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## FISCAL IMPACT REPORT

SPONSOR: Campos DATE TYPED: 2/28/03 HB \_\_\_\_\_

SHORT TITLE: Intergovernmental Gross Receipts Agreements SB 602/aSFC

ANALYST: Smith

### REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY03	FY04			
	Negative*		Recurring	State General Fund
	Negative*		Recurring	Local Governments
	Positive*		Recurring	Pueblos and Tribes

(Parenthesis ( ) Indicate Revenue Decreases)

### SOURCES OF INFORMATION

Responses Received From

TRD

### SUMMARY

#### Synopsis of SFC Amendment

The Senate Finance Committee amendment includes Santa Clara Pueblo in the act. Currently, a separate statute governs agreements with Santa Clara.

#### Synopsis of Bill

Senate Bill 602 allows the Secretary of Taxation and Revenue to enter into joint tax administration agreements with all nineteen New Mexico Pueblos, the Jicarilla Apache Nation and the Mescalero Apache Tribe.

Under Section 9-11-12.1 NMSA 1978, the department may enter into agreements with the Pueblos of Isleta, Laguna, Nambe, Sandia, Santa Ana, and Santa Clara to collect any gross receipts tax imposed by the Pueblos. Under Section 7-9-88.1, if a Pueblo grants a 25% credit against its tax and meets other specified conditions, the state will grant a 75% credit against state and local gross receipts tax due from taxpayers subject to both taxes. The result is that taxpayers

pay the same tax they would under state and local taxes alone, thus resolving any dual taxation issues. Tribal taxes only apply to businesses operating on land owned by a tribe or held by the United States in trust for the tribe.

### **FISCAL IMPLICATIONS**

TRD believes that any agreements between Pueblos and the department would probably not result in any significant revenue impacts in the immediate future. The timing of the effective date of any agreement under this statute is uncertain, pending negotiations between the State and the tribes and pueblos.

### **OTHER SUBSTANTIVE ISSUES**

TRD notes the following issues:

- This proposal promotes resolution of a dual taxation problem, which can create disincentives for businesses deciding whether or not to locate on tribal lands. The disincentive tends to hurt tribes more than the state. In some cases, the disincentive will mean a business will simply choose not to open. But in most cases, the result of the double tax will be that the business will locate off the reservation. In that situation, the state would be getting its full share of tax and the tribe would get nothing.
- This bill promotes efficiency of administration and collection of state and Pueblo taxes through cooperative agreements and minimizes the total tax burden through mutual tax credits. This is preferable to a condition where the department and a Pueblo Tax Commission simultaneously expend resources to collect taxes separately from the same taxpayers, with no mutual tax credit.

SS/prr/njw