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SENATE BILL NO. 1545

Offered January 20, 2017

A BILL to amend and reenact §§ 2.2-1514, as it is currently effective and as it may become effective, 58.1-320, and 58.1-400 of the Code of Virginia and to amend the Code of Virginia by adding in Article 3 of Chapter 3 of Title 58.1 a section numbered 58.1-339.13, relating to general fund surplus.

Patron—Vogel

Referred to Committee on Finance

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-1514, as it is currently effective and as it may become effective, 58.1-320, and 58.1-400 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 3 of Chapter 3 of Title 58.1 a section numbered 58.1-339.13 as follows:

§ 2.2-1514. (Contingent expiration date) Assignment of general fund for nonrecurring expenditures.

A. As used in this section:

"The Budget Bill" means the "The Budget Bill" submitted pursuant to § 2.2-1509, including any amendments to a general appropriation act pursuant to such section.

"Nonrecurring expenditures" means the acquisition or construction of capital outlay projects as defined in § 2.2-1518, the acquisition or construction of capital improvements, the acquisition of land, the acquisition of equipment, or other expenditures of a one-time nature as specified in the general appropriation act.

B. At the end of each fiscal year, the Comptroller shall assign within his annual report pursuant to § 2.2-813 as follows: (i) 67 percent of the remaining amount of the general fund balance that is not otherwise restricted, committed, or assigned by the general appropriation act for other usage within the general fund shall be assigned by the Comptroller for deposit into the Transportation Trust Fund established pursuant to § 33.2-1524 or a subfund thereof, and ~~the~~ (ii) if the remaining 33 percent is (a) \$50 million or greater, such remaining amount shall not be assigned but shall be held in reserve for appropriation by the General Assembly or (b) less than \$50 million, such remaining amount shall be assigned for nonrecurring expenditures. No such assignment shall be made unless the full amounts required for other restrictions, commitments, or assignments including but not limited to ~~(i)~~ (1) the Revenue Stabilization Fund deposit pursuant to § 2.2-1829, ~~(ii)~~ (2) the Virginia Water Quality Improvement Fund deposit pursuant to § 10.1-2128, but excluding any deposits provided under the Virginia Natural Resources Commitment Fund established under § 10.1-2128.1, ~~(iii)~~ (3) capital outlay reappropriations pursuant to the general appropriation act, ~~(iv)~~ (4) (a) operating expense reappropriations pursuant to the general appropriation act, and (b) reappropriations of unexpended appropriations to certain public institutions of higher education pursuant to § 23.1-1002, ~~(v)~~ (5) pro rata rebate payments to certain public institutions of higher education pursuant to § 23.1-1002, ~~(vi)~~ (6) the unappropriated balance anticipated in the general appropriation act for the end of such fiscal year, and ~~(vii)~~ (7) interest payments on deposits of certain public institutions of higher education pursuant to § 23.1-1002 are set aside. The Comptroller shall set aside amounts required for clauses ~~(iv)(b)~~, ~~(v)~~, and ~~(vii)~~ (4) (b), (5), and (7) beginning with the initial fiscal year as determined under § 23.1-1002 and for all fiscal years thereafter.

C. The Governor shall include in "The Budget Bill" pursuant to § 2.2-1509 recommended appropriations from the general fund or recommended amendments to general fund appropriations in the general appropriation act in effect at that time an amount for deposit into the Transportation Trust Fund or a subfund thereof, and an amount for nonrecurring expenditures equal to the amounts assigned by the Comptroller for such purposes pursuant to the provisions of subsection B. Such deposit to the Transportation Trust Fund or a subfund thereof shall not preclude the appropriation of additional amounts from the general fund for transportation purposes.

§ 2.2-1514. (Contingent effective date) Assignment of general fund for nonrecurring expenditures.

A. As used in this section:

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59 defined in § 2.2-1518, the acquisition or construction of capital improvements, the acquisition of land,
 60 the acquisition of equipment, or other expenditures of a one-time nature as specified in the general
 61 appropriation act.

62 B. At the end of each fiscal year, the Comptroller shall assign within his annual report pursuant to
 63 § 2.2-813 as follows: (i) 67 percent of the remaining amount of the general fund balance that is not
 64 otherwise restricted, committed, or assigned by the general appropriation act for other usage within the
 65 general fund shall be assigned by the Comptroller for deposit into the Transportation Trust Fund
 66 established pursuant to § 33.2-1524 or a subfund thereof, and ~~the~~ (ii) if the remaining 33 percent is (a)
 67 \$50 million or greater, such remaining amount shall not be assigned but shall be held in reserve for
 68 appropriation by the General Assembly or (b) less than \$50 million, such remaining amount shall be
 69 assigned for nonrecurring expenditures. No such assignment shall be made unless the full amounts
 70 required for other restrictions, commitments, or assignments including but not limited to ~~(i)~~ (1) the
 71 Revenue Stabilization Fund deposit pursuant to § 2.2-1829, ~~(ii)~~ (2) the Virginia Water Quality
 72 Improvement Fund deposit pursuant to § 10.1-2128, but excluding any deposits provided under the
 73 Virginia Natural Resources Commitment Fund established under § 10.1-2128.1, ~~(iii)~~ (3) capital outlay
 74 reappropriations pursuant to the general appropriation act, ~~(iv)~~ (4) (a) operating expense reappropriations
 75 pursuant to the general appropriation act; and (b) reappropriations of unexpended appropriations to
 76 certain public institutions of higher education pursuant to § 23.1-1002, ~~(v)~~ (5) pro rata rebate payments
 77 to certain public institutions of higher education pursuant to § 23.1-1002, ~~(vi)~~ (6) the unappropriated
 78 balance anticipated in the general appropriation act for the end of such fiscal year, and ~~(vii)~~ (7) interest
 79 payments on deposits of certain public institutions of higher education pursuant to § 23.1-1002 are set
 80 aside. The Comptroller shall set aside amounts required for clauses ~~(iv)~~ ~~(b)~~, ~~(v)~~, and ~~(vii)~~ (4) (b), (5),
 81 and (7) beginning with the initial fiscal year as determined under § 23.1-1002 and for all fiscal years
 82 thereafter.

83 C. The Governor shall include in "The Budget Bill" pursuant to § 2.2-1509 recommended
 84 appropriations from the general fund or recommended amendments to general fund appropriations in the
 85 general appropriation act in effect at that time an amount for deposit into the Transportation Trust Fund
 86 or a subfund thereof, and an amount for nonrecurring expenditures equal to the amount assigned by the
 87 Comptroller for such purpose pursuant to the provisions of subsection B. Such deposit to the
 88 Transportation Trust Fund or a subfund thereof shall not preclude the appropriation of additional
 89 amounts from the general fund for transportation purposes.

90 **§ 58.1-320. Imposition of tax.**

91 A. A tax is hereby annually imposed on the Virginia taxable income for each taxable year of every
 92 individual as follows:

93 Two percent on income not exceeding \$3,000;

94 Three percent on income in excess of \$3,000, but not in excess of \$5,000;

95 Five percent on income in excess of \$5,000, but not in excess of \$12,000 for taxable years beginning
 96 before January 1, 1987;

97 Five percent on income in excess of \$5,000 but not in excess of \$14,000 for taxable years beginning
 98 January 1, 1987, through December 31, 1987;

99 Five percent on income in excess of \$5,000 but not in excess of \$15,000 for taxable years beginning
 100 January 1, 1988, through December 31, 1988;

101 Five percent on income in excess of \$5,000 but not in excess of \$16,000 for taxable years beginning
 102 January 1, 1989, through December 31, 1989;

103 Five percent on income in excess of \$5,000 but not in excess of \$17,000 for taxable years beginning
 104 January 1, 1990;

105 Five and three-quarters percent on income in excess of \$12,000 for taxable years beginning before
 106 January 1, 1987;

107 Five and three-quarters percent on income in excess of \$14,000 for taxable years beginning January
 108 1, 1987, through December 31, 1987;

109 Five and three-quarters percent on income in excess of \$15,000 for taxable years beginning January
 110 1, 1988, through December 31, 1988;

111 Five and three-quarters percent on income in excess of \$16,000 for taxable years beginning January
 112 1, 1989, through December 31, 1989; and

113 Five and three-quarters percent on income in excess of \$17,000 for taxable years beginning on and
 114 after January 1, 1990.

115 B. For taxable years beginning on and after January 1, 2017, if actual general fund revenues exceed
 116 the official forecast of general fund revenues by more than \$500 million for that fiscal year, the five and
 117 three-quarters percent tax on Virginia taxable income in excess of \$17,000 shall be reduced to five and
 118 one-half percent for the subsequent taxable year. In a taxable year in which such tax rate is five and
 119 one-half percent, if actual general fund revenues exceed the official forecast of general fund revenues by
 120 more than \$450 million for that fiscal year, the five and one-half percent tax on Virginia taxable income

121 in excess of \$17,000 shall be reduced to five and one-quarter percent for the subsequent taxable year.
122 In a taxable year in which such tax rate is five and one-quarter percent, if actual general fund revenues
123 exceed the official forecast of general fund revenues by more than \$450 million for that fiscal year, all
124 Virginia taxable income in excess of \$5,000 shall be taxed at a rate of five percent for all subsequent
125 taxable years. The Secretary of Finance shall certify to the Governor and the General Assembly any
126 general fund surplus triggering a change in the tax rate pursuant to this subsection by September 1
127 following the close of the fiscal year in which the surplus was recorded.

128 **§ 58.1-339.13. Revenue surplus tax credit.**

129 A. For taxable years beginning on and after January 1, 2017, there shall be allowed a refundable
130 income tax credit against the tax levied pursuant to § 58.1-320 in an amount that is equal to the
131 quotient obtained by dividing (i) the amount held in reserve for appropriation in the calendar year that
132 corresponds to the taxable year pursuant to clause (ii) of subsection B of § 2.2-1514 by (ii) the total
133 number of Virginia individual income tax returns filed for the immediately preceding taxable year as
134 estimated by the Tax Commissioner. For purposes of such computation, whenever married individuals
135 filed a joint Virginia income tax returns, two returns shall be deemed to have been filed.

136 The credit may be claimed only by those individuals who were required under Virginia law to file an
137 individual income tax return and filed such return for the immediately preceding taxable year.

138 B. For married individuals filing separate Virginia income tax returns, the credit claimed in
139 aggregate by such individuals shall equal the amount of the refundable income tax credit.

140 C. The Tax Commissioner shall compute the amount of the refundable income tax credit rounded to
141 the nearest whole dollar no later than August 31 of the calendar year. The Tax Commissioner shall as
142 soon as practicable provide to the General Assembly and the Governor a written certification reporting
143 the amount of the refundable income tax credit.

144 **§ 58.1-400. Imposition of tax.**

145 A. A tax at the rate of six percent is hereby annually imposed on the Virginia taxable income for
146 each taxable year of every corporation organized under the laws of the Commonwealth and every
147 foreign corporation having income from Virginia sources.

148 B. For taxable years beginning on and after January 1, 2017, if actual general fund revenues exceed
149 the official forecast of general fund revenues by more than \$50 million for that fiscal year, the tax
150 imposed under this section shall be reduced by one percentage point for the subsequent taxable year.
151 The Secretary of Finance shall certify to the Governor and the General Assembly any general fund
152 surplus triggering a change in the tax rate pursuant to this subsection by September 1 following the
153 close of the fiscal year in which the surplus was recorded.