
Military and Veterans Enactments by the 2005 Minnesota Legislature: New Benefits, Protections, and Other Laws

This information brief summarizes the major enactments by the 2005 Minnesota Legislature during the regular and first special sessions, dealing specifically with the military and veterans.

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Bonding Projects

The omnibus capital investment act of 2005 provides the following appropriations:

- \$670,000 of state matching funds to the Department of Veterans Affairs for the World War II Veterans Memorial to be built on the State Capitol mall
- \$5,437,000 for the state veterans homes, including:
 - ▶ the adult daycare facility at the Minneapolis veterans home
 - ▶ the dementia unit at the Luverne veterans home
 - ▶ asset preservation at all the veterans homes
 - ▶ predesign of a new veterans home in Wilmar
- \$4,000,000 to the Department of Military Affairs, mostly for asset preservation in armories

[Laws 2005, ch. 20](#) (H.F. 3, Rep. Dorman and others).

Tax Benefits

New Income Tax Subtraction for Earnings from *In-State Active Military Service*

This new state income tax subtraction applies only to members of the National Guard and other Reserves who are Minnesota residents serving in *active military service within Minnesota*. They may subtract for Minnesota tax purposes any earnings from:

- state active service (for disasters, riots, etc., but not regular drill pay);
- federally funded state active service; and
- federal active service.

The subtraction excludes any earnings from certain temporary training (e.g., basic training, advanced individual training (AIT), annual training, drill weekends, special training) and from certain full-time administrative positions with the National Guard or Reserves (i.e., active guard and reserve program (AGR) and other administrative positions within the Guard).

Thus, it is likely that this benefit will apply primarily to *in-state* earnings for natural disaster and missing person responses, as well as post-9/11 airport and other types of security duty. (Effective for tax years beginning after December 31, 2004.)

[Laws 2005, 1st spec. sess., ch. 3](#), art. 3, § 7, cl. 11 (the second omnibus tax act of 2005).

New Income Tax Subtraction for Earnings from *Out-of-State Military Service*

Under prior law, a Minnesota resident's earnings from *out-of-state military service* were given preferential treatment by defining the person as a "nonresident" for the reporting of such income for state tax purposes.

A provision of the omnibus tax act instead treats income from *out-of-state military service* as a "subtraction" from income for state tax purposes, thereby increasing the benefit for soldiers as compared with prior law. This provision applies to all Minnesota residents serving in active military service outside Minnesota, whether in regular active duty, the National Guard or other Reserves, and whether in either federal active service (Title 10) or federally funded state active service (Title 32) status. (Effective for tax years beginning after December 31, 2004.)

Federal and prior Minnesota law completely exempt from taxation all military pay, bonuses, and benefits received for service within a combat zone.

[Laws 2005, 1st spec. sess., ch. 3](#), art. 3, §§ 1, 6, and 7, cl. 12 (the second omnibus tax act of 2005).

Certain Military Members Not Required to File a Minnesota Tax Return

A related provision of the omnibus tax act relieves certain members of the military from the requirement to file a Minnesota tax return, if after subtracting their out-of-state military gross income their remaining gross income from Minnesota sources is less than the filing requirement. This provision will primarily affect full-time members of the military.

Under prior law, these individuals were considered nonresidents for Minnesota income tax purposes and were not required to have Minnesota withholding or to file Minnesota returns. Legislation enacted this year to replace that nonresident treatment with a subtraction for out-of-state earnings would have triggered withholding and the requirement to file, were it not for this additional provision. (Effective for tax years beginning after December 31, 2004.)

[Laws 2005, 1st spec. sess., ch. 3](#), art. 3, §§ 1, 6, and 7, cl. 12 (the second omnibus tax act of 2005).

Federal Conformity – Military Death Gratuity

This provision of the omnibus tax act updates certain provisions of the Minnesota tax code to conform with the federal Military Family Tax Relief Act of 2003. That federal act provides a number of new exclusions and deductions for members of the military, retroactively effective to the beginning of 2003. One important change was an increase in the exclusion for the *death gratuity benefit* paid to survivors of military members who are killed in the line of duty anytime after September 10, 2001.

Under various federal enactments, the military *death gratuity benefit* applicable to all military personnel was increased from \$6,000 (half of that taxable) to \$12,000 (fully tax exempt), and, beginning January 2005, was indexed for inflation. The supplemental defense authorization bill

enacted in May 2005 further increased the *death gratuity benefit* to \$100,000, retroactive to September 11, 2001, for military personnel dying in a war zone or in direct support of the war effort, including combat-like training. Congress is currently moving to fine tune and make permanent those increases, which are otherwise due to expire October 1, 2005. Minnesota tax law now conforms to those federal changes. (Effective immediately.)

[Laws 2005, 1st spec. sess., ch. 3](#), art. 4, § 2 (the second omnibus tax act of 2005).

Motor Vehicle Tax Exemption During Active Military Service

Under prior law, any person who was ordered to active military service in time of war or national emergency was exempted from the motor vehicle registration tax if the person's vehicle was not driven during the person's active service period except by the person during the his or her furlough or military leave. The exemption applied during and for 40 days following the person's active military service.

A new enactment extends the exemption to *during and 90 days following* the person's active military service, and also strikes the restriction that it apply only during times of war or national emergency. Furthermore, it clarifies that the person may apply for such exemption *before, during, or after* the person's military service.

This latter provision especially helps those who might not hear about the new law or are too busy to apply for the exemption in advance of their mobilization. Nevertheless, to facilitate awareness of the benefit, the new law adds cross-references in military and veterans statutes to the exemption, which is located in motor vehicle statutes.

Finally, the new law excludes a few types of military service as qualifying for the benefit, namely, certain periodic training and full-time career service in the Guard and Reserves.

[Laws 2005, 1st spec. sess., ch. 6](#), art. 3, §§ 30, 83, and 84 (Rep. Fritz, by amendment to the omnibus transportation finance act, H.F. 140, Rep Holberg/S.F. 105, Sen. Murphy).

Education

Increased Funding for National Guard Tuition Reimbursement Program

Legislation in 2004 increased the reimbursement rate limit for tuition assistance under the National Guard tuition reimbursement program from 80 percent to 100 percent. That rate is pegged to the cost of tuition for undergraduate liberal arts programs at the University of Minnesota, Minneapolis campus. (Certain medical students are reimbursed at the medical school tuition rate.) Funding provided in the omnibus state government finance act raises the actual reimbursement rate from 80 percent to 100 percent, as well.

[Laws 2005, ch. 156](#), art. 1, § 16 (the omnibus state government finance act, H.F. 1481, Rep. Seifert/S.F. 1285, Sen. Kiscaden).

Time Extension for Using Benefits under National Guard Tuition Reimbursement Program

Another provision in the state government finance act extends the time frame for a National Guard member with eligibility remaining for the tuition reimbursement program to use the program benefits, if the soldier had been ordered into active military service during the soldier's enlistment period. The extension is for two years, plus the amount of time the soldier has served in active service, and begins the day that the person is separated or discharged from the National Guard.

The act also provides that a National Guard member who is separated or discharged from the military for medical reasons has up to eight years afterwards to use the tuition reimbursement benefits.

(Effective immediately and applies to any person who has served in the Minnesota National Guard at anytime since September 11, 2001, whether or not the person is still a Guard member.)

[Laws 2005, ch. 156](#), art. 4, § 4 (H.F. 455, Rep. Cybart/S.F. 616, Sen. Sams, enacted within the omnibus state government finance act, H.F. 1481, Rep. Seifert/S.F. 1285, Sen. Kiscaden).

Extending Higher Education Protections to Service-Connected Disabled Veterans

This provision of the omnibus higher education act requires educational institutions to give a student who is a veteran with a service-connected disability and who needs medical treatment or recovery for any condition, the same protections given to a student who is a National Guard or Reserve member ordered to active military service. The person may:

1. withdraw from classes with a full refund of tuition and fees and have the right of readmission and reenrollment within two years of completion of active military service or medical treatment (increased from one year by the act);
2. take a grade of incomplete and be allowed to finish the courses following active military service or treatment and recovery; or
3. continue working to finish his or her classes, with excused absences provided as needed for active military service or treatment and recovery.

The act also requires that the educational institution provide a prorated refund of amounts paid for room, board, and certain other fees. It also requires the soldier or veteran to give advance notice to the institution, if possible, of an order to active military service or the need for medical treatment or recovery. The act does not require that the person's *current medical condition* be service-connected, but only that the veteran have a service-connected disability.

[Laws 2005, ch. 107](#), art. 2, § 52 (H.F. 2145, Rep. Severson/S.F. 2223, Sen. Fischbach, enacted within the omnibus higher education finance act, H.F. 1385, Rep. Nornes/S.F. 1174, Sen. Pappas).

Other Higher Educational Protections for Military Personnel

The omnibus higher education act also provides an additional semester of eligibility for a state education grant, child care grant, and peace officer survivor education benefits to a student who withdraws from enrollment in a postsecondary institution after December 31, 2002, for active military service (as defined in Minnesota Statutes, section 190.05, subdivision 5b or 5c; i.e., federal active service or federally funded state active service).

In addition, sections 34 to 46 of this act change the Minnesota College Savings Plan (a 529 savings plan under the Internal Revenue Code). Most proposed changes are clarifying or conforming to federal law. One change adds attendance at a U.S. military academy to the exemptions in the definition of nonqualified distribution, including distributions for a beneficiary. Thus, withdrawals from a college saving plan may be used without penalty for tuition at a military academy.

[Laws 2005, ch. 107](#), art. 2, § 34 to 46, and others (the omnibus higher education finance act, H.F. 1385, Rep Nornes/S.F. 1174, Sen. Pappas).

Employment

Clarifying Pay Differential Law for State Employees Ordered to Active Military Service

This act clarifies the method of computing and paying the differential pay benefits for state employees serving in active military service. The act defines the differential as the difference between 1) the person's monthly total gross earnings as an active state employee, excluding any overtime pay but including all other earnings, averaged over the last three full months of the person's active state employment, and 2) the person's base military pay.

The act also clarifies the employing agency's responsibilities for communicating about the program with their citizen-soldier employees and the person their employees assign as their power of attorney (typically the spouse). (Effective retroactively to May 29, 2003.) Many private employers also provide differential pay to their employees serving in active military service and may use this statute as a guide for their programs.

[Laws 2005, ch. 35](#) (H.F. 2126, Rep. Eastlund/S.F. 1991, Sen. Murphy).

Protecting Probationary Teachers Ordered to Active Military Service

This act provides that a probationary teacher who is ordered to active military service and subsequently returns to teaching is considered to have had consecutive teaching experience for purposes of eligibility for a continuing contract (i.e., years of probationary teaching interrupted by an order to active military service are regarded as consecutive for purposes of the Minnesota Teacher Tenure Act). (Effective retroactively from September 10, 2001.)

This act conforms to USERRA, the federal re-employment law protecting persons returning to employment after serving in active military service. USERRA, enacted by Congress in October 1994, protects individuals from discrimination in hiring, promotion, and retention on the basis of present and future membership in the armed services. It entitles service members with the right to return to their civilian employment upon completion of military service and directs that they must be reinstated with the seniority, status, and rate of pay they would have obtained had they remained continuously employed by their civilian employer. It also mandates that the employee's military service not be considered a break in employment for pension purposes.

One implication of USERRA is that teachers (actually all employees) returning from active military service must be credited with any salary step increases they would have received had they actually been present in their employment during the entire time of their military leave.

[Laws 2005, ch. 36](#) (H.F. 1144, Rep. Demmer/S.F. 244, Sen. Kiscaden).

Waiving the Road Test Requirement for Military Truck Drivers

This act waives the road test for a Minnesota commercial driver's license for a person with a military driver's license for driving the same class of vehicle, if that military driver's license is currently valid or has been expired for less than one year at the time of application. (This saves the veteran from having to enroll in a costly driving course at a technical school just to be able to use the school's truck for the road test.)

[Laws 2005, ch. 53](#) (H.F. 1053, Rep. Severson/S.F. 1095, Sen. Fischbach).

Veterans' Preference in Public Employment for Retired Military Personnel

This act repeals a longstanding prohibition on the availability of veterans' preference in state and local government hiring for retired military personnel who are eligible for a pension based solely on length of military service. Under the act, retired military personnel will be treated like other veterans when electing to use veterans' preference in applying for state or local public jobs.

[Laws 2005, ch. 95](#) (H.F. 685, Rep. Severson/S.F. 1268 Sen. Fischbach).

Encouraging Veterans Employment

This act directs the governor to proclaim the month of May each year as "Hire a Veteran Month" in Minnesota.

[Laws 2005, ch. 22](#) (H.F. 1240, Rep. Severson/S.F. 1254, Sen. Wergin).

Healthcare and Benefits

Funding for Veterans Rehabilitation

A provision in the omnibus tax act appropriates a \$125,000 grant for fiscal year 2006 to Vinland Center, a private, not-for-profit rehabilitation facility in western Hennepin County, for use in assisting veterans with employment readiness, including chemical dependency treatment and related counseling, if needed.

The 2005 Legislature also provided an additional unspecified amount of funding for veterans' rehabilitation by directing the Commissioner of Veterans Affairs to designate to Vinland Center a portion of the proceeds from citizen donations for the new Support Our Troops license plate (see page 10 for details about the license plate).

[Laws 2005 1st spec. sess., ch. 3](#), art. 11, § 10 (the second omnibus tax act of 2005).

Clarifying Benefits Law for Local Government Employees on Military Leave

The omnibus state government finance act uses the language of a 1945 attorney general's opinion to clarify a 1941 statute on treatment of members of the military. The statute provides that upon reinstatement following a military leave, an officer or employee of a political subdivision is entitled to the accrued vacation and sick leave that the person would have earned had the person been present and serving in that employment during the entire time of the military leave.

Using language from the attorney general's 1945 interpretation, the act clarifies that such vacation and sick leave accrues as provided in any applicable civil service rules, collective bargaining agreement, or compensation plan, from the time the person enters active military service until the date of reinstatement, without regard to any otherwise applicable limits in that agreement or plan on the number of days which may be accumulated. (Effective immediately and applies retroactively to any officer or employee in active military service since September 11, 2001.)

[Laws 2005, ch. 156](#), art. 4, §§ 4 and 9 (from H.F. 1575, Rep. Brod/S.F. 1624, Sen. Hann, enacted within the omnibus state government finance act, H.F. 1481, Rep. Seifert/S.F. 1285, Sen. Kiscaden).

Continued Funding for the State Soldiers Assistance Program

The omnibus state government finance act appropriates \$1.4 million annually for the state soldiers assistance program, a longstanding program administered by the Minnesota Department of Veterans Affairs that provides an emergency grant of up to \$1,500 to a veteran in need of medical, housing, or other assistance.

[Laws 2005, ch. 156](#), art. 1, § 17 (omnibus state government finance act, H.F. 1481, Rep. Seifert/S.F. 1285, Sen. Kiscaden).

Suspending MinnesotaCare While in Active Military Service, Without Lapse Upon Return

This act allows a National Guard or Reserve member being ordered to active duty to discontinue enrollment in MinnesotaCare, the state's health insurance program for low- and moderate-income Minnesotans, and to reenroll upon return from active service without the required four-month waiting period and lapse in coverage, and without consideration of the person's previous military income.

[Laws 2005, ch. 59](#) (H.F. 1761, Rep. Kahn/S.F. 1726, Sen. Kubly).

Survivor Pension – Police and Fire Pension Fund

This act amends the eligibility criteria for receiving survivor benefits under the Police and Fire Pension Fund, by broadening the definition of "active duty" to include "active military service." The effect is to extend survivor benefits from the fund to the survivors of a policeman or firefighter who, having been ordered into active military service, dies while in that military service before having been married the required one year that would by itself provide eligibility to the person's survivors.

[Laws 2005, ch. 62](#), art. 4, § 97 (from H.F. 78, Rep. Ozment/S.F. 69, Sen. Bakk, the omnibus agriculture, environment, natural resources, and economic development act).

Housing and Insurance

Homeowner's Property Insurance Protection for Deployed Soldiers

This provision of the omnibus insurance act of 2005 ensures that members of the National Guard and other Reserves will not be forced to pay higher property insurance rates when they must rent out their homes (the commercial policy rate) or leave them unoccupied (the vacant home rate) upon being ordered into active military service.

Specifically, the act provides that no insurer, including the Minnesota FAIR plan, shall refuse to renew, decline to offer or write, reduce the limits of, cancel, or charge differential rates for equivalent coverage for any coverage in a homeowner's policy because the dwelling is vacant or occupied by a caretaker, if the insured's absence is caused solely by the insured being called to active military service as a member of the National Guard or Reserves. (Effective June 4, 2005.)

[Laws 2005, ch. 132](#), § 19 (H.F. 1417, Rep. Loeffler, enacted by amendment to the omnibus insurance act of 2005, H.F. 1809, Rep. Wilkin/S.F. 1783, Sen. Scheid).

License Plates and Other Honoraria

Special Veterans License Plates for Global War on Terror

A provision of the omnibus transportation finance act creates new special veterans license plates for Iraq War veterans and Afghan War veterans, as well as for other veterans eligible for the Global War on Terrorism expeditionary or service medals for service outside those two war zones.

These special plates are authorized for use on personal passenger vehicles and motorcycles of the qualifying veterans, as indicated by their DD-214 military discharge paper or a commander's letter verifying the person's military service in the qualifying area. They will be available from area licensing agents by fall 2005, with a \$5 surcharge in addition to the regular \$10 fee for veterans plates, to reimburse all state costs for designing and issuing the new plates.

[Laws 2005, 1st spec. sess., ch. 6](#), art. 2, § 8 (H.F. 171, Rep. Bruce Anderson/S.F. 605, Sen. Jungbauer, enacted within the omnibus transportation finance act, H.F. 140, Rep Holberg/S.F. 105, Sen. Murphy).

Other Veterans License Plate Enactments

Other veterans plate provisions enacted within the 2005 omnibus transportation act ([H.F. 140](#)) are as follows.

- Authorizes the issuance of *personalized* special veterans plates with the appropriate emblem to signify the war and up to five numbers and letters selected by the qualifying veteran (art. 2, § 7)
- Eliminates the previous limit of two sets of special veterans plates and allows a qualified veteran to purchase as many sets of veterans plates as the person has registered personal passenger vehicles on which to place them. (art. 2, § 8)
- Authorizes the issuance of special veterans motorcycle plates for qualified veterans of the Persian Gulf War and the Global War on Terrorism. Previously, special veterans motorcycle plates were authorized only for Vietnam War veterans (art. 2, § 8)
- Authorizes the issuance of special veterans plates for use on one-ton trucks that are used as personal passenger vehicles (but not commercial vehicles) (art. 2, § 8)
- Authorizes the issuance of special veterans motorcycle plates for former prisoners of war and medal of honor recipients (art. 2, §§ 10 and 11)
- Exempts special veterans plates from the discontinuance provisions of Minnesota Statutes, section 168.1293. In the future, new special plates will not be subject to the authorization and discontinuance law unless otherwise specified
- Authorizes the issuance of special Disabled American Veteran plates for any veteran having a permanent and total service-related disability; imposes a \$5 surcharge in addition to the regular \$10 fee for special veterans plates. The new DAV plate does not confer any special parking privileges. (art. 3, § 33)

New Support Our Troops License Plate to Raise Funds for Military Families

A provision of the state government finance act creates a new Support Our Troops license plate, available to any motor vehicle owner for a minimum annual contribution of \$30, in addition to the one-time \$10 plate fee.

The expected revenues from the new plate are appropriated as follows:

1. 50 percent to the Department of Military Affairs for a new program to provide grants to Minnesota resident military families in active or reserve service. The maximum grant amount to any eligible individual in any year is limited to \$2,000. Families would need to show special need when applying for a grant. The department is authorized to provide the grants itself, or to direct the funding through an eligible nonprofit foundation.
2. 50 percent to the Department of Veterans Affairs for grants to:
 - ▶ four congressionally chartered veterans service organizations (VFW, Order of the Purple Heart, DAV, and Vietnam Veterans of America), which formerly received small legislative appropriations from the general fund;
 - ▶ the DVA for a new outreach service program to be administered by the department to assist underserved veterans (e.g., primarily African Americans and Native Americans applying for VA benefits, etc.); and
 - ▶ two veterans rehabilitation service programs (Military Assistance Council for Veterans (MACV) and Vinland Center).

The department will develop a grant allocation formula for distributing its share of the expected Support Our Troops license plate revenue.

[Laws 2005, ch. 156](#), art. 4, §§ 30 and 31; also see art. 1, §§ 16 and 17 (H.F. 682, Rep. Severson/S.F. 734, Sen. Vickerman, the governor's military bill, enacted within the omnibus state government finance act, H.F. 1481, Rep. Seifert/S.F. 1285, Sen. Kiscaden).

Persian Gulf War Veterans – Honorary Plaque in the Court of Honor

This act authorizes the placement of a memorial plaque in the Court of Honor on the State Capitol grounds in honor of Minnesota veterans who served in the Persian Gulf War. Private funding must be used.

[Laws 2005, ch. 156](#), art. 4, § 11 (H.F. 1394, Rep. Soderstrom/S.F. 1623, Sen. Ruud, enacted within the omnibus state government finance act, H.F. 1481, Rep. Seifert/S.F. 1285, Sen. Kiscaden).

War Dogs Resolution

A House Resolution honoring military dogs and their handlers—the War Dogs Resolution—was presented in the House Chamber on May 9, 2005, noting the important role played by these dogs and their handlers in nearly all of our nation’s foreign wars.

[H.R. 0015](#), Rep. Westrom and others; resolution referred to the House Rules Committee.

Purple Heart Highway Designated

This provision designates Minnesota trunk highway 371 from Little Falls to Cass Lake, except for the Brainerd by-pass, as the Purple Heart Memorial Highway. It directs the Commissioner of Transportation to erect signs marking the highway, subject to the general law that requires the cost of signs to mark highways and bridges named by law to be paid from nonstate sources.

[Laws 2005, 1st spec. sess., ch. 6](#), art 3, § 5 (the omnibus transportation finance act, H.F. 140, Rep. Holberg/S.F. 105, Sen. Murphy).

Protection for Leisure Activities

Preference to Veterans in Hunting and Fishing License Lotteries

This act authorizes, but does not require, the Commissioner of Natural Resources to give first preference to qualified active or reserve service members or veterans in any drawing or lottery involving the selection of applicants for hunting or fishing licenses, permits, or special permits. This authority does not apply to licenses or permits for taking moose, elk, or prairie chickens.

A qualified service member or veteran is a Minnesota resident who is currently serving, or has served at any time during the past 24 months, in active military service under Minnesota Statutes, section 190.05, subdivision 5b or 5c (i.e., federal active service or federally funded state active service).

[Laws 2005, ch. 146](#), § 17 (H.F. 417, Rep. Hackbarth/S.F. 815, Sen. Kleis, enacted within the omnibus game and fish act, H.F. 847, Rep. Hoppe/S.F. 789, Sen. Saxhaug).

Disabled Veterans Rest Camp on Big Marine Lake

This act protects the Disabled Veterans Rest Camp on Big Marine Lake in Washington County from takeover by the regional park district by limiting the district’s eminent domain authority relative to the camp property. It also requires certain camp management adjustments intended to more broadly serve disabled veterans. The act also exempts the camp from all property taxes, beginning retroactively for taxes payable in 2005.

[Laws 2005, ch. 43](#) (H.F. 34, Rep. Vandevier/S.F. 467, Sen. Bachman).

Issues Under Federal Jurisdiction

The state of Minnesota **does not** have authority over many other military issues, including the following:

- military base closings by the U.S. Department of Defense
- military mobilizations for federal active service
- military pay and allowances
- TRICARE health policy
- federal death gratuity, service members group life insurance (SGLI), and other federal survivor benefits
- Montgomery G.I. bill education benefits
- federal tax policy (regarding military income, military pensions, and disability pay)
- veterans hospitals and most other veterans health benefits
- veterans homes eligibility rules

For more information, visit the veterans and military affairs area of our web site, www.house.leg.state.mn.us/hrd/issinfo/vetmil.htm.