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FISCAL IMPACT REPORT

	ORIGINAL DATE 03/02/07		
SPONSOR <u>SIAC</u>	LAST UPDATED _____	HB _____	
	Public Peace, Health, Safety & Welfare		
SHORT TITLE <u>Tribal Member Military Service Tax Refund</u>		SB <u>1230/SIACS</u>	
		ANALYST <u>Hanika Ortiz</u>	

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY07	FY08	FY09	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		(see narrative)				

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Awaiting a Response From
Taxation & Revenue Department (TRD)

SUMMARY

Synopsis of SIAC Substitute

The Senate Indian Affairs Committee Substitute enacts a new section of the Tax Administration Act (Act) and requires TRD to identify and notify certain taxpayers of possible overpayment of taxes; and, extends the time for refund claims with respect to certain military income of enrolled tribal members.

The new section of the Act requires TRD to review earned income tax records of certain taxpayers in the armed forces to identify possible overpayments. The taxpayers under review will be residents of New Mexico; enrolled members of a federally recognized Indian nation, tribe or pueblo; and, who resided during service on the enrolled member's or member's spouse's federally recognized tribal lands.

The substitute also amends Section 7-1-26 NMSA 1978 by adding new language that extends the time for tax refunds from amounts paid or withheld from income earned during service in the armed forces, until December 31, 2017; and, provides clean up of language to the bill into compliance with current law by deleting Article 9D, the Capital Equipment Tax Credit Act, which was previously repealed.

FISCAL IMPLICATIONS

TRD is being requested to participate in an audit of tribal members for possible overpayments from taxes either paid or withheld from military income of tribal members; and, the fiscal impact cannot be ascertained until TRD responds to the request for an analysis.

SIGNIFICANT ISSUES

The substitute states the basis of the refund claim is from possible overpayments by taxpayers who otherwise were not subject to income taxes for military pay because of being an enrolled tribal member living on their federally recognized tribal lands.

PERFORMANCE IMPLICATIONS

Current New Mexico law provides that military pay of an enrolled member of an Indian nation, tribe or pueblo for periods in which the member's home of record is on the lands of that Indian nation, tribe, or pueblo are exempt from New Mexico income tax. Lands include formal and informal reservations, dependent Indian communities, and Indian allotments whether restricted or held in trust by the United States.

ADMINISTRATIVE IMPLICATIONS

TRD is expected to send a notice to each taxpayer detailing possible overpayments to their last known address and in a timely manner.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Pursuant to Section 7-1-26 NMSA 1978, taxpayers who believe they have overpaid or have been denied a credit or rebate may claim a refund by submitting a written claim to the Department, to include a brief statement of the facts and the law on which the claim is based.

AHO/mt