

1 taxable year if:

2 (i) the taxpayer did not deduct or include the amounts on his federal tax return pursuant
3 to Section 220, Internal Revenue Code; and

4 (ii) the withdrawal is subject to Subsections 31A-32-105(1) and (2); and

5 (e) the amount refunded to a participant under Title 53B, Chapter 8a, Higher Education
6 Savings Incentive Program, in the year in which the amount is refunded.

7 (2) There shall be subtracted from federal taxable income of a resident or nonresident
8 individual:

9 (a) the interest or dividends on obligations or securities of the United States and its
10 possessions or of any authority, commission, or instrumentality of the United States, to the extent
11 includable in gross income for federal income tax purposes but exempt from state income taxes
12 under the laws of the United States, but the amount subtracted under this subsection shall be
13 reduced by any interest on indebtedness incurred or continued to purchase or carry the obligations
14 or securities described in this subsection, and by any expenses incurred in the production of
15 interest or dividend income described in this subsection to the extent that such expenses, including
16 amortizable bond premiums, are deductible in determining federal taxable income;

17 (b) (i) 1/2 of the net amount of any income tax paid or payable to the United States [~~after~~
18 ~~all allowable credits;~~] as reported on the United States individual income tax return of the taxpayer
19 for the same taxable year;

20 (ii) (A) except as provided in Subsection (2)(b)(ii)(B), the amount of income tax subtracted
21 under Subsection (2)(b)(i) is after subtracting all nonrefundable federal credits;

22 (B) the amount of income tax subtracted under Subsection (2)(b)(i) is before subtracting
23 the following credits:

24 (I) the child tax credit under Section 24, Internal Revenue Code;

25 (II) the Hope Scholarship Credit under Section 25A, Internal Revenue Code; and

26 (III) the Lifetime Learning Credit under Section 25A, Internal Revenue Code;

27 (c) the amount of adoption expenses which, for purposes of this subsection, means any
28 actual medical and hospital expenses of the mother of the adopted child which are incident to the
29 child's birth and any welfare agency, child placement service, legal, and other fees or costs relating
30 to the adoption;

31 (d) amounts received by taxpayers under age 65 as retirement income which, for purposes

1 of this section, means pensions and annuities, paid from an annuity contract purchased by an
2 employer under a plan which meets the requirements of Section 404 (a)(2), Internal Revenue Code,
3 or purchased by an employee under a plan which meets the requirements of Section 408, Internal
4 Revenue Code, or paid by the United States, a state, or political subdivision thereof, or the District
5 of Columbia, to the employee involved or the surviving spouse;

6 (e) for each taxpayer age 65 or over before the close of the taxable year, a \$7,500 personal
7 retirement exemption;

8 (f) 75% of the amount of the personal exemption, as defined and calculated in the Internal
9 Revenue Code, for each dependent child with a disability and adult with a disability who is
10 claimed as a dependent on a taxpayer's return;

11 (g) any amount included in federal taxable income that was received pursuant to any
12 federal law enacted in 1988 to provide reparation payments, as damages for human suffering, to
13 United States citizens and resident aliens of Japanese ancestry who were interned during World
14 War II;

15 (h) subject to the limitations of Subsection (3)(e), 60% of the amounts paid by the taxpayer
16 during the taxable year for health care insurance, as defined in Title 31A, Chapter 1, Insurance
17 Code, for the taxpayer, the taxpayer's spouse, and the taxpayer's dependents to the extent the
18 amounts paid for health insurance were not deductible under Sections 125, 162, or 213, Internal
19 Revenue Code, in determining federal taxable income;

20 (i) except as otherwise provided in this subsection, the amount of a contribution made in
21 the tax year on behalf of the taxpayer to a medical care savings account and interest earned on a
22 contribution to a medical care savings account established pursuant to Title 31A, Chapter 32,
23 Medical Care Savings Account Act, to the extent the contribution is accepted by the account
24 administrator as provided in the Medical Care Savings Account Act, and if the taxpayer did not
25 deduct or include amounts on his federal tax return pursuant to Section 220, Internal Revenue
26 Code. A contribution deductible under this subsection may not exceed either of the following:

27 (i) the maximum contribution allowed under the Medical Care Savings Account Act for
28 the tax year multiplied by two for taxpayers who file a joint return, if neither spouse is covered by
29 health care insurance as defined in Section 31A-1-301 or self-funded plan that covers the other
30 spouse, and each spouse has a medical care savings account; or

31 (ii) the maximum contribution allowed under the Medical Care Savings Account Act for

1 the tax year for taxpayers:

2 (A) who do not file a joint return; or

3 (B) who file a joint return, but do not qualify under Subsection (2)(i)(i); and

4 (j) the amount included in federal taxable income that was derived from money paid by
5 the taxpayer to the program fund and investment income earned on those payments under Title
6 53B, Chapter 8a, Higher Education Savings Incentive Program.

7 (3) (a) For purposes of Subsection (2)(d), the amount of retirement income subtracted for
8 taxpayers under 65 shall be the lesser of the amount included in federal taxable income, or \$4,800,
9 except that:

10 (i) for married taxpayers filing joint returns, for each \$1 of adjusted gross income earned
11 over \$32,000, the amount of the retirement income exemption that may be subtracted shall be
12 reduced by 50 cents;

13 (ii) for married taxpayers filing separate returns, for each \$1 of adjusted gross income
14 earned over \$16,000, the amount of the retirement income exemption that may be subtracted shall
15 be reduced by 50 cents; and

16 (iii) for individual taxpayers, for each \$1 of adjusted gross income earned over \$25,000,
17 the amount of the retirement income exemption that may be subtracted shall be reduced by 50
18 cents.

19 (b) For purposes of Subsection (2)(e), the amount of the personal retirement exemption
20 shall be further reduced according to the following schedule:

21 (i) for married taxpayers filing joint returns, for each \$1 of adjusted gross income earned
22 over \$32,000, the amount of the personal retirement exemption shall be reduced by 50 cents;

23 (ii) for married taxpayers filing separate returns, for each \$1 of adjusted gross income
24 earned over \$16,000, the amount of the personal retirement exemption shall be reduced by 50
25 cents; and

26 (iii) for individual taxpayers, for each \$1 of adjusted gross income earned over \$25,000,
27 the amount of the personal retirement exemption shall be reduced by 50 cents.

28 (c) For purposes of Subsections (3)(a) and (b), adjusted gross income shall be calculated
29 by adding to federal adjusted gross income any interest income not otherwise included in federal
30 adjusted gross income.

31 (d) For purposes of determining ownership of items of retirement income common law

1 doctrine will be applied in all cases even though some items may have originated from service or
2 investments in a community property state. Amounts received by the spouse of a living retiree
3 because of the retiree's having been employed in a community property state are not deductible
4 as retirement income of such spouse.

5 (e) For purposes of Subsection (2)(h), a subtraction for an amount paid for health care
6 insurance as defined in Title 31A, Chapter 1, Insurance Code, is not allowed:

7 (i) for an amount that is reimbursed or funded in whole or in part by the federal
8 government, the state, or an agency or instrumentality of the federal government or the state; and

9 (ii) for a taxpayer who is eligible to participate in a health plan maintained and funded in
10 whole or in part by the taxpayer's employer or the taxpayer's spouse's employer.

11 Section 2. **Retrospective operation.**

12 This act has retrospective operation for taxable years beginning on or after January 1, 1998.

Legislative Review Note
as of 12-29-97 11:16 AM

A limited legal review of this bill raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel