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## FISCAL IMPACT REPORT

**ORIGINAL DATE** 2/17/15  
**LAST UPDATED** 3/16/15    **HB** \_\_\_\_\_

**SPONSOR** Payne

**SHORT TITLE** Disabled Veteran Property Tax Exemptions    **SB** 506/a SFI #1

**ANALYST** Graeser

### REVENUE (dollars in thousands)

Estimated Revenue					Recurring or Nonrecurring	Fund Affected
FY15	FY16	FY17	FY18	FY19		
	***	***	***	***	Recurring	All Property Tax Beneficiaries

(Parenthesis ( ) indicate revenue decreases)

Per TRD, the fiscal impact is negligible. These transactions will be infrequent.

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Taxation and Revenue Department, Property Tax Division (TRD/PTD)

### SUMMARY

#### Synopsis of Amendment

Senate Floor amendment #1 clarifies that the first option – to maintain the disabled veterans exemption on the existing residence – only lasts for the remainder of the year in which the property was transferred.

#### Synopsis of Bill

Senate Bill 506 addresses a concern that fully disabled veterans who change their primary residences during the course of a tax year lose the benefit of their exemption for the remainder of the tax year on their new primary residence while the purchaser of their previous home receives a tax benefit to which he or she is not entitled. This bill intends to make the disabled veteran's exemption portable between residences. It creates the options of maintaining the exemption for the residence that was transferred during the year or removing the exemption for that residence and applying it to the fully disabled veteran's new primary residence.

The effective date of the act is not stated – assume 90 days after adjournment or June 19, 2015. The provisions of the bill are applicable for the 2016 property tax year which begins January 1, 2016.

## **FISCAL IMPLICATIONS**

Per TRD, the fiscal impact is negligible. These transactions will be infrequent.

## **SIGNIFICANT ISSUES**

TRD/PTD notes that, "... the Disabled Veteran Exemption is universally understood to be fully deserved and is a point of pride among property tax administrators. It is administered as well as any aspect of property tax and availability is construed as broadly as possible. Still, this legislation works best when it is infrequently used. If the provisions of this bill were applied to Veteran Exemptions and Head of Family exemptions, it would prove unworkable. If the constitutional status of the Head of Family and Veteran Exemptions gave rise to a successful argument for similar treatment; it would damage the effectiveness of the property tax."

TRD further points out some administrative difficulties.

"The legislation stipulates that assessors will apply the disabled veteran exemption from the former residence to the new residence regardless of whether the exemption was applied for and claimed within thirty days of the mailing of the county assessor's notice of valuation made pursuant to the provisions of Section 7-38-20 NMSA 1978. This provision confuses the notice of value statute with the protest statute (Section 7-38-24 NMSA 1978). County Assessors don't have to grant an application for exemption if it is made after January 1 of the tax year (Section 7-38-7 3.6.7.14 NMSA 1978). Many will typically consider the application for an exemption a de facto protest and rule informally if they get notice within the same time frame, 30 days after the mailing of a notice of value, as formal notice of protest."

"The issue of the taxable status of property being fixed as of January 1 of each year poses more difficulties. Taxable Status of Property Fixed As of January 1 Of Each Tax Year (Regulation 3.6.7.14 NMAC) This regulation states that if property is not entitled to exemption from property taxation under the Property Tax Code on January 1 of the tax year, it is not exempted from taxation for that tax year."

"The August certification numbers leading to millage rates (Section 7-38-32 NMSA 1978) will have to be adjusted in mid-year to remove value from fully exempted property to support correct millage rate setting. This will be difficult to institute for smaller counties without Computer Assisted Mass Appraisal Systems"

"Because there is no provision to remove exemptions in the course of a tax year, the potential exists for double exempted properties. The change has the potential to cause counties to lose revenue if a sale occurs after certification because rates will be based on value that will prove uncollectable for property tax purposes."

## **APPLICABLE STATUTES**

7-38-7 Valuation Date 3.6.7.14

7-37-5.1 Disabled Veteran Exemption

3.6.6.13 Disabled Veteran Exemption

7-38-17 Claiming Exemptions

7-38-32 Compilation of net taxable values for budget making and rate setting

7-38-35 Preparation of property schedule by assessor

## ADMINISTRATIVE IMPLICATIONS

TRD/PTD indicates that, "...this legislation would create minor administrative concerns because the provisions of this legislation could be complex to implement (see Significant Issues) depending on the time of year of the sale and new primary residence purchase. Still, there will likely be few beneficiaries of the Disabled Veteran Exemption changing primary residences who will elect to exercise the portability provision under this legislation. The tax savings between residences might be unfavorable or negligible. Alternately, because title companies, attorneys and real estate brokers pro-rate property taxes when homes change owners, it's probable that the tax issues attributable to the disabled veteran exemption will be resolved at that point.

The taxable status of valuation date for properties in the 2015 tax year is January 1, 2015. Therefore taxes due for the 2015 tax year are payable on November 1, 2015 and May 1, 2016. If transactions are infrequent, the provisions of this legislation are manageable. If transactions are not assessed correctly, they will lead to exempting ineligible property.

## TECHNICAL ISSUES

TRD respectfully requests consideration of the following two technical points:

"The new provisions under new subparagraph D are legally problematic. First, the inclusion of the surviving spouse as a an individual entitled to maintain the disable veteran exemption upon a transfer of principal place of residence appears contrary to the language in Subparagraph C, which provides that the surviving spouse retains the exemption for so long as the surviving spouse continues to occupy the property continuously after the disable veteran's death as the spouse's principal place of residence."

~~"Second, subparagraph D is not limited in scope. The intent appears to be to allow the option for the remainder of any property tax year for which the transfer impacts the veteran's exemption; however, this is not expressly stated and could be manipulated or misconstrued. The provisions of D(2) purport to allow modification of the property taxes for disabled veterans upon the transfer of such individual's primary residence which is contrary to the property tax (Section 7-38-7.1 NMSA 1978) January 1 valuation date requirement."~~

The second concern was addressed by Senate Floor amendment #1.

## OTHER SUBSTANTIVE ISSUES

TRD/PTD suggests an alternative to embedding this provision in the Property Tax Code. "County Commissions have broad discretion in granting tax abatements. If county assessors prepare and accept portable disabled veteran exemptions, the assessors could present monthly lists for partial year property tax exemptions to their county commissions. This could be accomplished without changing the property tax code and constitute a local option rather than an unfunded mandate."

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