

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 549

42ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1996

INTRODUCED BY
BEN LUJAN

AN ACT

RELATING TO TAXATION; AMENDING THE TAXATION AND REVENUE
DEPARTMENT ACT TO PROVIDE FOR COOPERATIVE AGREEMENTS WITH SANTA
CLARA PUEBLO; AMENDING THE GROSS RECEIPTS AND COMPENSATING TAX
ACT TO PROVIDE FOR A TAX CREDIT.

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

Section 1. A new section of the Taxation and Revenue
Department Act, Section 9-11-12.1 NMSA 1978, is enacted to read:

"9-11-12.1. [NEW MATERIAL] COOPERATIVE AGREEMENTS WITH
SANTA CLARA PUEBLO. --

A. The secretary may enter into cooperative
agreements with Santa Clara pueblo for the exchange of
information and the reciprocal, joint or common enforcement,
administration, collection, remittance and audit of gross
receipts tax revenues of the party jurisdictions.

Underscored material = new
[bracketed material] = delete

Underscored material = new
[bracketed material] = delete

1 B. Funds collected by the department on behalf of
2 Santa Clara pueblo in accordance with an agreement entered into
3 pursuant to this section are not funds of this state and shall
4 be collected and disbursed in accordance with the terms of the
5 agreement, notwithstanding any other provision of law.

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

18 D. Nothing in an agreement entered into pursuant to
19 this section shall be construed as authorizing this state or
20 Santa Clara pueblo to tax persons or transactions that federal
21 law prohibits that government from taxing, or as authorizing a
22 state or pueblo court to assert jurisdiction over persons who
23 are not otherwise subject to that court's jurisdiction. Nothing
24 in an agreement entered into pursuant to this section shall be
25 construed as an assertion or an admission by either this state

Underscored material = new
[bracketed material] = delete

1 or Santa Clara pueblo that the taxes of one have precedence over
2 the taxes of the other when the person or transaction is subject
3 to the taxing authority of both governments. An agreement
4 entered into pursuant to this section shall be construed solely
5 as an agreement between the two party governments and shall not
6 alter or affect the government-to-government relations between
7 this state and any other Indian nation, tribe or pueblo."

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

10 "[NEW MATERIAL] CREDIT--GROSS RECEIPTS TAX--TAX PAID TO
11 SANTA CLARA PUEBLO.--

12 A. If on a taxable transaction taking place within
13 the exterior boundaries of Santa Clara pueblo a qualifying gross
14 receipts sales or similar tax has been levied by the pueblo, the
15 amount of the pueblo tax may be credited against any gross
16 receipts tax due this state under Section 7-9-4 NMSA 1978 on the
17 same transaction. The amount of the credit shall be equal to
18 one-half of the rate of tax imposed under Section 7-9-4 NMSA
19 1978.

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

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

25 (2) does not unlawfully discriminate among

1 persons or transactions based on membership in the pueblo;

2 (3) is levied at a rate not greater than the
3 total gross receipts tax rate imposed by this state and its
4 political subdivisions located with the exterior boundaries of
5 Santa Clara pueblo;

6 (4) provides the following credits against the
7 tribal tax due for state gross receipts taxes due from the same
8 person or on the same transaction:

9 (a) a credit equal to the full amount of
10 all applicable local option gross receipts taxes imposed under
11 New Mexico law by political subdivisions of this state located
12 within the exterior boundaries of Santa Clara pueblo; and

13 (b) a credit equal to one-half of the
14 rate of tax imposed under Section 7-9-4 NMSA 1978; and

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