Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may also be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

SPONSOR	Harden	DATE TYPED	2/20/2005	HB	
SHORT TITI	E Military Retirement	Income Tax Deduc	tion	SB	94
			ANAI	YST	Taylor

REVENUE

Estimated Revenue		Subsequent	Recurring	Fund	
FY05	FY06	Years Impact	or Non-Rec	Affected	
(\$6,000.0)	(\$12,000.0)	(Similar)	Recurring	General Fund	

(Parenthesis () Indicate Revenue Decreases)

Duplicates: SB 450

Relates to HB 27, HB 50, SB349

SOURCES OF INFORMATION

LFC Files

Taxation and Revenue Department (TRD)

SUMMARY

Senate Bill 94 provides a state income tax deduction for military retirement income. The bill is applicable to tax years beginning on or after January 1, 2005.

FISCAL IMPLICATIONS

This bill would decrease state income tax revenues by an estimated \$ 6.0 million in FY05 and \$12.0 million in FY06 million and subsequent years. Assumptions used to derive this estimate are based on information provided by the Taxation and Revenue Department for similar bills. The full year (FY06) estimate assumes:

- there are 21,300 military retirees in the state;
- average annual pension is \$17,650;
- the average applicable tax rate is 3.2 percent
- The average relief per eligible tax payer is \$564 (multiply \$17,650 by 3.2 percent)
- The full year fiscal impact is a revenue decrease of \$12.0 million (Multiply \$564 by 21,300 retirees).
- The lower impacts for FY05 reflects the fact that bill would be effective for half of FY05.

TRD's table reporting the number of military retirees and average monthly pay for all states is attached (see page 3).

ADMINISTRATIVE IMPLICATIONS

TRD has reported that similar bills would have moderate administrative implications that can be handled with existing resources.

OTHER SUBSTANTIVE ISSUE

TRD analyses on similar legislation raised the following issues:

- The measure encourages military retirees to move to New Mexico.
- Individuals with incomes and other circumstances similar to people receiving the proposed exemption are likely to view it as unfair, especially when they compete with the retirees for jobs, and when the retirees are individuals with relatively high incomes. According to information the "military com" website (http://usmilitary.about.com/) military retirement pay can be over \$9,000 monthly for high-ranking officers retiring in 2004.
- Reducing state income tax liability tends to increase federal income tax liability because state income taxes are deductible against federal liability.

BT/niw

Attachment

Illustration: Number of Retirees and Total Military Pay by State

State	Retirees By State*					
Alabama 25,033 6,691 1,623 15,371 48,718 Alaska 2,761 652 133 4,302 7,848 Arizona 13,828 7,888 3,008 23,480 48,204 Arkansas 8,108 4,644 969 10,722 24,443 Colorado 16,586 5,299 1,299 21,640 44,824 Colorado 1,565 627 139 1,033 3,555 Florida 4,392 58,862 7,851 67,465 178,570 Georgia 40,385 31,109 3,421 21,094 76,009 Guam, MI 614 783 76 482 1,955 Hawali 15,558 3,965 979 3,654 14,156 Idaho 2,554 2,511 480 4,802 10,347 Illinois 10,283 8,012 1,848 12,079 32,222 Indiana 8,947 4,21 1,377 6,396		Armv	Navv	Marine Corps	Air Force	Total DoD
Alaska 2,761 652 133 4,302 7,848 Arizona 13,828 7,888 3,008 23,480 48,204 Arkansas 8,108 4,644 969 10,722 24,443 Collorado 16,588 5,299 1,299 21,640 44,824 Connecticut 3,006 4,986 584 2,166 10,742 Delaware 1,592 897 207 4,052 6,748 Dist of Columbia 1,766 627 139 1,033 3,555 Florida 44,392 58,862 7,851 67,465 78,570 Georgia 40,385 11,109 3,421 21,094 76,009 Guam, MI 614 783 76 482 1,955 Hawaii 5,558 3,965 979 3,654 14,156 Idaho 1,223 8,012 1,848 12,079 32,222 Indian 1,224 4,421 1,377 6,396		•		•		
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Florida 44,392 58,862 7,851 67,465 178,570 Georgia 40,385 11,109 3,421 21,094 76,009 Guam, MI 614 783 76 482 1,955 Hawaii 5,558 3,965 979 3,654 14,156 Idaho 2,554 2,511 480 4,802 1,955 Ilinois 10,283 8,012 1,848 12,079 32,222 Indiana 8,947 4,421 1,377 6,396 21,141 lowa 3,736 2,528 584 3,026 9,874 Kansas 9,014 2,943 788 6,446 19,191 Kentucky 14,033 3,442 944 4,959 23,378 Louisiana 9,531 4,921 1,337 11,159 26,948 Maine 2,898 4,004 511 3,681 11,094 Maryland 16,835 12,810 2,063 12,322 44,030 Massachusetts 7,406 5,798 1,314 6,412 20,930 Michigan 9,336 6,266 1,562 8,077 424,200 Missouri 13,078 6,850 2,078 11,222 33,228 Montana 1,911 1,516 360 3,223 7,010 Missouri 13,078 6,850 2,078 11,222 33,228 Montana 1,911 1,516 360 3,223 7,010 Missouri 13,078 6,850 2,078 11,222 33,228 Montana 1,911 1,516 360 3,223 7,010 Mebraska 2,336 1,798 340 7,886 1,2360 Nevada 4,808 5,669 1,449 12,816 24,742 Mew Jersey 10,028 5,386 1,226 5,423 22,063 New Mexico 5,516 2,928 723 11,144 20,311 New York 14,443 8,307 2,319 10,536 6,266 5,423 22,063 New Mexico 5,516 2,928 723 11,144 20,311 New York 14,443 8,307 2,319 10,536 6,689 2,484 17,921 40,531 New York 14,443 8,307 2,319 10,536 6,689 2,484 17,921 40,531 New York 14,443 8,307 2,319 10,536 6,689 2,484 17,921 40,531 New Hork Carolina 30,979 11,599 10,214 17,671 70,463 North Dakota 960 436 66 2,239 3,701 New York 14,443 8,307 2,319 10,536 6,689 2,484 17,921 40,531 Okiahoma 13,229 4,494 1,134 14,149 33,006 Oregon 5,883 6,759 1,358 6,689 2	Delaware	1,592	897	207	4,052	6,748
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Hawaii	Georgia	40,385	11,109	3,421	21,094	
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Retired Military Monthly Pay** By State (In Thousands)						
State	Army	Navy	Marine Corps	Air Force	Total DoD	
Alabama	35,542	8,086	2,075	22,048	64,752	
Alaska	3,088	765	122	5,273	9,248	
Arizona	19,140	10,203	4,226	35,871	69,441	
Arkansas	9,159	5,575	1,147	14,220	30,101	
California	43,382	113,119	27,044	93,177	276,722	
Colorado	23,403	7,167	1,715	37,311	69,596	
Connecticut	3,136	6,609	517	2,680	12,941	
Delaware	1,839	1,037	232	5,403	8,513	
Dist. of Columbia	2,100	899	138	1,220	4,357	
Florida	44,392	58,862	7,851	67,465	263,126	
Georgia	40,385	11,109	3,421	21,094	101,102	
Guam, MI	614	783	76	482	2,329	
Hawaii	5,558	3,965	979	3,654	20,332	
Idaho	2,554	2,511	480	4,802	13,541	
Illinois	10,283	8,012	1,848	12,079	39,076	
Indiana	8,947	4,421	1,377	6,396	23,671	
lowa	3,736	2,528	584	3,026	10,393	
Kansas	9,014	2,943	788	6,446	25,013	
Kentucky	14,033	3,442	944	4,959	27,745	
Louisiana	9,531	4,921	1,337	11,159	33,481	
	2,898	4,004	511	3,681	13,360	
Maine			2.063		,	
Maryland	16,835	12,810	2,063 1,314	12,322 6,412	64,021	
Massachusetts	7,406 9,336	5,798 6,266	1,562	8,077	22,815	
Michigan	·			·	26,787	
Minnesota	5,515	3,907	832	4,854	16,238	
Mississippi	7,344	5,708	921	10,227	29,469	
Missouri	13,078	6,850	2,078	11,222	40,180	
Montana	1,911	1,516	360	3,223	8,759	
Nebraska	2,336	1,798	340	7,886	16,926	
Nevada	4,808	5,669	1,449	12,816	35,100	
New Hampshire	2,828	2,087	436	4,037	12,786	
New Jersey	10,028	5,386	1,226	5,423	24,918	
New Mexico	5,516	2,928	723	11,144	29,861	
New York	14,443	8,307	2,319	10,536	35,069	
North Carolina	30,979	11,599	10,214	17,671	94,212	
North Dakota	960	436	66	2,239	4,127	
Ohio	12,226	8,036	2,348	17,921	47,831	
Oklahoma	13,229	4,494	1,134	14,149	40,263	
Oregon	5,883	6,759	1,358	6,689	25,538	
Pennsylvania	18,018	11,686	3,251	12,148	52,869	
Puerto Rico	7,539	415	131	942	6,544	
Rhode Island	1,406	3,177	246	932	7,477	
South Carolina	17,707	12,548	2,858	16,248	66,821	
South Dakota	1,513	792	132	2,978	6,571	
Tennessee	18,744	9,979	2,374	12,254	54,733	
Texas	65,305	23,760	6,258	77,830	249,520	
Utah	3,321	1,805	431	5,875	15,588	
Vermont	1,424	679	142	1,027	3,784	
Virginia	39,097	47,543	7,841	25,641	215,527	
Virgin Islands	183	49	6	44	372	
Washington	22,706	21,840	2,252	20,481	92,777	
West Virginia	3,889	2,208	684	2,889	10,379	
Wisconsin	6,580	4,025	963	4,906	17,141	
Wyoming	985	715	135	2,309	5,283	
Other	10,486	5,553	883	8,707	36,194	
Total	642,892	469,558	105,884	651,407	2,535,320	
**The monthly amount of r	novement (not nov) is	hoforo doduction	for withholding toyon	and allatments but off	or doductions for a	

^{**}The monthly amount of payment (net pay) is before deductions for withholding taxes and allotments but after deductions for survivor benefits.

Source: http://www.military.com/Resources/ResourceFileView?file=retirees_stats.htm#Monthly

Department of Military Affairs Proposed Amendment

Section 1. Change the following from:

"[NEW MATERIAL] EXEMTION--MILTIARY RETIREMENT PAY.--For the purpose of promotion economic development in New Mexico, an amount not to exceed fifty percent of military retirement pensions received by a veteran during the taxable year is exempt from taxation. For the purposes of this section, "veteran" means a person who has been honorably discharged from membership in armed forces of the United States and has served in the armed forces of the United States on active duty continuously for ninety days.", to:

"[NEW MATERIAL] EXEMTION--MILITARY RETIREMENT PAY.—For the purpose of promoting economic development in New Mexico, an amount not to exceed fifty percent of military retirement pay received by a military retiree, whether from regular or non-regular military service, is exempt from taxation".

DISCUSSION

The reason to omit the term "veteran" and "membership in the armed forces" is because neither term are Title 10, or Title 32, military pay retirement status'; rather, such terms are veteran's "status's", as defined by Title 38 U.S.C. Section 101(2) and 38 C.F.R. Section 3.1(d)(2004). Unnecessary confusion is thus created because Title 38 "veteran" status has nothing to do with military retirement pay that flows from either Title 10 or Title 32 military service status, not a Title 38 veteran's status that discusses veteran's benefits or disability rights. Similarly, the language that states a veteran is someone who... "has served in the armed forces of the United States on active duty continuously for ninety days" is a veteran's law term for threshold eligibility for veteran's pensions, as per 38 C.F.R. Section 3.3(a)(1)(i); (a)(2)(i)(ii) and (iii). However, there is no longer a so-called "minimum period of active duty", meaning 90-days of active duty or even 181-days of active duty, to define veteran's status eligibility. The current legal standard to define a "veteran" is either a "twenty-four month period of continuous active duty," or the "full period for which [the veteran] was called or ordered to active duty", as per 38 U.S.C. Section 5303(A)(b); 38 C.F.R. Section 3.12(a)(1)(2004), such as in the case of a mobilized National Guardsmen for "365" or "565" days. In any case, however, the proposed Bill has confused military retirement with veteran's status, which are wholly dissimilar concepts. Last, in this same regard, the proposed Bill speaks of "military retirement pensions": there is no such thing. There is either an earned military retirement pay, as per Title 10 or Title 32, for years of service, or there is a veteran's "pension", as per Title 38, which coinciden-

tally requires a "ninety day period of continuous wartime service for non-service-connected disability-based pension", as per Title 38 U.S.C. Section 1512; 38 C.F.R. Section 3.3. The proposed Bill, however, is fatally flawed as drafted for the reasons herein stated and otherwise need to be remedied.