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FISCAL IMPACT REPORT

SPONSOR McSherry DATE TYPED 3/17/97 HB 498/aHTRC
SHORT TITLE Wine Excise Tax SB _____
ANALYST Groepler

REVENUE*

| <u>Estimated Revenue</u> | <u>Subsequent</u> | <u>Recurring</u> | <u>Fund</u> |
|--------------------------|------------------------------------|-------------------|---------------------|
| <u>FY97</u> | <u>FY98</u> | <u>or Non-Rec</u> | <u>Affected</u> |
| <u>\$ 0.0</u> | <u>None in foreseeable future.</u> | <u>Recurring</u> | <u>General Fund</u> |

*Revenue estimate supplied by TRD.

SOURCES OF INFORMATION

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

SUMMARY

Synopsis of HTRC Amendments

The HTRC amendments changes the definition of "small winer or winegrower." The original statute defined them as producing less than 220,000 liters of wine per year. The original bill would have changed this to 836,000 liters per year. The HTRC amendments change this to 375,000 liters. According to TRD, this now makes the New Mexico definition of small winer or winegrower conform with the federal definition, which they say will make this bill more administrable.

The HTRC amendments also change the excise tax due from small winers or winegrowers. The original statute called for a tax of 10 cents for the first 80,000 liters, and 20 cents on all other wine sold less than 220,000 liters. The original bill called for a tax 10 cents per liter for the first 380,000 liters produced and then 20 cents per liter on amounts produced up to 836,000 liters. The HTRC amendments would change the tax to 10 cents per liter on the first 80,000 liters produced and 20 cents per liter on amounts produced up to 375,000 gallons (note this last measure probably should be liters).

The TRD also notes that Section F, page 4 should be amended to state that these are amounts produced per year.

Synopsis of Bill

This bill proposes to change the tax rate on wine produced by small winers or winegrowers from one based on liters to one based on gallons. This change is revenue neutral.

This bill also proposes to change the definition of small winer or winegrower from a person that produces less than 220,000 liters (58,125 gallons) of wine per year to a person that produces less than 220,000 gallons (832,700 liters) of wine per year.

The tax rate on small winers or winegrowers is changed from 38 cents per gallon for the first 21,136 gallons (80,000 liters) to 38 cents per gallon on the first 100,000 gallons. Thereafter, the rate is changed to 76 cents per gallon on all gallons sold over 100,000 gallons but less than 220,000.

Significant Issues

The TRD estimates that less than one half of the small winer or winegrower wine taxes are collected from in-state wineries. They also note that only one producer in New Mexico is approaching the 80,000 liter limit. These figures imply that the main beneficiaries of this bill would be out-of-state wineries and it may be years before this bill would help New Mexico wineries. If this is correct, then increased competition from out-of-state small wineries may hurt New Mexico wineries.

FISCAL IMPLICATIONS

TRD estimates that this bill would cause a \$100.0 general fund revenue loss due to sales from out-of-state wineries, and \$2.0 from in-state wineries.

ADMINISTRATIVE IMPLICATIONS

Minor according to TRD.

TECHNICAL ISSUES

See attached TRD analysis.

RFG/prr:jl
Attachment

BILL ANALYSIS AND FISCAL IMPACT REPORT

Page 1 of 2

DATE: March 12, 1997

**Submitted by: TAXATION AND REVENUE DEPT.
JOHN J. CHAVEZ, SECRETARY**

BILL NUMBER: HB-498 as amended by House Taxation & Revenue Committee (3/11/97)

SPONSOR: Representative McSherry

BILL SHORT TITLE: Wine Excise Tax

CONFLICTS, DUPLICATES, COMPANIONS: HB-108, HB-574

DESCRIPTION: The *original* bill changed the definition of "small winer or winegrower" from one who produces 220,000 *liters* (58,125 gallons) of wine per year to be one who produces 220,000 *gallons* (832,700 liters) per year. The Liquor Excise Tax rate imposed on wine manufactured by a "small winer" was revised from 10 cents per *liter* to 38 cents per *gallon* for the first 100,000 gallons (currently 80,000 liters, or 21,136 gallons) and from 20 cents per *liter* to 76 cents per *gallon* for amounts over 100,000 gallons.

The *amended* bill revises the definition of "small winer or winegrower" from one who produces 220,000 liters (58,125 gallons) of wine per year to be one who produces 375,000 liters (about 99,075 gallons) per year. The current \$0.10 tax per liter imposed on the first 80,000 liters is unchanged (restored), and the \$0.20 tax per liter currently imposed on volumes over 80,000 liters but under 220,000 liters would be applied to volumes up to 375,000 liters.

EFFECTIVE DATE: July 1, 1997

FISCAL IMPACT: No fiscal impact in the foreseeable future. It will presumably be a number of years before any single New Mexico winery is producing more than 220,000 liters (the current threshold for the \$0.20 tax as opposed to the regular wine tax of \$0.45 per liter).

TECHNICAL ISSUES:

- 1) An additional revision should be added to clean-up the bill in accordance with the HTRC amendments. On page 4, line 24, strike "gallons" and insert "liters".
- 2) Under *current law*, the tax rates on small producers is set at 10 cents and 20 cents per liter of wine "sold in this state" -- not "sold [each calendar year]". The department has administered the provision as an annual calculation, but Section 7-17-5, Subsections F NMSA 1978 should probably be revised to insert "annually" or "each calendar year" after "sold" on both lines 20 and 22 on page 2.

ADMINISTRATIVE IMPACT: No substantial administrative impact on the department. Some positive administrative affects may result from closer alignment to federal definitions.

SUBSTANTIVE ISSUES:

- 1) The federal definition of a "small domestic producer" of wine who may claim a tax credit against federal wine excise tax is one "who produces not more than 250,000 wine gallons of wine during the calendar year". One level of credit is available "on the 1st 100,000 wine gallons of wine" (other than champagne and other sparkling wines), and that credit is subsequently reduced "by 1 percent for each 1,000 wine gallons of wine produced in excess of 150,000 wine gallons of wine during the calendar year". By aligning approximately with the 100,000 gallons federal tax threshold (approximately 375,000 liters), administration of the tax on "small domestic producers" should be made more administrable.

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SUBSTANTIVE ISSUES (continued):

2) At least one New Mexico wine producer is approaching the 80,000 liter (New Mexico taxable sales) threshold which will tax additional volumes at the 20 cent tax rate rather their current 10 cent tax rate. While the winery does not appear to be in immediate danger of loosing "small producer" status, the bill's higher volume definition for "small producer" should assure the \$0.20 per liter preferential tax rate for the foreseeable future.

The amended bill is not expected to affect state taxation of the small amount of out-of-state wines which currently claim the small producer tax rate. The change proposed by the bill, in more closely aligning with a federal tax threshold, may contribute to administrative verification of the proper tax status of some of these out-of-state wines.