

LFC Requester:	Brendon Gray
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**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

Analysis.nmlegis.gov

{Analysis must be uploaded as a PDF}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original **Amendment**
Correction **Substitute**

Date 02/06/2024

Bill No: HB 213a

Sponsor: Micaela Lara Cadena and
Derrick J. Lente and Cristina
Parajón
Short Title: LIQUOR TAXES &
DEFINITIONS

Agency Name and Code AOC 218
Number: _____
Person Writing Robert Mitchell
Phone: 505-695-5453 **Email** aocrvm@nmcourts.go

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		
		(\$25,000.0)	Recurring	General
		\$18,800.0	Recurring	Counties (via ASUHAF) to replace local DWI funds

		\$23,500.0	Recurring	[NEW] Alcohol and Substance Use Harms Alleviation Fund (ASUHAF) for state Medicaid program
		\$4,700.0	Recurring	Indian Affairs Dept (via ASUHAF)
		\$3,000.0	Recurring	Drug Court Fund

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:

Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

The HHHC amendments to HB213 add a line to the title about making appropriations, redistributes the roughly \$25 million previously carved out to hold the General Fund harmless, and then distributes the balance of tax revenues (after allocating \$3 million for treatment courts) to the Alcohol and Substance Use Harms Alleviation Fund as noted below:

- 50% to the state Medicaid program to directly support and provide match dollars for federal funds that support alcohol and substance use harms prevention, treatment and recovery services. Funding is subject to appropriation by the legislature. \$500,000 of this 50% must go to the Indian Affairs Department to contract for a five-year study on the effects of tax policy on alcohol and substance use across demographics in NM.
- 40% to the DFA local government division for distribution to counties based on an updated formula using a ten-year average of alcohol-related injuries and deaths in each county.
- 10% to the Indian Affairs Department for distribution to municipalities, counties and Indian nations, tribes, and pueblos.

FISCAL IMPLICATIONS

The amendments to HB213 leave the \$3 million annual distribution to the treatment courts, but allocates all other liquor excise tax revenues to the Alcohol and Substance Use Harms Alleviation Fund (ASUHAF). The distributions to the counties, Indian Affairs Dept, and the state Medicaid program all flow from the ASUHAF. The monthly \$2,084,000 previously carved out for the GF has been removed, resulting in an annual loss of approximately \$25 million to the GF.

NOTE: The HB213 FIR attributes a declining amount of distribution to the Drug Court Fund over three fiscal years, beginning in FY26 and starting with an amount of \$450.0. HB213 allocates a fixed monthly amount of liquor excise tax revenue distribution of \$250,000 for an annual distribution of \$3 million.

SIGNIFICANT ISSUES

With the removal of lines 8 – 11 on page 13, the general and overarching guidelines for use of the fund are eliminated. Unlike section B of the amendment that specifies use of the funds to “provide alcohol and substance use harms prevention, treatment, and recovery services to individuals throughout New Mexico,” section C of the amendment includes no guidelines whatsoever. This would leave the 40% distribution to the counties open for uses outside the previous intent of the bill and potentially estranged from the current uses established within the structure of the local DWI program act. It should also be noted that the 40% allocated to the counties is 5% less than the current allocation of 45%.

With no codified expectations for program purposes or goals and minus the provisions currently in place through the Local DWI Grant Program Act (11-6A-1 through 11-6A-6, which is the LDWI Grant Program, the fund, the grant council, administration of the fund, distribution guidelines, etc.), it further raises concerns that prevention, treatment, law enforcement, misdemeanor compliance programs, screening and tracking, alcohol-related domestic violence, alternative sentencing, coordination, planning, and evaluation could all go away. This would be in addition to the 10% to 30% match from local governments currently required to receive such funding.

As noted previously, the courts would be especially impacted by the loss of misdemeanor compliance programs, screening and tracking services, treatment court support, Risk-Needs-Responsivity Framework collaboration, and treatment services access. Loss of any of these collaborative efforts would be extremely detrimental to justice-involved individuals and the courts in local jurisdictions. The removal of both the Local DWI Grant Fund and specific guardrails on how the new distribution will be spent, and without a plan to continue and expand the valuable services in local jurisdictions, it would drastically impair the court’s ability to reduce recidivism and positively impact public safety for convicted individuals.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

According to section B of the amendment, 50% of the distribution to the Alcohol and Substance Use Harms Alleviation Fund funding is subject to appropriation by the legislature; however, the way it is written, with the comma preceding “the state Medicaid program” rather than following it, it appears to place all the funds in the Medicaid program. Is it the intent that the Medicaid program would receive approximately \$23.5 million to distribute?

Section C of the amendment requires an annual formula-driven distribution to all NM counties on or before November 1, 2025. Since this apparent lump-sum distribution accounts for approximately 40% of all liquor excise tax revenues, this would require a fund balance of at least \$18.8 million to cover this disbursement. HB213 requires any unexpended and unencumbered fund balance remaining in the local DWI grant fund to transfer to the Alcohol and Substance Use Harms Alleviation Fund (ASUHAF). The HB213 FIR notes a fund balance of \$9.5 million, but it is possible there will not be enough to cover the transfer to counties that early in the new FY.

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS