DEPARTMENT OF TAXATION
2013 Fiscal Impact Statement

1. Patron Thomas K. Norment, Jr.

2. Bill Number SB 1220

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

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

3. Committee Passed House and Senate

4. Title Virginia College Savings Plan; Deposit of Income Tax Refunds

5. Summary/Purpose:

This bill would allow an individual to designate that his individual income tax refund, or a portion thereof, be deposited into one or more Virginia College Savings Plan accounts. Any taxpayer designating that a refund be deposited into a Virginia College Savings Plan account would, by making such designation, be deemed to authorize the Department of Taxation ("the Department") to provide all necessary information to the Virginia College Savings Plan. If an individual does not own a Virginia College Savings Plan account, then the amount of the refund would be returned to the individual by the Virginia College Savings Plan.

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

6. Budget amendment necessary: No.

7. No Fiscal Impact. (See Line 8.)

8. Fiscal implications:

Administrative Costs

Any reasonable and necessary costs incurred by the Department as a result of this bill would be recovered pursuant to a memorandum of understanding between the Department and the Virginia College Savings Plan. Therefore, there would be no impact on the General Fund for the Department's administrative costs.

Revenue Impact

This bill would have no impact on General Fund revenues.

9. Specific agency or political subdivisions affected:

Department of Taxation
Virginia College Savings Plan

10. Technical amendment necessary: No.

11. Other comments:

Background

Effective for the 2012 taxable year, individual taxpayers may select from two options for receiving their annual refunds. The first option is to use direct deposit to place the refund amount into a specified checking or savings account. The second option is to receive a debit card that contains the refund amount. Taxpayers can make withdrawals from debit card accounts, transfer funds from the debit card account to another checking or savings account, or use the debit card in point-of-sale transactions.

In addition to depositing refunds into their bank accounts or receiving debit cards, individuals are permitted to contribute all or part of their Virginia income tax refunds as donations to one or more qualifying organizations as listed on the Virginia individual income tax return. In 2004, the General Assembly limited the number of qualifying organizations to 25, and required that organizations receive at least $10,000 in voluntary contributions annually for at least three consecutive years in order to continue to be included on the individual income tax return. The Department is required to report to the Chairmen of the Senate and House Finance Committees the amounts collected for each voluntary contribution for the three most recent taxable years for which there is complete data. This report is required to list which entities, if any, will be removed from the Virginia individual income tax return because they have failed to meet the $10,000 per year requirement. The report also lists which entities, if any, will be added to the income tax return to replace any organizations that were removed from the list of qualifying organizations.

Virginia College Savings Plan

In 1996, Congress passed Internal Revenue Code § 529, which allowed taxpayers to set up tax-advantaged college savings plans, also referred to as qualified tuition plans or Section 529 plans. Such plans are generally exempt from federal income tax. To qualify as a Section 529 plan, the plan must be operated by a state or educational institution. The Virginia College Savings Plan is an independent agency of the Commonwealth that administers Section 529 plans. The Virginia College Savings Plan currently allows four account options:

- *Virginia529 prePAID* is a prepaid tuition program that allows families to prepay the cost of future in-state undergraduate public college or university tuition and mandatory fees. Funds may be placed into this type of account for beneficiaries ranging in age from newborns to ninth graders.
- *Virginia529 inVEST* is a savings plan that allows account owners to choose from a variety of investment options, including age-based evolving and non-evolving portfolios to meet a variety of investment objectives, risk tolerances, and college savings time horizons.

- *CollegeWealth* is Virginia529's FDIC insured savings program that offers savings accounts through partner banks.
- *CollegeAmerica* is a savings program offered by Virginia529 in partnership with American Funds that offers a large variety of mutual fund options in building a college savings portfolio.

Because Virginia conforms to federal income tax law, Section 529 plans are also generally exempt from the Virginia income tax. Virginia law allows a subtraction for any income attributable to a distribution of benefits or a refund from a prepaid tuition contract or savings trust account with the Virginia College Savings Plan, provided that any income attributable to a refund is due to a beneficiary's death, disability, or receipt of a scholarship.

Virginia also allows an individual income tax deduction for the purchaser or contributor for the amount paid or contributed during the taxable year for a prepaid tuition contract or savings trust account entered into with the Virginia College Savings Plan. The amount deducted on any individual income tax return is generally limited to $4,000 per prepaid tuition contract or savings trust account.

State Voluntary Contributions of Refunds into 529 Accounts

Several other states allow taxpayers to contribute their individual income tax refunds to a 529 account. For example, Utah allows a resident or nonresident individual who is entitled to an individual income tax refund to contribute his entire refund amount to an existing Utah Educational Savings Plan account. If an individual owns more than one Utah Educational Savings Plan account, then the Utah Educational Savings Plan must allocate the contribution among the accounts in equal amounts. If an individual does not own a Utah Educational Savings Plan account, then the Utah Educational Savings Plan must send the individual an account agreement. If the individual fails to sign and return the account agreement by the date specified, then the Utah Educational Savings Plan must return the contribution to the individual without interest or earnings.

Arkansas allows an individual who is entitled to an individual income tax refund to designate that either a set amount of his refund ($25, $50 or $100) or the entire refund amount be contributed to an Arkansas Tax-Deferred Tuition Savings Program account. The Arkansas Tax-Deferred Savings Program account must be in existence at the time of the election in order for an individual to make such a contribution.

Maryland allows individuals who are entitled to individual income tax refunds to directly deposit their refunds into a Maryland College Investment Plan if they first submit a Tax Refund Direct Deposit Maryland College Investment Plan form.

Delaware, Illinois and Maine allow individuals who are entitled to an individual income tax refund to elect on their individual income tax returns to direct deposit their refund into a 529 account.

Proposed Legislation

This bill would allow an individual to designate that his individual income tax refund, or a portion thereof, be deposited into one or more Virginia College Savings Plan accounts. This would allow taxpayers to deposit refund amounts into a savings account designated specifically for college savings in a manner similar to how refunds are currently deposited directly into a checking or savings account.

Under this bill, the Department would send the designated deposit amounts to the Virginia College Savings Plan along with the following information:

- The amount of the individual income tax refund or that portion of the refund that the individual has chosen to contribute;
- The taxpayer's name, Social Security number or tax identification number, address, and telephone number; and
- The Virginia College Savings Plan account number or numbers into which the contributions will be deposited.

If a deposit is designated on an individual income tax return that is filed jointly by a husband and wife, then the Department would send their deposit to the Virginia College Savings Plan along with information for both the husband and wife. Any taxpayer designating that a refund be deposited into a Virginia College Savings Plan account would, by making such designation, be deemed to authorize the Department of Taxation to provide all necessary information to the Virginia College Savings Plan.

If a taxpayer owns a single Virginia College Savings Plan account, then the Virginia College Savings Plan would deposit the designated refund amount into that account. If a taxpayer owns more than one Virginia College Savings Plan account, then the Virginia College Savings Plan would allocate the designated refund amount between the accounts in equal amounts, or as otherwise designated by the taxpayer. If an individual does not own a Virginia College Savings Plan account, then the amount of the refund would be returned to the individual by the Virginia College Savings Plan. For purposes of determining interest on an overpayment or refund, no interest would accrue after the Department sends the designated amount to the Virginia College Savings Plan.

This bill would require that the Department and the Virginia College Savings Plan enter into a memorandum of understanding to establish how any reasonable and necessary costs incurred by the Department as a result of this bill would be recovered from the Virginia College Savings Plan.

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

Similar Legislation

This bill is identical to **House Bill 2145**.

cc : Secretary of Finance

Date: 2/15/2013 KLC
SB1220FER161