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FISCAL IMPACT REPORT

SPONSOR McSorley DATE TYPED 02-07-04 HB _____

SHORT TITLE Allow Counties to Impose Local Liquor Taxes SB 377

ANALYST Taylor

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY04	FY05			
	Indeterminate	Indeterminate	Recurring	County Funds

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Taxation and Revenue Department
Department of Finance and Administration

SUMMARY

Synopsis of the bill

Senate Bill 377 amends the local liquor excise tax by striking the narrow definition for counties, and thereby enabling all counties to impose the liquor excise tax. The bill has an effective date of July 1, 2004.

Significant Issues

The local option liquor tax allows counties to impose a tax with a maximum rate of 5 percent. Lower rates are allowed, but must be imposed in even multiples of 1 percent. The tax must be put to a vote of the people and must gain a majority of those voting to be imposed. Proceeds may be used for alcohol education, prevention and treatment program.

FISCAL IMPLICATIONS

The fiscal impact of this legislation is indeterminate since it is not possible to know which counties will choose to enact the tax or the rate at which it will be imposed. The Taxation and Revenue has prepared a table which shows the maximum impact of the tax, assuming all counties impose the tax at the 5 percent rate. The table is attached to the last page of the FIR for illustrative purposes. That analysis also shows that TRD would receive a 5 percent administrative fee.

ADMINISTRATIVE IMPLICATIONS

TRD submitted the following regarding the administrative implications for the department:

Administrative costs to the Department would be significant since the program would be expanded from one county to all counties. The number of taxpayers reporting may increase to nearly 2,000, instead of the current 70 reporting from McKinley County. The program is currently administered as a manually-intensive system. The expansion would probably require a fully computerized system. Tax reporting forms and procedures will have to be redesigned. Expansion of the Local Liquor Excise Tax will require an additional full-time employee to process and key-enter tax returns and perform error resolution work for the increased number of tax filers. Taxpayer education will also be necessary.

TECHNICAL ISSUES

TRD reported this technical issue:

The current law definition of “retailer” (Section 1, Subsection F) applies to wholesalers as well as retailers. Following the exemption under Section 7-24-13 NMSA 1978, however, we administer the law so that purchases by wholesalers are not taxed.

OTHER SUBSTANTIVE ISSUES

TRD submitted the following substantive issues:

- 1) An alternative to the local liquor option, one which would likely produce similar results with greater efficiency, is to increase the liquor excise tax and use a formula for distribution to the counties. This would have the added benefit of not imposing the burden of an additional tax system on local businesses and TRD. The allocation to each county would be based on the county’s share of statewide population and GRT collections that emphasize alcohol related sales.
- 2) New Mexico's current tax rates on alcoholic beverages ranks relatively high among states. Laws 1993, Chapter 65 (SJC Substitute for SB-341, et al) increased the state-imposed liquor excise tax over a two-year period from about \$18 million to about \$35 million per year. The tax on beer increased from 18 cents to 41 cents per gallon; the tax on wine increased from 25 cents to 45 cents per liter; and, the tax on spirits increased from \$1.04 to \$1.60 per liter. As of 2001, New Mexico imposed the 8th highest tax on beer, the 4th highest tax on wine and, among the states not imposing a state monopoly on the sale of spirits, the 3rd highest tax on spirits.

- 3) The 1993 and 1994 liquor tax increases resulted in no discernible effect on levels of alcohol consumption. The 128% increase in the tax on beer, for example, amounted to about 13 cents per six-pack, or about 4% to 5% increase in price. While the consumer "price elasticity" response was projected to be about a 2% decline in consumption, in hindsight the actual decline now appears to have been significantly less than 2%.
- 4) Differences between the value-based Local Option Liquor Tax and the volume-based state Liquor Excise Tax make computerized audit cross-checks difficult. The Department probably will not spend a lot of its limited audit resources providing audit coverage for a local option liquor tax, especially if it were at the expense of the more productive state and local gross receipts tax.
- 5) Section 7-24-12 NMSA 1978 of the current Local Liquor Excise Tax Act exempts "the purchase of alcoholic beverages by any instrumentality of the armed forces of the United States engaged in resale activities." It might be useful to condition this exemption on the continuation of the federal prohibition so that, if the federal government ever allows such sales to be taxed by state and local governments, such sales would automatically become taxable.
- 6) Creation or expansion of local option taxes of this sort inhibit the ability of the state to raise revenue from the same source. Approximately \$38.8 million is currently being raised by the state liquor excise tax, of which about \$25.4 million is General Fund revenue and \$13.4 million is distributed to the Local DWI Grant Fund.
- 7) Statistical information regarding the value of alcoholic beverages and their distribution by county would be somewhat enhanced by expansion of the Local Liquor Excise Tax. The state liquor excise tax is collected at the distributor/wholesaler level. Since the disposition of the tax revenues in no way depends on the geographic dispersion of ultimate sales, the state Liquor Excise Tax does not generate information about patterns of local sales on either a dollar or volume basis. We are not aware of any other source regularly reported which does.

Illustration of Potential Revenue from 5% Local Liquor Excise Tax

<u>County</u>	<u>Allocated by Pop. & GRT (\$ 23.4 million)</u>	<u>TRD Administr. Fees (5%)</u>	<u>Local Govt. Revenue</u>	<u>Pct. of Total</u>
BERNALILLO	7,648,613	382,431	7,266,183	32.69%
CATRON	23,299	1,165	22,134	0.10%
CHAVES	807,043	40,352	766,691	3.45%
CIBOLA	334,473	16,724	317,749	1.43%
COLFAX	194,180	9,709	184,471	0.83%
CURRY	581,089	29,054	552,034	2.48%
DE BACA	30,254	1,513	28,741	0.13%
DONA ANA	1,886,371	94,319	1,792,052	8.06%
EDDY	741,438	37,072	704,366	3.17%
GRANT	403,644	20,182	383,462	1.72%
GUADALUPE	64,728	3,236	61,492	0.28%
HARDING	9,897	495	9,402	0.04%
HIDALGO	119,465	5,973	113,492	0.51%
LEA	737,560	36,878	700,682	3.15%
LINCOLN	309,814	15,491	294,323	1.32%
LOS ALAMOS	293,967	14,698	279,269	1.26%
LUNA	257,124	12,856	244,268	1.10%
MCKINLEY	886,828	44,341	842,486	3.79%
MORA	46,491	2,325	44,166	0.20%
OTERO	645,671	32,284	613,388	2.76%
QUAY	153,057	7,653	145,404	0.65%
RIO ARRIBA	429,695	21,485	408,210	1.84%
ROOSEVELT	222,432	11,122	211,310	0.95%
SANDOVAL	907,133	45,357	861,776	3.88%
SAN JUAN	1,440,310	72,015	1,368,294	6.16%
SAN MIGUEL	356,837	17,842	338,996	1.52%
SANTA FE	2,057,053	102,853	1,954,200	8.79%
SIERRA	173,169	8,658	164,511	0.74%
SOCORRO	203,459	10,173	193,286	0.87%
TAOS	480,234	24,012	456,223	2.05%
TORRANCE	171,893	8,595	163,298	0.73%
UNION	55,520	2,776	52,744	0.24%
VALENCIA	727,259	36,363	690,896	3.11%
TOTAL	23,400,000	1,170,000	22,230,000	100.00%

BT/dm