

54A:6-26

LEGISLATIVE HISTORY CHECKLIST
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NJSA: 54A:6-26 (Exemption--military)

LAWS OF: 1997 **CHAPTER:** 409

BILL NO: A229

SPONSOR(S): Garcia and others

DATE INTRODUCED: Pre-filed

COMMITTEE: **ASSEMBLY:** Commerce; Appropriations
SENATE: ---

AMENDED DURING PASSAGE: Yes Amendments during passage denoted
Second reprint enacted by superscript numbers

DATE OF PASSAGE: **ASSEMBLY:** December 18, 1997 Re-enacted 1-12-98
SENATE: December 18, 1997 Re-enacted 1-12-98

DATE OF APPROVAL: January 9, 1998

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes 1-29-86 & 11-6-97
SENATE: No

FISCAL NOTE: Yes

VETO MESSAGE: Yes

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KBP:pp

P.L. 1997, CHAPTER 409, *approved January 19, 1998*
Assembly, No. 229 (*Second Reprint*)

1 AN ACT excluding ¹[certain income of retired members of the Armed
2 Forces of the United States] military pension payments and military
3 survivor's benefit payments¹ ²for certain persons² from gross
4 income subject to the gross income tax and supplementing Title
5 54A of the New Jersey Statutes.

6

7 **BE IT ENACTED** *by the Senate and General Assembly of the State*
8 *of New Jersey:*

9

10 1. Gross income shall not include military pension payments ¹or
11 military survivor's benefit payments¹ paid to individuals by the United
12 States with respect to service in the Armed Forces of the United States
13 ²by a person who is 62 years of age or older or who, by virtue of
14 disability, is or would be eligible to receive payments under the Federal
15 Social Security Act at any point during the taxable year for which the
16 military pension payment or the military survivor's benefit payments
17 would otherwise be included as income².

18

19 ²2. Notwithstanding any law to the contrary, pension payments
20 otherwise excludable as income pursuant to this act shall be considered
21 income for the purpose of determining income eligibility for any State
22 benefit or program if the payments were considered income for such
23 purposes prior to enactment.²

24

25 ²[2.] ³² This act shall take effect immediately and apply to taxable
26 years commencing on or after January 1, ¹[1996] 1998¹.

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AAP committee amendments adopted November 6, 1997.

² Assembly amendments adopted in accordance with Governor's recommendations January 12, 1998.

A229 [2R]

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3 Excludes United States military pensions and survivor's benefits from
4 the gross income tax.

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ASSEMBLY, No. 229

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblymen GARCIA and COTTRELL

1 AN ACT excluding certain income of retired members of the Armed
2 Forces of the United States from gross income subject to the gross
3 income tax and supplementing Title 54A of the New Jersey
4 Statutes.

5
6 BE IT ENACTED *by the Senate and General Assembly of the State*
7 *of New Jersey:*

8
9 1. Gross income shall not include military pension payments paid
10 to individuals by the United States with respect to service in the
11 Armed Forces of the United States.

12
13 2. This act shall take effect immediately and apply to taxable years
14 commencing on and after January 1, 1994.

15
16
17 STATEMENT

18
19 This bill would exclude military pensions from the New Jersey
20 gross income tax. There are approximately 23,000 military retirees
21 living in New Jersey. They made a decision to retire here and be in
22 close proximity to U.S. military bases for their well-earned medical
23 care benefits, Post Exchange privileges, camaraderie, etc.

24 These fine citizens have served their country and deserve more than
25 having military bases close around them, leaving them in a quandry of
26 what to do next.

27 With the enactment of this bill, New Jersey's treatment of military
28 persons would be the same as the treatment of those persons in the
29 states of New York and Pennsylvania. Approximately \$287 million
30 dollars of military pensions are paid annually to retirees in New Jersey.
31 These funds contribute to the vitality of the State's economy.

32
33
34
35 Excludes United States military pensions from the gross income tax.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 229

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: NOVEMBER 6, 1997

The Assembly Appropriations Committee reports favorably Assembly Bill No. 229, with committee amendments.

Assembly Bill No. 229, as amended, excludes military pensions and military survivor's benefits from the New Jersey gross income tax. There are approximately 20,000 recipients of military pensions residing in New Jersey. Many of these retirees settled in New Jersey in order to take advantage of the medical care, Post Exchange privileges and camaraderie offered by the military facilities located here.

Under this bill, New Jersey would accord recipients of military pensions the same courtesy such individuals currently enjoy in eleven other states, including New York and Pennsylvania. (Twenty additional states provide some exemptions or incentives for recipients of military pensions; nine states have no state income tax.) New Jersey residents currently receive approximately \$287 million in military pensions each year. These funds contribute to the vitality of the State's economy.

FISCAL IMPACT:

In the fiscal note to this bill, the Division of Taxation estimated an annual revenue loss in the range of \$5.0 million to \$5.3 million for the approximate 20,000 military pension recipients in the State of New Jersey.

COMMITTEE AMENDMENTS:

The committee amended the bill to clarify that military survivors benefit payments are to be excluded also and change the effective date to apply to taxable years beginning on or after January 1, 1998.

ASSEMBLY COMMERCE AND MILITARY AND VETERANS'
AFFAIRS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 229

STATE OF NEW JERSEY

DATED: JANUARY 29, 1996

The Assembly Commerce and Military and Veterans' Affairs Committee reports favorably Assembly Bill No. 229.

This bill would exclude military pensions from the New Jersey gross income tax. There are approximately 23,000 recipients of military pensions residing in New Jersey. Many of these retirees settled in New Jersey in order to take advantage of the medical care, Post Exchange privileges and camaraderie offered by the military facilities located here. Unfortunately, access to these well-deserved benefits has been jeopardized by federal base reductions. The bill would recognize the service and sacrifice of these fine citizens and help to mitigate some of the effects of federal cut-backs.

With the enactment of this bill, New Jersey would accord recipients of military pensions the same courtesy such individuals currently enjoy in eleven other states, including New York and Pennsylvania. (Twenty additional states provide some exemptions or incentives for recipients of military pensions; nine states have no state income tax.) New Jersey residents currently receive approximately \$287 million in military pensions each year. These funds contribute to the vitality of the State's economy.

This bill was pre-filed for introduction in the 1996 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.

FISCAL NOTE TO
ASSEMBLY, No. 229
STATE OF NEW JERSEY

DATED: FEBRUARY 24, 1997

Assembly Bill No. 229 of 1996 excludes military pension income of retired members of the Armed Forces of the United States from income under the New Jersey gross income tax. The exclusion would apply to taxable years beginning on or after January 1, 1996.

The Division of Taxation estimated a loss of tax revenue to the State of approximately \$5.0 million in fiscal year (FY)1997; \$5.2 million in FY1998; and \$5.3 million in FY1999. This estimate was based on approximately 20,000 military retirees in the State receiving military pension payments totaling \$240.3 million paid in 1994. This amount was adjusted for the rate reductions in State gross income tax and a growth rate of the Consumer Price Index which the US Department of Defense uses for cost-of-living adjustments. The division also noted that without amending the effective date, the first year loss would be substantially higher to cover refunds on gross income tax paid on military pensions back to January 1, 1996.

The Office of Legislative Services concurs with the estimated tax loss.

This fiscal note has been prepared pursuant to P.L.1980, c.67.

ASSEMBLY BILL NO. 229
(First Reprint)

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Assembly Bill No. 229 (First Reprint) with my recommendations for reconsideration.

A. Summary of the Bill

This bill would exempt from the New Jersey Gross Income Tax all pension and death benefit payments to individuals by the United States based on service in the Armed Forces. This bill would positively impact roughly 18,000 New Jersey residents who have given of themselves and to whom we all owe a great debt of gratitude. Under current law, retirement income from military pensions or death benefits is treated no differently from other sources of retirement income. Thus, upon reaching the age of 62, up to \$10,000 for married filers and lesser amounts for other filers is exempt from the New Jersey Gross Income Tax.

Personnel in active service are entitled to a pension after 20 years of service, and may draw on the pensions immediately upon retirement regardless of their age. Since most active service military personnel begin service at age 18 or some other very early age, it is not uncommon for active service personnel to retire between the ages of 38 and 50 and to secure income from new employment which is supplemented by their military pensions. This group of approximately 9,000 military pensioners -- particularly the more youthful retirees who are not eligible for the partial exemption of retirement income available to those who are 62 and over -- stand to benefit significantly from enactment of this legislation. The more youthful retirees -- potentially

as young as 38 -- stand to benefit even though they often have the youth and vigor necessary to obtain post-military retirement income through second careers.

Personnel on reserve such as National Guardsmen are also entitled to a pension after 20 years of service, but they may draw on the pensions only after they have reached the age of 60. Because most of them already receive the \$10,000 retirement income exclusion available to all retirees, they stand to gain less than the younger retirees from active service as noted above.

B. Recommended Action

I fully support the goal of the sponsors to give special recognition to the men and women who have served in the defense of our country. Appreciation for the contributions that these retirees have made dictate that retirees of the Armed Forces receive special recognition. Military personnel, however, unlike other retirees, are able to retire at an age when they are young enough to pursue other careers. Excluding their pension from the Gross Income Tax as early as age 38 would constitute, in my view, a windfall, not a benefit. Accordingly, I recommend that the special recognition and appreciation afforded by this bill be extended only to individuals who are blind or disabled or who have reached the age of 62 -- the age at which all citizens can receive a partial exemption on the premise that unfortunate conditions sometimes associated with aging can frustrate the ability to earn much-needed income.

The legislation is also in need of two clarifying amendments to prevent confusion and litigation that could otherwise ensue. First, the legislation needs to be clarified that the exclusion is

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

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inclusive of, and not in addition to, the current partial exclusion of retirement income from the income tax. Second, the legislation needs to be clarified that the income tax exclusion provided in the legislation shall not impact means tests used to determine eligibility for State programs.

Therefore, I herewith return Assembly Bill No. 229 (First Reprint) and recommend that it be amended as follows:

Page 1, Title, Line 1:

After "payments" insert "for certain persons"

Page 1, Section 1, Line 13:

After "States," add "by a person who is 62 years of age or older or who, by virtue of disability, is or would be eligible to receive payments under the Federal Social Security Act at any point during the taxable year for which the military pension payment or the military survivor's benefit payments would otherwise be included as income."

Page 1, New Section 2, Line 15:

Add new section as follows:
"2. Notwithstanding any law to the contrary, pension payments otherwise excludable as income pursuant to this act shall be considered income for the purpose of determining income eligibility for any State benefit or program if the payments were considered income for such purposes prior to enactment."

Page 1, Section 2, Line 15:

Delete "2." insert "3."

Respectfully,

/s/ Christine Todd Whitman

GOVERNOR

[seal]

Attest:

/s/ Michael P. Torpey

Chief Counsel to the Governor