

2011 HOUSE FINANCE AND TAXATION

HB 1275

# 2011 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee  
Fort Totten Room, State Capitol

HB 1275  
January 19, 2011  
#13071

☐ Conference Committee

Committee Clerk Signature

*Mary Bruckner*

## Explanation or reason for introduction of bill/resolution:

A Bill relating to an individual income tax deduction for a portion of retirement benefits for firefighters, police, highway patrol officers, military personnel, and government employees; to provide an effective date; and to provide an expiration date.

## Minutes:

*Please refer to testimony #1 and #2*

**Representative Matthew M. Klein:** Sponsor. Support. Please refer to attached testimony #1.

**Chairman Wesley R. Belter:** When you say retired federal employees, who does that include?

**Representative Klein:** Federal employees do not pay into the social security system, they get a federal retirement. They are not covered under the same system as social security. Federal retirees would fit this case for tax purposes similar to retired military.

**Representative Steven L. Zaiser:** If military folks are on the special federal requirement program and they are on pensions and then now would go on social security, would they be dipping into the pot three times?

**Representative Klein:** No. There are some people who could get both social security and federal retirement or retirement from another source. You can only use it once.

**Representative Steven L. Zaiser:** One of those sources?

**Representative Klein:** That is correct.

**Representative Steven L. Zaiser:** What about the pension? Do they get that as well?

**Representative Klein:** They would only be able to use the \$5000 benefit one time, similar to what the social security people do.

**Representative Glen Froseth:** This doesn't take effect until December 31, 2011 so then it would be reviewed when?

**Representative Klein:** The idea would be then to evaluate the impact and see whether the system works and how much of an affect it would have on the general fund.

**Representative Glen Froseth:** I was thinking there would be a year gap in there before it was reviewed again at the legislative session.

**Representative Klein:** It would be in effect for five years.

**Chairman Wesley R. Belter:** The fiscal note here only lists for one year.

**Representative Klein:** I believe the fiscal note was \$1.2 or \$1.3 million.

**Chairman Wesley R. Belter:** \$1.3 per year so on a biennium we're looking at \$2.6 million.

**Representative Klein:** That's an estimate because it's very hard to figure how many would actually apply and how many would qualify.

**Representative Dave Weiler:** What's the purpose of starting this a year from now?

**Representative Klein:** I think there are several purposes. One, it's a fairness issue whether you retire from one system or another one you should be treated the same. I never did understand why if you're drawing social security you can take the first \$5000 off of your state income tax requirement and if you retire from the guard or federal service you couldn't do that.

**Representative Dave Weiler:** I understand that part of the bill but what is the purpose of why this piece of legislation is not starting until next year? Is it simply to reduce the fiscal note?

**Representative Klein:** Yes, I believe so. I think part of it is getting the word out to the people that would qualify.

**Representative Ed Gruchalla:** Support. I think with the tax breaks and cuts that are floating around and with the difficulty with the agencies that are listed here, firefighters, law enforcement, are having now to get people in that profession I think this is another way to get them into the professions.

**Representative Scot Kelsh:** Support. Co-sponsor. We as professional firefighters pay into a pension fund in lieu of paying social security. That system was set up simply because our bodies tend to wear out faster in our jobs and we tend to retire earlier. After you put in 30 years in the fire service or you reach age 55 or a combination of the two the fact is you're able to retire and draw out of that pension fund. I think it's a matter of fairness that everybody who receives social security gets the first \$5000 of income deducted; it should be equal to that for those who are drawing out of the pension. I do not qualify for this until I retire and that will be at least nine years. After 10 years is when you're fully vested in your pension fund and you can only draw 50% of your highest income and then it goes up from there, up to 30 years and then you can draw 75%. At least that's how it works in our self administered pension in the city of Fargo.

**John L. Jacobsen, Chairman of the Legislative Committee of the ND Veterans Coordinating Council:** Support. Please refer to attached testimony #2.

**Representative Wayne Trottier:** This is just for notice. I really respect your humility because you did not read your services that you conducted.

**Nathan Bergman, ND Tax Department:** We were just looking for clarification in relation to the social security deduction of \$5000 that is not a state deduction that we currently have and was wondering if there was any other information on that?

**Chairman Wesley R. Belter:** Could you walk us through that?

**Nathan Bergman:** Social security benefits are taxed at North Dakota the same way they are taxed at the federal level. So if they are taxed at the federal level they are taxed at the state level. If they exempt at the federal level they are also exempt at the state level. We do not have a deduction for social security benefits.

**Representative Lonny B. Winrich:** If this bill were to pass would the last paragraph about being reduced by \$5000 as retirement benefits paid by the United States etc apply to social security benefits?

**Nathan Bergman:** No, it would not. It would be for federal pensions which is what that last paragraph would identify.

**Representative Bette Grande:** Are you looking for how to put it on the tax code?

**Nathan Bergman:** No, we were just seeking clarification that there is not currently a \$5000 exemption for social security benefits. It was my understanding from previous testimony it was eluded too.

**Representative Glen Froseth:** I'm still confused. So what this will mean then is that it would be \$5000 exemption off your taxable income excluding any taxable social security income that you would have?

**Nathan Bergman:** My understanding is that you would start with your federal taxable income which is the starting point for taxable income; any special deductions would go off from there. So if you had retirement pay benefits from the United States or one of its territories that would come off of the state taxable income as well. My understanding is that it doesn't affect the social security income as that would be figured into the federal taxable income and therefore, the state taxable income.

**Representative Glen Froseth:** It has to exclude the social security income that is taxable social security income.

**Nathan Bergman:** The way the bill is written there is no excluding of any social security benefits that would be exempt at the federal level.

**Representative Mark S. Owens:** Correct me if I'm wrong, what you're seeking clarification on is the fact that during testimony it was eluded that there was currently a \$5000 exemption for social security benefits and you're wondering where that example came up when everybody kept saying we wanted to match that because there isn't a current exemption under North Dakota income tax law.

**Nathan Bergman:** That's correct, that's what we're seeking.

**Representative Mark S. Owens:** It was testified that the firefighters and the federal employees do not pay in social security. Military does pay into social security the whole time they are in.

**Representative Dwight Wrangham:** I haven't filed my taxes yet for 2010. When I file my taxes for 2010 and include my social security benefits will I get a \$5000 reduction?

**Nathan Bergman:** At the state you will not.

**Representative Lonny B. Winrich:** As another person who is experienced with Social Security income there are rules in federal tax code which depending what kind of retirement income you have in addition to social security excludes perhaps a percentage of your social security income. That's what Nathan is talking about. That goes off of your federal taxable income and therefore, goes off of your state taxable income but there's not a separate state exemption.

**Chairman Wesley R. Belter:** No further testimony. Closed hearing on HB 1275.

# 2011 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee  
Fort Totten Room, State Capitol

HB 1275  
January 31, 2011  
#13725

☐ Conference Committee

Committee Clerk Signature

*Mary Brucher*

## Explanation or reason for introduction of bill/resolution:

A Bill relating to an individual income tax deduction for a portion of retirement benefits for firefighters, police, highway patrol officers, military personnel, and government employees; to provide an effective date; and to provide an expiration date.

## Minutes:

Representative Glen Froseth: Motion made for DO NOT PASS.

Representative Patrick Hatlestad: Seconded.

A roll call vote taken: YES 9 NO 5 ABSENT 0  
MOTION CARRIED—DO NOT PASS.

Representative Glen Froseth will carry HB 1275.

## FISCAL NOTE

Requested by Legislative Council  
01/11/2011

Bill/Resolution No.: HB 1275

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			(\$1,310,000)			
Expenditures						
Appropriations						

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

HB 1275 creates an individual income tax deduction for a portion of certain retirement benefits.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 1 of the bill creates an income tax deduction of up to \$5000 per year for the specified types of retirement benefits. Section 2 of the bill delays the effective date until the second year of the biennium. The one-year fiscal effect for the second year of the 2011-13 biennium is an estimated reduction of \$1.310 million in state general fund revenues.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Kathryn L. Strombeck	Agency:	Office of Tax Commissioner
Phone Number:	328-3402	Date Prepared:	01/19/2011

Date: 1-31-11  
Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1275

House Finance and Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken: ☐ Do Pass ☒ Do Not Pass ☐ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Froseth Seconded By Rep. Hatlestad

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter	✓		Scot Kelsh		✓
Vice Chair. Craig Headland	✓		Shirley Meyer		✓
Glen Froseth	✓		Lonny B. Winrich		✓
Bette Grande	✓		Steven L. Zaiser		✓
Patrick Hatlestad	✓				
Mark S. Owens		✓			
Roscoe Streyle	✓				
Wayne Trottier	✓				
Dave Weiler	✓				
Dwight Wrangham	✓				

Total (Yes) 9 No 5

Absent 0

Floor Assignment Rep. Froseth

If the vote is on an amendment, briefly indicate intent:



**REPORT OF STANDING COMMITTEE**

**HB 1275: Finance and Taxation Committee (Rep. Belter, Chairman)** recommends **DO NOT PASS** (9 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING). HB 1275 was placed on the Eleventh order on the calendar.

2011 TESTIMONY

HB 1275

HB 1275 #1  
1-19-11

Good morning Chairman Belter and members of the finance and tax committee.

For the record, I am Representative Matthew m. Klein representing District 40 in Minot.

House Bill 1275 is a simple bill that would treat retired firefighters, police, highway patrolmen, and military including guard and retired federal employees similar to retired social security recipients for North Dakota income tax.

This Bill would enhance the possibility retired military, the kind of citizens we need, to stay in North Dakota. Many states have passed similar legislation with Missouri and Iowa doing so in the past few years. Certainly our retired military, firefighters, law enforcement, and federal employees should have the same benefits. Very basically, this is a fairness issue.

To evaluate this program the bill is effective for five years and can then be revisited.

There are several others wishing to testify on this bill and I hope you will consider it favorably.

## NORTH DAKOTA VETERANS COORDINATING COUNCIL

My name is John L. Jacobsen. I am the Chairman of the Legislative Committee of the North Dakota Veterans Coordinating Council. I am also a member of the American Legion and the Veterans of Foreign Wars.

I served in the North Dakota National Guard and the US Army Reserve for a total of 30 years. I retired in 1995 as a Colonel. I served on Active Duty in 1991 during Operation Desert Shield/Desert Storm in the Persian Gulf, stationed in the United Arab Emirates.

The Coordinating Council is made up of 15 members, 3 from each of the five Veterans Organizations in North Dakota:

- American Legion
- AMVETS
- Disabled American Veterans
- Veterans of Foreign Wars
- Vietnam Veterans of America

It is the policy of the Coordinating Council to support legislation that will benefit the welfare of the members of the Armed Forces. The committee MUST concur totally, that is all 15 members must agree on the legislation to be supported or else it does not get the support.

In this case, I have been instructed to recommend to this legislative committee that a "DO PASS" is supported by the Legislative Committee of the Veterans Coordinating Council.