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STATE OF KANSAS

SENATE COMMITTEE ON COMMERCE
TESTIMONY OF THE SECRETARY OF STATE, MARCH 13, 2015

Chairman and members of the committee,

My name is Kathy Sachs. I am the Deputy Assistant Secretary of State for Business Services. Thank you for the opportunity to testify in support of SB 276. This bill amends provisions of the Business Entity Standard Treatment Act (BEST).

Last year, Secretary Kobach introduced the BEST act with the goal of standardizing and centralizing the statutes related to filing procedures for the four most common types of entities that file with the Secretary of State's Office; Corporations, Limited Liability Companies, Limited Partnerships, Limited Liability Partnerships. The BEST act became effective January 1, 2015.

This bill further improves the filing process and reconciles conflicting provisions caused by the passage of HB 2398 during the same legislative session. HB 2398 amended the Revised Limited Liability Company Act. We worked with the Kanas Bar Association to make sure the changes in this bill do not adversely impact the intent of HB 2398.

Additionally, this bill alleviates a problem that occurs when an entity inadvertently allows its status to lapse. Under current law, the use of an organizational name becomes available to anyone the day after the business entity is no longer in good standing. Sometimes, another entity files organizational documents with the Secretary of State using that now available name before the original organization becomes aware that it is no longer in good standing. This scenario becomes problematic for the organization that is no longer in good standing because Kansas law prohibits the use of a name that is not distinguishable upon the records of the Secretary of State. The original organization, after it corrects its mistake, must then choose a new name. In some instances, a business could have the same name for decades and then because of one oversight, lose the name to another entity before it can rectify its mistake. This can result in significant expense and paper work to the business. Other states, including Delaware, permit a similar post-forfeiture name reservation.

Finally, we noticed a few minor corrections after the draft was submitted to the Reviser of Statues. We ask that those changes be included into this bill as well.

Thank you for the opportunity to testify and we strongly urge the passage of SB 276.