



PRIMARY MUNICIPAL REVENUE SOURCES IN NEW MEXICO

MUNICIPAL GENERAL TAX REVENUES AND DISTRIBUTIONS

Municipal Local Option Gross Receipts Tax (MGRT) – Municipalities are authorized to impose a municipal gross receipts tax (MGRT) of up to 2.5% on taxable gross receipts of businesses located in the municipality. The municipality may impose up to 2.05% of the tax by ordinance; the remaining 0.45% must be approved by voter referendum. Revenue from the tax can be used for any authorized purpose. *Prior to July 1, 2019, MGRT included tax increments for general use, as well as several increments earmarked for specific uses. A de-earmarking bill passed in 2019 restructured the tax, as reflected above.*

MGRT is the major source of municipal revenues, and together with the state distributions makes up over two-thirds of total municipal general fund revenues. MGRT is collected by the Taxation and Revenue Department and distributed monthly to municipalities.

Changes to the MGRT occur almost annually, based on statutory changes to the state GRT enacted by the legislature. For example, legislation enacted in 2019, with a delayed effective date of July 1, 2020, redefined the location of a business for tax purposes from the sellers' location to the buyers' location. This change enabled the tax to be imposed on internet and other out-of-state sales. However, it also resulted in some redirection of in-state sales for municipalities, including shifting some sales from within municipalities to unincorporated county areas (Sec. 7-19D-9).

Municipal Compensating Tax – The compensating tax is applied to the value of tangible personal property manufactured by a business using the property in the state or to property acquired that was not subject to GRT. As of July 1, 2021, the MGRT statute includes the automatic imposition of a compensating tax equal to the MGRT rate, in addition to the state compensating tax provisions (Sec. 19D-9.1).

State Share Distribution, GRT – Municipalities receive a distribution of state GRT revenues collected from businesses located within the municipalities. The distribution is in lieu of local gross receipts and sales taxes previously imposed by municipalities prior to the enactment of the state GRT. The distribution equals 1.225% of taxable gross receipts in the municipality (Sec. 7-1-6.4).

State Share Distribution, Interstate Telecommunications GRT – The state levies a separate GRT on interstate telecommunications services of 4.25%. Of that amount, 1.35% is distributed to municipalities based on receipts from businesses within the municipality (Sec. 7-1-6.36).

Food and Medical Hold Harmless GRT Distributions – Legislation enacted in 2004 removed food and certain medical services from the state GRT base by providing a deduction for these sales. To protect local governments from a revenue loss from this policy measure, two new municipal distributions were provided equal to the amount of the deductions claimed by these businesses in the municipality times their MGRT rate. Beginning July 1, 2015, these distribution amounts were reduced by approximately 7% a year to all municipalities except those with a population of 10,000 or less. Additional changes to the hold harmless distributions have been made in subsequent years, with the

outcome being that by July 1, 2029, most small municipalities of 10,000 or less will continue to receive 100% of the hold harmless distributions, other cities will receive lower amounts of 80%, 50% or 30%, and some will receive zero (Sec. 7-1-6.46 and 7-1-6.47).

State Compensating Tax Distribution to Small Cities Assistance Fund – Fifteen percent of the State Compensating Tax is earmarked for distribution to the Small Cities Assistance Fund to aid municipalities with a population of 10,000 or less. Qualifying municipalities receive a minimum distribution of \$90,000 but may receive additional funding based on a formula using per capita gross receipts tax compared to a statewide average. Money can be used for general purposes or as allocated by the governing body (Sec. 7-1-6.2 and 3-37A-3).

Cannabis Excise Tax – The state enacted a special excise tax on retail sales of cannabis effective when retail sales begin, but no later than April 1, 2022. The tax rate is 12% prior to July 1, 2025 and increases by 1% a year until it reaches 18% by July 1, 2030. Municipalities receive a distribution of one-third of net excise tax receipts from business locations within the municipality (Sec. 7-1-6.68).

Property Tax (Ad Valorem) – Municipalities are allowed to impose a tax on the assessed value of property in their boundaries. The maximum tax authorized for operating purposes is 7.650 mills (\$7.65 per \$1,000) of assessed taxable value and may be imposed by including it in the budget resolution for the upcoming fiscal year. The assessed taxable value is determined by the county assessor and the increase in value is capped for residential and non-residential property. The amount of the millage levied on the taxpayer is subject to a yield-control provision that reduces the imposed rates, as determined by the Local Government Division of the Department of Finance and Administration (LGD). Property taxes are collected by the County Treasurer and distributed to municipalities twice a year, in December and May (Sec. 7-37-7, 7-37-7.1 and NMAC 3.6.50.15).

A municipality may authorize the issuance of general obligation bonds paid for by a property tax levy. The total amount of debt from all outstanding bonds cannot exceed 4% of the total assessed value of property in the municipality. The limit excludes bonded debt for construction or purchase of a water or sewer system. LGD calculates the mill levy required to service the bonds (Sec. 5-5-9).

Oil and Gas Ad Valorem Tax, Oil and Gas Production Equipment Tax, and Copper Production Ad Valorem Tax – The state levies a separate ad valorem tax on the production value of oil and gas, oil and gas equipment, and copper. If a municipality has a production unit within its boundaries, it receives a distribution of these taxes either from the county treasurer or from the state (Sec 7-32-14, 7-34-9 and 7-39-10).

EARMARKED MUNICIPAL TAXES AND DISTRIBUTIONS

Lodger's Tax – A municipality may levy a maximum tax rate of 5% on all persons renting temporary lodging (hotels, motels, and other premises) within the municipality. If the tax imposed is not more than 3%, at least half of the proceeds must be used for the promotion or advertising of authorized facilities, tourist attractions and events. If the tax imposed is more than 3%, an additional amount of at least one-quarter of the additional tax proceeds over 3% must be used for promotion and advertising. (Exception: Municipalities in Class A Counties must use half of their entire proceeds for advertising). Tax proceeds exceeding the amounts required for advertising may be used for other purposes, as defined in the Lodgers Tax Act.

Additional amounts of the tax have been authorized for Santa Fe, Las Cruces and Albuquerque specifically to finance construction or operation of convention centers (Sec. 3-38-13 through 3-38-24).

Distribution of Gasoline Tax – The state collects 17 cents of tax on each gallon of gasoline sold. Of the 17 cents collected, the state returns the equivalent of 1.75 cents to the municipality in which the gas was purchased, based on that municipality's sales in proportion to the total sales in all municipalities in the prior fiscal year. The distributed revenue may be used for streets, roads, bridges, and mass

transit; distributions to municipalities with populations of 4,000 or less may go to their general fund .

An additional distribution of approximately 1 cent is made to municipalities for street and road projects and to provide matching funds for state projects. Fifteen percent of the funds are used to provide a minimum distribution of at least \$5,000 per year to all municipalities. The remaining eighty-five percent of the funds go to municipalities with a population of 200,000 or more, based on their proportion of gasoline sales compared to all municipalities (Sec 7-1-6.27).

Motor Vehicle Fees Distribution – The state returns a small portion of motor vehicle fees to municipalities that operate motor vehicle division offices (Sec. 66-6-22.1).

Fire Protection Fund Distribution – The state distributes a portion of revenues from insurance premium taxes to the state Fire Protection Fund. A portion of money from the fund is distributed to municipalities for fire department operations, construction, maintenance, and equipment. Allocations are based on a formula using fire insurance rating and number of fire stations in the locality. For FY22, \$24.2 million was distributed to 99 municipal fire departments. A portion of the funds also goes to the Fire Protection Grant Fund, which allows departments to apply for specific funding needs through a competitive grant process (Sec. 7-1-6.62, 59A-53-7).

Law Enforcement Protection Fund Distribution – The state distributes a portion of certain insurance taxes, fees, and penalties to the Law Enforcement Protection Fund for distribution to municipalities for police equipment, training, and retention payments. Distribution amounts were increased in the 2022 legislative session and beginning on July 1, 2022, municipal police departments will receive \$45,000 each, plus \$1,000 per officer. Beginning July 1, 2023, police departments will receive \$95,000 each, plus \$1,500 per officer. Some LEPF revenues also go to the Peace Officers’ Survivors Fund, which is used to distribute death benefits to the families of fallen officers (\$1 million per fallen officer) (Sec. 7-1-6.62, 29-13-4).

Law Enforcement Retention Fund Distribution – As of July 1, 2022, municipal police departments receive funding from the Law Enforcement Retention Fund to provide retention differential payments to officers. Payments are equivalent to 5% of officers’ annual salaries at five-year intervals, provided officers remain employed for one additional year. This fund received a state general fund appropriation for the first year and beginning July 1, 2023, receives ongoing transfers of unobligated funds in the LEPF.

Municipal Regional Spaceport GRT – A municipality that is a member of a regional spaceport district must impose a tax of up to 0.5% to support the operations of the spaceport district. The tax must be approved by the voters (Sec. 7-19D-15).

Municipal Higher Education Facilities GRT – The municipality of Rio Rancho may impose a tax of up to 0.25% to be used only to provide facilities for a four-year post-secondary educational institution located in the municipality (Sec. 7-19D-16).

Federal Water Project GRT – A municipality may impose a tax of up to 0.25% to provide for the repayment of loan obligations to the federal government for water delivery system projects. The tax must be approved by the voters (Sec. 7-19D-17).

Supplemental Municipal GRT – A municipality may impose a tax of up to 1% for the purpose of paying debt service for up to \$9 million of bonds issued to provide a municipal water supply system. The tax must be approved by the voters (Sec. 7-19-12).

Municipal Gasoline Tax - Municipalities in Class A counties (Bernalillo, Dona Ana, Santa Fe, San Juan) and H counties (Los Alamos) may levy a two-cent gasoline tax by referendum. The tax is

collected and administered by the municipality. The tax may be used for bridges and road projects or public transportation purposes. Proceeds may also be used for vehicle emission testing; roads, streets, or highway construction, repair, or maintenance (Sec. 7-24A-10).

Controlled Substance Traffic Safety Fee Distribution – A \$75 fee is imposed on persons convicted for DWI involving alcohol or drugs, which goes to a State Traffic Safety Fund. It is distributed back to municipalities upon their application and must be used for DWI prevention, education, and other traffic safety programs. An \$85 fee is also assessed on a person convicted of DWI to help defray the cost of chemical and other tests to determine the influence of alcohol or drugs. (Sec 31—12-7)

MUNICIPAL FEES AND FINES

Business Registration Fee - Municipalities are required to pass an ordinance levying an annual fee of up to \$35 on each "place of business" within municipal boundaries. (Sec. 3-38-3).

Business License Fees - A municipality may pass an ordinance requiring certain businesses to be licensed and to pay a fee for the privilege of doing business in the municipality. The amount of the fee must be reasonably related to the amount of regulation provided (Sec. 3-38-1).

Local Government Corrections Fee – A fee of \$20 is imposed on all convictions of traffic offenses and convictions for violations of any ordinance carrying a potential jail term. Funds may be used for housing of prisoners, construction and maintenance of jails, jailer training, cost of transporting prisoners, substance abuse treatment programs, electronic monitoring and matching federal funds. (Sec. 35-14-11).

Franchise Fees – Municipalities may collect a fee on the gross receipts of private utilities doing business within the municipality. The fee is a negotiated percentage of the gross receipts of the utility and is imposed for the utilities' use of the public rights-of-way to provide gas, electric, telephone, water, or cable TV (Sec. 3-42-1 through 3-42-2).

Liquor Licenses – Municipalities may require establishments which sell liquor to purchase an annual municipal liquor license. The annual license fee may be up to \$250 (Sec. 7-24-1 through 7-24-16).

User Fees – Municipalities may charge fees to patrons for services such as libraries, museums, recreation facilities, etc.

Municipal Court Fees & Fines – Fines up to \$500 may be levied on convictions of municipal ordinances, with the exception of a conviction of operating a motor vehicle while under the influence of liquor or drugs, for which a fine up to \$1,000 may be levied. In addition, a fine of no more than \$1,000 per day may be imposed for a conviction of violating an industrial user wastewater pretreatment ordinance. Fines must be set by ordinance (Sec. 3-17-1C).

Municipal courts also collect other fines, including a judicial education fee and a court automation fee, which go to the state and are used to support court operations or education.

Other Miscellaneous Fees – Municipalities may impose a number of other fees, such as parking fees, building permit fees, or other types of permit fees.

STATE GRANTS AND LOANS

A number of grants and loans are available through the state, including:

New Mexico Finance Authority

- Public Project Revolving Fund

- Drinking Water Revolving Fund
- Local Government Planning Fund

- Water Trust Board Project Fund
- Colonias Infrastructure Fund

Economic Development Department

- Outdoor Equity Fund
- Outdoor Recreation Trails+ Grant
- New Mexico MainStreet Program
- Local Economic Assistance and Development Support

New Mexico Environment Department

- Clean Water State Revolving Fund
- Solid Waste Facility Grant Fund
- Rural Infrastructure Fund

New Mexico Mortgage Finance Authority

- New Mexico Housing Trust Fund
- State Neighborhood Stabilization Program

Department of Finance and Administration

- Enhanced 911 Program
- Board of Finance Emergency Fund
- Law enforcement recruitment and retention funding (Created in 2021)

Other Programs

- Broadband Access and Expansion Fund (Department of IT, created in 2021)
- Fire Protection Grant Fund (Public Regulation Commission)

Department of Transportation

- Municipal Arterial Program
- Cooperative Agreement Program
- Transportation Projects Fund
- Traffic Safety Program

Local Government Division of the Department of Finance and Administration publishes a Catalog of Local Assistance Programs which gives information on grants and loans available, what they may be used for, and how and when to apply for them. Call Local Government Division at 505-827-4974, or access the catalog online at:

http://www.nmifc.com/wp-content/uploads/2018/06/The_Complete_Catalog_of_Local_Assistance_Programs_9_7_17_Final.pdf

FEDERAL GRANTS

While federal funding often flows through state agencies and programs, some direct federal funding is available for municipalities, including:

- Pandemic relief funding, including State and Local Fiscal Recovery Fund from the American Rescue Plan Act
- Infrastructure funding through the Infrastructure Investment and Jobs Act (much of the funding is likely to flow through state agencies; some funding may be available directly)
- Federal Emergency Management Agency funding, including Hazard Mitigation Grant Program, Flood Mitigation Assistance, Building Resilient Infrastructure and Communities Program
- Federal highway funding

For a more exhaustive list, the Federal government publishes a *Catalog of Federal Domestic Assistance*. Access the catalog online at:

<https://sam.gov/content/assistance-listings>