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By: **Delegates Montgomery, Barve, Bobo, Boteler, Cane, Holmes, Lee, Taylor,  
and Weir**

Introduced and read first time: February 11, 2005

Assigned to: Ways and Means

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A BILL ENTITLED

1 AN ACT concerning

2 **Income Tax - Military Service Retirement Tax Relief Act**

3 FOR the purpose of altering a certain subtraction modification under the Maryland  
4 income tax for military retirement income; providing that retirement income  
5 that is included in a certain subtraction may not be taken into account for  
6 purposes of a certain subtraction modification allowed under the income tax for  
7 certain individuals who are at least a certain age or who are disabled or have  
8 disabled spouses; repealing certain tax credits allowed to certain public service  
9 companies, electricity suppliers, and cogenerators for the purchase of  
10 Maryland-mined coal for the purpose of offsetting the loss of revenue resulting  
11 from the subtraction modification for military retirement income established  
12 under this Act; providing for the application of this Act; and generally relating to  
13 a subtraction modification for military retirement income and tax credits  
14 allowed for the purchase of Maryland-mined coal.

15 BY repealing and reenacting, with amendments,  
16 Article - Tax - General  
17 Section 8-406, 10-207(q), and 10-209  
18 Annotated Code of Maryland  
19 (2004 Replacement Volume)

20 BY repealing and reenacting, without amendments,  
21 Article - Tax - General  
22 Section 10-207(a)  
23 Annotated Code of Maryland  
24 (2004 Replacement Volume)

25 BY repealing  
26 Article - Tax - General  
27 Section 10-704.1  
28 Annotated Code of Maryland  
29 (2004 Replacement Volume)

1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article - Tax - General**

4 8-406.

5 (a) A public service company may claim a credit against the public service  
6 company franchise tax equal to the estimated tax paid under § 8-405(b) of this  
7 subtitle.

8 (b) [A public service company, including any multijurisdictional public service  
9 company, may claim a credit against the public service company franchise tax in the  
10 amount of \$3 for each ton of Maryland-mined coal that the public service company  
11 purchased in the calendar year.

12 (c) (1) To prevent actual multiple taxation of the sale of interstate long  
13 distance telecommunications service, a long distance telecommunications company,  
14 upon proof that it has paid a properly due excise, sales and use, or gross receipts tax  
15 in another state on a sale the gross receipts from which are subject to taxation under  
16 this subtitle, shall be allowed a credit against the public service company franchise  
17 tax for the amount paid.

18 (2) The credit permitted under this subsection may not exceed the tax  
19 imposed under this subtitle.

20 10-207.

21 (a) To the extent included in federal adjusted gross income, the amounts under  
22 this section are subtracted from the federal adjusted gross income of a resident to  
23 determine Maryland adjusted gross income.

24 (q) (1) The subtraction under subsection (a) of this section includes the first  
25 [\$2,500] \$7,500 of military retirement income received by an individual during the  
26 taxable year, if the individual:

27 (i) is at least 55 years old on the last day of the taxable year; and

28 (ii) was an enlisted member of the military at the time of  
29 retirement.

30 (2) The amount of the subtraction under paragraph (1) of this subsection:

31 (i) is reduced by 50% of the amount by which federal adjusted  
32 gross income exceeds [\$17,500] \$30,000; and

33 (ii) is reduced to zero if federal adjusted gross income exceeds  
34 [\$22,500] \$40,000.

1 10-209.

2 (a) In this section:

3 (1) "employee retirement system" means a plan:

4 (i) established and maintained by an employer for the benefit of its  
5 employees; and

6 (ii) qualified under § 401(a), § 403, or § 457(b) of the Internal  
7 Revenue Code; and

8 (2) "employee retirement system" does not include:

9 (i) an individual retirement account or annuity under § 408 of the  
10 Internal Revenue Code;

11 (ii) a Roth individual retirement account under § 408A of the  
12 Internal Revenue Code;

13 (iii) a rollover individual retirement account;

14 (iv) a simplified employee pension under Internal Revenue Code §  
15 408(k); or

16 (v) an ineligible deferred compensation plan under § 457(f) of the  
17 Internal Revenue Code.

18 (b) [To] SUBJECT TO SUBSECTION (D) OF THIS SECTION, TO determine  
19 Maryland adjusted gross income, if, on the last day of the taxable year, a resident is at  
20 least 65 years old or is totally disabled or the resident's spouse is totally disabled, an  
21 amount is subtracted from federal adjusted gross income equal to the lesser of:

22 (1) the cumulative or total annuity, pension, or endowment income from  
23 an employee retirement system included in federal adjusted gross income; or

24 (2) the maximum annual benefit under the Social Security Act computed  
25 under subsection (c) of this section, less any payment received as old age, survivors, or  
26 disability benefits under the Social Security Act, the Railroad Retirement Act, or both.

27 (c) For purposes of subsection (b)(2) of this section, the Comptroller:

28 (1) shall determine the maximum annual benefit under the Social  
29 Security Act allowed for an individual who retired at age 65 for the prior calendar  
30 year; and

31 (2) may allow the subtraction to the nearest \$100.

32 (D) RETIREMENT INCOME THAT IS INCLUDED IN THE SUBTRACTION UNDER §  
33 10-207(Q) OF THIS SUBTITLE MAY NOT BE TAKEN INTO ACCOUNT FOR PURPOSES OF  
34 THE SUBTRACTION UNDER THIS SECTION.

1 [10-704.1.

2 (a) (1) In this section the following words have the meanings indicated.

3 (2) "Cogenerator" means a qualifying cogenerator or qualifying small  
4 power producer as determined by the Federal Energy Regulatory Commission under  
5 the Public Utility Regulatory Policies Act of 1978.

6 (3) "Electricity supplier" has the meaning stated in § 1-101 of the Public  
7 Utility Companies Article.

8 (b) This section does not apply to:

9 (1) a cogenerator or electricity supplier that is subject to the public  
10 service company franchise tax; or

11 (2) an electricity supplier that, before July 1, 1999, was not an electric  
12 company as defined in § 1-101 of the Public Utility Companies Article as in effect on  
13 June 30, 1999, unless the electricity supplier is an affiliate of such an electric  
14 company.

15 (c) A cogenerator or electricity supplier may claim a credit against the State  
16 income tax in the amount of \$3 for each ton of Maryland-mined coal that the  
17 cogenerator or electricity supplier purchased in the taxable year.

18 (d) (1) A cogenerator or electricity supplier may only apply the credit  
19 against the State income tax for the taxable year in which the credit was earned.

20 (2) The amount of the credit may not exceed the State income tax for  
21 that taxable year.]

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
23 July 1, 2005, and shall be applicable to all taxable years beginning after December 31,  
24 2004.