

LFC Requester:	Laird Graeser
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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: January 31, 2025

Check all that apply:

Bill Number: HB198

Original Correction
 Amendment Substitute

Sponsor: Rep. Derrick J. Lente

Agency Name and Code Number: 305 – New Mexico
Department of Justice

Short Title: TAX CHANGES

Person Writing Analysis: AAG AJ Swenson
Phone: 505-537-7676
Email: legisfir@nmag.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis: HB 198 relates to taxation and increasing amounts relating to installment agreements that should be available for public inspection, interest rates for overpayment of tax, and penalties for failure to pay a tax or file a return. HB 198 also addresses amending provisions on interest on deficiencies, and consequences associated with interfering with administration of the Tax Administration Act, assaulting Taxation and Revenue Department’s employees, and revealing taxpayer information. Section 1, Section 7-1-21 NMSA 1978, Installment Payments of Taxes – increases the amount of installment agreements available for inspection from one thousand dollars (\$1,000) to ten thousand dollars (\$10,000) and clarifies some details.

Section 2, Section 7-1-67 NMSA 1978, Interest on Deficiencies – clarifies that if a tax is not paid for in the even of negligence or disregard of department rules, then interest should be paid on the amount that is reflected on the first day following the day in which the tax becomes due. An exception is modified to include that if the amount of interest due at the time payment is made is less than ten dollars (\$10.00), instead of one dollar (\$1.00), then no interest shall be due.

Section 3, Section 7-1-68 NMSA 1978, Interest on Overpayments – increases the amount of interest due from one dollar (\$1.00) to ten dollars (\$10.00) in order for a taxpayer to required to pay with respect to an amount credited or refunded for a tax overpayment.

Section 4, Section 7-1-69 NMSA 1978, Civil Penalty for Failure to Pay Tax or File a Return – increases the penalty for failure to pay tax due to negligence or disregard of department rules and regulations, but without intent to evade or defeat a tax, from a minimum of five dollars (\$5.00) to fifteen dollars (\$15.00), except for taxes levied under the Income Tax Act, Corporate Income and Franchise Tax Act or taxes administered by the department pursuant to Subsection B of Section 7-1-2 NMSA 1978.

Section 5, Section 7-1-71.3 NMSA 1978, Willful Failure to Collect and Pay Over Taxes – increases the amount a taxpayer is fined from five thousand dollars (\$5,000) to ten thousand dollars (\$10,000) if the taxpayer is required to pay a tax imposed by the state who willfully, with the intent to defraud, fails to pay over the tax due. No significant issues are presented.

Section 6, Section 7-1-71.4 NMSA 1978, Tax Return Preparer – Electronic Filing Requirement – Penalty – this section is amended to delete the applicability of this section to

taxable years beginning on or after January 1, 2008. Also increases the fine a tax preparer must pay from an amount not to exceed five dollars (\$5.00) to ten dollars (\$10.00) for each tax return filed in violation of this section.

Section 7, Section 7-1-72 NMSA 1978, Attempts to Evade or Defeat Tax – increases the amount fined for a person convicted of willfully attempting to evade or defeat any tax or payment from a minimum of one thousand dollars (\$1,000) to a minimum of ten thousand dollars (\$10,000). Also increases the maximum amount fined for person convicted and willfully attempting to evade or defeat any tax or payment from ten thousand dollars (\$10,000) to fifty thousand dollars (\$50,000).

Section 8, Section 7-1-73 NMSA 1978, Tax Fraud –

(B) increases the amount of tax owed for whomever commits tax fraud from two hundred fifty dollars (\$250) to five hundred dollars (\$500) to be guilty of a petty misdemeanor.

(C) increases the amount for whomever commits tax fraud for tax owed from two hundred fifty dollars (\$250) to five hundred dollars (\$500) but not more than five hundred dollars (\$500) to one hundred dollars (\$1,000) to be guilty of a misdemeanor.

(D) increases the amount for whomever commits tax fraud for tax owed to over five hundred dollars (\$500) to one thousand dollars (\$1,000) but not more than two thousand five hundred dollars (\$2,500) to five thousand dollars (\$5,000) to be guilty of a fourth degree felony.

(E) increases amount for whomever commits tax fraud for tax owed that is over two thousand five hundred dollars (\$2,500) to five thousand dollars (\$5,000) but not more than twenty thousand dollars (\$20,000) to fifty thousand dollars (\$50,000) to be guilty of a third degree felony.

(F) increases amount for whomever commits tax fraud for tax owed that is over twenty thousand dollars (\$20,000) to fifty thousand dollars (\$50,000) to be guilty of a second degree felony.

Section 9, Section 7-1-74 NMSA 1978, Interference or Attempts Corruptly, Forcibly or by Threat to Interfere with Administration of Revenue Laws – increases the fine imposed for whomever forcibly, or by bribe, threat or other corrupt practice obstructs or impedes or attempts to obstruct or impede the due administration of the provisions of the Tax Administration Act from not less than two hundred fifty dollars (\$250) to one thousand dollars (\$1,000) and from not more than ten thousand dollars (\$10,000) to twenty-five thousand dollars (\$25,000).

Section 10, Section 7-1-75 NMSA 1978, Assault and Battery of a Department Employee – increases the fine for whoever assaults and batters or attempts to assault and batter an employee of the department within the scope of the employee's employment from not less than one hundred dollars (\$100) to one thousand dollars (\$1,000) and from not more than five hundred dollars (\$500) to five thousand dollars (\$5,000).

Section 11, Section 7-1-76 NMSA 1978, Revealing Information Concerning Taxpayers – adjusts the conviction for a person found guilty of revealing to another person any return or return information that is prohibited or who used a return or return information for any purpose that is not authorized from a misdemeanor to a fourth degree felony and increases

the fine for such conviction from one thousand dollars (\$1,000) to not more than five thousand dollars (\$5,000).

FISCAL IMPLICATIONS

N/A

SIGNIFICANT ISSUES

The bill proposes to increase the penalty for failure to pay tax with the intent to evade or defeat a tax from twenty five dollars (\$25.00) to seventy-five dollars (\$75.00) or an amount fifty percent of the tax. This proposed amendment leaves out “whichever is greater”, so it is not clear when the department may choose the proposed seventy five dollar (\$75.00) fine or an amount fifty percent of the tax.

PERFORMANCE IMPLICATIONS

None.

ADMINISTRATIVE IMPLICATIONS

None.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None.

TECHNICAL ISSUES

None.

OTHER SUBSTANTIVE ISSUES

None.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status Quo.

AMENDMENTS

None.