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FISCAL IMPACT REPORT

SPONSOR Pinto ORIGINAL DATE 1/27/08
LAST UPDATED _____ HB _____
SHORT TITLE Tax and Rev Overpayment Notifications and Claims SB 126
ANALYST Earnest

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY08	FY09	FY10	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total	(\$0.1)	(\$0.1)	(\$0.1)	(\$0.1)	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Indian Affairs Department (IAD)

No Response

Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Bill

Senate Bill 126 adds a new section to the New Mexico Tax Administration Act to require the Taxation and Revenue Department (TRD) to review income tax records and notify certain New Mexico taxpayers of possible overpayment of taxes related to income earned from service in the armed forces of the United States. Further, SB 126 amends the Tax Administration Act to extend the time for refund claims with respect to certain military income of Native Americans.

FISCAL IMPLICATIONS

Without information from TRD, it is difficult to estimate the fiscal implications.

SIGNIFICANT ISSUES

This bill was endorsed by the Interim Indian Affairs Committee at their November 2007 meeting.

SB 126 would require TRD to review income tax records to identify possible overpayments of tax that have been made with respect to a taxpayer:

1. “who is a resident of New Mexico,
2. an enrolled member of a federally recognized Indian nation, tribe or pueblo, and
3. whose domicile during [military] service was on the member’s or the member’s spouse’s reservation or pueblo grant or within the boundaries of lands held in trust by the United States for the benefit of the member, the member’s spouse or the member’s or the spouse’s Indian nation, tribe or pueblo.”

According to IAD:

SB 126, in Section 2, would extend the time for certain Native American veterans to claim an income tax refund. Military pay of an enrolled member of an Indian nation, tribe or Pueblo is exempt for periods in which the member’s domicile of record is on the lands of that Indian nation, tribe, or Pueblo. According to IAD, many Native American veterans, who at the time of their service, either overpaid or had income taxes withdrawn in excess of that which the person was liable were unaware of the refund opportunity available under NMSA § 7-1-26. For most, the deadline to file a claim pursuant to NMSA § 7-1-26 has passed. SB 126 would extend the deadline for a claim for refund until December 31, 2017. This claim may be made if “the claim for a refund is for an amount paid by the taxpayer or withheld from the taxpayer’s earning with respect to income earned from service in the armed forces of the United States.” The basis of this specific refund is that “the income was not subject to taxation by New Mexico because (a) the taxpayer was an enrolled member of a federally recognized Indian nation, tribe or pueblo; and (b) the taxpayer’s domicile in New Mexico during that service was: 1) on the member’s or the member’s spouse’s reservation or pueblo grant; or 2) within the boundaries of lands held in trust for the benefit of the member of the member’s spouse or the member’s or spouse’s Indian nation, tribe or pueblo, which lands was subject to restrictions against alienation imposed by the United States.”

OTHER SUBSTANTIVE ISSUES

IAD reports that veterans make up fourteen percent (14%) of the population in New Mexico.¹ Of this population approximately 19,000 (nineteen-thousand) are American Indian military veterans.²

Regarding other services for New Mexico Native American veterans, in October 2007, the New Mexico Department of Veterans Services graduated 21 Tribal Veteran Service Officers (“Officers”). The Officers “advise local veterans and their dependents of their rights and entitlements under various federal and state laws, counsels them, and actively assists them by filling out necessary forms and papers and obtaining documents and affidavits.”³

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¹ See, U.S. Bureau of the Census, Census 2000.

² *Id.*

³ See, “Native American Veteran Service Officers to Receive National Accreditation,” State of New Mexico Department of Veterans Services (October 25, 2007).