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HOUSE BILL 141

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

BEN LUJAN

FOR THE REVENUE STABILIZATION AND TAX POLICY COMMITTEE

AN ACT

RELATING TO TAXATION; AUTHORIZING THE SECRETARY OF TAXATION AND REVENUE TO ENTER INTO CERTAIN COOPERATIVE AGREEMENTS WITH SANTA CLARA PUEBLO; PROVIDING A GROSS RECEIPTS TAX CREDIT; ENACTING SECTIONS OF THE NMSA 1978.

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

1           B. Money collected by the department on behalf of  
2 Santa Clara pueblo in accordance with an agreement entered into  
3 pursuant to this section is not money of this state and shall be  
4 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 money  
10 collected by the pueblo for the account of this state under the  
11 terms of a cooperative agreement entered into under the  
12 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 or as  
24 affecting any issue of the respective civil or criminal  
25 jurisdictions of this state or the pueblo. Nothing in an

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

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

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

14 A. If on a taxable transaction taking place on land  
15 owned by or for the benefit of Santa Clara pueblo and located  
16 within the exterior boundaries of Santa Clara pueblo a  
17 qualifying gross receipts, sales or similar tax has been levied  
18 by the pueblo, the amount of the pueblo tax may be credited  
19 against any gross receipts tax due this state or its political  
20 subdivisions under the Gross Receipts and Compensating Tax Act  
21 and any local option gross receipts tax on the same transaction.  
22 The amount of the credit shall be equal to the lesser of  
23 seventy-five percent of the tax imposed by the pueblo on the  
24 receipts from the transaction or seventy-five percent of the tax  
25 revenue produced by the sum of the rate of tax imposed pursuant

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1 to the Gross Receipts and Compensating Tax Act and the total of  
2 the rates of local option gross receipts taxes imposed on the  
3 receipts from the same transaction. Notwithstanding any other  
4 provision of law to the contrary, the amount of credit taken and  
5 allowed shall be applied proportionately against the amount of  
6 the gross receipts tax and local option gross receipts taxes and  
7 against the amount of distributions of those taxes pursuant to  
8 Section 7-1-6.1 NMSA 1978.

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

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

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

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

21 (4) provides a credit against the pueblo tax  
22 equal to the lesser of twenty-five percent of the tax imposed by  
23 the pueblo on the receipts from the transaction or twenty-five  
24 percent of the tax revenue produced by the sum of the rate of  
25 tax imposed under the Gross Receipts and Compensating Tax Act

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1 and the total of the rates of the local option gross receipts  
2 taxes imposed on the receipts from the same transaction; and

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

# State of New Mexico House of Representatives

FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

March 10, 1997

Mr. Speaker:

Your TAXATION AND REVENUE COMMITTEE, to whom has  
been referred

## HOUSE BILL 141

has had it under consideration and reports same with  
recommendation that it DO PASS, amended as follows:

1. On page 3, line 9, strike the closing quotation mark and  
between lines 9 and 10, insert the following new subsection:

"E. Nothing in an agreement entered into 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.".

2. On page 3, line 21, before the period insert:  
", provided that no credit shall be allowed against any gross

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FIRST SESSION, 1997

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receipts tax due on a transaction subject to the taxing authority  
of a municipality pursuant to a local option gross receipts tax  
act".,

and thence referred to the JUDICIARY COMMITTEE.

Respectfully submitted,

\_\_\_\_\_  
Jerry W. Sandel, Chairman

Adopted \_\_\_\_\_

Not Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

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FORTY-THIRD LEGISLATURE  
FIRST SESSION, 1997

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The roll call vote was 12 For 0 Against

Yes: 12

Excused: Porter

Absent: None

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FORTY-THIRD LEGISLATURE

FIRST SESSION

March 14, 1997

HOUSE FLOOR AMENDMENT number 1 to HOUSE BILL 141

Amendment sponsored by Representative Ben Lujan

1. Strike House Taxation and Revenue Committee amendments.

2. On page 3, line 9, strike the closing quotation mark and between lines 9 and 10, insert the following new subsection:

"E. Nothing in an agreement entered into 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."

3. On page 3, line 21, before the period insert:

"; provided that no credit shall be allowed against any gross receipts tax due on a transaction subject to the taxing authority of a

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FIRST SESSION

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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 credit shall be allowed for such taxable transactions, and related distributions, reported from business locations on Santa Clara pueblo land annexed by the municipality after January 1, 1997. "

\_\_\_\_\_  
Ben Lujan

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
(Chief Clerk) (Chief Clerk)

Date \_\_\_\_\_

Underscored material = new  
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