Department of Planning and Budget
2001 Fiscal Impact Statement

1. **Bill Number** HB2844

House of Origin ☒ Introduced ☐ Substitute ☐ Engrossed

Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. **Patron** O'Bannon

3. **Committee** Finance

4. **Title** Income tax; refund of surplus revenues

5. **Summary/Purpose:** This bill requires the refund of surplus revenues when they exceed the amount required to be deposited in the Revenue Stabilization Fund by at least $50 million. The Department of Taxation shall make refunds based on each taxpayer's pro rata share of excess revenues collected in the calendar year in which the fiscal year surplus is determined. The taxpayer must have filed an income tax return for such calendar year.

6. **Fiscal Impact Estimates are:** Preliminary

6a. Expenditure Impact: This bill would have no effect on General Fund revenue collections. However, for years in which a refund would be paid there would be at least a $50 million reduction to the general fund.

Department of Taxation (Administrative Costs)

Fiscal Year	*Dollars*	*Positions*	*Fund*
2000-01	N/A	N/A	N/A
2001-02	$360,280	9.00	GF
2002-03	$282,000	9.00	GF

Department of the Treasury (Administrative Costs)

Fiscal Year	*Dollars*	*Positions*	*Fund*
2000-01	N/A	N/A	N/A
2001-02	$0	0.00	GF
2002-03	$1,108,710	0.00	GF

7. **Budget amendment necessary:** Yes, Items 279 and 287.

8. **Fiscal implications:** The proposed bill does not include a definition of surplus revenues. It is uncertain if surplus revenues as used in this bill would include only revenues or include both revenues and transfers. For purposes of illustration, in the chart that follows, the assumption is made that surplus revenues would include revenues and transfers over and above the official general fund revenue estimate in the Appropriation Act.

General Fund Revenues Greater than Forecast, Deposits to the Revenue Stabilization Fund, and Undesignated Balances for Fiscal Years 1990 – 1999 ($ in millions)

Fiscal Year	GF revenue vs. forecast (including transfers)	Revenue Stabilization Fund deposit *	GF revenue less Revenue Stabilization Fund deposit	Undesignated fund balances
1990	($150.9)	$0.0	($150.9)	$0.0
1991	$55.8	$0.0	$55.8	$0.0
1992	$38.6	$0.0	$38.6	$52.8
1993	$114.1	$79.9	$34.2	$59.7
1994	$23.0	$0.0	$23.0	$7.6
1995	$64.9	$66.6	($1.7)	$0.0
1996	$83.3	$58.3	$25.0	$1.1
1997	$216.6	$123.8	$92.8	$76.3
1998	$149.5	$194.1	($44.6)	$33.0
1999	$167.6	$103.3	$64.3	$8.3

* Deposits to the Revenue Stabilization Fund are required in the second year after being earned. The amount shown on this table are the fiscal year in which the deposit is generated.

As the chart above shows, if this bill had been in effect for the past 10 fiscal years, there would have been three years for which refunds were required: fiscal years 1991, 1997, and 1999. In each of these years, actual general fund revenue collections and transfers exceeded the official budget estimate and the required deposit to the Revenue Stabilization Fund by $50 million. If a more precise definition were used such as the accounting term "undesignated fund balance" with the $50 million trigger, refunds would have also been required in three years (fiscal years 1992, 1993, and 1997).

It should be noted, however, that there currently exist other statutory provisions which place claims against surplus revenues. For example, the Water Quality Improvement Act, in § 10.1-2128 C, Code of Virginia, requires that 10 percent of the annual general fund revenues collected in excess of the official revenue estimate be deposited into the Water Quality Improvement Fund. In addition, natural disaster declarations and sum sufficient items in the Appropriation Act (e.g., sales tax revenues to local school divisions and ABC profits to localities) also represent potential obligations against such resources.

When these additional obligations are considered, it is not clear whether the Commonwealth could meet all of these requirements and refund surplus revenues without problems. For example, in FY 1999, general fund revenues and transfers exceeded the official revenue estimate and Revenue Stabilization Fund payments by $64.3 million. However, there was only $8.3 million undesignated general fund balance available for appropriation after all other designations were set aside. In this case, if all set asides were met and refunds paid, reductions would be required in the existing budget in order to have sufficient resources to meet these obligations.

Also it is unclear what effect this proposed bill would have on the implementation of the Food Tax Reduction Program (Chapter 735 of the 1999 Acts of Assembly). The trigger, as specified by §58.1-611.1 D.1, Code of Virginia, for implementation of the next rate reduction requires that general fund revenues in the preceding fiscal year must exceed the official general fund revenue by at least one percent.

Finally, the proposed bill authorizes a refund payment to those individuals who file an income tax return for the calendar year in which the fiscal year surplus is determined. The bill does not designate a cutoff date for when returns would have to be filed. It is uncertain how the Tax Department would process refund payments for individuals who file amended or late returns.

Administrative Impact

Department of Taxation

The Department of Taxation would incur administrative costs to implement a process to refund surplus revenues to taxpayers in anticipation that such refunds would be issued. To accurately track and verify that the proper amount of surplus revenue to be refunded to Virginia taxpayers, the department anticipates that nine additional full-time employees would be needed to answer telephone calls, process the returns, correct errors, calculate surplus refunds, and assist in computation and verification of the proration of income tax revenue among taxpayers. The administrative costs associated with this bill are estimated to be $360,280 in FY 2002 and $282,000 in FY 2003 and thereafter.

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 the department 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, the department 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 in both houses and prior to the conference committee report.

Department of Treasury

For administrative expenses the Department of the Treasury would incur additional operating expenses associated with processing the refund payments. The issuance of refund checks would be processed separately from regular tax refunds. This would require the Department of the Treasury to issue an estimated three million additional checks each year. Costs identified in paragraph 6a above were determined based on the following assumptions and calculations:

Item	Check Volume	Per Item Cost	Item Cost
Postage	3,000,000	0.29000	$870,000
Check stock	3,000,000	0.06547	$196,410
Printer maintenance cost	3,000,000	0.00410	$12,300
Personnel costs	3,000,000	0.01000	$30,000
TOTAL COST		**0.35957**	**$1,108,710**

9. Specific agency or political subdivisions affected: Department of Treasury, Department of Taxation, Department of Planning and Budget, Auditor of Public Accounts

10. Technical amendment necessary: To avoid confusion, if may be helpful to define "surplus revenues." If the intent of this bill is to make the refund of surplus revenue subject to the provisions of the Setoff Debt Collection Act, the definition of a "refund" in Code of Virginia § 58.1-520 would need to be amended. Such an amendment would require an amendment in the nature of a substitute.

In order to limit the number of taxable years included in the computation, the following technical amendments are suggested.

1. Page 1, line 42, after "income tax return", insert "for a taxable year with a return due date"
2. Page 1, line 44, after "collected" insert "for taxable years with a return due date falling"

In order to ensure there are sufficient revenues to fund the next level of tax relief provided by the Personal Property Tax Relief Act of 1998 and the Food Tax Reduction Program of 1999 in Code of Virginia §58.1-611.1 prior to making the payments contemplated by this bill, the following amendment is suggested:

> Page 1, line 48, at the end of the line insert "Notwithstanding the payments set forth in this section, no refunds of surplus revenues shall be made to individual, fiduciary, or corporate income taxpayers unless (i) none of the events listed in subsection C of § 58.1-3524 or subsection B of § 58.1-3536 have occurred; and (ii) actual general fund revenues for the fiscal year preceding the fiscal year in which such refunds are contemplated to occur exceed the official general fund revenue estimates for such preceding fiscal year, as estimated in the most recently enacted and approved general appropriation act, by at least one percent. The refunds shall not occur until the next calendar year after which all of these conditions have been met."

11. Other comments: HB 1934, HB 2844, and SB 883 are identical bills.

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cc: Secretary of Finance

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