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# FISCAL IMPACT REPORT

**SPONSOR** Lente **LAST UPDATED** 2/4/25  
**ORIGINAL DATE** 2/3/25  
**SHORT TITLE** Tax Changes **BILL NUMBER** House Bill 198  
**ANALYST** Graeser

## REVENUE\* (dollars in thousands)

Type	FY25	FY26	FY27	FY28	FY29	Recurring or Nonrecurring	Fund Affected
Fees and Penalties		\$700.0	\$1,500.0	\$1,600.0	\$1,700.0	Recurring	General Fund Total
		\$302.1	\$625.0	\$643.0	\$665.0	Recurring	Local Government Total
Fees and Penalties		\$68.0	\$139.0	\$143.0	\$147.0	Recurring	All Section 4 motor vehicle related funds

Parentheses ( ) indicate revenue decreases.

## ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT\* (dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
TRD	\$69.0	\$2.5	No fiscal impact	\$71.5	Nonrecurring	General Fund

Parentheses ( ) indicate expenditure decreases.

Relates to House Bill 218.

### Sources of Information

LFC Files

#### Agency Analysis Received From

Taxation and Revenue Department (TRD)

New Mexico Attorney General (NMAG)

#### Agency Analysis was Solicited but Not Received From

Department of Finance (DFA)

## SUMMARY

### Synopsis of House Bill 198

House Bill 198 (HB198) is one of two “tax cleanup and modernization bills” proposed by the Taxation and Revenue Department (TRD). The other bill which forms a package with HB198 is House Bill 218.

HB198 increases:

- The minimum threshold for installment agreements made available for public inspection;

- Interest rates for overpayment of tax; and
- Penalties for failure to pay a tax or file a return.

HB198 also amends provisions on interest on deficiencies and consequences associated with interfering with administration of the Tax Administration Act, assaulting TRD employees, and revealing taxpayer information.

Specifically, the bill adjusts several penalties to account for inflation and make other changes to the tax code as follows:

- **Section 1:** Amends Section 7-1-21 NMSA 1978 to increase the dollar amount on delinquent tax installment agreements that are available for public inspection from \$1,000 to \$10 thousand.
- **Section 2:** Amends Section 7-1-67 NMSA 1978 to provide that interest will not be assessed against a delinquent taxpayer if the failure to pay tax due results from a mistake of law made in good faith and on reasonable grounds. In the case of failure to pay due to negligence or disregard of department rules, the amount of interest due at the time of payment that will be disregarded is increased from \$1 to \$10.
- **Section 3:** Amends Section 7-1-68 NMSA 1978 to increase the minimum amount of interest that TRD will pay to a taxpayer owed a refund from \$1 to \$10.
- **Section 4:** Amends Section 7-1-69 NMSA 1978 to increase the minimum penalty from \$5 to \$15 for failure to file or pay certain taxes, and from \$25 to \$75 for failure with willful intent to evade or defeat a tax.
- **Section 5:** Amends Section 7-1-71.3 NMSA 1978 to increase the maximum fine from \$5,000 to \$10 thousand for willful failure, with intent to defraud, to collect and pay over a tax due.
- **Section 6:** Amends Section 7-1-71.4 NMSA 1978 to require tax preparers who prepare more than 25 returns to file them electronically. This section is amended to increase the penalty for tax preparers from a maximum of \$5 to \$10 for each tax return that is required to be filed electronically but that is filed in paper.
- **Section 7:** Amends Section 7-1-72 NMSA 1978 to increase the minimum fine from \$1,000 to \$10 thousand and the maximum fine from \$10 thousand to \$50 thousand for willful attempts to evade or defeat a tax.
- **Section 8:** Amends Section 7-1-73 NMSA 1978 to change the brackets applicable to different levels of tax criminal tax fraud, from petty misdemeanor up to a second-degree felony. Criminal tax fraud penalties rise from a range of \$250 to \$20 thousand to a new range of \$500 to \$50 thousand, depending on the amount of fraud committed.
- **Section 9:** Amends Section 7-1-74 NMSA 1978 to increase the fines for attempts to forcibly or corruptly obstruct or impede the administration of taxes from a range of \$250 to \$10 thousand to a new range of \$1,000 to \$25 thousand.
- **Section 10:** Amends Section 7-1-75 NMSA 1978 to increase the fines for assault and battery of a TRD employee from a range of \$100 to \$500 to a new range of \$1,000 to \$5,000.
- **Section 11:** Amends Section 7-1-76 NMSA 1978 to increase the crime of revealing taxpayer information from a misdemeanor to a fourth-degree felony and increase the fine from a maximum of \$1,000 to \$5,000.

The effective date of Section 1 is July 1, 2025, and the effective date of Sections 2 through 11 is January 1, 2026.

## FISCAL IMPLICATIONS

See below for a table highlighting the revenue impacts by section for FY25- FY29

**Estimated Revenue Impact of HB198 by Section, FY25-FY29  
(in thousands)**

Estimated Revenue Impact*					Recurring (R) or Non recurring (NR)**	Fund(s) Affected
FY2025	FY2026	FY2027	FY2028	FY2029		
--	Slightly Negative	Slightly Negative	Slightly Negative	Slightly Negative	R	Section 2: All associated funds, including the General Fund, and local government distributions (Interest – all Tax Programs)
--	Slightly Positive	Slightly Positive	Slightly Positive	Slightly Positive	R	Sections 3, 5-11: General Fund (Interest pay-out all tax programs, criminal fines and penalties)
--	\$700	\$1,500	\$1,600	\$1,700	R	Section 4: General Fund (Penalty – various tax programs)
--	\$302	\$625	\$643	\$665	R	Section 4: Local Governments (Penalty - GRT, Compensating Tax and Cannabis)
--	\$2	\$5	\$5	\$5	R	Section 4: Local DWI Grant Fund (Penalty - Liquor Excise Tax)
--	<\$1	\$1	\$1	\$1	R	Section 4: Drug Court Fund (Penalty - Liquor Excise Tax)
--	\$39	\$80	\$82	\$83	R	Section 4: State Road Fund (Penalty-Combined Fuel Taxes)
--	\$1	\$2	\$2	\$2	R	Section 4: Local Government Road Fund (Penalty – Alternative Fuel Tax)
--	\$1	\$1	\$1	\$1	R	Section 4: County Government Road Fund (Penalty – Gasoline Tax)
--	<\$1	<\$1	<\$1	<\$1	R	Section 4: Motorboat Fuel Tax Fund (Penalty – Gasoline Tax)
--	\$1	\$1	\$1	\$1	R	Section 4: Municipalities (Penalty - Gasoline Tax)
--	<\$1	<\$1	<\$1	\$2	R	Section 4: Municipal Arterial Program (MAP - Local Governments Road Fund) (Penalty – Gasoline Tax)
--	\$2	\$4	\$4	\$4	R	Section 4: Corrective Action Fund (Penalty – PPL)
--	\$22	\$45	\$47	\$48	R	Section 4: Health Care

The most significant impact of this bill is the increase in Section 4 raising the \$5 minimum late filing penalty to \$15.

For tax programs that had readily available individual return data that included penalty amounts, TRD aggregated the total taxpayers’ penalty amounts of \$5 for the last three fiscal years. TRD then determined the percentage of this amount of revenue to total fiscal year revenues, averaged across the sample of tax programs to arrive at 0.01% of total fiscal year revenues and applied this percentage to all the applicable tax programs under 7- 1-69(A)(3) NMSA 1978, based on the consensus revenue estimating group’s December 2024 forecast and the Department of Transportation’s forecast for various fuel and motor-way taxes that flow into various road funds.

Implementation of the bill will require approximately 300 hours or approximately 2 months and \$69 thousand of contractual services costs for TRD’s Information Technology Division (ITD). TRD’s Administrative Services Division (ASD) will test current revenue reports to ensure penalty and interest revenue continues to flow correctly. It is anticipated this work will take

approximately 40 hours split between 2.0 FTE of a pay band 70 and a pay band 80 at a cost of approximately \$2,500. Pay band 70 hours are estimated at time and ½ due to extra hours worked required for implementation.

**Estimated Operating Budget Impact of Sections 2 and 3, FY25-FY27  
(in thousands)**

Estimated Additional Operating Budget Impact*				Recurring (R) or Non recurring (NR)**	Fund(s) or Agency Affected
FY2025	FY2026	FY2027	3 Year Total Cost		
--	\$2.5	--	\$2.5	NR	Tax & Rev – ASD - Operating
\$69	--	--	\$69	NR	Tax & Rev – ITD – Contractual Costs

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

Consult TRD’s agency analysis for more details on other sections of this bill.

## SIGNIFICANT ISSUES

The penalty for failure to file and pay was first enacted by Laws 1965, ch. 248, § 70. By 1986, the 2 percent per month and \$5 minimum were well established (Laws 1986, ch. 20, § 25). One argument for the increase in the minimum from \$5 to \$15 is that the \$5 minimum for failure to file is no longer particularly motivating, particularly for taxpayers who contract their services but have income only a few months of the year. These taxpayers tend to ignore the filing requirement in months with no income. The other arguments offered by TRD for changes in floors amounts are administrative efficiency and taxpayer privacy issues.

## ADMINISTRATIVE IMPLICATIONS

TRD will update forms, instructions, and publications and make information system changes to reflect the changes in the tax code. The implementation of these changes will be included in the annual tax year changes. Additionally, TRD will provide staff training and educate taxpayers on the changes. While these changes reflect one-time costs as summarized below, in the long term, TRD will experience efficiency, and system and staff savings particularly under Sections 2 and 3.

By increasing the threshold of imposed interest and the pay-out of interest to \$10 in Sections 2 and 3, TRD will see savings in system processing of the interest application for all tax programs.

## CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB198 forms a package with HB218.