

Explanation of Bill

Consolidating Municipal Local Option Gross Receipts Taxes

Currently the authorizations for imposing the ten municipal local option gross receipts taxes reside in two places: 7-19-10/18, the Supplemental Municipal Gross Receipts Tax Act and 7-19D-1/18 the Municipal Local Option Gross Receipts Taxes Act (which sanctions nine separate taxes). Permitted rate increments are usually one-quarter or one-eighth percent but go as low as one-sixteenth percent.

Most municipalities are eligible to impose most of these authorizations but some taxes are restricted to a select group of targeted municipalities. Except for “the” municipal gross receipts tax and the municipal hold harmless gross receipts tax, the taxing government must use the revenue raised by one of these taxes for specified purposes, although the purposes may overlap. For example, the municipal infrastructure and municipal capital outlay taxes both aim mainly at capital project funding.

Since the local officials are responsible to their own constituencies for the efficient use of the revenues raised through taxation and circumstances can vary markedly from one jurisdiction to another, the fine distinctions drawn in statute among possible purposes is not necessary and sometimes may impede accomplishing public goals.

Accordingly, this bill proposes consolidating a number of the separate tax authorizations into the generic municipal gross receipts tax authorization. The tax’s rate limit rises from the present 1.5 percent to 2.4375 percent. The other taxes are repealed but any rates in effect are deemed to be properly enacted increments of the municipal gross receipts tax. Those taxes and their authorized maximums are:

Muni environmental services GRT (all municipalities)	0.0625%	
Muni environmental services GRT (Ruidoso, Ruidoso Downs)		0.5000%
Muni infrastructure GRT (all municipalities)	0.2500%	
Muni capital outlay GRT (all municipalities)	0.2500%	
Federal water project GRT (Gallup)		0.2500%
Muni Hold Harmless GRT (all municipalities)	<u>0.3750%</u>	
Total	0.9375%	
Current Muni GRT maximum	<u>1.5000%</u>	
Proposed Muni GRT maximum	2.4375%	
Rounded to	2.5000%	

Two rates are **not** proposed for *consolidation* because the proceeds are dedicated not to the municipality imposing the tax but to another entity:

Muni regional spaceport GRT *	0.5000%
Muni higher education GRT (Rio Rancho)	0.2500%

* No municipality is currently imposing this levy according to TRD’s chart.

Two others are **not** proposed for *repeal* in this bill because their authorizations have already been limited in statute:

Supplemental municipal GRT (Raton, Ruidoso)	1.0000%
Quality of life GRT (Cuba)	0.2500%

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Bill

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

AN ACT

RELATING TO TAXATION; CONSOLIDATING AUTHORIZATIONS FOR CERTAIN MUNICIPAL LOCAL OPTION TAX RATES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 7-19D-9 NMSA 1978 (being Laws 1978, Chapter 151, Section 1, as amended) is amended to read:

“7-19D-9. MUNICIPAL GROSS RECEIPTS TAX-- AUTHORITY TO IMPOSE RATE. --

A. The majority of the members of the governing body of any municipality may impose by ordinance an excise tax not to exceed a rate of [~~one~~] two and one-half percent of the gross receipts of any person engaging in business in the municipality for the privilege of engaging in business in the municipality. A tax imposed pursuant to this section shall be imposed by the enactment of one or more ordinances, each imposing any number of

1 municipal gross receipts tax rate increments, but the total
2 municipal gross receipts tax rate imposed by all ordinances shall
3 not exceed an aggregate rate of [~~one~~] two and one-half percent of
4 the gross receipts of a person engaging in business.

5 Municipalities may impose increments of [~~one-eighth~~] one-sixteenth
6 of one percent or any multiple thereof.

7 B. The tax imposed pursuant to Subsection A of this
8 section may be referred to as the "municipal gross receipts tax".

9 C. The governing body of a municipality may, at the
10 time of enacting an ordinance imposing the tax authorized in
11 Subsection A of this section, dedicate the revenue for a specific
12 purpose or area of municipal government services, including but
13 not limited to police protection, fire protection, public
14 transportation or street repair and maintenance, and for
15 acquisition, construction, repair, operation and maintenance of
16 capital facilities and projects or for repayment of loan
17 obligations to the federal government for the construction,
18 expansion, operation and maintenance of a water delivery system.

19 If the governing body proposes to dedicate such revenue, the
20 ordinance and, if any election is held, the ballot shall clearly
21 state the purpose to which the revenue will be dedicated, and any
22 revenue so dedicated shall be used by the municipality for that
23 purpose unless a subsequent ordinance is adopted to change the
24 purpose to which dedicated or to place the revenue in the general
25 fund of the municipality. If revenue is pledged to the retirement

1 of debt, the dedication may not be changed unless the debt has
2 been discharged in full or provision has been fully made therefor.

3 D. An election shall be called on the questions of
4 disapproval or approval of any ordinance enacted pursuant to
5 Subsection A of this section or any ordinance amending such
6 ordinance:

7 (1) if the governing body chooses to provide in
8 the ordinance that it shall not be effective until the ordinance
9 is approved by the majority of the registered voters voting on the
10 question at an election to be held pursuant to the provisions of
11 the Local Election Act; or

12 (2) if the ordinance does not contain a
13 mandatory election provision as provided in Paragraph (1) of this
14 subsection, upon the filing of a petition requesting such an
15 election if the petition is filed:

16 (a) pursuant to the requirements of a
17 referendum provision contained in a municipal home-rule charter
18 and signed by the number of registered voters in the municipality
19 equal to the number of registered voters required in its charter
20 to seek a referendum; or

21 (b) in all other municipalities, with the
22 municipal clerk within thirty days after the adoption of such
23 ordinance and the petition has been signed by a number of
24 registered voters in the municipality equal to at least five
25 percent of the number of the voters in the municipality who were

1 registered to vote in the most recent regular municipal election.

2 E. The signatures on the petition filed in accordance
3 with Subsection D of this section shall be verified by the
4 municipal clerk. If the petition is verified by the municipal
5 clerk as containing the required number of signatures of
6 registered voters, the governing body shall adopt an election
7 resolution calling for the holding of a special election on the
8 question of approving or disapproving the ordinance unless the
9 ordinance is repealed before the adoption of the election
10 resolution. An election held pursuant to Subparagraph (a) or (b)
11 of Paragraph (2) of Subsection D of this section shall be called,
12 conducted and canvassed as provided in the Local Election Act, and
13 the election shall be held within seventy-five days after the date
14 the petition is verified by the municipal clerk or it may be held
15 in conjunction with a regular local election if such election
16 occurs within seventy-five days after the date of verification by
17 the municipal clerk.

18 F. If at an election called pursuant to Subsection D
19 of this section a majority of the registered voters voting on the
20 question approves the ordinance imposing the tax, the ordinance
21 shall become effective in accordance with the provisions of the
22 Municipal Local Option Gross Receipts Taxes Act. If at such an
23 election a majority of the registered voters voting on the
24 question disapproves the ordinance, the ordinance imposing the tax
25 shall be deemed repealed and the question of imposing any

1 increment of the municipal gross receipts tax authorized in this
2 section shall not be considered again by the governing body for a
3 period of one year from the date of the election.

4 G. Any municipality that has lawfully imposed by the
5 requirements of the Special Municipal Gross Receipts Tax Act a
6 rate of at least one-fourth of one percent shall be deemed to have
7 imposed one-fourth of one percent municipal gross receipts tax
8 pursuant to this section. Any rate of tax deemed to be imposed
9 pursuant to this subsection shall continue to be dedicated to the
10 payment of outstanding bonds issued by the municipality that
11 pledged the tax revenues by ordinance until such time as the bonds
12 are fully paid. A municipality may by ordinance change the
13 purpose for any rate of tax deemed to be imposed at any time the
14 revenues are not committed to payment of bonds.

15 H. Any law that imposes or authorizes the imposition
16 of a municipal gross receipts tax or that affects the municipal
17 gross receipts tax, or any law supplemental thereto or otherwise
18 appertaining thereto, shall not be repealed or amended or
19 otherwise directly or indirectly modified in such a manner as to
20 impair adversely any outstanding revenue bonds that may be secured
21 by a pledge of such municipal gross receipts tax unless such
22 outstanding revenue bonds have been discharged in full or
23 provision has been fully made therefor.

24 I. A rate of municipal gross receipts tax initially
25 imposed pursuant to Sections 7-19D-10, 7-19D-11, 7-19D-12, 7-19D-

1 17 or 7-19D-18 NMSA 1978, as those sections were in effect
2 immediately prior to the effective date of this act, is deemed to
3 be an imposition of municipal gross receipts tax pursuant to this
4 section on the effective date of this act. If revenue from a tax
5 identified in the preceding sentence is dedicated to a purpose or
6 purposes at that time, the revenue remains dedicated to the
7 purpose or purposes until the municipality by ordinance changes
8 the dedication or directs the revenue to the general fund of the
9 municipality, provided that a dedication to repay principal and
10 interest of indebtedness of the municipality may not be changed
11 unless such outstanding indebtedness has been discharged in full
12 or provision has been fully made therefor.”

13 **SECTION 2. REPEAL.** -- Sections 7-19D-10, 7-19D-11, 7-19D-12,
14 7-19D-14, 7-19D-17 and 7-19D-18 NMSA 1978 (being Laws 1990,
15 Chapter 99, Section 51, Laws 1991, Chapter 9, Section 98, Laws
16 2001, Chapter 172, Section 1, Laws 2005, Chapter 212, Section 2,
17 Laws 2012, Chapter 58, Section 1 and Laws 2013, Chapter 160,
18 Section 11, as amended and recompiled) are repealed.

19 **SECTION 3. EFFECTIVE DATE.** -- The effective date of the
20 provisions of this act is July 1, 2019.