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F I S C A L   I M P A C T   R E P O R T

SPONSOR: Campos DATE TYPED: 03/09/01 HB

SHORT TITLE: Isleta & Sandia Pueblos Tax Credits SB 335/aSFL#1

ANALYST: Eaton

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY01	**FY02**			
	See Narrative		Recurring	

(Parenthesis ( ) Indicate Revenue Decreases)

SOURCES OF INFORMATION

Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Senate Floor Amendment

The Senate Floor amendment expands the provisions of this bill to include all pueblos within the state.

Synopsis of Original Bill

Under statutes enacted in 1999 and 2000 (and patterned after similar statute first enacted in 1997 for Santa Clara Pueblo), TRD may enter into agreements with Santa Ana Pueblo, Laguna Pueblo, and Nambe Pueblo to collect any gross receipts tax imposed by the Pueblo. To resolve dual taxation issues, if the Pueblo grants a 25% credit against its tax and meets other specified conditions, the state will grant a credit against state and local gross receipts tax due from taxpayers subject to both taxes. The result will be that taxpayers will pay the same tax as they would under the state and local taxes alone -- even after the Pueblo has imposed its tax.

The proposed bill allows the Secretary of Taxation and Revenue to enter into a similar agreements with Isleta Pueblo and Sandia Pueblo. If an agreement is entered into, the law allows for a credit against state and local gross receipts taxes equal to the lesser of 75% of the tax imposed by the pueblo or 75% of the state and local tax rate. The Pueblo must impose a gross receipts or similar non-discriminatory tax and allow as a credit against the Pueblo tax an amount equal to 25% of the total imposition of state, municipal and county gross receipts taxes. Any Pueblo tax only applies to businesses operating on land owned by the Pueblo or held in trust by the Pueblo. This bill and its predecessors were designed to eliminate double taxation occurring on tribal lands where and when the tribe and the state impose gross receipts or sales taxes on transactions.

Significant Issues

This bill promotes resolution of the deduction problem, which creates a real disincentive to economic development on tribal lands. The disincentive tends to hurt tribes more than the state. In some cases, the disincentive will mean a business will simply chose not to open. But in most cases, the result of the double tax will be that the business will locate off reservation. The result is the state would be getting its full share of tax and the tribe would get zero.

This bill also promotes efficiency of administration and collection of state and Pueblo taxes through cooperative agreements and minimizing the total tax burden through mutual tax credits. This is preferable to a condition where the Taxation and Revenue Department (TRD) and a Pueblo Tax Commission simultaneously expend resources to collect taxes separately from the same taxpayers, with no mutual tax credit.

The Taxation and Revenue Department (TRD) report that under the original legislation for Santa Clara Pueblo, only gross receipts tax from businesses located on Pueblo-owned land outside a municipality is subject to the revenue sharing arrangement unless the municipality annexed a portion of the Santa Clara land after July 1, 1997. That particular credit cannot be applied against municipal local option taxes except in the case of annexation. Presumably, there is no municipal land on Isleta Pueblo or Sandia Pueblo lands, so this restriction is not necessary for them.

The department entered into an agreement with Santa Clara Pueblo in 1998, and with Santa Ana Pueblo in 2000, but has not yet entered into any agreements with Laguna Pueblo or Nambe Pueblo.

FISCAL IMPLICATIONS

The Taxation and Revenue Department (TRD) reports that this bill will probably not result in any significant revenue impacts in the immediate future. But as a general note, the table above illustrates the direction of the possible impacts.

ADMINISTRATIVE IMPLICATIONS

Estimated Impact on Revenues Full Year	Recurring/ Non Rec.	Funds Affected
Positive	Recurring	Pueblos
Negative	Recurring	General Fund
Negative	Recurring	Counties

TRD estimates that computer programming (300 hours per agreement) may cost $15 thousand per agreement.

JBE/njw