F I S C A L   I M P A C T   R E P O R T

		ORIGINAL DATE	2/3/22		
SPONSOR	Hochman-Vigil	**LAST UPDATED**	2/7/22	**HB**	194
SHORT TITLE	Distribution of Liquor Tax to Counties			**SB**	
				ANALYST	Faubion

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY22	FY23	FY24	FY25	FY26		
-	($23,515.0)	($23,710.0)	($23,807.0)	($24,001.0)	Recurring	General Fund
-	($4.0)	($2.0)	($1.0)	$1.0	Recurring	Class A Municipality
-	$11,760.0	$11,856.0	$11,904.0	$12,000.0	Recurring	Counties
-	$11,760.0	$11,856.0	$11,904.0	$12,000.0	Recurring	County Alcohol and Substance Abuse Prevention and Treatment Fund

Parenthesis ( ) indicate revenue decreases

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

FY22	FY23	FY24	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
-	Indeterminate but positive	Indeterminate but positive	Indeterminate but positive	Recurring	DFA/LGD – County grant program
$120.0	--	--	$120.0	Nonrecurring	TRD/ITD – Contractual resources
$3.2	--	--	$3.2	Nonrecurring	TRD/ASD – staff workload costs
--	$72.6	$72.6	$145.2	Recurring	TRD/ASD – 0.5 FTE

Parenthesis ( ) indicate expenditure decreases

Duplicates SB 207.

SOURCES OF INFORMATION
LFC Files

<u>Responses Received From</u>
Department of Finance and Administration (DFA)
Attorney General's Office (NMAG)
Taxation and Revenue Department (TRD)
Department of Health (DOH)

SUMMARY

<u>Synopsis of Bill</u>

House Bill 194 (HB194) redistributes the receipts of the liquor excise tax by replacing the current monthly distribution to municipalities, $20,750, from the liquor excise tax to a distribution of 0.5 percent.

HB194 also adds a new distribution to counties in amount equal to 24 percent of liquor excise tax receipts for substance abuse prevention and treatment. County distributions would be determined by the county's proportion of the state's population based on the most recent federal census.

Finally, HB194 creates the county alcohol and substance abuse prevention and treatment fund. The fund would receive another 24 percent distribution from liquor excise tax receipts to make grants to counties to fund alcohol and substance abuse prevention and treatment programs. The fund is non-reverting and administered by the New Mexico Department of Finance and Administration Local Government Division.

Under the proposed bill, the distributions of the net receipts attributable to the liquor excise tax are as follows:

Percent Distribution of Liquor Excise Tax Revenue	Earmarked Use
45%	Local DWI Grant Fund
0.5%	Municipalities in a class A county with a population of more than thirty thousand but less than sixty thousand
5%	Drug Court Fund
24%	Counties substance use and prevention treatment
24%	County alcohol and substance abuse prevention and treatment fund
1.5%	

The effective date of this bill is July 1, 2022.

The effective date of this bill is July 1, 2022.

FISCAL IMPLICATIONS

The bill does not include an appropriation but does create a county alcohol and substance abuse prevention and treatment fund. The fund allows for continuing appropriations, donations, investment interest, and other sources and shall be administered by the New Mexico Department of Finance and Administration, Local Government Division. The earmarking of $24 million contained in this bill is a recurring expense to the general fund. Establishing an earmark creates an expectation that the program will continue in future fiscal years, reducing the ability of future

Legislatures to comprehensively appropriate funds and set spending priorities.
Based on the distribution changes, the general fund would receive 1.5 percent of the net receipts versus approximately 49.5 percent under current statutes. Using the December 2021 Consensus Estimating Revenue Group general fund forecast for Liquor Excise tax, the LFC and TRD applied the proposed distribution changes to determine the fiscal impact.

The amount to be distributed to municipalities that are located in a class A county with a population of more than 30 thousand but less than 60 thousand is amended to be amount equal to 0.5 percent instead of the $20,750 monthly in current law. The change of this distribution from a fixed rate to a percentage has a small impact on that distribution given the projected revenues. Currently, only Farmington qualifies for this distribution. If only one municipality qualifies for this distribution, as has been the case recently and is assumed in this fiscal analysis, the general fund is left with 1.5 percent of liquor excise tax revenues. If other counties become eligible over time, the general fund could be stripped of any revenues from liquor excise taxes.

The bill also charges the Local Government Division (LGD) within DFA to administer a new grant program to distribute funds to counties out of the proposed county alcohol and substance abuse prevention and treatment fund. This will require additional recurring appropriations to LGD for implementation of this program.

Implementing this bill will have a moderate impact on TRD's Information Technology Division (ITD), approximately 600 hours or 4 months and approximately $120 thousand of contractual resources. This estimate is for implementing changes in distributions attributable to the Liquor Excise Tax.

TRD's Administrative Services Division (ASD) will work conjunctly with ITD in making significant changes to the existing liquor tax program distributions, general ledger transactions and multiple revenue reports. ASD will work with DFA to establish a new accounting string in SHARE for the new fund. Additionally, ASD will also work with ITD to test the substantial number of new distributions. ASD will incur staff workload costs of $3.2 thousand. ASD will also incur a recurring impact from adding in a new local government component to an existing state distribution and will require a 0.5 FTE at payband level 70.

This bill may be counter to the LFC tax policy principle of adequacy, efficiency, and equity. Due to the increasing cost of tax expenditures, revenues may be insufficient to cover growing recurring appropriations.

SIGNIFICANT ISSUES

This bill creates two new distributions of the liquor tax. The first is a direct distribution to counties to be used only for the provision of alcohol and substance abuse prevention and treatment. There is no reporting requirement on the use of these direct funds from the counties. The other new distribution is through a grant program through DFA. These funds will have some oversight through LGD built in through the grantmaking process.

Farmington is currently the only municipality to receive funds through the Class A county and population clause. Under the proposed bill, Farmington will receive the .5 percent distribution allocated per the Class A county and population distribution clause plus their share of the county pot proposed by the direct distribution to counties.

TRD notes that under statute, local governments can theoretically enact a local liquor excise tax. However, due to the definition of "county" contained in the Local Liquor Excise Tax Act, Sections 7-24-8 through 7-24-16, NMSA 1978, only McKinley County can impose this local tax, the proceeds of which must be used for alcohol and substance abuse prevention and treatment. An alternative to Subsection 1(D) of this proposed bill would be to expand the definition of "county" in the Local Liquor Excise Tax Act to permit additional counties to impose the local liquor excise tax.

TRD also notes that this bill diverts monies from the statewide liquor excise tax program, a distribution that is already being made to the general fund and is considered a general fund distribution. In addition to distributing to other state funds, the legislation also changes an existing carve-out distribution to Farmington and adds another carve-out distribution to all counties. When amounts are diverted at the TRD's point of distribution, economists and policy makers have to add back these amounts to determine actual general fund revenues from the pertinent tax program. Additionally, financial reporting is made more complex as revenues are reported across various different state agencies. In some cases, agencies are reporting amounts as transfers from TRD, therefore underreporting state revenue. To simplify the process for all involved parties, the new proposed distribution should be made by the Department of Finance and Administration (DFA) to the counties once the state liquor excise tax distribution to the general fund has been completed and general fund revenue is properly recorded. DFA could then make pertinent transfers and grants to counties.

PERFORMANCE IMPLICATIONS

The LFC tax policy of accountability is <u>not</u> met since TRD is <u>not</u> required in the bill to report annually to an interim legislative committee regarding the data compiled from the reports from recipients of the distribution and other information to determine whether the distribution is meeting its purpose.

ADMINISTRATIVE IMPLICATIONS

If HB194 is enacted, the Local Governments Division (LGD) of DFA will need to develop a process for counties to submit their grant request for alcohol and substance abuse prevention and treatment. LGD will also need to determine that the grant request meets the required criteria. LGD will need to create a rule in the New Mexico Administrative Code to regulate the uses of the new fund.

Due to the effective date of July 1, 2022 for this bill and other proposed bills, any changes to rates, deductions and distributions adds to the complexity and risk TRD faces July 1, 2022 to ensure complete readiness and testing of all processes. TRD will be in the first months of implementing the new cannabis excise tax program and working through any identified issues with this implementation of a new tax program. Based on this uncertainly there may be additional costs that cannot be estimated at this time.

If several bills with similar effective dates become law there will be a greater impact to TRD and additional staff workload costs or contract resources may be needed to complete the changes specified by the effective date(s) of each bill.

OTHER SUBSTANTIVE ISSUES

The Department of Health notes the following:

- New Mexico has the highest rate of death due to excessive alcohol consumption of any state in the US.
- NM's 2020 alcohol-related death rate was 86.6 per 100,000 population (age-adjusted to the US standard 2000 population).
- NM's 2020 drug overdose death rate was 39.7 per 100,000 population (age-adjusted to the US standard 2000 population).
    - Both of these rates are higher than the 2019 rates.
- Evidence-based population-level prevention strategies and treatment can decrease the harms of excessive consumption of alcohol and other substance use.
- People with substance use disorders, their families, and the general public will benefit from expanded prevention and treatment services.
- American Indians/Alaska Natives bear the greatest burden of alcohol-related death in NM.
- McKinley and Rio Arriba counties have the highest rates of alcohol-related death. Rio Arriba County also has the highest rate of drug overdose death.
- Males have higher rates than females for both drug overdose and alcohol-related deaths.
- People who consume excessive alcohol and people who use other substances as well as their families will be most impacted if this bill is implemented. The general public will also benefit.
- If implemented this bill could help reduce excessive alcohol use and use of other substances, and the reduce health-related harms.

TECHNICAL ISSUES

This bill does not contain a delayed repeal date. LFC recommends adding a delayed repeal date.

Does the bill meet the Legislative Finance Committee tax policy principles?

1. **Adequacy**: Revenue should be adequate to fund needed government services.
2. **Efficiency**: Tax base should be as broad as possible and avoid excess reliance on one tax.
3. **Equity**: Different taxpayers should be treated fairly.
4. **Simplicity**: Collection should be simple and easily understood.
5. **Accountability**: Preferences should be easy to monitor and evaluate.

Does the bill meet the Legislative Finance Committee tax expenditure policy principles?

1. **Vetted**: The proposed new or expanded tax expenditure was vetted through interim legislative committees, such as LFC and the Revenue Stabilization and Tax Policy Committee, to review fiscal, legal, and general policy parameters.
2. **Targeted**: The tax expenditure has a clearly stated purpose, long-term goals, and measurable annual targets designed to mark progress toward the goals.
3. **Transparent**: The tax expenditure requires at least annual reporting by the recipients, the Taxation and Revenue Department, and other relevant agencies.
4. **Accountable**: The required reporting allows for analysis by members of the public to determine progress toward annual targets and determination of effectiveness and efficiency. The tax expenditure is set to expire unless legislative action is taken to review

the tax expenditure and extend the expiration date.

5. **Effective**: The tax expenditure fulfills the stated purpose. If the tax expenditure is designed to alter behavior – for example, economic development incentives intended to increase economic growth – there are indicators the recipients would not have performed the desired actions "but for" the existence of the tax expenditure.
6. **Efficient:** The tax expenditure is the most cost-effective way to achieve the desired results.

LFC Tax Expenditure Policy Principle	**Met?**	**Comments**
Vetted	✘	
Targeted		
Clearly stated purpose	✘	
Long-term goals	✘	
Measurable targets	✘	
Transparent	✘	
Accountable		
Public analysis	✘	
Expiration date	✘	
Effective		
Fulfills stated purpose	?	
Passes "but for" test	?	
Efficient	?	
Key: ✓ Met ✘ Not Met ? Unclear		

JF/al/acv/rl/al/acv