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## FISCAL IMPACT REPORT

ORIGINAL DATE 02/01/10  
 SPONSOR Anderson LAST UPDATED 02/12/10 HB 126/aHBIC  
 SHORT TITLE Veteran Service Connected Disabilities Payments SB \_\_\_\_\_  
 ANALYST Chabot

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY10	FY11		
None	None		

(Parenthesis ( ) Indicate Expenditure Decreases)

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY10	FY11	FY12	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
<b>Total</b>		\$400.0			Nonrecurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Human Services Department (HSD)

Regulation and Licensing Department (RLD)

Veterans' Services Department (VSD)

### SUMMARY

#### Synopsis of House Business and Industry Committee Amendment

House Business and Industry Committee Amendment to House Bill 126 would allow the attachment of a certain portion of a veteran's disability payments or benefits to cover child support requirements. 38C.F.R Section 3.450 allows apportionment of a veteran's disability payments "if the veteran is not residing with his or her spouse, or if the veteran's children are residing with the veteran and the veteran is not reasonably discharging his or her responsibility for the spouse's or children's support."

#### Synopsis of Original Bill

House Bill 126 if enacted would add a new section of Chapter 42 Article 10 NMSA 1978 which would prohibit the taking of veteran disability payments or benefits from a veteran in any

process or proceedings, legal or equitable, to pay any debts. It amends Section 35-12-7 to exempt from garnished all of a veteran's disability payments awarded for a service-connected disability. However 50 percent of an individual's disposable income is subject to garnishment for child support. The bill was submitted on behalf of the interim Military and Veterans' Affair Committee.

### **FISCAL IMPLICATIONS**

HSD expresses if the bill's intent is to exempt all veteran's disability payments from debt collection including child support it would need to modify the current Child Support Enforcement System which would cost \$400 thousand.

### **SIGNIFICANT ISSUES**

VSD states that service connected disability payments are prohibited from garnishment according to federal law. They provided a copy of testimony to the U.S. House of Representatives committee on veterans' affairs by the acting general counsel of the Veterans' Administration states "Federal statutes generally prohibit the garnishment of VA benefits....The sole exception VA disability compensation received in lieu of waived military retired pay can be garnished in order to satisfy court-ordered child support and alimony obligations."

HSD states Social Security Disability payments are not exempt from child support collections. If veterans' disability payments are exempt, child support payments will be reduced. "Exempting Veteran's Disability payments from child support collections will provide preferential status to this one class of non-custodial parents over all other parents owing a duty to pay child support."

### **PERFORMANCE IMPLICATIONS**

HSD has two performance measures which reflect federal collections which would be impacted by the bill.

### **ADMINISTRATIVE IMPLICATIONS**

HSD would have to establish procedures for collecting information on service-connected disability payments at the time of processing a claim which would "add another layer of work, if not several layers, to the claims collection process."

### **TECHNICAL ISSUES**

HSD states the intent of the bill is unclear. The proposed sentence in Section 35-12-7 would exempt 100 percent of veteran's disability payments but the next sentence states 50 percent of the defendant's disposable earnings are exempt from garnishment. The disability payments would be part of the individual's disposable earnings.

HSD recommends the following amendments.

On page 1, line 23, after "debts" deleted the period and insert: "except to pay child support."

On page 2, line 2, insert after the word situations "except as note below".

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

There would be no prohibition against taking service-connected veteran disability benefits in state statute.

GAC/mt:svb:mew