

**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:**   1/18/2024  **Bill No:**   SB 56  **Sponsor:**   Sen. Harold Pope  **Agency Name and Code Number:**   305 – New Mexico  
Department of Justice  **Short Title:**   Armed Services Retirement  
Pay Tax Sunset  **Person Writing Analysis:**   Rose Bryan    
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**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)**

	<b>FY24</b>	<b>FY25</b>	<b>FY26</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>						

(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 56 amends 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 SB 56 locks in the income tax exemption at the 2024-2026 level of \$30,000.00 in perpetuity or until it is repealed.
2. SB 56 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**

There are no related bills at the moment. During the 2023 Regular Session, SB 54 and HB 433 were offered to remove the sunset date for the income tax exemption found in same Sec. 7-2-5.13 but died without passage.

**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