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## FISCAL IMPACT REPORT

ORIGINAL DATE 02/08/11  
 LAST UPDATED 02/21/11    **HB** \_\_\_\_\_

SPONSOR Sanchez, B.

SHORT TITLE Adjust Liquor Tax Distribution    **SB** 258

ANALYST Burrows

### REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Non-Rec	Fund Affected
FY11	FY12	FY13	FY14	FY15		
	(\$71.0)	(\$137.0)	(\$243.0)	(\$410.0)	Recurring	Local DWI Grant Fund
	\$30,594.0	\$31,009.0	\$31,279.0	\$31,478.0	Recurring	MHSAT
	\$45,743.0	\$46,320.0	\$46,454.0	\$46,622.0	Recurring	General Fund

(Parenthesis ( ) Indicate Revenue Decreases)

Conflicts with HB23

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Taxation and Revenue Department (TRD)  
 New Mexico Municipal League (NMML)  
 Human Services Department (HSD)

#### Responses Not Received From

Department of Finance and Administration (DFA)

### SUMMARY

#### Synopsis of Bill

Senate Bill 258 increases the liquor excise tax on spirituous liquors, beer, cider, microbrew beer, and fortified wine as follows:

Liquor Type	Current Excise Tax	Proposed Excise Tax
Spirits	\$1.60 / liter	\$3.85 / liter
Fortified Wine	\$1.50 / liter	\$2.35 / liter
Beer	\$0.41 / gallon	\$1.48 / gallon
Cider	\$0.41 / gallon	\$1.48 / gallon
Micro-beer	\$0.08 / gallon	\$1.15 / gallon

The rates on wine and small winery wine are not increased in this bill.

This bill also creates a new fund, the mental health and substance abuse fund (MHSAT), and proposes changes to the distribution of the liquor excise tax (Section 7-1-6.4) that effectively redirect the increased revenue to the MHSAT. Distributions to the local DWI grant fund are approximately the same after tax increases and distribution changes outlined below.

Fund	Current Distribution Amount	Proposed Distribution Amount
DWI Fund	41.5%	15.3%
MHSAT	0%	25.26%

The Mental Health and Substance Abuse Treatment Fund would be a non-reverting fund in the state treasury to be administered by the Human Services Department. The funds are appropriated to pay for mental health or substance abuse treatment programs.

This bill creates a new fund and provides for continuing appropriations. The LFC has concerns with including continuing appropriation language in the statutory provisions for newly created funds, as earmarking reduces the ability of the legislature to establish spending priorities

The effective date of this bill’s provisions is July 1, 2011.

**FISCAL IMPLICATIONS**

Liquor demand is responsive to price changes and it is important to recognize that when prices go up demand will do down, thereby affecting the fiscal impact.

TRD:

Impacts were calculated based on the effect of the tax increase on price and the correlated decrease in demand for each product. Demand elasticity, the ratio of the change in purchases to the change in price, were assumed to be -0.16 for beer and cider, -0.52 for spirits and -0.58 for wine. These estimates are based on a review of the economic literature. The figure below highlights the effect of the rate increase by product:

Liquor Type	Serving Size per Drink (oz.)	Current Tax per Drink (\$)	Proposed Total Tax per Drink (\$)	Increase in Tax per Drink (\$)	% Increase in Tax per Drink
Fortified Wine	3.5	0.16	0.24	0.09	56%
Spirits	1.5	0.07	0.17	0.10	143%
Beer	12.0	0.04	0.14	0.10	250%
Cider	12.0	0.04	0.14	0.10	250%
Micro-beer	12.0	0.01	0.11	0.10	1000%
Wine	5.0	0.07	0.07	No Change	0%
Wine from a Small Winery <sup>1</sup>	5.0	0.03	0.03	No Change	0%
Wine from a Very Small Winery <sup>2</sup>	5.0	0.01	0.01	No Change	0%

<sup>1</sup> A small winery produces between 80,000 and 950,000 liters annually

<sup>2</sup> A very small winery produces less than 80,000 liters annually

As this analysis shows, these changes would have an impact both on revenues and on consumption. Higher excise taxes may provide incentive to purchase liquor online or from neighboring states. Alternatively, this bill could be a boon for the wine and small winery business as consumers substitute consumption of the higher taxed liquids for the lower taxed ones.

SB 258 creates the “Mental and Substance Abuse Fund” and provides for continuing appropriations. The LFC has concerns with including continuing appropriation language in the statutory provisions for newly created funds, as earmarking reduces the ability of the legislature to establish spending priorities.

**SIGNIFICANT ISSUES**

TRD:

The economic rationale for alcohol taxation has traditionally been three-fold: 1) excise taxes collected from wholesalers are relatively easy to collect because of the small number of taxpayers; 2) alcohol excise taxes have a positive impact on reducing the use and abuse of alcohol; and 3) alcohol excise tax revenue helps cover the economic and social costs of alcohol use and abuse. After accounting for the effects of inflation, state alcohol taxes have eroded over time. Also, economic theory supports that young adults are more sensitive to price changes.

**ADMINISTRATIVE IMPLICATIONS**

TRD reports there would be a small impact (120 hours) on the staffing resources of TRD’s information systems team.

Administrative implications for HSD include program management and/or administrative costs

for transferring funds and oversight of Statewide Entity-contracted provider network.

## **CONFLICT**

House Bill 23 proposes a similar increase to liquor excise tax rates, but provides a different distribution of the tax revenue.

## **OTHER SUBSTANTIVE ISSUES**

According to HSD, any mental health or substance abuse treatment services provided to Medicaid-eligible individuals would be eligible for federal match if all the following criteria are met:

- The service must be a covered benefit under the NM Medicaid State Plan;
- The provider must be credentialed as a Medicaid provider of that service as part of the Statewide Entity-contracted provider network; and
- The provider is providing services in accordance with his or her licensure.

The New Mexico Municipal League opposes any change that would cause the distribution to be less than current law provides. Although the effect of the distribution shift has only a minor impact on distributions to the local DWI grant fund in FY12 and FY13, the negative impact of the distribution rate reduction is estimated to increase in future fiscal years.

New Mexico currently has the 9<sup>th</sup> highest liquor tax on beer; this proposal would make New Mexico the highest. Our State has the 18<sup>th</sup> highest liquor tax on spirits; this proposal would make New Mexico the 5<sup>th</sup> highest (see Attachment).

TRD expresses concern that the MHSAT would provide *treatment* for mental health and substance abuse, but not *prevention* programs.

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

The Liquor Excise Tax will be collected and distributed as currently outlined in the Tax Administration Act.

LKB/mew:bym