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FISCAL IMPACT REPORT

SPONSOR: Madalena DATE TYPED: 02/10/01 HB 362
 SHORT TITLE: Amend Liquor Excise Tax Act SB _____
 ANALYST: Eaton

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY01	FY02			
	(unknown/negative)		Recurring	General Fund
	(unknown/negative)		Recurring	DWI Grant Fund
	unknown/positive		Recurring	Tribal Revenue

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Bill

This bill revises the state liquor excise tax from being a tax imposed on wholesalers to being a tax imposed directly on consumers. The tax would continue to be collected from alcohol beverage wholesalers as a "pre-collected" tax on the consumer. Alcoholic beverages which are subject to a tax imposed by an Indian nation, tribe or pueblo would be exempt from the state liquor excise tax if the tribal tax were equal to, or greater than, the state liquor excise tax. Definitions within the liquor excise tax are alphabetized by the bill, the definition of "wine" is slightly revised, and the definition of "spirituous liquors" is eliminated.

FISCAL IMPLICATIONS

The Taxation and Revenue Department (TRD) has no information regarding the volume of alcoholic beverages sold within Indian reservations or pueblo boundaries which might eventually be subject to tribal taxes. Since the tribal tax must be "equal to or greater than" the state tax rate, no change in consumer purchasing patterns would be expected as a result of tax rates; the state would simply lose the tax revenue it currently receives on volumes sold within the reservation or pueblo boundaries.

During fiscal year 2002, the DWI grant fund receives 32.7 percent of the liquor excise tax and the general fund receives 67.3 percent. After June 30, 2002 the DWI Grant Fund receives 27.2 percent of

the liquor excise tax and the general fund receives 72.8 percent. The liquor excise tax currently raises about \$38 million per year.

ADMINISTRATIVE IMPLICATIONS

Minimal.

TECHNICAL ISSUES

The definition of "spirituous liquors" is eliminated by the bill, yet the \$1.60 per liter tax is still imposed "on spirituous liquors" by Section 7-17-5 NMSA 1978 (Section 2 of the bill). The current definition is not exactly precise, referring to "beverages, except fermented beverages such as wine, beer, cider and ale", and has not been updated to specifically address "fortified wine". A statutory definition of "spirituous liquors" may not be necessary for administration of the tax, but the department would prefer the tax act to define the term. Otherwise it will be understood as "alcoholic beverage" not specifically defined.

Section 4 of the bill regarding the exemption for beverages subject to tribal taxes describes beverages "subject to a sales, privilege, consumption or similar tax imposed by ... a tribe". It is unclear whether the \$0.41 per gallon state liquor tax on beer could be considered equivalent to a 5% general sales tax imposed by a tribe on a \$4.61 six-pack. If that were the case, beverages sold on tribal lands could enjoy a price differential over beverages sold outside tribal lands which are subject to both the liquor excise tax and the gross receipts tax.

OTHER SUBSTANTIVE ISSUES

Approximately \$38 million is currently raised by the state liquor excise tax, of which about \$25.5 million is general fund revenue and \$12.5 million is distributed to the Local DWI Grant Fund. An additional large portion of the state general fund revenue from the state liquor excise tax could be considered to be "taken-up" by continuing appropriations to the Health Department and the DWI Program Fund for alcohol-related programs.

Exempting beverages sold within tribal boundaries likely means less money will be available for anti-DWI and alcohol cessation initiatives.

JBE/njw