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SENATE BILL 232

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

INTRODUCED BY

Phillip A. Griego

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 [~~OR~~], LAGUNA PUEBLO OR NAMBE PUEBLO--

A. If on a taxable transaction taking place on  
Santa Ana pueblo land, [~~or on~~] 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

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1 or its political subdivisions pursuant to the Gross Receipts  
2 and Compensating Tax Act and any local option gross receipts  
3 tax on the same transaction. The amount of the credit shall  
4 be equal to the lesser of seventy-five percent of the tax  
5 imposed by the pueblo on the receipts from the transaction or  
6 seventy-five percent of the revenue produced by the sum of  
7 the rate of tax imposed pursuant to the Gross Receipts and  
8 Compensating Tax Act and the total of the rates of local  
9 option gross receipts taxes imposed on the receipts from the  
10 same transaction. Notwithstanding any other provision of law  
11 to the contrary, the amount of credit taken and allowed shall  
12 be applied proportionately against the amount of the gross  
13 receipts tax and local option gross receipts taxes and  
14 against the amount of distribution of those taxes pursuant to  
15 Section 7-1-6.1 NMSA 1978.

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

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

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

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

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

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

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

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

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

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

Section 9-11-12.1 NMSA 1978 (being Laws 1997, Chapter

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1 64, Section 1, as amended) is amended to read:

2 "9-11-12.1. COOPERATIVE AGREEMENTS WITH SANTA CLARA  
3 PUEBLO, SANTA ANA PUEBLO, [~~AND~~] LAGUNA PUEBLO AND NAMBE  
4 PUEBLO.--

5 A. The secretary may enter into cooperative  
6 agreements with Santa Clara pueblo, Santa Ana pueblo, [~~and~~]  
7 Laguna pueblo and Nambe pueblo for the exchange of  
8 information and the reciprocal, joint or common enforcement,  
9 administration, collection, remittance and audit of gross  
10 receipts tax revenues of the party jurisdictions.

11 B. Money collected by the department on behalf of  
12 the pueblo in accordance with an agreement entered into  
13 pursuant to this section is not money of this state and shall  
14 be collected and disbursed in accordance with the terms of  
15 the agreement, notwithstanding any other provision of law.

16 C. The secretary is empowered to promulgate such  
17 rules [~~and regulations~~] and to establish such procedures as  
18 the secretary deems appropriate for the collection and  
19 disbursement of funds due the pueblo and for the receipt of  
20 money collected by the pueblo for the account of this state  
21 under the terms of a cooperative agreement entered into under  
22 the authority of this section, including procedures for  
23 identification of taxpayers or transactions that are subject  
24 only to the taxing authority of the pueblo, taxpayers or  
25 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.

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

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

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1 January 1, 1997."

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

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