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## FISCAL IMPACT REPORT

**ORIGINAL DATE** 02/11/11  
**LAST UPDATED** 02/12/11    **HB** 269

**SPONSOR**    Sandoval

**SHORT TITLE**    County Commissioners to Impose Fees    **SB** \_\_\_\_\_

**ANALYST**    Wilson

### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Non-Rec	Fund Affected
FY11	FY12	FY13		
	\$7,000.0-\$10,000.0	\$7,000.0-\$10,000.0	Recurring	County government's funds

(Parenthesis ( ) Indicate Revenue Decreases)

### SOURCES OF INFORMATION

LFC Files

### SUMMARY

#### Synopsis of Bill

House Bill 269 amends Section 62-1-3 NMSA to remove the authority of a Board of County Commissioners to impose charges for reasonable actual expenses incurred in the granting of any franchise to a public utility under the Public Utility Act or a company that provides public telecommunications service pursuant to the Telecommunications Act to use the public highways and the streets and alley ways of unincorporated towns for their equipment.

### FISCAL IMPLICATIONS

According to a representative of the Association of Counties, counties are only able to collect minimal fees for reasonable actual expenditures and not a percentage of gross revenues of the utilities as municipalities do. This bill removes language that prohibits counties' from collecting more than these minimal expenses. Without this language, counties would then be treated as a municipality under Section 3-42-1 through Section 4-37-1 which reads as follows:

All counties are granted the same powers that are granted municipalities except for those powers that are inconsistent with statutory or constitutional limitations placed on counties. Included in this grant of powers to the counties are those powers necessary and proper to provide for the safety, preserve the health, promote the prosperity and improve the morals, order, comfort and convenience of any county or its inhabitants. The board of

county commissioners may make and publish any ordinance to discharge these powers not inconsistent with statutory or constitutional limitations placed on counties.

If the counties are granted the same powers as municipalities they are eligible to collect franchise fees just as the municipalities currently do.

**SIGNIFICANT ISSUES**

The New Mexico Association of Counties noted in 2010:

The basis for collecting these fees is the State of New Mexico anti-donation clause and case law prohibiting local governments from even abandoning property unless they are compensated for that property. There is an existing system that apparently is not favored by most of the parties.

DW/mew