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Chairman Johnson, members of the committee,

Thank you for the opportunity to appear before you today in support of HB 2023.

In 2012, Governor Brownback introduced legislation to lower Kansas income tax. These tax cuts helped Kansas taxpayers in many ways, transforming Kansas from the highest income tax state in the region to the lowest. The guiding principle of the 2012 tax plan was to "broaden the base and lower the rate." The goal was to eliminate many deductions, credits, and exemptions, while using the revenue from those actions to lower the overall tax rate. I remain convinced, as I stated when testifying last year before this committee, that this portion of the tax plan has been a success.

Unfortunately, the 2012 tax plan also created an unfair tax exemption. The LLC loophole was created to exempt a business's working capital from tax so it could be reinvested back into the business. Specifically, the 2012 tax plan claimed only to "eliminate individual income tax on Non-Wage business income as reported by LLC's, S-Corps, and Sole Proprietorships...." This approach made sense. Kansas would treat identically all income earned from the labors of hard-working Kansans while encouraging business reinvestment through an exemption on non-wage income.

This promise proved short lived. After passage of the 2012 tax plan, the Kansas Department of Revenue interpreted this provision as exempting 333,792 entities, primarily LLCs, subchapter S corporations, and sole proprietorships, from all state income tax. This loophole is not what the Kansas Legislature intended in 2012. It is not fair to wage earners who pay taxes to see their counterparts in LLCs have the income earned from their labor exempt from tax.

In past sessions, I introduced legislation to solve this inequity by distinguishing between wage and non-wage income for LLCs, sole proprietorships and subchapter S corporations. This approach would have taxed only the wage portion of that income, while leaving the non-wage income exempt from taxation.

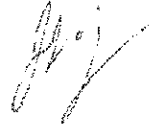
Given the current budget despair and the gross inequity of the LLC loophole, however, a bolder approach is warranted. The time has come to restore fairness to our income tax code by ending the largest exemption in the Kansas income tax code. I urge you to take a bold step towards the most conservative fiscal principle of all – long-term budget stability. HB2023 is that step, and I am happy to support its passage.

I would ask that the committee consider one amendment to HB 2023. Testimony on similar legislation that I introduced last year in the Senate made me deeply troubled about the retroactive application of an LLC loophole repeal. I remained concerned about that part of HB 2023. I know times are tight. I know the State needs a quick influx of money into its coffers to address a budget shortfall caused in large part by the LLC loophole. I urge you, however, not to correct the tax injustice of the LLC loophole by creating another through retroactive application of its repeal.

HB 2023, at its core, is about restoring tax fairness and providing the foundation for long-term tax certainty. Retroactive application of such major tax legislation would harm small businesses who have already undertaken their 2017 tax planning and decrease confidence in the future stability of the Kansas tax system.

Personally, I would propose making the LLC loophole repeal effective July 1, 2017 and imposing income tax on half of the applicable 2017 income. Such an approach would give business owners time to plan appropriately while still getting tax dollars into state coffers for the full 2018 budget year.

Respectfully submitted,

A handwritten signature in black ink, appearing to be the initials 'M.J.' followed by a stylized flourish.