DEPARTMENT OF TAXATION
2010 Fiscal Impact Statement

1. Patron Charles J. Colgan

2. Bill Number SB 543

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

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

3. Committee Senate Rules

4. Title Individual Income Tax; Surtax

5. Summary/Purpose:

This bill would impose a new state individual income tax surtax. The surtax would be imposed on Virginia taxable income of residents and nonresidents at a rate of 0.5% for taxable years beginning on and after January 1, 2010 and at a rate of 1% for taxable years beginning on and after January 1, 2011. Revenues from the new surtax would be dedicated to a new Virginia Personal Property Tax Replacement Fund.

This bill would establish a new class of property for passenger cars, motorcycles, and pickup or panel trucks used for nonbusiness purposes (Qualifying Vehicles). For Tax Year 2010, the current annual $950 million state personal property tax relief payment would be paid from the Virginia Personal Property Tax Replacement Fund, rather than the General Fund. Localities that effectively repeal the Tangible Personal Property ("TPP") Tax on Qualifying Vehicles by lowering their TPP Tax rate on Qualifying Vehicles to a rate not exceeding $0.000001 per $100 for Tax Years 2011, and thereafter, would receive an additional payment from the fund for Tax Year 2010 that represents the remaining net revenues from the new surtax. This payment would be based on each locality's pro rata share of the current annual $950 million state personal property tax relief payment. In subsequent years, all of the revenues from the surtax would be distributed in the same manner to the localities that effectively repeal the TPP Tax on Qualifying Vehicles.

The effective date of this bill is not specified.

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

6a. Expenditure Impact:

Fiscal Year	*Dollars*	*Positions*	*Fund*
2009-10	$0	0	GF
2010-11	$583,000	1	GF
2011-12	$ 91,000	1	GF
2012-13	$ 82,000	1	GF
2013-14	$ 81,000	1	GF
2014-15	$ 83,000	1	GF
2015-16	$ 85,000	1	GF

6b. Revenue Impact:

Fiscal Year	***Dollars***	***Fund***
2009-10	$0	NGF
2010-11	$1,885.5 million	NGF
2011-12	$1,997.8 million	NGF
2012-13	$2,086.4 million	NGF
2013-14	$2,190.9 million	NGF
2014-15	$2,303.4 million	NGF
2015-16	$2,426.0 million	NGF

7. Budget amendment necessary: Yes.
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8. Fiscal implications:

Administrative Costs

TAX would incur administrative costs in implementing this bill of, $583,000 in Fiscal Year 2011, $91,000 in Fiscal Year 2012, $82,000 in Fiscal Year 2013, $81,000 in Fiscal Year 2014, $83,000 in Fiscal Year 2015 and $85,000 in Fiscal Year 2016. The administrative costs would include costs to update forms and to update its systems to create new tables, create new complex reports to track compliance, capture additional data, and overhaul the payment application process. In addition, TAX would need to hire one additional customer service representative to respond to questions concerning the new surtax.

Revenue Impact

This proposal would generate an estimated $1,885.5 million in revenue in Fiscal Year 2011, $1,997.8 million in Fiscal Year 2012, $2,086.4 million in Fiscal Year 2013, $2,190.9 million in Fiscal Year 2014, $2,303.4 million in Fiscal Year 2015 and $2,426 million in Fiscal Year 2016 for the Personal Property Tax Replacement Fund. For purposes of determining the Commonwealth's debt capacity, these revenues would be considered General Fund revenues.

Distributions from the Personal Property Tax Replacement Fund to local governments would be $1,662.4 million in Fiscal Year 2011, $2,021.3 in Fiscal Year 2012 and $2,067.7 in Fiscal Year 2013.

9. Specific agency or political subdivisions affected:

All localities
Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

<u>Personal Property Tax Relief Act of 1998</u>

The PPTRA originally was intended to eliminate the tangible personal property tax imposed on the first $20,000 of value on passenger cars, pickup or panel trucks, and motorcycles owned or leased by natural persons and used for nonbusiness purposes. The tax was originally scheduled to be eliminated over five years with 12.5% of the tax eliminated in 1998, 27.5% in 1999, 47.5% in 2000, 70% in 2001, and 100% in 2002 and thereafter. The tax on vehicles valued at $1,000 or less was completely eliminated in 1998. The amount of the tax relief was shown on the taxpayer's bill, and the Commonwealth reimbursed localities for the amount of the tax relief. The PPTRA provided a mechanism for freezing the tax relief if the Commonwealth's revenue growth was insufficient. The percentage of tax relief was frozen at the current percentage of tax relief in effect if any one of three revenue growth tests was not met. When revenue growth was sufficient, the percentage of tax relief would increase to the next highest level of tax relief. The level of tax relief never exceeded 70%.

<u>Senate Bill 5005</u>

Senate Bill 5005 (Chapter 1, 2004 Special Session 1) changed the personal property tax relief program for motor vehicles. The state currently distributes $950 million annually to localities as reimbursement for the personal property tax relief provided by each locality. Each locality's share of the $950 million state reimbursement for tax year 2006 and subsequent tax years is based upon its share of the total state reimbursement for tax year 2004.

<u>Proposal</u>

<u>Income Tax Surtax</u>

This bill would impose a new state income surtax at a rate of 0.5% for tax years beginning on and after January 1, 2010. For tax years beginning January 1, 2011 and thereafter, the surtax would be imposed at a rate of 1%. Revenue from the additional tax would be deposited into a newly created Virginia Personal Property Tax Replacement Fund. For purposes of determining the Commonwealth's debt capacity, these revenues would be considered General Fund revenues.

The new income tax surcharge would be computed separately on Virginia taxable income and would be applicable to both Virginia residents and nonresidents required to file Virginia income tax returns. In addition, individuals that are currently excluded from the individual income tax because of the filing thresholds would also be exempt from the surtax.

Credits that are allowed against the current individual income tax would also be allowed against the surtax. As with the current individual income tax, employers would be required to withhold an amount equal to the tax for each payroll period beginning on and after July 1, 2010. Pass-through entity withholding for nonresident owners' shares of income would be 5.5% if the income is distributed in Calendar Year 2010 and 6% if distributed in Calendar Year 2011 or thereafter. Estimated tax payments would also increase beginning July 1, 2010.

Qualifying Vehicles

This bill would establish a new class of property consisting of qualifying vehicles, which include personal use passenger cars, motorcycles and pickup or panel trucks. The bill would encourage localities to reduce the tax rate on Qualifying Vehicles to $0.000001 per $100 of assessed value, rather than to exempt them from the tax, because there is no authority for such an exemption under Article X, § 6 of the *Constitution of Virginia*, which lists all property that may be exempted from taxation. This proposed maximum rate is the rate that the City of Virginia Beach imposes on private pleasure boats and watercraft.

The relief granted under this proposal would be broader than the current PPTRA relief, which is limited to the first $20,000 in value of Qualifying Vehicles. However, like the relief granted under the PPTRA, it would not apply to motor vehicles used for business purposes.

Requirements for Property Tax Replacement Fund Share

In order to be entitled to a distribution from the Virginia Personal Property Tax Replacement Fund, a locality must enact and maintain an ordinance that reduces the TPP tax on Qualifying Vehicles to a rate not exceeding $0.0000001 per $100 of assessed value effective for Tax Year 2011 and thereafter. The locality must notify the Tax Commissioner of the ordinance by November 1, 2010.

Local assessing officers would be authorized to elect not to require TPP tax returns from owners of Qualifying Vehicles when there is insufficient tax due to generate a tax bill. In lieu of receiving a return from the taxpayer, local assessing officers would be authorized to assess motor vehicles based on the registration records of the Virginia Department of Motor Vehicles. Additionally, local governments would be authorized to rely on Department of Motor Vehicle records for the local registration of motor vehicles.

Localities would be authorized to elect to continue to tax Qualifying Vehicles at any rate without restriction, but would forfeit their entitlement to any share of the Virginia Personal Property Tax Replacement Fund.

Distributions

For Tax Year 2010, the current annual $950 million state PPTRA payment would be paid to all localities from the revenues from the new income tax surtax, rather than the General Fund. Distributions to each locality would be based upon its pro rata share of the PPTRA relief paid in Tax Year 2009. Localities would continue to bill the local TPP tax for Tax Year 2010. Localities that effectively repeal the tangible personal tax on qualifying vehicles for Tax Year 2011 will receive an additional payment for Tax Year 2010 that represents the remaining net revenues from the new surtax.

In subsequent years, all of the revenues from the surtax would be distributed to the localities that effectively repeal the TPP Tax on Qualifying Vehicles. Distributions to each locality would be based upon its pro rata share of the PPTRA relief paid in Tax Year 2009. Payments to localities would be paid on a monthly basis as soon as practicable after the close of each month. Ten percent of the revenue deposited into the fund would be withheld in order to satisfy future refund claims.

Other States

If this proposal were enacted, of the 43 states currently imposing a state income tax, there would be 21 states with a higher maximum rate. Of those states that impose the tax at a lower rate, five would fall between 6% and 6.5%. These states include Georgia (6%), Louisiana (6%), Missouri (6.12%), Kansas (6.45%), and West Virginia (6.5%).

Of those states that border Virginia, plus the District of Columbia, two states would have a lower rate. These states are West Virginia (6.5%) and Tennessee (6.0% (on interest and dividends only). The remaining border states include Kentucky (6.76%), North Carolina (7.75%); District of Columbia (8.5%), and Maryland (9.23%).

The effective date of this bill is not specified.

Similar Legislation

House Bill 1155 is identical to this bill.

cc : Secretary of Finance

Date: 1/24/2010 KP
DLAS File Name: SB543F161