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## FISCAL IMPACT REPORT

ORIGINAL DATE 01/21/10

SPONSOR Egolf LAST UPDATED \_\_\_\_\_ HB 34

SHORT TITLE Liquor Surtax to School Fund SB \_\_\_\_\_

ANALYST Gutierrez

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY10	FY11	FY12		
	*\$35,600	*\$36,900	Recurring	Public School Fund
	**\$0.1	**\$0.1	Recurring	General Fund

(Parenthesis ( ) Indicate Revenue Decreases)

\* TRD - The estimate of revenue to the Public School Fund should be considered to be an approximate, order of magnitude forecast. The Taxation and Revenue Department has limited information on the value of alcoholic beverages sold, particularly those sold by-the-drink in restaurants and bars.

\*\* The Revenue which the general fund may receive is from penalties and interest of which we have no data and thus can not be estimated.

Relates to HB35 and SB126

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Taxation and Revenue Department (TRD)

Department of Health (DOH)

NM Health Policy Commission

### SUMMARY

#### Synopsis of Bill

House Bill 34 imposes a new surtax under the "Liquor Surtax Act". This liquor surtax is imposed on the retail sale of alcoholic beverages to a consumer by a licensee. The surtax is equal to 2.5 percent of the retail price of the alcoholic beverages and is collected by the licensee selling the alcoholic beverages. The liquor surtax is to be submitted to the Taxation and Revenue Department (TRD) in the same manner as gross receipts and compensating taxes are submitted. The revenue from the liquor surtax shall be distributed to the public school fund.

For purposes of this bill, “licensee” means a person licensed pursuant to the Liquor Control Act to sell alcoholic beverages at retail for consumption on the licensee’s licensed premises or in unbroken packages for consumption off the licensee’s licensed premises. Because of this definition, it is assumed that this surtax applies to both retail package sales and restaurant and bar by-the-drink sales.

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

### **FISCAL IMPLICATIONS**

This impact assumes that 75 percent of liquor sales occur at retail stores and the other 25 percent occur at restaurants or bars. Using data from gross receipts tax returns and assumptions consistent with the December 2009 consensus forecast, it is estimated that total retail sales of liquor (retail and restaurant and bar) will be \$1.4 billion in FY11, thus a surtax of 2.5 percent will generate \$35.6 million in revenue. Total retail sales are estimated to increase roughly 3.7 percent every year thereafter. For this estimate, it is assumed that the price elasticity is -0.3 for beer, -1.5 for spirits, and -1 for wine (based on historical TRD data).

All of the revenue from this surtax, exclusive of penalties and interest, will be distributed to the public school fund. The general fund would receive the revenue attributable to penalties and interest associated with the liquor surtax (see technical issues).

### **SIGNIFICANT ISSUES**

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

DOH:

New Mexico has had the highest alcohol-related death rate in the nation since 1997. In 2006, New Mexico’s alcohol-related death rate was 1.7 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 2006 to be \$2.5 billion, 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 (NMDOH, 2009).

### **PERFORMANCE IMPLICATIONS**

TRD:

Imposition of a “Liquor Surtax” on the retail sale of alcoholic beverages would impose new record-keeping and reporting burdens on businesses and some administrative costs on the Department that could be avoided if the same revenue were raised through the Liquor Excise Tax.

DOH:

HB34 relates to DOH FY11 Strategic Plan Individual Objective 6: Reduce substance abuse, including alcohol and tobacco, and Community Objective 1: Reduce health disparities in New Mexico.

## ADMINISTRATIVE IMPLICATIONS

This bill would have a moderate impact on TRD.

## RELATIONSHIP

This bill relates to:

HB35 – proposes to increase the cigarette tax and the tobacco products tax with the revenue distributed to the public school fund

SB126 – proposes to increase the liquor excise tax

## TECHNICAL ISSUES

TRD:

The bill should probably amend Section 7-9-3.5, Subsection A, paragraph (3), subparagraph (b) to exclude the “Liquor Surtax” from the definition of “Gross Receipts”.

On page 2, line 21, there is a reference to “the form.” It would be helpful if the bill specified the actual form.

BLG/mt

***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](http://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>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
<b>Colorado</b>	<b>2.75</b>	<b>10</b>	<b>46</b>	<b>43</b>	<b>44</b>
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
<b>Arizona</b>	<b>2.45</b>	<b>21</b>	<b>30</b>	<b>18</b>	<b>37</b>
Minnesota	2.45	22	35	41	24
South Carolina	2.44	23	5	10	25
<b>New Mexico</b>	<b>2.43</b>	<b>24</b>	<b>9</b>	<b>5</b>	<b>19</b>
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
<b>Texas</b>	<b>2.25</b>	<b>33</b>	<b>24</b>	<b>45</b>	<b>43</b>
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
<b>Kansas</b>	<b>1.96</b>	<b>45</b>	<b>27</b>	<b>40</b>	<b>40</b>
<b>Oklahoma</b>	<b>1.93</b>	<b>46</b>	<b>11</b>	<b>22</b>	<b>21</b>
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
<b>Utah</b>	<b>1.34</b>	<b>51</b>	<b>10</b>	<b>50</b>	<b>8</b>

## 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

ATTACHMENT 2

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

ATTACHMENT 2

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