

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



122nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2005

Legislative Document

No. 972

H.P. 682

House of Representatives, February 24, 2005

An Act To Exempt Military Pensions for Future Military Retirees from State Income Tax

Reference to the Committee on Taxation suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative EBERLE of South Portland.
Cosponsored by Senator DAVIS of Piscataquis and
Representatives: BLANCHARD of Old Town, CUMMINGS of Portland, DAIGLE of
Arundel, FLOOD of Winthrop, McKENNEY of Cumberland, PINEAU of Jay. Senators:
BRENNAN of Cumberland, ROSEN of Hancock.

Be it enacted by the People of the State of Maine as follows:

2
4
6
8
10
12
14
16
18
20
22
24
26
28
30
32
34
36
38
40
42
44
46
48
50

Sec. 1. 36 MRSA §5122, sub-§2, ¶M, as amended by PL 2003, c. 391, §5, is further amended to read:

M. For each individual who is a primary recipient of benefits under an employee retirement plan, an amount that is the lesser of:

(1) Six thousand dollars reduced by the total amount of the individual's social security benefits and railroad retirement benefits paid by the United States, but not less than \$0. The reduction does not apply to benefits paid under a military retirement plan; ~~or~~ and

(2) The aggregate of benefits under employee retirement plans included in the individual's federal adjusted gross income.

For purposes of this paragraph, the following terms have the following meanings. "Primary recipient" means the individual upon whose earnings the employee retirement plan benefits are based or the surviving spouse of that individual. "Employee retirement plan" means a state, or federal ~~or-military~~ retirement plan or any other retirement benefit plan established and maintained by an employer for the benefit of its employees under the Code, Section 401(a), Section 403 or Section 457(b), except that distributions made pursuant to a section 457(b) plan are not eligible for the deduction provided by this paragraph if they are made prior to age 55 and are not part of a series of substantially equal periodic payments made for the life of the primary recipient or the joint lives of the primary recipient and that recipient's designated beneficiary. "Employee retirement plan" does not include an individual retirement account under Section 408 of the Code, a Roth IRA under Section 408A of the Code, a rollover individual retirement account, a simplified employee pension under Section 408(k) of the Code, a military retirement plan as defined in paragraph U or an ineligible deferred compensation plan under Section 457(f) of the Code. Benefits under an employee retirement plan do not include distributions that are subject to the tax imposed by the Code, Section 72(t). "Military retirement plan" means benefits received as a result of service in the active or reserve components of the Army, Navy, Air Force, Marines or Coast Guard;

Sec. 2. 36 MRSA §5122, sub-§2, ¶Q, as corrected by RR 2003, c. 1, §38, is amended to read:

2 Q. A fraction of any amount previously added back by the
taxpayer to federal adjusted gross income pursuant to
4 subsection 1, paragraph N.

6 (1) With respect to property first placed in service
during taxable years beginning in 2002, the adjustment
8 under this paragraph is available for each year during
the recovery period, beginning 2 years after the
10 beginning of the taxable year during which the property
was first placed in service. The fraction is equal to
12 the amount added back under subsection 1, paragraph N
with respect to the property, divided by the number of
14 years in the recovery period minus 2.

16 (2) With respect to all other property, for the
taxable year immediately following the taxable year
18 during which the property was first placed in service,
the fraction allowed by this paragraph is equal to 5%
20 of the amount added back under subsection 1, paragraph
N with respect to the property. For each subsequent
22 taxable year during the recovery period, the fraction
is equal to 95% of the amount added back under
24 subsection 1, paragraph N with respect to the property,
divided by the number of years in the recovery period
26 minus 2.

28 In the case of property expensed pursuant to Section 179 of
the Code, the term "recovery period" means the recovery
30 period that would have been applicable to the property had
Section 179 not been applied; and

32 **Sec. 3. 36 MRSA §5122. sub-§2, ¶T.** as amended by PL 2003, c.
34 705, §12 and affected by §14, is further amended to read:

36 T. For income tax years beginning on or after January 1,
2002 and before January 1, 2004, an amount equal to the
38 total premiums spent for long-term care insurance policies
certified under Title 24-A, section 5075-A as long as the
40 amount subtracted is reduced by the long-term care premiums
claimed as an itemized deduction pursuant to section 5125.

42 For income tax years beginning on or after January 1, 2004,
44 an amount equal to the total premiums spent for qualified
long-term care insurance contracts certified under Title
46 24-A, section 5075-A, as long as the amount subtracted is
reduced by any amount claimed as a deduction for federal
48 income tax purposes in accordance with the Code, Section
162(1) and by the long-term care premiums claimed as an
50 itemized deduction pursuant to section 5125, and

2 **Sec. 4. 36 MRSA §5122. sub-§2. ¶U** is enacted to read:

4 U. For tax years beginning on or after January 1, 2006 and
6 for military personnel retiring on or after January 1, 2006,
8 an amount equal to benefits paid under a military retirement
10 plan. For purposes of this paragraph, "military retirement
 plan" means benefits received as a result of service in the
 active or reserve components of the Army, Navy, Air Force,
 Marines or Coast Guard.

12 **SUMMARY**

14 This bill exempts from the state income tax all military
16 pension benefits for military personnel retiring on or after
18 January 1, 2006 received by a Maine resident as a result of
20 service in the active or reserve components of the Army, Navy,
22 Air Force, Marines or Coast Guard. Since the effect of this bill
 is to totally exempt military pension benefits after January 1,
 2006, the express exclusion of military pension benefits from the
 offset for social security and railroad retirement benefits from
 the deduction allowed for other pension plans is removed.