

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL 448

**44TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION,
2000**

INTRODUCED BY

Ben Lujan

AN ACT

RELATING TO TAXATION; REQUIRING LOCAL GOVERNMENT
PARTICIPATION IN CERTAIN COOPERATIVE AGREEMENTS BETWEEN THE
SECRETARY OF TAXATION AND REVENUE AND A PUEBLO.

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

Section 1. A new section of the Gross Receipts and
Compensating Tax Act is enacted to read:

"[NEW MATERIAL] CREDIT--GROSS RECEIPTS TAX--TAX PAID TO
A PUEBLO.--

A. If on a taxable transaction taking place on
land owned by or for the benefit of a pueblo and located
within the exterior boundaries of a pueblo a qualifying gross
receipts, sales or similar tax has been levied by the pueblo,
the amount of that tax may be credited against any gross
receipts tax due this state or its political subdivisions
pursuant to the Gross Receipts and Compensating Tax Act and

.131910.1

underscored material = new
~~[bracketed material]~~ = delete

underscored material = new
~~[bracketed material] = delete~~

1 any local option gross receipts tax on the same transaction;
2 provided that the credit against any gross receipts tax due
3 on transactions subject to the taxing authority of a
4 municipality or county pursuant to a local option gross
5 receipts tax or distribution to a municipality from gross
6 receipts taxes pursuant to Section 7-1-6.4 NMSA 1978 is
7 subject to a cooperative agreement between the pueblo and the
8 governing body of the municipality or county. The amount of
9 the credit shall be equal to the lesser of seventy-five
10 percent of the tax imposed by the pueblo on the receipts from
11 the transaction or seventy-five percent of the tax revenue
12 produced by the sum of the rate of tax imposed pursuant to
13 the Gross Receipts and Compensating Tax Act and the total of
14 the rates of local option gross receipts taxes imposed on the
15 receipts from the same transaction. Notwithstanding any
16 other provision of law to the contrary, the amount of credit
17 taken and allowed shall be applied proportionately against
18 the amount of the gross receipts tax and the local option
19 gross receipts taxes and against the amount of the
20 distributions of those taxes pursuant to Section 7-1-6.1 NMSA
21 1978.

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

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

(2) does not unlawfully discriminate among

underscored material = new
[bracketed material] = delete

1 persons or transactions based on membership in the pueblo;

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

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

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

19 C. For purposes of the tax credit allowed by this
20 section, "pueblo land" means all land located within the
21 exterior boundaries of a pueblo grant and all land held by
22 the United States in trust for a pueblo."

23 Section 2. Section 9-11-12.1 NMSA 1978 (being Laws
24 1997, Chapter 64, Section 1, as amended) is amended to read:

25 "9-11-12.1. COOPERATIVE AGREEMENTS WITH [~~SANTA CLARA~~
~~PUEBLO, SANTA ANA PUEBLO AND LAGUNA PUEBLO~~] PUEBLOS.--

A. The secretary may enter into cooperative

underscoring material = new
~~[bracketed material] = delete~~

1 agreements with [~~Santa Clara pueblo, Santa Ana pueblo and~~
2 ~~Laguna pueblo~~] pueblos for the exchange of information and
3 the reciprocal, joint or common enforcement, administration,
4 collection, remittance and audit of gross receipts tax
5 revenues of the party jurisdictions.

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

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

23 D. Nothing in an agreement entered into pursuant
24 to this section shall be construed as authorizing this state
25 or the pueblo to tax persons or transactions that federal law
prohibits that government from taxing, or as authorizing a
state or pueblo court to assert jurisdiction over persons who

underscored material = new
~~[bracketed material] = delete~~

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

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