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FISCAL IMPACT REPORT

ORIGINAL DATE 02/25/11

SPONSOR Campos LAST UPDATED _____ HB _____

SHORT TITLE Small Winery Capacity for Liquor Tax SB 551

ANALYST Burrows

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY11	FY12	FY13		
	(\$429.0)	(\$436.0)	Recurring	General Fund
	(\$305.0)	(\$310.0)	Recurring	DWI Grant Fund
	\$60.0	\$61.0	Recurring	McKinley County*
	\$26,403.0	\$26,630.0	Recurring	All Other Counties

(Parenthesis () Indicate Revenue Decreases)

*Revenue shift from eliminating TRD administrative fee.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		\$60.0	\$61.0	\$121.0	Recurring	Loss of Administrative Fee
		\$30.0	\$0.0	\$30.0	Non-Recurring	TRD - IT Dept
		**	**	**	Recurring	TRD Operating Budget

(Parenthesis () Indicate Expenditure Decreases)

Relates to HB23, SB258, HB421, and HB361

SOURCES OF INFORMATION

LFC Files

Responses Received From

Taxation and Revenue Department (TRD)

Department of Health (DOH)

Responses Not Received From

Department of Finance and Administration (DFA)

SUMMARY

Synopsis of Bill

Senate Bill 551 proposes to raise the threshold capacity on the definition of “small winegrower” from 950 thousand to 1.2 million liters of production. This would decrease the number of winegrowers eligible for the small winegrower’s liquor excise tax rate.

The proposal would also extend the authority to impose a local liquor excise taxes to all counties, provided the tax is approved through general election. The local excise tax cannot exceed the following rates:

- \$0.99 per liter on spirituous liquors;
- \$0.25 per gallon on beer, excluding microbrew beer;
- \$0.28 per liter on wine, excluding wine produced by small winegrowers;
- \$0.93 per liter on fortified wine;
- \$0.05 per gallon on microbrew beer; and
- \$0.25 per gallon on cider.

Small winegrowers would be exempt from the tax. The bill also restricts imposition of the excise tax to no more than four years, unless extended through general election. These new provisions would also extend to McKinley County, which is the only county that currently imposes a local liquor tax.

Senate Bill 551 also amends existing statute to require the excise tax revenue be used to fund direct program services for the prevention and treatment of alcoholism and drug abuse, and would not require the funding of educational programs as under current law.

The bill provides a mechanism for determining the election criteria for municipalities that extend across county boundaries, and allows revenue sharing of those counties that share a municipality. The proposal would also remove the 5 percent administration fee retained by the Department of Taxation and Revenue for local liquor excise tax collection.

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

FISCAL IMPLICATIONS

The fiscal impact assumes that all New Mexico counties impose a liquor excise tax at the maximum allowable rate (see Attachment 1). Liquor demand is responsive to price changes and it is important to recognize that when prices go up demand will do down, thereby reducing sales volume and corresponding revenues. The DWI grant fund, which receives a 41.5 percent distribution from state liquor tax revenue, would be adversely affected.

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.

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 small winery business as consumers substitute consumption of the higher taxed liquids for the lower taxed ones.

SIGNIFICANT ISSUES

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 would need to create a new reporting form for liquor wholesalers/distributors to remit the county local option taxes to the department. Tax form development and processing changes along with computer systems revisions will cost the department approximately \$30 thousand. On-going tax return processing, revenue distribution, and error resolution tasks can probably be accomplished with existing resources. It is unclear whether the department would need to devote any significant resources to audits for this local option tax program.

RELATIONSHIP

Senate Bill 258 and House Bill 23 propose to increase the state liquor excise tax and shift current distributions to accommodate additional beneficiaries.

House Bill 421 proposes to increase the state liquor excise tax, but will retain current distributions.

House Bill 361 proposes to impose a liquor surtax on retail sales at the point of sale.

TECHNICAL ISSUES

According to TRD, the definition of “microbrewer” in the Local Liquor Tax (page 6, lines 20-23) differs from the definition in the state Liquor Excise Tax Act. As written in Senate Bill 551, the definition and excise tax would apply *only* to New Mexico microbrewers, which is in direct violation of the U.S. Commerce Clause. A similar issue arises with the definition of “small winegrower” on page 7, lines 13-16.

TRD notes on page 14, lines 6-7, the bill provides for the distribution of revenue “to the country from which the local liquor excise tax revenue was remitted.” Technically, the revenue is remitted by wholesalers and distributors. The bill might be revised to specify “to the counties imposing those local liquor excise taxes.”

The bill restricts the use of liquor revenue to “direct program services.” This could constitute a change from current use by McKinley County.

OTHER SUBSTANTIVE ISSUES

According to the Department of Health, New Mexico had the highest alcohol-related death rate in the nation between 1997 and 2004 (the most recent year for which other state rates are available). In 2007, New Mexico's alcohol-related death rate was 1.9 times the U.S. rate. A recent report on alcohol-related costs in New Mexico estimated the total cost of alcohol-related problems in New Mexico in 2007 to be \$2.8 billion, or more than \$1,400 per person, with the majority of these costs resulting from lost productivity due to alcohol-related premature death and disability. According to the best available estimate, 18% of these costs accrued to state and local government.

DOH also notes that New Mexico's last liquor excise tax increase was enacted in 1993. Raising alcohol taxes is widely regarded as one of the most effective alcohol-related prevention strategies. According to the best available recent estimate, a 1% increase in the price of alcoholic beverages results in a 0.8% decrease in consumption. However, some studies have suggested that alcohol tax increases disproportionately affect high-risk drinkers such as underage drinkers and adult chronic/heavy drinkers.

Moreover, DOH reports the public health impacts of alcohol tax increases are proportional to the size of the tax increase. For example, Alaska implemented a large increase in state alcohol excise tax rates in 2002, (rate increases of 206% on beer, 614% on wine, and 133% on spirits). An 11 percent decrease in Alaska's alcohol-related chronic disease death rate in the following year was attributed to the tax increase. As noted in the conclusion of the study, the effective size of the Alaska alcohol tax increase was "large compared with other efforts to prevent negative outcomes related to alcohol consumption."

New Mexico currently has the 9th highest liquor tax on beer; this proposal would make New Mexico the highest. Our State has the 18th highest liquor tax on spirits; this proposal would make New Mexico the 5th highest (see Attachment 2).

TRD notes that lack of uniformity in the imposition of tax rates across counties could create an additional record-keeping burden to alcohol distributors.

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/bym

SB-551 -- Illustration of Local Liquor Excise Tax by County

<u>COUNTY</u>	<u>GRT Pattern* (FY2005) Percent of Total</u>	<u>FY2011 Local Liquor Excise Tax Yield</u>
BERNALILLO	43.18%	\$ 11,871,620
CATRON	0.07%	20,530
CHAVES	2.20%	603,806
CIBOLA	0.90%	247,644
COLFAX	0.55%	151,733
CURRY	1.82%	501,313
DE BACA	0.11%	29,096
DONA ANA	7.63%	2,097,935
EDDY	3.20%	880,694
GRANT	1.35%	371,397
GUADALUPE	0.19%	52,780
HARDING	0.04%	11,938
HIDALGO	0.48%	132,658
LEA	3.25%	892,495
LINCOLN	0.90%	246,167
LOS ALAMOS	0.70%	192,794
LUNA	0.71%	195,537
MCKINLEY**	3.97%	1,091,933
MORA	0.07%	19,396
OTERO	2.15%	591,465
QUAY	0.41%	112,012
RIO ARRIBA	0.75%	205,552
ROOSEVELT	0.50%	136,550
SANDOVAL	3.16%	867,705
SAN JUAN	4.28%	1,175,940
SAN MIGUEL	2.01%	552,543
SANTA FE	9.48%	2,605,650
SIERRA	0.45%	124,715
SOCORRO	0.48%	133,318
TAOS	2.17%	595,366
TORRANCE	1.09%	299,977
UNION	0.22%	61,099
VALENCIA	1.53%	421,642
TOTAL	100.00%	\$ 26,403,067
Total Including McKinley Co.		\$ 27,495,000

Source: Tax Analysis, Research and Statistics Office, TRD

*Allocation to counties assumes retail gross receipts patterns for retailer categories that tend to include alcoholic beverage sales.

****McKinley County imposes an excise tax under current law, and should not be included in additional revenue estimates**

State Beer Excise Tax Rates, As of February 1, 2010

(Dollars Per Gallon)

State	Tax Rate	Rank	State	Tax Rate	Rank
Ala. (a)	\$1.05	2	Alaska	\$1.07	1
Alaska	\$1.07	1	Ala. (a)	\$1.05	2
Ariz.	\$0.16	30	Ga. (b)	\$1.01	3
Ark.	\$0.21	21	N.C.	\$1.00	4
Calif.	\$0.20	22	Hawaii	\$0.93	5
Colo.	\$0.08	45	S.C.	\$0.770	6
Conn.	\$0.20	22	Fla.	\$0.48	7
Del.	\$0.16	30	Miss.	\$0.43	8
Fla.	\$0.48	7	<u>N.M.</u>	<u>\$0.41</u>	<u>9</u>
Ga. (b)	\$1.01	3	Utah	\$0.41	9
Hawaii	\$0.93	5	Okla.	\$0.40	11
Idaho	\$0.15	34	Maine	\$0.3500	12
Ill.	\$0.231	20	La.	\$0.32	13
Ind.	\$0.115	40	Nebr.	\$0.31	14
Iowa	\$0.19	26	N.H.	\$0.30	15
Kans.	\$0.18	27	S.D.	\$0.27	16
Ky.	\$0.08	45	Vt.	\$0.2650	17
La.	\$0.32	13	Wash.	\$0.26	18
Maine	\$0.35	12	Va.	\$0.26	19
Md.	\$0.09	43	Ill.	\$0.23	20
Mass.	\$0.11	41	Ark.	\$0.2100	21
Mich.	\$0.20	22	Calif.	\$0.20	22
Minn.	\$0.15	34	Conn.	\$0.200	22
Miss.	\$0.427	8	Mich.	\$0.20	22
Mo.	\$0.06	48	Tex.	\$0.20	22
Mont.	\$0.14	36	Iowa	\$0.19	26
Nebr.	\$0.31	14	Kans.	\$0.18	27
Nev.	\$0.16	30	Ohio	\$0.18	27
N.H.	\$0.30	15	W. Va.	\$0.18	27
N.J.	\$0.12	39	Ariz.	\$0.16	30
<u>N.M.</u>	<u>\$0.41</u>	<u>9</u>	Del.	\$0.16	30
N. Y.	\$0.14	36	Nev.	\$0.16	30
N.C.	\$0.9971	4	N.D.	\$0.16	30
N.D.	\$0.16	30	Idaho	\$0.15	34
Ohio	\$0.18	27	Minn.	\$0.15	34
Okla.	\$0.40	11	Mont.	\$0.14	36
Ore.	\$0.0839	44	N. Y.	\$0.14	36
Pa.	\$0.08	45	Tenn.	\$0.14	36
R.I.	\$0.11	41	N.J.	\$0.12	39
S.C.	\$0.77	6	Ind.	\$0.12	40
S.D.	\$0.27	16	Mass.	\$0.11	41
Tenn.	\$0.14	36	R.I.	\$0.11	41
Tex.	\$0.20	22	Md.	\$0.090	43
Utah	\$0.41	9	Ore.	\$0.08	44
Vt.	\$0.265	17	Colo.	\$0.08	45
Va.	\$0.2565	19	Ky.	\$0.080	45
Wash.	\$0.26	18	Pa.	\$0.08	45
W. Va.	\$0.18	27	Mo.	\$0.06	48
Wis.	\$0.06	48	Wis.	\$0.06	48
Wyo.	\$0.019	50	Wyo.	\$0.019	50
D.C.	\$0.09	-	D.C.	\$0.09	-

Note: Local excise taxes excluded unless they are uniform and statewide.

(a) Includes a local rate of \$0.52 per gallon statewide.

(b) Includes a local rate of \$0.53 per gallon statewide.

Source: The Tax Foundation- Using Data from State Revenue Departments; Beer Institute.

Source: Dept of Taxation and Revenue

State Spirits Excise Tax Rates, As of February 1, 2010						
(Dollars Per Gallon)						
State	Tax Rate	Rank		State	Tax Rate	Rank
Ala. (a)	\$18.78	4		Wash. (a)	\$26.45	1
Alaska	\$12.80	6		Ore. (a)	\$24.63	2
Ariz.	\$3.00	36		Va. (a)	\$20.13	3
Ark.	\$2.58	38		Ala. (a)	\$18.78	4
Calif.	\$3.30	34		N.C. (a)	\$13.39	5
Colo.	\$2.28	43		Alaska	\$12.80	6
Conn.	\$4.50	26		Iowa (a)	\$12.47	7
Del.	\$5.46	22		Utah (a)	\$11.41	8
Fla.	\$6.50	16		Idaho (a)	\$10.96	9
Ga.	\$3.79	30		Mich. (a)	\$10.91	10
Hawaii	\$5.98	19		Ohio (a)	\$9.04	11
Idaho (a)	\$10.96	9		Mont. (a)	\$8.62	12
Ill.	\$8.55	13		Ill.	\$8.55	13
Ind.	\$2.68	37		Miss. (a)	\$6.75	14
Iowa (a)	\$12.47	7		Pa. (a)	\$6.54	15
Kans.	\$2.50	39		Fla.	\$6.50	16
Ky.	\$1.92	45		N.Y.	\$6.44	17
La.	\$2.50	39		N.M.	\$6.06	18
Maine (a)	\$5.21	24		Hawaii	\$5.98	19
Md.	\$1.50	47		Okla.	\$5.56	20
Mass.	\$4.05	28		N.J.	\$5.50	21
Mich. (a)	\$10.91	10		Del.	\$5.46	22
Minn.	\$5.03	25		S.C. (b)	\$5.42	23
Miss. (a)	\$6.75	14		Maine (a)	\$5.21	24
Mo.	\$2.00	44		Minn.	\$5.03	25
Mont. (a)	\$8.62	12		Conn.	\$4.50	26
Nebr.	\$3.75	31		Tenn.	\$4.40	27
Nev.	\$3.60	33		Mass.	\$4.05	28
N.H. (a)	\$0.00	–		S.D.	\$3.93	29
N.J.	\$5.50	21		Ga.	\$3.79	30
N.M.	\$6.06	18		Nebr.	\$3.75	31
N.Y.	\$6.44	17		R.I.	\$3.75	31
N.C. (a)	\$13.39	5		Nev.	\$3.60	33
N.D.	\$2.50	39		Calif.	\$3.30	34
Ohio (a)	\$9.04	11		Wis.	\$3.25	35
Okla.	\$5.56	20		Ariz.	\$3.00	36
Ore. (a)	\$24.63	2		Ind.	\$2.68	37
Pa. (a)	\$6.54	15		Ark.	\$2.58	38
R.I.	\$3.75	31		Kans.	\$2.50	39
S.C. (b)	\$5.42	23		La.	\$2.50	39
S.D.	\$3.93	29		N.D.	\$2.50	39
Tenn.	\$4.40	27		Tex.	\$2.40	42
Tex.	\$2.40	42		Colo.	\$2.28	43
Utah (a)	\$11.41	8		Mo.	\$2.00	44
Vt. (a)	\$0.68	48		Ky.	\$1.92	45
Va. (a)	\$20.13	3		W.Va. (a)	\$1.85	46
Wash. (a)	\$26.45	1		Md.	\$1.50	47
W.Va. (a)	\$1.85	46		Vt. (a)	\$0.68	48
Wis.	\$3.25	35		N.H. (a)	\$0.00	–
Wyo. (a)	\$0.00	–		Wyo. (a)	\$0.00	–
D.C.	\$1.50	–		D.C.	\$1.50	–

(a) States where the government controls sales. In control states, products are subject to ad valorem mark-up and excise taxes. The excise tax rate is calculated using methodology developed by the Distilled Spirits Council of the United States.

(b) Includes a wholesale tax of \$5.36 per case.

Source: The Tax Foundation using information from State revenue departments, Distilled Spirits Council of the United States (DISCUS); Note: Local excise taxes excluded.

Source: Dept of Taxation and Revenue