BILL ANALYSIS AND FISCAL IMPACT REPORT
Taxation and Revenue Department

February 11, 2025

Bill: HB-275 **Sponsor:** Representatives Elaine Sena Cortez and Mark B. Murphy, and Senator Jay C. Block, and Representatives Rod Montoya and John Block

Short Title: Eliminate Personal Income Tax

Description: This bill amends Section 7-2-7 NMSA 1978 to set a flat personal income tax (PIT) rate of 0%. It also amends Section 7-2-12 NMSA 1978 to provide that a taxpayer may elect to file a return. Any taxpayer electing to file a return must do so on or before the due date of the federal income tax return for the taxable year.

Effective Date: January 1, 2026. Applicable to taxable years beginning on or after January 1, 2026.

Taxation and Revenue Department Analyst: Sara Grubbs and Lucinda Sydow

Estimated Revenue Impact*					R or NR**	Fund(s) Affected
FY2025	FY2026	FY2027	FY2028	FY2029		
--	($1,330,400)	($2,195,400)	($2,273,000)	($2,365,500)	R	General Fund – PIT
--	($1,025)	(388,500)	($402,400)	($415,200)	R	General Fund - CIT
--	($400)	($65,800)	($73,600)	($82,300)	R	General Fund – Other – statutory distributions
--	--	($526,400)	($533,600)	($537,700)	R	General Fund – Other – refundable credits and rebates
--	($1,331,425)	($3,176,100)	($3,282,600)	($3,400,700)	R	General Fund - Total

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

Methodology for Estimated Revenue Impact: This bill amends the current graduated tax brackets, reducing them all to zero. At a 0% tax rate, no PIT liability would be due for taxable personal income. Taxable income is defined under 7-2-2 NMSA 1978 and begins with federal Adjusted Gross Income (AGI) which includes among other sources, wages, pensions, benefits and investment earning. While the Acts for wage withholding (7-3 NMSA 1978), estimated payments (7-2-12.2 NMSA 1978), oil and gas proceeds and pass-through entity withholding (7-3A NMSA 1978) remain in law (See Technical Issues), taxpayers would no longer need to withhold as their final PIT liability would be zero. In addition, pass-through entities (PTE) have the option to file under PIT (i.e. the income is passed through to the beneficiaries and taxed under the Income Tax Act) or elect the Entity-Level Tax which applies the higher marginal tax rate from either PIT or Corporate Income Tax (CIT). The Taxation and Revenue Department (Tax & Rev) assumes all PTE taxpayers would opt to file under PIT as the New Mexico CIT rate is 5.9% and that filing under PIT is more advantageous despite the tax liability impact for Federal Income Tax due to the State and Local Tax (SALT) deduction cap. If for some PTE filers, filing under PIT is not as advantageous, then the impact above for CIT would decrease.

The Consensus Revenue Estimating Group (CREG) forecast for PIT consists of the current tax year withholding and estimated payments and the net PIT liability for the prior tax year which results in final settlements and refunds for taxpayers. Tax & Rev used the December 2024 CREG PIT forecast to estimate the impact. Tax & Rev assumes that January 1, 2026, taxpayers will adjust withholding and therefore FY2026 is expected to see a half year of revenue impact as taxpayers adjust their withholding. The CREG December 2024 forecast for withholding was used for this estimate. For FY2027 through FY2029, the fiscal impact is the full loss of PIT and PTE revenue forecasts from the December 2024 CREG forecast. PTE revenue shifted to being recognized under CIT at the half-way point in FY24. Thus, the PTE revenue loss will appear under CIT.

Without offsetting PIT revenue to cover refundable credits and rebates, and the distributions under 7-1-6.43 NMSA 1978 and 7-1-6.30 NMSA 1978 (details following), the General Fund will need to absorb these distributions to taxpayers and to the respective funds. Under 7-1-6.43 NMSA 1978 there is a distribution from the Oil and Gas Proceeds and Pass-Through Entity Withholding revenue to the magistrate retirement and judicial retirement funds and starting in FY2026 to the legislative retirement fund. Tax & Rev assumes the General Fund will need to absorb these distributions and the revenue impact is included in the table above. (See Technical Issues.) Based on the CREG December 2024 forecast, the distributions to the Magistrate Retirement and Judicial Retirement Funds are split between corporate income and fiduciary returns and revenue accrues to the General Fund through PIT. The current statute has the new distribution to the Legislative Retirement Fund commencing July 1, 2025 and is built into the CREG December 2024 forecast.

The distribution under 7-1-6.30 NMSA 1978 distributes revenue to the Retiree Health Care Fund. For accounting purposes this has been reflected as netting the PIT revenue. Without PIT revenue to net out, this distribution will impact the General Fund by way of another revenue source, most likely state gross receipts tax revenue. This impact is reflected under other General Fund in the table above.

While refunds tied to PIT liability will no longer occur and are included in the net impact to PIT, refundable refunds and credits will need to be funded by other general fund revenue. Tax & Rev estimated the amount of rebates and credits to taxpayers to be funded from other general fund revenue from Tax & Rev's Tax Expenditure Report[1] which reports the current base forecast for refundable credits and rebates and from the CREG's PIT forecast for new legislation fiscal impacts coming into the forecast outlook.

Policy Issues: Personal income tax (PIT) represents a consistent source of revenue for many states. For New Mexico, PIT is forecast to be approximately 16 percent of the state's recurring general fund revenue in FY2026. While this revenue source is susceptible to economic downturns, it is also positively responsive to economic expansions. New Mexico is one of 41 states, along with the District of Columbia, that impose a broad-based PIT (New Hampshire and Washington do not tax wage and salary income). Like several states, New Mexico computes its income tax based on the federal definition of taxable income and ties to other statues in the federal tax code. This is referred to as "conformity" to the federal tax code. The PIT is an important tax policy tool that has the potential to further both horizontal equity 'by ensuring the same statutes apply to all taxpayers, and vertical equity, by ensuring the tax burden is based on taxpayers' ability to pay.

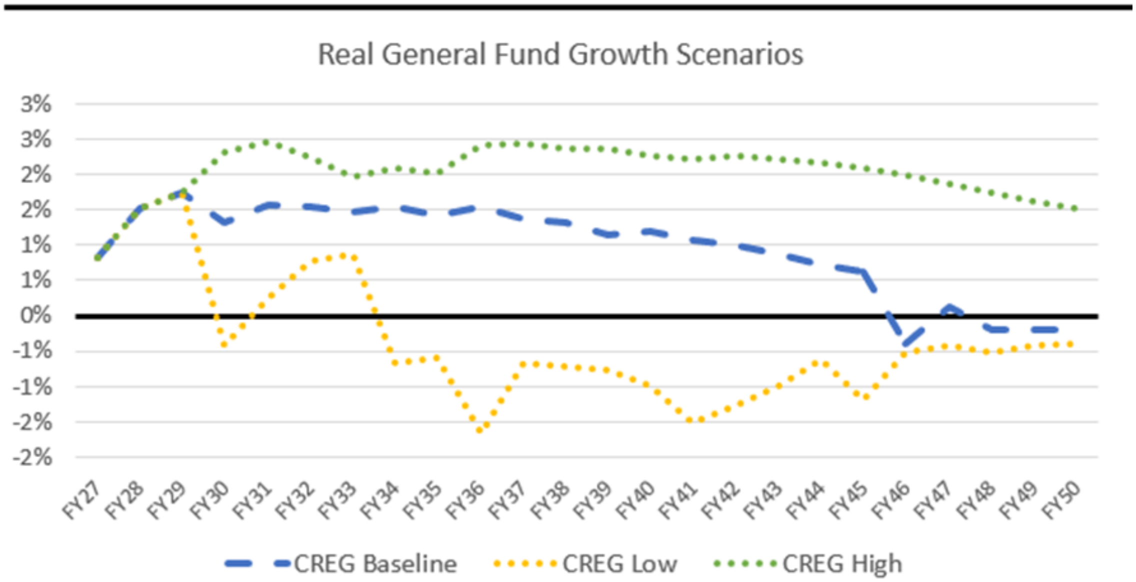
Under the principle of vertical equity, a progressive tax is based on the policy that taxes should, at least in part, reflect ability to pay, and progressive tax systems therefore impose a lower percentage tax rate on lower income taxpayers than on those with a higher income. By eliminating PIT, the majority of the benefit therefore goes to middle and high-income taxpayers as demonstrated in the table below.

[1] 2024 Tax Expenditure Report, thttps://www.tax.newmexico.gov/forms-publications/

PERSONAL INCOME TAX BY INCOME BRACKET TABLE – TAX YEAR 2023 DATA						
All Tax Filers						
Income Bracket	**Number of Returns**	**Percent of Returns**	**New Mexico Taxable Income**	**Percent of NM Taxable Income**	**Estimated Tax on Taxable Income**	**Percent of Estimated Tax**
No Taxable Income	325,970	31.27%	$0	0.00%	$0	0.00%
Under $25,000	250,011	23.98%	$3,015,866,416	4.95%	$81,936,044	4.53%
$25,000-$50,000	170,022	16.31%	$6,180,782,719	10.14%	$225,023,545	12.43%
$50,000-$75,000	95,938	9.20%	$5,882,653,293	9.65%	$224,868,706	12.42%
$75,000-$100,000	58,598	5.62%	$5,078,462,419	8.33%	$196,501,816	10.86%
$100,000-$200,000	96,235	9.23%	$13,295,978,863	21.82%	$504,825,088	27.89%
Over $200,001	45,637	4.38%	$27,494,323,060	45.11%	$577,050,462	31.88%
Total	**1,042,411**	**100.00%**	**$60,948,066,770**	**100.00%**	**$1,810,205,661**	**100.00%**

Source: New Mexico Taxation & Revenue Department, 2024 Tax Expenditure Report.

This proposal represents a significant loss of general fund revenue in perpetuity. This proposal would decrease recurring General Fund revenue by about 23% in FY2027, the first full year of the loss of revenue from both PIT and PTE, reducing the legislature's budgetary flexibility with respect to the broad appropriation needs of the State in future years. By removing this stable revenue source, the remaining recurring General Fund revenue will be more subject to the volatility of the remaining CIT revenue, State Treasurer's Office investment earnings, and GRT revenue. As noted in the graph below from the long-term forecast from CREG presented in September 2024, real baseline General Fund growth is expected to contract in FY2046. This proposal would have general fund contracting in FY2026 before the expected decline of oil and natural gas revenue contracts revenue growth further.



Source: S&P, CREG Analysis 2024

Technical Issues: As there is no PIT liability, Tax & Rev suggests that statutes requiring withholding and estimated payments should be repealed as well. Without the repeal of these statutes, employers will still be subject to filing withholding returns and Tax & Rev will be obligated to process the returns. This will lead to inefficiency of time and resources for taxpayers and Tax & Rev. The following Acts and statutes should be repealed, Withholding Tax Act, 7-3 NMSA 1978, estimated tax due, 7-2-12.2 NMSA 1978, Oil and Gas Proceeds and Pass-Through Entity Withholding Tax Act, 7-3A NMSA 1978.

Under 7-1-6.43 NMSA 1978, there is a distribution from the Oil and Gas Proceeds and Pass-Through Entity Withholding revenue to the magistrate retirement and judicial retirement funds and starting in FY2026 to the legislative retirement fund. Without revenue for these funds, Tax & Rev assumes the general fund will need to absorb the impact. Tax & Rev suggests that this statute be revised to clarify the source of revenue for these funds or their solvency may be impacted.

Other Issues: Tax & Rev suggests for clarity and brevity in the tax code that exemptions, deductions and non-refundable credits that reduce PIT liability be repealed.

PIT returns would still be filed for taxpayers who qualify for refundable credits under the income tax act. Examples of these include:

7-2-13. NMSA 1978 Credit For Taxes Paid Other States by Resident Individuals
7-2-14. NMSA 1978 Low-Income Comprehensive Tax Rebate
7-2-14.3. NMSA 1978 Tax Rebate of Part of Property Tax Due Form Low-Income Taxpayer Local Option Refund
7-2-18.1. NMSA 1978 Credit For Expenses for Dependent Child Day Care Necessary to Enable Gainful Employment
7-2-18.2. NMSA 1978 Credit For Preservation of Cultural Property – Refund
7-2-18.7. NMSA 1978 Tax Rebate of Property Tax Paid on Property Eligible for Disabled Veteran
7-2-18.15. NMSA 1978 Working Families Tax Credit
7-2-18.13. NMSA 1978 Credit-Unreimbursed Medical Care Expenses of Individuals Sixty-Five Years of Age or Older
7-2-18.16. NMSA 1978 Credit--Special Needs Adopted Child Tax Credit
7-2-18.18. NMSA 1978 Renewable Energy Production Tax Credit
7-2-18.31. NMSA 1978 New Solar Market Development Income Tax Credit
7-2-18.34. NMSA 1978 Child Income Tax Credit
7-2-18.36. NMSA 1978 Clean Car Income Tax Credit
7-2-18.37. NMSA 1978 Clean Car Charging Unit Income Tax Credit

The zero personal income tax rate may also result in some businesses being unable to utilize the full balance of awarded incentives for non-refundable business tax credits against withholding taxes, as the amount of tax reported will be theoretically zero. Additionally, some of these business credits have a three-year carryforward limitation, further complicating their full utilization.

The distribution under 7-1-6.30 NMSA 1978 to the retiree health care fund does not designate a specific tax revenue source and has been accounted for under PIT. The accounting of this distribution is not specified in the statute and thus the distribution can be accounted for through another general fund revenue, which given its relative size will probably need to be shown under GRT.

Administrative & Compliance Impact: Tax and Rev will update forms, instructions and publications and make information system changes. This implementation will be included in the annual tax year changes.

Tax & Rev's Administrative Services Division (ASD) will need to update the general ledger, revenue reporting. It is anticipated this work will take approximately 60 hours split between 2 FTE of a pay band 70 and a pay band 80 at a cost of approximately $3,800. Collaboration and input from the Department of Finance and Administration (DFA) is required as this will decrease General Fund revenue distributions.

For Tax & Rev's Revenue Processing Division (RPD), personal income tax payments and tax returns will be reduced, which will result in a reduction in workloads for that program in data capture. Resources will be shifted to fulfill the needs in other work areas or tax programs. Other workloads are not expected to decrease but an increase for customer service that will be required for the increased refund requests, and there will still be a need to process those refunds.

This bill will have a moderate impact on Tax & Rev's Information Technology Division (ITD), approximately 440 hours or about 2 months for an estimated staff workload cost of $29,322.

Tax & Rev notes that there is no administrative savings in the long run for the Office of the Secretary (OOS) which produces the PIT packet. The PIT forms will still need to be published annually for taxpayers to claim refundable refunds and credits.

Estimated Additional Operating Budget Impact*				**R or NR****	**Fund(s) or Agency Affected**
FY2025	**FY2026**	**FY2027**	**3 Year Total Cost**		
--	$3.8	--	$3.8	NR	Tax & Rev – ASD – Staff workload
--	$29.3	--	$29.3	NR	Tax & Rev – ITD – Staff workload

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