

BILL ANALYSIS AND FISCAL IMPACT REPORT
Taxation and Revenue Department

February 8, 2024

Bill: SFC Sub. For SB-148

Sponsor: Senator Daniel A. Ivey-Soto and Representative T. Ryan Lane

Short Title: Tax & Admin Fees

Description: This substitute bill amends several sections of the Tax Administration Act to repeal or phase out some existing administrative fees. It also adds new administrative fees to Sections 7-1-6.54, 7-1-6.67 and 7-1-6.71 NMSA 1978 to replace a part of the repealed fees.

Effective Date: July 1, 2025

Taxation and Revenue Department Analyst: Lucinda Sydow

Estimated Revenue Impact*					R or NR**	Fund(s) Affected
FY2024	FY2025	FY2026	FY2027	FY2028		
--	--	--	(\$22,000)	(\$45,500)	R	Sections 1,2,4: General Fund
--	--	--	\$22,000	\$45,500	R	Sections 1,2,4: Local Governments
--	--	--	(\$284)	(\$586)	R	General Fund – Tribal cooperative agreements
--	--	--	\$284	\$586	R	Tribal Governments
--	--	\$415	\$690	\$711	R	Section 5: General Fund
--	--	(\$415)	(\$690)	(\$711)	R	Section 5: TIDDs
--	--	\$600	\$618	\$637	R	Section 6: General Fund
--	--	(\$600)	(\$618)	(\$637)	R	Section 6: LEDA Fund
--	--	Unknown, Positive	Unknown, Positive	Unknown, Positive	R	Section 7: General Fund
--	--	(Unknown, Negative)	(Unknown, Negative)	(Unknown, Negative)	R	Section 7: MRA
--	--	\$1,015	(\$21,000)	(\$44,700)	R	Total: General Fund
--	--	(\$1,015)	\$20,700	\$44,150	R	Total: Local Governments
--	--	--	\$284	\$586	R	Total: Tribal Governments

* In thousands of dollars. Parentheses () indicate a revenue loss. ** Recurring (R) or Non-Recurring (NR).

Methodology for Estimated Revenue Impact: [Sections 1, 2 & 4]: Pursuant to Section 7-1-6.41 NMSA 1978, the Taxation and Revenue Department, (“Tax & Rev”), withholds and administrative fee of three percent of the local option gross receipts tax revenues distributed to counties and municipalities. This bill phases out that fee commencing in FY 2027. Tax & Rev used data from Tax & Rev’s Gross Receipts Tax (GRT) and Compensating Tax (COMP) RP-500 reports to annualize the fees collected and distributed to the General Fund pursuant to 7-1-6.12 and 7-1-6.13 NMSA 1978 in FY2023. Tax & Rev grew the estimated loss in administrative fees by the GRT tax base growth from the December 2023 Consensus Revenue Estimating Group (CREG) GRT forecast. The growth for FY2024 over FY2023 is the

underlying economic growth without the impact of the change in the state GRT rate. Tax & Rev then applied the proposed phase-down of the admin rate starting in FY2027 with 2% and in FY2028, 1%. Starting in FY2029 with no administrative fee withheld, the full fiscal impact will be \$69.2 million being returned to the local governments.

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

Table 1: Top 75% Percentage 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

Tax & Rev has entered into cooperative agreements with the majority of the Pueblos and federally recognized Indian tribes in New Mexico. As part of those agreements, Tax & Rev collects on behalf of the Pueblos and Indian tribes GRT revenue attributable to their locations and distributes the appropriate amount. These cooperative agreements include an administrative fee of three percent of the revenues distributed starting in FY2027. As part of the agreements, the administrative fee is to be no higher than the surrounding county in which the Pueblo or Indian tribe is located. As such, the general fund will lose anticipated revenue from these administrative fees starting in FY2027. Tax & Rev used data from Tax & Rev’s Gross Receipts Tax (GRT) and Compensating Tax (COMP) RP-500 reports to annualize the distributions to the Pueblos and federally recognized Indian tribes in FY2023. Tax & Rev grew the estimated loss in administrative fees by the GRT tax base growth from the December 2023 Consensus Revenue Estimating Group (CREG) GRT forecast. This assumes that tribal government economies grow at the same rate as the state GRT tax base. Starting in FY2029 with no administrative fee withheld, the full fiscal impact will be \$1.0 million no longer being withheld from tribal governments.

[Section 3]: There is no fiscal impact under the Solid Waste Assessment as the administrative fee ended in December of 2006 per the current Section 7-1-6.41 NMSA 1978.

[Section 5]: While the bill repeals most of the administrative fees, it retains those with respect to Tax Increment for Development Districts (TIDDs). Tax & Rev used data from Tax & Rev’s Gross Receipts Tax (GRT) and Compensating Tax (COMP) RP-500 reports to annualize the distributions to the TIDDs in FY2023. Currently the state is only withholding 3% in administrative fees for the portion attributable to the local increment dedications. Starting in FY2026, Tax & Rev will withhold for the state dedication in addition to the local increment dedications. Tax & Rev grew the estimated loss in administrative fees by the GRT tax base growth from the December 2023 Consensus Revenue Estimating Group (CREG) GRT forecast. This assumes that TIDDs grow at the same rate as the state GRT tax base.

[Section 6]: The bill also retains the administrative fee for distributions made pursuant to the Local Economic Development Act (LEDA). Tax & Rev used data from Tax & Rev’s Gross Receipts Tax (GRT) and Compensating Tax (COMP) RP-500 reports to annualize the distributions pursuant to LEDA in FY2023. Currently the state does not withhold any administrative fees for the portion attributable to

the local increment dedications or the state dedication. Starting in FY2026, Tax & Rev will withhold for both the state dedication and local increment dedications to TIDDs. Tax & Rev grew the estimated loss in administrative fees by the GRT tax base growth from the December 2023 Consensus Revenue Estimating Group (CREG) GRT forecast. This assumes that LEDA projects grow at the same rate as the state GRT tax base. Tax & Rev knows of an additional LEDA project associated with the construction of the Maxeon Solar Technologies' solar cell production facility in Albuquerque. This will increase the fiscal impact when those GRT receipts are reported.

[Section 7]: The bill also retains the administrative fee for distributions to Metropolitan Redevelopment Areas (MRAs). There are currently no MRAs established. Assuming SB-236 is passed correcting technical issues in the tax code related to MRAs, the earliest fiscal impact is expected in FY2028. The impact is expected to be minimal in the first years of these MRAs.

[Section 8] There is no fiscal impact under the Boat Act as the administrative fee ended in December 2006 per Section 7-1-6.41 NMSA 1978.

[Section 9] There is no fiscal impact under the Water Conservation Fee as the administrative fee ended in December 2006 per Section 7-1-6.41 NMSA 1978.

Policy 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 good tax policy put into action because it meets three key principles of good tax policy: efficiency, simplicity, and accountability.¹ 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 Tax & Rev'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 Tax & Rev's centralized role in processing returns, answering taxpayer questions, and handling delinquent collections, audits, legal defense, and fraud investigations.

All of this administration relies on a robust information system that processes millions of tax return transactions from revenue collection to revenue distribution. In New Mexico, that system is the GenTax system. Without the state providing these services to local governments, each local government would need to employ additional staff to provide the information technology services, customer service, postal processing, auditing, and legal support.

There are economies of scale to have the state centralize this complex system. Tax & Rev carries out the administration of the New Mexico tax code with many partners including the Federal Government's Internal Revenue Service (IRS). An important area that is emphasized by the IRS and Tax & Rev is data safeguards. Tax & Rev is responsible for keeping the confidential data of taxpayers safe. Working with the IRS, the state's Department of Information Technology (DOIT), and other partners, Tax & Rev works continuously to protect tax data from breaches and cyber-attacks. That constant threat means constant

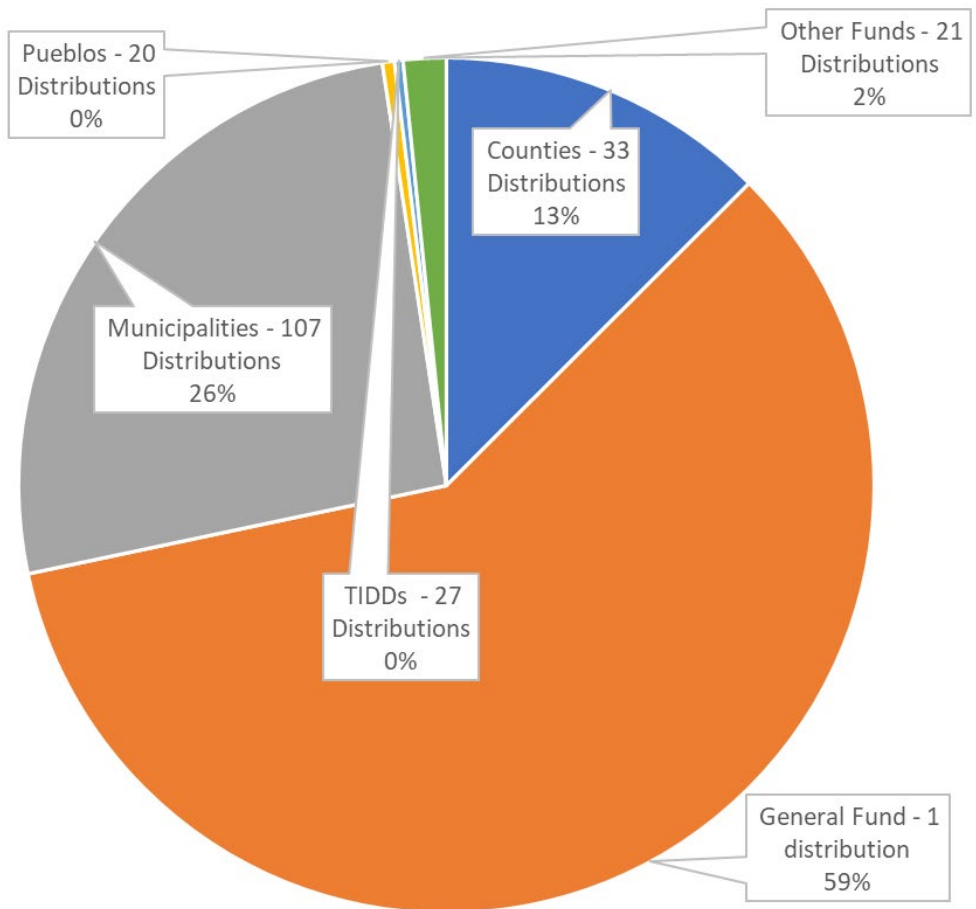
¹ See Tax & Rev's annual Tax Expenditure Reports, <https://www.tax.newmexico.gov/forms-publications/>
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upgrades of technology and processes in GenTax and TAP to stay ahead of threats. If local governments had to administer their tax collection with individual taxpayers, they would collectively need to invest tremendously in IT security measures to protect confidential taxpayer data. Tax & Rev does that collectively for the whole state.

GenTax 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 were 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 Tax & Rev 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 Tax and Rev’s website.

Figure 1: 1 Month of GRT distribution by % and Fund / Local Government



of revenue went to the State General Fund and 41% went 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%) are for the benefit of local governments. This diversity is repeated for compensating tax, 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.

In addition to local option GRT, 1.225% of the State’s 4,875% 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 Tax & Rev monitoring certain municipal distributions at a fixed percentage depending on their poverty rate in relation to the state poverty rate.

Tax & Rev 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. They also represent a reasonable cost in the scheme of complexity of tax revenue distributions that occur every month.

As the most recent increase to distribution complexity, during the 2023 session, SB251 was enacted and provides for metropolitan redevelopment areas to be established by local governments and to receive direct distributions of local option GRT revenue through Tax & Rev. Tax & Rev will incur costs approaching \$2 million to implement that bill, and will experience more complex distributions and programming on a recurring basis. The State is providing this service to local governments despite the fact that local governing bodies could simply choose to appropriate GRT revenue to their metropolitan redevelopment areas.

Technical Issues: [Section 2]: On line 5, the statutory reference should be ‘NMSA 1978’ versus ‘NMSA 1987’.

Other Issues: None.

Administrative & Compliance Impact: Tax & Rev’s Administrative Services Division (ASD) anticipates this bill will take approximately 120 hours between 2 full-time equivalent (FTE) staff for testing of the phase-down and eventual removal of administrative fees under 7-1-6.41 NMSA from every report and establishing revised revenue distributions. This work will also entail new administrative fees for TIDDS, LEDA and MRAs. ASD This will result in \$7,600 in staff workload costs. This bill will have a moderate impact on Tax & Rev’s Information Technology Division (ITD), approximately 500 hours or about 3 months and \$110 thousand contractual costs.

Estimated Additional Operating Budget Impact*				R or NR**	Fund(s) or Agency Affected
FY2024	FY2025	FY2026	3 Year Total Cost		
--	\$7.6	--	\$7.6	NR	Tax & Rev – ASD – staff workload
--	\$110	--	\$110	NR	Tax & Rev – ITD - contractual

* In thousands of dollars. Parentheses () indicate a cost saving. ** Recurring (R) or Non-Recurring (NR).