

Senator Koering introduced--**S.F. No. 2280: Referred to the Committee on Taxes.**

1 A bill for an act

2 relating to taxation; income tax; creating an income
3 tax subtraction for certain retired pensioners;
4 amending Minnesota Statutes 2004, section 290.01,
5 subdivision 19b.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

7 Section 1. Minnesota Statutes 2004, section 290.01,
8 subdivision 19b, is amended to read:

9 Subd. 19b. [SUBTRACTIONS FROM FEDERAL TAXABLE INCOME.] For
10 individuals, estates, and trusts, there shall be subtracted from
11 federal taxable income:

12 (1) interest income on obligations of any authority,
13 commission, or instrumentality of the United States to the
14 extent includable in taxable income for federal income tax
15 purposes but exempt from state income tax under the laws of the
16 United States;

17 (2) if included in federal taxable income, the amount of
18 any overpayment of income tax to Minnesota or to any other
19 state, for any previous taxable year, whether the amount is
20 received as a refund or as a credit to another taxable year's
21 income tax liability;

22 (3) the amount paid to others, less the amount used to
23 claim the credit allowed under section 290.0674, not to exceed
24 \$1,625 for each qualifying child in grades kindergarten to 6 and
25 \$2,500 for each qualifying child in grades 7 to 12, for tuition,

1 textbooks, and transportation of each qualifying child in
2 attending an elementary or secondary school situated in
3 Minnesota, North Dakota, South Dakota, Iowa, or Wisconsin,
4 wherein a resident of this state may legally fulfill the state's
5 compulsory attendance laws, which is not operated for profit,
6 and which adheres to the provisions of the Civil Rights Act of
7 1964 and chapter 363A. For the purposes of this clause,
8 "tuition" includes fees or tuition as defined in section
9 290.0674, subdivision 1, clause (1). As used in this clause,
10 "textbooks" includes books and other instructional materials and
11 equipment purchased or leased for use in elementary and
12 secondary schools in teaching only those subjects legally and
13 commonly taught in public elementary and secondary schools in
14 this state. Equipment expenses qualifying for deduction
15 includes expenses as defined and limited in section 290.0674,
16 subdivision 1, clause (3). "Textbooks" does not include
17 instructional books and materials used in the teaching of
18 religious tenets, doctrines, or worship, the purpose of which is
19 to instill such tenets, doctrines, or worship, nor does it
20 include books or materials for, or transportation to,
21 extracurricular activities including sporting events, musical or
22 dramatic events, speech activities, driver's education, or
23 similar programs. For purposes of the subtraction provided by
24 this clause, "qualifying child" has the meaning given in section
25 32(c)(3) of the Internal Revenue Code;
26 (4) income as provided under section 290.0802;
27 (5) to the extent included in federal adjusted gross
28 income, income realized on disposition of property exempt from
29 tax under section 290.491;
30 (6) to the extent included in federal taxable income,
31 postservice benefits for youth community service under section
32 124D.42 for volunteer service under United States Code, title
33 42, sections 12601 to 12604;
34 (7) to the extent not deducted in determining federal
35 taxable income by an individual who does not itemize deductions
36 for federal income tax purposes for the taxable year, an amount

1 equal to 50 percent of the excess of charitable contributions
2 allowable as a deduction for the taxable year under section
3 170(a) of the Internal Revenue Code over \$500;

4 (8) for taxable years beginning before January 1, 2008, the
5 amount of the federal small ethanol producer credit allowed
6 under section 40(a)(3) of the Internal Revenue Code which is
7 included in gross income under section 87 of the Internal
8 Revenue Code;

9 (9) for individuals who are allowed a federal foreign tax
10 credit for taxes that do not qualify for a credit under section
11 290.06, subdivision 22, an amount equal to the carryover of
12 subnational foreign taxes for the taxable year, but not to
13 exceed the total subnational foreign taxes reported in claiming
14 the foreign tax credit. For purposes of this clause, "federal
15 foreign tax credit" means the credit allowed under section 27 of
16 the Internal Revenue Code, and "carryover of subnational foreign
17 taxes" equals the carryover allowed under section 904(c) of the
18 Internal Revenue Code minus national level foreign taxes to the
19 extent they exceed the federal foreign tax credit;

20 (10) in each of the five tax years immediately following
21 the tax year in which an addition is required under subdivision
22 19a, clause (7), an amount equal to one-fifth of the delayed
23 depreciation. For purposes of this clause, "delayed
24 depreciation" means the amount of the addition made by the
25 taxpayer under subdivision 19a, clause (7), minus the positive
26 value of any net operating loss under section 172 of the
27 Internal Revenue Code generated for the tax year of the
28 addition. The resulting delayed depreciation cannot be less
29 than zero; and

30 (11) job opportunity building zone income as provided under
31 section 469.316; and

32 (12) for eligible taxpayers under clause (i), the amount
33 determined under clause (ii).

34 (i) For the purposes of clause (12), "eligible taxpayer"
35 means an individual who:

36 (A) is a Social Security recipient or has a pension from

1 employment with a federal, state, county, city, or other
2 municipal entity, or a teachers retirement association;

3 (B) has retired;

4 (C) is 65 years of age or older; and

5 (D) does not have any earned income from employment during
6 the taxable year.

7 (ii) The subtractions equals Social Security benefits,
8 federal annuities, and pension income. The maximum subtraction
9 is \$40,000 for married taxpayers filing a joint return if at
10 least one spouse is an eligible taxpayer under clause (i), and
11 \$20,000 for all other filers. The maximum subtraction is
12 reduced by the sum of all nontaxable income, but in no case is
13 the subtraction less than zero. For purposes of clause (12),
14 pension income includes income from only those pensions received
15 by eligible taxpayers through employment with the employers
16 listed under clause (i)(A).

17 Sec. 2. [EFFECTIVE DATE.]

18 Section 1 is effective for taxable years following December
19 31, 2005.

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and Fiscal Analysis**

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State of Minnesota

S.F. No. 2280 - Subtraction for Retirees

Author: Senator Paul Koering

Prepared by: Michelle Allen, Senate Counsel (651/296-0558)

Date: April 3, 2006

This bill provides for a subtraction from federal taxable income for the amount received as Social Security benefits, federal annuities, and pension income for taxpayers who meet the following requirements: (1) the taxpayer is a Social Security recipient, or has a pension from employment with a federal, state, county, city, or municipal entity, or has a pension from a teachers' retirement association; (2) the taxpayer has retired; (3) the taxpayer is 65 or older; and (4) the taxpayer has no employment income for the taxable year. The subtraction is limited to a maximum of \$40,000 for married joint filers (where at least one spouse is eligible), and \$20,000 for all other filers.

MJA:dv

MINNESOTA REVENUE

INDIVIDUAL INCOME TAX Retirement Income Subtraction

April 3, 2006

Department of Revenue
Analysis of S.F. 2280 (Koering) / H.F. 2830 (Greiling)

	Yes	No
DOR Administrative Costs/Savings	X	

Fund Impact

	<u>F.Y. 2006</u>	<u>F.Y. 2007</u>	<u>F.Y. 2008</u>	<u>F.Y. 2009</u>
		(000's)		
General Fund	\$0	(\$68,800)	(\$72,200)	(\$75,800)

Effective beginning with tax year 2006

EXPLANATION OF THE BILL

The bill would allow a subtraction from federal taxable income of taxable social security benefits, federal annuities, and pension benefits (if received from a government or teachers pension plan) for individuals age 65 or over who have no earned income from employment during the year. The maximum subtraction is \$40,000 for married couples filing jointly and \$20,000 for all other filers. The maximum subtraction is reduced by the sum of nontaxable social security, railroad retirement, Veterans Administration benefits, and all other nontaxable income.

REVENUE ANALYSIS DETAIL

- Computations were carried out using data from the 2005 Tax Incidence Study database, which contains estimates of both taxable and nontaxable income for a sample of Minnesotans for 2002.
- It was assumed that earned income includes self-employment income.
- About one-third of pension benefits in the United States are paid to public employees. That fraction was used to determine the share of taxable pension income eligible for the subtraction.
- The approximately 187,000 eligible taxpayers in 2002 would have benefited by a subtraction of about \$868 million, implying a revenue loss of about \$56 million in that year.
- Growth of 5% per year was assumed.
- Calendar year subtractions were allocated to the following fiscal year.

Number of Taxpayers: An estimated 200,000 taxpayers would be affected in tax year 2006.

Source: Minnesota Department of Revenue
Tax Research Division
http://www.taxes.state.mn.us/taxes/legal_policy

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Untitled

SF 2280

TESTIMONY: SENATE TAX COMMITTEE HEARINGS ON SF2280, APRIL 4, 2006

Good morning Chairman Pogemiller and Committee members. My name is Frank Blake, a resident of Elk River MN; I am here to testify in support of SF2280. I am Vice President Legislation of the MN Federation of Chapters, National Active and Retired Federal Employees, (NARFE). I am a retired Federal Employee and I am not a paid lobbyist.

I'm asking that you consider this bill as an Economic Development Initiative. As individuals begin the retirement process by attending pre-retirement seminars one of the issues that they consider when selecting a retirement location is State taxation of annuity/pension income. Minnesota's current annuity/pension exemption has not changed substantially since 1982. Other States have offered many new reductions since.

Nationwide there are nine States with no State income taxes and fourteen other States that totally exempt public annuity/pension income (most of these treat private pension income in a similar manner). Fifteen additional States treat annuity/pension income in a much more favorable manner than Minnesota, having exemptions exceeding \$12,000 to a maximum of \$31,000. For instance, Illinois exempts all annuity/pension income from taxation; Kansas totally exempts public annuity/pension income; Iowa exempts \$12,000 of annuity/pension income. Note that all of these exemptions are NOT subject to income limitations. As for Social Security income, 26 States exempt them in full.

Most States now consider the recruitment and retention of retirees as an industry. They have realized that retirees- especially those with annuity/pension-are very attractive citizens. Most individuals with annuity/pension income also have substantial health insurance coverage and therefore are less likely to become dependent upon the State support structure. In fact, they are contributors to the States treasury thru income tax, sales tax and real estate tax payments. A study conducted in 1990 concluded that one job is created for every new retiree that relocated to a new area. Also retirees do not bring big environmental problems with them as many industries do. The study also concluded that each new retiree brings an average of \$250,000 in accumulated wealth with them that they will spend.

Minnesota needs to analyze their taxation policies relating to annuity/pension income which other States have done in past years and are enticing many of our retirees to move to these States. Again, look at this bill as Economic Development, it will perhaps bring in more revenue than it will cost.

Senators Murphy; Johnson, D.E.; Frederickson and Vickerman introduced—
S.F. No. 3187: Referred to the Committee on Taxes.

1.1 A bill for an act
1.2 relating to property taxation; providing a property valuation exclusion for
1.3 homesteads of certain disabled military veterans; amending Minnesota Statutes
1.4 2004, section 273.13, by adding a subdivision.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2004, section 273.13, is amended by adding a
1.7 subdivision to read:

1.8 Subd. 34. Homestead of disabled veteran. (a) All or a portion of the market value
1.9 of property qualifying for homestead classification under subdivision 22 or 23 is excluded
1.10 in determining the property's taxable market value if it serves as the homestead of a
1.11 military veteran, as defined in section 197.447, who has a service-connected disability of
1.12 50 percent or more. To qualify for exclusion under this subdivision, the veteran must have
1.13 been honorably discharged from the United States armed forces, as indicated by United
1.14 States Government Form DD214 or other official military discharge papers, and must be
1.15 certified by the United States Veterans Administration as having a service-connected
1.16 disability.

1.17 (b) (1) For a disability rating of at least 50 percent but less than 75 percent, \$30,000
1.18 of market value is excluded;

1.19 (2) for a disability rating of 75 percent or more, \$50,000 of market value is excluded,
1.20 except as provided in clause (3); and

1.21 (3) for a total (100 percent) and permanent disability, \$100,000 of market value is
1.22 excluded.

1.23 (c) If a disabled veteran qualifying for a valuation exclusion under paragraph (b),
1.24 clause (3), predeceases the veteran's spouse, and if upon the death of the veteran the

2.1 spouse holds the legal or beneficial title to the homestead and permanently resides there,
2.2 the exclusion shall carry over to the benefit of the veteran's spouse until such time as the
2.3 spouse remarries or sells or otherwise disposes of the property.

2.4 (d) In the case of an agricultural homestead, only the portion of the property
2.5 consisting of the house and garage and immediately surrounding one acre of land qualifies
2.6 for the valuation exclusion under this subdivision.

2.7 (e) A property owner attempting to qualify for a valuation exclusion under this
2.8 subdivision must apply to the assessor by July 1 of each assessment year, except that an
2.9 annual reapplication is not required once a property has been accepted for a valuation
2.10 exclusion under paragraph (b), clause (3), and the property continues to qualify until
2.11 there is a change in ownership.

2.12 **EFFECTIVE DATE.** This section is effective for assessment year 2006 and
2.13 thereafter, for taxes payable in 2007 and thereafter.

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S.F. No. 3187 - Exclusion for Homesteads of Disabled Veterans

Author: Senator Steve Murphy

Prepared by: JoAnne Zoff Sellner, Senate Counsel (651/296-3803)

Date: April 3, 2006

This bill provides that all or a portion of the market value of the homestead of a military veteran who has a service-connected disability of 50 percent or more is excluded from the value of the homestead subject to taxation. To qualify for this exclusion, the homeowner must have been honorably discharged from the United States armed forces and must be certified by the Veterans Administration as having a service-connected disability. The amount of value of the homestead that is excluded from taxation depends on the level of the disability rating of the homeowner:

- For a disability rating between 50 and 74 percent, \$30,000 of market value is excluded.
- For a disability rating between 75 and 99 percent, \$50,000 of market value is excluded.
- For a total and permanent disability, 100 percent of market value is excluded.

If the disabled veteran whose property qualifies for an exclusion under this provision predeceases the veteran's spouse, the exclusion will remain in effect for the benefit of the veteran's spouse as long as the spouse holds the title to the homestead and resides there permanently, but the exclusion would terminate if the spouse remarries or disposes of the property.

JZS:ssg

MINNESOTA • REVENUE

PROPERTY TAX Homestead Property Valuation Exclusion for Veterans

March 27, 2006

	Yes	No
DOR Administrative Costs/Savings		x

Department of Revenue

Analysis of H.F. 2857 (Eastlund) / S.F. 3187 (Murphy) **Estimates Revised to Include Impact on Homestead Market Value Credit**

	Fund Impact			
	F.Y. 2006	F.Y. 2007	F.Y. 2008	F.Y. 2009
	(000's)			
Property Tax Refund	\$0	\$0	\$910	\$960
Homestead Market Value Credit	\$0	\$0	(\$520)	(\$550)
General Fund	\$0	\$0	\$390	\$410

Effective for property taxes payable in 2007 and thereafter.

EXPLANATION OF THE BILL

Current Law: A veteran who has a permanent and total service-connected disability due to the loss, or loss of use, of both lower extremities and who has acquired a special housing unit to accommodate the disability, is entitled to have such a homestead classified under class 1b. This classification applies a class rate of 0.45% on the first \$32,000 of market value, instead of the 1.0% rate applied to homesteads without the 1b classification.

Proposed Law: The bill adds a homestead property valuation exclusion for veterans who are at least 50% disabled as a result of a service-connected disability. The exclusion amount is a graduated scale based on the disability percentage.

Disability Rating	Valuation Exclusion
50% to < 75%	\$30,000
75% to < 100%	\$50,000
100%	\$100,000

The exclusion extends to surviving spouses of these veterans. For agricultural homesteads, only the portion of the property consisting of the house, garage, and surrounding one acre of land qualify for the exclusion. Property owners attempting to qualify must apply to the assessor before July 1 of each assessment year to be eligible for the valuation exclusion in the next taxes payable year. Once the property has been accepted for a valuation exclusion, no annual reapplication is required and the property receives the valuation until there is a change in ownership.

REVENUE ANALYSIS DETAIL

- According to the Minnesota Department of Veterans Affairs, there are approximately 13,225 veterans in Minnesota with a disability rating of at least 50%:
 - 3,735 fully-disabled;
 - 2,010 who are disabled at least 75% but less than 100%; and
 - 7,480 who are disabled at least 50% but less than 75%.
- It was assumed that about 9,900 are homeowners and would qualify for the proposed homestead valuation exclusion.
- The main impact of the exclusion on the state general fund would be the reduction of property tax refunds for the disabled veterans.
- It was assumed that 75% of the veterans qualifying for the exclusion are eligible for the property tax refund under current law and receive an average refund of \$500. With the partial valuation exclusion resulting in a reduction in property taxes, these refunds would be reduced, resulting in a savings to the state general fund.
- The average refund reductions based on disability rating are assumed to be:
 - \$250 for fully-disabled;
 - \$125 for at least 75% disabled but less than 100%; and
 - \$75 for at least 50% disabled but less than 75%.
- The exclusion would also result in some shift of property tax to other types of property, increasing state-paid homeowner property tax refunds. The general fund impact is net of this increase.
- **The valuation exclusion would result in some increased costs to the general fund due to the increase of the homestead market value credit paid to most properties.** The homestead market value credit is equal to 0.4% of the market value of the property and cannot exceed \$304. The \$304 maximum credit is reduced by 0.09% of the market value in excess of \$76,000. The credit goes to zero at a market value of \$413,778. Based on the average residential homestead market value and the valuation exclusions by disability rating, the costs would be approximately \$520,000 beginning in fiscal year 2008.
- A 5% annual growth rate is assumed.

Number of Taxpayers: An estimated 9,900 disabled veterans in Minnesota.

Source: Minnesota Department of Revenue
Tax Research Division
http://www.taxes.state.mn.us/taxes/legal_policy

Senators Bakk and Vickerman introduced—
S.F. No. 3061: Referred to the Committee on Taxes.

1.1 A bill for an act
1.2 relating to taxation; providing for homestead classification of property purchased
1.3 by a member of the armed forces; amending Minnesota Statutes 2004, section
1.4 273.124, subdivision 12.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2004, section 273.124, subdivision 12, is amended to
1.7 read:

1.8 Subd. 12. **Homestead of member of United States armed forces; Peace Corps;**
1.9 **VISTA.** (a) Real estate actually occupied and used for the purpose of a homestead by
1.10 a person, or by a member of that person’s immediate family shall be classified as a
1.11 homestead even though the person or family is absent if (1) the person or the person’s
1.12 family is absent solely because the person is on active duty with the armed forces of the
1.13 United States, or is serving as a volunteer under the VISTA or Peace Corps program; (2)
1.14 the owner intends to return as soon as discharged or relieved from service; and (3) the
1.15 owner claims it as a homestead. A person who knowingly makes or submits to an assessor
1.16 an affidavit or other statement that is false in any material matter to obtain or aid another
1.17 in obtaining a benefit under this subdivision is guilty of a felony.

1.18 (b) In the case of a person who is absent solely because the person is on active duty
1.19 with the United States armed forces, homestead classification must be granted if the
1.20 requirements of paragraph (a), clauses (1) to (3), are met, even if the property has not been
1.21 occupied as a homestead by the person or a member of the person’s family.

2 EFFECTIVE DATE. This section is effective for assessments in 2006, taxes
1.23 payable in 2007, and thereafter.

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**S.F. No. 3061 - Homestead Classification for Absent
Military Personnel**

Author: Senator Thomas Bakk

Prepared by: JoAnne Zoff Sellner, Senate Counsel (651/296-3803)

Date: April 3, 2006

This bill provides that for a person who is absent from Minnesota solely because that person is on active duty with the armed forces, homestead classification may be granted to property acquired by that individual even if the property has not been occupied as a homestead by the person or a member of that person's family. Under current law, real estate that was once actually occupied and used as a homestead by an individual will continue to be treated as a homestead if the person is absent because that person is on active duty with the armed forces or is serving as a volunteer under the Vista or Peace Corps programs. However, this enables an individual to continue to maintain the homestead only if it had been previously occupied by the owner. Under this bill, homestead treatment would be granted to property acquired by a person who is absent because of military service even though the home was never occupied by that individual.

JZS:ssg

MINNESOTA REVENUE

PROPERTY TAX Homestead Classification for Armed Forces Members

March 21, 2006

	Yes	No
DOR Administrative Costs/Savings		X

Department of Revenue
Analysis of S.F. 3061 (Bakk) / H.F. 3455 (Rukavina)

	<u>Fund Impact</u>			
	<u>F.Y. 2006</u>	<u>F.Y. 2007</u>	<u>F.Y. 2008</u>	<u>F.Y. 2009</u>
General Fund	\$0	\$0	(Negligible)	(Negligible)

(000's)

Effective for taxes payable in 2007 and thereafter.

EXPLANATION OF THE BILL

Current Law: Real estate occupied and used for the purpose of a homestead by a person, or by a member of that person's immediate family shall be classified as a homestead even though the person or family is absent if:

- (1) the person is absent solely because the person is on active duty with the U.S. armed forces, or is serving as a volunteer under VISTA or Peace Corps program;
- (2) the owner intends to return as soon as discharged or relieved from service; and
- (3) the owner claims it as a homestead.

Proposed Law: The bill would require homestead classification be granted if the person meeting the current law requirements is absent solely because the person is on active duty, even if the property has not been occupied as a homestead by the person or the person's family.

REVENUE ANALYSIS DETAIL

- There could be a small impact to the state general fund with the proposed exception to the homestead classification process for members of the military, as the property would become eligible for the residential homestead market value credit and property tax refund.

Number of Taxpayers: Unknown.

Source: Minnesota Department of Revenue
Tax Research Division
http://www.taxes.state.mn.us/taxes/legal_policy

Senator Vickerman introduced—

S.F. No. 2689: Referred to the Committee on Taxes.

1 A bill for an act
 1.2 relating to taxation; individual income; allowing a subtraction for military
 1.3 pensions; amending Minnesota Statutes 2005 Supplement, sections 290.01,
 1.4 subdivision 19b; 290.091, subdivision 2.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2005 Supplement, section 290.01, subdivision 19b,
 1.7 is amended to read:

1.8 Subd. 19b. **Subtractions from federal taxable income.** For individuals, estates,
 1.9 and trusts, there shall be subtracted from federal taxable income:

1.10 (1) net interest income on obligations of any authority, commission, or
 1.11 instrumentality of the United States to the extent includable in taxable income for federal
 1.12 income tax purposes but exempt from state income tax under the laws of the United States;

1.13 (2) if included in federal taxable income, the amount of any overpayment of income
 1.14 tax to Minnesota or to any other state, for any previous taxable year, whether the amount
 1.15 is received as a refund or as a credit to another taxable year's income tax liability;

1.16 (3) the amount paid to others, less the amount used to claim the credit allowed under
 1.17 section 290.0674, not to exceed \$1,625 for each qualifying child in grades kindergarten
 1.18 to 6 and \$2,500 for each qualifying child in grades 7 to 12, for tuition, textbooks, and
 1.19 transportation of each qualifying child in attending an elementary or secondary school
 1.20 situated in Minnesota, North Dakota, South Dakota, Iowa, or Wisconsin, wherein a
 1.21 resident of this state may legally fulfill the state's compulsory attendance laws, which
 1.22 is not operated for profit, and which adheres to the provisions of the Civil Rights Act
 1.23 of 1964 and chapter 363A. For the purposes of this clause, "tuition" includes fees or
 1.24 tuition as defined in section 290.0674, subdivision 1, clause (1). As used in this clause,

2.1 "textbooks" includes books and other instructional materials and equipment purchased
2.2 or leased for use in elementary and secondary schools in teaching only those subjects
2.3 legally and commonly taught in public elementary and secondary schools in this state.
2.4 Equipment expenses qualifying for deduction includes expenses as defined and limited in
2.5 section 290.0674, subdivision 1, clause (3). "Textbooks" does not include instructional
2.6 books and materials used in the teaching of religious tenets, doctrines, or worship, the
2.7 purpose of which is to instill such tenets, doctrines, or worship, nor does it include books
2.8 or materials for, or transportation to, extracurricular activities including sporting events,
2.9 musical or dramatic events, speech activities, driver's education, or similar programs. For
2.10 purposes of the subtraction provided by this clause, "qualifying child" has the meaning
2.11 given in section 32(c)(3) of the Internal Revenue Code;

2.12 (4) income as provided under section 290.0802;

2.13 (5) to the extent included in federal adjusted gross income, income realized on
2.14 disposition of property exempt from tax under section 290.491;

2.15 (6) to the extent not deducted in determining federal taxable income by an individual
2.16 who does not itemize deductions for federal income tax purposes for the taxable year, an
2.17 amount equal to 50 percent of the excess of charitable contributions over \$500 allowable
2.18 as a deduction for the taxable year under section 170(a) of the Internal Revenue Code and
2.19 under the provisions of Public Law 109-1;

2.20 (7) for taxable years beginning before January 1, 2008, the amount of the federal
2.21 small ethanol producer credit allowed under section 40(a)(3) of the Internal Revenue Code
2.22 which is included in gross income under section 87 of the Internal Revenue Code;

2.23 (8) for individuals who are allowed a federal foreign tax credit for taxes that do not
2.24 qualify for a credit under section 290.06, subdivision 22, an amount equal to the carryover
2.25 of subnational foreign taxes for the taxable year, but not to exceed the total subnational
2.26 foreign taxes reported in claiming the foreign tax credit. For purposes of this clause,
2.27 "federal foreign tax credit" means the credit allowed under section 27 of the Internal
2.28 Revenue Code, and "carryover of subnational foreign taxes" equals the carryover allowed
2.29 under section 904(c) of the Internal Revenue Code minus national level foreign taxes to
2.30 the extent they exceed the federal foreign tax credit;

2.31 (9) in each of the five tax years immediately following the tax year in which an
2.32 addition is required under subdivision 19a, clause (7), or 19c, clause (15), in the case
2.33 of a shareholder of a corporation that is an S corporation, an amount equal to one-fifth
2.34 of the delayed depreciation. For purposes of this clause, "delayed depreciation" means
2.35 the amount of the addition made by the taxpayer under subdivision 19a, clause (7), or
2.36 subdivision 19c, clause (15), in the case of a shareholder of an S corporation, minus the

3.1 positive value of any net operating loss under section 172 of the Internal Revenue Code
3.2 generated for the tax year of the addition. The resulting delayed depreciation cannot be
3.3 less than zero;

3.4 (10) job opportunity building zone income as provided under section 469.316;

3.5 (11) the amount of compensation paid to members of the Minnesota National Guard
3.6 or other reserve components of the United States military for active service performed
3.7 in Minnesota, excluding compensation for services performed under the Active Guard
3.8 Reserve (AGR) program. For purposes of this clause, "active service" means (i) state
3.9 active service as defined in section 190.05, subdivision 5a, clause (1); (ii) federally
3.10 funded state active service as defined in section 190.05, subdivision 5b; or (iii) federal
3.11 active service as defined in section 190.05, subdivision 5c, but "active service" excludes
3.12 services performed exclusively for purposes of basic combat training, advanced individual
3.13 training, annual training, and periodic inactive duty training; special training periodically
3.14 made available to reserve members; and service performed in accordance with section
3.15 190.08, subdivision 3;

3.16 (12) the amount of compensation paid to Minnesota residents who are members
3.17 of the armed forces of the United States or United Nations for active duty performed
3.18 outside Minnesota;

3.19 (13) an amount, not to exceed \$10,000, equal to qualified expenses related to a
3.20 qualified donor's donation, while living, of one or more of the qualified donor's organs
3.21 to another person for human organ transplantation. For purposes of this clause, "organ"
3.22 means all or part of an individual's liver, pancreas, kidney, intestine, lung, or bone marrow;
3.23 "human organ transplantation" means the medical procedure by which transfer of a human
3.24 organ is made from the body of one person to the body of another person; "qualified
3.25 expenses" means unreimbursed expenses for both the individual and the qualified donor
3.26 for (i) travel, (ii) lodging, and (iii) lost wages net of sick pay, except that such expenses
3.27 may be subtracted under this clause only once; and "qualified donor" means the individual
3.28 or the individual's dependent, as defined in section 152 of the Internal Revenue Code. An
3.29 individual may claim the subtraction in this clause for each instance of organ donation for
3.30 transplantation during the taxable year in which the qualified expenses occur;

3.31 (14) in each of the five tax years immediately following the tax year in which an
3.32 addition is required under subdivision 19a, clause (8), or 19c, clause (16), in the case of a
3.33 shareholder of a corporation that is an S corporation, an amount equal to one-fifth of the
3.34 addition made by the taxpayer under subdivision 19a, clause (8), or 19c, clause (16), in the
3.35 case of a shareholder of a corporation that is an S corporation, minus the positive value of
3.36 any net operating loss under section 172 of the Internal Revenue Code generated for the

4.1 tax year of the addition. If the net operating loss exceeds the addition for the tax year, a
4.2 subtraction is not allowed under this clause;

4.3 (15) to the extent included in federal taxable income, compensation paid to a
4.4 nonresident who is a service member as defined in United States Code, title 10, section
4.5 101(a)(5), for military service as defined in the Service Member Civil Relief Act, Public
4.6 Law 108-189, section 101(2); ~~and~~

4.7 (16) international economic development zone income as provided under section
4.8 469.325-; and

4.9 (17) to the extent included in federal taxable income, the amount received from a
4.10 pension or other retirement pay from the government for service in the armed forces of the
4.11 United States, regardless of whether the recipient served in the military.

4.12 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
4.13 December 31, 2005.

4.14 Sec. 2. Minnesota Statutes 2005 Supplement, section 290.091, subdivision 2, is
4.15 amended to read:

4.16 Subd. 2. **Definitions.** For purposes of the tax imposed by this section, the following
4.17 terms have the meanings given:

4.18 (a) "Alternative minimum taxable income" means the sum of the following for
4.19 the taxable year:

4.20 (1) the taxpayer's federal alternative minimum taxable income as defined in section
4.21 55(b)(2) of the Internal Revenue Code;

4.22 (2) the taxpayer's itemized deductions allowed in computing federal alternative
4.23 minimum taxable income, but excluding:

4.24 (i) the charitable contribution deduction under section 170 of the Internal Revenue
4.25 Code:

4.26 (A) for taxable years beginning before January 1, 2006, to the extent that the
4.27 deduction exceeds 1.0 percent of adjusted gross income;

4.28 (B) for taxable years beginning after December 31, 2005, to the full extent of the
4.29 deduction.

4.30 For purposes of this clause, "adjusted gross income" has the meaning given in
4.31 section 62 of the Internal Revenue Code;

4.32 (ii) the medical expense deduction;

4.33 (iii) the casualty, theft, and disaster loss deduction; and

4.34 (iv) the impairment-related work expenses of a disabled person;

5.1 (3) for depletion allowances computed under section 613A(c) of the Internal
5.2 Revenue Code, with respect to each property (as defined in section 614 of the Internal
5.3 Revenue Code), to the extent not included in federal alternative minimum taxable income,
5.4 the excess of the deduction for depletion allowable under section 611 of the Internal
5.5 Revenue Code for the taxable year over the adjusted basis of the property at the end of the
5.6 taxable year (determined without regard to the depletion deduction for the taxable year);

5.7 (4) to the extent not included in federal alternative minimum taxable income, the
5.8 amount of the tax preference for intangible drilling cost under section 57(a)(2) of the
5.9 Internal Revenue Code determined without regard to subparagraph (E);

5.10 (5) to the extent not included in federal alternative minimum taxable income, the
5.11 amount of interest income as provided by section 290.01, subdivision 19a, clause (1); and

5.12 (6) the amount of addition required by section 290.01, subdivision 19a, clauses
5.13 (7), (8), and (9);

5.14 less the sum of the amounts determined under the following:

5.15 (1) interest income as defined in section 290.01, subdivision 19b, clause (1);

5.16 (2) an overpayment of state income tax as provided by section 290.01, subdivision
5.17 19b, clause (2), to the extent included in federal alternative minimum taxable income;

5.18 (3) the amount of investment interest paid or accrued within the taxable year on
5.19 indebtedness to the extent that the amount does not exceed net investment income, as
5.20 defined in section 163(d)(4) of the Internal Revenue Code. Interest does not include
5.21 amounts deducted in computing federal adjusted gross income; and

5.22 (4) amounts subtracted from federal taxable income as provided by section 290.01,
5.23 subdivision 19b, clauses (9) to ~~(16)~~ (17).

5.24 In the case of an estate or trust, alternative minimum taxable income must be
5.25 computed as provided in section 59(c) of the Internal Revenue Code.

5.26 (b) "Investment interest" means investment interest as defined in section 163(d)(3)
5.27 of the Internal Revenue Code.

5.28 (c) "Tentative minimum tax" equals 6.4 percent of alternative minimum taxable
5.29 income after subtracting the exemption amount determined under subdivision 3.

5.30 (d) "Regular tax" means the tax that would be imposed under this chapter (without
5.31 regard to this section and section 290.032), reduced by the sum of the nonrefundable
5.32 credits allowed under this chapter.

5.33 (e) "Net minimum tax" means the minimum tax imposed by this section.

5.34 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
5.35 December 31, 2005.

1.1 Senator moves to amend S.F. No. 2689 as follows:

1.2 Delete everything after the enacting clause and insert:

1.3 "Section 1. Minnesota Statutes 2005 Supplement, section 290.01, subdivision 19b,
1.4 is amended to read:

1.5 Subd. 19b. **Subtractions from federal taxable income.** For individuals, estates,
1.6 and trusts, there shall be subtracted from federal taxable income:

1.7 (1) net interest income on obligations of any authority, commission, or
1.8 instrumentality of the United States to the extent includable in taxable income for federal
1.9 income tax purposes but exempt from state income tax under the laws of the United States;

1.10 (2) if included in federal taxable income, the amount of any overpayment of income
1.11 tax to Minnesota or to any other state, for any previous taxable year, whether the amount
1.12 is received as a refund or as a credit to another taxable year's income tax liability;

1.13 (3) the amount paid to others, less the amount used to claim the credit allowed under
1.14 section 290.0674, not to exceed \$1,625 for each qualifying child in grades kindergarten
1.15 to 6 and \$2,500 for each qualifying child in grades 7 to 12, for tuition, textbooks, and
1.16 transportation of each qualifying child in attending an elementary or secondary school
1.17 situated in Minnesota, North Dakota, South Dakota, Iowa, or Wisconsin, wherein a
1.18 resident of this state may legally fulfill the state's compulsory attendance laws, which
1.19 is not operated for profit, and which adheres to the provisions of the Civil Rights Act
1.20 of 1964 and chapter 363A. For the purposes of this clause, "tuition" includes fees or
1.21 tuition as defined in section 290.0674, subdivision 1, clause (1). As used in this clause,
1.22 "textbooks" includes books and other instructional materials and equipment purchased
1.23 or leased for use in elementary and secondary schools in teaching only those subjects
1.24 legally and commonly taught in public elementary and secondary schools in this state.
1.25 Equipment expenses qualifying for deduction includes expenses as defined and limited in
1.26 section 290.0674, subdivision 1, clause (3). "Textbooks" does not include instructional
1.27 books and materials used in the teaching of religious tenets, doctrines, or worship, the

2.1 purpose of which is to instill such tenets, doctrines, or worship, nor does it include books
2.2 or materials for, or transportation to, extracurricular activities including sporting events,
2.3 musical or dramatic events, speech activities, driver's education, or similar programs. For
2.4 purposes of the subtraction provided by this clause, "qualifying child" has the meaning
2.5 given in section 32(c)(3) of the Internal Revenue Code;

2.6 (4) income as provided under section 290.0802;

2.7 (5) to the extent included in federal adjusted gross income, income realized on
2.8 disposition of property exempt from tax under section 290.491;

2.9 (6) to the extent not deducted in determining federal taxable income by an individual
2.10 who does not itemize deductions for federal income tax purposes for the taxable year, an
2.11 amount equal to 50 percent of the excess of charitable contributions over \$500 allowable
2.12 as a deduction for the taxable year under section 170(a) of the Internal Revenue Code and
2.13 under the provisions of Public Law 109-1;

2.14 (7) for taxable years beginning before January 1, 2008, the amount of the federal
2.15 small ethanol producer credit allowed under section 40(a)(3) of the Internal Revenue Code
2.16 which is included in gross income under section 87 of the Internal Revenue Code;

2.17 (8) for individuals who are allowed a federal foreign tax credit for taxes that do not
2.18 qualify for a credit under section 290.06, subdivision 22, an amount equal to the carryover
2.19 of subnational foreign taxes for the taxable year, but not to exceed the total subnational
2.20 foreign taxes reported in claiming the foreign tax credit. For purposes of this clause,
2.21 "federal foreign tax credit" means the credit allowed under section 27 of the Internal
2.22 Revenue Code, and "carryover of subnational foreign taxes" equals the carryover allowed
2.23 under section 904(c) of the Internal Revenue Code minus national level foreign taxes to
2.24 the extent they exceed the federal foreign tax credit;

2.25 (9) in each of the five tax years immediately following the tax year in which an
2.26 addition is required under subdivision 19a, clause (7), or 19c, clause (15), in the case
2.27 of a shareholder of a corporation that is an S corporation, an amount equal to one-fifth
2.28 of the delayed depreciation. For purposes of this clause, "delayed depreciation" means
2.29 the amount of the addition made by the taxpayer under subdivision 19a, clause (7), or
2.30 subdivision 19c, clause (15), in the case of a shareholder of an S corporation, minus the
2.31 positive value of any net operating loss under section 172 of the Internal Revenue Code
2.32 generated for the tax year of the addition. The resulting delayed depreciation cannot be
2.33 less than zero;

2.34 (10) job opportunity building zone income as provided under section 469.316;

2.35 (11) the amount of compensation paid to members of the Minnesota National Guard
2.36 or other reserve components of the United States military for active service performed

3.1 in Minnesota, excluding compensation for services performed under the Active Guard
3.2 Reserve (AGR) program. For purposes of this clause, "active service" means (i) state
3.3 active service as defined in section 190.05, subdivision 5a, clause (1); (ii) federally
3.4 funded state active service as defined in section 190.05, subdivision 5b; or (iii) federal
3.5 active service as defined in section 190.05, subdivision 5c, but "active service" excludes
3.6 services performed exclusively for purposes of basic combat training, advanced individual
3.7 training, annual training, and periodic inactive duty training; special training periodically
3.8 made available to reserve members; and service performed in accordance with section
3.9 190.08, subdivision 3;

3.10 (12) the amount of compensation paid to Minnesota residents who are members
3.11 of the armed forces of the United States or United Nations for active duty performed
3.12 outside Minnesota;

3.13 (13) an amount, not to exceed \$10,000, equal to qualified expenses related to a
3.14 qualified donor's donation, while living, of one or more of the qualified donor's organs
3.15 to another person for human organ transplantation. For purposes of this clause, "organ"
3.16 means all or part of an individual's liver, pancreas, kidney, intestine, lung, or bone marrow;
3.17 "human organ transplantation" means the medical procedure by which transfer of a human
3.18 organ is made from the body of one person to the body of another person; "qualified
3.19 expenses" means unreimbursed expenses for both the individual and the qualified donor
3.20 for (i) travel, (ii) lodging, and (iii) lost wages net of sick pay, except that such expenses
3.21 may be subtracted under this clause only once; and "qualified donor" means the individual
3.22 or the individual's dependent, as defined in section 152 of the Internal Revenue Code. An
3.23 individual may claim the subtraction in this clause for each instance of organ donation for
3.24 transplantation during the taxable year in which the qualified expenses occur;

3.25 (14) in each of the five tax years immediately following the tax year in which an
3.26 addition is required under subdivision 19a, clause (8), or 19c, clause (16), in the case of a
3.27 shareholder of a corporation that is an S corporation, an amount equal to one-fifth of the
3.28 addition made by the taxpayer under subdivision 19a, clause (8), or 19c, clause (16), in the
3.29 case of a shareholder of a corporation that is an S corporation, minus the positive value of
3.30 any net operating loss under section 172 of the Internal Revenue Code generated for the
3.31 tax year of the addition. If the net operating loss exceeds the addition for the tax year, a
3.32 subtraction is not allowed under this clause;

3.33 (15) to the extent included in federal taxable income, compensation paid to a
4 nonresident who is a service member as defined in United States Code, title 10, section
3.35 101(a)(5), for military service as defined in the Service Member Civil Relief Act, Public
3.36 Law 108-189, section 101(2); and

4.1 (16) international economic development zone income as provided under section
4.2 469.325; and

4.3 (17) to the extent included in federal taxable income, a percentage, up to a maximum,
4.4 of the amount received from a pension or other retirement pay from the government for
4.5 service in the armed forces of the United States, including the National Guard, reservists,
4.6 and active duty personnel, regardless of whether the recipient served in the military.
4.7 For taxable years beginning after December 31, 2005, and before January 1, 2007, the
4.8 percentage is 25 percent and the maximum amount is \$7,500; for taxable years beginning
4.9 after December 31, 2006, and before January 1, 2008, the percentage is 50 percent and
4.10 the maximum amount is \$15,000; for taxable years beginning after December 31, 2007,
4.11 and before January 1, 2009, the percentage is 75 percent and the maximum amount is
4.12 \$22,500; and for taxable years beginning after December 31, 2008, the percentage is 100
4.13 percent and there is no maximum amount.

4.14 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
4.15 December 31, 2005.

4.16 Sec. 2. Minnesota Statutes 2005 Supplement, section 290.091, subdivision 2, is
4.17 amended to read:

4.18 Subd. 2. **Definitions.** For purposes of the tax imposed by this section, the following
4.19 terms have the meanings given:

4.20 (a) "Alternative minimum taxable income" means the sum of the following for
4.21 the taxable year:

4.22 (1) the taxpayer's federal alternative minimum taxable income as defined in section
4.23 55(b)(2) of the Internal Revenue Code;

4.24 (2) the taxpayer's itemized deductions allowed in computing federal alternative
4.25 minimum taxable income, but excluding:

4.26 (i) the charitable contribution deduction under section 170 of the Internal Revenue
4.27 Code:

4.28 (A) for taxable years beginning before January 1, 2006, to the extent that the
4.29 deduction exceeds 1.0 percent of adjusted gross income;

4.30 (B) for taxable years beginning after December 31, 2005, to the full extent of the
4.31 deduction.

4.32 For purposes of this clause, "adjusted gross income" has the meaning given in
4.33 section 62 of the Internal Revenue Code;

4.34 (ii) the medical expense deduction;

4.35 (iii) the casualty, theft, and disaster loss deduction; and

- 5.1 (iv) the impairment-related work expenses of a disabled person;
- 5.2 (3) for depletion allowances computed under section 613A(c) of the Internal
5.3 Revenue Code, with respect to each property (as defined in section 614 of the Internal
5.4 Revenue Code), to the extent not included in federal alternative minimum taxable income,
5.5 the excess of the deduction for depletion allowable under section 611 of the Internal
5.6 Revenue Code for the taxable year over the adjusted basis of the property at the end of the
5.7 taxable year (determined without regard to the depletion deduction for the taxable year);
- 5.8 (4) to the extent not included in federal alternative minimum taxable income, the
5.9 amount of the tax preference for intangible drilling cost under section 57(a)(2) of the
5.10 Internal Revenue Code determined without regard to subparagraph (E);
- 5.11 (5) to the extent not included in federal alternative minimum taxable income, the
5.12 amount of interest income as provided by section 290.01, subdivision 19a, clause (1); and
- 5.13 (6) the amount of addition required by section 290.01, subdivision 19a, clauses
5.14 (7), (8), and (9);
- 5.15 less the sum of the amounts determined under the following:
- 5.16 (1) interest income as defined in section 290.01, subdivision 19b, clause (1);
- 5.17 (2) an overpayment of state income tax as provided by section 290.01, subdivision
5.18 19b, clause (2), to the extent included in federal alternative minimum taxable income;
- 5.19 (3) the amount of investment interest paid or accrued within the taxable year on
5.20 indebtedness to the extent that the amount does not exceed net investment income, as
5.21 defined in section 163(d)(4) of the Internal Revenue Code. Interest does not include
5.22 amounts deducted in computing federal adjusted gross income; and
- 5.23 (4) amounts subtracted from federal taxable income as provided by section 290.01,
5.24 subdivision 19b, clauses (9) to ~~(16)~~ (17).
- 5.25 In the case of an estate or trust, alternative minimum taxable income must be
5.26 computed as provided in section 59(c) of the Internal Revenue Code.
- 5.27 (b) "Investment interest" means investment interest as defined in section 163(d)(3)
5.28 of the Internal Revenue Code.
- 5.29 (c) "Tentative minimum tax" equals 6.4 percent of alternative minimum taxable
5.30 income after subtracting the exemption amount determined under subdivision 3.
- 5.31 (d) "Regular tax" means the tax that would be imposed under this chapter (without
5.32 regard to this section and section 290.032), reduced by the sum of the nonrefundable
5.33 credits allowed under this chapter.
- 4 (e) "Net minimum tax" means the minimum tax imposed by this section.

5.35 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
5.36 December 31, 2005.

6.1 Amend the title accordingly

**Senate Counsel, Research,
and Fiscal Analysis**

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Senate

State of Minnesota

S.F. No. 2689 - Subtraction for Military Retirees

Author: Senator Jim Vickerman

Prepared by: Michelle Allen, Senate Counsel (651/296-0558)

Date: April 3, 2006

This bill provides for a subtraction from federal taxable income for the amount received as retirement pay for service in the United States armed forces, regardless of whether the recipient of the retirement pay actually served in the military.

MJA:dv

MINNESOTA - REVENUE

INDIVIDUAL INCOME TAX Military Pension Income Subtraction

April 3, 2006

Department of Revenue
Analysis of S.F. 2689 (Vickerman)/ H.F. 2932 (Davids)

	Yes	No
DOR Administrative Costs/Savings		X

	<u>Fund Impact</u>			
	<u>F.Y. 2006</u>	<u>F.Y. 2007</u>	<u>F.Y. 2008</u>	<u>F.Y. 2009</u>
			(000's)	
General Fund	\$0	(\$16,400)	(\$17,300)	(\$18,100)

Effective beginning with tax year 2006.

EXPLANATION OF THE BILL

The bill would allow a subtraction from Minnesota taxable income and from Minnesota alternative minimum taxable income for military pensions and retirement payments which are currently not exempt.

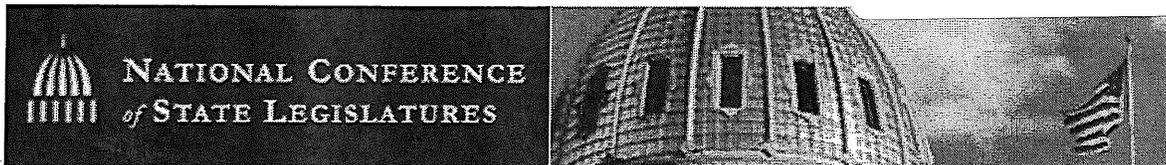
REVENUE ANALYSIS DETAIL

- According to information from the Department of Defense Statistical Report on the Military Retirement System for federal fiscal year 2004, the number of people receiving military retirement pay in Minnesota was 17,093 for a total amount of \$248.4 million.
- Based on national data, it is assumed that 40% of retirees are officers with an average annual pension of \$22,778, and 60% are enlisted personnel with an average annual pension of \$11,429. The average pension for 2,523 survivors was \$6,459.
- It is assumed that the proposed law includes taxable military disability pensions.
- It is assumed there is little overlap with the low income elderly subtraction.
- The average marginal rate was assumed to be 6%.
- Annual growth was estimated at 5%.
- Tax year impact was allocated to the following fiscal year.

Number of Taxpayers: Approximately 17,000 to 18,000.

Source: Minnesota Department of Revenue
Tax Research Division
http://www.taxes.state.mn.us/taxes/legal_policy

sf2689(hf2932)/gt



State Personal Income Taxes on Pensions and Retirement Income: Tax Year 2005

Ronald Snell and Bert Waisanen

January 2006

Most states that levy a personal income tax allow people who receive retirement income to exclude part of it from their taxable income. The table that accompanies this introduction provides state-by-state detail. "Retirement income" means income from federal, state and local governments' retirement plans, Social Security, Railroad Retirement, private pension plans, and deferred compensation plans in the public and private sectors. "Retirement income" excludes income from current employment, rents and dividends, disability payments and SSI. This report does not address personal exemptions or deductions that are available to every filer over some specified age, like the federal provision for a larger standard deduction for people who are 65 years old or older than for those under 65.

State governments provide various tax benefits for senior citizens besides age-determined income tax exclusions. Those were reported in detail in NCSL's publication *State Tax Policy and Senior Citizens* (second edition, Denver, Colo., 1994). The AARP annual publication *State Economic, Demographic & Fiscal Handbook* also provides data on state tax breaks for senior citizens (Washington, D. C.: AARP Public Policy Institute, 2000 and other years).

State policies on retirement income exclusions vary greatly, but have one or both of two purposes: to protect the income of taxpayers who are no longer in the workforce, and to serve as an economic development tool by attracting retired people to, or retaining them in, a state. Such tax provisions seem to have originated years ago as a means of assisting retired public employees who received relatively small pensions. Because public pension benefits have improved to match or exceed those in the private sector, the justification for favored tax status for government retirees has weakened. Many states have made age, not former employment in the public sector, the criterion for a retirement income exclusions.

Retirement exclusions and general tax policy

States are generally free from federal control in deciding how to tax pensions, but some limits apply. State tax policy cannot discriminate against federal civil service pensions, according to the U.S. Supreme Court decision in *Davis v. Michigan* (1989), which ended the once common practice of more favorable state tax treatment for state pensions than for federal civil service pensions. In 1992 the U.S. Supreme Court further ruled, in *Barker v. Kansas*, that states cannot tax U.S. military pensions if they exempt state pensions from taxation. Over time, as the table demonstrates, these rulings have produced substantial conformity in the way each state taxes the three kinds of pensions, although differential treatment persists in Indiana and New Jersey.

There is no federal impediment to a different state tax policy for public and private pensions, and, as the table indicates, most states provide less favorable tax treatment for private pension income than for public pensions and Social Security retirement benefits.

Retirement income exclusions can be criticized for violating the rule of horizontal equity, which is that taxpayers in similar economic circumstances should be treated similarly. Income exclusions designated for an age group violate horizontal equity by benefiting taxpayers on the basis of age instead of the amount of income. Some states partially address this criticism by limiting retirement income exclusions to lower-income taxpayers, thus indicating that their tax provisions are primarily designed to protect the low-income elderly. States that provide relatively high tax exclusions for all taxpayers in an age group presumably are also acting to attract retired people to the state, or to keep retired residents from moving to another state with a tax regimen more favorable to them.

Prevalence of retirement income exclusions

Of the 50 states, seven – Alaska, Florida, Nevada, South Dakota, Texas, Washington and Wyoming – do not levy a personal income tax. New Hampshire and Tennessee collect income tax only on interest and dividend income. The District of Columbia and 41 states levy a broad-based personal income tax.

Among the 41 states with a broad-based income tax, 36 offer exclusions for some amount of specifically identified type of state or federal pension income or both, a broad income exclusion or a tax credit targeted at the elderly. The District of Columbia provides a public pension exclusion. The five states that do not do so are California, Indiana, Nebraska, Rhode Island and Vermont. Some of those five states partially or fully exclude Social Security income from state taxation, and no state collects income taxes on Railroad Retirement income.

Limited retirement income exclusions

States take two broad approaches to excluding retirement income from taxation. Some states provide a specific amount of exclusion according to the type of retirement income. For example, Arizona allows the exclusion of \$2,500 of state or local government retirement income, federal pension income and military pension income; full exclusion for Social Security income; and no exclusion for private-sector pension income. This model was more prevalent in the past than now. It allowed states to provide a greater exclusion for state and local benefits than for federal civil service benefits, until *Davis v Michigan* prohibited that in 1989. Attaching income exclusions to retirement income according to its source is now relatively rare among the states (except with reference to private-sector pension or deferred compensation benefits), but it is the practice in the Connecticut (starting in 2008), the District of Columbia, Indiana, New Jersey and North Dakota, as well as Arizona.

The more usual practice is for states to provide a retirement income exclusion that taxpayers over a specified age, usually 65, can apply to retirement income. Usually the exclusion is applicable to public sector benefits, Social Security and only some private sector benefits, but sometimes it is applicable to all income. In a number of states, Social Security is subject to a separate exclusion. Virginia, for example, has allowed an income exclusion of \$6,000 for taxpayers under 65 that is now being phased out and \$12,000 per taxpayer applicable to income from any source for people over 65 (subject to income limitations after 2004). In addition, Social Security income is fully exempt. Colorado has a different practice: it allows an exclusion of \$24,000 per tax return for filers over 65, regardless of the source of income, and includes Social Security benefits in the base on which the exclusion is determined.

In addition to those in Colorado and Virginia, exclusions of this sort exist in Arkansas, Delaware, Georgia, Idaho, Iowa, Kentucky, Maine, Maryland, Minnesota, Missouri, Montana, New Jersey, New Mexico, North Carolina, Oklahoma, South Carolina, Utah and West Virginia. The amount of the exclusion varies from \$2,000 in West Virginia to \$36,414 in Kentucky.

Social Security retirement benefit exclusions

Most states exclude Social Security retirement benefits from state income taxes. As the table indicates, the District of Columbia and 26 states with income taxes provide a full exclusion for Social Security benefits – Alabama, Arizona, Arkansas, California, Delaware, Georgia, Hawaii, Idaho, Illinois, Indiana, Louisiana, Maine, Maryland, Massachusetts, Missouri, Mississippi, New Jersey, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, Virginia, and West Virginia.

The remaining 15 states with broad-based income taxes tax Social Security to some extent:

- Kansas, Minnesota, Missouri, Nebraska, North Dakota, Rhode Island and Vermont tax Social Security income to the extent it is taxed by the federal government.
- Connecticut, Iowa, Montana and Wisconsin tax Social Security income above a income floor.
- Colorado, Kentucky, New Mexico and Utah require that federally untaxed Social Security benefits be added back to federal AGI to calculate the base against which their broad age-determined income exclusions apply.

Full and nearly full pension income exclusions

Ten states exclude all federal, state and local pension income from taxation – Alabama, Hawaii, Illinois, Kansas,

Louisiana, Massachusetts, Michigan, Mississippi, New York and Pennsylvania. Among these 10 states, only Kansas taxes any Social Security income, but only to the extent it is subject to federal taxation.

These 10 states differ on the taxation of retirement income from private-sector sources. Kansas and Massachusetts do not exclude any private-sector retirement income, but most of the others allow a fairly broad exclusion:

- Pennsylvania allows a full exclusion.
- Alabama excludes income from defined benefit plans.
- Hawaii excludes income from contributory plans.
- Illinois and Mississippi exclude income from qualified retirement plans.
- Louisiana, Michigan and New York cap the private-sector exclusion at \$6,000, \$34,920 and \$20,000, respectively.

Sources:

Instructions for state income tax returns for tax year 2000, 2001, 2002, 2005.

David Baer, *State Economic, Demographic and Fiscal Handbook 2000* (Washington, D. C.: AARP Public Policy Institute, 2000).

State of Connecticut, Commissioner of Revenue Services, "Study of the Taxation of Federal Pensions" (Hartford, 2000).

Nina Manzi, Joel Michael and Paul Wilson, "State Income Tax Revenues in 2002 and 2030: The Impact of the Retirement of the Baby Boom," *State Tax Notes* 39:3 (January 23, 2006): 215-240.

National Conference of State Legislatures, *State Tax Actions* (Denver, published annually)

Faith Russell, *Individual Income Tax Provisions in the States, 2001*, (State of Wisconsin, Legislative Fiscal Bureau, January 2003), Table 2: State Tax Exclusion for Pension/Retirement Income.(Tax Year 2001).

State Personal Income Taxes on Retirement Income: Tax Year 2005					
* indicates note at end of table					
SS = Social Security, RR = Railroad Retirement, PIT = Personal Income Tax					
State	State/Local Pension Exclusion	Federal Civil Service Pension Exclusion	Military Pension Exclusion	Social Security/Railroad Retirement	Private Pension Exclusion
Alabama	Full	Full	Full	Full	Income from defined benefit plans
Alaska	No PIT				
Arizona	\$2,500	\$2,500	\$2,500	Full	None
Arkansas*	\$6,000	\$6,000	\$6,000	Full	\$6,000, including IRA distributions after age 59½
California	None	None	None	Full	None
Colorado*	65+, \$24,000	65+, \$24,000	65+, \$24,000	65+, \$24,000	65+, \$24,000
	55-65, \$20,000	55-65, \$20,000	55-65, \$20,000	55-65, \$20,000	55-65, \$20,000
Connecticut	None	None	50% exclusion beginning in tax year 2008	SS is taxed above an income threshold; RR: Full	None
Delaware*	60+, \$12,500under 60, \$2,000	60+, \$12,500under 60, \$2,000	60+, \$12,500under 60, \$2,000	Full	60+, \$12,500under 60, \$2,000

D.C.	62+, \$3,000	62+, \$3,000	62+, \$3,000	Full	None
Florida	No PIT				
Georgia*	62+, \$15,000	62+, \$15,000	62+, \$15,000	Full	62+, \$15,000
Hawaii	Full	Full	Full	Full	Full for contributory plans
Idaho	65+, 62+ if disabled: \$21,900 filing singly/\$32,850 filing jointly, (minus SS/RR benefits) limited to certain public safety officers' benefits	65+, 62+ if disabled: \$21,900 filing singly/\$32,850 filing jointly, (minus SS/RR benefits)	65+, 62+ if disabled: \$21,900 filing singly/\$32,850 filing jointly, (minus SS/RR benefits)	Full	None
Illinois	Full	Full	Full	Full	Full for qualified retirement plans
Indiana*	None	62+: \$2,000 less SS benefits. Base is \$4,000 for married couple	62+: \$2,000; \$4,000 for married couple	Full	None
Iowa *	55+: \$6,000 single, \$12,000 joint	55+: \$6,000 single, \$12,000 joint	55+: \$6,000 single, \$12,000 joint	50% of SS benefits taxable above an income floor; RR: Full	55+: \$6,000 single, \$12,000 joint
Kansas	Full for Kansas pensions; none for out-of-state	Full	Full	SS taxable to extent federally taxed; RR: Full	None
Kentucky *	Full for benefits earned before 1/1/98. Capped at \$41,110 for tax year 2006 and thereafter. Benefits earned after that date.	Full for benefits earned before 1/1/98. Capped at \$41,110 for tax year 2006 and thereafter. Benefits earned after that date.	Full for benefits earned before 1/1/98. Capped at \$41,110 for tax year 2006 and thereafter. Benefits earned after that date.	Full exemption, subject to income exclusion cap of \$41,110	Full for benefits earned before 1/1/98. Capped at \$41,110 for tax year 2006 and thereafter. Benefits earned after that date.
Louisiana	Full for state pensions; out-of-state are treated like private pensions	Full	Full	Full	65+: \$6,000 single, \$12,000 joint
Maine *	\$6,000 per taxpayer minus SS/RR benefits	\$6,000 per taxpayer minus SS/RR benefits	\$6,000 per taxpayer minus SS/RR benefits	Full	\$6,000 exclusion applies to 401(a), 403, 457(b) plans
Maryland *	65+: \$20,700 per person minus SS/RR benefits	65+: \$20,700 per person minus SS/RR benefits	65+: \$20,700 per person minus SS/RR benefits	Full	65+: \$20,700 per person minus SS/RR benefits
Massachusetts	Full for MA pensions; out-of-state are exempt if the state extends reciprocal	Full	Full	Full	None

	treatment to MA pensions.				
Michigan	Full for MI pensions; out-of-state are exempt if the state extends reciprocal treatment to MI pensions and otherwise are treated as private pensions	Full	Full	Full	\$38,550 single, \$77,100 joint, minus public retirement benefits
Minnesota	None	None	None	SS taxable to extent federally taxed; RR: Full	None
Mississippi	Full	Full	Full	Full	Full for qualified plans
Missouri *	\$6,000 single, \$12,000 joint, reduced by amount total income exceeds certain limits	\$6,000 single, \$12,000 joint, reduced by amount total income exceeds certain limits	\$6,000 single, \$12,000 joint, reduced by amount total income exceeds certain limits	SS taxable to extent federally taxed; RR: Full	\$4,000 (counted toward the \$6,000 cap if applicable)
Montana*	Up to \$3,600 for filers whose AGI is less than \$30,000	Up to \$3,600 for filers whose AGI is less than \$30,000	Up to \$3,600 for filers whose AGI is less than \$30,000	SS is taxable for taxpayers whose income including SS exceeds \$25,000 single, \$32,000 joint. RR: Full	Up to \$3,600 for filers whose AGI is less than \$30,000
Nebraska	None	None	None	SS taxable to extent federally taxed; RR: Full	None
Nevada	No PIT				
New Hampshire	Limited PIT				
New Jersey*	62+: \$15,000 single, \$20,000 joint. Income limits apply.	62+: \$15,000 single, \$20,000 joint. Income limits apply.	Full	Full	62+: \$15,000 single, \$20,000 joint. Income limits apply.
New Mexico	Pension and Social Security income are taxable, except for RR income. There is a general income exemption for taxpayers aged 62 and older of \$10,000 single, \$16,000 filing jointly, phased out as AGI grows, and ended at AGI of \$51,000 for joint filers, \$25,500 for single.				
New York	Full for NY pensions; out-of-state treated like private pensions.	Full	Full	Full	\$20,000 for taxpayers aged 59 years six months and older.
North Carolina*	\$4,000 single; \$8,000 filing jointly	\$4,000 single; \$8,000 filing jointly	\$4,000 single; \$8,000 filing jointly	Full	\$2,000 single; \$4,000 filing jointly
North Dakota	\$5,000 minus any SS benefit; limited	\$5,000 minus any SS benefit	\$5,000 minus any SS benefit	SS taxable to extent federally	None

	to certain public safety system members			taxed; RR: Full	
Ohio*	Certain tax credits apply; see note	Certain tax credits apply; see note	Certain tax credits apply; see note	Full	See note
Oklahoma*	Greater of 50% or \$10,000 For retirees with income below \$37,500 (single) and \$75,000 (joint).	Greater of 50% or \$10,000 For retirees with income below \$37,500 (single) and \$75,000 (joint).	Greater of 50% or \$10,000 For retirees with income below \$37,500 (single) and \$75,000 (joint).	Full	Greater of 50% or \$10,000 For retirees with income below \$37,500 (single) and \$75,000 (joint).
Oregon*	Tax credit of up to 9% of taxable pension income; income limits apply	Tax credit of up to 9% of taxable pension income; income limits apply	Tax credit of up to 9% of taxable pension income; income limits apply	Full	Tax credit of up to 9% of taxable pension income; income limits apply
Pennsylvania	Full	Full	Full	Full	Full
Rhode Island	None	None	None	SS taxable to extent federally taxed; RR: Full	None
South Carolina*	Under 65: \$3,000; over 65: \$10,000; see note	Under 65: \$3,000; over 65: \$10,000; see note	Under 65: \$3,000; over 65: \$10,000; see note	Full	Under 65: \$3,000; over 65: \$10,000; see note
South Dakota	No PIT				
Tennessee*	Limited PIT: See note				
Texas	No PIT				
Utah*	An exclusion for pension and taxable Social Security benefits applies to those under age 65: \$4,800 single, \$9,600 filing jointly. RR income is exempt. A general exclusion is available to those over 65: \$7,500 single; \$15,000 filing jointly.				
Vermont	None	None	None	SS taxable to extent federally taxed; RR: Full	None
Virginia*	62 -64 \$6,000 per taxpayer; 65 and older, \$12,000 per taxpayer	62 -64 \$6,000 per taxpayer; 65 and older, \$12,000 per taxpayer	62 -64 \$6,000 per taxpayer; 65 and older, \$12,000 per taxpayer	Full	62 -64 \$6,000 per taxpayer; 65 and older, \$12,000 per taxpayer
Virginia 2004 legislation: Provisions above remain in effect for those over 65. The \$6,000 deduction will not be available to those who turn 62 after January 1, 2004. For future beneficiaries, there will be a dollar-for-dollar reduction in the benefit as modified federal AGI, which excludes Social Security, rises above \$75,000 for joint filers and \$50,000 for single filers.					
Washington	No PIT				
West Virginia*	Income from public safety pension systems is excluded; for others, \$2,000	\$2,000	\$2,000 + amount based on years of service; see note	Full	None; see note
Wisconsin*	None; see note	None	Full	SS: up to 50% exempt;	None

				RR: Full	
				SS: Full in tax year 2008 and thereafter.	
Wyoming	No PIT				

Notes:

Arkansas: Amount indicated is a retirement income exclusion; the total exclusion may not be more than \$6,000 from all exempt sources other than SS/RR retirement income.

Colorado: Amounts indicated are a retirement income exclusion; the total exclusion may not be more than indicated from all exempt sources. However, SS/RR retirement income not taxed by the federal government is not added back to AGI for state income tax purposes.

Delaware: Amounts indicated are a retirement income exclusion per taxpayer; the total exclusion may not be more than shown from all exempt sources other than SS/RR retirement income.

Georgia: Amounts indicated are a retirement income exclusion; the total exclusion may not be more than shown from all exempt sources other than SS/RR retirement income. \$4,000 of the amount can be earned income. The exclusion will rise to \$55,000 for tax year 2006 and to \$65,000 in 2007 (HB 492, 2003).

Indiana: Taxpayers over 65 may be entitled to a tax credit ranging from \$40 to \$100, depending on federal adjusted gross income.

Iowa: Amounts indicated are a retirement income exclusion; the total exclusion may not be more than indicated from all exempt sources. Social Security income is not calculated as part of the exclusion.

Kentucky: Amounts indicated are a retirement income exclusion; the total exclusion may not be more than indicated from all exempt sources.

Maine: Amounts indicated are a retirement income exclusion; the total exclusion may not be more than indicated from all exempt sources.

Maryland: Amounts indicated are a retirement income exclusion; the total exclusion may not be more than indicated from all exempt sources.

Missouri: Amounts indicated are a government and private sector exclusion (not applicable to Social Security); the total exclusion may not be more than indicated from all exempt sources. The incomes caps are \$25,000 single, \$32,000 married filing jointly.

Montana: Amounts indicated are a retirement income exclusion; the total exclusion may not be more than indicated from all exempt sources.

New Jersey: Taxpayers over 62 are entitled to an additional income exclusion to allow them to reach the amount of the pension exclusion. The sum of the pension exclusion and the additional exclusion may exceed the pension exclusion if the recipient is ineligible to receive Social Security retirement payments. NJ Statutes 54A-6-15. Income limits (added by legislation in 2005) end the exclusion for joint filers with more than \$100,000 in income and single filers with more than \$50,000.

New Mexico : Amounts indicated are a retirement income exclusion; the total exclusion may not be more than indicated from all exempt sources. The exclusion is fully phased out for incomes that exceed \$51,000.

North Carolina: Amounts indicated are a retirement income exclusion; the total exclusion may not be more \$4,000 single/\$8,000 filing jointly from all exempt sources.

Ohio: A retirement income tax credit of as much as \$200 is allowed, depending on income. A senior citizen tax credit of \$25 per tax return is allowed to filers of 65 or older. A one-time tax credit is available for lump-sum distributions to people over 65: \$50 multiplied by remaining life expectancy.

Oklahoma: Effective for tax year 2005 and thereafter, pursuant to State Question 713, approved by the voters on November 2, 2004.

Oregon: Tax credit of up to 9 percent of taxable pension income is available to recipients of pension income, including most private pension income, whose household income was less than \$22,500 for single filers and \$45,000 for married filing jointly and who received less than \$7,500/\$15,000 in SS or RR benefits. The credit is the lesser of tax liability or 9 percent of taxable pension income.

South Carolina: Each taxpayer over 65 is entitled to an income exemption of as much as \$15,000 (\$30,000, married filing jointly) less the retirement income exemption claimed.

Tennessee: State income tax applies only to dividend and interest income. Persons 65 and older may exclude \$16,200 single, \$27,000 married filing jointly.

Utah: Each taxpayer over 65 is entitled to an income exemption of \$7,500 (\$15,000 married filing jointly) reduced by 50 percent of federal AGI, plus 50 percent of any lump-sum distribution reported as federal income, plus federal tax-exempt income in excess of \$25,000 for a single filer or \$32,000 married filing jointly. For taxpayers under 65, the exemption caps for qualifying retirement income are \$4,800 single and \$9,600 married filing jointly.

Virginia: Amounts indicated are a retirement income exclusion; the total exclusion may not be more than indicated. The exclusion applies to all income.

West Virginia: Each taxpayer over 65 can claim an \$8,000 exemption, from which the pension exclusions noted in the table must be deducted. For tax year 2001 and following years, military retirees may add to the \$2,000 exclusion an amount equal to 2% of the retiree's pension or \$30,000, whichever is less, times years of service. West Virginia also created an income exclusion to benefit persons who retired under private sector defined benefit plans that have failed to provide benefits as originally scheduled, with the amount of the benefit based upon the loss of potential income.

Wisconsin: State and local pensions and federal civilian and military pension income exemptions exist for those who retired before January 1, 1964 or who receive a pension benefit from an account established before that date. A military retirement pension benefit enacted in 2001 will become effective on January 1, 2002.

See also: [Pensions and Retirement Plan Enactments](#)

Posted January 2006.

Before you e-mail statetax-info@ncsl.org for more information, please know that NCSL does not advise individuals on tax matters.

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Senator Cohen introduced--

S.F. No. 3340: Referred to the Committee on Taxes.

A bill for an act

relating to taxes; income; allowing a subtraction for members of the foreign service; amending Minnesota Statutes 2005 Supplement, sections 290.01, subdivision 19b; 290.091, subdivision 2.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2005 Supplement, section 290.01, subdivision 19b, is amended to read:

Subd. 19b. **Subtractions from federal taxable income.** For individuals, estates, and trusts, there shall be subtracted from federal taxable income:

(1) net interest income on obligations of any authority, commission, or instrumentality of the United States to the extent includable in taxable income for federal income tax purposes but exempt from state income tax under the laws of the United States;

(2) if included in federal taxable income, the amount of any overpayment of income tax to Minnesota or to any other state, for any previous taxable year, whether the amount is received as a refund or as a credit to another taxable year's income tax liability;

(3) the amount paid to others, less the amount used to claim the credit allowed under section 290.0674, not to exceed \$1,625 for each qualifying child in grades kindergarten to 6 and \$2,500 for each qualifying child in grades 7 to 12, for tuition, textbooks, and transportation of each qualifying child in attending an elementary or secondary school situated in Minnesota, North Dakota, South Dakota, Iowa, or Wisconsin, wherein a resident of this state may legally fulfill the state's compulsory attendance laws, which is not operated for profit, and which adheres to the provisions of the Civil Rights Act of 1964 and chapter 363A. For the purposes of this clause, "tuition" includes fees or tuition as defined in section 290.0674, subdivision 1, clause (1). As used in this clause,

2.1 "textbooks" includes books and other instructional materials and equipment purchased
2.2 or leased for use in elementary and secondary schools in teaching only those subjects
2.3 legally and commonly taught in public elementary and secondary schools in this state.
2.4 Equipment expenses qualifying for deduction includes expenses as defined and limited in
2.5 section 290.0674, subdivision 1, clause (3). "Textbooks" does not include instructional
2.6 books and materials used in the teaching of religious tenets, doctrines, or worship, the
2.7 purpose of which is to instill such tenets, doctrines, or worship, nor does it include books
2.8 or materials for, or transportation to, extracurricular activities including sporting events,
2.9 musical or dramatic events, speech activities, driver's education, or similar programs. For
2.10 purposes of the subtraction provided by this clause, "qualifying child" has the meaning
2.11 given in section 32(c)(3) of the Internal Revenue Code;

2.12 (4) income as provided under section 290.0802;

2.13 (5) to the extent included in federal adjusted gross income, income realized on
2.14 disposition of property exempt from tax under section 290.491;

2.15 (6) to the extent not deducted in determining federal taxable income by an individual
2.16 who does not itemize deductions for federal income tax purposes for the taxable year, an
2.17 amount equal to 50 percent of the excess of charitable contributions over \$500 allowable
2.18 as a deduction for the taxable year under section 170(a) of the Internal Revenue Code and
2.19 under the provisions of Public Law 109-1;

2.20 (7) for taxable years beginning before January 1, 2008, the amount of the federal
2.21 small ethanol producer credit allowed under section 40(a)(3) of the Internal Revenue Code
2.22 which is included in gross income under section 87 of the Internal Revenue Code;

2.23 (8) for individuals who are allowed a federal foreign tax credit for taxes that do not
2.24 qualify for a credit under section 290.06, subdivision 22, an amount equal to the carryover
2.25 of subnational foreign taxes for the taxable year, but not to exceed the total subnational
2.26 foreign taxes reported in claiming the foreign tax credit. For purposes of this clause,
2.27 "federal foreign tax credit" means the credit allowed under section 27 of the Internal
2.28 Revenue Code, and "carryover of subnational foreign taxes" equals the carryover allowed
2.29 under section 904(c) of the Internal Revenue Code minus national level foreign taxes to
2.30 the extent they exceed the federal foreign tax credit;

2.31 (9) in each of the five tax years immediately following the tax year in which an
2.32 addition is required under subdivision 19a, clause (7), or 19c, clause (15), in the case
2.33 of a shareholder of a corporation that is an S corporation, an amount equal to one-fifth
2.34 of the delayed depreciation. For purposes of this clause, "delayed depreciation" means
2.35 the amount of the addition made by the taxpayer under subdivision 19a, clause (7), or
2.36 subdivision 19c, clause (15), in the case of a shareholder of an S corporation, minus the

3.1 positive value of any net operating loss under section 172 of the Internal Revenue Code
3.2 generated for the tax year of the addition. The resulting delayed depreciation cannot be
3.3 less than zero;

3.4 (10) job opportunity building zone income as provided under section 469.316;

3.5 (11) the amount of compensation paid to members of the Minnesota National Guard
3.6 or other reserve components of the United States military for active service performed
3.7 in Minnesota, excluding compensation for services performed under the Active Guard
3.8 Reserve (AGR) program. For purposes of this clause, "active service" means (i) state
3.9 active service as defined in section 190.05, subdivision 5a, clause (1); (ii) federally
3.10 funded state active service as defined in section 190.05, subdivision 5b; or (iii) federal
3.11 active service as defined in section 190.05, subdivision 5c, but "active service" excludes
3.12 services performed exclusively for purposes of basic combat training, advanced individual
3 training, annual training, and periodic inactive duty training; special training periodically
3.14 made available to reserve members; and service performed in accordance with section
3.15 190.08, subdivision 3;

3.16 (12) the amount of compensation paid to Minnesota residents who are members
3.17 of the armed forces of the United States or United Nations for active duty performed
3.18 outside Minnesota;

3.19 (13) an amount, not to exceed \$10,000, equal to qualified expenses related to a
3.20 qualified donor's donation, while living, of one or more of the qualified donor's organs
3.21 to another person for human organ transplantation. For purposes of this clause, "organ"
3.22 means all or part of an individual's liver, pancreas, kidney, intestine, lung, or bone marrow;
3.23 "human organ transplantation" means the medical procedure by which transfer of a human
3.24 organ is made from the body of one person to the body of another person; "qualified
3.25 expenses" means unreimbursed expenses for both the individual and the qualified donor
3.26 for (i) travel, (ii) lodging, and (iii) lost wages net of sick pay, except that such expenses
3.27 may be subtracted under this clause only once; and "qualified donor" means the individual
3.28 or the individual's dependent, as defined in section 152 of the Internal Revenue Code. An
3.29 individual may claim the subtraction in this clause for each instance of organ donation for
3.30 transplantation during the taxable year in which the qualified expenses occur;

3.31 (14) in each of the five tax years immediately following the tax year in which an
3.32 addition is required under subdivision 19a, clause (8), or 19c, clause (16), in the case of a
3.33 shareholder of a corporation that is an S corporation, an amount equal to one-fifth of the
3.34 addition made by the taxpayer under subdivision 19a, clause (8), or 19c, clause (16), in the
3.35 case of a shareholder of a corporation that is an S corporation, minus the positive value of
3.36 any net operating loss under section 172 of the Internal Revenue Code generated for the

4.1 tax year of the addition. If the net operating loss exceeds the addition for the tax year, a
4.2 subtraction is not allowed under this clause;

4.3 (15) to the extent included in federal taxable income; compensation paid to a
4.4 nonresident who is a service member as defined in United States Code, title 10, section
4.5 101(a)(5), for military service as defined in the Service Member Civil Relief Act, Public
4.6 Law 108-189, section 101(2); ~~and~~

4.7 (16) international economic development zone income as provided under section
4.8 469.325; and

4.9 (17) to the extent included in federal taxable income, compensation paid to a
4.10 Minnesota resident who is a member of the United States foreign service, for service
4.11 performed outside the United States. For purposes of this clause, "member of the United
4.12 States foreign service" means "members of the service" as defined in United States Code,
4.13 title 22, chapter 52, subchapter I, section 3903.

4.14 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
4.15 December 31, 2005.

4.16 Sec. 2. Minnesota Statutes 2005 Supplement, section 290.091, subdivision 2, is
4.17 amended to read:

4.18 Subd. 2. **Definitions.** For purposes of the tax imposed by this section, the following
4.19 terms have the meanings given:

4.20 (a) "Alternative minimum taxable income" means the sum of the following for
4.21 the taxable year:

4.22 (1) the taxpayer's federal alternative minimum taxable income as defined in section
4.23 55(b)(2) of the Internal Revenue Code;

4.24 (2) the taxpayer's itemized deductions allowed in computing federal alternative
4.25 minimum taxable income, but excluding:

4.26 (i) the charitable contribution deduction under section 170 of the Internal Revenue
4.27 Code:

4.28 (A) for taxable years beginning before January 1, 2006, to the extent that the
4.29 deduction exceeds 1.0 percent of adjusted gross income;

4.30 (B) for taxable years beginning after December 31, 2005, to the full extent of the
4.31 deduction.

4.32 For purposes of this clause, "adjusted gross income" has the meaning given in
4.33 section 62 of the Internal Revenue Code;

4.34 (ii) the medical expense deduction;

4.35 (iii) the casualty, theft, and disaster loss deduction; and

5.1 (iv) the impairment-related work expenses of a disabled person;

5.2 (3) for depletion allowances computed under section 613A(c) of the Internal
 5.3 Revenue Code, with respect to each property (as defined in section 614 of the Internal
 5.4 Revenue Code), to the extent not included in federal alternative minimum taxable income,
 5.5 the excess of the deduction for depletion allowable under section 611 of the Internal
 5.6 Revenue Code for the taxable year over the adjusted basis of the property at the end of the
 5.7 taxable year (determined without regard to the depletion deduction for the taxable year);

5.8 (4) to the extent not included in federal alternative minimum taxable income, the
 5.9 amount of the tax preference for intangible drilling cost under section 57(a)(2) of the
 5.10 Internal Revenue Code determined without regard to subparagraph (E);

5.11 (5) to the extent not included in federal alternative minimum taxable income, the
 5.12 amount of interest income as provided by section 290.01, subdivision 19a, clause (1); and

5.13 (6) the amount of addition required by section 290.01, subdivision 19a, clauses
 5.14 (7), (8), and (9);

5.15 less the sum of the amounts determined under the following:

5.16 (1) interest income as defined in section 290.01, subdivision 19b, clause (1);

5.17 (2) an overpayment of state income tax as provided by section 290.01, subdivision
 5.18 19b, clause (2), to the extent included in federal alternative minimum taxable income;

5.19 (3) the amount of investment interest paid or accrued within the taxable year on
 5.20 indebtedness to the extent that the amount does not exceed net investment income, as
 5.21 defined in section 163(d)(4) of the Internal Revenue Code. Interest does not include
 5.22 amounts deducted in computing federal adjusted gross income; and

5.23 (4) amounts subtracted from federal taxable income as provided by section 290.01,
 5.24 subdivision 19b, clauses (9) to ~~(16)~~ (17).

5.25 In the case of an estate or trust, alternative minimum taxable income must be
 5.26 computed as provided in section 59(c) of the Internal Revenue Code.

5.27 (b) "Investment interest" means investment interest as defined in section 163(d)(3)
 5.28 of the Internal Revenue Code.

5.29 (c) "Tentative minimum tax" equals 6.4 percent of alternative minimum taxable
 5.30 income after subtracting the exemption amount determined under subdivision 3.

5.31 (d) "Regular tax" means the tax that would be imposed under this chapter (without
 5.32 regard to this section and section 290.032), reduced by the sum of the nonrefundable
 5.33 credits allowed under this chapter.

5.34 (e) "Net minimum tax" means the minimum tax imposed by this section.

5.35 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
 5.36 **December 31, 2005.**

**Senate Counsel, Research,
and Fiscal Analysis**

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S.F. No. 3340 - Subtraction for Foreign Service

Author: Senator Richard Cohen

Prepared by: Michelle Allen, Senate Counsel (651/296-0558)

Date: April 3, 2006

This bill provides for a subtraction from federal taxable income for compensation for service outside the United States to Minnesota residents who are members of the United States foreign service.

MJA:dv

MINNESOTA · REVENUE

INDIVIDUAL INCOME TAX Foreign Service Income Subtraction

April 3, 2006

	Yes	No
DOR Administrative Costs/Savings		X

Preliminary Analysis

Department of Revenue
Analysis of H.F. 3575 (Lesch) / S.F. 3340 (Cohen)

	<u>Fund Impact</u>			
	<u>F.Y. 2006</u>	<u>F.Y. 2007</u>	<u>F.Y. 2008</u>	<u>F.Y. 2009</u>
			(000's)	
General Fund	\$0	(Unknown)	(Unknown)	(Unknown)

Effective beginning with tax year 2006.

EXPLANATION OF THE BILL

The bill would allow to a Minnesota resident who is a member of the United States Foreign Service a subtraction from federal taxable income for compensation paid for service performed outside the United States.

REVENUE ANALYSIS DETAIL

- Almost all members of the United States Foreign Service are based in the Washington, D.C. metropolitan area when they are not posted abroad. There may be a very few members of the foreign service who are Minnesota residents.

Number of Taxpayers: The bill would affect a small number of taxpayers.

Source: Minnesota Department of Revenue
Tax Research Division
http://www.taxes.state.mn.us/taxes/legal_policy

hf3575(sf3340)/gt