

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

ORIGINAL DATE 02/05/10

SPONSOR Rodriguez LAST UPDATED _____ HB _____

SHORT TITLE Small Winery Production Capacity SB 214

ANALYST Gutierrez

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY10	FY11	FY12		
	(\$558.0)	(\$582.0)	Recurring	General Fund
	(\$354.0)	(\$372.0)	Recurring	Local DWI Grant Fund
	\$58.0	\$58.0	Recurring	McKinley County
	\$12,000.0	\$12,200.0	Recurring	Bernalillo County
	\$2,000.0	\$2,035.0	Recurring	Dona Ana County
	\$1,100.0	\$1,120.0	Recurring	San Juan County
	\$2,500.0	\$2,550.0	Recurring	Santa Fe County

(Parenthesis () Indicate Revenue Decreases)

Relates to SB101, SB126, SB142 and HB34

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY10	FY11	FY12	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		\$124.0	\$90.0	\$214.0	Recurring	TRD

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Taxation and Revenue Department (TRD)

Department of Health (DOH)

New Mexico Health Policy Commission (HPC)

SUMMARY

Synopsis of Bill

Senate Bill 214 amends the definition of a small winegrower to be one who produces fewer than 1.2 million liters of wine in a year, an increase from the current 950 thousand liters. This bill authorizes Class A counties to impose a local liquor excise tax, subject to voter approval. This bill also removes TRD's 5 percent administrative charge on the local liquor excise tax.

The effective date of this bill's provisions is July 1, 2010.

FISCAL IMPLICATIONS

Liquor demand is responsive to price changes and it is important to recognize that when prices go up, demand will go down, affecting the fiscal impact. This is called the elasticity of demand. For this estimate, it is assumed that the price elasticity is -0.45 for beer and cider, -2.25 for spirits, and -1.5 for wine. The reasoning behind the large negative elasticities is that Class A counties make up 67 percent of the state and it is assumed that there will be some leakage due to people purchasing liquor from a nearby non-Class A county.

Currently, only McKinley County is authorized to impose a local liquor excise tax. McKinley County imposes a 5 percent local liquor excise tax on the price paid by the retailer, regardless of the type of alcohol. This bill proposes to impose a local liquor excise tax for Class A counties as follows:

- spirituous liquor – up to \$0.99 per liter;
- beer and cider – up to \$0.25 per gallon;
- wine – up to \$0.28 per liter;
- fortified wine – up to \$0.93 per liter;
- microbrewer beer – up to \$0.05 per gallon;

SIGNIFICANT ISSUES

New Mexico's liquor excise tax is already high in comparison to other states' tax rates (see Attachment 1 and Attachment 2).

TRD:

Section 7-1-6.40 (B) NMSA 1978 distributes \$20,750 monthly (\$249 thousand per year) from the state liquor excise tax to the City of Farmington for alcohol treatment and rehabilitation services for street inebriates (effective July 1, 2009). If San Juan County were to impose the new local liquor excise tax, a review of the state liquor excise tax earmark to Farmington might be appropriate.

The allowed uses for local liquor excise tax revenue is slightly revised in the bill, and the revision would affect McKinley County's tax. Tax proceeds could no longer fund "*education programs*" but could be used only for "*direct program services*" for prevention and treatment of alcoholism and drug abuse.

ADMINISTRATIVE IMPLICATIONS

TRD:

A moderate administrative impact on the Department to create new tax reporting forms and instructions, and implement the new local liquor excise tax program. The cost of the new forms would be about \$2,000. Two additional FTE would be needed for the Revenue Processing Division to process and maintain the program at a cost of \$45,000 per FTE. A new tax program would be needed for Gentax, requiring about 320 hours to implement. There could be additional administrative impact if it is determined that tracking of revenue by municipal location is necessary to accommodate the revenue sharing agreements where municipalities are split between counties.

RELATIONSHIP

This bill relates to:

HB34 – proposes to create a liquor surtax and distribute the revenue to the public school fund

SB101 – expands the ability to dedicate revenue from the local liquor excise tax to include “a safe transportation shuttle system for transport of inebriated persons”

SB126 – proposes to increase the liquor excise tax rate and distribute the increased revenue to the general fund, leaving the local DWI fund held harmless

SB142 – proposes to increase the liquor excise tax and distribute the increased revenue to the general fund, local DWI fund and the newly created mental health and substance abuse treatment fund

TECHNICAL ISSUES

TRD:

Section 4, Subsection H of the bill (on page 12, lines 8 through 11) provides that “Two counties that share a municipality that crosses the counties’ common boundary may enter into a joint powers agreement to share the revenue from a local liquor excise tax imposed within the shared municipality.” It is not clear that the Taxation and Revenue Department will be able to determine local excise tax revenue attributable to specific municipalities, and it undoubtedly would not be cost-effective to design the tax processing system to do so. Any joint powers agreement between counties would probably have to be based on estimates of revenue attributable to the particular municipalities.

The current definition of “small winegrower” at 950,000 liters per year is similar to the federal definition of “small domestic wine producer” at 250,000 gallons per year (about 946,250 liters). It is unclear at this time whether departure from the federal definition might have any significant tax compliance impact or result in some unexpected revenue loss.

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

Comparison of State Alcoholic Beverage Rankings

State	Per Capita (age 14 and over)				
	Ethanol	Ethanol	Beer	Wine	Spirits
	<u>Consumption</u>	<u>Consumption</u>	<u>Tax Rate</u>	<u>Tax Rate</u>	<u>Tax Rate</u>
	<u>Consumption</u>	<u>Ranking</u>	<u>Ranking</u>	<u>Ranking</u>	<u>Ranking</u>
New Hampshire	4.22	1	15	48	50
District of Columbia	3.95	2	43	39	47
Nevada	3.61	3	33	23	34
Delaware	3.23	4	31	13	31
Wisconsin	2.98	5	50	44	36
North Dakota	2.88	6	32	32	42
Alaska	2.84	7	1	1	6
Wyoming	2.82	8	51	51	51
Montana	2.80	9	36	11	12
Colorado	2.75	10	46	43	44
Florida	2.72	11	7	2	16
Vermont	2.68	12	17	29	49
Louisiana	2.65	13	13	47	41
Hawaii	2.62	14	4	8	20
Idaho	2.59	15	34	34	9
Oregon	2.59	16	45	24	2
South Dakota	2.59	17	16	15	29
Rhode Island	2.56	18	42	27	33
Maine	2.49	19	12	26	23
Massachusetts	2.48	20	41	28	28
Arizona	2.45	21	30	18	37
Minnesota	2.45	22	35	41	24
South Carolina	2.44	23	5	10	25
New Mexico	2.43	24	9	5	19
Missouri	2.41	25	49	36	45
Illinois	2.36	26	26	21	13
Connecticut	2.35	27	22	25	26
Washington	2.35	28	18	17	1
California	2.34	29	21	46	35
New Jersey	2.34	30	39	16	22
Nebraska	2.33	31	14	14	32
Mississippi	2.26	32	8	35	14
Texas	2.25	33	24	45	43
Iowa	2.24	34	25	3	7
Maryland	2.21	35	44	37	48
Michigan	2.19	36	23	30	10
Pennsylvania	2.16	37	48	49	15
Virginia	2.13	38	19	7	3
Indiana	2.10	39	40	33	38
Georgia	2.06	40	3	6	30
New York	2.06	41	37	42	18
Ohio	2.03	42	28	38	11
Alabama	2.02	43	2	4	4
North Carolina	2.00	44	6	19	5
Kansas	1.96	45	27	40	40
Oklahoma	1.93	46	11	22	21
Tennessee	1.89	47	38	9	27
Kentucky	1.85	48	47	31	17
Arkansas	1.84	49	20	20	39
West Virginia	1.76	50	29	12	46
Utah	1.34	51	10	50	8

Comparison of State Liquor Excise Tax Rates

Updated January 1, 2008

STATE	Distilled Spirits			Wine			Beer		
	EXCISE TAX RATES (\$ per gallon)	SALES TAXES APPLIED	OTHER TAXES	EXCISE TAX RATES (\$ per gallon)	SALES TAXES APPLIED	OTHER TAXES	EXCISE TAX RATES (\$ per gallon)	SALES TAXES APPLIED	OTHER TAXES
Alabama	see footnote (1)	Yes		1.7	Yes	over 14% - sold through state store	0.53	Yes	\$0.52/gallon local tax
Alaska	12.8	n.a.	under 21% - \$2.50/gallon	2.5	n.a.		1.07	n.a.	
Arizona	3	Yes		0.84	Yes		0.16	Yes	
Arkansas	2.5	Yes	under 5% - \$0.50/gallon, under 21% - \$1.00/gallon; \$0.20/case and 3% off-14% on-premise retail taxes	0.75	Yes	under 5% - \$0.25/gallon; \$0.05/case; and 3% off-and 10% on-premise	0.23	Yes	under 3.2% - \$0.16/gallon; \$0.008/gallon and 3% off-10% on-premise tax
California	3.3	Yes	over 50% - \$6.60/gallon	0.2	Yes	sparkling wine - \$0.30/gallon	0.2	Yes	
Colorado	2.28	Yes		0.32	Yes		0.08	Yes	
Connecticut	4.5	Yes	under 7% - \$2.05/gallon	0.6	Yes	over 21% & sparkling wine - \$1.50/gallon	0.19	Yes	
Delaware	5.46	n.a.	under 25% - \$3.64/gallon	0.97	n.a.		0.16	n.a.	
Florida	6.5	Yes	under 17.259% - \$2.25/gallon, over 55.780% - \$9.53/gallon 6.67¢/ounce on-premise retail tax	2.25	Yes	over 17.259% - \$3.00/gallon, sparkling wine \$3.50/gallon 6.67¢/4 ounces on-premise retail tax	0.48	Yes	2.67¢/12 ounces on-premise retail tax
Georgia	3.79	Yes	\$0.83/gallon local tax	1.51	Yes	over 14% - \$2.54/gallon; \$0.83/gallon local tax	0.32	Yes	\$0.53/gallon local tax

Comparison of State Liquor Excise Tax Rates

Updated January 1, 2008

STATE	Distilled Spirits			Wine			Beer		
	EXCISE TAX RATES (\$ per gallon)	SALES TAXES APPLIED	OTHER TAXES	EXCISE TAX RATES (\$ per gallon)	SALES TAXES APPLIED	OTHER TAXES	EXCISE TAX RATES (\$ per gallon)	SALES TAXES APPLIED	OTHER TAXES
Hawaii	5.98	Yes		1.38	Yes	Sparkling wine - \$2.12/gallon and wine coolers - \$0.85/gallon	0.93	Yes	\$0.54/gallon draft beer
Idaho	see footnote (1)	Yes		0.45	Yes		0.15	Yes	over 4% - \$0.45/gallon
Illinois	4.5	Yes	under 20% - \$0.73/gallon; \$1.845/gallon in Chicago and \$2.00/gallon in Cook County	0.73	Yes	over 20% - \$4.50/gallon; \$0.246/gallon in Chicago and (\$0.16-\$0.30)/gallon in Cook County	0.185	Yes	\$0.16/gallon in Chicago and \$0.06/gallon in Cook County
Indiana	2.68	Yes	under 15% - \$0.47/gallon	0.47	Yes	over 21% - \$2.68/gallon	0.115	Yes	
Iowa	see footnote (1)	Yes		1.75	Yes	under 5% - \$0.19/gallon	0.19	Yes	
Kansas	2.5	no	8% off- and 10% on-premise retail tax	0.3	no	over 14% - \$0.75/gallon; 8% off- and 10% on-premise	0.18	--	over 3.2% - {8% off- and 10% on-premise}, under 3.2% - 4.25% sales tax.
Kentucky	1.92	Yes*	under 6% - \$0.25/gallon; \$0.05/case and 11% wholesale tax	0.5	Yes*	11% wholesale	0.08	Yes*	11% wholesale tax
Louisiana	2.5	Yes	under 6% - \$0.32/gallon	0.11	Yes	14% to 24% - \$0.23/gallon, over 24% and sparkling wine - \$1.59/gallon	0.32	Yes	\$0.048/gallon local tax

Comparison of State Liquor Excise Tax Rates

Updated January 1, 2008

STATE	Distilled Spirits			Wine			Beer		
	EXCISE TAX RATES (\$ per gallon)	SALES TAXES APPLIED	OTHER TAXES	EXCISE TAX RATES (\$ per gallon)	SALES TAXES APPLIED	OTHER TAXES	EXCISE TAX RATES (\$ per gallon)	SALES TAXES APPLIED	OTHER TAXES
Maine	see footnote (1)	Yes		0.6	Yes	over 15.5% - sold through state stores, sparkling wine - \$1.25/gallon; additional 5% on-premise sales tax	0.35	Yes	additional 5% on-premise tax
Maryland	1.5	Yes		0.4	Yes		0.09	Yes	\$0.2333/gallon in Garrett County
Massachusetts	4.05	Yes*	under 15% - \$1.10/gallon, over 50% alcohol - \$4.05/proof gallon; 0.57% on private club sales	0.55	Yes*	sparkling wine - \$0.70/gallon;	0.11	Yes*	0.57% on private club sales
Michigan	see footnote (1)	Yes		0.51	Yes	over 16% - \$0.76/gallon	0.2	Yes	
Minnesota	5.03	--	\$0.01/bottle (except miniatures) and 9.0% sales tax	0.3	--	14% to 21% - \$0.95/gallon, under 24% and sparkling wine - \$1.82/gallon; over 24% - \$3.52/gallon; \$0.01/bottle (except miniatures) and 9% sales tax	0.15	--	under 3.2% - \$0.077/gallon . 9% sales tax
Mississippi	see footnote (1)	Yes		0.35	Yes	over 14% and sparkling wine - sold through the state	0.4268	Yes	
Missouri	2	Yes		0.3	Yes		0.06	Yes	

Comparison of State Liquor Excise Tax Rates

Updated January 1, 2008

STATE	Distilled Spirits			Wine			Beer		
	EXCISE TAX RATES (\$ per gallon)	SALES TAXES APPLIED	OTHER TAXES	EXCISE TAX RATES (\$ per gallon)	SALES TAXES APPLIED	OTHER TAXES	EXCISE TAX RATES (\$ per gallon)	SALES TAXES APPLIED	OTHER TAXES
Montana	see footnote (1)	n.a.		1.06	n.a.	over 16% - sold through state stores	0.14	n.a.	
Nebraska	3.75	Yes		0.95	Yes		0.31	Yes	
Nevada	3.6	Yes	under 14% - \$0.70/gallon and under 21% - \$1.30/gallon.	0.7	Yes	14% to 22% - \$1.30/gallon, over 22% - \$3.60/gallon	0.16	Yes	
New Hampshire	see footnote (1)	n.a.		see footnote (2)	n.a.		0.3	n.a.	
New Jersey	4.4	Yes		0.7	Yes		0.12	Yes	
New Mexico	6.06	Yes		1.7	Yes	over 14% - \$5.68/gallon	0.41	Yes	
New York	6.44	Yes	not more than 24% - \$2.54/gallon; \$1.00/gallon New York City	0.19	Yes		0.11	Yes	\$0.12/gallon in New York City
North Carolina	see footnote (1)	Yes*		0.79	Yes	over 17% - \$0.91/gallon	0.53	Yes	
North Dakota	2.5	--	7% state sales tax	0.5	--	over 17% - \$0.60/gallon, Sparkling wine - \$1.00/gallon; 7% state sales tax	0.16	--	7% state sales tax, bulk beer \$0.08/gal.
Ohio	see footnote (1)	Yes		0.3	Yes	over 14% - \$0.98/gallon, vermouth - \$1.08/gallon and sparkling wine - \$1.48/gallon	0.18	Yes	

Comparison of State Liquor Excise Tax Rates

Updated January 1, 2008

STATE	Distilled Spirits			Wine			Beer		
	EXCISE TAX RATES (\$ per gallon)	SALES TAXES APPLIED	OTHER TAXES	EXCISE TAX RATES (\$ per gallon)	SALES TAXES APPLIED	OTHER TAXES	EXCISE TAX RATES (\$ per gallon)	SALES TAXES APPLIED	OTHER TAXES
Oklahoma	5.56	Yes	13.5% on-premise	0.72	Yes	over 14% - \$1.40/gallon, sparkling wine - \$2.08/gallon; 13.5% on-premise	0.4	Yes	under 3.2% - \$0.36/gallon; 13.5% on-premise
Oregon	see footnote (1)	n.a.		0.67	n.a.	over 14% - \$0.77/gallon	0.08	n.a.	
Pennsylvania	see footnote (1)	Yes		see footnote (2)	Yes		0.08	Yes	
Rhode Island	3.75	Yes		0.6	Yes	sparkling wine - \$0.75/gallon	0.1	Yes	\$0.04/case wholesale tax
South Carolina	2.72	Yes	\$5.36/case and 9% surtax	0.9	Yes	\$0.18/gallon additional tax	0.77	Yes	
South Dakota	3.93	Yes	under 14% - \$0.93/gallon, 2% wholesale tax	0.93	Yes	14% to 20% - \$1.45/gallon, over 21% and sparkling wine - \$2.07/gallon; 2% wholesale tax	0.27	Yes	
Tennessee	4.4	Yes	\$0.15/case and 15% on-premise; under 7% - \$1.21/gallon.	1.21	Yes	\$0.15/case and 15% on-premise.	0.14	Yes	17% wholesale tax
Texas	2.4	Yes	14% on-premise and \$0.05/drink on airline sales	0.2	Yes	over 14% - \$0.408/gallon and sparkling wine - \$0.516/gallon ; 14% on-premise and \$0.05/drink on airline sales	0.19	Yes	over 4% - \$0.198/gallon , 14% on-premise and \$0.05/drink on airline sales

Comparison of State Liquor Excise Tax Rates

Updated January 1, 2008

STATE	Distilled Spirits			Wine			Beer		
	EXCISE TAX RATES (\$ per gallon)	SALES TAXES APPLIED	OTHER TAXES	EXCISE TAX RATES (\$ per gallon)	SALES TAXES APPLIED	OTHER TAXES	EXCISE TAX RATES (\$ per gallon)	SALES TAXES APPLIED	OTHER TAXES
Utah	see footnote (1)	Yes		see footnote (2)	Yes		0.41	Yes	over 3.2% - sold through state store
Vermont	see footnote (1)	no	10% on-premise sales tax	0.55	Yes	over 16% - sold through state store, 10% on-premise sales tax	0.265	Yes	6% to 8% alcohol - \$0.55; 10% on-premise sales tax
Virginia	see footnote (1)	Yes		1.51	Yes	under 4% - \$0.2565/gallon and over 14% - sold through state store	0.26	Yes	
Washington	see footnote (1)	Yes*		0.87	Yes	over 14% - \$1.72/gallon	0.261	Yes	
West Virginia	see footnote (1)	Yes		1	Yes	5% local tax	0.18	Yes	
Wisconsin	3.25	Yes		0.25	Yes	over 14% - \$0.45/gallon	0.06	Yes	
Wyoming	see footnote (1)	Yes		see footnote (2)	Yes		0.02	Yes	
Dist. of Columbia	1.5	Yes	8% off- and 10% on-premise sales tax	0.3	Yes	8% off- and 10% on-premise sales tax, over 14% - \$0.40/gallon and Sparkling - \$0.45/gallon.	0.09	Yes	8% off- and 10% on-premise sales tax
U.S. Median	3.75			0.69			0.188		

Source: Federation of Tax Administrators

* Sales tax is applied to on-premise sales only.

(1) In 18 states, the government directly controls the sales of distilled spirits. Revenue in these states is generated from various taxes, fees and net liquor profits.

(2) All wine sales are through state stores. Revenue in these states is generated from various taxes, fees and net profits