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Secretary of State



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STATE OF KANSAS

February 16, 2017.

Representative Johnson and Committee Members,

My name is Kathy Sachs. I am the Deputy Assistant Secretary of State. Thank you for the opportunity to speak today concerning HB 2315.

The Secretary of State's office opposes the provisions of HB 2315.

This legislation proposes to increase the fees assessed on corporations, limited liability companies, limited partnerships and limited liability partnerships from the current rate of \$55 to as much as \$4,215 per year. The secretary of state notes that imposition of such a fee structure would place Kansas in an uncompetitive disadvantage to create such business entities when compared with surrounding states:

Missouri - \$ 0 Nebraska - \$10 Colorado - \$10 Oklahoma - \$25

This legislation creates a business entity fee structure scheme that would make it more advantageous for existing entities to purposely fail to file their required annual reports each year and simply file a new business entity with the same business name every July 1st. New entity fees range from \$90 - \$165.

Other issues include the effective date of the change. Entities with the same tax year end will pay a different rate within the same year. Additionally, Foreign entities are not required to submit a list of members/partners who own 5% capital.

We recognize the argument that limited liability companies, limited partnerships and limited liability partnerships are currently paying lower income taxes, and as a result these same entities may be able to afford increased annual report fees (or taxes); however, this logic ignores that these proposed fees will be imposed without regard to whether a business profit or loss has occurred in a particular tax year. In other words, while a limited liability company netting \$500,000 a year might easily absorb the proposed increased fees, these same fees would be disproportionately felt by a mom and pop LLC netting only \$40,000 per year.

While this legislation appears to be an attempt to lessen the present tax advantages of limited liability companies, limited partnerships and limited liability partnerships, this bill does not address subchapter S corporations' fees in the same manner. Such an exclusion may cause creative entrepreneurs to convert to this type of business entity status, thus avoiding the new fees for members and partners.

Finally, Secretary Kobach has not requested any increased fees to support the operation of his agency since taking office in January 2011. He does not do so now. The secretary of state has operated his agency on yearly budget requests below that of FY10 since taking office and proposes to do so for the balance of his current term of office ending in January 2019.