DEPARTMENT OF TAXATION
2001 Fiscal Impact Statement

1. **Patron** Purkey

2. **Bill Number** HB 1749

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

3. **Committee** House Finance

4. **Title** Individual Income Tax: Charitable Contributions Deduction

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

5. **Summary/Purpose:**

This bill would allow an individual income tax deduction for charitable contributions for which a deduction is not allowed for federal income tax purposes because the individual's contributions exceeded 50% of their federal adjusted gross income ("FAGI").

This bill would be effective for taxable years beginning on and after January 1, 2002.

6. **Fiscal Impact Estimates are:** Tentative (See Line 8.)

6b. Revenue Impact:

Fiscal Year	***Dollars***	***Fund***
2000-01	$0	GF
2001-02	$0	GF
2002-03	<$5.2 million>	GF

7. **Budget amendment necessary:** Yes.
ITEM(S): Page 1, Revenue Estimates
279 and 281, Department of Taxation

8. **Fiscal implications:**

Administrative Costs

While this bill does have costs associated with systems development, these cannot be ascertained at this time. The cost for implementing a **single** piece of legislation cannot be calculated precisely due to economies of scale. The actual cost to implement **all** legislation enacted during a given session will more than likely be less than the sum of the costs attributed to individual bills. Further, the ability to accurately predict costs is complicated because TAX is replacing its current database system. As a result, legislative changes may need to be made to both the current and the future system, depending on the effective date. Therefore, TAX is not providing specific systems costs for this bill, but will calculate the total for all tax bills once they have been acted upon favorably. Other administrative costs to implement this bill would be minimal.

Revenue Impact

This bill is estimated to reduce General Fund revenues by $5.2 million in Fiscal Year 2003 and by a minimal amount in years thereafter. Because federal law allows a five year carryforward of unused charitable contributions, much of the deduction not used in one year is used in succeeding years. As a result, while this bill would result in a "spike" in allowable deductions in the year it first takes effect the revenue impact should fall the following year since the value of deductions that would otherwise have been carried over is reduced.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary:

In order to ensure that an individual is not permitted to deduct the same charitable contributions twice for Virginia income tax purposes, the following technical amendments are suggested (see line 11).

Page 4, Line 178, At the beginning of the line
Insert: (i)

Page 4, Line 179, After: return
Insert: and (ii) the amount of any carryover excess charitable contributions that were claimed as a deduction under subdivision D 11 of this section in a previous taxable year

11. Other comments:

Current Federal Law

Individuals may deduct charitable contributions made to qualifying organizations such as public charities, churches and educational institutions. Individuals must "itemize" their deductions in order to deduct their charitable contributions.

The amount an individual can deducted in a single year is limited. Generally, the amount that can be deducted in a single year cannot exceed 50% of the individual's FAGI.

Federal Carryover Provision

Taxpayers who make contributions to charitable organizations in excess of the deductible ceiling for the taxable year may carry this excess deduction forward for a period of five years. For example, an individual with FAGI of $80,000 made cash contributions to charities during the year of $50,000. The maximum amount this individual is permitted to deduct for the current year is $40,000 (50% of $80,000). The remaining $10,000 that was not permitted in the current year can be carried over for five years until the total amount is deducted. Any amount not useable as a deduction during the five year period would expire.

Proposed Legislation

This bill would allow Virginia individual income taxpayers to deduct charitable contributions that were not allowed for federal income tax purposes because their contributions exceeded 50% of their FAGI.

Technical Amendment

Because Virginia income tax law conforms to federal income tax law, the same charitable deduction limitations and carryover provisions are applicable for both federal and Virginia purposes. Therefore, if a Virginia taxpayer is subject to the 50% FAGI limitation for federal income tax purposes, this taxpayer will also be subject to this limitation for Virginia purposes. However, federal tax law also permits taxpayers subject to this limitation to carryforward any disallowed amount to future taxable years for deduction. Virginia taxpayers would likewise be permitted this carryforward deduction.

This bill, as currently drafted, would permit individuals to deduct the same charitable deduction twice. For example, an individual with FAGI of $80,000 in taxable year 2002 makes cash contributions to charities during the year of $50,000. The maximum amount this individual is currently permitted to deduct for federal and Virginia income tax purposes is $40,000 (50% of $80,000). The remaining $10,000 could be carried to taxable year 2003 and would be fully or partially deducted.

Assuming the same facts and passage of this bill, this individual would be permitted to deduct $40,000 for federal income tax purposes in taxable year 2002 and $50,000 for Virginia income tax purposes. For federal income tax purposes, the remaining $10,000 could be carried to taxable year 2003 and would be fully or partially deducted. Because Virginia conforms to federal income tax law, this individual would be able to deduct the $10,000 carryover on their Virginia return for taxable year 2003 to the same extent the carryover deduction was permitted on their federal return even though this individual already fully deducted this amount on their state return in taxable year 2002. The suggested amendments would resolve this issue.

cc: Secretary of Finance

Date: 1/14/01/NMS