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## FISCAL IMPACT REPORT

**SPONSOR** Smith **ORIGINAL DATE** 01/24/17  
**LAST UPDATED** 02/06/17 **HB** \_\_\_\_\_

**SHORT TITLE** Distribution of Liquor Tax to DWI Fund **SB** 153

**ANALYST** Romero/Clark

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY17	FY18	FY19		
\$0.0	(\$2,200.0)	\$0.0	Nonrecurring	Local DWI Grant Fund
\$0.0	\$2,200.0	\$0.0	Nonrecurring	General Fund

(Parenthesis ( ) Indicate Revenue Decreases)

Conflicts with HB55

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Taxation and Revenue Department (TRD)

Administrative Office of the Courts (AOC)

Department of Finance and Administration (DFA)

### SUMMARY

#### Synopsis of Bill

Senate Bill 153 reduces the distribution from liquor excise tax revenues to the Local DWI grant fund one year sooner than required by current law, declining from 46 percent in FY17 to 41.5 percent in FY18. As a result, the distribution to the general fund increases by an equivalent amount. Additionally, the bill cleans up the statute by removing language regarding liquor excise tax revenue distributions to the lottery tuition fund that expires at the end of FY17, which would be superfluous as of the bill's effective date of July 1, 2017.

### FISCAL IMPLICATIONS

This bill reduces FY18 distributions to the Local DWI (LDWI) grant fund by \$2.2 million and increases general fund revenue by the same amount. In the past three fiscal years, average revenues to the local DWI grant fund have exceeded average expenditures by \$2.1 million. The

increased general fund revenue is nonrecurring because the bill sets the distribution percentage at a rate which is in line with what was scheduled to take effect in FY19 and subsequent years. 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 Revenues				
	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
Total	46.0	48.3	49.4	47.4	47.4

	Proposed Revenues				
	FY17	FY18	FY19	FY20	FY21
General Fund	6.9	28.3	28.9	27.7	27.7
Local DWI	21.2	20.1	20.5	19.7	19.7
Lottery	17.9	0.0	0.0	0.0	0.0
Total	46.0	48.3	49.4	47.4	47.4

	Difference				
	FY17	FY18	FY19	FY20	FY21
General Fund	0.0	2.2	0.0	0.0	0.0
Local DWI	0.0	-2.2	0.0	0.0	0.0
Lottery	0.0	0.0	0.0	0.0	0.0
Total	0.0	0.0	0.0	0.0	0.0

## SIGNIFICANT ISSUES

The Department of Finance and Administration (DFA) reports the LDWI fund allocates funding based on a distribution formula and grants to municipalities or counties as established in Section 11-6A-3 NMSA, to each county's DWI program to fund eight component areas to reduce the incidence of DWI, alcoholism, alcohol abuse, and alcohol related domestic violence. The eight component areas are: prevention, law enforcement, screening, treatment, compliance monitoring/tracking, coordination, planning and evaluation, alternative sentencing, and alcohol related domestic violence.

The Administrative Office of the Courts (AOC) provided the following analysis. However, it is important to note this bill only moves up by one year the phase-down in distributions to the LDWI fund, so all of the impacts provided here would still occur in the absence of this bill, just one year later.

Per Section 11-6A-3.C NMSA 1978, \$5.6 million is carved out of the LDWI annually and used for the following purposes: \$2.8 million for 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 grant basis. The Legislature has 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 transfers have varied, \$500 thousand was transferred to AOC in FY15, \$1 million was transferred in FY16, and \$1.6 million was transferred in FY17 to support ongoing drug court operations.

After the \$5.6 million 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 set out in Section 11-6A-6 NMSA 1978. 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).

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 Bernalillo County Metropolitan Court, and the remainder operate in the district courts. Drug courts provide a year-long treatment program for non-violent offenders whose repeat criminal activity is driven by underlying 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.

Adoption of this bill could lead to a decrease in drug court funding as the local DWI programs pressure lawmakers to hold them harmless from the effects of a \$2.2 million loss in projected revenues for FY2018. 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 decrease in drug court funding that could result from passage of the bill may require a further reduction in drug court services and the corresponding loss of savings through jail and prison costs.

Additionally, in several jurisdictions the drug courts and local DWI programs work very closely together and the LDWI funding provides treatment services, equipment, assessments and screenings, educational groups, and other functions ancillary to the drug courts. A reduction in the LDWI funding may result in diminished services to the drug court participants.

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 that 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, screening / tracking, domestic violence, law enforcement, probation-type, 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. Each component funded must adhere to rules in the DFA guidelines.

Nearly all 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 cut due to the reduction in funding related to this bill, it may require more convicted offenders to be placed on unsupervised probation.

### **ADMINISTRATIVE IMPLICATIONS**

There is a minimal administrative impact to TRD software systems to enact the change, but the agency would need to perform this change under current law one year later.

### **CONFLICT**

This bill conflicts with HB55, which reduces general fund revenues rather than increasing them. It permanently sets the distribution to the local DWI grant fund at the current 46 percent rate rather than let it return to 41.5 percent and adds a 4 percent distribution to the Administrative Office of the Courts for drug courts.

IR/jle/JC/sb/jle