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FISCAL IMPACT REPORT

ORIGINAL DATE 3/12/15

SPONSOR Pinto LAST UPDATED _____ HB _____

SHORT TITLE Review Navajo Nation Fees and Taxation SM 121

ANALYST Malone

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	Minimal	Minimal	NFI	Minimal	Nonrecurring	TRD-PTD Operating

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Taxation and Revenue Department (TRD)

Indian Affairs Department (IAD)

SUMMARY

Synopsis of Bill

Senate Memorial 121 requests that the Property Tax Division (PTD) of TRD review for consistency and equity the manner in which counties assess the Navajo Nation tribal fee and tribal ranch lands for taxation purposes. The memorial calls for TRD to report findings and recommendations to appropriate interim legislative committees by September 30, 2015.

FISCAL IMPLICATIONS

As explained under administrative implications, TRD will absorb the cost of reviewing assessment policies in counties.

There would not be any immediate effect on property taxes assessed on Navajo Nation tribal fee and tribal ranch lands, but the review could prompt changes in the future.

SIGNIFICANT ISSUES

Navajo Nation tribal ranches are situated on about 258,880 acres of fee simple lands in McKinley, San Juan, Cibola, Rio Arriba, Sandoval, Socorro, and Bernalillo counties.

Per Section 7-35-3 NMSA 1978, PTD does yearly evaluations of the performance of the county assessors' functions and provides the assessors' with appropriate technical assistance in keeping appraised values current and correct for valuation purposes. TRD notes that fee lands held by Indians or tribes are not exempt from state property taxation (N.M. Const Art. XXI sec.2). Lands held in fee by Indian tribes, even former trust lands, are held on an equal footing with other fee lands held by non-Indians as a matter of federal Indian law (see *Cass County v. Leech Band of Chippewa Indians*, 524 U.S. 103 (1998)). Furthermore, property of non-Indians on land leased from Indians is not exempt from property tax.

IAD observes that collecting property taxes with a consistent and equitable assessment by counties where tribal ranches exist will allow proper classification of tribal ranch land within the categories such as agricultural, grazing, vacant, nonresidential, and commercial. Additionally, use of the classification of "agricultural" will allow New Mexico and the Navajo Nation to use the agricultural special valuation method as a tool that will serve the needs of both the Nation and New Mexico (Section 7-36-20 NMSA 1978).

IAD also notes that rendering of livestock to county assessors in the counties of McKinley, San Juan, Cibola, Rio Arriba, Sandoval, Socorro and Bernalillo will be facilitated if the "grazing" category is applied. Determining whether "livestock ownership" property taxes may be assessed on lessees of tribal ranches is an important policy initiative that will clarify how ranches are classified. The TRD agricultural properties classification includes leases in which livestock are owned by lessees of the Nation's tribal ranches.

Finally, IAD points out that the Code of Federal Regulations hold that taxing the leasehold interests of non-Indians on Tribal lands is against federal law.

ADMINISTRATIVE IMPLICATIONS

According to the department, PTD will add to its assessors' evaluations for 2016 to include a review of assessment policies in the counties concerning tribal lands and it will require some additional man hours in order to fully analyze the assessor's data.

TECHNICAL ISSUES

TRD notes that valuing vacant land is very difficult for assessors due to non-disclosure, which makes assessment of some Navajo Nation tribal ranches difficult.

CEM/aml