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

SPONSOR:	Lujan	DATE TYPED:	02/09/00	HB	448
SHORT TITLE:	Cooperative Agreements			SB	
				ANALYST:	Eaton

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY00	**FY01**			
	negative*		Recurring	General Fund
	positive*		Recurring	affected pueblos
	negative*		Recurring	County/Muni

(Parenthesis ( ) Indicate Revenue Decreases)

*Any agreement between a Pueblo and the Taxation and Revenue Department (TRD) would probably not result in any significant revenue impacts in the immediate future.

Relates to Senate Bill 232 - TRD Cooperative Agreement with Nambe

SOURCES OF INFORMATION

Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Bill

This bill extends the current authorization to enter into cooperative tax agreements between the state and particular Pueblos, extending the authorization to "any pueblo". Section 1 of the bill is substantially similar to current law Section 7-9-88.1 NMSA 1978 which was enacted in 1999 for Santa Ana Pueblo and Laguna Pueblo (and patterned after similar statute first enacted in 1997 for Santa Clara Pueblo). The principal difference between the bill and Section 7-9-88.1 NMSA 1978 is that agreements under this bill would require cooperative agreements not only between the Pueblo and the state, but between the Pueblo and affected county and municipal governments as well.

Under current law, TRD may enter into agreements with Santa Clara Pueblo, Santa Ana Pueblo and Laguna Pueblo to collect any gross receipts tax imposed by the Pueblo. To resolve dual taxation issues, if the Pueblo grants a 25% credit against its tax and meets other specified conditions, the state will grant a credit against state and local gross receipts tax due from taxpayers subject to both taxes. The result will be that taxpayers will pay the same tax as they would under the state and local taxes alone -- even after the Pueblo has imposed its tax.

The proposed bill allows the Secretary of Taxation and Revenue to enter into a similar agreement with "any pueblo", assuming the Pueblo has reached a cooperative agreement with affected county and municipal governments. If an agreement is entered into, the law allows for a credit against state and local gross receipts taxes equal to the lesser of 75% of the tax imposed by the pueblo or 75% of the state and local tax rate. The Pueblo must impose a gross receipts or similar non-discriminatory tax and allow as a credit against the Pueblo tax an amount equal to 25% of the total imposition of state, municipal and county gross receipts taxes. Any Pueblo tax only applies to businesses operating on land owned by the Pueblo or held in trust by the Pueblo. This bill and its predecessors were designed to eliminate double taxation occurring on tribal lands where and when the tribe and the state impose gross receipts or sales taxes on transactions.

Significant Issues

1) Santa Clara Pueblo could enter into a new agreement with the Department, the City of Espanola, and Santa Fe and Rio Arriba counties under this new statutory authority, to replace the existing agreement under Section 7-9-88 NMSA 1978. Under the original legislation for Santa Clara Pueblo, only gross receipts tax from businesses located on Pueblo-owned land outside a municipality is subject to the revenue sharing arrangement unless the municipality annexed a portion of the Santa Clara land after July 1, 1997. That particular credit cannot be applied against municipal local option taxes except in the case of annexation.

FISCAL IMPLICATIONS

Any agreement between a Pueblo and the Taxation and Revenue Department (TRD) would probably not result in any significant revenue impacts in the immediate future. It is uncertain when any agreement under this statute might become effective.

ADMINISTRATIVE IMPLICATIONS

TRD reports that administrative impact is strongly influenced by the specific agreement negotiated between TRD and the Pueblo. Computer programming changes are required, the complexity of which will vary depending upon the exact terms on any final agreement. If even one taxpayer is covered by the agreement, the system will have to be adapted. A minimal amount of programming needed to implement this scheme is about 300 hours (under $15 thousand).

RELATIONSHIP

Senate Bill 232 (Griego) - TRD Cooperative Agreement with Nambe Pueblo.

OTHER SUBSTANTIVE ISSUES

The Taxation and Revenue Department (TRD) supports the general aims of this bill. It promotes resolution of the deduction problem, which creates a real disincentive to economic development on tribal lands. The disincentive tends to hurt tribes more than the state. In some cases, the disincentive will mean a business will simply chose not to open. But in most cases, the result of the double tax will be that the business will locate off reservation. The result is the state would be getting its full share of tax and the tribe would get nothing.

This bill also promote efficiency of administration and collection of state and Pueblo taxes through cooperative agreements and minimizing the total tax burden through mutual tax credits. This is preferable to a condition where State Taxation and Revenue Department and a Pueblo Tax Commission simultaneously expend resources to collect taxes separately from the same taxpayers, with no mutual tax credit.

The Taxation and Revenue Department (TRD) entered into an agreement with Santa Clara Pueblo in February, 1998, but has not yet entered into any agreements with Santa Ana Pueblo or Laguna Pueblo.

JE/njw