

# 2004 SPECIAL SESSION I

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## HOUSE BILL NO. 5020

Offered April 6, 2004

*A BILL to amend and reenact § 2.2-1829 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 58.1-1823.1, relating to refunds to taxpayers of revenues that exceed amount deposited in Revenue Stabilization Fund.*

Patrons—Lingamfelter, Cole, Janis, Nixon, O'Bannon and Welch

Referred to Committee on Finance

### Be it enacted by the General Assembly of Virginia:

**1. That § 2.2-1829 of the Code of Virginia is amended and reenacted, and that the Code of Virginia is amended by adding a section numbered 58.1-1823.1 as follows:**

§ 2.2-1829. Reports of Auditor of Public Accounts; Fund deposits and withdrawals.

A. On or before December 1 of each year, the Auditor of Public Accounts shall report to the General Assembly the certified tax revenues collected in the most recently ended fiscal year. The Auditor shall, at the same time, (i) provide his report on the 10 percent limitation and the amount that could be paid into the Fund and (ii) the amount necessary for deposit for the next fiscal year into the Fund in order to satisfy the mandatory deposit requirement of Article X, Section 8 of the Constitution of Virginia. The Governor shall include any such amount in his budget bill submitted to the General Assembly pursuant to § 2.2-1509. A schedule of deposits may be provided for in the Appropriation Act.

B. Any surplus revenues that exceed the amount required to be deposited to the Fund from the certified tax revenues and are collected in the most recently ended fiscal year shall be refunded to the taxpayers of the Commonwealth in the following calendar year in accordance with § 58.1-1823.1, provided the amount of such surplus exceeds \$50 million. The Auditor shall compute the amount of the surplus, if any, annually and report such amount to the General Assembly at the same time he reports the certified tax revenues as required in subsection A.

BC. If the report of the Auditor of Public Accounts, pursuant to subsection A, indicates that the annual percentage increase in the certified tax revenues collected in the most recently ended fiscal year is eight percent or greater than the certified tax revenues collected for the immediately preceding fiscal year and that such annual percentage increase in the certified tax revenues for the most recently ended fiscal year is also equal to or greater than 1.5 times the average annual percentage increase in the certified tax revenues collected in the six fiscal years immediately preceding the most recently ended fiscal year, the Governor shall include in his budget recommendations, submitted to the General Assembly in the subsequent session pursuant to § 2.2-1509, an additional amount for deposit to the Fund in excess of any mandatory deposit to the Fund required by Article X, Section 8 of the Constitution of Virginia. Such additional amount shall be equal to at least 25 percent of the product of the certified tax revenues collected in the most recently ended fiscal year multiplied by the difference between the annual percentage increase in the certified tax revenues collected for the most recently ended fiscal year and the average annual percentage increase in the certified tax revenues collected in the six fiscal years immediately preceding the most recently ended fiscal year. Any such additional deposits to the Fund shall be included in the Governor's budget recommendations submitted to the General Assembly in the subsequent session pursuant to § 2.2-1509 only if the estimate of general fund revenues prepared in accordance with § 2.2-1503 for the fiscal year in which the deposit is to be made is at least five percent greater than the actual general fund revenues for the immediately preceding fiscal year.

CD. The State Comptroller shall draw such warrants as appropriated and the State Treasurer shall deposit such warrants into the Fund. No amounts shall be withdrawn from the Fund except pursuant to appropriations made by the General Assembly in accordance with § 2.2-1830. However, if any amounts accrue, such as through interest or dividends, to the credit of the Fund in excess of the 10 percent limitation calculated by the Auditor of Public Accounts, any excess shall be paid into the general fund pursuant to Article X, Section 8 of the Constitution of Virginia.

DE. For the purposes of the Comptroller's preliminary and final annual reports as required by § 2.2-813, all balances remaining in the Fund on June 30 of each fiscal year shall be considered to be a portion of the fund balance of the general fund of the state treasury.

§ 58.1-1823.1. Refunds when revenues exceed certain amount.

When surplus revenues exceed the amount required to be deposited into the Revenue Stabilization Fund, in accordance with § 2.2-1829, by \$50 million or more for the most recently ended fiscal year, the Department shall refund such revenues during the following calendar year to the taxpayers who filed an income tax return in the calendar year in which such fiscal year surplus is determined. Such refund

INTRODUCED

HB5020

59 *shall be based on each taxpayer's share of the total income tax revenues of the Commonwealth collected*  
60 *in the calendar year in which the fiscal year surplus is determined.*  
61 *The Department may reduce a taxpayer's refund by the amount of any taxes, penalties and interest*  
62 *that are due from such taxpayer for the calendar year in which the fiscal year surplus occurs, or any*  
63 *past-due taxes, penalties and interest that have been assessed within the appropriate period of*  
64 *limitations.*