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## FISCAL IMPACT REPORT

**SPONSOR** Terrazas/Hernandez/  
Dixon/Black **ORIGINAL DATE** 02/22/21 **LAST UPDATED** \_\_\_\_\_ **HB** 295

**SHORT TITLE** Study Effect of No Tax on Military Retirement **SB** \_\_\_\_\_

**ANALYST** Graeser

### APPROPRIATION (dollars in thousands)

Appropriation					Recurring or Nonrecurring	Fund Affected
FY21	FY22	FY23	FY24	FY25		
	\$50.0				Nonrecurring	General Fund

Parenthesis ( ) indicate expenditure decreases.

Companion to : SB259 & SB277 both propose a partial exemption of military retiree pay.

### SOURCES OF INFORMATION

LFC Files

Responses Received From

### SUMMARY

#### Synopsis of Bill

House Bill 295 proposes a 50 thousand appropriation to New Mexico State University, Department of Agricultural Economics and Agricultural Business to study various aspects of the proposal to exempt all or part of the retirement pensions of retired uniformed personnel.

There is no effective date of this bill. It is assumed that the effective date is 90 days after this session ends. (June 18, 2021)

### FISCAL IMPLICATIONS

The appropriation of 50 thousand contained in this bill is a nonrecurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of FY2022 shall revert to the general fund.

## **SIGNIFICANT ISSUES**

The bill proposes to study the static and long-term revenue costs and benefits in terms of recruiting trained and skilled military retirees to choose New Mexico as their retirement location. The study should include the following:

- (1) retirement location preferences of military retirees and the importance of taxation and other considerations on location choices;
- (2) summaries of existing topical research in New Mexico and other states;
- (3) results of surveys and interviews with military retirees, state and local governments and other stakeholders;
- (4) positive and negative economic affects; and
- (5) state and local fiscal impacts.

TRD has provided LFC with extremely thorough analyses of SB259 and SB277 which both propose a partial exemption of military retiree pay. These analyses involved obtaining a sample of over 15 thousand tax returns with military retirement income. These agency analyses are available in the LFC FIRs for these bills and directly from the TRD website.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

SB277 proposes a \$30 thousand exemption and SB259 proposes a phased-in exemption of up to \$25 thousand of military retirement pensions. SB98 appropriates 192 thousand to Taxation and Revenue to expand the annual Tax Expenditure Report to include some of the potential feedbacks, including new jobs and economic activity, associated with or caused by the large number of tax expenditures.

This issue was a subject in a 2009 study by Dr. Anthony Popp of the Arrowhead Center at NMSU.<sup>1</sup>

## **OTHER SUBSTANTIVE ISSUES**

It should be noted that prior to 1991, military pensions were allowed a \$3 thousand exemption. The proximate cause of the repeal of this income-source deduction/exemption was the somewhat notorious “Davis v. Michigan” and “Burns v. New Mexico” problem. At that time, state retiree’s pensions were 100 percent exempt from personal income tax, but federal retirees only were allowed a \$3 thousand deduction. The U.S. Supreme Court found that this differential treatment was in violation of federal law ensuring that state and federal workers must be treated equally and equitably. Per the Supreme Court opinion, retiree income was covered by the federal statute. In the relevant bill, New Mexico repealed both the federal and state differential deductions, including the \$3,000 military pension deduction. In addition, other source-specific deductions were included in the fix including the total exemption for social security income. Reducing or eliminating income tax on social security benefits is often viewed as a mechanism for attracting or retaining retirees in the state. A 2018 publication by New Mexico State University included the following discussion:<sup>2</sup>

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<sup>1</sup> <https://arrowheadcenter.nmsu.edu/wp-content/uploads/sites/40/2015/06/rmsp.pdf>

<sup>2</sup> Potential Fiscal Impacts of a New Mexico Retiree Attraction Campaign, December 2018  
[https://aces.nmsu.edu/pubs/\\_circulares/CR691.pdf](https://aces.nmsu.edu/pubs/_circulares/CR691.pdf)

“Because New Mexico is listed as one of the “10 Least Tax Friendly” states for retirees (Kiplinger, 2017), additional research should be conducted on the impacts of reducing or eliminating taxes on retirement. However, it should be noted that while tax friendliness is often listed as a top criteria on “best places to retire” lists, other research has shown that tax policy changes have done nothing to attract retirees (Conway and Rork, 2012).”

Other factors – such as weather, cost of living (particularly cost of housing), and the location of family members – also affect migration decisions for retirees. A 2001 study published in the National Tax Journal found that, “in addition to cost-of-living and climate considerations, the elderly are attracted to state that exempt food from sales taxes and spend less on welfare. Low personal income and death taxes also encourage migration, depending on how these states taxes are measured.”<sup>3</sup>

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<sup>3</sup> Houtenville, Andrew & Conway, Karen. (2001). Elderly Migration and State Fiscal Policy: Evidence from the 1990 Census Migration Flows. National Tax Journal. 54.