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SENATE BILL 335

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Pete Campos

AN ACT

RELATING TO TAXATION; AMENDING THE TAXATION AND REVENUE DEPARTMENT ACT TO AUTHORIZE THE SECRETARY OF TAXATION AND REVENUE TO ENTER INTO CERTAIN COOPERATIVE AGREEMENTS WITH SANDIA PUEBLO AND ISLETA PUEBLO; AMENDING THE GROSS RECEIPTS AND COMPENSATING TAX ACT TO PROVIDE FOR TAX CREDITS.

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

Section 1. Section 7-9-88.1 NMSA 1978 (being Laws 1999, Chapter 223, Section 2, as amended) is amended to read:

"7-9-88.1. CREDIT--GROSS RECEIPTS TAX--TAX PAID TO SANDIA PUEBLO, ISLETA PUEBLO, SANTA ANA PUEBLO, LAGUNA PUEBLO OR NAMBE PUEBLO. --

A. If on a taxable transaction taking place on Sandia Pueblo land, Isleta Pueblo land, Santa Ana Pueblo land, Laguna Pueblo land or Nambe Pueblo land a qualifying gross

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1 receipts, sales or similar tax has been levied by the pueblo,  
2 the amount of the pueblo tax may be credited against any gross  
3 receipts tax due this state or its political subdivisions  
4 pursuant to the Gross Receipts and Compensating Tax Act and  
5 any local option gross receipts tax on the same transaction.  
6 The amount of the credit shall be equal to the lesser of  
7 seventy-five percent of the tax imposed by the pueblo on the  
8 receipts from the transaction or seventy-five percent of the  
9 revenue produced by the sum of the rate of tax imposed  
10 pursuant to the Gross Receipts and Compensating Tax Act and  
11 the total of the rates of local option gross receipts taxes  
12 imposed on the receipts from the same transaction.  
13 Notwithstanding any other provision of law to the contrary,  
14 the amount of credit taken and allowed shall be applied  
15 proportionately against the amount of the gross receipts tax  
16 and local option gross receipts taxes and against the amount  
17 of distribution of those taxes pursuant to Section 7-1-6.1  
18 NMSA 1978.

19 B. A qualifying gross receipts, sales or similar  
20 tax levied by the pueblo shall be limited to a tax that:

21 (1) is substantially similar to the gross  
22 receipts tax imposed by the Gross Receipts and Compensating  
23 Tax Act;

24 (2) does not unlawfully discriminate among  
25 persons or transactions based on membership in the pueblo;

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1 (3) is levied on the taxable transaction at a  
2 rate not greater than the total of the gross receipts tax rate  
3 and local option gross receipts tax rates imposed by this  
4 state and its political subdivisions located within the  
5 exterior boundaries of the pueblo;

6 (4) provides a credit against the pueblo tax  
7 equal to the lesser of twenty-five percent of the tax imposed  
8 by the pueblo on the receipts from the transactions or twenty-  
9 five percent of the tax revenue produced by the sum of the  
10 rate of tax imposed pursuant to the Gross Receipts and  
11 Compensating Tax Act and the total of the rates of the local  
12 option gross receipts taxes imposed on the receipts from the  
13 same transactions; and

14 (5) is subject to a cooperative agreement  
15 between the pueblo and the secretary entered into pursuant to  
16 Section 9-11-12.1 NMSA 1978 and in effect at the time of the  
17 taxable transaction.

18 C. For purposes of the tax credit allowed by this  
19 section:

20 (1) "Santa Ana Pueblo land" means all land  
21 located within the exterior boundaries of the Santa Ana  
22 reservation or pueblo grant and all land held by the United  
23 States in trust for Santa Ana Pueblo;

24 (2) "Laguna Pueblo land" means all land  
25 located within the exterior boundaries of the Laguna

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1 reservation or pueblo grant and all land held by the United  
2 States in trust for Laguna Pueblo; [~~and~~]

3 (3) "Nambe Pueblo land" means all land  
4 located within the exterior boundaries of the Nambe  
5 reservation or pueblo grant and all land held by the United  
6 States in trust for Nambe Pueblo;

7 (4) "Sandia Pueblo land" means all land  
8 located within the exterior boundaries of the Sandia  
9 reservation or pueblo grant and all land held by the United  
10 States in trust for Sandia Pueblo; and

11 (5) "Isleta Pueblo land" means all land  
12 located within the exterior boundaries of the Isleta  
13 reservation or pueblo grant and all land held by the United  
14 States in trust for Isleta Pueblo. "

15 Section 2. Section 9-11-12.1 NMSA 1978 (being Laws 1997,  
16 Chapter 64, Section 1, as amended) is amended to read:

17 "9-11-12.1. COOPERATIVE AGREEMENTS WITH SANDIA PUEBLO,  
18 ISLETA PUEBLO, SANTA CLARA PUEBLO, SANTA ANA PUEBLO, LAGUNA  
19 PUEBLO AND NAMBE PUEBLO. --

20 A. The secretary may enter into cooperative  
21 agreements with Sandia Pueblo, Isleta Pueblo, Santa Clara  
22 Pueblo, Santa Ana Pueblo, Laguna Pueblo and Nambe Pueblo for  
23 the exchange of information and the reciprocal, joint or  
24 common enforcement, administration, collection, remittance and  
25 audit of gross receipts tax revenues of the party

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1 jurisdictions.

2 B. Money collected by the department on behalf of  
3 the pueblo in accordance with an agreement entered into  
4 pursuant to this section is not money of this state and shall  
5 be collected and disbursed in accordance with the terms of the  
6 agreement, notwithstanding any other provision of law.

7 C. The secretary is empowered to promulgate such  
8 rules and to establish such procedures as the secretary deems  
9 appropriate for the collection and disbursement of funds due  
10 the pueblo and for the receipt of money collected by the  
11 pueblo for the account of this state under the terms of a  
12 cooperative agreement entered into under the authority of this  
13 section, including procedures for identification of taxpayers  
14 or transactions that are subject only to the taxing authority  
15 of the pueblo, taxpayers or transactions that are subject only  
16 to the taxing authority of this state and taxpayers or  
17 transactions that are subject to the taxing authority of both  
18 party jurisdictions.

19 D. Nothing in an agreement entered into pursuant  
20 to this section shall be construed as authorizing this state  
21 or the pueblo to tax persons or transactions that federal law  
22 prohibits that government from taxing or as authorizing a  
23 state or pueblo court to assert jurisdiction over persons who  
24 are not otherwise subject to that court's jurisdiction or as  
25 affecting any issue of the respective civil or criminal

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1 jurisdictions of this state or the pueblo. Nothing in an  
2 agreement entered into pursuant to this section shall be  
3 construed as an assertion or an admission by either this state  
4 or the pueblo that the taxes of one have precedence over the  
5 taxes of the other when the person or transaction is subject  
6 to the taxing authority of both governments. An agreement  
7 entered into pursuant to this section shall be construed  
8 solely as an agreement between the two party governments and  
9 shall not alter or affect the government-to-government  
10 relations between this state and any other Indian nation,  
11 tribe or pueblo.

12 E. Nothing in an agreement entered into with Santa  
13 Clara Pueblo pursuant to this section shall apply to a taxable  
14 transaction subject to the taxing authority of a municipality  
15 pursuant to a local option gross receipts tax act or  
16 distribution to a municipality from gross receipts taxes  
17 pursuant to Section 7-1-6.4 NMSA 1978, except that such  
18 agreement shall apply to such taxable transactions, and  
19 related distributions, reported from business locations on  
20 Santa Clara Pueblo land annexed by a municipality after  
21 January 1, 1997. "

22 Section 3. EFFECTIVE DATE.--The effective date of the  
23 provisions of this act is July 1, 2001.