FISCAL IMPACT REPORT

BILL NUMBER: House Bill 160

SHORT TITLE: Create All Cities & Counties Fund

SPONSOR: Sena Cortez/Martinez J/Armstrong/Henry

LAST UPDATE: 02/03/26 **ORIGINAL DATE:** 01/29/26 **ANALYST:** Graeser

REVENUE*
(dollars in thousands)

Type	FY26	FY27	FY28	FY29	FY30	Recurring or Nonrecurring	Fund Affected
GRT	$0		($353,300.0)	($365,300.0)	($375,800.0)	Recurring	General Fund
	$0		$241,800.0	$250,000.0	$257,000.0	Recurring	All Cities and Counties Fund – to Municipalities
	$0		$111,500.0	$115,300.0	$118,600.0	Recurring	All Cities and Counties Fund – to Counties

Parentheses indicate revenue decreases.
*Amounts reflect most recent analysis of this legislation.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*
(dollars in thousands)

Agency/Program	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
TRD -- ITD	$69.0	0	No fiscal impact	$75.3	Nonrecurring	General Fund
TRD -- ASD	No fiscal impact	No fiscal impact	$2.1	$2.1	Nonrecurring	General Fund
DFA/LGD Total		$551.2	$551.2	$1,102.5	Recurring	General Fund

Parentheses ( ) indicate expenditure decreases.
*Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files
TRD's RP80 and RP500 reports for FY25

Agency or Agencies Providing Analysis
Department of Finance and Administration, Local Government Division
Taxation and Revenue Department

Other Respondents
New Mexico Municipal League

SUMMARY

Synopsis of House Bill 160

House Bill 160 (HB160) establishes the all cities and counties fund and distributes 8 percent of the general fund share of gross receipts tax collections to the fund monthly. By October 1 of each year, the Taxation and Revenue Department (TRD) will calculate distributions from the fund to each county and municipality in the state based on a formula.[1] For the formulas below, EGRTR is the equalized gross receipts tax revenue calculated as the amount of taxable gross receipts attributed to a countywide local option gross receipts tax rate of a quarter percent.

The formula for each municipal distribution is:
Municipality population * (0.7 * (fund balance/state population) + 0.3 * (county EGRTR/all county EGRTR) *fund balance)/county population)).

And for the county distribution:
County area population * (0.7 * (fund balance/state population) + 0.3 * (county EGRTR/all county EGRTR) *fund balance)/county population)).

The effective date of this bill is July 1, 2026. Distributions to the fund will begin with July 2026 accruals. The first distribution from the fund would occur by October 1, 2027. There is no sunset provided.

FISCAL IMPLICATIONS

The bill does not include a recurring appropriation but diverts or "earmarks" revenue, representing a recurring loss from the general fund. LFC has concerns with including continuing distribution language in the statutory provisions for funds because earmarking reduces the ability of the Legislature to establish spending priorities.

TRD detailed the methodology for calculating these distributions:

> This bill redirects approximately 8 percent of the state share of GRT revenue into the newly-created all cities and counties fund and then provides for distribution of that amount to municipalities and counties. The analysis assumes that the bill redirects 8 percent of the state GRT distributed to the general fund after making all other statutory distributions. TRD applied the proposed formulas to determine the revenue gain for municipalities and counties from the new distribution. The analysis assumes there are no revenue impacts to tribal governments (see Policy Issues). The estimated revenue impact is based on the annual estimates of the resident population for incorporated places in New Mexico for 2023 from the United States Census Bureau Population Estimates Program, the December 2025 Consensus Revenue Estimating Group (CREG) forecasting for net GRT to the General Fund, and local government GRT distribution reports from TRD's report, RP-500.

LFC notes this estimate is based on the December CREG gross receipts tax revenue estimate.

	FY26	FY27	FY28	FY29	FY30
Consensus Base GRT (base, excl HH)	$4,610.5	$4,735.6	$4,868.4	$5,047.1	$5,225.0
hold harmless	$107.7	$99.3	$89.9	$80.0	$69.9
NET GRT with hold harmless	$4,502.7	$4,636.3	$4,778.5	$4,967.1	$5,155.1

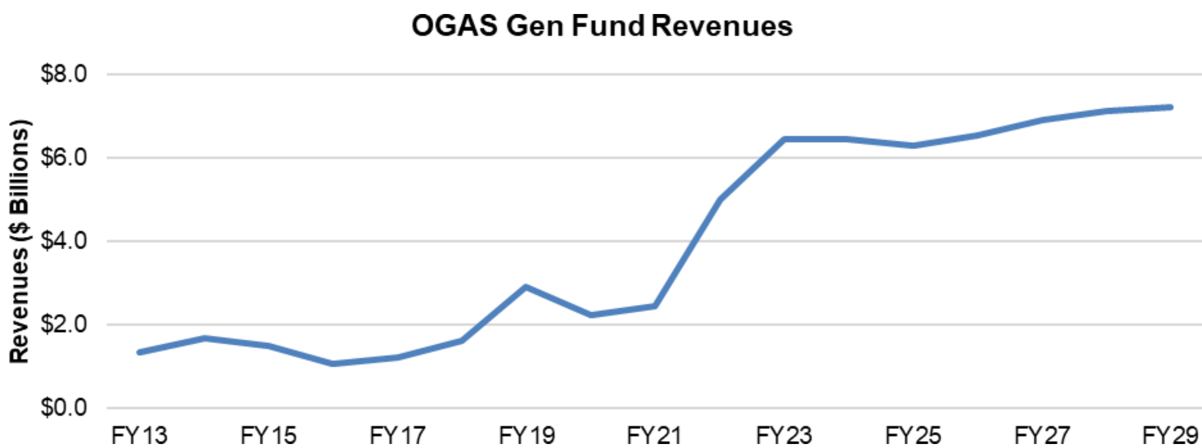
[1] https://www.nmlegis.gov/Legislation/Legislation?Chamber=H&LegType=B&LegNo=292&year=25

As with previous versions of this bill, LFC staff have built a spreadsheet to confirm that proper application of the formula does distribute 100 percent of the balance in the fund. LFC staff have prepared a jurisdiction-by-jurisdiction estimate of probable distribution for October 1, 2028, and attached the estimate to this review.

SIGNIFICANT ISSUES

The genesis of this bill was clearly a response to the dramatic increase in state-level gross receipts tax receipts. This growth was stimulated by the state's ability to tax remote commerce and to the increase in oil and gas drilling and production in the Permian Basin. Last year's review of HB292, prepared by TRD, highlighted this OGAS contribution to general fund revenues.

> Oil and natural gas contributions to the general fund and other diversionary funds have increased from $1.34 billion in FY13 to $6.4 billion in FY24 and are expected to grow to $7.2 billion in FY29. The purpose of this proposed distribution is to share this increase in general fund revenues with cities and counties both within and outside the oil patch.



The distributions formulae distribute 70 percent of the revenue based on the jurisdiction's population share and 30 percent based on the equalized gross receipts in that jurisdiction.

TRD makes several policy observations regarding this proposal:

> State revenue sharing with local governments will strengthen local governments by providing additional revenue, with an equal and opposite impact on the general fund's adequacy to meet state needs.
>
> The diversity of special funds and distributions across the Tax Administration Act is intricate, leading to a more complex tax distributions management process. The proliferation of new funds and distributions implies a fragmentation of the existing boundaries that determine service obligations and the parameters for intergovernmental relationships between state and local governments.
>
> The state general fund currently makes a number of significant transfers to local governments. Under Section 7-1-6.4 NMSA 1978, State GRT revenues are already shared with all municipalities, in an amount equal to 1.225 percent of the 4.875 percent

state gross receipts tax rate, (i.e., with respect to the overall 4.875 percent rate, 1.255 percent is transferred to the municipalities, and 3.620 percent is retained by the state.) Section 7-1-6.2 NMSA 1978 provides for a distribution to the small cities assistance fund, and Section 7-1-6.5 NMSA 1978 provides a distribution to the small counties assistance fund; Section 7-1-6.16 NMSA 1978 provides for a county equalization distribution; and pursuant to Sections 7-1-6.46 and 7-1-6.47 NMSA 1978, distributions are made to municipalities and counties to partially offset the cost of food and health care practitioner deductions. In addition, local governments have their own taxing authority to impose general and special increments of local option gross receipts and compensating taxes. While the state GRT rate was decreased in FY2023 and FY2024, local rates have tended to creep gradually higher over the past several decades. Additional distributions of state GRT revenue are also made, as authorized by local governments and the state Board of Finance, to other special taxing districts and for local economic development purposes. In addition, in 2024, SB-148 was passed to phase out the 3 percent administrative fee TRD historically withheld from local GRT distributions, eliminating it by FY 2029, thereby eliminating local governments' contribution to the administration of GRT on their behalf and increasing their revenue.

Simplicity and fairness are important considerations in making tax policy, and the proliferation of general and special distributions goes against those principles. TRD recommends that a bill of this nature be preceded by a review of the revenue adequacy of the state and local governments.

Administering distributions on this scale comes with challenges, including:

1. A high number of distributions and funds that are burdensome and conflicting, requiring TRD to expend resources inefficiently. Streamlining the number of funds and distributions helps reduce the administrative costs and the burden for local governments.
2. Duplication and overlap of different funds and distributions aimed at attaining the same purpose deplete the general fund's resources and reducing the effectiveness of the current distributions.
3. Increasing the number of distributions to multiple funds reduces TRD's capacity for oversight and accountability.

The bill proposes distributing funds to municipalities and counties but does not specify whether tribal governments benefit from this new distribution. The formulas proposed in the bill use data on state population and county populations, so tribal residents, representing nearly 10.9 percent of the state's entire population, are used to compute the distributions, benefiting counties without any corresponding benefit to tribal governments, who also provide services to their residents. Furthermore, tribal governments that share borders with some local governments are not accounted for in the distributions.

New Mexico's tax code is out of line with most states in that more complex distributions are made through the tax code. The more complex the tax code's distributions the costlier it is for TRD to maintain the GenTax system and the more risk is involved in programming changes. By employing both TRD and the state treasurer to make financial distributions to all municipalities and counties, both agencies face added administrative burdens, and an inefficiency is created statewide.

> The GRT is currently the largest direct revenue source to the general fund, averaging 33 percent of recurring revenue. The loss of over $350 million each year represents 3 percent of recurring general fund revenue based on the CREG's December 2025 forecast reducing the legislative's budget for annual appropriations.

LFC notes that the FY27 General Appropriation Act will provide a very modest $105 million for new spending, although nonrecurring revenues are more robust.

PERFORMANCE IMPLICATIONS

The LFC tax policy of accountability is met with publication in the RP500 of both the 8 percent monthly diversion to the fund and the annual distribution from the fund to each county and municipality.

ADMINISTRATIVE IMPLICATIONS

TRD will update reports including the RP-500 and make information system changes to distribute this new distribution of GRT revenue. Implementing this bill will have a low impact on TRD's Information Technology Division (ITD) of approximately 300 hours, or about two months and $69 thousand of contractual cost. Additionally, TRD's Administration Services Division (ASD) will require two existing FTEs and 60 hours split between pay-band eight and 10 positions to test the new distribution and certify the transfers. The GenTax system's general ledger and reporting will need to be updated for the new distribution. Both ASD staff and the economists in the Office of the Secretary (OOS) will annually need to calculate and certify the transfers to the state treasurer. The economists will need to calculate for each county the "equalized gross receipts tax revenue" used in the formula, gather the most recent population estimates and then calculate the distributions amounts for each county and municipality. This will have a recurring staff workload impact for ASD and the OOS to be managed with current staffing.

TECHNICAL ISSUES

TRD points out several technical issues:

> Section 1] Page 1, Line 19 – The bill does not state which agency administers the "all cities and counties fund". Based on which agency administers the fund, it will determine whether GASB 84 Fiduciary Fund accounting applies to TRD and which agency distributes funds to cities and counties. If this technical issue is considered and the fund is administered by TRD, the administrative and compliance impact will change due to putting resources and staff workload into creating new distributions to every municipality and county.
>
> Annual population estimates are released at various times of the year and given the bill's timeline for the distribution calculations could lead to using different sources for the population estimates every year. TRD suggests a more precise definition as the source for the current population, such as the decennial census released every 10 years. Other population estimates are released from the United States Census Bureau, such as the source used for the fiscal impact. Another source could be the American

Community Survey 1-year, 3-year and 5-year estimates. Providing a specific source for estimating population will provide clarity when applying this new distribution.

The annual October 1 deadline for TRD to certify to the state treasurer the transfer amounts would most likely occur before the annual General Fund audit is complete. The All Cities and Counties Fund could potentially be adjusted based on audit findings. TRD suggests an annual deadline of February 1 for TRD to certify the distribution amounts, and change the deadline for the state treasurer to distribute by March 1.

OTHER SUBSTANTIVE ISSUES

In assessing all tax legislation, LFC staff considers whether the proposal is aligned with committee-adopted tax policy principles. Those five principles:

- **Adequacy**: Revenue should be adequate to fund needed government services.
- **Efficiency**: Tax base should be as broad as possible and avoid excess reliance on one tax.
- **Equity**: Different taxpayers should be treated fairly.
- **Simplicity**: Collection should be simple and easily understood.
- **Accountability**: Preferences should be easy to monitor and evaluate.

In addition, staff reviews whether the bill meets principles specific to tax expenditures. Those policies and how this bill addresses those issues:

Tax Expenditure Policy Principle	Met?	Comments
Vetted: The proposed new or expanded tax expenditure was vetted through interim legislative committees, such as LFC and the Revenue Stabilization and Tax Policy Committee, to review fiscal, legal, and general policy parameters.	✓	Proposed and debated in 2024 and 2025 sessions
Targeted: The tax expenditure has a clearly stated purpose, long-term goals, and measurable annual targets designed to mark progress toward the goals.		The implicit goal is to allow counties and municipalities to share in the extraordinary increase in general fund revenues.
Clearly stated purpose	?	
Long-term goals	?	
Measurable targets	?	
Transparent: The tax expenditure requires at least annual reporting by the recipients, the Taxation and Revenue Department, and other relevant agencies	✓	Monthly RP500 report will detail total and muni/county distributions
Accountable: The required reporting allows for analysis by members of the public to determine progress toward annual targets and determination of effectiveness and efficiency. The tax expenditure is set to expire unless legislative action is taken to review the tax expenditure and extend the expiration date.		
Public analysis	✓	
Expiration date	✗	
Effective: The tax expenditure fulfills the stated purpose. If the tax expenditure is designed to alter behavior – for example, economic development incentives intended to increase economic growth – there are indicators the recipients would not have performed the desired actions "but for" the existence of the tax expenditure.		Revenues have moderated and this may be inappropriate.
Fulfills stated purpose	✗	No purpose
Passes "but for" test	?	Not economic development

Efficient: The tax expenditure is the most cost-effective way to achieve the desired results.	✘	Revenues have moderated and this may be inappropriate
Key: ✓ Met ✘ Not Met ? Unclear		

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