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Division of the Budget

Sam Brownback, Governor

February 17, 2012

The Honorable Pete Brungardt, Chairperson
Senate Committee on Federal and State Affairs
Statehouse, Room 136-E
Topeka, Kansas 66612

Dear Senator Brungardt:

SUBJECT: Fiscal Note for SB 332 by House Committee on Agriculture

In accordance with KSA 75-3715a, the following fiscal note concerning SB 332 is respectfully submitted to your committee.

SB 332 would add two new retail liquor licenses to the Kansas Liquor Control Act effective January 1, 2013, and establish the criteria for each license. The Class A license would allow retailers to sell beer only and the Class B license would allow retailers to sell beer and wine. The bill would allow existing Class C liquor retail licenses to be transferred to other businesses that can sell other goods in addition to liquor, upon approval of the Director of Alcoholic Beverage Control (ABC), but only within the same county. The transferee would be required to pay a transfer fee of $25 to ABC. The bill would place a freeze on the number of Class C licenses issued until December 31, 2015 and prevents retailers with a license prior to July 1, 2012 from selling any goods and services other than liquor until after December 31, 2012. The bill includes a fee of $100 for a Class A license and $300 for a Class B license. The fee for a Class C license remains at the current amount of $500. All retailers would be prohibited from:

1. Purchasing alcoholic liquor from a distributor, who has not filed a sworn statement with ABC agreeing to sell to all retailers in the distributor's franchised territory at the same unit price;

2. Selling alcoholic liquor to a retailer at a discount for multiple case lots; and

3. Selling alcoholic liquor at less than the acquisition cost.

The bill would allow a retailer’s license to be issued to a person who is not a Kansas resident. It would also allow corporations, partnerships, grantors, beneficiaries, and trustees of a trust to acquire licenses without submitting to any qualification requirements. In addition, the bill would allow a corporation to acquire a license if the corporation files a formation document with the Secretary of State and appoints a Kansas resident as its agent. A corporation would no longer be required to provide a duly appointed power of attorney. It would require all retailers to verify the age of purchasers of alcoholic liquor who reasonably appear to be younger than 27 years of age using verification technology that is consistent with nationally recognized industry standards. Businesses eligible for a retail license would be limited to grocery stores, convenience stores, or liquor stores as defined under the North American Industry Classification System.

SB 332 would establish the bond amounts for applicants of retailer's licenses at $500 for a Class A, $1,000 for a Class B, and $2,000 for a Class C license. The bill would allow a retailer to employ someone at least 18 years of age to sell, stock, or handle alcoholic liquor. The bill would create the Local Cereal Malt Beverages Sales Tax Fund and would require 3.0 percent of liquor enforcement remittances to be deposited into this fund each quarter and distributed to the cities and counties with a local sales tax based on the formula in the bill. The bill would amend the Club and Drinking Establishment Act to allow the sale of Cereal Malt Beverages (CMB) at the same location as beer, wine, and spirits. The bill would repeal current law that limits licensees to selling only alcoholic liquor on the licensed premises to allow the sale of any goods. Finally, the bill would repeal current law that prohibits a liquor store from having an inside entrance that connects with another place of business.

Estimated State Fiscal Effect				
	FY 2012 SGF	FY 2012 All Funds	FY 2013 SGF	FY 2013 All Funds
Revenue	--	--	($1,800,000)	($1,800,000)
Expenditure	--	--	$1,500,000	$1,500,000
FTE Pos.	--	--	--	17.00

The Department of Revenue estimates that SB 332 would decrease revenues to the State General Fund by $1.8 million in FY 2013 and each year thereafter. This bill is also estimated to increase local revenues by $1.8 million in FY 2013 and each year thereafter as 3.0 percent of liquor enforcement tax revenues ($59.0 million) would be transferred to the newly created Local Cereal Malt Beverages Sales Tax Fund for distribution to cities and counties. The decrease in revenues and how the November 4, 2011 consensus revenue estimate for FY 2013 would be affected are shown in the following table:

Effect on FY 2013 Consensus Revenue Estimates
(Dollars in Thousands)

Receipt Description	Consensus Revenue Estimates (Nov. 4, 2011)	Change in Revenue FY 2013	Proposed Adjusted CRE FY 2013
Motor Carrier	$ 21,000	$ --	$ 21,000
Income Taxes:			
Individual	3,065,000	--	3,065,000
Corporate	240,000	--	240,000
Financial Institutions	24,000	--	24,000

Excise Taxes:			
Retail Sales	2,200,000	--	2,200,000
Compensating Use	335,000	--	335,000
Cigarette	92,000	--	92,000
Corporate Franchise	6,000	--	6,000
Severance	102,800	--	102,800
All Other Excise Taxes	96,000	(1,800)	94,200
Other Taxes	141,000	--	141,000
Total Taxes	$6,322,800	$ (1,800)	$6,321,000
Other Revenues:			
Interest	$ 7,400	$ --	$ 7,400
Transfers	(90,300)	--	(90,300)
Agency Earnings	51,500	--	51,500
Total Other Revenues	($ 31,400)	$ --	($ 31,400)
Total Receipts	$6,291,400	$ (1,800)	$6,289,600

The fiscal effect to state revenues during subsequent years would be as follows:

	FY 2014	FY 2015	FY 2016	FY 2017
State General Fund	($1,800,000)	($1,800,000)	($1,800,000)	($1,800,000)
Local Governments	1,800,000	1,800,000	1,800,000	1,800,000
	$ --	$ --	$ --	$ --

To formulate these estimates, the Department of Revenue reviewed data on liquor enforcement tax revenues.

The Department estimates that SB 332 would increase expenditures by $1.5 million in FY 2013 to hire and equip 17.00 FTE positions, including 9.00 Field Agents and 8.00 Administrative Assistants to assume the increased workload as the number of liquor licenses are expected to increase from 766 to 2,600 when many of the 2,258 cereal malt beverage licensees move to a liquor license. The estimate also includes costs to program the liquor tax processing system and one-time costs for revisions to forms and publications. Any fiscal effect associated with SB 332 is not reflected in *The FY 2013 Governor's Budget Report*.

Sincerely,

Steven J. Anderson, CPA, MBA
Director of the Budget

cc: Steve Neske, Revenue