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Division of the Budget

Sam Brownback, Governor

March 5, 2013

REVISED

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

Dear Senator Ostmeyer:

SUBJECT: Revised Fiscal Note for SB 208 by Senate Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following revised fiscal note concerning SB 208 is respectfully submitted to your committee.

SB 208 would amend the Kansas Liquor Control Act to authorize the licensing and selling of alcoholic liquor at retail in convenience stores, gasoline stations with convenience stores, grocery stores, pharmacies and drug stores, department stores, discount department stores, and all other general merchandise stores. The bill would limit the total number of retail licenses issued during July 1, 2013, through June 30, 2015, to the number issued as of June 30, 2013. However, the limit on the number of retail licenses issued would be removed beginning July 1, 2015. Beginning January 1, 2014, any licensee would be allowed to transfer a valid license to any qualifying person for a fee of $25 as long as the person receiving the license is premised in the same county the license was issued. The transferred license would be valid for the remainder of the term and the transfer must be approved by the Director of Alcoholic Beverage Control (ABC).

The Director of ABC would be required to propose rules and regulations to implement these provisions; to limit the number of licenses issued in a month beginning July 1, 2015, to what can be reasonably processed based on ABC resources; and to require applications to be submitted prior to July 1, 2015, for review. Retailers would be required to verify the age of any purchaser who reasonably appears to be no more than 27 years of age; and to utilize age verification technology that is consistent with nationally recognized industry standards for making such determinations. Liquor stores with a retailer's license would be limited to sales of liquor and lottery tickets through June 30, 2015. Sales of any other good or service would be allowed on the licensed premise beginning July 1, 2015.

The bill would prohibit the issuance of a retailer's license to any officer, director, or manager of the licensed premise or stockholder owning more than 25.0 percent of the stock in the corporation who fails to meet any eligibility requirement other than for citizenship. The bill would also prohibit the issuance of a retailer's license to a person who is not engaged in business as a liquor, convenience, or grocery store. However, the bill would remove from the list of ineligibility: a person who has a beneficial interest in any other retail establishment licensed under this act; and a co-partnership, unless all of the copartners are qualified. The bill would change the corporate requirement for obtaining a liquor license from procuring a certificate of authority to filing a formation document with the Secretary of State and having a resident of Kansas as its resident agent. It would also remove the requirement that the formation document or a copy of a power of attorney be filed with the Director. The bill would authorize retailers to allow any person who is at least 18 years of age to sell at retail any alcoholic liquor at the point of sale.

The bill would also shift 3.0 percent of liquor excise tax which is currently being deposited in the State General Fund to the Local Cereal Malt Beverage Sales Tax Fund. The bill would require the Department of Revenue to make quarterly distributions from this fund as part of the January, April, July, and October sales tax distribution to cities and counties which levy a local retailers' sales tax. The distribution would be based on a weighted population average, computed by multiplying the total tax rate in effect for the city or county by the population of the city or county. The weighted population average would then be divided by the total Kansas population and the resulting quotient would be the percentage of distribution for such city or county. The population data would be updated annually with the issuance of the certified population data through the Division of the Budget. Finally, the bill includes various technical corrections, clarifications, and revisions and adds definitions for convenience store, grocery store, liquor store, and retailer's license.

Estimated State Fiscal Effect				
	FY 2013 SGF	FY 2013 All Funds	FY 2014 SGF	FY 2014 All Funds
Revenue	--	--	($1,845,000)	($1,845,000)
Expenditure	--	--	--	$1,466,000
FTE Pos.	--	--	--	17.50

Since the original fiscal effect statement was issued, the Department of Revenue has provided additional information on the fiscal effect of this bill. The Department estimates that the provision in SB 208 which shifts 3.0 percent of the liquor excise tax to the Local Cereal Malt Beverage Sales Tax Fund would decrease State General Fund revenues by approximately $1.8 million in FY 2014. The shift would increase local revenues by the same amount in FY 2014. The Department estimates the bill would increase State General Fund revenues by $105,000 in FY 2015, from an additional 2,100 new licenses issued for an application fee of $50 each; offsetting the State General Fund reduction by $105,000 (2,100 x $50 = $105,000). The net reduction in revenue from the State General Fund would be approximately $1.7 million in FY

2015. In future years the increase in revenue would be approximately $10,000 per year as licenses are renewed every two years for a fee of $10. The Department estimates that any revenue generated from the $25 transfer fee would be negligible. The decrease in revenues and how the November 6, 2012, consensus revenue estimate for FY 2014 would be affected are shown in the following table:

Effect on FY 2014 Consensus Revenue Estimates
(Dollars in Thousands)

Receipt Description	Consensus Revenue Estimates (Nov. 6, 2012)	Change in Revenue FY 2014	Proposed Adjusted CRE FY 2014
Motor Carrier	$ 39,000	$ --	$ 39,000
Income Taxes:			
Individual	2,385,000	--	2,385,000
Corporate	360,000	--	360,000
Financial Institutions	30,000	--	30,000
Excise Taxes:			
Retail Sales	1,952,000	--	1,952,000
Compensating Use	303,000	--	303,000
Cigarette	92,000	--	92,000
Corporate Franchise	6,000	--	6,000
Severance	137,400	--	137,400
All Other Excise Taxes	99,600	(1,845)	97,755
Other Taxes	151,500	--	151,500
Total Taxes	$5,555,500	$ --	$5,553,655
Other Revenues:			
Interest	$ 9,700	$ --	$ 9,700
Transfers	(155,900)	--	(155,900)
Agency Earnings	55,000	--	55,000
Total Other Revenues	($ 91,200)	$ --	($ 91,200)
Total Receipts	$5,464,300	$ (1,845)	$5,462,455

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

	FY 2015	FY 2016	FY 2017	FY 2018
State General Fund	($1,740,000)	($1,835,000)	($1,835,000)	($1,835,000)
Local Governments	1,845,000	1,845,000	1,845,000	1,845,000
	$ 105,000	$ 10,000	$ 10,000	$ 10,000

To formulate these estimates, the Department of Revenue reviewed data on liquor enforcement tax collections which are anticipated to be approximately $61.5 million in FY 2014.

The Department indicates that the reduction in revenues to the State General Fund could lessen as beer sales replace sales for cereal malt beverages.

The Department estimates that SB 208 would increase its expenditures by approximately $1.5 million in FY 2014, which includes $1,116,000 for increased salaries and wages expenditures and $350,000 for one-time other operating expenditures. Previously, the Department had indicated the bill would cost $1.9 million and require 20.50 FTE positions. The Department indicates that the additional salaries and wages expenditures would provide 17.50 FTE positions and two temporary clerks to process paperwork and answer telephones. Of the additional 17.50 FTE positions, the Department indicates 1.50 Customer Service Representative FTE positions would be required to assume additional tax processing and tax clearances in the Division of Taxation. The remaining FTE positions would be required for the Division of Alcoholic Beverage Control, including 9.00 Enforcement Agent FTE positions to assist with the increased workload; 4.00 FTE positions to assume additional licensing functions; 2.00 Attorney FTE positions; and 1.00 Legal Assistant FTE position. The one-time expenditures would be required to provide computers, office supplies and furnishings; to update forms and publications; to modify computer systems; and to provide user testing. For FY 2015, the fiscal effect listed above would be approximately $1.6 million, which includes $1,549,000 for salaries and wages and $44,700 for one-time costs. Any fiscal effect associated with SB 208 is not reflected in *The FY 2014 Governor's Budget Report*.

Sincerely,

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

cc: Steve Neske, Revenue