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STATE OF KANSAS

Testimony on HB2123 (Written Neutral)

House Committee on Commerce, Labor and Economic Development
Wednesday, February 1, 2023

Chairman Tarwater and members of the Committee:

Thank you for the opportunity to provide comments on House Bill 2123. Our office is neutral on this legislation but wishes to address several technical issues.

HB2123 would “encourage” the Secretary of State’s office to eliminate all statutorily mandated filing fees paid to the Secretary of State by any “first-year business” establishing a new business whose principal place of business is in Kansas. This provision creates many concerns for our agency.

First, the Secretary of State’s office is a fee-funded agency with a total budget of \$5.7 million. The office is responsible for a multitude of tasks assigned by the legislature, including elections, publications, and business-related filings. At a minimum, this provision would reduce total agency revenue by approximately \$5,063,700 annually. Of that amount, approximately \$4,584,510 would be a loss to the state general fund and \$479,190 would be a loss to the agency revenue – an 8.4 percent reduction in our operating budget.

Second, our office has no method of estimating lost revenue from other filings by first-year businesses, such as amendments, Uniform Commercial Code filings, or trademark or servicemark filings, as we currently do not track whether these filers are first-year businesses. If this provision is enacted into law, the Secretary of State’s office would also likely incur costs to program the agency’s business filings system software to track all filings by first-year businesses.

Lastly, this provision causes administrative concerns. Some first-year business entities may provide no economic substance to the state as they may be an LLC, series LLC, the result of a merger or consolidation, or the result of a conversion or domestication. In addition, a “principal place of business” is usually associated with the mailing address of the business office, which may not always be synonymous with productive economic activity occurring in the state.

Thank you for the opportunity to provide comments to the committee.

Respectfully submitted,

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