

**DEPARTMENT OF TAXATION  
2024 Fiscal Impact Statement**

1. **Patron** Alex Q. Askew

2. **Bill Number** HB 1292

3. **Committee** House Finance

**House of Origin:**

  X   **Introduced**

       **Substitute**

       **Engrossed**

4. **Title** Income Tax Subtraction; Firefighter Benefits

**Second House:**

       **In Committee**

       **Substitute**

       **Enrolled**

**5. Summary/Purpose:**

This bill would establish an individual income tax subtraction for up to \$20,000 of firefighter benefits in Taxable Year 2024, up to \$30,000 in Taxable Year 2025, and up to \$40,000 in Taxable Year 2026 and each year thereafter.

Firefighter benefits would include retirement income related to professional firefighting services and benefits paid to the surviving spouse of a firefighter whose death occurred in the line of duty.

This bill would be effective for taxable years beginning on and after January 1, 2024.

**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>
2025	(\$8.1 million)	GF
2026	(\$8.1 million)	GF
2027	(\$9.4 million)	GF
2028	(\$9.5 million)	GF
2029	(\$9.6 million)	GF
2030	(\$9.7 million)	GF

**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 a negative General Fund revenue impact of \$8.1 million in FY 2025, \$8.1 million in FY 2026, \$9.4 million in FY 2027, \$9.5 million in FY 2028, \$9.6 million in FY 2029, and \$9.7 million in FY 2030. This estimate was based on the Joint Legislative and Audit Review Commission's ("JLARC's") review of previous firefighter retirement income subtraction legislation, which estimated that there are approximately 4,000 retired firefighters in Virginia with a weighted average retirement benefit of approximately \$58,000. The Department used JLARC's findings regarding the number of eligible firefighters and their average benefits as a baseline and projected this into future years based on factors such as the phase-in of the full subtraction amount, growth in number of beneficiaries, and growth in annuity values.

### **8. Specific agency or political subdivisions affected:**

Department of Taxation

### **10. Technical amendment necessary: Yes.**

The Department understands the intent of this bill is to authorize a subtraction for certain firefighter benefits. This is reflected in 230-233. However, Lines 236-237 provide that "[n]o subtraction shall be allowed pursuant to this subdivision or any other provision of Virginia or federal law." As a result, Lines 236-237 appear to disallow the subtraction authorized previously by Lines 230-233. The Department believes that the intent of Lines 236-237 is to prevent double-dipping of this subtraction and other tax preferences. If this is the intent, the following technical amendment is suggested:

Lines 236, after "subdivision"

Strike: "or"

Insert: "if a credit, exemption, subtraction or deduction is claimed for the same income pursuant to"

The Department understands the intent of this bill is in part to provide a subtraction for firefighter benefits paid to the surviving spouse of a firefighter who died in the line of duty. If the intent of this bill is to limit this subtraction to benefits paid related to the provision of firefighting service and to exclude other benefits like life insurance, the following technical amendment is suggested:

Line 240, after "benefits"

Insert: ", related to the provision of firefighting services,"

Because of the broadness of the term "retirement income," this subtraction could be interpreted to apply to distributions from defined contribution plans. If the intent is to limit this subtraction to amounts received from a firefighter pension only, the Department suggests the following clarifying technical amendment:

Line 244, insert "Retirement income" means any amounts received from a firefighter's pension plan.

**11. Other comments:**

Virginia’s Individual Income Tax Modifications

*Federal Adjusted Gross Income*

Virginia’s Individual Income Tax substantially conforms to federal income tax law by using federal adjusted gross income (“FAGI”) as the starting point for computing Virginia income taxes. Virginia law then provides various modifications to FAGI that must be taken into account that figure in determining Virginia taxable income.

*Virginia Adjusted Gross Income*

When completing a Virginia individual income tax return, a taxpayer starts with the amount of FAGI reported on his federal return. A taxpayer then calculates Virginia adjusted gross income by making two types of adjustments: (1) “additions” which increase the amount of income taxable by Virginia and (2) “subtractions” which reduce such amount. These adjustments are made only to the extent that they have not already been included or excluded from FAGI.

*Virginia Taxable Income*

The taxpayer calculates his Virginia taxable income by making another type of modification referred to as “deductions,” which further reduce the amount of income taxable by Virginia. These modifications are made regardless of federal treatment unless specifically stated otherwise in the provision.

Please find below an illustration of how taxable income is computed for federal and Virginia income tax purposes and how they interrelate:

<b>Federal Income Tax</b>	<b>Virginia Income Tax</b>
+Wages and Other Income	= <i>Federal Adjusted Gross Income (“FAGI”)</i>
+Federal Adjustments	+Virginia Additions (only if not included in FAGI)
-Federal Adjustments	-Virginia Subtractions (only if not excluded from FAGI)
= <i>Federal Adjusted Gross Income (“FAGI”)</i>	= <i>Virginia Adjusted Gross Income (“VAGI”)</i>
-Federal Standard Deduction or Itemized Deductions	-Virginia Standard Deduction or Federal Itemized Deductions (depends on federal election)
-QBI Deduction	-Deduction for Virginia Exemptions -Virginia Deductions (regardless of federal treatment)
= <i>Federal Taxable Income</i>	= <i>Virginia Taxable Income</i>

Because this bill would establish a new Virginia subtraction, the amount allowed under

this bill could be taken whether the taxpayer chooses to take the Virginia standard deduction or itemizes their deductions.

### JLARC Estimate (2023)

During the 2023 General Assembly session a firefighter retirement income subtraction was proposed, but estimating a potential impact had several data limitations, including retirement system participation by firefighters and the values of firefighter retirement benefits. As a result, the estimated revenue impact was unknown.

Because of the unknown estimate during last year's legislative session, JLARC was tasked with performing a study on this subtraction as a part of a retirement study for a variety of public safety occupations. JLARC estimates that there are approximately 4,000 retired firefighters in Virginia with a weighted-average retirement benefit of roughly \$58,000. JLARC estimated the impact of the firefighter retirement income subtraction, when fully phased in, could be between \$4 million and \$8 million.

### Virginia Firefighter Tax Preferences

The governing body of any locality may, by ordinance, provide a credit against taxes and fees imposed by the locality to an individual who provides approved volunteer services, including firefighting and fire prevention services, in the locality. The locality may allow the credit to be used against the individual's liability for a limited number of taxes, fees, or other charges imposed by the locality.

### Proposed Legislation

This bill would establish an individual income tax subtraction for firefighter benefits of up to \$20,000 in Taxable Year 2024, up to \$30,000 in Taxable Year 2025, and up to \$40,000 in Taxable Year 2026 and thereafter. The subtraction would be allowed only for salaried, professional firefighters who receive such benefits as a result of employment by the Commonwealth, its political subdivisions, or a federal governmental entity.

"Firefighter benefits" would be defined as (i) retirement income received for rendering duties related to the provision of firefighting services and (ii) benefits paid to the surviving spouse of a firefighter whose death occurred in the line of duty.

"Firefighting services" would be defined as fire prevention services, fire suppression services, and other services related to the extinguishment of fires.

This subtraction would not be allowed if a credit, exemption, subtraction, or deduction is claimed for the same income pursuant to any other provision of Virginia or federal law.

This bill would be effective for taxable years beginning on and after January 1, 2024.

### Similar Legislation

**Senate Bill 61** is substantially similar to this bill.

**Senate Bill 10** and **House Bill 1407** would expand the individual income tax subtraction for “military benefits” to include retirement income for service in the U.S. uniformed services.

**Senate Bill 651** would retroactively eliminate the age requirement for the military benefits subtraction.

**House Bill 491** would establish an individual income tax subtraction for bona fide volunteers, including volunteer firefighters, who perform qualifying services.

**House Bill 518** would establish an individual income tax subtraction for certain individuals receiving Foreign Service retirement income.

cc : Secretary of Finance

Date: 2/2/2024 ALS  
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