DEPARTMENT OF TAXATION
2014 Fiscal Impact Statement

1. Patron James M. LeMunyon

2. Bill Number HB 1190

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

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

3. Committee House Finance

4. Title Individual Income Tax Credit to Return Budget Surplus

5. Summary/Purpose:

The Department of Taxation ("the Department") understands that Patron will offer amendments for this bill (see Line 10). This fiscal impact statement is drafted based on the incorporation of these amendments.

This bill would create a refundable individual income tax credit if more than $50 million in General Fund surplus remains after assignments of the surplus for the Revenue Stabilization Fund, the Virginia Water Quality Improvement Fund, the Transportation Trust Fund, and other mandatory assignments, and if the General Assembly subsequently appropriates the surplus to fund the credit. If funded, the credit would be available to those who filed a return for the preceding taxable year and would be equal to the remaining surplus divided by the number of individual income tax returns filed for the most recent taxable year. If less than $50 million in General Fund surplus remains after such mandatory assignments, no tax credit would be available and the remaining surplus would be assigned by the Comptroller for nonrecurring expenditures.

This bill would be effective for taxable years beginning on or after January 1, 2015.

6. Budget amendment necessary: No.

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

8. Fiscal implications:

Administrative Cost

The Department of Taxation ("the Department") considers implementation of this bill as routine, and does not require additional funding, provided that the suggested technical amendments are made.

Revenue Impact

While this bill would not affect General Fund revenue, the appropriation of a prior year's surplus to fund the income tax credit would reduce resources available for appropriation in the subsequent fiscal years.

Under the suggested technical amendments (see Line 10), this bill would use a surplus from Fiscal Year 2014 to fund the credit for Taxable Year 2015. The surplus would have to be held in reserve throughout two fiscal years: in Fiscal Year 2015 when the General Assembly appropriates it during the 2015 session, and into Fiscal Year 2016 when taxpayers file their Taxable Year 2015 returns. This allows taxpayers the certainty of knowing whether the tax credit could be claimed at the time they file their tax returns.

The bill would require all existing restrictions, commitments, or assignments to be met, then 67% of any remaining surplus to be assigned to the Transportation Trust Fund. Only if the remaining 33% of the surplus exceeds $50 million would the General Assembly be able to appropriate some or the entire remaining surplus to the income tax credit.

According the Auditor of Public Accounts calculation, dated November 1, 2013, a Fiscal Year 2014 deposit to the Revenue Stabilization Fund in the amount of $244.6 million is required based on Fiscal Year 2012 calculations, and a Fiscal Year 2015 deposit in the amount of $243.2 million is required based on Fiscal Year 2013 calculations. According to the Governor's proposed 2014-16 budget, there was a surplus of $264.3 million in FY 2012-2013 (including transfers), all of which is reserved, committed or assigned. Therefore, if the bill were effective for Taxable Year 2014, the most recent budget surplus would not have been sufficient to permit an appropriation to fund the proposed income tax credit for the 2014 taxable year. It is not possible to predict when conditions will permit such an appropriation in the future.

9. Specific agency or political subdivisions affected:

Department of Taxation, Comptroller

10. Technical amendment necessary: Yes.

Line 28, after (ii)
Insert: on or after June 30, 2014

Line 88, after January 1,
Strike: 2014
Insert: 2015

Line 90, after calendar year
Strike: that corresponds
Insert: prior

11. Other comments:

Current Law

When revenues for a fiscal year exceed the forecast, the excess is available for appropriation in the following fiscal year, along with any unappropriated or unspent balances. Current law specifies that certain portions of any surplus are to be deposited to various funds.

Prior Virginia Law

In 1950, the General Assembly enacted legislation (Senate Bill 351) that would allow taxpayers to receive an individual or corporate income tax credit if certain levels of revenue were generated. The amount of credit was based on specific dollar thresholds in 1951, and the law was amended several times so that the credit was based on differing formulas in the succeeding years. As a result, individuals received an individual income tax credit in Taxable Years 1950 through 1954. Although the law was still in effect for Taxable Year 1955, individuals were not permitted to claim the credit for this taxable year because the surplus requirements were not met. In 1956, the General Assembly repealed the 1950 law change, as well as the relevant laws enacted during subsequent sessions. This repeal had no impact on the credits proclaimed by the Governor for prior taxable years.

In 1987, the General Assembly passed House Bill 1119, also known as the Virginia Tax Reform Act of 1987. Among other things, this Act created an Individual Income Tax Transition Fund, which was a non-reverting fund that consisted of the amount by which individual income tax revenues for Fiscal Year 1988 resulting from federal tax reform exceeded the latest official revenue estimate for individual income tax revenue. If actual individual income tax revenues resulting from tax reform exceeded the official estimates, the amount in the Fund was to be used for further reform in 1989. The Act required the Governor to submit a plan to the 1989 General Assembly as to how the money in the Fund should be used for further tax reform for individual taxpayers.

Pursuant to the 1987 legislation, the Governor submitted a plan to the General Assembly, which was enacted into law as House Bill 1417. This legislation provided a sliding scale, non-refundable income tax credit of up to $35 in Taxable Year 1989 for each personal and dependent exemption, as well as an individual income tax credit of up to $22.50 for Taxable Years 1990 through 1994. The credit was repealed in 1990 (Senate Bill 249) and, as a result, this credit was issued for Taxable Year 1989 only.

Proposed Legislation

This bill would create a refundable individual income tax credit if more than $50 million in General Fund surplus remains after assignments of the surplus for the Revenue Stabilization Fund, the Virginia Water Quality Improvement Fund, the Transportation Trust Fund, and other mandatory assignments, and if the General Assembly subsequently appropriates the surplus to fund the credit. This bill would provide that, after all existing claims on a surplus have been taken care of, 67 percent of the remaining surplus would be deposited to the Transportation Trust Fund. Beginning on or after June 30, 2014, the remaining 33 percent, if it exceeded $50 million, would be held for appropriation to fund an income tax credit.

If funded, the credit would be available to those who filed a return for the preceding taxable year and would be equal to the remaining surplus divided by the number of individual income tax returns filed for the most recent taxable year. If less than $50 million in General Fund surplus remains after such mandatory assignments, no tax credit would be available and the remaining surplus would be assigned by the Comptroller for nonrecurring expenditures.

The credit would be based on the number of individual income tax returns filed in the preceding taxable year (a married couple filing separately would be treated as a single return). Approximately 3.5 million individual income tax returns are filed annually, so a $50 million surplus appropriated to fund the proposed credit would generate a credit of approximately $14 per return.

This bill would be effective for taxable years beginning on or after January 1, 2015.

cc : Secretary of Finance

Date: 02/01/2014 JPJ
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