

Act Number: 09-019

Bill Number: 5930

Senate Pages: 1591-1592, 1657, 1659 **4**

House Pages: 1357-1397 **41**

Committee: Commerce: 369-373, 392-401,
438-444 **22**

Page Total: **67**

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SENATE**

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THE CHAIR:

Motion is on the floor for consent. Seeing no objection, so ordered.

SENATOR LOONEY:

Thank you, Mr. President. Calendar 361, Senate Bill Number 843, Mr. President, I move to place this item on the foot of the calendar.

THE CHAIR:

Without objection, so ordered.

SENATOR LOONEY:

Thank you, Mr. President. Next item, Calendar 369 is marked go.

Calendar 374, PR.

Calendar 376, PR.

Calendar 377, passed temporarily.

Calendar 379, Calendar 381, Calendar 382, and Calendar 385 are all marked PR.

Calendar page 10, Calendar 389 is marked go.

Calendar 390, PR.

Calendar page 10, Calendar 391, House Bill Number 5930, Mr. President, I move to place this item on the Consent Calendar.

THE CHAIR:

Motion is on consent. Seeing no objection, so

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ordered, sir.

SENATOR LOONEY:

Thank you, Mr. President. Calendar 392, PR.

Calendar 393, PR.

Moving to calendar page 11, Calendar 394 is
marked go.

Calendar 395, House Bill Number 5297, Mr.

President, I move to place this item on the Consent
Calendar.

THE CHAIR:

Motion is on the floor for consent. Seeing no
objection, so ordered.

SENATOR LOONEY:

Yes, thank you, Mr. President. Calendar 397, PR.

Calendar 398, PR.

Calendar 401 is PR.

Mr. President, calendar page 11, Calendar 403,
House Bill Number 6462, Mr. President, I move to place
this item on the Consent Calendar.

THE CHAIR:

Motion on the floor for consent. Seeing no
objection, so ordered.

SENATOR LOONEY:

Thank you, Mr. President. Moving to calendar

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Calendar page 6, Calendar 245, Substitute for House Bill 6266.

Calendar page 7, Calendar 272, Substitute for Senate Bill 1040.

Calendar Page 8, Calendar 359, Senate Bill 1082.

Calendar page 10, Calendar 389, Substitute for House Bill 6327; Calendar 391, Substitute for House Bill 5930.

Calendar page 11, Calendar 395, Substitute for House Bill 5297; Calendar 403, House Bill 6462.

Calendar page 12, Calendar 414, Senate Bill 905.

Calendar page 13, Calendar 416, Senate Bill 998;
Calendar 432, Substitute for Senate Bill 1020.

Calendar page 15, Calendar 457, Substitute for House Bill 6356.

Calendar page 16, Calendar 460, Substitute for House Bill 6301; Calendar 465, Senate Bill 963.

Calendar page 18, Calendar 487, Senate Bill 707;
Calendar 489, Substitute for Senate Bill 810.

Calendar page 21, Calendar Number 506, Senate Bill 1136; Calendar 507, Senate Bill 1141.

Calendar page 22, Calendar 515, Substitute for Senate Bill 832.

Calendar page 23, Calendar 524, Substitute for

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Have all Senators voted?

If all Senators have voted, please check the machine. The machine will be locked, the Clerk will call the tally.

THE CLERK:

Motion is on adoption of Consent Calendar Number 1. Total number voting, 36; those voting yea, 36; those voting nay, 0; those absent/not voting, 0.

THE CHAIR:

Consent Calendar Number 1 passes.

Senator Looney.

SENATOR LOONEY:

Thank you, Mr. President. Mr. President, I would move that all items referred to various committees from the chamber today be transmitted to those committees immediately.

THE CHAIR:

Without objection, so ordered, sir.

SENATOR LOONEY:

Thank you, Mr. President. Mr. President, also, would announce that we will be convening tomorrow about -- at 11:30 a.m., it's our intention to pick up with bills that had previously been marked "go" today. So I would move that all items previously marked go

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determine whether your vote is properly cast. If all the members have voted, the machine will be locked and the Clerk will take a tally. Will the Clerk please announce that tally?

THE CLERK:

On House Bill Number 569 -- 5669 as amended by House A.

Total Number Voting	143
Necessary for Passage	72
Those voting Yea	143
Those voting Nay	0
Those absent and not voting	8

DEPUTY SPEAKER McCLUSKEY:

The bill as amended is passed. Will the Clerk please call Calendar Number 208.

THE CLERK:

On page 14, Calendar 208, substitute for House Bill Number 5930, AN ACT REQUIRING SMALL BUSINESS IMPACT ANALYSES FOR PROPOSED REGULATIONS, favorable report of the Committee on Commerce.

DEPUTY SPEAKER McCLUSKEY:

Representative Berger of the 73rd.

REP. BERGER (73rd):

Thank you, Mr. Speaker. I move for acceptance of

the Joint Committee's favorable report and passage of the bill.

DEPUTY SPEAKER McCLUSKEY:

The question is acceptance of the Joint Committee's favorable report and the passage of the bill. Will you remark?

REP. BERGER (73rd):

Yes. Thank you, Mr. Speaker. This bill requires any state agency proposing regulation to identify how that regulation will affect small business, thereby creating a small business impact analysis. Included in this analysis must be a fiscal note which must be submitted to Regulations Review Committee for consideration on that regulation and the effect of that regulation on business.

If the proposed regulation adversely affects a small business, it must consider a way to become less burdensome to that business to achieve the regulation's goal and effect. There is also, within the bill, a requirement that the public be notified and also the Commerce Committee be notified of its effect on small businesses and the flexibility of that analysis program. Also under the bill, a proposed regulation does not take effect until the agency

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submits the regulatory flexibility analysis to the
Regs Review Committee.

Also, Mr. Speaker, under current law,
independently owned and operated businesses with fewer
than 50 full-time employees or gross sales under \$5
million are considered small businesses. With the
passage of the bill, the bill increases that threshold
from 50 to 75 employees. Mr. Speaker, I move for
passage.

DEPUTY SPEAKER McCLUSKEY:

Thank you. Will you remark further on this bill?
Will you remark further? Representative O'Neill of
the 69th.

REP. O'NEILL (69th):

Thank you Mr. Speaker. If I may, a few questions
through you to the proponent of the bill.

DEPUTY SPEAKER McCLUSKEY:

Representative Berger, please prepare yourself.
Representative O'Neill, you have the floor.

REP. O'NEILL (69th):

Thank you, Mr. Speaker. I have to confess that I
had not been paying very close attention to this piece
of legislation inasmuch as it is going -- came from
the Commerce Committee and was never referred to the

Judiciary Committee, where I've spent most of my time in these last several weeks. So I guess, I have a couple of questions with respect to the comparison between the existing statute -- well first, let me ask, am I correct in my belief that there is already an existing statute that requires an analysis of the impact a regulation will have on small businesses? Through you, Mr. Speaker.

DEPUTY SPEAKER McCLUSKEY:

Representative Berger.

REP. BERGER (73rd):

Through you, Mr. Speaker, yes.

REP. O'NEILL (69th):

Thank you, Mr. Speaker. And I guess the first question then would be, is there something that has emerged as a deficiency in that statute and the process contained in that statute that gave rise to the bill before us? Through you, Mr. Speaker.

DEPUTY SPEAKER McCLUSKEY:

Representative Berger.

REP. BERGER (73rd):

Yes, Mr. Speaker. I'm sorry. I think I misunderstood that first question that you asked me. Through you, Mr. Speaker, to Representative O'Neill,

that, through you, Mr. Speaker, you asked if there is some type of process in place now through existing law that requires a regulation to be -- to have a fiscal note to be presented to the Regs Review Committee.

Through you, Mr. Speaker.

DEPUTY SPEAKER McCLUSKEY:

Representative O'Neill.

REP. O'NEILL (69th):

Let me try restating my question, and keep them non-compound complex questions so they're a little easier for people to -- for me to keep track of what I'm asking and for the person trying to provide the answer to understand what the question is.

Is there, under current -- do we currently have a law on the books that says that when a regulation is put forward by a state agency, an analysis of the impact of that regulation on small businesses is required to be done? Through you, Mr. Speaker.

DEPUTY SPEAKER McCLUSKEY:

Representative Berger.

REP. BERGER (73rd):

Through you, Mr. Speaker, there is not one. The bill enables this to be done.

DEPUTY SPEAKER McCLUSKEY:

Representative O'Neill.

REP. O'NEILL (69th):

Thank you, Mr. Speaker. Okay. Well, I guess my understanding, and I've served on the Regulations Review Committee for, probably, 18 of the 20 years that I've been in the Legislature, and I have seen a business regulatory flexibility -- I forget the precise name of it, but an analysis done by an agency in connection with the development of a regulation. I've seen these documents actually presented to the Regulations Review Committee, although I would say more often than not, they are -- they get as far as the Attorney General's office or somewhere else. We don't always see a copy of the report, but it's always been my understanding that there is a provision of state statutes that does require that an analysis be done to determine what the impact of a regulation is going to be on small business. So I guess I would say to the proponent, are you sure?

DEPUTY SPEAKER McCLUSKEY:

Representative Berger.

REP. BERGER (73rd):

Yes. Through you, Mr. Speaker, this bill will actually expand that notification. It also, within

the context of the language, if that -- it allows for an explanation and a process to be put in place that, if that proposed regulation adversely affects the business in its goals, that there be a mechanism in place to allow for regulatory flexibility in its analysis. And in -- also, within that context, it raises a threshold, through you, Mr. Speaker, that we talked about in bringing the bill out in its assumption, through you.

DEPUTY SPEAKER McCLUSKEY:

Representative O'Neill.

REP. O'NEILL (69th):

Thank you, Mr. Speaker. Yes. Because now that I'm looking at the text of the bill instead of the OLR report, I'm seeing that it refers to Section 4-168 of the General Statutes as the place where amendments are being made to that statute, and that's what the bill actually does.

I'm seeing that the threshold for a small businesses is being raised from 50 to 75, which, I assume, means that there will be fewer, potentially fewer analyses or fewer businesses that would be subject to the analysis -- to the protections the analysis would give. Am I -- may I ask, what was the

reason for raising the threshold from 50 to 75?

Through you, Mr. Speaker.

DEPUTY SPEAKER McCLUSKEY:

Representative Berger.

REP. BERGER (73rd):

Yes. Through you, Mr. Speaker, There were considerations made on the financial impact potential and also on the -- what the good Representative stated, the amount of businesses that may fall under the regulation that the bill would enact. Through you, Mr. Speaker.

REP. O'NEILL (69th):

Well. Okay.

DEPUTY SPEAKER McCLUSKEY:

Representative O'Neill.

REP. O'NEILL (69th):

Thank you, Mr. Speaker. Perhaps I misunderstood, or misunderstand how this is going to work. Would a threshold of 50 -- so a larger business would now qualify as a small business, and therefore more small businesses fall underneath the threshold. So does that mean that the analysis is going to be applicable to more businesses? Through you, Mr. Speaker.

DEPUTY SPEAKER McCLUSKEY:

Representative Berger.

REP. BERGER (73rd):

Through you, Mr. Speaker, the OLR analysis states that there may be some potential expense involved in this through the enactment of the bill to require reporting. I don't have a set figure as to what that potential impact would be. We would certainly have to say that the universe could potentially be increased. Through you, Mr. Speaker.

DEPUTY SPEAKER McCLUSKEY:

Representative O'Neill.

REP. O'NEILL (69th):

Thank you, Mr. Speaker. And part of my problem is I think we usually -- or use the small business threshold, saying that a particular provision of law will not apply to a business if it's below a certain threshold. And so, the higher that threshold, the more businesses that are exempted, and the lower the threshold, the more businesses that are subject to the provisions of whatever law that we're talking about. But I think here it's, sort of, a reverse of the situation. What this does is it means that the government has to be taking more care of somewhat larger businesses by treating them as small

businesses.

And so, from a standpoint of business friendliness, I guess, is the intention of the bill to say that we're going to be more sensitive to the concerns of more businesses. Is that one of the overall effects of it? Through you, Mr. Speaker.

DEPUTY SPEAKER McCLUSKEY:

Representative Berger.

REP. BERGER (73rd):

Through you, Mr. Speaker, certainly, it is the intention of the bill to identify those potential problems and to propose legislation that would not be detrimental to small business. Through you, Mr. Speaker.

DEPUTY SPEAKER McCLUSKEY:

Representative O'Neill.

REP. O'NEILL (69th):

Thank you, Mr. Speaker. Now, one of the things that the proponent indicated earlier had to do with a fiscal note being generated. And they were, in fact, our fiscal notes, as I recollect, that are generated on any regulation that we produce, which really, the thrust of which is to determine whether or not the regulation is something that expands upon an agency's

costs or it saves the agency money. And so we'll get a very abbreviated type of fiscal note. In fact, typically the fiscal notes that we get on the Regulations Review Committee say things such as it, doesn't have a fiscal impact because it doesn't change anything from what the agency is already doing or from what the agency has budgeted for. Does this bill change that fiscal note process that would be attached to the fiscal notes that go with the regulations?

Through you, Mr. Speaker.

DEPUTY SPEAKER McCLUSKEY:

Representative Berger.

REP. BERGER (73rd):

Through you, Mr. Speaker, I would imagine that the fiscal note would be affected by the number of regulations that could be filed that would, in turn, change the amount or be the effective amount of potential impact. Through you, Mr. Speaker.

DEPUTY SPEAKER McCLUSKEY:

Representative O'Neill.

REP. O'NEILL (69th):

Thank you, Mr. Speaker. Now, in my scan through the OLR report, I got the impression that there's going to be a requirement that the regulatory

flexibility analysis has to accompany the regulation and places to go find it and make it more transparent and more accessible. A question that I have is in the -- is it the expectation of the proponent and of the committee that if an amend -- if a regulation comes to the Regulations Review Committee without a flexibility analysis that's called for here, that that regulation would not be available for action and, in fact, would not be properly before the committee, as is the case with our fiscal notes here on the floor? Through you, Mr. Speaker.

DEPUTY SPEAKER McCLUSKEY:

Representative Berger.

REP. BERGER (73rd):

Yes. Through you, Mr. Speaker, I believe the Representative is correct.

DEPUTY SPEAKER McCLUSKEY:

Representative O'Neill.

REP. O'NEILL (69th):

And so that one of the things then would be that the committee would have -- have to have that information. And the second, sort of, or another step in that process is, is there an obligation on the part of the committee to make any kind of finding with

respect to -- excuse me, Mr. Speaker. Is there any obligation on the part of the regulations review committee to make any kind of findings with respect to what the content of that regulatory analysis is? Do we have to make a statement of some kind at the time that the regulation is being considered -- or determination? Through you, Mr. Speaker.

DEPUTY SPEAKER McCLUSKEY:

Representative Berger.

REP. BERGER (73rd):

Yes. Thank you, Mr. Speaker. Through you, I do not believe there's any specific time frame. Through you, Mr. Speaker, to the Representative, of review, under -- only under the normal Regs Review Committee process. It does allow the Regs Review Committee to analyze this flexibility analysis in its determination and also for the Attorney General to have this review and analysis of this regulation. Through you, Mr. Speaker.

DEPUTY SPEAKER McCLUSKEY:

Representative O'Neill.

REP. O'NEILL (69th):

Thank you, Mr. Speaker. It seems to me that the -- in many ways, there are two big elements that are

changing here or being added to this statute that we have. One of them is that there be an estimate of the number of small businesses subject to the proposed regulation and the projected costs, including the limited to reporting, record keeping, administrative associated with the compliance with the proposed regulation. And this is new material that an agency is going to have to obtain. And I was wondering if there's any idea of what would be considered to be an acceptable form of estimate in terms of the number of small businesses? When an agency is making this presentation, when they're developing the statement, how do they go about estimating the number of small businesses that might be subject to the proposed regulation? I'm -- in order to know whether they've done their job right or not, the agency I mean, I'm not sure -- it's going to fluctuate significantly from, perhaps, agency to agency and regulation to regulation, but the impact on the small businesses estimated just the number of small businesses that would be affected. What's the expectation about how that's going to be done by the agency? Through you, Mr. Speaker.

DEPUTY SPEAKER McCLUSKEY:

Representative Berger.

REP. BERGER (73rd):

Yes, thank you, Mr. Speaker. I guess again, through you, Mr. Speaker, that that would be that number would be directly affected by the number of regulations that would be imposed by that agency. So the number, I guess, is a moving target and is not determinable at this time, given the context of the unknown number of regulations that may or may not be imposed. Through you, Mr. Speaker.

DEPUTY SPEAKER McCLUSKEY:

Representative O'Neill.

REP. O'NEILL (69th):

Thank you, Mr. Speaker. Well, that, I guess, makes me -- let me explain how the process works now, actually, in the Regulations Review Committee as best as I understand it. If we had a regulation affecting taxicabs' operations, the taxi -- we would go to the Department of Transportation, I believe, which is where -- or Motor Vehicles, wherever these are regulated. And they would have lists of the number of licensed taxicab companies and people who have the right to operate taxicabs under various types of licenses that we have in the state of Connecticut.

And when the regulation is being generated, the agency might very well say that we have to look at the number of taxicab companies, because the regulation that requires taxicab companies to do certain things, and that they would presumably just figure out how many taxicab companies there are that are going to be involved with complying with the regulation. And they're not going to look beyond that, perhaps, to livery companies or some other kinds of companies that might possibly be indirectly affected in some way. And I don't know, hotels could be conceivably -- might be affected by things the taxicabs do or don't do after they've been -- newly added regulations. So my question, through you, Mr. Speaker, is if the agency stopped and looked at the people who are directly affected by the regulation in terms of the businesses that are going to be required to file a report or that are going to be required to change the way they actually do business in order to comply with the regulation, is that what's meant by those kinds -- the number of small businesses? Is that universe of small businesses that are in that category? Through you, Mr. Speaker.

DEPUTY SPEAKER McCLUSKEY:

Representative Berger.

REP. BERGER (73rd):

Yes. Thank you, Mr. Speaker. My guess is, if we could look at -- when we look at the analysis and scope of the legislation, through you, Mr. Speaker, the estimate of the regulation's cost or revenue impact on the state businesses, including estimating the number of small businesses that would have to comply with the regulation, and how much it would cost them, would be part and parcel of the scope of what the bill looks to achieve. Through you, Mr. Speaker.

DEPUTY SPEAKER McCLUSKEY:

Representative O'Neill.

REP. O'NEILL (69th):

Thank you, Mr. Speaker. Well I commend the committee for putting forward this regulation. I commend Representative Urban. I believe this was originally her proposed bill. It is an expression of something that we are already doing. I think, however, it probably takes us in the right direction of making the state of Connecticut and its administrative agencies more sensitive to the impact that regulations have on small business.

One of the things that we won't see in these

types of analyses, perhaps, is that a particular small business might get regulated by virtue of something that happens over at the Department of Public Utility Control. Something else happens to the Department of Transportation. Something else happens to the Department of Health. All of those regulations may impact a particular business. Because it's doing something at the cumulative effect of all of those regulations, I don't believe is necessarily going to be shown, although I would hope that as they -- regulation process and agencies are looking at it, that they look at what other agencies are, in effect, requiring of a particular class of businesses as we move forward with additional regulation, so that we don't overburden, in effect, one class or even a particular business with regulations, which individually the regulations may seem reasonable, but when you add one after another after another on top of a particular business, that it becomes to burdensome. But I think this is a good step in the right direction. Thank you, Mr. Speaker.

DEPUTY SPEAKER McCLUSKEY:

Thank you, Representative O'Neill.

Representative Alberts of the 50th.

REP. ALBERTS (50th):

Thank you Mr. Speaker. And I too, have several questions to the proponent of the bill, if I may, through you, Mr. Speaker.

DEPUTY SPEAKER McCLUSKEY:

Representative Berger, please prepare yourself again. Representative Alberts, you have the floor, sir.

REP. ALBERTS (50th):

Thank you, Mr. Speaker. I guess, I did hear some of the testimony by my -- the previous speaker. But for clarification purposes, if we -- if I may, how will the agency physically conduct this analysis? I mean, I guess, I'm sort of envisioning that every agency may be doing their own analysis and there may not be a template. And I just want to get that straight in my head, if I may, through you, Mr. Speaker.

DEPUTY SPEAKER McCLUSKEY:

Representative Berger.

REP. BERGER (73rd):

I'm sorry. Through you, Mr. Speaker, I had a little sidebar going at the time. If the Representative could please repeat the question.

DEPUTY SPEAKER McCLUSKEY:

Representative Alberts, would you please rephrase your question, sir.

REP. ALBERTS (50th):

Certainly, Mr. Speaker. I apologize in advance because I do not want to be redundant with the line of inquiry from the previous speaker. But if I could get some clarification as to how will that regulatory analysis be done by the respective agencies. I guess I'm sensing that each agency would, basically, be doing their own analysis, that there is no standard template here. And I just want to make sure that I have that firmly in my mind. Through you, Mr. Speaker.

DEPUTY SPEAKER McCLUSKEY:

Representative Berger.

REP. BERGER (73rd):

Yes. Through you, Mr. Speaker. Certainly, yes. That encompasses any state agency and in regulation -- proposing regulations, but that regulation that that state agency imposes would then be subject to review by regs review and the Attorney General's office in determining the final determination of that bill and its fiscal impact, as well as considerations for

public health and welfare. Through you, Mr. Speaker.

DEPUTY SPEAKER McCLUSKEY:

Representative Alberts.

REP. ALBERTS (50th):

Thank you, Mr. Speaker. And the second question, I did see, of course, in the bill language that we're raising the threshold from 50 employees to 75 employees. And I was trying to follow the line of inquiry, but I wasn't certain as to the reason why we were raising that. If I may inquire through you, Mr. Speaker.

DEPUTY SPEAKER McCLUSKEY:

Representative Berger.

REP. BERGER (73rd):

Yes. Through you, Mr. Speaker, it was through the wisdom and advice of the public hearing process and the legislative process and the committee's review, that that number was determined to be the appropriate number. Through you, Mr. Speaker.

DEPUTY SPEAKER McCLUSKEY:

Representative Alberts.

REP. ALBERTS (50th):

Thank you, Mr. Speaker. And if I may, a third question, and I believe, my final question. Looking

at the bill that's before us, in lines 28 through lines 33, it looks like it really gets to the heart of what we're asked to debate today, and if -- I just want to -- if I may direct the proponent to that section.

One of the things that I picked up on is that the small business analysis shall include, but not limited to reporting, record keeping and administrative associated with compliance with the proposed regulation. And I'm curious as to what other aspects might be additive to this, perhaps, in the mind of the proponent of the bill. Through you, Mr. Speaker.

DEPUTY SPEAKER McCLUSKEY:

Representative Berger.

REP. BERGER (73rd):

Yes. Through you, Mr. Speaker, the only other issues I would, through you, Mr. Speaker, obviously as cited in the bill, reporting record keeper, record keeping administration. And, I believe, certainly, the intent of financial consideration of public health and welfare and also, the genesis of that through the Attorney General's office in his review of the regulation as it may affect that state agency. Through you, Mr. Speaker.

DEPUTY SPEAKER McCLUSKEY:

Representative Alberts.

REP. ALBERTS (50th):

Thank you Mr. Speaker. And it would be the proponent's perspective that an agency, for example, could opine as to what the impact on jobs in the state of Connecticut might be as a result of the proposed regulation? Through you, Mr. Speaker.

DEPUTY SPEAKER McCLUSKEY:

Representative Berger.

REP. BERGER (73rd):

Through you, Mr. Speaker, yes. That would be a consideration.

REP. ALBERTS (50th):

Thank you, Mr. Speaker. I thank you for allowing the questions. I am very supportive of this bill. I think it is extremely well intentioned. I think that this bill goes to the heart of one of the challenges that we have in the state of Connecticut. I think during testimony, during this session, we did hear that the state of Connecticut has fewer businesses in the year 2006 than it had in 1989, and any measure, and I think this is one that goes to strengthening small business in the state of Connecticut, is one

that we should pursue and support. So it's without reservation, Mr. Speaker, that I support this measure. Thank you.

DEPUTY SPEAKER McCLUSKEY:

Thank you Representative Alberts. Representative Urban of the 43rd, madam, you have the floor.

REP. URBAN (43rd):

Thank you, Mr. Speaker. I simply am rising again to say that during this terrible economic time that we're experiencing, anything that we can do to help our small businesses prosper in the state of Connecticut is a step in the right direction, and I applaud the Commerce Committee for bringing this bill forward. And I urge my colleagues to support it. Thank you, Mr. Speaker.

DEPUTY SPEAKER McCLUSKEY:

Thank you, madam. Representative O'Connor of the 35th.

REP. O'CONNOR (35th):

Thank you, Mr. Speaker. I rise in support of the concept that's incorporated into this bill. I think it's a long time coming. I think one of the things that I hear about a lot of times from the small business community is the onerous regulations that the

state of Connecticut puts on them, and it makes it harder and harder to do business and grow jobs. And I think it's a good concept, and it's something that we need to do more of. If I could, a question to the proponent of the bill just for clarification:

REP. McCLUSKEY (20th):

Representative Berger, please prepare yourself.

Representative O'Connor, you have the floor.

Representative O'Connor.

REP. O'CONNOR (35th):

Thank you, Mr. Speaker. Through you, a question to the proponent of the bill. I guess one of the questions I have is, who will be conducting the analysis? I guess I know it may have been touched on in a previous question, but I just wanted to get this on the record. One of my concerns is that the regulatory agencies are going to be conducting the studies and analysis and they're going to come up with a self-fulfilling promise or prophecy that it has no impact. So I would ask the proponent of the bill if he can clarify that for me.

DEPUTY SPEAKER McCLUSKEY:

Representative Berger.

REP. BERGER (73rd):

Yes. Certainly, through you Mr. Speaker, it's certainly the intent that each individual state agency that proposes the regulation must propose that regulation under a certain set of criteria. It's, through you, Mr. Speaker, it's certainly the public health and safety and also, the good Representative can refer, I believe, through lines 28 through 34 there's a set of criteria that is subject to the review of that regulation and its impact. Through you, Mr. Speaker.

DEPUTY SPEAKER McCLUSKEY:

Representative O'Connor.

REP. O'CONNOR (35th):

Thank you, Mr. Speaker. And based on the recommendation or the financial impact that's proposed by the -- that comes out of the analysis, is it going to be advisory, or could it stop a regulation in its tracks? Through you, Mr. Speaker.

DEPUTY SPEAKER McCLUSKEY:

Representative Berger.

REP. BERGER (73rd):

Yes. Through you, Mr. Speaker, if that regulation were to come out of regs review and review of -- the Regs Review Committee and/or the Attorney

General's office and we're to find it to be adverse under those certain set of criteria outlined in the regulate -- outlined in the bill, that that would -- that regulation then would have to be changed and amended to take the onerous aspects out of -- it's our regulatory purpose. Through you, Mr. Speaker.

DEPUTY SPEAKER McCLUSKEY:

Representative O'Connor.

REP. O'CONNOR (35th):

Thank you, Mr. Speaker. Just one final question. Through you, is this retroactive? Now, would it affect any of the regulations that are currently going forward, or would it be prospective? Through you, Mr. Speaker.

DEPUTY SPEAKER McCLUSKEY:

Representative Berger.

REP. BERGER (73rd):

This would be regulations from passage of the bill forward. Through you, Mr. Speaker.

DEPUTY SPEAKER McCLUSKEY:

Representative O'Connor.

REP. O'CONNOR (35th):

Thank you, Mr. Speaker. I think the gentleman for his answers and offer my support for the bill.

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Again, I think it's a long time coming and, hopefully, will produce a better business-friendly climate here in Connecticut.

DEPUTY SPEAKER McCLUSKEY:

Thank you. Will you remark further?

Representative Cafero of the 142nd. Sir, you have the floor.

REP. CAFERO (142nd):

Thank you, Mr. Speaker. Mr. Speaker, the Clerk is in possession of LCO Number 5513. May he call and I be allowed to summarize?

DEPUTY SPEAKER McCLUSKEY:

Will the Clerk please call LCO 5513, and will he please be designated House Amendment Schedule A.

THE CLERK:

LCO 5513, House A offered by Representatives
Cafero, Hamzy and Klarides.

DEPUTY SPEAKER McCLUSKEY:

Representative Cafero, you have the floor, sir.

REP. CAFERO (142nd):

Thank you, Mr. Speaker. Ladies and gentlemen of the Chamber, the amendment that's before us calls for a jobs impact study to be part of our normal procedure as we go about our business here in the Legislature,

and I would move adoption.

DEPUTY SPEAKER McCLUSKEY:

Question is on adoption of the amendment, House Amendment Schedule A. Will you remark further, Representative Cafero?

REP. CAFERO (142nd):

I will. Thank you, Mr. Speaker. Ladies and gentlemen of the Chamber, every day we raise -- pick up a newspaper, turn on our radios or televisions and we learn of job losses, especially in this economy. All over the state we hear from employers large and small about what we do in this Chamber obviously affects the economic climate to a great degree and obviously affects the kind of jobs that are either lost or gained in the state.

We, as a Legislature, have deemed it necessary in our rules and in our laws to have a fiscal impact on all the bills we do. We want to be sure what we know it's going to cost when we pass a particular bill and to whom the bill is going to be given to. We have requirements in our rules and in our laws that say we need to know before we, as a Legislature, act on a bill what the municipal impact is. Does it have a mandate? Will it be extra costly or unfunded to our

municipalities? Most recently, we, even as a Chamber, discussed racial impact of the various measures that we take action on it in this Chamber and in the various committees. What this amendment before us simply says is that from this point forward we are going to have a jobs impact, so we know, before we pass and as we deliberate these bills, the impact on jobs that that bill will have, either positive or negative, to our state and our economy.

And I would say at all times -- if at any time, I should say, this is the most important time that we as Legislators know exactly the impact on employment or unemployment that our actions are going to take. How many times have we heard from small businesses how measures that we voted upon or regulations, as is the -- as concerned with the underlying bill, how they affect their business, how it gets played out in the workplace? And sometimes bills that we passed for very innocent or noble reasons, we don't realize, from this perch, the actual effect it has in costing people their jobs. This amendment requires us to have that information before us before we pass on legislation. And with that, Mr. Speaker, I would ask that when the vote be taken, that it be taken by roll.

DEPUTY SPEAKER McCLUSKEY:

Thank you. The motion before us is a roll call vote. All those in favor of a roll call vote, please signify by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER McCLUSKEY:

All those opposed, no.

REPRESENTATIVES:

No.

DEPUTY SPEAKER McCLUSKEY:

Excuse me. I apologize. It's my first time, Representative Cafero. The requisite 20 percent has been met. We will be voting on this amendment by roll. Will you remark further on this amendment? Representative Berger.

REP. BERGER (73rd):

Thank you, Mr. Speaker. Certainly, given these economic times that no one could -- no one in this Chamber is going to say that we are not for jobs, nor are we not for how what we do in this General Assembly affects jobs in the state, because the conversation this year on both sides of the aisle has been on the effect on jobs and how it affects the economy.

I however, through you, Mr. Speaker, have to oppose this amendment, because I certainly believe that this widens the scope of the original intent of this bill that was brought through Commerce on a unanimous 20 to nothing vote across bipartisan lines and that, certainly, while laudable in its context, there is a process that this Legislature goes through when it enacts the rules of this body and that it is not needed through legislation, nor is it needed to be imposed on this bill at this time, which creates a wide-reaching amendment, a wide-reaching bill that goes beyond the context of the original intent. Whereas, through you, Mr. Speaker, we can address the Representative's concerns through the rules that this Chamber enacts, not through an amendment on this important bill that affects small business and its regulatory impact. Through you, Mr. Speaker.

DEPUTY SPEAKER McCLUSKEY:

Thank you, Representative Berger. Will you remark further on House Amendment Schedule A? Representative O'Neill of the 69th. Sir, you have the floor.

REP. O'NEILL (69th):

Yes. Thank you, Mr. Speaker. It is my

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recollection, and I could be wrong, but it is my recollection that the requirement for a racial impact statement, which we just did the first request for one in the Judiciary Committee a couple of weeks ago, was something that was introduced as a piece of legislation. And I'm not quite sure who I would direct a question to to verify my recollection on this subject. I am tempted to direct my question to -- Representative from Danbury, the Deputy Speaker.

DEPUTY SPEAKER McCLUSKEY:

Representative Godfrey of the 110th.

REP. GODFREY (110th):

Thank you, Mr. Speaker. And the question again was, Representative --

REP. O'NEILL (69th):

My recollection is that we adopted the requirement for a racial impact statement, which is available as an option to committees to request as a piece of legislation, which was then developed into part of our rules. But there was a piece of legislation that started that process. So through you, Mr. Speaker, am I correct that that was how the racial impact statement was generated?

DEPUTY SPEAKER McCLUSKEY:

Representative Godfrey.

REP. GODFREY (110th):

Thank you. Thank you, sir. Thank the gentleman for repeating the question. Last spring, we passed legislation that asked the Judiciary Committee to consider the issue of racial impact statements and to make recommendations and report them back to the full General Assembly in time for the adoption of our rules at the beginning of the new session in January.

So the -- it was merely that. It didn't say by statute that we were going to do this. It asked the Judiciary Committee to come up with language, which we then inserted in the rules because, of course, we don't do rules by statute. They don't bind us. They don't bind future Legislatures by -- because for a number of reasons, both constitutional and for just separation of powers reason, we don't need the Governor's signature to decide on whether rules are going to be, is basically what it comes down to.

So it was a request by the House and the Senate to have the Judiciary Committee come up from -- with language which we could or could not have chosen to adopt and make part of our rules at our own wishes, on January -- in January. As it turned out, they did

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come up with language. I think they were polished a little bit and included in the rules for the session, but the -- it was merely a request that was statutory. It wasn't establishing a rule. Thank you, Mr. Speaker.

DEPUTY SPEAKER McCLUSKEY:

Representative O'Neill.

REP. O'NEILL (69th):

And if I could take further advantage of the Deputy Speaker's presence in the -- with respect to the requirement that each bill have a fiscal analysis and that each amendment have a fiscal analysis, I know that that's in our rules, but I -- but a lot of times there are things that are called for that end up in statute as well. And my question is, was that done statutorily or simply by the rules, if the Deputy Speaker knows? Through you, Mr. Speaker.

DEPUTY SPEAKER McCLUSKEY:

Representative Godfrey.

REP. GODFREY (110th):

The fiscal notes requirements. Do I have that straight?

REP. O'NEILL (69th):

Yes. Every --

REP. GODFREY (110th):

Yeah. That even goes back before my time, Representative O'Neill. I have no idea where the derivation -- in my entire time in the Legislature, even going way back to when I was staff in the 1970s, to the best of my knowledge and belief, that's always been part of the rules. I suggest we might have to actually have to go back to the creation of the independent stand-alone Legislature in the late 1960s and early '70s to have that question answered. Thank you, Mr. Speaker.

DEPUTY SPEAKER McCLUSKEY:

Thank you, Representative Godfrey.

Representative O'Neill.

REP. O'NEILL (69th):

Thank you, Mr. Speaker, and I thank the gentleman for his answers.

DEPUTY SPEAKER McCLUSKEY:

Will you care to remark further on House Amendment A? Will you care to remark further on House Amendment Schedule A? If not, will staff and guests please come to the well of the House. Will the members please take your seat. The machine will be open.

THE CLERK:

The House of Representatives is voting by roll call. Members to the chamber. The House is voting House Amendment Schedule A by roll call. Members to the chamber.

DEPUTY SPEAKER McCLUSKEY:

Have all the members voted? Have all the members voted? Will the members please check the board to determine whether your vote is properly cast. If all the members have voted, the machine will be locked and the Clerk will take a tally. Clerk will please announce that tally.

THE CLERK:

On House Amendment Schedule A.	
Total Number Voting	143
Necessary for Passage	72
Those voting Yea	40
Those voting Nay	103
Those absent and not voting	8

DEPUTY SPEAKER McCLUSKEY:

The amendment fails. Will you remark further on the bill? Representative Hamzy of the 78th, sir.

REP. HAMZY (78th):

Thank you, Mr. Speaker. Mr. Speaker, I rise to pose a couple questions to the proponent of the bill.

DEPUTY SPEAKER McCLUSKEY:

Representative Berger, please prepare yourself once again, sir. Representative Hamzy, you have the floor.

REP. HAMZY (78th):

Thank you, Mr. Speaker, through you, to Representative Berger. Representative Berger, does this bill before us do anything to eliminate any regulations that adversely impact businesses currently? Through you, Mr. Speaker.

DEPUTY SPEAKER McCLUSKEY:

Representative Berger.

REP. BERGER (73rd):

Through you, Mr. Speaker, this will affect regulations, state regulations moving forward upon passage of the bill. Through you, Mr. Speaker.

DEPUTY SPEAKER McCLUSKEY:

Representative Hamzy.

REP. HAMZY (78th):

And if -- so, through you, to Representative Berger, there's nothing in this bill that eliminates any existing regulations that adversely impact small

businesses to make their lives a little bit easier.

Through you, Mr. Speaker, is that accurate?

DEPUTY SPEAKER McCLUSKEY:

Representative Berger.

REP. BERGER (73rd):

Yes. Through you, Mr. Speaker, only if that regulation were to be somehow amended or changed after passage of the bill, then through you, Mr. Speaker, it would be addressed at that time.

DEPUTY SPEAKER McCLUSKEY:

Representative Hamzy.

REP. HAMZY (78th):

Thank you Mr. Speaker, and I also want to rise and just put on the record, just as a clarification, I know Representative Godfrey was probably caught totally off guard, but it is in our statutes that a fiscal note is required of any bill that we act on in addition to being in our rules. But I also want to state that while I support the concept of this bill, the real issue is that we have a whole bunch of regulations in this state that adversely impact businesses, whether they're small or large. And while this bill will serve to shine some light on future regulations that are proposed, it does absolutely

nothing to impact or eliminate regulations that currently affect, in a negative manner, small businesses in the state.

And so, I'm not sure that this bill can be described as one that is going to help small businesses deal with the economic realities of the day. But I do believe that, hopefully, it'll have the impact of preventing future regulations that will adversely impact businesses from seeing the light of day in the future. Thank you, Mr. Speaker.

DEPUTY SPEAKER McCLUSKEY:

Thank you, Representative Hamzy. Will you remark further on the bill? Will you remark further on the bill? If not, will staff and guests please come to the well of the House. Will members please take your seats. The machine will be open.

THE CLERK:

The House of Representatives is voting by roll call. Members of the Chamber. The House is voting by roll call. Members to the chamber, please.

DEPUTY SPEAKER McCLUSKEY:

Have all the members voted? Have all the members voted? Will the members please check the board to determine if your vote is accurately cast. If all the

members have voted -- oh, excuse me. Have all --
yeah. Have all the members voted? Okay. If not --
excuse me. If the members have voted, the machine
will be locked and the Clerk will please announce the
tally -- please take the tally. Will the Clerk please
announce the tally.

THE CLERK:

House Bill Number 5930 as amended by House A.

Total Number Voting	142
Necessary for Passage	72
Those voting Yea	142
Those voting Nay	0
Those absent and not voting	9

DEPUTY SPEAKER McCLUSKEY:

The bill passes.

Will the Clerk please call Calendar Number 150.

THE CLERK:

On page 8, Calendar 150, House Bill Number 5533,
AN ACT CONCERNING LOCAL APPEALS OF DECISIONS OF LOCAL
TRAFFIC AUTHORITIES, favorable report of the Committee
on Planning and Development.

Speaker Donovan in the Chair.

**JOINT
STANDING
COMMITTEE
HEARINGS**

**COMMERCE
PART 2
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2009

(There is a discussion off the record.)

REP BERGER: Representative Urban, why don't you go ahead and come up and then we'll have to - it gets a little confusing because we have to record this - very good. Representative Urban.

REP. URBAN: Thank you, Mr. Chairman.

REP. BERGER: I have to put up with the staff, which they are going to lambaste me.

REP. URBAN: I apologize, they had called me upstairs to chair a meeting and they're waiting for me upstairs, so I ran downstairs.

REP. BERGER: I understand. Yes. Yes.

REP. URBAN: I will be brief. You have my testimony in front of you. For the record, I am Diana Urban, State Representative of the 43rd District. And I'm here to testify on House Bill 5930, an Act Requiring Small Business Analysis for Proposed Regulations.

I'm going to assume that everybody here can read. So I'm not going to read my testimony to you. I'm merely going to say that we all talk about small business being the economic engine of our country, the vehicle for entrepreneurship for growth and recovery. I included a few statistics about small business in Connecticut.

And what the point of these regulations, or this bill, is to take any regulation that might have an impact on small business and do an analysis of that regulation and the analysis would be based on certain issues which would be: How many businesses are affected? What other costs might be incurred because of this regulation? Whether there are

administrative costs? What are the recording costs, et cetera? And if the analysis reveals that there's an impact on our small businesses. And for the purposes of this bill, we've defined small business as 75 employees or less; or \$5 million in revenues or less.

There is a list of five methods of mitigating the impact. And if you go through those in the bill, it's simply less stringent compliance or recording; less stringent schedules, et cetera, et cetera, to the point where we can actually exempt a small business from any or part of the requirements in the proposed regulation.

We all know what economic - the economic situation that we're facing. We all know the depths of this recession - sorry - recession. And we all know that we have yet to experience the full impact.

I would offer to you that it is our small businesses that we can look to, to start to get this economy back on its feet. As you know, they are the major employers and that's not just in Connecticut, it's across the country.

So I would hope that we would be able to work out this legislation. I'm sure that there are issues that are still needed to be worked out in the language. But I would also point out to you that these have been done, and they are being promulgated by the small business administration in Rhode Island, Maine, Colorado, Utah and Arkansas, without a fiscal impact.

So attached to the - my testimony, is a small business impact analysis template, which would

show you how, given an example, you would go to a computer and be able to do this. And I think that when you see it, you will see that it is not asking for an extensive economic analysis. It's asking for the impact on a small business. It's not that difficult to do.

I would also like to thank the Chairs who have been tremendously supportive of helping small businesses of this bill. So I'm available for questions if I can actually catch my breath after running up and down the stairs twice.

REP. BERGER: Thank you, Representative, for your testimony. And this committee certainly thanks you for your diligence and work on behalf of both small business and microbusinesses in the state of Connecticut. You know, you've been a very vocal champion through the years, at least since I've been here. So, again, thank you for your work. And this committee thanks you. Any other questions from committee? Representative Williams.

REP. WILLIAMS: Thank you, Mr. Chairman. And thank you Representative Urban, for being here today. Just a quick question. I noticed that this legislation refers to proposed regulations. I guess I'm curious as to whether you would also - or what your thoughts would be on extending that to proposed legislation here in the Capitol, as well.

We often times hear about the negative impact that a possible new law would have on the business community and on private sector jobs. And I'm just curious as to whether you would support extending that to - let's say a job's impact statement - on a new proposed law?

REP. URBAN: Thank you, Representative Williams. And I would say to you that this would go back to one of my other areas that I push in this building and that is, results based accountability.

I would love to establish, as a quality-of-life result to the state of Connecticut, that we be friendly and promote business in the state of Connecticut. Once you establish that result statement, then you can work backwards to the mean.

And by that, I mean, what programs do we have? And are they getting us to that result? Therefore, what you have been suggesting would become part of that analysis.

So are there legislation - is there legislation and laws out there that are not getting us to the result? And if there are, are they getting us to another result that we want for the state? Or are they simply acting as a barrier to business and to economic growth and development?

So I would love to do that in the larger context of what is important to the people of the state of Connecticut. Set that outcome or result or whatever it is you want to call it and however you want to articulate it, and then look at it in a holistic manner. But, I guess the short answer is yes.

REP. WILLIAMS: Well, that wasn't a very short answer, but I appreciate that. Thank you, Representative Urban.

REP. BERGER: Thank you. Any other questions? Thank you for your testimony.

REP. URBAN: Thank you, Mr. Chairman. And also, thank you for recognizing my efforts on small business and microenterprise. I truly appreciate it. And you have been a champion in helping me. So thank you.

REP. BERGER: Thank you. Okay. Matthew Nemerson, let's go round two. You can - we're doing three minutes, though. Did we announce three minutes? No, we didn't.

Okay, Mr. Nemerson, we have to get you to just - so you can start your testimony right from the beginning again. State your name and so forth. Thank you. Can you please put that mike on?

MATTHEW NEMERSON: I'm Matthew Nemerson and I am president of the Connecticut Technology Council, which is a statewide trade association and representing a community of about 2,500 companies, 150,000 jobs and many other startup companies and startup concepts.

And that's what I really want to talk about today, which is speaking in support of Bill 883, having to do with an angel tax credit.

And, actually, the previous testimony from Representative Urban fits in very well because within the small business community, entrepreneurs come in many different shapes, and sizes, and flavors. And we're really talking about those that are creating companies that have the potential to grow very quickly.

And, certainly, we want to support all small businesses, but in the long run, when we look at where jobs are created, they're probably created in a small subset of small businesses that grow from one to two people; quickly to

MATTHEW NEMERSON: Thank you, Mr. Chairman. Thank you very much.

SENATOR LEBEAU: Eric Brown.

ERIC BROWN: Good morning, Senator LeBeau, members of the Commerce Committee. My name is Eric Brown. And I'm associate counsel with the Connecticut Business and Industry Association. And I'm happy to be here today to testify in strong support of House Bill 5930, an Act Requiring Small Business Impact Analyses for Proposed Regulations.

I have submitted written testimony. And I - what I'd like to direct my comments to this morning are what we understand is the only potential adversarial position, if you will, for this bill, which is the concern on the part of at least some administrative agencies that this will create a new burden for them and be costly and will generate a fiscal note. We would certainly take a different view of that for a couple of reasons.

Number one, we think it's a fundamental charge of any regulatory agency, as part of their adoption process, to take a look at what the potential impact of their regulations are in the regulated community.

We think the legislature agrees with that and has spoken to that, at least with respect to small businesses, by putting laws on the books to make sure that that consideration happens. And the problem is, as best we can tell, it's essentially not happening.

So what this bill is designed to do is to make some changes, both procedural and substantive, to make sure that these - these considerations are done by the agencies; that they're done

well; it directs them in terms of what the substance of those analyses needs to be; and that they're done in a timely fashion. So that they can be reviewed both by yourselves, by the public, by the reg. review committee, et cetera, before final adoption.

A lot of the provisions in the laws that are up for changing - these are primarily in the UAPA, 168a, 168 and 170 - refer to a timeframe of prior to adoption. Agencies have to do this or that prior to adoption.

Well, adoption doesn't really take place until the darn thing is filed with the Secretary of State. So from a timing standpoint, you know, these things could be dropped off somebody's inbox as they're being - after they're approved by reg. review and on their way over to the Secretary of State's office. That would constitute prior to adoption.

So you'll see the bill in several areas changes that timeframe - I think there's a couple, at least one other area that needs to be changed and wasn't - to a timeframe where these things are prepared prior to the public notice for - the notice for public comment that's required for all regulations. That way it's done in plenty of time for the public to review it, as well as reg. review in the legislature.

Specifically, 168a is the requirement for regulatory flexibility that Representative Urban talked about. Procedurally, again, the timeframe is proposed to be changed.

On the substantive side, we're looking to have that number change from 50 to 75, in terms of what a small business is. Personally, I think the requirements in that section should apply

to any regulation for any business. To me, I can't conceive of an argument that says, If there's a better way to do it - where you can achieve the goals of the regulation in a way that is less burdensome on business, be it small or large - it ought to be done, but since this is a small law, we'd like to at least see the expansion of what - what is considered small business.

On the other Section 168 - 4-168 requires a fiscal note. And again, as with 168a, these are already required. The small business flexibility analysis is already required. All this is saying is, You've got to do it earlier. And we'd like the definition of small business to change. It's not a new burden for the agency.

Similarly, 168, requires a fiscal note to be done, not a new burden. The difference on a substantive side is that the current requirement for a fiscal note says that they only have to do it for fiscal impact on municipalities, as well as the state. We think, again, as a fundamental truth, really, they ought to be doing it. They ought to understand the impact on those that they're regulating.

So the argument that, Well, you know, fiscal analyses on businesses, we're not prepared to do that. We're, you know, we're regulators. Well, you're already supposed to be doing it, at least, for municipalities and for the State. And if you can do it for them, there's no reason you can't identify the types of businesses you're going to effect. Call up three or four of them and say, you know, what would be the impact if we did this on your guys? And let's make - again, it does have to

be a detailed analysis of every business that would be impacted.

I haven't seen Representative Urban's template, but I certainly support that idea. It just needs to be a bonafide effort to say, Take a look at this and comply, really, with what the legislature is looking for them to do anyways.

So I hope that we can effectively counter together any argument that this going to have a fiscal impact and that agencies aren't currently either required to do this, or that they would have to hire additional staff, or additional expertise to do that. We simply don't think that's the case.

So I'll end my comments there, and thank you for bringing the bill out. And we strongly support it and look forward to working with all of you to get this thing through this year. Thank you.

SENATOR LEBEAU: Thank you, Eric. Questions from members of the committee?

SENATOR FRANTZ: Thanks, Mr. Chairman. Eric, good morning. Can you give us, just very briefly, what you think? And you don't have to be too specific here, but the general areas in which regulations exist today or could exist in the not too distant future, that are the most harmful to the generation or expansion of business in Connecticut?

ERIC BROWN: Well, I'm a little bit jaded in that Senator Frantz, in that one of my issue areas has been for 15 years, the Department of Environmental Protection and worked for the agency three-and-a-half years before that.

You know, I think there are - there are some really good examples there.

For example, our regulations that deal with water discharges, those regulations are designed to go into the facility - the design of the facility, where the values are; where the pipes are. And, you know, in the small business flexibility act, one of the methods that they talk about relieving the burden on small businesses, is to make the regulation more performance based: Here are the numbers that you have to meet in your effluent that comes out of the pipe. Up to you how you do it. But if you make the effluent limits, we're fine with you. If you don't, we're going to come hard - down hard on you in enforcement.

So, you know, I think there are - certainly, in the environmental area - there's a lot of those types of regulations. And they are also very, very complex regulations. So it's hard, particularly; for small businesses that don't have a legal staff, or - you're talking more about this in the environment committee tomorrow in their enforcement bill - to be able to understand these things.

So, certainly, environment is one. I'm sure - I mean, I don't work in the tax area, thank God, but I'm sure there are a lot of regulations there that are difficult, challenging, and, you know, more burdensome than they need to be.

The point is the analysis ought to be done to - if I may - to Representative Williams' questions earlier about the legislative process. I did put a little paragraph at the end of my testimony about the current authority of the reg. review committee to

require agencies every five years to take a look at existing regulations, not just the proposed new ones, but existing regulations. Are they out of date? Are they still working? Are they useful? Are they more burdensome than they need to be and so forth. To try and cut down, not just looking forward on prospective regulations, but on existing ones. And we're encouraging them - I don't think that analysis has been in well over ten years. It's supposed to be done every five.

So I think in this economic climate, it's really important not to forget about the regulations and the impact they have on businesses. This bill would help in terms of new regulations going forward. I think the analysis that the reg. review committee can put in place will help on existing regulations.

So I hope that was somewhat responsive to your question, Senator. I'm sorry.

SENATOR FRANTZ: That's a great answer. And thank you very much. Thanks, Mr. Chairman.

SENATOR LEBEAU: Eric, I'd like to question you about - you'd like to see the definition of small business changed to 250 employees.

ERIC BROWN: Yeah.

SENATOR LEBEAU: And that might be interesting. But don't you think that would then engender a fiscal note? I mean, you make an argument that they should already be doing it; therefore, there should not be fiscal note. But how do you then say you should quadruple the - or triple -

ERIC BROWN: Yup.

SENATOR LEBEAU: - depending on which number you use 50 or 75, those numbers without getting a fiscal note. I mean, that's going to drop. And that's going to kill it.

ERIC BROWN: Yeah. Well, and that's why, in working with Representative Urban and others, I - I pulled back and was happy to agree to 75 because of that issue and - and even if we lose that - I don't want to lose the bill. My point is the - our understanding is that there's something on the order of 19 different definitions of what a small business is in state statute.

And under the Regulatory Flexibility Act there, 168a, it's really at the low end: 50 employees, 5 million gross revenue is one of the smaller, if not the smallest threshold for what a small business is. Obviously, the federal government -

SENATOR LEBEAU: Maybe you could clear that up here. What is the current law in relation to regulations?

ERIC BROWN: The current law in this - in the statute that this bill is designed to address is 50 employees, or less than 5 million in gross revenue. So, you know, the point is, that's - that's a very small business. And - and I guess it goes to my point earlier, I mean if we - if we had our way, this would apply to any regulation that - I mean, it only - to me it only makes sense that we understand what we're doing before we do it, and what the impact is.

So that's not a - I mean, I put the 250 in there to try and make a point. We're obviously - we don't want to do anything to

jeopardize the bill. And, you know, perhaps in these economic times, we can't do anything about that definition, small business, but we wanted to make a point that this is an important consideration, even for large businesses. We ought to know what the impact eventually is, in terms of jobs. And other aspects of their - of their operations.

SENATOR LEBEAU: Yes, and I understand your point. I agree with your point. But I don't agree with it going to 250 because it will kill the bill -

ERIC BROWN: We don't want to do that.

SENATOR LEBEAU: - then the purpose becomes the enemy of the good.

ERIC BROWN: That's right.

SENATOR LEBEAU: And we don't want that to happen with this bill.

ERIC BROWN: Absolutely.

SENATOR LEBEAU: But I - again, I thank you. I thank you for that testimony.

ERIC BROWN: Yes.

SENATOR LEBEAU: Do you have any other thoughts, since this is essentially what the bill really is, like kind of a wakeup call, hopefully, to try to get what is supposed to be taking place, taking place.

Do you have any thoughts on how to prevent - any ideas on this fiscal note issue? And if it was talked about earlier, I apologize, members of the committee, because I had to head up to finance for a little while. Do you

have any thoughts on keeping this fiscal note not - have no fiscal note on this bill?

ERIC BROWN: Yes. Well, you know, I guess that fiscal notes are always somewhat subjective, as I understand it. And so for example, if you've been going out - say publicly here, I mean if you're going from 50 to 75 employees is going to justify a fiscal note that could jeopardize the bill, I'd rather stick with 50 employees.

But on the - on the issue of conducting these things, you know, other than spelling out in more detail what should be in, say a fiscal note. And, I guess, that's the one other area extending it beyond a consideration of municipal impact and state impact, but to me it's - I mean, when they do a municipal impact, they don't contact all 169 towns -

SENATOR LEBEAU: Right.

ERI BROWN: - and do a detailed analysis of how each - how the regulations are going to affect each of those towns. You do sort of a subjective overview of: Okay, here's our understanding. Maybe you contact a couple of towns of different sizes, see how it's going to impact. You know that doesn't - that doesn't require a lot of time, effort or additional expertise.

And, similarly, with - with business, you know, if I'm the DEP, and I'm going to do something that regulates, you know, flower shops, I don't have to go around and identify every flower shop and see what's going to happen, if they can do this or can't do that. But I do need to contact a few, ask them to come, sit down with us for a couple hours, help us understand what the impact is, and

then write-up a summary of that. I think - you know, I don't think it's an unreasonable burden that we're talking about here.

If there needs to be language in the bill to, you know, make agencies more comfortable, then that's the kind of analysis we're talking about and not a detailed thing, where they have to go around 169 towns. Maybe we can fashion some language to that effect. But I think it's really, you know, a red herring to say that, oh, my gosh, you know, we don't have the expertise, and we'd have to hire all these people. I just think that that's not - in my own view - that's not a credible - credible argument.

How do you fight that? How do you make sure that the fiscal note says zero on it? You know, you guys are closer to that process than I am. But, we'd be glad to help in any way we could.

SENATOR LEBEAU: Thank you, just trying to draw upon your experience. Also, Eric, you've been around the block a few times.

ERIC BROWN: Yes, sir.

SENATOR LEBEAU: Any further questions by members of the committee? If not, thank you very much.

ERIC BROWN: Thank you all.

SENATOR LEBEAU: Mr. Ed Jones.

EDWARD JONES: Good morning, Senator LeBeau, members of the committee. My name's Ed Jones. I'm a general manager of Advanced Vending Company. It's a small, family-owned vending company in Newington. I'm not part of the'

HB 6424

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CBIA

Connecticut Business & Industry Association

**TESTIMONY OF
ERIC J. BROWN
BEFORE THE
COMMERCE COMMITTEE
FEBRUARY 17, 2009**

Good morning. My name is Eric Brown and I am an associate counsel with the Connecticut Business and Industry Association (CBIA). CBIA represents approximately 10,000 Connecticut businesses, both small and large companies throughout Connecticut. Approximately 90% of our member companies have fewer than 50 employees.

**CBIA appreciates this opportunity to communicate its
strong support**

for

**H.B. No. 5930: An Act Requiring Small Business Impact Analyses for
Proposed Regulations**

CBIA is very grateful to the committee for bringing this bill forward.

Especially in tough economic times, any new government regulation can potentially mean lost jobs — or even lost businesses. That's why it is so important that the legislature take action this session to reform the regulatory adoption process.

While this bill may extend the time it currently takes to adopt new regulations, it **will not require any additional funding**. We believe it is a core responsibility of an agency to recognize the impact its proposed regulations could have on our businesses and our economy.

By law, agencies are already supposed to conduct a regulatory flexibility analyses identifying potential impacts of proposed regulations on small businesses and "considering" a variety of methods for reducing that impact (see section 2(b), lines 73-86 of the bill). In nearly 20 years of working with Connecticut regulations, I don't recall ever seeing documentation of such an analysis. Perhaps part of the reason is that current law only requires the analysis to be prepared "prior to adoption of the proposed regulation." (see subsection

2(b), line 67). In other words, such an analysis could theoretically be conducted after the

Regulations Review Committee approves the proposal and it is headed to the Office of the Secretary of State for filing!

Section 1 of HB-5930 would correct this procedural failing by requiring that these regulatory flexibility analyses be completed no later than the date of publication of the minimum 30-day notice for public comment required for proposed regulations (see section 1(a)(D), lines 13-15).

In our view, considering methods for reducing the impact of proposed regulations on businesses should be a fundamental priority – and not just for small businesses, but all businesses. We can not conceive of a single justification for unnecessarily burdening any sized Connecticut business with regulations where the goal of the regulation could be accomplished in a manner that is less burdensome to our state's businesses. Section 2(a)(2) of the bill (see line 60) seeks to expand the definition of small business for purposes of the regulatory flexibility analyses from 50 employees to 75 employees. **CBIA would like to see the definition for "small business" for purposes of 4-168a substantially increased to 250 employees – still half the size of a "small business" as defined federally and elsewhere in Connecticut law.**

Another critically important aspect of this bill is that it expands the scope of the fiscal analysis already required to be prepared by agencies, to include the fiscal impact on small businesses (see section 1(a)(5), lines 25-33). Again, the proposal would insure that this impact statement would be completed no later than the date of the publication of the notice for public comment. Including this provision, among other things, will insure that a bona fide and publically reviewable analyses of the fiscal impact on small business will be conducted and that the proposed regulations may not be adopted unless such an analysis is completed.

We also support other provisions in this bill, including those requiring notification to the Commerce Committee of any proposed regulation that may have an adverse impact on small businesses. However, **we strongly urge that this section of the bill (see section 2(c), line 87 of the bill) be modified to specify that the notification occur prior to the publication of the public notice for public comment on the proposed regulations.**

One other suggested modification. In section 1(a) (see line 14), the bill states that notification be provided on when, where and how interested persons may obtain a copy of *"the small business impact and regulatory flexibility analysis required pursuant to section 4-168a."* We find this a bit confusing as 4-168a does not expressly refer to a "small business impact." Since the bill, if adopted, would require (under 4-168) that the fiscal analysis conducted by the agency include

both an analysis of the fiscal impact on small business as well as the regulatory flexibility analysis (see lines 26-34), it would be cleaner to simply **change line 13-15 to read:**

“when, where and how interested persons may obtain a copy of the fiscal note required pursuant to section 4-168, as amended by this act, . . .

CBIA strongly feels it is time to strengthen these laws to ensure the public and policy makers fully understand the potential impacts of proposed regulations on businesses and our economy well before their adoption. In addition, it's important that agencies' required considerations of providing regulatory flexibility to small businesses be documented and available to the public – also well before final adoption.

Finally, CBIA is calling attention to state law that requires the Regulations Review Committee to determine a date every five years by which time agencies must report to the committee as to whether any of their regulations, among other things, can be modified to reduce the burdens associated with them, whether any of their regulations are obsolete, have not been recently used, have been the subject of written complaint, or are not effective. We understand that this requirement has not been implemented in well over 10 years.

It is far past the time when such a review should be conducted. We believe it is fitting for this committee to work with the Regulations Review Committee to insure such a review moves forward soon.

Thank you very much for this opportunity to comment in support of HB-5930.



State of Connecticut
HOUSE OF REPRESENTATIVES
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VICE CHAIRMAN
 GOVERNMENT ADMINISTRATION & ELECTIONS
 COMMITTEE

MEMBER
 APPROPRIATIONS COMMITTEE
 ENVIRONMENT COMMITTEE

Good morning Representative Berger, Senator LeBeau and members of the Commerce Committee. For the record, I am State Representative Diana Urban of the 43rd District. I am here to testify on HB 5930 AA Requiring Small Business Analysis for Proposed Regulations.

We are all aware of the role that small business plays in our economy. The words "backbone of our economy" have been used over and over again, and the truth is that small business really is the greatest jobs generator, the engine for entrepreneurship, and an excellent place to focus for economic growth and recovery.

Three brief statistics are instructive:

1. There are 329,618 small business in Connecticut (this number is the number of small employers plus the number of nonemployers in 2006)
2. Connecticut has 75,626 small employers representing 97.4% of the state's employers and 49.6% of its private sector employment
3. Small business created all of the state's net new jobs from 2004 to 2005

As you also know, regulations can impact a small business much more than a large business or major corporation. Scarce resources that are needed to run the business get diverted to comply with what are often onerous regulations. This bill attempts to remedy that by requiring an estimate of the cost or revenue impact to small businesses. For the purpose of this bill we have defined small as less than 75 employees or gross sales less than \$5 million.

There would be an economic impact analysis required by the agency promulgating any new regulation. The analysis would identify the impact of the regulatory action on small businesses. This would include the number of businesses impacted, projected costs,

(record keeping, reporting, administration, etc.) as well as other costs that might be required for compliance.

If this analysis reveals an impact there will be five methods that shall be considered for reducing the impact of the proposed legislation on small business:

- The establishment of less stringent compliance or reporting
- The establishment of less stringent schedules or deadlines
- The consolidation or simplification of compliance or reporting requirements for small business
- The establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation
- The exemption of small business from any or part of the requirements in the proposed regulations

And, I would point out, there was NO FISCAL IMPACT when these types of regulations were passed in

RHODE ISLAND
MAINE
COLORADO
UTAH
ARKANSAS

It is incumbent upon us as legislators to find ways to ameliorate the impacts of this recession. Knowing the importance of small business to our economy, it only makes sense to do what we can to help them.

I thank the Co-Chairs for their support for this bill and request that it be reported favorably out of Committee.

Small Business Impact Analysis Template

To illustrate how to conduct the proposed small business impact analysis, a recent regulatory change was selected at random from the agenda of the CT Legislative Regulation Review Committee.

Estimating Small Business Economic Impact of a Proposed Regulation

Department of Public Safety

“REGARDING PRIVATE DETECTIVES AND SECURITY SERVICES” -- relates to firearm safety training for private security officers.

Step 1. Identify industry (NAICS) code for “Private Detectives & Security Services.”

- a. Go to <http://www.census.gov/epcd/www/naics.html>.
- b. Enter “Private Detectives” in search box.
- c. Resulting NAICS code is **561611**.

Step 2. Look up number of Private Detective & Security Services businesses and employees in Connecticut.

- a. Go to <http://www.census.gov/econ/www/index.html>.
- b. Select the “County Business Patterns -- States” link
<http://censtats.census.gov/cbpnaic/cbpnaic.shtml>
- c. Select “Connecticut” from drop down box. Click on **“Submit.”**
- d. Go to entry under “Industry Code” 56 “Admin, Support, etc.” Click on **“Detail”** to expand table and reveal detailed results.

Notice that businesses coded 561611 through 561613 are included among “private detectives and security services” that are affected by the proposed regulation.

- e. Add up total establishments, total employees and average number of employees.

Industry Code	Industry Code Description	Employees	Total Firms	Avg Employees
561611	Investigation services	1,750	53	33
561612	Security guards & patrol services	6,192	57	109
561613	Armored car services	375	6	62
Total		8,317	116	72

Step 3. Determine the cost of complying with the proposed regulation.

- a. Specify the actions required of the affected businesses by the proposed regulation and their costs.

In this example, the new regulation will increase the frequency of completing firearm safety training by requiring an annual refresher course. Defense Associates of Fairfield offers handgun refresher clinics for \$90. Williams Associates Protective Services offers NH Security Officer firearms training for \$225.

- b. Multiply the approximate cost by the average number of employees. The added cost to each firm will be between $\$90 \times 72 = \$6,480$ and $\$225 \times 72 = \$21,600$ per year.

Step 4. Complete small business economic impact estimate.

- a. Estimated number of small businesses to be affected:

116

- b. The projected costs, including reporting, recordkeeping and administration, and other costs required for compliance with the proposed regulation:

Between \$6,480 and \$21,600 per firm per year.