DEPARTMENT OF TAXATION
2019 Fiscal Impact Statement

1. Patron Timothy D. Hugo

2. Bill Number HB 2529

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

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

3. Committee Passed House and Senate

4. Title Commonwealth's Tax System; Conformity with Federal Law; Virginia Tax Policy Changes

5. Summary/Purpose:

This bill would advance Virginia's date of conformity to the Internal Revenue Code ("IRC") from February 9, 2018 to December 31, 2018. This bill would also repeal language currently deconforming Virginia from most of the provisions of the Tax Cuts and Jobs Act ("the TCJA") and the Bipartisan Budget Act of 2018 ("the BBA") that affect Taxable Year 2018 and after. This would allow Virginia to conform to the TCJA. The portion of this bill amending Virginia's conformity statute would be effective for taxable years beginning on and after January 1, 2018.

This bill would deconform Virginia from the TCJA's suspension of the Pease limitation for taxable years beginning on and after January 1, 2019.

This bill would increase the Virginia standard deduction from $3,000 to $4,500 for individuals and married taxpayers filing separately, and from $6,000 to $9,000 for married taxpayers filing joint returns. This portion of the bill would be effective for taxable years beginning on and after January 1, 2019, but before January 1, 2026.

This bill would provide an individual income tax deduction for the actual amount of real and personal property taxes imposed by Virginia or any other taxing jurisdiction not otherwise deducted solely on account of the $10,000 annual limitation imposed on the federal deduction for state and local taxes paid. This portion of the bill would be effective for taxable years beginning on and after January 1, 2019.

This bill would provide an individual and corporate income tax deduction for 20 percent of the amount of business interest that is disallowed as a deduction for federal income tax purposes. This portion of the bill would be effective for taxable years beginning on and after January 1, 2018.

This bill would expand Virginia's existing corporate income tax subtraction for subpart F income so that it also applies to global intangible low-taxed income ("GILTI"). As a result, GILTI would be permitted to be subtracted for Virginia corporate income tax purposes to the extent it is included in a taxpayer's federal taxable income. This portion of the bill would be effective for taxable years beginning on and after January 1, 2018.

This bill would provide a refund of up to $110 to an individual or up to $220 to married persons filing a joint return. In order to receive a refund, the individual or married persons would be required to file a final return for Taxable Year 2018 before July 1, 2019. A refund would only be allowed up to the amount of such individual's or married person's tax liability after the application of any deductions, subtractions, or credits to which the individual or married persons are otherwise entitled. Refunds would be required to be issued on or after October 1, 2019, but before October 15, 2019.

This bill would provide that certain additional revenues generated by TCJA must be transferred to a special nonreverting fund established by this bill, known as the "Taxpayer Relief Fund."

Because some taxpayers will be preparing their 2018 Virginia returns while the General Assembly is in session, **this bill contains an emergency clause** which states that it would be in force from its passage.

6. **Budget amendment necessary:** Yes.
   Item(s): Page 1, Revenue Estimates
   Item 273, Department of Taxation
   Items 276 and 277, Department of Treasury

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

7a. Expenditure Impact:

Fiscal Year	*Dollars*	*Positions*	*Fund*
2018-19	$658,100	0	GF
2019-20	$2,280,406	0	GF
2020-21	$27,200	0	GF

7b. Revenue Impact:

Fiscal Year	*Dollars*	*Fund*
2018-19	($532.1 million)	GF
2019-20	($443.8 million)	GF
2020-21	($466.7 million)	GF
2021-22	($492.5 million)	GF
2022-23	($520.0 million)	GF
2023-24	($546.1 million)	GF
2024-25	($573.5 million)	GF

8. **Fiscal implications:**

Administrative Costs

This bill would result in administrative costs to the Department of Taxation ("the Department") of $658,100 in Fiscal Year 2019; $680,406 in Fiscal Year 2020; and $27,200 in Fiscal Year 2021. Such funding would include costs for updating the Department's systems, forms and website content; hiring customer services wage staff; and hiring a consultant for estimating and certifying the revenue for the proposed refunds.

This bill would result in administrative costs to the Department of Treasury of $1.6 million in Fiscal Year 2020. Such funding would include costs for check stock, postage, and overtime pay in order to mail checks within the specified time frame, banking services, and printer costs related to printing refund checks.

Revenue Impact

The portion of this bill advancing Virginia's date of conformity would have an estimated positive revenue impact of $594.2 million in Fiscal Year 2019; $611.1 million in Fiscal Year 2020; $653.7 million in Fiscal Year 2021; $798.7 million in Fiscal Year 2022; $943.2 million in Fiscal Year 2023; $950.6 million in Fiscal Year 2024; and $943.1 million in Fiscal Year 2025. No budget amendment would be necessary for this provision because the General Fund revenue impact of advancing Virginia's date of conformity is assumed in the Introduced Executive Budget.

The other changes provided in this bill would result in an estimated negative General Fund revenue impact of $532.1 million in Fiscal Year 2019; $443.8 million in Fiscal Year 2020; $466.7 million in Fiscal Year 2021; $492.5 million in Fiscal Year 2022; $520.0 million in Fiscal Year 2023; $546.1 million in Fiscal Year 2024; and $573.5 million in Fiscal Year 2025. If this bill is enacted, the budget would need to be adjusted to reduce the revenue estimate by $532.1 million in Fiscal Year 2019 and $443.8 million in Fiscal Year 2020.

The chart below shows the estimated impact (in millions) from the tax policy changes set forth in this bill:

	FY 2019	**FY 2020**	**FY 2021**	**FY 2022**	**FY 2023**	**FY 2024**	**FY 2025**
Standard Deduction Increase; Deduction for Real and Personal Property taxes; and Deconformity from Elimination of Pease Limitation	-	($307.8)	($204.1)	($207.5)	($211.6)	($215.5)	($218.8)
Subtraction 20% of the Disallowed Net Interest Deduction	($24.6)	($18.0)	($18.7)	($19.7)	($21.0)	($21.9)	($22.6)
Subpart F Subtraction Extended to GILTI	($7.1)	($5.4)	($5.5)	($5.8)	($6.0)	($6.3)	($6.5)
Total Impact	**($31.7)**	**($331.2)**	**($228.3)**	**($233.0)**	**($238.7)**	**($243.7)**	**($247.8)**

This bill would require that certain additional revenues generated by the TCJA be transferred to the Taxpayer Relief Fund in an amount estimated at $500.5 million for Fiscal Year 2019; $112.6 million for Fiscal Year 2020; $238.5 million for Fiscal Year 2021; $259.5 million for Fiscal Year 2022; $281.3 million in Fiscal Year 2023; $302.4 million in

Fiscal Year 2024; and $325.6 million in Fiscal Year 2025. The proposed refund for individual and married taxpayers who file returns before July 1, 2019 would result in an estimated negative revenue impact to the Taxpayer Relief Fund of $419.4 million in Fiscal Year 2020.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

Virginia's Conformity to Federal Tax Law

Virginia's date of conformity to the IRC is currently fixed to the IRC as it existed on February 9, 2018. Virginia law currently deconforms from the following IRC provisions:

- **Bonus depreciation allowed for certain assets under federal income taxation.** Taxpayers who claim bonus depreciation on their federal returns upon purchasing an asset are required to make adjustments on their Virginia returns for the taxable year in which they purchased such asset and in each subsequent year until the asset has been fully depreciated for federal and Virginia purposes.

- **The five-year carry-back of net operating losses ("NOLs") generated in certain taxable years**. Although no longer available, taxpayers who benefited from the use of a five-year carry-back on their federal returns for losses generated during 2008 and 2009 are required to make adjustments on their Virginia returns for the taxable year in which such losses were generated and in each subsequent year until all such losses have been fully utilized for both federal and Virginia purposes.

- **Tax exclusions related to cancellation of debt income**. Although no longer available, taxpayers who benefited from a deferral of income realized upon the reacquisition of certain business debt during 2009 and 2010 on their federal returns are required to make adjustments on their Virginia returns for the taxable year in which they deferred such income and in each subsequent year until such income is fully reported for both federal and Virginia purposes. However, for transactions completed on or before April 21, 2010, taxpayers were permitted to partially defer such income by reporting the income over three taxable years.

- **Tax deductions related to the application of the applicable high yield debt obligation rules**. Although no longer available, taxpayers who benefited from the suspension of the application of the applicable high yield debt obligation rules for certain debts issued between September 30, 2008 and December 31, 2009 on their federal returns, are required to make adjustments on their Virginia returns for the taxable year in which they claimed a deduction and in each subsequent year until such deductions are fully claimed for both federal and Virginia purposes.

In addition to these IRC provisions from which Virginia has historically deconformed, the General Assembly enacted legislation during the 2018 Session that deconformed Virginia from:

- The provision of the TCJA that temporarily increased the medical expenses deduction for Taxable Years 2017 and 2018; and
- All of the provisions of the TCJA and the Bipartisan Budget Act of 2018 that affect Taxable Year 2018 and after other than the provision of the TCJA providing tax relief for specified 2016 disaster areas and the provision extending combat zone benefits to members of the armed forces performing services in the Sinai Peninsula of Egypt.

<u>Federal Law Regarding Standard and Itemized Deductions</u>

When completing their federal income tax return, taxpayers are generally allowed to elect to claim either the total amount of their itemized deductions or the flat amount of their standard deduction. Taxpayers will generally choose to deduct the greater of the two amounts.

Federal Standard Deduction

The standard deduction is a fixed dollar amount that reduces a taxpayer's taxable income and varies according to their filing status. The current amount of the federal standard deduction is $12,000 for single taxpayers; $18,000 for heads of household; and $24,000 for married taxpayers filing jointly.

The federal standard deduction amounts have increased significantly since 1988. The federal Tax Reform Act of 1986 increased the standard deduction amount for Taxable Year 1988 to $3,000 for individuals; $4,400 for heads of household; and $5,000 for married taxpayers filing jointly. The Act also required, beginning in Taxable Year 1989, the Internal Revenue Service to adjust the amount of such deduction annually for inflation based on the percentage change in the Consumer Price Index for Urban Consumers ("CPI-U") for the preceding calendar year. Because of these inflation adjustments, the federal standard deduction increased annually from Taxable Year 1988 through Taxable Year 2002. For Taxable Year 2002, the standard deduction amounts were $4,700 for individuals; $6,900 for heads of household; and $7,850 for married taxpayers filing jointly.

The federal Jobs and Growth Tax Relief Reconciliation Act of 2003 increased the standard deduction for married couples filing jointly to $9,500, which was equal to twice the standard deduction for single taxpayers. This was intended to eliminate the standard deduction marriage penalty. From 2003 until 2017, the federal standard deduction continued to increase annually due to inflation adjustments. For Taxable Year 2017, the standard deduction amounts were $6,350 for individuals; $9,350 for heads of household; and $12,700 for married taxpayers filing jointly.

On December 22, 2017, Congress enacted the TCJA, which substantially increased the federal standard deduction amounts beginning with Taxable Year 2018 as follows:

- From $6,350 to $12,000 for single taxpayers;
- From $9,350 to $18,000 for heads of household; and
- From $12,700 to $24,000 for married taxpayers filing jointly.

In addition, beginning with Taxable Year 2019, the Internal Revenue Service is required to adjust the standard deduction amount based upon a new inflation measure, chained CPI-U.

Like the majority of the individual provisions of the TCJA, the increase in the federal standard deduction is currently scheduled to sunset after December 31, 2025, and revert to its pre-2018 amounts. Future legislation would be required to make such increases effective beyond Taxable Year 2025. However, the 2025 sunset date does not apply to the TCJA's substitution of a new inflation measure for indexing the federal standard deduction and other provisions.

Federal Itemized Deductions Generally

In lieu of deducting the standard deduction amount, taxpayers may elect to claim up to approximately a dozen separate deductions, referred to as "itemized deductions," on their federal return to the extent that they qualify for such deductions. The rationale for each itemized deduction is generally to take account of large or unusual personal expenditures that affect a taxpayer's ability to pay. Certain itemized deductions are also provided as a way of encouraging certain desired behaviors and activities. The most common expenses that may be claimed as an itemized deduction include:

- Home mortgage interest;
- State and local income taxes or sales taxes (but not both);
- Real estate and personal property taxes;
- Gifts to charities;
- Casualty or theft losses;
- Unreimbursed medical expenses; and
- Unreimbursed employee business expenses.

The TCJA included a number of provisions that greatly limit or repeal certain federal itemized deductions.

Itemized Deduction for State and Local Taxes

Under federal law, a deduction may be claimed for state and local taxes, such as income or sales tax (but not both), real estate tax, and personal property tax. Prior to the TCJA, taxpayers' deductions for state and local taxes were generally unlimited. For taxable years beginning January 1, 2018, but before January 1, 2026, the TCJA limited the deduction for state and local taxes which are not paid or accrued in carrying on a trade or business or an activity to $10,000 per taxable year.

Overall Limitation on Itemized Deductions

The overall limitation on itemized deductions (the "Pease limitation") capped the total amount of otherwise allowable itemized deductions paid during the taxable year for certain higher-income taxpayers. The overall limitation was applied last, after application of any other limitations on itemized deductions. It did not apply to medical expenses, investment interest, casualty, theft, or wagering losses, and charitable contributions up to the amount of any qualified contributions. The otherwise allowable total amount of itemized deductions was reduced by 3 percent of the amount by which the taxpayer's adjusted gross income exceeded a threshold amount. For Taxable Year 2017, this threshold amount was:

- $261,500 for single individuals;
- $313,800 for joint filers and surviving spouses;
- $287,650 for heads of household; and
- $156,900 for marrieds filing separately.

However, the overall limitation was not permitted to reduce itemized deductions by more than 80 percent.

For taxable years beginning January 1, 2018, but before January 1, 2026, overall limitation on itemized deductions was suspended in the TCJA.

Virginia Law Regarding Standard and Itemized Deductions

When completing their Virginia income tax returns, taxpayers are bound by the election they made for federal purposes regarding whether to claim a standard deduction or to itemize their deductions. Therefore, if they claimed the standard deduction on their federal income tax return, they are not allowed to claim itemized deductions on their Virginia return. In contrast, if they claimed itemized deductions on their federal income tax return, they are not allowed to claim the standard deduction on their Virginia return.

Virginia's Standard Deduction

Taxpayers that do not itemize their deductions for federal purposes are permitted to claim a standard deduction on their Virginia income tax returns. The current amount of the Virginia standard deduction is $3,000 for single individuals and $6,000 for married persons filing jointly. Virginia's standard deduction amounts increased from Taxable Year 1988 to the present, as shown below:

Year	Virginia Standard Deduction for Single Taxpayers	Virginia Standard Deduction for Married Persons Filing Jointly
1987	$2,000	$2,000
1988	$2,700	$2,700
1989-2004	$3,000	$5,000
2005-present	$3,000	$6,000

During the 2005 Session, the General Assembly increased the standard deduction for married persons filing jointly from $5,000 to $6,000. This was intended to eliminate the standard deduction marriage penalty at the state level, similar to how this issue was addressed at the federal level. Since 2005, the Virginia standard deduction amounts have remained at $3,000 for single taxpayers and $6,000 for married taxpayers filing jointly.

Prior to 1987, the Virginia standard deduction was not a fixed amount. For example, in Taxable Year 1986, the Virginia standard deduction was 15 percent of a taxpayer's federal adjusted gross income with a $1,300 minimum and a $2,000 maximum.

Virginia Itemized Deductions

Taxpayers that elect to itemize their deductions for federal purposes are permitted to claim such deductions on their Virginia income tax return as well. The amount of itemized deductions that may be claimed on such return is equal to the:

- Federally allowable amount of itemized deductions, *minus*
- Amount claimed as a federal deduction for income taxes paid to Virginia or any other state, locality, foreign country, or other taxing jurisdiction, *plus*
- Amount needed to increase the amount deducted federally for charitable contribution transportation to 18¢ per mile.

Virginia and the Itemized Deduction for State and Local Taxes

Virginia permits taxpayers that elect to itemize their deductions for federal income purposes to claim the federal deduction for state and local taxes on their Virginia income tax return. However, Virginia does not permit a taxpayer to deduct income taxes paid to Virginia or any other taxing jurisdiction. Therefore, for Virginia income tax purposes, the federal itemized deduction for state and local taxes is required to be reduced to the extent this limitation applies.

<u>Bipartisan Budget Act of 2018</u>

On February 9, 2018, the BBA was signed into law by Congress. In addition to providing a continuing resolution to fund the federal government, the BBA extends more than 30 tax provisions, commonly known as "extenders," which had expired at the end of 2016, so that they apply to Taxable Year 2017. The law expands the tax relief previously provided to victims of Hurricanes Harvey, Irma, and Maria so that it applies to victims of the 2017 California wildfires, clarifies the definition of "disaster areas" for Hurricanes Irma and Harvey, and makes other changes.

<u>Federal Business Interest Deduction</u>

For federal income tax purposes, a taxpayer may claim a deduction for interest paid or accrued on certain debts related to their trades or businesses. Prior the enactment of the TCJA, only corporations were permitted to claim this deduction and it was not subject to a percentage limitation. Instead, the deduction was limited for certain types of interest if the taxpayer's debt-to-equity ratio exceeded 1.5 to 1.0 and the taxpayer's net interest expense exceeded 50 percent of the taxpayer's adjusted taxable income.

The TCJA permits all businesses, regardless of entity type, to claim the business interest deduction. However, the TCJA generally limited the amount of the deduction to the sum of a taxpayer's:

- Business interest income;
- 30 percent of a taxpayer's adjusted taxable income; and
- Floor plan financing interest.

For purposes of the deduction, "adjusted taxable income," is defined as the taxable income of the taxpayer without regard to:

- Items of income, gain, deduction or loss not allocable to a trade or business;
- Any business interest or business interest income;
- Any net operating loss deduction;
- Any "pass-through" deduction under Internal Revenue Code Section 199A; and
- For taxable years commencing prior to January 1, 2022, any depreciation, amortization or depletion deductions.

The business interest limitation does not apply to certain taxpayers including small businesses that have annual gross receipts for the three-taxable-year period ending with the prior taxable year equal to or less than $25 million. In addition, real property and farming businesses may opt out of the new limitation if they use the alternative depreciation system to depreciate certain property used in their businesses.

<u>Global Intangible Low-Taxed Income</u>

The TCJA made significant changes to the federal taxation of U.S. corporations and individuals that own stock in foreign corporations. Prior to the TCJA, domestic corporations as well as U.S. citizens and U.S. residents were required to report and pay tax on their worldwide income, which includes both their domestic and foreign income. Therefore, the U.S. tax system prior to the TCJA was referred to as a "worldwide system." Despite the apparent far-reaching nature of a worldwide system, some U.S. taxpayers were able to avoid U.S. tax on their foreign income by forming foreign corporations in the countries where they do business. Because foreign corporations are not considered U.S. corporations even if wholly owned by a U.S. parent, their foreign profits were not generally subject to U.S. taxation so long as they kept the profits abroad and did not distribute them to their domestic parent corporation.

The TCJA replaced the worldwide system for certain domestic corporations with what is referred to as a "territorial system." In this system, domestic corporations generally pay U.S. tax only on their domestic income and are exempt from U.S. tax on their foreign income. To prevent multinational firms from shifting their profits to low-tax countries, the TCJA included a provision that requires U.S. corporations and other U.S. shareholders that own stock in specified foreign corporations to pay federal income tax at reduced rates on certain abnormally high overseas profits, referred to as global intangible low-taxed income or "GILTI."

U.S. individuals and domestic corporations that are 10 percent-or-more owners that collectively own more than 50 percent of a foreign corporation, referred to as a "controlled foreign corporation" or "CFC," are required to pay tax on their GILTI. The GILTI inclusion is the taxpayer's aggregate net income from CFCs that exceeds a 10 percent return on the CFCs' tangible assets. Net income means the CFCs gross income less deductions, exclusive of income already taxed or exempted from U.S. tax in the current year. This may include, but is not limited to, Subpart F income, income effectively connected with a U.S. trade or business, and income subject to a high foreign effective tax rate. The 10 percent return on tangible assets is not counted for any CFC with a net loss.

Corporations are allowed a foreign tax credit on their federal income tax returns for foreign taxes allocable to their GILTI inclusion. Therefore, the GILTI inclusion is grossed up for the related foreign taxes. For corporations only, the GILTI inclusion plus the gross-up is reduced by 50 percent for Taxable Years 2018 through 2025 and by 37.5 percent for Taxable Years 2026 and after. The 50 percent or 37.5 percent reduction applies after net operating losses. Any unused excess reduction is lost and may not be carried forward.

Individuals are taxed on the full GILTI inclusion. However, such taxpayers may make an election to be taxed on the deemed income at corporate rates, including credits, which gives temporary relief until the earnings are actually repatriated.

Virginia Income Tax Incentives for Foreign Income

For corporate income tax purposes, Virginia generally exempts income from other countries. This is accomplished by allowing subtractions on the Virginia corporate income tax return for foreign source income and for subpart F income to the extent such income is included in and not otherwise subtracted from federal taxable income. However, GILTI does not currently qualify for either of these corporate income tax subtractions.

History of Virginia's Response to Federal Tax Reform

During the 1987 Session, the General Assembly enacted legislation in response to the federal Tax Reform Act of 1986 that increased the:

- Amounts of the personal exemption and standard deduction;
- Threshold for the top individual income tax rate bracket; and
- Individual income tax filing threshold.

This legislation also required excess revenues from federal tax reform to be set aside in a special fund for purposes of providing future tax relief.

During the 1989 Session, the General Assembly enacted legislation that utilized such revenue to provide a one-time, nonrefundable individual income tax credit in an amount equal to $35 per personal and dependent exemption claimed. Taxpayers with Virginia adjusted gross income of less than $17,000 for individuals and $34,000 for married persons filing joint returns received the full amount of the credit. The amount of the credit declined gradually based on a taxpayer's income in excess of such amounts so that a taxpayer with Virginia adjusted gross income greater than $34,000 for individuals and $68,000 for married persons filing joint returns received no credit.

During the 1989 Session, the General Assembly also enacted a smaller $22.50 tax credit for Taxable Year 1990 through Taxable Year 1993. However, this credit was repealed during the 1990 Session in order to instead eliminate the sales and use tax on nonprescription drugs.

Proposed Legislation

Advance Conformity to the Internal Revenue Code

This bill would advance Virginia's date of conformity to the IRC from February 9, 2018 to December 31, 2018. This bill would also repeal language currently deconforming Virginia from most of the provisions of the TCJA and the BBA that affect Taxable Year 2018 and after. This would allow Virginia to conform to the TCJA.

Virginia would continue to deconform from the following IRC provisions:

- Bonus depreciation allowed for certain assets under federal income taxation;
- The five-year NOLs generated in certain taxable years;
- Tax exclusions related to cancellation of debt income; and
- Tax deductions related to the application of the applicable high yield debt obligation rules.

This bill would delete obsolete language regarding Virginia's deconformity from the IRC § 199 domestic production activities deduction. Virginia partially deconformed from this deduction for Taxable Years 2010, 2011, and 2012. However, because Virginia fully conformed to this deduction beginning with Taxable Year 2013 and because the TCJA repealed the deduction beginning with Taxable Year 2018, this language is obsolete.

This portion of this bill amending Virginia's conformity statute would be effective for taxable years beginning on and after January 1, 2018.

Deconform from the Pease Limitation

This bill would deconform Virginia from the TCJA's suspension of the Pease limitation for taxable years beginning on and after January 1, 2019.

Increase Virginia Standard Deduction

This bill would increase the Virginia standard deduction from $3,000 to $4,500 for individuals and married taxpayers filing separately, and from $6,000 to $9,000 for married taxpayers filing joint returns. This portion of the bill would be effective for taxable years beginning on and after January 1, 2019, but before January 1, 2026.

Additional State and Local Tax Deduction

This bill would provide an individual income tax deduction for the actual amount of real and personal property taxes imposed by Virginia or any other taxing jurisdiction not otherwise deducted solely on account of the $10,000 annual limitation imposed on the federal deduction for state and local taxes paid. This portion of the bill would be effective for taxable years beginning on and after January 1, 2019.

Business Interest Subtraction

This bill would provide an individual and corporate income tax subtraction for 20 percent of the amount of business interest that is disallowed as a deduction pursuant to the business interest limitation set forth in IRC § 163(j). This portion of the bill would be effective for taxable years beginning on and after January 1, 2018.

Global Intangible Low-Taxed Income Subtraction

The bill would expand Virginia's existing corporate income tax subtraction for subpart F income so that it also applies to GILTI. As a result, GILTI would be permitted to be subtracted for Virginia corporate income tax purposes to the extent it is included in a taxpayer's federal taxable income. This portion of the bill would be effective for taxable years beginning on and after January 1, 2018.

Refunds for Certain Taxable Year 2018 Return Filers

This bill would provide a refund of up to $110 to an individual or up to $220 to married persons filing a joint return. In order to receive a refund, the individual or married persons would be required to file a final return for Taxable Year 2018 before July 1, 2019. A refund would only be allowed up to the amount of such individual's or married person's tax liability after the application of any deductions, subtractions, or credits to which the individual or married persons are otherwise entitled.

This bill would provide that the Governor, in consultation with the State Comptroller and the Tax Commissioner, would be required to certify to the General Assembly on or before September 1, 2019, the estimated amount available in the Taxpayer Relief Fund, established by this bill, for the issuance of refunds, after taking into account the amounts in the Fund necessary to fund the Taxable Year 2018 tax policy changes set forth in this bill. If such estimated amount is insufficient to issue refunds of $110 for an individual, or $220 for married persons filing a joint return, then such refunds would be required to be reduced and prorated based on the amount of available funds. Any refund issued under this bill would be subject to collection under Virginia's Setoff Debt Collection Act. Refunds would be required to be issued on or after October 1, 2019, but before October 15, 2019.

Taxpayer Relief Fund

This bill would establish a special nonreverting fund to be known as the "Taxpayer Relief Fund." Any revenues generated by the individual tax reform provisions contained in the TCJA, from the collection of taxes during Fiscal Year 2019 through Fiscal Year 2025 beyond those revenues reasonably expected to be collected due to general economic growth and absent the federal policy changes, less the estimated reduction in revenues needed to implement the tax policy changes set forth in this bill for the relevant fiscal year, would be required to be transferred to the Taxpayer Relief Fund. The Governor, in consultation with the State Comptroller and the Tax Commissioner, would be required to certify to the General Assembly on or before September 1 of each year the estimated amount to be transferred to the fund pursuant to this bill. The amount certified would be required to take into account changes in taxpayer behavior and changes in general revenue collections unrelated to federal tax policy changes. The amount certified would also be required to take into account and adjusted accordingly for additional tax policy changes adopted by the federal government after January 1, 2019, that may be reasonably expected to positively or negatively impact Virginia revenues. The General Assembly would be required to appropriate any revenues in the fund to effectuate permanent or temporary tax reform measures.

Because some taxpayers will be preparing their 2018 Virginia returns while the General Assembly is in session, **this bill contains an emergency clause** which states that it would be in force from its passage.

Similar Legislation

Senate Bill 1372 is identical to this bill.

cc : Secretary of Finance

Date: 2/12/2019 JJS
HB2529FER161