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FISCAL IMPACT REPORT

ORIGINAL DATE 2/4/08

SPONSOR Lovejoy LAST UPDATED _____ HB _____

SHORT TITLE Native American Veterans Tax Withholdings SM 43

ANALYST Earnest

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY08	FY09		
NFI	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Bill

Senate Memorial 43 finds that

- Native Americans have a long history of serving in the U.S. armed forces and have made great sacrifices in serving their country through active duty in the military.
- Native American veterans domiciled on tribal lands during their periods of active duty military service may have been exempt from paying personal income taxes and had personal income taxes improperly withheld from their military income and were unaware of it until recently
- New Mexico's three-year statute of limitations recently prevented recovery of refunds by Native American veterans that had served in the military, and that other Native Americans that may have subject to the same withholding are unable to recover taxes.

The memorial therefore requests that the Taxation and Revenue Department, along with the Veteran's Services Department, conduct a study on the question of whether Native American veterans -- who were domiciled on tribal lands during the period of their active military duty -- had state income taxes improperly withheld from their pay. Furthermore, if it is determined that they had, that the agencies should explore the feasibility to compensate these taxpayers. The findings and recommendations should be presented to the appropriate interim legislative committees.

FISCAL IMPLICATIONS

See administrative impact implications.

ADMINISTRATIVE IMPLICATIONS

According to TRD there is a significant administrative impact to the department.

TRD:

The proposed study would require considerable use of human resources in the Taxation and Revenue Department. For example, the Department does not have ready access to much of the data required to conduct the study. Certain records are not currently received and methods to obtain such records from entities outside the Department may not be possible. The Department would need to obtain records of service members in the Armed Forces who are established as domiciled on that members or spouses' tribal land and sort through W-2 records to match potentially qualified service members records to tax withheld to income tax returns. If a service member did not file a New Mexico personal income tax return, the Department would probably look to other records, for example driver's license records, to determine an address. Gathering the data would require significant systems time and manual resources to accomplish. Once the data was gathered, manual resources would be needed to either systematically or manually match potential service members, and to identify the overpayments.

BE/bb