F I S C A L   I M P A C T   R E P O R T

SPONSOR	Harper/Scott/ Maestas/Chandler/ Sanchez	**ORIGINAL DATE** **LAST UPDATED**	2/13/19 3/10/19	**HB**	396/aHTRC
SHORT TITLE	Change Names of Various Taxes			**SB**	
				ANALYST	Clark

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	$1,925.0			$1,925.0	Nonrecurring	TRD Operating Budget

Parenthesis ( ) indicate expenditure decreases

Conflicts with HB6, SB421, SB358, and other tax bills

SOURCES OF INFORMATION
LFC Files

Responses Received From
New Mexico Finance Authority (NMFA)
Economic Development Department (EDD)
Taxation and Revenue Department (TRD)–updated *Technical Issues/Administrative Implications*

SUMMARY

Synopsis of HTRC Amendment

The House Taxation and Revenue Committee Amendment to House Bill 396 changes the effective date from July 1, 2019 to January 1, 2020, giving the Taxation and Revenue Department and other state, local, and private entities throughout the state additional time to prepare for the name changes to the taxes.

Synopsis of Original Bill

House Bill 396 changes the name of the gross receipts tax (GRT) to the "sales tax" and changes the compensating tax to the "use tax" but is not intended to have any substantive effect beyond the possible beneficial ramifications of the name changes.

The New Mexico Finance Authority (NMFA) provided the following list of these specific name changes.

- State gross receipts tax (GRT) becomes state sales tax (SST).

- Governmental gross receipts tax (GGRT) becomes governmental sales tax (GST).
- Compensating tax becomes state use tax (SUT).
- Municipal local option gross receipts tax (MLOGRT) becomes municipal local option sales tax (MLOST) – but see *Technical Issues*.
- County local option gross receipts tax (CLOGRT) becomes county local option sales tax (CLOST) – but see *Technical Issues*.

The act also makes conforming changes to applicable laws related to those taxes.

The effective date of this bill is July 1, 2019.

FISCAL IMPLICATIONS

Unless there was an error in drafting and not all required name changes were made, there should be no fiscal impact beyond the administrative cost to the Taxation and Revenue Department (TRD) to change the names in systems and forms.

SIGNIFICANT ISSUES

During the 2016 interim, the Revenue Stabilization and Tax Policy Committee (RSTP) spent many days discussing issues and concerns with various taxes, focusing primarily on GRT. One of the issues raised was the name of the tax, because New Mexico's GRT is somewhat unusual in scope and name. Many states have pure sales taxes; select others have true gross receipts taxes that generally tax all activity at a very low rate. Our state's GRT is a hybrid of the two and has been described as acting more as a broad-based sales tax on vendors (the tax is applied to sellers rather than buyers). This is at odds with what, if anything, many businesses know about gross receipts taxes. Some economic developers, business representatives, and others reported the name places New Mexico at a disadvantage for companies considering locating in the state. As a result, the final RSTP recommendation was the change the names of our GRT and compensating taxes to sales and use taxes, much more in line with naming conventions of other states.

However, at odds with this 2016 discussion, the Economic Development Department (EDD) provided the following analysis.

> Although the name of the tax is changed, it is still a tax on gross receipts – the revenue a business earns. A sales tax is a customer expense and a business' only role is to transit the payment to the government. In contrast, a GRT is a business expense which factors into a company's profit and loss calculations.
>
> Utilizing a name that does not fit the application of the tax under established business vocabulary may lead to confusion and misinterpretation. Businesses that operate in multiple states may have a difficult time comparing operations in New Mexico against operations in other sales tax states that use the traditional definition of a sales tax. Similarly, the valuation of a New Mexico company may be categorized as operating in a sales tax environment when in fact operating in a GRT environment under the name of a sales tax. Such a miscategorization could negatively impact a business's ability to get financing or transfer ownership.

It is important to note NMFA did not raise any potential issues of impairment of outstanding bonds, which had been a possible concern raised with a prior bill with name changes. Instead, for this bill, NMFA analysis indicates the name changes would simply be an administrative issue without potential impairment.

NMFA also reported, "The term sales tax is better understood by investors around the country than the term gross receipts tax. Marketability of NMFA bonds will be more helped than harmed by the name change."

ADMINISTRATIVE IMPLICATIONS

TRD provided the following analysis.

> Implementing the bill would have a high impact on the Information Technology Division of TRD. The costs shown below include $325,000 of contract services and approximately $1.6 million in soft costs that would be required of department staff. Completing the work required to change over completely to using the new names of the tax programs is not feasible by the effective date of July 1, 2019. A more feasible date is January 1, 2021.

EDD provided the following analysis.

> The bill changes New Mexico Statute but language changes would need to be made to a wide range of state and local government policies and regulations to be consistent with the proposed statute. The bill stipulates a July 1, 2019 effective date which may not provide enough time for all taxing agencies and local governments to update their language to be consistent with the statute.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

This bill conflicts with HB6, SB421, SB358, and other bills that make name changes or certain significant changes to tax statutes. Typically, the last bill to be signed takes precedence, but if this bill were signed followed by another bill making tax changes, logic should dictate the necessity to maintain every name change in this bill in order to avoid broken references. However, if another bill creates new taxes that piggyback off existing ones, for example creating municipal and county compensating taxes in HB6, there would be nothing in this bill to change those, and the result would be a handful of tax names that would no longer reference existing statutes appropriately. For HB6, the taxes would not take effect until FY22, so the Legislature could simply make those name change corrections in a subsequent legislative session.

TECHNICAL ISSUES

TRD reported the following technical issues.

> The bill does not explicitly say that all current local option gross receipts enactments would be considered local option sales taxes under the new regime. Without this it is possible each of these would need to be re-enacted by local governing bodies. Under this scenario, the cumulative effects on counties and municipalities would be large: approximately $1.6 billion per year of revenue would need to be re-enacted or foregone. TRD recommends that a clause be added under Sections 7-19D and 7-20E NMSA 1978

that states local option gross receipts tax enactments are deemed to be sales tax enactments to streamline that change for local governments.

To ensure that any missed references to gross receipts or compensating taxes are covered, the bill should specify any remaining references now refer to sales and use taxes.

Does the bill meet the Legislative Finance Committee tax policy principles?

1. **Adequacy**: Revenue should be adequate to fund needed government services.
2. **Efficiency**: Tax base should be as broad as possible and avoid excess reliance on one tax.
3. **Equity**: Different taxpayers should be treated fairly.
4. **Simplicity**: Collection should be simple and easily understood.
5. **Accountability**: Preferences should be easy to monitor and evaluate

JC/sb