



Still Under the Influence

*A Look at the Alcohol Industry
and Its Influence on
New Mexico Elected Officials*

A Connect the Dots Report

Acknowledgements

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CHAPTER 1

INTRODUCTION

Almost twenty years ago—in January 2004— Common Cause New Mexico put out a report entitled “Under the Influence: Campaign Contributions, the Excise Tax and the Alcohol Industry in New Mexico.”¹ It was part of an ongoing series of reports to connect the dots between money from various industries and policy outcomes. At the time, the state was experiencing a surge of DWI, alcohol-related medical costs and related social problems. The price tag was in the billions.² An increase in alcohol taxes, which had not been raised since 1993, was on the table. It was supported by public health advocates. A statewide poll taken by Research and Polling Inc. in 2003 showed that 69% favored an increase to deter excessive drinking.³ Yet, in spite of the new Governor Bill Richardson’s support, no action was taken by the legislature that year.

Fast forward to 2023. A new coalition of public health advocates and legislators, introduced a bill to increase the tax on each drink of beer, wine and alcohol by 25 cents a glass. The drive was fueled by data documenting the connection between increased prices for a drink and a decline in liquor consumption.⁴ There was a plan to place the revenue into an Alcohol Harms Reduction Fund, to prevent and address alcohol addiction. Prior to the session, an award-winning series in *NM In Depth*, an online news service often picked up in newspapers around the state, documented a new tale of woe: 2,273 New Mexicans died from alcohol related causes in 2021, making New Mexico number one in the nation for alcohol-related deaths.⁵ We learned that alcohol is involved in more deaths here than fentanyl, heroin and methamphetamines combined.⁶ And they are not just traffic casualties — they are deaths from liver diseases, strokes, hypothermia, suicide, poisoning, falls and other trauma.

Clearly, there was momentum for a tax increase going into the 2023 session. Yet the outcome was the same as in 2004, and many subsequent attempts. A Governor’s veto this time, made sure no tax increase, even a tiny one, emerged. In fact, leading up to 2023, there were several measures enacted to expand the access to alcohol and reduce taxes for the growing craft beer industry.

Although times have changed, New Mexico is still under the influence of the liquor industry.

This report examines the changing shape of the alcohol industry’s influence on lawmakers and statewide officials in New Mexico, including a look at major players in the industry, lobbyists, political action committees and industry allies. Data from the New Mexico Secretary of State’s office was used to track contributions and expenses from the industry during a ten-year period, from 2013-spring 2023. The data search has been difficult

1 See Common Cause New Mexico Web Site Resources, https://www.commoncause.org/new-mexico/wp-content/uploads/sites/19/2018/03/NM_012004_Under_The_Influence-pdf.pdf

2 A Department of Health Report pegged costs of alcohol abuse at \$2.5 billion in 2006 <https://www.nmhealth.org/data/view/report/257/>

3 See Common Cause New Mexico Web Site Resources, https://www.commoncause.org/new-mexico/wp-content/uploads/sites/19/2018/03/NM_012004_Under_The_Influence-pdf.pdf

4 Esser MB, Waters H, Smart M, Jernigan DH. Impact of Maryland’s 2011 alcohol sales tax increase on alcoholic beverage sales. *American Journal of Drug and Alcohol Abuse*. 2016;42(4): 404-411.

5 “An Emergency Hiding in Plain Sight,” Ted Alcorn, *NM in Depth*, July 24, 2022, <https://nmindepth.com/2022/an-emergency-hiding-in-plain-sight/>

6 “An Emergency Hiding in Plain Sight,” Ted Alcorn, *NM in Depth*, July 24, 2022, <https://nmindepth.com/2022/an-emergency-hiding-in-plain-sight/>

because of errors in the Campaign Finance Information System (CFIS) housed on the Secretary’s website, which is the major access point for researchers, journalists and members of the public to ascertain the influence of money on elected officials. In some cases, information required by law was inaccessible; in others the information was not available because it is not required by law. At the end of this report, we make recommendations for increased transparency.

The report also covers some of the history of alcohol-related legislation over the past several decades, including measures proposed and enacted to address the state’s ongoing problem with alcohol consumption. These measures include attempts to control DWI, regulate access to alcohol through liquor licensing, and creating treatment and prevention programs as well as taxing beer, wine and spirits.

To connect the dots between the industry and legislative outcomes, we examine here four major pieces of legislation over the period spanning 2017-2023:

- The 2017 attempt to raise the liquor excise tax by 25 cents a glass, SB 314, sponsored by Sen. Cisco McSorley
- The 2019 preferential tax rates granted to microbrewers, craft distillers and cider manufacturers; expansion of Sunday sales, SB 413, sponsored by Sen. Mimi Stewart
- The sweeping 2021 liquor law changes expanding the number of licensees, allowing home delivery, and providing tax deductions for existing license holders, HB 255, sponsored by Rep. Moe Maestas
- The 2023 attempt to raise the liquor excise tax by 25 cents a glass, HB 230 sponsored by Rep. Joanne Ferrary and SB 259 sponsored by Sen. Antoinette Sedillo-Lopez

The outcome of each of these bills has been a victory for the industry, a trend that has continued largely unabated since the early 1990s, when a series of liquor reforms (including excise taxes) were enacted on the heels of a tragic DWI crash in Albuquerque. Since then, nothing. What has been the secret of the industry’s success? The industry, their allies and lobbyists have been substantial campaign contributors to key policy makers, giving more than **\$2.16 million** to candidates and PACs from 2013-spring 2023.

While the contributions are substantial, they are by no means the largest, and as legislators will tell you, they are not the determining factor. But they are noteworthy.

Where the industry really shines is in its lobbying efforts. Liquor lobbyists may wear black hats in other states, but here they are family. Some of them have been around the Roundhouse as the children of previous lobbyists, or as legislators themselves.

Where the industry really shines is in its lobbying efforts. Liquor lobbyists may wear black hats in other states, but here they are family. Some of them have been around the Roundhouse as the children of previous lobbyists, or as legislators themselves. They are well known and well liked—as are their new breed of clients—craft brewers and local wineries. Unlike big alcohol companies from afar, they have emissaries in every district in the form of local bars, restaurants, breweries and wineries. And they have stuck together to ward off new taxes and expand access to their product. The complexity of the omnibus and substitute bills pertaining to alcohol have also given the experienced lobbyist an edge which the public health advocates do not have.

CHAPTER 2

BACKGROUND

New Mexico's Alcohol Problem

Everyone admits that New Mexico has an alcohol problem—doctors, school counselors, family members, law enforcement officials, policy makers, even industry lobbyists.⁷

For decades New Mexico has ranked the highest in the nation for alcohol-related deaths. In the past several years, it has gotten worse. The New Mexico Department of Health reports that in 2021, 2,273 New Mexicans died from alcohol-related causes. That's approximately 1 in 11 deaths.⁸ For working adults, it is one in five.⁹

This high rate of deaths from alcohol is not just the highest in the nation – **it is three times the national average.**¹⁰

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According to the New Mexico Behavioral Risk Factor Surveillance Survey, 46 percent of adults in 2021 drank alcohol within the past month and 14.6 percent engaged in binge drinking (four or more alcoholic drinks on occasion for women and five or more alcoholic drinks on occasion for men.)¹¹

Most drinking in New Mexico is not problematic, but excessive consumption and binge drinking spell big trouble.

Two decades ago, as drunk driving crashes captured the headlines, most people associated DWI (Driving While Intoxicated) with alcohol-related deaths. But alcohol use is also associated with heart disease, cancer, anxiety, depression and learning problems, among others. According to the state Health Department, alcohol-related chronic liver disease causes about a third of the alcohol-related deaths, making it the most common cause of alcohol-related death here.¹²

That's not to say that more dramatic, violent deaths don't involve alcohol. They do.

New Mexico's chronic problems with domestic violence, homicide and suicide are all associated with alcohol. Reports from the state Health Department show that in the last ten years at least 38 percent of homicide victims had been drinking alcohol at the time of death and alcohol was involved in intimate partner deaths 40 percent

7 Ruben Baca, of the New Mexico Petroleum Marketers Association, quoted in "A Sober Appraisal," Ted Alcorn, *NM In Depth*, July 24, 2022.

8 New Mexico Department of Health, recorded in the fiscal impact report on SB 259, Feb. 13, 2023, <https://www.nmlegis.gov/Sessions/23%20Regular/firs/SB0259.PDF>

9 Department of Health statistics quoted in "An Emergency Hiding in Plain Sight," Ted Alcorn, *NM In Depth*, July 24, 2022, <https://nminddepth.com/2022/an-emergency-hiding-in-plain-sight/>

10 Movendi International, <https://movendi.ngo/news/2022/09/06/the-devastating-impact-of-alcohol-in-new-mexico-united-states/>

11 New Mexico Department of Health statistic in fiscal impact report for SB 259, Feb. 13, 2023, <https://www.nmlegis.gov/Sessions/23%20Regular/firs/SB0259.PDF>

12 Department of Health <https://ibis.doh.nm.gov/indicator/summary/AlcoholRelatedDthLiver.html>

of the time.¹³

In 2020, the department attributed a total of 225 violent deaths to alcohol, outnumbering alcohol-involved traffic fatalities that year.¹⁴

In addition, liquor stores, bars and even convenience stores that sell miniatures and cheap liquor are often the scene of crimes and neighborhoods have historically fought to restrain or even keep them out of their areas.¹⁵

The costs of excessive drinking—for law enforcement, health care, property damage, lost wages and productivity—add up. In 2010, the estimate from the Center from Disease Control was \$2.2 billion price tag. That’s over \$1,084 per New Mexican, paid for by both drinkers and non- drinkers.¹⁶ Now, with the increase in deaths, the estimated price tag is \$6 billion.¹⁷

A recent study by the University of New Mexico Department of Economics contends “Research finds that excessive alcohol consumption costs New Mexicans \$2.77 per drink ... These costs include deaths, other health costs, underage drinking, and drinking while pregnant. There are other social costs: crime, domestic violence, traffic accidents, etc. ... So, while the \$2.77 estimate is high – it is the highest among the U.S. states – the total social cost is much higher.”¹⁸

While all New Mexicans (even those who do not drink) pay for the damages of excessive alcohol abuse in taxes used for Medicaid, the courts and more, those who suffer the most are the those directly affected, their families and friends. Since the closure of many treatment programs during Gov. Susana Martinez’s administration, many do not have access to basic services, including detox or supportive counseling. Others do not have health insurance.

A state Department of Health study estimated that in 2018, the latest year for which figures were available, that 101,012 New Mexicans were living with an alcohol use disorder, with 73,178 unable to get treatment.¹⁹

Dr. Jennie Wei, who works in addiction and internal medicine in Gallup, NM, a border town which has long struggled with the problem, put it this way:

“There is no way to exaggerate the extent of alcohol-related harms in our emergency departments, Intensive care units, and clinics. We are facing a public health emergency; one we’ve been fighting for decades and only getting worse. I never get used to seeing patients dying from preventable illnesses. I never get used to seeing a 28-year-old mother of three in fulminant liver failure, yellow from head to toe because she can’t clear her toxins, bleeding from every orifice in her body because she can’t make the proteins need to clot blood. I never get used to telling her children and her mother that she has died from a preventable illness. Yes, alcohol-related harms are preventable illnesses, but only if sound evidence-based public health practices are enacted.”²⁰

13 Department of Health presentation before Courts, Corrections and Justice Committee, Aug. 24, 2022, <https://www.nmlegis.gov/handouts/CCJ%20082222%20Item%205%20Alcohol%20%20Violence%20Pres.pdf>

14 Health Department presentation before Court Corrections and Justice Committee, Aug. 24, 2022, <https://www.nmlegis.gov/handouts/CCJ%20082222%20Item%205%20Alcohol%20%20Violence%20Pres.pdf>

15 Department of Health <https://www.nmhealth.org/publication/view/marketing/2134/>

16 Department of Health statistics in fiscal impact report for Senate Bill 259, Feb. 13, 2023, <https://www.nmlegis.gov/Sessions/23%20Regular/firs/SB0259.PDF>

17 “An Emergency Hiding in Plain Sight,” Ted Alcorn, *NM in Depth*, July 24, 2022, <https://nminddepth.com/2022/an-emergency-hiding-in-plain-sight/>

18 “The Impact of Alcohol Taxes and Liquor Licenses in New Mexico,” David S. Dixon, Ana Paula Milan Hinostroza, Taran Cooley, Brady P. Horn, University of New Mexico, Aug. 2023, https://econ.unm.edu/common/documents/2023nm-research_dixon-et-al.pdf

19 New Mexico Substance Abuse Disorder Treatment Gap,” prepared by the state Department of Health, Jan. 2020, <https://www.nmhealth.org/publication/view/marketing/5596>

20 Testimony before the House Health and Human Services Committee, Feb. 10, 2023.

Dr. Wei, who works at the Gallup Indian Medical Center, was an advocate for an increased excise tax during the 2023 session, but her voice was drowned out by veteran lobbyists from the alcohol industry, a formidable adversary.

There are various estimates of the alcohol industry impact on New Mexico's economy. The industry estimates it is in the billions. Local wineries and breweries claim their share is \$1.2 billion for wine and beer alone. A 2021 University of New Mexico study puts it at much less for that segment—\$213 million.²¹ Locally produced alcohol is a small (but growing) portion of the total in New Mexico.

Public health advocates say that any total must deduct the costs to New Mexico for alcohol abuse.

The total figure includes the activity of 2,920 licensed outlets including convenience and grocery stores that sell liquor, package liquor stores, restaurants, breweries, wineries, cideries and bars. Although the industry claims more, a quarterly report from the Bureau of Labor Statistics found direct employment of 1,400 people.²²

But while the alcohol industry does provide jobs for many New Mexicans, alcohol also has some detrimental effects on the economy. The most recent UNM study speaks to this issue:

“Excessive alcohol consumption has also been found to be associated with reduced employment and worsened labor market outcome,” the study says, citing previous studies “... Additionally, an increase in alcohol consumption has been found to be associated with higher rates of workplace absenteeism.”²³

However, the UNM study says that “the relationship between alcohol and worker productivity is complicated,” citing a 2002 study that found “only a weak relationship between alcohol consumption and poor labor market outcomes.”

The strength of the industry has made liquor control, and especially any tax increase, a very heavy lift. But over the years there have been important reforms and many changes in liquor law.

Coming to Grips with Alcohol: A History of Legislative Measures

With the help of the New Mexico Legislative Council Service Library, Common Cause did a search of all alcohol related legislation introduced since 1990. The list is huge, including approximately 1,000 measures covering everything from licensing, sales, alcohol service at Bed and Breakfasts to DWI and excise taxes. Lawmakers—and lobbyists—have been busy. But there is a method to the madness.

Efforts to control alcohol sales and consumption, mitigate harm, and still allow (or amplify) the economic benefits of the hospitality industry have fallen into several categories. These include:

- The issuance of licenses to producers, wholesalers, distributors and purveyors of alcohol products
- Regulation of the days, hours, location and conditions of alcohol service and sales
- Passage and enforcement of laws designed to prevent harm associated with alcohol-driving while intoxicated, binge and underage drinking

21 “Alcohol Regulation and Excise Taxes in New Mexico,” Dixon, Horn and Milan-Hinostrroza, https://econ.unm.edu/common/documents/economic-consequences-of-alcohol-legislation-in-new-mexico_final.pdf

22 “An Emergency Hiding in Plain Sight,” Ted Alcorn, *NM In Depth*, July 24, 2022, <https://nminddepth.com/2022/an-emergency-hiding-in-plain-sight/>

23 “The Impact of Alcohol Taxes and Liquor Licenses in New Mexico,” David S. Dixon, Ana Paula Milan Hinostrroza, Taran Cooley, Brady P. Horn, University of New Mexico, Aug. 2023, https://econ.unm.edu/common/documents/2023nm-research_dixon-et-al.pdf

- The creation of hundreds of treatment and prevention programs at the state and local level
- Fees and other taxes to provide revenue for state programs and to affect the cost and use of alcohol.

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The other lever, and most potent one, according to advocates, is by effecting the price of alcohol through excise taxes.²⁴

These are taxes on certain goods and services –especially gasoline, cigarettes and alcohol—levied by federal, state or local government. They are typically imposed at the wholesale level and are assessed per unit of volume (e.g., per barrel of beer, or liter of wine) not as a percentage of the retail price.

Unlike gross receipts or sales taxes, excise taxes are largely unnoticed by consumers at the point of sale. Because excise taxes are calculated by volume, rather than price, their value erodes over time as a result of inflation unless they are periodically adjusted.

And the recent study by UNM’s Department of Economics says, “Overall, the literature consistently demonstrates that higher alcohol taxes are associated with a reduction in various alcohol-related morbidity and mortality rates, particularly the cirrhosis death rate ... as well as a decrease in suicide rates However, the evidence is more mixed for violence, risky sex behavior, and other drug use. While some studies suggest increasing alcohol taxes reduces certain types of violence ... others report insignificant results ...”²⁵

Over the years since 1990, 141 bills effecting alcohol excise taxes have been introduced in the New Mexico legislature. Only 16 of those became law and only one of these was a meaningful excise tax increase.²⁶

Public health advocates also push for more money allocated to evidence-based treatment and prevention programs in more parts of the state. Many of the excise tax bills sought to direct, or earmark, funds from the tax to treatment and prevention programs.

On the other hand, the alcohol industry generally wants lower prices for more business licenses (unless the business already owns one), and more locations to dispense on more days of the year, during longer hours.

The granddaddy of all liquor legislation was the Liquor Control Act, sponsored by Senator Les Houston (D-Alb) in 1981.²⁷

This law established a system of licensing for wholesalers, dispensers, brewers and manufacturers, and set up the Alcohol Beverage and Control unit to regulate the industry. New requirements covered server-education

24 The Center for Disease Control’s Community Preventative Services Task Force sets out these—and other— evidence-based tools, <https://www.thecommunityguide.org/topics/excessive-alcohol-consumption.html>

25 “The Impact of Alcohol Taxes and Liquor Licenses in New Mexico,” David S. Dixon, Ana Paula Milan Hinojosa, Taran Cooley, Brady P. Horn, University of New Mexico, Aug. 2023, https://econ.unm.edu/common/documents/2023nm-research_dixon-et-al.pdf

26 Liquor reform legislation 1990 to present, a document sent to Dede Feldman by the Legislative Council Service, <https://www.com-moncause.org/new-mexico/wp-content/uploads/sites/19/2023/10/Liquor-reform-legislation-1990-to-present54.pdf>

27 New Mexico Statutes, https://www.rld.nm.gov/uploads/FileLinks/78247e84a1c24fb4a463d898a7133117/Liquor_Control_Act_Part_1_101811_.pdf

programs, hours of operation, and penalties for sales of alcohol to minors, among other things. It also set up a system for beer and wine licenses available to restaurants. Many of the laws passed since that time are amendments to this basic statute.

Spotlight on Gallup

During the late 1980s public attention was focused on Gallup, a town of 18,000 bordering the Navajo reservation with severe alcohol problems stemming largely from the alcohol prohibition on the Navajo reservation.

Public inebriation was a major problem, straining local health and law enforcement facilities. In 1989, the Gallup Police reported 31,253 pick-ups for public drunkenness, many of them repeaters. On average police picked up 60-70 inebriants every weekday and 2,000 on Fridays and Saturdays.²⁸

The statistics and human toll were alarming, attracting the attention of the state's largest afternoon paper, the *Albuquerque Tribune*, which wrote a six-part series, "Gallup: A Town Under the Influence" in 1988. For a week, every article in the 'A section' of the paper was devoted to the town's problem. The series attracted national attention and awards, but some felt it was racist or sensational. Many felt it added to the false impression that alcohol was mainly a Native American problem.

Meanwhile, the town's mayor, Eddie Muñoz, joined forces with the town's hospital try to pressure the legislature into eliminating drive-up liquor windows and funding a \$2.5 million detoxification facility. They also pushed to allow McKinley County, where Gallup is located, to enact a 5-percent excise tax on liquor.

Yet a visit from Speaker of the House Raymond Sanchez and Senate President Pro Tem Manny Aragon to Gallup in the wake of the newspaper series was not encouraging, according to Bob Rosenbrough, who said the legislative leaders told the mayor and hospital administrators the legislature was unlikely to act and told the Gallup officials to "keep a lid on it."²⁹

When a Navajo baby girl, Jovita Vega, was killed by a drunk driver in January 1989, the group and local churches coalesced around a 205-mile march to the state Capitol in Santa Fe. The march was called the "Journey for Jovita." By the time the marchers reached the steps of the Roundhouse they were 1,500 strong and much of their legislative agenda was quickly enacted.

Regardless of the Gallup's limited success, in the early '90s the DWI rate continued to escalate statewide. Fatal crashes involving alcohol were 70 percent more frequent than in the country as a whole, controlling for miles traveled.³⁰ Liquor sales continued to boom, but law enforcement and court action was inconsistent.

The Christmas Eve tragedy that shook New Mexico

The situation caught the attention of then Attorney General Tom Udall who held a series of town meetings around the state in 1992, gathering support for a reform package. A report was produced "*Preventable Deaths: An Action Plan for New Mexicans to Prevent DWI*".³¹

This report seemed destined to gather dust on a shelf. But then, a tragedy occurred outside of Albuquerque on I-40 on Christmas Eve, 1992.

28 *A Place of Thin Veil, Life and Death in Gallup New Mexico* by Bob Rosenbrough, p. 102-111.

29 *A Place of Thin Veil, Life and Death in Gallup New Mexico* by Bob Rosenbrough, p. 104.

30 "Eyes on the Road," Ted Alcorn, *NM In Depth*, July 2, 2022, <https://nmindepth.com/2022/eyes-on-the-road/>

31 (<https://nmindepth.com/wp-content/uploads/2022/07/Preventable-Deaths-An-Action-Plan-for-New-Mexicans-to-Prevent-DWI.pdf>)

A drunk driver, Gordon House, drove 12 miles the wrong way on the interstate highway, finally smashing into a family in a car. Melanie Cravens, and her three young daughters, Kandyce, Erin and Kacee, were killed. Melanie's husband, Paul Cravens, was seriously injured. The crash jolted the legislature into action that it had been reluctant to take before.

"It was amazing to see the change," said Fred Nathan, who worked with Udall as a deputy at the time. "Before the crash we couldn't get anyone to even carry the bill." In retrospect, he added, "If we had known how difficult it became later, we would have asked for a lot more."

The 1993 session produced a significant increase in liquor excise taxes. The tax on liquor went from \$1.04 per liter to \$1.50; the excise tax on beer increased from 18 cents to 35 cents per gallon; and for wine the tax was pegged at 45 cents per liter. (Microbreweries and small wineries had their taxes set at lower rates.)

And there were other significant reforms.

These included a .08 blood alcohol content, rather than the previous .10 percent BAC as the threshold for impaired driving; enhanced penalties (including incarceration) for repeat offenders and those with high concentrations of blood alcohol; education and server training programs; a DWI grant program for local governments and a DWI oversight committee.

Drive-up windows

One issue left unaddressed in 1993 was New Mexico's prevalence of drive-up liquor windows where drivers could purchase cold beer and other alcoholic beverages and drink them on the lonely highway, at home, or wherever they wanted to.

It was an issue that often attracted nationwide scorn, but it took years to close the windows.

Between 1990 and 1998, when the windows were finally closed, lawmakers introduced 35 different bills, some that would have allowed individual counties the option of banning the windows and some calling for a statewide ban.³² The latter approach eventually was adopted.

Every attempt was fought back by the liquor industry, which called the windows' closure a "taking" of businesses property rights and predicted businesses would be harmed. But a quarter century later, there doesn't seem to be any shortage of small liquor stores in New Mexico.

Other efforts

At the beginning of the 2000s, state officials at all levels were tackling DWI with DWI grant funds used at the local level for programs, enhanced penalties and better law enforcement.

In 2003 the new governor, Bill Richardson, appointed a DWI "Czar," Rachel O'Conner, to coordinate and target programs.

The state became an early adopter of ignition interlocks, a breathalyzer that detects alcohol on the driver and locks up the vehicle before it can start. The new tool was soon required for those convicted of DWI. New treatment models were also developed.

32 Liquor reform legislation 1990 to present, a document sent to Dede Feldman by the Legislative Council Service, <https://www.com-moncause.org/new-mexico/wp-content/uploads/sites/19/2023/10/Liquor-reform-legislation-1990-to-present54.pdf>



The changes began to take hold. Between 1990 and 2008 fatal alcohol involved crashes in New Mexico dropped 56 percent and the states crash rate fell in line with the national average.³³

But changes in the excise tax were harder to come by—unless you were a winery or craft brewery. Then you might get a friendly legislator to sponsor a redefinition of your start-up business to allow for tax breaks or more flexible permits.

But despite 141 attempts to change it, for three decades, the alcohol excise tax basically remained fixed at the 1993 level. The stone wall around the tax was particularly disturbing to the public health community because of the nature of excise taxes. Because excise taxes are based on volume and not price, they lose value when not adjusted for inflation. The state’s share does not increase, while the industry profits.

In 2003, Gov. Richardson appointed a “Blue Ribbon Task Force” which was on the verge of recommending a hike of 10 cents per drink as part of several revisions to the tax code, but then it suddenly pulled back.³⁴

Nonetheless, two legislators (Sen. Alan Hurt, a Republican, and Rep. Roger Madalena, a Democrat) introduced legislation to increase the tax in the following regular and special sessions. Nine other bills tried to direct the proceeds of the tax to local DWI grant funds or certain counties. All of them failed.

The pattern repeated itself in following sessions.

Faced with the failure, legislators sought to allow counties a local option to increase taxes themselves. Most of those bills failed as well. So did bills directing tax revenue to schools or homeless programs.

In 2010 a bill sponsored by Rep. Brian Egolf (who later would become House speaker), called for a dime more a drink. Like similar efforts, the bill failed, prompting Egolf to tell a Santa Fe newspaper that “an unholy alliance of liquor interests, the hospitality industry, and grocery and convenience store operators” scuttled the bill.³⁵

Out of a total of 98 bills introduced from 1994-2016 to change the alcohol excise tax, which had been passed on the heels of the Christmas Eve tragedy in 1992, 85 failed and 13 became law.

Most of those that passed concerned allocations to counties and DWI funds. Two were adjustments to the production caps for wineries and microbrewers to allow them a lower tax rate.

One, sponsored by Sen. George Muñoz, the son of former Gallup Mayor Eddie Muñoz, allowed McKinley County to increase the excise tax from 5 percent to 6 percent if passed in a local election.

The other was a local option for Bernalillo to fund a detox center at the jail with proceeds from a local option tax.³⁶

For decades, the alcohol industry has been able to stave off tax increases and gain other advantages to increase alcohol consumption in New Mexico.

During the 2023 session, and in the years leading up to it, the pattern continued.

33 “Eyes on the Road,” Ted Alcorn, *NM In Depth*, July 2, 2022, <https://nmindepth.com/2022/eyes-on-the-road/>

34 “New Mexico: Another Round for State Booze Tax”, *The Santa Fe New Mexican*, Nov. 18, 2009, reprinted in *The Bartender*, <https://bartender.com/new-mexico-another-round-for-state-booze-tax>

35 “Liquor lobby helps put cork in booze tax,” *Santa Fe New Mexican*, March 20, 2010, https://www.santafenewmexican.com/news/local_news/liquor-lobby-helps-put-cork-in-booze-tax/article_Oe3d89cf-35cd-5ede-9ecd-0737da351043.html

36 Figures based on material provided by Legislative Council Service library.

CHAPTER 3

NEW MEXICO'S LIQUOR INDUSTRY

There was a time in which the dominant force in New Mexico's liquor industry – and its relationship with state government – was the Maloof family.

Joseph Maloof, an immigrant from Lebanon who settled in Las Vegas, NM, to run a general store, won the distribution rights for the Coors Brewing Company for New Mexico and other Southwestern states in 1937.³⁷

After Joseph Maloof suffered a heart attack in 1944, his son George Maloof took over the distributorship. And in the decades to follow, the younger Maloof turned Joe G. Maloof & Company into a true homegrown success story.

George Maloof expanded the business to include trucking, hotels, banking and professional sports interests. He bought the Houston Rockets basketball team for \$9 million in 1979, the year before his death.

When he died, according to an Associated Press obituary, "Officials of The Maloof Companies have said the combined sales and revenues of all these companies approach \$125 million a year."³⁸

The family would sell the Rockets franchise in 1982. In 1998, the family would buy another basketball team, the Sacramento Kings, which they owned until 2013.³⁹

And by the early 1990s, the Maloof family empire included a seat in the New Mexico state Senate. Phil Maloof, a son of George, won an Albuquerque Senate seat in 1994. His political career ended in a disastrous campaign for a vacant congressional seat in 2000, in which he lost to Republican Heather Wilson, despite outspending her 3-1.⁴⁰

To his credit, Sen. Maloof was known to abstain on votes affecting the liquor industry.⁴¹ But that didn't stop his family's company from making massive campaign contributions to New Mexico politicians.

For instance, in Common Cause New Mexico's previous report on the liquor industry, Joe G. Maloof & Company spent more than \$56,000 on political contributions (not including congressional races) here between 1998 and 2002. That was just slightly more than Anheuser-Busch's contributions during that period.⁴²

37 "Services for Maloof conducted today," The Associated Press, published in *The Santa Fe New Mexican*, Dec. 1, 1980.

38 "Services for Maloof conducted today," The Associated Press, published in *The Santa Fe New Mexican*, Dec. 1, 1980.

39 Maloof Family Biographies, https://web.archive.org/web/20050723032315/http://www.nba.com/kings/news/Joe_and_Gavin_Maloof_Bio.html

40 "The Long Lost Tale of Phil Maloof," Rollcall, May 15, 2014, <https://rollcall.com/2014/05/19/the-long-lost-tale-of-phil-maloof>

41 *Inside the New Mexico Senate: Boots, Suits, and Citizens*, Dede Feldman, University of New Mexico Press, 2014.

42 "Lobbying in the Land of Enchantment: Special Interests and their Hired Guns A 'Connect the Dots' Report," Common Cause New Mexico, Oct. 2013

Chart A: Top Company Contributors (above \$5,000), 2013-2023

Company	Contributions
Anheuser-Busch	\$305,580
Premier Distributing	\$163,629
Admiral Beverage Corporation	\$93,251
Southern Glazer’s Wine & Spirits (f/k/a Southern Wine and Spirits)	\$72,000
Bonal, Maurice (Liquor Licensing)	\$27,005
Tractor Brewing Co.	\$18,250
Maloof Family	\$18,204
Baldwin, William	\$13,000
Total Wine	\$11,206
Marble Brewery	\$11,000
Arizona Fine Wine & Spirits	\$10,400
Titan Vineyards	\$10,000
NM Brewers Guild	\$8,450
Chama River Brewing Co.	\$6,336
Casa Rondena Winery	\$6,200
Jordan Vineyard & Winery	\$5,058
McLane Company, Inc.	\$5,000

Source: New Mexico Secretary of State Campaign Finance System. Contributions from September 2020 through April 2023 can be found here: <https://login.cfis.sos.state.nm.us>, while those made between 2013 and August 2020 can be found at <https://www.cfis.state.nm.us/media/>

(For a complete list of all contributions, expenditures see Appendix 2)

Move over, “Joe Sixpack”: “Gary Growler” has Arrived!

As is the case in other industries that lobby the state Legislature, until fairly recently, the liquor industry and its legislative efforts were dominated by large corporations and companies like Maloof and Anheuser-Busch.

But the 2023 liquor-tax battle at the Legislature saw the notable rise of another force within the industry: local craft brewers, wineries and distillers.

According to a University of New Mexico Department of Economics study published in 2022 – funded by the Legislature the year before – there has been “considerable growth” in New Mexico’s brewing industry over the past decade while wine production in the state has “experienced considerable growth.”⁴³

43 “UNM Dept. of Economics Study “Alcohol Regulation and Excise Taxes in New Mexico,” David S. Dixon, Brady P. Horn and Ana Paula Milan Hinostrza, https://econ.unm.edu/common/documents/economic-consequences-of-alcohol-legislation-in-new-mexico_final.pdf



The study says, “the craft beer industry had a \$165 million effect on the New Mexico economy in 2019, with more than \$47 million coming from outside New Mexico.”

Meanwhile, “small wineries had a \$48 million effect on the New Mexico economy, with more than \$10 million coming from outside New Mexico,” the study says.⁴⁴

These local businesses might battle with the big boys in the marketplace. But these small operations not only showed solidarity with the largest distributors – and echoed their talking points – they also became the public face of the opposition to any tax increase.

David Jernigan, a professor in the Department of Health Law, Policy and Management at the Boston University School of Public Health who has worked on alcohol policy issues for 35 years, said in an email to Common Cause New Mexico, that making the craft beer, distillery and wine businesses exempt from any alcohol tax increase could “have the effect of neutralizing the faces that tend to be the most sympathetic.”⁴⁵

Jernigan noted that the small alcohol producers have benefited far less than the big corporations from the federal tax cuts that were designed to help them. The Treasury Department, he said, reports that two thirds of the benefits of those cuts went to the largest producers.

He also said, “the most successful of the craft brewers are increasingly being bought up by the big producers, because economies of scale in production and distribution are so significant in the alcohol trade.”

To be sure, the big companies are still the major campaign contributors as far as the liquor industry goes. For example, in the 2022 election cycle the New Mexico Brewers Guild gave more than \$8,400 in campaign contributions (\$4,000 of which went to Gov. Michelle Lujan Grisham.) In contrast, during the same election cycle, Anheuser-Busch contributed more than \$90,000.⁴⁶

But in the 2023 liquor tax debate, we heard more about “Gary Growler” than “Joe Six-Pack.”

During committee hearings on the liquor tax proposals, the small business owners were the most effective speakers against new taxes.

And when legislators argued against increasing the liquor tax, they’d inevitably talk about possible negative effects on local brew pubs, wineries, and distilleries – as opposed to the effect on Budweiser, Miller and Coors.

We don’t know whether this was a coordinated strategy on the part of the liquor industry. But planned or otherwise, it turned out to be an effective tactic.

But in the 2023 liquor tax debate, we heard more about “Gary Growler” than “Joe Six-Pack.” During committee hearings on the liquor tax proposals, the small business owners were the most effective speakers against new taxes.

Lobbyists: In it for the long haul; a family affair

Liquor industry lobbyists have been mainstays at the New Mexico Legislature for decades. And it’s no exagger-

44 UNM Dept. of Economics Study “Alcohol Regulation and Excise Taxes in New Mexico,” David S. Dixon, Brady P. Horn and Ana Paula Milan Hinojosa, https://econ.unm.edu/common/documents/economic-consequences-of-alcohol-legislation-in-new-mexico_final.pdf

45 Jernigan email, July 13, 2023.

46 New Mexico Secretary of State Campaign Finance System, <https://login.cfis.sos.state.nm.us>

ation to say the relationships between legislators and lobbyists often are cozy.

As New Mexico is the only state in which legislators are not “compensated,” many lawmakers rely on lobbyists for information on various issues. Lobbyists and the companies they represent constitute a major pool for campaign contributions, as well as information on issues.

Lobbyists also pay for meals for legislative committees and provide much of the social life for senators and representatives during sessions by throwing big parties, hosting large lavish events as well as small lunches and dinners for lawmakers and picking up the bar tabs of untold numbers of legislators.

Many legislators regard lobbyists as “family” – and a few actually are married to lobbyists. There are several cases of New Mexico lobbyists passing the torch to their sons or daughters following their footsteps. And even more lobbyists are former legislators who view lobbying as a natural career path.

So it’s a big, usually happy, family. But there have been cases of family spats.

The late Sen. Fabian Chavez wrote in his biography of a liquor lobbyist named Frank “Pancho” Padilla, who apparently was high on his own supply at an annual (lobbyist-funded) party at La Fonda during the 1963 session.

“I own the legislature,” Padilla told Chavez, Jr., and others at the party. The lobbyist, whose clients included Maloof, was celebrating the defeat of a bill sponsored by Chavez that would have imposed more regulations on the industry. Padilla, a former state representative from Albuquerque’s South Valley, told Chavez that he “had bought him a thousand times.”

Padilla later apologized for speaking the quiet part out loud. But the incident got him barred from the floor of the Legislature. Yet he continued to lobby for liquor interests and was a fixture in the Roundhouse for many years after.⁴⁷

It’s hard to name any lobbyist – for the liquor industry or any other clients – as blatant as Pancho Padilla. But lobbyists’ influence is hard to deny.

And some of the most influential of all current lobbyists were actively working against raising the liquor tax during the 2023 session.

For instance, John Thompson represented several liquor companies including Admiral Beverage, Southern Wine & Spirits of New Mexico, L&F Distributors, National Distributing Company (Also known as Republic Distributing Company). His father, John Lee Thompson, a former legislator, represented many of the same liquor clients for years.

Anheuser-Busch employed three veteran lobbyists – Mark Duran, Brent Moore and Randi Valverde – to work the Legislature.

Jason Weaks, another son of a veteran lobbyist, worked for the New Mexico Brewers Guild (with former state Rep. Al Park), the New Mexico Distillers Guild and, with Jared Najjar (the son of longtime lobbyist Dan Najjar), the New Mexico Hospitality Association.

Meanwhile, Jason Weaks’ father, Dan Weaks is still active. His clients include the Wine Institute and the New Mexico Wine and Grape Growers Association

47 *Taking on Giants: Fabian Chavez Jr. and New Mexico Politics*, David Roybal, University of New Mexico Press, 2009.



The New Mexico Alcohol Alliance hired lobbyists Anthony “T.J.” Trujillo and Jennifer Trujillo, while Allison Kuper Smith, daughter of former Senate President Pro-Tem Mary Kay Papen, lobbied for The New Mexico Restaurant Association.

Other liquor lobbyists include Carrie Robin Brunder, who worked for Total Wine.

Most of the lobbyists mentioned above are “contract” lobbyists, who have multiple – some with dozens – of clients covering many sectors besides liquor, including oil and gas, healthcare, education and local governments.

One longtime lobbyist who is a major contributor to New Mexico campaigns is Leland Gould. He’s an oil man, married to former state Sen. Candace Gould, who was manager of state government and public affairs (a fancy way of saying “lobbyist”) for Marathon Petroleum Company between 2000 and 2020. In 2021, he became president and chief operating officer for the New Mexico Oil & Gas Association, though he no longer holds that position.

But he’s still lobbying. Secretary of State records show that he lobbied for Marathon as well as NMOGA in 2021. So, Gould – rightly – is considered an oil and gas lobbyist. However, in 2022, he also became lobbyist for the New Mexico Petroleum Marketers Association, which represents retail gasoline businesses, many of which sell beer. The Marketers Association strongly opposed the liquor tax increase this year.

Two other longtime and popular contract lobbyists who had clients opposing the liquor tax increase were J.D. Bullington and Scott Scanland.

Bullington’s clients include the Albuquerque Chamber of Commerce, which opposed the tax bill.

Scanland, who is married to state Rep. Doreen Gallegos, is a lobbyist for San Juan County (and dozens of other clients).

Lobbyists with multiple clients sometimes makes it difficult to follow their campaign contributions, especially when lobbyists frequently don’t report who specific contributions are on behalf of.

For the purpose of this report, Common Cause New Mexico included all contributions from these lobbyists unless the contribution was attributed to a client not involved in the alcohol business. The reason we do, is because contributions made by contract lobbyists to legislators, regardless of their source, make a favorable impression for all the clients represented by the lobbyist.

Besides campaign contributions, lobbyists frequently make friends with lawmakers by spending large amounts of money on big parties, private dinners, meals for committees and gifts for individual legislators.

In 2023 alone, liquor lobbyists spent \$74,968 on entertaining, wining and dining. The highest single expenditure by a lobbyist came in February when contract lobbyist Marco Gonzales spent \$7,571 on a diner at the Palace Prime for the House Government Elections and Indian Affairs Committee and committee staffers.

Gonzales is a lobbyist for the McLane Company, which is a Texas-based wholesale company that distributes alcohol as well as food. He also represents United Supermarkets, a Texas-based chain that includes the Albertsons stores in New Mexico.

Chart B: Top Lobbyist Contributors (above \$10,000), 2013-2023

Lobbyist	Contributions	Expenditures	Total
Bullington, JD	\$267,651	\$41,740	\$309,391
Weaks, Dan	\$211,672	\$63,985	\$275,657
Scanland, Scott	\$124,286	\$113,202	\$237,488
Weaks, Jason	\$177,431	\$59,795	\$237,225
Gould, Leland	\$130,086	\$12,026	\$142,112
Duran, Mark	\$63,917	\$34,304	\$98,221
Gonzales, Marco	\$65,750	\$18,626	\$84,376
Brunder, Carrie Robin	\$19,475	\$28,002	\$47,477
Trujillo, Jennifer	\$33,750	\$4,605	\$38,355
Thompson, John L.	\$16,577	\$10,776	\$27,353
Park, Alfred	\$9,050	\$15,529	\$24,579
Trujillo, Tony	\$1,450	\$20,908	\$22,358
SaucedoChavez, PC	\$17,900	\$ -	\$17,900
Mahr, Ed	\$14,758	\$2,561	\$17,319
Strategies 360	\$11,794	\$ -	\$11,794
Smith, Allison Kuper	\$1,859	\$9,181	\$11,040

Allied organizations and PACs

Besides actual liquor producers and distributors, a number of organizations, political action committees and even local governments were active this year in fighting any increase in the alcohol.

Perhaps the most significant was the New Mexico Restaurant Association, which, according to its website, represents “all food service outlets in New Mexico with a membership of over 1000 locations statewide.”⁴⁸

This association also boasts, “We have a strong political action committee that is active in both state and national politics.” Besides fighting the alcohol tax, the association has been active in lobbying against paid family leave and, a decade ago, when Republicans briefly enjoyed a majority in the state House, the group fought hard for “right-to-work” legislation aimed at decreasing the power of unions.

Each session the Association prints a very realistic restaurant menu with its priorities. It is faux leather-bound with cellophane over the list of entrees, appetizers, etc., just like a menu in a fancy restaurant.

48 New Mexico Restaurant Association website, <https://www.nmrestaurants.org/we-are-the-restaurant-industry-in-new-mexico/>



2023 Restaurant Association Menu including Beverages and Priorities

2023 Legislative Menu

New Mexico Restaurant Association

9401 Montgomery Blvd. NE, Suite 602
Albuquerque, NM 87111
(505)343-9848 or (800)432-0740
www.nmrestaurants.org | dining@nmrestaurants.org

Serving its members and the people of New Mexico since 1946

APPETIZERS

Stimulate your appetite with juicy facts and figures

New Mexico
Locations – 4,629
Employees – 86,500
Percent of State Workforce - 11%
Industry Sales (as forecast for 2023) – \$4.8 billion

NMRA Contacts
Carol Wight, CEO
505-343-9848
505-250-2911 (cell)
800-432-0740
executive@nmrestaurants.org

National
Locations – 1 Million +
Employees – 14.5 Million
Industry Sales (as forecast) – \$799 billion

Allison Kuper Smith, Lobbyist
575-644-4609
aklobby@gmail.com

BEVERAGES

State of the Restaurant Industry in New Mexico

Liquor or Soft Drink Excise Taxes

OPPOSE

On behalf of its membership, NMRA will oppose liquor or soft drink excise taxes. These are taxes placed on liquor or soft drinks at the manufacturer or wholesale level, which in essence constitute hidden fees on New Mexicans that are regressive and create pyramiding taxation. New Mexicans already pay among the highest liquor taxes in the nation and restaurants collect nearly 10% in GRT for both soft drinks and liquor.

Liquor Tax Allocation Increase
NMRA supported the liquor excise tax increase in 1994 to be used for DWI prevention and treatment programs. Currently, only 34.57% of the liquor excise tax collected is put toward prevention and treatment programs. We support additional allocations from this fund to be used for these programs. We do not support additional taxes.

Liquor Excise Tax Increase

	Now	Proposed
Spirits/Liquors	\$1.60/Liter	\$7.24/Liter
Beer	\$4.17/Gallon	\$3.08/Gallon
Wine	\$4.45/Liter	\$2.14/Liter
Fortified Wine	\$1.50/Liter	\$3.61/Liter

*All increased by CPI annually

Liquor Excise Tax Rates

State	Beer	Wine	Spirits
NEW MEXICO	\$0.41	\$1.70	\$8.06
ARIZONA	\$0.16	\$0.94	\$3.00
COLORADO	\$0.08	\$0.32	\$2.28
TEXAS	\$0.20	\$0.20	\$2.40

2023 Legislative Menu

Source: <https://www.nmrestaurants.org/wp-content/uploads/2023/01/2023-Legislative-Menu-For-Print.pdf>

Another allied group was the Albuquerque Chamber of Commerce, whose lobbyist, J.D. Bullington, told the House Taxation and Revenue committee, “Ratcheting up a tax of this magnitude is not the answer to combating alcohol abuse because it needlessly and unfairly punishes very responsible adults, and it would harm local businesses.”⁴⁹

Meanwhile, lobbyist Scott Scanland, representing the city of Farmington, told that tax committee, “San Juan County opposed the bill because it would reduce the percentage of alcohol tax revenues made available for DWI prevention.”⁵⁰

Bill sponsors later contradicted that claim that the DWI prevention percentage in the bill would mean less money for counties. They pointed out that even though the percentage would be reduced, the higher tax rate would raise much more revenue. San Juan County, under the legislation, would receive about \$270,000 a year more.⁵¹

Several PACs aligned with the liquor and hospitality industry are listed on the Secretary of State’s campaign finance system websites, including the National Distributing Company of Albuquerque PAC and the NM Restaurant Association. Here is a chart of their contributions, along with those of the allied organizations that we tracked.

49 “Powerhouse lobbyists on tap for alcohol industry,” Marjorie Childress and Trip Jennings, *New Mexico In Depth*, March 4, 2023, <https://nmindepth.com/2023/powerhouse-lobbyists-on-tap-for-alcohol-industry/>

50 “Powerhouse lobbyists on tap for alcohol industry,” Marjorie Childress and Trip Jennings, *New Mexico In Depth*, March 4, 2023, <https://nmindepth.com/2023/powerhouse-lobbyists-on-tap-for-alcohol-industry/>

51 “Powerhouse lobbyists on tap for alcohol industry,” Marjorie Childress and Trip Jennings, *New Mexico In Depth*, March 4, 2023, <https://nmindepth.com/2023/powerhouse-lobbyists-on-tap-for-alcohol-industry/>

Chart C: PAC and Allied Organization Contributors, 2013-2023

PAC / Allied Organization	Contributions
NM Restaurant Association	\$129,100
National Distributing Company	\$38,300
Rhodes, Mark (Rhodes & Salmon, PC*)	\$8,750
Greater Albuquerque Chamber of Commerce	\$3,895
NM Hospitality Association	\$750

**Law Firm handles liquor licenses.*



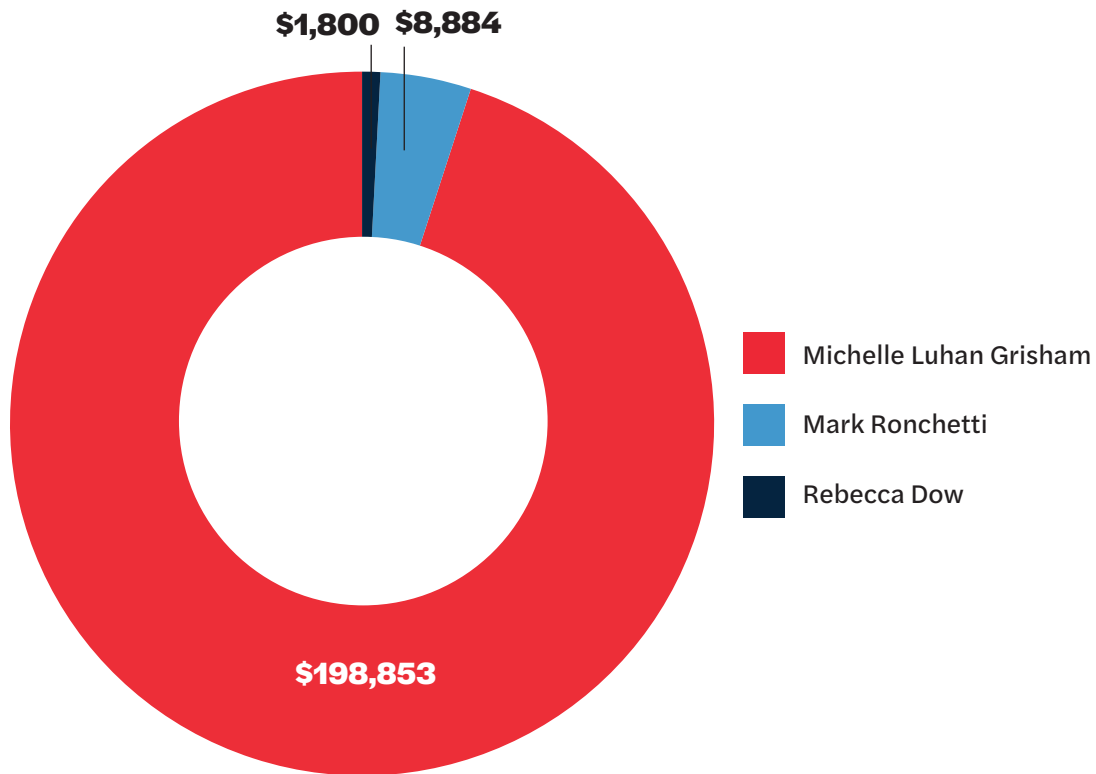
CHAPTER 4

WHO GETS THE CASH? NM RECIPIENTS OF ALCOHOL LARGESSE

The alcohol industry contributes a significant amount of money to New Mexico state campaigns. In the 2022 election cycle (December 2020 through November 2022, the industry, including its lobbyists and PACs, contributed \$591,491 to legislative and statewide candidates from both political parties.

During the 2022 election cycle, the largest recipient of alcohol contributions was Gov. Michelle Lujan Grisham, who received \$198,853 from Dec. 2018 through Nov. 2022.

2022 Gubernatorial Candidates - Contributions Received from the Alcohol Industry



From 2013-2023 the largest donors to any single candidate were lobbyist Jason Weaks, who gave \$37,256 to Grisham, and Premier Distributing, which gave \$31,000 to Grisham.

There is only one governor, but the New Mexico legislature includes 70 representatives and 42 senators. Many more run for office. From 2013-2023, the alcohol industry contributed \$1,323,728 to all candidates for the legislature, and \$674,780 to statewide candidates.

The top legislative recipients of alcohol cash are:

Chart D: Top Legislative Candidate Recipients, 2013-2023 (above \$15,000)

Candidate	Contributions Received
Gentry, Nate	\$37,945
Lundstrom, Patty	\$37,400
Gallegos, Doreen	\$34,538
Tripp, Don	\$26,183
Maestas, Moe	\$24,650
Egolf, Brian	\$23,550
Sanchez, Clemente	\$23,500
Baldonado, Alonzo	\$22,322
Fajardo, Kelly	\$22,075
Smith, John Arthur	\$21,200
Harper, Jason	\$21,170
Papen, Mary Kay	\$20,419
Martinez, Ken	\$19,850
Hochman-Vigil, Day	\$18,800
Rodella, Debbie	\$18,479
Martinez, Javier	\$18,100
Munoz, George	\$16,600
Trujillo, Carl	\$16,225
Ivey-Soto, Daniel	\$15,830
Rehm, Bill	\$15,425
Gould, Candace	\$15,055

A more complete list of Senate and House recipients is included in the Appendix 1.



The top statewide recipients of alcohol cash from 2013-2023 are:

Chart E: Top Statewide Candidate Recipients, 2013-2023 (above \$5,000)

Candidate	Contributions Received
Lujan Grisham, Michelle	\$322,380
Martinez, Susana	\$136,639
Torrez, Raul	\$42,650
Colon, Brian	\$21,050
Balderas, Hector	\$19,450
Sanchez, John	\$18,800
Morales, Howie	\$13,400
King, Gary	\$13,200
Pearce, Steve	\$12,000
Apodaca, Jeff	\$11,500
Ronchetti, Mark	\$8,884
Maestas, Joseph	\$7,650
Garcia Richard, Stephanie	\$7,612
Keller, Tim	\$6,875

A more complete list of statewide candidate recipients is included in the Appendix 1.

The industry also made contributions to political committees and PACs run by parties, candidates and other interest groups. Those groups then passed on the industry’s money to candidates or other PACs.

For example, alcohol interests and lobbyists gave \$27,200 to the Speaker Fund from 2013-2023 and \$8,080 to the NM House Republican Campaign Committee.

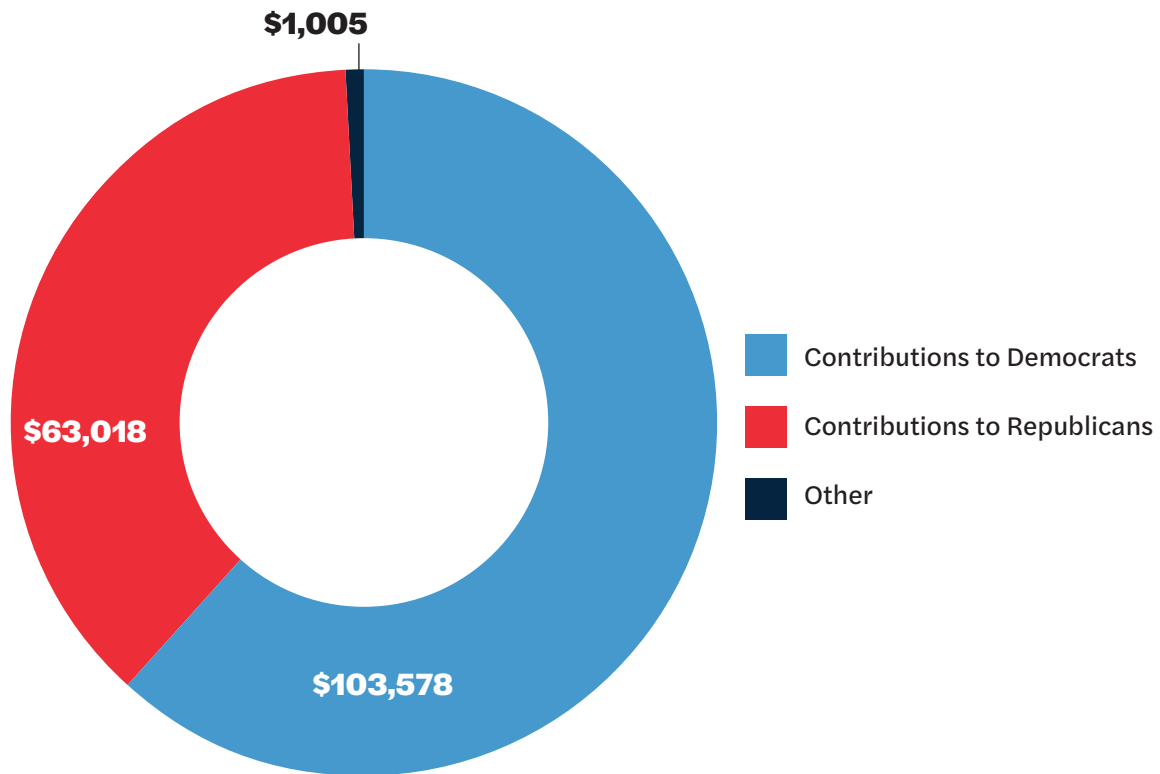
Chart F: Top PAC Recipients, 2013-2023 (\$5,000 or greater)

PAC	Contributions Received
Democratic Party of NM	\$56,000
The Speaker Fund	\$27,200
CASA	\$10,000
NM House Republican Campaign Committee	\$8,080
PAC 22	\$7,933
Real New Mexican Leadership	\$7,500
NM House Democratic Campaign Committee	\$6,200
Republican Party	\$5,200
NM Forward	\$5,000

A more complete list of PAC recipients is included in Appendix 1.

Although the industry made contributions to candidates from both parties, the Democrats and their PACs, who have been in the majority in all but two years, received the lion's share - 61.8% - while the Republicans received 37.6%. In total, the industry made contributions of \$167,603 to local, state, and other special interest PACs.

Total Alcohol Industry Contributions



Industry contributions have been targeted to members of the Senate and House leadership (and their PACs), as well as key committee chairpersons and members.

**Chart G: Contributions to past and present legislative leaders and chairs
(those receiving over \$10,000 from 2013-2023)**

Legislator	Contributions Received
Gentry, Nate	\$37,945
Lundstrom, Patty	\$37,400
Gallegos, Doreen	\$34,538
Tripp, Don	\$26,183
Maestas, Moe	\$24,650
Egolf, Brian	\$23,550
Sanchez, Clemente	\$23,500
Smith, John Arthur	\$21,200
Harper, Jason	\$21,170
Papen, Mary Kay	\$20,419
Martinez, Ken	\$19,850
Rodella, Debbie	\$18,479
Martinez, Javier	\$18,100
Munoz, George	\$16,600
Ivey-Soto, Daniel	\$15,830
Trujillo, Jim	\$13,700
Cervantes, Joseph	\$13,450
Padilla, Michael	\$13,300
Lente, Derrick	\$12,430
Martinez, Richard	\$11,750
Wirth, Peter	\$11,450
Ingle, Stuart	\$10,950
Small, Nathan	\$10,822
Stewart, Mimi	\$10,700
Cook, Zachary	\$10,050
Total	\$478,016

Some Republicans in this list were committee chairs in 2016, when the Republicans controlled the House of Representatives.



CHAPTER 5

THE SEARCH FOR A TAX INCREASE IN 2017: NEW LESSONS FOR SEN. CISCO MCSORLEY AND A RUDE INTRODUCTION FOR REP. JOANNE FERRARY

In 2017, Sen. Cisco McSorley was no stranger to liquor legislation. Since coming to the legislature in 1984 he had introduced dozens of bills to increase the liquor excise tax both at the state and local levels.

McSorley's Senate Bill 314 in 2017 sought to increase the tax by 25 cents per drink. This time he was joined by health activist and newly elected Representative Joanne Ferrary, who, along with Reps. Linda Trujillo, Christine Trujillo, Debra Sariñana and Angelica Rubio, carried a duplicate bill, House Bill 398.

A newly formed advocacy group, Alcohol Taxes Save Lives, was also pushing for an increase on the grounds that higher taxes would reduce alcohol consumption and save lives while increasing revenue. The group, headed by two Santa Fe public health activists, Peter DeBenedittis (who would run for Governor in 2018) and Shelley Mann-Lev testified before committees, citing New Mexico's #1 rank for deaths by excessive drinking, and other indications of alcohol's dangers.

In the previous year the group released results of a poll, taken by Research and Polling, which indicated that **76% of New Mexicans were at least somewhat in favor of an increased alcohol tax.**⁵²

There was one major exemption: there would be no tax increase on microbrewed beer.

McSorley and Ferrary's bills called for a 25-cent-a-drink increase over the rates established in 1993. The tax would climb from 3.8 cents to 28.9 cents for a container of beer, from 6.7 cents to 31.6 cents for a glass of wine and from 22.2 cents to 53.5 cents for a glass of liquor.

But there was one major exemption: there would be no tax increase on microbrewed beer.

The proposed new taxes would generate approximately \$150-160 million per year for the general fund and the DWI grant fund. Every four years the tax would be adjusted to reflect changes in the cost of living, something that had not been done before.

Sen. McSorley, who represented the Nob Hill area of Albuquerque, was optimistic going into the session. The state was in a recession and needed the revenue. His own constituent questionnaire showed that 85% of his constituents were in favor.

But at a pre-legislative town hall, things got heated as local brewers, many of them wearing New Mexico Brewers Guild shirts reading, "Support Local Beer" made their opposition known. "Liar," Jeff Erway reportedly yelled at McSorley as the Senator tried to explain that small local breweries were exempt from the tax hike. "Just look at

⁵² "Legislative panel hears arguments for liquor tax increase," Andy Lyman, *NM Political Report*, Aug. 23, 2016, <https://nmpoliticalreport.com/2016/08/23/legislative-panel-hears-arguments-for-liquor-tax-increase/>

the bill,” said McSorley holding up a copy of the legislation.⁵³

Later, the members of the Brewers Guild admitted that yes, small brewers actually were excluded from the hike, but they still objected because some of their members wanted to grow and become bigger brewers at the level (50,000 barrels) where the new tax would kick in. The tax would have a chilling effect, they said.

McSorley explained to the crowd that alcohol is a price-sensitive commodity, and an increase would mainly affect younger drinkers who were very sensitive to the cost, thus cutting down on accidents and binge drinking. The brewers argued that the tax would be regressive, hitting poor people the hardest, a refrain that was repeated in the session.⁵⁴

During the 2017 session McSorley said he met with lobbyists from the industry—“the big guns,” as he called them—with the New Mexico Restaurant Association playing a prominent role. The brewers, even though they were not affected, went along with the large group.

“I was told they were being held hostage,” McSorley said.

McSorley’s bill was tabled in the Senate Corporations and Transportation Committee on Feb. 20, 2017. Chairman Clemente Sanchez told the sponsor to talk to industry representatives and come back with a lower compromise tax. But industry lobbyists told Sanchez that they wouldn’t budge on the taxes.⁵⁵

The committee vote is no longer available, but the tabling motion killed it dead in its tracks. Here’s a look at alcohol industry contributions received by then-committee members.⁵⁶

- Sen. Clemente Sanchez, Chairman: \$9,000
- Sen. Benny Shendo, Vice-Chairman \$2,650
- Sen. Bill Sharer \$3,700
- Sen. Michael Padilla \$6,150
- Sen. Bill Tallman \$0
- Sen. Mary Kay Papen \$11,000
- Sen. James White \$3,600
- Sen. Pat Woods \$2,350

That’s a total of \$38,450 from liquor interests to members of the committee.

Sen. Mary Kay Papen’s daughter Allison Kuper-Smith is the lobbyist for the New Mexico Restaurant Association.

Meanwhile In the House, Rep. Ferrary’s House Bill 398 received three committee referrals, which is almost a guarantee that the bill will die because it will not have time to make it through the process in the short New Mexico legislative session.

But it didn’t matter. The bill was killed during its first hearing in the House Health and Human Services Committee, with every member except Ferrary voting against it.⁵⁷ Committee members had received \$7,150 contributions

53 Interview with Cisco McSorley, June 29, 2023.

54 “Battle lines are drawn for SB 314 after contentious town hall,” *Dark Side Brew Crew*, posted by Stoutmeister, Feb. 7, 2017, <https://nmdarksidebrewcrew.com/2017/02/07/battle-lines-are-drawn-for-sb314-after-contentious-town-hall/sb314townhallcrowd/>

55 As reported by KOB TV, Feb. 2, 2017.

56 Figures compiled from campaign reports, New Mexico Secretary of State, <https://login.cfis.sos.state.nm.us/#/index> (See appendix 1 for more.)

57 *The Santa Fe New Mexican*, March 11, 2017.

from the industry. Committee members voting against the measure received an average contribution of \$1,192, compared to the Ferrary's \$0 contribution.⁵⁸

- Deborah Armstrong, Chair \$600
- Liz Thompson, Vice Chair \$2,000
- Gail Armstrong \$0
- Gail Chasey \$1,050
- Rebecca Dow \$1,300
- Joanne Ferrary \$0
- James Townsend \$2,200

With craft brewers and wineries in the forefront and backed by contributions to key committee members, the industry was once again able to keep the excise tax at bay. It had not even been necessary to call on Gov. Susana Martinez, who had earlier indicated she was opposed to any increase in taxes—including alcohol.

58 Figures compiled from campaign reports, New Mexico Secretary of State, <https://login.cfis.sos.state.nm.us/#/index> (See appendix 1 for more.)



CHAPTER 6

PREFERENTIAL TAX TREATMENT FOR CRAFT BEER, DISTILLERIES: A NO-BRAINER FOR LEGISLATORS IN 2019

Who can argue with an economic boom? Certainly not the New Mexico legislature, and certainly not Gov. Michelle Lujan Grisham, who signed a bill giving tax breaks to microbrewers, hard cider makers and craft distillers.

Senate Bill 413, sponsored by Senate President Mimi Stewart, changed the definition of microbrewer to allow for lower excise tax rates for larger brewers and established new, lower tax rates for cider and spirituous liquors manufactured by craft distillers.

The new rates were an effort to support the growing local industry, which in 2019 — before Covid hit — was experiencing a growth spurt. The number of New Mexico breweries had grown to 88 and the number of distilleries to over 30.

The popularity of breweries was in full swing, and a cocktail culture was developing with more than 30 distilleries statewide. There were tours along the “Distillery Trail” from Red River to Deming. Articles appeared in the *New Mexico Magazine*.⁵⁹

If only the taxes could be adjusted, the New Mexico Brewers Guild and the New Mexico Distillers Guild said, the small but growing niche could really take off. Eager for economic development, the legislators were all ears.

It didn't hurt that breweries had begun to contribute to candidates, with Marble Brewery, the second largest at the time, giving the largest contribution possible under state law to then-candidate Lujan Grisham (\$5,500 in April 2017 and \$5,500 in August 2018). Tractor Brewing gave \$7,850 to various legislative candidates and PACs and \$10,400 to Lujan Grisham in September 2022 for her re-election campaign.

The New Mexico Brewers Guild donated a total of \$8,450 to various candidates and PACs in two years between 2020 and 2022, and the distillers gave \$1,500 to the Speaker's PAC in 2020.

Lobbyists for brewers and distillers were also generous. For instance, Jason Weaks, lobbyist for both the New Mexico Brewers Guild and the New Mexico Distillers Guild gave more than \$177,000 between 2013 and 2023. Still, contributions from small craft distillers and brewers were dwarfed by contributions from the big boys. Anheuser-Busch contributed more than \$305,000 between 2013 and this year. Premier Distributing has contributed more than \$163,000 during the past 10 years.⁶⁰

SB 413 changed the definition of a microbrewer (small brewer) from a brewer who produces between 5,000-15,000 barrels of beer per year to one who produces up to 200,000 barrels.

59 Natalie Bovis, *New Mexico Magazine*, Aug. 2015, <https://www.newmexico.org/nmmagazine/articles/post/tasting-nm-strong-stuff-92082/>

60 See Appendix 2 for complete details.

And it lowered taxes on the small brewers.

Under the old law, microbrewers paid .08/gallon on the first 10,000 barrels produced and .28/gal for volumes of 10,000 to 15,000 barrels. Everything over that was taxed at the standard rate on beer, which is .41/gal. The new law set a .08 per gallon tax on the first 30,000 barrels, a .28/gal tax for volumes between 30,000-60,000 and .41 for volumes from 60,000-200,000.

For craft distilled liquor, the rate depended on the percentage of alcohol it contained. Instead of the flat \$1.60 per liter, the tax for liquor up to 10 percent alcohol became .08 for the first 250,000 liters; for spirits over 10 percent, it became .32 per liter on the first 175,000 liters and .65 per liter for the next 175,000. The reduction was sizeable.

Under the bill, the definition of cider was changed to include cider made from pears and to increase the maximum percent of alcohol by volume allowed to 8.5 percent from 7 percent. The tax rates for hard cider were reduced from .41 per gallon to the same formula as used for beer.

The bill also expanded the hours of Sunday sales, allowing sales of all small manufacturers and bottles of wine to start at 11 a.m. in certain districts and allowed private celebration permits.

SB 413 flew through legislative committees with few negative votes. It passed Senate Public Affairs Committee (where it was amended to its final form) 5 to 0, Senate Corporations 4 to 1, and House Taxation 10 to 1.

The changed tax rate would cost the state general fund and the local DWI grant fund over a million by FY 22 -23, the Department of Tax and Revenue estimated.⁶¹

When the bill reached the floor of both houses, the bipartisan love fest continued. In the Senate, 36 senators voted yes; only three—Sens. Greg Baca, John Sapien and Pat Woods--voted no. Sens. Ivey Soto, Martinez and Pirtle were not present. Almost all had received contributions from the alcohol industry.

61 Fiscal Impact Report, Feb. 22, 2019.

Chart H: NM Senators – 2019
(Industry contributions received between Jan. 2013 - March 2019)

<i>Senators (alphabetical)</i>		<i>Senators (alphabetical)</i>	
Baca, Greg	\$1,500	Papen, Mary Kay	\$12,150
Brandt, Craig	\$3,300	Payne, William	\$6,150
Burt, William	\$1,900	Pinto, Shannon	\$ -
Campos, Pete	\$3,400	Pirtle, Cliff	\$1,850
Candelaria, Jacob	\$1,000	Ramos, Gabriel	\$ -
Cervantes, Joseph	\$5,000	Rodriguez, Nancy	\$1,350
Cisneros, Carlos	\$5,850	Rue, Sander	\$3,550
Fulfer, Gregg	\$ -	Sanchez, Clemente	\$ 13,500
Gould, Candace	\$7,500	Sapien, John	\$ 6,950
Griggs, Ron	\$2,850	Sedillo Lopez, Antoinette	\$ -
Ingle, Stuart	\$7,450	Sharer, Bill	\$ 3,700
Ivey-Soto, Daniel	\$3,250	Shendo, Benny	\$ 3,400
Kernan, Gay	\$1,050	Smith, John Arthur	\$ 11,950
Lopez, Linda	\$2,250	Soules, Bill	\$ 1,900
Martinez, Richard	\$11,050	Stefanics, Liz	\$ 300
Moores, Mark	\$9,700	Steinborn, Jeff	\$ 1,350
Munoz, George	\$4,850	Stewart, Mimi	\$ 2,800
Neville, Steven	\$4,500	Tallman, Bill	\$ 100
O'Neill, Bill	\$2,050	White, James	\$ 4,100
Ortiz Y Pino, Gerald	\$1,850	Wirth, Peter	\$ 5,650
Padilla, Michael	\$7,150	Woods, Pat	\$ 2,350

The 36 yes voters received an average of \$3,988 and the three no voters received an average of \$3,600.

In the House, the bill passed 54 to 10 with three excused. Contributions to the Representatives can be seen here.

Chart I: NM Representatives - 2019
(Industry contributions received between Jan. 2013 - March 2019.)

<i>Representatives (alphabetical)</i>		<i>Representatives (alphabetical)</i>		<i>Representatives (alphabetical)</i>	
Akhil, Abbas	\$250	Garcia, Harry	\$650	Rehm, Bill	\$7,875
Alcon, Eliseo	\$2,900	Garcia, Miguel	\$500	Romero, Andrea	\$500
Allison, Anthony	\$250	Garratt, Joy	\$250	Romero, G. Andres	\$850
Anderson, Phelps	\$ -	Gonzales, Bobby	\$5,250	Roybal Caballero, Patricia	\$450
Armstrong, Debbie	\$2,250	Harper, Jason	\$11,300	Rubio, Angelica	\$ -
Armstrong, Gail "Missy"	\$3,200	Herrera, Susan	\$500	Ruiloba, Patricio	\$6,160
Baldonado, Alonzo	\$17,272	Hochman-Vigil, Day	\$1,150	Salazar, Tomas	\$500
Bandy, Paul	\$1,100	Johnson, Doreen Wonda	\$1,250	Sanchez, Joshua	\$900
Bash, Karen	\$250	Lara Cadena, Micaela	\$1,250	Sarinana, Debbie	\$ -
Black, Rachel	\$500	Lara, Ray	\$1,100	Schmedes, Gregg	\$500
Brown, Cathrynn	\$3,700	Lente, Derrick	\$7,430	Scott, Larry	\$1,150
Chandler, Christine	\$750	Lewis, Tim	\$9,975	Small, Nathan	\$900
Chasey, Gail	\$1,900	Louis, Georgene	\$2,200	Stansbury, Melanie	\$150
Chatfield, Jack	\$500	Lundstrom, Patty	\$11,513	Strickler, James	\$7,650
Cook, Zachary	\$8,850	Madrid, Willie	\$250	Sweetser, Candie	\$1,859
Crowder, Randal	\$1,750	Maestas, Moe	\$12,200	Thomson, Liz	\$2,300
Dow, Rebecca	\$4,500	Martinez, Javier	\$2,200	Townsend, James	\$2,700
Egolf, Brian	\$14,050	Martinez, Rudy	\$5,000	Trujillo, Christine	\$1,050
Ely, Daymon	\$500	McQueen, Matthew	\$750	Trujillo, Jim	\$13,200
Ezzell, Candy	\$4,600	Montoya, Rodney	\$3,250	Trujillo, Linda	\$650
Fajardo, Kelly	\$17,775	Nibert, Greg	\$1,650	Williams Stapleton, Sheryl	\$3,400
Ferrary, Joanne	\$250	Powdrell-Culbert, Jane	\$5,500	Zamora, Martin	\$ -
Figueroa, Natalie	\$500	Pratt, Bill	\$250		
Gallegos, David	\$2,400				
Gallegos, Doreen	\$14,373				

On the House floor, the 54 members voting for the bill had received an average of \$4,063; the 10 representatives voting against the bill had received an average industry contribution of \$2,915.

Gov. Lujan Grisham signed the bill on April 3, 2019. She had received more than \$89,000 in combined contributions from small breweries and distillers and their lobbyists. More than \$37,000 came from lobbyist Jason Weeks.

Chart J: Lujan Grisham, Michelle

Weaks, Jason	\$37,257
Baldwin, William	\$11,500
Marble Brewery	\$11,000
Tractor Brewing Co.	\$10,400
Arizona Fine Wine & Spirits	\$10,400
NM Brewers Guild	\$4,000
Park, Alfred	\$2,500
Erway, Jeffrey (La Cumbre)	\$1,250
Stone Face Package Liquors	\$750
Grand Total	\$ 89,057

Some would argue that the feel-good bill may have some painful effects. By creating longer sales hours, and encouraging more production at lower prices, and spurring the growth of breweries (there are now 108 or more) it inevitably leads to more drinking. But problem drinking? The kind that creates the drunk driving, violence and disease cited by public health advocates? That is the question.

Probably not, according to a 2022 UNM study of the industry.

Alcohol Regulation and Excise Taxes in New Mexico concluded that while craft beer sales increased in response to this tax change, total beer consumption did not increase because there was a corresponding decrease in consumption of beer coming from other states.

“This suggests that it is unlikely that there were negative effects associated with this excise tax change in the form of negative externalities associated with increased alcohol consumption. Also, we found no increase in alcohol-related traffic deaths corresponding to the change in the state tax code.”⁶²

Whatever the effect, SB 413’s swift passage was evidence of the growing influence of the alcohol industry—with a twist of homebrewed beer, cider and spirits.

62 UNM Dept. of Economics Study “Alcohol Regulation and Excise Taxes in New Mexico” David S. Dixon, Brady P. Horn and Ana Paula Milan Hinostriza, https://econ.unm.edu/common/documents/economic-consequences-of-alcohol-legislation-in-new-mexico_final.pdf

CHAPTER 7

2021 LIQUOR REFORM BILL DIVIDES INDUSTRY, GENERATES CAMPAIGN CASH AND MIXED RESULTS

The idea originated during the height of the Covid 19 pandemic. It was a fairly straightforward and limited idea: the state should allow restaurants to deliver wine and beer with food orders.

But by the time the proposal, known as House Bill 255, hit the 2021 Legislature it had expanded drastically, becoming a major overhaul to modify the state's liquor license laws, which last underwent a major change in 1981. The bill, sponsored by Rep. Antonio "Moe" Maestas, changed the annual fees for restaurant liquor licenses, reducing the price to between \$2,500 and \$10,000, depending on the size of the business.

Before the bill went into effect, the average price of a full liquor license was about \$350,000. Beer and wine licenses, which were established in 1981, cost \$1,150 annually.

Maestas and other bill supporters said the new legislation eventually would replace the old system in which people who paid hundreds of thousands of dollars for liquor licenses years ago held a virtual monopoly on the bar and restaurant business because newcomers can't afford to buy in. Because the state strictly limited the number of licenses, the value of those pieces of paper increased sharply in value.

Public health advocates say the bill will expand access to alcohol and create more problems.

The bill was not partisan. Maestas, a Democrat, had co-sponsors from both parties. Opponents spanned the ideological range as well.

And it definitely can't be said that this was a bill backed by a monolithic liquor industry. While small business, which would benefit from less expensive licenses, supported it, older and larger businesses were opposed.

Supporters said HB 255 would bolster the restaurant industry. "This will save our restaurant industry, boost our tourism industry and enhance our hospitality industry and get our economy going as soon as possible," Maestas said.⁶³

But bill opponents countered that HB 255 hurt those longtime liquor license holders, many of which were small, locally owned operations.

"These folks are petrified," Rep. James Strickler, R-Farmington, said during the House floor debate in the House. He cited a restaurant owner in his town who recently purchased a high-priced liquor license. "Talk about bad timing," Strickler said. "He's on the hook."⁶⁴

63 "New Mexico House OKs sweeping liquor license overhaul," Robert Nott, *The Santa Fe New Mexican*, Feb. 23, 2021, https://www.santafenewmexican.com/news/legislature/new-mexico-house-oks-sweeping-liquor-license-overhaul/article_Oddb6d64-75e7-11eb-a632-37263cc01264.html

64 "New Mexico House OKs sweeping liquor license overhaul," Robert Nott, *The Santa Fe New Mexican*, Feb. 23, 2021, https://www.santafenewmexican.com/news/legislature/new-mexico-house-oks-sweeping-liquor-license-overhaul/article_Oddb6d64-75e7-11eb-a632-37263cc01264.html



But to ease the burden of the legacy liquor licensees, HB 255 also included tax deductions – \$50,000 for four years – meant to help current liquor license holders recoup costs if the value of their licenses declined.

And speaking of taxes, the bill originally included a two-percent tax on retail alcohol sales to help pay for the changes. However, that part of the bill was eliminated during the Senate floor debate, an action that was cheered by the newer small breweries, wineries and distilleries, as well as the legacy liquor industry in the state.⁶⁵

While most the discussion of the bill was about the price of liquor licenses, the original purpose of the bill, allowing alcohol deliveries with food purchase, remained.

The first stop for HB 255 was House Commerce and Economic Development Committee, which is chaired by Maestas. On Feb. 10, 2021, following a 3½ hour meeting in which restaurant owners with longtime liquor licenses lined up to blast the measure, the committee voted 6-3 to pass it through without recommendation.⁶⁶

Here is how the members voted and how much in campaign contributions they had received from alcohol industry lobbyists, PACs and lobbyists at the time of the vote:

For advancing the bill:

- ✓ Rep. Antonio “Moe” Maestas, committee chairman (\$20,950 since 2013)
- ✓ Rep. Natalie Figueroa (\$1,100 since 2018)
- ✓ Rep. Kelly Fajardo (\$21,475 since 2013)
- ✓ Rep. Wonda Johnson (\$1,450 since 2014)
- ✓ Rep. Javier Martinez (\$9,550 since 2014)
- ✓ Rep. Linda Serrato (\$500 since 2020)

Against:

- ✗ Rep. Alonzo Baldonado (\$21,722 since 2013)
- ✗ Rep. Rebecca Dow (\$8,750 since 2016)
- ✗ Rep. Powdrell-Culbert (\$6,830 since 2013)

Excused:

- Rep. Doreen Gallegos, who had received \$19,272 since 2013, (including \$9,615 from her husband, lobbyist Scott Scanland) was excused from this committee meeting, but she voted for the bill on the House floor.

Those who voted for the bill had received a total of \$55,025; those who voted against it had received \$37,302. Committee members who voted yes received an average of \$9,170 in contributions, while opponents received an average of \$12,434. Altogether members of the committee collected \$111,599 from the alcohol industry and their lobbyists.

The bill then went on to the House Taxation and Revenue Committee, which voted 8-3 to recommend passage on Feb. 17, 2021.⁶⁷

65 “New Mexico liquor license reform heads for governor’s desk” Robert Nott, *The Santa Fe New Mexican*, March 9, 2021, https://www.santafenewmexican.com/news/legislature/new-mexico-liquor-license-reform-heads-for-governors-desk/article_4240d054-8126-11eb-a318-3f42f4aaa261.html

66 <https://www.nmlegis.gov/Sessions/21%20Regular/bills/house/HB0255CE1.pdf>

67 <https://www.nmlegis.gov/Sessions/21%20Regular/bills/house/HB0255TR1.pdf>

Here is how the members voted and how much in campaign contributions they've received from alcohol industry lobbyists, PACs and lobbyists at the time of the vote:

For:

- ✓ Rep. Javier Martinez, committee chairman. (See above vote)
- ✓ Rep. Christine Chandler (\$1,500 since 2018)
- ✓ Rep. Micaela Lara Cadena \$2,500 (since 2018)
- ✓ Rep. Antonio "Moe" Maestas (See above vote)
- ✓ Rep. Rod Montoya (\$4,250 since 2014)
- ✓ Rep. Andrea Romero (\$750 since 2018)
- ✓ Rep. Melanie Stansbury (\$1,350 since 2018)
- ✓ Rep. Joshua Hernandez had received no contributions from the liquor industry at the time of this vote.

Against:

- ✗ Rep. Jason Harper (\$15,900 since 2013)
- ✗ Rep. Larry Scott (\$1,950 since 2014)
- ✗ Rep. Jim Strickler (\$8,650 since 2013)

Excused:

- House Speaker Brian Egolf (\$21,550 since 2013)
- Rep. Tara Lujan had received no contributions from the liquor industry at the time of this vote.

Members of the House Taxation Committee had collected \$88,900 at the time of this vote, with members voting for the bill collecting \$40,850 and those against received \$26,500. Those voting yes in committee received an average of \$5,106, while opponents received an average of \$8,833.

After that hearing, HB 255 went on to the House floor, where on Feb. 23, 2021, it passed by a vote of 41 to 27.⁶⁸

Most of the debate centered around the notion of opening up the liquor industry to more restaurants and the effect of cheaper liquor licenses on older restaurants that paid significantly more for their licenses.

But at least two Republican representatives, then-Minority Jim Townsend and Rebecca Dow, criticized the proposed retail tax, which at that point still was part of HB 255. (Townsend ended up voting for HB 255, while Dow voted against it.)

When the bill went over to the Senate, it got only one committee assignment, which those in the know say means the leadership of that chamber was in favor of it.

Senate Majority Leader Peter Wirth and Sen. Ron Griggs, a Republican, had co-sponsored a similar bill, Senate Bill 6, which had passed through the Senate Tax, Business and Transportation Committee on Jan. 28 with an 8-2 vote.

But when HB 255 passed the House, all attention to the liquor license issue in the Senate switched to the bill that already had made it through a chamber.

68 <https://www.nmlegis.gov/Sessions/21%20Regular/votes/HB0255HVOTE.pdf>



On March 3 the Senate Judiciary Committee gave a do-pass recommendation to the House Bill by a 5-4 margin.⁶⁹

Here is how the members voted and how much in campaign contributions they've received from alcohol industry lobbyists, PACs and lobbyists at the time of the vote:

Voting for do-pass

- ✓ Sen. Joe Cervantes, committee chairman (\$10,200 since 2013)
- ✓ Senate President Pro-tem Mimi Stewart (\$6,700 since 2013)
- ✓ Sen. Daniel Ivey-Soto (\$9,750 since 2013)
- ✓ Sen. Bill O'Neill (\$3,650 since 2013)
- ✓ Sen. Katy Duhigg had received no contributions from the liquor industry at the time of this vote.

Voting against

- ✗ Sen. Greg Baca (\$5,450 since 2016)
- ✗ Sen. Mark Moores (\$13,100 since 2013)
- ✗ Sen. Linda Lopez (\$4,250 since 2013)
- ✗ Sen. Cliff Pirtle (\$2,700 since 2013)

Those who voted for the bill collected \$30,300; those who voted against it collected \$25,500. In the committee, supporters received an average of \$6,060, while opponents received \$6,375. Altogether committee members collected \$55,800.

On March 9, 2021, the bill went to the Senate floor. During that floor session, lawmakers passed several amendments.

One amendment outlawed the sale of “minis” — bottles containing 3 ounces or less – except for onsite consumption. Sen. Lopez, who sponsored the amendment, said this was a move to help stop drunken driving.

Bill sponsor Maestas agreed with the move. “They’re bad,” he said of minis. “They’re convenient if you want to take a miniature, you know, into the movie theater or whatever. But for the most part, they lead to poor public health outcomes.”⁷⁰

Sen. George Muñoz (Gallup) convinced senators to adopt another amendment to prohibit gas stations in McKinley County, “from selling alcohol except beer with less than 10% alcohol content,” another measure, he said, to try to decrease drunken driving.

One amendment required all those having alcohol delivered to them to show identification proving they are at least 21 years old.

And another Senate floor amendment, sponsored by Sen. Ron Griggs, got rid of the section that would have enacted a two-percent tax on retail alcohol sales. The tax had been the subject of “intense pressure and advertising,” according to Sen. Ivey Soto, a co-sponsor of the bill, and it was removed by unanimous consent.

69 <https://www.nmlegis.gov/Sessions/21%20Regular/bills/house/HB0255JU1.pdf>

70 “New liquor law to ban most mini sales in New Mexico,” Daniel J. Chacón, *The Santa Fe New Mexican*, March 23, 2021, https://www.santafenewmexican.com/news/local_news/new-liquor-law-to-ban-most-mini-sales-in-new-mexico/article_454d11d8-8bec-11eb-91e7-3797d461bcff.html

The full Senate voted 29-11 to pass HB 255.⁷¹ Later that day, the House concurred with all the Senate’s amendments.

On March 17, Gov. Michelle Lujan Grisham signed it into law.

Adopted during Covid, this measure was seen as a stimulus for the hard-hit restaurant industry and a convenience for homebound consumers. Unlike bills increasing the excise tax, it did not generate universal opposition from the alcohol industry. In fact, it generated support—and more important, contributions. This time the contributions were from both sides of the issue, pro and con, and legislators benefited tremendously.

Thanks to an amendment by Sen. Jeff Steinborn, the effects of home delivery of alcohol on consumption and public safety will be studied by the Department of Health after five years have elapsed. Public health advocates have long insisted that increased access—whether it be through home deliveries, increased outlets in more places or lax serving practices leads to more drinking.

“This bill was part of a national effort to expand access to alcohol,” said Shelley Mann-Lev, co-chair of the Alcohol Harms Reduction Alliance in an email sent to Common Cause. “While two beneficial amendments were included, the overall impact of increased alcohol outlet density has likely contributed to our state’s ever-worsening alcohol harms.”

Results of Steinborn’s study should tell the tale.

71 <https://www.nmlegis.gov/Sessions/21%20Regular/votes/HB0255SVOTE.pdf>



Watching the progress of the effort to raise the alcohol tax during the 2023 session of the state Legislature was akin to watching an ice cube melt in the hot sun.

It just kept getting smaller and smaller until there was nothing left at all.

Once again, Rep. Ferrary led the effort in the House, initially with a stand-alone measure, House Bill 230. It would have raised the excise tax on liquor to about 25 cents a drink. Sen. Antoinette Sedillo Lopez introduced a duplicate measure, SB 259, in the Senate.

While some were skeptical about the 25-cent tax becoming a reality in 2023, Ted Alcorn of *NM In Depth* said a couple of factors were working in favor of such legislation being taken seriously.

“First, more New Mexicans were dying from drinking than ever: from 2017 to 2021 alcohol attributable deaths statewide rose 47 percent, and now account for one in five deaths of working-age New Mexicans,” he wrote. “And second, local media had covered the crisis in depth.”⁷²

This time, the advocates for the tax increase had enlisted national experts and broadened their coalition to include doctors from Gallup, providers of behavioral health services, DWI council members, tribal health authorities.

The new coalition was dubbed The Alcohol Harms Alleviation Committee.⁷³

Their main contention, that an increase in alcohol taxes was the single best way to reduce excessive drinking, was backed by expert testimony⁷⁴ and studies from the World Health Organization and the Centers for Disease Control (CDC)⁷⁵.

In addition, there were real world examples of states that had passed increased taxes —like Maryland—and experienced drops in underage drinking, binge drinking and drunk driving.⁷⁶

72 “How a 25¢-per-drink alcohol tax fell apart,” Ted Alcorn, *NM In Depth*, March 31, 2023, <https://nmindepth.com/2023/how-a-25c-per-drink-alcohol-tax-fell-apart/>

73 <https://ahacoalition.org>

74 Dr. David Jernigan, from Boston University School of Public Health, testified in the Senate Tax Business and Transportation Committee, Feb. 25, 2023.

75 World Health Organization, Technical Annex (Version dated 12 April 2017) Updated Appendix 3 of the WHO Global NCD Action Plan 2013-2020. See also Center for Disease Control and Prevention’s Community Preventative Services Task Force, <https://www.thecommunityguide.org/topics/excessive-alcohol-consumption.html>

76 Lavoie M-C, Langenberg P, Villaveces A, et Al. Effect of Maryland’s 2011 Alcohol Sales Tax Increase on Alcohol Positive Driving. *American Journal of Preventive Medicine* 2017;53 (1): 17-24 and Porter KP, Frattoli S, Pannu H Public Health Policy in Maryland: Lessons from Recent Alcohol and Cigarette Tax Policies. *The Abell Report*. 2018,31 (2): 1-20.

Watching the progress of the effort to raise the alcohol tax during the 2023 session of the state Legislature was akin to watching an ice cube melt in the hot sun. It just kept getting smaller and smaller until there was nothing left at all.

Also attached to the bill was a provision that 45 percent of the revenue generated should go into a special fund, the Alcohol Harms Reduction Fund, instead of the General Fund. The earmarking measure—to make sure the revenue was used to treat and prevent alcohol related illness—was widely supported by other legislators, and even by the liquor industry itself.

But as in previous attempts to raise this excise tax, the alcohol industry used small local breweries on the front lines and long-time lobbyists to work the lawmakers. And once again, there would be disappointment in the end for public health advocates.

The main arguments alcohol lobbyists made against the bill were that it would harm the hospitality industry, punish responsible drinkers and, they claimed, not decrease drinking. Taxes were already high in comparison to other states, they said.

Dan Weaks, a lobbyist for New Mexico Grape Growers and The Wine Institute, told Common Cause recently that one of the biggest misconceptions about HB 230 and similar efforts was that significantly higher alcohol taxes would be “a panacea” for the state’s alcohol problems.

Weaks said that a higher tax might not affect the amount of drinking in the state as much as advocates think because of what he called “downshifting”: Low-income and younger drinkers spending their money on cheaper forms of alcohol.

Under the 25-cent per drink tax increase as proposed, Weaks said, “local, small producers” would be disproportionately hit.

“We have a lot more to lose if they do away with the differential,” he said, referring to the current excise tax rates that are different for various types of alcohol.⁷⁷

In the case of wine, under current law, small domestic wineries are charged between 10 and 30 cents per liter, depending on how much they produce. Under HB 230, the tax rate for all wine – whether from in or out of state -- would have been 25 cents per 5-ounce serving.

Unlike previous attempts to raise the alcohol tax, Ferrary’s bill got off to a strong start in 2023. It easily got through the House Health & Human Services Committee, which voted 6-4 on Feb. 10 to give HB 230 a do-pass recommendation.

That vote was almost along partisan lines, with Democrat Tara Jaramillo joining all committee Republicans opposing.

Despite the stereotype of legislators voting the way their campaign contributors want them to vote, an examination of the campaign finances of committee members turns that old trope on its head.

The alcohol industry, its lobbyists, and political action committees gave nearly five times more to the Health & Human Services Committee members who voted yes on this tax bill – \$12,000 – than to members who voted no – \$2,468.

77 Interview with Dan Weaks, Aug. 24, 2023.



Here are the contributions by the industry to the members:

Yes votes:

- ✓ Rep. Liz Thomson (committee chairwoman): \$5,750 (since 2013)
- ✓ Rep. Pamela Herndon: \$2,500 (since 2021)
- ✓ Rep. Reena Szczepanski: \$1,500 (since 2022)
- ✓ Rep. Kathleen Cates \$1,250 (since 2022)
- ✓ Rep. Joanne Ferrary (bill sponsor) \$1,000 (since 2018)
- ✓ No liquor industry contributions were made to Rep. Eleanor Chavez.

No votes

- ✗ Rep. Stefani Lord: \$1,550 (since 2021)
- ✗ Rep. Harlan Vincent: \$418 (these were in-kind donations from for two campaign events, both made in 2022)
- ✗ Rep. Tara Jaramillo: \$500 (since 2022)

No liquor industry contributions were made to Rep. Jennifer Jones.

Ten days later, HB 230 made its way to the House Taxation and Revenue Committee. (In contrast to Ferrary's similar bill in 2017, her latest effort received only two committee assignments, which proponents took as a good sign.)

As is normal with stand-alone tax bills, the committee voted to table the bill for possible inclusion in a final, more comprehensive tax package.

But during discussion on the bill, the committee's chairman, Rep. Derrick Lente did not seem enthusiastic about HB 230, or its chances for success, saying that it was "yet to be seen" if a compromise could be reached between the committee and the bill's sponsors.

Lente blamed the sponsors for not talking more with the business community about the potential effects of the higher excise tax. "There was little or no discussion related to the fiscal impact or tax implications that a bill like this may have on New Mexico," he said.⁷⁸

Ferrary was even less optimistic, telling *The Santa Fe New Mexican* after the hearing that the bill's chances of becoming part of the omnibus tax package were "slim." But she said she was open to a compromise to revive the bill.⁷⁹

Over on the Senate side, Sen. Antoinette Sedillo-Lopez's mirror bill was experiencing the same. Her Senate Bill 259 was tabled in the Senate Tax, Business & Transportation Committee on Feb. 28.

There, committee chairman Benny Shendo observed that the life expectancy of Native American men is nearly eight years shorter than that of non-Hispanic white men — and noted that "close to 10" of his childhood friends had died from drinking.⁸⁰

78 "Chances for House bill to increase alcohol tax 'slim' after tabling," Robert Nott, *The Santa Fe New Mexican*, March 20, 2023, https://www.santafenewmexican.com/news/legislature/chances-for-house-bill-to-increase-alcohol-tax-slim-after-tabling/article_e02f07fc-b14b-11ed-9ffe-bff09eebf0a9.html

79 "Chances for House bill to increase alcohol tax 'slim' after tabling," Robert Nott, *The Santa Fe New Mexican*, March 20, 2023, https://www.santafenewmexican.com/news/legislature/chances-for-house-bill-to-increase-alcohol-tax-slim-after-tabling/article_e02f07fc-b14b-11ed-9ffe-bff09eebf0a9.html

80 "How a 25¢-per-drink alcohol tax fell apart," Ted Alcorn, *NM In Depth*, March 31, 2023, <https://nmindepth.com/2023/how-a-25c-per-drink-alcohol-tax-fell-apart/>

But Shendo was skeptical that the impact alcohol tax hikes had to reduce consumption in other states would be replicated in tribal communities where alcohol consumption and possession are already prohibited.

After this, things seemed to go from bad to worse for raising the alcohol tax. The ice cube began to melt more rapidly.

Ferrary, behind the scenes, negotiated with Lente, the tax committee chairman. “On his direction, she exempted local wineries and breweries from her tax proposal and removed a section indexing rates to inflation,” Alcorn wrote in his post-mortem of the bill.

One of proponents’ arguments for increasing the tax had been that the excise tax, unlike sales or gross receipts taxes, was not configured as a percentage of the retail price but based instead on volume. As a result, when the price of alcohol rose, the tax remained the same, thus eroding its value.

Ferrary, during these negotiations also agreed to reduce the tax hike to 15¢-per-drink.

And then disaster struck. While meeting with legislative staff, Ferrary and Sedillo-Lopez made a mathematical mistake, an error from which the alcohol tax increase never fully recovered.

“By statute, beer is taxed per gallon and wine and liquor are taxed per liter, and the lawmakers mistakenly revised their bill to increase the tax 15¢ per those units, rather than by 15¢ per drink,” Alcorn wrote. “Diluted over much larger volumes, the hike they wrote in was now barely more than a penny-per-drink. ‘We did not pick up that difference because we were in a hurry,’ said Ferrary.”⁸¹

So, on March 12, the House passed House Bill 547, the omnibus tax with the penny-a-drink alcohol excise tax increase. Ferrary raised the issue during the debate, but there was very little mention of this provision during the lengthy floor debate.

The Senate provided a moment of hope for a slightly larger tax increase – 5-cents-a drink.

But the House quickly rejected that idea. At a meeting of a conference committee on the omnibus tax bill – which was made up of three senators and three representatives appointed to hammer out differences in the two versions of the bill – Rep. Micaela Lara Cadena argued for the smaller rate, claiming higher tax rates would be “regressive.”

The conference committee agreed to keep the House’s penny-a-drink provision in HB 547. Only Sen. Peter Wirth objected to the lower amount.

Here are the members of the conference committee and the amount of contributions they’ve received from the alcohol industry:

- Rep. Jason Harper \$21,170 (since 2013)
- Rep. Derrick Lente: \$12,430 (since 2016)
- Sen. Craig Brandt \$10,650 (since 2013)
- Sen. Peter Wirth \$11,450 (since 2013)
- Sen. Benny Shendo \$9,650 (since 2013)
- Rep. Micaela Lara Cadena \$4,787 (since 2018)

When it came to voting to include the lower tax rate, members of the committee who voted to do so received an

⁸¹ “How a 25¢-per-drink alcohol tax fell apart,” Ted Alcorn, *NM In Depth*, March 31, 2023, <https://nmindepth.com/2023/how-a-25%C2%A2-per-drink-alcohol-tax-fell-apart/>



average of \$11,737, while Sen. Wirth had received a total of \$11,450.

Both the House and the Senate voted overwhelmingly to adopt the version of HB 547 that came out of the conference committee. The Senate vote (24 to 12) was partisan, with no Republicans voting for the bill and one Democrat crossing party lines to vote against it. The House vote (50-18) was bipartisan.

An age-old systemic problem with the New Mexico Legislature is that once a major tax or budget bill reaches the floor (always on the last few days of the session) there is little scrutiny or debate at that point. The alcohol tax was one of dozens of tax measures included in HB 547.

The legislators—and the lobbyists—had already done their work.

And less than a month later, the ice cube had completely melted and evaporated. There wasn't even a drop left on the table.

Lawmakers, advocates and others were shocked in early April when Gov. Michelle Lujan Grisham line-item vetoed the tiny liquor tax increase when signing the tax bill.

Legislators expressed dismay and at least one newspaper called her action “a bad veto on both politics and substance.”⁸²

In her “executive message” to the House, explaining her actions on the bill, the governor did not mention the alcohol tax.⁸³

And Lujan Grisham's press office did a murky job of explaining that veto.

Her spokeswoman, Maddy Hayden, said in an email to *NM In Depth* that Lujan Grisham doesn't oppose increasing taxes on alcohol, though she said the proposed penny-per-drink increase “would not have a material effect on alcohol prevention and treatment.”

But Hayden declined to say whether her boss supported a larger hike.⁸⁴

Lujan Grisham also vetoed a measure that would have directed existing alcohol tax revenues to alcohol treatment and prevention programs, though Hayden said the governor “believes unequivocally” that the state needs to devote more resources to addressing alcohol misuse.

She said the governor felt the Legislature's tax package was “a potentially untenable hit to the general fund.” So, Hayden said Lujan Grisham vetoed that reallocation of “out of fiscal responsibility.”

But she declined to clarify why the governor didn't retain the alcohol tax hike, which would have generated an estimated \$10 million annually.⁸⁵

82 “Head-scratching vetoes wind up session,” *The Santa Fe New Mexican*, April 10, 2023, https://www.santafenewmexican.com/opinion/editorials/head-scratching-vetoes-wind-up-session/article_ce86a03c-d7ca-11ed-add7-336f47aecd.html

83 House Executive Message No. 19, April 7, 2023, <https://nmlegis.gov/Sessions/23%20Regular/ExecMessages/house/HB-0547GovMsg.pdf>

84 “Governor sidesteps straight talk about alcohol vetoes,” Ted Alcorn, *NM in Depth*, May 12, 2023, <https://nmindepth.com/2023/governor-sidesteps-straight-talk-about-alcohol-vetoes>

85 “Governor sidesteps straight talk about alcohol vetoes,” Ted Alcorn, *NM In Depth*, May 12, 2023, <https://nmindepth.com/2023/governor-sidesteps-straight-talk-about-alcohol-vetoes>

Since 2017, the liquor industry has contributed at least \$322,380 to Lujan Grisham's campaigns. This includes \$161,274 from various lobbyists associated with the industry; \$31,000 from Premier Distributing; \$21,000 from Admiral Beverage Company; \$19,000 from Anheuser-Busch; \$18,500 from Southern Glazer's Wine & Spirits; \$11,500 from bar owner Billy Baldwin; and \$11,000 from Marble Brewery.

Hefty contributions have consistently gone to the governor, leadership, and the membership of tax and budget committees, where alcohol bills are regularly heard and alcohol industry lobbyists are familiar faces.

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Ferrary and other advocates of increasing the alcohol tax say they will carry on the battle in future sessions.

Lobbyist Dan Weaks says he's open to that. He said his clients in the local wine industry would accept "some form of tax increase" if it wasn't "Draconian" or had a worse effect on local businesses.

"I'd like to sit down with everyone and come up with something reasonable," he said.

CHAPTER 9

CONCLUSION

Over the past two decades New Mexico has continued its struggle with alcohol abuse. New Mexico still leads the nation in alcohol deaths, and while some progress has been made in combatting DWI, we are lagging behind other states in most alcohol related indices. And we are paying an excessive amount for law enforcement, health care, the lost wages and productivity caused by alcohol.

Yet, in the face of this public health crisis, measures seeking to grapple with the crisis have had rough sledding in the NM legislature. Since 1990 only one meaningful excise tax increase, a measure the Center for Disease Control and health advocates say does the most to reduce *harmful* drinking, has passed. Funds for effective prevention and treatment of alcohol addiction have struggled to keep up. The latest, most dramatic failure was in 2023.

Meanwhile, the alcohol industry—including its lobbyists, PACs, and allies—have never had a bad session. The industry gave more than \$2.16 million in campaign contributions during the past decade. In addition, its lobbyists spent \$456,388 on special events, meals and entertainment for lawmakers.

Almost every member of the legislature received some of the cash, but much of it was targeted to leadership and the committee chairs most likely to hear liquor bills and the governor. Democrats, the majority party, received 61.8 percent and Republicans received 37.6 percent.

Did the contributions and expenditures pay off? The correlation between contributions and votes in committee was mixed, although, as indicated, the overall outcome was always as the industry desired.⁸⁶

Did the contributions and expenditures pay off? The correlation between contributions and votes in committee was mixed, although, as indicated, the overall outcome was always as the industry desired.

In 2017, when Sen. McSorley and Rep. Ferrary proposed a 25-cent-per-glass tax, the measure was killed in the House Health and Human Services Committee (where members voting against the measure received an average of \$1,192 and the lone positive voter received nothing). And for the Senate Corporations Committee, where we were unable to obtain the vote count, we calculate that committee members had received a total of \$38,450 in contributions from 2013-2017.

In 2019, when Sen. Mimi Stewart obtained preferential treatment and lower taxes for craft breweries and distilleries, the bill flew through committees with little opposition. On the House floor, the 54 members voting for the bill had received an average of \$4,063; the 10 representatives voting against the bill had received an average industry contribution of \$2,915.

In the Senate, the 36 yes voters received an average of \$3,988 and the three no voters received an average of \$3,600.

⁸⁶ Once again, Common Cause does not believe that contributions and lobbyist expenditure buy votes. They are but one factor in influencing a legislator's position on any given issue. The public deserves to know all the factors, and judge for themselves.

In 2021, when the legislature voted to enable home delivery of alcohol and lower the price of a liquor license, the industry was split on licensing. Committee votes were closer and correlations between votes and contributions were scrambled.

In the House, members of the House Commerce and Economic Development Committee (where the bill passed 6-3) who voted yes received an average of \$9,170 in contributions while opponents received an average of \$12,434.

In House Taxation & Revenue, (where the measure passed 8-3) proponents received an average of \$5,106 while opponents received an average of \$8,833. In the Senate, members of the Senate Judiciary (where the bill passed 5-4) supporters received an average of \$6,060 while opponents received \$6,375.

The bill passed both chambers with bipartisan support and opposition. The House vote was 41 yes and 27 no; the Senate vote was 29 yes and 11 no. With a divided industry, all bets were off. The net result of the bill's passage has yet to be determined but with more alcohol sales, bars and restaurants serving alcohol, more consumption is a safe bet.

In 2023 votes on Rep. Ferrary's 25-cent-a-drink tax were hard to track because the tax became part of a larger, overall tax measure handled, ultimately by a conference committee of both House and Senate members. Once again, the contributions did not correlate with the votes, although, in the end the industry got what it wanted—no tax increase.

The only time Ferrary's HB 230 directly got a vote was in the House Health and Human Service Committee, where it passed 6 to 4. There, the alcohol industry had actually given nearly five times more to those who voted yes (\$12,000) than to those who voted no (\$2,468).

The upside-down world came back into balance in the final conference committee's action on the surviving 5-cent-a-drink proposal. Those voting against the 5-cent-tax got an average of \$11,737 in contributions while the lone opponent (the Senate majority leader) had gotten \$11,450.

Ultimately, Gov. Michelle Lujan Grisham, who had received \$198,853 in contributions from the industry in the 2022 gubernatorial race, line-item vetoed even the miniscule tax increase that had been included in the overall package.

What do the mixed results indicate?

We conclude that the industry's secret sauce is its lobbyists, some of the best known and effective lobbyists in the Roundhouse. Many are second generation lobbyists, with fathers who walked the same halls; others are the daughters or spouses of legislators. Still others are contract lobbyists with scores of clients giving them influence beyond just one of them. Together these lobbyists gave \$1,179,056 in contributions to legislators and statewide candidates and spent \$456,388 to wine and dine policy makers from 2013-2023.

The industry—led by its lobbyists—has made wise investments. In the 10-year period we studied, lobbyists contributed \$478,016 to leadership on both sides of the aisle as well as to the chairs of committees to which the tax measures were likely to be referred. Even that figure may underestimate the largesse. The industry also gave generously to leadership and party PACS-- \$157,115 from 2013-2023.

For lobbyists, influence, skill and familiarity build as the years pass. When it comes to understanding the process — for example, knowing when to let one bill slide through committee because they know it will be killed by another, or vetoed by the governor—they are the experts. Without staff, or a countervailing force, the public,

advocates and sometimes even legislators themselves are left in the dust.

In recent years, the growing popularity of breweries, craft cocktails and wineries has made matters worse. The lobbyists have grown stronger and access to relatively cheap alcohol has grown, although the industry says it hasn't made a difference in the overall amount of drinking.

The result is that New Mexico's alcohol problem increases as a decades-old pattern repeats itself and once again we find ourselves under the influence of a skilled, well- funded special interest.

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CHAPTER 10

RECOMMENDATIONS

Tracking the influence of the alcohol industry—or any industry—on policymaking is not easy. Citizens, researchers and members of the media rely upon campaign finance reports posted by the Secretary of State’s office and information from the legislative website. Thanks to the efforts of transparency advocates, www.nmlegis.gov now provides webcasts and live zooms of floor sessions and committee hearings. Bills, fiscal analyses, and substitute and dummy bills are online — if you know how to navigate the site.

Other information, especially about lobbyist activity, is not available anywhere because it is not required to be disclosed.

We encountered several obstacles in connecting the dots between the alcohol industry and the votes cast by elected officials. The following recommendations are offered to address these obstacles and provide more accountability.

Transparency recommendations:

For the Legislature...

All votes in legislative committees on motions to table should be recorded and made available to the public. The New Mexico House of Representatives is to be commended for House Resolution 1, which adopted a house rule several years ago to require the publication of information regarding how each member voted, but the rule does not seem to be fully implemented and does not apply to the Senate.

The legislative website has improved over the years, and especially during COVID, but committee hearings are frequently inaudible, and the system experiences lapses and crashes.

Substitute bills and amendments are often posted too late for citizen input, and even legislators lack the time to review them adequately.

Additional staff to assist in dissemination and analysis is needed, as well as longer sessions to ensure that legislators and the public are fully informed on important tax, finance or other complex bills.

A salary for legislators would also reduce dependence on lobbyists’ largesse when it comes to meals and other expenses incidental to public service.

To prevent conflict of interest, legislators should recuse themselves from voting on a bill when their spouse, partner, children, or parents are lobbying for or against it. Many alcohol lobbyists are related to current or past legislators.

There should be a “cooling off” period of at least two years before a legislator can become a lobbyist. Former legislators often can exert more influence over their colleagues than others. Several alcohol lobbyists are former legislators.

The Legislature should appropriate at least \$50,000 to the Legislative Council Service for the expense of providing meals for some committee meetings and House and Senate floor sessions when the press of legislative business requires the provision of meals. This would mean lawmakers would no longer have to depend on lobbyists for nourishment on long busy days.

For lobbyists...

Lobbyists should be required to identify what legislation they're working on. They also should have to state whether they support or oppose such bills. Legislators themselves—much less the public—have trouble keeping track. This information is vital, since who is for a particular measure and who is “against” it often is the basis of votes and clarifies motives of special interests.

Lobbyist employers should be required to disclose how much they are paying their lobbyists. This requirement would shine some light on how much money businesses are spending to get their priorities enacted into law. We suspect if the salaries or contracts of alcohol lobbyists were revealed, the total spent by the industry would rise considerably.

For PACs...

The Secretary of State should enforce Senate Bill 3 (passed in 2019) more strictly, to increase disclosure of information about independent expenditures and prevent coordination between state candidates and PACs.

Recommendations for the Secretary of State:

Many improvements to the Secretary of State's current Campaign Finance System website – which went online during the middle of the 2020 election – are needed. The site is difficult to navigate.

One of the main problems is the lack of a search function for campaign contributors. On the old website, you could look up individuals and businesses to check their contributions, but this is not possible in the new system.

The site's bulk downloading function, which is an important tool for comprehensive research, does not always transfer information that is otherwise available in individual pdf reports. For example, the aggregate “Special Events” data, which tends to involve relatively large lobbyist expenditures, fails to include any information about the context, purpose or beneficiaries of each event expenditure.

During projects like this one, which require merging data from the old and new sites, researchers may encounter difficulties with inconsistent reporting categories. The raw spreadsheets generated from each site look entirely different, in terms of both the format and the included information.

Furthermore, researchers may need to weed out duplicate data from 2020 that appears in datasets from both sites. ActBlue contributions also tend to appear as duplicates in the data. These inconsistencies – as well as others – point to the need for more robust cross-checking between lobbyist reports and candidate reports. Theoretically, the two types of reports should result in equivalent data, but the different sources often contain discrepancies.

The Secretary of State's office should also ensure compliance with existing law through more spot checks or audits of lobbyist registrations and reports. This will require the SOS to fill vacant positions and seek more funding from the legislature.

One area that needs stricter enforcement is the requirement for lobbyists to identify which client is funding campaign contributions and expenditures like meals and beverages. This is a required field for the purpose of expenditures, but lobbyists often ignore it. Moreover, lobbyists do not consistently distinguish between in-kind

campaign contributions and expenditures. Issues like these indicate a need for clearer reporting instructions and more rigorous review.

Improving the SOS website – and ensuring that the information posted there is accurate and complete – is vital because it's the chief method used by journalists, advocacy groups and the public to hold lobbyists, candidates and PACs accountable.



APPENDICES

Appendix 1

Please find more complete listings of information included in the charts featured in this report available to download at: <https://www.commoncause.org/new-mexico/resource/still-under-the-influence-a-look-at-the-alcohol-industry-and-its-influence-onnew-mexico-elected-officials/>

Appendix 2

Please find the master spreadsheet of data and a note on the methodology used in this report available to download at: <https://www.commoncause.org/new-mexico/resource/still-under-the-influence-a-look-at-the-alcohol-industry-and-its-influence-onnew-mexico-elected-officials/>



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