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HOUSE BILL 530

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Ben Lujan

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 SANTA ANA PUEBLO AND LAGUNA 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 9-11-12.1 NMSA 1978 (being Laws 1997, Chapter 64, Section 1) is amended to read:

"9-11-12.1. COOPERATIVE AGREEMENTS WITH SANTA CLARA PUEBLO, SANTA ANA PUEBLO AND LAGUNA PUEBLO. --

A. The secretary may enter into cooperative agreements with Santa Clara pueblo, Santa Ana pueblo and Laguna pueblo for the exchange of information and the reciprocal, joint or common enforcement, administration,

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1 collection, remittance and audit of gross receipts tax
2 revenues of the party jurisdictions.

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

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

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

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1 over persons who are not otherwise subject to that court's
2 jurisdiction or as affecting any issue of the respective civil
3 or criminal jurisdictions of this state or the pueblo.
4 Nothing in an agreement entered into pursuant to this section
5 shall be construed as an assertion or an admission by either
6 this 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 taxable
16 transaction subject to the taxing authority of a municipality
17 pursuant to a local option gross receipts tax act or
18 distribution to a municipality from gross receipts taxes
19 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. "

24 Section 2. A new section of the Gross Receipts and
25 Compensating Tax Act is enacted to read:

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1 " [NEW MATERIAL] CREDIT--GROSS RECEIPTS TAX--TAX PAID TO
2 SANTA ANA PUEBLO OR LAGUNA PUEBLO. --

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

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

25 (1) is substantially similar to the gross

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1 receipts tax imposed by the Gross Receipts and Compensating
2 Tax Act;

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

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

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

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

22 C. For purposes of the tax credit allowed by this
23 section, "Santa Ana pueblo land" means all land located within
24 the exterior boundaries of the Santa Ana reservation or pueblo
25 grant and all land held by the United States in trust for

1 Santa Ana pueblo, and "Laguna pueblo land" means all land
2 located within the exterior boundaries of the Laguna
3 reservation or pueblo grant and all land held by the United
4 States in trust for Laguna pueblo".

5 Section 3. EFFECTIVE DATE. --The effective date of the
6 provisions of this act is July 1, 1999.

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1 FORTY-FOURTH LEGISLATURE
2 FIRST SESSION, 1999
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6 February 17, 1999
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8 Mr. Speaker:
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10 Your TAXATION AND REVENUE COMMITTEE, to whom has
11 been referred
12

13 HOUSE BILL 530
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15 has had it under consideration and reports same with
16 recommendation that it DO PASS, and thence referred to the
17 APPROPRIATIONS AND FINANCE COMMITTEE.

18 Respectfully submitted,
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22 _____
23 Jerry W. Sandel, Chairman
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25

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

3 HTRC/HB 530

Page 8

4 Adopted _____ Not Adopted _____

6 (Chief Clerk)

(Chief Clerk)

8 Date _____

10 The roll call vote was 12 For 0 Against

11 Yes: 12

12 Excused: Gonzales, Silva, Tripp

13 Absent: None

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1 FORTY- FOURTH LEGISLATURE
2 FIRST SESSION, 1999

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4 February 23, 1999

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7 Mr. Speaker:

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9 Your APPROPRIATIONS AND FINANCE COMMITTEE, to
10 whom has been referred

11 HOUSE BILL 530

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13 has had it under consideration and reports same with
14 recommendation that it DO PASS.

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16 Respectfully submitted,

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21 Max Coll, Chair man
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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

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Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 13 For 0 Against

Yes: 13

Excused: Garcia, Parsons, Picraux, Salazar

Absent: None

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1 FORTY-FOURTH LEGISLATURE
2 FIRST SESSION, 1999

3 Page 11

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6 FORTY-FOURTH LEGISLATURE
7 FIRST SESSION, 1999

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10 March 8, 1999

11 Mr. President:

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13 Your WAYS & MEANS COMMITTEE, to whom has been
14 referred

15
16 HOUSE BILL 530

17 has had it under consideration and reports same with
18 recommendation that it DO PASS, and thence referred to the
19 FINANCE COMMITTEE.

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21 Respectfully submitted,
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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

Page 12

Carlos R. Cisneros,

Chairman

Adopted _____ Not

Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 6 For 0 Against

Yes: 6

No: 0

Excused: Carraro, Jennings, Nava

Absent: None

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1 FORTY-FOURTH LEGISLATURE
2 FIRST SESSION, 1999

3 Page 13

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6 FORTY-FOURTH LEGISLATURE
7 FIRST SESSION, 1999

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10 March 9, 1999

11 Mr. President:

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13 Your FINANCE COMMITTEE, to whom has been referred

14
15 HOUSE BILL 530

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17 has had it under consideration and reports same with
18 recommendation that it DO PASS.

19 Respectfully submitted,

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25 Ben D. Altamirano, Chairman

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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

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Adopted _____ Not

Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 10 For 0 Against

Yes: 10

No: 0

Excused: Campos, Ingle, Tsosie

Absent: None

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