

Date: March 11, 2016

To: House Committee on Commerce, Labor  
and Economic Development

From: Larry R. Baer, General Counsel

RE: House Bill 2718 – Neutral Testimony

Thank you for allowing me to appear before the Committee today and present testimony regarding House Bill 2718 on behalf of the League of Kansas Municipalities and our member cities.

HB 2718, as written, makes a number of changes to the Kansas Alcoholic Liquor Act and specifically addresses how a transition from the sale of cereal malt beverage (CMB) to sale of “liquor store beer” in grocery and convenience stores would occur. The bill also sets out the parameters to trigger such transition.

The League does not have a position on the underlying policy of HB 2718. We would, however, provide some information for you to consider, because the proposed changes in HB 2718 would impact how liquor is taxed and the money distributed. Currently, when 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 2718 occurs, grocery and convenience stores will begin to 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 sales 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 League does appreciate the creation of the fund. But, we have concerns that if the funds become subject to appropriation, they could be used for other state purposes. As written, HB 2718, 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 2718. 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 2718 formula is used. Thus, HB 2718 would have a negative fiscal impact upon the city.

Thank you.