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## FISCAL IMPACT REPORT

ORIGINAL DATE 3/6/15  
 SPONSOR SCORC LAST UPDATED 3/17/15 HB \_\_\_\_\_  
 SHORT TITLE Local Option GRT Distribution Adjustments SB 669/SCORCS/a SFC  
 ANALYST Graeser

### REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY15	FY16	FY17	FY18	FY19		
0.0	(\$1,440.0)- (\$535.0)	(\$1,440.0)- (\$535.0)	(\$1,440.0)- (\$535.0)	(\$1,440.0)- (\$535.0)	Recurring	General Fund
0.0	\$535.0 – \$1,440.0	\$535.0 – \$1,440.0	\$535.0 – \$1,440.0	\$535.0 – \$1,440.0	Recurring	Counties and Municipalities

(Parenthesis ( ) indicate revenue decreases

SCTC CS/SB 669 is a near duplicate of HB-581.

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

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	\$0.0	\$112.0	\$0.0	\$112.0	Nonrecurring	TRD Operating

Parenthesis ( ) indicate expenditure decreases

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

New Mexico Municipal League (NMML)  
 Taxation and Revenue Department (TRD)  
 Attorney General’s Office (AGO)  
 Department of Finance and Administration (DFA)

### SUMMARY

#### Synopsis of SFC Amendment

The Senate Finance Committee amendment of SCORC Substitute for Senate Bill 669 requires prior approval by the Board of Finance before the Secretary of TRD may waive recovery of any amount when the recoverable amount exceeds 50% of the average annual distribution to a county or municipality. Similarly, the procedure to waive recovery of a portion of the recoverable amount pursuant to an audit adjustment, correction of a mistake by the department or other adjustment of a prior period when that adjustment is greater than 50% of the average annual distribution to the county of municipality also requires approval by the Board of Finance. A third

change is that the Secretary of TRD must report to the LFC and the Board of Finance the total recoverable amount waived pursuant to either provision. Finally, the phrase “years” is replaced by “twelve-month periods” when calculating the average annual distribution amounts. This is a technical change to improve clarity.

DFA contends, “... the bill would also allow the TRD Secretary to waive any amounts owed by local governments for any reason.”

LFC notes that the section granting the Secretary the authority to waive has several contingencies (after the amendment):

(3) if, after application of a refund claim, audit adjustment, correction of a mistake by the department or other adjustment of a prior period, but prior to any recovery of the department pursuant to this section, the total net receipts of a municipality or county for the twelve-month period beginning with the current month are reduced or are projected to be reduced to less than fifty percent of the average distribution or transfer of net receipts, the secretary may waive recovery of any portion of the recoverable amount, subject to approval by the state board of finance.

Both of the waiver sections require the city or county to be in fairly dire financial circumstances and that the proposed waiver is subject to the approval of the SBoF.

### Synopsis of Bill

Senate Corporations and Transportation Committee Substitute for Senate Bill 669 sets forth, in Section 7-1-6.15 NMSA 1978, new procedures for adjusting gross receipts tax and certain other distributions and transfers to municipalities and counties. Rather than focusing on what constitutes “an erroneous” distribution required in current statute prior to invoking procedures for recovering prior over-distributions, this bill establishes procedures that would allow TRD to adjust local government distributions under most circumstances, but protect large and small municipalities and counties from fiscally catastrophic adjustments. The bill provides that in situations where TRD proposes major changes to prior distributions, the unadjusted distribution would be transferred immediately (but temporarily), with a notice that the municipality or county must contact the department and negotiate how repayment of the over-distribution would be made. The bill substantially increases the share of total adjustments that would be borne by local government compared to the construction of the law decided by the district court and confirmed by the Court of Appeals in the *City of Eunice v. New Mexico Taxation and Revenue Department* case by increasing the adjustment window from 12 to 23 months to 36 to 47 months. The bill permits cities and counties to negotiate paybacks under more defined criteria than under current practice. The bill also amends Section 7-1-8.9 NMSA 1978, to allow TRD to reveal to a municipal or county government a range of gross receipts taxes paid from business locations in that municipality or county under certain circumstances, while preserving essential confidentiality.

DFA describes the steps of the bill as follows:

“In particular, the bill would hold the local government harmless for any negative adjustments that occur three years prior to the year of the current month. Any adjustments from a prior period that reduce the distribution or transfer in the prior month would be evaluated according to the following process:

1. If the adjustment from prior months is less than 20% of the average annual distribution, TRD will recover those amounts in the current month.
2. If the adjustment from prior months is greater than 20% of the average annual distri-

bution, the local government can enter into an installment plan with TRD to repay amounts owed.

3. If the adjustment from prior months is greater than 50% of the average annual distribution, the local government would be held harmless for any amounts greater than 50% of the average annual distribution.”

The AGO points out that, “SB 669 would eliminate the Secretary/TRD’s current ability to cure any erroneous transfers or distributions of gross receipt taxes either in excess or a deficiency, to a political subdivision—municipality or county. Currently, the Secretary can cure any erroneous transfers by increasing or decreasing the next distribution amount, AFTER DETERMINATION, provided: 1) no decrease will be made to current or future transfers of any excess distribution made to the municipality or county more than a one year prior to said determination; and 2) Secretary may recover any excess amounts in installments from future distributions to the municipality or county pursuant to an agreement with official of the political subdivisions.”

The new procedures would replace the current “one-year rule,” in which TRD is directed not to demand repayment of any “erroneous” distribution that originated more than one-year from the current year. The new procedures would also adjust the right and ability of the local governments to negotiate how any over-distribution would be repaid. In current statute, the trigger for this negotiation is “whenever the amount of the distribution or transfer decrease for the political subdivision exceeds ten percent of the average distribution or transfer amount for that political subdivision for the twelve months preceding the month in which the secretary's determination is made.” This provision is widely known as the “10% rule.” The changes would change this rule from 10% of an average monthly distribution to 20% of the average annual distribution amount, so fewer jurisdictions would be allowed to negotiate a payback schedule. However, the counties and municipalities would have an avenue of redress for catastrophic adjustments.

The effective date of the act is July 1, 2015.

## FISCAL IMPLICATIONS

DFA notes as follows:

“The provision allowing the TRD Secretary to waive any amounts owed creates a risk to the General Fund. However, there is a requirement for the Board of Finance approval which does add an additional level of scrutiny on those state funds.”

TRD has prepared the fiscal impact estimate as a range assuming no waivers are granted or all waivers are granted.

The revenue impact is highly uncertain and may be contingent on the New Mexico Supreme Court hearing and possibly overturning a Court of Appeals’ decision sustaining Eunice in *City of Eunice v. New Mexico Taxation and Revenue Department*.<sup>1</sup> If the decision is sustained on final appeal and the bill is not enacted, the general fund GRT revenue estimate would be adjusted downwards by as much as \$20 million a year on a recurring basis.

This issue is discussed below under “Significant Features.”

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<sup>1</sup> City of Eunice v. N.M. Taxation & Revenue Dep’t, 2014-NMCA-085, cert. granted, 2014-NMCERT-008

TRD has done extensive analysis and determined that 12 distributions since 2010 would meet the criteria of > 20% of the annual distribution amount for the municipality or county (with the average modified to exclude any negative distribution amounts included in the 36-month to 47-month average).

“Since FY2010, there have been 12 distributions that would have met the thresholds of this bill. That is, amounts of tax related to prior periods were net negative and their absolute value was greater than twenty percent of the annual average distribution and transfer for that location. Table 1 contains a list of all qualifying distributions. Also included for reference are all periods when amounts for prior periods were net negative and their absolute value was greater than ten percent of the annual average distribution and transfer for that location.”

“The fiscal impact from this bill comes from two places. First, any negative amounts from periods older than three years before the current calendar year cannot be recovered. This amounts to an average of about \$111 thousand a year based on the previous five complete fiscal years. After adjusting for these unrecoverable amounts, if the negative prior period amounts are still above the same threshold, only the current period amounts would be distributed. The department would defer collection of the remainder, and work out a repayment plan with the local government, or collect it over six months in the absence of any agreement. Further, if the adjusted distribution is less than 50 percent of the average, TRD will only collect an amount up to 50 percent of the average and this bill would give the secretary the discretion to forgive all or part of the negative amount with the Board of Finance’s approval. The low end of the range of impacts assumes that the Secretary forgives none of the discretionary amount. The high end assumes that the Secretary forgives all of it. This analysis does not consider the time value of deferred recovery amounts. It is important to remember that this impact is driven by a small number of large events. The impact in any given year is highly unpredictable.”

The following table is derived by assuming that the proper means of showing the effect of the District Court decision, confirmed by the Court of Appeals, and discussed in “Significant Features,” is to adjust the February 2015 general fund revenue estimate produced by the consensus revenue estimating group. Although TRD has indicated that this adjustment should be up to \$20 million annually, a quick analysis of the FY 2014 RP-500 indicates that the negative adjustment could be far less than that. TRD notes that these adjustments are infrequent, but generally large when they do occur. For the purpose of illustration, we will use \$10 million annual adjustment. This shows up only for the general fund. (We ignore this revision for the counties and municipalities).

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY15	FY16	FY17	FY18	FY19		
	(\$10,000.0)	(\$10,000.0)	(\$10,000.0)	(\$10,000.0)	Recurring	General Fund GRT Revenue Estimate
Effect of the Bill						
0.0	\$8,560.0- \$9,465.0	\$8,560.0- \$9,465.0	\$8,560.0- \$9,465.0	\$8,560.0- \$9,465.0	Recurring	General Fund
0.0	\$535.0 – \$1,440.0	\$535.0 – \$1,440.0	\$535.0 – \$1,440.0	\$535.0 – \$1,440.0	Recurring	Counties and Municipalities

LFC staff note that the statute of limitations for amending gross receipts tax returns in 7-1-26 NMSA 1978 is virtually identical with the open adjustment window of this bill. This should mean that the only general fund revenue losses from the provisions of this bill are from the mandatory and voluntary authority granted to Secretary to address catastrophic revenue adjustments in excess of 50 percent. TRD notes that taxpayers exhibit a large range of behaviors, not all of them consistent with either the law or common sense. TRD has made a practice of adjusting distributions pursuant to filed amended returns even if a claim for refund attributable to those amended returns is denied because of the statute of limitations.

## **SIGNIFICANT ISSUES**

The issue of adjusting local government gross receipts tax and cigarette tax distributions came to a head in 1981 and 1982. Artesia threatened to sue the Taxation and Revenue Department, alleging that TRD did not have statutory authority to adjust local government distributions. In subsequent negotiations, the local governments and the Department agreed to support a bill to resolve the controversy. The local governments granted the Department the right and authority to adjust prior distributions for any number of reasons that were all combined under the descriptor, “erroneous.” To balance this unlimited authority, local governments negotiated the “one year rule” and the “10 percent rule.” The adjustment authority and both named rules became Laws 1983, Chapter 211, Section 20. The “one year” rule disallowed any adjustment of a distribution more than one year prior to the calendar year of the current distribution month. Thus, the takeback period was 12 to 23 months. Any amounts of adjustment older than that window were excluded from takeback. The “10% rule” invoked the right of a county or municipality to negotiate a repayment schedule for the repayments.

From 1983 through 2001, TRD’s processes honored the one-year and the 10% rules, and negotiated a significant number of paybacks. As part of the TRIMS effort in the late 1990’s, TRD staff and the TRIMS contractor conducted a business process study and determined that the word “erroneous” could not be applied to ordinary gross receipts tax return changes such as a claim for refund or a change in location and, therefore, did not implement the one-year rule in either the TRIMS system or the successor GenTax system. Since TRD’s RP-500 reports current amounts of “paybacks,” apparently TRD honored the local governments’ right to negotiate a payback if the amount of net negative exceeded 10% of the average monthly amount for the previous 12 months.

Approximately November 2012, a single taxpayer determined that because its place of business was outside the Eunice municipal boundaries, it had mistakenly paid taxes to the City of Eunice. The taxpayer filed 36 amended GRT returns changing the reporting location from the City of Eunice to the remainder of Lea County. The majority of these adjustments were older than the “one-year” rule allowed and should have been excluded under the pre-2002 interpretation of the law. In January 2013, the department granted the taxpayer a refund of taxes going back to January 2009; and the department claimed that the municipality had to refund taxes distributed to the municipality based on the taxpayer’s original returns from January 2009 forward in excess of \$2.3 million. The city claimed that 7-1-6.15 NMSA 1978 barred the department from recovering any excess state and municipal taxes revenues distributed to the city prior to January 1, 2012. Eunice sued and the district court decided in favor of the city, based at least in part on the financial damage an adverse decision would have on the City of Eunice<sup>2</sup>. The appeals court affirmed the district court decision and published this sustaining decision on August

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<sup>2</sup> Op. cit. The decision notes that the Department on a number of occasions offered the City of Eunice the right to spread the \$2.3 million payback over an extensive period of time.

29, 2014. Apparently, the New Mexico Supreme Court has granted or is considering certiorari of this case and accepted a Brief in Chief from the appellants on March 2, 2015.

The Brief in Chief prepared by Pfeiffer, Hanson and Mullins, P.A. on behalf of The New Mexico Taxation and Revenue Department and Demesia Padilla, Secretary of Taxation and Revenue, was filed with the New Mexico Supreme Court on March 2, 2015. The major point made in this brief is that TRD is required to pay claims for refund attributable to taxpayer amended returns up to three years after the current year. To simultaneously require TRD to pay taxpayer refunds but not adjust distributions to conform to the amended returns is inconsistent. While the brief makes a sound legal argument, it fails to mention that TRD itself construed 7-1-6.15 NMSA 1978 to prohibit TRD from collecting paybacks from the affected jurisdictions in the period from 1983 through 2001 or 2002.

Apparently, TRD has not invoked the one-year rule in current statute for some time, although it has honored the 10 percent rule and permitted affected jurisdictions the right of negotiated payback. As of March 2014, TRD was administering paybacks from Picuris Pueblo, Torrance County, City of Santa Rosa and the Village of Jemez Springs. Total amounts of payback for the four entities is \$53,814.40 per month.

As part of the Taxation and Revenue Information Management System (TRIMS) effort in the late 1990's, TRD staff and the TRIMS contractor conducted a business process study and determined (among other changes) that the word "erroneous" could not be applied to ordinary GRT return changes such as a claim for refund or a change in location and, therefore, did not implement the one-year rule in either the TRIMS system or the successor GenTax system. Reversing the *Eunice* decision would confirm current practice of always clawing back adjustments. The revenue estimate reported in the table above, then, is against current practice, not against current law, and assumes that the Supreme Court overturns the Court of Appeals.

Since the District Court has decided for the City and the Court of Appeals granted certiorari and has affirmed the District Court's decision, assuming particular action on the part of the Supreme Court may not be warranted. See "Fiscal Impacts" section above for an alternative revenue table that shows the effect of this bill as a substantial positive that would significantly limit the impact on the general fund of a literal construction of 7-1-6.15 NMSA 1978.

In the wake of this decision, apparently TRD has begun honoring the one-year rule. This decision motivates the alternative revenue table.

NMML summarizes the pertinent procedures as follows:

"This bill ... requires TRD to segregate receipts (mainly state and local gross receipts tax revenues) into two piles each month: one for currently due transactions and one for transactions processed in the current month but that relate to prior periods. The two totals are to be reported to each local government receiving a distribution or transfer of these revenues. It is our understanding that TRD's programs are already capable of this calculation. [ed: TRD's RP-500 reports "current" and "other" detail by sector.] If the total for prior periods is negative (over specified thresholds), adjustments are required. Otherwise the distribution or transfer for the month is the combined total of the current and prior period amounts."

“The first [required adjustment] is that all take-back amounts from transactions prior to three years prior to the year of the current month will be excluded from the total. This means that, depending on the month of the year, negatives (and associated positives) more than 36 to 47 months in the past will be excluded. Under current law the range is 12 to 23 months. The consequence is that local governments will be absorbing a bigger part of any take-backs resulting from taxpayer refund requests, TRD audit adjustments and other causes and the state general fund less. How much is difficult to forecast.”

“The second [adjustment] is that, if the remaining negative amount in the prior period total is large enough, TRD does not collect the amount—named the “recoverable amount” — immediately. Instead TRD distributes or transfers the total for the current month and notifies the local government of the recoverable amount, that TRD intends to collect it through reductions in future distributions or transfers to the local government and that the local government has 90 days to enter into a repayment agreement if the local government prefers a payment plan other than the default. The default plan is even payments over six months, beginning three months after notification. Local government has somewhat improved access to TRD records to assure themselves of the legitimacy of TRD’s action.”

“Two other adjustments are possible. If the negative amount exceeds 50% of the average distribution or transfer amount for the immediately prior 12 months, collection of the excess is waived by statute and the Secretary of Taxation and Revenue given discretion to waive additional amounts [with the advice and consent of the State Board of Finance]. Also, if the new baseline distribution or transfer amounts for the local government is projected to be less than 50% of the past average, the Secretary has discretion to waive collection of some or all of the recoverable amount after review of the [State Board of Finance].”

“Tax confidentiality provisions are amended to give local governments more access to taxpayer-specific information, if it does not jeopardize tax information sharing agreements with the IRS [or involve inspection of the amended returns creating the proposed adjustment]. TRD may require training of local government officials who are to receive confidential tax information.”

DFA provides the following analysis of the release of taxpayer information and the waiver provisions:

“Taxpayer Confidentiality: The bill authorizes TRD to reveal refund claim information of gross receipts taxpayers and would allow TRD to provide additional information on the relative size of taxpayers in terms of gross receipts paid. The bill provides some protections of taxpayer confidentiality, including limiting local governments to refund information exclusive of the amended returns that are required to be submitted with the claim form, requiring local governments to agree in writing that the information will only be used for tax purposes, and extending penalty provisions for misuse of taxpayer data to local government employees. It is important that local governments take seriously their access to such information and take necessary steps to safe-guard the taxpayer data provided.”

“Under current law, TRD may reveal to local governments only certain non-return information (such as name, address, ID number and whether a taxpayer has reported gross receipts, but not the amount of gross receipts reported). In the case of Eunice, a list of taxpayers reporting to the municipality would likely have been sufficient to alert the municipi-

pality to the taxpayer filing error that necessitated the large refund. Section 7-1-29(G) makes available for public inspection records of refunds and credits in excess of \$10,000. This would suggest that such information is already available to local governments through IPRA.”

“The requirement that TRD receive authorization from the IRS before revealing taxpayer information has little teeth, as the IRS generally doesn’t concern itself with state sales and gross receipts tax issues. Additionally, the penalty in current law for misuse of taxpayer information may be too low (misdemeanor charge with a \$1,000 fine) to serve as a deterrent to the potential theft or misuse of taxpayer information.”

“Discretion to Waive Recoverable Amounts: The bill gives the TRD secretary discretion to waive recovery of any portion of the recoverable amount subject to approval by the State Board of Finance (SBOF). The bill is silent regarding the factors, if any, that the secretary or SBOF may consider in making this decision. Without guiding factors, the secretary may make inconsistent decisions with similarly situated local governments, which could undermine local governments’ confidence that the secretary treats these matters fairly based on objective factors. The Legislature may want to consider adding language regarding factors the secretary or SBOF may consider when determining whether to waive recoverable amounts. Possible factors could include: financial hardship to the local government if the full amount is recovered, effect on services to citizens, dollar amount to be waived, time period of repayment plan for the proposed recovery, etc. Alternatively, TRD or SBOF could do a formal rulemaking process and specify the factors the secretary may consider.”

The SCTC substitute bill, in addition to clarifying the exact information and conditions under which TRD will release information regarding a proposed takeback, also adopted a number of technical suggestions for accuracy and clarity.

## **ADMINISTRATIVE IMPLICATIONS**

TRD reports a high impact. TRD’s IT Division estimates 1,600 hours to make the required changes, at a cost of \$112 thousand.

While TRD’s IT division were implementing these changes, a small change to the RP-500 would allow a rough means of identifying situations where takebacks or waivers might be in order. To implement this simplified procedure for production would require TRD’s IT Division to modify the RP-500. Rather than three lines for each industry and jurisdiction reported in the “Industry” tab of the report – “Current,” “Other” and “Total” –the “Other” line would become “Other, prior to 3-year rule” and IT would have to add a fourth line, “Other, within 3-year rule.” No modifications to the CRS database would have to be made. However, this procedure would net the refund claims with positive amounts reported in the same 2-digit NAICS category and would not be suitable as a permanent solution.

## **DUPLICATION**

SB 669 is a duplicate of HB 581.

**TECHNICAL ISSUES**

LFC staff speculate that Article IV, Sec. 32. “Remission of debts due state or municipalities” may be applicable to the recoverable amounts waived.

No obligation or liability of any person, association or corporation held or owned by or owing to the state, or any municipal corporation therein, shall ever be exchanged, transferred, remitted, released, postponed or in any way diminished by the legislature, nor shall any such obligation or liability be extinguished except by the payment thereof into the proper treasury, or by proper proceeding in court.”

The bill’s provisions establish the right of the State to recover over-distributions. This simultaneously establishes an obligation and liability. Pursuant to Article IV, Sec. 32, these obligations may not be released or extinguished.

The annotations do not clearly establish whether a county or municipality is a “person, association or corporation” for this purpose. An attorney general’s opinion is that this constitutional provision is “intended to prevent public officials from releasing debts justly owed to a public body and to discourage collusion between public officials and private citizens.”<sup>3</sup> If this principle can be extended, then the section would not prohibit the state from discharging a debt incurred by a county or municipality.

**OTHER SUBSTANTIVE ISSUES**

**Table 1: Qualifying Distribution Periods**

Location	Revenue Month	FY	Current	Prior	Total	3 year annual average	"Prior" % of Annual Avg.	Unrecoverable Amounts
Lordsburg	2009-10	2010	94,662	(190,754)	(96,092)	1,498,514	12.73%	-
Folsom	2009-12	2010	196	(649)	(453)	4,651	13.96%	-
Encino	2009-12	2010	467	(544)	(76)	5,059	10.75%	-
Clayton	2010-05	2010	93,166	(1,596,444)	(1,503,278)	1,971,650	80.97%	(9.10)
Union County	2010-05	2010	66,035	(411,827)	(345,792)	1,266,929	32.51%	(0.03)
Tatum	2010-12	2011	26,428	(50,259)	(23,831)	397,772	12.64%	-
Jemez Springs	2011-02	2011	5,903	(26,087)	(20,184)	138,554	18.83%	-
Hope	2011-08	2012	1,560	(2,247)	(687)	20,185	11.13%	-
Causey	2011-10	2012	984	(11,143)	(10,159)	7,980	139.63%	-
Grants	2012-02	2012	456,510	(798,582)	(342,071)	5,908,642	13.52%	-
Santa Clara	2012-03	2012	34,637	(108,466)	(73,829)	549,801	19.73%	-
Jemez Springs	2012-05	2012	5,465	(39,778)	(34,312)	127,661	31.16%	(0.18)
Santa Rosa	2012-05	2012	113,292	(370,813)	(257,520)	1,986,809	18.66%	-
Guadalupe County	2012-05	2012	55,529	(128,948)	(73,419)	1,075,567	11.99%	-
Floyd	2012-06	2012	425	(15,046)	(14,621)	71,066	21.17%	-
Santa Rosa	2012-07	2013	164,818	(1,207,610)	(1,042,792)	1,836,501	65.76%	(3,771.42)
Guadalupe County	2012-07	2013	74,053	(412,506)	(338,454)	1,012,272	40.75%	(461.44)
Eunice	2012-12	2013	277,391	(2,342,908)	(2,065,518)	4,336,966	54.02%	-

<sup>3</sup> 1970 Op. Att’y Gen. Nos. 70-88, 70-04 and 1969 Op. Att’y Gen. No. 69-69 (debts owed the state).

Location	Revenue Month	FY	Current	Prior	Total	3 year annual average	"Prior" % of Annual Avg.	Unrecoverable Amounts
Floyd	2013-01	2013	579	(140,790)	(140,211)	53,853	261.43%	(160.50)
Estancia	2013-08	2014	69,258	(1,890,542)	(1,821,284)	828,228	228.26%	(551,752.65)
Torrance County	2013-08	2014	134,185	(551,207)	(417,021)	1,651,851	33.37%	-
Questa	2014-05	2014	34,043	(123,062)	(89,019)	535,580	22.98%	-

A number of New Mexico’s Native American Tribes and Pueblos have negotiated dual tax collection agreements with TRD. In essence, TRD administers a revenue sharing agreement. The Tribe or Pueblo imposes two gross receipts taxes – one on non-Tribal members which is shared 75% to the Tribe or Pueblo and 25% to the city, county and state. The second tax is imposed at the same rate but is only collected from tribal members. The Tribe or Pueblo collects 100% of this tax minus a small administrative fee. The provisions of this bill would not directly affect the Tribe or Pueblo but could adjust the payback amounts for the overlapping state and county or municipality. If the bill passes, TRD would probably administer the payback negotiation process with the Tribes and Pueblos, but not honor the forgiveness of debt older than three years.

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