

**DEPARTMENT OF TAXATION
2021 Fiscal Impact Statement**

1. **Patron** Amanda F. Chase
3. **Committee** Senate Finance and Appropriations
4. **Title** Individual Income Tax; Subtraction for Military Retirement Income

2. **Bill Number** SB 1448
House of Origin:
 X **Introduced**
 Substitute
 Engrossed
- Second House:**
 In Committee
 Substitute
 Enrolled

5. Summary/Purpose:

This bill would provide an individual income tax subtraction for all military retirement income of a veteran of the Armed Forces of the United States or the Virginia National Guard, any qualified military benefits, any Department of Defense Survivor Benefit Plan benefits or other military benefits paid to the surviving spouse of a veteran of the Armed Forces of the United States or the Virginia National Guard.

This bill would be effective for taxable years beginning on and after January 1, 2021.

6. **Budget amendment necessary:** Yes.
Item(s): Page 1, Revenue Estimates

7. **Fiscal Impact Estimates are:** Preliminary. (See Line 8.)

7b. Revenue Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2021-22	(\$376 Million)	GF
2022-23	(\$261 Million)	GF
2023-24	(\$272 Million)	GF
2024-25	(\$283 Million)	GF
2025-26	(\$294 Million)	GF
2026-27	(\$304 Million)	GF

8. Fiscal implications:

Administrative Costs

The Department of Taxation considers implementation of this bill as routine, and does not require additional funding.

Revenue Impact

This bill would have an estimated negative General Fund revenue impact of \$376 million in Fiscal Year 2022, \$261 million in Fiscal Year 2023, \$272 million in Fiscal Year 2024,

\$283 million in Fiscal Year 2025, \$294 million in Fiscal Year 2026, and \$304 million in Fiscal Year 2027. According to data from the U.S. Department of Defense, there were approximately 151,400 retired military veterans living in Virginia during 2020.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: None.

11. Other comments:

Virginia Military Tax Preferences

Taxpayers may subtract the following military-related items for the purposes of computing Virginia taxable income:

- Wages or salaries received for service in the Virginia National Guard, not exceeding income for thirty-nine days of service or \$3,000, whichever is less. This subtraction only applies to persons in the ranks of O3 and below.
- All military pay and allowances earned while serving in a combat zone or qualified hazardous duty area, to the extent they were included in federal adjusted gross income.
- \$15,000 of military basic pay for military personnel on extended active duty for periods in excess of ninety days. The subtraction amount is reduced dollar-for-dollar by the amount which the taxpayer's military basic pay exceeds \$15,000 and will be reduced to zero if such pay is equal to or exceeds \$30,000.
- Any amount received as military retirement income by an individual awarded the Congressional Medal of Honor.
- The amount of military death gratuity payments received after September 11, 2001, by survivors of military personnel who are killed in the line of duty. This subtraction amount must be reduced dollar-for-dollar by the amount that is allowed as an exclusion from federal adjusted gross income to the survivor on his or her federal income tax return.

For taxable years beginning on or after January 1, 2011, Virginia exempts from taxation the real property, including the joint real property of a husband and wife, and the land, not exceeding one acre, upon which the real property is situated of any military veteran who has been rated by the VA to have a 100 percent service-connected, permanent, and total disability, and who occupies the real property as his or her principal place of residence. The surviving spouse of a veteran may also qualify for this exemption, so long as the following conditions are met: the veteran's death occurred on or after January 1, 2011; the surviving spouse does not remarry; and the surviving spouse continues to occupy such real property as his or her principal place of residence.

Virginia Study Regarding Exempting Military Retirement Income

During the 2019 Session, the General Assembly enacted House Joint Resolution 674, which required the Department of Veterans Services and the Department to study the feasibility of exempting military retirement income from taxation and publish a report regarding their findings and recommendations. Throughout 2019, the agencies completed this study and published the “Feasibility Study of Exempting Military Retirement Income from Taxation” on November 25, 2019. The report focused on the revenue impact of excluding all military retirement income and several other alternatives for consideration by the General Assembly.

Virginia’s Age and Disability Tax Preferences

Taxpayers age 65 and older may claim an additional \$800 personal exemption. Certain taxpayers may also qualify for an age deduction of up to \$12,000. For taxpayers born on or before January 1, 1939, the amount of the age deduction is \$12,000. For taxpayers born after January 1, 1939, who have attained the age of 65, the amount of the age deduction is means-tested. Accordingly, the \$12,000 age deduction is reduced dollar-for-dollar for single taxpayers whose income exceeds \$50,000 and for married taxpayers whose combined income exceeds \$75,000.

Taxpayers who are totally and permanently disabled may exclude up to \$20,000 of disability income, as defined under federal law, in calculating Virginia taxable income. Taxpayers may claim either an age deduction or a disability deduction, but not both.

Qualified Military Benefit

Currently, qualified military benefits are excluded from a taxpayer’s federal gross income. A “qualified military benefit” is any allowance or in-kind benefit, other than personal use of a vehicle, which is received by any member or former member of the uniformed services of the United States or any dependent of such member by reason of such member’s status or service as a member of such uniformed services, and was excludable from gross income on September 9, 1986. Qualified military benefits also includes any bonus payment by a State or political subdivision thereof to any member or former member of the uniformed services of the United States or any dependent of such member only by reason of such member’s service in a combat zone.

Survivor Benefit Plans

The Survivor Benefit Plan (“SBP”) is a Department of Defense sponsored and subsidized program that provides a percentage of a service member’s retired pay as an inflation-adjusted annuity to an eligible beneficiary upon the death of the member. The program provides no-cost automatic coverage to members serving on active duty, and reserve component members who die of a service connected cause while performing inactive duty training. Active duty members can also purchase coverage upon retirement and reserve component members can elect coverage when they have 20 years of qualifying service for reserve retired pay..

A military retiree pays premiums for SBP coverage upon retiring, and premiums are paid pre-tax from the retiree's gross retired pay. The premiums are partially funded by the government and the costs of operating the program are absorbed by the government. This subsidy results in the average SBP premium generally being lower than the cost of an equivalent conventional insurance policy. The maximum SBP annuity for a spouse is based on 55 percent of the member's retired pay. However, a smaller amount may be elected.

Proposed Legislation

This bill would provide an individual income tax subtraction for all military retirement income of a veteran of the Armed Forces of the United States or the Virginia National Guard, any qualified military benefits, any Department of Defense Survivor Benefit Plan or other military benefits paid to the spouse of a veteran of the Armed Forces of the United States or the Virginia National Guard. To the extent that a credit, exemption, subtraction or deduction has been claimed for the same income no subtraction under this bill would be allowed.

This bill would be effective for taxable years beginning on and after January 1, 2021.

Similar Bills

House Bill 1771 would provide an individual and corporate income tax credit to employers of members of the Virginia National Guard, and to self-employed members of the Virginia National Guard.

Senate Bill 1151 would provide an individual income tax subtraction of up to \$5,000 for the military retirement income received for prior service by an honorably discharged veteran of active duty service in the Armed Forces of the United States, the reserve components thereof, or certain National Guard service members.

cc : Secretary of Finance

Date: 1/25/2021 RWC
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