



STATE OF KANSAS

NEWS RELEASE

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Contact Information

Desiree Taliaferro, Public Affairs Director
Kansas Secretary of State
785-296-2034 | media@sos.ks.gov

SECRETARY OF STATE KOBACH OPPOSES 1,120% INCREASE IN ANNUAL REPORT FILING FEES

TOPEKA (March 2, 2017) – Secretary of State Kris Kobach announced his opposition to a section of Governor Brownback’s budget proposal, HB 2315. Secretary Kobach urged the Kansas Legislature to reject the proposed dramatic increase in filing fees for annual reports of Kansas businesses. If passed, this legislation would increase the annual fees assessed on most business entities from the current rate of \$50 to \$610 for most small businesses. Some small businesses would see their annual report fee rise to as much as \$4,210. The enormous burden imposed by such a fee structure would place Kansas at a competitive disadvantage in business creation compared to surrounding states. *If this legislation passes, Kansas LLCs will pay the highest annual fees in the nation.*

“This fee increase will kill mom-and-pop shops, startup businesses and family farms across our state. Most small businesses can’t afford a 1,120% increase in any expense category, let alone a filing fee,” said Secretary Kobach.

Currently, Kansas LLCs pay a \$40 annual report fee plus a \$10 processing charge, for a total of \$50. If a business files with a paper form rather than electronically, an additional \$5 is charged. That \$50 rate is already the highest in the five-state area. Our neighbors charge fees ranging from \$0 to \$25.

If the governor’s proposal passes, Kansas LLCs, LLPs, and LPs would see their fees rise to \$200, plus a \$10 processing charge, plus \$200 for each member or partner in the business. Kansas LLCs have an average of 1.7 members. So the annual fee for the average Kansas LLC would rise from \$50 to \$610 – a massive 1,120% increase.

COST OF LLC ANNUAL REPORT FILING FEE IN SURROUNDING STATES

Missouri	\$0
Nebraska	\$5 (\$10 collected every 2 years)
Colorado	\$10
Oklahoma	\$25

HIGHEST ANNUAL REPORT FILING FEES IN THE NATION

(based on business entities with 2 members/partners)

<u>LLC</u>		<u>LP</u>		<u>LLP</u>	
Kansas	\$610	Kansas	\$610	Pennsylvania	\$700
Massachusetts	\$500	Massachusetts	\$500	Kansas	\$610
Tennessee	\$300	Florida	\$500	Massachusetts	\$500

FEE INCREASE EXAMPLE

(table reflects filing annual report electronically with SOS office)

The filing fee for LLCs, LPs, LLPs will increase from \$50 to in most cases \$610 (assuming 2 members)

# OF MEMBERS/PARTNERS	CURRENT FEE	PROPOSED FEE
One Person Entity	\$50	\$410
Two Person entity	\$50	\$610
Three Person entity	\$50	\$810
Four Person Entity	\$50	\$1010
Five Person Entity	\$50	\$1210
Ten Person Entity	\$50	\$2210

Secretary Kobach explained, “The simple fact is that many Kansas small businesses cannot afford to pay \$610 a year simply for the privilege of doing business in Kansas. This is an absurdly large fee that would make Kansas the worst state in the nation in which to start a small business.”

The justification for the Brownback proposal appears to be that this fee is a substitute for the tax that might otherwise be assessed on LLCs and other forms used by small businesses. But this justification misses the fact that most LLCs serve as pass-through entities, with virtually all of the LLC’s income being passed through as income to the members and taxed in the form of personal income. In fact, 82% of Kansas businesses have income of less than \$25,000, passing the rest through as taxable personal income. Thus, the state is already deriving income tax revenues from those businesses.

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**Kansas Department of Revenue
TY 2015 Business Income
By Size of Net Business Income**

	Returns	% of Total	Business Income	FAGI	Average FAGI	KAGI	Average KAGI
Business Income Less Than \$0	95,771	28.6%	\$ (1,692,274,707)	\$ 7,120,298,706	\$ 74,347	\$ 8,947,724,583	\$ 93,428
\$ - \$ 25,000	179,194	53.4%	\$ 1,163,486,594	\$ 12,351,414,054	\$ 68,928	\$ 10,640,742,623	\$ 59,381
\$ 25,000 \$ 50,000	26,013	7.8%	\$ 919,980,167	\$ 2,701,496,768	\$ 103,852	\$ 1,760,654,814	\$ 67,684
\$ 50,000 \$ 75,000	11,192	3.3%	\$ 684,206,221	\$ 1,572,887,761	\$ 140,537	\$ 917,158,060	\$ 81,948
\$ 75,000 \$ 100,000	5,827	1.7%	\$ 503,564,291	\$ 1,096,139,774	\$ 188,114	\$ 603,780,133	\$ 103,618
\$ 100,000 \$ 250,000	11,245	3.4%	\$ 1,730,568,392	\$ 3,034,940,325	\$ 269,892	\$ 1,438,686,636	\$ 127,940
\$ 250,000 \$ 500,000	3,727	1.1%	\$ 1,285,451,940	\$ 2,224,550,490	\$ 596,874	\$ 1,020,018,432	\$ 273,684
\$ 500,000 \$ 1,000,000	1,527	0.5%	\$ 1,048,728,800	\$ 1,560,060,528	\$ 1,021,651	\$ 586,783,658	\$ 384,272
\$ 1,000,000 Over	905	0.3%	\$ 2,383,427,955	\$ 356,218,994	\$ 393,612	\$ 1,296,964,604	\$ 1,433,110
Total	335,401	95%	\$ 8,027,139,653	\$ 32,018,007,400	\$ 95,462	\$ 27,212,513,543	\$ 81,134
Positive Income	239,630		\$ 9,719,414,360	\$ 24,897,708,694	\$ 103,901	\$ 18,264,788,960	\$ 76,221
< \$50,000	89.7%		4.9%				
<\$50,000 pos. inc	85.6%		21.4%				
>\$100,000	5.2%		80.3%				
>\$100,000 pos. inc	7.3%		66.3%				