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FISCAL IMPACT REPORT

ORIGINAL DATE 01/23/17

SPONSOR Trujillo, CA LAST UPDATED _____ HB 55

SHORT TITLE Liquor Tax for DWI Grant Fund & Drug Courts SB _____

ANALYST Clark

REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY17	FY18	FY19	FY20	FY21		
	(\$1,900.0)	(\$4,200.0)	(\$4,000.0)	(\$4,000.0)	Recurring	General Fund
		\$2,200.0	\$2,100.0	\$2,100.0	Recurring	Local DWI Grant Fund
	\$1,900.0	\$2,000.0	\$1,900.0	\$1,900.0	Recurring	AOC for Drug Courts

Parenthesis () indicate revenue decreases

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	\$50.0			\$50.0	Nonrecurring	Taxation and Revenue Department

Parenthesis () indicate expenditure decreases

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
 Taxation and Revenue Department (TRD)
 Regulation and Licensing Department (RLD)

SUMMARY

Synopsis of Bill

House Bill 55 changes the distributions of liquor excise tax revenues. It makes permanent a temporary increase in the distribution to the local DWI grant fund, keeping it at 46 percent

instead of scaling back to 41.5 percent beginning in FY19. It also adds a new distribution of 4 percent to the Administrative Office of the Courts (AOC) for drug courts beginning in FY18.

The effective date of this bill is July 1, 2017.

FISCAL IMPLICATIONS

The distribution calculations were performed by LFC staff and based on the December consensus revenue estimates for liquor excise taxes. The charts below show the current and proposed revenues. Estimates from the Taxation and Revenue Department (TRD) are different but of very similar magnitudes.

	Current				
	FY17	FY18	FY19	FY20	FY21
General Fund	6.9	26.1	28.9	27.7	27.7
Local DWI	21.2	22.2	20.5	19.7	19.7
Lottery	17.9	0.0	0.0	0.0	0.0
AOC Drug Courts	0.0	0.0	0.0	0.0	0.0
Total	46.0	48.3	49.4	47.4	47.4

	Proposed				
	FY17	FY18	FY19	FY20	FY21
General Fund	6.9	24.2	24.7	23.7	23.7
Local DWI	21.2	22.2	22.7	21.8	21.8
Lottery	17.9	0.0	0.0	0.0	0.0
AOC Drug Courts	0.0	1.9	2.0	1.9	1.9
Total	46.0	48.3	49.4	47.4	47.4

	Difference				
	FY17	FY18	FY19	FY20	FY21
General Fund	0.0	-1.9	-4.2	-4.0	-4.0
Local DWI	0.0	0.0	2.2	2.1	2.1
Lottery	0.0	0.0	0.0	0.0	0.0
AOC Drug Courts	0.0	1.9	2.0	1.9	1.9
Total	0.0	0.0	0.0	0.0	0.0

SIGNIFICANT ISSUES

The bill distributes revenues to AOC but does not establish a fund. Presumably, the agency would be able to set up a fund to hold the revenues, but the revenues would likely revert to the general fund at the end of a fiscal year, and the bill contains no appropriation language, so unless the Legislature chooses to appropriate these funds for use in future fiscal years, the funds will simply revert to the general fund. This would produce a negative general fund impact because of the one-year delay for booking the general fund revenues.

AOC provided the following analysis.

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

detoxification and treatment centers in six counties, \$300 thousand for the ignition interlock fund, no more than \$600 thousand for LDWI program administration at DFA, and the remainder available to county programs on a competitive grant basis. The Legislature also transferred funds from LDWI to AOC during some fiscal years to support the state’s drug court programs. These LDWI-to-AOC transfers were especially important during the recent recession, as the state’s drug court programs suffered a 31 percent funding cut from FY09 to FY12 and lost several programs during that time. Though the amounts of such fiscal-year transfers have varied, \$500 thousand was transferred to the AOC in FY15, \$1 million was transferred in FY16, and \$1.3 million was transferred in FY17 to support ongoing drug court operations.

After the \$5.6 million (and AOC, when applicable) carve-out, the money remaining in the LDWI fund is distributed to the counties each year through an algorithm based on gross receipts taxes and alcohol-related injury crashes. The 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).

As this bill would appropriate 4 percent of the liquor excise tax revenue to AOC for drug courts, the Legislature might eliminate the transfer from the LDWI fund to the AOC, which would result in a net increase to the LDWI fund. 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.

AOC administers over 50 drug and mental health court programs statewide. Seven are DWI drug court programs operating at various magistrate courts around the state, two are operated by the Bernalillo County Metropolitan Court, and the remainder operate in the district courts. Drug courts provide a yearlong treatment program for non-violent offenders whose repeat criminal activity is driven by drug addiction and/or mental health issues. Current funding of approximately \$9.5 million (a combination of general fund in the courts’ and AOC’s budgets, as well as the LDWI transfer) allows the programs to work with 950 participants on any given day, which is down from the \$11 million in statewide drug court funding prior to the recession and the 1,200 participants treatment level at that time.

National studies calculate that approximately 50 percent of all jail and prison inmates are clinically addicted. As there are over 13 thousand inmates in New Mexico jails and prisons annually, the national figure would indicate that over 6,000 of them are clinically addicted. Although not all of them would be eligible for drug court, a conservative estimate is that drug court capacity could be increased three to fourfold to enable diversion of a significant number of such addicted offenders into drug court supervised treatment rather than incarceration. The possible increase in drug court funding that could result from passage of the bill would allow for a slight treatment expansion to address that need, while realizing significant savings through avoided jail and prison costs.

PERFORMANCE IMPLICATIONS

The following performance analysis was also provided by AOC.

As an alternative to incarceration, drug court performance measures are often compared to those for prison inmates. AOC collects a wide range of performance measures on the drug court programs statewide, including recidivism rate, graduation rate, employment rate, and cost-per-

client-per-day. Drug courts' 21 percent recidivism rate is twice as good as the 46 percent recidivism rate reported by the New Mexico Corrections Department (NMCD), and drug courts' \$25 cost-per-client-per-day is almost four times less expensive than the \$92.98 cost-per-day for housing inmates. Based on the lower re-offense rate and cost-per-client, LFC's Results First study recently calculated the state would realize \$8.60 in savings for every \$1 invested in adult drug court programs and \$5.36 for every \$1 invested in juvenile drug court programs.

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 current research on evidence-based practices plays in the selection by the counties of the programs they choose to implement and maintain. It is also not clear what performance measures are collected in support of the efficacy of this diverse set of programs.

ADMINISTRATIVE IMPLICATIONS

TRD reports a moderate impact. The Financial Distributions Bureau (FDB) will modify SHARE distribution accounts as needed, record the AOC information as needed by the Department of Finance and Administration, and verify and test Gentax system changes, completing this work by June 15, 2017. This work can be done by current FDB staff.

AOC notes this bill could ease administrative burdens, stating, "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."

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