Date of Hearing: March 17, 2025

ASSEMBLY COMMITTEE ON REVENUE AND TAXATION
Mike Gipson, Chair

AB 53 (Ramos) – As Amended February 24, 2025

Majority vote. Tax levy. Fiscal committee.

SUBJECT: Personal income taxes: exclusion: Military Services Retirement and Surviving Spouse Benefit Payment Act

SUMMARY: Excludes, for taxable years beginning on or after January 1, 2025, and before January 1, 2030, up to $20,000 of uniformed services retirement pay and annuity payments from a United States Department of Defense Survivor Benefit Plan received by qualified taxpayers during the taxable year from gross income under the Personal Income Tax (PIT) Law. Specifically, **this bill**:

1) Contains the following legislative findings and declarations:

   a) Servicemembers are eligible to retire from the military after 20 years of service. These retirees devoted the prime years of their life to defending the freedom of all Americans;

   b) To preserve the current policy of an all-volunteer force while still maintaining critical skills and readiness requires the retention of qualified military personnel, both enlisted and officers. This retention of military professionals also saves the costs to the taxpayer associated with training replacement personnel in essential skills;

   c) Retired members of the nation's two nonarmed uniformed services, which consist of the commissioned corps of the United States Public Health Service and the National Oceanic and Atmospheric Administration Commissioned Officer Corps, also provide valuable service to the nation's health and environmental safety;

   d) Providing a state income tax exclusion to retirees of the uniformed services not only signifies the gratitude of Californians for these men and women who chose to serve our country, it also benefits the state and local economies by helping to retain skilled and motivated individuals in California;

   e) The number one issue for employers in California is attracting a qualified workforce. Approximately 60,000 high-tech jobs are unfilled. Uniformed service retirees are highly skilled, often in areas requiring technical and management expertise. These men and women often continue to be valuable assets to our schools, local charities, and nonprofit organizations;

   f) Substantial new federal funds are infused into the state and local economies not only from retirement pay, but also from the full taxation of their second careers. These retirees may also qualify for federal veterans' benefits, which further bring new monies into the state; and,

g) The United States Department of Defense's Survivor Benefit Plan allows a retiree to ensure, after death, a continuous lifetime annuity for their dependents. The maximum annuity for a spouse is based on 55% of the member's retirement pay. Eligible children may also be beneficiaries. State income taxation of these funds, which are critical to the economic well-being of those who have suffered the loss of a husband, wife, father, or mother, can place the surviving family members in risk of falling into the state and local safety nets.

2) Excludes up to $20,000 of retirement pay received by a taxpayer from the federal government for service in the "uniformed services" during the taxable year from gross income under the PIT Law for taxable years beginning on or after January 1, 2025, and before January 1, 2030.

3) Defines the following terms for purposes of the retirement pay exclusion:

   a) "Qualified taxpayer" is a taxpayer who satisfies either of the following:

      i) In the case of a surviving spouse or spouses filing a joint return, adjusted gross income does not exceed $250,000; or,

      ii) In the case of any other individual, adjusted gross income does not exceed $125,000.

   b) "Uniformed services" are the Armed Forces of the United States, the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty, the commissioned corps of the United States Public Health Service, and the National Oceanic and Atmospheric Administration Commissioned Officer Corps.

4) Excludes up to $20,000 of annuity payments received by a qualified taxpayer under the United States Department of Defense Survivor Benefit Plan during the taxable year from gross income for taxable years beginning on or after January 1, 2025, and before January 1, 2030.

5) Defines the following terms for purposes of the annuity payment exclusion:

   a) "Qualified taxpayer" is a taxpayer who satisfies either of the following:

      i) In the case of a surviving spouse or spouses filing a joint return, adjusted gross income does not exceed $250,000; or,

      ii) In the case of any other individual, adjusted gross income does not exceed $125,000.

   b) "United States Department of Defense Survivor Benefit Plan" is a survivor benefit plan established pursuant to Sections 1447 to 1455, inclusive, of Title 10 of the United States Code.

6) Repeals both gross income exclusion provisions on December 1, 2030.

7) Makes findings and declarations in compliance with Revenue and Taxation Code (R&TC) Section 41.

8) Takes immediate effect as a tax levy.

EXISTING LAW:

1) Conforms to federal law, which provides that "gross income" includes all income from whatever source derived unless expressly excluded. (Internal Revenue Code (IRC) Section 61 and R&TC Section 17071.) Gross income includes compensation for services, business income, gain from selling property, interest, rents, royalties, dividends, and pensions. Military retirement pay of California residents is taxable.

2) Provides various exclusions from gross income in determining tax liability under the PIT Law. (R&TC Section 17131 *et seq.*)

3) Excludes from gross income, under state and federal law, certain types of income for an individual's active service in the Armed Forces, such as military pay for time served in combat zones, disability compensation, and death benefits paid to qualified survivors. (R&TC Section 17142.5.)

4) Excludes from gross income specified death benefits received by the surviving spouse or designated beneficiary of any member of the California National Guard, State Military Reserve, or Naval Militia who dies or is killed in the performance of duty, as specified. (R&TC Section 17132.4.)

5) Allows, under existing federal law, members of uniformed services to elect to reduce their retirement pay pre-tax to provide an annuity to their survivors. In addition, under federal and state tax laws, the reduction is excluded from gross income.

6) Provides, under federal and state tax laws that certain annuities paid to survivors are in the survivors' gross income for tax purposes. Therefore, the annuities paid are taxable.

FISCAL EFFECT: The Franchise Tax Board (FTB) estimates General Fund revenue losses of $110 million for fiscal year (FY) 2025-26, $75 million for FY 2026-27, and $75 million for FY 2027-28.

COMMENTS:

1) The author has provided the following statement in support of this bill:

> California is the only state that taxes the full amount of the pensions of our military personnel. These men and women served our nation in a variety of valuable capacities, and they and their families have frequently done so at great personal sacrifice. In order to make the state more veteran friendly and honor the many sacrifices of our armed services personnel and their surviving spouses, we should follow suit with the rest of the country and provide a state tax exemption. By doing so, we tell our veterans that California honors their service. The state would be able to retain and attract uniformed service retirees to California for the purposes of strengthening the state's skilled workforce, bringing stability to communities, and contributing to the state and local tax base.

2) This bill is supported by several veteran's organizations and sponsored by the California Council of Chapters Affiliated Military Officers Association of America (CALMOAA), who note, in part:

> California currently bears the unfortunate distinction of being the only state that does not provide an exemption for military retirement pay. AB 53 seeks to address this disparity and reverse the 20-year trend of military retirees leaving California to settle in states with more favorable tax policies. These retirees, often under the age of 40, bring valuable skills, leadership, and expertise to their second careers, contributing significantly to California's workforce and economy.
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> Between 2000 and 2016, while the national military retiree population grew by over 17%, California experienced a decline of more than 12% in its military retiree population. This outmigration has cost the state millions of dollars in federal funds that would have supported military retirees, and their families had they remained here.

3) Committee Staff Comments:

   a) *What would this bill do?* This bill allows qualifying taxpayers to exclude up to $20,000 of uniformed services retirement pay and annuity payments from the United States Department of Defense Survivor Benefit Plan from gross income for taxable years beginning on or after January 1, 2025 and before January 1, 2030. In other words, this bill provides that up to $20,000 of retirement pay for members of the uniformed services and survivor benefits paid to beneficiaries are not considered taxable income for the purposes of the PIT, provided that the taxpayer's adjusted gross income does not exceed $125,000 for single filers ($250,000 for joint filers).

   b) *Who receives military retirement payments and survivor annuity payments*? As of January 31, 2023, 127,793 military retirees in California received total monthly payments of over $362 million or about $4.3 billion annually from the United States Department of Defense (DoD).[1] Generally, service members can retire from active duty at any age with at least 20 years of service. In addition, persons who meet retirement requirements partially or entirely through reserve or National Guard service receive retirement pay after age 59.

   Also, as of January 31, 2023, 25,705 survivors in California received total monthly payments of just over $39 million or about $468 million annually.[2] The Survivor Benefit Plan allows a military retiree to ensure, after death, a continuous lifetime annuity for their dependents. A military retiree pays premiums for the Survivor Benefit Plan coverage upon retiring. Premiums are paid from gross retired pay and are not taxed at the federal level, and are also not taxed at the state level.

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[1] *Military retirees and survivors by congressional district as of January 31, 2023 for the 118th congress* (CONGDIST 2022), Office of the Actuary, Department of Defense. https://actuary.defense.gov/Portals/15/Cong%20Dist%202022%20v3.pdf?ver=13J1Z-ldxRlvJeXfnkReDg%3d%3d.
[2] *Id*.

c) *The population of California's military retirees and survivors receiving pay from the DoD declined at an increasing rate*: Committee staff analyzed the DoD Office of Actuary's data. The data show that the population of military retirees receiving pay from the DoD in California has been declining by at least 1% year-over-year (YOY) since 2013, accelerating to declines of over 3% in recent years.[3] California experienced this YOY decline while the world and the U.S. generally had a slight YOY increase. (See "TOTAL MILITARY RETIREES RECEIVING PAY FROM DOD" table below.)

TOTAL MILITARY RETIREES RECEIVING PAY FROM DOD						
Year	**World Total**	**World YOY**	**U.S. Total**	**U.S. YOY**	**CA Total**	**CA YOY**
2023	2,010,348	0.10%	1,987,172	0.07%	127,793	-3.44%
2021	2,008,403	-0.36%	1,985,852	-0.32%	132,344	-3.28%
2020	2,015,756	-0.22%	1,992,319	-0.18%	136,833	-2.27%
2019	2,020,175	0.09%	1,995,969	0.07%	140,015	-2.11%
2018	2,018,457	0.15%	1,994,526	0.16%	143,030	-2.09%
2017	2,015,423	0.14%	1,991,414	0.14%	146,088	-1.55%
2016	2,012,619	0.35%	1,988,655	0.35%	148,394	-1.48%
2015	2,005,526	0.50%	1,981,625	0.50%	150,628	-1.02%
2014	1,995,472	0.68%	1,971,829	0.67%	152,182	-0.72%
2013	1,981,999		1,958,673		153,280	

The population of survivors receiving pay from DoD in California has also experienced a persistent YOY decline, at a greater rate than in the world and the U.S. (See "TOTAL SURVIVORS RECEIVING PAY FROM DOD" table below.)

TOTAL SURVIVORS RECEIVING PAY FROM DOD						
Year	**World Total**	**World YOY**	**U.S. Total**	**U.S. YOY**	**CA Total**	**CA YOY**
2023	304,001	-1.51%	303,193	-1.51%	25,705	-5.01%
2021	308,654	-1.02%	307,830	-1.03%	27,060	-4.04%
2020	311,825	1.00%	311,030	1.52%	28,199	-1.63%
2019	308,739	-0.49%	306,365	-0.50%	28,665	-2.91%
2018	310,272	-1.48%	307,904	-1.48%	29,523	-3.89%
2017	314,928	-1.28%	312,542	-1.28%	30,718	-3.48%
2016	319,012	-0.53%	316,599	-0.53%	31,825	-2.61%
2015	320,708	-1.80%	318,299	-0.65%	32,678	-2.71%
2014	326,583	-0.43%	320,397	-0.43%	33,587	-2.22%
2013	327,989		321,784		34,351	

d) *Need to improve California's attractiveness to veterans and discharging service members*: In a 2015 report to the Governor, the Governor's Military Council stated on page 70:

> At the same time, many veterans and discharging service members choose to move to other states. While some portion of these individuals are simply returning to their

[3] *Id.*

home state, others leave California based on concerns about our state's cost of living or because they are attracted to incentives provided by other states for veterans. State leaders should explore appropriate ways to incentivize veterans to stay in California.[4]

e) *Governor Newsom proposes partial income exclusion in January budget*: The 2025-26 Governor's Budget released on January 10 proposes a partial income exclusion of military retirement pay and survivor benefits. The proposed exemption would exclude up to $20,000 of military retirement income for qualifying taxpayers for the 2025 through 2030 taxable years. Additionally, the exemption would be limited to taxpayers whose adjusted gross income does not exceed $250,000 in income if filing jointly and up to $125,000 for single filers. The Governor's Budget estimates that this proposal will reduce revenues by $130 million in FY 2025-26 and by $85 million annually thereafter. AB 53 was recently amended to align with the Governor's proposal.

f) *California previously offered military-specific income exclusions and later a targeted tax credit*: For taxable years beginning December 22, 1972 through January 1, 1986, California law provided taxpayers an annual $1,000 income exclusion for compensation received during active duty in the Armed Forces or State Military Reserve. State law also provided taxpayers an exclusion of up to $500 per month for any compensation received during active duty in the National Guard in connection with an emergency. Additionally, an income exclusion was applied to pensions or retirement pay received by an individual for their service in the Armed Forces, the State Military Reserve, or the National Guard. (See former R&TC Section 17146.)

   For taxable years beginning January 1, 1987 through January 1, 1992, a member of the Armed Forces was allowed a credit, rather than an exclusion from gross income, in an amount equal to 4% of the eligible income received by an individual whose adjusted gross income was less than $27,000. Eligible income included salary, wages, bonuses, allowances, pensions, retirement pay, and other compensation received by an individual for their services on extended active duty as a member of the Armed Forces, including the California National Guard or the State Military Reserve. This law remained in effect until its January 1, 1992 sunset. (See former R&TC Section 17053.13.)

g) *Treatment of military retiree and survivor income by other states*: A significant number of states exclude military retirement pay from being taxed, and California appears to be an outlier as the only state that fully taxes military retirement pay. For example, five states (Arizona, Utah, Indiana, Nebraska, and North Carolina) passed laws not to tax military retirement income starting for the 2021 or 2022 taxable year.[5]

   Twenty-seven states do not tax military retirement pay: Alabama, Arizona, Arkansas, Connecticut, Hawaii, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Massachusetts,

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[4] *Maintaining and Expanding California's National Security Mission*, Governor's Military Council, Office of Governor Edmund G. Brown Jr. (June 2015) https://militarycouncil.ca.gov/s_councilreport/.

[5] Geier, Yahoo Smartasset. These five states just eliminated income tax on military retirement. (January 11, 2022.) https://www.yahoo.com/video/five-states-just-eliminated-income-203758421.html

Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Pennsylvania, Utah, West Virginia, and Wisconsin.

Nine states have no state income tax: Alaska, Florida, Nevada, South Dakota, Tennessee, Texas, Washington, and Wyoming. New Hampshire taxes residents on interest and dividends but does not tax regular earned income or pension income.

Fourteen states tax military retirement income partially through income exemptions and exclusions: Colorado, Delaware, Georgia, Idaho, Kentucky, Maryland, Montana, New Mexico, Oklahoma, Oregon, Rhode Island, South Carolina, Vermont, and Virginia.[6] Some of these states consider the age of the qualified taxpayer in determining the amount of military retirement pay that can be excluded from gross income. For example, Maryland provides an income exclusion of up to $12,500 for taxpayers under 55; this amount increases to $20,000 for taxpayers that are 55 or older.

Vermont and Virginia enacted legislation in 2022 exempting the first $10,000 in military retirement pay from state income taxation for qualifying taxpayers[7,8] Vermont limits the income exclusion to taxpayers with an annual income of $75,000 or less for joint filers ($60,000 or less for single filers). California appears to now be the only state that fully taxes military retirement pay.

A significant number of states are also not taxing annuity payments from the Survivor Benefit Plan.[9] For example, Arizona, North Carolina, and Utah passed legislation to not tax survivor annuity payments in 2021.[10]

h) *Taxation may not be the primary reason for the recent increase in migration out of California to other states*: According to the Public Policy Institute of California (PPIC), people who move to California are more likely to be working age, to be employed, and to earn high wages—and are less likely to be in poverty—than those who move away.[11]

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[6] Baumhover, *Military Retirement Income Taxes by State – Which States Don't Tax Military Retirement Pay?*, The Military Wallet, (October 18, 2022). https://themilitarywallet.com/military-retirement-pay-tax-exempt/

[7] Hanley, *State Tax Update: Details on New Virginia Retiree Exemptions and Much More*, Military Officers Association of America, (July 22, 2022). https://www.moaa.org/content/publications-and-media/news-articles/2022-news-articles/state-tax-update-details-on-the-new-virginia-law-and-much-more/

[8] *Tax Exemptions for Veterans*, Office of Veterans Affairs, State of Vermont. https://veterans.vermont.gov/benefits-and-services/veteran-benefits/tax-exemptions-veterans

[9] Absher, Military.com (January 10, 2022). States tax information for military members and retirees. https://www.military.com/money/personal-finance/state-tax-information.html

[10] Absher, Military.com (January 11, 2022). 5 more states make military retirement tax free. https://www.military.com/daily-news/2022/01/10/five-more-states-make-military-retirement-tax-free.html

[11] Johnson, *Who's leaving California—and who's moving in?*, Public Policy Institute of California (May 6, 2021). https://www.ppic.org/blog/whos-leaving-california-and-whos-moving-in/

Moreover, a PPIC Statewide Survey found that one-third of Californians have seriously considered leaving the state because of housing costs.[12] PPIC notes that the state's high cost of living, driven almost solely by comparatively high housing costs, remains an ongoing public policy challenge—one that needs resolution if the state is to be a place of opportunity for all of its residents.[13]

Furthermore, lower income and middle-income taxpayers may be paying a higher percentage of total state and local taxes in other states than in California. For example, the Institute on Taxation and Economic Policy's study in 2018, based on one of the largest databases of tax returns and supplementary data, found that middle-income taxpayers in California pay 8.3% of total state and local taxes as a share of family income compared to 9.7% in Texas or 8.5% in Arizona.[14] Therefore, legislative solutions that provide tax relief may not be as effective as those that decrease housing costs.

i) *What is a "tax expenditure"*? Existing law provides various credits, deductions, exclusions, and exemptions for particular taxpayer groups. In the late 1960s, U.S. Treasury officials began arguing that these tax law features should be referred to as "expenditures" since they are generally enacted to accomplish some governmental purpose, and there is a determinable cost associated with each (in the form of foregone revenues).

   As the Department of Finance notes in its annual Tax Expenditure Report, there are several critical differences between tax expenditures and direct expenditures. First, tax expenditures are reviewed less frequently than direct expenditures. Second, there is generally no control over the amount of revenue losses associated with any given tax expenditure. Finally, it takes a two-thirds vote to rescind an existing tax expenditure absent a sunset date. This effectively results in a "one-way ratchet" whereby tax expenditures can be conferred by a majority vote but cannot be rescinded, regardless of efficacy or cost, without a supermajority vote. This bill enacts a new tax expenditure program in the form of gross income exclusions for military retirement pay and annuity payments from the United States Department of Defense Survivor Benefit Plan.

j) *Committee's tax expenditure policy*: This bill complies with R&TC Section 41 because it outlines specific goals, purposes, and objectives that the tax expenditure will achieve. In addition to the R&TC Section 41 requirements, this Committee's policy also requires that all tax expenditure proposals have an appropriate sunset provision to be eligible for a vote. Sunsets are required because eliminating a tax expenditure generally requires a two-thirds vote. Accordingly, this bill contains a 5-year sunset provision, which states that the income exclusions provided in this bill are repealed on December 1, 2030.

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[12] Baldassare, Bonner, Lawler, & Thomas, *PPIC statewide survey: Californians and their government*, Public Policy Institute. https://www.ppic.org/publication/ppic-statewide-survey-californians-and-their-government-february-2023/
[13] Johnson (2021).
[14] Institute on Taxation and Economic Policy, *Who pays?* (6th Edition 2018). https://itep.sfo2.digitaloceanspaces.com/whopays-ITEP-2018.pdf

This Committee has historically treated bills creating a new tax expenditure that benefits veterans as subject to a 10-year sunset. The author may wish to consider extending the sunset date to January 1, 2035.

k) *Potential unintended consequences*:

i) *A double tax benefit*: Under existing federal law, members of the uniformed services may elect to reduce their retirement pay to provide an annuity to their survivors and families. This amount is generally excluded from gross income (front-end tax benefit). Under this bill, the survivors would also receive tax-free money (back-end tax benefit). Therefore, this bill results in a front-end and back-end tax benefit, a net loss for the state.

ii) *Nonconformity to federal law*: This bill establishes exclusions for which federal law has no counterpart. Generally, nonconformity to federal law adds complexity and additional administrative burdens for taxpayers.

iii) *A slippery slope*? It should be noted that California currently taxes the retirement benefits of teachers, first responders like police and fire, and other public service workers. As a result, this Committee may face a slippery slope of choosing which groups should be rewarded with similar income exclusions.

iv) *What is the income cap*? In order for a taxpayer to benefit from the gross income exclusion, their adjusted gross income cannot exceed $250,000 for joint filers, or $125,000 for single filers, in the taxable year. A taxpayer's adjusted gross income is their total (gross) income from all sources minus certain adjustments, such as qualifying retirement contributions and amounts paid in student loan interest. For a taxpayer considering whether they qualify for this income exclusion, it may be unclear whether they should include their military retirement pay or survivor benefit amounts when calculating their adjusted gross income. The author may wish to add clarifying language to avoid taxpayer confusion and ensure consistent application.

l) *Prior Legislation:*

i) AB 46 (Ramos), of the 2023-24 Legislative Session, would have excluded from gross income uniformed services retirement pay and annuity payments from a United States Department of Defense Survivor Benefit Plan. AB 46 was held on the Senate Appropriations Committee's Suspense File.

ii) AB 1623 (Ramos), of the 2021-22 Legislative Session, was substantially similar to AB 46. AB 1623 was held on the Assembly Appropriations Committee's Suspense File.

iii) AB 1629 (Seyarto), of the 2021-22 Legislative Session, would have excluded from gross income survivor benefits or payments, not to exceed $20,000 per taxable year, received under the federal Survivor Benefit Plan for a period of five taxable years. AB 1629 was not heard by this Committee.

iv) AB 291 (Seyarto), of the 2021-22 Legislative Session, would have excluded from gross income survivor benefits and payments received under the federal Survivor Benefit Plan for five taxable years. AB 291 was not heard by this Committee.

v) AB 427 (Brough), of the 2019-20 Legislative Session, would have excluded from gross income specified amounts of retirement pay for 10 taxable years. AB 427 was held on the Assembly Appropriations Committee's Suspense File.

vi) AB 2380 (Choi), of the 2019-20 Legislative Session, would have excluded from gross income survivor benefits or payments received under the federal Survivor Benefit Plan for five taxable years. AB 2380 was not heard by this Committee.

vii) SB 1007 (Hueso), of the 2019-20 Legislative Session, would have excluded from gross income military retirement pay for 10 taxable years. SB 1007 was not heard due to the shortened 2020 Legislative Calendar as a result of the COVID-19 pandemic.

viii) SB 1071 (Wilk), of the 2019-20 Legislative Session, would have excluded from gross income a percentage of military retirement pay for 10 taxable years. SB 1071 was never heard due to the shortened 2020 Legislative Calendar as a result of the COVID-19 pandemic.

REGISTERED SUPPORT / OPPOSITION:

Support

American Legion, Department of California
Amvets, Department of California
California Association of County Veterans Service Officers
California Council of Chapters Military Officers Association of America
California Enlisted Association of The National Guard of The United States (CAL-EANGUS)
California Military Officers Association of America (CALMOAA)
California State Board of Equalization
California State Commanders Veterans Council
California State Treasurer Fiona Ma
California Tribal Business Alliance
County of Humboldt
County of Monterey
County of Riverside
Military Officers Association of America, California Council of Chapters
Peace Officers Research Association of California (PORAC)
Solano County Chapter Military Officers Association of America (MOAA)
Ventura County Chapter of The Military Officers Association of America (VCC-MOAA)
Vietnam Veterans of America, California State Council
139 Individuals

Opposition

None on file

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