

LFC Requester:

Laird Graeser

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: 1/31/2025

Check all that apply:

Bill Number: HB218

Original Correction
Amendment Substitute

Sponsor: Rep. Derrick J. Lente

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

Person Writing

Short Title: Tax Changes

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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:

This bill updates and deletes outdated provisions of the Tax Administration Act and amends the Metropolitan Redevelopment Code and Tax Increment for Development Act to conform with destination sourcing. Additionally, the bill allows the Tax and Revenue Department (“TRD”) to adjust distributions to political subdivisions and increases the amount of owed taxes allowing a taxpayer to pay incrementally. It provides authority to the Secretary of TRD to compromise asserted liability in case of a denial or refund, increases the threshold for public inspection of agreements, abatements and refunds. It removes the requirement for the Attorney General to approve closing agreements and refunds over \$20,000.

The bill modifies certain provisions regarding liens for tax liability, interest on deficiencies, removing contingent rats for petroleum product loading fees, local option gross receipts, streamlining advance payments, taxes on skim oil, recordation of tax liens, tax due date alignment, Chapter 41, and generally amending sections of the NMSA 1978.

Section 1 regarding Chapter 3, NMSA – Municipalities, adds language requiring the board of finance to promulgate rules to implement and dedicate state gross receipts tax increment to fund metropolitan redevelopment and to determine the amount of the increment pursuant to the metropolitan redevelopment code.

(Sections 2 through 9 impact Chapter 5, NMSA – Municipalities and Counties)

Section 2 updates definitions in the Tax Increment for Development Act.

Section 3 adds requirements for the TRD to designate a reporting location code for development districts.

Section 4 includes cross references to other NMSA Chapters regarding tax incremental development plan matters and adds language regarding calculation of gross receipts taxes.

Section 5 replaces certain terms.

Section 6 replaces certain terms and eliminated the definition for “developer” within section.

Section 7 updates certain terms and removes the definition for “developer” within section.

Section 8 updates certain terms.

Section 9 provides reporting timeframe for the Board of Finance or the taxing authority to notify TRD.

(Sections 10 through 149 impact Chapter 7, NMSA – Taxation)

Section 10 updates certain terms.

Section 11 makes distributions to small cities assistance funds subject to an increase/decrease made pursuant to Sec. 7-1-6.4.

Section 12 removes language regarding reduced distributions to municipalities.

Section 13 makes distributions to small counties assistance funds subject to fluctuations made pursuant to Sec. 7-1-6.15.

Section 14 makes distributions of gas taxes to municipalities and counties subject to fluctuations made pursuant to Sec. 7-1-6.15.

Section 15 adds municipal and county compensating tax terms; adds requirements for reporting oil and gas ad valorem production taxes; adds timeframes and reporting requirements; replaces certain terms regarding adjustments of distributions.

Section 16 specifies dates for distribution to county.

Section 17 requires that certain funds and entities will receive an equal distribution from the voluntary tax refund contribution.

Section 18 distribution to counties shall be subject to fluctuations pursuant to Section 7-1-6.15.

Section 19 distribution to municipalities shall be subject to fluctuations pursuant to Section 7-1-6.15.

Section 20 clarifies the distribution process to the retiree health care fund.

Section 21 regarding offset for food deduction and healthcare practitioner serves, removes references to annual timeframes to determine percentages for distribution to municipalities with a poverty level two percentage points below the state.

Section 22 regarding offset for food deduction and healthcare practitioner serves, removes references to annual timeframes for distributions to certain counties.

Section 23 regarding public election funds, removes outdated fiscal year reference.

Section 24 regarding cannabis excise tax, replaces “within” with “sourced to.”

Section 25 updates information that may be shared with local governments and their agencies.

Section 26 regarding methods of payment of taxes, removes language about the computation of taxes owed for certain taxpayers.

Section 27 authorizes the Secretary to allow interval payments for certain taxpayers.

Section 28 removes the necessity of the attorney general’s approval for the Secretary to compromise the liability or the denial.

Section 29 regarding disputing liabilities, removes the term “credit,” and language about the timeframe for filing claims for certain parties.

Section 30 provides authority to the Secretary to abate assessments if written protest is filed, or a notice of assessment is incorrect; removes language that an abatement in the amount of \$20,000 requires attorney general approval with certain exceptions; amends the amount of abatements subject to public inspection.

Section 31 removes the requirement for attorney general approval for certain refunds, credits or rebates; amends the amount of refunds and credits subject to public inspection.

Section 32 provides minimal clarifying language.

Section 33 regarding notice of liens, expands the list to include the Secretary of State for possible recordation.

Section 34 regarding release of liens, replaces certain terms regarding recordation.

Section 35 provides delegation of enforcement by the Secretary.

Section 36 regarding tax returns, removes the provision regarding approval for electronic media.

Section 37 regarding limitations on claiming credits, removes redundant language.

Section 38 regarding adoptions, removes adoption dates previously required for applying for credit; includes instructions on filing for and reporting credit.

Section 39 regarding angel investments credit, updates certain terms and provides reporting requirements.

Section 40 provides clarifying language and reporting requirements for rural healthcare practitioners tax credit.

Section 41 regarding geothermal ground-coupled heat pump income tax credit, requires the energy, minerals and natural resources department (“EMNRD”) to provide the department information regarding certification and eligibility requirements.

Section 42 regarding agricultural biomass tax credit, requires EMNRD to adopt rules regarding agricultural biomass.

Section 43 clarifies that the sustainable building tax credit is an income tax credit, and provides guidelines, limitations and reporting requirements.

Section 44 requires the energy, mineral and natural resources department shall provide appropriate information for all certificates of eligibility for the solar market development income tax.

Section 45 clarifies the sustainable building income tax credit, requires EMNRD to provide appropriate information for all certificates of eligibility of such; defines building owner as fee simple, or leasehold of federal, Indian Tribe or Pueblo; requires proper forms to be used by taxpayers; and permits the sale or exchange of credit with proper notice to department.

Section 46 regarding the Home Fire Recovery Tax Credit, changes effective date and requires tax credit shall be included in tax expenditure budget pursuant to Sec. 7-1-84 NMSA 1978.

Section 47 provides reporting requirements for geothermal electricity generation income tax credit and requires tax credit shall be included in tax expenditure budget pursuant to Sec. 7-1-84 NMSA 1978.

Section 48 identifies certain entities as possible recipients for optional designation of tax refund contribution and guidelines for department to process such refund contributions.

Section 49 updates NMSA citation.

Section 50 provides the secretary an avenue to remove optional refund contribution recipients on the list based on prior total monies received.

Section 51 requires a deduction from net income for certain dependents shall be included in the tax expenditure budget pursuant to Sec. 7-1-84 NMSA 1978.

Section 52 requires deduction from leasing a license shall be included in the tax expenditure budget pursuant to Sec. 7-1-84 NMSA 1978.

Section 53 requires deduction claimed by public school teachers included in the tax expenditure budget pursuant to Sec. 7-1-84 NMSA 1978.

Section 54 removes election filing exception for certain corporations.

Section 55 updates the geothermal ground coupled heat pump corporate income tax credit and reporting requirements.

Section 56 allows certain geothermal electricity generating facilities to apply for a credit against tax liability.

Section 57 provides that biomass corporate income taxes are deductible with certain limitations and shall be included in the tax expenditure budget pursuant Section 7-1-84, NMSA 1978.

Section 58 provides that the 2015 sustainable building corporate income tax credit may be deducted with certain limitations from gross receipts and the provided deduction to be included in the tax expenditure budget pursuant Section 7-1-84, NMSA 1978, and certain terms are updated.

Section 59 regarding sustainable building corporate income filer may claim certain tax credits against gross receipts beginning on certain date, provided deduction is included in the tax expenditure budget pursuant Section 7-1-84, NMSA 1978, and certain terms are updated.

Section 60 regarding provides that certain income from leasing a license may be deducted from gross receipts the provided deduction to be included in the tax expenditure budget pursuant Section 7-1-84, NMSA 1978

Section 61 collected administrative costs shall be appropriated to the department for administering to the Tax Refund Intercept Program.

Section 62 replaces certain terms and requires that a credit provided under the rural job tax credit section shall be included in the tax expenditure budget pursuant to Section 7-1-84, NMSA 1978.

Section 63 regarding statements of withholding, updates reporting requirements to an electronic format.

Section 64 updates reporting criteria and removes penalty requirements for employers failing to file quarterly withholding.

Section 65 regarding enforcement of the act, removes reporting criteria regarding Oil and Gas Proceeds and Pass-Through Entity Withholding.

Section 66 clarifies liability of person having not paid compensating tax.

Section 67 replaces certain terms.

Section 68 replaces certain terms and adds “good faith” qualifier.

Section 69 regarding government gross receipt taxes, requires that the receipts of the sale of certain tangible personal property is deductible and the deduction to be included in the tax expenditure budget pursuant Section 7-1-84, NMSA 1978.

Section 70 regarding companies in a border zone, allows for certain trade-support companies to deduct certain receipts from gross receipts the provided deduction to be included in the tax expenditure budget pursuant Section 7-1-84, NMSA 1978.

Section 71 regarding gross receipts for certain agricultural implements, provides that a certain amount of aircraft maintenance, etc. costs may be deducted from gross receipts the provided deduction to be included in the tax expenditure budget pursuant Section 7-1-84, NMSA 1978.

Section 72 regarding gross receipts for aircraft sale and service, provides that receipts from care and maintenance of certain military carriers may be deducted from gross receipts the provided deduction to be included in the tax expenditure budget pursuant Section 7-1-84, NMSA 1978.

Section 73 provides certain reporting requirements for deductions for the sale of prescription drugs and oxygen provided by certain persons.

Section 74 the sale or rental of durable medical equipment may be deducted from gross receipts the provided deduction to be included in the tax expenditure budget pursuant Section 7-1-84, NMSA 1978.

Section 75 certain healthcare and receipts may be deducted from gross receipts the provided deduction to be included in the tax expenditure budget pursuant Section 7-1-84, NMSA 1978 and replaces certain terms.

Section 76 deductions for certain childcare assistance services may be deducted from gross receipts the provided deduction to be included in the tax expenditure budget pursuant Section 7-1-84, NMSA 1978.

Section 77 removes outdated provisions.

Section 78 removes outdated provisions.

Section 79 provides that deductions from selling uranium hexafluoride and the service of enriching uranium may be deducted from gross receipts the provided deduction to be included in the tax expenditure budget pursuant Section 7-1-84, NMSA 1978.

Section 80 updates NSMA citation.

Section 81 provides that a deduction by health care practitioner may be deducted from gross receipts the provided deduction to be included in the tax expenditure budget pursuant Section

7-1-84, NMSA 1978.

Section 82 adds taxpayer reporting requirements.

Section 83 replaces certain terms.

Section 84 requires taxpayers receiving a deduction based upon receipts from converting electricity to file a report which authorizes the department to reveal certain tax information for compliance.

Section 85 provides reporting requirements for taxpayers claiming deductions under the gross receipts taxes electricity exchange.

Section 86 updates the provision regarding purpose and requirement of the locomotive fuel deduction.

Section 87 provides that certain sales by persons with interest in geothermal electricity generation may be deducted from gross receipts the provided deduction to be included in the tax expenditure budget pursuant Section 7-1-84, NMSA 1978.

Section 88 provides that a deduction by qualified contractor of qualified research and development may be deducted from gross receipts the provided deduction to be included in the tax expenditure budget pursuant Section 7-1-84, NMSA 1978.

Section 89 requires that deductions regarding gross receipts of taxes for sales require the deduction be included in the tax expenditure budget pursuant Section 7-1-84, NMSA 1978.

Section 90 requires that deduction claimed by liquor dispenser's licensees be included in the tax expenditure budget pursuant Section 7-1-84, NMSA 1978.

Section 91 replaces certain timeframes and credit rates to reflect state gross tax receipts relating to certain investment credit.

Section 92 removes certain language regarding leased telephone lines regarding sale of service for resale.

Section 93 removes certain outdated provisions regarding "new high-wage jobs."

Section 94 removes outdated provisions and replaces certain terms regarding required taxpayer bond.

Section 95 removes provisions regarding calculation of Petroleum Products Loading Fees; sets flat rate for fee.

Section 96 provides the deduction under the provision shall be included in the tax expenditure budget under the Gasoline or Special Fuels.

Section 97 requires the special biodiesel fuel deduction provision shall be included in the tax expenditure budget under the Special Fuel Deduction.

Section 98 removes outdated provisions.

Section 99 removes an outdated provisions and replaces certain terms.

Section 100 removes certain outdated timeframes and renumbers as necessary.

Section 101 replaces certain terms.

Section 102 replaces certain terms and provides that the effective date of a municipality's ordinance to impose a tax shall be January 1 or at least three months after either a governor's declaration of emergency or and unforeseen occurrence causing a district's reserve to decrease below the required amount under the authorization to impose supplemental municipal gross receipts tax.

Section 103 replaces certain terms.

Section 104 removes and outdated specific exemptions for transporting persons or property for hire within the municipality prior to July 1, 2021.

Section 105 replaces certain terms.

Section 106 provides that a municipality's ordinance to impose a tax to be effective on January 1 of at least three months after either a governor's declaration of emergency or and unforeseen occurrence causing a district's reserve to decrease below the required amount.

Section 107 removes specific exemptions for transporting persons or property for hire within

a municipality prior to July 1, 2021.

Section 108 removes authority for a municipality that imposes a federal water project gross receipts tax to impose a municipal capital outlay gross receipts tax pursuant to Federal Water Project Gross Receipts Tax Authorization – Use of Revenue – Referendum.

Section 109 replaces certain terms and provides that the effective date of a county's ordinance to impose a tax shall be January 1 or at least three months after either a governor's declaration of emergency or and unforeseen occurrence causing a district's reserve to decrease below the required amount under the authorization to impose supplemental municipal gross receipts tax.

Section 110 removes the option to hold a single election on the question of imposing a special county hospital gasoline tax as authorized in the County Hospital Gasoline Tax Act.

Section 111 clarifies the effective date for a county ordinance regarding county health care gross receipt tax.

Section 112 replaces certain terms and provides that the effective date of a district's ordinance to impose a tax shall be January 1 or at least three months after either a governor's declaration of emergency or and unforeseen occurrence causing a district's reserve to decrease below the required amount under the authorization to impose supplemental municipal gross receipts tax.

Section 113 updates definitions as used in the Severance Tax Act.

Section 114 updates definitions as used in the Oil and gas Severance Tax Act.

Section 115 adds slop, sediment and skim oil to Oil and Gas Severance Tax imposed – Indian Liability

Section 116 replaces certain terms.

Section 117 replaces certain terms.

Section 118 replaces certain terms.

Section 119 replaces certain terms and removes gendered terms.

Section 120 relating to taxpayers required to pay pursuant to the Oil and Gas Severance Tax Act., establishes requirements for advanced payment computations and due dates for such.

Section 121 updates definitions as used in the Oil and Gas Conservation Tax Act.

Section 122 relating to the Oil and Gas Conservation Tax, clarifies that a levy will be assessed to a purchaser from any location.

Section 123 removes gendered terms.

Section 124 clarifies computation and due dates of required advanced payments relating to the Oil and Gas Conservation tax.

Section 125 amends definitions used in the Oil and Gas Emergency School Act.

Section 126 clarifies that privilege tax levies include slop oil, sediment and skim oil.

Section 127 replaces certain terms.

Section 128 replaces certain terms.

Section 129 replaces certain terms and removes gendered terms.

Section 130 replaces certain terms.

Section 131 replaces certain terms.

Section 132 amends terms of advanced payments relating to the Oil and Gas Elementary School Tax Act.

Section 133 updates definitions in the Oil and Gas Ad Valorem Production Tax Act.

Section 134 regarding ad valorem taxes levied, adds a provision regarding slop oil, sediment oil and skim oil, and removes gendered terms.

Section 135 replaces certain terms.

Section 136 replaces certain terms.

Section 137 replaces certain terms.

Section 138 replaces certain terms.

Section 139 replaces certain terms.

Section 140 replaces certain terms.

Section 141 requires the computation of advance payment and average tax for those required to pay Oil and Gas Ad Valorem Production taxes, removes and/or replaces certain terms and timeframes/due dates.

Section 142 regarding privileged taxes levied, removes obsolete dates and tax rates related to those dates.

Section 143 amends definition of commission and division as department as related to the Oil and Gas Production Equipment ad valorem tax.

Section 144 replaces certain terms within methods of determining assessed values.

Section 145 replaces certain terms as they relate to ad valorem taxes levied.

Section 146 removes an obsolete reference to calendar and subsequent years within the Oil and Gas Ad Valorem tax.

Section 147 replaces the term department for term commission and certain due dates.

Section 148 replaces certain terms.

Section 149 removes premiums issued under the Minimum Healthcare Protection Act from the list of tax exemptions.

Section 150 relating to Chapter 14, NMSA – Records, Rules, Legal Notices, Oaths, permits that liens filed need not be acknowledged but may be filed and recorded under the provision of recording of duplicates.

(Sections 151 through 153 impact Chapter 24A, NMSA – Health Care Code)

Section 151 regarding the Health Care Delivery Act, identifies the Department of Health as the “authority.”

Section 152 regarding the Health Care Delivery Act, clarifies the assessment relates to health care delivery and access, and providing notice to TRD.

Section 153 requires hospitals to pay the health care delivery access assessment by percentage for certain dates and requires hospitals to alert the TRD if Medicare and Medicaid approval is not timely and prohibits interest/penalty accrual.

Section 154 relating to Chapter 53, NMSA – Workers’ Compensation, amends the worker’s compensation administration fund to assess fees quarterly where applicable, removes a gender label, and sets the date for remitted fees.

Section 155 relating to Chapter 67, NMSA – Highways, clarifies the Secretary of TRD as the recipient of intergovernmental agreements regarding gasoline taxes.

Section 156 amends Chapter 41, Section 13 to add Sections for repeal.

Section 157 repeals certain sections of Chapter 7.

Section 158 repeals the 2005 version of Section 7-2-7 NMSA 1978.

Section 159 delays the repeal of Section 7-1-6.66 until January 1, 2028.

Section 160 establishes the effective date for certain provisions of this bill.

FISCAL IMPLICATIONS

N/A

SIGNIFICANT ISSUES

The removal of the Attorney General from necessary approval over certain liability compromises, abatement, and other similar challenges puts the Secretary of TRD in a larger enforcement roll.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

It is unclear if or how the bill will impact the workload within the TRD.
Board of Finance will be tasked with promulgating rules.
EMNRD will be tasked with promulgation rules.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None noted.

TECHNICAL ISSUES

None noted.

OTHER SUBSTANTIVE ISSUES

This bill may impact a local government's bond issuance.

The bill seemingly expands the number of allowable tax credits across industries – yet the most impacted is the Gas and Oil industry.

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS