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FISCAL IMPACT REPORT

SPONSOR <u>Ortiz y Pino</u>	LAST UPDATED _____
	ORIGINAL DATE <u>2/21/23</u>
SHORT TITLE <u>Alcohol and Substance Abuse Prevention Fund</u>	BILL NUMBER <u>Senate Bill 220</u>
	ANALYST <u>Faubion</u>

REVENUE* (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY23	FY24	FY25	FY26	FY27		
--	(\$24,300.0)	(\$24,500.0)	(\$24,800.0)	(\$25,000.0)	Recurring	General Fund
--	\$0	\$0	\$0	\$0	Recurring	Local DWI Grant Fund
--	\$0	\$0	\$0	\$0	Recurring	Drug Court Fund
--	\$4	\$6	\$9	\$11	Recurring	Municipality – Class A County (Farmington)
--	\$12,200.0	\$12,300.0	\$12,400.0	\$12,500.0	Recurring	All Counties
--	\$12,200.0	\$12,300.0	\$12,400.0	\$12,500.0	Recurring	County Alcohol and Substance Abuse Prevention and Treatment Fund

Parenthesis () indicate revenue decreases

*Amounts reflect most recent version of this legislation.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
		\$316.4	\$316.4	\$632.8	Recurring	HSD
	\$126.0	\$7.0		\$133.0	Nonrecurring	TRD
		\$9.7	\$9.7	\$19.4	Recurring	TRD
Total	\$126.0	\$333.1	\$326.1	\$785.2		

Parentheses () indicate expenditure decreases.

*Amounts reflect most recent version of this legislation.

Conflicts with SB61, SB259, and HB230.

Sources of Information

LFC Files

New Mexico's Indicator Based Information System

Responses Received From

Human Services Department (HSD)

Taxation and Revenue Department (TRD)
Department of Health (DOH)

SUMMARY

Synopsis of Senate Bill 220.

Senate Bill 220 (SB220) adds new distributions of liquor excise tax receipts to counties for the provision of alcohol and substance abuse prevention and treatment in proportion to county size and to a new county alcohol and substance abuse prevention and treatment fund to be administered by the Human Services Department (HSD).

Under the proposed bill, the distributions of the net receipts attributable to the liquor excise tax are as follows:

Percent Distribution of Liquor Excise Tax Revenue	Earmarked Use
45%	Local DWI Grant Fund
0.5%	Municipalities in a class A county with a population of 30,000 – 60,000
5%	Drug Court Fund
24%	Counties – for alcohol and substance abuse prevention and treatment
24%	County alcohol and substance abuse prevention and treatment fund (HSD)
1.5%	General Fund

The effective date of this bill is July 1, 2023.

FISCAL IMPLICATIONS

Using the December 2022 Consensus Estimating Revenue Group general fund forecast for liquor excise tax, the LFC and the Taxation and Revenue Department (TRD) applied the proposed distribution to determine the fiscal impact. Based on the distribution changes, the general fund would receive 1.5 percent of liquor excise tax net receipts versus approximately 49.5 percent under current statute, resulting in a negative revenue impact of \$24 million to \$25 million through the forecast period.

The amount to be distributed to municipalities that are located in a class A county with a population of more than 30 thousand but less than 60 thousand is amended to 0.5 percent of net receipts instead of the \$20,750 monthly in current law. The change of this distribution from a fixed rate to a percentage has a small impact on that distribution given the projected revenues. Currently, only Farmington qualifies for this distribution. If only one municipality qualifies for this distribution, as has been the case recently and is assumed in this fiscal analysis, that city will receive slightly more each year.

The amount distributed to the local DWI grant fund and the drug court fund will remain the same.

Counties will receive a direct disbursement of 24 percent of liquor excise tax receipts, resulting

in approximately \$12 million to \$12.5 million in revenue through the forecast period. The amount to be distributed to each county will be in the proportion that the population of each county is to the total population of all counties, according to the most recent federal decennial census.

The new county alcohol and substance abuse prevention and treatment fund will receive a direct disbursement of 24 percent of liquor excise tax receipts, resulting in approximately \$12 million to \$12.5 million in revenue through the forecast period.

TRD notes the following fiscal impact analysis methodology:

The new distribution proposes to modify the transfer to certain municipalities in Class A counties, and to include counties and the County Alcohol and Substance Abuse Prevention and Treatment Fund as new recipients of funds of the net receipts attributable to the liquor excise tax. This proposal will reduce the liquor excise tax revenue to the general fund, which currently receives just under 50 percent, as 98.5 percent of the net receipts will be redistributed to other funds leaving only the remaining 1.5 percent to the general fund. There are no proposed changes to the current distributions to the Local DWI Grant Fund and Drug Court Fund. TRD used the December 2022 Consensus Revenue Estimating Group (CREG) forecast for the liquor excise tax receipts to determine the impact of the new distributions. The estimated impact is based on the bill's new distribution percentages, which include the change from a fixed to a percentage-based distribution to a municipality located in a class-A county with a population of more than 30,000 but less than 60,000. Currently, Farmington is the only municipality that meets such criteria.

The bill does not include an appropriation but does create a new county alcohol and substance abuse prevention and treatment fund. The fund allows for continuing appropriations, donations, investment interest, and other sources and shall be administered by the Human Services Department (HSD).

The revenue distributions contained in this bill are a recurring expense to the general fund. Any unexpended or unencumbered balances remaining at the end of the fiscal year shall not revert to the general fund. LFC has concerns with including continuing distribution language in the statutory provisions for newly created funds because earmarking reduces the ability of the Legislature to establish spending priorities.

SIGNIFICANT ISSUES

TRD notes the following:

Alcohol and substance abuse are among the costliest health problems in the United States. Different studies have shown that public investment reduces alcohol and substance abuse and delays abuse initiation at young ages. In that regard, the redistribution of revenue to targeted substance abuse funds and to counties directly may impact and support community programs. This would establish a consistent future fund balance for budgeting appropriations from these funds but would permanently divert revenue from the general fund.

New Mexico’s tax code is out of line with most states in that more complex distributions are made through the tax code. As an alternate to this proposal and revenue earmarks, the county’s substance abuse funding needs could be provided for through regular appropriations in HB2. The more complex the tax code’s distributions, the costlier it is for TRD to maintain the GenTax system and the more risk is involved in programming changes.

Instead of requiring TRD to distribute to all counties based on population, the bill could distribute all associated county revenue to the new County Alcohol and Substance Abuse Prevention and Treatment Fund established in Section 2 and from that fund a single allocation could be made to each respective county by DOH. Requiring the distribution to be made by TRD will require GenTax programming, whereas distributing the funds through DOH will not.

HSD notes the following:

The burden of substance use disorder among the NM population is well documented regarding drug and alcohol injury and death. New Mexico continues to rank at or near the top of the nation with both alcohol and drug overdose death. The drug overdose death rate in New Mexico has doubled in the last five years increasing from 24.6 deaths per 100,000 population in 2017 to 50.6 deaths per 100,000 population in 2021 (NMDOH Bureau of Vital Records and Health Statistics). Additional funding to support services for substance use disorder could help decrease substance related deaths and injuries.

Per a 2016 report prepared by Kitty Richards, MPH, total costs associated with excessive alcohol consumption in New Mexico in 2010 were \$2,233 million per year. Of total costs, \$332.7 million was spent on health care. Of 2010 health care costs, 44 percent were paid for through Medicaid (\$77.65 million) and state and local governments (\$68.54 million), totaling \$146.19 million (Sacks, et al. 2015).

Total costs of excessive alcohol consumption	2,232.9
Health care costs of excessive alcohol consumption	332.7
Health care costs of excessive alcohol consumption covered by Medicaid, state, and local government	146.19
Health care costs of excessive alcohol consumption covered by state and local government only	68.54
Health care costs of excessive alcohol consumption covered by Medicaid only	77.65

Based on an annual growth rate of 5 percent per year in Medicaid expenditures from 2010 through 2015 (Henry J. Kaiser Family Foundation, Urban Institute and KCMU analysis of CMS Form 64 data, FY 1990-2014), a projected \$99 million in Medicaid dollars were spent to treat and care for illnesses caused by excessive alcohol consumption in New Mexico in 2015. The estimated share of Medicaid expenditures borne by the state and Federal government were \$21.81 million and \$77.33 million, respectively.

Health care costs of excessive alcohol consumption covered by Medicaid only	99.14
Medicaid health care costs of excessive alcohol consumption covered by state government	21.81
Medicaid health care costs of excessive alcohol consumption covered by Federal government	77.33

Currently the process by which New Mexico Counties receive funding from liquor excise tax receipts utilizes population as the primary factor driving the amount of funds each county receives. HSD grants for counties utilizing this funding could supplement those funds for counties that have a higher-than-average substance use disorder rate for their population. It could also assist rural and frontier counties to address their unique challenges. A proposed funding alternative may include awarding counties based on prevalence of alcohol use related deaths in certain geographic areas while taking into consideration the most rural areas of the state and access to care.

The Department of Health (DOH) notes the following:

According to data from the New Mexico's Indicator Based Information System (NM-IBIS), 2,274 New Mexicans died from alcohol-related causes in 2021. This means that approximately 1 in 11 deaths in New Mexico were due to alcohol-related causes. The age-adjusted death rate per 100,000 New Mexican residents for alcohol-related causes increased from 65.7 deaths in 2017 to 102.8 deaths in 2021. The rate of alcohol deaths in New Mexico is nearly double the latest US rate of 46.7 deaths per 100,000 residents during 2020.

The latest cost estimate from the Centers for Disease Control and Prevention (CDC) found that excessive drinking cost the U.S. \$223.5 billion in 2010 and specifically cost New Mexico \$2.2 billion during this same time frame. Most of the cost incurred to government entities resulted from losses in workplace productivity (72 percent of the total cost), health care expenses for treating problems caused by excessive drinking (11 percent of total), law enforcement and other criminal justice expenses (10 percent), and losses from motor vehicle crashes related to excessive alcohol use (5 percent).

The U.S. Surgeon General’s Report on Alcohol, Drugs, and Health in 2015 found that only about 1 in 10 people with a substance use disorder receive any type of specialty treatment. The report also found that there are a variety of cost-effective evidence-based prevention programs and alcohol policies that prevent substance initiation, harmful use, and substance use-related problems. These programs and policies are effective at different stages of the lifespan. Lastly, the report found that communities are an important organizing force for bringing effective evidence-based intervention to scale.

PERFORMANCE IMPLICATIONS

HSD notes possible areas of measurement for programs funded under SB220 could include:

- Decrease in alcohol and drug use,

- Decrease in psychiatric symptoms,
- Decrease in family conflict,
- Decrease in in legal issues,
- Increase in employment, and
- Decrease in medical symptoms.

ADMINISTRATIVE IMPLICATIONS

TRD notes the following:

TRD will need to update forms, instructions and publications and make information system changes to accommodate the new distributions. Implementing the bill will have an impact on TRD's ITD of about four months and approximately \$126,000 of contractual costs. Additionally, TRD's Administrative Services Division (ASD) will be required to test the new distributions and reporting changes. It is anticipated this work will take approximately 120 hours split between 2.0 Full-Time Equivalent (FTE) staff of a pay band 70 and a pay band 80 at a cost of approximately \$7,000. In addition, ASD will need to re-classify a current FTE to a higher pay band and dedicate that's staff workload to the monthly review of these new complex local government distributions.

Based on TRD's Information Technology Division (ITD) analysis of the proposal, a minimum of 4 months required for programming, the July 1, 2023, implementation date might not be achievable. A January 1, 2024 effective date is recommended.

HSD notes the following:

The Behavioral Health Services Division of HSD (BHSD) would need to create a grant application process including criteria for selecting grantees, development of the grant application, creation of a review process, and an oversight and reporting process for grantees. To administer this program, BHSD would need 2 FTE calculated at a 70 pay band and .2 FTE of 2 supervisors calculated at a 75 pay band. The total annual funding required for this staff time would be \$241,400 for salaries, fringe benefits and operating costs. In addition, this project would require an evaluation budget of approximately \$75,000. This will allow BHSD to provide meaningful data to the LFC and other stakeholders about the effectiveness of this allocation. SB220 does not specify the method of grant application intake. If the grant application will be hosted via an online portal, requirements will need to be gathered and IT related costs will need to be determined at that time.

It is unknown whether this funding can be matched with federal money. The best possible federal Medicaid matching would be at 50 percent (the administrative rate). However, obtaining this match is questionable, because grant funding programs need federal approval in order to receive federal matching funds. If a county operated a substance abuse center at an annual cost to the benefit of Medicaid members, then federal matching of state funds is possible. If approved, then HSD could get matching funds, either at the 50 percent administrative rate, or the regular FMAP rate, depending on if the program is service-based.

DOH notes the following:

Disparities by Gender: In 2021, the age-adjusted death rate per 100,000 New Mexican residents who died from alcohol-related causes was nearly double that for males (146.5) compared to females (60.9).

Disparities by Age: Nearly 3 in 4 (73 percent, or 1655 individuals) of the alcohol-related deaths occurred in New Mexicans aged 25-64 years old, making alcohol the leading cause of death in this age group.

Disparities by Race/Ethnicity: American Indians bore the highest burden of alcohol-related deaths with a death rate of 311.1 deaths per 100,000 residents during 2021.

Disparities by Geographic Location: McKinley County (335.7 deaths per 100,000), Cibola County (179.8 deaths per 100,000), and Rio Arriba County (176.6 deaths per 100,000) had the highest age-adjusted death rates for alcohol-related causes during 2021, whereas the counties of Roosevelt (52.7 deaths per 100,000) and Los Alamos (35.2 deaths per 100,000) had the lowest age-adjusted rate for alcohol-related deaths during 2021.

Adverse Childhood Experiences: Adverse childhood experiences, or ACEs, are preventable, potentially traumatic events that occur in childhood (0-17 years) including neglect, experiencing or witnessing violence, or having a family member attempt or die by suicide. Other aspects include childhood exposures to substance use or mental health problems, household instability, parental separation, or incarceration of a parent, sibling, or household member. People who experienced ACEs are at increased risk of substance use disorder in adulthood.

From 2020 to 2021, New Mexico children ages 0-17 were significantly more likely to have experienced two or more ACEs (27.2 percent experienced two or more ACEs) than the nationwide child rate (17.2 percent experienced two or more ACEs). The New Mexico Department of Health (NMDOH) collected data on ACEs among New Mexico adults in the 2019 administration of the Behavioral Risk Factor Surveillance System (BRFSS). In 2019, an estimated 67.6 percent of New Mexico adults experienced at least one ACE, and nearly one in four adults (23.8 percent) experienced four or more ACEs.

Social Determinants of Health: Social and economic factors such as income level, housing or food insecurity, level of education, access to healthcare, environmental factors and quality of relationships are also referred to as social determinants of health (SDOH). These conditions in which people live, work and play can influence health and well-being throughout a person's lifetime.

The group most impacted by this bill would be individuals who drink alcohol. According to the New Mexico Behavioral Risk Factor Surveillance Survey (NM BRFSS), 46 percent of New Mexico adults in 2021 drank alcohol within the past month. NM BRFSS also reports that in 2021, 14.6 percent of New Mexicans engaged in binge drinking (which is 4 or more alcoholic drinks on occasion for women and 5 or more alcoholic drinks on occasion for men).

Creation of a substance use prevention and treatment fund may contribute to improved health and well-being of New Mexicans who use alcohol or are at risk of developing alcohol use disorder.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SB220 conflicts with SB61 which adjusts the distributions of the liquor excise tax to include a new domestic violence victims fund and converts the liquor tax rate to a per-serving basis.

SB220 also conflicts with SB259 and HB230 which increases liquor excise tax rates, indexes the rates to inflation, and distributes a portion of the revenue from the tax to a new alcohol harms alleviation fund.

TECHNICAL ISSUES

HSD notes the preferred term is “substance use disorder” rather than “substance abuse.”

ALTERNATIVES

TRD notes sub-section 1.B proposes to change the Farmington flat amount carve out to a percentage-based amount. There is a Local Liquor Excise Tax, 7-24-10 NMSA 1978, which has similar legislative prescribed uses that could be expanded to permit Farmington to enact this tax.

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.