

*Substitution for
HF 2188 4/14/94*

*(P.681) 3/15/94 Return to R/c by Dieleman
Revised*

FILED JAN 31 1994
SENATE FILE **2074**
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SSB 2050)

Failed (P.271)
Passed Senate, Date 2/14/94 Passed House, Date 4/14/94
Vote: Ayes 24 Nays 20 Vote: Ayes 92 Nays 4
Approved May 4, 1994 (P.1638)

*(P.681) Passed 3-15-94
Vote 33-16*

A BILL FOR

1 An Act exempting from state income taxation pension income earned
2 by a nonresident of the state and providing a retroactive
3 applicability date.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 2074

1 Section 1. Section 422.8, subsection 2, Code 1993, is
2 amended to read as follows:

3 2. Nonresident's net income allocated to Iowa is the net
4 income, or portion thereof, which is derived from a business,
5 trade, profession, or occupation carried on within this state
6 or income from any property, trust, estate, or other source
7 within Iowa. However, income derived from a business, trade,
8 profession, or occupation carried on within this state and
9 income from any property, trust, estate, or other source
10 within Iowa shall not include annuities, pensions,
11 including defined benefit or defined contribution plans,
12 annuities, individual retirement accounts, and deferred
13 compensation plans or any earnings attributable thereto so
14 long as the distribution is directly related to an
15 individual's documented retirement and received while the
16 individual is a nonresident of this state. If a business,
17 trade, profession, or occupation is carried or partly within
18 and partly without the state, only the portion of the net
19 income which is fairly and equitably attributable to that part
20 of the business, trade, profession, or occupation carried on
21 within the state is allocated to Iowa for purposes of section
22 422.5, subsection 1, paragraph "b", and section 422.13 and
23 income from any property, trust, estate, or other source
24 partly within and partly without the state is allocated to
25 Iowa in the same manner, except that annuities, interest on
26 bank deposits and interest-bearing obligations, and dividends
27 are allocated to Iowa only to the extent to which they are
28 derived from a business, trade, profession, or occupation
29 carried on within the state.

30 Sec. 2. This Act applies retroactively to January 1, 1994,
31 for tax years beginning on or after that date.

32 EXPLANATION

33 This bill exempts from state income taxation pension income
34 derived from a business, trade, profession, or occupation
35 carried on within Iowa, or from any other source within the

1 state, and received by a nonresident of the state and related
2 directly to the nonresident's retirement.

3 The bill applies retroactively to January 1, 1994, for tax
4 years beginning on or after that date.

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**SENATE FILE 2074
FISCAL NOTE**

A fiscal note for Senate File 2074 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 2074 exempts from State income tax pension income earned in Iowa, but received by a nonresident of the State. The Bill applies retroactively to January 1, 1994, for tax years beginning on or after that date.

FISCAL IMPACT:

Senate File 2074 is expected to result in a loss to the General Fund of approximately \$800,000 in FY 1995 and subsequent years.

The Department of Revenue and Finance (DRF) estimates that, if a Michigan Supreme Court ruling were applied to Iowa, the impact to the State could be considerably less, because the State would not be able to tax the interest income portion of pensions of non-residents related to income from prior personal service performed in Iowa. The DRF estimates that the interest income portion is approximately 50.0% of retirement income. Thus, although under current law the impact is \$800,000, the impact would be closer to \$400,000 if Iowa's current statute were interpreted and applied in the same way as the Michigan statute.

SOURCES:

Department of Revenue and Finance
Legislative Tax Model

(LSB 3470SV, JAM)

FILED FEBRUARY 3, 1994

BY DENNIS PROUTY, FISCAL DIRECTOR

SENATE FILE 2074

H-5591

1 Amend Senate File 2074, as passed by the Senate, as
2 follows:

3 1. Page 1, by inserting before line 1 the
4 following:

5 "Section 1001. Section 422.7, Code Supplement
6 1993, is amended by adding the following new
7 subsection:

8 NEW SUBSECTION. 29. For a person who is disabled,
9 or is fifty-five years of age or older, or is the
10 surviving spouse of an individual or a survivor having
11 an insurable interest in an individual who would have
12 qualified for the exemption under this subsection for
13 the tax year, subtract, to the extent included, the
14 total amount of a governmental or other pension,
15 retirement pay, annuity, or other similar periodic
16 payment made under a plan maintained or contributed to
17 by an employer, or maintained and contributed to by a
18 self-employed person as an employer, up to a maximum
19 of three thousand dollars for a person who files a
20 separate state income tax return, and up to a maximum
21 of six thousand dollars for a husband and wife who
22 file a joint state income tax return. However, a
23 surviving spouse who is not disabled or fifty-five
24 years of age or older can only exclude the amount of
25 annuities or other similar periodic payments received
26 as a result of the death of the other spouse."

27 2. Page 1, by striking line 30 and inserting the
28 following:

29 "Sec. ____ . Section 1 of this Act, which amends
30 section 422.8, subsection 2, applies retroactively to
31 January 1, 1994,".

32 3. Page 1, line 31, by inserting after the word
33 "date." the following: "Section 1001 of this Act
34 takes effect January 1, 1996, for tax years beginning
35 on or after that date."

36 4. Title page, line 2, by inserting after the
37 word "nonresident" the following: "and resident".

By HANSEN of Woodbury

H-5591 FILED MARCH 22, 1994

WITHDRAWN

4/14/94

SENATE FILE 2074

H-5564

1 Amend Senate File 2074, as passed by the Senate, as
2 follows:

3 1. Page 1, by inserting after line 29 the
4 following:

5 "Sec. _____. Section 422.73, Code 1993, is amended
6 by adding the following new subsection:

7 NEW SUBSECTION. 8. Notwithstanding subsection 2,
8 a claim for credit or refund of individual income tax
9 paid for any tax year beginning on or after January 1,
10 1985, and before January 1, 1989, is considered timely
11 if filed with the department on or before April 30,
12 1995, if the taxpayer's claim is the result of the
13 unconstitutional taxation of federal pension benefits
14 based upon the decision in Davis v. Michigan
15 Department of Treasury, 489 U.S. 803, 109 S. Ct. 1500
16 (1989).

17 A taxpayer entitled to a credit or refund of tax
18 paid under this subsection shall receive the credit or
19 refund within the time frame used for other retired
20 federal employees claiming a credit or refund of tax
21 unlawfully imposed on their federal pensions during
22 the same tax years."

23 2. Page 1, by striking line 30 and inserting the
24 following:

25 "Sec. _____. Section 1 of this Act, which amends
26 section 422.8, subsection 2, applies retroactively to
27 January 1, 1994,".

By O'BRIEN of Boone

H-5564 FILED MARCH 22, 1994

WITHDRAWN
4-14-94

SENATE FILE 2074

H-5613

1 Amend the amendment, H-5564, to Senate File 2074,
2 as passed by the Senate as follows:

3 1. Page 1, lines 11 and 12, by striking the word
4 and figures "April 30, 1995" and inserting the
5 following: "August 1, 1994".

6 2. Page 1, by striking lines 19 through 22 and
7 inserting the following: "refund within four years.
8 Any claims for refund shall be payable from the
9 federal retirees refund account, to the extent funds
10 are available, as established in section 422.105.

11 Sec. ____ . NEW SECTION. 422.105 FEDERAL RETIREES
12 REFUND ACCOUNT.

13 The department shall establish a federal retirees
14 refund account for the purpose of paying the refund
15 claims of federal retirees pursuant to section 422.73,
16 subsection 8. Funds in the account shall be as a
17 result of a line item appropriation. If funds in the
18 account are insufficient to pay all refund claims, the
19 department shall prorate the available funds."

By RANTS of Woodbury

H-5613 FILED MARCH 23, 1994

out of order 4/14/94

SENATE FILE 2074

H-5619

1 Amend the amendment, H-5564, to Senate File 2074,
2 as passed by the Senate, as follows:

3 1. Page 1, lines 11 and 12, by striking the word
4 and figures "April 30, 1995" and inserting the
5 following: "August 1, 1994".

6 2. Page 1, by striking lines 19 through 22 and
7 inserting the following: "refund within four years.

8 The amount of credit or refund shall be equally spread
9 over those four years. Any claims for refund shall be
10 payable from the special refund account established in
11 section 422.105.

12 Sec. ____ . NEW SECTION. 422.105 SPECIAL REFUND
13 ACCOUNT.

14 The department shall establish a special refund
15 account for the purpose of paying the refund claims of
16 federal retirees pursuant to section 422.73,
17 subsection 8. There is appropriated annually from the
18 general fund of the state an amount sufficient to pay
19 the refund claims of these federal retirees."

By O'BRIEN of Boone

H-5619 FILED MARCH 23, 1994

*out of order
4/14/94*

SENATE FILE 2074

H-5855

1 Amend the amendment, H-5564, to Senate File 2074,
 2 as passed by the Senate, as follows:
 3 1. Page 1, by striking lines 3 through 22 and
 4 inserting the following:
 5 " _____. Page 1, by inserting after line 29 the
 6 following:
 7 "Sec. _____. Section 422.73, Code 1993, is amended
 8 by adding the following new subsection:
 9 NEW SUBSECTION. 8. Notwithstanding subsection 2,
 10 a claim for credit or refund of individual income tax
 11 paid for any tax year beginning on or after January 1,
 12 1985, and before January 1, 1989, is considered timely
 13 if filed with the department on or before April 30,
 14 1995, if the taxpayer's claim is the result of the
 15 unconstitutional taxation of federal pension benefits
 16 based upon the decision in Davis v. Michigan
 17 Department of Treasury, 489 U.S. 803, 109 S. Ct. 1500
 18 (1989).
 19 A taxpayer entitled to a credit or refund of tax
 20 paid under this subsection shall receive the credit or
 21 refund within four years. The amount of credit or
 22 refund shall be equally spread over those four years.
 23 Any claims for refund shall be payable from the
 24 special refund account established in section 422.105.
 25 The department shall state on the actual tax form for
 26 the next four tax years a notice that federal retirees
 27 may be entitled to a credit or refund under the
 28 provisions of this subsection.
 29 Sec. _____. NEW SECTION. 422.105 SPECIAL REFUND
 30 ACCOUNT.
 31 The department shall establish a special refund
 32 account for the purpose of paying the refund claims of
 33 federal retirees pursuant to section 422.73,
 34 subsection 8. Beginning with the fiscal year
 35 beginning July 1, 1994, there is appropriated annually
 36 from the general fund of the state an amount
 37 sufficient to pay the refund claims of these federal
 38 retirees.""

By O'BRIEN of Boone
 HENDERSON of Scott

H-5855 FILED MARCH 30, 1994

*Out of order
 4/14/94*

Dieleman - Chair
Hester
Murphy

SSB-2050
Ways & Means

SENATE/HOUSE FILE 2074
BY (PROPOSED GOVERNOR'S BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act exempting from state income taxation pension income earned
2 by a nonresident of the state and providing a retroactive
3 applicability date.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 422.8, subsection 2, Code 1993, is
2 amended to read as follows:

3 2. Nonresident's net income allocated to Iowa is the net
4 income, or portion thereof, which is derived from a business,
5 trade, profession, or occupation carried on within this state
6 or income from any property, trust, estate, or other source
7 within Iowa. However, income derived from a business, trade,
8 profession, or occupation carried on within this state and
9 income from any property, trust, estate, or other source
10 within Iowa shall not include distributions from pensions,
11 including defined benefit or defined contribution plans,
12 annuities, individual retirement accounts, and deferred
13 compensation plans or any earnings attributable thereto so
14 long as the distribution is directly related to an
15 individual's documented retirement and received while the
16 individual is a nonresident of this state. If a business,
17 trade, profession, or occupation is carried on partly within
18 and partly without the state, only the portion of the net
19 income which is fairly and equitably attributable to that part
20 of the business, trade, profession, or occupation carried on
21 within the state is allocated to Iowa for purposes of section
22 422.5, subsection 1, paragraph "j", and section 422.13 and
23 income from any property, trust, estate, or other source
24 partly within and partly without the state is allocated to
25 Iowa in the same manner, except that annuities, interest on
26 bank deposits and interest-bearing obligations, and dividends
27 are allocated to Iowa only to the extent to which they are
28 derived from a business, trade, profession, or occupation
29 carried on within the state.

30 Sec. 2. This Act applies retroactively to January 1, 1994,
31 for tax years beginning on or after that date.

32 EXPLANATION

33 This bill exempts from state income taxation pension income
34 derived from a business, trade, profession, or occupation
35 carried on within Iowa, or from any other source within the

1 state, and received by a nonresident of the state and related
2 directly to the nonresident's retirement.

3 The bill applies retroactively to January 1, 1994, for tax
4 years beginning on or after that date.

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SENATE FILE 2074

AN ACT

EXEMPTING FROM STATE INCOME TAXATION PENSION INCOME EARNED BY A NONRESIDENT OF THE STATE AND PROVIDING A RETROACTIVE APPLICABILITY DATE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 422.8, subsection 2, Code 1993, is amended to read as follows:

2. Nonresident's net income allocated to Iowa is the net income, or portion thereof, which is derived from a business, trade, profession, or occupation carried on within this state or income from any property, trust, estate, or other source within Iowa. However, income derived from a business, trade, profession, or occupation carried on within this state and income from any property, trust, estate, or other source within Iowa shall not include distributions from pensions, including defined benefit or defined contribution plans, annuities, individual retirement accounts, and deferred compensation plans or any earnings attributable thereto so long as the distribution is directly related to an individual's documented retirement and received while the individual is a nonresident of this state. If a business, trade, profession, or occupation is carried on partly within and partly without the state, only the portion of the net income which is fairly and equitably attributable to that part of the business, trade, profession, or occupation carried on within the state is allocated to Iowa for purposes of section 422.5, subsection 1, paragraph "j", and section 422.13 and income from any property, trust, estate, or other source partly within and partly without the state is allocated to Iowa in the same manner, except that annuities, interest on bank deposits and interest-bearing obligations, and dividends

are allocated to Iowa only to the extent to which they are derived from a business, trade, profession, or occupation carried on within the state.

Sec. 2. This Act applies retroactively to January 1, 1994, for tax years beginning on or after that date.

LEONARD L. BOSWELL
President of the Senate

KAROLD VAN MAANEN
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2074, Seventy-fifth General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved May 4, 1994

TERRY E. BRANSTAD
Governor