

LFC Requester:

Jennifer Faubion

AGENCY BILL ANALYSIS
2024 REGULAR SESSION

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original X Amendment _____
Correction _____ Substitute _____

Date Prepared: 1/19/2024

Bill No: SB 125

Sponsor: Sen. William Burt

Short Title: Armed Forces Retirement
Pay Tax Sunset

Agency Name and Code Number: 305 – New Mexico
Department of Justice

Person Writing Analysis: Rose Bryan

Phone: 505-537-7676

Email: legisfir@nmag.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

| Appropriation | | Recurring or Nonrecurring | Fund Affected |
|---------------|------|------------------------------|------------------|
| FY24 | FY25 | | |
| | | | |
| | | | |

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

| Estimated Revenue | | | Recurring or Nonrecurring | Fund Affected |
|-------------------|------|------|---------------------------------|------------------|
| FY24 | FY25 | FY26 | | |
| | | | | |
| | | | | |

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY24 | FY25 | FY26 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|--------------|-------------|-------------|-------------|------------------------------|--|--------------------------|
| Total | | | | | | |

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Synopsis:

Senate Bill 125 would amend the existing state income tax exemption for armed services retirement pay found at NMSA § 7-2-5.13. There are two aspects to this amendment:

1. The existing statute ends the income tax exemption after 2026. SB 125 locks in the income tax exemption at the 2024-2026 level of \$30,000.00 in perpetuity or until it is repealed.
2. SB 125 extends the state income tax exemption to include “the surviving spouse of an armed forces retiree.”

FISCAL IMPLICATIONS

None to this office.

SIGNIFICANT ISSUES

The statute currently contains no definition of “surviving spouse.” Under the Department of Defense Survivor Benefit Plan (SBP) and Dependency and Indemnity Compensation (DIC), for example, former spouses (someone the armed services retiree was divorced from prior to death) can receive lifetime benefits. Additionally, former spouses may be awarded SBP as a result of a divorce court order.

A definition clarifying this potential ambiguity might be helpful to prevent future issues in applying the income tax exemption. Possible considerations for any amendment defining “surviving spouse” could include expressly stating whether this portion of the income tax exemption is intended to include 1) survivor benefits going to former spouses, 2) only those spouses who were married to the armed services retiree at the time of the retiree’s death, or 3) both?

PERFORMANCE IMPLICATIONS

None to this office.

ADMINISTRATIVE IMPLICATIONS

None to this office.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Conflicts with: SB 56 also seeks to amend NMSA § 7-2-5.13 to remove the sunset provision that ends the income tax exemption at the end of 2026 and seeks to add “the surviving spouse of an armed forces retiree” as an individual eligible for the income tax exemption in NMSA § 7-2-5.13(A). However, SB 125 seeks to accomplish the same purpose without the deletion of NMSA § 7-2-5.13(A)(1) through (3) which describe the differing tax exemption amounts for taxable years 2022, 2023, and 2024.

Additionally, SB 125 would go into effect this year (May 15, 2024) but SB 56 contains a “Section 2” that dictates an effective date of January 1, 2025.

TECHNICAL ISSUES

None.

OTHER SUBSTANTIVE ISSUES

None.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The state income tax exemption for armed services retirement pay will end after 2026.

AMENDMENTS

N/A