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FISCAL IMPACT REPORT



SPONSOR: Watchman DATE TYPED: 01/23/02 HB 230

SHORT TITLE: "Indian Country" Defined SB _____

ANALYST: Dunbar

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY02	FY03	FY02	FY03		
		\$0.1	See Narrative	Recurring	Local Property Tax Revenue

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

Responses Received From

LFC Files
 Taxation and Revenue Department (TRD)
 State Highway and Transportation Department (SHTD)

SUMMARY

Synopsis of Bill

House Bill 873 defines "Indian Country" for when the term is used in statutes.

Significant Issues

The bill prescribes four sections that define "Indian Country." The first three (Sections A - C) follow the current definition that is found in federal statute (18 U.S.C §1151). The bill proposes to broaden the federal definition to include lands subject to "restriction by the United States against alienation." This means the definition would be extended to lands held in fee by a tribe. Under federal statute (25 U.S.C. §177), all land owned by tribes are subject to restriction by the United States against alienation. Thus, according to the Taxation and Revenue Department, the definition would include any land a tribe would acquire.

However, under *Buzzard v. Oklahoma Tax Commission*, 992 F.2d 1073 (10th Cir. 1993), the federal definition of "Indian Country" for tax purposes does not include fee land owned by the tribe subject to restriction against alienation. The SHTD's Office of General Counsel points out that if the proposed state law conflicts with federal law, then the federal law will take precedent. Also, they indicate that New Mexico and federal courts have consistently adhered to the federal statutory definition.

FISCAL IMPLICATIONS

There is no appropriation contained in this bill. According to the Taxation and Revenue Department there is an indeterminate fiscal impact that depends on how much land individuals and tribes acquire in fee and where that land is located.

MW/prr:ar