

BILL ANALYSIS AND FISCAL IMPACT REPORT
Taxation and Revenue Department

February 15, 2025

Bill: SB-348

Sponsor: Senators James G. Townsend, Gabriel Ramos and Jay C. Block

Short Title: Payments in Lieu of Taxes for Property

Description: This bill adds two new sections of law providing for annual payments in lieu of tax to be made by the State when it acquires fee simple ownership of real property. The payments are to be made to any political subdivision that imposed and received the revenues of property tax on that real property prior to the state’s acquisition. It provides that the Property Tax Division (PTD) of the Taxation and Revenue Department (Tax & Rev) will promulgate rules to specify how the payments in lieu of taxes will be paid. The bill also creates the Payments in Lieu of Taxes Fund, which will be administered by Tax & Rev.

Effective Date: July 1, 2025

Taxation and Revenue Department Analyst: Lucinda Sydow

Estimated Revenue Impact*					R or NR**	Fund(s) Affected
FY2025	FY2026	FY2027	FY2028	FY2029		
--	--	--	--	--		General Fund
--	Indeterminate				R	Payments in Lieu of Taxes Fund

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

Methodology for Estimated Revenue Impact: The proposed legislation creates a Payments In Lieu of Taxes (PILOT) Fund and provides that the state make payments in lieu of taxes to local governments from the fund whenever the state or a state agency acquires fee simple ownership of real property by purchase or eminent domain, thereby removing the property from property tax rolls. The fund is funded by appropriations, gifts, grants, donations, income from investment of the fund and any other money distributed or otherwise allocated to the fund. However, the legislation does not make any transfers to the fund and hence has no impact on General Fund revenues. The Taxation & Revenue Department (Tax & Rev) does not have information on the value of property the state will acquire in the future, and there is no pattern or trend that would suggest how much currently taxable property the state may acquire in the future, or the location of such property. As a result, it is not possible to determine the impact on the PILOT Fund of this legislation

Policy Issues: The payment in lieu of tax (PILOT) is a tax on the State and, therefore, may be unconstitutional under Article VIII, section 3 of the New Mexico Constitution. While the bill does not directly tax the property of the state, it is specifically a payment in lieu of taxation and could be interpreted as a tax on state property, especially as the amount of the payment in lieu of taxes is tied directly to the tax revenue the political subdivision would have received, had property taxes been imposed on the property.

All governmental entities in New Mexico have the potential to reduce one another’s property tax base by owning property and taking that property off the tax rolls. This bill only penalizes the State, not counties, municipalities, school districts, hospital districts or others for their contribution to reduced property tax

base through property acquisition. The Industrial Revenue Bond Act and the County Industrial Revenue Bond Act similarly allow counties and municipalities to unilaterally reduce the property tax base, while the State does not.

The bill does not provide for any required transfers by the State due to acquiring real property to be offset by increased property taxes if the State disposes of real property through sale or donation that renders the property taxable. It would seem fairer if the State’s contributions to the fund reflected both acquisitions and dispositions of real property.

Technical Issues: Tax & Rev also notes that the amount of the payment in lieu of taxes, or a formula for computing that amount, is not included in the language of the bill. The bill appears to assume that the amount of the payment should be the amount of lost tax revenue. If that is the intent, this should be made explicit in the bill.

Other Issues: None.

Administrative & Compliance Impact: The bill will require Tax & Rev’s Property Tax Division (PTD) to create a method for the State to report when it is acquiring property that is subject to the payment in lieu of taxes, and for a determination of how much property tax has been lost by the relevant political subdivision or subdivisions that would otherwise be receiving the revenue. Tax & Rev will bear the cost of administering the new fund. Tax & Rev’s PTD estimates the need for an additional FTE at a pay-band 70, state assessed supervisor, to manage the effort.

The Administrative Services Division (ASD) estimates that it will require 40 hours of a FTE time to establish the fund and coordinate with the Property Tax Division (PTD) at a pay-band level 80, and another 10 hours per month of FTE effort at a a-band level 70.

Estimated Additional Operating Budget Impact*				R or NR**	Fund(s) or Agency Affected
FY2025	FY2026	FY2027	3 Year Total Cost		
--	\$2.3	\$5.6	\$7.9	NR	ASD – Staff workload
--	\$97.0	\$97.0	\$194.0	R	PTD - FTE

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

Related Bills: Similar to SB-186 (2022 Regular Legislative Session)