Landon State Office Building
900 SW Jackson Street, Room 504
Topeka, KS 66612

Kansas
Division of the Budget

Phone: (785) 296-2436
Fax: (785) 296-0231
shawn.sullivan@ks.gov

Shawn Sullivan, Director of the Budget

Sam Brownback, Governor

February 23, 2017

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

Dear Senator LaTurner:

SUBJECT: Fiscal Note for SB 163 by Senate Committee on Commerce

In accordance with KSA 75-3715a, the following fiscal note concerning SB 163 is respectfully submitted to your committee.

SB 163 would amend the Kansas Liquor Control Act by changing the retailer's license issued by the Director of Division of Alcoholic Beverage Control (ABC) of the Department of Revenue to a liquor retailer's license on July 1, 2018. Only liquor stores would be allowed to obtain a liquor retailer's license. The bill would allow a liquor retailer's license to sell alcohol, spirits, wine, beer, and up to 20.0 percent of other goods and services on the licensed premises. The bill would increase the two-year license fee from $500 to $1,000.

The bill would create a new wine and beer retailer's license that would allow wine and beer to be sold on the licensed premises with no limits of other goods or services that could be sold. Only convenience or grocery stores would be allowed to obtain the new wine and beer retailer's license. Applications for a wine and beer retailer's license could be submitted before July 1, 2018; however, after that date, the ABC Director would have the ability to limit the number of wine and beer retailer's licenses that could be issued in a month based on the amount of licenses that could be reasonably processed. The two year wine and beer retailer's licenses fee would be set at $1,500.

The bill would allow the ABC Director to write rules and regulations to implement the liquor retailer's license and the wine and beer retailer's license. The ABC Director would be allowed to enter into interlocal agreements with cities and counties to enforce the provisions of the Liquor Control Act and the rules and regulations. The bill would create the Local Cereal Malt Beverage Sales Tax Fund, which would be used for liquor enforcement purposes, and would require 3.0 percent of liquor enforcement taxes 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 bill would remove the four-year Kansas residency requirement and would allow a retailer's license to be issued to a corporation. The bill would update the language that requires corporations to file with the Secretary of State to current terminology. The bill would clarify that a liquor license is valid for two years and is not property. The bill would set the minimum age requirement for employees to sell alcohol at a retailer's license to at least 18 years old.

Passage of SB 163 would have an indeterminate fiscal effect on state and local tax revenues. It is unknown how many off-premise cereal malt beverage (CMB) retailers would apply for the newly created wine and beer retailer's license. If CMB retailers move to a wine and beer retailer's license, it could result in a decrease in CMB gallonage tax receipts, decrease in CMB stamp fees, decrease in state and local sales tax receipts, increase in beer gallonage tax receipts, increase in liquor enforcement tax receipts, and additional fee revenue from the newly created wine and beer retailer's license.

CMB licenses are issued by cities and counties for both on-premise consumption (i.e. taverns and restaurants) and off-premise consumption (i.e. grocery stores and convenience stores) and are subject to state and local sales tax. The state does not charge a fee for a CMB license; however, each CMB license holder must pay a $25 CMB stamp fee. The Department of Revenue indicates that if businesses switch from selling cereal malt beverages to wine and beer, sales and local tax revenue would decrease and liquor enforcement tax revenue would increase. Since the bill would provide for 3.0 percent of liquor enforcement tax remittances to be 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. If the bill were to take effect at the beginning of FY 2018, it is estimated that approximately $2.0 million in liquor enforcement tax revenue would be transferred to cities and counties; however, it is unknown what fiscal effect the bill would have on the total amount of liquor enforcement tax revenue. If approximately 90.0 percent of CMB license holders transition to wine and beer retailer's licenses, then the $1,500 license fee would generate approximately $1,010,000 annually, or approximately $2,020,000 over the two- year license cycle.

The Department of Revenue indicates that the state currently has 761 retailer's licenses. Changing the retailer's license to a liquor retailer's license and increasing the license fee from $500 to $1,000 is estimated to generate approximately $190,000 annually, or approximately $380,000 over the two-year license cycle.

The Department of Revenue indicates the bill would require $188,529 in FY 2018 and $710,806 in FY 2019 from the State General Fund, for administrative costs to implement the bill, including changes to ABC forms and publications and modifications to the Department's licensing computer system. The bill would require 5.00 new FTE positions to issue new wine and beer retailer's licenses in FY 2018 and increasing to a total of 10.00 FTE positions in FY 2019 to continue to process license applications and to enforce liquor laws. Depending on the number of CMB license holders that transition to wine and beer retailer's licenses, the Department indicates that as many as 21.00 new FTE positions could be necessary to license and regulate this industry at a cost of $1,152,325 from the State General Fund in FY 2020. The required programming for this bill by itself would be performed by existing staff of the Department of Revenue and outside contractors. However, if the combined effect of implementing this bill and other enacted legislation exceeds the Department's programming resources, or if the time for implementing the changes is too short, additional expenditures for outside contract programmer services beyond the Department's current budget may be required.

The Kansas Department of Transportation (KDOT) indicates that the bill has the potential to reduce state revenues to the State Highway Fund from the reduction or elimination of CMB sales that are currently subject to state and local sales taxes. KDOT indicates that when the state receives lower State Highway Fund dollars it may be required to make corresponding reductions to planned expenditures for projects funded under the comprehensive transportation plan, known as T-WORKS.

The Kansas Association of Counties and the League of Kansas Municipalities indicate that the bill would provide a new source of revenue for local governments by distributing 3.0 percent of liquor enforcement taxes to the Local Cereal Malt Beverage Sales Tax Fund. However, the transfers from the Local Cereal Malt Beverage Sales Tax Fund would be restricted to the enforcement of the Liquor Control Act at the local level. The bill has the potential to reduce local sales tax collections that are used, in part, to finance local governments from the reduction or elimination of sales of CMB. However, the Kansas Association of Counties and the League of Kansas Municipalities do not have data to provide an estimate of the amount of transfers that local governments would receive from the Local Cereal Malt Beverage Sales Tax Fund or the amount of decreased local sales tax revenues from the enactment of the bill. Any fiscal effect associated with SB 163 is not reflected in *The FY 2018 Governor's Budget Report*.

Sincerely,

Shawn Sullivan,
Director of the Budget

cc: Lynn Robinson, Department of Revenue
Ben Cleeves, Transportation
Brock Ingmire, League of Municipalities
Melissa Wangemann, Association of Counties