

AN ACT

RELATING TO TAXATION; AMENDING THE TAXATION AND REVENUE DEPARTMENT ACT TO AUTHORIZE THE SECRETARY OF TAXATION AND REVENUE TO ENTER INTO A COOPERATIVE AGREEMENT WITH NAMBE PUEBLO; AMENDING THE GROSS RECEIPTS AND COMPENSATION 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) is amended to read:

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

A. If on a taxable transaction taking place on Santa Ana pueblo land, Laguna pueblo land or Nambe pueblo land a qualifying gross receipts, sales or similar tax has been levied by the pueblo, the amount of the pueblo 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 any local option gross receipts tax on the same transaction. The amount of the credit shall be equal to the lesser of seventy-five percent of the tax imposed by the pueblo on the receipts from the transaction or seventy-five percent of the revenue produced by the sum of the rate of tax imposed pursuant to the Gross Receipts and Compensating Tax Act and the total of the rates of local option gross receipts taxes imposed on the receipts from the same transaction. Notwithstanding any other provision of law to the contrary, the amount of credit taken and allowed

shall be applied proportionately against the amount of the gross receipts tax and local option gross receipts taxes and against the amount of distribution of those taxes pursuant to Section 7-1-6.1 NMSA 1978.

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

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

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

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

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

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

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

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

(2) "Laguna pueblo land" means all land located within the exterior boundaries of the Laguna reservation or pueblo grant and all land held by the United States in trust for Laguna pueblo; and

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

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

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

A. The secretary may enter into cooperative agreements with Santa Clara pueblo, Santa Ana pueblo, Laguna pueblo and Nambe 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.

B. Money collected by the department on behalf of the pueblo in accordance with an agreement entered into pursuant to this section is not money of this state and shall be collected and disbursed in accordance with the

terms of the agreement, notwithstanding any other provision of law.

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

D. Nothing in an agreement entered into pursuant to this section shall be construed as authorizing this state 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 are not otherwise subject to that court's jurisdiction or as affecting any issue of the respective civil or criminal jurisdictions of this state or the pueblo. Nothing in an agreement entered into pursuant to this section shall be construed as an assertion or an admission by either this state or the pueblo that the taxes of one have precedence over the taxes of the other when the person or transaction is subject to the taxing authority of both governments. An agreement entered into pursuant to this section shall be

construed solely as an agreement between the two party governments and shall not alter or affect the government-to-government relations between this state and any other Indian nation, tribe or pueblo.

SB 232
Page 5

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

Section 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2000. _____