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Shawn Sullivan, Director of the Budget

Sam Brownback, Governor

February 11, 2015

The Honorable Mark Hutton, Chairperson
House Committee on Commerce, Labor and Economic Development
Statehouse, Room 521-E
Topeka, Kansas 66612

Dear Representative Hutton:

SUBJECT: Fiscal Note for HB 2200 by House Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2200 is respectfully submitted to your committee.

HB 2200 would amend the Kansas Liquor Control Act by allowing the issuance of Class A retail liquor store licenses to grocery stores and convenience stores beginning July 1, 2018. Class A licenses would allow retailers to sell strong beer for off-premise consumption, and any other good or service on the licensed premises. Existing retail liquor licenses would be classified as Class B licenses and the number of Class B licenses issued would be limited to the total number licensed by the Division of Alcoholic Beverage Control (ABC) on June 30, 2015. The bill would allow Class B liquor retail licenses to be transferred to any qualified person within the same county beginning July 1, 2018. The transferee would be required to pay a transfer fee of $500 to ABC when the transfer has been approved. In addition, the two-year license fee for a retailer's Class A or Class B license, if engaged in business as a grocery store, would be $1,500. For Class B licensees engaged in business as a liquor store, the license fee would be $500. The bill includes definitions for grocery store, convenience store, liquor store and retailer's license.

The bill would specify that a Class A retail license could not be issued to a person who is not a convenience store or grocery store though the person could become eligible if they changed their business type to a convenience store or grocery store upon licensure. Likewise, it would specify that a Class B retail license could not be issued to a person who is not a liquor store or grocery store though the person could become eligible if they changed their business type to a liquor store or grocery store upon licensure. The bill lists the requirements that corporations and individuals must meet in order to obtain a license and the circumstances under which no license could be issued. Further, the bill outlines the requirements expected of retailers licensed under these provisions and would require the Department of Revenue to adopt the rules and regulations necessary to carry out those provisions.

HB 2200 would reduce the minimum age a person must be in order to sell liquor from 21 to 18 years of age. It would require an employee who is under the age of 21 to be supervised by the licensee or an employee of the licensee who is at least 21 years of age. The bill would remove prohibitions against a retailer owning a beneficial interest in another retail license and against a corporation holding a retailer's license. The bill also would provide that a corporation would be ineligible for a retailer’s license if any officer, manager or director, or any stockholder owning more than 25.0 percent of the stock is ineligible to hold a license for any reason other than citizenship or residency. Finally, HB 2200 would create the Local Cereal Malt Beverage Sales Tax Fund and would require 3.0 percent of liquor enforcement remittances to be deposited in this fund with quarterly distributions to each city and county which levied a local sales tax. The amount distributed would be determined based on a weighted population average.

The Department of Revenue indicates the enactment of HB 2200 would require the hiring of additional staff in FY 2018 to conduct liquor licensing functions for as many as 1,528 new licenses; oversee the transfer of up to 247 retail licenses; administer prosecution relating to liquor law violations; enforce liquor laws to maintain the current level of enforcement among liquor retailers; and process the liquor enforcement tax. The Department indicates it would begin hiring in the fourth quarter of FY 2018 to prepare for when these convenience stores and grocery stores get the ability to apply for a Class A license to sell strong beer in FY 2019.

For FY 2018, the Department estimates expenditures would increase by $657,967, which includes $200,440 for 12.00 additional positions; $403,655 for contractual services and one-time costs such as office equipment, vehicle purchases, and system upgrades to the ABC computer processing system; and $53,872 to modify forms, processes and the liquor tax processing system. The new positions would include 9.00 Enforcement Agents to enforce liquor laws throughout the state, 2.00 Revenue Customer Representative Senior positions to process the transfer of licensees, and 1.00 Administrative Specialist for support. The Department estimates expenditures would increase to $1,293,494 in FY 2019, which includes $1,202,631 to maintain the 12.00 positions added in FY 2018 in addition to 2.00 Special Investigator II positions, 1.00 Revenue Customer Representative Senior position, 1.00 Administrative Specialist, 1.00 Assistant Attorney General, and 1.00 Legal Assistant; and $90,863 for contractual costs, office supplies, and background checks.

The Department of Revenue indicates it is unknown how many licenses would be issued or transferred; however, assuming all 1,528 grocery stores and conveniences stores obtain a Class A license, the fees from those licenses would increase state revenues by approximately $2.3 million in FY 2019. Additional revenues would be generated from the $500 fee paid by liquor and cereal malt beverage licensees who transfer their existing license to a Class A license.

Currently, the Department indicates the sale of cereal malt beverages generates approximately $7.5 million in state sales tax and approximately $1.9 million in local sales tax. The Department indicates the switch from cereal malt beverage sales to beer would decrease sales tax revenue and increase liquor enforcement tax revenue in FY 2018. Since the bill would provide 3.0 percent of liquor enforcement remittances credited to the Local Cereal Malt

Beverage Sales Tax Fund, distributions to cities and counties would increase to help recoup the loss of local sales tax. The Department for Aging and Disability Services indicates this bill could increase consumption of alcohol and tobacco, requiring greater levels of enforcement and service for substance abuse treatment. Any fiscal effect associated with HB 2200 is not reflected in *The FY 2016 Governor's Budget Report*.

Sincerely,

Shawn Sullivan,
Director of the Budget

cc: Jack Smith, Department of Revenue