FISCAL IMPACT REPORT

SPONSOR Reps. Ferrary/Thomson/Johnson/Sens. Sedillo Lopez/Pinto
LAST UPDATED 2/6/24
ORIGINAL DATE 1/28/24
SHORT TITLE Liquor Tax Changes & Uses
BILL NUMBER House Bill 179
ANALYST Gray/Garcia

REVENUE*
(dollars in thousands)

Type	FY24	FY25	FY26	FY27	FY28	Recurring or Nonrecurring	Fund Affected
LET			($25,250.0)	($25,460.0)	($25,670.0)	Recurring	General Fund
LET			$2,060.0	$1,870.0	$1,680.0	Recurring	Local DWI Grant Fund
LET			$450.0	$430.0	$410.0	Recurring	Drug Court Fund
LET			$222,900.0	$222,860.0	$222,980.0	Recurring	Alcohol Harms Alleviation Fund
LET			**$200,160.0**	**$199,700.0**	**$199,400.0**	**Recurring**	**Total Revenues**

Parentheses ( ) indicate revenue decreases.
*Amounts reflect most recent analysis of this legislation.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*
(dollars in thousands)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Healthcare costs**			($15,000.0) to ($20,000.0)	($15,000.0) to ($20,000.0)	Recurring	General Fund
TRD – IT & Admin		$184.6			Nonrecurring	General Fund

Parentheses ( ) indicate expenditure decreases.
**Healthcare costs presented here represent the potential positive fiscal impact of the bill on state revenues as less alcohol is consumed. See *Fiscal Implications.*

Sources of Information

LFC Files

Agency Analysis Received From
Administrative Office of the Courts (AOC)
Regulation and Licensing Department (RLD)
Early Childhood Education and Care Department (ECECD)
Health Care Authority (HCA)
Taxation and Revenue Department (TRD)
Department of Health (DOH)

SUMMARY

Synopsis of House Bill 179

House Bill 179 increases liquor excise tax rates by 25 cents per serving, distributes most revenue to a newly created alcohol harms alleviation fund, changes distributions to current beneficiaries, and eliminates the distributions of liquor excise tax revenues from the general fund.

The effective date of this bill is July 1, 2025.

FISCAL IMPLICATIONS

The general fund would no longer receive any revenue from liquor excise tax. The proposed excise tax rates are increased by the following:

Type	Current	New	Percent Increase
Beer	$0.41 per gallon	$3.08 per gallon	651%
Wine	$0.45 per liter	$2.14 per liter	376%
Spirits	$1.6 per liter	$7.24 per liter	353%
Cider	$0.41 per gallon	$3.08 per gallon	651%
Fortified wine	$1.5 per liter	$3.92 per liter	161%
Other	Various	Various	No change

This analysis estimates the fiscal implications of the contemplated rate increase in two steps. First, the rate increase is applied to historical liquor excise tax collections. Second, the analysis estimates how consumers will react to the rate increase. Modeling assumptions made in this analysis were agreed to by Consensus Revenue Estimating Group economists. After the initial consumption change from the rate increases, this analysis assumes an average annual growth by liquor product from the last 10-years, removing the growth rates from FY21 and FY22 due to changes in consumption attributable to the Covid-19 pandemic.

In general, consumers react to higher prices by decreasing their consumption or shifting consumption to something less expensive. Additional discussion of the estimation method can be found in *Methods*.

Impact of Price Increase

Increasing the price of a good generally decreases the demand for that good. Economists study the relationship between price increases and demand decreases called the price elasticity of demand. For more information on elasticity, readers are encouraged to visit this explainer.

This analysis uses price elasticities from a meta-analysis of 1,003 studies of the price elasticity of alcohol consumption (Wagenaar et al 2009.)[1] This analysis uses the upper confidence intervals of the price elasticity estimate for beer, wine, and spirits illustrated below:

[1] *Effects of beverage alcohol price and tax levels on drinking: a meta-analysis of 1003 estimates from 112 studies* Wagenaar, Salois, and Komro, 2009.

Type	Price Elasticity Estimate
Beer	-0.11
Wine	-0.19
Spirits	-0.20

Given these estimates, it is estimated that statewide consumption of alcohol will reduce by about 5 percent, with the largest decrease occurring in the consumption of spirits and the smallest decrease in the consumption of beer.

This analysis only considers price when estimating the elasticity of alcohol demand. Other factors like income, whether a person is a heavy or moderate drinker, the price of alcohol consumed, and the availability of lower priced alcohol in neighboring states or tribal lands likely have significant impacts on total statewide alcohol consumption and public health. However, these were not considered.

The tax increases per product are large and the initial drop in liquor consumption resulting from higher prices could be higher than what is modeled, reducing positive revenue impacts forecasted to the various funds. Also, if the purchase of liquor products for consumption moves to neighboring states or to online purchasing, then the assumed drop in liquor purchases in state could also be higher still or the growth lower in the out years. A study by Ornstein and Levy notes no strong evidence of substitutable products for either beer, wine, or distilled spirits. [2] This analysis makes no assumption of changes in consumption patterns between liquor products. The proposed liquor rate indexing for inflation starts in FY29 beyond the fiscal impact horizon.

Fiscal Benefits

Studies have associated a decrease in alcohol consumption with an overall decrease in costs borne by state and local governments, primarily through lower healthcare costs. The estimates for the magnitude of these changes vary dramatically. The CDC estimates that the average cost per drink in New Mexico was $2.77, with an estimated cost to government per drink of $1.13 in 2010.[3] Based on these estimates, the fiscal benefits to the state under HB179 are estimated to be between $15 million and $20 million. Several adjustments were made and are discussed in *Methods*.

Using a cost per drink assumption to estimate taxpayer savings is tenuous and research is generally sparse in connecting researchers' cost estimates to actual government operating budget savings. Further, government operating budgets are sticky, rarely decreasing while routinely increasing. It is unlikely that state agency operating budgets funded by the general fund will decrease because of a tax change.

However, even if agency operating budgets see no change, as less alcohol is consumed, overall service delivery will likely improve as more resources are freed up to prioritize service delivery away from alcohol-related issues to other priorities. This estimate is designed to capture the

[2] Ornstein, S.I., Levy, D. (1983). Price and Income Elasticities of Demand for Alcoholic Beverages. In: , et al. Genetics Behavioral Treatment Social Mediators and Prevention Current Concepts in Diagnosis. Recent Developments in Alcoholism, vol 1. Springer, Boston, MA. https://doi.org/10.1007/978-1-4613-3617-4_18

[3] CDC. Excessive Drinking is Draining the U.S. Economy

effective net change in costs, not necessarily the change in an agency's operating budget.

While the effects of a price increase will not be the same for all New Mexicans, research has repeatedly agreed with the assumptions presented in this analysis. For example, the Guide to Community Preventive Services concluded there is strong evidence raising alcohol excise taxes is an effective strategy for reducing excessive alcohol consumption and related harms.

However, TRD analysis points out the literature on the relationship between liquor prices and consumption is not fully conclusive, noting there are "various other factors that are used to curb consumption of alcohol as it relates to health outcomes and preventing impaired driving." TRD continues:

> In empirical studies it is hard to control for other social and legal steps that are taken to curb excessive drinking and then driving. Finally, there are studies pointing to the differences in policies and the impact by gender and race.

Methods

Elasticity. The assumed price elasticities of demand were taken from Wagenaar et al 2009. Average retail prices for 2023 quarter 3 were taken from the council for community and economic research data for the Albuquerque, Las Cruses, and Sandoval – Rio Rancho metro areas. Where prices were not available, the analysis used an online survey of in-store retail prices in the Albuquerque metro area and were agreed to by CREG economists. These rates were applied to alcohol volume actuals from TRD. Each alcohol type with new tax proposed under HB179 were independently evaluated.

Wagenaar et al 2009 was a systemic review of studies examining relationships between measures of beverage alcohol tax or price levels and alcohol sales or self-reported drinking. A total of 112 studies of alcohol tax or price effects were found, containing 1,003 estimates of the tax/price–consumption relationship. The upper confidence interval was used for revenue estimates. As noted in the study, scholars have found that taxes are generally passed onto consumers at a 1 to 2 ratio. This analysis assumes 1 to 1.5 ratio.

Fiscal benefits. The CDC estimate of the price per drink derives from Sacks et al 2015. The study, which used 2010 data, included a cost per drink of alcohol considering 26 costs that can be attributed to drinking. These costs were estimated at the national and state level. The study used an incidence trend and price trend. The government share of costs was estimated separately for each of the 26 components. This analysis uses the Sacks et al 2015 estimate for the government share of cost per drink.

To estimate fiscal benefits, this analysis used the range of elasticities in Wagenaar et al 2009 to provide an upper bound and lower bound of the consumption reaction to a tax increase. Several additional adjustments were made. First, this analysis narrows cost savings from Sacks et al 2015 to public health savings alone, which comprises about two thirds of the costs to governments associated with drinking. Second, it is assumed that New Mexico's cost to state government will be half of the total cost to government. Third, a fraction was multiplied by this estimate to account for changes since 2010, the data year used, and to adjust for New Mexico-specific factors.

Impact of Earmarks

The bill does not include a recurring appropriation, but diverts or "earmarks" revenue,

representing a recurring loss from the general fund. LFC has concerns with including continuing distribution language in the statutory provisions for funds because earmarking reduces the ability of the Legislature to establish spending priorities.

TRD analysis states:

> 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 liquor excise tax could be distributed to the general fund and alcohol abuse funding needs could be provided for through general fund appropriations in HB2. The more complex the tax code's distributions are, the costlier it is for TRD to maintain the GenTax system and the more risk is involved in programming change.

HB179 makes several changes of liquor excise tax (LET) distributions, as outlined below.

HB179 Liquor Excise Tax Distribution Changes

	Current FY25 Estimated Distributions		New HB179 FY26 Estimated Distributions	
Fund	Rate (if applicable)	Amount	Rate (if applicable)	Amount
Local DWI Grant Fund	45%	$22,700	N/A	$25,008
Municipality – Class A County (Farmington)	N/A	$249	N/A	$249
Drug Court Fund	5%	$2,529	N/A	$3,000
General Fund	49.5%	$25,041	N/A	$0
Alcohol Harms Alleviation Fund	N/A	$0	N/A	$222,900

TRD notes:

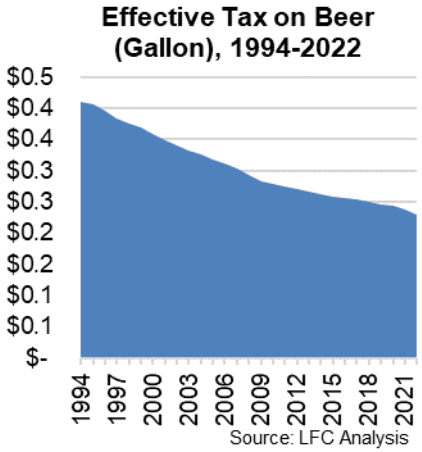
> Proposing fixed dollar amounts for monthly distributions may cause issues in the event liquor excise tax revenue in a given month is not sufficient to cover the fixed amounts due to amended returns or late filings. If that occurs, the general fund will need to cover the difference(s) to meet the flat amounts. That would effectively cause a negative distribution to the general fund.

Administrative Office of the Courts (AOC) analysis notes that increasing distributions to drug courts would "alleviate a fund balance deficit projected for as early as FY26 and would allow for strategic program expansion." However, the agency notes that setting the distribution at a fixed amount eliminates its growth in the outyears. Similarly, distributions to the Local DWI Grant fund will not benefit from future growth in liquor excise tax and does not allow for any growth in revenue for future needs. Furthermore, starting in 2028 the excise taxes are indexed for inflation, but the distributions are not, thus clearly reducing the value of the funds' distribution over time.

AOC also notes that language could be added in the newly created alcohol harms alleviation fund that would support programs serving traditionally underserved populations and those who are justice-involved. The agency notes the following as potential language: "shall prioritize community-based initiatives that address the needs of populations and communities that are disproportionately impacted by excessive alcohol use and are working to reduce health disparities"

Effects of Inflation

Alcohol taxes have not been increased in over 20 years, shrinking their impact by 44 percent. Taxes on alcohol have remained at their current levels since 1994. Because alcohol is taxed by volume at a fixed point, the value of the tax has eroded by about half since it was last changed. In 1994, the tax a consumer paid for a pint of beer was about 2 percent the total cost of the beer. Today, a consumer would pay about 0.5 percent. If tax rates had followed inflation, alcohol excise taxes would be 73 percent higher today. The issue of eroding alcohol excise tax rates is a national trend identified as a concern by public health researchers.



Regressivity

New Mexico's liquor excise tax is regressive. The tax makes up a higher share of a person's income if their income is low. Increasing the tax will exacerbate the regressivity of the liquor excise tax.

A 2018 study found that the heaviest drinkers–the 4 percent who drink the most–consume about 30 percent of alcohol. In total, the top 25 percent of drinkers consume about 78 percent of alcohol.[4] BRFSS data generally suggests that people with higher incomes drink more and engage in more excessive drinking. Accordingly, most of the new tax burden created by HB179 will likely be borne by people with higher-than-average incomes.

The Substance Abuse and Mental Health Services Administration (SAMHSA) notes that some research has found that if there are regressive effects from an increase in alcohol taxes, they are small and primarily concentrated among the heaviest concentrated among the heaviest drinking populations, not the broader population of people who drink alcohol.[5]

Further, the benefits of higher alcohol taxes are generally considered to be progressive because people with lower incomes are more likely to use the services provided by new revenues than those with more wealth.

SIGNIFICANT ISSUES

HB179 addresses a major public health issue by using a research-supported structural policy mechanism known to make alcohol less available. The legislation will also dramatically increase resources available for treatment and prevention of alcohol use disorder (AUD). However, the bill lacks mechanisms that would ensure the new resources are invested in evidence-based programs, and weak implementation may reduce the legislation's potential to improve public health outcomes.

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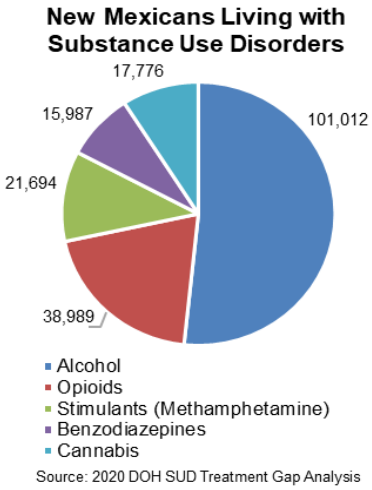
[4] *How dependent is the alcohol industry on heavy drinking in England?* Bhattacharya, Angus, Pryce, Holmes, Brennan, Meier, 2018.

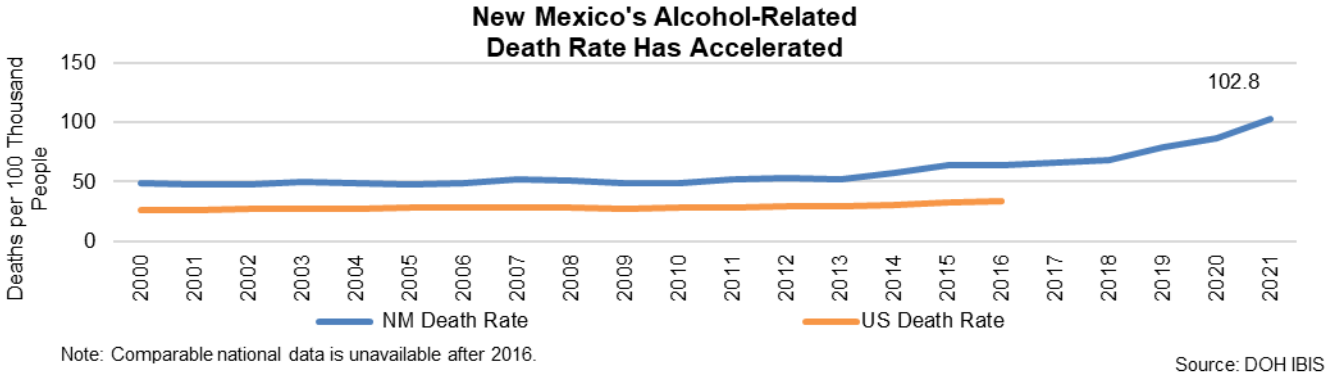
[5] *Implementing Community-Level Policies to Prevent Alcohol Misuse.* SAMHSA. https://store.samhsa.gov/sites/default/files/pep22-06-01-006.pdf

Alcohol Use Disorder in New Mexico



According to a 2023 LFC progress report on substance use disorders, alcohol is New Mexico's predominant substance-use problem. In 2021, 2,274 New Mexicans died from alcohol-related causes, roughly six people each day. The state has had the highest alcohol-related death rate in the country for over a decade, and the state's alcohol related death rate grew by 32.4 percent between 2019 and 2021.

The LFC progress report noted the effects of the pandemic exacerbated existing problems. According to the National Institute of Alcohol Abuse and Alcoholism, the traumas of the pandemic, including Covid-19 infection, job losses, housing dislocation, and social isolation caused alcohol consumption to increase 10 percent nationally and alcohol-related deaths to spike in all states. Nationally, Kaiser Family Foundation finds two-thirds of the public report they or someone in their family has been addicted to drugs or alcohol.



Between 2019 and 2021, the most recent year for which DOH has published data, the state's rate of alcohol-related deaths increased from 78.5 deaths per 100 thousand people to 102.8 deaths per 100 thousand people, a 31 percent increase. In 2016, New Mexico's alcohol-related death rate was nearly twice the national rate.

According to the 2023 LFC progress report, McKinley, Cibola, Rio Arriba, San Juan, and Socorro Counties are hotspots of alcohol-related deaths. McKinley, Cibola, Rio Arriba, San Juan, and Socorro counties had the highest alcohol-related death rates in 2021, the most recent year for which DOH has reported county-level data (Attachment 1). These five counties all had death rates that exceed 150 per 100 thousand people. Meanwhile, deaths in Bernalillo, McKinley, San Juan, Santa Fe, and Sandoval Counties made-up 62 percent of all 2021 alcohol-related deaths in the state in 2021.

A 2020 DOH gap analysis suggests that of the 100 thousand people who live with an alcohol use disorder, about 70 thousand do not receive treatment. DOH estimated that about 10 percent of those who need treatment and do not receive it will never receive it.

Despite the growing number of people living with an alcohol use disorder, the state recently loosened some market-based policy interventions that limit access to alcohol. In 2019, legislation (SB413) amended the definitions of microbrewers and winegrowers, extending the definitions of producers and quantities that fit into the small producer tax rate categories. In 2021, legislation

(HB255) made significant changes to New Mexico's liquor laws. The statute shifted the start time for Sunday alcohol sales from 11am to 7am, permitted the home delivery of alcohol, and created a new category of restaurant liquor license that reduced the cost of providing spirits, not just beer and wine. However, the bill also restricted the sale of liquor other than beer for some licenses that sell gasoline, prohibited the sale of small alcohol containers, and required DOH to study the effect of home alcohol delivery.

State Tax Rankings

Analysis from the Taxation and Revenue Department (TRD) notes that New Mexico has one of the higher liquor excise tax rates in the region and that the HB179 proposal would make New Mexico's rate one of the highest in the country.

State Rankings by State Level Liquor Excise Taxes

Liquor Category	New Mexico Proposed Rates	New Mexico Current Rates	Surrounding States				
			Arizona	Utah	Colorado	Oklahoma	Texas
Beer	1	14	36	13	46	15	31
Spirits	2	24	43	6	47	27	46
Wine	1	5	26	*	40	29	44

Note: Comparable state ratings based on dollars/gallon, include local rates, state-controls, differing rates by alcohol content. Utah has state-controlled sales of wine.

Source: Tax Foundation, TRD Analysis

The rate increases by liquor product in HB179 are relatively substantial for the consumer and will place New Mexico as the highest in the nation. The increase in rates may drive some of the purchasing of products to neighboring states with lower tax rates or to online retail purchasing.

Prevention Efforts

The 2023 LFC progress report noted that, while the state has invested significantly in treatment, New Mexico has not dedicated the same resources toward prevention. An increase to liquor excise taxes will likely increase the price of alcohol and decrease consumption, but it is just one of a constellation of policies that could be considered. As SAMHSA notes other strategies involve limiting alcohol's physical availability, social availability, and psychological availability. Further, SAMHSA notes that no single policy should be considered in isolation to reduce the influence of alcohol on communities because such policies are most effective when they are coordinated statewide, complement existing policies, and leverage different policy frameworks.[6]

HB179 considers dramatically increasing resources that may be used for prevention efforts, but the legislation contains no policy mechanisms that direct agencies to invest the new resources in effective prevention programs. The LFC progress report notes that a variety of strategies could be used to prevent people from developing AUD and intervene early among people who may be at risk or show signs of problematic alcohol use. These strategies include family-based interventions, such as home visiting or family therapies, and school-based interventions, such as the Good Behavior Game. Previous LFC studies documented the need for evidence-based family and school-based interventions, which are currently limited in their scope and uptake.

[6] Implementing Community-Level Policies to Prevent Alcohol Misuse.

Social determinants of health. Social determinants of health (SDOHs) are upstream conditions, such as housing, food, education, employment, and transportation, that affect quality of life and population health outcomes. As reported by the Center for Budget and Policy Priorities, people of color are more likely to experience barriers to treatment and have worse outcomes due to differentials in quality of treatment.

New Mexico has very high rates of adverse childhood experiences (ACEs) and other risk factors and must address social determinants of health. According to America's Health Rankings, New Mexico's children and youth experience the highest rates in the country of adverse childhood experiences (ACEs), which are potentially traumatic events, including experiencing abuse and neglect, growing up in a household with substance use or behavioral health problems, and food or housing insecurity. According to DOH, 67 percent of adults have at least one adverse childhood experience, and nearly one in four adults have four or more ACEs. The National Institutes of Health suggests interventions in early childhood can help prevent future substance use disorders.

Implementation Risks

The bill lacks guardrails on implementation. The new revenue flowing into the alcohol harms alleviation fund may be squandered if poorly implemented. Several major implementation concerns go unaddressed by the legislation.

Reporting and data collection. According to the 2023 LFC progress report, the Legislature lacks timely information about the public-health impacts of substance use disorders, including alcohol use disorders. The state is measuring and tracking alcohol-related and overdose death data. However, changes to these outcomes and reporting about these indicators lag considerably behind policy efforts. Moving forward, DOH could help identify and report about timely leading indicators to measure state progress to address SUD.

HB179 does not offer new reporting requirements. As noted in the progress report, providing the Legislature with recurring and consistent information about how many New Mexicans need and are receiving AUD treatment, the types of services they are receiving, and the spending on these services could allow the state to track progress toward meeting treatment gaps and ensuring public investments are made in evidence-based approaches. These approaches could help ensure the substantial new resources available toward treatment and prevention are best utilized.

Fractured coordination. According to the 2023 LFC progress report, New Mexico risks duplicating or underleveraging available resources without coordination. The Behavioral Health Collaborative's statutory role positions the organization to play a strategic role in developing a comprehensive plan to address substance use disorders in the state. Given the additional resources available under HB179, collaboration and coordination is needed to avoid resource duplication or supplanting. The Behavioral Health Collaborative is currently operating under a strategic plan that is about to end. It is funding needs assessments by the local collaboratives in support of its next strategic plan. LFC previously noted the Behavioral Health Collaborative should enhance its overarching coordinating role. Additionally, the LFC has previously noted reporting data from the administrative services organization (ASO, the private payment processor under contract with the state collaborative) would help track performance related to behavioral health across departments. The Behavioral Health Collaborative has an opportunity to play a coordinating function across all three branches of government. However, HB179 does not offer new statutory guidance or guardrails to ensure coordination is improved.

Attachments

1. Sample of August 2023 LFC progress report *Addressing Substance Use Disorders* recommendations.
2. Alcohol-Related Deaths by County, 2021

BG/RG/ne/al/rl/ne

Attachment 1
Sample of August 2023 LFC progress report *Addressing Substance Use Disorders* recommendations.

The 2023 LFC progress report recommended several actions related to AUD. HB179 does nothing to change state law that would ensure any of these recommendations are implemented.

The **Department of Health** should consider reporting to the Legislature about its plans, scope of responsibility, and timeline for the creation of the Office of Alcohol Prevention.

The **Human Services Department** should consider:

- Reporting to the Legislature and public annually about the number of patients receiving substance use treatment, the forms of evidence-based treatment they receive, and expenditures for these programs;
- Moving forward with its proposed plan to create additional billing codes and differentials for evidence-based forms of psychotherapy;
- Studying pilots contained within New Mexico's and other state's 1115 Medicaid waivers that address social determinants of health to determine the most effective models and services;
- Ensuring that the MCO contracts for Turquoise Care require the MCOs to maintain an adequate Behavioral Health network and ensure that access to those providers is readily available;
- Ensuring that the Medicaid incentive programs reward and sanction, as appropriate, the MCOs who perform well in delivery of SUD services;
- Reporting back to the Legislature about the outcomes associated with Medicaid provider rate increases, including impact to the state's number of behavioral health providers and access to patient care;
- Reporting to the Legislature about the plans, scope of responsibility, and timeline for the BHSD coordinator role focused on alcohol use disorders (AUD);
- Reporting to the Legislature about the plans, timeline, and outcomes of the statewide substance use treatment plan.

The **medical licensing boards** should consider expanding existing continuing medical education requirements related to opioid use disorders to include treatment of AUD for all providers.

Attachment 2
Alcohol-Related Deaths by County, 2021

Decedent's County of Residence	Deaths per 100,000 Population, Age-adjusted	Number of Deaths	Population Estimate (years combined)
McKinley	335.7	226	71,780
Cibola	179.4	51	27,184
Rio Arriba	176.6	75	40,179
San Juan	169.3	199	121,237
Socorro	156.2	25	16,346
Mora	144.3	6	4,196
Taos	118.6	41	34,623
Sierra	115.1	18	11,523
Colfax	108.8	14	12,369
San Miguel	106.4	32	27,150
Quay	102.7	9	8,709
Luna	101.9	27	25,429
Union	98.4	4	4,036
Valencia	98	78	77,190
Bernalillo	96.8	709	676,626
Otero	94	68	68,549
Torrance	91.8	16	15,041
Guadalupe	91.2	5	4,439
Chaves	87.8	60	64,454
Sandoval	87.3	137	151,369
Lincoln	84.5	20	20,557
Grant	81.8	29	27,889
Santa Fe	81.5	143	155,201
Eddy	74.8	48	61,939
Curry	66.4	31	49,230
Lea	63.8	43	72,637
Dona Ana	57.2	126	221,508
Roosevelt	52.7	10	19,232
Los Alamos	35.2	9	19,391
NM Resident, County Unknown	.	6	.
Catron	**	**	3,731
De Baca	**	**	1,685
Harding	**	**	659
Hidalgo	**	**	4,102
Overall	102.7	2,274	2,120,188

Source: DOH IBIS