DEPARTMENT OF TAXATION
2020 Fiscal Impact Statement

1. Patron Bryce E. Reeves

2. Bill Number SB 457

House of Origin:
X **Introduced**
_____ **Substitute**
_____ **Engrossed**

3. Committee Senate Finance and Appropriations

4. Title Individual Income Tax: Credit for Employers of National Guard Members

Second House:
_____ **In Committee**
_____ **Substitute**
_____ **Enrolled**

5. Summary/Purpose:

This bill would provide an individual or corporate income tax credit to an employer for a certain percentage of wages paid to qualified Virginia National Guard employees. This bill would also provide a self-employed Virginia National Guard member an individual or corporate income tax credit for a certain percentage of the income attributable to his or her trade or business. The applicable percentage for both portions of this credit would be 25 percent for employees who were in military pay status for 65 or more days during the taxable year, and 15 percent for employees who were in military pay status for more than 44 days, but less than 65 days during the taxable year. This credit would not be subject to an annual credit cap.

This bill would be effective for taxable years beginning on and after January 1, 2020 and before January 1, 2025.

6. Budget amendment necessary: No.

7. Fiscal Impact Estimates are: Not available. (See Line 8.)

8. Fiscal implications:

Administrative Costs

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

Revenue Impact

This bill would have an unknown negative General Fund revenue impact beginning in Fiscal Year 2021. In 2019, there were approximately 8,699 National Guard members in Virginia. However, it is unknown to what extent employers and self-employed National Guard members would qualify for and claim this credit.

9. **Specific agency or political subdivisions affected:**

Department of Taxation.

10. **Technical amendment necessary:** No.

11. **Other comments:**

<u>Virginia Military Tax Preferences</u>

Taxpayers may subtract the following military 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.

Sunset Dates for Income Tax Credits and Sales Tax Exemptions

Section 3-5.14 of the Appropriation Act provides that the General Assembly may not advance the sunset date for any existing income tax credit or sales tax exemption beyond June 30, 2022. Any new income tax credit or sales tax exemption enacted by the General Assembly prior to the 2021 Session must have a sunset date not later than June 30, 2022. This requirement does not apply to sales tax exemptions related to nonprofit entities or to income tax credits or sales tax exemptions with sunset dates after June 30, 2022 that were enacted or advanced during the 2016 Session.

Proposed Legislation

This bill would provide an individual or corporate income tax credit to an employer for a certain percentage of wages paid to qualified Virginia National Guard employees. This bill would also provide a self-employed Virginia National Guard member an individual or corporate income tax credit for a certain percentage of the income attributable to his or her trade or business. The applicable percentage for both portions of this credit would be 25 percent for employees and self-employed members who were in military pay status for 65 or more days during the taxable year, and 15 percent for employees and self-employed members who were in military pay status for more than 44 days, but less than and 65 days during the taxable year. The credit would not be subject to an annual credit cap.

"National Guard employee" would be defined as an employee of an employer that is also an active or reserve member of the National Guard of the Commonwealth of Virginia.

"Self-employed National Guard member" would be defined as an active or reserve member of the National Guard of the Commonwealth of Virginia who derives a substantial portion of his income from a trade or business;

- Operated by the member as a sole proprietor,
- Through which the member has attempted to earn taxable income, and
- For which the member has filed the appropriate Internal Revenue Service Form 1040, Schedule C or F, for the previous taxable year.

"Employer" would be defined the same as that term is defined for Virginia income tax withholding purposes.

"Wages" would be defined the same as that term is defined for Virginia income tax withholding purposes and includes wages or salaries paid during the deployment of a National Guard employee.

Self-employed National Guard members would be prohibited from claiming this credit if an employer is also claiming the credit for the same National Guard member.

This bill would be effective for taxable years beginning on and after January 1, 2020 and before January 1, 2025.

Similar Bills

House Bill 230, House Bill 1620 and **Senate Bill 218** are substantially similar to this bill.

House Bill 80 would provide an additional personal income tax deduction of $930 for veterans who have been rated with a 100 percent service-connected, permanent, and total disability.

House Bill 125, House Bill 1619 and **Senate Bill 456** would provide an income tax subtraction for all military retirement income received by a veteran who has been rated with 100-percent service-connected, permanent, and total disability, and whose federal adjusted gross income is no greater than 150 percent of the federal poverty level for a four-person household.

House Bill 243 would provide an income tax subtraction for the annual retirement compensation received by veterans for their service.

Senate Bill 191 would provide an individual income tax subtraction for income received by active duty military and military retirement income.

Senate Bill 460 would provide would provide an individual and corporate income tax credit for wages paid to an employee who is a military spouse or for income of a self-employed military spouse attributable to their business.

Senate Bill 745 would exclude from Virginia adjusted gross income any income received by a totally and permanently disabled veteran from student loan debt cancellation or discharge.

Senate Bill 965 would provide a subtraction for individual income tax for all active duty military income of service members deployed outside of the United States.

cc : Secretary of Finance

Date: 1/24/2020 RWC
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