

Date: February 13, 2017

To: House Committee on Commerce, Labor
And Economic Development

From: Larry R. Baer
General Counsel

Re: HB 2282 – Testimony in Opposition

Thank you for allowing me to appear before the Committee today and present testimony regarding House Bill 2282 on behalf of the League of Kansas Municipalities and our member cities. HB 2282 makes a number of changes to the Kansas Alcoholic Liquor Act and specifically addresses the sale of liquor and “strong beer” in grocery and convenience stores.

The League does not have a position on the underlying policy of HB 2282. However, we are opposed because the proposed changes in HB 2282 would impact how liquor is taxed and the money distributed. Currently, when cereal malt beverage (CMB) is sold in grocery stores and convenience stores local option sales tax is imposed upon CMB and it is collected and distributed as such. Package liquor stores, on the other hand, impose and collect the liquor enforcement tax. A portion of these funds are then distributed to cities and counties.

If the transition anticipated under HB 2282 occurs, grocery and convenience stores will sell less or no CMB. Because of this, cities and counties will lose the revenue that they currently receive from sales tax collected on CMB. To mitigate these losses, the proponents have included a provision to establish the “local cereal malt beverage sales tax fund”. Three percent of the liquor enforcement taxes collected are to be transferred to the fund. The bill provides that these funds will be distributed to cities with a sales tax based upon a weighted population formula. The bill also provides that these funds will not be subject to various statutory budget adjustments, including the governor’s allotment authority.

The League does appreciate the creation of the fund. However, subsection 4(b) appears to place limitations upon the use of the funds set aside in the local CMB sales tax fund. As we interpret the provisions in this section, the permitted use of the funds is for enforcement of the liquor control act. Currently, all sales tax proceeds, whether from CMB or other sources, go to a city’s general fund and are used to fund general governmental functions. The restriction contained in 4(b) would divert funds from the general fund. Those funds would then have to be replaced by property tax. The proposed amendment that is included at the end of this testimony would strike the restriction language from section 4(b) of the bill.

We have concerns that if the funds become subject to appropriation, they could be used for other state purposes. As written, HB 2282, does appear to treat the funds as an automatic transfer and not subject to appropriation. The League requests that this language remain intact to ensure that the funds remain targeted for the purposes intended by HB 2282. Secondly, we have a concern about the formulaic manner of distribution, i.e. based upon a weighted population formula. This could result in a

disproportionate distribution of funds. For instance, a city with a relative small population and high CMB sales that resulted in a substantial sales tax collection may find that it receives a smaller distribution when the HB 2282 formula is used. Thus, HB 2282 would have a negative fiscal impact upon the city.

The League opposes HB 2282 because of the restriction placed upon the use of the funds to be received from the CMB sales tax fund. When the Committee works HB 2282, we ask that the proposed amendment be included in the bill. With the inclusion of the proposed amendment, the League will lift its objection and be neutral on the bill.

Thank you.

**League of Kansas Municipalities' Proposed
Amendment to HB 2282, pages 3 & 4**

New Sec. 4. (a) From the revenue remitted to the state treasurer pursuant to K.S.A. 79-4108, and amendments thereto, during the prior calendar year quarter that is deposited in the state treasury, 3% shall be credited to the local cereal malt beverage sales tax fund, which is hereby created in the state treasury. Moneys credited to the local cereal malt beverage sales tax fund shall be distributed quarterly as part of the January, April, July and October sales tax distribution to each city and county that levied a local retailers' sales tax. The amount to be distributed to each city and county shall be determined by the department of revenue based on a weighted population average. The weighted population average shall be computed by multiplying the total tax rate in effect for the city or county by the population of such city or county. The weighted population average for each city and county shall then be divided by the total Kansas population. The resulting quotient is the percentage of distribution for such city or county. The population data shall be updated annually with the issuance of the certified population data through the division of the budget.

(b) ~~The local cereal malt beverage sales tax fund shall be used for the purposes set forth in K.S.A. 79-4101 et seq., and amendments thereto, and for no other governmental purposes.~~ It is the intent of the legislature that the money in the local cereal malt beverage sale tax fund ~~shall remain intact and inviolate for the purposes set forth in K.S.A. 79-4101 et seq., and amendments thereto, and money in the local cereal malt beverage sales tax fund shall not be subject to the provisions of K.S.A. 75-3722, 75-3725a and 75-3726a, and amendments thereto.~~