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FISCAL IMPACT REPORT

SPONSOR Pinto DATE TYPED 3/17/97 HB _____
SHORT TITLE Intergovernmental Tax Credit SB CS/1211/aSFl/aHTRC
ANALYST Taylor

REVENUE

<u>Estimated Revenue</u>	<u>Subsequent</u>	<u>Recurring</u>	<u>Fund</u>
<u>FY97</u>	<u>Years Impact</u>	<u>or Non-Rec</u>	<u>Affected</u>
<u>N/A</u>	<u>(Indeterminate)</u>	<u>Recurring</u>	<u>State GF</u>

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of HTRC Amendments

The HTRC amendments changes the bill's language so as to clarify that the tax credit is to be applied only to new businesses locating on Indian lands in New Mexico. It tightens the definition of "new business," which among other things, restricts the credit to manufacturers, processors and growers. This deals with TRD's concerns about providing the credit to businesses that pay severance taxes and already receive a similar credit. It provides new language for determining the corporate income tax liability for businesses that qualify for the credit and operate businesses both on and off Indian land in New Mexico. These taxpayers' corporate income tax liabilities are determined as the sum of one-half of their pre-credit corporate income tax liability multiplied by a property factor and one-half of their pre-credit corporate income tax multiplied by a payroll factor. The property and payroll factors represent the share of payroll and property that is related to the operations on Indian lands.

The above changes represent technical clarifications provided by the Taxation and Revenue Department. The fiscal impact of the bill remains indeterminate.

Synopsis of Senate Floor Amendments

The Senate Floor Amendments to the SWMC substitute for Senate Bill 1211 make some

technical language changes. The changes clarify how businesses which operate on and off Indian lands in the state are to calculate the credit. These changes do not change the reported fiscal implications of the bill.

Synopsis of SWMC Substitute Bill

The SWMC substitute for SB 1211 would provide a corporate income tax credit for a new business which is located on Indian land. The credit is for one or more taxes imposed by an Indian nation, tribe or pueblo on business income that is derived from business activity on Indian land. The SWMC substitute clarifies that a tax may not be included in the credit if it is eligible for some other intergovernmental tax credit. It also provides a formula for apportioning business income between the state and the Indian nations, tribes or pueblos in those cases where a business operates both on and off Indian lands in New Mexico. The apportionment factor seeks to determine the share of business activity occurring on Indian land. It calculates the share of business activity occurring on Indian land by averaging the share of employment and the share of property that the business employ on Indian land. The proposed bill has an effective date of July 1, 1997.

Significant Issues

1. The SWMC sub clarifies that the credit is for taxes similar to the state's corporate income tax. That is, it allows a credit against business income.
2. The SWMC sub also makes clear that taxes which already receive a credit are not eligible for the proposed credit. This deals with TRD's concerns about businesses receiving a double benefit.
3. The SWMC sub adds a way to apportion the share of business activity is taking place on Indian lands for businesses that operate on Indian and non Indian lands in New Mexico.
4. The credit proposed in the bill would provide Indian governments a 50% credit against the state corporate income tax.
5. TRD endorses the major goals of the bill. However, they suggest that all such tax issues between the Indian governments and the state be considered in a single bill.

FISCAL IMPLICATIONS

TRD reports that the immediate fiscal impact is indeterminate but probably small. They noted that any estimate is speculative given that a number of economic development projects are being planned for the Indian lands.

ADMINISTRATIVE IMPLICATIONS

TRD reports that the administrative implications are minor.

CONFLICT/DUPLICATION/COMPANIONSHIP/RELATIONSHIP

HB 141 would provide a gross receipts tax credit for Santa Clara Pueblo.
HB 1247 duplicates SB 1211; HTRC amended both bills, and they remain identical.
HB 244 would provide a tax credit against coal taxation on Indian land.

WST/jl:pr
Attachment

SECTION VI: NARRATIVE

1. BILL SUMMARY (TWO PARTS)

(a) **Synopsis:**

(b) **Significant Issues:**

SB 1211 appears to give tax credit to any company that begins operation after July 1, 1997 for taxes paid to an Indian tribe on activities occurring outside of New Mexico. For example, if a coal mining company in Arizona on the Navajo Reservation wanted to start to mine coal in New Mexico, it would be able to claim credits against its New Mexico taxes for taxes paid to the Navajo Nation for coal mined in Arizona. It would make better sense to limit tax credits to taxes paid to tribes for activities occurring only on Indian land in New Mexico.

2. FISCAL IMPACT

3. ADMINISTRATIVE IMPACT

4. DUPLICATION, CONFLICT, COMPANIONSHIP OR RELATIONSHIP

5. TECHNICAL ISSUES

6. SUBSTANTIVE ISSUES

7. ALTERNATIVES

8. WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

9. AMENDMENTS