

DEPARTMENT OF TAXATION

2014 Fiscal Impact Statement

1. **Patron** Terry G. Kilgore

3. **Committee** House Finance

4. **Title** Individual Income Tax Credit; Disabled
Military Veterans.

2. **Bill Number** HB 1020

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

Second House:

 In Committee

 Substitute

 Enrolled

5. **Summary/Purpose:**

This bill would allow veterans with a military service-connected disability to claim an individual income tax credit equal to the veteran's highest disability rating for the taxable year multiplied by the amount of Virginia income tax imposed on the veteran for the taxable year. If a veteran is totally disabled, his or her disability rating would be 100 percent.

This bill would be effective for taxable years beginning January 1, 2014.

6. **Budget amendment necessary:** No.

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

8. **Fiscal implications:**

Administrative Costs

The Department of Taxation ("the Department") has not assigned any administrative costs to this bill because the changes required by a single bill such as this can be implemented as part of the annual changes to our systems and forms. As stand-alone legislation, the Department considers implementation of this bill as "routine," and does not require additional funding.

The Department will provide specific administrative costs on any legislation that is not "routine." Additionally, the Department will review all state tax legislation likely to be enacted prior to the passage by each house. If the aggregate number of routine bills likely to pass either house is unusually large, it is possible that additional resources will be required. If so, the Department will identify the costs at that time.

Fiscal Impact

This bill would have an unknown, but potentially significant, negative impact on General Fund revenue. Although this bill would have no impact on a veteran's military disability benefits, which are exempt for federal and Virginia income tax purposes, this bill would apply to the individual income tax imposed on a disabled veteran's earnings, investments, and income from other services.

According to the Virginia Department of Veterans Services ("VDVS"), as of September 30, 2012, there were 153,550 disabled military veterans in Virginia who received \$1.7 billion in disability compensation. The following table shows the number of veterans in Virginia by their degree of disability.

Combined Degree of Disability	Number of Veterans
0%	385
10%	28,803
20%	19,530
30%	18,410
40%	16,202
50%	11,090
60%	14,148
70%	11,858
80%	9,766
90%	5,664
100%	10,485
Individual Unemployability	7,209
Total	153,550

The VDVS commented that veterans in the "individual unemployability" category are veterans who are paid, and treated by the U.S. Department of Veterans Affairs as if they were rated 100 percent disabled, even though their actual disability rating may be lower. Accordingly, these veterans would be added to the number of veterans with a 100 percent disability rating.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

Federal Law

The U.S. Department of Veterans Affairs offers disability compensation to veterans for injuries or diseases that were incurred in or aggravated during active duty, active duty for training, or inactive duty training. A disability can apply to physical conditions, such as a chronic knee condition, as well as mental health conditions, such as post-traumatic stress disorder. Compensation may also be paid for disabilities that are considered related or

secondary to disabilities occurring in service and for disabilities presumed to be related to circumstances of military service, even though they may arise after service.

The benefit amount is graduated according to the degree of the veteran's disability on a scale from 10 percent to 100 percent (in increments of 10 percent). Generally, the degrees of disability specified are also designed to compensate for considerable loss of working time from exacerbations or illnesses. For veterans with dependents, an additional allowance may be added if their combined disability is rated 30 percent or greater.

Under federal law, pension or compensation received under any law administered by the Veterans Administration is exempt from taxation. Since the starting point for determining an individual's Virginia income tax is federal adjusted gross income, any disability compensation excluded for federal income tax purposes would also be excluded for Virginia income tax purposes.

Minnesota

Minnesota allows a qualified individual to claim a credit for past military service equal to \$750. The credit allowed is reduced by 10 percent of adjusted gross income over \$30,000, but in no case is the credit less than zero. Veterans with income over \$37,500 are not eligible for the credit.

For purposes of Minnesota's credit, the term "qualified individual" is defined as an individual who meets following criteria: (1)(a) served at least twenty years in the military; (b) has a service-connected disability rating of 100% for a total and permanent disability; or (c) effective for taxable years beginning after December 12, 2012, has been determined by the military to be eligible for compensation from a pension or other retirement pay from the federal government for service in the military, and (2) separated from military service before the end of the taxable year.

Virginia's Military Tax Preferences

In computing Virginia taxable income, taxpayers may subtract the following military related items from federal adjusted gross 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 a 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 periods in excess of ninety days. The subtraction amount is reduced dollar-for-dollar by the amount which the 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 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 U.S. Department of Veterans Affairs 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's Age and Disability Deductions

Taxpayers age 65 and older may claim an additional \$800 personal exemption and certain taxpayers may 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 income-based. 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.

Proposed Legislation

This bill would allow veterans with a military service-connected disability to claim an individual income tax credit equal to the veteran's highest disability rating for the taxable year multiplied by the amount of Virginia income tax imposed on the veteran for the taxable year.

For purposes of this bill, "disability rating" would mean the percentage rating of disability determined by the U.S. Department of Veterans affairs, or any successor agency, pursuant to federal law for a veteran with a military-service connected disability. If a veteran is rated as totally disabled, his or her disability rating would be 100 percent.

The Department would be required to develop guidelines implementing the provisions of this bill. Such guidelines, which would be exempt from the Administrative Process Act, would include the documentation required to be furnished by the veteran to the Department in order to claim the tax credit.

This bill would be effective for taxable years beginning January 1, 2014.

Similar Legislation

House Bill 777 and **House Bill 1021** would allow an individual income tax subtraction for the amount of annual retirement compensation received for service as a member of the U.S. Armed Forces or the Virginia National Guard

House Bill 782 would allow an individual income tax credit to taxpayers who purchase a home from an active or reserved member of the armed forces who is selling his or her home because of deployment or relocation orders.

cc : Secretary of Finance

Date: 1/27/2014 mjm
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