



NORTH CAROLINA GENERAL ASSEMBLY

Session 2019

Fiscal Analysis Memorandum

CONFIDENTIAL

Requestor: Representative McGrady
Analyst(s): Denise Canada, William Childs, and Mark White
RE: House Bill 971 (PCS - H971-CSTQf-19)

SUMMARY TABLE

FISCAL IMPACT OF PCS to H971 (\$ in millions)

| | <u>FY 2019-20</u> | <u>FY 2020-21</u> | <u>FY 2021-22</u> | <u>FY 2022-23</u> | <u>FY 2023-24</u> |
|-------------------------------|-------------------|---|--|-------------------|-------------------|
| State Impact | | | | | |
| <u>Revenue Changes</u> | | | | | |
| Permit Fee Revenue | | | No Estimate Available - Refer to Fiscal Analysis Section | | |
| ABC Fee for Electronic Forms | | | No Estimate Available - Refer to Fiscal Analysis Section | | |
| Excise Taxes | | | Refer to Fiscal Analysis Section | | |
| Sales Taxes | | | Revenue Loss - Refer to Fiscal Analysis Section | | |
| <u>Mixed Beverage Charges</u> | | | <u>Revenue Loss - Refer to Fiscal Analysis Section</u> | | |
| General Fund Impact | | - | - | - | - |
| Special Fund Revenues | - | - | - | - | - |
| Less Expenditures | - | - | - | - | - |
| Special Fund Impact | | Estimate Available - Refer to Fiscal Analysis Section | | | |

NET STATE IMPACT

Refer to Fiscal Analysis

Local Impact

| | | | | | |
|--|---|--|--|--|--|
| Sale of Assets | Revenue Gain - Refer to Fiscal Analysis Section | | | | |
| Permit Fee Revenue | No Estimate Available - Refer to Fiscal Analysis Section | | | | |
| Permitting-Related Expenditures | No Estimate Available - Refer to Fiscal Analysis Section | | | | |
| State Excise Tax Distribution | Revenue Gain - Refer to Fiscal Analysis Section | | | | |
| Sales Taxes | Revenue Gain - Refer to Fiscal Analysis Section | | | | |
| Mixed Beverage Charges | Revenue Loss - Refer to Fiscal Analysis Section | | | | |
| <u>Store Profits and Related Revenue</u> | <u>No Estimate Available - Refer to Fiscal Analysis Section</u> | | | | |

NET LOCAL IMPACT

Refer to Fiscal Analysis

STATE POSITIONS

No Estimate Available - Refer to Fiscal Analysis Section

TECHNICAL CONSIDERATIONS:

See Technical Considerations Section

FISCAL IMPACT SUMMARY

EXPENDITURES

The bill would direct the ABC Commission to cease operations at the ABC Warehouse, leading to a reduction in State expenses of \$4.4 million in FY 2021-22, which would annualize to \$8.8 million thereafter. Fiscal Research estimates that the ABC Commission would need additional staff to handle the increase in its regulatory oversight over permittees, but cannot estimate whether the additional staff would be in excess of the receipts provided to the ABC Commission in the bill.

The bill would eliminate G.S. 18B-501, which creates local ABC law enforcement officers and specifies their jurisdiction, powers, and responsibilities. As written, the bill would likely shift this responsibility to the Alcohol Law Enforcement (ALE) branch of the State Bureau of Investigation at the Department of Public Safety. Based on current levels of ABC officer staffing, ALE could require up to an additional 197 agents, carrying a total cost of \$18.4 million recurring for the positions and an additional \$12.5 million nonrecurring costs for one-time purchases of equipment, vehicles, etc. However, the bill further specifies that some of the tax funds distributed to local governments shall be used for costs incurred by local law enforcement agencies from enforcing alcohol laws. Some of this funding would presumably offset the staffing and enforcement needs identified by ALE. Fiscal Research cannot estimate the extent to which the local law enforcement actions would substitute for the increased responsibilities to ALE.

REVENUE

The bill would make multiple changes to the General Statutes to authorize additional permits with associated fees, to change the excise tax rate on spirituous liquor, to eliminate the mixed beverage tax, and to change how the State distributes revenue. Some of these changes also impact local government revenue.

Additionally, the bill would make spirituous liquor sales subject to local and State sales taxes; currently, they are subject to the State combined general rate of tax. This change shifts tax revenue from the State to local governments.

BILL ANALYSIS

The Proposed Committee Substitute (PCS) for the bill would eliminate local ABC boards by January 1, 2022, liquidate local ABC stores and the State ABC warehouse by the same date, and move the ABC Commission (Commission) into a regulatory role over licensed sellers of spirituous liquor starting on January 1, 2021.

Part I

Part I (Section 1) of the bill would amend Article 6 of Chapter 18B to allow off-premises spirituous liquor elections while phasing out ABC store elections. Any city or county that votes against off-premises spirituous liquor sales before January 1, 2022 may continue to operate ABC stores until that time.



Part II

Section 2

Section 2 of the bill would amend Article 9 of Chapter 18B to phase in off-premises spirituous liquor and spirituous liquor wholesaler permits and establish fees for these permits and for the nonresident spirituous liquor vender permit.

Section 3

Section 3 of the bill would amend Article 10 of Chapter 18B to create a package store as an eligible permittee for a number of ABC permits. The section would further create a permit for off-premises spirituous liquor sales.

Section 4

Section 4 of the bill would amend Article 11 of Chapter 18B to allow distillers of spirituous liquor to sell spirituous liquor produced under contract by another distillery. This section would further allow a holder of a distillery permit to obtain a wholesaler permit, capped at 50,000 proof gallons of spirituous liquor, and to operate at three additional locations in the State. The distillery permittee must report information about sales to the Commission, but the Commission may only request this information once per year.

The section would further create new G.S. 18B-1109.1, which authorizes issuance of a spirituous liquor wholesaler permit, and G.S. 18B-1113.1, which authorizes issuance of a nonresident spirituous liquor vendor permit; the fees for these permits are established in Section 2.

Section 5

Section 5 of the bill would create new Article 14 of Chapter 18B, Spirituous Liquor Franchise Law, governing relations between a spirituous liquor distillery and a spirituous liquor wholesaler.

Section 6

Section 6 of the bill would direct the ABC Commission to cease operation of the State warehouse by January 1, 2022. This section would further direct the local ABC boards to cease operations and liquidate all assets by public sale between July 1, 2021 and January 1, 2022. Any funds raised by the latter action are to be paid to the general fund of the county or municipality for which the local ABC board is established and may be used for any public purpose.

Section 7

Section 7 of the bill establishes that Sections 2 through 5 are effective January 1, 2021, but spirituous liquor wholesalers may not sell to any retailer until March 1, 2021 and off-premises spirituous liquor permittees may not sell until July 1, 2021.

Part III

Part III (Sections 8-15) of the bill would make conforming changes to Chapter 18B prior to the phase-out of ABC stores on January 1, 2022. The changes in Sections 8 through 15 are effective July 1, 2021 and expire December 31, 2021.



Part IV

Part IV (Sections 16-25) of the bill would make conforming changes to Chapter 18B after the phase-out of ABC stores on January 1, 2022. Among the changes in this Part are the repeal of Article 7 of Chapter 18B, which governs local ABC boards, and Article 8 of Chapter 18B, which governs the operations of ABC stores. The changes in Sections 16 through 25 are effective January 1, 2022.

Part V

Part V (Section 26) would modify Chapter 105 of the General Statutes to address related licensure taxes and excise taxes on spirituous liquor.

Section 26 would amend G.S. 105-113.80 to change the excise tax on the sale of spirituous liquor to \$28 per gallon from the current 30% excise tax rate, which is levied on the sum of i) the seller price, ii) ABC freight and bailment charges, and iii) local markup.

Section 26 would also amend G.S. 105-113.82 to direct the ABC Commission to distribute 30% of the excise tax receipts to counties or cities where the liquor is sold. Of these distributions, the bill would direct local recipients to use 4% for treatment of alcoholism or substance abuse, 15% for research or education on alcohol or substance abuse, and 11% for costs incurred by local law enforcement agencies in the enforcement of Chapter 18B. The bill would direct the Commission to distribute \$3 million annually to the Department of Health and Human Services to be used for the treatment of alcoholism or substance abuse or for research or education related to alcoholism or substance abuse. The bill would also direct the Commission to distribute \$8.5 million to itself for operating and administrative costs. The remainder of Part V primarily would make conforming changes to Chapter 105 of the General Statutes.

Part VI

Part VI (Sections 27-30) of the bill would make other conforming revisions to various General Statutes.

FISCAL ANALYSIS

EXPENDITURE CHANGES

ABC Commission

The bill would make a number of changes to the operations of the ABC Commission (Commission). Under current law, the Commission has broad authority to administer and enforce ABC laws, including ABC Store location and pricing, local ABC board operations and training, ABC warehousing, issuance of permits, establishment and collection of bailment charges and surcharges, issuance of bonds, and distribution of alcohol to local ABC boards, military installations, and the Eastern Band of Cherokee Indians.



The bill would eliminate or modify many of the Commission’s authorities. The Commission would continue to have broad authority to administer and enforce ABC laws, but the Commission would primarily retain regulatory oversight over permittees. The Commission would cease operations of the ABC warehouse.

The bill would fix the receipts for the annual operations of the ABC Commission at \$8,500,000, in Section 26. As the following table shows, the actual annual operating expenses for the ABC Commission over the last three fiscal years averaged \$6,679,963.

| Budget Code 54551 ABC Enterprise Account | FY 2015-16 Actual | FY 2016-17 Actual | FY 2017-18 Actual | FY 2018-19 Authorized | FY 2019-20 Base |
|---|----------------------|----------------------|----------------------|--------------------------|--------------------|
| ABC Commission Operating Expenditures | \$7,191,561 | \$6,707,984 | \$6,140,343 | \$9,277,138 | \$9,023,893 |
| ABC Commission Operating Receipts | \$8,927,334 | \$9,666,987 | \$10,059,800 | \$9,063,092 | \$9,023,893 |

Source: NCAS, Recommended Base Budget (Worksheet 1) 02/16/19

The personal services base budget for ABC in each year of the 2019-21 Biennium is \$3,516,520. This budget includes 44 FTE, whose roles broadly fall into the following categories:

| ABC Division | FTE |
|-------------------------|-----------|
| ABC Commission Chair | 1 |
| Administration & Policy | 7 |
| Audit & Pricing | 16 |
| Education Outreach | 4 |
| Legal | 5 |
| Permitting | 11 |
| Total | 44 |

Source: BEACON

Because the number of permits could increase significantly, ABC would likely need to expand staff related to Audit (to ensure regulatory compliance with ABC laws) and Permitting. Fiscal cannot estimate the expansion needs at this time. It is unknown whether the expansion needs could be addressed under the fixed receipts of \$8.5 million. Any positions created would be supported by the ABC Enterprise Account 54551 rather than the General Fund.

ABC Warehouse

The bill would direct the ABC Commission to cease operations of the ABC Warehouse. Annual expenditures for the actual operating expenses of the ABC Warehouse have averaged \$8,159,070 over the last three fiscal years. The bill would lead to a reduction in State expenses of \$8.8 million from ABC Enterprise Account 54551. It is assumed that the revenues currently directed to the ABC Enterprise Account 54551 for the support of the ABC Warehouse would instead be subsumed into the General Fund disbursement.

| Budget Code 54551 ABC Enterprise Account | FY 2015-16 Actual | FY 2016-17 Actual | FY 2017-18 Actual | FY 2018-19 Authorized | FY 2019-20 Base |
|---|----------------------|----------------------|----------------------|--------------------------|--------------------|
| ABC Warehouse Expenditures | \$7,718,293 | \$8,580,871 | \$8,178,047 | \$8,808,623 | \$8,808,623 |
| ABC Warehouse Receipts | \$8,310,556 | \$8,928,023 | \$9,220,381 | \$8,808,623 | \$8,808,623 |

Source: NCAS, Recommended Base Budget (Worksheet I) 02/16/19

Department of Public Safety – Alcohol Law Enforcement

The bill will have a number of impacts on the Alcohol Law Enforcement (ALE) branch of the State Bureau of Investigation.

First, ALE is currently directed to investigate the background of all applicants for ABC permits. The bill would create new permit applications for off-premises spirituous liquor sales permits, as well as permits for spirituous liquor wholesalers and nonresident spirituous liquor. Fiscal Research estimates that the increased background investigation for off-premises spirituous liquor permit applicants could lead to a need for additional sworn agents. Fiscal Research further estimates that the increased background work for spirituous liquor wholesale permit applicants would lead to the need for one additional administrative position.

Second, it is likely as a result of this bill that the number of permitted establishments will increase across the State, although it is unknown by what percentage. Fiscal Research estimates that the increased number of alcohol permits across the State would lead to other increases in the ALE workload, as well.

Third, the bill as written may result in a reduction of local law enforcement efforts related to alcohol and, as a result, increase the burden on ALE. Currently, 15 of the 167 ABC boards employ law enforcement officers directly while the remaining 152 contract with a local law enforcement agency. These officers have the same general duties with respect to enforcing alcohol laws and inspecting permitted establishments as ALE officers, but with a limited jurisdiction. This bill, as written, would eliminate these local ABC officers.

ALE provided Fiscal Research with an estimate for the costs the agency would likely incur in order to keep current levels of alcohol law enforcement in place if all local ABC officers were to be eliminated. ALE estimated a need of 197 new officers, which would represent the current 45 officers directly employed by the 15 ABC boards that currently follow that structure, along with one officer for each of the 152 contract boards. This would cost approximately \$18.4 million recurring for position costs and \$12.5 million nonrecurring for one-time hiring costs such as a vehicle, equipment, and training. This would nearly triple the size of the Alcohol Law Enforcement branch. It is also unlikely that ALE would be able to hire 197 new agents in a single year; as a result, these costs would likely be spread out over several years.

The bill specifies that beginning in FY 2021-22, 11% of tax funds distributed to cities or counties from the sale of spirituous liquor shall be used for costs incurred by local law enforcement agencies from enforcing alcohol laws (Chapter 18B of the General Statutes). For FY 2021-22, this amount is estimated to be \$18.0 million, compared to a current-law estimate of \$10.5 million for the same

year. (More information can be found later in this memo in the section “Revenue Distribution for State and Local Governments.”)

Some of this funding would presumably offset the staffing and enforcement needs identified by ALE above; however, Fiscal Research cannot estimate the extent to which this funding would offset ALE’s hiring needs. The bill also eliminates some of the specific duties and regulations attached to local ABC law enforcement, and it is unclear how effectively local law enforcement agencies may apply this funding for specific alcohol-related purposes.

REVENUE CHANGES

Revenue Generated

State and Local Revenue Generated From Permit and License Revenue

The bill would authorize the following new permits and licenses that have the potential to increase State and local revenue:

| Type | Description | Fee | Notes and Estimated Revenue |
|---------|---------------------------------------|---------|--|
| Permit | Off-Premises Spirituous Liquor | \$1,000 | Permit authorized in Section 2 of the bill. To be issued by Commission; proceeds are State revenue. Up to 1,500 permits may be issued in the first year; additional permits may be issued in future years based on a formula in statute. Each permit would need to be renewed annually. Estimated revenue: \$1.5 million annually in the first full year of implementation and higher in future years as additional permits are issued. Revenue could theoretically range from \$0 to \$1.5 million, but this memo assumes all 1,500 permits will be issued in the first full fiscal year of implementation. |
| Permit | Spirituous Liquor Wholesaler | \$1,000 | Permit authorized in Section 2. To be issued by Commission; proceeds are State revenue. No revenue estimate available. Each permit would need to be renewed annually. |
| Permit | Nonresident Spirituous Liquor Vendor | \$5,000 | Permit authorized in Section 2. To be issued by Commission; proceeds are State revenue. No revenue estimate available. Each permit would need to be renewed annually. |
| License | City Off-Premises Spirituous Liquor | \$15 | Permit authorized in Section 26. To be issued by the City; proceeds are local revenue. No revenue estimate available, but revenue is assumed to be used to offset licensing expenses. |
| License | County Off-Premises Spirituous Liquor | \$25 | Permit authorized in Section 26. To be issued by the County; proceeds are local revenue. No revenue estimate available, but revenue is assumed to be used to offset licensing expenses. |

Local Government Revenue Generated From Sale of Assets

Section 6 of the bill would require local ABC boards to liquidate all assets by public sale between July 1, 2021 and January 1, 2022. The bill would further direct that any resulting revenue be paid to the General Fund of the county or municipality for which the local ABC board is established and may be used for any public purpose.

No revenue estimate is available for the Statewide sale of local assets, but it is assumed that each affected local government would realize some one-time revenue gain.

Changes In Tax Revenue Generated

The following table summarizes the primary revenue changes projected under the PCS. Each change is discussed following this table.

| Revenue Type | Projected Change in All Tax Revenue Sources (\$ in Millions) | | | | |
|-----------------------------------|--|-------------|-----------------|-----------------|-----------------|
| | FY 2019-20 | FY 2020-21 | FY 2021-22 | FY 2022-23 | FY 2023-24 |
| Excise Tax | - | - | 135.7 | 240.5 | 239.7 |
| State Sales Tax | - | - | (16.4) | (12.2) | (14.0) |
| Local Sales Tax | - | - | 31.3 | 35.9 | 37.8 |
| <u>Mixed Beverage Charges</u> | <u>-</u> | <u>-</u> | <u>(20.5)</u> | <u>(43.2)</u> | <u>(45.6)</u> |
| Total Change Under the PCS | \$ - | \$ - | \$ 130.2 | \$ 221.0 | \$ 217.8 |

State Revenue Generated From Excise Taxes

Under current law, the state liquor excise tax applies to liquor sales and is calculated as 30% of the sum of:

- 1) The distiller’s or liquor seller’s price
- 2) The State ABC warehouse freight and bailment charges, and
- 3) A local ABC board markup.

Section 26 replaces this existing liquor excise tax with an excise tax of \$28/gallon. This change from a cost-based tax to a quantity-based tax would effectively lower taxes on more expensive liquor and raise taxes on less expensive liquor. Although research from the NCGA Program Evaluation Division, discussed subsequently, indicates that overall consumption would increase under the type of liquor control system proposed in the bill, the Fiscal Research Division cannot predict whether the types of liquor purchased would change based on the shift from a cost-based to a quantity-based tax, and this specific type of buying habit change has not been controlled for in this analysis.

To estimate the fiscal impact of the tax change, this memo compares projected tax revenue under current law and the proposed legislation:

- **Current Law Revenue Projection:** Excise tax revenue is projected based on the prior year revenue's plus 6.7% growth, which represents the average annual excise tax revenue growth from FY 2014-15 to FY 2017-18.
- **Proposed Legislation Revenue Projection:**
 - FY 2019-20 and FY 2020-21: Same as current law, because Section 26 of the bill is effective July 1, 2021.
 - FY 2021-22: Excise tax revenue is calculated at \$28/gallon. Gallons sold are based on an annual 3.8% increase over each prior year, which represents the average annual increase in gallons sold from FY 2014-15 to FY 2017-18.
 - FY 2022-23: Excise tax revenue is calculated at \$28/gallon. Gallons sold assume a 28% increase over the prior year, based on research conducted by the NCGA Program Evaluation Division in the process of researching its report "Changing How North Carolina Controls Liquor Sales Has Operational, Regulatory, and Financial Ramifications," dated 2/11/2019. The 28% growth rate was applied to FY 2022-23 because this represents the first full year of implementation.
 - FY 2023-24: Excise tax revenue is calculated at \$28/gallon. Gallons sold are based on an annual 3.8% increase over the prior year.

| | Projected State Excise Tax Revenue (\$ in Millions) | | | | |
|-----------------------------|---|--------------|-----------------|-----------------|-----------------|
| | FY 2019-20 | FY 2020-21 | FY 2021-22 | FY 2022-23 | FY 2023-24 |
| Excise Tax Generated | | | | | |
| Current Law | 275.7 | 294.3 | 314.1 | 335.3 | 357.9 |
| <u>PCS to H971</u> | <u>275.7</u> | <u>294.3</u> | <u>449.9</u> | <u>575.9</u> | <u>597.6</u> |
| Excise Tax Change | \$ - | \$ - | \$ 135.7 | \$ 240.5 | \$ 239.7 |

The proposed legislation increases excise tax receipts by \$240.5 million in the first full year of implementation; the increase over current law drops off slowly in future years. As discussed in later in this memo, some of the new excise tax revenue will be distributed to local governments.

State and Local Revenue Generated From Sales Taxes

Under current law, retail sales of spirituous liquor are subject to the State's combined general rate of tax (i.e., 7%) and are not subject to local sales taxes. Under the bill, retail sales of spirituous liquor would be subject to the State's 4.75% general sales tax rate, plus the applicable local rate. County sales tax rates range from 2% to 2.5%; this analysis uses the Statewide weighted average local rate of 2.27%. The analysis assumes that 80% of sales are retail sales, based on actual North Carolina liquor sales data.

To estimate the fiscal impact of the sales tax change, this memo compares projected sales tax revenue under current law and the proposed legislation:

- **Current Law Revenue Projection:** State sales tax revenue under current law is projected based on the prior year revenue's plus 6.6% growth, which represents the average annual

revenue growth from FY 2014-15 to FY 2017-18. There is no local sales tax generated under current law.

- **Proposed Legislation Revenue Projection:**

- FY 2019-20 and FY 2020-21: Same as current law, because Section 26 of the bill is effective July 1, 2021.
- FY 2021-22 and beyond: The State tax is calculated by applying the State's 4.75% sales tax rate (or, to calculate local sales tax revenue, the weighted average 2.27% rate) to the sum of:
 - (i) 80% of the annual cost of goods, as estimated based on the average annual growth in cost of goods from FY 2013-14 to FY 2017-18
 - (ii) 80% of the excise tax proceeds previously calculated for the given year
 - (iii) An average 20% wholesaler markup applied to the total of items (i) and (ii), based on industry standards obtained from the Distilled Spirits Council, and
 - (iv) An average 20% retailer markup, applied to the total of items (i) through (iii), based on industry standards obtained from the Distilled Spirits Council.

| | Projected State Sales Tax Revenue (\$ in Millions) | | | | |
|----------------------------------|--|-------------|-------------|-------------|-------------|
| | FY 2019-20 | FY 2020-21 | FY 2021-22 | FY 2022-23 | FY 2023-24 |
| State Sales Tax Generated | | | | | |
| Current Law | 72.1 | 76.8 | 81.9 | 87.3 | 93.0 |
| <u>PCS to H971</u> | <u>72.1</u> | <u>76.8</u> | <u>65.5</u> | <u>75.1</u> | <u>79.1</u> |
| State Sales Tax Change | \$ - | \$ - | \$ (16.4) | \$ (12.2) | \$ (14.0) |

| | Projected Local Sales Tax Revenue (\$ in Millions) | | | | |
|----------------------------------|--|------------|-------------|-------------|-------------|
| | FY 2019-20 | FY 2020-21 | FY 2021-22 | FY 2022-23 | FY 2023-24 |
| Local Sales Tax Generated | | | | | |
| Current Law | - | - | - | - | - |
| <u>PCS to H971</u> | <u>-</u> | <u>-</u> | <u>31.3</u> | <u>35.9</u> | <u>37.8</u> |
| Local Sales Tax Change | \$ - | \$ - | \$ 31.3 | \$ 35.9 | \$ 37.8 |

State and Local Revenue Generated From Mixed Beverage (MXB) Charges

Under G.S. 18B-804.(b).(8) and (9), a charge of \$20 per 4 liters applies to sales of spirituous liquor (i) to a mixed beverage permittee for resale in mixed beverages, and (ii) to a guest room cabinet permittee for resale.

Section 23 of the bill repeals these charges effective January 1, 2022, 6 months after the July 1, 2021 effective date for the tax and appropriation changes found in Section 26 of the bill. To estimate the fiscal impact of the repeal, this memo compares projected revenue under current law and the proposed legislation:

- **Current Law Revenue Projection:** Revenue from MXB charges is based on the prior year revenue's plus 5.6% growth, which represents the average annual revenue growth from FY 2014-15 to FY 2017-18.

- **Proposed Legislation Revenue Projection:**

- FY 2019-20 and FY 2020-21: Same as current law.
- FY 2021-22: Revenue is calculated at 50% of the revenue under current law, due to Section 23's January 1, 2022 effective date.
- FY 2022-23 and beyond: The charges are repealed as of January 1, 2022; thus, no revenue will be generated after that date.

Under current law, the revenue from these charges is split between the State and local governments as follows:

- 50% to the State General Fund
- 45% to local governments for multiple uses including substance abuse research, education, and treatment, and
- 5% to the Department of Health and Human Services (DHHS) for substance abuse research, education, and treatment.

To replace local revenue lost from the repeal of the MXB charge, the proposed legislation earmarks a portion of the excise tax revenue for local governments and to DHHS.

| | Projected MXB Charge Revenue (\$ in Millions) | | | | |
|-------------------------------------|---|-------------|------------------|------------------|------------------|
| | FY 2019-20 | FY 2020-21 | FY 2021-22 | FY 2022-23 | FY 2023-24 |
| Mixed Beverage (MXB) Charges | | | | | |
| Current Law | 36.7 | 38.7 | 40.9 | 43.2 | 45.6 |
| <u>PCS to H971</u> | 36.7 | 38.7 | 20.5 | - | - |
| MXB Revenue Change | \$ - | \$ - | \$ (20.5) | \$ (43.2) | \$ (45.6) |

Revenue Distributed

Tax Revenue Distributed to the State and Local Governments

The following table projects how the tax revenue described previously would be distributed under current law and under the proposed legislation for the next five fiscal years. This distribution is explained after the table.

| | Projected Tax Revenue Distribution (\$ in Millions) | | | | |
|--|---|--------------|--------------|--------------|--------------|
| | FY 2019-20 | FY 2020-21 | FY 2021-22 | FY 2022-23 | FY 2023-24 |
| Current Law | | | | | |
| State Uses: | | | | | |
| DHHS | 2.0 | 2.1 | 2.3 | 2.4 | 2.5 |
| ABC | 21.2 | 23.2 | 25.3 | 27.7 | 30.3 |
| <u>General Fund</u> | <u>238.7</u> | <u>252.4</u> | <u>266.8</u> | <u>282.0</u> | <u>297.9</u> |
| Subtotal: State | 261.9 | 277.7 | 294.4 | 312.1 | 330.7 |
| Local Uses: | | | | | |
| Rehabilitation | 3.5 | 3.6 | 3.8 | 4.0 | 4.1 |
| Sub. Abuse Research/Ed. | 14.5 | 15.2 | 16.1 | 16.9 | 17.8 |
| Law Enforcement | 9.6 | 10.0 | 10.5 | 10.9 | 11.4 |
| <u>Unrestricted</u> | <u>94.9</u> | <u>103.2</u> | <u>112.2</u> | <u>122.0</u> | <u>132.6</u> |
| Subtotal: Local | 122.5 | 132.1 | 142.5 | 153.8 | 165.9 |
| Current Law Total Revenue Distributions | 384.4 | 409.8 | 436.9 | 465.8 | 496.6 |
| Proposed Legislation | | | | | |
| State Uses: | | | | | |
| DHHS | 2.0 | 2.1 | 4.0 | 3.0 | 3.0 |
| ABC | 21.2 | 23.2 | 8.5 | 8.5 | 8.5 |
| <u>General Fund</u> | <u>238.7</u> | <u>252.4</u> | <u>379.2</u> | <u>466.7</u> | <u>485.9</u> |
| Subtotal: State | 261.9 | 277.7 | 391.7 | 478.2 | 497.4 |
| Local Uses: | | | | | |
| Rehabilitation | 3.5 | 3.6 | 6.6 | 6.9 | 7.2 |
| Sub. Abuse Research/Ed. | 14.5 | 15.2 | 25.1 | 25.9 | 26.9 |
| Law Enforcement | 9.6 | 10.0 | 18.0 | 19.0 | 19.7 |
| Unrestricted from State Excise | 94.9 | 103.2 | 94.5 | 120.9 | 125.5 |
| <u>Unrestricted from Local Sales Tax</u> | <u>0.0</u> | <u>0.0</u> | <u>31.3</u> | <u>35.9</u> | <u>37.8</u> |
| Subtotal: Local | 122.5 | 132.1 | 175.5 | 208.6 | 217.1 |
| PCS to H971 Total Revenue Distributions | 384.4 | 409.8 | 567.2 | 686.8 | 714.5 |
| Change From Current to Proposed | | | | | |
| State Uses | 0.0 | 0.0 | 97.3 | 166.1 | 166.7 |
| Local Uses | 0.0 | 0.0 | 33.0 | 54.9 | 51.1 |
| Net Change in Revenue Distributed | 0.0 | 0.0 | 130.2 | 221.0 | 217.8 |

- **Current Law Distributions:**

- State: Distributions to DHHS and ABC were calculated based on the prior year's actual distribution plus growth, and the growth rate used was the average annual growth rate of that line item from FY 2014-15 to FY 2017-18 (e.g., DHHS: 5.8%; ABC, 9.4%). State General Fund revenue is projected as the total revenue from sales and excise

taxes and mixed beverage charges remaining net of all other State and local distributions.

- Local: Distributions for Rehabilitation, Substance Abuse Research and Education, Law Enforcement, and for unrestricted uses were calculated based on the prior year's actual distribution plus growth, and the growth rate used was the average annual growth rate of that line item from FY 2014-15 to FY 2017-18 (respectively: 4.3%, 5.4%, 4.3%, and 8.7%).
- **Proposed Legislation Distributions:**
 - State: Effective July 1, 2021, the PCS sets the distribution to DHHS at \$3 million annually and to ABC at \$8.5 million annually. For these years, State General Fund revenue is calculated as total excise and State sales tax remaining after all other State and local distributions.

In addition, for FY 2021-22 only, State General Fund revenue includes 50% of MXB charges generated for the fiscal year and the DHHS distribution includes 5% of MXB charges, based on the formula found in current law. This revenue source is repealed effective January 1, 2022, six months after all other tax changes are effective.

- Local: Distributions are based on statutory formulae found in the bill draft. Specifically, 30% of State excise tax collections must be shared with local governments. Of those funds, 4% must go to Rehabilitation, 15% to Substance Abuse Research and Education, and 11% to Law Enforcement. The remaining 70% is shown in the table as unrestricted.

In addition, for FY 2021-22 only, local distributions include 45% of MXB charges generated for the fiscal year, based on the formula found in current law. These distributions have been allocated proportionally between the rehabilitation, substance abuse, and law enforcement expenditure projections.

TECHNICAL CONSIDERATIONS

Section 21: This section eliminates G.S. 18B-501, which creates Local ABC officers and specifies their jurisdiction, powers, and responsibilities. As a result, there is no clear regulation or requirements for the funding provided to local law enforcement to enforce the alcohol laws in Section 26.

Section 23: This section eliminates Article 8 of Chapter 18B, which includes charges on liquor sold for use in mixed beverages; the section also directs how this revenue is to be generated. Because this section is effective January 1, 2022, mixed beverage charges will still apply until that time and the revenue will be distributed, as directed in current law, to the State General Fund, to DHHS, and to local governments. However, the bill also sets the State appropriation to DHHS at a flat dollar amount in Section 26 of the bill, which is effective July 1, 2021.

In short, there is some uncertainty about the overlap period from July 1, 2021 until December 31, 2021, and subsequent versions of the PCS or bill may need to address this overlap period in more detail, to ensure that any revenue generated by MXB charges may legally be distributed as intended.

Section 26, amendments to G.S. 105-113.82: This section is effective July 1, 2021 and directs that 30% of the prior twelve months' excise tax revenue be distributed to local governments. The section may need phase-in language for the first year of implementation. As the PCS is currently drafted, the March 31, 2022, excise tax revenue on spirituous liquor collected "during the preceding 12-month period ending March 31" will represent only 9 months of tax proceeds (i.e., from the tax's effective date of 7/1/2021 through 3/31/2022).

DATA SOURCES

ABC Commission; Department of Public Safety – Alcohol Law Enforcement; North Carolina General Assembly – Program Evaluation Division; North Carolina Department of Revenue; the Distilled Spirits Council.

FISCAL ANALYSIS MEMORANDUM – PURPOSE AND LIMITATIONS

This document is a fiscal analysis of a bill, draft bill, amendment, committee substitute, or conference committee report that is confidential under Chapter 120 of the General Statutes. The estimates in this analysis are based on the data, assumptions, and methodology described in the Fiscal Analysis section of this document. This document only addresses sections of the bill that have projected direct fiscal impacts on State or local governments and does not address sections that have no projected fiscal impacts. This document is not an official fiscal note. If a formal fiscal note is requested, please email your request to the Fiscal Research Division at FiscalNoteRequests@ncleg.net or call (919) 733-4910.

