

2011 HOUSE FINANCE AND TAXATION

HB 1390

2011 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1390
January 25, 2011
#13343

Conference Committee

Committee Clerk Signature

Mary Brueker

Explanation or reason for introduction of bill/resolution:

A Bill relating to an income tax deduction for certain social security benefits; and to provide an effective date.

Minutes:

See attached testimony #1, #2

Representative Mueller: Sponsor. Support. Please refer to testimony #1.

Representative Bette Grande: What is one tier railroad benefits?

Representative Mueller: They are basically social security benefits that the railroad folks have but it amounts to very much the same thing as social security income.

Representative Lonny B. Winrich: Co-sponsor. Support. Please refer to testimony #2. The reason I think it is an appropriate policy change that it would make our policy consistent with many other policies across the nation. It would allow for some sort of special treatment for social security benefits.

Vice Chairman Craig Headland: Does Montana have an income tax?

Joe Becker, ND Tax Department: Yes they do.

Chairman Wesley R. Belter: If you recall I think we instituted this tax back in the 1980s?

Joe Becker: What happened was back in the early 80s the federal government instituted the taxation of those benefits. Starting at 50% level then subsequently moved it up to 85%. Because North Dakota is federalized so we basically picked it up automatically.

Representative Dwight Wrangham: As we refer to the social security benefits in this bill would that include those benefits received by a spouse with children in the death of the other spouse?

Joe Becker: Yes. When they talk about social security benefits they are talking about any benefit under title 2 of the social security act as the federal old age survivors and disabilities so it would include the disability folks as well as the survivors.

Vice Chairman Craig Headland: Does the tier 1 railroad benefits included in all these other state's policies?

Joe Becker: Yes. The Railroad Retirement Board issues a number of benefits that can be classified as tier 1 or tier 2. The tier 1 happens to be a social security equivalent. These retirees would have been under the social security system but they were removed and now the Railroad Retirement Board takes care of that. The federal government for income tax purposes treats part of that tier 1 just like social security benefits that you and I would receive.

Chairman Wesley R. Belter: No further testimony. Closed hearing on HB 1390.

2011 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1390
January 25, 2011
#13397

Conference Committee

Committee Clerk Signature

Mary Brucke

Explanation or reason for introduction of bill/resolution:

A Bill relating to an income tax deduction for certain social security benefits; and to provide an effective date.

Minutes:

Chairman Wesley R. Belter: My concern is that here again in a sense is picking out an individual group and giving them income tax deduction versus other groups. My philosophy is we need to treat everybody the same.

Representative Shirley Meyer: This isn't necessarily a certain group other than if you receive social security benefits; it's different. I think it's different than taxes that are assessed on income based taxes where this isn't considered as income. Although it is a certain group of people who are eligible for this it is a different concept rather than a certain group.

Representative Dave Weiler: I would hope this committee would understand the importance of coming out of this legislative session with a meaningful tax cut and the more of these bills that identify a certain group of people and these tax credits the more of these that we attempt to pass or attempt to fix takes away from the amount of the tax decrease that we can eventually do in the end for everybody. I agree that we need to treat as many people equally as we possibly can and this bill seems to be touching just those people who are receiving social security benefits. I would just hope that we would adopt that philosophy throughout the committee and let's take all these individual bills and really think hard about moving forward with them and putting together one nice tax cut for all citizens of North Dakota.

Representative Lonny B. Winrich: The only tax that we have in North Dakota that is progressive in that the tax is based on your ability to pay is the income tax. We actually have a pretty good income tax system, it's fairly progressive. The rates go up and you increase in income and there are quite a few categories much more than many states have. It's a good income tax. But if that's the only tax we look at reducing every tax reduction then shift the burden of taxation more and more onto the sales tax and on property tax. We've seen that happen over the years. If you look at the red book we collect a relatively small portion of taxes from individuals in income tax. Most of it is in local and state property

taxes and sales taxes. The people who receive social security benefits by and large are people who are living on fixed incomes or very close to fixed incomes. Those kinds of tax cuts don't help them very much because it forces them into the system where they are paying taxes in other areas that are not progressive. I think this is a definite policy change for North Dakota but I think it's a policy change in the right direction.

Vice Chairman Craig Headland: In saying that isn't it also then true if they are not impacted by tax reduction across the board that they are probably not paying any tax to begin with or very little? I was ready to speak in the same lines as Representative Weiler and he said it very well for me. It is a policy change and here we may just philosophically disagree.

Representative Lonny B. Winrich: They are certainly impacted by a tax cut across the board but the point is that the kind of tax cuts that we seem to be insistent on making are tax cuts that shift the tax burden in the direction on lower income taxpayers and people on fixed incomes. That's the policy move that I am challenging here. I don't think we should do that. I think that we should try to keep our tax system more progressive.

Representative Patrick Hatlestad: I agree with Representative Weiler in that I think instead of piece mill we should take an overall look at and fashion one reasonable approach to tax reduction rather than a piece here and a piece there and in the end we have chaos.

Chairman Wesley R. Belter: Since we are missing three committee members here we will discuss this later.

2011 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1390
January 31, 2011
#13728

Conference Committee

Committee Clerk Signature <i>Mary Becker</i>

Explanation or reason for introduction of bill/resolution:

A bill relating to an income tax deduction for certain social security benefits; and to provide an effective date.

Minutes:

Representative Dave Weiler: I move a DO NOT PASS.

Representative Mark S. Owens: Seconded.

A roll call vote was taken: YES 10 NO 4 ABSENT 0
MOTION CARRIED—DO NOT PASS.

Representative Bette Grande will carry HB 1390.

FISCAL NOTE

Requested by Legislative Council
01/19/2011

Bill/Resolution No.: HB 1390

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			(\$14,000,000)			
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 1390 creates a new income tax deduction for eligible individuals who receive social security benefits that are taxable for federal income tax purposes.

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.*

HB 1390 creates a new income tax deduction for individuals. Individuals who are required to include part of their social security benefits in their federal adjusted gross income (federal AGI) may deduct a percentage of the benefits included in federal AGI if their federal AGI is below \$85,000 (or \$95,000 for joint filers). No deduction is allowed if their federal AGI exceeds these thresholds.

A 100 percent deduction is allowed for federal AGI up to \$50,000 (or \$ 60,000 for joint filers). A 75 percent deduction is allowed for federal AGI between \$50,000 and \$75,000 (or \$60,000 and \$80,000 for joint filers). A 50 percent deduction is allowed for federal AGI between \$70,000 and \$85,000 (or \$80,000 and \$95,000 for joint filers).

If enacted, HB 1390 is expected to reduce state general fund revenues by an estimated \$14 million for the 2011-13 biennium.

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:	01/22/2011

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

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1390

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. Weiler Seconded By Rep. Owens

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) 10 No 4

Absent 0

Floor Assignment Rep. Grande

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

REPORT OF STANDING COMMITTEE

HB 1390: Finance and Taxation Committee (Rep. Belter, Chairman) recommends DO NOT PASS (10 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING). HB 1390 was placed on the Eleventh order on the calendar.

2011 TESTIMONY

HB 1390



NORTH DAKOTA HOUSE OF REPRESENTATIVES

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360



House Finance and Taxation Committee
Tuesday, January 25, 2011
Testimony for HB 1390
By Representative Phil Mueller – District 24

HB 1390 is about state taxation of Social Security income. North Dakota currently taxes Social Security income the same way as does the Federal Government – that is up to 85% of those benefits. The Federal Government's taxation of Social Security benefits is a three tiered system that is referenced in Section 86 of the Internal Revenue Code. It is important to note that the exemptions in Social Security under HB 1390 only apply to those benefits that are allocated to the State of North Dakota.

HB 1390 exempts 100% of Social Security benefits from State income tax in Adjusted Gross Income up to \$50,000 for a single taxpayer and \$60,000 for married persons filing a joint return. Under the bill, 75% of the Social Security benefits are exempt from State tax when the AGI is between \$50,000 and \$70,000 and between \$60,000 and \$80,000 for married persons filing jointly.

The third level of Social Security exemption is at 50% when the AGI is between \$70,000 and \$85,000 for a single and between \$80,000 and \$95,000 for a joint return. There is no state Social Security exemption after \$85,000 for a single and \$95,000 for married filing jointly.

The bill's concept was brought to me by a constituent while we were discussing how the Executive Budget would deal with the proposed State income tax reduction.

From research conducted by the State Tax Department, it was determined that 42 states have an income tax. Of those 42 states; 29 do not tax Social Security benefits, four provide a partial exemption, and nine, including North Dakota, tax all Social Security benefits included in federal adjusted income. If passed, HB 1390 moves North Dakota into that group that provides a partial exemption for Social Security benefits.

The State Tax Department set the negative fiscal impact to North Dakota at \$14,000,000 per biennium or \$7,000,000 per year.

Those North Dakotans who will benefit from HB 1390 are those who built our state into what it is today. Most have worked, lived, and paid taxes in North Dakota their entire lives. HB 1390 attempts to make their golden years a bit more comfortable and secure. I ask for your favorable consideration for HB 1390.

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House of Representatives > House Research > Income Taxes

Taxation of Social Security Benefits

- [How are Social Security benefits taxed?](#)
- [What is provisional income?](#)
- [What is the monthly average benefit for retired workers?](#)
- [How much does it cost the state to forego revenues from taxing Social Security benefits?](#)
- [What is the tax treatment of Social Security benefits in other states?](#)

How are Social Security benefits taxed?

Under current law, up to 85 percent of Social Security benefits are subject to federal and state income tax, depending on the taxpayer's income. For taxpayers with provisional incomes less than \$25,000 (\$32,000 for married joint taxpayers), all Social Security benefits are excluded from taxable income. For provisional incomes between \$25,000 and \$34,000 (\$32,000 and \$44,000 for married joint taxpayers), up to 50 percent of Social Security benefits may be subject to tax. For those with provisional incomes over \$34,000 (\$44,000 for married joint taxpayers), up to 85 percent of Social Security benefits maybe included in taxable income.

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What is provisional income?

In determining the amount of Social Security benefits included in taxable income, the provisional income measure used is adjusted gross income excluding Social Security benefits, plus one-half of Social Security benefits. Tax-exempt interest (e.g., from municipal bonds) is also included in provisional income.

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What is the average monthly benefit for retired workers?

The average monthly benefit as of June 30, 2010, for couples both receiving benefits is \$1,900. This works out to \$22,800 per year for a retired couple at the average benefit level. For single recipients the average monthly benefit is \$1,158 or \$13,896 annually.

The following table shows income levels at which Social Security would be fully exempt, subject to inclusion in taxable income at the 50 percent rate, and subject to inclusion in taxable income at the 85 percent rate for an example couple and single retiree with the average level of benefits. Total income refers to the combination of taxable source income and Social Security.

Taxation of Social Security Benefits, Tax Year 2011		
	Retired married couple	Retired single worker
	Annual Social Security income: \$22,800	Annual Social Security income: \$13,896
Social Security exempt	Total income less than \$43,400	Total income less than \$31,948
Social Security included in taxable income at 50% rate	Total income between \$43,400 and \$55,400	Total income between \$31,948 and \$40,948
Social Security included in taxable income at 85% rate	Total income between \$55,400 and \$71,141	Total income between \$40,948 and \$49,550
Social Security subject to full 85% inclusion in taxable income	Total income over \$71,141	Total income over \$49,550

The table shows that a married couple that receives the average Social Security benefit of \$22,800 and has total income from all sources of less than \$43,400 is not subject to tax on any Social Security benefits, while a couple with average benefits and total income over \$71,141 must include 85 percent of the Social Security, or \$19,380, in taxable income. Social Security income included

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in taxable income is taxed at the same rate as other kinds of income---5.35 percent, 7.05 percent, or 7.85 percent, depending on the total amount of taxable income. [More information on [income tax brackets](#)]

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How much does it cost the state to forego revenues from taxing Social Security benefits?

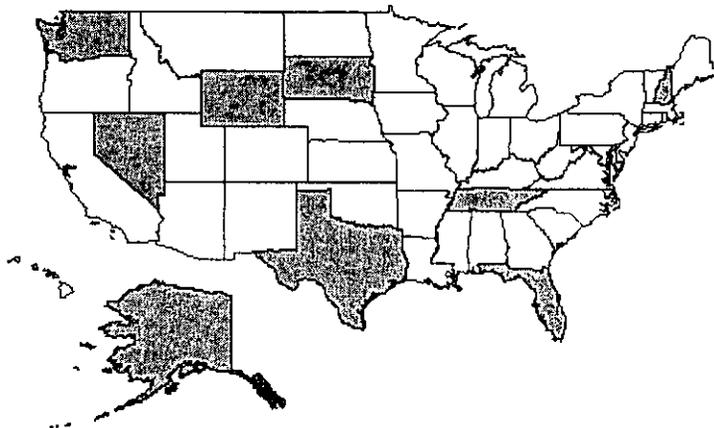
Minnesota conforms to federal law in excluding all or part of Social Security benefits from income tax. The Minnesota Department of Revenue's *Tax Expenditure Budget for 2010-2013* shows an estimated cost in foregone tax revenues of \$194.8 million in fiscal year 2011 and \$199.7 million in fiscal year 2012 as a result of conforming to federal tax treatment of Social Security benefits.

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What is the tax treatment of Social Security benefits in other states in 2010?

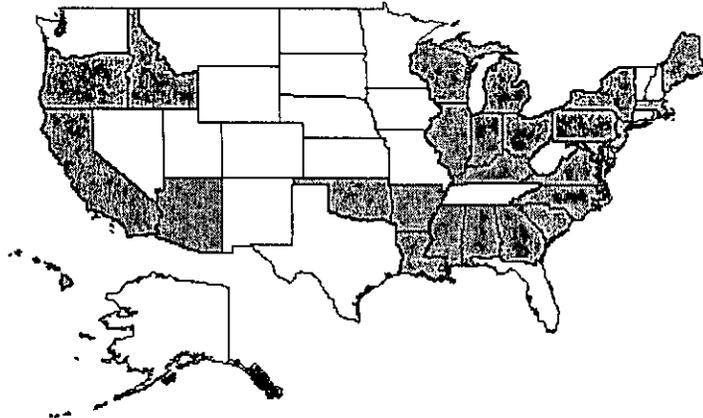
- Nine states do not have an income tax or have a tax limited to specific kinds of unearned income.
- Twenty-eight states with an income tax exempt Social Security benefits from taxation.
- Four states exclude a portion of Social Security benefits that are subject to tax at the federal level.
- Three states provide a general retirement income exclusion that may result in the exclusion from taxation of part or all of Social Security benefits.
- One state subjects Social Security benefits to income tax on the same basis as the federal government, but uses a slightly different income measure to determine the amount of benefits subject to tax.
- Six states apply the state income tax to Social Security benefits that are taxable at the federal level.

Nine states do not have an income tax or have a tax limited to specific kinds of unearned income. The nine states: Alaska, Florida, Nevada, New Hampshire, South Dakota, Tennessee, Texas, Washington, and Wyoming.

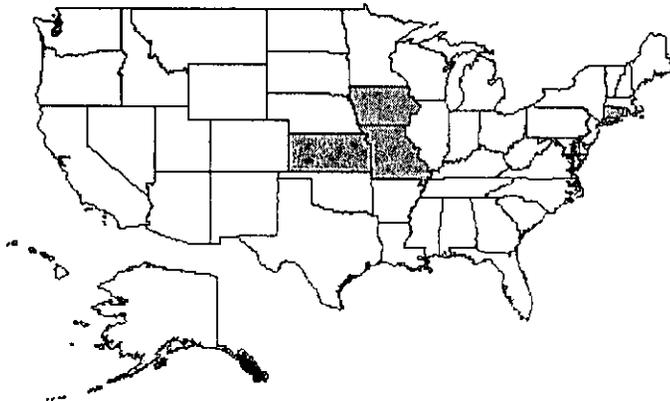


Twenty-eight states with an income tax exempt Social Security benefits from taxation. The 28 states: Alabama, Arizona, Arkansas, California, Delaware, District of Columbia, Georgia, Hawaii, Idaho, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Jersey, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, Virginia and Wisconsin. Missouri will fully exempt benefits beginning in tax year 2012, and Iowa will fully exempt benefits in 2014.

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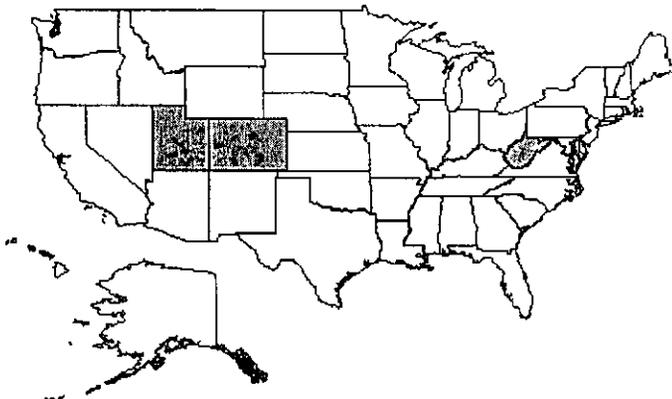


Four states **exclude a portion of Social Security benefits** that are subject to tax at the federal level or provide a full exclusion to taxpayers meeting income requirements. The four states: Connecticut, Iowa, Kansas, and Missouri. The amount excluded in Missouri will increase each year through 2012, when benefits will be fully exempt. The amount excluded in Iowa will increase each year through 2014, when benefits will be fully exempt.

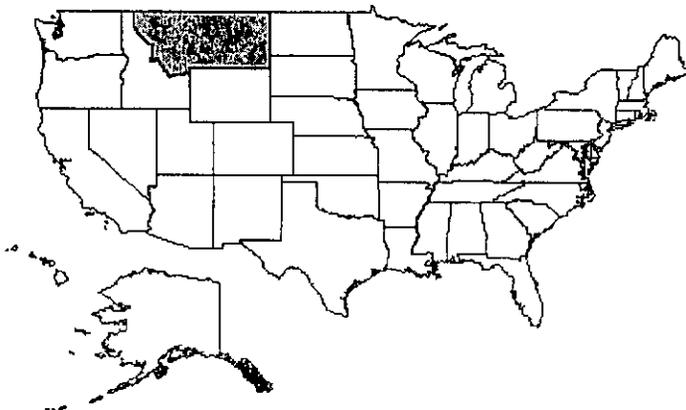


Three states **provide a general retirement income exclusion or credit** that may result in the exclusion from taxation of part or all of Social Security benefits or in a credit against taxes otherwise due on Social Security benefits. Three states: Colorado, Utah, and West Virginia.

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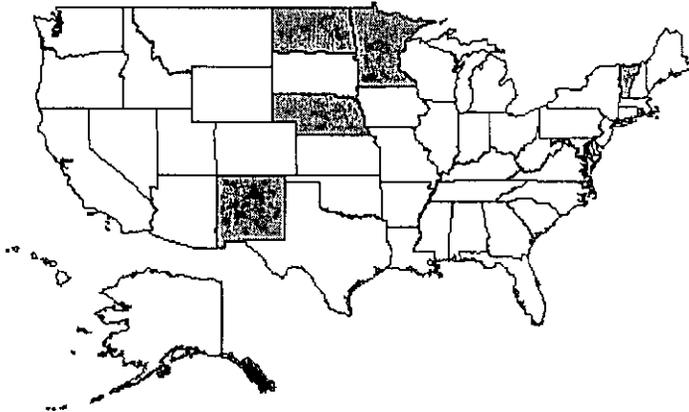


One state, Montana, **subjects Social Security benefits to income tax** on the same basis as the federal government, but uses a slightly different income measure to determine the amount of benefits subject to tax.



Six states **apply the state income tax to Social Security benefits** that are taxable at the federal level. The six states: Minnesota, Nebraska, New Mexico, North Dakota, Rhode Island, and Vermont.

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December 2010