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HOUSE BILL 471

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

James G. Taylor

AN ACT

RELATING TO TAXATION; AMENDING THE GROSS RECEIPTS AND
COMPENSATING TAX ACT TO PROVIDE FOR TAX CREDITS WITH THE
PUEBLOS OF ISLETA AND SANDIA; AMENDING THE TAXATION AND
REVENUE DEPARTMENT ACT TO AUTHORIZE THE SECRETARY OF TAXATION
AND REVENUE TO ENTER INTO CERTAIN COOPERATIVE AGREEMENTS.

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, as amended) is amended to read:

"7-9-88.1. CREDIT--GROSS RECEIPTS TAX--TAX PAID TO
~~[SANTA ANA PUEBLO, LAGUNA PUEBLO OR NAMBE PUEBLO]~~ CERTAIN
PUEBLOS. --

A. If on a taxable transaction taking place on
~~[Santa Ana pueblo land, Laguna pueblo land or Nambe pueblo~~
~~land]~~ pueblo land a qualifying gross receipts, sales or

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

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

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

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

25 (3) is levied on the taxable transaction at a

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1 rate not greater than the total of the gross receipts tax rate
2 and local option gross receipts tax rates imposed by this
3 state and its political subdivisions located within the
4 exterior boundaries of the pueblo;

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

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

17 C. For purposes of the tax credit allowed by this
18 section,

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

23 (2) "~~Laguna pueblo land" means all land~~
24 ~~located within the exterior boundaries of the Laguna~~
25 ~~reservation or pueblo grant and all land held by the United~~

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1 ~~States in trust for Laguna pueblo; and~~

2 (3) ~~["Nambe]~~ "pueblo land" means all land
3 located within the exterior boundaries of the [~~Nambe]~~
4 reservation or pueblo grant and all land held by the United
5 States in trust for [~~Nambe pueblo~~] one of the following:

- 6 (1) the Pueblo of Isleta;
7 (2) the Pueblo of Laguna;
8 (3) the Pueblo of Nambe;
9 (4) the Pueblo of Sandia; or
10 (5) the Pueblo of Santa Ana. "

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

13 "9-11-12.1. COOPERATIVE AGREEMENTS WITH THE PUEBLOS OF
14 ISLETA, LAGUNA, NAMBE, SANDIA, SANTA ANA AND SANTA CLARA
15 [~~PUEBLO, SANTA ANA PUEBLO, LAGUNA PUEBLO AND NAMBE PUEBLO~~]. . .

16 A. The secretary may enter into cooperative
17 agreements with the Pueblos of Isleta, Laguna, Nambe, Sandia,
18 Santa Ana and Santa Clara [~~pueblo, Santa Ana pueblo, Laguna~~
19 ~~pueblo and Nambe pueblo~~] for the exchange of information and
20 the reciprocal, joint or common enforcement, administration,
21 collection, remittance and audit of gross receipts tax
22 revenues of the party jurisdictions.

23 B. Money collected by the department on behalf of
24 [~~the~~] a pueblo in accordance with an agreement entered into
25 pursuant to this section is not money of this state and shall

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1 be collected and disbursed in accordance with the terms of the
2 agreement, notwithstanding any other provision of law.

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

15 D. Nothing in an agreement entered into pursuant
16 to this section shall be construed as authorizing this state
17 or ~~the~~ a pueblo to tax persons or transactions that federal
18 law prohibits that government from taxing or as authorizing a
19 state or pueblo court to assert jurisdiction over persons who
20 are not otherwise subject to that court's jurisdiction or as
21 affecting any issue of the respective civil or criminal
22 jurisdictions of this state or the pueblo. Nothing in an
23 agreement entered into pursuant to this section shall be
24 construed as an assertion or an admission by either this state
25 or ~~the~~ a pueblo that the taxes of one have precedence over

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

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

18 Section 3. EFFECTIVE DATE. -- The effective date of the
19 provisions of this act is July 1, 2001.