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FISCAL IMPACT REPORT

ORIGINAL DATE 2/21/09

SPONSOR Munoz LAST UPDATED _____ HB _____

SHORT TITLE Local Liquor Excise Tax Authority and Limits SB 487

ANALYST Francis

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY09	FY10	FY11		
		24,648.0	Recurring	Local Governments
		1,297.0	Recurring	TRD operating
		0 - (2,000.0)	Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

Relates to HB266, HB58,

SOURCES OF INFORMATION

LFC Files

Responses Received From

Taxation and Revenue Department (TRD)

Department of Finance and Administration (DFA)

SUMMARY

Synopsis of Bill

Senate Bill 487 allows counties other than counties eligible under current law to enact a local liquor excise tax. Unlike current law that allows counties with specific populations and property values levy an excise tax based on the retail price, SB487 allows all other counties to enact an excise tax based on fluid units, similar to the state liquor excise tax. An ordinance to impose the tax may be enacted by a majority of the elected county commissioners and then is put to a vote of the registered voters in the county. The tax can be in effect for three years after which it must be voted on again. SB487 directs that the revenue be used to fund direct services for the prevention and treatment of alcoholism and drug abuse. This change would apply to counties under existing law as well.

	State Excise	Local Excise Proposed	Total Excise
Beer	\$0.41	\$0.25	\$0.66
Microbeer	\$0.08	\$0.05	\$0.13
Cider	\$0.41	\$0.25	\$0.66
Spirits	\$1.60	\$0.99	\$2.59
Wine	\$0.45	\$0.28	\$0.73
Fort. Wine	\$1.50	\$0.93	\$2.43
NM wine - small	\$0.10	\$0.06	\$0.16
NM wine	\$0.20	\$0.12	\$0.32

The effective date is July 1, 2009.

FISCAL IMPLICATIONS

TRD has calculated the fiscal impact if all counties adopt the tax would be \$26 million, \$24.7 million going to the counties for direct services and \$1.3 million going to TRD for administration. The table below provides an illustration of the impact on each county. TRD assumes that it would be unlikely for a county to move prior to 2010 because of the need to put the tax to a vote.

TRD also reports that there will likely be a negative impact on the general fund due to the negative response in demand to increases in price when the local excise is added on. If all counties adopt the local excise tax, then the general fund would be reduced by \$2 million due to the lower volume subject to the state excise tax.

SB-487 -- Illustration of Local Liquor Excise Tax by County

<u>COUNTY</u>	<u>GRT(*) Pattern (FY2005) Percent of Total</u>	<u>FY2011 Local Liquor Excise Tax Yield</u>	<u>Less 5% Admin. Fee</u>	<u>FY2011 County Liquor Excise Tax Revenue</u>
BERNALILLO	43.18%	\$ 11,665,666	\$ 583,283	\$ 11,082,383
CATRON	0.07%	20,174	1,009	19,165
CHAVES	2.20%	593,331	29,667	563,665
CIBOLA	0.90%	243,348	12,167	231,180
COLFAX	0.55%	149,100	7,455	141,645
CURRY	1.82%	492,616	24,631	467,985
DE BACA	0.11%	28,591	1,430	27,161
DONA ANA	7.63%	2,061,539	103,077	1,958,462
EDDY	3.20%	865,416	43,271	822,145
GRANT	1.35%	364,954	18,248	346,706
GUADALUPE	0.19%	51,865	2,593	49,271
HARDING	0.04%	11,730	587	11,144
HIDALGO	0.48%	130,357	6,518	123,839
LEA	3.25%	877,011	43,851	833,161

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LINCOLN	0.90%	241,896	12,095	229,801
LOS	0.70%			
ALAMOS		189,450	9,472	179,977
LUNA	0.71%	192,144	9,607	182,537
MCKINLEY	3.97%	1,072,990	53,649	1,019,340
MORA	0.07%	19,060	953	18,107
OTERO	2.15%	581,204	29,060	552,144
QUAY	0.41%	110,068	5,503	104,565
RIO ARRIBA	0.75%	201,986	10,099	191,887
ROOSEVELT	0.50%	134,181	6,709	127,472
SANDOVAL	3.16%	852,652	42,633	810,019
SAN JUAN	4.28%	1,155,539	57,777	1,097,762
SAN MIGUEL	2.01%	542,958	27,148	515,810
SANTA FE	9.48%	2,560,446	128,022	2,432,423
SIERRA	0.45%	122,551	6,128	116,424
SOCORRO	0.48%	131,005	6,550	124,455
TAOS	2.17%	585,037	29,252	555,785
TORRANCE	1.09%	294,773	14,739	280,034
UNION	0.22%	60,039	3,002	57,037
VALENCIA	1.53%	414,327	20,716	393,611
TOTAL	100.00%	\$ 25,945,014	\$ 1,297,251	\$ 24,647,763
Total Including McKinley Co.		\$ 27,018,004	\$ 1,350,900	\$ 25,667,104

Source: Tax Analysis, Research and Statistics Office, TRD

(*): Allocation to counties uses retail gross receipts patterns for selected Retail categories that tend to include alcoholic beverage sales.

SIGNIFICANT ISSUES

Current law allows Class B counties with 56,000 to 75,000 people and property value between \$500 million and \$700 million in 1988 to enact an excise tax up to 5 percent of the retail price of liquor. This refers to McKinley County which is the only county with a local liquor excise tax.

DOH:

This bill is an Attorney General’s (AG) bill that addresses the problems of underage drinking and excessive adult alcohol consumption and their negative public health consequences in New Mexico. For the past fifteen years, New Mexico’s death rate from alcohol-related chronic diseases including cirrhosis has consistently been first or second in the nation, 1.5 to 2 times the national rate. New Mexico’s death rate from alcohol-related injury has also consistently been among the worst (first, second, or third) in the nation, ranging from 1.4 to 1.8 times the national rate. New Mexico’s rates of alcohol dependence and abuse are consistently among the highest in the nation. In 2007, based on the Youth Risk and Resiliency Survey, New Mexico had the highest rate in the nation of high school students reporting drinking before age 13, with almost a third (31%) of New Mexico students reporting this behavior. Given that people who report drinking before age 15 are five times as likely as later drinkers to report alcohol dependence or abuse as adults, these results suggest the importance of preventing underage drinking in New Mexico. A recent estimate of alcohol-related costs in New Mexico estimated the total cost of alcohol-related problems in New Mexico in 2004 to be \$2.6 billion, with the majority of these costs resulting from lost productivity due to alcohol-related premature death and disability. Finally, a 2001 study of the impact of substance abuse on state governments reported that for every dollar states collect in alcohol and tobacco tax revenue they spend almost seven dollars on the costs resulting from substance abuse.

Many studies have demonstrated the general effectiveness of alcohol tax increases in increasing the price of alcoholic beverages and thereby reducing alcohol consumption and alcohol-related problems. Several systematic expert reviews of this research, including reviews conducted by the WHO and the Institute of Medicine have recommended alcohol tax increases as an effective prevention strategy. A recent meta-analysis of this research concluded: “A large literature establishes that beverage alcohol prices and taxes are related inversely to drinking. Effects are large compared to other prevention policies and programs. Public policies that raise prices are an effective means to reduce drinking.” (Effects of beverage alcohol price and tax levels on drinking: a meta-analysis of 1003 estimates from 112 studies”. Wagener AC, Salois MJ, Komro KA. *Addiction*. 2009 Feb; 104(2):179-90). In practical terms, the New Mexico Taxation and Revenue Department estimated, in its Fiscal Impact Report for SB 487, that “statewide imposition of the local liquor excise tax would be expected to decrease State General Fund and DWI Grant Fund revenues by about 4.5%”. Presumably this decrease reflects a

The Legislative Finance Committee has adopted the following principles to guide responsible and effective tax policy decisions:

- 1. Adequacy:*** revenue should be adequate to fund government services.
- 2. Efficiency:*** tax base should be as broad as possible to minimize rates and the structure should minimize economic distortion and avoid excessive reliance on any single tax.
- 3. Equity:*** taxes should be fairly applied across similarly situated taxpayers and across taxpayers with different income levels.
- 4. Simplicity:*** taxes should be as simple as possible to encourage compliance and minimize administrative and audit costs.
- 5. Accountability/Transparency:*** Deductions, credits and exemptions should be easy to monitor and evaluate and be subject to periodic review.

More information about the LFC tax policy principles will soon be available on the LFC website at www.nmlegis.gov/lcs/lfc

corresponding decrease in consumption; and some studies have suggested that such price-related decreases in consumption disproportionately effect high-risk drinkers such as underage drinkers and adult chronic/heavy drinkers.

TRD notes that the current system of tax rates do not match the “alcohol equivalency:”

Research indicates that it is the volume of pure alcohol consumed that imposes most of the costs to society and personal health, rather than the type of beverage chosen as the delivery vehicle for that alcohol. To reflect these costs in the taxes on alcoholic beverages, tax rates would be based on “alcohol equivalencies”. The current tax rate structure is not based on “alcohol equivalency”, with the alcohol in beer taxed much less heavily than the alcohol in spirits. The proposed tax rate increases in this bill are proportionate to the current state excise tax rates on each type of beverage, and so do not better align rates with “alcohol equivalency”.

ADMINISTRATIVE IMPLICATIONS

TRD reports that there will be significant administrative expenses that will be met over the long term by the five percent administration fee the agency is allowed to deduct prior to distribution but that the preparation for the change may impose cash flow constraints. The agency will have redesign the computer systems and forms and instructions.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

There are many bills addressing alcoholic beverages in the 2009 session.

Chamber	Number	Title
H	57	LOCAL LIQUOR SURTAX IMPOSITION & RATES
H	78	MALT BEVERAGES AS SPIRITUOUS LIQUOR
H	226	LIQUOR CONTROL ACT CHANGES
H	527	PROHIBIT LIQUOR LICENSES NEAR HIGHWAYS
H	528	INCREASE LIQUOR EXCISE TAX
H	556	LOCAL OPTION HOSPITALITY LIQUOR EXCISE TAX
H	560	LIMIT PACKAGE LIQUOR SALE AREAS IN STORES
H	612	WINERIES AS LIQUOR CONTROL LICENSED PREMISES
H	805	LIQUOR EXCISE TAX DISTRIBUTION ADMINISTRATION
H	813	LIQUOR CONTROL ACT CHANGES
S	487	LOCAL LIQUOR EXCISE TAX AUTHORITY & LIMITS LIQUOR LAW ENFORCEMENT, LICENSES &
S	512	VIOLATIONS
S	578	LOCAL OPTION HOSPITALITY LIQUOR TAX ACT
S	660	LIQUOR TAX FOR ALCOHOL DETOX & TREATMENT
S	665	MALT BEVERAGES AS SPIRITUOUS LIQUOR

TECHNICAL ISSUES

According to TRD, Section 2, Subsection C (page 5, line 10) imposes the surtax for “not more than three years”, while the new surtax extension language in Subsection D (page 5, line 15) imposes the extended period of the surtax for “another three-year period”.

OTHER SUBSTANTIVE ISSUES

TRD:

- Forecasting revenue yields from this type of local option tax is difficult, and tax yields in any given month or fiscal year may be subject to significant fluctuations. Depending on the nature of the county alcohol and drug abuse program, fluctuations in revenue yields may create significant budgetary challenges.

- New Mexico's tax rates on alcoholic beverages are currently among the highest in the nation, ranking:
 - 4th highest on spirits (excluding 18 higher states selling spirits only through state-operated stores)
 - 8th highest on beer
 - 5th highest on wine (excluding 4 higher states selling wine only through state-operated stores)

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