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Nonpartisan Services for Colorado's Legislature

Revised Fiscal Note

(replaces fiscal note dated April 5, 2024)

Drafting Number: LLS 24-0652 Date: April 24, 2024
Prime Sponsors: Sen. Priola; Hansen Bill Status: Senate Appropriations
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Bill Topic: ALCOHOL IMPACT & RECOVERY ENTERPRISE

Summary of Fiscal Impact: [X] State Revenue [X] State Transfer [X] Local Government
[X] State Expenditure [] TABOR Refund [] Statutory Public Entity

The bill creates the Alcohol Impact and Recovery Enterprise and several grant programs within the enterprise. The bill increases state expenditures and revenue on an ongoing basis.

Appropriation Summary: For FY 2024-25, the bill requires an appropriation of \$98,583 to the Department of Revenue.

Fiscal Note Status: This revised fiscal note reflects the introduced bill, as amended by the House Finance Committee.

Table 1
State Fiscal Impacts Under SB 24-181

Table with 5 columns: Category, Sub-category, Budget Year FY 2024-25, Out Year FY 2025-26, Out Year FY 2026-27, Audit Years FY 2030-31. Rows include Revenue, Expenditures, Transfers, and Other Budget.

Summary of Legislation

The bill creates the Alcohol Impact and Recovery Enterprise under the Department of Revenue (DOR). The enterprise is authorized to collect fees from self-distributing manufacturers and wholesale distributors of alcohol who manufacture or distribute at least 100,000 proof gallons of spirits, 130,000 gallons of wine, or 186 million gallons of beer. The enterprise board will consist of various department representatives and stakeholders and will report to the General Assembly annually. The enterprise will be audited in FY 2030-31 and every 4 years thereafter or as frequently as necessary as determined by the State Auditor. The bill specifically exempts the enterprise from the voter approval requirement of [Proposition 117](#).

The bill creates the following grant programs under the enterprise, all of which will be implemented by January 1, 2026:

- the Colorado Alcohol Treatment and Recovery Affordability Grant Program to award grants to Behavioral Health Administrative Services Organizations (BHASOs) to provide substance use disorder (SUD) treatment and recovery services on a sliding fee scale;
- the Colorado Alcohol Use Prevention and Early Intervention Grant Program to award grants to entities dedicated to SUD prevention; and
- the Colorado Alcohol-Related Impaired Driving Enforcement Grant Program to award grants to local governments to deter alcohol-related impaired driving.

The DOR may retain revenue from the fee to cover the administrative costs of collecting the fee. The remainder will be credited to the Colorado Alcohol Impact Fund as follows:

- 75 percent for the treatment and recovery grant program;
- 15 percent for the prevention grant program;
- 5 percent for the impaired driving grant program; and
- up to 5 percent on administrative needs of the enterprise including the costs of the state auditor.

Background

Enterprises. TABOR defines an enterprise as "a government-owned business authorized to issue its own revenue bonds and receiving under ten percent of annual revenue in grants from all Colorado state and local governments combined." Because the share of revenue that an enterprise may receive from government sources is capped, enterprises are largely financially independent of core government agencies. Additionally, enterprises cannot levy taxes. TABOR limits the amount of money that can be spent or saved by the state government and all local governments within the state. However, revenue collected by enterprises is not subject to these constraints.

Proposition 117. Enacted by voters in 2020, Proposition 117 was a statutory citizen-initiated measure specifying that new enterprises that collect, or that are projected to collect, more than \$100 million over their first five fiscal years be approved by voters. While the enterprise created in this bill is projected to exceed the Proposition 117 threshold for voter approval, this bill exempts the new Alcohol Impact and Recovery Enterprise from this requirement.

State Revenue

The bill increases revenue to the new enterprise by approximately \$13 million per year beginning FY 2025-26. Over the first five years, the enterprise is estimated to collect about \$65 million. Fee revenue is estimated based on the amount of liquor that has been subject to the current liquor taxes in recent years, consistent with the March 2024 LCS forecast. This estimate assumes that 65 percent of all alcohol sales are made by manufacturers and distributors that are subject to the fee.

The imposition of fees at the level in the bill is not expected to decrease consumption relative to the levels expected under current law; however, if consumers respond to fees by purchasing less, then the revenue increase will be less than estimated. Fees paid to the state enterprise are estimated below and are exempt from TABOR.

Table 2
Fee Revenue

Fee	Fee Amount	Units	Revenue
Malt Liquor and Hard Cider	2.67¢ per gallon	87,471,410	\$2,335,487
Wine	2.40¢ per liter	50,041,211	\$1,200,989
Spirituous Liquor	20¢ per liter	47,092,627	\$9,418,525
Total		184,605,248	\$12,955,001

Gifts grants and donations. The bill potentially increases state revenue to the Colorado Alcohol Impact Fund from gifts, grants, or donations; however, no sources have been identified at this time. Gifts, grants, and donations are exempt from TABOR revenue limits.

Revenue bonds. The enterprise also has the authority to issue revenue bonds. If the enterprise chooses to issue revenue bonds, revenue will increase by more than what is shown above. This revenue is not subject to TABOR.

State Transfers

The bill requires a one-time transfer of \$454,000 from the General Fund to the Colorado Alcohol Impact Enterprise Fund in FY 2024-25. The transfer is a loan to the enterprise, and must be repaid with interest to the General Fund by July 1, 2027. The fiscal note assumes that the loan will be repaid in equal installments in FY 2025-26 and FY 2026-27 with an interest rate of approximately 4.5 percent. The loan repayment is expected to be approximately \$244,000 per year.

State Expenditures

The bill increases expenditures in the DOR by \$329,000 in FY 2024-25 paid from the General Fund and the Colorado Alcohol Impact Fund and, in future years, by around \$13 million per year paid from the Colorado Alcohol Impact Fund. Costs will increase by additional amounts in years when a required audit is scheduled. These costs are summarized in Table 3 and discussed below.

**Table 3
 Expenditures Under SB 24-181**

	FY 2024-25	FY 2025-26	Audit Years FY 2030-31
Department of Revenue			
<i>Alcohol Impact and Recovery Enterprise</i>			
Personal Services	\$161,612	\$441,504	\$441,504
Operating Expenses	\$2,560	\$6,400	\$6,400
Capital Outlay Costs	\$13,340	\$20,010	-
Centrally Appropriated Costs ¹	\$38,392	\$99,493	\$99,493
Meeting Costs	\$15,106	\$15,106	\$15,106
Treatment and Recovery Grant Program	-	\$9,554,176	\$9,427,079
Prevention Grant Program	-	\$1,910,835	\$1,885,416
Impaired Driving Grant Program	-	\$636,945	\$628,472
<i>Department of Revenue (Non-Enterprise)</i>			
Computer Programming and Testing	\$33,582	-	-
Data Reporting	\$7,392	\$7,328	\$7,328
Legal Services	\$57,609	\$19,203	\$19,203
FTE – Personal Services	2.0 FTE	5.0 FTE	5.0 FTE
FTE – Legal Services	0.3 FTE	0.1 FTE	0.1 FTE
DOR Subtotal	\$329,593	\$12,711,001	\$12,530,001
Office of the State Auditor			
Enterprise Audit	-	-	\$425,000
FTE – State Auditor	-	-	3.7 FTE
OSA Subtotal	-	-	\$425,000
Total Costs	\$329,593	\$12,711,001	\$12,955,001
Total FTE	2.3 FTE	5.1 FTE	8.8 FTE

¹ Centrally appropriated costs are not included in the bill's appropriation.

Department of Revenue. The bill increases expenditures in the DOR to set up the enterprise and for the enterprise within the department to operate the new grant programs. Costs associated with these efforts are discussed below.

- **Staffing.** Once fully implemented, the DOR requires 5.0 FTE. This includes:
 - 1.0 FTE program manager to lead the enterprise, develop the programs, and supervise enterprise employees;
 - 1.0 FTE policy advisor to provide expertise on subject areas addressed by the grant program, to work with the Behavioral Health Administration (BHA) to develop the grant programs, and to help evaluate grant applications;
 - 1.0 FTE to administer the grant programs; and
 - 2.0 FTE to manage the revenue collections in line with the bill and current law requirements, maintain the necessary documentation for the state auditor, and to perform other accounting and budget functions for the enterprise.

Of the staff identified above, the program manager and the liaison are assumed to start on July 1, 2024, to help establish the enterprise, and the remaining staff are assumed to start on July 1, 2025.

- **Centrally appropriated costs.** Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are shown in Table 2.
- **Computer programming and testing.** This bill requires one-time expenditures of \$33,582 in FY 2024-25 to program, test, and update database fields in the DOR's GenTax. Programming costs are \$21,785, representing 94 hours of contract programming in GenTax at a rate of \$232 per hour. Costs for testing at the department include \$8,085 for 231 hours of innovation, strategy, and delivery programming support at a rate of \$35 per hour, and \$3,712 for 116 hours of user acceptance testing at a rate of \$32 per hour.
- **Data reporting.** The Office of Research and Analysis must make changes in the related tax reports so that the department can access and document statistics related to the new fee. These costs are estimated at 231 hours for data management and reporting at \$32 per hour, with ongoing costs of 229 hours thereafter.
- **Meeting costs.** The DOR requires funds to host the board and compensate its members. It is assumed that board will meet once a quarter Administrative and support costs for the workgroup are estimated to be \$3,777 per meeting. Member compensation is estimated at \$3,067 per meeting, assuming that 13 members will be eligible for compensation. Other costs include venue and catering.
- **Legal services.** The DOR requires 450 hours of legal services in FY 2024-25 and 150 hours in future years to assist with rulemaking so that revenue collection aligns with existing law. Legal services are provided by the Department of Law at a rate of \$128.02 per hour.

- **Grant programs.** Once the above costs are accounted for the remainder of the Colorado Alcohol Impact Fund will be distributed to three grant programs as prescribed by the bill.

State Auditor. The state auditor requires 3.7 FTE and \$425,000 starting in FY 2030-31 and every four years thereafter, assuming the state auditor does not exercise authority to change the frequency. This will be appropriated to the DOR and reappropriated to the state auditor.

Behavioral Health Administration. Starting in FY 2024-25, the bill increases workload in the BHA to support the DOR in developing grant programs and to report required information in the bill. This work can be accomplished within current appropriations.

Governor's Office. Workload will minimally increase for the Governor's Office of Boards and Commissions to make the required appointment under the bill. This work can be accomplished within existing appropriations.

Local Government

As discussed above, an estimated \$600,000 annually will go to the Impaired Driving Grant Program starting in FY 2025-26. This program will redistribute funds to local governments to deter alcohol-related impaired driving.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State Appropriations

For FY 2024-25, the bill requires a General Fund appropriation of \$98,583 to the Department of Revenue. Of this amount, \$57,609 is reappropriated to the Department of Law with an additional 0.3 FTE.

Departmental Difference

The DOR estimates that this work will require a total of 6.0 FTE, four of which will start on the bill's effective date and the other two will start July 1, 2025, based on its experience with newly created boards and enterprise funds. The fiscal note assumes that the enterprise created in this bill will be less time consuming than past enterprises because the fees aligns with existing taxes and the grant program distributes funds to entities and providers that have worked with state departments, though not the DOR specifically, in the past.

State and Local Government Contacts

Behavioral Health Administration

Law

Revenue

The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit the [General Assembly website](#).