FISCAL IMPACT REPORT

		ORIGINAL DATE	02/06/14		
SPONSOR	Sanchez, M.	**LAST UPDATED**	02/17/14	**HB**	
SHORT TITLE	Allow Local Liquor Tax and Limit Rates			**SB**	263/aSFC/aSFl#1
				ANALYST	Dorbecker

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY14	**FY15**	**FY16**	**FY17**	**FY18**		
	$42,658.0	$43,221.0	$43,724.0	$44,342.0	Recurring	Direct Program Services for Prevention and Treatment
	($62.0)	($63.0)	($63.5.0)	($64.0)	Recurring	TRD Operating Fund
	(Indeterminate)	(Indeterminate)	(Indeterminate)	(Indeterminate)	Recurring	State General Fund
	(Indeterminate)	(Indeterminate)	(Indeterminate)	(Indeterminate)	Recurring	DWI Grant Fund

(Parenthesis ( ) Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY14	FY15	FY16	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	$0.0	$63.0	$0.0	$63.0	Recurring	Taxation and Revenue Department

(Parenthesis ( ) Indicate Expenditure Decreases)

SOURCES OF INFORMATION
LFC Files

Responses Received From
Department of Health (DOH)
Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of SFl#1 Amendment

Senate Floor amendment #1 adds new language to specify the authorization to impose a “local liquor excise tax” by the majority of the members elected of a class B county with population of more than 56,000 but less than 75,000 according to the 2010 census. The amendment also establishes for a tax year, a minimum of $500 million and maximum of $800 million dollars of net taxable value for rate-setting purposes.

Synopsis of SFC Amendment

The Senate Finance Committee amendment adds a temporary provision to the bill to provide that an ordinance in effect prior to July 1, 2014 that imposes an excise tax of no more than 6 percent will continue to remain in effect for a period of not more than 3 years from the effective date of the ordinance or amendment.

Synopsis of Original Bill

Senate Bill 263 amends the Tax Administration Act by modifying the definition of "county" allowing all counties to impose a liquor excise tax. The bill also adds definitions of beer, cider, fortified wine, microbrewer, small winegrower, spirituous liquor, wine, and wholesaler.

The bill also proposes to amend 7-24-10 NMSA 1978 to replace the language authorizing the local liquor excise tax and apply the tax to wholesalers rather than retailers.

SB 263 proposes tax rates that are separated by category, such a spirituous liquors, wine, fortified wine, etc. No tax would be assessed on beer produced by a microbrewer or wine produced by a small winegrower. The tax may be imposed for 4 years as opposed to 3 years under current law. Extension of the tax shall be submitted to the voters in the same manner as the initial approval and the revenue from the local liquor excise tax shall be dedicated to "direct program services", removing the current language in the Act, "educational programs".

Within the final year that a local liquor excise tax is in effect, the governing body may enact an ordinance extending the term of the tax. The process required for an election to approve the tax or an extension is clarified. If the ordinance is not approved, the governing body shall not propose the tax for one year following the election.

The bill would add language to the tax administration act to authorize the transfer of local liquor excise tax revenue to the counties for which the Taxation and Revenue Department (TRD) is collecting the tax. It also proposes to amend Section 7-24-15 NMSA 1978 to remove TRD's authority to deduct up to 5 percent of the local liquor excise tax as a charge for the administrative costs of collection.

Finally, SB 263 proposes to have the tax revenue be dedicated to fund "direct program services" for the prevention and treatment, including social detoxification, of alcoholism and drug abuse within the county and no other purpose. This would be a slight change to the current use of the revenue for McKinley County, once that county reauthorizes its Local Liquor Excise Tax ordinance.

The maximum local liquor excise tax rates for counties identified on page 6, Subsection A, are:
- on spirituous liquors, $1.08 per liter (*tax decrease)*;
- on beer (except beer produced by a microbrewer), $.51 per gallon (*tax increase)*;
- on beer produced by a microbrewer, $0 per gallon (*tax decrease)*;
- on wine (except fortified wine and wine produced by a small winegrower), $.36 per liter (*tax increase)*;
- on fortified wine, $.54 per liter *(tax decrease)*;

- on wine produced by a small winegrower, $0 per liter *(tax decrease)*;
- on cider, $.72 per gallon *(tax increase)*.

Existing liquor rates as of January 1, 2014:

- on spirituous liquors, $1.60 per liter;
- on beer (except beer produced by a microbrewer), $.41 per gallon;
- on beer produced by a microbrewer, $.08 per gallon up to 10,000 gallons; $.28 per gallons for all barrels sold over 10,000 but fewer than 15,000;
- on wine (except fortified wine and wine produced by a small winegrower), $.45 per liter;
- on fortified wine, $1.50 per liter;
- on wine produced by a small winegrower, $.10 per liter on first 80,000 liters; $.20 per liter between 80,000 and 950,000 liters; $.30 per liter between 950,000 and 1.5 million liters;
- on cider, $.41 per gallon.

The effective date of this bill is July 1, 2014. This bill repeals the contingent effective date for the current statute.

FISCAL IMPLICATIONS

TRD notes the imposition of a local liquor excise tax prior to 2015 would be unlikely under the requirements for public meetings and voter approval (no less than 90 days following voter approval). TRD's revenue impact illustrates the potential full year effect beginning in FY2015, and is based on the December 2013 alcoholic beverage volumes forecast for the state Liquor Excise Tax, less the revenue loss subject to changes on McKinley County's existing tax rate (5 percent).

According to TRD, there would be a negative impact on the State General Fund and DWI Grant Fund from declines in beverage volumes associated with retail price increases due to imposition of local option taxes. TRD used literary resources to estimate the price elasticity of demand of alcohol and used it to calculate the decrease in liquor consumption. TRD is cited as saying "…not all counties would be expected to immediately impose the tax, so that impact has not been estimated in the revenue table above. However, statewide imposition of the local liquor excise tax would be expected to decrease State General Fund and DWI Grant Fund revenues by about 4 percent or about $1.9 million per year". Approximately $1.1 million less for State General Fund and $0.79 million for DWI Grant Fund.

SIGNIFICANT ISSUES

TRD notes some of the proposed tax rates are tax decreases or eliminations while others are tax increases. Also, the 5 percent administrative charge provided to TRD for administering the tax is eliminated. Hence, TRD will need to request an appropriation to cover its administrative costs given the loss of the 5 percent administrative fee.

TRD is quoted as saying "It is not certain what will happen in McKinley County, which currently imposes the local liquor excise tax, under the old law. The residents of McKinley County may need to vote on the issue again. There will be little time to elect the new rates."

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 taxpayers taking the deduction and other information to determine whether the deduction is meeting its purpose.

ADMINISTRATIVE IMPLICATIONS

According to TRD, the local liquor excise tax form will need to be revised to look more like the liquor excise tax, and a location code will need to be added for each county/location. Hence, the form will get quite complicated. If two counties agree to share the tax collected in a shared municipality, (Page 9, paragraph E) TRD would likely have to divide the money collected as per the agreement. The forms and instructions will need modifications at a cost of $6,000. Notices will need to go to the taxpayers in McKinley County to let them know that the distributor will now be paying the tax. GenTax will need to be re-configured. The reporting requirements for distributors will become more complex, increasing their tax filing burden.

TECHNICAL ISSUES

The bill defines a "small winegrower" which was not included in the existing statute as of January 1, 2014.

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

HD/svb