden on the economy in sectors or industries the regulation touches. Citizens and regulated parties should further be allowed to challenge the regulation on grounds that the actual costs exceed the actual benefits. Finally, CBA requirements and the analysis itself should be data driven and made available and easily accessible to the public.

States can receive three points total across four metrics on cost-benefit analysis as follows:

1. Citizens can challenge if CBA is done incorrectly/doesn't weigh the costs and benefits (+.5)
Citizens should be able to challenge on grounds of CBA, by challenging the cost the rule imposes on their economic means.
2. The rule is required to pass CBA for implementation (+1).
3. The rule is required to pass CBA for renewal (+.5).
4. Is publicly available, transparent, and data-driven (+1). CBA requirements should have clearly stated and measurable metrics.

4.3 OIRA-STYLE INDEPENDENT REVIEW

Independent review in rulemaking is critical to accountability. Often states lack independent review and settle for executive or agency review mechanisms, such as a review board or commission, or review by an AG. States should establish independent review agencies with authority to compel agencies to adjust regulatory efforts. States were graded for a total of two points across three metrics as follows:

1. Has an independent review board, whether an independent agency or housed within an existing agency (such as a state-based OMB), that is comparable to an Office of Information and Regulatory Affairs, or OIRA, with authority to require the agency to go back and revise regulations that are not in line with the law, impose too great a burden, or are not the least burdensome way to accomplish their objective (+2).

[OR:] States can receive either up to two points for I, or up to two points for II-III, but cannot receive points in both.




2. States that require legislative approval for any regulation that imposes “costs” on society (+1).
3. Has a review board, but is limited in scope, scale or authority (+1). Eg. sunset boards or committees, regulatory committees, or otherwise which meet occasionally and make recommendations without any real authority.

4.4 VENUE RESTRICTIONS

When a citizen believes she is being improperly regulated, or when she believes that a new regulation was not legally created, she should be able to challenge the regulation in the same court where she might be charged should she violate the new rule. But most states restrict where their citizens can challenge regulations. Venue restrictions are limitations the government places on where regulatory adjudication can occur. The implication of such restrictions can vary widely based on the population density and size of any given state. A venue restriction in Rhode Island will not be as impactful as one in Texas or Alaska. A venue restriction that requires adjudication occur in the venue of the agency both favors the agency and creates hurdles for citizens to exercise their rights to petition and judicial review. States should ease venue restrictions to allow regulated parties to present evidence and have their day in court in a location that does not require excessive and constant travel. States can receive up to two points total in venue restrictions by fulfilling one of two metrics:

1. Does not have venue restriction (+2).
[OR:]
2. Venue restriction exists, but has reasonable accommodation exceptions, such as allowing online venues (+1).

Table 2 – Categorical Sub-Scoring

Color Score	 Red	 Yellow	 Dark Green
Criteria Met	No Criteria Met	Meets Some Criteria	Meets All Criteria
Points Awarded	0 Points	0<, <All	All Available

Results^{2,3}

RANKINGS⁴

The macro result of the data is the annual ranking by composite score, where states are placed on a 1-50 ranking scale based on their total points earned (composite score). The states which ranked in the top five (Table 3) all demonstrated advanced regulatory processes. These top states were strong across all metrics but had some variation in their strengths and weaknesses. Colorado has requirements for periodic review and even places sunset provisions on agencies, but does not have automatic expiration on regulations. Additionally, promulgated regulations do not have their own review requirement, instead agencies are expected to review their own regulations, creating a conflict of interest and lack of accountability. Despite this, Colorado scored perfectly across the remaining three reform areas and received two of three points in sunset. Conversely, Arizona and Utah both scored perfectly on sunset but failed to meet all criteria in other areas. Florida leveraged an executive order to meet gaps in regulatory process, enacting sunset and review components. Kentucky's recent sunset requirement compliments its independent review and the state also received high marks in venue restrictions and cost-benefit analysis requirements.

Table 3 – Top Five State Ranking by Composite

State	Rank
Colorado	1
Arizona	T-2
Kentucky	T-2
Utah	T-3
Arkansas	T-3

Over half the states (52%) met some or most criteria, but no state met all criteria. The average score for all states was just below half at 4.8/10. (Table 5) Scoring averages for each reform type were at or above half the available points, with many states over or under performing in various categories averaging out to half points. (Table 5) The highest scoring categories were sunset provisions and cost-benefit analysis, each averaging 1.7/3.

Table 4 – Aggregate Composite Scores by Criteria Met

Criteria Met	None	Few	Some	Most	All
Aggregate Composite Scores (%)	18%	30%	46%	6%	0%

² See Appendix A for raw data tables.

³ Results and data based on state laws as of December 1, 2022.

⁴ Table 12 for full rankings.

Several states serve as case studies which demonstrate the variety of approaches to regulatory policy. States with higher composite scores performed better across the board, but individually some states performed highly in one aspect and met no criteria in another. South Dakota has relaxed venue restrictions, allowing for hearings in virtually any court in the state, but has made no attempts to implement sunset reform. The state is also weak on CBA and independent review. Allowing citizens to petition, present evidence, and have their case heard in a court near them is important, but those reforms lack substance when agencies can leverage a promulgation process that favors them. Nevada has implemented independent review, but that review only looks at regulations every ten years and is not required or authorized to decide on renewal of that regulation based on the review. Additionally, the state heavily restricts venues and lacks a comprehensive CBA. Both Nevada and South Dakota scored in the bottom half of states.

5.1 SUNSET PROVISIONS

Many states earned points on sunset provisions with partial sunset or periodic review requirements but failed to meet full criteria for expiration. Over half of states (52%) met some criteria on sunset reform but only 10% met all. (Table 6) Among the top five states (Table 3), 66% met full criteria on sunset provisions. Tennessee has stringent sunset provisions that require rules expire and trigger a review automatically after 1-year, and can only be extended by legislative committee. Tennessee also requires cost-benefit analysis on all promulgated regulations and regulations seeking extension. These reforms, housed under an independent review board, result in Tennessee’s high ranking. Furthermore, Arizona’s current sunset review provision should be replicated elsewhere. Arizona meets all requirements of a useful reform and clearly has a solution tailored to their needs. They rely on a council for the review process, and agencies are expected to conduct a review which is then submitted to the council, on all their regulations, every 5 years. It must include a CBA that is weighed against the CBA created at the rule’s promulgation. However, Arizona lacks comprehensive reform on venue restrictions, only making exceptions in some cases and allowing for some online petitioning and filing, but adjudication favors the agency by requiring travel for citizens outside the agency’s home county.

Table 5 – Scoring Averages by Reform Type

Type	Sunset Provision	Cost-Benefit Analysis	OIRA & Independent Review	Venue Restrictions	Composite
Average	1.7/3	1.7/3	1/2	1/2	4.8/10

5.2 COST-BENEFIT ANALYSIS

Cost-benefit analysis requirements were common and 84% of states met some (78%) or all (6%) criteria there. The comprehensiveness of cost-benefit requirements varies greatly in practice from small business or environmental cost and impact statements to full blown data analytics, with the latter being less frequent. A key component of cost-benefit analysis is making the process transparent and data driven, rather than a blanket requirement simply to conduct an impact analysis. States which spelled out metrics and methods for their CBA requirements scored higher. Only three states, Colorado, New Hampshire, and New Jersey, met all criteria. States generally agree that CBA is valuable since 84% of states require it in some form and are thus scored as meeting some or all benchmarks, but despite the need for cost-benefit requirements, states impose various methodologies and criteria on CBA. Many of these states can benefit from clarifying metrics around their impact statements and moving towards data driven methods for analysis. States can then take the final step of requiring the CBA be conducted and cleared through independent review for every regulatory promulgation, of which citizens should have grounds to petition the results or implementation.

5.3 OIRA & INDEPENDENT REVIEW

Independent review was equally frequent with 16% of states meeting all criteria, and 68% meeting some for a total of 84%. Of the eight states which received full scores, four (Colorado, Arizona, Arkansas, Tennessee) were in the top 5 rankings overall. Independent review enhances accountability across the board. States with independent review over executive rulemaking agencies can expect better outcomes on adjacent requirements such as cost-benefit analysis. Despite this, there was no direct correlation between OIRA score and total score. Independent review is critical to maintaining accountability and prevents adjacent reforms from becoming toothless. Blanket requirements for CBA or periodic review can fall short if not conducted by a fully independent entity. A State level OIRA or review entity can come in many shapes and sizes, and states should seek to implement solutions that work for them while improving accountability through review.

5.4 VENUE RESTRICTIONS

There is high variation among states on venue restrictions. More than two in three states (70%) received either full points, or none at all on venue restrictions, but individual scoring was evenly spread across the criteria with states grouped roughly into thirds. (Table 6 – Venue Restrictions) Some states have made progress by implementing online methods for submitting paperwork, such as petitions or evidence, and allowing courts in the petitioning parties’ county or municipality to hear cases. Despite this, 36% of states offer no easing of venue restrictions, and therefore still grant unfair advantages to agencies over citizens.

Table 6 – Aggregate Composite Scores by Reform Type and Criteria Met

Type/Criteria Met	Sunset Provision	Cost-Benefit Analysis	OIRA & Independent Review	Venue Restrictions
All	10%	6%	16%	34%
Some	52%	78%	68%	30%
None	38%	16%	16%	36%

5.5 CASE STUDIES

Several states have strong regulatory reform in place but miss the mark in several key areas, resulting in them receiving lower scores. With some attention to regulatory reform in future legislative sessions, these states could solidify exemplary regulatory environments. Many states fit in this profile generally, below several are highlighted as brief case studies. The following examples are intended to demonstrate scoring methodology across different archetypes of states to help the reader understand how scoring was conducted in the study.

5.5.1 INDIANA

Grading criteria for Indiana reflects their unique approach to regulatory reform, which establishes the need for periodic review, but lacks comprehensive promulgation and renewal requirements, and has limited to no independent review. The state received full points for sunset, as they not only have periodic review, but rules also expire automatically and must undergo the full promulgation process in order to be renewed.

First, Indiana code states, “...an administrative rule adopted under IC 4-22-2 expires January 1 of the seventh year after the year in which the rule takes effect, unless the rule contains an earlier expiration date. The expiration date of a rule under this section is extended each time that a rule amending an unexpired rule takes effect. The rule, as amended, expires on January 1 of the seventh year after the year in which the amendment takes effect.”⁵ Rules

⁵ Indiana State Code §4-22-2.5-2

expire automatically after seven years, earning the state full points in category I. States with automatic expiration have a variety of timelines set, and each legislature would need to determine the expiration schedule that works best for their regulatory environment. In Indiana, this automatic expiration is coupled with automatic review and stringent renewal requirements. State code reads, “(c) Before an agency may act under section 3 of this chapter to readopt a rule described in subsection (a), the agency shall conduct a review to consider whether there are any alternative methods of achieving the purpose of the rule that are less costly or less intrusive⁶.” The state places an emphasis for renewal on reducing or minimizing regulatory burden, creating an impetus for agencies to only renew, or in this case re-adopt, regulation that is increasingly efficient.

Secondly, readoption is also subject to section three, which reads, “Sec. 3. (a) An agency that wishes to readopt a rule that is subject to expiration under this chapter must: (1) follow the procedure for adoption of administrative rules under IC 4-22-2; and (2) for a rule that expires under this chapter after June 30, 2005, conduct any review required under section 3.1 of this chapter⁷.” These requirements compel agencies to conduct review extensively rather than passively or automatically readopting a rule. Unfortunately, it is not paired with stringent cost benefit analysis or independent review. This creates a situation where the agencies can conduct that review, but there is little to no assurance that the review will in fact be comprehensive.

The state does require cost-benefit analysis for promulgation under §4-22-2-28, reading, “Sec. 28. (a) The following definitions apply throughout this section: (1) “Ombudsman” refers to the small business ombudsman designated under IC 5-28-17-6. (2) “Total estimated economic impact” means the direct annual economic impact of a rule on all regulated persons after the rule is fully implemented under subsection (g)...an agency shall submit the proposed rule to the office of management and budget for a review under subsection (d), if the agency proposing the rule determines that the rule will have a total estimated economic impact greater than five hundred thousand dollars (\$500,000) on all regulated persons⁸.” For this cost-benefit requirement, the state received full points under section II. Indiana does not satisfy the remaining criteria as they lack stringent ongoing cost-benefit analysis and do not strictly allow challenging a rule based on any cost-benefit analysis conducted during promulgation.

Under the same section of code, §4-22-2-28, the state requires approval through OMB for regulations which exceed the \$500,000 threshold. They did not receive full points under independent review for this due to the lacking oversight and authority of that OMB entity. States should establish independent review boards or entities that have full authority to overturn and act independently of the agency which conducts cost-benefit analysis, or which is conducting promulgation.

5.5.2 MISSOURI

Missouri scored well in sunset and cost-benefit analysis, and made full points in venue reform, but they lack significant independent review. The importance of independent review cannot be stressed enough, yet it becomes paramount when attempts are made to emplace sunset provisions or cost-benefit analysis, as these reforms are often ineffective without proper oversight authority. In Missouri, regulations are periodically reviewed every 5 years, but do not automatically expire. The public can comment, and agencies can submit reports, on rules they think are obsolete with any changes they propose to make, but there is no requirement or authority for the agency to make changes and there is no triggering of a follow-on cost-benefit analysis.

Missouri received a full point in categories II and III (see section 4.1) for their periodic review and its associated review requirements. Agencies must submit a review report detailing the effectiveness of the regulation and which justifies its continuation⁹. Missouri can receive full points in the future by satisfying criteria under section I, which

6 Indiana State Code §4-22-2.5-3.1

7 §4-22.25-3

8 §4-22-2-28

9 Missouri State Code §536.175

calls for all for regulation to expire and undergo the promulgation process to stay on the books as it currently exists or in a new iteration. All three criteria under sunset scoring are critical, however Missouri's ability to garner two thirds of available points demonstrates their commitment to codify meaningful sunset or periodic review provisions. For this, they received $\frac{2}{3}$ points and a 'yellow' coded score.

Establishing an independent review agency, coupled with cost-benefit analysis that triggers upon review, in this case every 5 years within the standard review framework, would result in increasingly efficient and accountable regulation. Agencies would be forced to conduct a retrospective cost-benefit analysis, in this case deeply empowered by the state's initial requirement for cost-benefit analysis at promulgation. The initial analysis can be referenced when conducting the review each time it occurs, so that regulations that have undergone multiple review cycles would have a record of analysis by which to judge future outcomes. Cumulative review results in a healthier regulatory environment when compared to systems that promulgate regulation with a half-baked cost-benefit analysis and don't review the regulation down the road.

The state was able to satisfy categories I, II, and IV fully, but received no points for category III. (see section 4.2) Missouri has publicly available and data driven cost benefit analysis, of which each regulation is subject to¹⁰. Additionally, citizens can challenge on the basis of this cost-benefit analysis alone if their business or entity is negatively affected and that effect is evident in the analysis. When state agencies promulgate a new rule, they are required to conduct a cost-benefit analysis if the rule "would require an expenditure of money by or a reduction in income for any person, firm, corporation, association, partnership, proprietorship or business entity of any kind or character which is estimated to cost more than five hundred dollars in the aggregate¹¹." Codified cost-benefit analysis is critical to sound regulatory promulgation, and in the case of Missouri, adding low thresholds to what triggers the analysis can be helpful for small businesses who might already be facing regulatory burdens. Finally, requiring all rules to undergo full cost-benefit analysis prior to renewal would enable Missouri to receive full points and would complement their already satisfactory cost-benefit requirements.

Both sunset provisions and cost-benefit analysis requirements are critical to healthy regulatory environments, but are often ineffective unless coupled with independent and authoritative review, of which Missouri lacks. The state received no points for independent review because they do not have a review entity with authority to overturn a regulation. An independent review agency would be responsible for upholding the cost benefit analysis requirement but also for determining if a regulation does or does not pass the cost-benefit 'test.' If a regulation is deemed to cause far more burden to an entity such as small business or otherwise, the agency can still move forward with the promulgation of that rule, and the burden of defeating the rule would lie on regulated entities exercising their rights through the comment and notice process.

The state should establish an independent review entity that has the authority to overturn regulation based on enforcement of promulgation criteria and apply that same authority to periodic review. Should Missouri do so, they would receive full points under the independent review category, and their ranking would substantially improve. The scoring pattern present in the Missouri case is evidence of the importance this ranking places on complimentary regulatory reform, where each individual reform area is enhanced by the implementation of the other.

¹⁰ Missouri State Code §536.300.2, 536.205.1

¹¹ §536.205.1

Conclusion

Many states across the nation could benefit by reforming their regulatory process to make it more accountable, reviewable, and transparent. Over half of states (52%) met some criteria on sunset reform but only 10% met all. States can benefit from clarifying metrics around their impact statements and moving towards data driven methods for analysis. States should also establish independent review agencies with authority to compel agencies to adjust regulatory efforts. Finally, states should ease venue restrictions to allow regulated parties to present evidence and have their day in court in a location that does not require excessive and constant travel. Reform across these areas will improve regulatory health and reduce the immense burden regulation places on the businesses, workers, and consumers in the free market.

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Appendix: Table 7 Sunset Scores

STATE	HAS A SUNSET LAW THAT APPLIES TO ALL REGULATION WITH A PRE-SET, STANDARDIZED TIMELINE FOR EXPIRATION (+1)	REGULATION MUST BE RE-APPROVED WITH A GREATER OR EQUAL BURDEN OF JUSTIFICATION AS WHEN FIRST INTRODUCED TO REMAIN IN EFFECT POST-SUNSET (+1)	HAS A REQUIRED LOOKBACK/REVIEW FOR REGULATION/AGENCIES (+1)	SUNSET SCORE TOTAL (X/3)
AL	0	0	1	1
AK	NA	NA	NA	NA
AZ	1	1	1	3
AR	1	1	0	2
CA	0	0	0	0
CO	0.5	1	0.5	2
CT	0	1	0	1
DE	0	0	0	0
FL	0.5	1	1	2.5
GA	0	0	0	0
HI	0	0	0	0
ID	1	0	0	1
IL	0	0	0.5	0.5
IN	1	1	1	3
IA	0	0	1	1
KS	0	0	0	0
KY	1	1	1	3
LA	0	0	0	0
ME	0	0	0	0
MD	0	0	1	1
MA	0	0	1	1
MI	0	0	1	1
MN	0	0	1	1
MS	0	0	1	1
MO	0	1	1	2
MT	0	0	1	1
NE	0	0	0	0
NV	0	0	1	1
NH	1	1	1	3
NJ	1	1	0	2
NM	0	0	1	1
NY	0	0	1	1
NC	0	0	1	1
ND	0	0	0	0
OH	0	0	1	1
OK	0	0	1	1
OR	0	1	1	2
PA	0	0	0	0
RI	0	1	0	1
SC	0	0	1	1
SD	0	0	0	0
TN	1	1	1	3
TX	0	0	0	0
UT	1	1	1	3
VT	1	0	1	2
VA	0	0	1	1
WA	0	0	0	0
WV	1	0	1	2
WI	0	0	0	0
WY	0	0	0	0

Sources: State Administrative Procedure Acts; State Code; Agency Websites

Appendix: Table 8 Cost-Benefit Analysis Scores

STATE	CITIZENS CAN CHALLENGE IF DONE INCORRECTLY/ DOESN'T WEIGH THE COSTS AND BENEFITS (+.5)	THE RULE IS REQUIRED TO PASS CBA FOR IMPLEMENTATION (+1)	THE RULE IS REQUIRED TO PASS CBA FOR RENEWAL (+.5)	IS PUBLICLY AVAILABLE, TRANSPARENT, AND DATA-DRIVEN (+1)	CBA SCORE TOTAL (X/3)
AL	0.5	0	0	1	1.5
AK	NA	NA	NA	NA	NA
AZ	0.5	1	0.5	0.5	2.5
AR	0.5	1	0.5	1	3
CA	0.5	1	0	1	2.5
CO	0.5	1	0.5	1	3
CT	0	1	0	0.5	1.5
DE	0	0	0	0	0
FL	0.5	1	0	1	2.5
GA	0	0.5	0	1	1.5
HI	0.5	0	0	0	0.5
ID	0.5	0	0	1	1.5
IL	0	0.5	0	1	1.5
IN	0	0.5	0	0	0.5
IA	0	1	0	1	2
KS	0	1	0	1	2
KY	0	1	0.5	1	2.5
LA	0.5	1	0	0	1.5
ME	0.5	1	0	0.5	2
MD	0.5	1	0	0.5	2
MA	0.5	1	0	1	2.5
MI	0	1	0	1	2
MN	0.5	1	0	1	2.5
MS	0	1	0	1	2
MO	0.5	1	0	1	2.5
MT	0	0.5	0	0	0.5
NE	0	1	0	0	1
NV	0	1	0	0	1
NH	0.5	1	0.5	1	3
NJ	0.5	1	0.5	1	3
NM	0	0.5	0	0	0.5
NY	0	1	0	1	2
NC	0	1	0	0	1
ND	0.5	1	0	1	2.5
OH	0	1	0	1	2
OK	0.5	1	0	0	1.5
OR	0	1	0.5	1	2.5
PA	0	0	0	0	0
RI	0	1	0	1	2
SC	0	1	0	1	2
SD	0	1	0	0	1
TN	0.5	1	0.5	0	2
TX	0.5	1	0	0.5	2
UT	0	1	0	1	2
VT	0	1	0	1	2
VA	0	1	0	1	2
WA	0	0	0	0	0
WV	0.5	1	0	1	2.5
WI	0	1	0	1	2
WY	0	0	0	0	0

Sources: State Administrative Procedure Acts; State Code; Agency Websites

Appendix: Table 9 OIRA Scores

STATE	HAS AN INDEPENDENT REVIEW BOARD. (+2)	STATES THAT REQUIRE LEGISLATIVE APPROVAL FOR ANY REGULATION THAT IMPOSES "COSTS" ON SOCIETY. (+1)	HAS A REVIEW BOARD, BUT IS LIMITED IN SCOPE, SCALE OR AUTHORITY. (+1)	OIRA SCORE (X/2)
AL	0	0	1	1
AK	NA	NA	NA	NA
AZ	2	0	0	2
AR	2	0	0	2
CA	0	0	1	1
CO	2	0	0	2
CT	2	0	0	2
DE	0	0	0	0
FL	0	1	0	1
GA	0	0	1	1
HI	0	0	1	1
ID	0	1	0	1
IL	0	0	1	1
IN	0	1	0	1
IA	0	0	1	1
KS	0	0	1	1
KY	0	0	1	1
LA	0	0	0	0
ME	0	1	0	1
MD	0	0	1	1
MA	0	0	0	0
MI	0	0	1	1
MN	2	0	0	2
MS	0	0	0	0
MO	0	0	0	0
MT	0	0	1	1
NE	0	0	0	0
NV	0	1	1	2
NH	0	0	1	1
NJ	0	0	1	1
NM	0	0	1	1
NY	0	0	1	1
NC	0	0	1	1
ND	0	0	1	1
OH	0	0	1	1
OK	0	1	0	1
OR	0	0	0	0
PA	0	0	1	1
RI	2	0	0	2
SC	0	1	0	1
SD	0	0	1	1
TN	2	0	0	2
TX	0	0	1	1
UT	2	0	1	3
VT	0	0	1	1
VA	0	0	1	1
WA	0	0	1	1
WV	0	1	0	1
WI	0	0	1	1
WY	0	1	0	1

Sources: State Administrative Procedure Acts; State Code; Agency Websites

Appendix: Table 10 Venue Restriction Scores

STATE	DOES NOT HAVE VENUE RESTRICTION (+2)	VENUE RESTRICTION EXISTS, BUT HAS REASONABLE ACCOMMODATION EXCEPTIONS, SUCH AS ALLOWING ONLINE VENUES (+1)	VENUE SCORE TOTAL (X/2)
AL	2	0	2
AK	NA	NA	NA
AZ	0	1	1
AR	0	1	1
CA	0	0	0
CO	2	0	2
CT	0	0	0
DE	0	0	0
FL	1	0	1
GA	0	1	1
HI	0	1	1
ID	0	1	1
IL	2	0	2
IN	2	0	2
IA	2	0	2
KS	2	0	2
KY	2	0	2
LA	0	0	0
ME	2	0	2
MD	2	0	2
MA	0	1	1
MI	0	0	0
MN	0	0	0
MS	2	0	2
MO	2	0	2
MT	0	1	1
NE	0	1	1
NV	0	0	0
NH	0	0	0
NJ	0	0	0
NM	0	0	0
NY	0	1	1
NC	2	0	2
ND	0	0	0
OH	2	0	2
OK	0	0	0
OR	2	0	2
PA	0	0	0
RI	0	1	1
SC	0	0	0
SD	2	0	2
TN	0	0	0
TX	0	1	1
UT	2	0	2
VT	0	0	0
VA	2	0	2
WA	0	0	0
WV	0	1	1
WI	0	1	1
WY	0	1	1

Sources: State Administrative Procedure Acts; State Code; Agency Websites

Appendix: Table 11 Composite Scores

STATE	COMPOSITE SCORE	STATE	COMPOSITE SCORE
AL	5.5	MT	3.5
AK	NR	NE	2
AZ	8.5	NV	4
AR	8	NH	7
CA	3.5	NJ	6
CO	9	NM	2.5
CT	4.5	NY	5
DE	0	NC	5
FL	7	ND	3.5
GA	3.5	OH	6
HI	2.5	OK	3.5
ID	4.5	OR	6.5
IL	5	PA	1
IN	6.5	RI	5
IA	6	SC	4
KS	5	SD	4
KY	8.5	TN	7
LA	1.5	TX	4
ME	5	UT	8
MD	6	VT	5
MA	4.5	VA	6
MI	4	WA	1
MN	5.5	WV	6.5
MS	5	WI	4
MO	6.5	WY	2

Sources: State Administrative Procedure Acts; State Code; Agency Websites

Appendix: Table 12 State Ranking by Composite Score

STATE	COMPOSITE SCORE	STATE	COMPOSITE SCORE
Colorado	1	Rhode Island	T-8
Arizona	T-2	Vermont	T-8
Kentucky	T-2	Idaho	T-9
Arkansas	T-3	Connecticut	T-9
Utah	T-3	Massachusetts	T-9
Florida	T-4	Michigan	T-10
New Hampshire	T-4	Nevada	T-10
Tennessee	T-4	South Carolina	T-10
Indiana	T-5	South Dakota	T-10
Missouri	T-5	Texas	T-10
Oregon	T-5	Wisconsin	T-10
West Virginia	T-5	California	T-11
Iowa	T-6	Georgia	T-11
Maryland	T-6	Montana	T-11
New Jersey	T-6	North Dakota	T-11
Ohio	T-6	Oklahoma	T-11
Virginia	T-6	Hawaii	T-12
Alabama	T-7	New Mexico	T-12
Minnesota	T-7	Nebraska	T-13
Illinois	T-8	Wyoming	T-13
Kansas	T-8	Louisiana	14
Maine	T-8	Pennsylvania	T-15
Mississippi	T-8	Washington	T-15
New York	T-8	Delaware	16
North Carolina	T-8	Alaska	NR

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