F I S C A L   I M P A C T   R E P O R T

		LAST UPDATED	2/8/2024
SPONSOR	SFC	**ORIGINAL DATE**	1/31/2024
SHORT TITLE	Tax & Fee Admin Fees	**BILL NUMBER**	CS/Senate Bill 148/SFCS
		ANALYST	Torres, Ismael

REVENUE*
(dollars in thousands)

Type	FY24	FY25	FY26	FY27	FY28	Recurring or Nonrecurring	Fund Affected
Admin Fees				($22,100.0)	($45,533.0)	Recurring	General Fund
Admin Fees				$22,100.0	$45,533.0	Recurring	Local Governments

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

Sources of Information

LFC Files
TRD Reports

Agency Analysis Received From
Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of SFC Committee Substitute for Senate Bill 148

The Senate Finance Committee substitute for Senate Bill 148 would eliminate administrative costs and fees that are currently withheld by the Taxation and Revenue Department for the administration of local government revenues by FY29. Specifically, administrative costs withheld will be reduced from 3 percent to 2 percent in FY27, further to 1 percent in FY28, and eliminated in FY29. The substitute provides for fees to continue on local Economic Development Act distributions, on tax increment development district distributions, and on metropolitan redevelopment district distributions. By FY29, fees will also no longer be permitted to be withheld from gross receipts taxes, compensating taxes, solid waste assessment fees, boat act fees, and water conservation fees.

The effective date of this bill is July 1, 2025.

FISCAL IMPLICATIONS

Statute currently allows an administrative fee of 3 percent on local option gross receipts tax (GRT) and compensating tax revenues distributed to cities and counties (Section 7-1-6.41 NMSA) in exchange for the administration of local government tax collections and distributions. Revenue from the administrative fees goes to the general fund which is used to support the Taxation and Revenue Department's (TRD) budget of over $130 million.

According to TRD's Report 500 data, total TRD fees collected in FY22 were $49.9 million and $56 million in FY23 to the GRT and compensating tax. The December 2023 consensus revenues estimate was used to forecast impacts represented in the table above.

Seventeen local governments listed in Table 1 will receive 75 percent of the revenue impact, while all other local governments will share 25 percent of the revenue impact.

Table 1: Percent of Administrative Fees by Local Government

Percentage	Local Government	Percentage	Local Government
17%	Albuquerque	2%	Lea County
15%	Bernalillo County	2%	Farmington
5%	Santa Fe County	2%	Carlsbad
5%	Eddy County	2%	Rio Rancho
5%	Santa Fe (City)	2%	Hobbs
4%	Las Cruces	1%	Los Lunas
4%	Dona Ana County	1%	Valencia County
3%	Los Alamos	1%	Sandoval County
3%	San Juan County	25%	All Other

SIGNIFICANT ISSUES

The administrative fees established under Section 7-1-6.41 NMSA 1978 represent a piece of a much larger benefit-cost case for the state and for local governments to maintain a centrally administered state and local tax system. New Mexico, unlike Colorado and other states, has a centrally administered tax system. Business taxpayers need only file one return per tax program to report and pay their GRT and compensating taxes, rather than filing and paying separately to the state and every local government in which they did business. This is an immense benefit to businesses and taxpayers. A centrally administered state tax system is a reflection of tax policy put into action because it meets three key principles of good tax policy: efficiency, simplicity, and accountability. Efficiency and simplicity in that it does not burden taxpayers with multiple tax returns at the state and local level. Accountability relates to numerous factors including transparency, but it also encompasses the ability to monitor and evaluate the tax code.

Central administration also saves costs, because without TRD's central administration, each local government would otherwise need its own personnel and systems to administer, collect, and enforce local option taxes. The entire state and every local government benefit from TRD's centralized role in processing returns, answering taxpayer questions, and handling delinquent collections, audits, legal defense, and fraud investigation.

TRD believes the administrative fees transferred to the state general fund from local GRT and compensating taxes represent an appropriate cost for local governments to contribute to the greater benefit received by them and by New Mexico taxpayers of one centrally administrated tax system. This benefit is especially clear when considering 94 percent of the monthly distributions and transactions managed by TRD are for the benefit of local governments, despite less than half of the TRD budget collected in local fees each year.

The Taxation and Revenue Department adds:

> GenTax [the state tax management system] is not a static system, and it requires ongoing investment, which is provided through general fund appropriations. Besides constant security and technology upgrades, the system is constantly programmed for frequent statutory changes. A large proportion of these changes are attributable to the requirement to distribute GRT and compensating taxes to hundreds of different local government areas at unique rates. There was an average of 120 local rates changes per year from 2018 to 2022. Although only about 6 to 8 localities changed rates per cycle on average, one locality's change can trigger dozens of changes in GenTax because local areas overlap. For example, if one county changes its countywide tax rate, that triggers changes to the county rates as well as the rates of every municipality, Tax Increment Development District (TIDD), pueblo, and (as of the 2023 session) every metropolitan redevelopment area with land inside the county area.
>
> Each time TRD changes rates, about six testers are temporarily assigned to the rate change project for about a month, which takes them away from their regular duties. Rate changes also include issuance of new publications, outreach to taxpayers, and adjustments to the GIS mapping on TRD's website…
>
> In [one] month, 59 percent of revenue goes to the State general fund and 41 percent to municipalities, counties, tribal governments, and others. However, of the 209 monthly distributions of GRT, 12 are for the benefit of the State and 197 (94 percent) are for the benefit of local governments. This diversity is repeated for comp, cannabis excise tax, and gasoline tax. The diversity of special funds and distributions across the Tax Administration Act has continuously become more intricate, leading to a more complex 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 the State and local governments.
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> In addition to the local option GRT, the 1.225 percent of the State's 4,875 percent GRT rate is shared with all municipalities. Section 7-1-6.5 NMSA 1978 provides a distribution of compensating tax to the Small Counties Assistance Fund; Section 7-1-6.16 provides for a county equalization distribution to most counties; and pursuant to Sections 7-1-6.46 and 7-1-6.47 NMSA 1978, hold harmless distributions are made to certain municipalities and counties to partially offset the cost of food and health care practitioner deductions. These distributions are now contingent upon TRD monitoring certain municipal distributions at a fixed percentage depending on their poverty rate in relation to the state poverty rate.

State Funds Dedicated for Local Governments

Local governments have benefited from direct state support totaling $150 million in recurring funds in FY23. The fire protection fund, local government road fund, and the DWI grant fund represent some of the larger distributions to local governments. Over time, distributions from the county detention fund have roughly doubled, as well as distributions from the law enforcement protection fund (LEPF) and the fire protection fund (for cities).

Law Enforcement and Fire Protection Funding. Legislation in 2023 (Senate Bill 491) increased distributions by adding an earmark of 10 percent of health insurance premium tax revenue for the LEPF, providing about $22 million in additional recurring revenue to the fund after revenue declines rendered the fund unable to sustain prior expansions to the program. The fire protection fund receives 10 percent of insurance premium tax revenues related to property and vehicle insurance that would have otherwise reached the state's general fund. Prior to FY22, distributions to local governments from the fund were less than 42.2 percent of the projected balance of the fund. During the 2021 legislative session, the Legislature increased the distribution so that 100 percent of those earmarked revenues would reach local governments, at a cost to the general fund. The increased distributions are estimated to be over $20 million a year. Local government distributions from this source are expected to exceed $100 million a year, should insurance premium tax revenues continue current growth.

Local Government Distributions
(in millions)

Fund	Intended Use	Distributed to	Distributions FY19	Distributions FY23	% Change
Fire Protection Fund	Fire department operations	Cities	$32.8	$30.4	28.5%
		Counties	$23.0	$41.3	
Local Government Roads	Construction and maintenance of roads and transit	Counties & cities	$25.5	$26.1	2.4%
Local DWI Grant	DWI prevention and treatment	Counties	$17.8	$16.7	(-6.2%)
Small Cities Assistance	Cities with populations of <10,000	Cities	$15.2	$14.3	(-5.9%)
Small Counties Assistance	Counties with populations of <48,000	Counties	$7.0	$7.0	0.0%
Law Enforcement Protection	Police equipment and training	Counties	$1.4	$2.7	92.8%
		Cities	$3.2	$6.6	106.3%
County Detention	Housing offenders in county jails	Counties	$2.4	$5.0	108.3%
		Total Change	$128.3	$150.1	17%

Source: DFA. TRD. DHSEM. NMDOT

Cash Balances. Local governments also draw on fund balances and other taxes, fees, and enterprise activities to pay for services. At the end of FY23, municipal cash balances totaled $925.1 million while cash balances for counties totaled $1.41 billion, according to DFA.

Comparisons with Other States. New Mexico is a national outlier in how the state supports local governments. Nationally, states support about 55 percent of total direct expenditures. In New Mexico, the state supports about 66 percent of total direct expenditures. Since 2017, the state share has increased from 62 percent to 66 percent, while the local share decreased proportionally.

State and Local Share of Direct Expenditures
New Mexico vs. National Average
(in thousands)

	New Mexico				National Average			
	2017		2021		2017		2021	
Expenditure Type	**State Share**	**Local Share**	**State Share**	**Local Share**	**State Share**	**Local Share**	**State Share**	**Local Share**
Operations	62%	38%	66%	34%	50%	50%	48%	52%
Capital outlay	35%	65%	41%	59%	42%	58%	36%	64%
Assistance and Subsidies	100%	0%	100%	0%	95%	5%	84%	16%
Other	65%	35%	68%	32%	80%	20%	49%	51%
TOTAL EXPENDITURES	**62%**	**38%**	**66%**	**34%**	**55%**	**45%**	**55%**	**45%**

Source: 2017 & 2021 Census of Governments, U.S. Census Bureau

TECHNICAL ISSUES

There is a typo on page 4, line 3: the proposed insertion reads "NMSA 1987," not "NMSA 1978." The typo on page 4, line 3 should be corrected to read "NMSA 1978."

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.

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