

MINUTES OF THE SENATE ASSESSMENT AND TAXATION COMMITTEE

The meeting was called to order by Chairperson Les Donovan at 9:00am on Thursday, April 28, 2016, 548-S of the Capitol.

All members were present

Committee staff present:

Chris Courtwright, Legislative Research Department
Edward Penner, Legislative Research Department
Adam Siebers, Office of Revisor of Statutes
Judy Seitz, Kansas Legislative Committee Assistant

Conferees appearing before the Committee:

Senator Jeff King
Senator Jim Denning
Jim Eschrich, Eschrich Research, Inc.
Senator Greg Smith
Eric Stafford, Vice President of Government Affairs, Kansas Chamber
Dave Trabert, President, Kansas Policy Institute
Jay Langley, Kansas Society of CPA's
Daniel Murray, Kansas State Director, National Federation of Independent Business
Bernie Koch, Kansas Economic Progress Council
Annie McKay, Executive Director, Kansas Center for Economic Growth

Others in attendance:

[See Attached List](#)

Possible bill introductions

Chairperson Donovan requested the introduction of a bill regarding the same subject as the one being heard today. *There being no objection from any member present, the Chair declared a motion to introduce the bill adopted by consensus.*

Hearing and possible action on: SB508 — Limiting the subtraction modification on business income for certain individuals who have materially participated in the operation of the business for income tax purposes.

Senator King presented testimony in support of **SB508** ([Attachment 1](#)) noting that this bill would restore the Kansas income tax on wages earned by business owners thereby restoring fairness to the Kansas tax code. He said the 2012 tax plan created an unfair tax exemption. Senator King said that the LLC loophole was created to exempt a business's working capital from tax so it could be reinvested back into the business. He also had two changes in the bill when it is considered by the Committee.

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Senator Denning testified using a Power Point presentation in support of **SB508**. ([Attachment 2](#)) saying that the non-wage income tax policy currently exempts all income, including owner draws and salary. He further stated that **SB508** would close the loophole by removing the exemption for draws and salary.

Jim Eschrich provided testimony in favor of **SB508** urging the Committee to close the pass through tax loophole. ([Attachment 3](#)) He said the loophole is a losing hand politically.

Senator Smith appeared in support of **SB508**. ([Attachment 4](#)) He does not agree with the Governor's proposals to close the current budget deficit. He said that the 2012 tax bill had as its goal to "broaden the base and lower the rate" of income tax by reducing all tax rates and eliminating the exemptions, deductions and credits that made the tax code unfair and hard to manage.

The following conferees submitted written testimony supporting **SB508**:

Tim McKee, President, Olathe Chamber of Commerce ([Attachment 5](#))

Cathy Bennett, Vice President of Public Policy, Greater Kansas City Chamber of Commerce ([Attachment 6](#))

Kerri Strahler ([Attachment 7](#))

Tom Robinett, Vice President of Public Policy & Advocacy, Overland Park Chamber of Commerce ([Attachment 8](#))

Ashley Sherard, Vice President, Lenexa Chamber of Commerce ([Attachment 9](#))

Vincent Miller ([Attachment 10](#))

Millie Sampson ([Attachment 11](#))

Richard Mott ([Attachment 12](#))

James and Lois Carlson ([Attachment 13](#))

Eric Stafford presented testimony in opposition to **SB508**. ([Attachment 14](#)) stating that last year the Chamber asked the legislature to find further efficiencies which would result in savings instead of making Kansas a more expensive place in which to own and operate a business. He noted that unfortunately a tax increase ultimately passed on consumption, itemized deductions and product-specific tax increases. Mr. Stafford's suggestion is to encourage spending efficiencies instead of raising taxes.

Dave Trabert testified in opposition to **SB508** saying this is an unnecessary tax increase that would also have a negative impact on economic growth and job creation. ([Attachment 15](#)) He presented examples to show that there is no need for this proposed tax increase because the government is not operating efficiently. Mr. Trabert said this bill is not about fairness and would welcome a thorough examination of all of the exemptions and exceptions to paying taxes for the purpose of broadening the base and reducing rates on everyone.

Jay Langley spoke in opposition to **SB508** saying this proposed legislation has the effect of taxing 70%

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of non-wage business income derived activities in which the taxpayer materially participates. [\(Attachment 16\)](#) He further stated that if the taxpayer does not materially participate in the activity, 100% of the non-wage business income is subject to Kansas income tax. Mr. Langley said the 2012 legislation effectively de-coupled the Kansas tax statute from the Internal Revenue Code with reference to the taxation on non-wage business income.

Daniel Murray appeared in opposition to **SB508**. [\(Attachment 17\)](#) noting that small businesses need tax simplicity and predictability and this bill provides neither. He said that this bill promises to create confusion and unexpected expense by making the tax increase retroactive. Mr. Murray said that small business owners are not concerned about the re-election efforts of the Republican party; they are concerned about keeping their doors open.

The following conferees submitted written testimony in opposition to **SB508**:

Rodger Woods, Americans for Prosperity [\(Attachment 18\)](#)

Bob Totten, Executive Vice President, Kansas Contractor's Association [\(Attachment 19\)](#)

Jason Watkins, Government Relations Consultant, Wichita Metro Chamber of Commerce [\(Attachment 20\)](#)

Bernie Koch provided neutral testimony on **SB508**. [\(Attachment 21\)](#) stating that the bill as written does not solve the long term structural budget problems. He also noted that the idea of shifting the burden of state government finance from income tax to sales taxes was not vetted. Mr. Koch said that this tax policy is not working and there needs to be a shift back to the income tax.

Annie McKay presented neutral testimony on **SB508**. [\(Attachment 22\)](#) She said the current fiscal crisis is driven by the entirety of the income tax changes in 2012 and 2013, not just the exemption on non-wage business income. Ms. McKay said that while the intent of **SB508** is to begin to close the loophole exempting more than 330,000 Kansas from paying income tax, it does not fully correct the structural imbalance in the budget caused by the tax changes of 2012 and 2013.

Chairperson Donovan asked if there was anyone else who wanted to speak on **SB508** who had not contacted the Committee assistant.

Steve Lukert appeared as a neutral conferee. He is a retired farmer and benefits from the tax changes however, he does not think that it is fair that he doesn't pay any taxes. No written testimony was submitted by Mr. Lukert.

The conferees took questions from the Committee members.

Chairperson Donovan closed the hearing on **SB508**.

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Adjournment

The meeting adjourned at 10:00am.

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