BILL ANALYSIS AND FISCAL IMPACT REPORT
Taxation and Revenue Department

January 18, 2024

Bill: HB-54 **Sponsor:** Representatives Larry R. Scott, Randall T. Pettigrew and Harlan Vincent

Short Title: Create All Cities & Counties Fund

Description: This bill creates the "All Cities and Counties Fund". The Taxation and Revenue Department (Tax & Rev) shall calculate the amount to be transferred to each municipality and county based on the formula that takes into consideration population and revenues. Tax & Rev will certify this amount to the State Treasurer starting December 1, 2025, and every December 1st after. On January 1, 2026, and every January 1st after, the State Treasurer shall transfer the amount certified by Tax & Rev to the specified municipalities and counties.

This bill creates a new statute in the Tax Administration Act that specifies that a distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the All Cities and Counties Fund in the amount of 8% of the net receipts attributable to the gross receipts tax distributable to the General Fund.

Effective Date: July 1, 2024

Taxation and Revenue Department Analyst: Pedro Clavijo

Estimated Revenue Impact*					R or NR**	Fund(s) Affected
FY2024	FY2025	FY2026	FY2027	FY2028		
--	--	$221,800	$227,800	$235,400	**R**	All Cities and Counties Fund – to Municipalities
--	--	$103,100	$105,900	$109,500	**R**	All Cities and Counties Fund – to Counties
--	--	($324,900)	($333,700)	($344,900)	**R**	General Fund

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

Methodology for Estimated Revenue Impact: This bill redirects 8% of the state share of gross receipts tax (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% of the state GRT distributed to the general fund after making all other statutory distributions. Tax & Rev applied the proposed formulas to determine the revenue gain for municipalities and counties from the new distribution. The analysis assumes 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 2022 from the United States Census Bureau Population Estimates Program[1], the December 2023 Consensus Revenue Estimating Group (CREG) forecasting for net gross receipts tax (GRT) to the general fund, and local government GRT distribution reports from Tax & Rev's report, RP-500.

Policy Issues: State revenue sharing with local governments will strengthen local governments by providing additional revenue. However, the diversity of special funds and distributions across the Tax Administration Act is becoming intricate, leading to a more complex tax management process. The

[1] https://www.census.gov/data/tables/time-series/demo/popest/2020s-total-cities-and-towns.html

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.

The state General Fund currently transfers payments to local governments. Under Section 7-1-6.4 NMSA 1978 state gross receipts tax revenues are already shared with all municipalities, in an amount equal to 1.225% of the 4.875% state gross receipts tax rate, (i.e., with respect to the overall 4.875% rate, 1.255% is transferred to the municipalities, and 3.620% is retained by the state.) Section 7-1-6.5 NMSA 1978 provides a distribution to the Small Counties Assistance Fund; Section 7-1-6.16 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 certain municipalities and counties, respectively, to offset the cost of food and health care practitioner deductions. In addition, local governments have their own taxing authority.

Simplicity and fairness are important considerations in making tax policy, and the proliferation of general and special distributions to local governments goes against those principles. Allowing greatly varying local government tax rates decreases simplicity and makes compliance harder for taxpayers; allowing for a centralized system of revenue distribution, as this bill does, results in greater simplicity, but only if it replaces the competing, and less simple, tax system, and not when it is added on to it. Tax & Rev recommends that a bill of this nature be accompanied by a repeal of other statutes distributing general fund revenues to local governments.

Furthermore, administering multiple distributions on this scale comes with challenges, including:

1) A high number of distributions and funds that are burdensome and conflicting, requiring Tax & Rev 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 reduce effectiveness of these distributions.
3) Increasing the number of distributions to multiple funds reduces Tax & Rev'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% of the state's entire population, are used to compute the distributions. However, 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 Tax & Rev to maintain the GenTax system and the more risk is involved in programming changes. By employing both Tax & Rev 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.

Technical Issues: Tax & Rev suggests a more precise definition for 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 or from the American Community Survey 1-year, 3-year and 5-year estimates. This will provide clarity in the application of this distribution. Annual 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.

The annual December 1 deadline for Tax & Rev to certify to the state treasurer the transfer amounts would most likely occur before the annual General Fund audit will be complete. The All Cities and Counties Fund could potentially be adjusted with audit release. Tax & Rev suggests an annual deadline of February 1 for Tax & Rev to certify, with the deadline for the state treasurer to distribute by March 1.

This bill uses the term "cities', where "municipalities" is the terminology used in statute for example under Section 7-1-6.4 NMSA 1978. For consistency and to make sure that there is no misunderstanding, Tax & Rev suggests replacing "cities" with "municipalities".

In Section 2, it is unclear whether the bill is distributing 8% of the amount that is collected from the state portion of the gross receipts tax or the net amount of state gross receipts tax distributed to the general fund. Tax & Rev suggests that it is clarified on page 4, line 18 in part by adding "state" in front of gross receipts tax and defining "distributable".

Other Issues: None.

Administrative & Compliance Impact: Tax & Rev will need to update forms and instructions, publications, reports and make information system changes. Implementing this bill will have an impact on Tax & Rev's Information Technology Division (ITD) of approximately 300 hours, or about two months and $66,000 of contractual cost. Additionally, Tax & Rev's Administrative Services Division (ASD) anticipates that implementing this bill will require 60 hours split between two full time employees. 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 "equalized gross receipts tax revenue" used in the formula, pull the most recent population estimates and then calculate the distributions amounts for each county and municipality. This will be a recurring staff workload impact for ASD and the OOS.

Estimated Additional Operating Budget Impact*				**R or NR****	**Fund(s) or Agency Affected**
FY2024	**FY2025**	**FY2026**	**3 Year Total Cost**		
$66.0	--	--	$66.0	NR	Tax & Rev – ITD - Contractual Cost
--	$3.5	--	$3.5	NR	Tax & Rev – ASD – Operating
--	--	$0.9	$0.9	R	Tax & Rev – ASD – Operating
--	--	$2.1	$2.1	R	Tax & Rev – OOS - Operating

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

Related Bills: Similar to HB-440 (2023 Session)