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FISCAL IMPACT REPORT

ORIGINAL DATE 2-13-06

SPONSOR Madalena LAST UPDATED _____ HJM 70

JICARILLA APACHE RESERVATION IN ONE

SHORT TITLE COUNTY SB _____

ANALYST Hadwiger

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY06	FY07		
	None		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Indian Affairs (DIA)
 Department of Finance and Administration (DFA)
 Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Bill

House Joint Memorial 70 would ask the Department of Finance and Administration (DFA) to evaluate the potential costs and benefits of redrawing county lines to place all Jicarilla Apache reservation lands within Sandoval county or to create a new county; to identify revenues derived by Rio Arriba county and Sandoval county from the Jicarilla Apache reservation, including tax revenues, payments in lieu of taxes and state and federal grants and program funds, including impact aid; and to quantify expenditures by Rio Arriba county and Sandoval county for providing services on the Jicarilla Apache reservation. DFA would be asked to report its findings to the interim Indian Affairs Committee and other appropriate interim committees by September 1, 2006.

FISCAL IMPLICATIONS

The Department of Indian Affairs (DIA) noted that HJM 70 does not allocate any funds for the requested study; however, DFA might have to realign a FTE to complete the requested study by September 1, 2006 as the study should include:

1. potential costs and benefits of redefining county lines to place all Jicarilla Apache reservation lands within Sandoval county or to create a new county;
2. to identify revenues derived by Rio Arriba county and Sandoval county from the Jicarilla Apache reservation, including tax revenues, payments in lieu of taxes and state and federal grants and program funds, including impact aid; and
3. quantified expenditures by Rio Arriba county and Sandoval county for providing services on the Jicarilla Apache reservation.

According to the Taxation and Revenue Department (TRD), primary revenue sources that would be affected by this bill in Rio Arriba County are the gross receipts tax on non-Indian owned businesses and two taxes imposed on the value of oil and gas produced on the reservation – the Oil and Gas Ad Valorem Production Tax (“Production Tax”) and the Oil and Gas Production Equipment Ad Valorem Tax (“Equipment Tax”). TRD does not have immediate access to information on which gross receipts taxpayers are doing business on the reservation. To develop this information, a survey would be needed that identified all such businesses, ideally with their associated CRS identification number. TRD reviewed its records to identify taxes paid under the two oil and gas ad valorem taxes. Total Production Tax payments from production on the reservation were approximately \$2.6 million during the 12-month period from November of 2004 through October of 2005. Total Equipment Tax payments from production on reservation land were \$470 thousand during the 2005 property tax year. The following table shows the *approximate* distribution of these revenues among the various beneficiaries of the taxes, which are distributed in proportion with the components of the property tax levy in the school district where the production takes place.

Approximate Revenue Distributions of Oil and Gas Ad Valorem Taxes from Jicarilla Apache Reservation Lands<1>

Recipient:	Property Tax Levy: (\$ per \$1,000)	Production Tax: (\$ Thousand)	Equipment Tax: (\$ Thousand)	Total: (\$ Thousand)
State debt service	1.234	\$149.1	\$26.9	\$176.0
County	11.85	\$1,431.6	\$258.8	\$1,690.4
School district	4.188	\$505.9	\$91.5	\$597.4
Other*	4.25	\$513.4	\$92.8	\$606.2
Total	21.522	\$2,600.0	\$470.0	\$3,070.0

<1> Estimates based on collection during the period November 2004 through October 2005 for the Production Tax and during the 2005 property tax year for the Equipment Tax.

SIGNIFICANT ISSUES

DIA indicated that, unfortunately, the problem faced by the Jicarilla Apache Tribe - receiving services from two New Mexico counties - is not unique. Many of the State’s twenty-two Indian Nations, Tribes, and Pueblos’ reservation boundaries encompass property that straddles two or more counties. For example, Navajo Nation reservation lands are located in seven New Mexico counties – San Juan, McKinley, Cibola, Bernalillo, Socorro, Sandoval, and Rio Arriba. Any study that would assist counties in New Mexico to streamline and make more their services more responsive and cost-effective is welcome. However, it should be noted that any redefining of

county borders would necessarily create debate (and possible change) as to representation in the legislative process, county tax bases, and other important issues. Perhaps it would be wise for DFA to include input from the coalitions of counties that would be affected by any change in borders. One such coalition would be the Mid-Region Council of Governments, which serves Bernalillo, Sandoval, Tarrant, and Valencia counties.

DFA noted that HJM 70 requests the agency to study the fiscal impact of enclosing the Jicarilla Apache Reservation within the boundaries of one county. In doing so, the delivery of services to the population living on the reservation may be more effective. However, there are several considerations to be made in this study. The Jicarilla Apache reservation is not the only reservation in the state that straddles multiple county boundaries; therefore, perhaps a statewide study should be done to understand the current delivery of services to the populations that inhabit reservation territory.

DFA added that there will be an revenue impact to Rio Arriba and Sandoval counties if the Jicarilla Apache Reservation is absorbed by Sandoval or if it becomes its own sovereign county. Revenue sources such as tax revenues, payments of lieu of taxes, federal grants, state grants and other program funds will be affected. Consideration would have to be given to the re-structuring of current reservation government if it would become its own county.

ADMINISTRATIVE IMPLICATIONS

According to TRD, if a new county were established or if the boundaries of the reservation moved totally to Sandoval County, major changes would be required of the oil and gas production tax information system. The land boundaries of the new county or the boundaries associated to Sandoval and Rio Arriba counties would need to be manually tracked and programmed. Changes in the computer system would include establishing new school district codes and municipality codes if necessary with the counties, defining new tax rates associated to the ad valorem tax programs, and doing a complex conversion of updating production unit records with an effective date recognizing the current county information and the new county or adjusted county boundaries and related data elements. A major impact to the oil and gas taxpayers that produce on the reservation and pay the related taxes would occur because all their systems would need to be updated to recognize the new or adjusted county elements on the production units affected with an effective date and possible new ad valorem tax rates. Taxpayers have stated to TRD that any changes to their system would require at least 6 months advance notice.

TECHNICAL ISSUES

DIA suggested the bill be amended on page 3, line 4 to assure that a copy of the memorial is delivered to President of the Jicarilla Apache.

ALTERNATIVES

DFA suggested that a productive alternative might be to conduct a statewide study to understand the current delivery of services to the populations that inhabit reservation territory in circumstances such as that addressed in this memorial.