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

		ORIGINAL DATE	01/06/14		
SPONSOR	HTRC	**LAST UPDATED**	02/14/14	**HB**	CS/16/aHAFC
SHORT TITLE	Liquor Tax Distribution to DWI Grant Fund			**SB**	
				ANALYST	Dorbecker/Boerner/ Geisler/Galbraith

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY14	**FY15**	**FY16**	**FY17**	**FY18**		
		$2,158.0	$2,198.0	$2,237.0	Recurring	Local DWI Grant Fund
		($2,158.0)	($2,198.0)	($2,237.0)	Recurring	General Fund

Parenthesis ( ) Indicate Revenue Decreases

SOURCES OF INFORMATION
LFC Files

Responses Received From
Administrative Office of the Courts (AOC)
Department of Finance and Administration (DFA)
New Mexico Municipal League (NMML)
Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of HAFC Amendment

The House Appropriations and Finance Committee amendment to the House Taxation and Revenue Committee substitute for House Bill 16 changes the distribution of proceeds of the liquor excise tax into the local DWI grant fund (LDWI) to 46 percent for FY16, FY17, and FY18. After FY18, the distribution to the LDWI reverts to 41.5 percent.

Table 1. Fiscal Implications of HB16 (Millions of Dollars)

	Est. Total Liquor Excise Tax Collection	Distribution Percentage	Current Law		HB16		Difference	
			GF*	LDWI	GF*	LDWI	GF	LDWI
FY15	47.2	41.5	27.6	19.6	27.6	19.6	0.0	0.0
FY16	47.95	46	28.1	19.9	25.9	22.1	(2.158)	2.158
FY17	48.85	46	28.6	20.3	26.4	22.5	(2.198)	2.198
FY18	49.7	46	29.1	20.6	26.8	22.9	(2.237)	2.237

* Does not include: Monthly distribution of $20,750 to a municipality of class A county and penalties and interest

<u>Synopsis of Original Bill</u>

The House Taxation and Revenue Committee substitute for House Bill 16 amends section 7-1-6.40 NMSA 1978 of the Tax Administration Act to increase the amount of the annual distribution of the liquor excise tax revenue to the local DWI grant fund (LDWI) and makes the distribution exclusive of penalties and interest. Under current law, the distribution amount to the LDWI is 41.5 percent.

- In FY15, the distribution will remain at 41.5 percent;
- In FY16, the distribution will be 46 percent;
- In FY17, the distribution will be 50.5 percent;
- In FY18, the distribution will be 55 percent;
- In FY19, the distribution will be 59.5 percent;
- In FY20, the distribution will be 64 percent; and
- In FY21 and subsequent years, the distribution will be 68.5 percent.

The effective date of this bill is July 1, 2015.

FISCAL IMPLICATIONS

To estimate the fiscal impact of this bill for FY16 through FY18, LFC staff used projections from the December 2013 General Fund Consensus Revenue Estimate (CREG) for liquor excise tax revenue. An average annual growth rate of 1.7 percent was calculated to estimate the liquor excise tax revenue between FY19 and FY21. The fiscal impact of HTRC bill 16 is depicted in Table 1.

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FY15	47.2	41.5	27.6	19.6	27.6	19.6	0.0	0.0
FY16	47.95	46	28.1	19.9	25.9	22.1	(2.2)	2.2
FY17	48.85	50.5	28.6	20.3	24.2	24.7	(4.4)	4.4
FY18	49.7	55	29.1	20.6	22.4	27.3	(6.7)	6.7
FY19	50.5	59.5	29.6	21.0	20.5	30.1	(9.1)	9.1
FY20	51.4	64	30.1	21.3	18.5	32.9	(11.6)	11.6
FY21	52.3	68.5	30.6	21.7	16.5	35.8	(14.1)	14.1

* Does not include: Monthly distribution of $20,750 to a municipality of class A county and penalties and interest

The proposed changes by HTRC bill 16 would only have impacts on revenue distributions. According to the Taxation and Revenue Department (TRD), the penalties and interest are very small pieces of the total liquor revenue, about 0.064 percent according to historical data. Without accounting for the penalties and interest excluded from the net receipts for the distribution to LDWI, the grant fund was estimated to increase by approximately $2.2 million in FY16, $4.4 million in FY17, $6.7 million in FY18, $9.1 million in FY19, $11.6 million in FY20, and $14.1 million in FY21. The General Fund revenue would decline correspondingly by the same amounts.

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.

The Affordable Care Act is expected to allow counties to expand services without increasing liquor excise tax revenue to the local DWI grant fund.

With the expansion of New Mexico' Medicaid program under the Affordable Care Act (ACA), the need to increase the amount of the annual distribution of the liquor excise tax revenue to the local DWI grant fund for county services appears unnecessary or at the very least premature. For example, screening and testing, outpatient treatment, social detox services, and prevention services provided by the counties are services covered by Medicaid for eligible recipients. With additional Medicaid dollars available to cover these services for eligible clients, local DWI grant money previously spent on those services can be repurposed to expand services or develop new programming.

The New Mexico Human Services Department (HSD) estimates that 133,000 newly eligible low-income adults will be enrolled into the Medicaid program during FY14 due to the ACA Act. HSD projects behavioral health expenditures to grow approximately $79 million dollars in FY15 due to new adult enrollment, and much of this spending will be on out-patient behavioral services statewide for mental health and substance abuse.

Consideration should be given to direct local DWI funding towards prevention and harm reduction, rather than treatment. DWI treatment funding could be transferred to the Human Services Department as Medicaid funding matches or for distribution through the State Substance Abuse Authority. This action would improve coordination of physical and behavioral health for individuals with substance abuse issues. Consolidating substance abuse funding would decrease the risk of service and reimbursement duplication. County local DWI programs differ from county to county, there is little in the way of coordination of efforts among counties, and despite ongoing efforts by the DFA LGD, reporting by counties regarding outcomes and cost effectiveness of programs has been limited.

SIGNIFICANT ISSUES

The Local Government Division (LGD) of the Department of Finance and Administration (DFA) manages the local DWI grant fund (LDWI). Per Section 11-6A-3.C NMSA 1978, $5.6 million is taken out of the LDWI annually and used for the following purposes:

- Funding of alcohol detoxification and treatment centers in six counties;
- Three hundred thousand ($300,000) for the ignition interlock fund;
- No more than six hundred thousand ($600,000) for LDWI program administration at DFA; and
- Remainder available to county programs on a competitive grant basis.

DFA reports that in FY13, the local DWI programs throughout the state provided many services, including screening 8,511 offenders, referring 4,130 offenders to treatment, providing 450 checkpoints and saturation patrols, providing prevention education in 352 schools, and monitoring the compliance of 8,788 offenders to ensure that they met their court ordered sanctions.

DFA also indicates the increased funding would allow local DWI programs to expand services. More DWI offenders would receive a wider variety of substance abuse treatment services, additional services would be provided to those on probation, more services and coordination with the courts could be provided, and local programs could reach the majority of school-aged children through prevention activities. DFA estimates the gradual increase in revenues over the next three years will allow programs to build capacity, maintain accountability, and plan appropriately for the future needs of their communities.

According to the Administrative Office of the Courts (AOC), the legislature has transferred funds from LDWI to AOC during some fiscal years to support the state's drug court programs. These LDWI-to-AOC transfers have been important especially during recent recessionary years, as the state's drug court programs saw a funding reduction of 31 percent between FY09 and FY12.

LDWI funds are distributed to counties each year in proportion to their gross receipts taxes and alcohol-related injury crashes. These funds are used primarily for county-run programs and services "to prevent or reduce the incidence of DWI, alcoholism, alcohol abuse, drug addiction or drug abuse" (Section 11-6A-3.A.1 NMSA 1978).

AOC reports increased LDWI funding would allow the counties to expand the reach of those programs as well as increase the types of programs and the range of services to substance abusing offenders.

PERFORMANCE IMPLICATIONS

DFA will continue to evaluate and monitor the local DWI programs to ensure that best practices are used and that the programs and activities funded have the most impact on reducing the incidence of DWI, alcoholism and alcohol abuse.

According to AOC, the counties use the LDWI funds for a wide range of educational, preventive, and treatment programs, with a statutory mandate to spend at least 65 percent of the total fund each year on alcohol-related treatment and detoxification programs. It is not clear what part the current research on evidence-based practices plays in the program selection process made by county officials. It is also not clear what performance measures are collected in support of the efficacy of this diverse set of programs.

ADMINISTRATIVE IMPLICATIONS

TRD estimates there are no impacts on the Financial Distribution Bureau process and staffing. Four to six hours of annual testing may be required to ensure GenTax implementation of the percentages and the exclusion of both penalty and interest are working correctly. Currently, liquor excise tax is distributed inclusive of penalty and interest.

According to AOC, most of the misdemeanor probation services across the state are provided by, or in conjunction with, local DWI programs, through their LDWI-funded county compliance programs. Without these programs, thousands of misdemeanants would likely not be supervised, as NMCD's adult probation officers focus on felony offenders, and the courts do not have the funding or staff to provide these services. If county compliance programs are currently underfunded or in need of expansion, any increase in LDWI funding could be used to support these needed programs. DFA has the staff and administrative resources available to support this legislation.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Not increasing the distribution to LDWI would increase the amount of the liquor excise tax that would be available for use in the state general fund.

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

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