

Approved March 29, 1988
Date

MINUTES OF THE HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT

The meeting was called to order by Jayne Aylward Vice-Chairperson at
Chairperson

3:40 ~~xxx~~ a.m./p.m. on Thursday, March 24, 1988 in room 423-S of the Capitol.

All members were present except: Representatives Mainey, Teagarden, Leach, Kline and Barkis. - Excused.

Committee staff present:
Jim Wilson, Revisor
Lynn Holt, Research
Elaine Johnson, Secretary

Conferees appearing before the committee:
Senator Alicia Salisbury
Arden Ensley, Chief Revisor of Statutes
Arthur H. Griggs, Department of Administration
Sandy Duncan, Commissioner of Administrative Services, SRS
Rob Hodges, Executive Director, Kansas Industrial Council

Vice-Chairperson Jayne Aylward called the meeting to order and recognized Dan Pilcher. At the request of Senator Kerr, Mr. Pilcher was asked to address the committee concerning what other states are doing in the way of retail that would pertain to S.B. 470.

Mr. Pilcher, Program Manager for Economic Development with the National Conference of State Legislatures stated that he did not have much chance to study S.B. 470. He feels that because state resources are so limited most states are saying lets put our eggs into this basket, the core industry, and the core is however you want to define it. States are not defining retail as the core. He also stated that he has never looked that closely at the retail sector.

Chairperson Aylward opened the hearing on S.B. 478 and recognized Senator Salisbury.

Senator Salisbury gave the background on S.B. 478. This bill will provide for year-round filing and enactment of regulations. This will eliminate most filings that are done on December 15th. It may require that the Joint Committee on Rules and Regulations may have to meet more often. This bill will require that administrative agencies give greater consideration to the economic impact when promulgating new regulations or amending existing regulations. It further requires the agency to expand the content of information disclosed to the regulated public when adopting regulations. An additional amendment to the filing act will move the responsibilities for filing and publication of regulations from the Revisor of Statutes to the Secretary of State. (Attachment 1). Senator Salisbury also pointed out to the committee that on page 11, line 0409 it should read "21 days," instead of "15."

Arden Ensley, Chief Revisor of Statutes representing Representative Vancrum then addressed the committee. Mr. Ensley distributed a balloon of amendments to S.B. 478 as contained in H.B. 2705. (Attachment 2). He stated that this bill will alleviate the overload on all involved parties.

Representative Chronister moved to accept the amendments and Representative Heinemann seconded. In discussion Representative Baker objected to wording in the amendments. Representative Chronister and Representative Heinemann withdrew the motion until the remaining conferees had testified.

Arthur Griggs was the next conferee on S.B. 478. The Department of Administration submitted proposed changes and amendments. (Attachment 3). These amendments were not submitted to the Senate Committee.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT,
room 423-S, Statehouse, at 3:40 ~~am~~ p.m. on Thursday, March 24, 1988

The next conferee recognized was Commissioner Sandy Duncan. Commissioner Duncan stated that his agency had some concerns. The proposed amendments by the Department of Administration are fine but he stated that he had an alternative position to offer in case the committee wants to split the difference. The alternatives were not submitted in written form.

The last conferee on S.B. 478 was Rob Hodges. Mr. Hodges stated that the KCCI supported the concept of S.B. 478 and their comments pertain to the procedural changes proposed in the bill. They believe enactment of the bill could result in more and better communication about proposed rules and regulations. Although they support the concept of the bill, they do not hope to create such a high hurdle in the path of proposed rules and regulations, that no new or amended rules and regulations will be promulgated. The KCCI seeks three basic changes in the current process. (Attachment 4).

This concluded the hearing on S.B. 478.

Vice-Chairperson Aylward opened discussion on S.B. 512. Representative Weimer moved and Representative Dyck seconded that S.B. 512 be passed. Motion carried.

Discussion of S.B. 673 followed. Representative Dyck moved that on line 0032 of S.B. 673, the wording "or 40-2801," be returned to the bill. Representative Baker seconded. Motion carried.

Representative Baker moved that S.B. 673 be passed as amended and Representative Sader seconded. Motion carried.

Meeting adjourned at 5:01 p.m.

(Representative Aylward after the meeting contacted Commissioner Duncan and requested written copies of his proposed amendments so that it may be made part of this record.)



Date: 3/24/88

GUEST REGISTER

HOUSE

Committee on Economic Development

NAME

ORGANIZATION

ADDRESS

Chuck Layman

KDHE

London SOB

DAN PILCHER

NAT'L CONF. OF
STATE LEGISLATURES

DENVER CO

MARK BURSHART

REVENUE

TOPEKA

JoAnn Van Mikh

KDHR

TOPEKA

Faith Loretta

Dept. of Administration

Art Briggs

" "

ALICIA L. SALISBURY
 SENATOR, TWENTIETH DISTRICT
 1455 S W LAKESIDE DRIVE
 TOPEKA, KANSAS 66604 2556



TOPEKA

SENATE CHAMBER

COMMITTEE ASSIGNMENTS
 CHAIRMAN JOINT COMMITTEE ON ADMINISTRATIVE
 RULES AND REGULATIONS
 VICE-CHAIRMAN EDUCATION
 MEMBER ASSESSMENT AND TAXATION
 ECONOMIC DEVELOPMENT
 LEGISLATIVE AND CONGRESSIONAL
 APPORTIONMENT
 LEGISLATIVE EDUCATIONAL PLANNING
 COMMITTEE
 LOCAL GOVERNMENT
 PUBLIC HEALTH AND WELFARE

SB 478

The work product of two legislative committees:

Joint Committee on Administrative Rules and Regulations
 Joint Committee on Economic Development

Objectives:

Enhance legislative oversight
 Enhance consideration given to economic development

To achieve the first objective, SB 478 would provide for year around filing and enactment of regulations. Current law requires agencies to adopt permanent regulations in the "open" period of May 1 through December 15. The period between December 15 and May 1 of the following year is a "dead" period during which filing is not permitted. The purpose for filing deadlines and a "dead period" for legislative review may no longer exist due to a Kansas Supreme Court opinion that the Legislature may review, but may not modify or revoke, existing regulations. The Joint Committee on Administrative Rules and Regulations found that filing deadlines were unnecessary for effective legislative oversight and that the deadlines placed unnecessary stress on the rulemaking process.

Oversight is enhanced additionally by the requirement that agencies keep minutes or transcripts of public hearings for three years.

To achieve the second objective, SB 478 would broaden the definition of fiscal impact. Instead of fiscal impact, the statute would address the economic impact of state regulation. It would require that administrative agencies give greater consideration to the economic impact when promulgating new regulations or amending existing regulations. It further requires the agency to expand the content of information disclosed to the regulated public when adopting regulations. A description of what is to be considered by the agency and included in the economic impact statement can be found on page 20 of the bill. The intent of this legislation is to provide those people who are affected by the regulation more information so that they can have greater impact on the regulation being adopted.

House Eco Dev
Attachment 1
3/24/88

This change in present law was proposed by the Joint Committee on Economic Development in response to the concern that government regulations impede business operations in the state and are a negative influence on a business's decision to remain or expand in Kansas.

Another amendment to the filing act would move the responsibilities for filing and publication of regulations from the Revisor of Statutes to the Secretary of State. Rationale: The Revisor of Statutes serves a legislative function whereas the office of the Secretary of State is considered more appropriate for this ministerial task and is more accessible to the regulated public. Fiscal Impact: \$32,000 annualized to increase full-time employees in Secretary of State's office from 61 to 62. A May 1 effective date would add \$5,333 to this year.

Proposed Amendments

(As contained in HB 2705)

3-24-88

House Eco Dev
Attachment 2
3/24/88

0639 opening limitation of this section is not violated.

0640 (e) By striking the word "that" wherever it appears as the
0641 first word of any section in the Kansas administrative regulations
0642 or the latest supplement thereto.

0643 (f) By correcting doublets.

0644 No change made pursuant to the provisions of this section shall
0645 effect any change in the substantive meaning of the rule and
0646 regulation section, and any error made by the revisor of statutes
0647 secretary of state in editing the rules and regulations as autho-
0648 rized by this section shall be construed as a clerical error only.

0649 Sec. 44 45. K.S.A. 77-436 is hereby amended to read as
0650 follows: 77-436. (a) There is hereby established a joint commit-
tee on administrative rules and regulations which shall consist of

0652 five senators and seven members of the house of representatives.

0653 The five senator members shall be appointed as follows: Three
0654 by the committee on organization, calendar and rules and two by
0655 the minority leader of the senate. The seven representative
0656 members shall be appointed as follows: Four by the speaker of
0657 the house of representatives and three by the minority leader of

0658 the house of representatives. The ~~first named~~ appointee of the
0659 committee on organization, calendar and rules shall be chair-
0660 person or vice-chairperson of the joint committee as provided in

designated by such committee

0661 this section. The ~~first named~~ appointee of the speaker of the
0662 house of representatives shall be chairperson or vice-chairperson
0663 of the joint committee as provided in this section.

designated by the speaker

0664 (b) A quorum of the joint committee on administrative rules
and regulations shall be seven. All actions of the committee may
0666 be taken by a majority of those present when there is a quorum.

0667 In odd-numbered years the chairperson of the joint committee
0668 shall be ~~a~~ member of the house of representatives from the
0669 convening of the regular session in that year until the convening

the designated

0670 of the regular session in the next ensuing year. In even-num-
0671 bered years the chairperson of the joint committee shall be ~~a~~
0672 member of the senate from the convening of the regular session

the designated

0673 of that year until the convening of the regular session of the next
0674 ensuing year. The vice-chairperson shall exercise all of the
0675 powers of the chairperson in the absence of the chairperson.

0676 (c) All rules and regulations filed each year in the office of
 0677 the ~~revisor of statutes~~ *secretary of state* shall be submitted to and
 0678 reviewed by the joint committee on administrative rules and
 0679 regulations. All forms used by state agencies and all rules and
 0680 regulations specifically excluded from the definition of rule and
 0681 regulation under ~~paragraph~~ *subsection* (4) of K.S.A. 77-415, and
 0682 amendments thereto, shall be subject to review by the joint
 0683 committee. The committee may introduce such legislation as it
 0684 deems necessary in performing its functions of reviewing ad-
 0685 ministrative rules and regulations and agency forms.

0686 (d) ~~The provisions of article 12 of chapter 46 of the Kansas~~
 0687 ~~Statutes Annotated, and amendments thereto, applicable to spe-~~
 0688 ~~cial committees shall apply to the joint committee on adminis-~~
 0689 ~~trative rules and regulations to the extent that the same do not~~
 0690 ~~conflict with the specific provisions of this act applicable to such~~
 0691 ~~joint committee.~~

0692 Sec. 45 46. K.S.A. 79-3297a is hereby amended to read as
 0693 follows: 79-3297a. The secretary of revenue shall change the
 0694 percentage of the amount required to be withheld from wages
 0695 under K.S.A. 79-3296, *and amendments thereto*, when such rate
 0696 no longer bears the proper correspondence to the employees'
 0697 income tax liability on wages because of changes in the federal
 0698 withholding rate. Any such change in the state withholding rate
 0699 shall be in proper proportion to the amount of increase or
 0700 decrease in the federal withholding tax, increases or decreases in
 0701 the tax rates under K.S.A. 79-32,110, *and amendments thereto*, or
 0702 increases or decreases in the tax base so that the withholding rate
 0703 as changed bears the same correspondence to the employees'
 0704 expected income tax liability. Such rate may be fixed for all
 0705 adjusted gross income classes, or variable rates may be estab-
 0706 lished, based upon adjusted gross income class, to insure proper
 0707 withholding consistent with the taxpayer's expected tax liability.
 0708 Any such change in rate shall be adopted as a rule and
 0709 regulation and shall be effective when filed with the ~~revisor of~~
 0710 ~~statutes~~ *secretary of state*.

0711 Sec. 46 47. K.S.A. 79-3385 is hereby amended to read as
 0712 follows: 79-3385. The secretary of revenue shall have the power

The joint committee shall meet on call of the chairperson as authorized by the legislative coordinating council. All such meetings shall be held in Topeka, unless authorized to be held in a different place by the legislative coordinating council. Members of the joint committee shall receive compensation and travel expenses and subsistence expenses or allowances as provided in K.S.A. 75-3212, and amendments thereto, when attending meetings of such committee authorized by the legislative coordinating council.

(e) Amounts paid under authority of this section shall be paid from appropriations for legislative expense and vouchers therefor shall be prepared by the director of legislative administrative services and approved by the chairperson or vice-chairperson of the legislative coordinating council.

1-2-2
3/24/88

Testimony of Arthur H. Griggs
Department of Administration
S.B. 478 - Sections 30 and 35 before the
House Economic Development Committee
March 24, 1988

I. Economic Impact Statements. The modifications in section 30 (page 20, lines 89 through 112) expand the required content of impact statements that state agencies are to prepare in conjunction with their regulations. The goal of this expansion - greater disclosure of information - is appropriate and should be supported.

Attachment A sets forth the expanded impact statement requirements by the various components that are enumerated. One concern is the amount of detail required. To illustrate this concern imagine yourself trying to enumerate for this bill the 23 items on Exhibit A. For some regulations, the distinction between qualitative impacts and quantitative impacts can be nebulous. On some regulations, there is a large element of subjectivity involved because of the vagueness on what constitutes a qualitative impact. Similarly, trying to determine indirect affects on people will be very speculative in a number of instances.

The Department is supportive of the goal of greater disclosure of information and recommends the balloon language on Exhibit B as a plain English approach to this same goal.

II. Contemplated Regulation Changes. Section 35 (page 24, lines 256 through 267)) adds a new subsection (a) that requires that "whenever possible" a state agency should give notice in the Kansas Register prior to formulating a modification to a regulation. The purpose of this notice is to permit public comment on how the contemplated modification should be accomplished.

It is difficult to conceive of many instances when such a notice would not be possible; however, there are a number of instances where requiring such a notice may not be of any public benefit. Clean-up or technical changes, changes to correspond with statutory changes and changes to address concerns contained in Concurrent Resolutions are examples of this nature.

Keep in mind that the public already has an opportunity to propose changes and alternatives to regulations at the public hearings. A number of agencies already work closely with affected groups in developing regulation changes. It is recommended that the mandatory aspect of this notice be modified as set forth in Exhibit C.

S.B. 478, Sec. 30; RULES AND REGULATIONS
REQUIREMENTS FOR ECONOMIC IMPACT STATEMENT

S.B. 478 provides for economic impact statements, which are to be prepared on proposed rules and regulations include the following information:

1. a brief description of the proposed rules and regulations;
2. a brief description of what will likely be accomplished by adoption of the regulation;

An identification of the persons who will be subject to or otherwise affected by the proposed rules and regulations, including:

3. those who will directly bear the costs thereof;
4. those who will indirectly bear the costs thereof;
5. those who will directly benefit therefrom; and
6. those who will indirectly benefit therefrom;

An identification of the probable quantitative impact of the proposed rules and regulations on the persons directly or indirectly affected thereby, including:

7. the agency;
8. other agencies of state government;
9. other political subdivisions of the state;
10. private citizens; and
11. consumers of the products or services which are the subject of the rules and regulations or the enforcement thereof;

An identification of the probable qualitative impact of the proposed rules and regulations on the persons directly or indirectly affected thereby, including:

12. the agency;
13. other agencies of state government;
14. other political subdivisions of the state;
15. private citizens; and
16. consumers of the products or services which are the subject of the rules and regulations or the enforcement thereof;

A description of any consideration given to:

17. less costly methods for achieving the stated purpose for the rules and regulations, including:
18. less costly quantitative methods; and
19. less costly qualitative methods; and
20. less intrusive methods for achieving the stated purpose for the rules and regulations;
21. a description of any alternative methods that were considered by the state agency for achieving the stated purpose for the rules and regulations;
22. a description of the quantitative reasons why such methods were rejected in favor of the proposed rules and regulations; and
23. a description of the qualitative reasons why such methods were rejected in favor of the proposed rules and regulations.

0084 agency shall prepare a statement of the fiscal or financial effect or
0085 economic impact of such proposed rule and regulation or
0086 amendment upon all governmental agencies or units and, private
0087 businesses and all persons which will be subject thereto and
0088 upon the general public; and, if such/. The economic impact
0089 statement shall include: (1) A brief description of the proposed
0090 rules and regulations and ~~what will likely be accomplished by~~
0091 ~~their adoption~~; (2) whether the] proposed rule and regulation is
0092 mandated by federal law as a requirement for participating in or
0093 implementing a federally subsidized or assisted program; the
0094 state agency shall so specify as a part of the fiscal or financial
0095 economic impact statement[; (3) ~~an identification of the persons~~
0096 ~~who will be subject to or otherwise affected by the proposed~~
0097 ~~rules and regulations, including those who will directly or indi-~~
0098 ~~rectly bear the costs thereof and those who will directly or~~
0099 ~~indirectly benefit therefrom; (4) an identification of the proba-~~
0100 ~~ble quantitative and qualitative impact of the proposed rules~~
0101 ~~and regulations on the persons directly or indirectly affected~~
0102 ~~thereby, including the agency proposing the rules and regula-~~
0103 ~~tions, other governmental agencies or units, private citizens and~~
0104 ~~consumers of the products or services which are the subject of~~
0105 ~~the rules and regulations or the enforcement thereof; (5) any~~
0106 ~~consideration given to less costly methods, quantitative or qual-~~
0107 ~~itative, or less intrusive methods for achieving the state purpose~~
0108 ~~of the rules and regulations; and (6) a description of any alter-~~
0109 ~~native methods that were considered by the state agency for~~
0110 ~~achieving the stated purpose of the rules and regulations and the~~
0111 ~~quantitative or qualitative reasons why such methods were~~
0112 ~~rejected in favor of the proposed rules and regulations]. The
0113 state agency shall reevaluate and, when necessary, update the
0114 statement at the time of giving notice of hearing on a proposed
0115 rule and regulation and at the time of filing a rule and regulation
0116 with the revisor of statutes secretary of state. If a public hearing
0117 was held prior to the adoption of the rule and regulation, a state
0118 agency at the time of filing a rule and regulation with the revisor
0119 of statutes secretary of state shall include as a part of the fiscal or
0120 financial economic impact statement a statement specifying the~~

- (3) the intended purpose of the rules and regulations;
- (4) a description of the persons who will benefit from the proposed regulations;
- (5) a description of the persons who will bear the costs of the proposed regulations; and
- (6) any other information deemed helpful in assessing the impact of the proposed regulations.

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0232 (3) the attorney general finds that the making of such rule and
0233 regulation is within the authority conferred by law on the state
0234 agency submitting the same;

0235 (4) the rule and regulation has been formally adopted by the
0236 state agency after it has been approved by the secretary of
0237 administration and the attorney general and is accompanied by a
0238 certified or other formal statement of adoption when adoption is
0239 by an executive officer of a state agency, or by a certified copy of
0240 the roll call vote required for its adoption by K.S.A. 77-421, and
0241 ~~any~~ amendments thereto, when adoption is by a board, commis-
0242 sion, authority, or other similar body;

0243 (5) the rule and regulation to be filed is accompanied by a
0244 copy of the fiscal or financial impact statement as provided by
0245 K.S.A. 77-416, and amendments thereto; *and*

0246 ~~(6) the rule and regulation, if a permanent rule and regula-~~
0247 ~~tion, is submitted or received for filing in the office of the revisor~~
0248 ~~of statutes not later than 5:00 p.m. on December 15 of any year,~~
0249 ~~and~~

0250 ~~(7) (6) the rule and regulation is accompanied by a copy of~~
0251 ~~any document which is adopted by reference by such rule and~~
0252 ~~regulation unless specifically exempt by the state rules and~~
0253 ~~regulations board pursuant to subsection (a) of K.S.A. 77-416, and~~
0254 ~~amendments thereto.~~

0255 Sec. 35. K.S.A. 1987 Supp. 77-421 is hereby amended to read

0256 as follows: 77-421. (a) ~~Whenever possible, prior~~ to formulating a

0257 ~~modification to any existing rule and regulation, a state agency~~

0258 ~~shall~~ provide a period for written public comment on the con-

0259 ~~templated modification. The~~ agency shall give notice of the

0260 public comment period by mailing notice to the secretary of

0261 state, who shall publish such notice in the Kansas register. The

0262 notice shall contain a brief summary of the substance of the

0263 contemplated modification and shall state the period of time,

0264 established by the agency, during which the agency will receive

0265 written public comments on the contemplated modification and

0266 the address where such comments may be submitted to the

0267 agency.

0268 (b) Prior to the adoption of any permanent rule and regula-

Prior

may

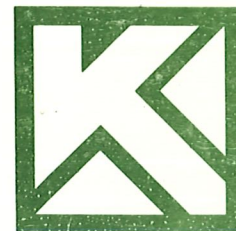
Any

providing a public
comment period

9-3-4
3/24/88

LEGISLATIVE TESTIMONY

Kansas Chamber of Commerce and Industry



500 First National Tower One Townsite Plaza Topeka, KS 66603-3460 (913) 357-6321

A consolidation of the
Kansas State Chamber
of Commerce,
Associated Industries
of Kansas,
Kansas Retail Council

SB 478

March 24, 1988

Testimony Before the
Senate Committee on Federal and State Affairs

by

Rob Hodges
Executive Director
Kansas Industrial Council

Mr. Chairman, members of the Committee, I appreciate the opportunity to appear today to present the Chamber's position on SB 478, a bill proposing to change the procedures used by state agencies in promulgating rules and regulations and to transfer responsibility for the process of handling rules and regulations to the Secretary of State.

The Kansas Chamber of Commerce and Industry (KCCI) is a statewide organization dedicated to the promotion of economic growth and job creation within Kansas, and to the protection and support of the private competitive enterprise system.

KCCI is comprised of more than 3,000 businesses which includes 200 local and regional chambers of commerce and trade organizations which represent over 161,000 business men and women. The organization represents both large and small employers in Kansas, with 55% of KCCI's members having less than 25 employees, and 86% having less than 100 employees. KCCI receives no government funding.

The KCCI Board of Directors establishes policies through the work of hundreds of the organization's members who make up its various committees. These policies are the guiding principles of the organization and translate into views such as those expressed here.

*House Eco Dev
Attachment 4
3/24/88*

KCCI supports the concept of SB 478 and our comments pertain to the procedural changes proposed in the bill. We believe enactment of the bill could result in more and better communication about proposed rules and regulations. Additionally, the bill could create a greater opportunity for input during the promulgation process.

KCCI members see a growing dependency on the rule and regulation process for implementing legislative enactments and, in some cases, legislative intent. Much of this growing dependency we believe to be the result of ever-busier legislative calendars and ever-more-complex issues. Legislators, indeed citizens, must leave more and more of the decision making process to the discretion of the professionals working in state agencies. KCCI believes that along with the greater level of dependence placed on state agency personnel, goes a corresponding greater level of responsibility to the legislature and the public. It is in the interest of assuring that high level of responsibility that we support efforts such as those contained in SB 478.

While supporting the concept of this bill, we do not hope to create such a high hurdle in the path of proposed rules and regulations, that no new or amended rules and regulations will be promulgated.

We seek three basic changes in the current process:

First, more advance notice of public hearings scheduled to consider proposed new or amended rules and regulations. The current 15 day minimum notice, when combined with the publication schedule of the Kansas Register, is actually a very short period of time in which to determine whether a person or organization is even interested in the change. We suggest at least 30 days notice of a public hearing should be given, while acknowledging the 21 day notice provision now in SB 478.

Second, we believe a better description of the proposed new or amended rule and regulation should be required. In some cases good descriptions are being given by state agencies in the notices currently required. But in other cases, the descriptions are cryptic at best. A complete description easily understood by a lay

person should be a minimum criteria of any proposed rule and regulation proposal. We believe SB 478 would achieve this goal.

Third, and perhaps most difficult to achieve, is a way to assure that careful consideration is given to the effects of a proposal -- and consideration is also given to those persons and organizations to be affected. We fear that too many times the effect that is considered is the effect on the state agency personnel who are proposing the change, and that little consideration is given to what will be required to achieve compliance. Saving the state an hour at a cost of days, or saving the state \$100 at a cost of \$1,000 may not be the best solution to a problem, or the best reason to change or begin a new regulation.

In closing, let me say that our members realize that the relationship between the regulator and the regulated will never be one of perfect harmony. But recent years, and a court test of the legislature's role in rule and regulation authority, have removed some of the legislative oversight which once existed in the relationship between state agency regulators and the regulated community. KCCI hopes that a better result is the goal of both parties and that our suggestions will be considered by this Committee in addressing SB 478, and that you will report the bill favorably.

Thank you for your time. I'll attempt to answer questions you may have.