

Revised to correct example.

FISCAL NOTE
LEGISLATIVE FISCAL ANALYST ESTIMATE

| ESTIMATE OF FISCAL IMPACT – STATE AGENCIES (See narrative for political subdivision estimates) | | | | |
|---|---------------------|----------------|---------------------|----------------|
| | FY 2015-16 | | FY 2016-17 | |
| | EXPENDITURES | REVENUE | EXPENDITURES | REVENUE |
| GENERAL FUNDS | | (\$6,135,000) | | (\$6,501,000) |
| CASH FUNDS | | | | |
| FEDERAL FUNDS | | | | |
| OTHER FUNDS | | | | |
| TOTAL FUNDS | | (\$6,135,000) | | (\$6,501,000) |

Any Fiscal Notes received from state agencies and political subdivisions are attached following the Legislative Fiscal Analyst Estimate.

LB 267 amends the Nebraska Revenue Act of 1967, Section 77-2716, to exclude certain income from the Nebraska state income tax.

Beginning January 1, 2015 and for tax years thereafter, the bill in Section 14, would exclude some or all military retirement income from federally adjusted gross income (AGI) for state income tax purposes.

The amount excluded would equal one dollar for every dollar of nonretirement income, not to exceed \$60,000 for someone filing a married filing joint (MFJ) return and not to exceed \$30,000 for all other types of returns. This exclusion is reduced dollar for dollar by the amount AGI exceeds \$120,000 for a married filing joint return and \$60,000 for all other returns.

For example: For a MFJ return, if military retirement income is \$50,000 and nonretirement income is \$45,000 for an original AGI of \$95,000, the amount of military retirement income excluded from AGI for Nebraska income tax purposes would be \$45,000 and the other \$5,000 of such retirement would be included for tax purposes, for a final AGI of \$50,000.

For a MFJ return, if military retirement income is \$75,000 and nonretirement income is \$60,000, for a total AGI of \$135,000, only \$60,000 of military retirement could be used for the exclusion (because of the dollar for dollar match requirement with nonretirement income). In addition, the excluded amount would be reduced by \$15,000 (the amount the original AGI exceeded \$120,000). The amount of military retirement that would be excluded from AGI would be \$45,000 and the amount included would be \$30,000, the amount of AGI for state income tax purposes would be \$90,000.

Nonretirement income is defined as wage, salary or tip income that is included in the filer's federal AGI, is earned in Nebraska and excludes investment income, military retirement income, or any other type of retirement income including Social Security benefits.

LB 267 also strikes current language in Section 77-2716 that allows an individual to make a one-time election to take one of two options to exclude a certain percentage of their military retirement income from their AGI for state income tax purposes.

The bill also requires the Tax Commissioner to submit a report on or before July 15, 2016 and each year thereafter detailing the number of taxpayers who exclude military retirement income, the total amount excluded, and the reduction in state tax revenue as a result of the above exclusion.

The adjustment detailed in Section 14 of the bill is available to the taxpayer for 15 years beginning with the year in which the taxpayer first claims the adjustment.

In addition, the bill in Section 15, provides for an additional option to exclude military retirement income from taxation. For the tax year beginning January 1, 2015 and thereafter, a taxpayer may exclude the lesser of:

- a) the total amount of military retirement income received during the taxable year; OR
- b) \$10,000 per taxpayer included on the return who received military retirement income.

A taxpayer is eligible to receive this exclusion beginning with the tax year in which they turn 62 years of age and continuing until their death. They are not eligible to receive this exclusion if their AGI exceeds \$58,000 (married filing jointly) or \$43,000 (any other type of return).

A taxpayer is limited to using either the exclusion provided for in Section 14 or Section 15 in the taxable year but not both.

The Department of Revenue estimates the following fiscal impact to the General Fund:

| | |
|------------|----------------|
| FY2015-16: | (\$ 6,153,000) |
| FY2016-17: | (\$ 6,501,000) |
| FY2017-18: | (\$ 6,908,000) |
| FY2018-19: | (\$ 7,303,000) |

The Department of Revenue indicates the cost to implement the provisions of LB 267 to be minimal.

We have no basis to disagree with the Department of Revenue's estimate of fiscal impact or cost

State Agency Estimate

| State Agency Name: Department of Revenue | | Date Due LFA: 1/26/2015 | | | |
|--|----------------------|--------------------------|----------------------|---------------------|----------------------|
| Approved by: Len Sloup | | Date Prepared: 1/26/2015 | | | |
| | | Phone: 471-5896 | | | |
| <u>FY 2015-2016</u> | | <u>FY 2016-2017</u> | | <u>FY 2017-2018</u> | |
| <u>Expenditures</u> | <u>Revenue</u> | <u>Expenditures</u> | <u>Revenue</u> | <u>Expenditures</u> | <u>Revenue</u> |
| General Funds | (\$6,153,000) | | (\$6,501,000) | | (\$6,908,000) |
| Cash Funds | | | | | |
| Federal Funds | | | | | |
| Other Funds | | | | | |
| Total Funds | (\$6,153,000) | | (\$6,501,000) | | (\$6,908,000) |

LB 267 provides a reduction to federal adjusted gross income for military retirement income for certain individuals 62 years or older, or a reduction to federal adjusted gross income for each dollar of military retirement income earned against each dollar of nonretirement income earned for tax years beginning on or after January 1, 2015. An individual may not claim both exclusions in the same tax year.

For individuals at least 62 years old, LB 267 provides a reduction to federal adjusted gross income of \$10,000 or the total amount of military retirement income received by the taxpayer during the taxable year, whichever is less. Individuals with a federal adjusted gross income exceeding \$58,000 for a married, filing jointly return or \$43,000 for any other return, are not eligible for the reduction.

LB 267 provides an alternative adjustment for each dollar of military retirement income earned against each dollar of nonretirement income. The adjustment is capped at \$60,000 per married, filing jointly return or \$30,000 for any other return. The adjustment is further reduced if the taxpayer’s federal adjusted gross income exceeds \$120,000 per married, filing jointly return or \$60,000 for any other return. The adjustment is available for 15 years beginning with the year the taxpayer claims the adjustment.

The Tax Commissioner must submit a report to the Legislature each year beginning on or before July 15, 2016, specifying the reduction to federal adjusted gross income for each dollar of military retirement income earned against each dollar of nonretirement income, including the number of taxpayers and amount of military retirement income excluded, and an estimate of the total reduction in state tax revenue.

Military retirement income is defined as retirement benefits that are periodic payments attributable to service in the uniformed services of the United States for personal services performed by an individual prior to his or her retirement and that are included in the taxpayer’s federal adjusted gross income; and nonretirement income is defined as wage, salary, or tip income that is included in the taxpayer’s federal adjusted gross income and is earned in Nebraska. Nonretirement income does not include investment income, military retirement income, any amount received as benefits under the federal Social Security Act, or any other type of retirement benefit received by the taxpayer.

The estimated reduction to General Fund revenues would be as follows:

| | | |
|------------|----|-----------|
| FY 2015-16 | \$ | 6,153,000 |
| FY 2016-17 | \$ | 6,501,000 |
| FY 2017-18 | \$ | 6,908,000 |
| FY 2018-10 | \$ | 7,303,000 |

It is estimated that the cost for the Department to implement this bill is minimal.

