Testimony in Support of SB508

To: Senate Assessment and Taxation Committee
From: Tom Robinett, Vice President of Public Policy and Advocacy
Overland Park Chamber of Commerce
Date: April 28, 2016

Chairman Donovan and Members of the Committee:

Thank you for the opportunity to submit written testimony in support of SB508 on behalf of the more than 800 business members of the Overland Park Chamber of Commerce.

The tax cut package passed by the 2012 legislature as Senate Sub for HB2117 included a provision that is now commonly referred to as the "LLC loophole." That provision totally exempted the non-wage business income earned by LLC's, subchapter S corporations, partnerships and sole proprietorships from the payment of any state income tax. At the time the tax cut package was passed, it was estimated that about 190,000 business owners would be in a position to take advantage of the LLC loophole. However, figures from the Department of Revenue disclose that more than 280,000 owners benefitted in 2013, more than 330,000 if you add in farm returns. It is estimated that this completely exempting this business income costs the state as much as $250 million each year. The claim was that the LLC loophole was to allow small business working capital to be exempt from state income tax, permitting that capital to be reinvested in businesses, creating jobs and growing the economy. Not only has this promise just not happened, but the exemption has, in fact, exempted all of that business income while encouraging tax avoidance. To the contrary, the state has consistently fallen short of its revenue estimates, and there has been zero growth in non-farm jobs during the period from March 2015 to March 2016 (according to the U.S. Bureau of Labor Statistics).

When the impact of the 2012 tax cuts was first felt in 2014, Kansas had a $700 million cash reserve; that entire cushion is gone. In one response to the revenue shortfalls, the

2015 legislature passed the largest tax increase in Kansas history by increasing its sales tax rate to 6.5%, one of the higher rates nationally. And now, based on the April revenue projections by the Consensus Revenue Estimating Group, we are faced with a budget hole of almost $300 million for the remainder of FY2016 and, looking ahead, for FY2017.

These unwise cuts have forced the Legislature to try to balance the state's budget using one-time funds, sweeping funds from revenue sources dedicated for other purposes, and increasing debt – not a sound, sustainable financial policy. Hundreds of millions of dollars have been swept from KDOT's highway fund ($1.5 billion taken since 2011 with more being proposed to help fill the current deficits, those sweeps resulting in major reductions in preservation and maintenance projects and, more recently, indefinite delays in 25 planned highway and other infrastructure construction projects); funding for higher education has been cut; and the fourth quarter state payment to KPERS has been delayed. In addition, there are proposals being considered to raise additional revenue by securitizing a major portion of the state's future payments from the national tobacco settlement, abolishing the Economic Development Initiatives Fund and the Expanded Lottery Act Revenues Fund, and making additional cuts to higher education, K-12 funding (at a time when the Supreme Court has yet to rule on whether the most recent level of funding is constitutionally adequate), and across-the-board cuts to state agencies.

Making a bad situation even worse, Standard & Poor's just responded to the current budget deficits and what it considers to be structurally unsound proposals for addressing the shortfall by placing Kansas on a credit watch with an even chance of lowering the state's AA credit rating.

It is past time for acknowledging that our current tax policy, initiated in 2012, is not working; at best, it has gone too far, too fast. Our members tell us that they believe that the cuts and resulting shortfalls put our state's overall financial condition at risk, threatening our highways, schools and universities, and other quality of life amenities that make Kansas a great place to live, work and raise a family. And, more importantly, they have told us that they believe that paying a fair share of taxes on their businesses income is not only an appropriate and more balanced approach but are necessary to protect those valuable services that are so important to them.

Everyone likes lower taxes, but we have consistently heard from our members that these cuts have gone too far, too fast, and have not resulted in the promised boost to the Kansas economy.

I want to point to a Johnson County-wide survey that the Overland Park Chamber commissioned in January 2012. The survey was conducted by Neil Newhouse of Public Opinion Strategies, a nationally recognized pollster with thirty years of experience. He essentially conducted two identical surveys, one polled 800 registered Johnson County voters and the other 693 representatives of Johnson County businesses, each double the number required to be statistically valid. The results were nearly identical for both groups. Two questions from the survey will help disclose the relevant opinions on tax issues as they relate to quality of life and government services.

One, when told that Kansas government is funded primarily by three tax sources; i.e., sales, income and property taxes, the survey asked which taxes should be increased, decreased or kept the same.

The voters responded as follows:

- Sales
    - Increase = 12%
    - Decrease = 24%
    - Stay same = 64%
- Income
    - Increase = 10%
    - Decrease = 27%
    - Stay same = 62%
- Property
    - Increase = 8%
    - Decrease = 30%
    - Stay same = 61%

The business representatives responded as follows:

- Sales
    - Increase = 22%
    - Decrease = 19%
    - Stay same = 54%

- Income
    - Increase = 8%
    - Decrease = 33%
    - Stay same = 54%
- Property
    - Increase = 10%
    - Decrease = 27%
    - Stay same = 57%

Two, when the business representatives were asked if they would trade reduced state services for certain lower taxes, they responded as follows:

- Elimination of corporate and personal income taxes
    - Disagree = 65%
    - Strongly disagree = 49%
- Reduction of corporate and personal income taxes
    - Disagree = 66%
    - Strongly disagree = 41%

There are no doubt efficiencies to be found that will improve the operation of state government and save money in the process; however, to characterize the regular and continuing revenue shortfalls as indicative only of a "spending problem" in the state is, in our opinion, quite unrealistic. The state also has a revenue problem that must be addressed responsibly and promptly. We need a predictable, balanced and fair tax revenue stream that generates an adequate income for the state. Asking business owners to pay their share is at least a start toward a fair and responsible response to that problem. SB508 would mean a more balanced and fairer tax structure that results in adequate and consistent revenues for the state.

For this and the other reasons stated above, the Chamber respectfully requests that you support the passage of SB508. Thank you for your consideration.