FISCAL IMPACT REPORT

		LAST UPDATED	
SPONSOR	Townsend/Ramos/Block	**ORIGINAL DATE**	02/16/25
SHORT TITLE	Payments in Lieu of Taxes for Property	**BILL NUMBER**	Senate Bill 348
		ANALYST	Graeser

APPROPRIATION
(dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY22	**FY23**	**FY24**	**FY25**	**FY26**		
		Unknown Source of Appropriation			Recurring	General Fund
		Continuing appropriation authority granted			Recurring	Payments in Lieu of Taxes Fund

Note: the bill requires payments in lieu of taxes but does not establish a source of funding for these payments. The title of the bill properly includes the words, "MAKING AN APPROPRIATION" and provides for disposition of the funds in case there is an appropriation from the general fund or other state funds to the payments in lieu of taxes fund.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*
(dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
TRD	**$0**	**$2.3**	**$5.6**	**$7.9**	Nonrecurring	**General Fund**
	$0	**$97.0**	**$97.0**	**$194.0**	Recurring	**General Fund**
Total	**$0**	**$99.3**	**$102.6**	**$201.9**		**General Fund**

Parentheses ( ) indicate expenditure decreases.
*Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC FIR for 2022 Senate Bill 186, Payments in Lieu of Taxes
LFC Files

Agency Analysis Received From
Taxation and Revenue Department (TRD)

Agency Analysis was Solicited but Not Received From
Department of Finance and Administration/Local Government Division (DFA)

SUMMARY

Synopsis of Senate Bill 348

Senate Bill 348 (SB348) provides for annual payments in lieu of tax to be made by state agencies when an agency acquires fee simple ownership of real property by purchase or eminent domain. The payments would 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. The payments would be required every year the state owns the property. It requires the Property Tax Division (PTD) of the Taxation and Revenue Department (TRD) to 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 TRD.

If the Legislature fails to appropriate funds into the payments in lieu of taxes fund, no payments would be made that year. No PILT would be required for state issued general obligation bonds. Land or other property acquired by the Department of Transportation would be exempt.

Land acquired by gift or trade would not be subject to the requirement.

The effective date of this bill is July 1, 2025. The PILT would be required the calendar year (Property Tax Year) following any property acquisition.

FISCAL IMPLICATIONS

The fiscal impact of the provisions of this bill are likely zero:

(1) The state rarely purchases or condemns land through eminent domain. Far more frequently, the state will trade one property for another. The specific language in the bill requires purchase or eminent domain.
(2) Even if the bill were to pass and land were purchased subject to the PILT, the legislature would have to appropriate funds into the payments in lieu of taxes fund.
(3) As TRD points out below, PILTs could be found to be a tax on the state and therefore prohibited by the New Mexico Constitution.

The bill does not specify where appropriations to the payments in lieu of taxes fund will come from or how much the appropriations would be. The bill may assume the appropriations to the fund would be automatic as state purchase of land arise; however, there is no language in the bill that would establish such continuing appropriations.

Appropriations of state funds can only be made by the Legislature in the annual General Appropriation Act or in special acts that designate a source of funds, a destination of the funds (the payments in lieu of taxes fund and thence to the counties, municipalities, school districts and special districts), the amount of the appropriation (uncertain here), and control of the funds (TRD).
The Legislature sometimes passes its appropriation authority to state agencies that deal with dedicated and earmarked funds. However, there is no funding source mentioned in this bill. Hence, the only means of funding the requirements of this bill would be an annual special appropriation in the General Appropriation Act. As there is no earmarked revenue language in the bill, the Legislature would have to decide to appropriate funds to the payments in lieu of taxes fund each year for the state to execute the payments.

TRD notes a modest impact on systems and noted the a department would need one new FTE:

> The bill will require TRD'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. TRD will bear the cost of administering the new fund. TRD's PTD estimates the need for an additional FTE at a pay-band 70, state assessed supervisor, to manage the effort.
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> The Administrative Services Division (ASD) estimates that it will require 40 hours to establish the fund and coordinate with the PTD at a pay-band level 80, and another 10 hours per month of FTE effort at pay-band level 70.

SIGNIFICANT ISSUES

TRD provides policy comments:

> The payment in lieu of tax 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.
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> 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 have access to these instruments.
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> 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.

PERFORMANCE IMPLICATIONS

The LFC tax policy of accountability is <u>not</u> met because TRD is <u>not</u> required in the bill to report annually to an interim legislative committee regarding the data compiled from the reports from agencies making these PILT payments. TRD now publishes property tax information in the annual Tax Expenditure Report and provides access to the abstracts submitted by county assessors.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Relates to 2022 Senate Bill 186, Payment in Lieu of Taxes for Property

TECHNICAL ISSUES

TRD also notes 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.

LFC staff note Section 1 (B) requires a state agency to remit the PILT to the payments in lieu of taxes fund the amount of the previous year's property tax liability for the property. This instruction works for the first year following acquisition but the property tax liability once the state owns the property is zero.

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